

CITY OF FORNEY, TEXAS

ORDINANCE NO. 20- _____

AN ORDINANCE OF THE CITY OF FORNEY, TEXAS, ORDERING A SPECIAL ELECTION TO BE HELD ON MAY 2, 2020, FOR THE PURPOSE OF VOTING ON THE ADOPTION OR REJECTION OF PROPOSED AMENDMENTS TO THE EXISTING CITY CHARTER OF THE CITY OF FORNEY, TEXAS, AS AMENDED; DESIGNATING THE PLACES AT WHICH SAID ELECTION IS TO BE HELD; APPOINTING THE EARLY VOTING CLERK; PROVIDING FOR POSTING AND PUBLICATION OF NOTICE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Forney, Texas, in the exercise of the discretion reposed in it by the Constitution and laws of this State, and in accordance with the provisions of Chapter 9 of the Texas Local Government Code, and in accordance with its City Charter, has determined to submit for adoption or rejection, amendments to the existing Charter of the City of Forney, at a special election to be held May 2, 2020.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORNEY, TEXAS, THAT:

Section 1. All of the above premises are found to be true and correct factual and legislative determinations of the City of Forney and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

Section 2. A special election is hereby ordered to be held on the 2nd day of May, 2020, between the hours of 7:00 a.m. and 7:00 p.m., for adoption or rejection, proposed amendments to the City Charter of the City of Forney, Texas. Said election shall be held by the Kaufman County Elections Administrator pursuant to a Joint Election Agreement and Contract for Elections Services, with respect to such Special Election as approved by the City Council of the City of Forney, Texas and the Kaufman County Elections Administrator.

Section 3. The Election Day polling place where qualified voters shall cast ballots at such location in the City of Forney, Texas, Special Election is as follows:

**First Baptist Church of Forney
1003 FM 741
Forney, Texas 75126**

Election polls shall be open from 7:00 a.m. to 7:00 p.m. on the date of the election.

Section 4. PROPOSED CHARTER AMENDMENTS

AMENDMENT A: Amending Article 1. Form of Government and Boundaries, Section 1.04 (Annexation or Disannexation), subsection (1), to delete the statement referencing the City's ability to annex property "with or without the consent of the owners of the land in the territory or the voters who reside in the territory."

If approved, Section 1.04(1) would read as follows:

Sec. 1.04 Annexation or Disannexation

(1) The boundaries of the City of Forney may be enlarged and extended by the annexation of additional territory or decreased by disannexation in any manner and by a procedure not prohibited by law.

AMENDMENT B: Amending Article 2. Powers of the City, Section 2.04 (Specific Powers and Enabling Authority) deleting subsection (1) as being redundant with subsection (2) and not necessary, which provision relates to the powers conferred upon the City of Forney and its enabling authority.

AMENDMENT C: Amending Article 3. The City Council, Section 3.01 (Number, Selection and Term), removing the last sentence because it was applicable to the adoption of the original Home Rule Charter (transitional language) but not to proposed Charter amendments.

If approved, Section 3.01 would read as follows:

Sec. 3.01 Number, Selection and Term

The Council shall be composed of Mayor and six Council members, elected by a place system at large, each of whom unless sooner removed under the provisions of this Charter, shall serve for a term of two years and until his successor has been elected and duly qualified. The odd numbered City Council positions shall be elected in even numbered years. The even numbered positions of the City Council and the office of the Mayor shall be elected in odd numbered years.

AMENDMENT D: Amending Article 3. The City Council, Section 3.02 (Council Qualifications), to reference all Council qualifications as they are stated in Section 5.02, avoiding conflict and inconsistency of qualifications.

If approved, Section 3.02 would read as follows:

Sec. 3.02 Council Qualifications

In addition to any other qualification prescribed by law, the Mayor and each City Council member shall meet the qualifications set forth in Section 5.02 of this Charter while in office. If the Mayor or any City Council member fails to maintain the qualifications, or shall be absent from three consecutive regularly scheduled meetings without explanation acceptable to a majority of the remaining City Council members, the City Council shall at its next regular meeting declare a vacancy to exist and shall fill said vacancy as set forth in Section 3.05 of this Charter.

AMENDMENT E: Amending Article 3. The City Council, Section 3.04 (Mayor and Mayor Pro-Tem), to replace the terminology in paragraph 1 describing the Mayor from “the official head” to the “chairman” of the City government; and replacing the language in paragraph 2 from “with all of the powers conferred upon the Mayor” to “all of the duties conferred upon the Mayor.”

AMENDMENT F: Amending Article 3. The City Council, Section 3.05 (Forfeitures and Vacancies), to delete paragraph 2 related to removal from office for absences from regular meetings as it is repetitive of Section 3.02.

AMENDMENT G: Amending Article 3. The City Council, Section 3.06 (Specific Enumerated Powers of the City Council), to amend the powers of the City Council by deleting the appointment authority of clerks of the municipal court in subsection (b), amending subsection (g) to define “collectively” as it relates to the City Council’s inquiry authority, and deleting subsection (k) in its entirety as an unnecessary power of the City Council; renumbering subsections.

If approved, Section 3.06 would read as follows:

Sec. 3.06 Council Qualifications

Without limitation of the foregoing and among the other powers that may be exercised by the Council, the following are hereby enumerated for greater certainty:

- (a) Appoint and remove the City Manager.
- (b) Appoint and remove the Municipal Judge.
- (c) Appoint and remove the City Attorney.
- (d) Appoint and remove the City Secretary.
- (e) Establish administrative departments.
- (f) Adopt the City budget.
- (g) Inquire into the conduct of any office, department or agency of the City and make investigation as to municipal affairs upon the action of a majority of the full City Council.
- (h) Provide for a planning and zoning commission, board of adjustment, and other boards and commissions as deemed necessary.
- (i) Adopt and modify the official map of the City.
- (j) Adopt, modify and carry out plans in cooperation with the Planning Commission for the replanning, reconstruction or redevelopment of any area or district which may have been destroyed in whole or in part by disaster.
- (k) Provide for the establishment and designation of fire limits and prescribe the kind and character of buildings or structures or improvements to be erected therein; provide for the erection of fireproof buildings within certain limits; and provide for the condemnation of dangerous structures or buildings or dilapidated building or buildings calculated to increase the fire hazard, and the manner of their removal or destruction.
- (l) Fix and regulate rates and charges of all City owned utilities and public services.

AMENDMENT H: Amending Article 3. The City Council, Section 3.11 (Passage of Ordinances in General), to remove the requirement that “printed” copies of ordinances be provided to City Council members prior to their consideration for approval.

If approved, Section 3.11, paragraph 4 would read as follows:

Sec. 3.11 Passage of Ordinances in General

....

The reading aloud of a title and caption of the ordinance shall suffice as a reading, provided copies of the ordinance in the form required for adoption are in front of all members of the City Council and a reasonable number of additional copies are available to citizens present at the meeting. If a majority of the members present request that the ordinance be read in its entirety, it must be read.

AMENDMENT I: Amending Article 3. The City Council, Section 3.12 (Codification), to delete the requirement that hard copies of the City’s Code of Ordinances be placed in libraries within the City.

AMENDMENT J: Amending Article 4. City Administration, Section 4.01 (City Manager), to remove the requirement that the City Manager be removed by resolution of the City Council, making the removal at the sole discretion of the majority of the City Council without the need of approving a written resolution.

AMENDMENT K: Amending Article 4. City Administration, Section 4.03 (Municipal Court), to require that the Municipal Court Judge be a competent and duly qualified and licensed attorney, practicing law in the State of Texas with compensation to be set by the City Council.

If approved, Section 4.03 would read as follows:

Sec. 4.03 Municipal Court

There shall be a court known as the Municipal Court of the City of Forney, with such jurisdiction, powers and duties as are now or may be prescribed by the laws of the State of Texas.

The Municipal Court shall be presided over by a magistrate who shall be known as the Judge of the Municipal Court. The Judge shall be a competent and duly qualified and licensed attorney, practicing law in the State of Texas. The Judge shall be appointed by the Council to serve for a term of two years and at the discretion of the Council. The Judge shall receive such compensation as may be fixed by the City Council.

All costs, fines and penalties imposed by the court shall be paid unto the City treasurer to be used as State law allows.

AMENDMENT L: Amending Article 5. Nominations and Elections, Section 5.02 (Filing for Office), to add subsection (g) to create a vacancy in the City Council if the Mayor or Council member files for candidacy for any elective public office other than the one that the Council member currently holds.

If approved, Section 5.02(g) would read as follows:

(g) The office of an incumbent elected City official shall become vacant when the person holding such office files an application to have his or her name placed on an official ballot as a candidate for any elective public office other than the one such person holds, unless otherwise prohibited by law.

AMENDMENT M: Amending Article 6. Initiative, Referendum and Recall, Section 6.01 (General Authority), subsection (3), to clarify the recall authority as being subject to the procedures in Article 6.

If approved, Section 6.01(3) would read as follows:

Sec. 6.01 General Authority

(3) Recall: The qualified voters of the City shall have the power to remove any official serving in an elective office subject to the procedures in this Article.

AMENDMENT N: Amending Article 6. Initiative, Referendum and Recall, Section 6.05 (Presentation of Petitions), to increase the number of signatures required for an initiative or referendum petition from ten percent (10%) of those qualified voters who voted in the last general municipal election, or one hundred, whichever is greater, to ten percent (10%) of those qualified voters who voted in the last general municipal election, or two hundred, whichever is greater; and increasing the number of signatures required for a recall petition from twenty percent (20%) of those qualified voters who voted in the last general municipal election, or two hundred, whichever is greater, to twenty percent (20%) of those qualified voters who voted in the last general municipal election, or four hundred, whichever is greater.

AMENDMENT O: Amending Article 6. Initiative, Referendum and Recall, Section 6.07 (Certification of Petitions and Presentations to the City Council), to increase the amount of time the City Secretary has to verify petitions for initiative, referendum and recall and change the terminology from working days to business days.

If approved, Section 6.07(1) would read as follows:

Sec. 6.07 Certification of Petitions and Presentations to the City Council

(1) The City Secretary shall complete a certificate of sufficiency or insufficiency within ten business days after the petition is presented. Sufficiency shall be determined by compliance with this Article.

AMENDMENT P: Amending Article 7. Financial Procedures, Section 7.02 (Submission of Budget and Budget Message), to move the date that the City Manager shall submit a budget for the ensuing year to the City Council from August 1 to August 15.

If approved, Section 7.02 would read as follows:

Sec. 7.02 Submission of Budget and Budget Message

On or before the fifteenth day of the eleventh month of the fiscal year, the City Manager shall submit to the City Council a budget for the ensuing fiscal year and an accompanying message.

AMENDMENT Q: Amending Article 7. Financial Procedures, Section 7.05 (Public Hearing on Budget), to include additional language to allow for an alternative manner of publication of the notice of public hearing for a proposed budget.

If approved, Section 7.05 would read as follows:

Sec. 7.05 Public Hearing on Budget

At the Council meeting when a budget is submitted, the Council shall name the date and place of a public hearing and shall have published in the official newspaper of the City or other manner as allowed by state law, the time and place which will be not less than ten days nor more than thirty days after the date of notice. At this hearing, interested citizens may express their opinions concerning items of expenditures, giving their reasons for wishing to increase or decrease any items of expense.

AMENDMENT R: Amending Article 7. Financial Procedures, Section 7.09 (Amending the Budget) and 7.14 (Borrowing), subsection (3) to remove the term “elected” from the phrase “the full elected membership” and “the elected members of the City Council”, respectively, allowing the participation of an appointed Council Member in budget amendments.

AMENDMENT S: Amending Article 8. Boards and Commissions, Section 8.01 (Authority, Composition and Procedures), subsection (5) to clarify and add attendance requirements for Boards and Commissions of the City.

If approved, Section 8.01(5) would read as follows:

Sec. 8.01 Authority, Composition and Procedures

(5) Any member of a board, commission or committee who fails to maintain the qualifications or who shall be absent from three consecutive regular meetings or from 25% of the regularly scheduled meetings during a 12-month period without explanation acceptable to a majority of the other members shall forfeit his position on the board, commission or committee.

AMENDMENT T: Amending Article 11. General and Transitional Provisions, Section 11.05 (Prohibitions and Penalties), subsection (1) to include additional protected classes of disability and sexual orientation to equality of rights with respect to appointment to or removal from any position at the City.

If approved, Section 11.05(1) would read as follows:

Sec. 11.05 Prohibitions and Penalties

(1) Equality of rights under the law shall not be denied or abridged with respect to appointment to or removal from any position because of race, gender, age, national origin, political or religious opinions or affiliations, disability and sexual orientation.

AMENDMENT U: Amending Article 11. General and Transitional Provisions to rename the Article as General Provisions, deleting the now unnecessary Sections 11.16 (Schedule of Transition), 11.17 (Officers and Employees), and 11.18 (Pending Matters), which language transitioned the City to the adoption and implementation of the original Charter for the City of Forney.

Section 5. BALLOT PROPOSITIONS

The official ballots to be used in this special election shall comply with the applicable provisions of the Texas Election Code, shall state each proposed amendment separately and distinctly so that the voters shall pass upon each amendment separately and apart from another so that each voter may vote “For” or “Against” any amendment or amendments without voting “For” or “Against” all such amendments. Any non-substantive changes that need to be made for the ballot are hereby approved. A summary of the Propositions shall be set forth on said ballots in substantially the following language:

CITY OF FORNEY – SPECIAL ELECTION

CITY OF FORNEY PROPOSITION A

Shall Article 1. Form of Government and Boundaries, Section 1.04 (Annexation or Disannexation), subsection (1) be amended to read as follows:

The boundaries of the City of Forney may be enlarged and extended by the annexation of additional territory or decreased by disannexation in any manner and by a procedure not prohibited by law.

- FOR
- AGAINST

CITY OF FORNEY PROPOSITION B

Shall Article 2. Powers of the City, Section 2.04 (Specific Powers and Enabling Authority) be amended by deleting subsection (1), which provision relates to the powers conferred upon the City of Forney and its enabling authority, as being redundant with subsection (2); renumbering the subsections?

- FOR
- AGAINST

CITY OF FORNEY PROPOSITION C

Shall Article 3. The City Council, Section 3.01 (Number, Selection and Term) be amended by deleting the last sentence because it was applicable to the adoption of the original Home Rule Charter (transitional language) but not to proposed Charter amendments?

- FOR
- AGAINST

CITY OF FORNEY PROPOSITION D

Shall Article 3. The City Council, Section 3.02 (Council Qualifications) be amended to reference all Council qualifications as they are stated in Section 5.02, avoiding conflict and inconsistency of qualifications to read as follows:

In addition to any other qualification prescribed by law, the Mayor and each City Council member shall meet the qualifications set forth in Section 5.02 of this Charter while in office. If the Mayor or any City Council member fails to maintain the qualifications, or shall be absent from three consecutive regularly scheduled meetings without explanation acceptable to a majority of the remaining City Council members, the City Council shall at its next regular meeting declare a vacancy to exist and shall fill said vacancy as set forth in Section 3.05 of this Charter.

- FOR
- AGAINST

CITY OF FORNEY PROPOSITION E

Shall Article 3. The City Council, Section 3.04 (Mayor and Mayor Pro-Tem) be amended to replace the terminology in paragraph 1 describing the Mayor from “the official head” to the “chairman” of the City government; and replacing the language in paragraph 2 for the authority

of the Mayor Pro-Tem from “with all of the powers conferred upon the Mayor” to “all of the duties conferred upon the Mayor”?

- FOR
- AGAINST

CITY OF FORNEY PROPOSITION F

Shall Article 3. The City Council, Section 3.05 (Forfeitures and Vacancies) be amended to delete paragraph 2 related to removal from office for absences from regular meetings because it is redundant with Section 3.02?

- FOR
- AGAINST

CITY OF FORNEY PROPOSITION G

Shall Article 3. The City Council, Section 3.06 (Specific Enumerated Powers of the City Council) be amended by deleting the appointment authority of clerks of the municipal court in subsection (b), by defining “collectively” as it relates to the City Council’s inquiry authority in subsection (g), and deleting subsection (k) in its entirety as an unnecessary power of the City Council; and renumbering subsections?

- FOR
- AGAINST

CITY OF FORNEY PROPOSITION H

Shall Article 3. The City Council, Section 3.11 (Passage of Ordinances in General) be amended to remove the requirement that “printed” copies of ordinances be provided to City Council members prior to their consideration for approval to allow for the provision of digital copies?

- FOR
- AGAINST

CITY OF FORNEY PROPOSITION I

Shall Article 3. The City Council, Section 3.12 (Codification) be amended to delete the requirement that hard copies of the City’s Code of Ordinances be placed in libraries within the City?

- FOR
- AGAINST

CITY OF FORNEY PROPOSITION J

Shall Article 4. City Administration, Section 4.01 (City Manager) be amended to remove the requirement that the City Manager be removed by resolution of the City Council, making the

removal at the sole discretion of the majority of the City Council without the need of approving a written resolution?

- FOR
- AGAINST

CITY OF FORNEY PROPOSITION K

Shall Article 4. City Administration, Section 4.03 (Municipal Court) be amended to require that the Municipal Court Judge be a competent and duly qualified and licensed attorney, practicing law in the State of Texas with compensation to be set by the City Council?

- FOR
- AGAINST

CITY OF FORNEY PROPOSITION L

Shall Article 5. Nominations and Elections, Section 5.02 (Filing for Office) be amended to add subsection (g) to create a vacancy in the City Council if the Mayor or Council member files for candidacy for any elective public office other than the one that the Council member currently holds?

- FOR
- AGAINST

CITY OF FORNEY PROPOSITION M

Shall Article 6. Initiative, Referendum and Recall, Section 6.01 (General Authority), subsection (3) be amended to clarify the recall authority as being subject to the procedures in Article 6 to read as follows:

Recall: The qualified voters of the City shall have the power to remove any official serving in an elective office subject to the procedures in this Article.

- FOR
- AGAINST

CITY OF FORNEY PROPOSITION N

Shall Article 6. Initiative, Referendum and Recall, Section 6.05 (Presentation of Petitions) be amended to increase the number of signatures required for an initiative or referendum petition from ten percent (10%) of those qualified voters who voted in the last general municipal election, or one hundred, whichever is greater, to ten percent (10%) of those qualified voters who voted in the last general municipal election, or two hundred, whichever is greater; and increasing the number of signatures required for a recall petition from twenty percent (20%) of those qualified voters who voted in the last general municipal election, or two hundred, whichever is greater, to twenty percent (20%) of those qualified voters who voted in the last general municipal election, or four hundred, whichever is greater?

- FOR
- AGAINST

CITY OF FORNEY PROPOSITION O

Shall Article 6. Initiative, Referendum and Recall, Section 6.07 (Certification of Petitions and Presentations to the City Council) be amended to increase the amount of time the City Secretary has to verify petitions for initiative, referendum and recall and change the terminology from “working” days to “business” days?

- FOR
- AGAINST

CITY OF FORNEY PROPOSITION P

Shall Article 7. Financial Procedures, Section 7.02 (Submission of Budget and Budget Message) be amended to change the date that the City Manager shall submit a budget for the ensuing year to the City Council from August 1 to August 15 to allow for sufficient time to obtain and review tax information?

- FOR
- AGAINST

CITY OF FORNEY PROPOSITION Q

Shall Article 7. Financial Procedures, Section 7.05 (Public Hearing on Budget) be amended to include additional language to allow for an alternative manner of publication of the notice of public hearing for a proposed budget to read as follows:

At the Council meeting when a budget is submitted, the Council shall name the date and place of a public hearing and shall have published in the official newspaper of the City or other manner as allowed by state law, the time and place which will be not less than ten days nor more than thirty days after the date of notice. At this hearing, interested citizens may express their opinions concerning items of expenditures, giving their reasons for wishing to increase or decrease any items of expense.

- FOR
- AGAINST

CITY OF FORNEY PROPOSITION R

Shall Article 7. Financial Procedures, Section 7.09 (Amending the Budget) and 7.14 (Borrowing), subsection (3) be amended to remove the term “elected” from the phrase “the full elected membership” and “the elected members of the City Council”, respectively, allowing the participation of an appointed Council Member in budget amendments?

- FOR
- AGAINST

CITY OF FORNEY PROPOSITION S

Shall Article 8. Boards and Commissions, Section 8.01 (Authority, Composition and Procedures), subsection (5) be amended to clarify and add attendance requirements for Boards and Commissions of the City to read as follows:

Any member of a board, commission or committee who fails to maintain the qualifications or who shall be absent from three consecutive regular meetings or from 25% of the regularly scheduled meetings during a 12-month period without explanation acceptable to a majority of the other members shall forfeit his position on the board, commission or committee.

- FOR
- AGAINST

CITY OF FORNEY PROPOSITION T

Shall Article 11. General and Transitional Provisions, Section 11.05 (Prohibitions and Penalties), subsection (1) be amended to include the additional protected classes of disability and sexual orientation to equality of rights with respect to appointment to or removal from any position at the City?

- FOR
- AGAINST

CITY OF FORNEY PROPOSITION U

Shall Article 11. General and Transitional Provisions be amended to rename the Article as General Provisions and to delete the now unnecessary Sections 11.16 (Schedule of Transition), 11.17 (Officers and Employees), and 11.18 (Pending Matters), which language transitioned the City to the adoption and implementation of the original Charter for the City of Forney?

- FOR
- AGAINST

Section 6. EARLY VOTING BY PERSONAL APPEARANCE

Early voting by personal appearance begins on Monday, April 20, 2020 and ends on Tuesday, April 28, 2020 during the hours listed below:

Monday, April 20, 2020 through Wednesday April 22, 2020 – 8:00 a.m. to 5:00 p.m.

Thursday, April 23, 2020 – 7:00 a.m. to 7:00 p.m.

Friday, April 24, 2020 – 8:00 a.m. to 5:00 p.m.

Monday, April 27, 2020 – 7:00 a.m. to 7:00 p.m.

Tuesday, April 28, 2020 – 8:00 a.m. to 5:00 p.m.

Qualified voters of the City may vote during the early voting period at any of the seven early voting locations open under full contract services with the Kaufman County Elections Administration.

Section 7. EARLY VOTING BY MAIL

The Kaufman County Tax Assessor-Collector is hereby appointed as Early Voting Clerk. Applications for a ballot by mail shall be delivered to the early voting clerk, Brenda Samples, Kaufman County Tax Assessor, Kaufman County Courthouse Annex, P.O. Box 339, 100 N. Washington, Kaufman, TX 75142. Applications for ballots by mail must be received no later than the close of business on Tuesday, April 21, 2020.

Section 8. ELECTION OFFICERS

The election officers for each polling place shall be appointed and compensated pursuant to the Contract for Election Services with the Kaufman County Tax Assessor-Collector for said election on May 2, 2020.

Section 9. METHOD OF VOTING

Voting on the date of the Election and early voting shall be by the use of a lawfully approved voting system. The preparation of the voting equipment to be used in connection with such voting system and the official ballots for the Election shall conform to the Texas Election Code (“Code”), as amended. The specific voting machines to be used shall be provided by Kaufman County in accordance with the Contract for Election Services with the Kaufman County Tax Assessor-Collector.

Section 10. NOTICE OF ELECTION

The City Secretary is hereby authorized and directed to publish and/or post, in the time and manner prescribed by law, all notices required to be so published and/or posted in connection with the conduct of this election.

Section 11. GOVERNING LAW

The election shall be held as set forth by the Charter and the Texas Election Code, and all resident registered voters of the City shall be eligible to vote in said Election. The Mayor and the City Secretary of the City, in consultation with the City Attorney, are hereby authorized and directed to take any and all actions necessary to comply with the provisions of the Texas Election Code and any other state or federal law in carrying out and conducting the election, whether or not expressly authorized herein.

Section 12. EFFECTIVE DATE

This Ordinance shall become effective immediately upon its passage and publication as required by law.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Forney, Texas, on this the _____ day of _____, 2020.

Mary Penn, Mayor

ATTEST:

Dorothy Brooks, City Secretary

APPROVED AS TO FORM AND LEGALITY:

Jon Thatcher, City Attorney