

**ORDINANCE NO. 2014-02-XXX**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, ORDERING AN ELECTION TO BE HELD IN SAID CITY ON THE 10TH DAY OF MAY, 2014, FOR THE PURPOSE OF SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY OF MCKINNEY, TEXAS, CERTAIN PROPOSED AMENDMENTS TO THE EXISTING CITY CHARTER; DESIGNATING THE PLACES AT WHICH SAID ELECTION IS TO BE HELD; APPOINTING THE EARLY VOTING CLERK; MAKING PROVIDING FOR NOTICE AND PUBLICATION OF THE ELECTION; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, the City Council of the City of McKinney, Texas ("City") has, on its own motion, determined to submit to the qualified voters of said City for their adoption or rejection thereof certain proposed amendments to the existing Home Rule Charter of said City ("City Charter"), pursuant to the provisions of Section 9.004 of the Texas Local Government Code, and

**WHEREAS**, the meeting at which this Ordinance is considered is open to the public as required by law, and public notice of the time, place and purpose of said meeting was given as required by Section 551.043 of the Texas Government Code.

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

Section 1. That a special charter election is hereby ordered to be held on Saturday, May 10, 2014, between the hours of 7:00 a.m. and 7:00 p.m. in accordance with the applicable provisions of the Texas Election Code, and the City Charter of McKinney, Texas as amended.

Section 2. That an election be held for the purpose of submitting to the resident, qualified voters of the City of McKinney, Texas certain proposed amendments to the existing City Charter of the City of McKinney, Texas, as set forth in Section 3 of this Ordinance.

Section 3. Proposed Charter Amendments

That at the Election the following amendments to the City Charter shall be submitted to the resident, qualified voters of the City of McKinney, Texas:

**PROPOSITION NO. 1**

Shall the City Charter be amended throughout to correct non-substantive errors such as misspellings, punctuation, grammar and sentence structure; conform notice and publication requirements to state law; and revise references to repealed or obsolete provisions of state law?

**PROPOSITION NO. 2**

Shall the City Charter be amended to delete provisions, practices and policies which are no longer employed by the City of McKinney?

**PROPOSITION NO. 3**

Shall Section 10 of the Charter be amended to read as follows:

**Sec. 10. Council districts.** The City of McKinney shall be divided into four (4) Council districts, and a Council Member shall be elected by the resident voters of each district. Each Council Member representing a Council district must at the time of his or her election and during the term of office physically reside with legal domicile, in the district which he or she represents. For purposes of this Section and the Charter, “physically reside” shall mean (i) the candidate or Council Member must use his or her residence address for voter registration and driver’s license purposes, and (ii) the candidate or Council Member shall provide to the City Secretary proof whereby such person uses his or her residence address as the person’s home address on documents such as employment records, government forms and loan applications, and (iii) the candidate or Council Member must not claim a homestead exemption on any property other than the residence. The four (4) Council districts shall be defined by ordinance, and the boundaries thereof shall be subject to review by the Council to ensure equal voting rights for all citizens under state and federal law. Council district boundaries shall be redefined by ordinance to compensate for any significant change in population within a given district.

PROPOSITION NO. 4

Shall Section 15 be amended to read as follows:

**Sec. 15. Council qualifications.** All qualified voters in the City of McKinney may vote for qualified candidates for the Office of Mayor and for Council Members at Large. However, only residing qualified voters of each of the four (4) Council Districts may vote for qualified candidates from each respective Council District. That is, residing qualified voters of Council District 1 may vote for qualified Council Member at Large candidates and for a qualified Council candidate to represent Council District 1. The same voting procedure shall prevail in the other three (3) Council Districts.

PROPOSITION NO. 5

Shall Section 15b be amended to read as follows:

**Sec. 15b. Residency requirements for council candidates.** The candidates for Mayor and for the two (2) Council Members at Large offices shall have physically resided, as such term is defined in Section 10, within the McKinney City limits for not less than one (1) year prior to election day. Each candidate for a Council District office shall have physically resided within the boundaries of the Council District which he or she seeks to represent for a period a period of not less than one (1) year prior to election day.

Any member of the City Council who ceases to physically reside within the City during the term for which he or she is elected shall immediately forfeit that office.

Any member of the City Council who ceases to reside within the Council District which he or she is elected to represent, during the terms for which he or she is elected, shall immediately forfeit that office.

PROPOSITION NO. 6

Shall Section 16 be amended to read as follows:

**Sec. 16. Council compensation.** Each member of the City Council including the Mayor shall receive for compensation the sum of fifty (\$50.00) per posted City Council meeting attended. In addition the Mayor shall receive one hundred dollars (\$100.00) per month stipend. In the event that the Mayor Pro Tem serves as Mayor for more than thirty (30) consecutive days, the stipend shall be awarded to the Mayor Pro Tem. In addition, all actual reimbursable expenses, including eligible expenses allowed by State law, incurred by all members of the City Council in the performance of their official duties shall be paid by the City.

PROPOSITION NO. 7

Shall Section 17 be amended to read as follows:

**Sec. 17. Vacancies on council.** A vacancy on the City Council shall be filled by election in accordance with the Texas Constitution; however a vacancy may be filled by appointment if the vacancy is created in an unexpired term having twelve (12) months or less remaining thereupon. The Council Member thus elected or appointed shall serve for the unexpired portion of the term of the vacated position.

PROPOSITION NO. 8

Shall Section 30 be amended to read as follows:

**Sec. 30. No interference by council with subordinates of city manager.** (a) Except for the purpose of inquiry and further subject to Section 34, the City Council and its members shall deal with that part of the administrative service for which the City Manager is responsible solely through such Manager, and neither the City Council nor any member thereof shall give orders to any of the subordinates of the City Manager in said department, either publicly or privately by any form of communication. Willful violation of the foregoing provisions of this Charter by any member of the City Council shall constitute official misconduct and shall authorize the City Council, by a vote of not less than four-sevenths (4/7) of its entire membership, to expel such offending member from the City Council if found guilty after a public hearing, and thereby create a vacancy in the place held by such member.

(b) If said violation occurs it shall be the duty of the subordinate to report same to the City Manager who in turn shall report it to the City Council.

(c) The Council shall adopt rules of procedure to implement this section including rules for protecting employees who report retaliation to Council, rules for conducting hearings, and rules governing Council Member ethics, and any violation of same by a Council Member shall subject him to removal procedure.

PROPOSITION NO. 9

Shall Section 34 be amended to read as follows:

**Sec. 34. Duties of directors of departments.** A director for each of the above departments shall be appointed by the City Manager and shall serve until removed by the City Manager, or until his successor is appointed and has qualified, unless otherwise ordered by the City Council. In addition to the foregoing, no Deputy City Manager, Assistant City Manager or President/Executive Director

of a component unit, including but not limited to the McKinney Economic Development Corporation and the McKinney Community Development Corporation, shall be appointed or removed without prior notice and consultation of the City Council. The Council may prescribe, by ordinance, rules and regulations governing the operation of each of said departments, and each director shall have power to prescribe rules and regulations not inconsistent with this Charter or the ordinances of the City for the conduct of his department and the preservation of the records and property under his control. Subject to the control and supervision of the City Manager in all matters, the director of a department shall manage his department.

PROPOSITION NO. 10

Shall Section 66 be amended to read as follows:

**Sec. 66. Fire chief, director of fire department.** The Director of the Fire Department shall be the Chief. The Fire Department shall be composed of a Chief and such other officers, firefighters and employees as the City Council may provide by ordinance and such number of Firefighters as necessary to maintain an adequate Fire Department for the City of McKinney. The Fire Chief shall have immediate direction and control of the Fire Department, subject to such rules, regulations and orders as the City Manager may prescribe not inconsistent with the ordinances of the City, and shall promulgate all orders, rules and regulations governing conduct of the Department which, when approved by the City Manager, shall be in addition to applicable laws and Charter provisions, and shall constitute the rules of the administration and conduct of the Department. The Fire Department shall have the further power to conduct investigations regarding fire incidents, including the investigation and control of fire scenes, as such are described in the adopted codes and ordinances. The Fire Department shall be kept open at all times. In case of disability of the Chief, by reason of sickness, absence from the City or other cause, the Assistant Chief or next in command shall perform the duties of the Chief.

Section 4. The polling places are identified in Exhibit "A" attached hereto and incorporated herein by reference as a part hereof for all purposes. The election officers and maximum number of clerks for each polling place shall be determined and appointed in accordance with the provisions of an election services contract to be executed with the Collin County Elections Administrator.

Section 5. That the method of voting to be used in the general election on Saturday, May 10, 2014, be touch-screen devices with Premier Election Systems ACCUVOTE TS R7 v.4.6.4 direct recording devices (DRE's) for early voting and election day and optical-scan ballots with Premier Election Systems ACCUVOTE OS ROM v.2.0.12 for early voting by mail, in accordance with the Texas Election Code, as amended, so as to permit the electors to vote "Yes" or "No" on each of the individual Propositions. Said ballots shall have such provisions, marking, and language as may be required by law, and a summary of the Propositions shall be set forth on said ballots in substantially the following form and language:

OFFICIAL BALLOT

PROPOSITION NO. 1

YES  
NO

Shall the City Charter be amended throughout to correct non-substantive errors such as misspellings, punctuation, grammar and sentence structure and revise references to obsolete provisions of state law and conform notice and publication requirements to state law?

YES  
NO

PROPOSITION NO. 2

Shall the City Charter be amended to delete provisions, practices and policies which are no longer employed by the City of McKinney?

PROPOSITION NO. 3

YES  
NO

Shall Section 10 of the City Charter be amended to provide that candidates and elected members of the City Council provide sufficient evidence of physical residence in the district sought by such candidate or the district represented by an elected member?

PROPOSITION NO. 4

YES  
NO

Shall Section 15 of the City Charter be amended to provide that candidates for an election to the City Council be a qualified voter of the City not less than one (1) year prior to filing?

PROPOSITION NO. 5

YES  
NO

Shall Section 15b of the City Charter be amended to provide that candidates for the City Council be residents of the City for one (1) year prior to election?

PROPOSITION NO. 6

YES  
NO

Shall Section 16 of the City Charter be amended to provide for the continuation of City Council member compensation of \$50 per posted meeting without the annual cap of \$2,500 per year?

PROPOSITION NO. 7

YES  
NO

Shall Section 17 of the City Charter be amended to provide for authority to fill certain vacancies by special election or by appointment pursuant to the Texas Constitution?

PROPOSITION NO. 8

YES  
NO

Shall Section 30 of the City Charter be amended to provide for the deletion of conflicting Charter provisions regarding appointment and removal of employees?

PROPOSITION NO. 9

YES  
NO

Shall Section 34 of the City Charter be amended to provide for City Council authority regarding appointment and removal of certain executive employees of the City and certain affiliated public corporations?

PROPOSITION NO. 10

YES  
NO

Shall Section 66 of the City Charter be amended to provide for additional investigative powers to the Fire Department?

- Section 6. That the Collin County Elections Administrator is hereby appointed Alternate Early Voting Clerk for the purpose of conducting early voting for the general election.
- Section 7. That early voting by personal appearance be conducted beginning April 28, 2014 and shall close on May 6, 2014. During the lawful early voting by personal appearance period (April 28, 2014, through May 6, 2014), Collin County Elections Administrator shall keep the designated early voting polling places open for early voting as follows:
- |                           |                        |
|---------------------------|------------------------|
| Monday, April 28, 2014    | 8:00 a.m. to 5:00 p.m. |
| Tuesday, April 29, 2014   | 8:00 a.m. to 5:00 p.m. |
| Wednesday, April 30, 2014 | 8:00 a.m. to 5:00 p.m. |
| Thursday, May 1, 2014     | 8:00 a.m. to 7:00 p.m. |
| Friday, May 2, 2014       | 8:00 a.m. to 5:00 p.m. |
| Saturday, May 3, 2014     | 8:00 a.m. to 5:00 p.m. |
| Monday, May 5, 2014       | 7:00 a.m. to 7:00 p.m. |
| Tuesday, May 6, 2014      | 7:00 a.m. to 7:00 p.m. |
- Section 8. That the official canvass, by the City Council, will be held on May 19, 2014 or May 20, 2014 in the Council Chamber.
- Section 9. That this Ordinance shall be published at least one (1) time, not more than thirty (30) days nor less than ten (10) days before the election in the McKinney Courier Gazette.
- Section 10. That a Notice of Election shall be posted in accordance with state law, including a notice on the bulletin board used for posting notices of the meetings of the City Council at least twenty-one (21) days before election day.
- Section 11. That a copy of this Ordinance be delivered to the Collin County Clerk not later than the 60<sup>th</sup> day before election day.

Section 12. That this Ordinance and all other related documents be printed in both English and Spanish in accordance with all legal requirements.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, ON THIS THE 18th DAY OF FEBRUARY, 2014.**

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BRIAN LOUGHMILLER  
Mayor

CORRECTLY ENROLLED:

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SANDY HART, TRMC, MMC  
City Secretary

DATE: \_\_\_\_\_

APPROVED AS TO FORM:

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MARK HOUSER  
City Attorney

**EXHIBIT A**

**EARLY VOTING LOCATIONS:**

**Fire Station #5**

**McKinney Performing Arts Center**

**Collin County Elections Office**

**Collin County Voting Centers for any location under full contract with the Collin County Elections office**

**ELECTION DAY VOTING LOCATIONS:**

**McKinney City Hall**

**John & Judy Gay Library**

**Slaughter Elementary School**

**Fire Station #5**

**Collin County Voting Centers for any location under full contract with the Collin County Elections office**