

MURPHY CITY COUNCIL AGENDA  
REGULAR CITY COUNCIL MEETING  
AUGUST 2, 2016 AT 6:00 PM  
206 NORTH MURPHY ROAD  
MURPHY, TEXAS 75094



Eric Barna  
Mayor

Scott Bradley  
Mayor Pro Tem

Owais Siddiqui  
Deputy Mayor Pro Tem

Jennifer Berthiaume  
Councilmember

Betty Spraggins  
Councilmember

Sarah Fincanon  
Councilmember

Don Reilly  
Councilmember

Bill Shipp  
Interim City Manager

Susie Quinn  
City Secretary

NOTICE is hereby given of a meeting of the City Council of the City of Murphy, Collin County, State of Texas, to be held on August 2, 2016 at Murphy City Hall for the purpose of considering the following items. The City Council of the City of Murphy, Texas, reserves the right to meet in closed session on any of the items listed below should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

**1. CALL TO ORDER**

**2. INVOCATION AND PLEDGE OF ALLEGIANCE**

**3. ROLL CALL & CERTIFICATION OF A QUORUM**

**4. PUBLIC COMMENT**

**5. PRESENTATION**

- A. Presentation concerning water and wastewater services by the North Texas Municipal Water District (NTMWD)

**6. INDIVIDUAL CONSIDERATION ITEMS**

- A. Consider and/or act on the July 19, 2016 Regular Council meeting minutes.
- B. Hold a public hearing and consider and/or act on the application of Murphy Meadows, LTD Venture, requesting approval of a Final Plat for approximately 6.5 acres located at the southwest corner of Betsy Road and McCreary.
- C. Consider and/or act upon approval of Ordinance No. 16-08-1013 to approve, repeal, rename and/or add various sections to Chapter 4, entitled "Animal Control", and Appendix A – Fee Schedule in the Code of Ordinances of the City of Murphy, Texas.
- D. Consider and/or act upon election proposition language for amendments to the City of Murphy Home Rule Charter.
- E. Discussion with regard to National Night Out to be held on Tuesday, October 4, 2016.
- F. Discussion with regard to a process for developing a Capital Improvement Program for consideration in a possible future bond program.

## **7. CITY MANAGER/STAFF REPORTS**

- A. Radio Systems
- B. Food Truck Court
- C. Sidewalk Rehabilitation Program
- D. South Maxwell Creek Sewer Line
- E. North Murphy Road
- F. Betsy Lane
- G. Timber Nature Preserve Park
- H. Safe Routes to School
- I. Leadership Team Staffing

## **8. EXECUTIVE SESSION**

In accordance with Texas Government Code, Chapter 551, Subchapter D, the City Council will now recess into Executive Session (closed meeting) to discuss the following:

- A. § 551.074 Deliberation regarding the appointment, evaluation, reassignment, duties, discipline or dismissal of the Fire Chief and Police Chief's Executive Administrative Assistant.

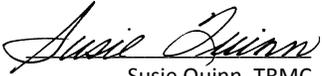
## **9. RECONVENE INTO REGULAR SESSION**

The City Council will reconvene into Regular Session, pursuant to the provisions of Chapter 551, Subchapter D, Texas Government Code, to take any action necessary regarding:

- A. § 551.074 Deliberation regarding the appointment, evaluation, reassignment, duties, discipline or dismissal of the Fire Chief and Police Chief's Executive Administrative Assistant.
- B. Take Action on any Executive Session Items.

## **10. ADJOURNMENT**

I certify that this is a true and correct copy of the Murphy City Council Meeting Agenda and that this notice was posted on the designated bulletin board at Murphy City Hall, 206 North Murphy Road, Murphy, Texas 75094; a place convenient and readily accessible to the public at all times, and said notice was posted on July 29, 2016 by 5:00 p.m. and will remain posted continuously for 72 hours prior to the scheduled meeting pursuant to Chapter 551 of the Texas Government Code.

  
Susie Quinn, TRMC  
City Secretary

In compliance with the American with Disabilities Act, the City of Murphy will provide for reasonable accommodations for persons attending public meetings at City Hall. Requests for accommodations or interpretive services must be received at least 48 hours prior to the meeting. Please contact the City Secretary at 972.468.4011 or [squinn@murphytx.org](mailto:squinn@murphytx.org).

Notice of Possible Quorum: There may be a quorum of the Animal Shelter Advisory Committee, the Board of Adjustment, the Building and Fire Code Appeals Board, the Charter Review Commission, the Ethics Review Commission, the Murphy Community Development Corporation, the Murphy Municipal Development District Board, the Park and Recreation Board and/or the Planning and Zoning Commission members who may be present at the meeting, but they will not deliberate on any city or board business.

CITY COUNCIL MINUTES  
REGULAR CITY COUNCIL MEETING  
JULY 19, 2016 AT 6:00 PM

**1. CALL TO ORDER**

Mayor Pro Tem Bradley called the meeting to order at 6:01 pm.

**2. INVOCATION AND PLEDGE OF ALLEGIANCE**

Mayor Pro Tem Bradley gave the invocation and led the Pledge of Allegiance.

**3. ROLL CALL & CERTIFICATION OF A QUORUM**

City Secretary, Susie Quinn, certified a quorum with the following Councilmembers present:

Mayor Pro Tem Scott Bradley  
Deputy Mayor Pro Tem Owais Siddiqui  
Councilmember Jennifer Berthiaume  
Councilmember Betty Nichols Spraggins  
Councilmember Sarah Fincanon  
Councilmember Don Reilly

Absent:

Mayor Eric Barna

**4. PUBLIC COMMENTS**

No Public Comments were presented.

**5. PRESENTATIONS**

A. Proclamation for retiring Greg Goodwin – Murphy Messenger.

Deputy Mayor Pro Tem Siddiqui presented a proclamation to Greg Goodwin. It is a small token of appreciation for all that he has done for Murphy residents. Greg was recognized for all of his hard work and dedication.

**(Not on the agenda)** Mayor Pro Tem Bradley presented to Chief Mark Lee a certificate and a Texas State Flag that had been flown at the Texas State Capital in recognition from State Representative, Jodie Laubenberg for his remarkable service to the fire department, city council, city staff and Murphy Community.

Mayor Pro Tem Bradley thanked Chief Lee for his leadership, all he has done for Murphy and his contributions to the Fire department. Chief Lee thanked Council for the recognition.

B. Presentation of the financial report and the investment report as of June 30, 2016.

Interim Finance Director Steven Ventura explained the financial report for month ending June 30<sup>th</sup>. On the investment report, the item of significance are the \$1.8m tax notes for the radio system on the Series 2009 General Obligation Note's. The interest rate has slightly increased to 0.35% for June. Steven has received the requested sales tax report from the State Comptroller's office. The report needs to be analyzed and presented at a future meeting to reflect the increase in sales taxes from the various spring storms. The General Fund/MDD/CDC reflects the city has collected 16% more in sales

tax dollars than at this time last year. Revenues are at 90%; franchise taxes are at 91%. Permits & Licenses reflect 137% due to new contractor registrations and miscellaneous permits. Other Revenue shows 127% including the insurance proceeds for property and vehicles, which will decrease when all the repairs are completed and paid. Expenditures should reflect 75% of the budget but is currently tracking 60% to 75% as of June 2016. Revenues for the Utility Fund are tracking right at 74.57%, water revenue is tracking at 77%. Utility Fund expenditures are tracking at 71.17%.

## **6. CONSENT AGENDA**

All consent agenda items are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Councilmember so requests, in which event the item will be removed from the Consent Agenda and voted on separately.

- A. Consider and/or approve the July 5, 2016 Regular Council meeting minutes.
- B. Consider and/or approve the July 14, 2016 Special Council work session meeting minutes.

**COUNCIL ACTION (6.A. through 6.B.):**

**APPROVED**

**Deputy Mayor Pro Tem Siddiqui moved to approve the consent agenda items 6.A. and 6.B. as presented. Councilmember Fincanon seconded the motion. For: Unanimous. The motion carried by a vote of 6-0. (Mayor Barna was absent).**

## **7. INDIVIDUAL CONSIDERATION**

- A. Consider and/or approve to repeal, rename and/or add various sections to Chapter 4, entitled "Animal Control", and Appendix A – Fee Schedule in the Code of Ordinances of the City of Murphy, Texas.

Chief Cotten and Kim Parker presented to Council a summary of the overall changes incorporated in the various sections to Chapter 4, entitled "Animal Control", and Appendix A – Fee Schedule in the Code of Ordinances of the City of Murphy, Texas in regards to clarifying language, wording and institute parameters. Staff reviewed and compared with cities such as San Antonio, Plano and other local agencies. Our attorneys have reviewed all of the requested changes as well.

Council requested that no action be taken on item to allow Council more time to study the changes and have staff address questions from Council.

**COUNCIL ACTION (7.A.):**

**NO ACTION**

- B. Consider and/or act on a proposed resolution authorizing the City Manager to execute a contract renewal with Blue Cross Blue Shield Texas for group medical insurance, Ameritas for group dental insurance and VSP for vision insurance. Additionally, authorization is requested for the City Manager to extend the existing contracts with Cigna for long-term disability insurance and Dearborn National for basic life and AD&D insurance all with an effective date of September 1, 2016.

Human Resource Manager Jana Traxler presented to Council the contract renewal with Blue Cross Blue Shield Texas (BCBSTX) for group medical insurance, Ameritas for group dental insurance and VSP for vision insurance. Additionally, authorization is requested to extend the existing contract for Cigna for long-term disability insurance and Dearborn National for basic life and AD&D insurance all with an effective date of September 1, 2016.

The initial medical insurance renewal offer from Blue Cross Blue Shield proposed a premium increase of 20.2%. The City did requested bids for medical and only received two medical bids of which one offer came back at a 56% increase and the other offer, after negotiations, finalized at a 6% increase.

BCBSTX countered with a final 12% renewal offer. Staff was initially compelled to move forward with the offer that presented a 6% premium savings over the BCBSTX renewal offer. However, staff became concerned that this savings could be a buy-in and at the one year renewal, the increase could be significantly higher. The advisory firm, Brinson Benefits ran an analysis on the company's price patterns and recommended that the City stay with BCBSTX to mitigate that potential long term risk. Ameritas initial renewal came in at 16% and Brinson was able to negotiate down to 10%. We will remain with VSP at a 4.5% increase with a two (2) year rate guarantee. The basic life and AD&D renewal from Dearborn National resulted in a flat renewal rate with a two year rate guarantee. The city will maintain the current plan design.

***COUNCIL ACTION (7.B.):***

***APPROVED***

**Councilmember Fincanon moved to approve Resolution 16-R-833 as presented authorizing the City Manager to execute a contract renewal with Blue Cross Blue Shield Texas for group medical insurance, Ameritas for group dental insurance and VSP for vision insurance. Additionally, authorization is requested for the City Manager to extend the existing contracts with Cigna for long-term disability insurance and Dearborn National for basic life and AD&D insurance all with an effective date of September 1, 2016. Councilmember Berthiaume seconded the motion. For: Unanimous. The motion carried by a vote of 5-0 (Mayor Barna was absent). Mayor Pro Tem Bradley filed a "conflict of interest" before the beginning of the meeting and recused himself from this item.**

- C. Consider and/or approve the replacement of the kitchen vent-a-hood system and range including necessary building modifications to accommodate commercial grade equipment at the Fire Station.

Chief Mark Lee provided Council an overview about the current range needing replacement and the current vent-a-hood will not accommodate commercial grade equipment. The range has had multiple issues over the last 8 years. Many features on the range are out of service and some of the basic functions also don't work properly. Finding a vendor who services the equipment has proven to be a challenge.

The new equipment will be restaurant grade equipment. The current kitchen cabinets and island will need to be modified to accommodate the new equipment. The extinguishing system for a commercial vent-a-hood will also need some modifications. AceMart vendor from Richardson has bid the equipment and installation. Facility maintenance has secured Falkenberg Contracting to perform the cabinet and associated remodel needs to accommodate commercial grade equipment. In regards to the financial consideration, funds would come from savings in the existing FY16 budget.

**COUNCIL ACTION (7.C.):**

**APPROVED**

Councilmember Reilly moved to approve the replacement of the kitchen vent-a-hood system and range including necessary building modifications to accommodate commercial grade equipment at the Fire Station as presented in the amount of \$41,120. Councilmember Fincanon seconded the motion. For: Unanimous. The motion carried by a vote of 6-0. (Mayor Barna was absent).

Following discussion by Council and the City Attorney, it was determined to vote on each of the changes recommended by the Charter Review Commission first and then Council can make additional suggested changes to the charter.

Mr. Robert Mortonson, resident, expressed his viewpoints regarding the proposed charter changes to the age of a resident wishing to file for a place on the ballot; particular wording with regard to illegal drug use; and nepotism versus conflict of interest in most instances regarding appointments.

- D. Consider and/or approve by individual consideration each recommendation of the Charter Review Commission as presented at the July 5, 2016 City Council meeting and/or create new changes to the current City Charter.

**COUNCIL ACTION (7.D.-1):**

**APPROVED**

Deputy Mayor Pro Tem Siddiqui moved to add the word "City" in front of Council in Section 3.03 Qualifications. Councilmember Fincanon seconded the motion. For: Unanimous. The motion carried by a vote of 6-0 (Mayor Barna was absent).

Councilmembers discussed the maturity of a candidate in relationship to being eighteen (18) and/or twenty-one (21) years old to run for City Council.

**COUNCIL ACTION (7.D.-2):**

**FAILED**

Councilmember Berthiaume moved to change the language in Section 3.03 (1) from twenty-one (21) years of age to eighteen (18) years of age to file as a candidate for City Council. Deputy Mayor Pro Tem Siddiqui seconded the motion. For: Deputy Mayor Pro Tem Siddiqui and Councilmember Berthiaume, against: Mayor Pro Tem Bradley, Councilmember Spraggins, Councilmember Fincanon, and Councilmember Reilly. The motion failed by a vote of 2-4 (Mayor Barna was absent).

Councilmembers discussed a proposed change with regard to employees resigning their job with the City of Murphy in order to run for office.

**COUNCIL ACTION (7.D.-3):**

**NO ACTION**

Councilmember Berthiaume moved to change the language in Section 3.03 (5) to the suggested wording of "No Council Member shall hold any other City office or City employment while serving as Council Member". The motion died for lack of a second.

**COUNCIL ACTION (7.D.-4):**

**APPROVED**

Deputy Mayor Pro Tem Siddiqui moved to delete Section 5.02 in its entirety and adding to Section 3.03 (6) the additional wording of "office in accordance with the Texas Election Code and" in the appropriate place. Councilmember Fincanon seconded the motion. For: Unanimous. The motion carried by a vote of 6-0 (Mayor Barna was absent).

**COUNCIL ACTION (7.D.-5):**

**APPROVED**

Deputy Mayor Pro Tem Siddiqui moved to add the clarification language to the end of Section 3.03 “Unless otherwise provided, the term “qualified voter” in this Charter means a qualified voter residing in the City in accordance with the Texas Election Code.” Councilmember Berthiaume seconded the motion. For: Unanimous. The motion carried by a vote of 6-0 (Mayor Barna was absent).

**COUNCIL ACTION (7.D.-6):**

**APPROVED**

Councilmember Reilly moved to add the following language towards the end of Section 3.04 in its appropriate places ...“provided for in the annual City Budget and” in accordance with the “reimbursement” policies adopted by the City. Councilmember Fincanon seconded the motion. For: Mayor Pro Tem Bradley, Deputy Mayor Pro Tem Siddiqui, Councilmember Berthiaume, Councilmember Fincanon, and Councilmember Reilly. Against: Councilmember Spraggins. The motion carried by a vote of 5-1 (Mayor Barna was absent).

**COUNCIL ACTION (7.D.-7):**

**APPROVED**

Deputy Mayor Pro Tem Siddiqui moved to add the additional language on Section 3.05 (2) as the last sentence to read “The Mayor may declare a local state or disaster and order the evacuation of all or part of the population from a stricken or threatened area”. Councilmember Fincanon seconded the motion. For: Unanimous. The motion carried by a vote of 6-0 (Mayor Barna was absent).

**COUNCIL ACTION (7.D.-8):**

**APPROVED**

Councilmember Fincanon moved to add to Section 3.05 (3) the words “annually” and “June” to their appropriate places in that section. Mayor Pro Tem Bradley seconded the motion. For: Mayor Pro Tem Bradley, Councilmember Spraggins, Councilmember Fincanon and Councilmember Reilly. Against: Deputy Mayor Pro Tem Siddiqui and Councilmember Berthiaume. The motion carried by a vote of 4-2 (Mayor Barna was absent).

**COUNCIL ACTION (7.D.-9):**

**APPROVED**

Councilmember Reilly moved to retain Section 3.05 (4) as it is currently in the Charter and to add Deputy Mayor Pro Tem to Section 3.05 (3) to conform with the change in that Section. Councilmember Fincanon seconded the motion. For: Mayor Pro Tem Bradley, Deputy Mayor Pro Tem Siddiqui, Councilmember Spraggins, Councilmember Fincanon and Councilmember Reilly. Against: Councilmember Berthiaume. The motion carried by a vote of 5-1 (Mayor Barna was absent).

**COUNCIL ACTION (7.D.-10):**

**APPROVED**

Councilmember Reilly moved to accept the change from the word “shall” to “may” in Section 3.06 (2). Deputy Mayor Pro Tem Siddiqui seconded the motion. For: Unanimous. The motion carried by a vote of 6-0 (Mayor Barna was absent).

**COUNCIL ACTION (7.D.-11):**

**APPROVED**

Councilmember Reilly moved to accept the change from Section 5.02 to Section 3.03 in Section 3.06 (3) A to conform with other recommended approved changes in the Charter. Deputy Mayor Pro Tem Siddiqui seconded the motion. For: Unanimous. The motion carried by a vote of 6-0 (Mayor Barna was absent).

***COUNCIL ACTION (7.D.-12):***

***APPROVED***

Deputy Mayor Pro Tem Siddiqui moved to approve the proposed language regarding unexpired Council terms be added to Section 3.06 (5). Councilmember Reilly seconded the motion. For: Unanimous. The motion carried by a vote of 6-0 (Mayor Barna was absent).

***COUNCIL ACTION (7.D.-13):***

***APPROVED***

Deputy Mayor Pro Tem Siddiqui moved to delete Section 3.15 (1), (2), (3), and (4) and renumber the sections accordingly and remove the reference to "emergency ordinance" from Section 6.12 (2). Councilmember Fincanon seconded the motion. For: Unanimous. The motion carried by a vote of 6-0 (Mayor Barna was absent).

***COUNCIL ACTION (7.D.-14):***

***APPROVED***

Deputy Mayor Pro Tem Siddiqui moved to change the word from "registered" to "qualified" in Section 6.02 Filing for Office. Councilmember Berthiaume seconded the motion. For: Unanimous. The motion carried by a vote of 6-0 (Mayor Barna was absent).

***COUNCIL ACTION (7.D.-15):***

***APPROVED***

Deputy Mayor Pro Tem Siddiqui moved to approve the proposed wording to be added to Section 6.10 by creating a part (3) to require recall elections to be compliance with the Texas Election Code. Councilmember Fincanon seconded the motion. For: Unanimous. The motion carried by a vote of 6-0 (Mayor Barna was absent).

***COUNCIL ACTION (7.D.-16):***

***APPROVED***

Councilmember Fincanon moved to change the word from "registered" to "qualified" in Section 6.13 Initiative. Deputy Mayor Pro Tem Siddiqui seconded the motion. For: Unanimous. The motion carried by a vote of 6-0 (Mayor Barna was absent).

***COUNCIL ACTION (7.D.-17):***

***APPROVED***

Councilmember Reilly moved to approve the proposed language in Section 6.14 Referendum as presented. Councilmember Fincanon seconded the motion. For: Unanimous. The motion carried by a vote of 6-0 (Mayor Barna was absent).

***COUNCIL ACTION (7.D.-18):***

***APPROVED***

Deputy Mayor Pro Tem Siddiqui moved to approve the addition of the following language change to Section 6.20 to "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 the affirmative vote of the full membership of the City Council, may repeal the ordinance or resolution." Councilmember Fincanon seconded the motion. For: Unanimous. The motion carried by a vote of 6-0 (Mayor Barna was absent).

***COUNCIL ACTION (7.D.-19):***

***APPROVED***

Deputy Mayor Pro Tem Siddiqui moved to add the proposed wording to Section 7.02 Submission of Budget and Budget Message as presented. Councilmember Berthiaume seconded the motion. For: Unanimous. The motion carried by a vote of 6-0 (Mayor Barna was absent).

**COUNCIL ACTION (7.D.-20):**

**APPROVED**

Deputy Mayor Pro Tem Siddiqui moved to change the wording to comply with State Law in Section 7.15 (3) as presented. Councilmember Berthiaume seconded the motion. For: Unanimous. The motion carried by a vote of 6-0 (Mayor Barna was absent).

**COUNCIL ACTION (7.D.-21):**

**APPROVED**

Deputy Mayor Pro Tem Siddiqui moved to remove Section 8.01 (5). Councilmember Fincanon seconded the motion. For: Unanimous. The motion carried by a vote of 6-0 (Mayor Barna was absent).

Staff is to bring back to Council the areas (State Law, Ordinances, Governance Policy, Resolutions, etc.) pertaining to qualifications for citizens to serve on City of Murphy Boards and Commissions.

**COUNCIL ACTION (7.D.-22):**

**APPROVED**

Deputy Mayor Pro Tem Siddiqui moved to remove the following sentence from Section 9.01 (1): "The Commission members shall be qualified voters." Councilmember Fincanon seconded the motion. For: Mayor Pro Tem Bradley, Deputy Mayor Pro Tem Siddiqui, Councilmember Berthiaume, Councilmember Spraggins, and Councilmember Fincanon. Against: Councilmember Reilly. The motion carried by a vote of 5-1 (Mayor Barna was absent).

**COUNCIL ACTION (7.D.-23):**

**APPROVED**

Deputy Mayor Pro Tem Siddiqui moved to remove the final sentence from Section 9.05 (2) which currently states the following: "The Board shall consist of qualified City voters." Councilmember Fincanon seconded the motion. For: Mayor Pro Tem Bradley, Deputy Mayor Pro Tem Siddiqui, Councilmember Berthiaume, and Councilmember Fincanon. Against: Councilmember Reilly. The motion carried by a vote of 4-1 (Mayor Barna was absent and Councilmember Spraggins was not available for the vote).

**COUNCIL ACTION (7.D.-24):**

**APPROVED**

Deputy Mayor Pro Tem Siddiqui moved to approve the proposed wording to create Section 11.10 as proposed. Councilmember Fincanon seconded the motion. For: Mayor Pro Tem Bradley, Deputy Mayor Pro Tem Siddiqui, Councilmember Fincanon, and Councilmember Reilly. Against: Councilmember Berthiaume. The motion carried by a vote of 4-1 (Mayor Barna was absent and Councilmember Spraggins was not available for the vote).

**COUNCIL ACTION (7.D.-25):**

**APPROVED**

Councilmember Reilly moved to approve the proposed wording as presented with one change which is to retain the current Charter wording regarding "the County Judge of Collin County or his/her designee," in Section 12.10. Councilmember Berthiaume seconded the motion. For: Unanimous. The motion carried by a vote of 6-0 (Mayor Barna was absent).

After a very lengthy discussion, several motions were suggested but none were approved. Three options appeared to surface during the discussion to include 1) leaving the wording as it is in the Charter to not restrict appointments based upon nepotism; 2) to restrict appointments affected by nepotism to statutory boards but allow the appointments to advisory boards; 3) restrict appointing related people to all boards.

**COUNCIL ACTION (7.D.-26):**

**FAILED**

Councilmember Berthiaume moved to leave the current wording regarding nepotism in Section 14.01 as is. Deputy Mayor Pro Tem Siddiqui seconded the motion. For: Deputy Mayor Pro Tem Siddiqui, Councilmember Berthiaume, and Councilmember Fincanon. Against: Mayor Pro Tem Bradley, Councilmember Spraggins and Councilmember Reilly. The motion failed because of a tie vote of 3-3 (Mayor Barna was absent).

City Attorney Reinwand explained the tie vote will result in the wording regarding Section 14.01 to remain as it is currently worded in the Charter.

**COUNCIL ACTION (7.D.-26 2nd):**

**FAILED**

Mayor Pro Tem Bradley moved to adopt the proposed wording in Section 14.01 to apply to statutory Boards and Commissions but not apply to appointments to Advisory Boards. Councilmember Reilly seconded the motion. For: Mayor Pro Tem Bradley and Councilmember Reilly. Against: Deputy Mayor Pro Tem Siddiqui, Councilmember Berthiaume, Councilmember Spraggins and Councilmember Fincanon. The motion failed by a vote of 2-4 (Mayor Barna was absent).

**COUNCIL ACTION (7.D.-26 3rd):**

**FAILED**

Councilmember Reilly moved to adopt the proposed changes to Section 14.01 as presented. The motion died for lack of a second.

Mayor Pro Tem Bradley thanked the Charter Review Commission for their hard work and quick turn-around time to complete the proposed revisions to the City of Murphy City Charter.

- E. Discussion regarding updating the Appendix A – Fee Schedule, Code of Ordinances, as it relates to various fees.

Mr. Shipp presented to Council an overview on updating the Appendix A – Fee Schedule, Code of Ordinances. A comprehensive update has been made to the current City of Murphy Fee Schedule, Appendix A in the Code of Ordinances. Current recommendations are detailed on the comparison sheet, some of which are housekeeping in nature while others are additions, verbiage changes and fee change recommendations. The pass-through water, sewer and irrigation rates are not included in this discussion as those rates have not been finalized.

**COUNCIL ACTION (7.E.):**

**NO ACTION- Discussion item only**

- F. Discussion regarding a change in the type and location of the Murphy Community Development Corporation (MCDC) approved FY16 purchase of a storage building for the Recreation and Special Event Division.

Mr. Shipp proposed to Council that in the FY16 budget, the MCDC Board approved the purchase of a storage unit for the Recreation and Special Events Division. The board had allocated \$50,000 in funding for the storage unit. This unit was to be located at the south end of the Public Works Facilities. Staff solicited quotes for the storage unit. The quotes staff received exceeded the

budget. Staff researched and received quotes on repurposing the old animal shelter located behind the Murphy Community Center as a storage unit.

Brett Bertelli addressed Council that the animal shelter size is 20 x 30 and comparable to the solicited quotes that he received. In repurposing the animal shelter building, the cost savings is about \$28,000. Repairs to the building include paint inside and outside, all fascia board, the outside doors to the mechanical room, and duct work will be replaced. The roof repair is covered by the insurance from the hail damage.

**COUNCIL ACTION (7.F.):**

**NO ACTION- Discussion item only**

**8. CITY MANAGER / STAFF REPORTS**

A. Radio Systems

The first section of the antenna has been installed and bolted in place. All is going well.

B. Food Truck Court

All is going well, the project is estimated 85% complete. The flat work for the parking area is 99% complete. The contractor is preparing for the installation of the remaining sidewalk this week.

C. Sidewalk Rehabilitation Program

The contractor will begin construction on the Glen Ridge subdivision sidewalks on Thursday (July 21<sup>st</sup>) and schedule to finish concrete on Monday (July 25<sup>th</sup>). Then move onto The Timbers and complete the project by September.

D. South Maxwell Creek Sewer Line

PC Contractors will have to remove approximately 300 linear feet of pipe line that was not installed at the right depth. A discussion with the attorneys has been scheduled for July 26, 2016.

E. Gap in sidewalk on Maxwell Creek near the Railroad Crossing

Met with the engineer, Craig Kerkhoff with Birkhoff, Hendricks & Carter L.L.P. (BH&C) last week to discuss the history of the trail. In 2010 or 2011, when we reached the crossing location we had discussions with both Dart and Kansas City Southern (KCS) at the time. KCS would not give the City approval to cross with concrete to complete the trail. It was requested for the City to redo the entire crossing at the cost of \$150,000. The project died at that point so Staff will work on re-engaging discussion with Dart and KCS.

F. North Murphy Road

Staff will provide Farmers Electric Cooperative (FEC) with locates this week for Rolling Ridge & Daniel Crossing HOA's in preparation for installing the light poles. TxDOT has approved approximately \$61,000 in funding for the four HOA's. The next step is for the contractor to reimburse the City and then the City will be allocating the funds and meet with the HOA's to disperse.

G. Betsy Lane

The electricity is complete, waiting on the manufacturer to certify that all of the irrigation is installed properly. A couple of fencing issues, compliance is being checked for a couple of properties on the south side of Betsy Lane. On the property adjacent to Ms. Bailey, the City will be scheduling the removal of the shed located on our property.

H. Timber Reserve

An architect is checking the redesign of the drainage issue and then the City will advertise for bid submittals.

I. Safe Routes to School

Last week, the City met with Hartford, 3i and TxDOT. An agreement is still being floated through TxDOT and is schedule to be completed by the end of July, 2016. There was some capping work to be completed on the monuments and the electricians are coming out this week.

**9. ADJOURNMENT**

With no further business, the Council meeting adjourned at 8:49 pm.

APPROVED BY:

\_\_\_\_\_  
Eric Barna, Mayor

ATTEST:

\_\_\_\_\_  
Susie Quinn, City Secretary

**City Council Meeting  
August 2, 2016**

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**Issue**

Hold a public hearing and consider and/or act on the application of Murphy Meadows, LTD Venture, requesting approval of a Final Plat for approximately 6.5 acres located at the southwest corner of Betsy Road and McCreary.

**Staff Resource**

Kelly Carpenter AICP, Interim Community and Economic Development Director  
Bill Shipp, Interim City Manager  
Tim Rogers, Public Works Superintendent

**Considerations**

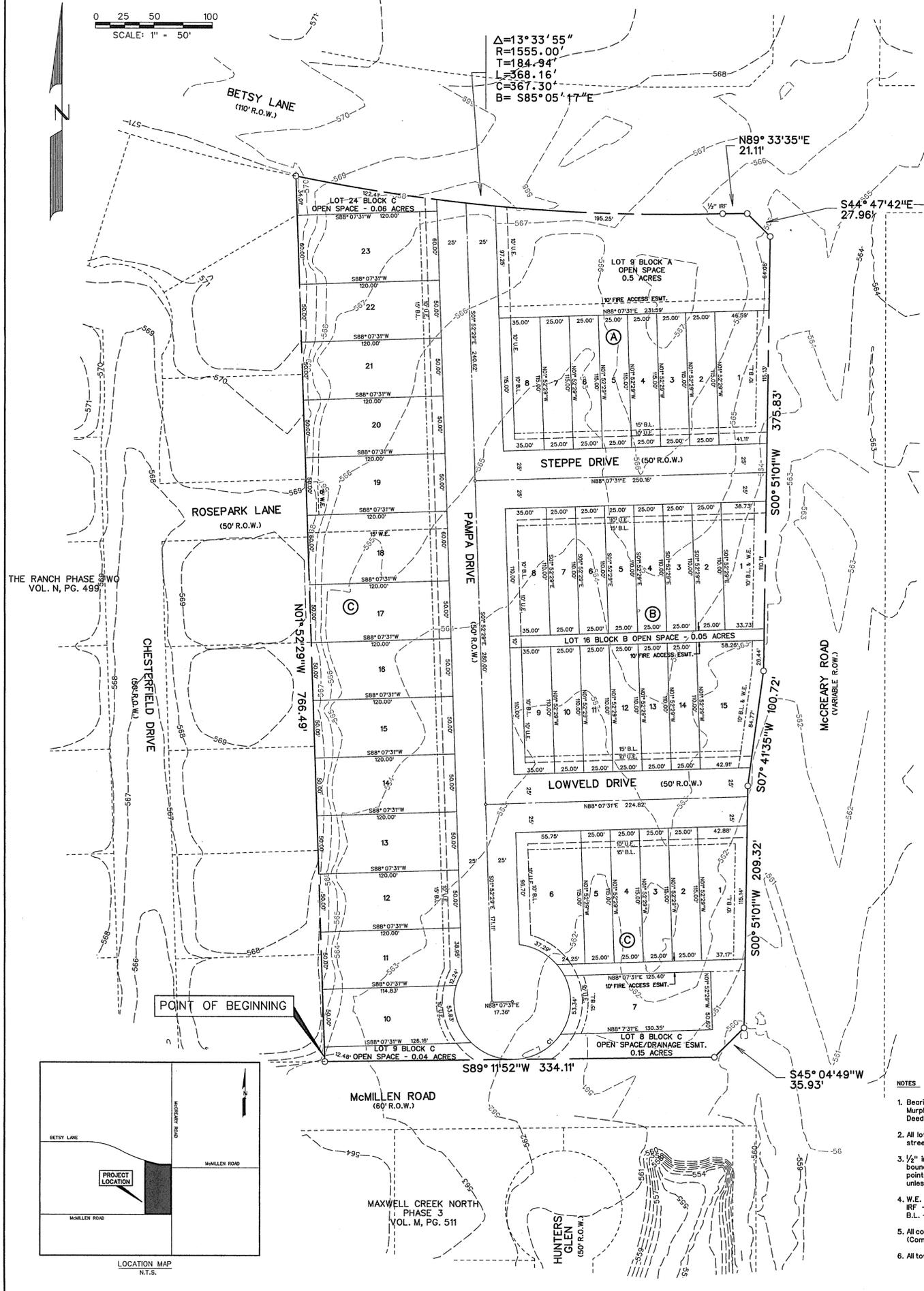
1. This is the final plat consisting of 6.511 acres proposing 15 patio homes at 6000 square feet each and 29 townhomes at 2750 square feet each. This plat has been reviewed by the Development Review Committee and found to meet all the minimum requirements for platting in the Murphy Code of Ordinances. Public improvements have been installed, inspected and found to be satisfactory including punch list items. The Planning and Zoning Commission recommends approval of this plat.
2. Following City Council approval, the plat shall be filed at the county by the property owner.

**Staff Recommendation**

Staff recommends approval of the Final Plat.

**Attachments**

Plat



LEGAL DESCRIPTION

BEING, a tract situated in the C.A. McMillan Survey, Abstract No. 586, Collin County, Texas and being part of a 66.2147 acre tract of land described in a Deed to the SAAM Trust, of Record in Vol. 4536, Pg. 2324, Deed Records of Collin County, Texas, and being more particularly described as follows:

SURVEYOR'S CERTIFICATE

KNOW ALL MEN BY THESE PRESENTS that I, WARREN L. CORWIN, do hereby certify that I prepared this Plat and the field notes from an actual and accurate survey of the land, that the corner monuments shown thereon were properly placed under my personal supervision in accordance with the subdivision Regulations of the City of Murphy, Texas.

WARREN L. CORWIN  
R.P.L.S. No. 4621

THE STATE OF TEXAS  
COUNTY OF COLLIN

Before me, the undersigned, a Notary Public in and for the State of Texas, on this day personally appeared WARREN L. CORWIN, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed same for the purpose and consideration therein expressed.

Given under my hand and seal of office, this day of , 2015.

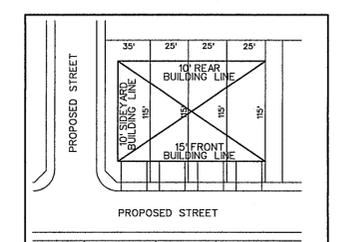
NOTARY PUBLIC, STATE OF TEXAS

CURVE TABLE

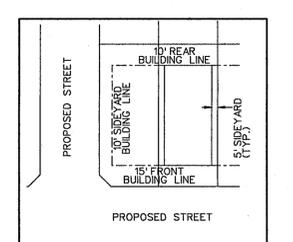
CURVE NO.	DELTA	RADIUS	LENGTH	TANGENT	CHORD	BEARING
1.	66° 41' 53"	50.00'	255.95'	---	54.97'	N63° 33' 53" E

NOTES

- Bearings are referenced to a R.O.W. Dedication to the City of Murphy, recorded in Doc. No. 20120827001067910, in the Deed Records of Collin County, Texas.
- All lot lines are radial or perpendicular to the street unless otherwise noted by bearing.
- 1/2" iron rods with "CORWIN ENGR. INC." caps set at all boundary corners, block corners, points of curvature, points of tangency, and angle points in public right-of-way unless otherwise noted.
- W.E. - Water Easement  
IRF - Iron Rod Found  
B.L. - Building Line
- All common areas to be dedicated to and maintained by the HOA. (Common Area- Lot 9 Blk A, Lot 16 Blk B, Lot 8, 9 & 24 Blk C)
- All townhome lots shall be fire sprinklered.



TYPICAL DETAIL FOR TOWNHOME LOTS TYPE 'B' LOTS (25'x115') MIN. 2,700 SF BLOCK A LOTS 1-8, BLOCK B LOTS 1-15 & BLOCK C LOTS 1-6 TOTAL LOTS 29 N.T.S.



TYPICAL DETAIL FOR PH LOTS TYPE 'A' LOTS (50'x120') MIN. 6,000 SF LOTS 7, 10-23, BLOCK C TOTAL LOTS 15 N.T.S.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

That SAMM TRUST acting herein by and through his(its) duly authorized officer(s), does hereby adopt this plat designating the herein above described property as MURPHY MEADOWS, an addition to the City of Murphy, Texas and does hereby dedicate, in fee simple, to the public use forever, the streets, rights-of-way, and other public improvements shown thereon. The streets and alleys, if any, are dedicated for street purposes. The easements and public use areas, as shown, are dedicated, for the public use forever, for the purposes indicated on this plat. No buildings, fences, trees, shrubs or other improvements or growths shall be constructed or placed upon, over or across the easements as shown, except that landscape improvements may be placed in landscape easements, if approved by the city council of the city. In addition, utility easements may also be used for the mutual use and accommodation of all public utilities desiring to use or using the same unless the easement limits the use to particular utilities, said use by public utilities being subordinate to the public's and city's use thereof. The city and public utility entities shall have the right to remove and keep removed all or parts of any buildings, fences, trees, shrubs or other improvements or growths which may in any way endanger or interfere with the construction, maintenance, or efficiency of their respective systems in said easements. The city and public utility entities shall at all times have the full right of ingress and egress to or from their respective easements for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining, reading meters, and adding to or removing all or parts of their respective systems without the necessity at any time procuring permission from anyone.

The undersigned does covenant and agree that the access easement may be utilized by any person or the general public for ingress and egress to other real property, and for the purpose of general public vehicular and pedestrian use and access, and for fire department and emergency use in, along, upon and across said premises, with the right and privilege at all times of the City of Murphy, its agents, employees, workmen and representatives having ingress, egress, and regress in, along, upon and across said premises.

This plat approved subject to all platting ordinances, rules, regulations and resolutions of the City of Murphy, Texas. WITNESS, my hand, this the day of , 2015.

BY: Murphy Meadows, LLC.

Richard Skorburg, President

STATE OF TEXAS  
COUNTY OF COLLIN

Before me, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared RICHARD SKORBURG, owner, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purpose and considerations therein expressed.

Given under my hand and seal of office, this day of , 2015.

Notary Public in and for the State of Texas  
My commission expires on

CITY APPROVAL OF CONSTRUCTION PLAT

Approved for preparation of final plat following construction of all public improvements (or appropriate sureties thereof) necessary for the subdivision shown on this plat.

RECOMMENDED BY:  
Planning and Zoning Commission

City of Murphy, Texas

Signature of Chairperson Date of recommendation

APPROVED BY: city council  
City of Murphy, Texas

Signature of Mayor Date of approval

ATTEST:

City secretary Date

TOTAL ACRES 6.511  
TOTAL LOTS 44  
TOTAL COMMON AREAS 5

FINAL PLAT OF  
MURPHY MEADOWS

44 TOTAL RESIDENTIAL LOTS  
5 TOTAL OPEN SPACE LOTS

OUT OF THE  
C.A. McMILLAN SURVEY, ABSTRACT NO. 588

IN THE  
CITY OF MURPHY  
COLLIN COUNTY, TEXAS

APPLICANT/OWNER  
MURPHY MEADOWS, LTD.  
8214 WESTCHESTER DRIVE, SUITE 710  
DALLAS, TEXAS 75225  
214-522-4945  
JOHN ARNOLD

PREPARED BY  
CORWIN ENGINEERING, INC.  
TBPE FIRM #5951  
TBPLS #10031700  
200 W. BELMONT, SUITE E  
ALLEN, TEXAS 75013  
972-396-1200  
WARREN CORWIN

SEPTEMBER 2015 SCALE: 1"=50'

**City Council Meeting**  
**August 2, 2016**

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**Issue**

Consider and/or act upon approval of Ordinance No. 16-08-1013 to approve, repeal, rename and/or add various sections to Chapter 4, entitled "Animal Control", and Appendix A – Fee Schedule in the Code of Ordinances of the City of Murphy, Texas.

**Staff Resource/Department**

Arthur Cotten, Chief of Police  
Kim Parker, Support Services Manager

**Summary**

In 2009, the Code of Ordinances was updated to clean up vague language. In the time that has passed, several items have been identified as problem areas or not currently in the ordinance and need to be updated/added. Those areas are as follows:

**Definitions** – added Colony, Domestic or Domesticated animals, Hive, Invisible fence, Owner, and Running at Large.

Added **section 4.01.003 Interference with Animal Control Officer**; False claims/reports (b), (c), (e), (f), (g), and (h).

**Section 4.01.004** (b) changed wording in (b) to read that a person may not keep more than 4 domestic animals total on a residential lot.

**Section 4.01.007** added (f) for invisible fences.

**Section 4.01.009** added(c) to keep persons from selling animals in parking lots, along the roadside, etc. in the City of Murphy.

**Section 4.02.001** (a) changed the wording to allow a City of Parker resident on the Animal Shelter Advisory Board. Also in this section, under (c) #2 was removed from the duties.

**Section 4.02.002** (b) was added and (c) changed the wording for abandoning an animal at the Shelter after the Owner was notified the animal was being housed.

**Section 4.03.004** the wording was changed for the time required for pet registration.

**Section 4.04.001** (g) Livestock licensing was removed and changed to Reporting of Livestock and wording was changed to reflect that all owners of livestock must submit a report detailing the types and numbers of livestock.

**Section 4.04.004** (a) the wording was changed to prohibit loud fowl in the city limits unless the lot size was 1 acre or more and added wording only allowing no more than 2 loud fowl in any combination. (c) the wording was changed to include coop requirements for any fowl. (d) and (e) were added to address pigeons and their enclosures.

**City Council Meeting**  
**August 2, 2016**

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**Section 4.04.006** was added to address the keeping of Bees and the keeping of colonies.

**Section 4.07.012** (b) the wording on sterilization vouchers were removed and replaced with a date to return the animal for sterilization was added.

During the Council meeting on July 19, 2016, Council Member Sarah Fincanon posed the question of why only 2 hens (section 4.04.004b) were allowed in the city and she proposed allowing a maximum of 4. She also requested staff to research surrounding cities for the number they allow. A total of 7 cities were contacted and their responses are attached to this agenda item.

**Action Requested**

Staff recommends Council approve the Ordinance with the recommended changes. OR if you want to be technical, you can use the following for a motion:

To approve to repeal various sections of Chapter 4, entitled "Animal Control", including but not limited to various sections of Article 4.01, entitled "General Provisions", various sections of Article 4.02 Entitled "Animal Shelter Advisory Committee", various sections of Article 4.03, entitled "Registration of Dogs and Cats", various sections of Article 4.04 and renaming Article 4.04 to be entitled "Livestock, Ferrets, Reptiles, Fowl, Rabbits and Bees", various sections of Article 4.05, entitled "Dangerous Animals", various sections of Article 4.06, entitled "Rabies Control", various provisions of Article 4.07, entitled "Impoundment" and repeal the existing section A4.01 entitled "Animal Control Fees" of Article A4.000 entitled "Animal Control Fees" of Appendix "A" entitled "Fee Schedule" and adopting a new Section A4.001 Entitled "Animal Control Fees" of the Code of Ordinances of the City of Murphy, Texas.

**Attachments**

1. Animal Control Ordinance with revisions. The fee schedule is attached as part of this ordinance and will also be included in the new fee schedule Appendix A to be discussed at this meeting.
2. List of cities researched and their ordinance wording regarding the keeping of fowl, specifically the number of hens.
3. List of questions and answers regarding the Ordinance.

**ORDINANCE 16-08-1013**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MURPHY, TEXAS, REPEALING VARIOUS SECTIONS OF CHAPTER 4, ENTITLED “ANIMAL CONTROL”, INCLUDING BUT NOT LIMITED TO VARIOUS SECTIONS OF ARTICLE 4.01, ENTITLED “GENERAL PROVISIONS”, VARIOUS SECTIONS OF ARTICLE 4.02 ENTITLED “ANIMAL SHELTER ADVISORY COMMITTEE”, VARIOUS SECTIONS OF ARTICLE 4.03, ENTITLED “REGISTRATION OF DOGS AND CATS”, VARIOUS SECTIONS OF ARTICLE 4.04 AND RENAMING ARTICLE 4.04 TO BE ENTITLED “LIVESTOCK, FERRETS, REPTILES, FOWL, RABBITS AND BEES”, VARIOUS SECTIONS OF ARTICLE 4.05, ENTITLED “DANGEROUS ANIMALS”, VARIOUS SECTIONS OF ARTICLE 4.06, ENTITLED “RABIES CONTROL”, VARIOUS PROVISIONS OF ARTICLE 4.07, ENTITLED “IMPOUNDMENT” AND REPEALING THE EXISTING SECTION A4.001 ENTITLED “ANIMAL CONTROL FEES” OF ARTICLE A4.000 ENTITLED “ANIMAL CONTROL FEES” OF APPENDIX “A”, ENTITLED “FEE SCHEDULE” AND ADOPTING A NEW SECTION A4.001 ENTITLED “ANIMAL CONTROL FEES” OF THE CODE OF ORDINANCES OF THE CITY OF MURPHY, TEXAS; PROVIDING FOR THE INCORPORATION OF PREMISES; PROVIDING FOR AMENDMENTS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS/REPEALER CLAUSE; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500), EXCEPT THAT VIOLATIONS OF PUBLIC HEALTH AND SAFETY REGULATIONS SHALL BE SUBJECT TO A PENALTY IN AN AMOUNT NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000), FOR EACH DAY OR PORTION THEREOF THAT A VIOLATION OCCURS OR CONTINUES; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of Murphy, Texas (the “City”) recognizes the need for laws regulating animals located within the City to protect the health, safety, and welfare of the public and for the humane treatment of animals; and

**WHEREAS**, staff has reviewed the existing Animal Control Ordinance codified in Chapter 4 entitled “Animal Control” of Title I, entitled “General Ordinances” of the Code of Ordinances of the City of Murphy, Texas and has determined that various regulations contained in Chapter 4 are in need of amendment, and that in addition to adopting amendments, it is necessary to adopt new sections of Chapter 4 to regulate the keeping of bees, the keeping of pigeons, interference with Animal Control Officer, and specifying prohibited locations for the sale of animals; and

**WHEREAS**, in an effort to provide its citizenry with efficient and up to date regulations, the City has determined the need to adopt new regulations governing animal control; and

**WHEREAS**, the City has the authority and the power to adopt regulations relating to the control of the public health of its citizens, the City Council hereby finds and declares that it is in the interest of the public health, safety and general welfare to establish the regulations set forth in this ordinance for the control of animals within the limits of the City of Murphy.

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

**SECTION 1.  
INCORPORATION OF PREMISES**

All of the above premises are found to be true and correct and are incorporated into the body of this Ordinance as if copied in their entirety.

**SECTION 2.  
AMENDMENTS**

**2.01** Section 4.01.001 entitled “Definitions” of Article 4.01, entitled “General Provisions” of Chapter 4, entitled “Animal Control” of Title I, “General Ordinances” of the Code of Ordinances of the City of Murphy is hereby amended to adopt definitions for “Colony”, “Domestic or Domesticated Animal”, “Hive”, and “Invisible Fence”, and to add those terms to the list of existing definitions in alphabetical order, and to amend the definition for “Owner” and for “Running at large, run at large, or at large” each of which shall be and read in their entirety as follows and all other provisions of Section 4.01.001 not expressly amended hereby shall remain the same:

**Sec. 4.01.001            Definitions**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the content clearly indicates a different meaning:

*“Colony.* A Hive and its equipment and appurtenances including bees, comb, honey, pollen and brood.”

*“Domestic or Domesticated Animal.* Includes livestock, caged or penned fowl other than animals belonging to the class Aves, order Falconiforms and subdivision Raptae, normal household pets such as but not limited to dogs,

cats, cockatiels, ferrets, hamsters, guinea pigs, gerbils, rabbits, fish, or small nonpoisonous reptiles or nonpoisonous snakes.”

“Hive. A structure intended for the housing of a bee colony.”

“Invisible Fence. An electronic device or other similar device, whether with a cord or wireless, utilized to restrain an animal upon property.”

“Owner. Any person, partnership, corporation, association or legal entity that harbors, shelters, keeps, controls, manages, possesses or has whole or part interest in any animal. The occupant, owner or head of household of any premises where an animal remains for seventy-two (72) hours or more shall be reputedly presumed to be the owner of the animal, unless the animal has been reported to Animal Control as a stray animal. An occupant of any premises on which a dog or cat remains or customarily returns to is an owner for purposes of this chapter. If a person under the age of seventeen (17) years owns an animal the parent, legal guardian, or the head of household shall be the owner for purposes of this chapter. There may be more than one (1) person responsible for an animal. This term shall include persons who are in temporary possession of the animal, including but not limited to pet sitters and trainers.”

“Running at large, run at large, or at large.”

(1) At Large Off premises. Any dog which is not restrained by means of a leash or chain of not more than six (6) feet in length and such leash or chain is of sufficient strength to control the actions of such animal while off premises.

(2) At Large On premises. Any dog not confined by premises of owner by a substantial visible fence of sufficient strength and height to prevent the animal from escaping therefrom, or secured on the premises by a metal chain or leash sufficient in strength to prevent the animal from escaping from premises and so arranged that the animal will remain upon the premises when the leash is stretched to full length.

(3) A dog intruding upon the property of another person other than the owner shall be termed “at large.” Any animal within an automobile or other vehicle of its owner or owner’s agent shall not be deemed “at large.”

**2.02.** Section 4.01.003 entitled “Authority to enforce” of Article 4.01, entitled “General Provisions” of Chapter 4, entitled “Animal Control” of Title I, “General Ordinances” of the Code of Ordinances of the City of Murphy is hereby amended so that Section 4.01.003 shall be entitled “Authority to Enforce; Interference with Animal Control Officer; False Claims/Reports” and regulations regarding interference with animal control and filing false

claims are hereby adopted as set forth below so that Section 4.01.003 shall be and read in its entirety as follows:

**“Sec. 4.01.003 Authority to Enforce; Interference with Animal Control Officer; False Claims/Reports**

(a) The animal control supervisor or designee is designated as the local rabies control authority for the purposes of V.T.C.A., Health and Safety Code Chapter 826, as amended. The local rabies control authority shall enforce:

(1) The Rabies Control Act of 1981, V.T.C.A., Health and Safety Code Chapter 826, as amended, and the rules adopted by the state board of health that comprise the minimum standards for rabies control;

(2) The ordinances and rules of the city; and

(3) The rules adopted by the state board of health under the area rabies quarantine provisions of V.T.C.A., Health and Safety Code sec. 826.045, as amended.

(b) A person commits an offense if the person fails to comply with any lawful order of an animal control officer issued by the officer during the enforcement of this chapter, state, local or federal laws.

(c) A person commits an offense if the person prevents, interferes with, obstructs, or gives false information to any animal control officer who is lawfully discharging duties under this chapter, state, local or federal laws.

(d) For purposes of discharging duties imposed by the provisions of this chapter, or other applicable laws, and to enforce the same, an animal control officer may enter upon private property to the full extent permitted by law, which shall include, but not be limited to, entry upon private unfenced property, except dwellings located thereon, when in pursuit of any animal which he has reason to believe is subject to impoundment pursuant to the provisions of this chapter or other applicable laws.

(e) All animal control officers of the city shall have the authority to issue citations for any violation of this chapter and shall have all other authority or duty stated within the terms of this chapter.

(f) Any animal control officer or police officer shall have the authority to humanely euthanize and/or destroy any animal in accordance with the provisions of this chapter.

(g) A person commits an offense if the person makes a claim of ownership for an animal that they know is false.

(h) A person commits an offense if the person makes a report of a violation of city ordinance or state, local or federal law that they know is false.”

**2.03.** Section 4.01.004 entitled “Limitation of number of animals” of Article 4.01, entitled “General Provisions” of Chapter 4, entitled “Animal Control” of Title I, “General Ordinances” of the Code of Ordinances of the City of Murphy is hereby amended to add subsection 4.01.004 (b) which shall be and read in its entirety as follows and all other provisions of Section 4.01.004 not expressly amended hereby shall remain the same:

**“Sec. 4.01.004      Limitation of number of animals**

...

“(b) It shall be unlawful for any Person to keep within the city, in any residential district, more than four (4) adult domesticated animals on a residential lot (dogs, cats, or ferrets). The residence shall be permitted to keep one (1) litter only at any given time.”

**2.04.** Section 4.01.006 entitled “Conditions constituting nuisance” of Article 4.01, entitled “General Provisions” of Chapter 4, entitled “Animal Control” of Title I, “General Ordinances” of the Code of Ordinances of the City of Murphy is hereby amended so that Subsection 4.01.006(a) and Subsection 4.01.006(b) shall be and read in their entirety as follows and all other provisions of Section 4.01.006 not expressly amended hereby shall remain the same:

**Sec. 4.01.006      Conditions constituting public nuisances**

“(a) A person commits an offense if he knowingly harbors an animal that unreasonably barks, howls, crows or makes other unreasonable noise near a private residence that disturbs the peace and quiet of any person of ordinary sensibility.

(1) A person who is disturbed by an animal that unreasonably barks, howls, crows or makes other unreasonable noise near a private residence may file a complaint with the animal control division. A complaint must include the name and address of the complainant, the exact address of the disturbance, the type of animal causing the disturbance and the times that the animal is causing the disturbance.

(2) An animal control officer shall hand-deliver or mail the owner of the animal a notice that a disturbance complaint has been received.

(3) If an owner continues to allow his animal to cause a disturbance after the receipt of the notice of complaint, the complainant may file a complaint in writing with the municipal court.

(b) It shall be unlawful for the owner to permit, either willfully or through failure to exercise care and control, any such dog or other domesticated animal to defecate upon the sidewalk or parkway or any public street, or upon the floor of any common hall in any entranceway or stairway, or upon any wall of any public place or building or public park, and any private property not his own, if the owner or handler of the offending animal fails to remediate or clean up the waste deposited by the animal.”

**2.05.** Section 4.01.007 entitled “Animal care rules” of Article 4.01, entitled “General Provisions” of Chapter 4, entitled “Animal Control” of Title I, “General Ordinances” of the Code of Ordinances of the City of Murphy is hereby amended to revise subsection 4.01.007(d) and to add a new subsection 4.01.007(f) which shall be and read in their entirety as follows and all other provisions of Section 4.01.007 not expressly amended hereby shall remain the same:

**“Sec. 4.01.007 Animal care rules**

....

(d) It shall be unlawful for a person to use a chain, rope, tether, leash, cable, or other device to attach a dog to a stationary object in violation of state law, or in a manner that could potentially harm the animal or the public.

...

(f) It shall be unlawful for any person to utilize an invisible fence, wireless containment device or other similar device to restrain an animal.”

**2.06.** Section 4.01.008 entitled “Cruelty to animals” of Article 4.01, entitled “General Provisions” of Chapter 4, entitled “Animal Control” of Title I, “General Ordinances” of the Code of Ordinances of the City of Murphy is hereby amended so that Subsection 4.01.008(6) shall be and read in its entirety as follows all other provisions of Section 4.01.008 not expressly amended hereby shall remain the same:

**Sec. 4.01.008 Cruelty to animals**

The following regulations are established for pet and animal care and are not intended to contravene the provisions for animal cruelty as contained in Texas Penal Code 42.09 and 42.092, as amended.

...

“(6) No person shall leave any animal in any standing or parked vehicle in such a way as to endanger the animal’s health or safety. Any animal control officer or police officer is authorized to use reasonable force, including the breaking of any side window, to remove the animal from a vehicle whenever it appears the animal’s health or safety is or soon will be endangered, and said neglect or endangered animal shall be impounded.”

**2.07.** Section 4.01.009 entitled “Selling baby fowl or rabbits” of Article 4.01, entitled “General Provisions” of Chapter 4, entitled “Animal Control” of Title I, “General Ordinances” of the Code of Ordinances of the City of Murphy is hereby amended to be entitled “Selling baby fowl or rabbits; dyed fowl or rabbits; prohibited locations” and to add subsection 4.01.009 (c) which shall be and read in its entirety as follows all other provisions of Section 4.01.009 not expressly amended hereby shall remain the same:

**Sec. 4.01.009 Selling baby fowl or rabbits; dyed fowl or rabbits; prohibited locations**

”(c) It shall be unlawful for any person to sell, exchange, trade, barter, lease, rent, give away, or display for a commercial purpose any live animal on any roadside, public right-of-way, parkway, median, park, playground, swimming pool, other recreation area, flea market, or commercial or retail parking lot that is generally accessible by the public, regardless of whether such access is authorized.”

**2.08.** Section 4.02.001 entitled “Animal shelter advisory committee” of Article 4.02, entitled “Animal Shelter” of Chapter 4, entitled “Animal Control” of Title I, “General Ordinances” of the Code of Ordinances of the City of Murphy is hereby amended so that Subsection 4.02.001 (a) entitled “Established; composition” and Subsection 4.02.001(c) entitled “Duties” shall be and read in their entirety as follows and all other all other provisions of Section 4.02.001 not expressly amended hereby shall remain the same:

**Sec. 4.02.001 Animal shelter advisory committee**

“(a) Established; composition. The city council shall appoint a six-person animal shelter advisory committee. The committee shall be composed of one licensed veterinarian, one municipal official, one person whose duties include the daily operation of the animal shelter and is employed by the city as an animal control officer, one representative from an animal welfare organization, and two (2) citizens, one (1) of whom may be a resident of the City of Parker.

....

(c) Duties. The animal shelter advisory committee shall be limited to the following tasks and responsibilities:

- (1) The animal shelter advisory committee shall meet to discuss ideas that will help ensure that the animal shelter is in compliance with the department of state health services rules pertaining to animal shelters;”

**2.09.** Section 4.02.002 entitled “Removal of animals from animal shelter; abandonment of animals at animal shelter” of Article 4.02, entitled “Animal Shelter” of Chapter 4, entitled “Animal Control” of Title I, “General Ordinances” of the Code of Ordinances of the City of Murphy is hereby amended so that Subsection 4.02.002(b) and Subsection 4.02.002 (c) shall be and read in their entirety as follows and all other all other provisions of Section 4.02.002 not expressly amended hereby shall remain the same:

**Sec. 4.02.002 Removal of animals from animal shelter; abandonment of animals at animal shelter**

...

“(b) A person commits an offense if he abandons an animal at the City animal shelter without the authorization of the City or abandons an animal at any location within the City.

(c) In addition to other applicable offenses under this Chapter, a person commits an offense if he is the Owner of an animal, and after being notified that the City has possession of his animal, he leaves an animal unattended at the city animal shelter.”

**2.10.** Section 4.03.003 entitled “Duplicate certificates” of Article 4.03, entitled “Registration of Dogs and Cats” of Chapter 4, entitled “Animal Control” of Title I, “General Ordinances” of the Code of Ordinances of the City of Murphy is hereby amended so that Section 4.03.003 shall be and read in its entirety as follows:

**Sec. 4.03.003 Duplicate certificates**

“If the original current metal registration certificate is lost or destroyed, the owner may obtain a duplicate registration from the animal control division for the fee in accordance with the adopted fee schedule in Appendix A of this code.”

**2.11.** Section 4.03.004 entitled “Expiration” of Article 4.03, entitled “Registration of Dogs and Cats” of Chapter 4, entitled “Animal Control” of Title I, “General Ordinances” of the Code of Ordinances of the City of Murphy is hereby amended so that Section 4.03.004 shall be entitled “Registration Expiration” and shall be and read in its entirety as follows:

**Sec. 4.03.004 Registration Expiration**

“A tag shall be valid only for the animal for which it was originally issued. The Owner shall obtain a city registration within thirty (30) days following receipt of the rabies vaccination of any dog or cat. The registration and tag shall be renewed by Owner on an annual basis.”

**2.12** Article 4.04 entitled “Livestock, Ferrets, Reptiles, Fowl and Rabbits” of Chapter 4, entitled “Animal Control” of Title I, “General Ordinances” of the Code of Ordinances of the City of Murphy is hereby amended so that Article 4.4 shall be entitled “Livestock, Ferrets, Reptiles, Fowl, Rabbits and Bees”.

**2.13.** Section 4.04.001 entitled “Livestock” of Article 4.04, entitled “Livestock, Ferrets, Reptiles, Fowl, Rabbits and Bees” of Chapter 4, entitled “Animal Control” of Title I, “General Ordinances” of the Code of Ordinances of the City of Murphy is hereby amended so that Subsection 4.04.001(a), entitled “Keeping swine”, Subsection (b) entitled “Number of horse”, Subsection (d) entitled “Requirements for pens and enclosures” and Subsection (g) entitled “Reporting of livestock” shall be and read in their entirety as follows and all other all other provisions of Section 4.04.001 not expressly amended hereby shall remain the same:

**Sec. 4.04.001 Livestock**

“(a) Keeping swine. It shall be unlawful for a person to keep any swine within the city limits.”

“(b) Number of livestock. It shall be unlawful for any person or corporation to keep livestock on any premises the overall area of which is less than one acre. The number of livestock permitted shall not exceed two adults (over six months of age) for the first one acre and one adult for each additional one half acre. The number of livestock less than six months of age and horses (miniature variety), sheep, goats less than 34 inches in height at the withers shall not exceed four for the first one acre and three for each additional one half acre.”

...

“(d) Requirements for pens and enclosures. It shall be unlawful to erect a structure/building upon property within the City for the housing or keeping of livestock which is within 40 feet of the property boundary line and 100 feet of the residence of any person other than the owner. A ten-foot by 12-foot stall or enclosure under roof is required for each adult livestock. Offspring may remain with the female parent in the same stall or enclosure until six months of age. In addition, there must be at least 2,000 square feet of fenced exercise area/pasture for each adult. Horses (miniature variety), sheep and goats less than 34 inches in height at the withers shall be provided a stall or enclosure minimum four feet by eight feet under roof for each adult and 500 square feet of fenced exercise area/pasture. Fencing shall be at least four feet in height, or five feet high in the case of breeding-capable males. Fencing must be of proper strength to contain livestock and maintained in good repair at all times.”

...

“(g) Reporting of livestock. All livestock owners are required to submit a report to animal control listing all animals (species, sex, and age), contact information for the owner, contact information for the veterinarian, and emergency contacts. Reports shall be updated annually and shall be submitted to the City on or before January 1 of each year. “

**2.14** Section 4.04.004 entitled “Fowl” of Article 4.04, entitled “Livestock, Ferrets, Reptiles, Fowl, Rabbits and Bees” of Chapter 4, entitled “Animal Control” of Title I, “General Ordinances” of the Code of Ordinances of the City of Murphy is hereby amended so that Subsection 4.04.004 shall be entitled “Fowl; Pigeons” and shall be and read in its entirety as follows:

**“Sec. 4.04.004 Fowl; Pigeons**

(a) The keeping of loud fowl such as roosters, ducks, turkeys, geese, peacocks, guineas, or other such loud fowl within the city limits upon a lot less than one (1) acre or in any pen, coop or enclosure, including without limitation, a fence, that is on a lot less than one (1) acre, business or school shall be prohibited. No more than two (2) loud fowl of any combination shall be permitted on a single lot over one (1) acre.

(b) No person shall keep more than two hens in an area zoned residential within the city, and shall be no closer than 50 feet to the nearest inhabited dwelling, other than that of the owner.

(c) Any fowl kept within the city limits as authorized by this section shall be in a secure pen, coop or enclosure, and such structure shall be of such construction and strength to keep such animals from running at large. A coop shall be a

minimum size of two (2) square feet for each fowl and eight (8) square feet for each fowl when enclosed in an outside enclosed pen.

(d) Pigeons shall be kept in an enclosure or coop that is located no closer than thirty (30) feet from any residential dwelling, other than that of the owner and no closer than fifty (50) feet to a swimming pool on an adjoining or adjacent property.

(e) When a pigeon(s) is outside of its enclosure or coop, the owner shall ensure that the pigeon(s) do not roost on or about a dwelling, structure, or other property owned by another. and do not interfere with a neighbor's enjoyment of his property."

**2.15** Article 4.04, entitled "Livestock, Ferrets, Reptiles, Fowl, Rabbits and Bees" of Chapter 4, entitled "Animal Control" of Title I, "General Ordinances" of the Code of Ordinances of the City of Murphy is hereby amended to add a new Section 4.04.006 which shall be and read in its entirety as follows:

**"Sec. 4.04.006 Bees**

(a) Keeping. It shall be unlawful for any owner, person, or beekeeper to keep any colonies in such a manner or of such disposition as to cause any unhealthy condition, interfere with the normal use and enjoyment of human or animal life of others, or interfere with the normal use and enjoyment of any public property or property of others.

(b) Hives. All bee colonies shall be kept in "Lang Troth" type hives with removable frames, which shall be kept in sound and useable condition.

(c) Water. Each beekeeper shall ensure that a convenient source of water is available at all times to the bees so that the bees will not congregate at swimming pools, bibcock's, pet watering bowls, birdbath, or other water sources where they may cause human, bird, or domestic pet contact.

(d) Queens. In any instance in which a colony exhibits unusually aggressive characteristics by stinging or attempting to sting without provocation or exhibits an unusual disposition towards swarming, it shall be the duty of the beekeeper to promptly "re-queen" the colony. Queens shall be selected from stock bred for gentleness and no swarming characteristics.

(e) Colony densities. It shall be unlawful to keep more than the following number of colonies on any lot:

1. One half acre lots or less of lot size: two colonies;
2. Larger than one half up to one acre of lot size: four colonies

Regardless of lot size, where all hives are situated at least 100 feet in any direction from all property lines of the lot on which the apiary is situated, there shall be no limit to the number of colonies.

(f) Marking Hives. The name, address, and telephone numbers of the owner or beekeeper shall be painted or otherwise clearly marked upon the structure of each hive.

(g) Compliance. The animal control manager, upon determination that any colony situated within the city is not being kept in compliance with this section, may order the bees removed from the city or relocated.”

**2.16.** Section 4.05.007 entitled “Keeping of wild animals” of Article 4.05, entitled “Dangerous Animals” of Chapter 4, entitled “Animal Control” of Title I, “General Ordinances” of the Code of Ordinances of the City of Murphy is hereby amended so that Section 4.05.007 shall be and read in its entirety as follows:

**“Sec. 4.05.007 Keeping of wild animals**

(a) It shall be unlawful to keep any wild animal within the city limits, with the following exceptions:

- (1) If a person housing such wild animal(s) has complied with all applicable federal, state, and local laws and regulations, including, but not limited to, the acquisition and retention of all applicable permits and registrations, said person may retain dangerous wild animals(s) in compliance with all federal, state and local laws, including, but not limited to V.T.C.A., Health and Safety Code Chapter 822, as amended;
- (2) A governmental agency or entity acting in an official capacity;
- (3) A government-operated zoological park;
- (4) A permitted wildlife educational center, animal exhibitions with valid state or federal permits; or
- (5) A holder of an animal dealer or animal establishment with a wild animal permit. The possessor of any dangerous wild animal shall have all applicable state and federal permits to possess the species in question.

(b) Animal establishments or animal dealers who hold a Wild/Exotic Animal permit shall make written application to the animal control supervisor to permanently keep each dangerous wild animal in their possession. The application must include the species and location of the animal, at least two pictures that clearly identify the wild animal, and proof that the establishment, center, or person is in possession of the necessary state and federal permit(s) to possess such species.”

**2.17.** Section 4.06.007 entitled “Animal exposed to rabies” of Article 4.06, entitled “Rabies Control” of Chapter 4, entitled “Animal Control” of Title I, “General Ordinances” of the Code of Ordinances of the City of Murphy is hereby amended so that Subsection 4.06.007 (b) shall be and read in its entirety as follows and all other provisions of Section 4.06.007 not expressly amended hereby shall remain the same:

**“Sec. 4.06.007      Animals exposed to rabies**

...

(b) For any animal [known] to have been, or suspected of being, exposed to rabies, the following rules shall apply:

(1) Animals having a current vaccination must be revaccinated immediately and confined at the animal shelter, by a licensed veterinarian, or if approved by an animal control officer, home quarantine for a period of not less than 45 days.

(2) Animals not having a current vaccination should be humanely destroyed. However, if the owner of such an animal elects, the animal may be confined at the animal shelter or by a licensed veterinarian. Home quarantine will only be allowed if approved by an animal control officer and the owner complies with all requirements of this Chapter, including without limitation Section 4.06.010, as amended. Such animal must be vaccinated immediately following exposure and confined for not less than 90 days. A revaccination shall be administered on the third and eighth week prior to release from confinement.

**2.18** Section 4.06.008 entitled “Declaration of area quarantine” of Article 4.06, entitled “Rabies Control” of Chapter 4, entitled “Animal Control” of Title I, “General Ordinances” of the Code of Ordinances of the City of Murphy is hereby amended so that Subsection 4.06.008 shall be and read in its entirety as follows:

**“Sec. 4.06.008      Declaration of area quarantine**

Should a potential outbreak of rabies within the city be suspected and the danger to the public safety from rabid animals be reasonably imminent, the local rabies

authority is hereby authorized to issue a quarantine proclamation, ordering persons owning, keeping, or harboring dogs or other animals to muzzle the same or confine them in such quarantine proclamation by local newspaper and/or website or other medium. Owners of such animals shall confine the animals to premises owned, leased or controlled by the Owner unless the animals are effectively muzzled and under the control of an adult person by leash, cord, chain, or rope and complying with all requirements of this Chapter. Animals found at large in violation of this section may be destroyed by an animal control officer or police officer of the city if such officer is unable, with reasonable effort, to apprehend such animal for impoundment.”

**2.19** Section 4.07.005 entitled “Redemption of animal” of Article 4.07, entitled “Impoundment” of Chapter 4, entitled “Animal Control” of Title I, “General Ordinances” of the Code of Ordinances of the City of Murphy is hereby amended so that Subsection 4.07.005 shall be and read in its entirety as follows:

**“Sec. 4.07.005      Redemption of animal**

An Owner can regain possession of any impounded animal upon payment of impoundment fees, handling fees and any veterinarian bills incurred by the animal control division for the welfare of the animal and upon compliance with vaccination and registration provisions of this chapter. Any person owning any animal impounded under this article shall be allowed to take such animal from the animal shelter or other place where impounded upon the following conditions:

- (1) Payment to the city of an impoundment fee as described in the fee schedule in [appendix A](#) of this code, plus an amount established in the adopted fee schedule in [appendix A](#) of this code per day or fractional part thereof for handling fees for each day impounded.
- (2) If the owner cannot provide proof of a current rabies vaccination, the animal must be revaccinated or vaccinated for rabies within five days of being reclaimed by the owner of the impounded animal. Animals less than 12 weeks of age will not require a rabies vaccination in order to be released.”

**2.20** Section 4.07.006 entitled “Disposition of unclaimed animals” of Article 4.07, entitled “Impoundment” of Chapter 4, entitled “Animal Control” of Title I, “General Ordinances” of the Code of Ordinances of the City of Murphy is hereby amended so that Subsection 4.07.006 shall be and read in its entirety as follows:

**Sec. 4.07.006 Disposition of unclaimed animals**

“If the owner has not redeemed such impounded animal within three (3) days from its capture and impoundment, the animal shall become the property of the City and may be given to a nonprofit humane organization, placed for adoption, or humanely destroyed as deemed appropriate by the animal control officer. Animals wearing a current city license tag will be held for six days prior to their disposition.”

**2.21** Section 4.07.007 entitled “Owner relinquishing responsibility” of Article 4.07, entitled “Impoundment” of Chapter 4, entitled “Animal Control” of Title I, “General Ordinances” of the Code of Ordinances of the City of Murphy is hereby amended so that Subsection 4.07.007 shall be and read in its entirety as follows:

**Sec. 4.07.007 Owner relinquishing responsibility**

“An owner who no longer wishes responsibility for an animal, or does not desire to regain possession of an impounded animal, may, upon signing a waiver in a form provided by the animal control division, allow the animal to be placed for adoption, given to a humane nonprofit organization, or humanely destroyed as deemed appropriate by the animal control officer; provided, however, that the animal has not bitten a human within the last ten days of the owner wanting to relinquish his responsibility of ownership.”

**2.22** Section 4.07.008 entitled “Sick or injured animals” of Article 4.07, entitled “Impoundment” of Chapter 4, entitled “Animal Control” of Title I, “General Ordinances” of the Code of Ordinances of the City of Murphy is hereby amended so that Subsection 4.07.008 shall be and read in its entirety as follows:

**Sec. 4.07.008 Sick or injured animals**

“Any impounded animal which has been seriously injured or is seriously ill may be euthanized immediately to prevent suffering, or given to a nonprofit humane organization for the purpose of veterinary medical care, as deemed appropriate by an animal control officer. The animal shelter shall not be responsible for providing veterinary care for any sick or injured animal nor shall the City be liable for any property damage as a result of euthanization or conveyance of such animal.”

**2.23** Section 4.07.010 entitled “Baby animals” of Article 4.07, entitled “Impoundment” of Chapter 4, entitled “Animal Control” of Title I, “General Ordinances” of the Code of Ordinances of the City of Murphy is hereby amended so that Section 4.07.010 shall be and read in its entirety as follows:

**Sec. 4.07.010      Baby animals**

“Any nursing baby animal impounded without the mother or where the mother cannot or refuses to provide nutritious meals may be immediately euthanized to prevent suffering or given to an individual or to a nonprofit humane organization for the purpose of caring for such animal as determined appropriate by the animal control officer.”

**2.24** Section 4.07.012 entitled “Adoption of animals” of Article 4.07, entitled “Impoundment” of Chapter 4, entitled “Animal Control” of Title I, “General Ordinances” of the Code of Ordinances of the City of Murphy is hereby amended so that Subsection 4.07.012(b) shall be and read in its entirety as follows and all other provisions of Section 4.07.012 not expressly amended hereby shall remain the same:

**Sec. 4.07.012      Adoption of animals**

“(b) The adoption fee includes sterilization, rabies vaccine, microchipping, and first combo vaccinations. Persons who adopt an animal under four (4) months of age will be provided with a date to return the animal to the animal shelter for sterilization and rabies vaccination.”

**2.25** Section A4.001 entitled “Animal Control Fees” of Article A4.000 entitled “Animal Control Fees” of Appendix A, entitled “Fee Schedule”, of the Code of Ordinances of the City of Murphy is hereby repealed in its entirety and a new Section A4.001 entitled “Animal Control” is hereby adopted and shall be and read in its entirety as follows:

**A4.000      ANIMAL CONTROL FEES****“Sec. A4.001.      ANIMAL CONTROL FEES**

a)	Animal impound fee *	(1) 1 <sup>st</sup> impound	\$50.00
		(2) 2 <sup>nd</sup> impound	\$75.00
		(3) 3 <sup>rd</sup> impound	\$125.00
		(4) 4 <sup>th</sup> impound and up	\$150.00
b)	Daily handling fee		\$10.00 per day
c)	Pet registration	(1) Sterilized	\$10.00 per year
		(2) Non-Sterilized	\$15.00 per year
d)	Dangerous animal registration	Per animal	\$50.00 per year
e)	Dog or cat adoption fee (sterilized)	Per animal	\$85.00
f)	Dog or cat adoption fee (not sterilized)	Per animal	\$45.00
g)	Shipping for rabies testing	Per animal	Actual Costs
h)	Quarantine fee	Per animal	\$150.00
i)	Microchipping fee	Per animal	\$20.00
j)	Euthanasia fee	Per animal	\$25.00

k)	Disposal fee	Per animal	\$25.00
l)	Owner surrender fee	Per animal	\$20.00
m)	Duplicate animal registration fee	Per animal	\$5.00
n)	Wild/Exotic animal registration fee	Per animal	\$50.00

\*These fees are above and beyond any fines for citations related to violations of city ordinance or state laws.”

### **SECTION 3. 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 any such unconstitutional phrase, clause, sentence, paragraph or section.

### **SECTION 4. SAVINGS/REPEALER CLAUSE**

Any provision of any prior ordinance of the City whether codified or uncoded, which are in conflict with any provision of the Ordinance, are hereby repealed to the extent of the conflict, but all other provisions of the ordinances of the City whether codified or uncoded, which are not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

### **SECTION 5. PENALTY**

It shall be unlawful for any Person to intentionally, knowingly or recklessly violate or fail to comply with any provision of this ordinance. Such person shall be fined, upon conviction, not less than One Dollar (\$1.00) nor more than Five Hundred Dollars (\$500.00), except that violations of provisions of this Ordinance that govern public health and sanitation, other than vegetation and litter violations, shall be punishable by a fine of not less than One Dollar (\$1.00) nor more than Two Thousand Dollars (\$500.00), as

authorized by state law. A separate offense shall be deemed committed upon each day or portion thereof upon which a violation occurs or continues.

**SECTION 6.  
EFFECTIVE DATE – PUBLICATION**

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

**DULY PASSED, APPROVED AND ADOPTED** by the City Council of the City of Murphy, Texas, on this the 2nd day of August, 2016.

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Eric Barna, Mayor  
City of Murphy

ATTEST:

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Susie Quinn, City Secretary  
City of Murphy

APPROVED AS TO FORM:

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Wm. Andrew Messer, City Attorney

**List of cities researched for Ordinances regarding "Fowl"**

<b>City</b>	<b>Allows or Does Not Allow</b>
<b>Plano Animal Services</b>	Does not allow fowl of any kind within the city limits
<b>Allen Animal Services</b>	Does not allow fowl of any kind within the city limits
<b>Garland Animal Services</b>	Does allow no more than 4 in any combination and the pen enclosure has to be at least 30ft from any residence
<b>Richardson (Humane Society)</b>	Does not allow fowl of any kind within the city limits
<b>Rowlett Animal Services</b>	Does allow no more than 2 hens and no closer than 50ft to any residence
<b>Wylie Animal Services</b>	Does not allow fowl of any kind within the city limits
<b>Sachse Animal Services</b>	Allows residents having property ½ acre or more to have a maximum of 15 hens. If property is under ½ acre they are not allowed fowl of any kind. Loud fowl is prohibited within the city limits

**City of Murphy**  
**Questions on the Proposed Changes to Animal Control Ordinance for the City**

Reference Number	Ordinance Section	Question/Comment	Response
1	4.01.001	<u>Owner</u> . What is the purpose of the inclusion of the phrase in the middle of the definition "An occupant of any premises on which a dog or cat remains or customarily returns to is an owner for purposes of this chapter"?	In the past we have had problems with children over the age of 18 that still live at home with their parents that own animals. If the children are not able to make decisions concerning their animals, the parents at this time are not able to.
2	4.01.001	Should the above change include all "Domestic or Domesticated Animal"?	
3	4.01.001	<u>Domestic or Domesticated Animal</u> . The phrase at the end of the section "...small nonpoisonous reptiles or nonpoisonous snakes." is redundant as snakes are reptiles.	There are other reptiles that are nonpoisonous that residents can have other than snakes. Ex. Bearded dragons, geckos, turtles, etc.
4	4.01.001	<u>Running at large, run at large, or at large. (1) At Large Off Premises</u> . Limiting the definition of restraint to a chain of 6 feet in length is too restrictive. Many, perhaps most, people today use chains that are variable up to 15 feet in length.	A standard handheld leash is 6ft and gives the owner good control of the animal. If an animal is on a longer leash, the owner does not have as much time to gain control of the animal if the situation arises.
5	4.01.003 (c)	Do we really need to include "...or gives false information..." in an Animal Control ordinance?	Yes. We have had people lie on bite reports or about the facts involving bites to keep the animal out of quarantine.
6	4.01.004 (b)	Domesticated Animal is a defined term. Why would we restrict this section to "dogs, cats, or ferrets"?	These are the only 3 deemed by the state to have the rabies vaccination and that can be quarantined for bites.
7	4.01.006 (a)	Is "... ordinary sensibility" and generally understood concept?	

City of Murphy

Questions on the Proposed Changes to Animal Control Ordinance for the City

Reference Number	Ordinance Section	Question/Comment	Response
8	4.01.007 (d)	Do we need "...or in a manner that could potentially harm the animal or the public" or is state law sufficient?	Yes. Our local ordinance can be stronger than state law and this allows the ACO to determine the manner is incorrect. There is no wording in state law that deals with that.
9	4.01.007 (f)	I understand the provision as it relates to a person containing an animal on his property in a subdivision. Would it also apply to a person using one of the described devices to contain an animal close to his house on a large, fenced parcel?	If the parcel is fenced and capable of restraining the animal without the invisible fence, then I would say they could use it. However, if the fence is not of sufficient strength to contain the animal, and would allow the animal to run at large and the invisible fence was the only thing used to contain it, I would say no.
10	4.02.001 (a)	I don't think there is enough independent Murphy resident representation on the Animal Shelter Advisory Committee as it is currently defined and I see no reason to add a resident of Parker. Parker is a customer of the shelter, not an owner.	The ASAC is not limited to only 2 residents. State law states that there will be a minimum of 2; more could be added if Council feels the change should be made. Since Murphy services the City of Parker for animal related calls, I feel they should be allowed to have one resident on the board if they chose.
11	4.02.001 (a)	We should conform the qualifications of the "non-professional" members of the committee to the requirements in the city charter.	State Law sets the parameters of the Board.
12	4.02.001 (c) (2)	What duties have been removed?	Recommendations to Policies/Procedures & Operations
13	4.02.002 (b)	Is "abandon" defined?	Yes

**City of Murphy**  
**Questions on the Proposed Changes to Animal Control Ordinance for the City**

Reference Number	Ordinance Section	Question/Comment	Response
14	4.02.002 (b)	Why wouldn't we want people to abandon their pets at the Animal Shelter rather than to drop them on the side of the road?	This applies to people who come to the shelter when no one is there and leaves them at the front door or tied up outside without notifying anyone they are there. Shelter staff take in any animal from a resident that would like to owner surrender; when the animal is left without knowing it puts the animal at risk if no one knows they are there.
15	4.02.002 (c)	Is there a time that must elapse before an offense is committed?	No. It is a reasonable time after all efforts have been made to have the owner retrieve their animal. Each situation is different and sometimes after being contacted an emer. comes up. ACO's work with each person individually. If a time was needed then my recommendation would be 48 hours. If owners that are notified do not want to come in and pick their animals up, they are given the option to owner surrender.
16	4.03.004	What is the current time requirement for registration?	30 days following rabies vaccination. The time limit is still the same, the wording was cleaned up to make it less confusing.
17	4.04.001	Is Livestock a defined term?	Yes. It is separated out between Large and Small livestock
18	4.04.001 (a)	Is a blanket prohibition required?	Yes. The city has never allowed swine in the city and when the rezoning is complete, there will be no areas in the city designated as agriculture.
19	4.04.001	Are we aware of any current violation of this section of the ordinance as proposed?	Other than livestock reporting, No.

## City of Murphy

## Questions on the Proposed Changes to Animal Control Ordinance for the City

Reference Number	Ordinance Section	Question/Comment	Response
20	4.04.004	Are we aware of any current violation of this section of the ordinance as proposed?	There is one location that I believe is in violation of the loud fowl section, however we have not had any complaints for some time. As for the hens, I do not believe there are any but they will be responsible for the new pen/coop requirements
21	4.04.004 (e)	There is a typo, i.e. and errant period, in the last sentence.	Corrected
22	4.04.006	Are we aware of any current violation of this section of the ordinance as proposed?	There are several residents that have started keeping bees. That is the reason for the addition of this section so there is some form of regulation
23	4.05.007	Is "Wild Animal" a defined term?	Yes
24	4.05.007	Are we aware of any current violation of this section of the ordinance as proposed?	No
25	4.06.007 (b) (2)	Why would we allow home quarantine?	Allowing a home quarantine makes it easier on the animal and the owner causing less stress; Does not take away other shelter resources. This is also allowed when an animal has to be placed in a 45 or 90 day isolation for rabies exposure.
26	4.06.008	Who is the "local rabies authority"?	Support Services Manager. Currently Kim Parker
27	4.07.005	What is being changed?	Harborer was removed due to the definition of "Owner" being changed
28	4.07.012 (b)	There is a typo, i.e. a duplicate "a" in the third line.	Corrected
29	4.07.012 (b)	Why wouldn't we allow a certification from a licensed veterinarian that the animal has been sterilized?	It would be allowed if the owner chose to take the animal to a vet. The date is provided because sterilization is included in the adoption fee.

11:39 AM

7/29/2016

**City Council Meeting**

**August 2, 2016**

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**Issue**

Consider and/or act upon election proposition language for amendments to the City of Murphy Home Rule Charter.

**Staff Resource/Department**

Mack Reinwand, Assistant City Attorney

**Background**

In April, 2016, Council appointed an eleven member Charter Review Commission pursuant to Section 11.07 of the City Charter. The Commission began meeting April 25, 2016 to review the Charter. On June 13, 2016, a Town Hall meeting was held. At the July 5, 2016 Council meeting, the Final Report of the Commission was presented to Council. The amendments were discussed at the July 19, 2016 Council meeting and voted on individually and the City Attorney was directed to prepare the proposition language.

Council will review the proposition language and election summary. On August 16, 2016 Council will consider approval of an ordinance to order submit the proposed Charter amendments to the voters at a Special Election to be held on November 8, 2016.

**Financial Considerations**

The City Secretary has budgeted funding of the November Election (FY 2017). Collin County is in the process of drafting a contract for a joint election which will include a cost estimate.

**Staff Recommendation**

Staff recommends approval.

**Attachments**

- 1) Proposed Charter with changes if all propositions are approved by the voters
- 2) Draft Charter election propositions
- 3) Charter election proposition summary

**2016 CITY COUNCIL RED-LINE TEXT  
OF PROPOSED CHARTER PROVISIONS**

**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**

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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 the Mayor and each City Council Member shall meet the following qualifications ~~as also set forth in Section 5.02 of this Charter while in office:~~

- (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 Council.

### 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 ~~each Council after each election June~~ or as soon thereafter as practicable, but not later than the last business day of July ~~in the year that the election was held~~. 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 ~~of each Council after each election June~~ or as soon thereafter as practicable, but not later than the last business day of July ~~in the year that the election was held~~. 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 ~~shall~~ 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 5-023.03 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 Emergency Ordinances**~~

~~(1) The City Council may adopt emergency ordinances only to meet public emergencies affecting life, health, property or the public peace. In particular, such ordinances shall not levy taxes, grant or renew or extend a franchise, or regulate the rate charged by any public utility for its services. Neither shall they authorize the borrowing of money except as provided elsewhere in this Charter.~~

~~(2) An emergency ordinance shall be introduced in the form and manner generally prescribed for ordinances, except that they shall be plainly designated in the title as an emergency ordinance and shall contain after the enacting clause a declaration stating that an emergency exists and describing the emergency in clear and specific terms.~~

~~(3) An emergency ordinance may be introduced at any City Council meeting and can be adopted with or without amendment or rejected at the meeting at which it is introduced.~~

~~(4) Emergency ordinances shall become effective upon adoption and shall be published as soon thereafter as practicable as required by law. Every emergency ordinance so adopted, except one authorizing the borrowing of money as described herein, is automatically repealed as of the sixty-first (61st) day following the day on which it became effective. The ordinance may be re-enacted if the emergency still exists.~~

**SECTION ~~3.16~~ 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.~~17~~—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.~~18~~—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~~ Filing for Office**

- ~~(1) Candidates for elective City offices shall file for office in accordance with the Texas Election Code.~~
- ~~(2) Candidates for elective City offices shall meet the following qualifications:~~
  - ~~(A) Shall be at least twenty-one (21) years of age at the time of the election for which they are filing;~~
  - ~~(B) Shall be a qualified voter; and~~
  - ~~(C) Shall have resided within the corporate limits of the City, or recently annexed territory, for at least twelve (12) months immediately preceding Election Day.~~
- ~~(3) 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.~~
- ~~(4) No employee of the City shall continue in any City employee position after filing for an elective office provided for in this Charter.~~
- ~~(5) Candidates for elective City offices shall comply with all other City ordinances or resolutions that may be applicable.~~

**~~SECTION 5.03~~ 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 5.04~~ 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 5.05—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) ~~registered~~ 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 ~~emergency ordinance~~ ~~or~~ 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) ~~registered~~ 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 ~~taking effect~~enforcement and shall not later ~~take effect~~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, ~~without competitive bidding, and in accordance with state law. Such emergency shall be declared by the City Manager Mayor and approved by the City Council, or may be declared by the City Council.~~
- (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 qualified voters~~ reside in 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.

~~(5) Any member of a board, commission or committee who is absent from three (3) consecutive regular meetings, or twenty five percent (25%) of regularly scheduled meetings during the twelve (12) month period immediately preceding and including the absence in question, without explanation acceptable to a majority of the other members, shall be deemed to have forfeited his or her position on the board, commission or committee.~~

## 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. ~~The Commission members shall be qualified City voters.~~ 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. ~~The Board shall consist of qualified City voters.~~

(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 within fifteen (15) days of such disaster, 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.

**CITY OF MURPHY DRAFT CHARTER AMENDMENT PROPOSITIONS**

*The following draft Charter amendment propositions are intended for review purposes ONLY for City Council to review and revise the language of the Charter amendment propositions for the November 2016 election. This draft is not intended to be the final ballot language until City Council formally approves the final propositions.*

**DRAFT PROPOSITION AMENDMENTS:****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 reside in 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.

**PROPOSED CHARTER AMENDMENTS  
SPECIAL ELECTION, TUESDAY, NOVEMBER 8, 2016**

*The following is intended for informational purposes ONLY on an issue of official concern to Murphy voters. It is not intended to urge a vote in favor of or against the proposed amendments to the Charter.*

**TIMELINE OF PROCESS**

The Murphy City Charter states that the City Council shall appoint a Charter Review Commission at least once every six (6) years. The Charter Review Commission consists of at least eleven (11) citizens of the City who inquire into the operation of the City government under the Charter and determine whether any Charter provisions require revision.

On April 5, 2016, the Council appointed a Charter Review Commission. The Commission is comprised of the following Murphy residents:

- Barbara Harless, Chair
- John Wideman, Vice Chair
- Chi Egwuekwe
- Will Ewin IV
- Michelle Foley
- Bernard J. Grant
- James Holley
- Christine Johnson
- Jody Johnson
- Kevin McGillis
- Revis E. Smith

Between April-June 2016, the Charter Review Commission reviewed each provision of the Charter, accepted public comments, and hosted a town hall meeting to receive public input on the Charter prior to the Commissions presentation and recommendation to City Council.

On July 5, 2016, the Commission reported its findings and presented its final recommendations to the City Council.

On July 19, 2016, the City Council considered and voted on all recommendations made, and provided direction to the City Attorney to draft verbiage for specific recommendations as ballot propositions to be submitted to the voters of the City.

On August 2, 2016, the City Council reached consensus on the proposed changes and the verbiage for each proposition.

The City Council and Charter Review Commission Agendas, Packets, Audio and Minutes are available and can be reviewed at <http://www.murphytx.org/archive.aspx>.

**DRAFT PROPOSITION AMENDMENTS:**

**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.

**CHARTER REVIEW COMMISSION RECOMMENDATION:**

Changes in these sections clarify that the term “qualified voter” used in the Charter has the same meaning as state law. Tex. Election Code 11.002 defines “qualified voter” as a person who:

- (1) is 18 years of age or older;
- (2) is a United States citizen;
- (3) has not been determined by a final judgment of a court exercising probate jurisdiction to be:
  - (A) totally mentally incapacitated; or
  - (B) partially mentally incapacitated without the right to vote;
- (4) has not been finally convicted of a felony or, if so convicted, has:
  - (A) fully discharged the person's sentence, including any term of incarceration, parole, or supervision, or completed a period of probation ordered by any court; or
  - (B) been pardoned or otherwise released from the resulting disability to vote;
- (5) is a resident of this state; and
- (6) is a registered voter.

**If approved, this amendment would result in the following changes to the Charter:**

**“Section 3.03. Qualifications of City Council**

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 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) ~~registered~~ 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 6.13 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) ~~registered~~ qualified voters, whichever is greater, and each copy of the petition shall have attached to it a copy of the proposed legislation. . . .

**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.**

**CHARTER REVIEW COMMISSION RECOMMENDATION:**

Changes in this Section clarify that council members' actual expenses must be budgeted in the City Budget and that reimbursement for expenses must be in accordance with the reimbursement policies of the city.

**If approved, this amendment would result in the following changes to the Charter:**

**“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 Council.”

**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.**

**CHARTER REVIEW COMMISSION RECOMMENDATION:**

This proposition clarifies the authority of the Mayor and the City during emergencies and disasters in conformity with provisions of state law. Texas Gov. Code Gov't Code §§ 418.108-.1015 authorize the Mayor to declare a disaster and order evacuation of an area and provide for continuation of government functions during declared disasters. The Texas Open Meetings Act regulates emergency meetings of the City Council. Texas procurement statutes regulate contracting during disasters and emergencies. Because the City only requires one reading of an ordinance by City Council to become effective, the emergency ordinance provisions of the Charter are not necessary.

**If approved, this amendment would result in the following changes to the Charter:**

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

...

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.”

**~~“SECTION 3.15 Emergency Ordinances~~**

~~(1) — The City Council may adopt emergency ordinances only to meet public emergencies affecting life, health, property or the public peace. In particular, such ordinances shall not levy taxes, grant or renew or extend a franchise, or regulate the rate charged by any public utility for its services. Neither shall they authorize the borrowing of money except as provided elsewhere in this Charter.~~

~~(2) — An emergency ordinance shall be introduced in the form and manner generally prescribed for ordinances, except that they shall be plainly designated in the title as an emergency ordinance and shall contain after the enacting clause a declaration stating that an emergency exists and describing the emergency in clear and specific terms.~~

~~(3) — An emergency ordinance may be introduced at any City Council meeting and can be adopted with or without amendment or rejected at the meeting at which it is introduced.~~

~~(4) — Emergency ordinances shall become effective upon adoption and shall be published as soon thereafter as practicable as required by law. Every emergency ordinance so adopted, except one authorizing the borrowing of money as described herein, is automatically repealed as of the sixty first (61st) day following the day on which it became effective. The ordinance may be re-enacted if the emergency still exists.”~~

**“SECTION 6.12 General Power of Initiative and Referendum**

...

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

**“SECTION 7.15 Purchasing**

...

(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, ~~without competitive bidding,~~ and in accordance with state law. Such emergency shall be declared by the ~~City Manager and approved by the City Council,~~ or may be declared by the City Council Mayor.”

**“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 within fifteen (15) days of such disaster, 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.”

**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.**

**CHARTER REVIEW COMMISSION RECOMMENDATION:**

These amendments would require the City Council to vote annually at the first meeting of June to select the Council Members to fill the positions of Mayor Pro-Tem and Deputy Mayor Pro-Tem. Without these amendments, a vote is not required if an election for City Council is not held during the year.

**If approved, this amendment would result in the following changes to the Charter:**

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

...

(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 ~~each Council after~~

~~each election June~~ or as soon thereafter as practicable, but not later than the last business day of July ~~in the year the election was held~~. 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 of ~~each Council after each election June~~ or as soon thereafter as practicable, but not later than the last business day of July ~~in the year the election was held~~. 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.”

**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.**

**CHARTER REVIEW COMMISSION RECOMMENDATION:**

This amendment will provide City Council with discretion whether to vacate a Council Member’s office if the Council Member misses more than three (3) consecutive regular meetings. Currently, City Council must vacate the office if the Council Member misses three (3) consecutive regular meetings, without explanation acceptable to a majority of the remaining Council Members. The explanation requires a public hearing for the Council Member facing expulsion to be heard regarding absences. By removing the mandatory nature of Section 3.06, this amendment to the Charter allows City Council the discretion to not require a public hearing if the reasons for the absences are of a private nature and allow a Council Member to remain on the City Council without a public hearing.

**If approved, this amendment would result in the following changes to the Charter:**

**“SECTION 3.06 Vacancies, Forfeiture and Filling of Vacancies**

...

(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 ~~shall~~ 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.”

**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.

**CHARTER REVIEW COMMISSION RECOMMENDATION:**

This amendment adopts the authority granted by a 2013 amendment to the Texas Constitution, H.J.R No. 87, which authorized a home-rule municipalities to provide in its charter the procedure to fill a vacancy on its governing body by appointment for which the unexpired term is twelve (12) months or less.

**If approved, this amendment would result in the following changes to the Charter:**

**“SECTION 3.06 Vacancies, Forfeiture and Filling of Vacancies**

...

(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.”

**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.

**CHARTER REVIEW COMMISSION RECOMMENDATION:**

This amendment clarifies that candidates for elective office must follow the filing requirements as provided in Texas Election Code §§ 141 et al. This amendment also consolidates Sections 5.02 and 3.03 of the Charter by deleting Section 5.02.

**If approved, this amendment would result in the following changes to the Charter:**

**“SECTION 3.03 Qualifications of City Council**

In addition to any other qualifications prescribed by law, a candidate for the Mayor and each City Council shall meet the following qualifications ~~as also set forth in Section 5.02 of this Charter while in office:~~

...

(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.”

**~~“SECTION 5.02 Filing for Office~~**

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

~~(2) Candidates for elective City offices shall meet the following qualifications:~~

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

~~(B) Shall be a qualified voter; and~~

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

~~(3) 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.~~

~~(4) No employee of the City shall continue in any City employee position after filing for an elective office provided for in this Charter.~~

~~(5) Candidates for elective City offices shall comply with all other City ordinances or resolutions that may be applicable.”~~

**PROPOSITION NO. 8**

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

**CHARTER REVIEW COMMISSION RECOMMENDATION:**

This amendment clarifies that recall elections are held on uniform election dates as required by Texas Election Code §§ 41 et al. The existing provisions of the Charter restrict recall petitions from being filed against an elected official of the City within six (6) months after the official’s election. This provision clarifies that a recall petition can be filed within six (6) months of the end of the official’s term, but the recall election would not be held until the official is otherwise up for reelection.

**If approved, this amendment would result in the following changes to the Charter:**

**“SECTION 6.10 Restrictions on Recall**

...

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

### **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.**

#### **CHARTER REVIEW COMMISSION RECOMMENDATION:**

This amendment clarifies that an ordinance or resolution takes effect when adopted by City Council in accordance with law but that enforcement of the ordinance or resolution will be suspended until the election if a referendum petition is filed. If the referendum is approved at the election, the ordinance or resolution will not be enforced.

#### **If approved, this amendment would result in the following changes to the Charter:**

##### **“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 ~~taking effect~~ enforcement and shall not later ~~take effect~~ 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.

### **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.**

**CHARTER REVIEW COMMISSION RECOMMENDATION:**

An ordinance or resolution adopted by popular vote can only be repealed or amended by City Council in response to a referendum petition or by submission to the voters. This amendment allows the City Council to repeal an ordinance or resolution approved by popular vote if the law is directly challenged and declared by a court of final jurisdiction to be unconstitutional, preempted, or otherwise unenforceable.

**If approved, this amendment would result in the following changes to the Charter:**

**“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.”

**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.**

**CHARTER REVIEW COMMISSION RECOMMENDATION:**

Changes to this Section harmonize the budget adoption process with state law. State law includes information and itemizations that must be included in the annual budget. This amendment will ensure the Charter is consistent with state law if amendments are made to state law in the future.

**If approved, this amendment would result in the following changes to the Charter:**

**“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.”

**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.**

**CHARTER REVIEW COMMISSION RECOMMENDATION:**

This amendment clarifies that individuals on city boards, commissions, and committees serve at the pleasure of City Council, which has authority to appoint and remove individuals from city boards, commissions, and committees at any time. This amendment removes the procedure to forfeit a position on a city board, commission, or committee based on absences. Council monitors attendance of individuals on city boards, commissions, and committees and has exclusive authority to remove such individuals.

**If approved, this amendment would result in the following changes to the Charter:**

**“SECTION 8.01 Authority, Composition and Procedures**

...

~~(5) — Any member of a board, commission or committee who is absent from three (3) consecutive regular meetings, or twenty five percent (25%) of regularly scheduled meetings during the twelve (12) month period immediately preceding and including the absence in question, without explanation acceptable to a majority of the other members, shall be deemed to have forfeited his or her position on the board, commission or committee.”~~

**PROPOSITION NO. 13**

**Shall the Charter be amended to clarify that an individual must reside in the city to be appointed to a city board, commission or committee.**

**CHARTER REVIEW COMMISSION RECOMMENDATION:**

This amendment removes the requirement that an individual must be a qualified voter in the City in order to serve on a city board, commission, or committee. An individual must reside in the City to serve on a city board, commission, or committee.

**If approved, this amendment would result in the following changes to the Charter:**

**“SECTION 8.01 Authority, Composition and Procedures**

....

(2) Individuals who ~~are qualified voters~~ reside in 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.”

**“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. ~~The Commission members shall be qualified City Voters.~~ 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.”

**“SECTION 9.05 Board of Adjustment**

...

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

**PROPOSITION NO. 14**

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

**CHARTER REVIEW COMMISSION RECOMMENDATION:**

This new provision provides a backstop against nullification of liquor prohibitions in zoning ordinances as provided for by Texas Alcoholic Beverage Code: Sec. 109.31. MUNICIPAL REGULATION OF LIQUOR. A city by charter may prohibit the sale of liquor in all or part of the residential sections of the city.

**If approved, this amendment would result in the following changes to the Charter:**

**“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.”

**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.**

**CHARTER REVIEW COMMISSION RECOMMENDATION:**

This provision allows for the renumbering of articles, sections, subsections and paragraphs of the Charter necessitated by amendments to the Charter.

**City Council Meeting  
August 2, 2016**

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**Issue**

Discussion regarding National Night Out proposed date Tuesday, October 4, 2016.

**Staff Resource/Department**

Police Chief Arthur Cotten

**Summary**

This year the Murphy Police Department would like to partner with the community and participate in National Night Out. For the past 5 years the Police Department has sponsored a yearly block party called Neighbor to Neighbor or N2N. Participation in the parties has remained constant, but we are always looking to update and revamp ideas. With the national campaign Murphy will have the opportunity to compete against other cities our size. The competition brings with it recognition for programs that Murphy has in place with regard to crime prevention. It also allows Murphy to strengthen partnerships with neighborhood associations and home owners associations. This is a great opportunity to help our citizen's move forward enabling them to get to know each other and become more involved.

**Financial Considerations**

This item is budgeted every year through the police department's community relations fund.

**Action Requested**

Staff recommends Council approve and support this cause.

**Attachments**

- 1) National Night Out 2016 logo
- 2) Lock Box Program
- 3) Video Crime Watch Program





Online Payments



City Council

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## Lock Box Program

If you needed emergency medical or police assistance, could help get to you in time? If emergency responders cannot get to you, they might have to break out a window or force open a locked door to reach you. You need help NOW!

The Residential Lockbox Program is intended to expedite access to older adults in their own homes during medical or other emergencies, while eliminating the likelihood of property damage from forced entry. The Lockbox Program is open to all Murphy residents who either live alone, or must be left alone on a regular basis, and...

- are age 60 and above

OR...

- are under 60, with a major medical issue that could render them incapacitated or unconscious.

[Click here to submit an online application](#) for the Residential Lockbox Program or call us at [\(972\) 468-4200](tel:9724684200) for more information.



### How does the program work?

1. The eligible participant will complete and submit a Lockbox Program application to the Murphy Police Department.
2. Once the application is approved, a police representative will contact the participant at their home to review the program.
3. The participant will provide a spare house key to the police representative.
4. The police representative will place the key inside the lockbox and set the combination.
5. The police representative will determine the best location for the lockbox that allows quick access for emergency responders, but is not readily visible to typical street or pedestrian traffic.
6. The lockbox will only be used during an emergency call, and when responders cannot make entry without using force.
7. At no other time will the lockbox be used or will entry be made without authorization.
8. The program is administered by the Murphy Police Department, and the information provided by the participant will remain confidential.

### What are my obligations?

- There is no cost to participate in the Lockbox Program, other than that of a spare key.
- A participant may withdraw from the program at any time. After the key is returned to the participant, the empty lockbox will be removed from the residence and returned to the Police Department.



# Lockbox Program Application

Please fill out the form below for the Lockbox program.

**Name \***

First Last

**Phone Number \***

 -  - 

### ### ####

**Street Address within Murphy, TX 75094 \***

**Other occupants at your location?**

- No  Yes

**Do you have pet(s)? \***

- No  Yes

**Reason for Application \***

- Yes I am 60 years of age or older, living alone, or alone on a frequent basis  
 Yes I have a medical condition that is potentially incapacitating and live alone or I'm alone on a frequent basis

**Medical Condition**

**Describe your medical condition:**



**Emergency Contact Information**

**Doctor's Name**

**Doctor's Phone Number**

 -  - 

### ### ####

**Hospital Name**

**Hospital Phone Number**

 -  - 

### ### ####

**Contact #1 Name**

**Contact #1 Phone Number**

 -  - 

### ### ####

**Contact #1 Address**

- Community Relations ▶
- └ House Watch Form
- └ Citizens on Patrol ▶
- └ Community Networking ▶
- └ Youth Citizens Police Academy
- └ Neighborhood Crime Watch ▶
- Divisions ▶
- └ Animal Control
- └ Records
- Vision, Mission & Values
- Alarm Permits ▶
- Video Crime Watch

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Home > Departments > Police > Video Crime Watch

## Video Crime Watch Program



The Murphy Police Department is asking for help from residents, business owners and property management companies to create a resource for Officers and Detectives in the fight against crime. The Neighborhood Video Crime Watch program asks owners of video surveillance cameras to volunteer their information and complete an online form that has basic questions about their video system's capabilities.

If a crime happens, a Police Officer or Detective can check the database for businesses and homes in the vicinity of the crime with a surveillance system. If one is listed in the database, Police may contact that location and ask them to review their footage to see if anything was captured that may help with the case. Video surveillance systems are becoming more common as the technology improves and the purchase price becomes more affordable.

The Murphy Police Department has seen an increase in surveillance systems used by businesses, property management companies and residents and has successfully made arrests in cases where the surveillance video captured the suspect in the act. This resource will allow Police to more quickly identify video camera locations where suspect information may have been captured.

If you have questions, you can contact the Crime Prevention Unit at 972-468-4214.

## Neighborhood Video Crime Watch

Please add your camera(s) to the program by filling out the form below.

**Name \***



First Last

**Best Phone Number to reach you: \***

-  -

### ### ####

**Street Address within Murphy, TX 75094 \***

### Camera Information

<b>Video System Manufacturer:</b>	<input type="text"/>	<b>Video System Model:</b>	<input type="text"/>
<b>IP Cameras?</b>	<input type="text"/>	<b>Do the cameras have a view of the front?</b>	<input type="text"/>
<b>Do the cameras have a view of the back?</b>	<input type="text"/>	<b>Do the cameras have a view of the alley?</b>	<input type="text"/>
<b>Do the cameras have a view of the driveway?</b>	<input type="text"/>	<b>Are the cameras color?</b>	<input type="text"/>
<b>Do the cameras have night vision or infrared capabilities?</b>	<input type="text"/>	<b>How many cameras?</b>	<input type="text"/>
<b>How long do you keep the footage?</b>	<input type="text"/>	<b>What is the resolution of the cameras?</b>	<input type="text"/>

**City Council Meeting**  
**August 2, 2016**

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**Issue**

Discussion with regard to a process for developing a Capital Improvement Program (CIP) for consideration in a possible future bond program.

**Staff Resource/Department**

Bill Shipp, City Manager

**Summary**

Several smaller capital needs are being addressed in the FY2017 Budget through the use of reserves designated for that purpose. Larger capital items, of necessity, have been deferred to the development of a comprehensive Capital Improvement Program (CIP) for consideration in a future bond package. This agenda item begins that process by determining an outline for a development process.

A Capital Improvement Program was developed by Birkhoff, Hendricks and Carter, L.L.P. for the City as a starting point for further discussion. That CIP will be input into this process. While the CIP was developed as a comprehensive plan, it does not include facilities nor all the parks programs, those programs are normally outside the purview of Birkhoff, Hendricks and Carter, L.L.P. as our civil engineer. Those requirements will be input into the process by the Parks Board and by Staff.

The formation of an ad hoc committee to review, prioritize and make recommendations to Council is needed. A committee of 5 to 7 members would be optimum for this task.

A possible May 2017 Bond Election drives the timeline for the entire process. Below is my recommended timeline:

September 6 Council Meeting	Appoint members to the committee
October – November	Committee meets to receive presentations, consider projects, and prioritize projects with estimated costs
January 3 and 17	Public Hearings and finalize recommendation to Council
February 7	Present recommendations to City Council
February 21	Call Election (February 27 is the last day to call a Special Election)

**Financial Considerations**

None at this time. Some small engineering costs will likely be encountered in the development of the CIP. All CIP items would be for consideration in a new bond program.

**Action Requested**

Council guidance to proceed with the steps necessary to develop a Capital Improvements Program.

**Attachments**

None