CITY CHARTER

CHARTER*

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*Editor's note - The City's Home Rule Charter was adopted at an election held December 3, 1956, the result of which was declared by Ordinance No. 121. The original arrangement, Section numbers, and Section catchlines have been retained.

Amendments to the Charter have been indicated by notes following the amended sections, noting the date of approval of the amendment by registered voters of the city.

Sec. 1.01. Incorporation.

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

(Amended, Charter Amd. No. 1, approved on May 1, 1999)

Sec. 1.02. Boundary.

Boundary description: (Omitted)*

Sec. 1.03. Annexation of Property.

The City may annex and disannex property by following the procedure and requirements set out in the Texas Property Code, Vernon's Texas Codes Annotated, and other applicable state statutes as they are from time to time amended.

(Amended, Charter Amd. No. 27, approved on January 21, 1989)

Sec. 1.05. Form of Government.

The municipal government provided by this Charter shall be known as the "council-manager form of government." Pursuant to its provisions and subject only to the limitations imposed by the Texas Constitution, and the laws of the State of Texas, and by this Charter, all powers of the City shall be vested in an elective council, hereinafter referred to as "the Council", which shall enact local legislation, adopt budgets, determine policies, appoint the judge of the municipal court, and appoint the City Manager, who shall execute the laws and administer the government of the City. All powers of the City shall be exercised in the manner prescribed by this Charter, or if the manner be not prescribed, then in such manner as may be prescribed by ordinance.

(Amended, Charter Amd. No. 1, approved on May 1, 1999; Amended, Charter Amd. No. 14, approved on May 9, 2009)

*Editor's note - Section 1.02 sets out the metes and bounds description of the City limits. Since subsequent boundary changes may have rendered the description obsolete, it has been omitted.

Sec. 1.06. Powers of City.

The City shall have all powers that now are or hereafter may be granted to municipalities by the constitution or laws of the State of Texas, and all such powers, whether expressed or implied, shall be exercised and enforced in the manner prescribed by this Charter, and when not prescribed therein, in such manner as may be provided by ordinance or resolution of the City Council of the City of Farmers Branch.

(Amended, Charter Amd. No. 1, approved on May 1, 1999)

Sec. 1.07. General Powers Adopted.

The enumeration of particular powers in the Charter shall not be held or deemed to be exclusive, but in addition to the powers enumerated herein, implied thereby to 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 the Charter specifically to enumerate. The City of Farmers Branch shall have and exercise all the powers conferred upon cities by what is known as the Home Rule Amendment to the constitution of the State of Texas and the enabling act relative thereto, passed by the Thirty-Third Legislature of the State of Texas, found in the published laws of said Legislature, Regular Session, pages 307 to 317, and effective July 7, 1913, and all other laws passed the legislature of the State of Texas, relating thereto, or which may hereafter be passed by said legislature in relation to such matters.

Sec. 1.08. Power to Acquire Property for Public Purposes.

The City of Farmers Branch shall have the power to acquire, by condemnation, either private or public property located inside or outside of the corporate limits for the extension, improvement and enlargement of its water system, including riparian rights, water supply reservoirs, standpipes, water sheds, dams, the laying, building, maintenance and construction of water mains and the laying, erection, establishment or maintenance and construction of water mains and the laying, erection, establishment or maintenance of any appurtenances or facilities which will furnish to the inhabitants of the City an abundant supply of wholesome water; for sewerage plants and systems; rights-of-way for water and sewer lines; parks, playgrounds and schools, hospitals, fire stations, police stations, burial grounds and cemeteries, incinerators or other garbage disposal plants, streets, boulevards and alleys or other public ways, city jails, city halls and other municipal buildings or any right-of-way needed in connection with any property used for any purpose herein-above named; for the straightening or improving of the channel of any stream, branch or drain and for any other public purpose or public use. The procedure to be followed in any condemnation proceeding hereunder and authorized herein shall be in accordance with the provisions of the State law with reference to eminent domain.

(Amended, Charter Amd. No. 27, approved on January 21, 1989; Charter Amd. No. 1, approved on May 9, 2009)

ARTICLE II. The Council

Sec. 2.01. Number, Selection, Term.

The Council shall consist of six (6) members, a mayor and five (5) Councilmembers, elected by the voters from the City at large in the manner provided in Article VII, for a term of three (3) years or until their successors have been elected and take office as provided in Section 2.04.

(Amended, Charter Amd. No. 2 and No. 28, approved on January 21, 1989)

Sec. 2.02. Qualifications; Code of Ethics; Removal from Office.

(a) The members of the Council shall be qualified voters of the City who have been residents of the City for at least one (1) year and who shall never have been convicted of a felony offense or any offense involving moral turpitude. Members of the Council shall hold no other public office except that of a Notary Public or they may be a member of the National Guard or naval or military reserve. When any elective or appointed official of the City, including members of appointed commissions or boards, files for election for any elected office or position, including but not limited to Federal, State, County or City office, other than the position presently held by that person and where the term of said position does not expire either before or simultaneously with the commencement of the term of the office or position that is being sought, his or her existing office shall be deemed vacated as of the date of filing.

(b) The City Council shall by ordinance adopt a Code of Ethics applicable to members of the City Council and to all appointed officers of the City.

(c) A member of the Council may be removed from office, in accordance with the procedures set out herein in Section 2.19 if the Councilmember:

(1) lacks at any time during his or her term of office any qualification for the office prescribed by this Charter or by law,
(2) willfully violates any express prohibition of this Charter,
(3) is guilty of official misconduct as defined in Section 9.18,
(4) is incompetent, as defined in Section 9.17,
(5) is convicted of a felony offense or any offense involving moral turpitude,
(6) fails to attend three (3) regular meetings or 25% of the regular meetings in any six (6) month period, without first being excused by the City Council, or
(7) knowingly violates the City Council Code of Ethics.

(Amended, Charter Amd. No. 3 and No. 28, approved on January 21, 1989) (Amended, Charter Amd. No. 1 and No. 3, approved on May 1, 1999; Amended, Charter Amd. No. 14, approved on May 9, 2009)

Sec. 2.03. Compensation; Expenditures; and Travel Policy.

(a) Members of the Council shall serve without pay or compensation provided, however, they shall be entitled to reimbursement of necessary expenses incurred in the performance of their official duties when approved by the Council.

(b) The City Council shall by ordinance adopt a policy addressing expenditures by members of the Council in the performance of their official duties and providing methods for reporting and verifying such expenditures. The policy shall include provisions addressing expenditures for travel by members of the Council and their spouses.

Sec. 2.04. Vacancies in Council.

Vacancies occurring in all Council positions shall be filled by a special election to be held within one hundred twenty (120) days after the vacancy occurred.

(Amended, Charter Amd. No. 2 and No. 4, approved on January 21, 1989) (Amended, Charter Amd. No. 2, approved on May 1, 1999; Amended, Charter Amd. No. 2, approved on May 9, 2009)

Sec. 2.05. Presiding Officer; Mayor; Mayor Pro Tempore; Deputy Mayor Pro Tempore;

The Mayor shall preside at meetings of the 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 Council, but shall not be entitled to vote on legislative or other matters except in case of a tie, when the Mayor shall have the right to cast the deciding vote, or unless such right to vote in other specific cases is expressly provided for in this Charter. The Council shall elect from among the Councilmembers a Mayor Pro Tempore and a Deputy Mayor Pro Tempore who shall perform the duties of Mayor in case of the absence or disability of the Mayor. In case of the absence or disability of the Mayor, the Mayor Pro Tempore, and the Deputy Mayor Pro Tempore, the remaining members of the Council shall elect one of their members to act as Mayor temporarily during such absence or disability. The Mayor Pro Tempore or Deputy Mayor Pro Tempore shall not be deprived of the right to vote on matters coming before the Council when acting as Mayor. A vacancy in the office of Mayor shall be filled by the Council in the same manner as provided in Section 2.04.

(Amended, Charter Amd. No. 3, approved on April 3, 1971 and Charter Amd. No. 28, approved on January 21, 1989)
(Amended, Charter Amd. No. 4, approved on May 1, 1999)

Sec. 2.06. Powers.

Except as otherwise provided by this Charter, all powers of the City and the determination of all matters of policy shall be vested in the Council. Without limitation of the foregoing powers of the Council, the Council shall also have the power to:

(1) Appoint and remove the City Manager and the City Judge;

(2) Upon the recommendation of the City Manager, establish other administrative departments and distribute the work of divisions;

(3) Adopt the budget of the City;

(4) Authorize the issuance of bonds by a bond ordinance;

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

(6) Appoint the members of the Planning and Zoning Commission;

(7) Appoint the members of the Zoning Board of Adjustment;

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

(9) Regulate and restrict the area, height, and number of stories of buildings and other structures, the size of yards and courts, the density of populations and the location and use of buildings for trade, industry, business, residence or other purpose, and such other zoning regulations as may be authorized by law.

(10) Adopt, modify and carry out plans proposed by the Planning and Zoning Commission for the replanning, reconstruction or redevelopment of any area or district; (Amended, Charter Amd. No. 5, approved on May 1, 1999)

(11) Provide for an independent audit;

(12) Appoint any and all other committees, commissions, and advisory boards it deems necessary;

(13) Exercise all other powers authorized under State law for Home Rule Cities.
(Amended, Charter Amd. No. 27, approved on January 21, 1989)

Sec. 2.07. Appointment of City Manager.

The Council, including the Mayor (who shall have the right to vote), shall appoint and upon the affirmative vote of four (4) members, a City Manager for an indefinite term who shall be the chief administrator and executive officer of the City. No member or former member of the Council shall ever be appointed City Manager. The City Manager shall have no authority over any appointive board or committee, which is appointed by the Council and receives its authority from the Council.

(Amended, Charter Amd. No.14, approved on May 9, 2009)

Sec. 2.08. Removal of City Manager.

The Council, including the Mayor (who shall have the right to vote), may, upon the affirmative vote of four (4) members, remove the City Manager from office. The action of the Council in removing the City Manager shall be final, it being the intention of this Charter to vest all authority and fix all responsibility for such removal in the Council.

Sec. 2.09. Removal of Other Appointive Officials.

The Council may, upon affirmative vote of a majority of a quorum of the Council, remove members of its appointive boards or commissions without notice, except to the extent that such removal shall be otherwise controlled by State law.

Sec. 2.10. Council not to Interfere in City Manager's Appointments or Removals.

Neither the City Council nor any of its members shall direct or request the appointment to or removal from office of any person by the City Manager or any of the City Manager's subordinates. However, the Council may consult and advise with the City Manager, make inquiry regarding the appointments or removals and may express their opinion in regard thereto. In regard to administrative and executive duties under the City Manager, the Council and its members shall deal solely through the City Manager and neither the Council nor any member thereof shall give orders to any subordinates of the City Manager, either publicly or privately. Willful violations of the foregoing provision shall constitute an act of official misconduct and a ground for removal as set out in Section 2.02.

(Amended, Charter Amd. No. 7, approved on April 3, 1971 and Charter Amd. No. 28, approved on January 21, 1989)

Sec. 2.11. Creation of New Departments or Offices.

The Council, upon the recommendation of the City Manager, may create, change, and abolish offices, departments or agencies, other than the offices, departments and agencies established by this Charter.

Sec. 2.12. City Judge.

The Council shall appoint a magistrate of the Municipal Court to be known as the City Judge to serve a term of one (1) year. The City Judge may be removed by the Council at any time for incompetence, misconduct, malfeasance, and nonfeasance, or disability. The City Judge shall receive such salary as may be fixed by the Council from time to time. The Council may appoint such alternate city judges as it may deem necessary from time to time, prescribe their compensation, and designate the order of priority to act in place of the City Judge in the event of the City Judges unavailability, disability, or failure to act for any reason. Any person or persons so appointed to act as City Judge or alternate City Judge shall be an attorney at law who is duly licensed to practice law in the State of Texas and whose license is currently in good standing. All costs and fines imposed by the Municipal Court shall be paid into the City Treasury for the use and benefit of the City. In the event the municipal court is converted to a court, of record all aspects of the Court, including the selection and tenure of the judge, shall be consistent with the existing statute.

(Amended, Charter Amd. No. 8, approved on January 21, 1989) (Amended, Charter Amd. No. 2, approved on May 1, 1999)

Sec. 2.13. Induction of Council into Office; Meetings.

The first meeting of each newly elected Council, for induction into office, shall be on the first Tuesday following its election or the earliest date authorized by the Texas Election Code for the canvassing of local elections if such date is later than the first Tuesday following the election.. At such meeting, the first order of business shall be the canvassing of returns, declaring

the results and the swearing in of such newly elected Councilmembers. The Council shall meet regularly at such times as it may decide, but not less frequently than once each month. Special meetings of the Council may be called by the Mayor or any two Councilmembers giving written notice of such meetings to the City Secretary, who shall notify each member of the Council and the City Manager of the time and place of each meeting and the purpose for which it was called. All meetings of the Council shall be open to the public except as provided by State law.

(Amended, Charter Amd. No. 9, approved on April 3, 1971, and Charter Amd. No. 5 and No. 28, approved on January 21, 1989; Amended, Charter Amd. No. 3, approved on May 9, 2009)

Sec. 2.14. Quorum; Voting.

Any four (4) members of the Council (which may include the Mayor) shall constitute a quorum necessary for the transaction of official business at any meeting of the Council. Voting shall be by "aye" or "no" on roll call or by a show of hands and a simple majority shall be required to carry a motion, unless otherwise specifically provided for in this Charter or by state law. Any member may call for a roll call vote at any time on any matter being voted on by the Council, and the vote of each member shall be recorded in the minutes of the meeting. Any Councilmember abstaining from voting, except when disqualified, shall be taken as an affirmative vote.

(Amended, Charter Amd. No. 10, approved on April 3, 1971)

Sec. 2.15. Rules of Procedure; Minutes.

The Council shall determine its own rules and order of business. It shall keep minutes of its proceedings and the minutes shall be open to public inspection. Minutes of all meetings of the Council shall be prepared for review and acceptance by the Council at its next subsequent regular meeting. Upon their acceptance by the Council, the minutes shall be entered in the minute book of the Council and the City Secretary shall at the same time provide a permanent and adequate index showing the action of the Council in regard to all matters submitted to it at both regular and special meetings.

(Amended Charter Amd. No. 6, approved on January 21, 1989; Amended, Charter Amd. No. 14, approved on May 9, 2009)

Sec. 2.16. Ordinances.

In addition to such acts of the Council as are required by statute or by this Charter to be by ordinance, every act of the Council establishing a fine or other penalty or providing for the expenditure of funds or for the contracting of indebtedness, shall be by ordinance. The enacting clause of all ordinances shall be: "Be it ordained by the City Council of the City of Farmers Branch."

Sec. 2.17. Publication of Ordinances.

All ordinances required to be published in a newspaper by State Law shall be published in accordance with the law.

(Amended Charter Amd. No. 6, approved on May 1, 1999)

Sec. 2.18. Independent Annual Audit.

Prior to the end of each fiscal year as defined in Section 4.01 of this Charter the Council shall designate certified public accountants who, as of the end of the fiscal year, shall make an independent audit of accounts and other evidences of financial transactions of the City government and shall submit their report to the Council and to the City Manager. Such accountants shall have no personal interest, direct or indirect, in the fiscal affairs of the City government or of any of its officers. They shall not maintain any accounts or records of the City business, but, within specifications approved by the Council, shall postaudit the books and documents kept by the Department of Finance and may separate subordinate accounts kept by any other office, department or agency of the City Government. A copy of such audit shall be kept in the Office of the City Secretary subject to inspection by any citizen and officer during regular office hours.

(Amended, Charter Amd. No. 7, approved on January 21, 1989) (Amended, Charter Amd. No. 1, approved on May 1, 1999)

Sec. 2.19. Council to be Judge of Qualifications of its Members: Procedure for Removal.

The Council shall be the judge of the election and qualifications of its members. If a member of the Council is charged with a ground for removal, as set out in Section 2.02, such charges shall be set for hearing not less than ten (10) nor more than thirty (30) days from the date on which the written charges are presented. At such hearing, the accused shall have the right to present evidence in his or her defense, but shall be disqualified from voting as to his or her innocence or guilt. At the conclusion of the evidence, a vote shall be taken, and upon the affirmative vote of four (4) Councilmembers (excluding the mayor), the accused member shall be removed from office and the member's seat declared vacant. The Council shall have the power to subpoena witnesses and require the production of records, but the decision of the Council in the exercise of such power shall be subject to review by the courts.

(Amended Charter Amd. No. 11, approved April 3, 1971 and, Charter Amd. No. 8 and No. 28, approved on January 21, 1989)

ARTICLE III. The City Manager

Sec. 3.01. The City Manager; Qualifications.

The City Manager shall be chosen by the Council solely on the basis of his or her executive and administrative training, experience and ability, and without regard to political consideration. The City Manager need not when appointed be a resident of the City of Farmers Branch or the State of Texas, but during his or her tenure of office shall reside in the City of Farmers Branch.

(Amended, Charter Amd. No. 28, approved January 21, 1989)

Sec. 3.02. The City Manager; Powers and Duties.

The City Manager shall be chief executive officer and the head of the administrative branch of the City government. The City Manager shall be responsible to the Council for proper administration of all affairs of the City under the City Manager's jurisdiction and to that end, shall have power and shall be required to:

(1) Appoint and when necessary for the welfare of the City, remove any officer or employee of the City except as otherwise provided by this Charter and except as the City Manager may authorize the head of a department to appoint and remove subordinates in such department;

(2) Prepare and submit to the Council an annual budget and be responsible for its administration after adoption;

(3) Prepare and submit to the Council as of the end of the fiscal year a complete report on the finances and administrative activities of the City for the preceding year. The report shall be prepared on a basis prescribed by generally accepted accounting principles as applied to municipal governments. The report shall be submitted to the Council within 120 days of the end of the fiscal year. An extension of this deadline may be granted by the Council at its discretion;

(4) Keep the Council advised of the financial condition and future needs of the City and make such recommendations as may seem desirable;

(5) Perform such other duties as may be prescribed by this Charter or required by the Council, not inconsistent with this Charter;

(6) Attend all meetings of the City Council, except when the City Manager is under discussion, with the right to take part in the discussions, but having no vote; and he shall be notified of all special meetings of the Council;

(7) Establish and maintain, for submission to the Council, basic organizational charts setting forth department heads, responsibilities and duties of each and a brief job description of all employees under such department heads;

(8) Submit a report to the City Council no later than ninety (90) days after the independent auditor's report has been submitted to the Council. The City Manager's report shall outline actions to be taken concerning the auditor's

recommendations, including, but not limited to, specific responses to any internal control weakness identified by the auditors. The report shall include expected dates of implementations of any remedial action warranted.

(Amended, Charter Amd. No. 12, approved on April 3, 1971, and Charter Amd. No. 9, No. 10, and No. 28, approved on January 21, 1989) (Amended, Charter Amd. No. 1, approved on May 1, 1999; Amended, Charter Amd. No. 14, approved on May 9, 2009)

Sec. 3.03. Absence of City Manager.

To perform the City Manager's duties during his or her temporary absence or disability, the Manager may designate by letter filed with the City Secretary a qualified administrative officer of the City. In the event of failure of the Manager to make such designation, the Council may by resolution appoint an officer of the City to perform the duties of the Manager until the Manager shall return or his or her disability shall cease.

(Amended, Charter Amd. No. 28, approved on January 21, 1989) (Amended, Charter Amd. No. 1, approved on May 1, 1999)

Sec. 3.04. Administrative Departments.

The City Council shall establish departments by ordinance upon the recommendation of the City Manager.

(Amended, Charter Amd. No. 7, approved on May 1, 1999)

Sec. 3.05. Directors of Departments.

At the head of each department there shall be a director, who shall be an officer of the City and shall have supervision and control of the department subject to the City Manager.

Two or more departments may be headed by the same individual, the Manager may head one or more departments, and directors of departments may also serve as chiefs of divisions.

Sec. 3.06. City Secretary.

The City Manager shall appoint an officer of the City, who shall have the title of the City Secretary, shall give notice of the Council meetings, shall keep minutes of its proceedings, shall authenticate by his or her signature and record in full in a book kept for the purpose all ordinances and resolutions and shall perform such other duties as shall be required by this Charter or by the City Manager.

(Amended, Charter Amd. No. 28, approved on January 21, 1989)

ARTICLE IV. Budget

Sec. 4.01. Fiscal Year: Budget Year; Accounting Year.

The fiscal year of the City government shall begin on the first day of October and shall end on the last day of September of each calendar year. The fiscal year shall constitute the budget and the accounting year.

Sec. 4.02. Preparation and Submission of Budget.

Prior to the 1st day of August in each year, the City Manager shall prepare, file with the City Secretary, and furnish to each member of the Council a carefully itemized budget outlining anticipated receipts and proposed expenditures of the City, showing as definitely as possible appropriations desired for each project and the operation for the next succeeding fiscal year, comparing the same with the budget of the then current fiscal year, and stating the estimated receipts and expenditures of the current year. Concurrently with the submission of an operating budget, the City Manager shall prepare and present a capital projects budget outlining all proposed capital projects and sources of funding for a period of at least three (3) years. The City

Manager shall also outline all debt service payments and sources of funding. Each employee, officer, board and department shall furnish the City Manager such information as may be required by the Manager for the proper preparation of each budget. The proposed budget shall contain an estimate of the rate of tax required for the then current calendar year.

(Amended, Charter Amd. No. 11, No. 12, and No. 28, approved on January 21, 1989) (Amended, Charter Amd. No. 8, approved on May 1, 1999)

Sec. 4.03. Budget Form.

At the head of the budget there shall appear a summary of the budget in such a manner as to present to taxpayers a simple and clear summary of the detailed estimates of the budget. The City Manager shall at the same time submit a budget message explaining the need of the requested appropriations and stating what pending capital projects, if any, will likely require the issuance of bonds or warrants.

(Amended, Charter Amd. No. 14, approved on May 9, 2009)

Sec. 4.04. Budget a Public Record.

The budget and budget message and all supporting schedules shall be a public record in the office of the City Secretary open to public inspection by anyone.

Sec. 4.05. Publication and Notice of Public Hearing.

The budget shall be filed with the City Secretary before the 30th day before the City establishes and sets its tax rate. The City Council shall call and hold a public hearing on the budget after the 25th day after the budget is filed with the City Secretary. Notice of the public hearing shall be published at least one time in a newspaper of general circulation not earlier than thirty (30) days nor later than ten (10) days before the date of the public hearing.

(Amended, Charter Amd. No. 5, approved on April 20, 1968) (Amended, Charter Amd. No. 2, approved on May 1, 1999)

Sec. 4.06. Hearing and Adoption of Budget.

At the time advertised or at any time to which public hearing shall be adjourned, the Council shall hold a public hearing on the budget as submitted, at which all interested persons shall be given an opportunity to be heard for or against the estimates or any item therein. After the conclusion of such public hearing, the Council may make such changes, if any, in the budget as in their judgment the law warrants and the best interests of the taxpayers of the City demand. The budget, as amended, if there be changes, shall then be adopted by Ordinance which shall also fix the tax rate per $100 assessed value which shall apply to the current tax year. The City Manager shall file a copy of the budget with the County Clerk of Dallas County and with the Comptroller of the State of Texas.

Sec. 4.07. Budget Establishes Appropriations and Amount to be Raised by Ad Valorem Taxation.

The budget shall state the amount of money to be raised by ad valorem taxation.

(Amended, Charter Amd. No. 13 and No. 14, approved January 21, 1989)

Sec. 4.08. Unallocated Reserve Fund.

When recommended by the City Manager and in the discretion of the Council the budget may contain a reasonable sum set aside as an unallocated reserve fund to meet unexpected and unforeseen contingencies in current operating costs of any budget project.

Sec. 4.09. Amendment and Supplemental Budgets.

In case of grave public necessity, emergency expenditures to meet unusual and unforeseen conditions which could not, by

reasonable diligent thought and attention, have been included in the original budget may from time to time be authorized, upon the affirmative vote of a majority of a quorum of the Council, as amendments or supplements to the original budget. Such supplements and amendments shall be approved in an ordinance and shall be filed with the original budget.

Sec. 4.10. Defect Shall not Invalidate Tax Levy.

Defects in the form or preparation of the budget or the failure to perform any procedural requirement shall not invalidate any tax levy or the tax roll.

Sec. 4.11. Budget Establishes Appropriations; Transfer of Unencumbered Appropriations.

Amounts set forth in the budget as approved expenditures shall be appropriated to the objects and purposes identified therein. The City Council may authorize the City Manager to transfer unencumbered appropriations within a department to an extent identified by the Council in its grant of such authorization. The Council, by ordinance, may amend the budget by transferring any unencumbered amounts within any fund of the City.

(Amended, Charter Amd. No. 14, approved on January 21, 1989)

ARTICLE V. Bonds, Warrants and Other Evidences of Indebtedness

Sec. 5.01. Power to Issue.

In keeping with the Constitution of the State of Texas, and not contrary thereto, the City of Farmers Branch, shall have the right to issue all tax bonds, revenue bonds, funding and refunding bonds, time warrants and other evidences of indebtedness as now authorized or as may hereafter be authorized to be issued by cities and towns by the general laws of the State of Texas.

Sec. 5.02. Manner of Issuance.

Bonds and warrants of the City of Farmers Branch shall be issued in the manner provided by the general laws of the State of Texas applicable to cities and towns.

ARTICLE VI. Assessment and Collection of Taxes

Sec. 6.01. Power to Tax.

(a) The Council shall have the power to levy, assess, and collect any tax authorized by the Constitution and the general laws of the State of Texas to be levied, assessed, and collected by a municipal corporation.

(b) The Council shall have the power to grant tax exemptions in accordance with the Constitution and statutes of the State of Texas.

Sec. 6.02. Where Payable.

(a) All taxes shall be payable at the Office of the Assessor and Collector of Taxes in the City of Farmers Branch at the City Hall Building or at such places both within and without the City of Farmers Branch as may be specifically designated by the Council.

(b) No demand for such taxes shall be necessary, but it is the duty of the taxpayer to make payment of all such taxes in cash within the time specified.

Sec. 6.03. Property Subject to Tax.

All real and tangible personal property located in the City of Farmers Branch on January 1 of each year is taxable by the City unless exempt by law.

Sec. 6.04. Appraisal of Property; Method of Assessment.

All taxable property located within the corporate limits of the City of Farmers Branch shall be appraised and assessed in accordance with the Texas Property Tax Code.

Sec. 6.05. Tax Liens, Liabilities and Suits.

All taxable property located in the City on January 1 of each year shall stand charged from that date with a lien as allowed by the Texas Property Tax Code in favor of the City for the taxes due.

Sec. 6.06. Ratification.

All taxes heretofore assessed are ratified and all ordinances relating to taxes now in force shall continue until amended or repealed by the Council.

Sec. 6.07. General Powers.

Unless otherwise provided by this Charter and by ordinances passed hereunder or by the Property Tax Code of the State of Texas; all property in the City liable for taxation shall be assessed in accordance with the general laws of the State of Texas insofar as applicable. In addition to the powers herein conferred with reference to the assessment and collection of taxes, the City of Farmers Branch shall have and may exercise all powers and authority now conferred or which may hereafter be conferred upon cities having a population of more than 5,000 inhabitants by the general laws of the State of Texas.

Sec. 6.08. Assessor and Collector of Taxes.

The City Manager shall appoint a Tax Assessor and Collector for the City who meets all statutory requirements for the position. The Tax Assessor and Collector shall give bonds as may be required by the Council.

***Editor's note - Article VI, 6.01 through 6.08 inclusive, were amended at an election held January 21, 1989.**

ARTICLE VII. Nominations and Elections

Sec. 7.01. Elections.

The regular City election shall be held annually on the uniform election date in May of each year as set by State law, at which time officers will be elected to fill those offices which become vacant that year. The City Council shall fix the hours and place for holding such election in accordance with State law. The City Council may, by resolution, order a special election, fix the time and place for holding same, and provide all means for holding such special election as set by State Law.

(Amended, Charter Amd. No. 1, approved on May 1, 1999)

At the regular City Council election in 1989 Council places 1, 3 and 5 shall be filled by filling one place for a three-year term and two places for two-year terms. The place to be filled for the three-year term shall be selected by lot. At the regular City Council election in 1990 Council places 2 and 4 and the Mayor shall be filled by electing one position for a two-year term and two positions for three-year terms. The position to be filled for the two-year term shall be selected by lot. At the regular City Council election in 1991 and in all subsequent City Council elections all Council places and the Mayor shall be filled for three-year terms.
(Amended, Charter Amd. No. 1, approved on April 4, 1964 and Charter Amd. No. 16 and No. 17, approved on January 21, 1989)

Sec. 7.02. Regulation of Elections.

The City Council shall make all regulations which it considers needful or desirable, not inconsistent with this Charter or the laws of the State of Texas, for the conduct of municipal elections, for the prevention of fraud in such elections and for the recount of ballots in case of doubt or fraud. Municipal elections shall be conducted by the appointed election authorities as specified in Section 7.09 who shall also have power to make regulations not inconsistent with this Charter or with any regulations made by the Council or the laws of the State of Texas.

(Amended, Charter Amd. No. 1, approved on May 1, 1999)

Sec. 7.03. Nominations.

Any person, having the qualifications required by this Charter, may be nominated for the Council by petition of sufficient qualified voters of the City to satisfy the requirements of State law, who shall be designated as the candidate's sponsors. Such petition must comply in all respects with the requirements of this Charter and State law. No voter shall sign more than one such petition for any one (1) Council place and should a voter do so, the voter's signature shall be void except as to the petition first filed. With each signature shall be stated the place of residence of the signer, giving the street and number or other description sufficient to identify it and such other information as shall be required by State law. Nominating petitions shall be signed and filed not earlier than ninety (90) days nor later than thirty (30) days before the election with the City Secretary. Nominations shall be accepted in writing by the nominees, and shall be acknowledged by such nominee before the City Secretary or other person authorized to administer oaths under the law of the State of Texas. The petition shall be in substantially the following form:

"We, the undersigned voters of the City of Farmers Branch, hereby nominate and sponsor_____, whose residence is_____for the office of_____, place_____to be voted for at the election to be held on the_____day of_____, 20__; and we individually certify that we are qualified to vote for a candidate for the Council and that during the current election we have not signed any other nominating petition for the one council place for which we are now nominating the above candidate.

Name, Street Number and Address from which last registered (if different)

_____ Date of Signing

(SPACES FOR SIGNATURES AND REQUIRED DATA)

Acceptance of Nomination

"I do hereby declare that I accept the nomination for the Council and agree to serve if elected. I am_____years of age, a qualified voter of the City of Farmers Branch, a resident of the United States, and have been a resident of the City of Farmers Branch or an area now within the corporate limits of the City for at least one (1) year. I am not in arrears in the payment of any taxes or other liability due the City. At the present time I reside at _____Street in the City of Farmers Branch".

Signature of candidate
Date and hour of filing

Received by
(Signature of city secretary)

"STATE OF TEXAS
COUNTY OF DALLAS"

BEFORE ME the undersigned authority, on this day personally appeared_____known to me to be the person whose name is subscribed to the foregoing instrument and who acknowledged to me that the same was subscribed as his or her free act and deed for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS _____ Day of_____, 20 _.

Notary Public, Dallas County, Texas

(Amended, Charter Amd. No. 14, approved April 3, 1971, and Charter Amd. No. 18 and No. 28, approved January 21, 1989)

Sec. 7.04. Number, Selection and Term of City Council.

The Council, consisting of a Mayor and five (5) Councilmembers, shall be selected as follows:

(a) The Mayor shall be elected by a majority vote of the qualified voters voting at the election.

(b) The five (5) Councilmembers shall be elected to individual places, designated by number, from the City at large and each shall be elected by a majority vote of the qualified voters voting at the election.

(c) The Mayor and each Councilmember shall hold office for a period of three (3) years and until his or her successor is duly elected and qualified. (Amended, Charter Amd. No. 2 and No. 28, approved on January 21, 1989)

Old Sec. 7.05 was deleted in its entirety (Amended, Charter Amd. No. 9, approved on May 1, 1999)

Sec. 7.05. The Official Ballot.

The names of all candidates for office, except such as may have been withdrawn, died or become ineligible, shall be placed on the ballot without party designations and in the order determined in a drawing of lots conducted by the City Council.

Sec. 7.06. Qualified Voter.

Every person resident in the City of Farmers Branch who is a qualified voter under the laws of the State of Texas, shall be entitled to vote in any City election.

(Amended, Charter Amd. No. 1, approved on May 1, 1999)

Sec. 7.07. Laws Governing City Elections.

All City elections shall be governed, except as otherwise provided by this Charter, by the laws of the State of Texas governing general and municipal elections.

Sec. 7.08. Conducting and Canvassing Elections; Run-off Elections.

The election judges and other necessary election officials for conducting all such elections shall be appointed by the City Council. The election judges shall conduct the elections, determine, record and report the results as provided by the general election laws of the State of Texas. The City Council shall meet not earlier than the 3rd day or later than the 6th day after election day, open the returns, canvass and officially declare the results of the election as to candidates and questions and issue certificates of election to candidates elected as hereinbefore provided. In the event no candidate for a given office has received the necessary majority, the Mayor shall, on the first day following the completion of the official canvas, call a second election to be held on a date authorized for such purpose by State law as adopted by resolution of the City Council. At the second election, the ballot shall list the names of the two (2) candidates receiving the first and second highest number of votes for a given office (in the first election) in the order determined in a drawing of lots conducted by the City Council. Should one of such candidates withdraw, die, or become ineligible, the other shall be declared elected to office without a second election. Any tie shall be decided by lot. All elections shall be governed by the Texas Election Code and the laws applicable to municipal elections.
(Amended, Charter Amd. No. 19, approved on January 21, 1989) (Amended, Charter Amd. No. 2, approved on May 1, 1999)

Sec. 7.09. Oath of Office.

Every officer of the City shall, before entering upon the duties of the office, take and subscribe to the statement of elected or appointed officer and the oath of office pursuant to the Texas Constitution Art. XVI, Sec. 1 (e) and (f).

(Amended, Charter Amd. No. 2, approved on May 1, 1999)

ARTICLE VIII. Franchises and Public Utilities

Sec. 8.01. Powers of the City.

In addition to the City's power to buy, own, construct, maintain, and operate utilities, within or without the City limits, and to manufacture and distribute electricity, gas, or anything else that may be needed or used by the public, the City shall have further powers as may now or hereafter be granted under the Constitution and laws of the State of Texas.

Sec. 8.02. Franchises, Use of City Property, Power of Council.

The City Council shall have power to control and to grant, amend, renew or extend by ordinance all franchises, and all use of the City's property, owned in fee title or otherwise, streets, alleys, easements, right-of-ways and all commercial and business uses of said City property by public utilities and all providers of radio, television transmission, cable, internet communications, telecommunications service, electronic communication and all other uses of City property. The City's exercise of power shall be in conformity with applicable Federal and State laws, rules and regulations and applicable City ordinances that implement this section.

(Amended, Charter Amd. No. 10, approved on May 1, 1999)

Sec. 8.03. Franchise Value not to be Allowed.

In fixing reasonable rates and charges for utility service within the City and in determining the just compensation to be paid by the City for public utility property which the City may acquire by condemnation or otherwise, nothing shall be included as the value of any franchise granted by the City under this Charter.

Sec. 8.04. Right of Regulations.

All grants, renewals, extensions, or amendments or public utility franchises, whether it be so provided in the ordinance or not, shall be subject to the right of the City:

(1) To repeal the same by ordinance at any time for failure to begin construction or operation within the time prescribed or for failure otherwise to comply with the terms of the franchise, such power to be exercised only after due notice and hearing.

(2) To require an adequate and reasonable extension of plant and service, and the maintenance of the plant and fixtures at the standard necessary to render the highest reasonable quality of utility service to the public.

(3) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates.

(4) (a) To prescribe the form of accounts kept by each such utility; provided, that if the utility shall keep its accounts in accordance with the uniform system of accounts for said utility prescribed by the National Association of Railroad and Public Utility Commission, the Federal Power Commission, the Federal Communications Commission, the Railroad Commission of Texas, or their successors, or other State or Federal utility regulating agencies, this shall be deemed sufficient compliance with this paragraph.

(b) At any time to examine and audit the accounts and other records of any such utility and to require annual and other reports, including reports on local operations by each such public utility.

(5) To impose such reasonable regulations and restrictions as may be deemed desirable or conducive to the safety, welfare, and accommodation of the public.

Sec. 8.05. Consent of Property Owners.

The consent of abutting and adjacent property owners shall not be required for the construction, extension, maintenance or operation of any public utility; but nothing in this Charter or in any franchise granted thereunder shall ever be construed to deprive any such property owners of any right of action for damage or injury to his or her property as now or hereafter provided by law.

(Amended, Charter Amd. No. 28, approved on January 21, 1989)

Sec. 8.06. Extensions.

All extensions of public utilities within the City limits shall become a part of the aggregate property of the public utility, shall be operated as such, and shall be subject to all the obligations and reserved rights contained in this Charter and in any original grant hereafter made. The right to use and maintain any extension shall terminate with the original grant and shall be terminable as provided in Section 8.04 (1). In case of an extension of public utility operated under a franchise hereafter granted, such right shall be terminable at the same time and under the same conditions as the original grant.

Sec. 8.07. Temporary Permits.

Permits unconditionally revocable at the will of the governing body for minor or temporary privileges in the streets, public ways and public places of the City may be granted and revoked by ordinance from time to time, and such permits shall not be deemed franchises as the term is used in this Charter.

Sec. 8.08. Other Conditions.

All franchises heretofore granted are recognized as contracts between the City of Farmers Branch and the grantee, and the contractual rights as contained in any such franchises, shall not be impaired by the provisions of this Charter, except that the power of the City of Farmers Branch to exercise the right of eminent domain in the acquisition of any utility property is in all things reserved, as is the right to require adequate and reasonable extension of plant and service and the maintenance of the plant fixtures at the standard necessary to render the highest reasonable quality of utility service to the public. Every public utility franchise hereafter granted shall be held subject to all the terms and conditions contained in the various sections of this article to the full extent permitted by State and Federal law whether or not such terms are specifically mentioned in the franchises. Nothing in this Charter shall operate to limit in any way, as specifically stated, the discretion of the Council of the electors of the City in imposing terms and conditions as may be reasonable and lawful in connection with any franchise grant, including the right to require such compensation or rental as may be permitted by the laws of the State of Texas and the United States.

(Amended, Charter Amd. No. 20 and No. 27, approved on January 21, 1989)

Sec. 8.09. Franchise Records.

Within six (6) months after this Charter takes effect, every public utility and every owner of public utility franchises shall file with the City, as may be prescribed by ordinance, certified copies of all franchises owned or claimed, or under which such utility is operated in the City of Farmers Branch. The City shall compile and maintain a public record of public utility franchises.

Sec. 8.10. Accounts of Municipally Owned Utilities.

Accounts shall be kept for each public utility owned or operated by the City, in such manner as to show the true and complete financial results of such City ownership and operation, including all assets, appropriately subdivided into different classes, all liability subdivided by classes, depreciation reserve, other reserves, and surplus; also revenues; operating expenses including depreciation, interest payments, rental, and other disposition of annual income. The accounts shall show the actual capital cost to the City of each public utility owned, also the cost of all extensions, additions, and improvements and the source of the funds, expended for such capital purposes. They shall show as nearly as possible the cost of any service furnished to or rendered by any such utility to any other City or governmental department. The Council shall annually cause to be made by a certified public accountant, and shall publish, a report showing the financial condition of said public utility and the financial results of such City ownership and operation, giving the information specified in this section and such additional data as the Council shall deem expedient.

Sec. 8.11. Regulations of Rates and Services.

The City Council shall have all powers now or hereafter granted to municipalities by the Constitution and laws of the State of Texas, to regulate by ordinance the rates and service of every public utility operating in the City of Farmers Branch. Notwithstanding the foregoing, the Public Utility Regulatory Act of Texas as it shall from time to time be amended, or any

succeeding legislation, shall control where applicable.

(Amended, Charter Amd. No. 20, approved on January 21, 1989)

Sec. 8.12. Rate Changes.

No person or corporation enjoying any franchise to operate a public utility within the City of Farmers Branch shall ever make any change to fix any rate for public service to its patrons or the inhabitants of the City of Farmers Branch without first being authorized by the governing body of the City by an ordinance or order approving the same, and no public utility shall contest any rate or charge or order fixed by the governing body of the City under the authority otherwise conferred in the Charter of the City in any suit or cause of action in any court until after such utility has filed a motion for a rehearing with the governing body of the City specifically setting out the grounds of complaint or charge and until the governing body of the City shall have passed upon the said motion for rehearing. Notwithstanding the foregoing, the Public Utility Regulatory Act of Texas shall control where applicable.

ARTICLE IX. Miscellaneous Provisions

Sec. 9.01. No Officer or Employee to Accept Gift, etc., from Public Utility.

No officer or employee of the City of Farmers Branch shall ever accept, directly or indirectly, any gift, favor, privilege or employment from any public utility corporation enjoying a grant of any franchise, privilege or easement from said City, during the term of office of such officer, or during such employment of such employee, except as may be authorized by law or ordinance. Any officer or employee of the City who shall violate the provisions of this Section shall be guilty of a misdemeanor and may be punished by any fine that may be prescribed by ordinance for this offense, and shall forthwith be removed from office.

Sec. 9.02. Personal Financial Interest in Contracts or Sales to the City; Disclosure; Violations.

(a) No City officer or employee shall have a personal financial interest, whether direct or indirect, in any contract with or sale to the city of land, materials, supplies or services, provided, however, the term "personal financial interest" does not include employee wages, salaries or benefits and no City officer or employee shall act as agent, broker or representative for other persons or corporations in dealing with the City, whether financially remunerated or not for performing such services. Any City officer or employee who has such a personal financial interest, whether direct or indirect, shall declare that interest to the Council or board or department involved and shall refrain from voting upon or otherwise participating in his or her capacity as a City officer or employee in the making of a sale or in the making or performing of such contract or in appearing or acting in such representative capacity. Any City officer or employee who willfully conceals such a personal financial interest or willfully violates the requirements of this Section shall be guilty of malfeasance in office or position and shall forfeit his or her office or position. Violation of this Section with the knowledge, express or implied, of the person or corporation contracted with or making a sale to the City shall render the contract or sale voidable by the City Manager or the City Council.

(b) A City officer having a personal interest in a matter other than as described in Subsection (a) hereof shall use individual discretion in deciding whether to abstain from voting on the matter. Officers shall adhere to the highest ethical standards in making such determination. An officer who abstains from voting because of any personal interest described in this Section 9.02 shall be "disqualified" within the meaning of Section 2.14 hereof.

(Amended, Charter Amd. No. 6 approved on April 20, 1968 and Charter Amd. No. 21, Amd. No. 22 and Amd. No. 28, approved on January 21, 1989)

Sec. 9.03. All Property in City obligated to Pay Special Assessments, Impact Fees, Building Code Permit fees, Utility Fees and other comparable fees.

No property owned by any party or entity shall be exempt from any special taxes, assessments, permit fees, impact fees, or similar charges or fees authorized by this Charter or City Ordinance.

(Amended, Charter Amd. No. 5, approved on May 9, 2009)

Sec. 9.04. Notice of damage or injury required.

The City shall receive written verified notice as a condition precedent to the filing of a claim or law suit against the City not later than six (6) months after the day that the incident occurred. The notice shall be filed with the City Secretary and shall described the following: (1) damage or injury claim; (2) time, date and location where incident occurred; (3) description of incident; (4) estimate of damages.

The City of Farmers Branch shall never be liable on account of any damage or injury to person or to personal property arising from or occasioned by any defect in any public street, highway, alley, grounds or public work of the City of Farmers Branch unless the specific defect causing the damage or injury shall have been actually known to the City Manager at least twenty-four (24) hours prior to the occurrence of the injury or damage or unless the attention of the City Manager shall have been called thereto by a notice thereof in writing at least twenty-four (24) hours prior to the occurrence of the injury or damage and proper diligence has not been exercised to rectify the defect. The notice herein required to be given to the City Manager of the specific defect causing the damage or injury shall apply where the defect arose from any omission of the City itself, through its agents, servants or employees, or acts of third parties.

(Amended, Charter Amd. No. 23, approved on January 21, 1989; Amended, Charter Amd. No. 6, approved on May 9, 2009)

Sec. 9.05. City Exempt From Appeal Bonds.

It shall not be necessary in any action, suit or proceeding in which the City of Farmers Branch is a part, for any bond, undertaking or security to be executed in behalf of said City, but all such actions, suits, appeals or proceedings shall be conducted in the same manner as if such bond,
undertaking or security had been given, and said City shall be liable as if such obligation had been duly given and executed.

Sec. 9.06. Execution, Garnishment and Assignment.

The property, real and personal, belonging to said City shall not be liable to be sold or appropriated under any writ of execution or cost bill, nor shall the funds belonging to said City, in the hands of any person, be liable to garnishment on account of any debt it may owe to funds it may have on hand due any person, nor shall the City or any of its officers or agents be required to answer to writ of garnishment on any account whatsoever, nor shall said City be liable to the assignee of any wages of any officer, agent or employee of said City, whether earned or unearned, upon any claim or account whatsoever, and as to the City such assignment shall be absolutely void.

Sec. 9.07. No Lien on Public Property; Contractors, etc., to Notify City of Claims.

No lien of any kind can ever exist against the public buildings, public halls, parks or public works of the City of Farmers Branch. All subcontractors, materialmen, mechanics and laborers upon any public works of the City of Farmers Branch are hereby required to notify the City of all claims they may have on account of such work against the City, and when such notice has been given, the City shall have required a statutory Payment Bond and the City may retain an amount from any funds due the contractor sufficient to satisfy all valid claims; provided that such notice shall be given timely as it relates to the Payment Bond and prior to any final settlement.

(Amended, Charter Amd. No. 7, approved on May 9, 2009)

Sec. 9.08. Bonds of Contractors.

The governing body of the City shall require good and sufficient bonds of all contractors in accordance with applicable state statutes and to the extent the governing body deems it necessary and advisable.

(Amended, Charter Amd. No. 27, approved on January 21, 1989)

Sec. 9.09. Condemnation of Dangerous Structures.

Whenever in the opinion of the governing body of the City, any building, fence, shed, awning or structure of any kind or part thereof is liable to fall down and injure persons or property, the governing body may order the owner or agent of the same or

occupant of the premises, to take down and remove the same within such time as it may direct, and may punish by fine all persons failing to do so. Upon failure to comply, the governing body shall have the additional power to remove the same at the expense of the City on account of the owner of the property and assess the expenses thereof, including condemnation proceedings, as a special tax against the land, and the same may be collected as other special taxes provided for in this Charter, or by suit in any court of competent jurisdiction. The governing body of the City shall have full power to condemn all dangerous buildings or obstructions of any kind and may provide regulations therefor by Ordinance.

(Amended, Charter Amd. No. 28, approved January 21, 1989)

Old Sec. 9.10 was deleted in its entirety. (Amended, Charter Amd. No. 11, approved on May 1, 1999)

Sec. 9.10. Building Permits.

The City of Farmers Branch shall have power to prohibit the erection or construction of any building or structure of any kind within the City of Farmers Branch without a permit first having been issued by the City for the construction or erection of such building or structure, and may authorize a fee to be charged for such permit, and in pursuance of said authority may authorize the inspection by the City of all buildings or structures during the progress of their construction and may require that all buildings shall be constructed in conformity with the building regulations which exist in said City or which shall hereafter be passed.

Sec. 9.11. Bonds of City Official, Employee or Department Director.

In addition to any bonding provisions herein provided, 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, as surety thereon, said bond to be in such amount as the Council may demand, payable to the City of Farmers Branch, and conditioned for the faithful performance of the duties of his or her office; premium of such bond to be paid by the City.

(Amended, Charter Amd. No. 28, approved on January 21, 1989)

Sec. 9.12. When Provisions Take Effect.

This Charter and all amendments thereto shall be in effect from and after approval by the voters of the City and the approval of an ordinance of the City by the City Council declaring the same adopted.

(Amended, Charter Amd. No. 12, approved on May 1, 1999)

Sec. 9.13. Right to Amend the Charter.

This Charter may be amended no more than once every two years as provided by the laws of the State of Texas.

Sec. 9.14. Ordinances, Rules and Regulations Validated.

All ordinances, resolutions, rules and regulations of the City of Farmers Branch heretofore ordained, passed or enacted, that are in force at the time this Charter becomes effective, and which are not in conflict with such Charter, shall remain in full force and vigor until altered, amended or repealed by the governing body of the City after such Charter takes effect.

Sec. 9.15. Separability Clause.

If any section or part of section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such section or part of section so held invalid may appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part to which holding shall directly apply.

Sec. 9.16. Nepotism.

(a) No person shall be hired to be an employee of the City, or appointed to any paid office of the City, if that person's

relationship to the Mayor, any member of the City Council, or the City Manager is any of the following:

(1) Spouse; (2) Father; (3) Mother; (4) Stepfather; (5) Stepmother; (6) Daughter; (7) Son; (8) Sister; (9) Brother; (10) Stepbrother; (11) Stepsister; (12) Brother-in-law; (13) Sister-in-law; (14) Grandfather; (15) Grandmother; (16) Granddaughter; (17) Grandson; (18) Aunt; (19) Uncle; (20) Nephew; (21) Niece; (22) First Cousin; (23) Great Grandfather; (24) Great Grandmother; (25) Great Granddaughter; (26) Great Grandson; (27) Great Uncle; (28) Great Aunt; (29) Great Nephew; (30) Great Niece, or (31) Second Cousin;

(b) No person shall be hired to be an employee of the City, or appointed to any paid office of the City, if the relationship of that person's spouse to the Mayor, any member of the City Council, or the City Manager is any of the following:

(1) Father; (2) Mother; (3) Brother; (4) Sister; (5) Daughter; (6) Son; (7) Grandmother; (8) Grandfather; (9) Granddaughter; (10) Grandson; (11) Aunt; (12) Uncle; (13) Nephew; (14) Niece or (15) First Cousin.

(Amended, Charter Amd. No. 15, approved on April 3, 1971 and Charter Amd. 24 approved on January 21, 1989)

Sec. 9.17. Incompetency.

By "incompetency", as used herein, is meant gross ignorance of official duties, or gross carelessness in the discharge of them; or an officer may be found to be incompetent when, by reason of some serious physical or mental defect, not existing at the time of the officer's election, he or she has become unfit or unable to discharge promptly and properly the duties of his or her office.

(Amended, Charter Amd. No. 16, approved on April 3, 1971, and Charter Amd. No. 28, approved on January 21, 1989)

Sec. 9.18. Official Misconduct.

By "official misconduct", as used herein with reference to City officials, is meant any unlawful behavior in relation to the duties of office, which is willful in its character and includes any willful or corrupt failure, refusal or neglect of an officer to perform any duty enjoined on such officer by law and also shall include knowing violation of the City Council's Code of Ethics.

(Amended, Charter Amd. No. 17, approved on April 3, 1971, and Charter Amd. No. 3 and No. 28, approved on January 21, 1989)

Sec. 9.19. Indemnification of Officials and Employees.

The City Council shall purchase or provide and maintain liability insurance to protect City employees and elected and appointed officers in connection with claims brought against such persons arising out of acts or omissions of such persons in the course and scope of the performance of their City duties.

(Amended, Charter Amd. No. 25, approved on January 21, 1989)

Sec. 9.20. Charter Review.

Prior to the first day of July of each year ending in "3" or "8", the City Council shall appoint a committee for the purpose of determining whether amendments to this Charter are needed and to make appropriate recommendations to the City Council. The committee shall include no fewer than one (1) representative from every voting precinct in the City, unless the precinct includes fewer than 100 registered voters, in which case the precinct would be combined with one or more contiguous City precincts.

(Amended, Charter Amd. No. 26, approved on January 21, 1989) (Amended, Charter Amd. No. 13, approved on May 1, 1999)

ARTICLE X. Recall*

Sec. 10.01. Scope of Recall.

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

(Amended, Charter Amd. No. 2, approved on May 1, 1999)

Sec. 10.02. 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 shall be signed by qualified voters equal in number to at least fifteen percent (15%) of those who were qualified voters on the date of the last regular municipal election as determined from the list of qualified voters maintained by the tax collector of Dallas County. Each signer of such recall petition shall personally sign his or her name thereto in ink or indelible pencil, and shall write after his or her name and place of residence, giving name of street and number, or place of residence, and shall also write thereon the day, the month and the year his or her signature was affixed.

(Amended, Charter Amd. No. 28, approved January 21, 1989)

Sec. 10.03. Form of Recall Petition.

The recall petition mentioned above must be addressed to the Council of the City of Farmers Branch, must distinctly and specifically point out the ground or grounds upon which such petition for removal is predicted, and, if there be more than one ground, such as for incompetency, misconduct or malfeasance in office, 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 he or she is charged. The signature shall be verified by oath in the following form:

STATE OF TEXAS
COUNTY OF DALLAS

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 whose name it purports to be.

Subscribed and sworn to before me this_____ day of_____, 20_____.

Notary Public, Dallas County, Texas

(Amended, Charter Amd. No. 28, approved on January 21, 1989)

Sec. 10.04. Various Papers Constituting Petition.

The petition may consist of one 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 the next preceding section of this article may be made by one or more petitioners, and the several parts of copies of the petition may be filed separately and by different persons, but no signatures to such petition shall remain effective or be counted which were placed thereon more than forty-five (45) days prior to the filing of such petition or petitions with the person performing the duties of City Secretary. All papers comprising a recall petition shall be filed with the person performing the duties of City Secretary on the same day, and the said secretary shall immediately notify, in writing, the officer so sought to be removed, by mailing such notice to his or her Farmers Branch address.

Sec. 10.05. Presentation of Petition to the Council.

Within fifteen (15) days after the date of the filing of the papers constituting the recall petition, the person performing the duties of City Secretary shall verify the petition and the signatures and certify the petition as to all of the legal requirements as established by this Charter and State law. The City Secretary shall submit the petition and the certification of same to the City Council. The City Secretary's certification shall be final and not subject to change or challenge.

(Amended, Charter Amd. No. 8, approved on May 9, 2009)

Sec. 10.06. Public Hearing to be Held.

The officer whose removal is sought may, within five (5) days after such recall petition has been presented to council, request that a public hearing be held to permit the officer to present facts pertinent to the charges specified in the recall petition. In this event, the 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.

(Amended, Charter Amd. No. 28, approved on January 21, 1989)

Sec. 10.07. Election to be Called.

If the petition has been certified to be in accordance with the Charter, and the officer whose removal is sought does not resign, then it shall be the duty of the City Council to order an election for the next uniform election date as authorized by the Texas Election Code.

(Amended, Charter Amd. No. 9, approved on May 9, 2009)

Sec. 10.08. 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"

Sec. 10.09. 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 person named on the ballot, he or she 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 an election be "Yes", that is, for the recall of the person named on the ballot, he or she shall, regardless of any technical defects in the recall petition, be deemed removed from office and the vacancy be filled as vacancies in the council are filled, as provided in this charter.

(Amended, Charter Amd. No. 28, approved on January 21, 1989)

Sec. 10.10. Recall, Restrictions Thereon.

No recall petition shall be filed against any officer of the city within three (3) months after his or her election, nor within three (3) months after an election for such officer's recall.

(Amended, Charter Amd. No. 28, approved on January 21, 1989)

Sec. 10.11. Failure of the Council to Call an Election.

In case all of the requirements of this Charter shall have been met and the Council shall fail or refuse to receive the recall petition, or order such recall election, or discharge any other duties imposed upon said Council by the provisions of this Charter with reference to such recall, then the County Judge of Dallas County, Texas, shall discharge any of such duties herein provided to be discharged by the person performing the duties of City Secretary or by the Council. Notwithstanding the foregoing, the dates of all City elections shall be governed by the Texas Election Code.

***Editor's note-Article X, 10.01 through 10.11 were added at an election held April 20, 1968.**

ARTICLE XI. Initiative and Referendum*

Sec. 11.01. General Power of Initiative and Referendum.

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

Sec. 11.02. Initiative.

Qualified voters of the City may initiate legislation by submitting a petition addressed to the Council which 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 qualified voters equal in number to at least fifteen percent (15%) of those who were qualified voters on the date of the last regular municipal election as determined from the list of qualified voters maintained by the designated authority of Dallas County, and each copy of the petition shall have attached to it a copy of the proposed legislation. Each signer of such petition shall personally sign his or her name and address in ink or indelible pencil, and shall write after his or her name, place of residence, giving the name of the street and number, or place of residence, and shall also write thereon the date, the month and the year his signature was affixed.

(Amended, Charter Amd. No. 28, approved on January 21, 1989; Amended, Charter Amd. No. 11, approved on May 9, 2009)

Sec. 11.03. Form of Initiative and Referendum Petition.

The petition mentioned above must be addressed to the City Council of the City of Farmers Branch, and must have attached to it a copy of the proposed legislation. The signature shall be verified by oath in the following form:
STATE OF TEXAS
COUNTY OF DALLAS

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 whose name it purports to be.

Sworn to and subscribed before me this_____day of_____, 20___.

Notary Public, Dallas County, Texas

Sec. 11.04. 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 the next preceding section of this article may be made by one or more petitioners, and the several parts of copies of the petition may be filed separately and by different persons; but no signatures to such petition shall remain effective or be counted which were placed thereon more than forty-five (45) days prior to the filing of such petition or petitions with the person performing the duties of City Secretary. All papers comprising an initiative or referendum petition shall be filed with the person performing the duties of City Secretary on the same day. Within fifteen (15) days after the filing of such petition, the person performing the duties of City Secretary shall verify the petition and the signatures and certify the petition as to all of the legal requirements as established by this Charter and State law. The City Secretary shall submit the petition and the certification of same to the City Council.

Upon receipt of the petition, certification and ordinance or resolution, it shall become the duty of the City Council, within twenty (20) days after the receipt thereof, to pass and adopt such ordinance or resolution without alteration except with the written approval of all of the circulators of the petition (Section 11.03), or to call a special election on the next uniform election date on the question of adopting or rejecting the proposed ordinance or resolution.

(Amended, Charter Amd. No. 12, approved on May 9, 2009)

Sec. 11.05. Referendum.

Qualified voters of the City of Farmers Branch may require that any ordinance or resolution, with the exception of ordinances or resolutions appropriating money, fixing salaries or levying taxes, zoning or granting of franchises passed by the Council be submitted to the voters of the City for approval or disapproval, by submitting a petition for this purpose within thirty (30) days after the final passage of said ordinance or resolution, or within thirty (30) days after its publication. Said petition must be signed by qualified voters equal in number to at least fifteen percent (15%) of those who were qualified voters on the date of the last regular municipal election as determined from a list of qualified voters maintained by the designated authority of Dallas County. Each signer of such petition shall personally sign his or her name and address in ink or indelible pencil, and shall write after his or her name his or her place or residence, giving the name of the street and number, or place of residence, and shall write thereon the date, the month and the year his signature was affixed. Said petition shall be submitted to the person performing the duties of City Secretary. Immediately upon the filing of said petition, the person performing the duties of City Secretary shall verify the petition and the signatures and certify the petition as to all of the legal requirements as established by this Charter and State law. The City Secretary shall submit the petition and the certification of same to the City Council. The City Secretary's certification shall be final and not subject to change or challenge. Thereupon, the Council shall immediately reconsider such ordinance or resolution and, if it does not entirely repeal the same, shall submit it to a proper vote as provided in Section 11.04 of this Charter. Such ordinance or resolution shall remain in effect unless the majority of the qualified voters voting thereon at such election shall vote against such ordinance or resolution. Notwithstanding the foregoing, the dates of all City elections shall be governed by the Texas Election Code.

(Amended, Charter Amd. No. 28, approved on January 21, 1989; Amended, Charter Amd. No. 2, approved on May 1, 1999; Amended, Charter Amd. No. 12, approved on May 9, 2009)

Sec. 11.06. Voluntary Submission of Legislation.

The Council, upon its motion and by a majority vote of its members, 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 on petition, and may in its discretion call a special election for this purpose.

Sec. 11.07. Form of Ballots.

The ballots used when voting upon such proposed and referred ordinance, resolution or measure, shall set forth their nature sufficiently to identify them and shall also set forth upon separate lines the words:

"For the Ordinance" and
"Against the Ordinance" or
"For the Resolution" and
"Against the Resolution".

Sec. 11.08. Publication of Proposed and Referred Ordinances.

The person performing the duties of City Secretary shall publish at least once in the official newspaper of the City 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 in general municipal elections or by the ordinance or resolution calling said election.

Sec. 11.09. 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 to the Council.

Sec. 11.10. Inconsistent Ordinances.

If the provisions of two 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.

Sec. 11.11. Ordinances Passed by Popular Vote, Repeal or Amendment.

No ordinance or resolution which may have been passed by the Council upon a petition or adopted by popular vote under the provisions of this Article shall be repealed or amended except by the Council in response to the referendum petition or submission as provided in Section 11.05 of this Charter.

Sec. 11.12. Further Regulations by the Council.

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

Sec. 11.13. 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.

***Editor's note-Article XI, 11.01 through 11.13 were added at an election April 20, 1968.**