

CITY OF FORNEY, TEXAS

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FORNEY, TEXAS, CANVASSING THE RETURNS OF THE SPECIAL ELECTION HELD ON NOVEMBER 3, 2020 FOR THE PURPOSE OF SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY OF FORNEY THE ADOPTION OR REJECTION OF CERTAIN PROPOSITIONS EACH PROVIDING FOR AMENDMENT TO THE CITY OF FORNEY HOME RULE CHARTER; DECLARING RESULTS OF THAT ELECTION; ORDERING THE ADOPTION OF CHARTER AMENDMENTS; ADOPTING THE CHARTER, AS AMENDED; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A CUMULATIVE/REPEALING CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Ordinance No. 20-05 of the City of Forney, Texas, adopted on February 18, 2020, a Special Election was originally called for May 2, 2020, but later postponed and held on November 3, 2020, for a vote of the qualified voters of the City of Forney to consider the approval or rejection of various amendments to the City Charter, the proposed Charter amendments being in the form of Propositions A through U as set forth in Exhibit A attached hereto and incorporated herein; and

WHEREAS, notice of Election was given pursuant to and in accordance with applicable law, and the Election was duly and lawfully conducted and held on November 3, 2020, and the returns of the Election have been delivered in accordance with law to the City Council as the canvassing authority for the Election; and

WHEREAS, a quorum of the City Council met on Tuesday, November 17, 2020, and duly canvassed the election returns of the Special Election mentioned herein, hereby attached as Exhibit B.

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

Section 1. The above recitals are hereby found to be true and correct legislative determinations and are hereby incorporated into the body of this Ordinance as if fully set forth herein.

Section 2. The City Council of the City of Forney, Texas, officially finds and determines an election was duly ordered to be held in the City of Forney, Texas on the 2nd day of May, 2020, which was postponed to the 3rd day of November, 2020 by order of the Governor for the State of Texas, for the purpose of considering twenty-one ballot propositions before the voters, for the consideration of amendments to the City's Home Rule Charter and that proper notice of said election was duly given; that proper election officers were duly appointed prior to said election; that said election has been made and delivered; and that the City Council has duly canvassed said returns all in accordance with law.

Section 3. The City Council officially finds and determines that only qualified resident voters of the City were allowed to vote at said election, and that the canvass of the votes cast in

said election and returns thereof, which are attached hereto as Exhibit B, were made in accordance with law.

Section 4. Pursuant to the applicable provisions of the Texas Local Government Code, Texas Election Code, and the City of Forney, Texas Home Rule Charter, the City Council officially finds, determines and declares the results of said Special Election to be that Propositions A through U were each approved by a majority of the voters casting ballots in the election as shown in the election returns attached hereto as Exhibit B.

Section 5. This ordinance declares the amendments adopted and said amendments shall take effect upon the passage of this ordinance. The City of Forney Home Rule Charter shall be and the same is hereby amended to read in its entirety as shown in Exhibit C, attached hereto and incorporated herein.

Section 6. In accordance with Section 9.007(a) of the Texas Local Government Code and following passage of this ordinance, the Mayor shall certify to the Texas Secretary of State an authenticated copy of the Charter, as amended, under the City's seal and showing approval by the voters of the City.

Section 7. The City Secretary shall record in the City's record the Charter, as amended, adopted by the voters in the City pursuant to Section 9.008(a) of the Texas Local Government Code.

Section 8. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without incorporation of this ordinance of such unconstitutional phrase, clause, sentence, paragraph or section.

Section 9. This ordinance shall be cumulative of all provisions of State and Federal law and other ordinances of the City of Forney, Texas, whether codified or un-codified, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed to the extent of such conflict.

Section 10. All rights and remedies of the City of Forney, Texas, are expressly saved as to any and all violations of the provisions of this ordinance or any other ordinance that have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

Section 11. That this Ordinance will take effect immediately from and after its adoption as provided 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, TRMC, CMC, City Secretary

APPROVED AS TO FORM AND LEGALITY:

Jon Thatcher, City Attorney

Exhibit A

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 Council’s 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

Exhibit B

(to be added when received from Kaufman County Elections Administrator)

Exhibit C

HOME RULE CHARTER AS AMENDED IN 2020