



# **CITY OF ENNIS**

# **HOME RULE CHARTER**

Adopted: October 1913  
Amended: 1969, 1978, 1981, 2016

# HOME RULE CHARTER FOR THE CITY OF ENNIS, TEXAS

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# **HOME RULE CHARTER FOR THE CITY OF ENNIS, TEXAS**

## **PREAMBLE**

To the extent used in this Charter, any reference to “he,” “him,” “his,” or other male gender specific pronouns should be understood to be used interchangeably with “she,” “her,” or “hers.” The intent of these revisions to the Charter of the City of Ennis is to make the Charter gender neutral, recognizing the right of both men and women to serve as officers of the City of Ennis.

## **ARTICLE 1. – NAME, BOUNDARIES, FORM OF GOVERNMENT**

### **Sec. 1.01 – Corporate Name**

That all of the inhabitants of the territory known as the City of Ennis, Texas, being more than five thousand (5,000) in number, and all of such inhabitants and the inhabitants of the territory herein defined or as may be hereafter established, shall be, and the same are hereby constituted a body politic, incorporated under, and to be known by the name and style of the *City of Ennis*, with such powers, rights, privileges, and duties as are allowed by general laws and such as are hereinafter provided as a home rule municipality under the constitution and laws of the State of Texas.

### **Sec. 1.02 Boundaries**

The City Council shall have power by ordinance to fix the boundary limits of the City of Ennis and to provide for the alteration and the extension of said boundary limits, and the annexation of additional territory lying adjacent to the City, with or without the consent of the owners or inhabitants of the annexed territory subject to the procedures set forth in State law.

### **Sec. 1.03 Form of Government**

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

## **ARTICLE II. – POWERS**

### **Sec. 2.01. –Powers of the City**

A. The City shall have all powers possible for a city to have under the Constitution and laws of this State, as fully and completely as though they were specifically enumerated in this Charter. 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 Ennis.

B. 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 Ennis 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 and all others laws passed or which may hereafter be passed by the Legislature in relation to such matters.

C. The City of Ennis may exercise any of its powers or perform any of its functions, and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise 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 municipal purpose.

## **ARTICLE III – CITY COMMISSION**

### **Sec. 3.01 – City Commission**

A. All powers of the City of Ennis, Texas, shall be vested in, and executed by, City Commission, except as delegated herein to the City Manager and as provided by this Charter.

#### **(1) Number, selection and term**

(a) The City Commission shall consist of seven (7) members, consisting of five (5) Commissioners elected from single-member districts, and a sixth Commissioner and the Mayor elected at large. Each Commissioner shall be elected to and occupy a place on the Commission, such places being numbered one, two, three, four, five and six. The Mayor's position on the Commission shall be place seven.

(b) Council Quorum. A quorum shall consist of four (4) members, which may include the Mayor, where the number of Council members,

including the Mayor, due to vacancies, is reduced to less than five (5), in which event a quorum shall consist of all the remaining Council members; but a less number than a quorum may adjourn from time to time and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance.

(c) Places one, two, three, four and five shall be filled by Commissioners elected by the qualified voters of single-member geographical districts of the City, known as wards one, two, three, four and five, as such wards may from time to time be determined by the City Commission, in accordance with law; and created and described by ordinance. Commissioners for places one through five must be residents of the ward from which they are elected. The at large Commissioner and the Mayor shall occupy places six and seven, respectively on the Commission and shall be elected at large by the qualified voters of the entire City. The Commissioner at large shall also serve as Mayor Pro-Tem of the City.

### **Sec. 3.02 – The Commission, Term Of Office**

A. *Term of office.* Commissioners shall hold office for a term of three (3) years and until their successors have qualified. Neither the Mayor nor any member of the Commission shall become a candidate for election to any position of the Commission, other than for re-election to the same seat, unless such candidates shall first submit to the City Secretary his written resignation from his present Commission seat to be effective at the time of the canvass of the results of the next regularly scheduled election. If such candidate's unexpired term would otherwise extend beyond the dates of such canvass, the City Secretary shall notify the Commission and an election shall be held in accordance with the Texas Constitution and State law to fill the unexpired term of said Commissioner. The provisions of this subsection shall take effect on the first general election following adoption of this section for the general election held in 2017.

B. *Terms of the Commission members* shall be staggered so that every year there shall be an election; that beginning on the first election for two (2) places on the Commission as follows: Wards 2, 4 and Mayor Pro Tem; Mayor and Ward 1; and Wards 3 and 5.

C. *Term limits.* All members of the Commission and the Mayor shall be elected for no more than three (3) consecutive year terms.

The provision of term limits shall only take effect for Commissioners elected or reelected on or after the first general election being in May 2017 for a three (3) year term for each Commissioner or Mayor. Members of the Commission or Mayor holding office prior to adoption of this subsection shall not be counted for prior service under this provision.



The Commission shall from time to time create and describe by ordinance election districts known as wards one, two, three, four and five. Such districts shall be created so that each will contain, as nearly as possible, a population equivalent to the others, according to the latest available census data in accordance with law.

D. *Number of votes required for election;* The candidates for each place on the Commission and/or Mayor must receive a majority of votes casts within each ward or votes cast for Commissioners at large or Mayor, who receives the highest number of votes shall be declared elected, provided he receives at least thirty-five (35) percent of the total votes cast for all candidates for that place, except the Mayor, who shall be elected by majority vote as heretofore. If no candidate receives majority of all the votes cast for all such candidates for a specific place, or if the two (2) candidates receiving the largest number of votes tie, the Commission shall order a second election to be held on the fourteenth day after the first election at which time and election only the names of the two (2) candidates aforesaid shall be printed on the ballot. In the event of a second tie, such candidates shall cast lots to determine which one shall be declared elected. Immediately after the election, the Mayor shall deliver certificates of election to the successful candidates, and each Commissioner shall take the oath of office as soon thereafter as practicable, and his term shall begin.

E. Each member of the Commission shall receive as compensation for his services which shall be fixed by vote of the Commission and shall not exceed fifty dollars (\$50) for each regular and/or special meeting attended. In addition, each member of the Commission may receive reimbursement for all necessary and reasonable expenses incurred by members of the Commission in the performance of official duties. This compensation may be changed by *ordinance* but shall not be increased during the current term of Commissioners enacting such *ordinance*.

### **Sec. 3.03. - Ordinances, resolutions, minutes, rules and regulations; appropriations.**

The Commission is hereby vested with power to pass, publish, amend, alter or repeal all ordinances, resolutions, minutes, rules and regulations not inconsistent with the Constitution, laws of Texas, and this Charter that may be deemed necessary or proper to carry into effect any or all the powers set forth herein.

### **Sec. 3.04. - Contracts.**

A. Only the City Commission of the City of Ennis shall be empowered to enter into contracts on its behalf to carry out the powers and privileges granted in the Charter and any expenditure by the City Manager or other City employees pursuant to contract shall be valid only if the contract was authorized by the City Commission and awarded in accordance with applicable State law.

B. No contract other than for current expenses shall be entered into by said Commission or City until after an appropriation shall have been duly made for the payment thereof, or a tax levied for the payment thereof, to pay interest and create a sinking fund, nor shall any contract be made in excess of the amount so appropriated or provided therefor.

C. The Commission may adopt an ordinance or resolution to delegate to the City Manager authority to enter into certain contracts subject to the limitations and conditions established therein.

D. An officer, agent or employee of the City of Ennis, or appointee of the City Commission, or appointee of any officer of said City, shall not have a pecuniary interest, directly or indirectly, in any contract let by the said City or the Commission, or for and on behalf of said City or by the trustees of the public free schools therein, nor in any manner be interested, directly or indirectly, in any officer, agent or employee of said City wherein the rights or liberties of the said City are or may be involved. Nor shall any public work or improvement let, supervised or controlled by said City, or which shall be paid for wholly or in part by said City, and any violation of this section shall be cause for removal from office of such offending officer, agent or employee.

**Sec. 3.05. - Commission Duties, Elections, Qualifications, Rules of Procedure; Punishment for Contempt and Attendance.**

A. The said Commission shall elect its own officers and prescribe their duties; shall determine and establish its own rules and procedure, shall have the same power as a district court to punish for contempt; may determine and prescribe such rules and regulations as it may deem proper to enforce the attendance of all members.

B. The Commission shall order and hold all such elections, canvass the returns thereof and shall be governed by the general laws of the State of Texas relating to and regulating elections of municipal officers in cities of its class and organization.

C. Qualifications. The Mayor and each Commissioner must be qualified voters under the laws of Texas and residents of the City of Ennis, to be free from all debts and taxes due to the City and must have resided within the limits of the City for, at least, two (2) years next before the election and must devote all such time as may be found necessary to fulfill the duties of their respective offices, and as the needs of the City may require. Each shall give bond, signed by two (2) or more good and sufficient sureties, in the sum of Five Thousand Dollars (\$5,000.00), conditioned for the faithful performance of duty; provided said bond may be made by any qualified solvent surety company doing business and licensed in Texas.

D. Office may be declared vacant after absence from three unexcused meetings. Should the Mayor or any Commissioner absent himself from three (3) regular sessions without leave of absence, except in case of sickness, the Commission shall have the power to declare such office vacant and to order an election to fill the unexpired term thereof.

E. Office vacated upon removal from City. In the event that the Mayor or Commissioner move from the jurisdictional limits of the City, or otherwise is disqualified to hold office the Commission shall declare a vacancy and order an election. Any member of said Commission shall forfeit his office upon being convicted of a felony or of any act involving moral turpitude.

### **Sec. 3.06. - Meetings.**

The Commission shall meet monthly at such time and place as the Commission may determine by ordinance, and transact such business as may be deemed necessary or proper to carry into effect all of the powers in this Charter in accordance with State law.

### **Sec. 3.07. - Investigations.**

The Commission shall have the power, and it shall be its duty, at any time to inquire and investigate such department of the City government, and the official acts and conduct of the officials and employees of said City, and for purpose of ascertaining facts in connection with such investigation, shall have the power to compel the attendance and testimony of witnesses, to administer oaths, and to examine such persons as they deem necessary, and to compel the production of all books and papers and documents relating to such investigation. Failure to appear and testify by any person, when served with notice to do so, in any such investigation, shall be deemed to be a contempt, and may be punished by a fine not to exceed One Hundred Dollars (\$100.00), and in default in the payment thereof, such person so adjudged to be guilty of contempt, may be imprisoned until said fine is paid. Willful false swearing in any such investigation by any person shall be deemed to be perjury and shall be punished as such.

### **Sec. 3.08 Mayor and Mayor Pro Tem**

A. The Mayor hereinbefore provided for shall be the chief executive officer of the City of Ennis, and in addition to powers herein specifically granted him.

The Mayor shall be the official head of City government. He shall be the chairman and preside at all meetings of the Council. The Mayor may vote on every proposition before the Council but shall have no power of veto. He shall perform duties consistent with this Charter as may be imposed upon him by the Council.

The Mayor Pro Tem shall be elected by the Commissioner at large. The Mayor Pro Tem shall act as Mayor in the case of the absence or inability of the Mayor to perform the duties of office and in this capacity shall be vested with all of the powers conferred upon the Mayor.

B. He shall devote his time, or so much thereof as may be necessary, to the performance of his duties as required by this Charter and the resolutions and ordinances of the City of Ennis, and all other duties that shall be otherwise prescribed by the Commission.

C. Powers generally. The Mayor shall have, in addition to the powers herein conferred, such powers as shall be conferred by the Commission. He shall have the power to administer all oaths, and shall sign all contracts and bonds for and in behalf of the City of Ennis.

D. Emergency Powers -Police powers; authority to summon citizens to duty as special police. Whenever the Mayor shall deem it necessary in order to enforce the laws of the City or to avert danger or to protect life or property in case of a riot or any outbreak or calamity or public disturbance, or where he has reason to fear any serious violation of the law or order or any other danger to said City or the inhabitants thereof, he shall have the power to summon into service as a special police force all or as many of the citizens as in his judgment and discretion may be necessary and proper.

### **Sec. 3.09. - Annual appropriation.**

It shall be the duty of the Commission at the first regular meeting in September of each year to appropriate such sums of money for each of the respective departments of the City government as such Commission may deem necessary for the maintenance thereof during the succeeding current year, not to exceed, however, the amount of the City budget prepared and presented by the City Manager on this occasion unless by a vote of three-fifths of all its members. The fiscal year of the City shall be deemed to begin on the first day of October, and to end on the last day of September thereafter.

### **Sec. 3.10. – Audit Committee.**

A. The Commission shall have the power to appoint a committee or some suitable person or persons to examine into the affairs of the City and of any financial department therein at such time or times as it shall deem necessary.

B. The Commission shall upon the first regular meeting in January of each year, appoint a committee of three (3) persons, who shall be styled "auditing committee," to examine and audit all expenditures and funds paid by the Commission or any of its officers.

C. In every such examination, the committee so appointed, as prescribed in section 8 of this article, shall have the power to administer oaths and compel the production of all books and papers and documents and other evidence necessary to and for such investigations. Such committee shall submit their report and finding at the close of the investigation to the Commission in writing, which shall, when filed, become a public record in the office of the City Secretary. Said committee shall be paid such compensation for their labors as shall be prescribed by said Commission.

D. In all examinations provided for this article, such examination shall be made as to the financial condition and resources of said City, so as to ascertain whether the requirements of the Constitution and the laws of Texas, as well as the terms of this Charter and the laws of the said City have been complied with and such examination shall be made into the methods and accuracy of the City accounts and of all other such matters as the said Commission shall prescribe.

### **Sec. 3.11- Composition and qualifications.**

A. Such auditing committee provided in this article, shall be composed of qualified electors under the laws of Texas and this Charter, and the auditors of the City of Ennis shall be residents of said City and shall serve for one (1) year from appointment and until their successors are appointed and qualified. Each of the auditors shall be paid such compensation for his labors as shall be prescribed by said Commission.

B. The members of such auditing committee shall before entering upon their duties take and subscribe to the oath of the Constitution of Texas, and to such other oath as shall be prescribed by said Commission.

C. The said auditing committee shall have the power to administer oaths necessary for such auditing and power to compel the attendance and testimony of all persons who are witnesses, and the production of all books and papers, contracts and other documents pertaining to the same. Willful false swearing before such committee shall be deemed perjury and shall be punished as such.

D. Said auditing committee shall make its reports in writing to the Commission upon each contract so audited and examined by them, at such time and in such manner as shall be prescribed by said Commission.

### **Sec. 3.12 - Employment of auditor or certified public accountant.**

The Commission shall have power to employ a competent auditor, or certified public accountant each year or as may be needed, and to audit the books, records and finances of the City, and to make a written report of such audit, and the

Commission shall have power to pay such reasonable compensation therefor as it may fix.

**Sec. 3.13. - Charges against Mayor or Commissioner.**

When charges are preferred against the Mayor or a Commissioner of said City, they may be filed with either the City Secretary or any other member of the Commission, whose duty it shall be in such event to serve or cause to be served a copy of said charges on said Mayor or Commissioner ten (10) days before the date of trial, and said City Secretary or Commissioner shall set a date to inquire into such charges, notifying the Commissioners and the accused of the time. If the accused Mayor or Commissioner is absent from the City, then the notice may be had upon him in like manner as served upon other officers when absent. The said remaining Commissioners, or Mayor and Commissioner, as the case may be, and the justice of the peace of the precinct in which the City of Ennis is located, or in the event of his refusal to serve, a private qualified elector, selected by the Commission, shall be and constitute a court to try and determine the said charges against the accused, and shall elect one (1) of their number to preside during such trial and investigation, and the trial shall proceed and be determined in the manner provided for the trial of other officers.

**Sec. 3.14. - Recall.**

Upon petition of thirty (30) percent of the qualified electors of said City, a recall election shall be ordered by the Commission to determine the continuation in or removal from office of any elected official of the City; provided, such election may not be ordered until such official shall have served at least three (3) months in office, or until at least three (3) months following a prior election for the recall of such same official.

**Sec. 3.15. - Removed officers not eligible for office for two years.**

The officer so removed by recall, Commission or the court of competent jurisdiction herein constituted for such trial, shall not be eligible to reelection or reappointment to any office in said City for the period of two (2) years from the date of such removal.

**ARTICLE IV – CITY MANAGER**

**Sec. 4.01. - The City Manager.**

A. The City Manager shall be appointed for an indefinite term by a majority vote of the City Commission.

B. The City Manager shall be required to reside in the City after his appointment and during his tenure; selection shall be based solely on executive and

administrative qualifications, with special reference to actual and practical experience in or knowledge of accepted practice in such office; who may be removed at the will and pleasure of the Commission by a majority vote of the whole Commission, and, upon such removal, the action of the Commission in removing or suspending, the City Manager shall be final, the Commission, being vested with all authority as well as responsibly therefor; provided, no member of the Commission shall during the term of which elected be appointed City Manager.

C. In the event the Commission shall desire to remove the City Manager, the Commission shall provide notice of the reason(s) for such removal; and upon request of the City Manager hold a public hearing. The hearing shall not be held no later than thirty (30) days of such request. Pending such hearing, the Commission may suspend him from duty; and after such hearing, if any, the Commission by majority vote may remove him from office.

D. Powers and duties. The City Manager shall be the chief administrative officer and head of the administrative branch of the City government. He shall be responsible to the Commission for the proper administration of all affairs of the City placed under his control by this Charter or by ordinance or resolution, and, to that end, he shall:

1. Appoint and, when necessary for the good of the government, remove all officers and employees 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 the annual budget and submit the same to the Commission and be responsible for its administration after adoption.
3. Prepare and submit to the Commission at the end of the fiscal year a complete report on the finances and administrative activities of the City for the preceding year.
4. Attend all meetings of the Commission, with the right to take part in the discussion, but having no vote.
5. Keep the Commission advised of the financial condition and future needs of the City and make such recommendations as may seem to him desirable.
6. Appoint, subject to the approval of the Commission, officers and employees, who are not under the Charter subject to appointment by the Commission.
7. Perform all such other duties as may be prescribed by this Charter or required of him by the Commission not inconsistent with this Charter.

8. Absence. The Mayor shall designate, by letter filed with the City Secretary, a qualified substitute to serve as acting City Manager during the temporary absence or disability of the City Manager.

E. The City Manager shall no later than first meeting in August of each year, submit to the Commission an annual proposed budget of the current expenses of the City for the next ensuing fiscal year. Any item appearing therein may be omitted, increased, reduced or changed by the Commission.

## **ARTICLE V - ORDINANCES**

### **Sec. 5.01. - Limited to one subject; publication of caption; codification.**

A. All ordinances or resolutions passed by the Commission, except ordinances or resolutions making appropriations, shall be confined to one (1) subject, which shall be clearly stated and expressed in its title, and all ordinances or resolutions making appropriations shall be confined to the subject of appropriations; and all ordinances prior to final passage, not passed under the emergency clause, shall have the caption of same published in the official newspaper of the City and the City website, if any.

B. No ordinance shall be passed until the same has been posted at a meeting of the Commission in accordance with State law.

C. Commission may codify and publish its ordinances as authorized under State law.

### **Sec. 5.02. - Ordaining clause.**

The style, title and caption of all ordinances shall be "BE IT ORDAINED BY THE COMMISSION OF THE CITY OF ENNIS," but the same may be omitted from ordinances codified and published in book or pamphlet form.

### **Sec. 5.03. - To be referred to City Attorney prior to adoption.**

All ordinances, when introduced and read before the Commission, except in cases of emergency, shall be referred to the City Attorney, but no ordinance shall be so changed or amended as to change its original purpose. All ordinances referred to said City Attorney shall be reported back to the Commission at its next regular meeting, unless otherwise ordered by the Commission.



#### **Sec. 5.04. - Voting.**

A vote on any ordinance can be taken by a voice vote of ayes and nays for all ordinances or resolutions, except as may be required by State law, and entered upon the minutes of the Commission by the City Secretary. Every ordinance or resolution shall require for its passage an affirmative vote of a majority of all the Commissioners elected, unless otherwise required by State law.

#### **Sec. 5.05. - Publication of ordinances imposing penalties; compilation of ordinances.**

Every ordinance imposing any penalty, fine, imprisonment or forfeiture shall, after the passage thereof, be published ten (10) days prior to its effective date. If the official paper be published weekly, the publication shall be made in one (1) issue thereof, and proof of such publication shall be made by the publisher of such paper making affidavit before some officer authorized by law to administer oaths, and filed with the Secretary of the City, and shall be prima facie evidence of such publication and promulgation of such ordinances in all courts of the state, and such ordinances so published shall take effect and be in force from and after the publication thereof, unless otherwise expressly provided. Ordinances not required to be published shall take effect and be in force from and after the passage, unless otherwise provided. The City shall publish its ordinances in compiled or pamphlet form, but it shall not be necessary to republish such ordinances therein as have been previously published.

#### **Sec. 5.06. - Admissibility in evidence.**

All ordinances of said City which have been printed and published by authority of the City Council and/or codified, shall be admitted and received in all courts and places without further proof.

#### **Sec. 5.07 - Continuation of un-repealed ordinances.**

All ordinances, regulations or resolutions in force in the City of Ennis and not in conflict with this Charter, shall remain in force until altered, amended or repealed by the Commission.

#### **Sec. 5.08. Referendum**

Procedure. Upon a petition of protest of thirty (30) percent of the qualified voters of the City; any ordinance (except an ordinance voted through initiative within one (1) year next preceding and ordinances appropriating money, issuing bonds or authorizing the levy of taxes, which secure payment of the budget and obligations incurred and for which the City is bound or certain to become bound by reason of prior commitment, by contract or through other means or by vote, whether for one (1) or more purposes) passed by the Commission shall be, if not sooner repealed by

the Commission, submitted to a referendum of the people; provided, such petition is filed containing the required number of qualified voters within twenty (20) days from the date of enactment of said ordinance. Such referendum election, if demanded by such petition, shall be held within thirty (30) days after the filing of said petition, unless there be a regular or other certain and then-determined election being held within sixty (60) days in which event the ordinance may be then submitted. The ordinance shall not be "rejected" upon such election except upon a vote of fifty (50) percent of the total qualified voters and electors of the City against the ordinance.

#### **Sec. 5.09. - Initiative.**

Upon petition of thirty (30) percent of the qualified voters of the City any ordinance not the subject of and not fully covered by existing ordinance or Charter provision, authorized by law, may be submitted to the Commission for passage. In the event the Commission shall fail to pass or reject the ordinance, or shall pass the same in amended form and content; within thirty (30) days after submission; the Commission shall, or upon its failure, the Mayor or City Secretary, call an election within thirty (30) days aforesaid first mentioned, unless there be an election certainly being held within sixty (60) days, at which time the same shall be submitted. At such election, the original ordinance shall be printed on the ballot, or in form and substance submitted fully describing the same as provided by law; and, if the Commission has amended the same as aforesaid, such amended form shall also appear thereon; whereby the voters may choose between the two (2), or reject both.

### **ARTICLE VI. – OFFICERS / CITY SECRETARY / CITY ATTORNEY**

#### **Sec. 6.01. - City Secretary**

##### **A. Appointed; Removal; Compensation**

The City Council shall appoint a City Secretary who shall serve at the discretion of the Council. He shall receive such compensation as shall be fixed by the Council.

##### **B. Duties of the City Secretary.**

The City Secretary shall:

1. Attend all meetings of the City Council and keep accurate records of all actions taken by the Council;
2. Maintain the official records and files of the City;
3. Administer oaths;

4. Attest, contracts, assessment certificates and other legal instruments when executed by the authorized officers of the City;
5. Serve as the election official for all City elections; and
6. Perform such other duties as may be required of him by this Charter, the City Council, or State law.

#### **Sec. 6.02. - City Attorney**

The City Council shall appoint a City Attorney from recommendations of the City Manager, or by any member of the City Council, who shall be a duly licensed individual or legal firm authorized to practice law in the State of Texas. Such attorney or firm shall receive compensation as may be fixed by Council. Any such attorney or firm may be removed at any time by majority vote of the City Council.

The City Attorney shall represent the City of Ennis in all legal matters, litigation or as directed by the Commission. Such attorney or firm shall be the legal advisor of and attorney and counsel for the City of Ennis, the Commission and all boards, Commissions and agencies, and all officers and departments thereof.

Notwithstanding the above provisions, the Council may engage special legal counsel and/or prosecutor to represent the City of Ennis in any specific matter or for the performance of any specifically delineated duties otherwise to be performed by the City Attorney or in the Municipal Court as directed by Council.

### **ARTICLE VII – MUNICIPAL COURT**

#### **Sec. 7.01. Municipal Court.**

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

#### **Sec. 7.02. Judge of the Municipal Court.**

The Municipal Court shall be presided over by a magistrate who shall be known as the Judge of the Municipal Court and such other Associate Judge(s) as the Commission may deem appropriate. The Judge shall be appointed by the Council to serve a two year term.

In the event the Judge of the Municipal Court is unable to act for any reason, the Council shall appoint a replacement. The Judge, or anyone acting in his place, shall receive such compensation as may be set by the Council.

The Council shall have the power to create and establish additional municipal courts and to appoint more than one judge or Associate Judge of each municipal

court, whether one or more, each of whom shall be a magistrate and shall have the qualifications and serve a two year term.

**Sec. 7.03. Clerk of the Municipal Court.**

There shall be a Clerk of the Municipal Court who shall be appointed by the City Manager. The Clerk shall have the 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.

**Sec. 7.04. - Seal.**

The Municipal Court shall have a seal, having engraved thereon a star with five points in the center and the words "Corporation Municipal Court in Ennis, Texas"; the impress of which shall be attached to all proceedings, except subpoenas issued out of said court, and shall be used to authenticate the official acts of the clerk and the recorder Judge where herein authorized or required to use the seal of office.

**Sec. 7.05. - Style of prosecutions.**

All prosecutions in said court, whether under ordinance or under the provisions of the penal code of the State of Texas, shall be carried on "In the name and by authority of the State of Texas," and shall conclude "against the peace and dignity of the state," and where the offense is covered by an ordinance, the complaint may also charge the offense as being contrary to the said ordinance.

**Sec. 7.06. - Proceedings.**

The general rules and laws of Texas, governing proceedings in municipal courts, shall apply to the proceedings in said municipal court, and the Commission may adopt other rules regulating procedure in said court not inconsistent with this Charter or the general laws of the State of Texas.

**Sec. 7.07. - Process to enforce attendance of witnesses.**

In all prosecutions before said court, both the City and defendant may have compulsory process to enforce the attendance of witnesses.

**Sec. 7.08. - Costs.**

There shall be taxed against and collected of each defendant, in case of conviction before said court, such costs as may be provided by ordinance of the City of Ennis; power being hereby conferred upon such City to fix by ordinance all such costs. But in no case shall the collection of greater costs than are prescribed by law to be collected of defendants convicted before justices of the peace, be authorized or required. All costs and fines imposed by the municipal court in the City of Ennis,

in any prosecution therein, shall be paid into the City treasury of said City for the use and benefit of said City, unless otherwise direct by State law.

**Sec. 7.09. - Collection of fines and costs.**

The Commission may by ordinance prescribe such rules, not inconsistent with the general laws of the state for the collection of all costs and fines imposed by such law.

**Sec. 7.10. - Service of process; right to trial by jury; execution of writs.**

All process issuing out of said municipal court shall be served by the chief of police or any policeman or marshal of such City, under the same rules and regulations as are now provided by law for the service of sheriffs and constables of process issuing out of the county court, so far as the same are applicable. But each defendant shall be entitled to, at least, one (1) day notice of any complaint brought against him if such time is demanded. Every person brought before the municipal court to be tried for an offense, for which the penalty may be fine or imprisonment, or both, shall be entitled, if he shall demand the same, to be tried by a jury of six (6) jurors qualified under the laws of this state for service as jurors in justice courts, and who shall be summoned, impaneled and qualified as are jurors in such under the laws of this state. Writs issued out of such corporation [municipal] court by the Mayor or Judge of such court may be executed and the accused persons arrested by the marshal or his deputy anywhere within the county in which such City is situated.

**ARTICLE VIII – FINANCE**

**Sec. 8.01. - Authority of Commission over finances; fiscal year; authority to issue bonds; bonds to be approved in referendum and by Attorney General.**

The Commission shall have power to control and manage the finances of said City, to prescribe fiscal arrangements, the power to issue bonds upon the credit of the City for the purpose of making permanent public improvements, or for any other public purposes, in the amount and to the extent provided by such Charter and consistent with the Constitution of the state; provided, that said bonds shall have been first authorized by a majority vote cast by the duly qualified property tax paying voters, voting at an election held for that purpose. Thereafter all such bonds shall be submitted to the Attorney General for his approval, and the comptroller for registration, as provided by the State law, provided that any such bonds after approval, may be issued by the City, either optional or serial, or otherwise, as may be deemed advisable by the Commission.

**Sec. 8.02. - Appropriations and issuance of bonds for public works.**

The Commission shall have the power and authority to appropriate so much of the revenues of said City for the purpose of improving the public markets, streets, and

erecting and conducting hospitals, waterworks and other public improvements as it may from time to time deem expedient, and in furtherance of said objects they shall have power to borrow money upon the credit of the City and issue bonds as aforesaid, of the City therefor, in such sums as they may deem expedient, payable at such times and places as shall be directed by the said Commission; provided, however, that said Commission shall not issue any bonds of the said City without first submitting the same to a vote of the people as provided for in this Charter.

**Sec. 8.03. - Approval of bonds by voters.**

The Commission shall not have the power to issue any other bonds than those specifically provided for herein, against said City, without and unless the property taxpayers of said City, at an election held for that purpose, as provided for by general laws of the State of Texas, declared by a majority vote in favor of the issuance of said bonds.

**Sec. 8.04. - Signatures, seal, maximum interest and maximum term of bonds.**

All bonds hereafter issued by said City shall specify for what purpose they were issued, shall be signed by the Mayor and countersigned by the City Secretary with seal of said City attached, and shall be payable at such time and place as the Commission shall by ordinance direct, bearing interest not to exceed ten (10) percent per annum, but no bonds shall be issued for a term longer than forty (40) years from date thereof.

**Sec. 8.05. - Sinking fund for bonds.**

When bonds or other lawful forms of debt are issued by the City, the Commission shall provide a fund to pay the interest and create a sinking fund of, at least, two and one-half (2½) percent of such debt per annum, to redeem the said bonds at maturity thereof, which fund shall not be diverted nor drawn upon for any other purposes; provided, however, that said sinking fund may as it accumulates, be invested in the bonds of the United States, the State of Texas, the counties of said state, or the bonds of the City of Ennis not yet due and the Treasurer of said City shall honor no draft upon said funds except to pay interest upon or redeem the bonds for which it was provided, or for investments in other securities.

**ARTICLE IX – TAXATION**

**Sec. 9.01. - Authority of Commission to levy taxes; maximum amount of levy.**

The Commission shall have the power to levy, assess and collect taxes ad valorem upon all taxable property, real, personal, and mixed, in sums not to exceed One Dollar and Fifty Cents (\$1.50) on the One Hundred Dollars (\$100.00) valuation, for general or special purposes and for street improvements, and maintenance sewers, waterworks, and for any other purpose allowed by law.

Within the total taxes above authorized the Commission shall provide for the payment of the interest as it accrues and sinking funds, or any other funds, sufficient to pay the principal as it matures, of all bonds heretofore issued, and when further bonds shall be hereafter issued, shall make like provision for the payment of the interest and principal thereon as required by law.

**Sec. 9.02. - Time and manner of levying ad valorem taxes; assessment and collection of same; failure of Commission to levy taxes; levy and assessment of back taxes.**

The time and manner of levying ad valorem taxes and the property upon which it shall be levied and the persons against whom it shall be charged, and the time and manner of rendering, assessing and collecting same, and enforcing payment thereof when not paid as provided by law, shall be in accordance with the requirements of the general laws of the State of Texas, now in force or hereafter to be enacted, regulating taxation by municipal corporations, but the purposes for which and the amounts in which said taxes shall be levied, appropriated and used shall be as provided by the Commission of the City of Ennis, and subject only to the provisions of superior law imperatively limiting the exercise by the Commission of such discretion. Should the Commission fail or neglect to levy a tax in any year, the taxes levied and assessed for the preceding year or for the year in which a tax was last levied and assessed shall be considered in force, and a failure or neglect further to levy or assess shall in nowise invalidate the collection of the tax thereunder for such year. The Commission, however, shall have power at any time to direct the levy and assessment, or to levy and assess back taxes not properly levied and assessed for any prior year.

**Sec. 9.03. - Franchise tax.**

The Commission shall have the power to levy, assess and collect a tax on all franchises of public corporations, using and occupying the public streets or grounds of the City of Ennis, separately from the tangible property of such corporation.

**Sec. 9.04. - Unpaid taxes constitute lien on property; interest on unpaid taxes.**

All taxes upon real and personal property shall be a lien and charge thereon for the full amount of all taxes so assessed, which lien may be foreclosed and taxes collected by suit in any court of competent jurisdiction. All delinquent taxes which are not paid when due shall bear interest and penalty as required by State law.

**ARTICLE X. EMINENT DOMAIN**

**Sec. 10.01. - Power of City.**

The City of Ennis shall have power to acquire property for public purposes whenever the governing authorities shall deem it necessary, and to take any private

property within or without the City limits including but not limited to any of the following purposes, to wit; City halls, police stations, jails, calaboooses, fire stations, libraries, school houses, high school buildings, academies, hospitals, sanitariums, auditoriums, market houses, reformatories, abattoirs, railroad terminals, warehouses, elevators, loading and unloading devices, shipping facilities, piers, streets, alleys, parks, highways, boulevards, speedways, playgrounds, sewer systems, storm sewers, sewage disposal plants, drains, filtering beds and emptying grounds, for sewer systems, reservoirs, water sheds, water supply sources, wells, water and electric light systems, gas plants, cemeteries, crematories, prison farms, and to acquire lands within and without the City for any other municipal purpose that may be deemed advisable. That the power herein granted for the purpose of acquiring private property shall include the power of the improvement and enlargement of the waterworks, including water supply, riparian rights, standpipes, water sheds, the construction of supply reservoirs, parks, squares and pleasure grounds, and for the purpose of straightening and improving the channel of any stream, branch or drain, or the straightening or widening or extension of any street, alley, avenue or boulevard. That, in all cases where the City seeks to exercise the power of eminent domain, it shall be controlled, as nearly as practicable, by law governing the condemnation of property of railroad corporations in this state, the City taking the position of the railroad corporation in any such case; that the power of eminent domain hereby conferred shall include the right of the governing authority, when so expressed, to take the fee in the lands so condemned and such power and authority shall include the right to condemn public property for such purposes.

## **ARTICLE XI – FRANCHISES**

### **Sec. 11.01. - Affirmative vote of all members of Commission required.**

The rights of the City of Ennis in the use of the public streets, alleys, squares, parks, bridges and all public places, are hereby declared to be inalienable to any person, firm or corporation, except by license permit and franchise passed by the Commission on the affirmative vote of all the members of said Commission elected.

### **Sec. 11.02. - Maximum term.**

No franchise, lease or permit to the streets, alleys, squares, parks, bridges or other public places, or the use of either or any of them shall be made by the Commission for a longer term than thirty (30) years.

### **Sec. 11.03. - Publication of ordinance caption granting franchise.**

Before any grant of franchise shall be made by the Commission, the terms thereof, embodied in the form of an ordinance, as agreed to by the applicant and the Commission, shall publish the caption thereof, once before the date of its passage, in the official newspaper of the said City, said publication to be paid for by the



applicant, provided that, if, at any time before any ordinance granting a franchise takes effect.

**Sec. 11.04. - Terms and agreements; certain conditions mandatory.**

Said proposed franchise shall contain all the terms and agreements of the parties thereto, and it must expressly set forth that the Commission shall have the right and privilege of regulating and controlling the operation of all business done thereunder, fixing fares, rates, tolls and charges from time to time as it progresses; that the Commission shall have the right to inspect the business and work, pass all reasonable rules and regulations for the conduct of the business done under or by virtue of said franchise, as said Commission shall deem proper from time to time, and that said Commission, or its committees, or other officer appointed by them, shall have the right at such times as the Commission shall designate, to inspect all of the business and books, papers and documents and affairs of such business and the amount thereof.

**Sec. 11.05. - Mandatory conditions deemed part of franchise, even though not set out in full.**

In the event that any franchise or permit is so given by said Commission which shall not contain such stipulations therein as provided for in Section 11.04 of this Article, then it shall nevertheless, be considered that all of the said stipulations contained in Section 11.04 are a part and parcel of the said contract and franchise, just as though written therein and the said applicant so accepting such franchise, as well as their heirs, assigns and successors, shall be held and firmly bound thereto, notwithstanding such omission.

**Sec. 11.06. - Not to be granted as emergency ordinance; three readings required.**

No franchise shall be granted under the emergency clause, and none shall be granted until after due publication and adopted at a duly convened regular meeting; any franchise granted which is not in accordance with the provisions of this section shall be subject to be set aside by any person interested in a suit for that purpose.

**Sec. 11.07. - Underground wires, may be required.**

The Commission may require the placing of all wires or overhead construction of public utilities, or such part thereof as may be deemed best, from time to time under the surface of the ground under such regulations as may be prescribed by the Commission from time to time. Commission may provide for such construction or change thereof in any franchise hereafter granted and may require all public service corporations now having their construction of wires and appliances above the ground to place the same, or any part thereof, below the ground under such

regulations, as the Commission may prescribe, subject to the requirements of State law.

**Sec. 11.08. - Franchise required to use or occupy public ground by a public utility within City; removal of property upon expiration of franchise.**

It shall be unlawful for any person or corporation or association of persons to use or occupy any public ground whatever in the City or any space above or below any public ground for the purpose of conducting any public utility wherein a service is rendered to the public for hire or charge, unless permission is first had from the Commission, in the manner provided by this Charter, and where public service corporations are now occupying the streets and public grounds of the City without an express franchise from the City, said corporation or public utilities shall have one (1) year from the passage of this act by the legislature, to remove from the streets and public grounds all their properties, and shall do so within said one (1) year, unless a franchise shall be had from the Commission.

All public utilities whose franchise grant expires by limitation expressed in the grant, shall within six (6) months from the date of the expiration of the grant or franchise, remove all properties belonging to them from the public grounds and restore the grounds and surface of the street to its original condition, unless before the expiration of the grant or within ninety (90) days thereafter a new franchise or an extension of the old franchise is granted under the same rules as a new franchise.

**Sec. 11.09. – Location.**

The Commission may specify by ordinance or otherwise where posts, piers or abutments and all wires of public service corporations are to be located, the kind of posts that shall be used, the heights at which the wires shall be run and such company shall be governed by the regulations thus prescribed, and the Commission may require any company to elevate, lower or change its wires or renew its posts, if deemed best for the safety of the public without regard to the corporation or utility that does now or may hereafter use the streets, and may require changes to be made from time to time after first giving the corporations or persons interested an opportunity to be heard. The Commission may require all telegraph, telephone and electric wires conveying any electricity or charged therewith to any extent whatever to be insulated and to be placed under such regulations as the Commission may prescribe.

**Sec. 11.10. - Inspection.**

The Commission shall have power to require all persons and companies using in the conduct of their business electricity, or other wires, and all persons or corporations using appliances that may come in contact with electric or other wires, the result of which might or could be dangerous to people, to regularly inspect said wires and examine their fixtures and fastenings, at least, one (1) time during each

month, and make report thereof to the Commission under oath of the person inspecting, and the Commission shall have power to prescribe regulations for the inspection of all wires, apparatus or property which when out of repair might or could cause injury or produce danger to the people, whether such property could of itself or in connection with or in contact with other property could produce that result, and to adopt regulations between companies owning or controlling all such properties to the end that the public safety may be promoted. Upon the failure or default of any person or company owning or in charge of any such wires to both inspect and promptly report to the Commission in accordance with this section, the Commission may employ some person to make an inspection of such wires not reported upon, and the cost of such inspection shall be paid by the person or company in default, and the City shall have a lien upon the property of which said wires may be a part to secure such cost.

#### **Sec. 11.11. - Forfeiture.**

The Commission may enforce all regulations of public utilities whether such regulations are prescribed in the franchise under which they may be operating or by ordinance passed thereafter, and may for adequate cause enforce the forfeiture of any franchise in any court of competent jurisdiction. Adequate cause may be deemed to be a persistent refusal after due notice to comply with reasonable regulations or demands of the Commission and refusal to obey and comply with the law and the ordinances of the City or any contract with the City.

### **ARTICLE XII – MISCELLANEOUS**

#### **Sec. 12.01. - Continuation of previous contracts.**

All valid contracts to which said City is a party heretofore validly made under the Charter and laws of said City, and not heretofore terminated by agreement, novation, breach or otherwise, shall be unaffected by the adoption of this Charter, and shall be executed in accordance with the provisions of the Charters and laws applicable thereto, and for such purposes only, all laws and parts of laws applicable to any such contracts are continued in full force and effect. This section shall have no application to contracts which have been executed nor to those which were illegal under former Charters.

#### **Sec. 12.02. - Construction of Charter; effect on existing ordinances.**

In the construction of any of the provisions of this Charter, the intent of the section in connection with the entire Charter and the laws applicable hereto, shall be considered, it being intended to make the Board of Commissioners, including the Mayor and Commissioners, the legislative, administrative, and executive power of the City, and whenever the word "Council," "Mayor," "Board of Commissioners" or "Board of Alderman," may occur in any of the ordinances of the City, the same

shall hereafter be construed to mean the Mayor, Board of Commissioners, as the case may be, as authorized and constituted under this Charter.

**Sec. 12.03. - No money to be paid to persons in arrears to City for taxes.**

No money shall be paid by the City upon any claims, debt, demand or account whatsoever, to any person, firm or corporation who is in arrears to the City of Ennis for taxes; and the City shall be entitled to a counterclaim and offset against any such debt, claim, demand or account in the amount of taxes so in arrears, and no assignment or transfer of such debt, demand or account after the said taxes are due, shall affect the right of the City to offset the said taxes against the same.

**Sec. 12.04. - Notice of Claim**

The City shall not be held liable on account of any claim for the death of any person or injuries to any person or damage to any property unless the person making such complaint or claiming such damages shall, with thirty (30) days after the time at which it is claimed such damages were inflicted upon such person or property, file with the City a written statement under oath, stating the nature and character of such damages or injuries, the extent of the same, the place where same happened, the circumstances under which same happened and 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 any witnesses known by affiant to have seen the accident.

**Sec. 12.05. - Continuation of existing officers.**

The Mayor and the Commission and all other officers of said City may continue in office under the former laws governing said City until their successors are elected and qualified under and by virtue of the terms of this Charter.

**Sec. 12.06. - Previous powers preserved; conflicts with other laws; omissions from Charter; severability of provisions; repeal of conflicting laws.**

All powers granted heretofore to cities are hereby preserved. In case of any irreconcilable conflict between the provisions of this Charter and a superior law, the powers of the City and its officers shall be as defined in such superior law. In case of any insufficiency or omission in this Charter, which insufficiency or omission may be supplied by reference to its former Charter powers or the general laws, such provisions of such Charters and general laws are hereby adopted, and the City shall have and exercise all of the powers that it could have acquired by expressly adopting and incorporating into this Charter all of the provisions of such superior and general laws and Charters referred to in this section, it being the intent of this Charter that no lawful power of the City shall fail because of any omission, insufficiency or inconsistency in this Charter appearing. The insufficiency or invalidity of any portion or portions of this Charter shall not in any wise affect the

remaining portions of the Charter, but same shall be construed as if adopted without such portion so found invalid or impotent. All laws and parts of laws in conflict with the provisions of this Charter and not saved by express reference to same herein, are hereby repealed.

**Sec. 12.07. - Annexation of territory.**

Whenever the majority of the inhabitants qualified to vote for members of the state legislature of any territory adjoining the limits of the City of Ennis, shall vote in favor of becoming a part of said City, any three (3) of such inhabitants may make affidavit to the fact to be filed with the Mayor of said City who shall certify the same to the Commission. The Commission may by ordinance receive them, or if it deems such addition not beneficial to the City, may refuse to receive them. If received, from thenceforth the territory so received shall be a part of said City, and the inhabitants thereof shall be entitled to all the rights and privileges of other citizens and bound by the acts and ordinances of said City, made in conformity with law. Nothing contained herein shall limit the City from annexing territory or expanding its extraterritorial jurisdiction under State law.

**Sec. 12.08. - Regulation of hours of labor of City employees.**

The Commission shall have the power to regulate the hours of labor of all City employees and may adopt the eight-hour system, when in their judgment it is the part of wisdom to do so.