

CITY OF DALTON
ORDINANCE
Ordinance No. 22-09

To Amend Pursuant To Home Rule (O.C.G.A. Section 36-35-3(b)(1)) The Charter of The City of Dalton (Ga. L. 1974, P.181, As Amended, Particularly By Ordinance No. 05-03, Section 2 And 3, To Provide Regulation of Leasing of The City's Real And Personal Property; To Specify An Effective Date; To Provide For Severance; And for Other Purposes.

WHEREAS, the City of Dalton has authority and power under its Municipal Charter, Ga. L. 1874, p. 181, as amended, and especially as amended by Ordinance No. 05-03, Section 2 and 3, to lease real and personal property of the City which is or has been dedicated to public use both to governmental agencies as well as well as private persons; and

WHEREAS, the City of Dalton desires to enact binding regulations on its authority and power in the leasing of such property as seems proper considering good business practice and restrictions enacted by the Georgia General Assembly in the Georgia Municipal Code which while not binding on the City of Dalton provide some considerations; and

WHEREAS, The Mayor and Council deem these binding regulations to be in the interest of the health, safety, and general welfare of the citizens of the City of Dalton;

NOW, THEREFORE, be it ordained by the Mayor and Council of the City of Dalton and by authority of same ITS IS HEREBY ORDAINED as follows:

-1-

The statements hereinabove are adopted as the findings of fact of the Mayor and Council.

-2-

The City's Municipal Charter, GA. L. 1974, p.181, as amended, especially by that Home Rule Ordinance No. 05-03, sections 2 and 3, of February 21, 2005 in Section 4.8(r) is stricken in its entirety and substituted in lieu thereof is the following:

(~~r~~) *Municipal property ownership.* To acquire, dispose of, lease, grant an easement in and hold in trust or otherwise, any real, personal or mixed property, in fee simple or lesser interest, inside or outside the property limits of the City.

In respect to the City's lease of any of its real property dedicated to public use pursuant to this Charter, the authority of the City to lease its real estate or enter into any time leases or contracts for the use, operation, or management of any real property of the municipal corporation, shall include a lease or leases to private persons not exceeding thirty-five (35) years upon terms negotiated fully at arms length between the City of Dalton and such private person or persons and without necessity of sealed bid but upon such other terms as may

result in fair rental value either in money or in-kind or both, and provided lessee or contractor is required to:

- i). provide and maintain in force and effect throughout the terms of such lease or contract sufficient liability insurance, in an amount not less than \$1 million per claim, no aggregate, naming the municipality as a named insured;
- ii). assume sole responsibility for or incur liability for any injury to person or property caused by any action or omission of any person while on the property and shall agree to indemnify the municipality and hold it harmless from any claim, suit, or demand made by any person; and
- iii). agree to indemnify the municipality and hold it harmless from any claim, suit, or demand arising out of any improvements of the property or any indebtedness or obligations incurred by the lessee or contractor in making any such improvements to such property.

-3-

Inasmuch as the Ordinance is being enacted pursuant to O.C.G.A. §36-35-3(b)(1) it shall be adopted in accordance with the statutory procedure for Municipal Charter amendments by Home Rule and a synopsis thereof shall be published in the official organ of Whitfield County, Georgia once per week for three (3) weeks preceding final adoption.

-4-

All laws and ordinances or parts thereof in conflict herewith are hereby repealed.

-5-

The provisions of this Ordinance are intended to be severable so that if any part hereof shall be determined to be unlawful or unenforceable then such unlawful or unenforceable part shall be severed and then the remaining parts hereof shall remain in full force and effect.

-6-

The Ordinance shall be effective to amend the City Municipal Charter as provided by the Municipal Home Rule Act of 1965, as amended.

So **ORDAINED**, this ____ day of _____, 2022.

ADOPTION as follows:

On _____, 2022 this Ordinance received its First Reading and upon Motion of Councilperson _____ and second by Councilperson _____ the Ordinance received an initial vote being _____AYES, _____NAYS.

On _____, 2022, the Ordinance received a second reading and upon motion of Councilperson _____ and second by Councilperson _____, the Ordinance received a vote of _____ AYES, _____NAYS upon the question of adoption and the Ordinance DOES/DOES NOT pass.

MAYOR

A true copy of the foregoing Ordinance has been published in two (2) public places within the City of Dalton for five (5) consecutive days following passage of the above-referenced Ordinance as of the _____ day of _____, 2022.

City Clerk