
CHARTER

CHAPTER I. INCORPORATION AND ANNEXATION¹

Sec. 1. Corporate name and boundaries.

All the inhabitants of the City of McKinney, Collin County, Texas, as the boundaries and limits of said city are now established at the passage of this Charter or as may hereafter be established and their successors, shall be and are hereby created and constituted a body politic and corporate in perpetuity, to be known by the name and designation of the "City of McKinney," with all the rights, powers, privileges, immunities and duties herein authorized, granted and defined.

Sec. 2. Additional territory.

Any territory adjoining the present or future boundaries of said City may from time to time in any size or shape desired, be admitted and become a part thereof on application made or written consent given to the City Council by the owner or owners of the land, or as the case may be, by a majority of the legal voters resident on the land sought to be added. In all such cases the territory so added shall be described by metes and bounds, in an ordinance accepting, assenting and adding the same to the municipal corporation.

Sec. 3. Annexation.

As an alternative method of enlarging or extending the corporate boundaries, the City Council shall have the power to annex property into the City in accordance with the provisions and procedures prescribed by the laws of the State of Texas applicable to municipalities of a character similar to the City.

CHAPTER II. FORM OF GOVERNMENT

Sec. 4. Form of government.

The municipal government of the City of McKinney shall be known as the "Council-Manager Government" with City Council to be composed of the Mayor and six (6) Council Members who shall be nominated and elected in the manner hereinafter provided. The City Council shall be elected by the qualified voters of the City and the members shall serve four (4) year terms and thereafter until their respective successors shall have been elected, or appointed pursuant to Section 17, and shall have qualified.

State law reference(s)—Form of government in home-rule municipality, V.T.C.A., Local Government Code § 26.001 et seq.

Sec. 5. Powers of city.

The City of McKinney, as such body politic and corporate, shall have perpetual succession; may use a corporate seal; may sue and be sued; implead and be impleaded in all courts; may contract and be contracted with; may acquire property within or without its boundaries for any municipal purpose, in fee simple or lessor interest or estate, by purchase, gift, devise, lease or condemnation, and may sell, lease, hold, manage and control any property now owned by it or which it hereafter may acquire, may construct, own, lease, operate and regulate public utilities; may assess, levy and collect taxes for general and specific purposes on lawful subjects of taxation; may borrow money on the faith and credit of the City by the issue or sale of bonds or notes of the City; may appropriate the money of the

¹State law reference(s)—Annexation, V.T.C.A., Local Government Code § 43.001 et seq.; map of municipal boundaries, V.T.C.A., Local Government Code § 41.001.

City for all lawful purposes; may create, provide for, construct, regulate and maintain public works and public improvements of any nature; may levy and collect assessments for local improvements; may levy an occupation tax on any person, occupation, calling or business where permitted under the laws of this State; may license and regulate vehicles operated for hire and fix and regulate the rates to be charged therefor; may license and regulate persons, corporations and associations engaged in any business, occupation, profession or trade; may license and regulate all places of public amusement; may define nuisances and prohibit the maintenance of any nuisance within the corporate limits of the City to within five thousand (5,000) feet of the corporate lines outside of the City limits, and abate such nuisances by summary proceedings and provide for the punishment of the authors thereof; may regulate the use of automobiles and motorcycles and the speed thereof and prescribe the proper lighting of the same when used at night; may provide for the inspection of buildings and all works of construction and prescribe and enforce proper regulations in regard thereto; may regulate and locate or prohibit the erection of all poles in the City and cause the same to be removed or changed at any time; may provide for the inspection of weights and measures and fix standards of weights and measures; regulate, restrain and prohibit the running at large of the dogs in the City of McKinney; may adopt any ordinance or regulation having for its purpose the prevention of fires or the removal of fire hazards; may regulate burial grounds, cemeteries and crematories and condemn and close any such in the inhabited portions of the City when public interest or public health may demand, and may regulate the burying of the dead; may provide for a system of vital statistics; may define, prohibit, abate, suppress and prevent all things detrimental to the health, morals, comfort, safety, conveniences, and welfare of the inhabitants of the City; may regulate the construction and height of and materials used in all buildings and the maintenance and occupancy thereof; may regulate and control the use, for whatever purpose, of the streets and other public places; may create, establish, abolish and organize offices and fix the salaries and compensation of all officers and employees; may make and enforce all police, health, sanitary and other regulations, and may pass such ordinances as may be expedient for maintaining and promoting the peace, good government and welfare of the City, for the performance of the functions thereof, for the order and security of its inhabitants and to protect the peace, lives, health and property of such inhabitants, and may provide suitable penalties for the violation of any ordinance enacted by the City of McKinney. The City shall have all powers that are or hereafter may be granted to municipalities by the Constitution or laws of the State of Texas, and all such powers, whether expressed or implied, shall be exercised and enforced in the manner prescribed by this Charter, and when not prescribed therein, in such manner as may be provided by ordinance or resolution of the City Council of the City of McKinney.

State law reference(s)—Home-rule municipality has full power of local self-government, V.T.C.A., Local Government Code § 51.072.

Sec. 6. General powers adopted.

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

State law reference(s)—Municipal home rule authorized, Texas Const., art. XI, § 5; home rule law generally, V.T.C.A., Local Government Code ch. 9; preemption by Penal Code, V.T.C.A., Penal Code § 1.08.

Sec. 7. Power to acquire property for public purposes.

The City of McKinney shall have the power to acquire by gift, purchase or condemnation private or public property located inside or outside of the corporate limits for the extension, improvement and enlargement of its water system, including riparian rights, water supply reservoirs, standpipes, watersheds, dams, the laying, building, maintenance and construction of water mains and the laying, erection, establishment or maintenance of any

necessary appurtenances or facilities which will furnish to the inhabitants of the City an abundant supply of wholesome water; for sewerage plants and systems; right-of-way for water and sewer lines; parks, playgrounds and schools, hospitals, fire stations, police stations, burial grounds and cemeteries, incinerators or other garbage disposal plants, streets, boulevards and alleys or other public ways, City Jails, City Halls and other municipal buildings or any right-of-way needed in connection with any property used for any purpose hereinabove named; for the straightening or improving of the channel of any stream, branch or drain and for any other municipal purpose. The procedure to be followed in any condemnation proceeding hereunder and authorized herein shall be in accordance with the provisions of the State Law with reference to eminent domain. The provisions of Tex. Prop. Code, Ch. 21, shall apply to such proceedings, or such proceedings may be brought under any other State Law now in existence or that hereafter may be passed governing and relating to the condemnation of land for public purposes by a city.

State law reference(s)—Eminent domain, V.T.C.A., Property Code ch. 21.

CHAPTER III. THE CITY COUNCIL

Sec. 8. Number of city council members.

The City Council shall be composed of a Mayor and six (6) Council Members, who shall be elected in the manner set forth in this Charter. The Mayor and City Council Members shall take office upon canvassing following the date of election, and their terms of office shall begin as of that date. They shall serve until their respective successors shall have been elected and shall have qualified, except as otherwise provided for herein.

Sec. 9. City council election.

There shall be held in the City of McKinney on the uniform election date in May 2013, and every four (4) years thereafter, or on such date or dates as may be prescribed by the laws of the State of Texas, a City election for a Mayor, a Council Member-at-large 1, a Council Member representing District 1, and a Council Member representing District 3. Any current office holder's term shall be extended according to law until the uniform election date in May 2013 and thereafter until their successors are elected and qualified.

There shall be held in the City of McKinney on the uniform election date in May 2015, and every four (4) 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 a Council Member-at-large 2, a Council Member representing District 2, and a Council Member representing District 4. Any current office holder's term shall be extended according to law until the uniform election date in May 2015 and thereafter until their successors are elected and qualified.

Each person duly elected to the position of Mayor or Council Member shall perform the duties and discharge the obligations conferred and imposed upon them, respectively, by the law, this Charter and by the City Ordinances of McKinney and shall hold their office for a period of four (4) years and until their successors are elected and qualified. Beginning with the 2013 election, and every election thereafter, the Mayor shall be allowed to hold his/her seat for a limit of two (2) consecutive, full four-year terms, and including two (2) terms consisting of a current three-year and a four-year term. Beginning with the 2013 election, and every election thereafter, each person duly elected to the position of Council Member shall be allowed to hold any at-large seat, including consecutive terms in two (2) separate at-large seats, for a limit of two (2) consecutive, full four-year terms, and including two (2) terms consisting of a current three-year and a four-year term. Beginning with the 2013 election, and every election thereafter, each person duly elected to the position of Council Member shall be allowed to hold any district seat, including consecutive terms in two (2) separate district seats, for a limit of two (2) consecutive, full four-year terms, and including two (2) full terms consisting of a current three-year and a four-year term. After serving two (2) consecutive terms in an at-large or district seat(s), an at-large member shall not be eligible to serve in a district or at-large seat until the passage of one (1) year from the end of such two (2) consecutive terms; however, such member may serve as Mayor. After serving two (2) consecutive terms in an at-large or a district seat(s), a district member shall not be eligible to serve in an at-large or district seat, until the passage of one (1) year from the end of such two (2) consecutive terms; however, such member may serve as Mayor.

Sec. 9a. Runoff elections.

Any candidate for office in a duly held municipal election receiving a majority of all the votes cast for the office for which they are a candidate shall be elected to such office.

In the event no candidate receives a majority, the Mayor shall, on the first business day following the completion of the official count of the ballots cast at said first election, issue a call for a second election to be held in accordance with the provisions of the laws of the State of Texas; at which said second election, the ballot shall contain the names of only the two (2) candidates receiving the highest number of votes in the first election.

Sec. 10. City 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 shall at the time of his or her election and during the term of office physically reside with legal domicile, in the district which they represent. For purposes of this Section and the Charter, "physically reside" shall mean (i) the candidate or Council Member shall use their 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 their 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 shall 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.

Sec. 11. The official ballot.

The official ballot shall provide for the election of the following offices during the same election year: a Mayor, a Council Member at Large, a Council Member representing District 1 and a Council Member representing District 3.

The official ballot shall provide for the election of the following offices during the same election year: a Council Member at Large, a Council Member representing District 2, and a Council Member representing District 4.

The official ballot shall also provide, at any general City election, for the election of Council Members as may be required to fill vacancies on the Council.

The official ballot shall also provide an opportunity for the voters to decide any issue for which a local referendum under Section 133 of this Charter may be required, at any election which may be now or hereafter permitted by law.

The official ballot and all related documents shall be printed in both English and Spanish. In addition to the official ballots, all registration or voting notices, forms, instructions, assistance or other materials or information relating to the electoral process shall be printed in both English and Spanish.

Sec. 12. Election regulations.

The City Council shall by ordinance provide for the holding of all elections not inconsistent with this Charter and applicable state and federal laws, for the prevention of fraud in such elections, and such other provisions as it may deem desirable in order to ensure security and integrity of all City elections.

Municipal elections shall be conducted by officers appointed by the City Council and all such elections shall be conducted, together with the making of the return, in accordance with this Charter and the state and federal laws applicable thereto.

Sec. 13. Election returns.

The officers holding the election shall make their return to the City Council according to State law following the election, so that the City Council may canvass the returns and officially declare the results of the election. In the

case of special elections, the Council shall, in the ordinance calling the special election, specify the time when the returns shall be made to the City Council.

Sec. 14. Election dates.

General elections shall be held in May or on such other date or dates as may be prescribed by State law. Special City elections shall be held on such dates as may be prescribed by the Election Code. A special election to fill vacancies in elected offices may be held on dates other than the aforementioned dates in a recognized emergency. In such cases, the City Council shall recognize the existence of an emergency and shall request permission from the Governor to call the election. The Governor may grant permission if they find that an emergency exists.

State law reference(s)—Election to fill vacancy, V.T.C.A., Election Code ch. 201.

Sec. 15. City council qualifications.

Each member of the City Council shall, in addition to the other qualifications prescribed by Section 10 of the Charter and by law, be a qualified voter of the City of McKinney not less than one (1) year prior to the date the application is filed by the candidate filing for City Council office, and such qualifications shall be established through documentation submitted to the City Secretary at the time of filing.

Sec. 15a. Residency requirements for voters.

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.

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 they seek to represent for 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 they are elected shall immediately forfeit that office.

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

Sec. 16. City council compensation.

Each member of the City Council, including the Mayor, shall receive for compensation the sum of fifty dollars (\$50.00) per posted City Council meeting attended. In addition, the Mayor shall receive a 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.

Sec. 17. Vacancies on city 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.

Sec. 18. Mayor is presiding officer.

The Mayor shall 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 shall, in addition to their prerogatives of office, have the full rights of a member of the City Council and shall vote on any question before it as any other Council Member. For a motion to be declared carried, it shall be necessary for four (4) affirmative votes to be cast unless otherwise provided elsewhere in the Charter or by State Law.

State law reference(s)—Authority of mayor to call for aid by the state in the event of riot, etc., V.T.C.A., Government Code § 431.112.

Sec. 18a. Election of mayor pro tempore.

The City Council shall elect from among the Council Members a Mayor Pro Tempore (also called Mayor Pro Tem in this Charter) who shall be elected once per year at the first regular City Council meeting in June. The Mayor Pro Tem shall act as Mayor during the absence or the disability of the Mayor, and if a vacancy occurs, shall become Mayor for the completion of the unexpired term. In this event, their former place as Council Member shall be deemed vacant.

Sec. 19. Powers.

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

- (1) Appoint and remove the City Manager;
- (2) Upon the recommendation of the City Manager, establish other administrative departments and distribute the work of divisions;
- (3) Adopt the budget of the City;
- (4) Authorize the issuance of bonds by a bond ordinance;
- (5) Inquire into the conduct of any office, department or agency of the City and make investigations as to Municipal affairs;
- (6) Appoint the members of the Planning and Zoning Commission and other necessary boards and commissions;
- (7) Adopt and modify the official map of the City;
- (8) Provide for an independent audit.

Secs. 20, 21. Reserved.

Editor's note(s)—Charter amendments approved at the election of May 15, 2004, amended the Charter by repealing former §§ 20 and 21. Formerly, § 20 pertained to appointment of city manager, and § 21 pertained to removal of city manager. Both sections derived from the original Charter adopted on December 21, 1959.

Sec. 22. Removal of other appointive officials.

The City Council may, upon the affirmative vote of the majority of the City Council, remove members of its appointive boards and commissions without notice.

Sec. 23. Quorum of city council.

A quorum shall consist of four (4) members of the City Council.

Sec. 24. Meetings of city council.

All official meetings of the City Council shall be open to the public in accordance with the Texas Open Meetings Act, Tex. Gov't Code Sec. 551.001 et seq., and as it may be amended. Special meetings may be called by the Mayor or the City Manager by notice in writing to the Council Members and the Mayor or the City Manager, as the case may be.

Sec. 25. Rules of procedure: Minutes.

The City Council shall have the authority to determine its own rules and order of business to govern its meetings. The City Secretary shall be appointed by the City Manager who may assign such additional duties to the City Secretary as the City Council and City Manager may deem proper. The City Secretary shall keep accurate minutes of the proceedings of all official business conducted at the meetings, regular or special, of the City Council, and shall promptly transcribe such minutes after the meeting and submit such minutes to the City Council. The minutes, when approved by the City Council shall be the official record of the proceedings of the City Council and shall be open for inspection by the public during regular working hours when City Hall is open. For non-action meetings only, posted agendas may serve as official minutes of the meeting.

Sec. 26. Independent audit.

The City Council shall cause an independent audit to be made of the books of account, records, and transactions of all administrative departments of the City at least once yearly. Such audits during such fiscal year shall be made by one or more certified public accountants who, for the three (3) years preceding have held a certificate issued by the State Board of Public Accountancy of the State of Texas, or by a State maintaining an equal standard of professional requirements, which entitles the holder of such certificate to a Texas certificate. The Auditor or Auditors to make the said audit shall be selected by the City Council, and shall be responsible to the City Council.

The report of the Auditor or Auditors shall be prepared in accordance with generally accepted standards of financial reports of municipalities, including the certification of all statements required under Section 58 of the Charter and such other statements as may be required by the Council.

The report of such Auditor or Auditors for the fiscal year shall be printed and a copy thereof shall be furnished to each member of the City Council, the City Manager and to each Citizen who may request therefor. A copy of the audit shall be filed with the City Secretary according to State law. The original report of said Auditor or Auditors shall be kept among the permanent records of the City.

CHAPTER IV. THE CITY MANAGER

Sec. 27. Generally.

The City Council shall appoint a City Manager, who shall be the chief administrative and executive officer of the City. The City Manager shall be chosen by the City Council solely on the basis of their executive and administrative training, experience and ability, and without regard to political consideration.

The City Manager need not, when appointed, be a resident of the City of McKinney or the State of Texas, but during their tenure of office they shall reside in the City of McKinney. No Member of the City Council shall, during the term for which elected, be chosen as City Manager.

The City Manager shall not be appointed for a definite fixed time but shall be removable at the will and pleasure of the City Council by a vote of the majority of the City Council. If removed after serving at least six (6) months, he may demand written charges and the right to be heard thereon at a public meeting of the City Council prior to the date on which their final removal shall take effect; but pending such hearing, the City Council may suspend him from office. The action of the City Council in suspending or removing the City Manager shall be final, it being the intention of this Charter to vest all authority and place all responsibility for such suspension or removal in the City Council.

In the case of the suspension, absence or disability of the City Manager, the City Council may designate some qualified person to perform the duties of the office during such suspension, absence or disability.

The City Manager shall receive such compensation as may be determined by the City Council.

Sec. 28. Powers and duties of the city manager.

The powers and duties of the City Manager shall be as follows:

- (1) To see that all laws and ordinances are enforced.
- (2) Except as otherwise provided by the Charter of the City of McKinney, to appoint and remove all heads of departments and all subordinate officers and employees of the City, and all appointments shall be made upon merit and fitness alone.
- (3) To exercise control over all departments and subdivisions thereof created by the Charter, or that may hereafter be created by the City Council or the City Manager, except as hereinafter provided.
- (4) To see that all terms and conditions imposed in favor of the City or its inhabitants in any public utility franchise are faithfully kept and performed and upon knowledge of any violation thereof, to call the same to the attention of the City Attorney, whose duty it shall be to take such steps as may be necessary to enforce the same.
- (5) To attend all meetings of the City Council, with the right to take part in discussion, but having no vote. They shall be entitled to notice of all special meetings.
- (6) To recommend to the City Council for adoption such measures as they may deem necessary or expedient.
- (7) To keep the City Council at all times fully advised as to the financial condition and needs of the City.
- (8) Submit to the City Council the annual budget after receiving estimates made by the directors or heads of the various departments of the City.
- (9) To see to it that the City operates within its budget.
- (10) To execute personally, or through their duly authorized designee, deeds, when duly authorized, and to make and execute all contracts on behalf of the City when authorized by the Charter, ordinance or resolution of the City Council.
- (11) To perform such other duties as may be prescribed by this Charter, or by ordinance or resolution of the Council.

Sec. 29. Responsibility of city manager to city council.

The City Manager shall be responsible to the City Council for the proper administration of all the City affairs placed in their hands and shall to that end appoint and employ all directors of departments and other employees not otherwise ordered by the City Council as provided for in this Charter under Section 34 or by ordinance.

Appointments made by the City Manager shall be on the basis of executive and administrative experience, and ability and of training, fitness and efficiency of such appointees in the work which they are to administer. Subject to Section 34, all such directors of departments shall be immediately responsible to the City Manager and may be removed by the City Manager at any time.

Sec. 30. No interference by city 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 City Council shall adopt rules of procedure to implement this section including rules for protecting employees who report retaliation to the City 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.

Editor's note(s)—Ord. No. 2011-12-078, § 1, adopted December 6, 2011, amended the Charter by repealing former § 30, and renumbering former §§ 31-46 as §§ 30-45. Former § 30 pertained to bond of city manager, and derived from Ord. No. 2001-03-033, adopted March 20, 2001.

Sec. 31. Investigations.

The City Council, the City Manager, or any person or committee authorized by either or both of them shall have power to inquire into the conduct of any department or office of the City, to make investigations as to City affairs, and for that purpose may subpoena witnesses, administer oaths and compel the production of books, papers and other evidence material to said inquiry. The City Council shall provide by ordinance penalties for contempt in refusing to obey any such subpoenas or failure to produce books, papers and other evidence, and shall have the power to punish any such contempt in the manner provided by ordinance.

Sec. 32. Departments in annual budget.

Departments shall be controlled and administered by the City Manager. There are hereby created and placed under control of the City Manager departments as enumerated and defined in each year's budget. The City Council, in cooperation with the City Manager, shall fix all salaries for the department heads, officers and other employees in each year's budget.

Note(s)—Former § 33. See editor's note, § 30.

Sec. 33. Other departments.

The City Council shall have power by ordinance to establish other departments and offices. The City Council may discontinue any department or office established by ordinance and may prescribe, combine, distribute, or abolish the functions and duties of departments and offices, but no function or duty assigned by this Charter to a particular department or office shall be abolished or assigned to any other department or office; provided that the City Council may, if it deems advisable, consolidate into one (1) department not more than three (3) of the departments hereby established. No department or office created by ordinance shall be established or discontinued, and no consolidation as hereinbefore provided shall be made until the recommendation of the City Manager thereon shall have first been heard by the City Council.

Should there arise any conflict in the assignment of the duties of the various department heads or subordinate offices or divisions, such conflict shall be resolved by the City Council enacting an ordinance upon the recommendation of the City Manager as to where and by whom such particular duty or duties should be performed.

Note(s)—Former § 34. See editor's note, § 30.

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 their 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 City 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 their department and the preservation of the records and property under their control. Subject to the control and supervision of the City Manager in all matters, the director of a department shall manage their department.

Note(s)—Former § 35. See editor's note, § 30.

Sec. 35. Responsibility of directors of departments.

The directors of departments appointed by the City Manager shall be immediately responsible to the City Manager for the administration of their departments, and their advice in writing may be required by them on all matters affecting their departments. They shall prepare departmental estimates, which shall be open to public inspection after such estimates have been filed with the City Manager, and they shall make all their reports and recommendations concerning their departments at stated intervals, or when requested by the City Manager.

Note(s)—Former § 36. See editor's note, § 30.

CHAPTER V. LEGAL DEPARTMENT—CORPORATION MUNICIPAL COURT

Sec. 36. City attorney.

The City Council shall appoint an attorney to represent the City, and they shall be known as the City Attorney. They shall be a competent, practicing attorney of recognized ability. They shall serve at the will of the City Council for an indefinite term and shall receive such compensation as shall be fixed by the City Council.

Note(s)—Former § 37. See editor's note, § 30.

Sec. 37. Duties of the city attorney.

The City Attorney shall represent the City in litigation and controversies and shall perform such other duties as the City Council may direct.

Note(s)—Former § 38. See editor's note, § 30.

Sec. 38. Municipal court—Creation and jurisdiction—Fines.

There is hereby created and established a Court to be held in the City of McKinney which shall be known as the Municipal Court of the City of McKinney, which Court shall have jurisdiction within the territorial limits of said City of all criminal cases arising under the ordinances of such City and shall have concurrent jurisdiction with the Justice of the Peace of the precincts in which the City is or may be situated of all criminal cases arising under the criminal laws of the State where the offense is committed within the territorial limits of said City, and the punishment is by fine only, and the maximum of said fine under the laws of this State may not exceed the maximum as set out in State law. Said Court shall have no civil jurisdiction, except for the forfeiture and collection of bonds given in proceedings pending therein. It shall also have jurisdiction of the violation of any ordinance prohibiting the maintenance of any nuisance within five thousand (5,000) feet of the corporate lines of this City, outside the City limits.

Said Court shall have jurisdiction in cases where a person is required by the provisions of this Charter, or by ordinance passed in pursuance thereof, to obtain a license for any calling, occupation, business or vocation upon complaint before said Court to adjudge said person guilty of violation of any rule, regulation or ordinance of the City in relation thereto, and in addition to the punishment to be imposed therefor, may suspend or revoke the license so granted.

Note(s)—Former § 39. See editor's note, § 30.

Sec. 38a. Municipal court.

The Municipal Court shall have all the jurisdiction, powers and duties as may be prescribed by the laws of the State of Texas.

Note(s)—Former § 39a. See editor's note, § 30.

Sec. 39. Code of Criminal Procedure controlling.

All complaints, prosecutions, appeals, service of process, commitment of those convicted of offenses, the collection and payment of fines, the attendance and service of witnesses and juries, punishment for contempt, bail and the taking of bonds shall be governed by the provisions of Chapter 45A of the Code of Criminal Procedure of the State of Texas, as amended.

Note(s)—Former § 40. See editor's note, § 30.

Editor's note(s)—Since the adoption of the above section, which refers to the Code of Criminal Procedure of 1925, as amended, The Code of Criminal Procedure of 1965, as amended, has been adopted. For current provisions relating to municipal courts, see Vernon's Ann. C.C.P. art. 45.01 et seq.

Sec. 40. Reserved.**Sec. 41. Presiding municipal judge.**

The Municipal Court shall be presided over by a Judge selected by the City Council, who shall be known as the Presiding Municipal Judge. They shall have such qualifications as may be determined by the City Council. The Presiding Municipal Judge shall receive such compensation as may be fixed by the City Council. The City Council at its discretion may also appoint associate judges or contract judges.

Note(s)—Former § 42. See editor's note, § 30.

State law reference(s)—Judge of municipal court, V.T.C.A., Government Code § 29.004.

Sec. 42. Clerk of court—Creation and duties.

There is hereby created the office of Clerk of the Municipal Court. Said clerk shall be appointed by the City Manager, who shall serve at the pleasure of the City Manager. The clerk shall keep the records of the Court and shall have the power to do and perform all things and acts usual or necessary to be performed by clerks of that Court in issuing process of said Court and conducting the business thereof. The City Manager may require the clerk to perform such other duties as may be prescribed, in addition to the duties of such clerk, without extra compensation.

Note(s)—Former § 43. See editor's note, § 30.

State law reference(s)—Municipal court clerk, V.T.C.A., Government Code § 29.010.

Sec. 43. General laws—Act cumulative of.

The foregoing Sections are hereby declared to be cumulative of any laws that may now or hereafter be passed by the Legislature regulating or increasing the jurisdiction of Municipal Courts in home rule cities.

Note(s)—Former § 44. See editor's note, § 30.

State law reference(s)—Jurisdiction of municipal court, V.T.C.A., Government Code § 29.003.

CHAPTER VI. FINANCE DEPARTMENT

Sec. 44. Finance department.

There shall be a Department of Finance.

Note(s)—Former § 45. See editor's note, § 30.

Sec. 45. Qualification of director.

The Director of Finance, appointed by the City Manager, shall have knowledge of municipal accounting and taxation and shall have experience in budgeting and financial control.

Note(s)—Former § 46. See editor's note, § 30.

Sec. 46. Powers and duties.

The Director of Finance shall have charge of the administration of the financial affairs of the City. They shall perform, or supervise and be responsible for the performance of, the following duties:

- (1) Compile the estimates of revenue and expenditures for the budget.
- (2) Supervise and be responsible for the disbursement of all moneys and have control over all expenditures to ensure that budget appropriations are not exceeded.
- (3) Prepare statements of all receipts and disbursements in sufficient detail to show the exact financial condition of the City.
- (4) Prepare at the end of each fiscal year a complete financial statement and report.
- (5) Supervise the assessment of all property within the City for taxation, make all special assessments for the City, prepare special assessments as may be required by law.
- (6) Supervise the collection of all taxes, special assessments, license fees and other revenues of the City, or for whose collection the City is responsible, and receive all moneys receivable by the City from the State or Federal government, or from any Court, or from any office, department or agency of the City.
- (7) Approve all proposed expenditures; unless they shall certify that there is an unencumbered balance of appropriation and available funds, no appropriation shall be encumbered and no expenditure shall be made (except for emergencies as provided elsewhere in this Charter).

Editor's note(s)—Ord. No. 2011-12-078, § 1, adopted December 6, 2011, amended the Charter by repealing former § 47, and renumbering former § 48-50 as §§ 46-48. Former § 47 pertained to surety bonds, and derived from Ord. No. 2001-03-033, adopted March 20, 2001.

Sec. 47. Accounting supervision and control.

The Director of Finance shall:

- (1) Prescribe the forms of receipts, vouchers, bills or claims to be used by all officers, departments and agencies of the City;
- (2) Examine all contracts, or orders and other documents by which the City incurs financial obligations, having previously ascertained that moneys have been appropriated and allocated and will be available when the obligations become due and payable;
- (3) Audit and approve before payment, all bills, invoices, payrolls and other evidences of claims, demands or charges against the City and, with the advice of the City Attorney, determine the regularity, legality and correctness of such claims, demands or charges;
- (4) Inspect and audit any accounts or records of financial transactions which may be maintained in any office, department or agency of the City apart from or subsidiary of the accounts kept by the Director of Finance; and
- (5) Maintain a general accounting system for the City and each of its offices, departments and agencies; keep books and exercise financial budgetary control over each office, department and agency; keep separate accounts for the time of appropriation contained in the City budget, each of which accounts

shall show the amount of the appropriation, the amounts paid therefrom, the unpaid obligations against it and the unencumbered balance; and require reports of receipts and disbursements from each receiving and spending agency of the City to be made daily or at such intervals as they may deem expedient.

Note(s)—Former § 49. See editor's note, § 46.

Sec. 48. Disbursement of funds.

All checks, vouchers or warrants for withdrawal of money from the City depository shall be signed by the Director of Finance, or their Deputy, and countersigned/approved by the City Manager.

Note(s)—Former § 50. See editor's note, § 46.

Sec. 49. Procurement services department.

There shall be established a Procurement Services department which, pursuant to rules and regulations established by this Charter, and by ordinance, shall procure, store and distribute all supplies, materials and equipment required by any office, department or agency of the City.

The Procurement Services department shall:

- (1) Establish and enforce specifications with respect to supplies, materials and equipment required by the City;
- (2) Review all contracts of whatever character, pertaining to public improvements, or the maintenance of public property of said City, and shall be based upon plans and specifications. Said plans and specifications shall disclose clearly each item constituting a material element entering into the cost of the subject matters of the contract. Advertisements for the proposed work, or matters embraced in said proposed contract, shall be made, inviting competitive bids for the work proposed to be done, which advertisement shall be published in accordance with State law. Competitive bids submitted shall be sealed, shall be opened at the prescribed time and shall remain on file in the office of the Procurement Services Manager and be open to the public for inspection before any award of said work is made to any competitive bidder.

Editor's note(s)—Ord. No. 2011-12-078, § 1, adopted December 6, 2011, amended the Charter by repealing former § 51, and renumbering former §§ 52 and 53 as §§ 49 and 50. Former § 51 pertained to special audits, and carried no history.

Sec. 50. Sale and purchase procedure.

- (a) Before the City makes any sale or contract for the sale of any property belonging to the City, or any purchase or contract for supplies, materials, equipment or contractual services, opportunity shall be given for competition under such rules and regulations as the City Council may prescribe.
- (b) The City Manager shall have the authority to authorize purchasing and contractual services expenditures under (a) above without the approval of the City Council for all budgeted line items in accordance with the applicable City procedures and, if not otherwise exempt therefrom, with State law competitive procurement processes. All purchases required to be competitively bid or which require a competitive procurement process shall conform to applicable State law, provided the City Council shall have the right to reject any and all bids.

Sec. 51. Officers and employees collecting money on behalf of city.

The City Manager shall be responsible for seeing that all money received by any officer or employee of the City who is in charge of such funds be promptly deposited with the City Depository to the account of the City of McKinney.

Upon the death, resignation, removal or expiration of the term of any officer of the City whose duties have included the receipt, disbursement or custody of public funds, the City Manager may have the accounts of such

officer audited and transmit the auditor's report to the Council. In case of the death, resignation or removal of the City Manager, the Council shall cause an audit to be made of the City's accounts. If, as a result of any such audit, an officer is found to be indebted to the City, the City Attorney shall, as directed by the Council, promptly proceed to collect such indebtedness.

Editor's note(s)—Ord. No. 2011-12-078, § 1, adopted December 6, 2011, amended the Charter by repealing former § 54, and renumbering former § 55 as § 51. Former § 54 pertained to surety bonds, and derived from Ord. No. 2001-03-033, adopted March 20, 2001.

CHAPTER VII. THE BUDGET²

Sec. 52. Annual budget estimate.

The fiscal year of the City shall begin on the first (1st) day of October of each year and shall end with the thirtieth (30th) day of September of each year.

On or before the fifteenth (15th) day of August of each year the City Manager shall submit to the City Council a budget of the revenues of the City and the expense of conducting the affairs thereof for the ensuing fiscal year. This estimate shall be compiled from detailed information obtained from the several departments, divisions and offices of the City. The information from the various departments shall be furnished to the City Manager by the Departments under their control and those not under their control, not later than the first (1st) of August. The classification of the estimate shall be as nearly uniform as possible for the main functional divisions of such departments, divisions and offices and shall give the following information:

- (a) An itemized estimate of the expense of conducting each department, division, and office.
- (b) Comparison of such estimates with the corresponding items of expenditure of the last two (2) fiscal years, and with the expenditures of the current fiscal year plus an estimate of expenditures necessary to complete the current fiscal year.
- (c) Reason for proposed increases or decreases of such items of expenditure compared with the current fiscal year.
- (d) Items of payroll increases as either additional pay to present employees or pay for more employees.
- (e) A statement from the Director of Finance of the total probable income of the City from taxes for the period covered by the estimate.
- (f) An itemization of all anticipated revenue from sources other than the tax levy.
- (g) The amount required for interest on the City's debt, for sinking fund and for maturing serial bonds.
- (h) The total amount of outstanding City debts, with a schedule of maturities on bond issues.
- (i) Such other information as may be required by the City Council.
- (j) The proposed budget shall contain a suggested tax rate to be levied to support the expenditures proposed.

Editor's note(s)—Ord. No. 2011-12-078, § 1, adopted December 6, 2011, amended the Charter by renumbering former §§ 57-83 as §§ 52-78.

Sec. 53. Annual appropriation ordinance.

The City Council shall pass the appropriation ordinance in accordance with state law. Provision shall be made for public hearings upon the appropriation ordinance before the City Council. The City Council shall not pass the

²State law reference(s)—Municipal budget, V.T.C.A., Local Government Code § 102.001 et seq.

appropriation ordinance until after its publication, in accordance with State law. Upon passage of the appropriation ordinance by the City Council, it shall, before becoming effective, be published once in accordance with State law. Following the final adoption of the appropriation ordinance approving the budget, the City Council shall pass an ordinance levying the taxes for the current year, said taxes to be due and payable as hereinafter provided in this Charter. Should the City Council for any reason fail to enact an annual tax levy ordinance, then the taxes shall be collected in accordance with the ordinance enacted for the previous year, and the taxes shall be deemed to have been assessed and levied in full compliance with the law and this Charter.

Note(s)—Former § 58. See editor's note, § 52.

Sec. 54. Transfer of appropriations.

Upon the written recommendation of the City Manager, the City Council, through its authorizations to the City Manager in the annual appropriations ordinance, may at any time transfer an unencumbered balance of an appropriation made for the use of one (1) department, division or purpose to any other department, division or purpose; provided, however, that no such transfer shall be made of revenue or earnings of the water department, sewer department or any other City-owned utility in excess of ten (10) percent.

Note(s)—Former § 59. See editor's note, § 52.

Sec. 55. Appropriation of excess revenue.

If at any time the total accruing revenue of the City shall be in excess of the total estimated income thereof, as set forth in the annual budget estimate in compliance with subdivisions (f) and (g) of Section 52 hereof, the City Council may from time to time appropriate such excess to such uses as will not conflict with any uses for which such revenues specifically accrued.

Note(s)—Former § 60. See editor's note, § 52.

Sec. 56. Expenditure only pursuant to appropriation.

No money shall be drawn from the City Depositors nor shall any obligation for the expenditure of money be incurred, except in conformity with the appropriations ordinance and the approved financial policies of the City Council. At the close of each fiscal year, the unencumbered balance of each appropriation shall revert to the fund from which it was appropriated and shall be subject to future appropriations, but appropriations may be made in furtherance of improvements or other objects of work of the City which will not be completed within the current year.

Note(s)—Former § 61. See editor's note, § 52.

Sec. 57. Reserved.

Sec. 58. Accounts of appropriations.

Accounts shall be kept for each item of appropriation made by the Council. Each such account shall show in detail the appropriations made thereto by the Council, the amount drawn thereon, the unpaid obligations charged against it and the unencumbered balance to the credit thereof.

Note(s)—Former § 63. See editor's note, § 52.

Secs. 59, 60. Reserved.

Editor's note(s)—Ord. No. 2014-06-039, § 1, adopted June 3, 2014, amended the Code by repealing former §§ 59 and 60 in their entirety. Former § 59 pertained to payment of claims, and derived from Ord. No. 2001-03-033, adopted March 20, 2001; and Ord. No. 2011-12-078, adopted December 6, 2011. Former § 60 pertained to money certified in depository, and derived from Ord. No. 2011-12-078, adopted December 6, 2011.

Sec. 61. Money deemed in depository.

All moneys actually in the Depository to the credit of the fund from which they are to be drawn and all moneys applicable to the payment of the obligation or appropriation involved that are anticipated to come in the Depository before the maturity of such contract, agreement, or obligation, from taxes or assessments, or from sales of service products, or by-products, or from any City undertaking, fees, charge accounts and bills receivable, or other credits in process of collection, and all moneys applicable to the payment of such obligation appropriation, which are to be paid into the City Depository prior to the maturity thereof, arising from the sale or lease of lands or other property, and moneys to be derived from lawfully authorized bonds sold and in the process of delivery, shall, for the purpose of such certificate, be deemed in the Depository to the credit of the appropriate fund and subject to such certification.

Note(s)—Former § 66. See editor's note, § 52.

Sec. 62. Obligations—When void.

All contracts, agreements or other obligations entered into, all ordinances passed and resolutions and orders adopted, contrary to the preceding sections, shall be void, and no person whomsoever shall have any claim or demand against the City thereunder, nor shall the City Council or any officer of the City waive or qualify the limits fixed by any ordinance, resolution or order, or obligate the City for any liability whatever in excess of such limits, or relieve any party from an exact compliance with their contract under such ordinance, resolution or order; provided that this section shall not apply in case of an extraordinary emergency expenditure under state law.

Note(s)—Former § 67. See editor's note, § 52.

CHAPTER VIII. POLICE DEPARTMENT³

Sec. 63. Chief of police, director of police department.

The director of the Police Department shall be the Chief of Police. The Police Department shall be composed of a Chief of Police and such other officers and employees as the City Council may provide by ordinance.

The City Manager shall recommend to the City Council the number of officers and employees in addition to the Chief. The City Manager shall appoint temporary police officers or guards in cases of emergency. The Chief of Police shall appoint any Assistants. The Chief of Police shall have immediate direction and control of the Police Department, subject to the supervision of the City Manager and also 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 the conduct of the Department which, when approved by the City Manager shall in addition to applicable laws and Charter provisions, constitute the rules of the administration and conduct of the Department. The Chief of Police shall devote their entire time to the discharge of their official duties. Their office shall be kept open at all times and either they or their subordinates shall be in constant attendance of such office. In case of the disability of the Chief of Police by reason of sickness or other cause, wherein the Chief of Police is unable to perform their duties, an Assistant Chief or next in command shall perform the duties of Chief of Police.

Note(s)—Former § 68. See editor's note, § 52.

Sec. 64. Authority of police.

The officers constituting the Police Department of the City of McKinney shall be and they are hereby vested with all the powers and authority given to them as Peace Officers under the laws of the State of Texas in taking cognizance of, and enforcing the criminal laws of the State and the ordinances and regulations of the City within the limits of the City, and it shall be the duty of each such officer to use their best endeavors to prevent the commission

³State law reference(s)—Peace officers, Vernon's Ann. C.C.P. art. 2.12 et seq.

within the City of offenses against the laws of said State and against the ordinances and regulations of said City; to observe and enforce all such laws, ordinances and regulations; to detect and arrest offenders against the same; to preserve the good order of the City and to secure the inhabitants thereof from violence, and the property therein from injury. Such Police shall execute any criminal warrant for arrest, or any writ, subpoenas or other process that may be placed in their hands by the duly constituted authorities of the City. No Police Officer shall receive any fee or other compensation for any service rendered in the performance of their duty other than the salary paid to the officer by the City, nor shall the officer receive a fee as a witness in any case arising under the criminal laws of this State or under the ordinances or regulations of the City and prosecuted in the Municipal Court of the City, any Criminal or District Court in Collin County, or any United States Federal Court.

Note(s)—Former § 69. See editor's note, § 52.

State law reference(s)—Duties and powers of peace officers, Vernon's Ann. C.C.P. art. 2.13.

Sec. 65. Disciplinary procedures—Police.

The Police Department shall implement City of McKinney grievance and disciplinary procedures as established by the City Human Resources Department.

Note(s)—Former § 70. See editor's note, § 52.

CHAPTER IX. FIRE DEPARTMENT

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 or other cause, wherein the Chief is unable to perform their duties, an Assistant Chief or next in command shall perform the duties of the Chief.

Note(s)—Former § 71. See editor's note, § 52.

Sec. 67. Disciplinary procedures—Fire.

The Fire Department shall implement City of McKinney grievance and disciplinary procedures as established by the City Human Resources Department.

Note(s)—Former § 72. See editor's note, § 52.

Sec. 68. Classification of fire service.

The Chief of the Fire Department shall classify the fire service of the City, with approval of the City Manager, in conformity with the ordinances, and shall make rules for the regulation and discipline of said department. Selection, appointment and promotion of Firefighters shall be on a merit basis.

Note(s)—Former § 73. See editor's note, § 52.

CHAPTER X. DEPARTMENT OF PUBLIC WORKS⁴

Sec. 69. Director of public works.

The Public Works Division shall be under the control and direction of the Director of Public Works, who shall be appointed by the City Manager.

They shall also serve the City of McKinney with the maintenance and operation or improvement of the Sanitary Sewer System and Water System of the City.

The Director of Public Works shall have charge of the maintenance and repair of all streets, boulevards, alleys, sidewalks and public ways. They shall have supervision over the water and sewer systems, and the cleaning, maintenance and repair of the streets. They shall have charge of the maintenance, repair and operation of all public buildings belonging to or used by the City; of the automobile mechanics and machinists in the employ of the City. They shall have charge of the execution of the ordinances, contracts and regulations of the City with regard to the disposal of the City's garbage. They shall also perform such other duties relating to their division as may be required of them by the City Manager or by the City ordinance. The City Manager may assign alternative titles or names to this Department/Division which nomenclature may be used interchangeably in resolutions and ordinances.

Note(s)—Former § 74. See editor's note, § 52.

Sec. 70. Reserved.

Editor's note(s)—Ord. No. 2014-06-039, § 1, adopted June 3, 2014, amended the Code by repealing former § 70 in its entirety. Former § 70 pertained to the water department's powers to own and operate generally, and derived from Ord. No. 2001-03-033, adopted March 20, 2001; and Ord. No. 2011-12-078, adopted December 6, 2011.

Sec. 71. Sanitary sewers, charge for service.

The City of McKinney, in connection with the operation of its waterworks, may establish, maintain and operate its sanitary sewer system and, if the governing authorities deem it advisable, a reasonable charge may be made for sanitary sewer service furnished by such sanitary sewer system, and for such purposes the City Council may have all of the powers conferred by the provisions of the Charter relative to water services.

Note(s)—Former § 76. See editor's note, § 52.

Sec. 72. Funds not to be diverted.

The Council may appropriate all receipts and revenues from the sale of water and sewer services for the purpose of extending, improving, operating, maintaining and bettering the water/wastewater infrastructure systems and also for the purpose of discharging or retiring the indebtedness of the City that may be incurred for waterworks purposes.

Note(s)—Former § 77. See editor's note, § 52.

Secs. 73, 74. Reserved.

Editor's note(s)—Ord. No. 2014-06-039, § 1, adopted June 3, 2014, amended the Code by repealing former §§ 73 and 74 in their entirety. Former § 73 pertained to superintendent, and derived from Ord. No. 2001-03-033, adopted March 20, 2001; an election of May 15, 2004; and Ord. No. 2011-12-078, adopted December 6, 2011.

⁴Editor's note(s)—Ord. No. 2014-06-039, § 1, adopted June 3, 2014, amended the Charter by combining former Chapters X and XI as a new Chapter X, and renumbering subsequent chapter.

Former § 74 pertained to the custodian of maps, etc., and derived from Ord. No. 2001-03-033, adopted March 20, 2001; and Ord. No. 2011-12-078, adopted December 6, 2011.

Sec. 75. Storm sewers.

The City Council shall have the power, by ordinance or resolution, to provide for and construct a general storm sewer and drainage system in the City of McKinney, which may be divided into public and private sewers and drains and be built, maintained and conducted in such manner, as the City Council may provide. For the purpose of establishing a general storm sewer and drainage system the City Council shall have full power to change any creek, bayou, or other public drain, or any part thereof, so as to divert the drainage thereof in accordance with a general drainage plan or any special plan providing therefor.

Note(s)—Former § 80. See editor's note, § 52.

Sec. 76. Assessment for storm sewers—Assignable certificates.

Whenever any creek, waterway, bayou or other public drain or any part thereof is diverted or changed in its course, in accordance with the drainage system adopted, and wherever property is reclaimed, improved or otherwise specially benefitted by reason of such diversion or alteration, or by reason of the laying of any storm sewer, or establishment of any drainage system, property is specially benefitted, it shall be liable to be assessed therefor to the extent said property is specially benefitted, and all of the provisions relative to the opening and widening of streets and the assessment of property therefor and the making of a personal charge against the owners of such property specially benefitted, and the issuance of assignable certificates therefor, shall govern as far as practicable the procedure relating to the character of improvements contemplated in this Section, particularly where condemnation of land is made necessary to accomplish the building and construction of said drainage system.

Such assignable certificates may be paid in accordance with State law, according to such terms as may be authorized by the City Council. The City Council in carrying out this power may pass all suitable ordinances or resolutions in order to carry out and effectuate the purpose of this Section and adopt such assessment plans as it may deem advisable; it being one of the purposes of this Section that the City Council may create drainage districts and seek to reclaim property that is now affected by creeks, bayous, waterways and other public drains or any part thereof, and the property that may be located in the vicinity of or in the territory that is specially benefitted by reason of such alteration or change of any such creek, bayou, waterway or other public drain or any part of any creek, bayou, waterway or other public drain, may be specially assessed for the special benefits received by it by reason of the changing, abolition, modification or discontinuance of such creek, bayou, waterway or other public drain or any part thereof. Provisions may be made for the regulation and control of private drains, as well as for the levying of special assessments therefor, as herein provided.

Note(s)—Former § 81. See editor's note, § 52.

Sec. 77. Assessments for sanitary sewers—Assignable certificates.

The City Council may, wherever it may be deemed advisable, provide for special assessments against property owners in the laying or extension of sanitary sewers or the laying of lateral sewers in order to furnish sanitary sewer service to the inhabitants and customers of the City. Such special assessment may be provided for under the assessment plan as herein provided for streets, or the same may be provided for under what is known as the police powers or the powers conferred for the protection of the public health. The City Council shall have full power to issue assignable certificates or any other evidence of indebtedness for the cost of the same and make such cost a personal charge against the owner specially benefitted. The City of McKinney shall have the power and authority to make the same character of assessments for water main extensions. The City shall likewise have the power by ordinance to set up pro rata charges that may be collected from the private property owners for water and sanitary sewer extensions.

Note(s)—Former § 82. See editor's note, § 52.

Sec. 78. Power to acquire property within and without the city limits—Acts of legislature adopted.

For the purpose of furnishing to the inhabitants of the City an adequate and wholesome supply of water for fire protection and domestic consumption and the uses of the said City, the City shall have the power, by purchase, gift or devise, or by the exercise of the right of eminent domain by and through condemnation proceedings, to acquire and own, in fee simple or otherwise, public or private lands and property, including riparian rights within the City Limits or without the City Limits or within any County in the State. The City may exercise the right to eminent domain by and through condemnation proceedings to acquire and condemn either public or private lands and property and all interest therein for the extension, improvement or enlargement of its waterworks system, including water supply reservoirs, riparian rights, standpipes, watersheds, the construction of water supply reservoirs and dams and the laying and building of water mains and the construction, building, erection or establishment of any necessary appurtenances or facilities which will furnish to the inhabitants and customers of the City, an abundant supply of wholesome water. In addition to the above powers conferred and for greater certainty the City shall have and may exercise all the powers conferred by the Constitution and general laws under the Statutes authorizing Cities and Towns to exercise the right to eminent domain by and through condemnation proceedings and shall have all the power provided by the Constitution and laws passed by the Legislature authorizing Cities and Towns to exercise the right of eminent domain by condemnation proceedings to acquire all the necessary land and property, either public or private, lying within any such City or outside any such City, or in any County in the State for the purpose of constructing reservoirs, for the purpose of the extension, construction, improvement and enlargement of the said waterworks system, including the construction of water supply reservoirs, watersheds and such other necessary appurtenances and facilities in order to furnish to any such City an adequate supply of wholesome water. The City shall have the same power and authority to acquire by purchase, gift or through eminent domain, such private or public property as may be necessary for the construction, operation, maintenance or enlargement of its Sanitary Sewer System. In the event it is necessary to resort to the power of eminent domain, then such proceedings shall be conducted in accordance with the applicable State Laws.

Note(s)—Former § 83. See editor's note, § 52.

State law reference(s)—Authority of city to take public or private property for water and sewer purposes, V.T.C.A., Local Government Code § 251.001.

CHAPTER XI. RESERVED

Secs. 79—81. Reserved.

CHAPTER XII. TAXATION—ASSESSMENT AND COLLECTION OF TAXES⁵

Sec. 82. Duty of assessor and collector of taxes.

All property, real, personal or mixed, lying and being within the corporate limits of the City on the first (1st) day of January, shall be subject to taxation excepting such property as may be exempt from taxation under the Constitution and the laws of the State of Texas. It shall be the duty of the Assessor and Collector of Taxes, between the first (1st) day of January and the first (1st) day of August, or as soon thereafter as practical, to make and return to the City Council of the City a full and complete list and assessment of all property, both real and personal, held, owned or situated in the City on the first (1st) day of January of each year and not exempt from municipal taxation; and also a list of all banks and other corporations whose capital stock is liable to taxation. This duty may be delegated by contract.

Note(s)—Former § 88. See editor's note, § 52.

⁵Note(s)—Former Ch. XIII. See editor's note, Ch. X.

State law reference(s)—Taxation and revenue, Texas Const., art. VIII; exemptions from taxation, V.T.C.A., Tax Code § 11.11 et seq.

Sec. 83. Assessments by ordinance.

The City Council shall have full power to provide by ordinance for the prompt collection of taxes assessed, levied and imposed under the Charter, and is hereby authorized, and to that end, may and shall have full power and authority to sell or cause to be sold all kinds of property, real and personal, held by the City and may and shall make such rules and regulations and ordain and pass all ordinances deemed necessary to the levying, laying, imposing, assessing and collecting of any taxes provided for in the Charter. Unless otherwise provided by ordinance and the Charter, all property in such City liable to taxation shall be assessed in accordance with the provisions of the general laws of the State insofar as applicable.

Note(s)—Former § 89. See editor's note, § 52.

State law reference(s)—Tax appraisal and assessment, V.T.C.A., Tax Code ch. 21 et seq.

Sec. 84. Collection by ordinance and penalties.

The City Council shall have power by ordinance to prescribe the number and form of assessment rolls and fix the duties and define the powers of the Assessor and Collector of Taxes and adopt such measures as the City Council may deem advisable to secure the assessment of all property within the City Limits, and collect the tax thereupon.

Note(s)—Former § 90. See editor's note, § 52.

Sec. 85. Franchises—Taxation of.

All rights, privileges and franchises heretofore or hereafter granted to and held by any person, firm or corporation, in the streets, alleys, highways or public grounds, or places in the City, shall be subject to taxation, assessment, or fee, by the City separately from and in addition to the other assets of such person, firm or corporation. The City shall have and may exercise all powers and authority now conferred, or that may hereafter be conferred upon Home Rule cities. No irregularity in the time or manner of making or returning the City Tax Assessment rolls or the approval of such rolls shall invalidate any taxation, assessment, or fee.

Note(s)—Former § 91. See editor's note, § 52.

State law reference(s)—Tax appraisal and assessment, V.T.C.A., Tax Code ch. 21 et seq.

Sec. 86. Lien on all property.

A lien is hereby created on all property, real and personal, in favor of the City of McKinney, for all taxes, ad valorem, occupation or otherwise. Said lien shall exist from January first (1st) each year until the taxes are paid. Such lien shall be prior to all other claims, and no gift, sale, assignment or transfer of any kind, or judicial writ of any kind can ever defeat such lien, but the Assessor and Collector of Taxes can pursue such property, and whenever found out, may seize and sell enough thereof to satisfy such taxes. All persons or corporations owning or holding real or personal property in the City of McKinney on the first (1st) day of January of each year shall be liable for all municipal taxes levied thereon for such year.

Note(s)—Former § 92. See editor's note, § 52.

Sec. 87. Payment of taxes.

All taxes shall be payable at the office of the Assessor and Collector of Taxes. All taxes, whether ad valorem, occupational or otherwise, shall be payable in current money of the United States. No demand for such taxes shall be necessary but it is made the duty of the taxpayer to make payment of such taxes in cash within the time specified.

Note(s)—Former § 93. See editor's note, § 52.

Sec. 88. Reserved.

Editor's note(s)—Ord. No. 2014-06-039, § 1, adopted June 3, 2014, amended the Code by repealing former § 88 in its entirety. Former § 88 pertained to assessment and power to collect, and derived from Ord. No. 2001-03-033, adopted March 20, 2001; and Ord. No. 2011-12-078, adopted December 6, 2011.

Sec. 89. Delinquent taxes—Penalties.

Should any taxpayer permit their taxes to become delinquent by failure or refusal to pay the first installment, then the taxpayer shall have the privilege of paying the full amount of the taxes by January 31st of the ensuing year without penalty and interest. Failure to pay the full amount by January 31st shall render the taxes for the entire year delinquent and shall subject such taxes to the penalty and interest provisions prescribed by the laws of the State of Texas.

Note(s)—Former § 95. See editor's note, § 52.

Sec. 90. Foreclosure on tax lien property.

In any suit by the City of McKinney for the collection of any delinquent tax where it shall appear that the description of any property in the City Tax Assessment Rolls shall be insufficient to identify such property, the City shall have the right to set up in its pleading a good description of the property intended to be assessed, and to prove the same, and have its judgment foreclosing its tax lien upon the same, and personal judgment against the owner, for such taxes, the same as if the property were fully described upon the tax assessment rolls.

Note(s)—Former § 96. See editor's note, § 52.

Sec. 91. Filing suit to collect taxes.

The provisions herein for the collection of taxes shall not be construed to prevent the City from filing suit in any court of competent jurisdiction for the collection of any taxes due on real property, as well as personal property, and for the enforcement of levies for such taxes; and the tax assessment rolls shall be prima facie evidence of the facts stated in said rolls and that all taxes assessed on such roll have been regularly levied and assessed in accordance with the provisions of this Charter Provision and the law; and no irregularity in the manner of levying or assessing taxes shall invalidate the same unless it appears from affirmative proof that such irregularity operated injuriously to the taxpayer attempting to avoid the payment of such tax. Nothing in this section shall be construed to prevent the City Council, through the Collin County Central Appraisal District, from hearing all complaints as to erroneous and unjust tax assessments and making such adjustments with reference thereto as may be deemed just. The City shall have the right, consistent with the State law, to recover reasonable attorneys' fees as a part of the cost of collection of taxes in case suit is filed to collect such taxes, together with court costs as are allowed by statutes.

Note(s)—Former § 97. See editor's note, § 52.

**Sec. 92. Assessment of property—Joint, common and conflicting interest in real estate—
Separate assessment of.**

All levies of ad valorem taxes heretofore made by the City of McKinney, and all tax assessments heretofore made, and tax assessment rolls heretofore placed in the hands of the Assessor and Collector of Taxes for collection are hereby validated; and the same shall be legal and binding, regardless of any irregularities that may exist in the manner of making such levies, and the making and returning of such tax assessment rolls. This provision shall apply to all suits and actions now pending as well as those suits and actions hereafter prosecuted.

Note(s)—Former § 98. See editor's note, § 52.

Sec. 93. Reserved.**Sec. 94. Delinquent tax roll.**

The Assessor and Collector of Taxes, or whatever office is charged with the responsibility of assessing and collecting taxes, shall annually, when the taxes become due, prepare a delinquent tax roll showing all delinquent taxes that remain unpaid on both real and personal property.

Such delinquent tax roll shall be so arranged that it will constitute a cumulative delinquent tax roll.

Any taxpayer who pays any real or personal property taxes shall be issued by the Assessor and Collector of Taxes an official tax receipt which shall show the year or years for which the taxes are paid together with a description of the property. Such receipt shall constitute a valid defense to any suit seeking to collect such taxes; provided, however, that any such tax receipt issued without the actual receipt of actual cash or current money of the United States shall not constitute a valid defense to the payment of the taxes in any suit instituted to collect the same.

Note(s)—Former § 100. See editor's note, § 52.

CHAPTER XIII. PUBLIC IMPROVEMENTS⁶

Sec. 95. Purpose.

The City of McKinney shall have the power whenever deemed necessary by the City Council to acquire private or public property by purchase, lease, gift or by eminent domain for any public purpose authorized by this Charter or for any public purpose where such power is granted to Cities by the laws of this State as they now exist or as they may hereafter be amended.

Note(s)—Former § 101. See editor's note, § 52.

State law reference(s)—Eminent domain generally, V.T.C.A., Local Government Code § 251.001 et seq.; eminent domain as to water system, V.T.C.A., Local Government Code § 402.011; condemnation for highways, V.T.C.A., Transportation Code § 314.001 et seq.

Sec. 96. Initiation of proceedings.

When the City Council shall determine to proceed to acquire any private or public property necessary for public use, it shall so declare in accordance with state law, in which it shall state the nature and extent of the improvement to be made and the limits thereof and describe the parcel or parcels of land proposed to be condemned by any description substantially identifying the same, or by lot and block number, metes and bounds, or by the name of the owner, or, if owned by an estate, the name thereof.

No mistake or omission in any Resolution adopted in accordance with any proceeding shall invalidate it, and its passage shall be conclusive of the public use and necessity of the proposed property or improvement.

Note(s)—Former § 102. See editor's note, § 52.

Sec. 97. State law of assessments adopted.

The provisions of Tex. Transportation Code § 314.011 et seq., relative to construction and improvement of highways and the levying of special assessments to defray the cost thereof, are hereby adopted, and the method therein prescribed may be followed by the City in any proceeding.

Note(s)—Former § 103. See editor's note, § 52.

⁶Note(s)—Former Ch. XIV. See editor's note, Ch. X.

Sec. 98. Street lighting.

The City of McKinney shall have full power to make local public street improvements by installing and maintaining special lighting systems therefor and to assess the costs of doing said work against property specially benefitted thereby, and for such purposes all of the provisions of Tex. Transportation Code § 315.001 et seq. are hereby adopted and made a part of this Charter.

Note(s)—Former § 104. See editor's note, § 52.

Sec. 99. Reserved.

Editor's note(s)—Ord. No. 2014-06-039, § 1, adopted June 3, 2014, amended the Code by repealing former § 99. Former § 99 pertained to building lines, and derived from Ord. No. 2011-12-078, adopted December 6, 2011.

Sec. 100. Power to enforce.

In addition to the powers provided by said State Law, the City shall have the further power, for the purpose of promoting the public health, safety, order, convenience, prosperity and general welfare, acting through its City Council, under the police power, to provide by suitable ordinances, building lines on any street or any block of any street, and to require their observance by suitable penalties.

Note(s)—Former § 106. See editor's note, § 52.

Sec. 101. Improvement districts.

All of the powers conferred by any law of the State relating to public improvement districts, are hereby adopted and made a part of this Charter, and the power is conferred upon the City, in connection therewith, to issue assignable certificates and to appoint special commissioners for the making or levying of special assessments and the City Council may make such rules and regulations concerning the same as may be deemed advisable. Power is further conferred upon the City for the condemnation of lands to effectuate the law hereby adopted which condemnation proceedings, as well as the assessment proceedings, shall be held as nearly as is practicable in accordance with the foregoing provisions of this Chapter governing the opening, widening, narrowing, straightening, changing or extending of public streets, avenues or alleys and the issuance of certificates therefor, or in accordance with any other law applicable thereto.

Note(s)—Former § 107. See editor's note, § 52.

State law reference(s)—Public Improvement District Assessment Act, V.T.C.A., Local Government Code § 372.001 et seq.; authority of home rule municipality, V.T.C.A., Local Government Code § 372.041.

Sec. 102. Assessment period.

In all proceedings, providing for assessment against property and the owners thereof for special benefits received under the provisions of this Chapter, the City Council is hereby authorized to provide, wherever the same is practicable, or whatever the same may be done under the law, for the payment of said assessments in annual installments.

Note(s)—Former § 108. See editor's note, § 52.

Sec. 103. Alternate method of paving and improving streets, etc.

As an alternate method of paving and improving streets, alleys or sidewalks, the City of McKinney shall have the power and authority to adopt plans and specifications for such improvements in accordance with State law, and shall have the power to pay to the contractor, the successful bidder, that part of the cost that may be assessed against the owners and their property abutting on such improvement in cash and the City may reimburse itself for the amount by levying an assessment against the abutting owners and their property, after a hearing and notice, as provided in the above statutes, up to the amount of the enhancement in value represented by the benefits and

permitted by said statutes, and issue assignable certificates in favor of the City of McKinney for the assessment. The certificates shall be enforceable in the same manner as provided by the above-mentioned statutes. The City shall likewise have the power to construct the improvement by its own forces if, in the opinion of the City Council, the work can be done more expeditiously or economically.

Note(s)—Former §109. See editor's note, § 52.

State law reference(s)—Street improvements and assessments in cities having more than 1,000 inhabitants, V.T.C.A., Transportation Code § 313.001 et seq.

CHAPTER XIV. DEPOSITORY OF CITY FUNDS⁷

Sec. 104. City council to take bids for depository; when and how.

The City of McKinney shall have the power and authority to select a depository in the following manner: The City is authorized to receive sealed proposals for the custody of City funds, from any banking corporation doing business in the City of McKinney, Texas, which may desire to be selected as the depository of the funds of the City. Notice of request for proposal shall be published in a newspaper in the City at least one (1) time, not less than one (1) but no more than four (4) weeks before the bid closing date. Any banking corporation desiring to bid shall complete the bid as specified in the request for proposal and shall deliver the bid to the City on or before the bid due date. No banking corporation shall submit more than one (1) bid. The Finance Department shall analyze the bids and submit recommendations to the City Council. The City Council shall award the bid to a banking corporation by resolution.

Note(s)—Former § 110. See editor's note, § 52.

Sec. 105. Award, bonds.

Upon the opening of the sealed proposals submitted, the City Council shall elect as the depository of funds of the City the banking corporation submitting the best bid for such privileges; provided, however, the City Council shall have the right to reject any and all bids and re-advertise for new proposals. Within ten (10) days after the selection of such depository, it shall be the duty of said banking corporation so selected to execute a bond, payable to the City of McKinney to be approved by the City Council and filed with the City Secretary, with some approved fidelity and surety company authorized to do business in the State of Texas, as surety; the premium on which to be paid by the City, and the amount of the penalty of said bond to be left to the discretion of the City Council, except that said bond shall be at least equal to the average deposit maintained by the City during the preceding fiscal year, and conditioned for the faithful performance of all duties and obligations prescribed by this Charter or ordinances upon said depository, and for the payment upon presentation of all checks drawn upon said depository by the proper officers of the City, whenever any funds shall be in said depository applicable to the payment of said checks, and all funds of the City shall be faithfully kept by said depository, and with the interest thereon accounted for according to law; and for a breach of said bond, the City may maintain an action in its name. In lieu of said bond above provided for, the depository bank may pledge bonds of the United States Government, State of Texas, Counties of Texas, or any security supported by taxes and secured by general tax obligations of the issuer.

Note(s)—Former § 111. See editor's note, § 52.

Sec. 106. If no depository selected.

If for any reason no selection of a depository is made at the time fixed by this Chapter, the City Council may at any subsequent meeting, after notice is published as hereinbefore provided, receive bids and select a depository in the manner herein set out; and if no banking corporation doing business in the City of McKinney shall have been selected as the depository at the time fixed in Section 105 of this Chapter, then any notice of awarding of the

⁷Note(s)—Former Ch. XV. See editor's note, Ch. X.

depository thereafter shall invite bids from any banking corporation doing business in the State of Texas, and such award shall be made and bond given as in this Chapter provided. And the banking corporation so selected, whether doing business within the City of McKinney or elsewhere, shall remain the depository until the next regular term for the selection of a depository. If the City Council shall at any time deem it necessary for the protection of the City, it may, by resolution, require the depository to execute a new bond; and upon failure to do so within fifteen (15) days after service of a copy of the resolution on said depository, the City Council may proceed to select another depository in the manner hereinabove provided.

Note(s)—Former § 112. See editor's note, § 52.

Sec. 107. Resolution designating depository; transfer of funds, etc.

As soon as said bond shall be given and approved, an order shall be made by the City Council designating the banking corporation as the depository of the City until the time fixed by this Charter for another selection, and such order shall be entered upon the minutes. It shall be the duty of the Director of Finance, immediately upon the making of the order, to transfer to said depository all the funds of the City, and immediately upon receipt of any money thereafter, they shall deposit the same with said depository to the credit of the City. If any banking corporation, after having been selected as such depository shall fail to give bond within the time provided by this Charter, then the selection of such banking corporation as the depository of the City Funds shall be set aside and be null and void, and the City Council shall after notice published in the manner hereinbefore provided, proceed to receive new bids and select another depository.

Note(s)—Former § 113. See editor's note, § 52.

Sec. 108. Interest and sinking funds.

The interest and sinking fund accounts shall be kept in the City depository separately from other funds of the City, and no warrant shall be drawn on any of the special funds created for the purpose of paying the bonded indebtedness of the City for any purpose whatsoever, except to pay the principal and interest of said indebtedness, or for the purpose of investing said special fund according to the provisions of this Charter. No officer of the City shall pay or issue a check or warrant to pay any money out of any special fund created for the purpose of paying any bonded indebtedness of the City other than for the purpose of paying interest due on said bonds, the principal of said bonds, or for the purpose of making an investment of said funds as provided by this Charter.

Note(s)—Former § 114. See editor's note, § 52.

State law reference(s)—Interest and sinking fund, V.T.C.A., Government Code title 9.

CHAPTER XV. ISSUANCE AND SALE OF BONDS⁸

Sec. 109. Authority to incur indebtedness.

The City Council shall have the power to incur, create, refund and refinance indebtedness and borrow money for public purposes; to issue special or general obligation bonds, revenue bonds, funding and refunding bonds, time warrants, notes and other indebtedness and to secure and pay the same in the manner and in accordance with the procedures provided and required by state law.

Note(s)—Former § 115. See editor's note, § 52.

⁸Editor's note(s)—The restated Charter adopted by Ord. No. 2014-06-039, § 1, adopted June 3, 2014, designated this chapter as Chapter XIV. In order to prevent duplication of chapter numbers, the chapter has been redesignated as Ch. XV at the discretion of the editor.

Sec. 110. General obligation bonds.

The City shall have the power to borrow money on the credit of the City and to issue general obligation bonds for permanent public improvements or for any other public purpose not prohibited by law and this Charter and to issue refunding bonds to refund outstanding bonds previously issued. All such bonds shall be issued in conformity with the laws of the State of Texas and shall be used only for purposes for which they were issued. Any bond, excluding refunding bonds and certificates of obligation, to be issued under the provision of this section shall not be issued without an election held in accordance with the provisions of state law.

Note(s)—Former § 116. See editor's note, § 52.

Sec. 111. Revenue bonds.

The City shall have the power to borrow money for the purpose of constructing, purchasing, improving, extending or repairing of public utilities, recreational facilities or any other self-liquidating municipal function not prohibited by the Constitution and laws of the State of Texas, and to issue revenue bonds to evidence the obligation created thereby. Such bonds shall be a charge upon and payable from properties, or interest therein pledged, or the income therefrom, or both. The holders of the revenue bonds shall never have the right to demand payment thereof out of monies raised or to be raised by taxation. All such bonds shall be issued in conformity with the laws of the state of Texas.

Note(s)—Former § 117. See editor's note, § 52.

Sec. 112. Borrowing in anticipation of property tax.

In any budget year, the Council may, by resolution, authorize the borrowing of money in anticipation of the collection of the property tax for the same year whether levied or to be levied. Notes may be issued for periods not exceeding one (1) year and shall be retired by the end of the budget year in which issued.

Note(s)—Former § 118. See editor's note, § 52.

Sec. 113. Purchase of indebtedness.

The City shall have the power to purchase outstanding bonds, notes or other indebtedness of the City; provided that the City does not pay more than the par value thereof plus accrued interest to the date of purchase; and provided, further, that the City shall cancel or cause to be cancelled such purchased indebtedness.

Note(s)—Former § 119. See editor's note, § 52.

CHAPTER XVI. FRANCHISES AND PUBLIC UTILITIES⁹

Sec. 114. Powers of the city.

In addition to the City's power to buy, own, construct, maintain, and operate utilities, within or without the City limits, and to manufacture and distribute electricity, gas or anything else that may be needed or used by the public, the City shall have further powers as may now or hereafter be granted under the Constitution and Laws of the State of Texas. The City may exercise police power in the management of public rights-of-way, over all utilities, whether or not franchised.

Note(s)—Former § 120. See editor's note, § 52.

⁹Note(s)—Former Ch. XVII. See editor's note, Ch. X.

State law reference(s)—General powers of municipal utility systems, V.T.C.A., Local Government Code § 402.001; certain public services and utilities in home-rule municipalities, V.T.C.A., Local Government Code § 402.002.

State law reference(s)—Public utilities, V.T.C.A., Government Code §§ 1501.051, 1501.052.

Sec. 115. Inalienability of public property.

The ownership, right of control and use of the streets, highways, alleys, parks, public places and all other real property of the City is hereby declared to be inalienable by the City, except by ordinances passed by vote of a majority of the City Council as hereinafter provided; and no franchise or easement involving the right to use the same, either along, across, over or under the same, shall ever be valid, unless expressly granted and exercised in compliance with the terms hereof, and of the ordinances granting such use. No act or omission of the City, the City Council, officers or agents shall be construed to confer, or extend by estoppel or indirection, any right, franchise or easement not expressly granted by ordinance.

Note(s)—Former § 121. See editor's note, § 52.

Sec. 116. Franchise power of the city.

The City shall have the power, subject to the terms and provisions hereof, by ordinance to confer upon any person, firm or corporation the franchise or right to use the property of the City as defined in the preceding section, for the purpose of furnishing to the public any general public service, including without limitation heat, light, power and telephone/internet service, refrigeration, steam and the carrying of passengers for hire whether over designated routes or not within the City over the streets, highways and property of the City, or for any other purpose, whereby a general service is to be furnished to the public for compensation or hire, to be paid to the franchise holder, whereby a right to, in part, appropriate or use the streets, highways or other property of the City is necessary or proper.

The provisions hereof with references to public utilities shall not apply to those owned by the City.

Note(s)—Former § 122. See editor's note, § 52.

Sec. 117. Limitations on franchises.

No exclusive franchise or privilege shall ever be granted prior to six (6) months from its effective date under the ordinances granting the same. No franchise or privilege shall be extended directly or indirectly beyond the term originally fixed by the ordinance granting same.

An application for the renewal of a franchise or the granting of a new one may be considered and acted upon prior to the expiration date of the current franchise so that the new franchise may take effect upon the expiration date of the other; provided, however, that the procedure prescribed herein for the original granting of such franchise is followed in all particulars.

Note(s)—Former § 123. See editor's note, § 52.

Sec. 118. Granting of franchises.

The City shall have the power by ordinance to grant any franchise or right mentioned in the preceding sections hereof, which ordinance shall not be passed finally until the conduct of two (2) public hearings, which public hearings shall be at two (2) separate regular meetings of the City Council, the last of which shall take place not less than thirty (30) days from the first. The ordinance caption shall be published once in a newspaper of general circulation in the City, advising all persons of the dates of the two (2) public hearings which will be held on this franchise. No ordinance granting a franchise shall pass except by a vote of the majority of the City Council and such ordinance shall not take effect until thirty (30) days after adoption after the second public hearing; provided, however, the ordinance shall be subject to referendum as provided by this Charter as now or as hereafter may be provided by the general laws of Texas.

Note(s)—Former § 124. See editor's note, § 52.

State law reference(s)—Franchise elections, V.T.C.A., Transportation Code §§ 311.071—311.078.

Sec. 119. Powers of city over franchise holders.

The City shall have the right and power, acting through the City Council, to determine, fix and regulate the charges, fares and rates of any person, firm or corporation enjoying or that may enjoy a franchise or exercise any other public privilege in said City and to prescribe the kind of service to be furnished by such person, firm or corporation, and the manner in which it shall be rendered, and from time to time to alter or change such rules, regulations and compensation. The City shall have the power and authority to require extensions and improvements of the service that may be rendered by the holder of a franchise and shall likewise have the power to prevent the making of unnecessary or unprofitable extensions.

Note(s)—Former § 125. See editor's note, § 52.

Sec. 120. Annual reports and statements required of franchise holders.

Every person, firm or corporation holding a franchise or enjoying an easement of any sort through, under or from the City shall be required to file annually with the City Council within sixty (60) days after the close of a fiscal year a true, full and correct statement based upon conditions at the close of such fiscal year, including all the information set forth in Tex. Utilities Code, Sec. 11.01 et seq., as amended, it being the intention of this section to require such company, corporation or person to file such reports pertaining to their operations insofar as same pertain to its operations within the City limits of the City of McKinney, Texas. Such annual report and statement shall be verified by oath of the person, member of the firm or a duly authorized officer or agent of the corporation, and upon its filing shall become a part of the permanent records of the City.

If any person, firm or corporation required to file such report shall fail to do so as herein provided, such failure shall be grounds for forfeiture of the franchise and it shall be the duty of the City Attorney, after due notice to the franchisee of such intention, to terminate said franchise or bring suit within a reasonable time in the District Court to forfeit the franchise granted, and if it shall appear to the court that such person, firm or corporation has willfully failed to make such report, it shall render judgment in the cause, decreeing a forfeiture of such franchise and of all rights accruing thereunder.

Note(s)—Former § 126. See editor's note, § 52.

Sec. 121. Conditions of franchise.

Each franchise granted by the City Council shall provide:

- (1) For the compensation to be paid to the City for the use and occupancy of the public property, which said compensation may be a fixed fee or may be measured by gross receipts, or some other method mutually agreeable to the parties. Such compensation may be changed from time to time by mutual consent.
- (2) For the length of time that such franchise shall continue in effect; provided, however, that no franchise shall be granted for a period longer than twenty-five (25) years.
- (3) That no franchise shall be assigned without the written consent of the City Council, which consent shall be evidenced by a resolution or ordinance.
- (4) For the procedure to be followed in the making of extensions or improvements of the service.
- (5) That no rate of return shall exceed a fair return upon the fair value of the property used in rendering the public service.
- (6) Each franchise shall provide for a method of accounting applicable to the particular business conducted by the franchisee.
- (7) Adequate provision shall be made in each franchise for the maintenance of sufficient depreciation reserves and insurance so that the integrity of the property used and useful in rendering the public service may be maintained. Each franchise shall specify the purposes for which the depreciation reserves may be used, in determining the amount and character of reserves required, it shall be proper to resort to current common practices applicable to the particular utility concerned. However, any franchise

holder, maintaining reserves on a system-wide basis, need not set up special reserves for the City, so long as its system reserves are adequate.

- (8) Each franchise shall provide for a recapture provision whereby the City shall have the right to cancel the franchise and purchase the depreciated property of the franchise holder at a price to be determined according to the formula or method agreed upon in the franchise when granted.

That the franchisee may be required, at franchisee's expense, to conform its installations in the streets, alleys, and public ways to any relocation of public utilities, widening of streets, or changes of grade made by the City. (Ord. No. 2001-03-033, 3-20-2001; Ord. No. 2011-12-078, § 1, 12-6-2011; Ord. No. 2014-06-039, § 1, 6-3-2014)

Note(s)—Former § 127. See editor's note, § 52.

Sec. 122. Investigation and public hearings.

The City Council shall have the full power to examine or cause to be examined at any time, and at all times, the books, papers and records of franchise holders, to take testimony and compel the attendance of witnesses and the production of books, papers and records and to examine witnesses under oath and under such rules and regulations as it may adopt, and should any franchise holder refuse to permit the inspection of such books, papers or records by the City Council or by anyone designated by it to make such inspection, or fail to produce the same when notified to do so by the City Council, or should any officer, agent or employee of such franchise holder refuse to give testimony before the City Council, the City Council shall have the power by ordinance, to declare the franchise or privilege enjoyed by such person, firm or corporation in default, and terminated.

The City Council shall have the power to call a public hearing, giving reasonable notice to the holder of a franchise, to determine whether or not an application to increase rates shall be granted or to determine whether or not the rates currently charged by any holder of a franchise for the service rendered are excessive. In that connection, the City Council shall have full power to examine the books, papers and records of the franchise holder, and to compel the attendance of all witnesses deemed necessary for the ascertainment of the facts in connection with said inquiry. Failure to obey any subpoena to appear as a witness shall be punishable by the City Council for contempt by any appropriate proceedings permitted by law.

Note(s)—Former § 128. See editor's note, § 52.

Sec. 123. Miscellaneous provisions.

The City Council shall have the right by resolution to grant a temporary use of a street, alley, public way or public property for a period not to exceed two (2) years and by ordinance, in the nature of a franchise, for a period not to exceed twenty-five (25) years, and a charge therefor made for such compensation annually as may be proper. The grants contemplated by this Section do not include utility franchise as that term is generally understood. In this connection, the City Council shall have the right to grant to the owner of property abutting upon the streets, or other property of the city, the use thereof or to go under or over the same in any manner which may be necessary or proper to the better enjoyment of said abutting property by the owner; provided, however, that such use be not inconsistent with, or does not reasonably impair the public use to which said street or other property may be dedicated.

The City Council shall fix the terms and conditions of any such grant and the time for which the same shall exist. The right is expressly reserved to the City, acting through the City Council to terminate such grant when deemed inconsistent with the public use of the property of the City or when the same may become a nuisance.

Note(s)—Former § 129. See editor's note, § 52.

CHAPTER XVII. ORDINANCES¹⁰

Sec. 124. Ordinances, rules and regulations existing at the time this Charter goes in effect validated.

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

Note(s)—Former § 130. See editor's note, § 52.

Sec. 125. Enrollment.

Each ordinance passed by the City Council shall be enrolled by the City Secretary within five (5) days after its passage, or as soon thereafter as it is practicable. The enrolled ordinances shall then be carefully compared with the original ordinance and all amendments, if any, by the City Secretary. If errors exist therein, they shall be corrected. If found correct, or after the correction of errors, if any exist, the City Secretary shall endorse on the margin thereof the words, "Correctly Enrolled," and give the date thereof and subscribe their name thereto.

Note(s)—Former § 131. See editor's note, § 52.

Sec. 126. Publication.

Every ordinance imposing any penalty, fine or forfeiture for a violation of its provision shall, after passage thereof, have a descriptive caption thereof published one (1) time in a newspaper having a circulation within the City of McKinney which satisfies legal publishing requirements under state law. The City Council, if it so desires, may authorize the publishing of civil ordinances. All ordinances shall become effective as of the date stated therein, and in the event no particular date is stated, said ordinance shall become effective from and after passage and adoption by the City Council.

Note(s)—Former § 132. See editor's note, § 52.

Sec. 127. Printed ordinances admitted in courts.

All ordinances of the City, when printed and published and bearing on the title page thereof "Ordained and Published by the City Council of the City of McKinney," or words of like import, shall be prima facie evidence of their authenticity and shall be admitted and received in all courts without further proof.

Note(s)—Former § 133. See editor's note, § 52.

Sec. 128. Style of ordinance.

The style of all ordinances shall be, "Be it Ordained by the City Council of the City of McKinney," or words of like import, but such caption may be omitted when said ordinances are published in book form or are revised and codified by the order of the City Council.

Note(s)—Former § 134. See editor's note, § 52.

Sec. 129. Codification of ordinances.

The City Council shall have the power to cause the ordinances of the City to be printed in code form and shall have the same arranged and digested as often as the City Council may deem advisable.

¹⁰Note(s)—Former Ch. XVIII. See editor's note, Ch. X.

Note(s)—Former § 135. See editor's note, § 52.

Sec. 130. How pleaded.

In all the judicial proceedings it shall be sufficient to plead any ordinance by caption, or by the number of sections thereof, and it shall not be necessary to plead the entire ordinance or section. All printed ordinances or codes of ordinances published by authority of the City Council shall be admitted in evidence and shall have the same force and effect as would the original ordinances.

Note(s)—Former § 136. See editor's note, § 52.

Sec. 131. Ordinances; approval of mayor not necessary.

The final passage of an ordinance by the City Council and the publication of the same when so required shall be all that is necessary to make such ordinance valid and effective. The approval or signature of the Mayor or any other person shall not be necessary.

Note(s)—Former § 137. See editor's note, § 52.

CHAPTER XVIII. INITIATIVE, REFERENDUM AND RECALL¹¹

Sec. 132. Power of initiative.

The voters shall have the power to propose any ordinance except an ordinance appropriating money or authorizing the issuance of bonds or the levy of taxes, and to adopt or reject the same at the polls, such power being known as the initiative. Any initiative ordinance may be submitted to the City Council by a petition signed by registered voters of the City equal in number to at least twenty-five (25) percent of the number of votes cast at the last regular municipal election.

Note(s)—Former § 138. See editor's note, § 52.

Sec. 133. Power of referendum.

The voters shall have the power to approve or reject at the polls any ordinance passed by the City Council or submitted by the City Council to a vote of the voters, such power being known as the referendum. However, there is excepted from such power of referendum ordinances making the annual tax levy and bond ordinances authorizing the issuance of bonds. Ordinances submitted to the City Council by initiative petition and passed by the City Council without change shall be subject to referendum in the same manner as other ordinances. Within twenty (20) days after the enactment by the City Council of any ordinance which is subject to referendum, a petition signed by registered voters of the City equal in number to at least twenty-five (25) percent of the number of votes cast at the last regular municipal election, may be filed with the City Secretary, requesting that such ordinance be either repealed or submitted to a vote of the voters.

Note(s)—Former § 139. See editor's note, § 52.

Sec. 134. Form of petitions: committee of petitioners.

Initiative petitions shall contain the full text of the proposed ordinance. The original signatures to initiative or referendum petitions need not all be appended to one paper, but to each separate petition there shall be attached a statement of the circulator thereof as provided by this section. Each signer of any petition paper shall sign their name in ink and shall indicate after their name their place of residence by street and number, or other description

¹¹Editor's note(s)—The restated Charter adopted by Ord. No. 2014-06-039, § 1, adopted June 3, 2014, designated this chapter as Chapter XIII. In order to prevent duplication of chapter numbers, the chapter has been redesignated as Ch. XVIII at the discretion of the editor.

sufficient to identify the place. There shall appear on each petition the names and addresses of five (5) voters, who, as a committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition. Attached to each separate petition paper there shall be an affidavit of the circulator thereof that they personally circulated the foregoing paper, that it bears a stated number of signatures, that all signatures appended thereto were made in their presence, and that they believe them to be the genuine signatures of the persons whose names they purport to be. For the purposes of this Chapter, "voter(s)" means "registered voter(s)."

Note(s)—Former § 140. See editor's note, § 52.

Sec. 135. Filing, examination and certification of petitions.

All papers comprising an initiative or referendum petition shall be assembled and filed with the City Secretary as one (1) instrument. Within thirty (30) days after a petition is filed, the City Secretary shall determine whether each paper of the petition has a verified statement of one (1) of the circulators named therein and whether the petition is signed by a sufficient number of registered voters. The City Secretary shall declare any petition paper entirely invalid which does not have attached thereto an affidavit signed by the circulator thereof. If a petition paper is found to be signed by more persons than the number of signatures certified by the circulator, the last signatures in excess of the number certified shall be disregarded. If a petition paper is found to be signed by fewer persons than the number certified, the signatures shall be accepted unless void on other grounds. After completing their examination of the petition, the City Secretary shall certify the result thereof to the City Council at its next regular meeting. If the City Secretary shall certify that the petition is insufficient, the City Secretary shall set forth in a certificate the particulars in which it is defective and shall at once notify the committee of the petitioners of said findings.

Note(s)—Former § 141. See editor's note, § 52.

Sec. 136. Amendment of petitions.

An initiative or referendum petition may be amended at any time within ten (10) days after the notification of the insufficiency has been delivered by the City Secretary, by filing a supplemental petition upon additional papers signed and filed as provided in the case of the original petition. The City Secretary shall, within five (5) days after such an amendment is filed, make examination of the petition and if the petition is still insufficient, the City Secretary shall file a certificate to that effect in their office and notify the committee of the petitioners of their findings and no further action shall be had on such insufficient petition. The finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

Note(s)—Former § 142. See editor's note, § 52.

Sec. 137. Effect of certification of referendum petition.

When a referendum petition or amended petition as defined by this Charter has been certified as sufficient by the City Secretary, an ordinance specified in the petition shall not go into effect, or if it shall have gone into effect, further action thereunder shall be suspended until and unless approved by the voters as hereinafter provided.

Note(s)—Former § 143. See editor's note, § 52.

Sec. 138. Consideration by city council.

Whenever the City Council receives a certified initiative or referendum petition from the City Secretary, it shall proceed at once to consider such petition. A proposed initiative ordinance shall be read and provision shall be made for a public hearing upon the proposed ordinance. The City Council shall take final action on the ordinance not later than sixty (60) days after the date on which such ordinance was submitted to the City Council by the City Secretary. A referred ordinance shall be reconsidered by the City Council and its final vote upon such reconsideration shall be upon the question, "Shall the ordinance specified in the referendum petition be repealed?"

Note(s)—Former § 144. See editor's note, § 52.

Sec. 139. Submission to voters.

If the City Council shall fail to pass an ordinance proposed by initiative petition, or shall pass it in a form different from that set forth in the petition therefor, or if the City Council fails to repeal a referred ordinance, the proposed or referred ordinance shall be submitted to the voters at an election not less than thirty (30) days nor more than sixty (60) days from the date the City Council takes a final vote thereon, unless the election date is otherwise provided by State law.

Note(s)—Former § 145. See editor's note, § 52.

Sec. 140. Form of ballot for initiated and referred ordinances.

Ordinances submitted to vote of the voters in accordance with the initiative and referendum provisions of this Charter shall be submitted by ballot title, which shall be prepared in all cases by the City Attorney. The ballot title may be different from the legal title of any such initiated or referred ordinance, and shall be a clear, concise statement, without argument or prejudice, descriptive of the substance of such ordinance. If a paper ballot is used, it shall have below the ballot title the following proposition, one above the other, in the order indicated: "For the Ordinance" and "Against the Ordinance." Any number of ordinances may be voted on at the same election, and may be submitted on the same ballot, but any paper ballot used for voting thereon shall be for that purpose only. If voting machines are used, the ballot title of any ordinance shall have below it the same two (2) propositions, one above the other or one preceding the other in the order indicated, and the voter shall be given an opportunity to vote for either of the two (2) propositions and thereby to vote for or against the ordinance.

Note(s)—Former § 146. See editor's note, § 52.

Sec. 141. Results of election.

If a majority of the voters voting on a proposed initiative ordinance shall vote in favor thereof, it shall thereupon be an ordinance of the City. A referred ordinance which is not approved by a majority of the voters voting thereon shall thereupon be deemed repealed. If conflicting ordinances are approved by the voters at the same election, the ordinance receiving the greater number of affirmative votes shall prevail to the extent of such conflict.

Note(s)—Former § 147. See editor's note, § 52.)

Sec. 142. Repealing ordinances: Publication.

Initiative and referendum ordinances adopted or approved by the voters shall be published and may be amended or repealed by any City Council duly elected subsequent to such adoption or approval, as in the case of other ordinances. No such adopted or approved ordinance shall be amended or repealed by the City Council either in office or elected, at the time of such adoption or approval.

Note(s)—Former § 148. See editor's note, § 52.

Sec. 143. Recall: General.

The Mayor or any member of the City Council may be removed from office by recall.

Note(s)—Former § 149. See editor's note, § 52.

Sec. 144. Recall: Procedure.

Any five (5) voters of the City of McKinney may make and file with the City Secretary an affidavit containing the name or names of the officers whose removal is sought and a statement of the grounds for removal. The City Secretary shall thereupon deliver to the five (5) voters making such affidavit copies of petition blanks demanding such removal. The City Secretary shall keep a sufficient number of such printed petition blanks on hand for distribution. Such blanks, when issued by the City Secretary, shall bear the signature of that officer and be addressed to the City Council, and shall be numbered, dated and indicate the names of the voters to whom issued. The petition

blanks when issued shall also indicate the number of such blanks issued and the name of the officer whose removal is sought. The City Secretary shall enter in a record to be kept in their office the name of the elector to whom the petition blanks were issued and the number issued to said voters.

Note(s)—Former § 150. See editor's note, § 52.

Sec. 145. Recall petitions.

The recall petition to be effective shall be returned and filed with the City Secretary within forty-five (45) days after the filing of the affidavit required for initiative and referendum petitions, and it shall be signed by qualified voters residing in any district, irrespective of the seat subject of the recall petition, of the City equal in number to at least thirty (30) percent of the total number of votes cast at the last regular municipal election; provided, however, that the petition shall contain the signatures of at least one thousand (1,000) of the qualified voters of the City and shall conform to the provisions of initiative and referendum petitions. No petition papers shall be accepted as part of petition unless it bears the signature of the City Secretary as required in initiative and referendum petitions.

Note(s)—Former § 151. See editor's note, § 52.

Sec. 146. Recall election.

The City Secretary shall at once examine the recall petition and, if the City Secretary finds it sufficient and in compliance with the provisions of this Chapter of the Charter, the City Secretary shall within five (5) days or at the next regular City Council meeting, whichever is later, submit it to the City Council with its office's certificate to that effect and notify the officer sought to be recalled of such action.

If the officer whose removal is sought does not resign within five (5) days after such notice, the City Council shall thereupon order and fix a date for holding a citywide recall election according to State law.

Note(s)—Former § 152. See editor's note, § 52.

Sec. 147. Ballots in recall election.

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

- (1) With respect to each person whose removal is sought, the question shall be submitted, "Shall (the name of Person) be removed from the office (name of office) by recall?"
- (2) Immediately below each such question there shall be printed the following propositions, one above the other, in the order indicated:
"For the recall of (the name of Person)"
"Against the recall of (the name of Person)"

Note(s)—Former § 153. See editor's note, § 52.

Sec. 148. Results of recall election.

If a majority of the votes cast at a recall election shall be against the recall of the officer named on the ballot, he shall continue in office for the remainder of their unexpired term, subject to recall as before.

If a majority of the votes cast at such an election shall be for the recall of the officer named on the ballot, he shall, regardless of any technical defects in the recall petition, be deemed removed from office and the vacancy shall be filled by State law.

Note(s)—Former § 154. See editor's note, § 52.

Sec. 149. Limitations on recalls.

No recall petition shall be filed against the Mayor or a City Council Member within four (4) months after he takes office nor in respect to the Mayor or any City Council Member subject of a recall election and not removed thereby, until at least six (6) months after such election.

Note(s)—Former § 5155 See editor's note, § 52.

Sec. 150. Should the city fail or refuse to order elections.

Should the City Council fail or refuse to order any of the elections as provided for in this Chapter, when all the requirements for such election have been complied with by the petitioning voters in conformity with this Chapter of the Charter, then it shall be the duty of a District Judge of Collin County, Texas, upon proper application being made therefor, to order such elections and to enforce the carrying into effect of the provisions of this Chapter of the Charter.

Note(s)—Former § 156. See editor's note, § 52.

CHAPTER XIX. PLANNING AND ZONING COMMISSION¹²

Sec. 151. Creation of planning and zoning commission—Purpose—Vacancies.

The City Council shall appoint seven (7) residents of the City of McKinney, who shall constitute the Planning and Zoning Commission, and who shall serve terms as prescribed by State law and thereafter until their respective successors shall have been appointed and qualified. Said Commission shall serve without pay and shall adopt such rules and regulations as they deem best governing their action, proceedings and deliberations and time and place of meeting.

The purpose of and object of said Planning and Zoning Commission is to act as an advisory Board to the City Council relating to all nature of public improvements, City planning, opening, widening and changing of streets, routing of public utilities, controlling and regulating traffic upon the public streets and ways of the City of McKinney, and such other matters relating to City improvements as the Planning and Zoning Commission and the City Council of the City of McKinney may deem beneficial to the City of McKinney. A majority of said commission shall constitute a quorum.

If a vacancy occurs upon the said Planning and Zoning Commission by death, resignation or otherwise, the City Council of the City of McKinney shall appoint a Commissioner to fill such vacancy for the unexpired term.

Note(s)—Former § 157. See editor's note, § 52.

Sec. 152. Powers of planning and zoning commission.

The Planning and Zoning Commission shall have the power to pass upon all plans which may be considered by the City Council relating to public improvements and it shall be the duty of the City Council as far as practicable to submit plans governing public improvements involved under the terms of this Charter, to the Planning and Zoning Commission, to obtain its advice with reference thereto. The City Council may thereafter adopt the methods recommended by the Planning and Zoning Commission or any other methods which may be deemed most advisable by the City Council; provided, however, that any public improvement undertaken or otherwise by the City Council shall never be deemed invalid because the Planning and Zoning Commission has not been consulted or has not

¹²Note(s)—Former Ch. XX. See editor's note, Ch. X.

Editor's note(s)—Ordinance No. 334, enacted on July 10, 1946, created a planning and zoning commission for the city. The City Charter supersedes this ordinance.

furnished any advice thereon, or because the City Council has failed to submit its plans thereon for consideration by said Planning and Zoning Commission.

The City shall have the power through the Planning and Zoning Commission to require the owners of land who desire to subdivide, plat or replat land for urban development to dedicate streets and alleys of adequate width in conformity with the extension and widening of existing streets and alleys in the vicinity, to coordinate street layouts and street planning with municipalities, whether they adjoin or not, and with County, State and Federal designated highways so that a coordinated street and traffic plan may be established and continued for the best interest of the general public. In connection with zoning and platting, the Planning and Zoning Commission shall have the power to consider the character of the development or land use contemplated by the proposed action and may require off-street parking, streets and alleys of adequate width, and other requirements that promote the health and general welfare of the public to be provided for that purpose.

Editor's note(s)—Ord. No. 2011-12-078, § 1, adopted December 6, 2011, amended the Code by repealing former § 158 in its entirety, and renumbered former §§ 159-187 as new §§ 152-180. Former § 158 pertained to adoption of general and special laws of the State of Texas, and derived from Ord. No. 2001-03-033, adopted March 20, 2001.

Sec. 153. Zoning ordinance; power to pass.

For the purpose of promoting the public health, safety, order, convenience, prosperity and general welfare, the City of McKinney, acting through the City Council or under its direction shall have the power to divide the City of McKinney into zones or districts and may exercise any other powers necessary to fully effectuate and accomplish the purpose of the powers herein conferred; that the further power is conferred upon the City of McKinney to establish building lines within such zones or districts or to establish building lines in residence districts or in other portions of the City as may be deemed advisable by the said City Council, and to make different regulations for different districts, as may be deemed advisable.

All the powers granted by Tex. Local Government Code ch. 211, and as amended, authorizing Cities to pass zoning regulations, together with amendments thereto as passed by the Legislature, are hereby adopted.

Note(s)—Former § 160. See editor's note, § 152.

Sec. 154. Reserved.

Editor's note(s)—Ord. No. 2014-06-039, § 1, adopted June 3, 2014, amended the Code by repealing former § 154 in its entirety. Former § 154 pertained to alternate members of the board of adjustment, and derived from Ord. No. 2011-12-078, adopted December 6, 2011.

CHAPTER XX. PARKS RECREATION AND OPEN SPACE BOARD¹³

Sec. 155. Parks recreation and open space board.

The City Council shall be empowered at its discretion, if it so desires, to appoint not less than five (5) nor more than nine (9) residents and qualified voters of the City of McKinney, who shall constitute its Parks Recreation and Open Space Board, who shall serve at pleasure of the City Council. The Parks Recreation and Open Space Board shall act in an advisory capacity to the City Council and shall perform such duties as the City Council may from time to time prescribe by ordinance.

Note(s)—Former § 162. See editor's note, § 152.

¹³Editor's note(s)—Ord. No. 2011-12-078, § 1, adopted December 6, 2011, added a new Ch. XXI.

Note(s)—Former Ch. XXI. See editor's note, Ch. X.

CHAPTER XXI. MISCELLANEOUS PROVISIONS¹⁴

Sec. 156. Qualification of voters.

All qualified voters within the City shall have the right to vote for members of the City Council and all other elective officers of said City, and in all elections to determine the expenditure of money, or assumption of debt or levy of special taxes.

Note(s)—Former § 163. See editor's note, § 152.

State law reference(s)—Renditions and other reports, V.T.C.A., Tax Code ch. 22.

Sec. 157. Bonds of contractors.

The City Council shall require a good and sufficient bond from any contractor to whom it has awarded a contract for the furnishing of supplies or materials, or a contract for the construction of some public improvement. Such bond or bonds shall be conditioned as provided by the State law. If individual sureties are tendered on any contract, the City Council shall have the power and authority to require proof to establish their solvency or sufficiency of the bond tendered. No individual nonresident of the State of Texas shall be accepted as a personal surety on any such bond or bonds.

Note(s)—Former § 164. See editor's note, § 152.

Sec. 158. City exempt from liability.

The City of McKinney shall never be liable to any contractor or other person, firm or corporation doing work in connection with any street paving, or the opening and widening of streets, or the building of any drains or storm sewers, or the laying of sanitary sewers or any other character of public improvement, whereby a part or the whole of the cost thereof is to be paid for by special assessment, on account of the failure of any officer of the government or the members of the City Council to pass suitable ordinances or resolutions or take necessary steps to fix liens, or to make said assessments, or to issue certificates therefor, or to provide for reassessments on account of the invalidity of any lien attempted to be fixed, or any failure or omission with respect thereto. The City of McKinney shall have the power and authority to make assessments against property and property owners for the pro rata cost of the installation of water and sanitary sewer facilities to serve the respective properties. Said assessment when levied shall constitute a lien against the property as provided by the present statutes and may be enforced as provided by law. The City shall have the power and authority to refuse to render water and sewer service, or either of them, to any premises unless such charges or assessments or pro rata costs are paid by the owner or lessee or until satisfactory arrangements for the payment thereof are made by the owner.

Note(s)—Former § 165. See editor's note, § 152.

State law reference(s)—Assessments as liens, V.T.C.A., Local Government Code § 402.065 et seq.

Sec. 159. City not required to give security or execute bond.

It shall not be necessary in any action, suit or proceeding in which the City of McKinney is a part, for any cost, appeal or supersede as bond, undertaking or security to be demanded or executed by or on behalf of said City in any court, but in all such actions, suits, appeals or proceedings, same shall be conducted in the manner as if such bond, undertaking or security had been given as required by law, and said City shall be liable as if security or bond had been duly executed.

Note(s)—Former § 166. See editor's note, § 152.

¹⁴Editor's note(s)—Ord. No. 2011-12-078, § 1, adopted December 6, 2011, renumbered former Ch. XXI as Ch. XXII. Subsequently, Ord. No. 2014-06-039, § 2, adopted June 3, 2014, renumbered former Ch. XXII as Ch. XXI.

Sec. 160. Execution, garnishment and assignment.

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

Note(s)—Former § 167. See editor's note, § 152.

Sec. 161. No lien on public property: Contractors, etc., to notify city of claims.

No lien of any kind can ever exist against the public buildings, public halls, parks, personal property, or public works of the City of McKinney. The rights of all subcontractors, materialmen, mechanics, laborers and other lawful charges upon any public property of the City of McKinney are subject to and governed by State law, as the same now exists or as may hereafter be amended.

Note(s)—Former §168. See editor's note, § 152.

Sec. 162. Notice of damage or injury required.

The City of McKinney shall never be liable for any personal injury, whether resulting in death or not, unless the person injured or someone in their behalf, or in the event the injury results in death, the person or persons who may have a cause of action under the law by reason of such death or injury, shall file a notice in writing with the Office of Risk Management within thirty (30) days after the same has been received, stating specifically in such notice when, where and how the exact injury occurred and the full extent thereof, together with the amount of damages claimed or asserted. The City of McKinney shall never be liable for any claim for damage or injury to personal property unless the person whose personal property has been injured or damaged, or someone in their behalf, shall file a claim in writing with the Office of Risk Management within thirty (30) days after said damage or injury has occurred, stating specifically when, where and how the injury or damage occurred and the full extent thereof, and the amount of damage sustained.

The City of McKinney shall never be liable for any claim for damage or injury to real property caused by the negligent act or omission of its officers, servants, agents, or employees, unless the person whose real property has been injured or damaged, or someone in their behalf shall file a claim in writing with the Risk Manager within thirty (30) days after said damage or injury has occurred, stating specifically when, where and how the injury or damage occurred, and the amount of damage claimed. The City of McKinney shall never be liable on account of any damage or injury to person or to personal property arising from or occasioned by any defect in any public street, highway, alley, grounds or public work of the City of McKinney unless the specific defect causing the damage or injury shall have been actually known to the City Manager at least twenty-four (24) hours prior to the occurrence of the injury or damage, or unless the attention of the City Manager shall have been called thereto by a notice thereof in writing at least twenty-four (24) hours prior to the occurrence of the injury or damage and proper diligence has not been exercised to rectify the defect. The notice herein required to be given to the City Manager of the specific defect causing the damage or injury shall apply where the defect arose from any omission of the City itself, through its agents, servants, or employees, or acts of third parties.

Note(s)—Former § 169. See editor's note, § 152.

State law reference(s)—Injuries resulting in death, V.T.C.A., Civil Practice and Remedies Code ch. 71.

Sec. 163. Reserved.**Sec. 164. Condemnation of dangerous structures.**

Whenever, in the decision of the City Council of the City of McKinney or its designee, any building, fence, shed, awning or structure of any kind or part thereof is liable to injure persons or property, the City Council or designee may order the owner or agent of the same or occupant of the premises to take down and remove same within such time as it may direct, and may punish by fine all persons failing to do so. The City Council or designee shall have the additional power to remove the same at the expense of the City on account of the owner of the property and assess the expense thereof, including condemnation proceedings, as a lien against the land, and the same may be collected as other liens provided for in this Charter, or by suit in any court of competent jurisdiction.

Note(s)—Former § 171. See editor's note, § 152.

Sec. 165. Records.

Subject to State laws regarding open public records, the records of the City shall be deemed public records and shall be available for inspection at all reasonable times, but no such record shall be permitted to be taken out of the City's offices save and except in response to a Court Order or when needed by the City in any legal proceeding.

Note(s)—Former § 172. See editor's note, § 152.

Sec. 166. Personal interest.

No member of the City Council or any officer or employee of the City shall have a beneficial interest, direct or indirect, in any contract to which the City is a party; nor in a sale to the City or to a contractor supplying the City, or in any contract in which the City is a party for land or rights or interest in any land, material, supplies, or service. Any willful violation of this section shall constitute malfeasance in office. Any violation of this Section shall render the contract void and unenforceable.

Note(s)—Former § 173. See editor's note, § 152.

Sec. 167. Oath of office.

Every City officer, including peace officers and officers defined by State law, before entering upon the duties of their office, take and subscribe to the oath of office required by the Constitution of the State of Texas. All appointed members of City boards and commissions shall be deemed officers of the City.

Note(s)—Former § 174. See editor's note, § 152.

Sec. 168. Reserved.

Editor's note(s)—Ord. No. 2014-06-039, § 1, adopted June 3, 2014, amended the Code by repealing former § 168 in its entirety. Former § 168 pertained to fire limits, and derived from Ord. No. 2001-03-033, adopted March 20, 2001; and Ord. No. 2011-12-078, adopted December 6, 2011.

Sec. 169. Building permits.

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

Note(s)—Former § 176. See editor's note, § 152.

Sec. 170. Public library system.

The City Council shall have the authority to establish and maintain a public library system within the City and to cooperate with any person, firm, association or corporation under such terms as the City Council may prescribe for the establishment of such public library system. For budget purposes, the library shall be considered as a department of the City and the appropriations therefor shall comply with all budgetary requirements as outlined in this Charter, and as may be prescribed from time to time by the City Council. Annual appropriations for the library will not be continuing, but will revert to the general fund in the same manner as the underspent appropriations of the other departments.

Note(s)—Former § 177. See editor's note, § 152.

Sec. 171. Accepting gifts.

No officer or employee of the City of McKinney shall ever accept, directly nor indirectly any gifts, favors, privilege or employment from any public utility corporation enjoying a grant or any franchise, privilege or easement from said City, during the term of office of such officer, or during such employment of such employee, except as may be authorized by law or ordinance.

Any officer or employee of the City who shall violate the provisions of this Section shall be guilty of a misdemeanor and may be punished by any fine that may be prescribed by ordinance for this offense, and shall forthwith be removed from office or employment.

Note(s)—Former § 178. See editor's note, § 152.

Sec. 172. Garbage collection, disposal and recycling.

The City Council shall have the right by ordinance to adopt and prescribe rules and regulations for the handling, disposition and recycling of all garbage, trash and rubbish within the City of McKinney and shall further have the right to fix charges and compensation to be charged by the City for the removal of garbage, trash and rubbish, providing rules and regulations for the collection thereof.

Note(s)—Former § 179. See editor's note, § 152.

Sec. 173. Reserved.

Editor's note(s)—Ord. No. 2014-06-039, § 1, adopted June 3, 2014, amended the Code by repealing former § 173 in its entirety. Former § 173 pertained to power to remit penalties, and derived from Ord. No. 2001-03-033, adopted March 20, 2001; and Ord. No. 2011-12-078, adopted December 6, 2011.

Sec. 174. Sale of real property.

The City shall have the power and authority to sell any real property by resolution duly passed.

Note(s)—Former § 181. See editor's note, § 152.

Sec. 175. Release of debt or obligation.

The City Manager may be authorized by the City Council to execute a release of any debt or obligation to the City of McKinney when the City Manager or City Secretary furnishes satisfactory evidence that such debt or obligation has been satisfied or paid to the City.

Note(s)—Former § 182. See editor's note, § 152.

Sec. 176. Property not exempt from special assessments.

No property of any kind, church, private or public school, private, public or charitable institution, or property owned by any political subdivision of the State, other than the City of McKinney, or otherwise shall be exempt from any of the special taxes and assessments authorized by this Charter for local improvements.

Note(s)—Former § 183. See editor's note, § 152.

Sec. 177. When provisions take effect.

The provisions of this Charter shall be in and take effect upon and publication of the Caption of the Ordinance so enacting it.

Note(s)—Former § 184. See editor's note, § 152.

Sec. 178. Separability clause.

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

Note(s)—Former § 185. See editor's note, § 152.

Sec. 179. Amend Charter.

This Charter may be amended no more than once every two (2) years as provided by the laws of the State of Texas.

Note(s)—Former § 186. See editor's note, § 152.

State law reference(s)—Authority of city to amend Charter, V.T.C.A., Local Government Code § 9.004.

Sec. 180. Construction.

This Charter shall be liberally construed for the purpose of effecting the objects and ends of this Charter. Unless the context of the passage requires otherwise, the term "City," used herein, shall mean the City of McKinney, Texas, and the terms "Council" and "City Council" shall mean the City Council of the City of McKinney, Texas. All singular words shall include the plural and all plural words shall include the singular. All words of the feminine gender shall include the masculine gender, and all words of the masculine gender shall include the feminine gender. All references to the laws of the State of Texas in this Charter shall mean as such laws are presently enacted or as they may hereafter be amended. The references to specific departments or offices that perform the functions and duties associated with the title of the department or office reference in this Charter, regardless of whether or not the designation of such department or office has been revised as evidenced in the City's annual budget or otherwise. Where appropriate, the sections of this Charter shall be renumbered in a manner consistent with any changes authorized from time to time by the voters of the City of McKinney.

Note(s)—Former § 187. See editor's note, § 152.