

# **HOME RULE CHARTER**

**FORNEY, TEXAS**

**CHARTER ADOPTION ELECTION  
NOVEMBER 4, 1997**

## **CHARTER COMMISSION MEMBERS**

**DON T. CATES, CHAIRMAN  
MEGA SPAIN, VICE-CHAIRMAN  
MARY NICHOLS, SECRETARY  
JAY CALVIN  
ANDY PARKER  
ANNE HARRISON  
MARVIN PRESTRIDGE  
JOHNNIE HENDERSON**

**WALTER RITER  
TONY JACKSON  
CHUCK TEDDER  
JIM JACOBS  
MIKE THOMAS  
CLYDE MINSHEW  
MORRIS WELCH**

**CHARTER AMENDMENT ELECTION  
NOVEMBER 3, 2020**

## **CHARTER COMMISSION MEMBERS**

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ANDY PARKER, VICE-CHAIRMAN  
MAYOR PRO TEM SHAUN MYERS  
COUNCILMEMBER DAVID JOHNSON  
COUNCILMEMBER MIKE THOMAS**

**WENDE HAWTHORNE  
RODNEY VIKI  
JOE DAN MCBETH  
GARY MURREY  
ROGER CROSS**

**HOME RULE CHARTER  
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**HOME RULE CHARTER FOR THE  
CITY OF FORNEY, TEXAS**

**PREAMBLE**

Recognizing that effective government is a government of law, we the people of Forney, Texas establish this Charter as the basic law of our City. This Charter will provide a home rule government which will recognize and protect individual freedom, encourage interest and participation by citizens, and serve on behalf of the general welfare.

**ARTICLE I  
FORM OF GOVERNMENT AND BOUNDARIES**

**Sec. 1.01      INCORPORATION**

The inhabitants of the City of Forney, within the corporate limits as now established or as hereafter established in the manner provided by law, shall continue to be a municipal body politic and corporate in perpetuity under the name of the "City of Forney."

**Sec. 1.02      FORM OF GOVERNMENT**

The municipal government provided by this Charter shall be of the Council-City Manager form. The Council, consisting of the Mayor and Council members elected by and responsible to the people, shall appoint a City Manager, who shall be directly responsible to the Council for the execution of the laws and the administration of the government of the City.

**Sec. 1.03      BOUNDARIES OF THE CITY**

The boundaries of the City of Forney shall be the same as have heretofore been established as reflected on the official map at the time of adoption of the Charter and as amended from time to time by annexation and disannexation.

**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.

(2)      Upon completion of the annexation procedure, the annexed territory shall become a part of the City, and said land and its residents shall be entitled to all the rights and privileges provided by the City for its citizens and shall be bound by the acts, ordinances, resolutions and regulations of the City.

## **ARTICLE II POWERS OF THE CITY**

### **Sec. 2.01      GENERAL POWERS OF THE CITY**

The City shall be an incorporated Home Rule City, and shall have power to ordain and establish such acts, laws, rules, regulations, resolutions, and ordinances not inconsistent with the Constitution and laws of Texas or this Charter, as shall be needful for the government, interests, health, welfare, and good order of said City and its inhabitants. Under the name of the City of Forney it shall be known in law and have succession and be capable of contracting and being contracted with, suing and being sued, impleading and being impleaded, answering and being answered unto, in all courts and tribunals, and in all amounts whatsoever, subject to the laws of the State of Texas currently in effect or which shall hereafter be passed.

The City of Forney shall have the power to take, hold, lease, grant, purchase and convey such real property or mixed property or estate, situated within or without the limits thereof, as the purpose of said corporation may require and shall have and use a corporate seal, and change and renew the same at pleasure.

### **Sec. 2.02      RIGHTS RESERVED**

All suits, taxes, penalties, fines, forfeiture and all other rights, claims and demands of every kind and character which have accrued under the law in favor of said City, heretofore in force governing the same, shall belong to and vest in said City and shall not abate by reason of the adoption of this Charter, and shall be prosecuted and collected for the use and benefit of said City of Forney and shall not be in any manner affected by the taking effect of this Charter; but as to all of such rights, the laws under which they shall have accrued shall be deemed to be in full force and effect.

### **Sec. 2.03      LOCAL SELF-GOVERNMENT**

The City of Forney shall possess and may exercise the full power of local self-government. It may hold by gift, deed, devise or otherwise, any character of property, including any charitable or trust fund, and subject to and within the limits superior law may act in perpetual succession as a body politic.

### **Sec. 2.04      SPECIFIC POWERS AND ENABLING AUTHORITY**

For greater certainty, the City of Forney shall have other powers which are hereby conferred upon it and which may be exercised by the City of Forney, including all powers, privileges and immunities conferred upon cities of more than five thousand inhabitants, by Article XI, Section 5, of the Texas Constitution and other applicable law; and such powers are hereby conferred upon the City of Forney as fully and completely as if each of said mentioned powers were herein separately enumerated; but enumeration of special powers herein, or in the statutes referred to, shall not be held or construed to preclude the City from exercising all powers of local government not inhibited by the Constitution and laws of the State of Texas, or by special limitations in this Charter contained, the purpose of this Charter being to enlarge upon the power extended by the general laws of cities incorporated thereunder, and to secure to the City of Forney all the powers conferred by the Constitution and laws of this state upon cities having more than five thousand inhabitants.

**ARTICLE III  
THE CITY COUNCIL**

**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.

**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.

**Sec. 3.03      COMPENSATION**

The City Council shall fix the compensation to be received by its members for attendance at its meetings, but no increase in such compensation shall take effect until commencement of the terms of Mayor and/or Council members elected at the next regular election.

**Sec. 3.04      MAYOR AND MAYOR PRO-TEM**

The Mayor shall be the chairman of the City government. He shall 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 may be elected by the City Council from its membership. The Mayor Pro-Tem shall act as Mayor in 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 duties conferred upon the Mayor.

**Sec. 3.05      FORFEITURES AND VACANCIES**

The office of a Council member or the Mayor shall become vacant upon his death, resignation, forfeiture of, or removal from office or by any manner authorized by law.

Any member of the Council who ceases to possess the required qualifications for office or who is convicted of a felony or of a misdemeanor involving moral turpitude or is convicted of violating Chapter 171 of the Local Government Code concerning conflict of interest, shall forfeit his office. Every forfeiture shall be declared and enforced by a majority of the Council.

Within thirty days, vacancies in the Council, or the Mayor, shall be filled by a majority vote of the remaining Council members, for the unexpired term only, and provided the successor shall possess all qualifications for the position.

**Sec. 3.06      SPECIFIC ENUMERATED POWERS OF THE CITY COUNCIL**

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 investigations as to municipal affairs upon the decision 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.

**Sec. 3.07      PROHIBITIONS**

Except where authorized by law or by this Charter, no Mayor or Council member shall hold any other city office or city employment during his term as Mayor or Council member. No former Mayor or Council member shall hold any compensated appointive office or city employment within one year after the expiration of his term as Mayor or Council member.



Neither the City Council nor any of its members shall direct the City Manager or any of his subordinates to appoint any person to any office or employment of the City.

Except for the purpose of inquiry, the City Council and its members shall deal solely with the administration services through the City Manager and neither the City Council nor any member thereof shall give orders to any subordinate of the City Manager, either publicly or privately.

### **Sec. 3.08 MEETINGS OF THE COUNCIL**

The City Council shall hold at least one regular meeting each month and as many additional meetings as it deems necessary to transact the business of the City. The City Council shall fix by ordinance the date and time of the regular meetings. Special meetings of the City Council shall be held at the call of the mayor or a majority of the Council members upon provision of public notice in accordance with State Law.

### **Sec. 3.09 QUORUM**

A majority of members of the City Council shall constitute a quorum for the purpose of transaction of business. No action of the City Council, except as specifically provided in this Charter, shall be valid or binding unless adopted by the affirmative vote of a majority of Council members present.

### **Sec. 3.10 RULES OF PROCEDURE**

The City Council shall determine its own rules of order and business. The City Council shall provide for minutes to be taken and recorded for all meetings, except for closed meetings, as required by law. Such minutes shall be a public record and shall be kept and maintained by the City Secretary.

### **Sec. 3.11 PASSAGE OF ORDINANCES IN GENERAL**

The City Council shall legislate by ordinance only, the enacting clause of every ordinance shall be: "Be it ordained by the City Council of the City of Forney, Texas...". Each proposed ordinance shall be introduced in the written or printed form required for adoption. The subject matter of every ordinance shall be briefly described in the caption. General appropriation ordinances may contain various subjects and accounts for which monies are to be appropriated. After adoption, an ordinance shall not be amended or repealed except by the adoption of another ordinance amending or repealing the original ordinance.

Any member of the City Council may offer any ordinance in writing that has been placed on the agenda at a regular City Council meeting. Copies of the proposed ordinances, in the form required for adoption, shall be furnished to members of the City Council before the meeting.

Every ordinance shall become effective upon adoption or any later time specified in the ordinance, except that every ordinance imposing any penalty, fine or forfeiture shall become effective only after having been published once in its entirety or summary form, after adoption, in a newspaper designated as the official newspaper of the City.

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.

**Sec. 3.12 CODIFICATION**

The City Secretary shall authenticate by signature and record in full in a properly indexed book kept for the purpose all ordinances and resolutions adopted by the Council.

The general codification shall be bound in looseleaf form, together with this Charter and any amendments thereto, and such codes of technical regulations and other rules and regulations as the Council may specify. This compilation shall be known and cited officially as Forney City Codes. Copies of the codes shall be furnished to City officers, placed in public offices for free public reference and made available for purchase by the public at a reasonable price fixed by the Council.

Following publication of the first Forney City Codes and at all times thereafter, the ordinances and Charter amendments shall be printed in substantially the same style as the code currently in effect and shall be in form for integration therein. The Council shall make such further arrangements as it deems desirable with respect to reproduction and distribution of any current changes in or additions to the provisions of the Constitution and other law of the State of Texas, or the codes of technical regulations and other rules and regulations included in the Code.

**Sec. 3.13 INVESTIGATION BY CITY COUNCIL**

The City Council shall have the power to inquire into the official conduct of any department, agency, office, officer or employee of the City. For that purpose, the Council shall have the power to administer oaths, subpoena witnesses and compel the production of books, papers or other evidence material to the inquiry. The City Council shall provide by ordinance, penalties for contempt for failing or refusing to obey any such subpoena or to produce any such books, papers, or other evidence, and shall have the power to punish any such contempt in the manner provided by the ordinance.

**Sec. 3.14 BONDS**

The Council shall require bonds of all municipal officers and employees who receive or pay out any monies of the City. The amount of such bonds shall be determined by the Council and the cost thereof shall be borne by the City.

**ARTICLE IV  
CITY ADMINISTRATION**

**Sec. 4.01 CITY MANAGER**

The City Council shall appoint a City Manager who shall serve as chief administrative officer of the City. He shall be responsible to the City Council for administration of all the affairs of the City, with only those exceptions that are named in this Charter. The City Manager shall be appointed solely upon his executive and administrative qualifications. He need not be a resident of the City when appointed, but shall reside within the City for the tenure of his appointment.

The City Council shall fix the compensation of the City Manager, and his compensation may be amended from time to time in accordance with his experience, qualifications and performance.

The City Manager shall be appointed for an indefinite term, and may be removed at the discretion of the Council by a majority vote of its members. The action of the City Council in removing the City Manager shall be final. In case of absence, disability or suspension of the City Manager, the Council may designate a qualified administrative officer of the City to perform the duties of the office except where the absence is of a temporary nature.

The City Manager shall have the power to:

- (a) Appoint, suspend, and remove all City employees and appointive administrative officers provided for in this Charter, except as otherwise provided by law.
- (b) Direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by law or this Charter.
- (c) See that all State laws and City ordinances are effectively enforced.
- (d) Prepare and accept items for inclusion in the official agenda of all City Council meetings and meetings of boards and commissions.
- (e) Prepare and recommend to the City Council the annual budget and capital improvement program, and administer the budget as adopted by the City Council.
- (f) Keep the City Council fully advised at least quarterly as to the financial condition and future needs of the City, and make such recommendations concerning the affairs of the City as necessary.
- (g) Make reports as needed concerning the operations of the City departments, offices, or agencies subject to his direction or supervision.
- (h) Perform such other duties as are specific in this Charter or may be required by the City Council, and consistent with this Charter or State or Federal law.

#### **Sec. 4.02 CITY SECRETARY**

The City Council shall appoint a City Secretary who shall serve at the discretion of the Council at a compensation set by the Council.

The City Secretary shall:

- (a) Attend all meetings of the City Council and keep accurate records of all actions taken by the Council.
- (b) Maintain the official records and files of the City.
- (c) Administer oaths.

- (d) Attest contracts, assessment certificates and other legal instruments when executed by the authorized officers of the City.
- (e) Serve as the election official for all City elections.
- (f) Perform such other duties as may be required by this Charter, the City Council, or State law.

**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 appointed by the Council to serve for a term of two years and at the discretion of the Council. The Judge shall be a competent and duly qualified and licensed attorney practicing law in the State of Texas. He shall receive 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.

**Sec. 4.04 CITY ATTORNEY**

The City Council shall appoint a competent and duly qualified and licensed attorney practicing law in the State of Texas. He shall receive such compensation as may be fixed by the City Council and shall hold his office at the pleasure of the City Council. The attorney for the City, or such other attorneys selected by him, with the approval of the City Council, shall represent the City in all litigation. He shall be the legal advisor of, and attorney and counsel for the City and all officers and departments thereof; provided, that the City Council may retain Special Counsel at any time they deem same necessary. At the discretion of said Council, the City Attorney shall appear at its meetings. He shall prepare or review all ordinances and advise the City Council of the same; he shall represent the City in the Municipal Court.

**Sec. 4.05 ADMINISTRATIVE DEPARTMENTS, OFFICES AND AGENCIES**

Except as provided elsewhere in this Charter, all departments, offices and agencies of the City shall be under the direction and supervision of the City Manager, and shall be administered by officers appointed by and subject to the direction and supervision of the City Manager. The City Manager may, with the consent of the City Council, serve as the head of one or more City departments, offices or agencies or appoint one person as the head of two or more of them.

**Sec. 4.06 PERSONNEL SYSTEM**

The City Manager shall prepare personnel rules. These rules shall provide for:

- (a) The classification of all City positions, based on the duties, authority and responsibility of each position with adequate provision for reclassification of any position whenever warranted by changed circumstances.

- (b) A pay plan for all City positions.
- (c) Methods for determining the merit and fitness of candidates for appointment or promotion.
- (d) The policies and procedures regulating reduction in force and removal of employees.
- (e) The hours of work, attendance regulations and provisions for sick and vacation leave.
- (f) The policies and procedures governing persons holding provisional appointments.
- (g) The policies and procedures governing relationships with employee organizations.
- (h) Policies regarding in-service training programs.
- (i) Grievance procedures.
- (j) Other practices and procedures necessary to the administration of the City personnel system.
- (k) A plan for an annual oral and written evaluation criteria based on a job description for all City employees by their immediate supervisor, including evaluation of the City Manager by the City Council.

## **ARTICLE V NOMINATIONS AND ELECTIONS**

### **Sec. 5.01 CITY ELECTIONS**

- (1) City elections shall be conducted in accordance with the Texas Election Code.
- (2) The regular City election shall be held annually on the first Saturday in May. The City Council shall be responsible for specification of places for holding such elections.
- (3) The City Council may, by resolution, order a special election for purposes consistent with this Charter and laws of the State of Texas. The City Council will fix the time and places for such special election, and provide all means for holding same.
- (4) Municipal elections shall be conducted by election officials appointed by the City Council. Sample ballots identical in format to those used in the specific election shall be posted in the voting place(s) for the purpose of voter orientation.
- (5) All municipal elections shall be publicized in accordance with the Texas Election Code.

### **Sec. 5.02 FILING FOR OFFICE**

- (1) Candidates for City offices shall file for office in accordance with the Texas Election Code.

- (2) Candidates for elective City office shall meet the following qualifications:
- (a) Shall be at least eighteen years of age at the time of the election for which they are filing.
  - (b) Shall be a qualified voter.
  - (c) Shall not, after 30 days written notice of any delinquency, be in arrears in payment of taxes or other liabilities due the City.
  - (d) Shall have resided within corporate limits of the City, or recently annexed territory, for at least twelve months prior to election day.
  - (e) No candidate may file in a single election for more than one office or position as provided for in this Charter.
  - (f) No employee of the City shall continue in such position after filing for an elective office provided for in this Charter.
  - (g) The office of an incumbent City Council member including the Mayor 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.

**Sec. 5.03 OFFICIAL BALLOTS**

- (1) The name of each candidate seeking elective office, except those who have withdrawn, died, or become ineligible, shall be printed on the official ballot without party designation in accordance with the Texas Election Code. If two or more candidates have the same surname, or surnames so similar as to be likely to cause confusion, their residence addresses shall be printed with their names on the ballot.
- (2) The order of the names of the candidates on the ballot shall be determined by lot in a public drawing to be held under the supervision of the City Secretary in accordance with the Texas Election Code.
- (3) Procedures for early voting shall be consistent with the Texas Election Code.
- (4) An ordinance, bond issue, or Charter amendment to be voted on by the voters of the City shall be presented for voting by ballot title. The ballot title of a measure may be different from its legal title and shall be clear, concise statement, approved by the City Council, describing the substance of the measure without argument or prejudice.
- (5) Procedures for write-in votes shall be consistent with the Texas Election Code.

**Sec. 5.04 OFFICIAL RESULTS**

- (1) The candidate for elective office receiving a majority of the votes cast shall be declared the winner. In case of no majority, a runoff election will be held not earlier than twenty (20) nor

later than thirty (30) days after the final canvass of the main election in accordance with the laws of the State of Texas.

(2) The returns and canvass of every municipal election shall be handled in accordance with the Texas Election Code. These returns shall be delivered from the election judges to the City Secretary and the Mayor at City Hall as soon as possible after the closing of the polls.

## **ARTICLE VI INITIATIVE, REFERENDUM AND RECALL**

### **Sec. 6.01 GENERAL AUTHORITY**

(1) Initiative: The qualified voters of the City shall have power to propose ordinances to the City Council and if the Council fails to adopt an ordinance so proposed without any change in substance, the voters shall adopt or reject it at a City election. Such power shall not extend to the budget or capital program or any ordinance not subject to initiative as provided by State law, relating to appropriation of money, levy of taxes or salaries of City officers or employees.

(2) Referendum: The qualified voters of the City shall have power to require reconsideration by the Council of any adopted ordinance, which is subject to the initiative process under this Charter, and if the Council fails to repeal an ordinance so reconsidered, the voters shall approve or reject it at a City election. Such power shall not extend to the budget or capital program or any emergency ordinance or ordinance not subject to referendum as provided by State law, relating to appropriation of money or levy of taxes or salaries of City offices or employees.

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

### **Sec. 6.02 PETITIONERS' COMMITTEE**

(1) Any ten qualified voters may commence proceedings contemplated by this article by filing with the City Secretary an affidavit stating that they will constitute the petitioners' committee. They will be responsible for preparing, printing and circulating the petition. They will file it in proper form and specify the address to which all notices to the committee are to be sent. The affidavit shall set out in full the proposed initiative ordinance or cite the ordinance sought to be reconsidered, or in the case of recall, state the identity of the officials whose recall is being sought.

(2) In the case of recall, the City Secretary shall within five (5) calendar days notify in writing the officer(s) to be removed that the affidavit has been filed.

### **Sec. 6.03 PETITION CIRCULATION**

(1) All petition blanks used for circulation by the members of the petitioners' committee or their designees shall be numbered, dated and bear the signature of the City Secretary.

(2) No petition shall be effective or valid if any of the signatures thereon are obtained before the affidavit is filed. In such case, the petition will be void regardless of the number of signatures thereon, which were obtained after the affidavit was filed.

**Sec. 6.04 FORM OF PETITION**

(1) All pages of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signer of a petition must be a registered voter of the City of Forney and shall personally sign his own name thereto in ink or indelible pencil, and shall write after his name, his place of residence within the boundaries of the City, giving name of street and number, or place of residence, and shall also write thereon the date, including the month. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered, or in the case of a recall petition, the identity of the official whose recall is being sought and the grounds for such recall. The voter registration number for each signer and each signer's printed name shall also appear on the petition.

(2) Each page of a petition shall have attached to it when filed, an affidavit executed by the circulator thereof stating that he personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his presence, that he believes them to be genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance proposed, or sought to be reconsidered, or the identity of the official whose recall is being sought.

(3) Locations for twenty signatures shall be provided on each blank petition.

**Sec. 6.05 PRESENTATION OF PETITIONS**

(1) A petition to the City Council for initiative or referendum, containing the signatures of qualified voters not less than equal in number to ten percent (10%) of those who voted in the last general municipal election, or two hundred (200), whichever is greater, shall be filed with the City Secretary not later than thirty days following the filing of the affidavit by the petitioner committee. Once the petition is filed, no signature may be withdrawn.

(2) A petition to the City Council for recall, containing the signatures of qualified voters not less than equal in number to twenty percent (20%) of the registered voters of the City of Forney who voted in the last general municipal election, or four hundred (400), whichever is greater, shall be filed with the City Secretary not later than thirty days following the filing of the affidavit by the petitioner committee. Once the petition is filed, no signature may be withdrawn.

**Sec. 6.06 SUSPENSION OF EFFECT OF ORDINANCE FOR REFERENDUM PETITIONS**

When a referendum petition is filed with the City Secretary, the ordinance sought to be reconsidered shall be suspended from taking effect unless such suspension will create an immediate breach of public health and safety. Such suspension shall terminate when:

- (a) There is a final determination of insufficiency of the petition,
- (b) The City Council repeals the ordinance, or,
- (c) Upon the certification of election results by the election officials.



**Sec. 6.07 CERTIFICATION OF PETITIONS AND PRESENTATION TO THE CITY COUNCIL**

(1) Not later than ten business days after the petition is presented, the City Secretary shall complete a certificate of sufficiency or insufficiency. Sufficiency shall be determined by compliance with this Article.

(2) If the petition is certified sufficient, the City Secretary shall present the certificate to the City Council at the next regular City Council meeting. The City Council shall verify determination of the sufficiency of the petition.

(3) If a petition has been certified insufficient, the City Secretary shall send the committee a Certificate of Insufficiency by registered mail, which shall include the particulars in which the petition is defective. The committee may, within five business days after receiving the copy of such certificate, file a request that it be reviewed by the City Council. The City Council shall review the certificate at the next regular meeting following such a request and approve or disapprove it. Such determination shall then be final. If no City Council review is requested within five business days, the City Secretary's certification is final.

**Sec. 6.08 ACTION ON INITIATIVE AND REFERENDUM PETITIONS**

(1) When an initiative or referendum petition has been finally determined sufficient, the City Council shall promptly consider the proposed initiated ordinance in the manner prescribed for enacting ordinances or reconsider the referred ordinance by voting its change in substance within sixty (60) days. If it fails to repeal a referred ordinance or pass an initiated ordinance within sixty (60) days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters of the City not less than thirty (30) days nor more than sixty (60) days thereafter. If an election date authorized by the Election Code does not fall within such period, or if no such authorized election date within such period affords enough time to hold the election in the manner required by law, the election shall be called for the first authorized election date after such period. Any election order so issued shall comply fully with the Texas Election Code.

(2) The called election may coincide with a regular City election should such City election fall within the specified period. No ordinance substantially the same as an initiated ordinance, which has been defeated or one substantially the same as a referred ordinance which has been repealed by referendum at any election, may be initiated by the voters within two years from the date of such election. Copies of the proposed or referred ordinance shall be made available at the polls and shall be published at least once in the official newspaper of the City not more than fifteen days immediately prior to the date of the election.

**Sec. 6.09 CALLING OF RECALL ELECTION**

If the officer whose removal is sought does not resign within ten (10) calendar days, the City Council shall order an election and set the date for holding such recall election. The date selected for the recall election shall be not less than thirty (30) nor more than sixty (60) days after the date the petition was presented to the City Council. If, after the recall election date is established, the officer vacates his position, the election shall be canceled. Any election order issued shall comply fully with the Texas Election Code.

## **Sec. 6.10 WITHDRAWAL OF PETITIONS**

An initiative, referendum or recall petition may be withdrawn at any time on or before the fifth day after the filing of the petition with the City Secretary by filing with the City Secretary a written request for withdrawal signed by at least seven members of the petitioners' committee. Upon the filing of such request the petition shall have no further force or effect and all proceedings thereon shall be terminated.

## **Sec. 6.11 FORM OF BALLOTS**

Any ordinance which is sought to be adopted by initiative or repealed by referendum shall be submitted by ballot title, which shall be prepared in all cases by the City Attorney. The ballot title may be different from the legal title of any such ordinance and it shall be a clear, concise statement, without argument or prejudice, descriptive of the substance of such ordinance. The form of any such ballot shall comply with the Texas Election Code.

## **Sec. 6.12 RESULTS OF ELECTION**

(1) If a majority of qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the City Council. If conflicting ordinances are approved at the same election, the one receiving the greater number of affirmative votes shall prevail.

(2) An ordinance adopted by initiative may be repealed or amended at any time after the expiration of two years by a majority vote or after one year by unanimous vote of all Council members.

(3) If a majority of the qualified electors voting on a referred ordinance vote against the ordinance, it shall be considered repealed upon certification of the election results. If a majority of the qualified electors voting on a referred ordinance vote for the ordinance, the ordinance shall be considered in effect.

(4) An ordinance repealed by referendum may be re-enacted at any time after the expiration of two years by a majority vote or after one year by unanimous vote of all Council members.

(5) If a majority of the votes cast on the question of recall at a recall election shall be against the removal of the elected official named on the ballot, he shall continue in office for the remainder of his unexpired term, subject to recall as before within the limitations of Sec. 6.15 below. If a majority of the votes cast on the question of recall at a recall election shall be for the removal of the elected official named on the ballot, he shall, regardless of any technical defects in the recall petition, be deemed removed from office and the vacancy shall be filled in accordance with the provisions of this Charter for the filling of vacancies.

## **Sec. 6.13 LIMITATIONS AND RESTRICTIONS**

(1) No recall petition shall be filed against any officer of the City within six months after his election nor within six months of such petition being filed and found insufficient, nor within one year after an election for such officer's recall. No such limitations shall apply to appointed Council members.

(2) In no instance shall an officer removed from office by recall election serve in an elective office of the City within a period of five years following the date of the election at which he was removed from office.

(3) Unless withdrawn, no petition shall again be filed on a proposed initiated or referred ordinance of substantially the same content within a period of two years of the failure of the petition at a City election.

#### **Sec. 6.14 FAILURE OF CITY COUNCIL TO CALL AN ELECTION**

In case all of the requirements of this Charter have been met and the City Council shall fail or refuse to receive an initiative, referendum or recall petition, or order such initiative, referendum or recall election, or discharge other duties imposed upon said City Council by the provisions of this Charter with reference to initiative, referendum or recall, then the District Judge may discharge any such duties herein provided to be discharged by the City Secretary or by the City Council. In addition, any qualified voter in the City may seek judicial relief to have any of the provisions of this Charter pertaining to initiative, referendum or recall carried out by the proper official.

#### **Sec. 6.15 FREQUENCY OF ELECTION**

Special elections on initiated or referred ordinances and on recall shall not be held more frequently than once each six months.

### **ARTICLE VII FINANCIAL PROCEDURES**

#### **Sec. 7.01 FISCAL YEAR**

The fiscal year of the City shall begin on the first day of October and end on the last day of September of the next succeeding year. Such fiscal year shall also constitute the budget and accounting year.

#### **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 Council a budget for the ensuing fiscal year and an accompanying message.

#### **Sec. 7.03 BUDGET MESSAGE**

The City Manager's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the City for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures and revenues together with the reasons for such changes, summarize the City's debt position and include such other material as the City Manager deems desirable.

**Sec. 7.04 BUDGET A PUBLIC RECORD**

The budget and all supporting schedules shall be filed with the City Secretary when submitted to the City Council, and shall be open to public inspection by anyone interested.

**Sec. 7.05 PUBLIC HEARING ON BUDGET**

At the Council meeting when the 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.

**Sec. 7.06 PROCEEDING ON ADOPTION OF BUDGET**

After public hearing, the Council shall analyze the budget, making any additions or deletions which they feel appropriate, and shall, at least ten days prior to the beginning of the next fiscal year, adopt the budget by a favorable majority vote of the full membership of the Council. Should the City Council take no final action on or prior to such day, the current budget shall be in force on a month-to-month basis until a new budget is adopted.

**Sec. 7.07 BUDGET, APPROPRIATION AND AMOUNT TO BE RAISED BY TAXATION**

On final adoption, the budget shall be in effect for the budget year. Final adoption of the budget by the Council shall constitute the official appropriation as proposed by expenditures for the current year and shall constitute the basis of official levy of the property tax as the amount of tax to be assessed and collected for the corresponding tax year. Estimated expenditures will in no case exceed proposed revenue plus cash on hand. Unused appropriation may be transferred to any item required for the same general purpose.

**Sec. 7.08 CONTINGENT APPROPRIATION**

Provision shall be made in the annual budget and in the appropriation ordinance for a contingent appropriation in an amount not more than seven percent of the total general fund expenditures, to be used in case of unforeseen items of expenditures. The contingent appropriation shall apply to current operating expenses and shall not include any reserve funds of the City. Such contingent appropriation shall be under the control of the City Manager and distributed by him only after prior approval by the City Council. The proceeds of the contingent appropriation shall be disbursed only by transfer to other departmental appropriation, the spending of which shall be charged to the department or activities for which the appropriations are made.

**Sec. 7.09 AMENDING THE BUDGET**

Under conditions which may arise and which could not reasonably have been foreseen in the normal process of planning the budget, the Council may, by a majority vote of the full membership, amend or change the budget to provide for any additional expense in which the general welfare of the citizenry is involved. These amendments shall be by ordinance and shall become an attachment to the original budget.

**Sec. 7.10 CERTIFICATION; COPIES MADE AVAILABLE**

A copy of the budget as finally adopted shall be filed with the City Secretary and such other places required by State law or as the City Council may designate. The final budget shall be printed or otherwise reproduced and sufficient copies shall be made available for the use of all offices, agencies and for the use of interested persons and civic organizations.

**Sec. 7.11 CAPITAL PROGRAM**

The City Manager shall submit a five year capital program as an attachment to the annual budget. The program submitted shall include:

- (a) A clear general summary of its contents.
- (b) A list of all capital improvements which are proposed to be undertaken during the five fiscal years succeeding the budget year, with appropriate supporting information as to the necessity for such improvements.
- (c) Cost estimates, method of financing and recommended time scheduled for each improvement.
- (d) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

**Sec. 7.12 DEFECT SHALL NOT INVALIDATE THE TAX LEVY**

Errors or defects in the form or preparation of the budget or the failure to perform any procedural requirements shall not nullify the tax levy or the tax rate.

**Sec. 7.13 LAPSE OF APPROPRIATIONS**

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned. The purpose of any such appropriation shall be deemed abandoned if three years pass without any disbursement from or encumbrance of the appropriation. Any funds not expended, disbursed or encumbered shall be deemed excess funds.

**Sec. 7.14 BORROWING**

- (1) The City shall have the right and power, except as prohibited by law or by this Charter, to borrow money by whatever method it may deem to be in the public interest.
- (2) Tax Obligations Bonds - General
  - (a) The City shall have the power to borrow money on the credit of the City and to issue general obligation bonds for permanent public improvements or any other

public purpose not prohibited by law and this Charter, and to issue refunding bonds to refund outstanding bonds previously issued. All such bonds or certificates of obligation shall be issued in conformity with the laws of the State of Texas and shall be used only for purposes for which they were issued.

- (b) No tax obligation bonds shall be issued without an election. The City Council shall prescribe the procedure for calling and holding such elections, shall define the voting precincts and shall provide for the return and canvass of the ballots cast at such elections.

If at such elections a majority of the vote shall be in favor of creating such a debt or refunding outstanding valid bonds of the City, it shall be lawful for the City Council to issue bonds as proposed in the ordinance submitting same. However, if a majority of the vote polled shall be against the creation of such debt or refunding such bonds, the City Council shall be without authority to issue the bonds. In all cases when the City Council shall order an election for the issuance of bonds of the City, it shall at the same time submit the question of whether or not a tax shall be levied upon the property of the City for the purpose of paying the interest on the bonds and to create a sinking fund for their redemption.

### (3) Revenue Bonds

The City shall have the power to borrow money for the purpose of constructing, purchasing, improving, extending or repairing of public utilities, recreational facilities or any other self-liquidating municipal function not prohibited by the State of Texas. With an affirmative vote of at least five of the members of the City Council, it shall have the power to issue revenue bonds and to evidence the obligation created thereby. Such bonds shall be a charge upon and payable from the properties, or interest therein pledged, or the income therein gained from, or both. The holders of the revenue bonds shall never have the right to demand payment thereof out of monies raised or to be raised by taxation. All such bonds shall be issued in conformity with the laws of the State of Texas and shall be used only for the purpose for which they were issued.

### (4) Emergency Funding

In any budget year, the City Council may, by an affirmative vote of five (5) City Council members pass a resolution authorizing the borrowing of money. Notes may be issued, which are repayable not later than the end of the current fiscal year.

## **Sec. 7.15 PURCHASING**

(1) The City Council may by ordinance give the City Manager general authority to contract for expenditures without further approval of the Council, for all budgeted items not exceeding limits set by the Council. All contracts for expenditures involving more than the set limits must be expressly approved in advance by the Council. All contracts or purchases involving more than the limits set by the Council shall be let to the lowest bidder whose submittal is among those responsive to the needs of the City after there has been opportunity for competitive bidding as provided by law or ordinance. The City Council, or City Manager in such cases as he is authorized to contract for the City, shall have the right to reject any and all bids.

(2) Emergency contracts as authorized by law and this Charter may be negotiated by the City Council or City Manager if given authority by the Council, without competitive bidding. Such emergency shall be declared by the City Council.

#### **Sec. 7.16 ADMINISTRATION OF BUDGET**

(1) No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made unless the City Manager or his designee first certifies that there is sufficient unencumbered balance in such allotment or appropriation and the sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable.

(2) Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made illegal. Such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such payment or obligation, and shall also be liable to the City for any amount so paid.

(3) This prohibition shall not be construed to prevent the making or authorizing of payments, or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds, time warrants, certificates of indebtedness or certificates of obligation, or prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, providing that such action is made or approved by ordinance.

(4) The City Manager shall submit to the Council each month a report covering the revenues and expenditures of the City in such form as requested by the City Council.

#### **Sec 7.17 DEPOSITORY**

All monies received by any person, department or agency of the City for or in connection with the affairs of the City shall be deposited promptly in the City Depository or depositories. The City Depositories shall be designated by the City Council in accordance with such regulations and subject to the requirements as to security for deposit and interest thereon as may be established by ordinance and law. Procedures for withdrawal of money or the disbursement of funds from the City Depositories shall be prescribed by ordinance.

#### **Sec. 7.18 INDEPENDENT AUDIT**

At the close of each fiscal year, and at such other times as may be deemed necessary, the City Council shall call for an independent audit to be made of all accounts of the City by a certified public accountant. The certified public accountant selected shall have no personal interest, directly or indirectly, in the financial affairs of the City or of its officers. The report of audit, with the auditor's recommendations will be made to the City Council. Upon completion of the audit, the summary shall be published immediately in the official newspaper of the City and copies of the audit placed on file in the City Secretary's office as a public record.

#### **Sec. 7.19 POWER TO TAX**

(1) The City shall have the power to levy, assess and collect taxes of every character and type for any municipal purpose not prohibited by the Constitution and laws of the State of Texas as now written or hereafter amended.

(2) The City shall have the power to grant tax exemptions in accordance with the laws of the State of Texas.

**Sec. 7.20 TAXES; WHEN DUE AND PAYABLE**

(1) All taxes due in the City of Forney, Texas shall be payable to the designated agent or agency of the City or at such location or locations as may be designated by the City Council, and may be paid at any time after the tax rolls for the year have been completed and approved. Taxes for each year shall be paid before February 1 of the next succeeding year, and all such taxes not paid prior to that date shall be deemed delinquent, and shall be subject to penalty and interest as the City Council shall provide by ordinance. The City Council may provide discounts for the payment of taxes prior to January 1 in amounts not to exceed those established by the State of Texas.

(2) Failure to levy and assess taxes through omission in preparing the appraisal rolls shall not relieve the person, firm or corporation so omitted from obligation to pay such current or past due taxes as shown to be payable by recheck of the rolls and receipts for the years in question, omitting penalty and interest.

**Sec. 7.21 TAX LIENS, LIABILITIES AND SUITS**

(1) All taxable property located in the City on January 1 of each year shall stand charged from that date with a special lien in favor of the City for the taxes due. All persons purchasing any such property on or after January 1 in any year shall take the property subject to the liens provided above. In addition to the liens herein provided, on January 1 of any year, the owner of property subject to taxation by the City shall be personally liable for the taxes due for that year.

(2) The City shall have the power to sue for and recover personal judgment for taxes without foreclosure, or to foreclose its lien or liens, or to recover both personal judgment and foreclosure. In any such suit where it appears that the description of any property in the City appraisal rolls is insufficient to identify such property, the City shall have the right to plead a good description of the property to be assessed, to prove the same, and to have its judgment foreclosing the tax lien or for personal judgment against the owners for such taxes.

**ARTICLE VIII  
BOARDS AND COMMISSIONS**

**Sec. 8.01 AUTHORITY, COMPOSITION AND PROCEDURES**

(1) The City Council shall create, establish or appoint as may be required by the laws of the State of Texas or this Charter, or deemed desirable by the City Council, such boards, commissions and committees as it deems necessary to carry out the functions and obligations of the City. The City Council shall by ordinance or resolution prescribe the purpose, composition, function, duties, accountability and tenure of each board, commission and committee where such are not prescribed by law or this Charter.

(2) Only individuals who are qualified voters in the City may be appointed to serve on a statutory board, commission or committee. The City Council may by ordinance or resolution



consolidate the functions of the various boards, commissions or committees provided for in this Charter. Except as otherwise provided in this Charter, members of any such board, commission or committee shall serve without compensation but may be reimbursed for actual expenses as approved by the City Council.

(3) All boards, commissions or committees of the City shall keep and maintain minutes of any proceedings held and shall submit a written report of such proceedings to the City Council no more than two weeks following each meeting.

(4) No officer of the City nor any person who holds a compensated appointive position with the City shall be appointed to any board, commission or committee created or established by this Charter other than in an advisory capacity.

(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.

## **ARTICLE IX MUNICIPAL PLANNING & ZONING**

### **Sec. 9.01 PLATTING OF PROPERTY**

(1) Hereafter, every owner of any tract of land situated within the corporate limits or within the extraterritorial jurisdiction of the City of Forney who may divide the same in two or more parts for the purpose of laying out any subdivision or any addition of the City, shall comply with the provisions of Chapter 212 of the Local Government Code, as now or hereafter amended, and said Chapter 212 as now or hereafter amended is hereby adopted and incorporated herein for all purposes.

(2) The provisions of Section 9.01(1) above shall also apply to the owner of any tract of land situated within the extraterritorial jurisdiction of the City of Forney as authorized by law.

### **Sec. 9.02 DEVELOPMENT OF PROPERTY**

The City Council shall cooperate in a reasonable manner with persons interested in the development of property within or beyond the City limits. No expenditure of public funds, however, shall be authorized for the development of privately owned subdivisions situated within or beyond the corporate limits of the City, except for the extension of utilities or service to such areas.

### **Sec. 9.03 PLANNING AND ZONING COMMISSION**

The City Council shall have the authority to appoint a City Planning and Zoning Commission in accordance with the general laws of the State of Texas as provided for in Chapter 211 of the Local Government Code.

**ARTICLE X  
UTILITY AND PUBLIC SERVICE FRANCHISES AND LICENSES**

**Sec. 10.01 AUTHORITY**

The City shall have the power to buy, own, sell, construct, lease, maintain, operate and regulate public services and utilities and to manufacture, distribute and sell the output of such services and utility operations. The City shall not supply any utility services outside the City limits, except by a written contract. The City shall have such regulatory and other power as may now or hereafter be granted under the Constitution and the laws of the State of Texas.

**Sec. 10.02 ORDINANCE GRANTING FRANCHISE**

(1) Any ordinance granting, renewing, extending or amending a public service or utility franchise must be read at two separate meetings of the City Council and shall not take effect until thirty days after the final reading. Within fifteen days following the first reading of the ordinance, a summary of the ordinance shall be published once in a newspaper designated as the official newspaper of the City. The expense of such publication shall be borne by the prospective franchisee.

(2) No franchise shall be granted for a term of more than thirty years from the date of the grant, renewal, or extension of any franchise.

(3) No franchise may be exclusive, except for garbage collection.

**Sec. 10.03 TRANSFER OF FRANCHISE**

No public service or utility franchise is transferable, except with the approval of the City Council. However, the franchisee may pledge franchise assets as security for a valid debt or mortgage.

**Sec. 10.04 FRANCHISE VALUE NOT TO BE ALLOWED**

Franchises granted by the City are of no value in fixing rates and charges for public services or utilities within the City and in determining just compensation to be paid by the City for property which the City may acquire by condemnation or otherwise.

**Sec. 10.05 RIGHT OF REGULATION**

In granting, amending, renewing, and extending public service and utility franchises, the City reserves unto itself all the usual and customary rights, including but not limited to the following rights:

- (a) To repeal the franchise by ordinance, after a reasonable time period and due notice, for failure to begin construction or operation within the time prescribed, or failure to comply with terms of the franchise.
- (b) To require all extensions of service within the City limits to become part of the aggregate property of the service and operate subject to all obligations and reserved rights contained in this Charter. Any such extension is considered part of

the original grant and terminable at the same time and under the same conditions as the original grant.

- (c) To require expansion and extension of facilities and service and to require maintenance of existing facilities to provide adequate service at the highest level of efficiency.
- (d) To require reasonable standards of service and quality of product and prevent rate discrimination.
- (e) To impose reasonable regulation and restrictions to insure the safety and welfare of the public.
- (f) To examine and audit accounts and records and to require annual reports of the public service or utility.
- (g) To require the franchise to restore, at franchisee's expense, all public or private property to a condition as good as or better than before disturbed by the franchisee for construction, repair or removal.
- (h) To require compensation, rent or franchise tax to be paid to the City as may be permitted by the laws of the State of Texas.
- (i) To require the franchisee to furnish to the City within a reasonable time, at the franchisee's expense, a general map outlining current location, character, size, length, depth, height and terminals of all facilities over and under property within the City and its extraterritorial jurisdiction.

#### **Sec. 10.06 REGULATION OF RATES**

(1) The City Council has the power to fix and regulate the rates and charges of all utilities and public services, consistent with state statutes.

(2) Upon receiving written request from a utility or a public service requesting a change in rates, or upon a recommendation from the City that rates for services provided by or owned by the City be changed, the City Council shall call a public hearing for consideration of the change.

(3) The City, public service or utility must show the necessity for the change by any evidence required by the City Council, including but not limited to the following:

- (a) Cost of its investment;
- (b) Amount and character of expenses and revenue connected with rendering the service;
- (c) Copies of financial reports or returns filed with any state or federal regulatory agency within the last three years.

(4) If not satisfied with the sufficiency of evidence, the City Council may hire rate consultants, auditors and attorneys to investigate and if necessary, litigate requests for rate changes, the expense of which shall be reimbursed to the City by the franchisee.

**Sec. 10.07 LICENSES**

The City shall have the power to license, levy and collect fees in order to license any lawful business, occupation or calling subject to control pursuant to the police powers of the State of Texas and for any other purpose not contrary to the Constitution and laws of the State of Texas.

**ARTICLE XI  
GENERAL PROVISIONS**

**Sec. 11.01 PUBLIC RECORDS**

All records of the City shall be open to inspection except for those that are permitted or required to be closed to the public by law. The records shall be maintained and made available for inspection per Chapter 552, Government Code, Open Records Act.

**Sec. 11.02 OFFICIAL NEWSPAPER**

The City Council shall declare annually at the beginning of each fiscal year an official newspaper of general circulation in the City. All ordinances, notices and other matters required to be published by this Charter, City ordinance, or the Constitution and laws of the State of Texas shall be published in the official newspaper.

**Sec. 11.03 NEPOTISM**

No person related within the second degree by affinity or within the third degree by consanguinity to the Mayor or any City Council member or the City Manager shall be employed or appointed to any positions of the City. This shall not apply to any person continuously employed six (6) months prior to the election or thirty (30) days prior to the appointment of the person related in the above degree.

**Sec. 11.04 OATHS**

All elected officials and appointed officers of the City shall take and sign the oath of office based on those prescribed for State elective and appointive offices, respectively, in the Constitution of the State of Texas.

**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, sexual orientation, disability, national origin, political or religious opinions or affiliations.

(2) No person who seeks appointment or promotion with respect to any City position shall, directly or indirectly, give, render or pay any money, service or other valuable thing to any person for, or in connection with, his test, appointment or promotion.

(3) No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment or attempt to commit any fraud preventing the impartial execution of the personnel provisions, rules and regulations of this Charter.

(4) No person who holds any compensated non-elective City position shall make, solicit or receive any contribution for any candidate for public office in the City, or take part in the management, affairs or political campaign of such candidate. He may exercise his rights as a citizen to express his opinion and cast his vote.

(5) Any person who willfully engages in any of the above prohibited activities shall be ineligible for appointment or election to a position in the City for a period of five years from that time. If he is an officer or employee of the City at the time of the violation, he shall immediately forfeit his office or position.

(6) No person shall be qualified to hold a municipal office or serve the City in any other capacity for which compensation is paid who is delinquent in the payment of taxes or other liabilities due the City.

#### **Sec. 11.06 ASSIGNMENT, EXECUTION AND GARNISHMENT**

(1) Property, real and personal, belonging to the City shall not be liable to be sold or appropriated under any writ of execution or cost bill. Funds belonging to the City in the hands of any person, firm or corporation, shall not be liable to garnishment, attachment or sequestration; nor shall the City be liable to garnishment on account of any debt it may owe or funds or property it may have on hand owing to any person. Neither the City nor any of its officers or agents shall be required to answer any such writ of garnishment on any account whatever.

(2) The City shall not be obligated to recognize any assignment of wages or funds by its employee, agents or contractors.

#### **Sec. 11.07 SECURITY AND BOND**

It shall not be necessary in any action, suit or proceeding in which the City is a party for any bond, undertaking or security to be demanded or executed by or on behalf of the City. All such actions shall be conducted in the same manner as if such bond, undertaking or security had been given as required by law.

#### **Sec. 11.08 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, within six months 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, giving a list of any witness known by affiant to have seen the accident.

#### **Sec. 11.09 POWER TO SETTLE CLAIMS**

The City Council shall have the power to compromise and settle any and all claims and lawsuits of every kind and character, in favor of, or against the City.

**Sec. 11.10 SERVICE OR PROCESS AGAINST THE CITY**

All legal process against the City shall be served upon both the Mayor and the City Manager.

**Sec. 11.11 JUDICIAL NOTICE**

This Charter shall be deemed a public act, may be read in evidence without pleading or proof, and judicial notice shall be taken thereof in all courts and places.

**Sec. 11.12 SEVERABILITY**

If any section or part of this Charter is held invalid by a court of competent jurisdiction, such holding shall not invalidate or impair the validity, force or effect of any other section or part of this Charter.

**Sec. 11.13 WORDING INTERPRETATION**

(1) The gender of the wording throughout this Charter shall always be interpreted to mean either sex. Where the context permits, the singular shall include the plural and the plural shall include the singular. All references to state law or laws of the State of Texas, however expressed in this Charter, shall mean "as presently enacted or hereafter amended".

(2) The term Council shall include the Mayor and all other Council members.

**Sec. 11.14 AMENDMENT OF CHARTER**

Amendments to this Charter may be framed and submitted to the qualified voters of the City in the manner provided by the Constitution and the laws of the State of Texas as presently enacted or hereafter amended.

**Sec. 11.15 CHARTER REVIEW COMMISSION**

(1) The City Council may appoint a Charter Review Commission of ten citizens of the City which shall:

- (a) Inquire into the operation of the City government under the Charter and determine whether any provisions require revision. To this end, public hearings may be held. The Commission may compel the attendance of any officer or employee of the City and require submission of any City records it deems necessary to conduct the hearings.
- (b) Propose any recommendations it deems desirable to insure compliance with the Charter of the City government.
- (c) Report its findings and present its recommendations to the City Council.

(2) The City Council shall receive and have published in the official newspaper of the City a comprehensive summary of the report presented by the Commission; shall consider any recommendations made, may order any amendments suggested to be submitted to the voters of the City in the manner provided by State law as now written or hereafter amended.

(3) The term of office of the Commission shall be for not more than six months, at the end of which time a report shall be presented to the City Council and all records of proceedings of the commission shall be filed with the City Secretary and become a public record.