ORDINANCE NUMBER 16-11-1026

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MURPHY, TEXAS, ORDERING THE ADOPTION OF AMENDMENTS TO THE CHARTER OF THE CITY OF MURPHY, TEXAS, IN ACCORDANCE WITH THE ADOPTION OF PROPOSITIONS NOS. 1 THROUGH 15 AT THE SPECIAL ELECTION HELD ON NOVEMBER 8, 2016; ADOPTING THE CHARTER, AS AMENDED; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A CUMULATIVE/REPEALING CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE OF THIS ORDINANCE.

WHEREAS, in February 2004, a home-rule Charter was adopted for the City of Murphy, Texas ("City"); and

WHEREAS, the home-rule Charter ("Charter") is required to be reviewed in accordance with the provisions set forth therein, and may be amended from time to time; and

WHEREAS, in April 2016, the City Council of the City of Murphy, Texas (the "City Council") appointed an eleven member Charter Review Commission ("CRC"), and charged the CRC with reviewing and proposing amendments to the Charter; and

WHEREAS, following a series of meetings, the CRC presented its final report ("Report") of proposed Charter amendments to the City Council at a Town Hall meeting June 13, 2016, and the City Council subsequently discussed the proposed Charter amendments at a public meeting July 5, 2016; and

WHEREAS, the City Council reviewed the Report and after considering the CRC's proposed Charter amendments, during a public meeting August 2 2016, the City Council called a Special Election for November 8, 2016, for a vote of the qualified voters ("Voters") to consider the approval or rejection of various proposed amendments to the Charter, the proposed Charter amendments being in the form of Propositions Nos. 1 through 15; and

WHEREAS, at the Special Election on November 8, 2016, Voters approved by majority vote Propositions Nos. 1 through 15, thereby amending the Charter; and

WHEREAS, the City Council finds it to be in the public interest to declare the adoption of the amendments to the Charter, and to adopt the amended Charter, as authorized by the Charter.

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

Section 1. **Findings Incorporated.**

The findings in the preamble set forth above are determined to be true and correct and are hereby incorporated into the body of this ordinance as if fully set forth herein.

Section 2. **Adoption of Charter Amendments.**

Propositions Nos. 1 through 15, as passed during the Special Election held on November 8, 2016, and which contained proposed amendments to the Charter, are hereby declared adopted. This declaration shall serve as an order, which the City Secretary shall record in the City's official records, in accordance with Sections 9.005(b) and 9.008(a) of the Texas Local Government Code. The amendments resulting from the passage of Propositions Nos. 1 through 15 are attached hereto as ***Exhibit "A"***.

Section 3. **Amended Charter Adopted.**

The amendments adopted by this ordinance as identified in ***Exhibit "A"*** are hereby incorporated into the Charter, and the Charter is hereby adopted as amended as identified in ***Exhibit "B"***.

Section 4. **Certification to Secretary of State.**

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

Section 5. **Recording.**

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

Section 6. **Severability Clause.**

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 the incorporation of this ordinance of such unconstitutional phrase, clause, sentence, paragraph or section.

Section 7. **Cumulative/Repealing Clause.**

This ordinance shall be cumulative of all provisions of State or Federal law and other ordinances of the City of Murphy, 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 8. **Savings Clause.**

All rights and remedies of the City of Murphy, Texas, are expressly saved as to any and all violations of the provisions of this ordinance or any other ordinance which 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 9. **Effective Date.**

This ordinance shall become effective immediately upon its passage, as required by law.

DULY PASSED, APPROVED AND ADOPTED by the City Council of the City of Murphy, Texas, on this 17th day of November, 2016.

Eric Barna, Mayor
City of Murphy

ATTEST:

Susie Quinn, City Secretary
City of Murphy

APPROVED AS TO FORM:

Wm. Andrew Messer, City Attorney
City of Murphy

EXHIBIT "A"

Propositions Nos. 1 through 15

CITY OF MURPHY
HOME RULE CHARTER
AMENDMENT PROPOSITIONS

PROPOSITION NO. 1

Shall the Charter be amended to provide that the term "qualified voter" is defined in accordance with state law consistently throughout the Charter.

PROPOSITION NO. 2

Shall Section 3.04 of the Charter relating to reimbursement of council members' actual expenses incurred in the performance of official duties be amended so that council members be reimbursed when provided for in the annual city budget and subject to the city's reimbursement policies.

PROPOSITION NO. 3

Shall the Charter be amended to clarify the authority of the city and mayor during emergencies and disasters in conformity with state law.

PROPOSITION NO. 4

Shall the Charter be amended to require that the city council elect council members as mayor pro-tem and deputy mayor pro-tem annually.

PROPOSITION NO. 5

Shall Section 3.06 of the Charter relating to the procedure for city council to declare a council member office vacant for excessive absences be amended to allow the city council discretion to commence the procedure to declare a council member's office vacant.

PROPOSITION NO. 6

Shall Section 3.06 of the Charter be amended to provide that city council may fill by appointment a single vacancy in the office of council member, other than mayor, for the remainder of the unexpired term if the unexpired term is twelve (12) months or less and there is not more than one (1) vacancy in the office of council member at the time of appointment.

PROPOSITION NO. 7

Shall the Charter provisions related to filing for elective office be amended to clarify that the filing requirements for candidates for mayor and council member be consistent with state law.

PROPOSITION NO. 8

Shall Section 6.10 of the Charter be amended to clarify that recall elections be held in accordance with state law.

PROPOSITION NO. 9

Shall Section 6.14 of the Charter related to referendum elections be amended to clarify that an ordinance or resolution subject to a referendum election be suspended from enforcement pending the holding of the referendum election.

PROPOSITION NO. 10

Shall Section 6.20 of the Charter be amended to allow city council to repeal an ordinance or resolution adopted by initiative or referendum if a court of final jurisdiction declares the ordinance or resolution on direct challenge to be unconstitutional, preempted, or otherwise unenforceable.

PROPOSITION NO. 11

Shall Section 7.02 of the Charter be amended to provide that the budget prepared by the city manager comply with, and contain such information, as required by state law.

PROPOSITION NO. 12

Shall Section 8.01 of the Charter relating to forfeiture of a position on a city board, commission or committee for excessive absences be deleted to clarify the sole authority of city council to appoint and remove an individual from a position on a board, commission or committee.

PROPOSITION NO. 13

Shall the Charter be amended to clarify that an individual must be a legal resident of the city to be appointed to a city board, commission or committee.

PROPOSITION NO. 14

Shall the Charter be amended to prohibit the sale of liquor in any zoning district which allows residential development.

PROPOSITION NO. 15

Shall the Charter be amended to renumber the articles, sections, subsections and paragraphs of the Charter as necessary following the amendment election.

EXHIBIT "B"

Home Rule Charter for the City of Murphy, Texas

Including Amendments declared adopted by
Order of the City Council Nov. 17, 2016

HOME RULE CHARTER

FOR

THE CITY OF MURPHY, TEXAS

Originally Adopted February 7, 2004

Proposed Amendments Submitted to and Approved by the Voters of the City of Murphy November 2, 2010

Amendments Declared Adopted by Order of the City Council November 15, 2010

Proposed Amendments Submitted to and Approved by the Voters of the City of Murphy November 8, 2016

Amendments Declared Adopted by Order of the City Council November 17, 2016

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HOME RULE CHARTER

FOR

THE CITY OF MURPHY, TEXAS

PREAMBLE

We, the citizens of Murphy, Texas, in order to establish a Home Rule municipal government, provide for the future progress of our City, obtain the full benefits of local self government and provide for the public welfare, hereby adopt this Home Rule Charter, in accordance with the statutes of the State of Texas; and do hereby declare the residents of the City of Murphy, in Collin County, Texas, living within the legally established boundaries of the said City, to be a political subdivision of the State of Texas, incorporated forever under the name and style of the "City of Murphy" with such powers, rights, privileges, authorities, duties and immunities, as are herein provided.

ARTICLE I

Form of Government and Boundaries

SECTION 1.01 Form of Government

The municipal government provided by this Charter shall be the "Council-Manager form of Government." Pursuant to its provisions, and subject only to the limitations imposed by the State Constitution, the statutes of this state, and by this Charter, all powers of the City of Murphy (hereinafter referred to as the "City,") shall be vested in an elected council, hereinafter referred to as the "City Council" or "Council," which shall enact local legislation, adopt budgets, determine policies, and appoint City officials as noted in this Charter, including the City Manager, who in turn, shall be held responsible to the City Council for the execution of the laws and the administration of the government of the City. All powers of the City shall be exercised in the manner prescribed by this Charter, or if the manner is not prescribed, then in such manner as may be prescribed by ordinance, the State Constitution, or by the statutes of the State of Texas.

SECTION 1.02 The Boundaries

The citizens of the City of Murphy, Collin County, Texas, residing within its corporate limits, as heretofore or hereafter established, are hereby constituted and shall continue to be a municipal body politic and corporate, in perpetuity, under the name of the "City of Murphy," with such powers, privileges, rights, duties, authorities and immunities as are herein provided. The City shall maintain an official map of its boundaries in accordance with state law.

SECTION 1.03 Extension and Reduction of Boundaries

The boundaries of the City may be enlarged and extended by the annexation of additional territory, or reduced by the disannexation of territory, irrespective of size and configuration, by the method hereinafter set forth:

(1) The City Council shall have the power by ordinance to fix the boundary limits of the City, to exchange area with other municipalities, and to provide for the alteration and extension of said boundary limits and the annexation of additional territory lying adjacent to the City, with or without the consent of the inhabitants of the territory annexed, in any manner provided by state law.

(2) When any additional territory has been so annexed, same shall be a part of the City and the property situated therein shall bear taxes levied by the City; and the citizens thereof shall be entitled to all the rights and privileges of the other citizens of said City and shall be bound by the acts, ordinances, resolutions and regulations of the City.

(3) Whenever, in the opinion of the City Council, there exists within the corporate limits of the City any territory, either inhabited or uninhabited, not suitable or necessary for City purposes, or upon a petition signed by a majority of the qualified voters residing in said inhabited territory, the Council may, upon a public hearing and by ordinance duly passed, disannex said territory as part of the City. The City shall comply with all applicable procedural rules and notice requirements set forth in state law.

ARTICLE II

Powers of the City

SECTION 2.01 General Powers of the City

The City shall have all powers and rights of self-government and home rule that exist now or may be granted to municipalities by the Constitution and laws of the State of Texas, together with all of the implied powers necessary to carry into execution such granted powers, unless such power or right is expressly prohibited or restricted by this Charter. The enumeration of particular powers in this Charter shall not be held or deemed to be exclusive, and in addition to the powers enumerated herein, implied herein or appropriate to the exercise thereof, the City shall have and may exercise all other powers which under the Constitution and laws of the State of Texas it would be competent for this Charter specifically to enumerate.

SECTION 2.02 Public Improvements

The City shall have the power to, among others, construct and maintain, within or without its corporate limits, public improvements as authorized by state statutes and such other public improvements as the City Council shall determine to serve a public purpose of the City, including but not limited to, constructing and maintaining streets, flood control and sanitary facilities, and water and storm drainage facilities, in, over, under or upon all public property or easements granted for that purpose and to levy assessments for the costs of such improvements. The City shall have the power to collect attorney's fees for the collection of assessments as allowed under state law. It shall have the power to cause liens to be established for the purpose of securing the payment of such levies and shall have the power to compel the use of such improvements by the citizens of the City.

SECTION 2.03 Eminent Domain

The City shall have the full power, right, and authority to exercise the power of eminent domain, within or without its corporate limits, when necessary or desirable to carry out any of the powers conferred upon it by this Charter or by the Constitution and laws of the State of Texas. The City may exercise the power of eminent domain in any manner not prohibited by the Constitution and state law. The power of eminent domain hereby conferred shall include the right of the City to take the fee and/or easement in lands so condemned, and such power and authority shall include the right to condemn public or private property for such purposes. The City shall have and possess the power of condemnation for any municipal or public purposes even though not specifically enumerated in this Charter.

SECTION 2.04 Miscellaneous Powers

The City shall have the power to, among others, establish, enact and maintain ordinances and promulgate regulations governing the use of lands within the City and to enforce by all lawful means these ordinances and regulations, within and without its corporate limits. The City shall have the power to authorize, regulate and inspect all construction and existing structures within or without its limits, consistent with state statutes, and to establish, enact and enforce ordinances and regulations concerning their use, construction and reconstruction. The City shall have the power to contract and be contracted with, to buy, sell, lease, lease purchase, mortgage and/or manage property, to acquire property by donation or condemnation, and to control such property as its

interests require. The City shall have the power to license and regulate persons, corporations and associations engaged in any business, occupation, profession or trade, unless prohibited by state law. The City shall have all powers granted by any section of this Charter, together with all of the implied powers necessary to carry into execution such granted powers.

ARTICLE III

The City Council

SECTION 3.01 Composition, Selection and Term

(1) The City Council shall be composed of a Mayor and six (6) Council Members elected under the place system, with there being Places 1, 2, 3, 4, 5 and 6. The Mayor and each of the six (6) Council Members shall be elected at large, and unless sooner removed under the provisions of this Charter, shall serve for a term of three (3) years, and until their successor has been elected and duly qualified. All of the City Council holding office at the time of passage of this Charter or any amendments to this Charter shall continue to hold their respective offices until the respective term for which they were elected expires.

(2) There shall be held in the City on the third Saturday in May, 2004, and every three years thereafter, or on such other date or dates as may be prescribed by the laws of the State of Texas, a City election for City Council Places 1, 2, 4 and 6. There shall be held in the City on the first Saturday in May, 2005, and every three years thereafter, or on such other date or dates as may be prescribed by the laws of the State of Texas, a City election for the Mayor and City Council Places 3 and 5.

(3) A majority of the full membership of the City Council shall be four (4) City Council members.

SECTION 3.02 Limitations on Terms

This Charter does not restrict or place limitations on the number of terms any one person may serve.

SECTION 3.03 Qualifications of City Council

In addition to any other qualifications prescribed by law, a candidate for Mayor and City Council shall meet the following qualifications:

(1) Shall be at least twenty-one (21) years of age at the time of the election for which they are filing;

(2) Shall be a qualified voter; and

(3) Shall have resided within the corporate limits of the City, or recently annexed territory, for at least twelve (12) months immediately preceding Election Day.

(4) No candidate for elective City office may file in a single election for more than one (1) office or position as provided by this Charter.

(5) No employee of the City shall continue in any City employee position after filing for an elective office provided for in this Charter.

(6) Candidates for elective City offices shall file for office in accordance with the Texas Election Code and comply with all other City ordinances or resolutions that may be applicable.

Unless otherwise provided, the term "qualified voter" in this Charter means a qualified voter in accordance with the Texas Election Code residing in the City.

SECTION 3.04 Compensation

Compensation of the City Council shall be $50 per council meeting for which the Council Member is present. The compensation of the Mayor shall be $75 per council meeting for which the Mayor is present. For council meetings which the Mayor Pro-Tem or other Council Member acts as Mayor, that person shall receive $75. The City Council may also be entitled to reimbursement for actual expenses incurred in the performance of official duties when provided for in the annual City Budget and in accordance with the reimbursement policies adopted by the City.

SECTION 3.05 Mayor, Mayor Pro-Tem and Deputy Mayor Pro-Tem

(1) The Mayor shall attend and preside at meetings of the City Council, and shall be recognized as head of the City government for all ceremonial purposes, and by the Governor for purposes of military law, but shall have no regular administrative duties. The Mayor may participate in the discussion of all matters coming before the City Council and shall have a vote as a member thereof, on legislative or other matters, unless otherwise prohibited by law, and shall have no power to veto.

(2) The Mayor shall also represent the City in intergovernmental relationships, and shall perform other duties specified by the City Council, imposed by this Charter and by ordinances and resolutions passed in pursuance thereof. Additionally, the Mayor, the City Manager, or designee shall sign, after authorization by the City Council, all contracts and conveyances made or entered into by the City and all bonds, warrants and any other obligation issued under the provisions of this Charter, in the manner prescribed in the ordinance or resolution authorizing the signing of any such obligation. The Mayor may declare a local state of disaster and order the evacuation of all or part of the population from a stricken or threatened area.

(3) The Mayor Pro-Tem shall be a Council Member elected to be the Mayor Pro-Tem by the City Council annually at the first meeting of June or as soon thereafter as practicable, but not later than the last business day of July. The Mayor Pro-Tem shall act as Mayor during the disability or absence of the Mayor and in this capacity shall have the rights conferred upon the Mayor.

(4) The Deputy Mayor Pro-Tem shall be a Council Member elected to be the Deputy Mayor Pro-Tem by the City Council annually at the first meeting June or as soon thereafter as practicable, but not later than the last business day of July. The Deputy Mayor Pro-Tem shall act as Mayor during the disability or absence of the Mayor and Mayor Pro-Tem, and in this capacity shall have the rights conferred upon the Mayor.

SECTION 3.06 Vacancies, Forfeiture and Filling of Vacancies

(1) The office of a Council Member or the Mayor shall become vacant upon his or her death, resignation, incapacity, forfeiture of office, or removal from office, by any manner authorized by law.

(2) If any Member of the City Council is absent from three (3) consecutive regular meetings, without explanation acceptable to a majority of the remaining Council Members, his or her office may be declared vacant, by resolution, at the next regular meeting of the City Council. The City Council shall convene a public hearing before exercising its authority under this provision, and permit the Council Member facing expulsion to be heard regarding absences.

(3) Any person on the City Council who:

(A) ceases to possess the required qualifications for office as set forth in Section 3.03 of this Charter, or

(B) ceases to reside within the corporate limits or recently annexed territory of the City, or

(C) is convicted of a felony, or of a misdemeanor involving moral turpitude, or

(D) is convicted of violating any state laws regulating conflicts of interest of municipal officers, or

(E) is in violation of any part of Article 14 of this Charter,

shall forfeit his or her office. Every forfeiture shall be declared and enforced by the City Council. The City Council shall convene a public hearing before exercising its authority under this provision, and permit the Council member to be heard regarding forfeiture of office.

(4) If there is a vacancy in the office of Mayor, a new Mayor shall be elected by special election within one hundred twenty (120) days after such vacancy occurs, in accordance with the Texas Constitution and the Texas Election Code.

(5) A vacancy in the office of a Council Member, where the remaining unexpired term of the office is twelve (12) months or less, shall be filled by appointment by majority vote of the remaining members of the City Council by a person meeting the qualifications of the Charter to serve the remainder of the unexpired term. When the remaining unexpired term of the office is more than twelve (12) months, the vacancy shall be filled by special election within one hundred twenty (120) days after such vacancy occurs, in accordance with the Texas Constitution and the Texas Election Code. When there are two (2) or more vacancies at any one time, the vacancies shall be filled by special election within one hundred twenty (120) days after such vacancies occur, in accordance with the Texas Constitution and the Texas Election Code. If the vacated office is that of Mayor Pro-Tem or Deputy Mayor Pro-Tem, the City Council shall elect a new Mayor Pro-Tem or Deputy Mayor Pro-Tem at the next regular meeting.

(6) Vacancies filled by special election shall be for the remainder of the term that was vacated.

SECTION 3.07 Powers of the City Council

All powers of the City and the determination of all matters of policy shall be vested in the City Council (which is composed of the Mayor and six (6) Council Members). Except where in conflict with and otherwise expressly provided by this Charter, the City Council shall have all powers authorized to be exercised by the Constitution and laws of the United States and the State of Texas. Without limitation of the foregoing and among the other powers that may be exercised by the City Council, the following are hereby enumerated for greater certainty:

(1) Appoint and remove the City Manager;

(2) Appoint and remove the Municipal Judge(s) of the Municipal Court;

(3) Appoint and remove the City Attorney;

(4) Appoint and remove the City Secretary;

(5) Adopt the budget of the City;

(6) Collectively investigate into the conduct of any office, department or agency of the City and make investigations as to municipal affairs;

(7) Provide for a Planning and Zoning Commission, a Board of Adjustment and other boards as deemed necessary, and appoint the members of all such boards and commissions. Such boards and commissions shall have all powers and duties now or hereafter conferred and created by this Charter, by City ordinance or by law;

(8) Adopt and modify the official map of the City;

(9) Adopt, modify and carry out plans in conjunction with the Planning and Zoning Commission for the planning, improvement and redevelopment of specific areas of the City;

(10) Adopt, modify and carry out plans in conjunction with the Planning and Zoning Commission for the planning, reconstruction or redevelopment of any area or district which may have been destroyed in whole or part by disaster;

(11) Regulate, license and fix the charges or fares made by any person owning, operating or controlling any vehicle of any character used for the carrying of passengers for hire on the public streets and alleys of the City;

(12) Provide for the establishment and designation of fire safety codes 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 dilapidated buildings, dangerous structures, dangerous buildings or buildings determined to increase the risk of fire hazard, and provide for the manner of their removal or destruction;

(13) Fix and regulate rates and charges of all utilities and public services provided by the City;

(14) Approve plats, unless the City Council votes to vest this authority exclusively in the Planning and Zoning Commission; and

(15) Individually ask questions of the City Manager regarding City business. Individually ask questions of the department heads regarding items on the posted agenda. Any and all other inquiries to department heads or staff shall follow the City's Governance Policy.

SECTION 3.08 Prohibitions

(1) 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 or her term as Mayor or Council Member. No former Mayor or Council Member shall hold any compensated appointive office or City employment until one (1) year after the expiration of the term for which they were elected to the City Council.

(2) Members of the City Council shall not in any way dictate the appointment, removal, or discipline of the City administrative officers or employees appointed by the City Manager or any of the City Manager's subordinates.

(3) Except for the purpose of inquiries and investigations as provided by this Charter and in accordance with the City's Governance Policy, the City Council shall interact with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager. The City Council shall not give orders to any such officer or employee, either publicly or privately, except as otherwise provided in this Charter.

SECTION 3.09 Meetings of the City Council

(1) The City Council shall meet regularly at such dates and times as may be prescribed by ordinance or resolution, but not less frequently than once each calendar month to transact the business of the City.

(2) Special meetings of the City Council shall be called by the City Secretary upon request of the Mayor, City Manager or three (3) Council Members. Special meetings shall be held and notice given in accordance with state law.

(3) Except as provided by state law, all City Council meetings shall be open to the public and shall be held and notice given in accordance with state law.

SECTION 3.10 Quorum

Four (4) 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 the City Council present and qualified to act.

SECTION 3.11 Conflict of Interest

Should any person on the City Council have a conflict of interest, pursuant to any state laws and/or City ordinances regulating conflicts of interest of municipal officers, with an agenda item then before the City Council, he or she shall disclose such interest to the other members of the City Council, and he or she is thereby prohibited from discussing or voting on the item, and shall not be considered as present and voting for the purposes of the tally. Council members who have a conflict of interest are considered present for purposes of constituting a quorum.

SECTION 3.12 Abstention

Should any person on the City Council choose to abstain from voting on any agenda item before the City Council, where no conflict of interest exists, the person's vote shall be deemed and recorded as a negative vote.

SECTION 3.13 Rules of Procedure

The City Council shall determine by ordinance, resolution, or otherwise, its own rules of order and business. The City Council shall provide that members of the public shall have a reasonable opportunity to clearly be heard at public hearings with regard to specific matters under consideration. In addition, the Council will provide reasonable opportunity for public comments concerning items not on the agenda. The City Council shall provide for minutes to be taken and recorded for all public meetings as required by law. Such minutes shall be a public record and shall be kept and maintained by the City Secretary.

SECTION 3.14 Passage of Ordinances in General

(1) The City Council shall legislate by ordinance only, and the enacting clause of every ordinance shall read "Be it ordained by the City Council of the City of Murphy, Texas . . . ." Each proposed ordinance shall be introduced in the written or printed form required for adoption. Each and every ordinance shall contain a title or caption that identifies the subject(s) addressed in the ordinance. 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. Copies of any proposed ordinance, in the form required for adoption, shall be furnished to the City Council. Copies of the proposed ordinance, in the form required for adoption, shall be available at the City offices and shall be furnished to the public upon request to the City Secretary from and after the date on which such proposed ordinance is posted as an agenda item for a City Council meeting and, if amended, shall be available and furnished in amended form for as long as the proposed ordinance is before the City Council.

(2) Unless otherwise required by law, every ordinance shall become effective upon adoption or at any later time(s) specified in the ordinance, except that every penal ordinance imposing any penalty, fine or forfeiture shall become effective only after having the descriptive title or caption of the same published at least one time after final passage in a newspaper designated as the official newspaper of the City.

(3) If a majority of the City Council present at a council meeting request that the ordinance title and caption or its entirety be read, it must be read.

SECTION 3.15 Authentication, Recording, Codification, Printing and Distribution

(1) All ordinances and resolutions adopted by the City Council shall be authenticated by seal and signature of the person performing the duties of the City Secretary and numbered consecutively as adopted. They shall be properly indexed and placed in a book kept open for public inspection.

(2) The City Council may maintain the codification of ordinances of the City. This codification shall be known and cited as "The Murphy City Code" and shall be in full force and effect without the necessity of such code or any part thereof being published in any newspaper. The caption, descriptive clause and other formal parts of the ordinances of the City may be omitted without affecting the validity of such ordinances when codified. Every general ordinance enacted subsequent to such codification shall be enacted as an amendment to the code. For the purpose of this section, general ordinances shall be deemed to be those ordinances of a permanent or continuing nature which affect the residents of the City at large. Copies of the code shall be furnished to City Officers, placed in City offices and made available for purchase by the public at a reasonable price to be determined by the City Council, not to exceed the costs permitted by state law.

(3) The City Council shall cause all ordinances and amendments to this Charter to be printed promptly following their adoption. A copy of each ordinance and Charter amendment shall be placed in appropriate City offices for public reference. Printed ordinances and Charter amendments shall be sold to the public at a reasonable price to be determined by the City Council, not to exceed the costs permitted by state law.

SECTION 3.16 Investigations by the City Council

The City Council, by an affirmative vote of at least four (4) members of the City Council, shall have the power to collectively investigate into the official conduct of any department, agency, office, officer, Council Member or employee of the City and to make, direct or supervise investigation(s) as to municipal affairs, and for that purpose, the City Council collectively shall have the power to administer oaths, subpoena witnesses and compel the production of books, papers or other evidence material to the investigation. The City Council shall provide by ordinance the 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. The Council may produce its findings publicly.

SECTION 3.17 Bond

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

ARTICLE IV
City Administration

SECTION 4.01 City Manager

(1) The City Council shall appoint, upon the affirmative vote of a majority of the full membership of the City Council, a City Manager who shall serve as Chief Administrative Officer of the City. The City Manager 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 the City Manager's executive, administrative and educational qualifications, and shall have previous city manager or assistant city manager experience and/or a degree in a field related to city government. The City Manager need not be a resident of the City when appointed, but shall within a reasonable time after such appointment reside within the City during the balance of the tenure of his or her appointment.

(2) The City Council shall fix the compensation of the City Manager and the City Manager's compensation may be amended, by the City Council, from time to time, in accordance with the City Manager's experience, qualifications and performance.

(3) The City Manager shall be appointed for an indefinite term or term defined by the City Council, and may be removed or suspended, with or without cause (subject to any contractual arrangements that may exist between the City and the City Manager), at the discretion of the City Council by the affirmative vote of a majority of the full membership of the City Council. Upon a decision to remove or suspend the City Manager, written notice of such decision shall be immediately furnished to him or her.

(4) In case of the absence, disability, incapacity or suspension of the City Manager, the City Council may designate a temporary qualified administrative officer of the City to perform the duties of the office.

(5) The City Manager shall:

(A) Appoint, suspend, discipline and/or remove all City employees and appointive administrative officers provided for in this Charter, except as otherwise provided by law, this Charter, or personnel rules adopted pursuant thereto;

(B) Establish administrative departments;

(C) Direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by law or this Charter;

(D) Ensure that all state laws and city ordinances are effectively enforced;

(E) Attend all City Council meetings with the right to take part in discussion, but the City Manager shall not vote;

(F) Prepare, accept and, designate, or delegate an appropriate department head or City employee to prepare, accept and designate, items for inclusion in the official agenda of all City Council meetings and meetings of all boards and commissions;

(G) Prepare and recommend to the City Council the annual budget and capital program, and administer the budget as adopted by the City Council;

(H) Keep the City Council fully advised and informed at least quarterly, or at the request of individual City Council Members, as to the financial conditions and future needs of the City, and make such recommendations concerning the affairs of the City, as the City Manager or the City Council deems desirable or necessary;

(I) Make reports as the City Manager or the City Council may require concerning the operations of the City departments, offices or agencies subject to the City Manager's direction or supervision; and

(J) Perform such other duties as are specified in this Charter or may be required by the City Council, and are consistent with this Charter and state or federal law.

SECTION 4.02 City Secretary

(1) The City Secretary shall be appointed for an indefinite term or term defined by the City Council, and may be removed or suspended, with or without cause (subject to any contractual arrangements that may exist between the City and the City Secretary), at the discretion of the City Council by the affirmative vote of a majority of the full membership of the City Council. Upon a decision to remove or suspend the City Secretary, written notice of such decision shall be immediately furnished to him or her.

(2) The City Council shall fix the compensation of the City Secretary, and the City Secretary's compensation may be amended by the City Council, from time to time, in accordance with the City Secretary's experience, qualifications and performance.

(3) The City Secretary shall:

(A) Give notice of all public meetings and public hearings of the City Council in a manner consistent with this Charter and state laws;

(B) Attend all public meetings and hearings of the City Council;

(C) Keep the minutes of the proceedings of all public meetings and hearings of the City Council in a manner prescribed by the City Council consistent with applicable law;

(D) Act as custodian of all official records of the City Council;

(E) Hold and maintain the seal of the City and affix this seal to all appropriate documents;

(F) Authenticate by signature and seal and record all ordinances, resolutions and proclamations of the City; and

(G) Perform such other duties as may be required by the City Council consistent with this Charter and the laws of the State of Texas.

(4) In case of the absence, disability, incapacity or suspension of the City Secretary, the City Council may designate a temporary qualified employee of the City to perform the duties of the office.

SECTION 4.03 Municipal Court

(1) The City Council shall establish and cause to be maintained a Municipal Court. The Court shall have all the powers and duties as may be prescribed by state law.

(2) The City Council shall appoint by the affirmative vote of a majority of the full membership of the City Council such Municipal Judge(s) and Alternate Municipal Judge(s) of the Municipal Court as may be necessary, all of whom shall be competent, duly qualified attorneys licensed and practicing for at least two (2) years in the State of Texas. The Municipal Judge(s) of the Municipal Court(s) shall be appointed to a term of two (2) years and shall remain in office after the end of that term until the City Council considers appointment for the subsequent term.

The Municipal Judge(s) may be appointed to additional consecutive terms upon completion of his/her/their term(s) of office. The appointment of the Municipal Judge(s) may be terminated, with or without cause, at any time by the affirmative vote of a majority of the full membership of the City Council. The Municipal Judge(s) shall receive compensation as may be determined by the City Council.

(3) The Clerk and Deputy Clerks of the Municipal Court(s) shall be appointed and supervised by the City Manager, and the Clerk and Deputy Clerks shall have the power to administer oaths, certify affidavits, make certificates, affix the seal of the Court, and perform all usual and necessary clerical acts in conducting the business of the Court(s), including but not limited to, the keeping of records and accounts of the Municipal Court(s).

(4) All special expenses and fines imposed by the Municipal Court(s) shall be paid into the City treasury for the use and benefit of the City, as may be consistent with present and future laws.

(5) The City Prosecutor(s) of the Municipal Court(s) shall be the City Attorney or their designee subject to the approval of the City Manager.

SECTION 4.04 City Attorney

(1) The City Council shall appoint by the affirmative vote of a majority of the full membership of the City Council a competent, duly qualified licensed and practicing attorney in the State of Texas who shall serve as the City Attorney. The City's Governance Policy shall be applicable to this section if adopted by the City Council.

(2) The City Attorney shall:

(A) Serve as the legal advisor to the City Council and City Manager;

(B) Represent the City in litigation and legal proceedings as directed by the City Council and the City Manager; and

(C) Review and provide opinions as requested by the City Council or City Manager on contracts, legal instruments, ordinances of the City and other City business.

(3) The City Council shall have the right to retain special counsel at any time that it may deem necessary and appropriate.

(4) The City Attorney and special counsel shall receive compensation as may be determined by the City Council.

(5) The City Attorney, with approval of the City Council, may select additional attorneys to act for him and the City in its representation and/or litigation.

(6) The City Attorney may be removed, with or without cause, by the affirmative vote of a majority of the full membership of the City Council.

SECTION 4.05 Administrative Departments, Offices and Agencies

(1) The City Manager may establish, abolish, redesignate and/or combine departments, offices or agencies in addition to those provided for by this Charter, and may prescribe the functions and duties of such departments, offices and agencies.

(2) 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 appoint one (1) person as head of two (2) or more departments, offices or agencies and with the consent of the City Council, may serve as the head of one (1) or more City departments, offices or agencies.

(3) The City Manager may appoint a City Tax Collector, whose duties and functions shall be those usual to the office and consistent with existing or future laws of the State of Texas as they may apply to City or County tax collectors. The City Manager may recommend that the City Council enter into a contract for such services.

SECTION 4.06 Personnel System

(1) Personnel rules shall be prepared by the City Manager and presented to the City Council, who may adopt them with or without amendment. The adopted rules shall establish the City as an Equal Opportunity Employer and shall govern the equitable administration of the personnel system of the City. Thereafter, the City Manager shall have the power to recommend additions to, modifications of, or deletions from, such rules to the City Council in the same manner used for the adoption of the original rules.

(2) The adopted rules shall provide for the following requirements:

(A) A compensation plan for all City employment positions;

(B) A plan for working hours, attendance policy and regulation and provision for sick and vacation leave;

(C) Procedures for the hearing and adjudication of grievances;

(D) Additional practices and procedures necessary to the beneficial and equitable administration of the City's personnel system;

(E) A plan for annual oral and written evaluation based on a job description for all City employees by their immediate supervisor, including evaluation of the City Manager, City Secretary, Municipal Judge and City Attorney by the City Council; and

(F) A clear and concise statement that all City employees are at-will employees.

ARTICLE V

Nominations and Elections

SECTION 5.01 City Elections

(1) All City elections shall be conducted in accordance with the Texas Election Code.

(2) The City Council may, by resolution or ordinance, order a special election for purposes consistent with this Charter and laws of the State of Texas.

(3) Municipal elections shall be conducted by election officials appointed by the City Council, or as prescribed by law. 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.

(4) All municipal elections shall be publicized in accordance with the Texas Election Code.

(5) A sample ballot shall be published, printed, and made available on the official City website and at City Hall as required by law.

SECTION 5.02 Official Ballots

(1) The name of each candidate seeking elective office, except those who have withdrawn, died, or become ineligible, and who are authorized to have their names removed from the ballot consistent with state law, shall be printed on the official ballot in the form designated by the candidate in accordance with the Texas Election Code. If two (2) or more candidates have the same surname, their middle name or other identifier 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 voting by absentee ballot 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 a

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.

SECTION 5.03 Official Results

(1) The candidate for elective office receiving a majority of the votes cast shall be declared the winner. In the event that no candidate receives a majority of all votes cast for any one place at such election, the City Council shall, upon completion of the official canvass of the ballots, issue a call for a runoff election to be held within thirty (30) days following the issuance of such call, or in accordance with the Texas Election Code. At such runoff election, the two (2) candidates receiving the highest number of votes (or three (3) persons in case of tie for second place) for any one place in the first election shall be placed on the runoff ballot for such election.

(2) The returns of every municipal election shall be handled in accordance with the Texas Election Code.

SECTION 5.04 Taking of Office

(1) Each newly elected person to the City Council shall take the oath of office and be inducted into office at the first regular City Council meeting following the election.

(2) At such meeting the oath of office shall be administered in accordance with state law.

ARTICLE VI

Recall, Initiative and Referendum

SECTION 6.01 Scope of Recall

Any elected City official shall be subject to recall and removal from office by the qualified voters of the City on grounds of incompetence, misconduct or malfeasance in office.

SECTION 6.02 Petitions for Recall

Before the question of recall of such officer shall be submitted to the qualified voters of the City, a petition demanding such question to be so submitted shall first be filed with the person performing the duties of City Secretary, which said petition must be signed by thirty percent (30%) of the number of votes cast for the place or position held by that member of the City Council in the last general municipal election for that place or position, or three hundred (300) qualified voters, whichever is greater. Each signer of such recall petition shall be a qualified voter of the City and shall provide all requisite information as required by the Texas Election Code and this Charter.

SECTION 6.03 Form of Recall Petition

The recall petition mentioned above must be addressed to the City Council must be distinctly and specifically pointed to the grounds upon which such petition for removal is predicated, and, if there be more than one (1) ground, said petition shall specifically state each ground with such certainty as to give the officer sought to be removed notice of the matters and things with which the officer is charged. The petition shall contain, in addition to the signature, the signer's name, the signer's date of birth or voter's registration number, the signer's residence address and the date of signing. The signature shall be verified by oath in the following form.

"State of Texas

County of Collin

I, _____, being first duly sworn, on oath depose and say that I am one of the signers of the above petition, and that the statements made therein are true, and that each signature appearing thereto was made in my presence on the day and date it purports to have been made, and I solemnly swear that the same is the genuine signature of the person it purports to be.

_____
Signature

Sworn and subscribed before me this _____ day of _____, 20____.

Signed _____

Notary Public in and for the State of Texas"

SECTION 6.04 Various Papers Constituting Petition

The petition may consist of one (1) or more copies, or subscription lists, circulated separately, and the signatures thereto may be upon the paper or papers containing the form of petition, or upon other paper attached thereto. Verifications provided for in Section 6.03 of this Article may be made by one (1) or more petitioners, and the several parts of copies of the petition may be filed separately and by different persons. No signatures to such petition shall remain effective or be counted if they were placed on the petition more than forty-five (45) days prior to the filing of such petition or petitions with the City Secretary. All papers comprising a recall petition shall be filed with the City Secretary on the same day, and the City Secretary shall immediately notify, in writing, the officer so sought to be removed, by mailing such notice to the officer's City address.

SECTION 6.05 Presentation of Petition to the City Council

Within twenty-one (21) days after the date of the filing of the papers constituting the recall petition, the City Secretary shall confirm the signatures on the petition and, if the petition is determined to be legally sufficient, present such petition to the City Council.

SECTION 6.06 Public Hearing to be Held

The officer whose removal is sought may, within seven (7) days after such recall petition has been presented to the City Council, request that a public hearing be held to permit him or her to present the facts pertinent to the charges specified in the recall petition. In this event, the City Council shall order such public hearing to be held, not less than five (5) days nor more than fifteen (15) days after receiving such request for a public hearing.

SECTION 6.07 Calling of Recall Election

If the officer whose removal is sought does not resign, then 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 in accordance with the Texas Election Code. If after the recall election date is established, the officer vacates his or her position, the election shall be cancelled.

SECTION 6.08 Ballots in Recall Election

Ballots used at recall elections shall conform to the following requirements:

(1) With respect to each person whose removal is sought, the question shall be submitted:

"Shall _____ be removed from the office of _____ by recall?"

(2) Immediately below each such question there shall be printed the following words, one above the other, in the order indicated:

"Yes"

"No"

SECTION 6.09 Result of Recall Election

If a majority of the votes cast at a recall election shall be "No," that is, against the recall of the officer named on the ballot, the officer shall continue in office for the remainder of his or her unexpired term, subject to recall as before. If a majority of the votes cast at such election be "Yes," that is, for the recall of the officer named on the ballot, the officer shall, regardless of any technical defects in the recall petition, be deemed removed from office and the vacancy shall be filled by the City Council as provided in this Charter.

SECTION 6.10 Restrictions on Recall

(1) No recall petition shall be filed against any officer of the City within six (6) months after the officer's election, nor within six (6) months after an election for such officer's recall.

(2) No more than three (3) petitions for recall shall be filed and/or be pending for resolution by election until those three (3) petitions for recall have been resolved by the recall election and an election has been ordered to fill any vacancies created by the recall election.

(3) Recall elections shall be held in accordance with the Texas Election Code.

SECTION 6.11 Failure of the City Council to Call a Recall Election

If all the requirements of this Charter shall have been met and the City Council fails to receive the recall petition, or order such recall election, or discharge any other duties imposed on the City Council by the provisions of this Charter with reference to such recall, then any petitioning citizen may file with the appropriate court for a writ of mandamus to force the City to call the election.

SECTION 6.12 General Power of Initiative and Referendum

The qualified voters of the City, in addition to the method of legislation herein before provided, shall have the power of direct legislation by initiative and referendum.

(1) Initiative: Such power shall not extend to the budget, capital program or any ordinance not subject to initiative as provided by state law.

(2) Referendum: Such power shall not extend to the budget or capital program or any ordinance not subject to referendum as provided by state law.

SECTION 6.13 Initiative

Following a review by the City Attorney for enforceability and legality, qualified voters of the City may initiate legislation by submitting a petition addressed to the City Council that requests the submission of a proposed ordinance or resolution to a vote of the qualified voters of the City. Said petition must be signed by a minimum of thirty percent (30%) of the number of votes cast at the last regular City election, or three hundred (300) qualified voters, whichever is greater, and each copy of the petition shall have attached to it a copy of the proposed legislation. The petition shall be signed in the same manner as recall petitions are signed as provided in this Article, and shall be verified by oath in the manner and form provided for recall petitions in this Article. The petition may consist of one (1) or more copies as permitted for recall petitions. Such petition shall be filed with City Secretary. Within twenty-one (21) days after the filing of such petition, the City Secretary, or the person performing the duties of the City Secretary, shall confirm the signatures on the petition and, if the petition is determined to be legally sufficient, present said petition and proposed ordinance or resolution to the City Council. Upon presentation to the City Council, it shall become the duty of the City Council, within two (2) regularly scheduled City Council meetings after the receipt thereof, to pass and adopt such ordinance or resolution without alteration as to meaning or effect, or to call a special election, to be held on a date allowed under the Texas Election Code, at which the qualified voters of the City shall vote on the question of adopting or rejecting the proposed legislation. However, if any other municipal election is to be held within sixty (60) days following the filing of the petition, the question may be voted on at such election. Any election order so issued shall comply fully with the Texas Election Code. Unless otherwise provided by law, any election for an initiative under this Charter shall be held on the first authorized uniform election date that occurs after the sixty-fifth (65th) day after the petition was presented to the City Council.

SECTION 6.14 Referendum

Qualified voters of the City may require that any ordinance or resolution passed by the City Council or instituted by the initiative process under this Charter be submitted to the voters of the City for approval or disapproval, by submitting a petition for this purpose within thirty (30) days after final passage of said ordinance or resolution, or within thirty (30) days after its publication. Said petition shall be addressed, signed and verified as required for recall petitions in this Article and shall be submitted to the City Secretary. Immediately upon the filing of such petition, the City Secretary shall confirm the signatures on the petition and, if the petition is determined to be legally sufficient, present said petition to the City Council. Thereupon the City Council shall immediately reconsider such ordinance or resolution and, if the City Council does not entirely repeal the same, shall submit it to popular vote as provided in Section 6.13 of this Charter. Pending the holding of such election, each ordinance or resolution shall be suspended from enforcement and shall not later be enforced unless a majority of the qualified voters voting thereon at such election shall vote in favor thereof. Unless otherwise provided by law, any election for a referendum under this Charter shall be held on the first authorized uniform election date that occurs after the sixty fifth (65th) day after the petition was presented to the City Council.

SECTION 6.15 Voluntary Submission of Legislation by the City Council

The City Council, upon its own motion and by the affirmative vote of a majority of the full membership of the City Council, may submit to popular vote at any election, for adoption or rejection, any proposed ordinance, resolution or measure, or may submit for repeal any existing ordinance, resolution or measure in the same manner and with the same force and effect as provided in this Article for submission of a petition, and may at its discretion call a special election for this purpose.

SECTION 6.16 Form of Ballots

The ballots used when voting upon such proposed and referred ordinance, resolutions or measures, shall set forth their nature sufficiently to identify them and shall also set forth upon separate lines the words: "For the Ordinance" or "Against the Ordinance" or "For the Resolution" or "Against the Resolution."

SECTION 6.17 Publication of Proposed and Referred Ordinances

The City Secretary shall publish, print and make available on the official City's website and at City Hall, the caption or a summary of the proposed or referred ordinance or resolution within fifteen (15) days before the date of the election, and shall give such other notices and do such other things relative to such election as are required by law in municipal elections and by the ordinance or resolution calling said election.

SECTION 6.18 Adoption of Ordinances

If a majority of the qualified voters voting on any proposed ordinance or resolution or measure shall vote in favor thereof, it shall thereupon or at any time fixed therein, become effective as a law or as a mandatory order of the City Council.

SECTION 6.19 Inconsistent Ordinances

If the provisions of two (2) or more proposed ordinances or resolutions approved at the same election are inconsistent, the ordinance or resolution receiving the highest number of votes shall prevail.

SECTION 6.20 Ordinances Passed by Popular Vote, Repeal or Amendment

No ordinance or resolution which may have been passed by the City Council upon a petition or adopted by popular vote under the provisions of this Article shall be repealed or amended except by the City Council in response to a referendum petition or by submission as provided by Section 6.15 of this Charter.

If an ordinance or resolution adopted by popular vote under the provisions of this Article is directly challenged and declared to be unconstitutional, preempted, or otherwise unenforceable by a court of final jurisdiction, the City Council, upon its own motion and by majority vote, may repeal the ordinance or resolution.

SECTION 6.21 Further Regulations by the City Council

The City Council may pass ordinances or resolutions providing other and further regulations for carrying out the provisions of this Article consistent herewith.

SECTION 6.22 Franchise Ordinances

Nothing contained in this Article shall be construed to be in conflict with any of the provisions of this Charter pertaining to ordinances granting franchises when valuable rights shall have accrued thereunder.

SECTION 6.23 Failure of the City Council to Call an Initiative or Referendum Election

If all of the requirements of this Charter have been met and the City Council fails or refuses to receive the initiative or referendum petition, or order such initiative or referendum election, or discharge any other duties imposed on the City Council by the provisions of this Charter with reference to such initiative or referendum, then

any petitioning citizen may file with the appropriate court for a writ of mandamus to force the City to call the election.

ARTICLE VII

Financial Procedures

SECTION 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 on the next succeeding year. Such fiscal year shall also constitute the budget and accounting year.

SECTION 7.02 Submission of Budget and Budget Message

On or before the tenth (10th) day of August of the fiscal year, the City Manager shall submit to the City Council a budget for the ensuing fiscal year and an accompanying budget message. The budget shall comply with and contain such information and itemization, as may be required by state law.

SECTION 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.

SECTION 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. When the notice of public hearing on the budget is posted, a copy of the budget summaries shall be posted on the official City Website.

SECTION 7.05 Public Hearing on Budget

At the City Council meeting when the budget is submitted, the City Council shall designate the date, time and place of a public hearing which shall be published, printed, and made available on the official City website and at City Hall as required by law. At this hearing, interested persons may express their opinions concerning the budget, including items of expenditures, giving their reasons for wishing to increase or decrease any items of expense.

SECTION 7.06 Proceeding on Adoption of Budget

After public hearing, the City Council shall analyze the budget, making any additions or deletions which they determine are appropriate, and shall, adopt the budget by the affirmative vote of a majority of the full

membership of the City 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.

SECTION 7.07 Budget, Appropriation and Amount to be Raised by Taxation

On final adoption, the budget shall be in effect for that budget year. Final adoption of the budget by the City Council shall constitute the official appropriations as proposed by expenditures for that budget 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 appropriations may be transferred to any item required for the same general purpose.

SECTION 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 three percent (3%) of the total general fund expenditures, to be used in case of unforeseen items of expenditures. This 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 departments or activities for which the appropriations are made.

SECTION 7.09 Amending the Budget

Under conditions which may arise, and for municipal purposes, the City Council may, by the affirmative vote of a majority of the full membership of the City Council, 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.

SECTION 7.10 Certification; Copies Made Available

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

SECTION 7.11 Capital Program

The City Manager shall submit a five (5) year capital program as an attachment to the annual budget. The program as submitted shall include:

(1) A clear general summary of its contents;

(2) A list of all capital improvements which are proposed to be undertaken during the next five (5) fiscal years, with appropriate supporting information as to the necessity for such improvements;

(3) Cost estimates, method of financing, and recommended time schedules for each improvement; and

(4) 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.

SECTION 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.

SECTION 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 (3) years pass without any disbursement from or encumbrance of the appropriation. Any funds not expended, disbursed or encumbered shall be deemed excess funds.

SECTION 7.14 Borrowing

(1) The City shall have the right and power, except as prohibited by law or this Charter, to borrow money by whatever method it may deem to be in the public interest.

(2) Emergency Funding:

In any budget year, the City Council shall have full powers authorized by law to borrow money in response to an emergency. Notes may be issued which are repayable not later than the end of the current fiscal year.

SECTION 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 City Council for all budgeted items not exceeding limits set by the City Council within the ordinance.

(2) All contracts for expenditures or purchases involving more than the limits must be expressly approved in advance by the City Council. All contracts or purchases involving more than the limits set by the City Council shall be awarded by the City Council, in accordance with state law.

(3) Emergency contracts as authorized by law and this Charter may be negotiated by the City Council or City Manager if given authority by the City Council, and in accordance with state law. Such emergency shall be declared by the Mayor.

(4) Spending, purchasing, and sale of real or personal property guidelines shall be set by policy approved by the City Council and shall be consistent with state law.

SECTION 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 the City Manager's designee, first confirms that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds 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 the officer 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 to 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 City Council as often as the City Council may request, but not less than once a quarter a report covering the revenues and expenditures of the City in such form as requested by the City Council.

SECTION 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 deposits and interest thereon as may be established by ordinance and state law.

SECTION 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 of all accounts of the City by a certified public accountant in accordance with state law. No more than five (5) consecutive annual audits shall be completed by the same accountant or accounting firm. The certified public accountant selected shall have no direct or indirect personal interest in the financial affairs of the City or any 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 within thirty (30) days in the official newspaper of the City, shall be posted on the official City Website, and copies of the audit placed on file in the office of the City Secretary, as a public record.

SECTION 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. The City shall designate or contract for a Tax Collector for the City.

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

SECTION 7.20 Taxes; When Due and Payable

(1) All taxes due in the City shall be payable at the office of the City Tax Collector, 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 an amount not to exceed those established by the laws of the State of Texas.

(2) Failure to levy and assess taxes through omission in preparing the appraisal rolls shall not relieve the person, partnership, company or other legal entity 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.

SECTION 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 sufficient 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

SECTION 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) Individuals who are legal residents of the City may be appointed by the City Council to serve on one (1) or more boards, commissions or committees. Such appointees shall serve at the pleasure of the City Council and may be removed at the discretion of the City Council, except for the members of the Board of Adjustment, who may be removed only for cause. 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, at the discretion of the City Council, keep and maintain minutes of any proceedings held.

(4) No officer or employee of the City nor any person who holds a compensated appointive position with the City shall be a member of any board, commission or committee created or established by state law or this Charter other than in an advisory and/or ex officio capacity except as allowed by state law.

ARTICLE IX

Planning and Zoning Commission

SECTION 9.01 Organization

(1) There is hereby established a Planning and Zoning Commission, which shall consist of not less than seven (7) members who shall be appointed by the City Council to staggered terms of two (2) years in accordance with the existing zoning ordinance. Any vacancy occurring during the unexpired term of a member shall be filled by the City Council for the remainder of the unexpired term. After being duly appointed, the Commission shall elect from its members a Chairman, Vice Chairman and Secretary to serve for one (1) year beginning in that month. Members of the Commission may be removed, with or without cause, by an affirmative vote of a majority of the full membership of the City Council.

(2) The Commission shall meet regularly at such dates and times as may be prescribed by ordinance, resolution or order. The Commission shall keep minutes of its proceedings which shall be of public record. The Commission shall serve without compensation.

(3) Four (4) voting Commission members shall constitute a quorum for the purpose of transaction of business.

SECTION 9.02 Duties and Powers

(1) The Commission shall be responsible to and act as an advisory board to the City Council. The Commission shall:

(A) Review all current and proposed ordinances and amendments pertaining to planning and zoning and make recommendations to the City Council for action to be taken;

(B) Make proposals to the City Council to amend, extend and add to the Comprehensive Plan for the physical development of the City;

(C) Keep public records of its resolutions, findings and determinations; and

(D) Review plats, site plans, landscape plans, and zoning requests and make recommendations to the City Council for their final approval of same.

(2) The Commission shall have full power to:

(A) Exercise the authority of the Commission as provided by state law, this Charter and City ordinances;

(B) Make reports and recommendations relating to the Comprehensive Plan and development of the City; and

(C) Approve plats, site plans and landscape plans if it has been given that authority by the City Council.

SECTION 9.03 Procedure

(1) All rules and regulations adopted by the Commission shall be forwarded in writing to the City Manager who shall submit them to the City Council with the City Manager's recommendations. The City Council may amend, adopt or reject any such rules or regulations. If any rules or regulations should be rejected, the Commission may modify them and submit such modified rules and recommendations to the City Council for consideration.

(2) Should any person on the Commission have a conflict of interest, pursuant to any state laws and/or City ordinances regulating conflicts of interest of municipal officers, with an agenda item then before the Commission, he or she shall openly declare same before discussion proceeds, file any required affidavit, disclose such interest to the other members of the Commission, and he or she shall thereby be prohibited from discussing and voting on the item, and such person is not considered as present and voting for the purposes of the tally of votes. Commission Members who have a conflict of interest are considered present for purposes of constituting a quorum.

(3) Should any person on the Commission choose to abstain from voting on any question before the Commission, where no conflict of interest exists, the person's vote shall be recorded as a negative vote.

SECTION 9.04 The Comprehensive Plan: Procedure and Legal Effect

(1) The Comprehensive Plan shall include, but not be limited to, the Future Land Use Plan, the Thoroughfare Plan, and Parks and Open Space Plan. The Commission shall seek input from all appropriate boards and commissions in the development of the Comprehensive Plan. Additions to and amendments of the Comprehensive Plan shall be by ordinance or resolution, but before any such revision, the Planning and Zoning Commission shall hold at least one (1) public hearing on the proposed action.

(2) A copy of the proposed revisions to the Comprehensive Plan shall be forwarded to the City Manager who shall submit the proposal to the City Council, together with the City Manager's recommendations, if any. The City Council shall hold a public hearing and shall adopt or reject such proposed revision or any part thereof as submitted within sixty (60) days following its submission by the City Manager. If the proposed revisions or any part thereof are rejected by the City Council, the City Council may request the Planning and Zoning Commission to make other modifications and again forward it to the City Manager for submission to the City Council.

(3) Following the adoption by the City Council of the Comprehensive Plan, and any revisions thereto, it shall serve as a guide for all future City Council action concerning land use and development regulations and expenditures for capital improvements. Any proposal which deviates from the Comprehensive Plan shall not be authorized until and unless the location and extent thereof shall have been submitted to and approved by the Commission. In case of denial of the request to deviate from the Comprehensive Plan, the Commission shall communicate its reasons to the City Council, which shall have the power to overrule such denial with a vote of a majority of the full membership of the City Council, and upon such overruling, the City Council or the appropriate office or department shall have authority to proceed.

SECTION 9.05 Board of Adjustment

(1) The City Council shall appoint a Board of Adjustment. The City Council shall, by ordinance, provide standards and procedures for such Board to hear and determine appeals of administrative decisions, petition for variances in the case of peculiar and unusual circumstances which would create a hardship and prevent the reasonable use of land, and such other matters as may be required by the City Council or by law. Appointment and removal of members of the Board of Adjustment shall be in accordance with the provisions of Article VIII, Sec. 8.01 (2) of this Charter and state law.

(2) The Board shall consist of seven (7) members who shall be appointed by the City Council to staggered terms of two (2) years.

(3) Each case before the Board of Adjustment shall be heard by not less than seventy-five percent (75%) of the members. The concurring vote of seventy-five percent (75%) of the members shall be required to reverse an order, requirement, decision or determination of an administrative official; decide in favor of an applicant on a matter on which the Board is required to pass under a zoning ordinance; or authorize a variation from the terms of the zoning ordinance.

ARTICLE X
Utility and Public Service Franchises

SECTION 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 utilities service outside the City limits, except by a written contract and/or by ordinance. The City shall have such regulatory and other power as it may now or hereafter be granted under the Constitution and laws of the State of Texas.

SECTION 10.02 Ordinance Granting Franchise

Ordinances granting franchises shall be subject to the terms hereof, and shall contain such terms and conditions as required by the City Council. All franchises shall be exercised in accordance with the terms of the ordinance granting the same and of the Charter. If such franchises shall not be exercised in substantial accordance with the terms hereof and of the ordinance granting the same, the franchise may be cancelled or annulled after notice and reasonable hearing to the holders thereof. The City Council shall by ordinance adopt reasonable rules and regulations for the notice and hearing. No franchise shall be granted for a term of more than twenty (20) years from the date of the grant, renewal or extension of any franchise.

SECTION 10.03 Transfer of Franchise

No public service or utility franchise is transferable, except with the approval of the City Council. No public service or utility franchise may be sold, transferred, assumed or otherwise assigned without the prior written consent of the City Council.

SECTION 10.04 Franchise Value Not to be Allowed

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

SECTION 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:

(1) To repeal the franchise by ordinance for failure to begin construction or operation within the time prescribed, or for failure to comply with terms of the franchise;

(2) 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 included in the terms of the original grant of franchise and shall be terminable at the same time and under the same conditions as the original grant;

(3) To require expansion and extension of facilities and services and to require maintenance of existing facilities to provide adequate service at the highest level of efficiency;

(4) To require reasonable standards of service and quality of product and prevent rate discrimination;

(5) To impose reasonable regulations and restrictions to ensure the safety and welfare of the public;

(6 To examine and audit accounts and records and to require annual reports on local operations of the public service or utility as may be allowed by law;

(7) To require the franchisee 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 of facilities;

(8) To require the franchisee to furnish to the City, within a reasonable time following request of the City, at franchisee's expense, a general map outlining current location, character, size, length, depth, height and terminal of all facilities over and under property within the City and its extraterritorial jurisdiction, if allowed by law; and

(9) To require compensation, rent or franchise fees to be paid to the City as may be permitted by the laws of the State of Texas.

SECTION 10.06 Regulation of Rates

(1) The City Council has the power to determine 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 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 for service to the City;

(B) Amount and character of expenses and revenues connected with rendering the service;

(C) Copies of any reports or returns filed with any state or federal regulatory agency within the last three (3) years; or

(D) Demonstration that the return on investment, if any, is within state and federal limitations.

(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.

SECTION 10.07 Placement of Wires, Etc., Underground

To the extent authorized by law, the City Council may require the placing of all wires or the overhead construction of public utilities under the surface of the ground within the business area, fire zones, industrial areas, or any other area of the City as it may deem necessary or desirable, under the surface of the ground under such regulations as may be prescribed by the City Council.

ARTICLE XI

General Provisions

SECTION 11.01 Public Records

All records of the City shall be open to inspection subject to state law.

SECTION 11.02 Official Newspaper and Website

The City Council shall declare by resolution or ordinance an official newspaper of general circulation in the City and the official City Website. All ordinances, notices and other matters required by this Charter, City ordinance, or the Constitution and laws of the State of Texas shall be published in the official newspaper and on the official City Website.

SECTION 11.03 Oaths

All elected and appointed officers of the City, before entering into the duties of such office, shall take and sign an oath of office as prescribed for state elective and appointive offices in the Constitution of the State of Texas.

SECTION 11.04 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.

SECTION 11.05 Wording Interpretation

The gender of the wording throughout this Charter shall always be interpreted to mean either sex. All singular words shall include the plural and all plural words shall include the singular. All references to the state law or laws of the State of Texas, however expressed in this Charter, shall mean "as presently enacted or as may be amended

or superseded." The use of the word "City" in this Charter shall mean the City of Murphy, Texas, and the use of the word "Charter" shall mean this Home Rule Charter.

SECTION 11.06 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, or by the City Council on its own motion, but the Charter may not be amended more often than once every two (2) years.

SECTION 11.07 Charter Review Commission

(1) The City Council shall appoint a Charter Review Commission at least once every six (6) years. The Charter Review Commission shall consist of at least eleven (11) citizens of the City who 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;

(B) Propose any recommendations it deems desirable to ensure compliance with the Charter; and

(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 and website of the City a comprehensive summary of the report presented by the Commission, shall consider any recommendations made, and may order any amendments suggested to be submitted to the voters of the City in the manner provided by state law.

(3) The term of office of the Commission shall be for not more than six (6) 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.

SECTION 11.08 City Depository

The provisions of the laws of the State of Texas governing the selection and designation of the City Depository are hereby adopted as the law governing the selection and designation of a depository of and for the City.

SECTION 11.09 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.

SECTION 11.10 Sale of Liquor Prohibited in Residential Districts

The sale of liquor, as defined in the Texas Alcoholic Beverage Code, as amended, shall be prohibited by a person or entity holding a package store permit, as described in the Texas Alcoholic Beverage Code, as amended, in any zoning district which allows, in whole or in part, residential development in the City.

ARTICLE XII
Legal Provisions

SECTION 12.01 Assignment, Execution and Garnishment

(1) Real and personal property 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, 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 whatsoever.

(2) The City shall not be obligated to recognize any assignment of wages or funds by its employees, agents or contractors, except as provided by the laws of this State or the United States of America.

SECTION 12.02 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.

SECTION 12.03 Notice of Claim

(1) 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 ("Claimant") shall, within one hundred eighty (180) days after the time at which it is claimed such damages were inflicted upon such person or property, file with the City Secretary 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 condition causing same, with a detailed statement of each item of damages and the amount thereof, giving a list of any witnesses known by the claimant to have seen the incident.

(2) The City shall not be held liable and shall not have waived its immunity from suit on account of any claim for breach of contract unless the person making such complaint ("Claimant") shall, within thirty (30) days after the time at which it is claimed such breach of contract by the City occurred, file with the City Secretary a written statement, under oath, stating each breach of contract, the place where same occurred, the date of each breach, with a detailed statement of each item of damages, and a list of witnesses having knowledge of any breach.

(3) No claim against the City may be brought by a Claimant prior to Claimant having engaged in non-binding mediation pursuant to Chapter 154, TEXAS CIVIL PRACTICE AND REMEDIES CODE, before bringing suit or an arbitration proceeding. Such mediation must occur within sixty (60) days after Claimant has filed with the City Secretary a written statement as set forth in this section 12.03 above regarding Notice of Claim. Claimant is responsible for scheduling mediation at a mutually agreeable date and time.

SECTION 12.04 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, including suits by the City to recover delinquent taxes.

SECTION 12.05 Service of Process against the City

All legal process against the City shall be served upon either the City Secretary or the City Manager.

SECTION 12.06 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.

SECTION 12.07 Pending Matters

All rights, claims, actions, orders, contracts and legal or administrative proceedings shall continue except as modified pursuant to the provisions of this Charter and in each case shall be maintained, carried on or dealt with by the City department, office or agency appropriate under this Charter.

SECTION 12.08 Property Not Exempt from Special Assessments

No property of any kind, by whomsoever owned or held or by whatsoever institution, agency, political subdivision or organization, owned or held, whether in trust or by non-profit organization, or corporation, or by foundation, or otherwise, (except property of the City), shall be exempt in any way from any of the special taxes, charges, levies and assessments, authorized or permitted by this Charter or state law for local improvements for the public welfare.

SECTION 12.09 City Council May Require Bonds

In addition to any provisions contained herein, the City Council may require any City official, department director, or City employee, before entering upon his or her duties, to execute a good and sufficient bond with a surety company doing business in the State of Texas and approved by the City Council. The premium of such bond shall be paid by the City.

SECTION 12.10 Disaster Clause

In case of disaster where a portion of the City is located wholly or partly in a disaster area declared by the president of the United States or the governor, when a legal quorum of the City Council cannot otherwise be assembled due to multiple deaths or injuries as a result of the disaster, the surviving members of the City Council, highest surviving City official, and the County Judge of Collin County or his/her designee, must within twenty-four (24) hours of such disaster, appoint a five (5) member commission, which would include any surviving elected City officials, to govern the City, respond to the emergency, and within fifteen (15) days of such disaster call a City election to be held as soon as practicable, or as provided in the Texas Election Code, for election of a required quorum, if for good reasons it is known a quorum of the present City Council will never again meet.

SECTION 12.11 No Waiver of Immunity

Nothing in this Charter is intended to waive the City's governmental immunity from suit, liability and/or damages.

ARTICLE XIII

Transitional Provisions

SECTION 13.01 Effective Date

This Charter or any amendments hereto shall take effect immediately following adoption by the voters, as prescribed by state law.

SECTION 13.02 Continuation of Elective Offices

Upon adoption or amendment of this Charter, the present persons filling elective offices on the City Council will continue to fill those offices for the terms for which they were elected. Persons who, on the date this Charter is adopted or amended, are filling appointive positions with the City which are retained under this Charter, may continue to fill these positions for the term for which they were appointed, unless removed by the City Council or by other means provided in this Charter.

SECTION 13.03 Continuation of Operation

All City ordinances, bonds, resolutions, rules and regulations in force on the effective date of this Charter shall remain in force until altered, amended or repealed by the City Council, and all rights of the City under existing franchises and contracts are preserved in full force and effect.

SECTION 13.04 Officers and Employees

Except as specifically provided, nothing in this Charter shall affect or impair the rights or privileges of persons who are City officers or employees at the time of its adoption or amendment.

ARTICLE XIV

Nepotism, Prohibitions and Penalties

SECTION 14.01 Nepotism

No person related within the second degree by affinity or within the third degree by consanguinity to the Mayor or any Council Member or the City Manager shall be employed by or contracted with the City or the City's corporate affiliate. The nepotism prohibition shall not apply to the following:

(1) Any person currently employed by the City and employed for six (6) months prior to the person related in the above degree being elected to the City Council or being appointed as City Manager, or

(2) Any person who serves in an unpaid capacity with the City.

SECTION 14.02 Equality of Rights

Equality of rights under state and federal law shall not be denied, abridged or compromised with respect to appointment to or removal from any position.

SECTION 14.03 Wrongful Influence

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 or her test, appointment or promotion with respect to any City position.

SECTION 14.04 Wrongful Interference

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

SECTION 14.05 Employee's Political Activities

No person who holds any compensated non-elective City position shall use their official title or position with the City to solicit any contribution or endorse the candidacy of any candidate for public office in the City. Such person may exercise his/her legal rights to participate in the election process when he/she is not on duty, in a City building, City provided uniform or attire, or using a City vehicle or equipment.

SECTION 14.06 Penalties

Any person who willfully engages in and is found in violation of any of the activities prohibited in Sections 14.02, 14.03, 14.04 or 14.05 of this Article shall be ineligible for appointment or election to a position in the City for a period of five (5) years from that time. If the person is an officer or employee of the City at the time of the violation, he or she shall immediately forfeit his or her office or position, if found by a majority of the full membership of the City Council to be in violation of such prohibited activities.

SECTION 14.07 Conflict of Interest

(1) All members of the City Council and all members of any board or commission of the City shall be subject to the provisions of Chapters 171 and 176 of the TEXAS LOCAL GOVERNMENT CODE regarding conflict of interest.

(2) Any willful violation of this section shall constitute malfeasance in office and any person found guilty thereof shall thereby forfeit his or her office or position.

(3) Any violation of this section with the knowledge, actual or constructive, of the person or corporation contracting with the governing body of the City shall render the contract or transaction involved voidable by the City Manager or the City Council by the affirmative vote of a majority of the full membership of the City Council.

SECTION 14.08 No Officer or Employee to Accept Gifts, Etc.

No elected official or employee of the City shall ever accept, directly or indirectly, any gift, favor or privilege of more than a nominal sum during the term of office of such elected official, or during the employment of such employee, and it was not given in exchange for any exercise of official discretion. The City Council shall adopt an ethics ordinance.