

PART I CHARTER*

***Editor's note:** Printed herein is the Charter of the Town of Flower Mound, Texas, as adopted by referendum on Nov. 3, 1981, and amended on April 6, 1985, May 6, 1989, May 15, 2004, and May 21, 2007. Amendments to the Charter, as amended through May 21, 2007, are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the Charter as amended through May 21, 2007. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Additions made for clarity are indicated by brackets.

State law references: Home rule municipality, Tx. Const., art. Xi, § 5; V.C.T.A., Local Government Code, § 5.004.

Article I. Form of Government and Boundaries

- § 1.01. Corporate Name.
- § 1.02. Form of Government.
- § 1.03. Boundaries.
- § 1.04. Extension of Boundaries.
- § 1.05. Contraction of Boundaries.

Article II. Powers of the Town

- § 2.01. Enumerated Powers Not Exclusive.
- § 2.02. General Powers Adopted.
- § 2.03. Eminent Domain.
- § 2.04. Power to Acquire Property for Public Purposes.

Article III. The Town Council

- § 3.01. Number, Selection, Term.
- § 3.02. Reserved.
 - § 3.02.1. Qualifications.
 - § 3.02.02. Forfeiture of Office.
- § 3.03. Council to be Judge of Election, Qualifications.
 - § 3.03.1. Vacancies.
- § 3.04. Compensation.
- § 3.05. Mayor.
- § 3.06. Mayor Pro Tem.
- § 3.07. Powers of the Council.
- § 3.08. Meetings of the Council.
 - § 3.08.1. Special Meetings.
 - § 3.08.2. Rules of the Council.
 - § 3.08.3. Quorum.
 - § 3.08.4. Nepotism.
- § 3.09. Council Not to Interfere in Town Manager Appointments and Removals.
- § 3.10. Rules of Procedure.
 - § 3.10.1. Effect on Ordinances, Resolutions.
- § 3.11. Bonds for Employees.
- § 3.12. Investigative Powers of the Council.
- § 3.13. Audit and Examination of Town Books and Accounts.

Article IV. Administrative Services

- § 4.01. Administrative Departments.
- § 4.02. Town Manager--Appointment and Qualifications.
 - § 4.02.1. Compensation of Town Manager.
 - § 4.02.2. Term and Removal.
 - § 4.02.3. Powers and Duties.
 - § 4.02.4. Acting Town Manager.

- § 4.03. Town Secretary.
- § 4.03.1. Duties of the Town Secretary.
- § 4.03.2. Compensation of Town Secretary.
- § 4.04. Municipal Court of Record.
- § 4.04.1. Judge of Court.
- § 4.04.2. Court Administrator.
- § 4.04.3. Absence of Judge.
- § 4.04.4. Fines.
- § 4.05. Town Attorney.
- § 4.06. Police Department.
- § 4.06.1. Police Chief.
- § 4.06.2. Special Police.
- § 4.07. Fire Department.
- § 4.07.1. Fire Chief.
- Article V. Nominations and Elections
- § 5.01. Elections.
- § 5.02. Regulation of Elections.
- § 5.03. Special Elections.
- § 5.04. Filing for Office.
- § 5.05. The Official Ballot.
- § 5.06. Election by Majority.
- § 5.07. Conducting and Canvassing Elections.
- § 5.08. Oath of Office.
- Article VI. Recall
- § 6.01. Scope of Recall.
- § 6.02. Petition for Recall.
- § 6.03. Form of Recall and Oath.
- § 6.04. Certification of Petition.
- § 6.05. Petition Found Sufficient.
- § 6.06. Public Notice.
- § 6.07. Official Ballot.
- § 6.08. Recall Petition Prohibited.
- § 6.09. Refusal of Recall Petition.
- Article VII. Legislation by the People, Initiative and Referendum
- § 7.01. General Powers.
- § 7.02. Petition Requesting Submission for Ordinance by Initiative.
- § 7.03. Town Secretary to Examine Petition.
- § 7.04. Council Either to Pass Ordinance or Call Election.
- § 7.05. Submitted at General Election when Only 5% Sign.
- § 7.06. Form of Ballot; Provision for Repeal.
- § 7.07. Voluntary Submission or Legislation by the Council.
- § 7.08. Publication of Proposed and Referred Ordinances.
- § 7.09. Adoption of Ordinances.
- § 7.10. Inconsistent Ordinances.
- § 7.11. Ordinances Passed by Petition, Popular Vote; Repeal or Amendment.
- § 7.12. Further Regulations by Town Council.
- § 7.13. Franchise Ordinances.
- § 7.14. Petition for Referendum Not Allowed.
- § 7.15. Referendum Petition Requirements.
- § 7.16. Election Required for Municipal Utility or Public Improvement Districts.
- Article VIII. Municipal Planning and Zoning
- § 8.01. Platting of Property.
- § 8.02. Development of Property.
- § 8.03. Planning and Zoning Commission.
- § 8.04. Park Board.
- § 8.05. Amendments to the Master Plan and SMARTGrowth Program.
- Article IX. Municipal Finance
- § 9.01. Fiscal Year.
- § 9.02. Preparation and Submission of Budget.
- § 9.03. Anticipated Revenues Compared with Other Years in Budget.

- § 9.04. Proposed Expenditures Compared with Other Years.
- § 9.05. Budget a Public Record.
- § 9.06. Notice of Public Hearing on Budget.
- § 9.07. Public Hearing on Budget.
- § 9.08. Vote Required for Adoption.
- § 9.09. Failure to Adopt.
- § 9.10. Effective Date of Budget; Certification of Copies; Copies Made Available.
- § 9.11. Budget Establishes Appropriations.
- § 9.12. Budget Establishes Amount to be Raised by Property Tax.
- § 9.13. Reserve.
- § 9.14. Transfer of Appropriations and Budget Amendments.
- § 9.15. Power to Tax.
- § 9.16. Property Subject to Tax.
- § 9.17. Board of Directors of Appraisal District.
- § 9.17.1. Appraisal of Property.
- § 9.17.2. Certifications and Adoption.
- § 9.18. Taxes, when Due and Payable.
- § 9.19. Tax Liens.
- § 9.20. Issuance of Bonds.
- § 9.21. Chief Financial Officer.

Article X. Franchises and Public Utilities

- § 10.01. Powers of the Town.
- § 10.02. Franchise: Powers of Town Council.
- § 10.03. Franchise Value Not to be Allowed.
- § 10.04. Right of Regulation.
- § 10.05. Grant Not to be Exclusive.
- § 10.06. Consent of Property Owners.
- § 10.07. Extensions.
- § 10.08. Other Conditions.
- § 10.09. Accounts of Municipally Owned Utilities.
- § 10.10. Sales of Electricity, Water and Sewer Service.
- § 10.11. Regulation of Rates and Service.

Article XI. General Provisions

- § 11.01. Construction of Charter.
- § 11.02. Publicity of Records.
- § 11.03. Personal Interest.
- § 11.04. Provisions Relating to Assignment, Execution and Garnishments.
- § 11.05. Town Not Required to Give Security or Execute Bond.
- § 11.06. Special Provisions Covering Damage Suits, Etc.
- § 11.07. Rearrangement and Renumbering.
- § 11.08. Judicial Notice.
- § 11.09. Construction of Charter.
- § 11.10. Accepting Gifts, Favors or Privileges.
- § 11.11. Powers to Remit Penalties.
- § 11.12. Property Not Exempt from Special Assessments.
- § 11.13. No Lien on Public Property; Contractors, Etc.
- § 11.14. Severability Clause.
- § 11.15. Retirement System and Social Security; Group Insurance.
- § 11.16. Special Powers Under Local Government Code.
- § 11.17. Town Depository.
- § 11.18. Amending the Charter.
- § 11.19. Charter Review Commission.
- § 11.20. Review of the Charter.

ARTICLE I. FORM OF GOVERNMENT AND BOUNDARIES

§ 1.01. Corporate Name.

The inhabitants of the Town of Flower Mound, County of Denton, Texas, within the corporate limits hereafter set forth, will continue to be incorporated under the name "Town of Flower Mound."

§ 1.02. Form of Government.

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

(Amend. of 5-15-2004)

State law references: Home rule form of government, V.T.C.A., Local Government Code § 26.001 et seq.

§ 1.03. Boundaries.

The boundaries of the Town shall be as they have been established previously and now exist; and which are on file with the Town Secretary.

§ 1.04. Extension of Boundaries.

The boundaries of the Town of Flower Mound may be enlarged and extended by the annexation of additional territory by the manner herein set forth:

- (a) The Council shall have the power by ordinance to set the boundary limits of the Town of Flower Mound, Texas, to provide for the alteration and extension of the boundary limits, and to annex additional territory lying adjacent to it whether said territory be inhabited or uninhabited. Should the territory be inhabited, the Council may also, upon a petition signed by a majority of the registered voters in such territory, consider such petition for annexation. The Council shall not consider any petition or act to annex any inhabited territory unless, in the opinion of the Council, the Town of Flower Mound can provide fire and police protection to the territory at the time of annexation. Services not mentioned therein shall be provided at such time as designated by the Town Council.
- (b) No annexation ordinance shall be passed unless a public hearing has been held.
- (c) The Council of the Town of Flower Mound, Texas, shall provide for such notices and publication of such notices as is required by the laws of the State of Texas.
- (d) When any additional territory has been annexed, it shall be a part of the Town of Flower Mound, Texas. The property within the annexed area shall bear its pro rata part of the taxes levied by the Town. The inhabitants thereof shall be entitled to all rights and privileges of other citizens of said Town and shall be bound by the acts, ordinances, resolutions and regulations of the Town.

- (e) All powers of annexation of the Town Council are subject to the provisions of the Municipal Annexation Act of the State of Texas, as it may be amended.

(Amend. of 5-15-2004)

State law references: Annexation, V.T.C.A., Local Government Code § 43.001 et seq.

§ 1.05. Contraction of Boundaries.

- (a) Whenever in the opinion of the Town Council, there exists within the corporate limits of the Town of Flower Mound any territory, either inhabited or uninhabited, not suitable or necessary for Town purposes, or upon a petition signed by a majority of the qualified voters residing in said inhabited territory, the Town Council may, upon a public hearing and by ordinance duly passed, discontinue said territory as part of the Town of Flower Mound.
- (b) Any petition and/or ordinance as described above shall specify accurately the metes and bounds of the territory sought to be eliminated from the Town and shall contain a plat designating such territory so that it may be definitely ascertained. When said ordinance has been duly passed, it shall be entered upon the minutes and records of the Town of Flower Mound and from and after the entry of the ordinance, the territory shall cease to be a part of the Town. However, the territory shall still be liable for its pro rata share of any debts incurred while the area was a part of the Town and the Town shall continue to levy, assess and collect taxes on the property within the territory to pay the indebtedness incurred while the area was a part of the Town as though the area had not been excluded from the boundaries of the Town.

(Amend. of 5-15-2004)

ARTICLE II. POWERS OF THE TOWN*

***State law references:** Municipal home rule powers, Texas Const., art XI, § 5; V.T.C.A., Local Government Code §§ 26.001 et seq., 51.001, 51.071 et seq.

§ 2.01. Enumerated Powers Not Exclusive.

The Town shall have the powers which are herein expressly provided as well as all powers that are now or which hereafter may be granted to municipalities by the Constitution or laws of the State of Texas, together with all the implied powers necessary to execute such granted powers.

(Amend. of 5-15-2004)

§ 2.02. General Powers Adopted.

The enumeration of the particular powers of this Charter shall not be held or deemed to be exclusive, but in addition to the powers enumerated.

§ 2.03. Eminent Domain.

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

State law references: Eminent domain, V.T.C.A., Local Government Code § 251.001 et seq.

§ 2.04. Power to Acquire Property for Public Purposes.

The Town of Flower Mound shall have the power to acquire by condemnation either private or public property located inside or outside the corporate limits for public purposes; for the extension, improvement and enlargement of its water system, including riparian rights, water supply reservoirs, standpipes, water sheds, dams, the laying, building, maintenance and construction of water mains and any necessary appurtenances or facilities which will furnish to the inhabitants of the Town an abundant supply of wholesome water; for sewerage plants and systems; rights-of-way for water and sewer lines; parks, playgrounds and schools, hospitals, fire stations, police stations, burial grounds and cemeteries, incinerators or other garbage disposal plants; streets, boulevards and alleys or other public ways; town jails, town halls and other municipal buildings; 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 authorized herein shall be in accordance with the provision of the State law with reference to eminent domain. The provisions of V.T.C.A. Property Code, Chapter 21, shall apply to such proceedings, or such proceeding may be under any other State law now in existence or that hereafter may be passed governing or relating to the condemnation of land for public purposes by the Town.

(Amend. of 5-15-2004)

ARTICLE III. THE TOWN COUNCIL

§ 3.01. Number, Selection, Term.

The Council shall consist of six members, a Mayor and five (5) Councilpersons, elected from the Town at large, by place or position, in the manner provided in Article V, for a term of two years or until their successors have been elected and take office as provided in Article V.

(Amend. of 5-15-2004)

§ 3.02. Reserved.

Editor's note: Ord. No. 33-07, Prop. 1, approved at referendum May 12, 2007, and adopted May 21, 2007, deleted § 3.02, which pertained to qualifications and derived from Amend. of

5-15-2004. Similar provisions have been enacted as § 3.02.1

§ 3.02.1. Qualifications.

Each member of the Council shall be a qualified voter of the Town, shall be twenty-one (21) years of age or older on the first day of the term to be filled at the election or on the date of appointment, as applicable, have been a resident of the Town for at least one (1) year prior to election date, shall not be employed by the Town, and shall hold no other public office except that of Notary Public or a member of the National Guard or naval or military reserve.

(Ord. No. 33-07, (Prop. 1, approved at referendum 5-12-2007), adopted 5-21-2007)

State law references: Qualifications generally, V.T.C.A., Election Code § 141.001 et seq.

§ 3.02.2. Forfeiture of Office.

A councilperson shall forfeit his office if he:

- (1) Lacks at any time during his term of office any qualifications for the office prescribed by this Charter or by Texas law; or
- (2) Is convicted in any court of (1) a felony, or (2) a Class A or Class B misdemeanor, or (3) a crime involving moral turpitude, or
- (3) Fails to attend three (3) consecutive regular meetings of the Council without first being excused by the Council; or
- (4) Willfully violates any express prohibition of this Charter.

(Ord. No. 33-07, (Prop. 2, approved at referendum 5-12-2007), adopted 5-21-2007)

§ 3.03. Council to be Judge of Election, Qualifications.

The Town Council shall be judge of the election and qualification of its own members and other elected officials of the Town.

§ 3.03.1. Vacancies.

- (a) If a member of the Council shall announce candidacy or become a candidate for election to any public office other than the specific office then held when the unexpired term of the office then held exceeds one (1) year, he shall forfeit his office or place on the Council as of the date of the next regular municipal election.
- (b) The office of Mayor or Councilperson shall become vacant upon death, resignation or removal from office in any manner authorized by law or by this Charter.
- (c) A single vacancy in the Council shall be filled within thirty (30) days of the occurrence of the vacancy by a majority vote of the remaining members of the Council by selection of a person qualified for the position as described in this Charter. This appointee shall serve until the position can be filled at the next regular Town election.

- (d) When more than one vacancy shall develop at any one time, a special election shall be called by the Council for the next date available under the Texas Election Code to fill the vacancies in the same manner as described herein for regular elections. However, if the vacancies occur within ninety (90) days of a regular election, then no special election shall be called and remaining Councilpersons shall appoint qualified persons to fill the vacancies until the regular election.
- (e) Notwithstanding any other provision of this Charter to the contrary, if at any time the membership of the Council is reduced to less than four (4), the remaining members may by majority action appoint additional members to raise the membership to four (4). These appointees shall serve until the positions can be filled at the next regular or special Town election.

(Amend. of 5-15-2004)

§ 3.04. Compensation.

The Mayor and members of the Town Council of Flower Mound shall serve without pay or compensation; provided, however, that they shall be entitled to reimbursement of any necessary expenses incurred in the performance of their official duties, when approved by the Council.

§ 3.05. Mayor.

The Mayor shall preside over the meetings of the Council and perform such other duties consistent with the office as may be imposed by this Charter and by ordinances and resolutions passed in pursuance thereof. The Mayor may participate in the discussion of all matters coming before the Council and shall have a casting vote in case of a tie vote. The Mayor shall sign, after authorization by the Council, all contracts, conveyances made or entered into by the Town and all bonds, warrants and any other obligations issued under the provisions of this Charter, in the manner prescribed in the ordinance authorizing the signing of any such obligation. The Mayor may delegate to the Town Manager the authority to sign all contracts not to exceed Fifteen Thousand Dollars (\$15,000.00), or any such lesser amount as may be approved by the Town Council. The Mayor shall be recognized as the official head of the Town by the courts for the purpose of serving civil process, by the Governor for the purpose of enforcing military law, and for all ceremonial purposes.

(Amend. of 5-15-2004)

§ 3.06. Mayor Pro Tem.

The Town Council, at its first meeting after election of Councilpersons, shall elect one of its members as Mayor Pro Tem, and this person shall perform all the duties of the Mayor in the absence or disability of the Mayor. The Council shall also elect one of its members as Deputy Mayor Pro Tem, and this person shall perform all the duties of the Mayor in the absences or disabilities of the Mayor and Mayor Pro Tem.

(Amend. of 5-15-2004)

§ 3.07. Powers of the Council.

All powers of the Town and the determination of all matters of policy shall be vested in the Town Council. Without limitation of the foregoing and among the other powers that may be exercised by the Town Council, the following are hereby enumerated for greater certainty:

- (a) Appoint and remove a Town Manager as hereinafter provided;
- (b) Establish, create, consolidate, or abolish administrative departments and distribute the work of divisions;
- (c) Adopt the budget of the Town;
- (d) Authorize the issuance and sale of bonds by a bond ordinance;
- (e) Inquire into the conduct of any office, department or agency of the Town and make investigations as to municipal affairs;
- (f) Provide for such additional boards and commissions, not otherwise provided for in this Charter, as may be deemed necessary, and appoint the members of all such boards and commissions. Such boards and commissions shall have all powers and duties now or hereafter conferred and created by this Charter, by Town ordinance, or by State law;
- (g) Adopt and modify the zoning plan, and a building code, including electrical and plumbing codes, of and for the Town; and to require building permits;
- (h) Adopt and modify the official map of the Town. (The official map is and shall be maintained by the Town Secretary, in the Town Hall in the Town of Flower Mound, Texas);
- (i) Adopt, modify and carry out plans proposed by the Town Planning and Zoning Commission for the clearance of slum districts and rehabilitation of blighted areas;
- (j) Adopt, modify and carry out plans proposed by the Town Planning and Zoning Commission for the replanning, improvement and redevelopment of any area or district which may have been destroyed in whole or in part by disaster;
- (k) Regulate, license and set the charges or fares made by any person, firm or corporation owning, operating or controlling any vehicle of any character used for the carrying of passengers for hire or the transportation of freight for hire on the public streets and alleys of the Town;
- (l) Provide for the establishment and designation of fire limits, and prescribe the kind and character of buildings or structures or improvements to be erected therein; and provide for the erection of fireproof buildings within said limits; and provide for the condemnation of dangerous structures or buildings or dilapidated buildings, or buildings calculated to increase the fire hazard, and prescribe the manner of their removal or destruction, within said limits;
- (m) Determine the salaries and compensation of the Town officers and employees and set up qualifications, rules and standards of and for employees for the Town;
- (n) Provide for a sanitary sewer and water system, and require property owners to

- connect their premises with sewer system and provide the penalties for failure to make sanitary sewer connections;
- (o) Provide for sanitary garbage disposal, and set fees and charges therefor, and provide penalties for failure to pay such fees and charges. To define nuisances and to prohibit same, and provide penalties for violations;
 - (p) Provide for all necessary public utilities and set fees and charges therefor and provide penalties for misuses of same;
 - (q) Exercise exclusive dominion, control and jurisdiction (including the right to close and abandon streets and alleys) in, upon, over and under the public streets, avenues, sidewalks, alleys, highways, boulevards and public grounds of the Town; and provide for the improvement of same as provided in V.T.C.A. Transportation Code, Chapter 313, as now or hereafter amended;
 - (r) Address and settle any and all claims, demands, and lawsuits, of every kind and character, in favor of, or against, the Town of Flower Mound;
 - (s) To require bonds, both special and general, of all contractors and others constructing or building for the Town, and set up standards, rules and regulations therefor;
 - (t) To pass ordinances defining and prohibiting misdemeanors and vagrancy and provide penalties for violations;
 - (u) To provide and/or arrange for any and all civil defense measures and public shelter measures for the Town of Flower Mound, Texas, and for the citizens thereof, deemed necessary for the public welfare;
 - (v) To exercise, or delegate to the Mayor, extraordinary and total executive powers on a temporary basis during the existence and duration of any major public disaster, for the public welfare;
 - (w) To name and designate an Official Newspaper for the Town of Flower Mound, Texas and to cause only the caption of duly enacted ordinances to be published except as provided otherwise by law.

(Amend. of 5-15-2004)

State law references: Home rule powers generally, V.T.C.A., Local Government Code § 51.071 et seq.

§ 3.08. Meetings of the Council.

The Council shall hold at least two (2) regular meetings a month for at least seven (7) months and a minimum of one meeting during each of the other five (5) months at a time to be set by it for such regular meetings and may hold as many other meetings as may be necessary for the transaction of the business of the Town. All regular meetings shall be held at the Town Hall or at such other places within town limits as will permit the attendance of the general public. All meetings will be held in accordance with the Open Meetings Act of the State of Texas.

(Amend. of 5-15-2004)

State law references: Open meetings act, V.T.C.A., Government Code § 551.001 et seq.

§ 3.08.1. Special Meetings.

The Mayor or any three (3) members of the Council may call special meetings by giving notice to the Town Secretary who shall notify each member of the Council of the time of such meeting and purpose thereof. Only matters mentioned in the call shall be considered.

§ 3.08.2. Rules of the Council.

The Council shall determine its own rules of procedure. It shall cause and require the Town Secretary to keep a permanent record or journal of the minutes of these meetings.

§ 3.08.3. Quorum.

A majority of the Council, not including the Mayor, shall constitute a quorum to do business. A number less than a quorum may adjourn from time to time and compel the attendance of absent members. If the Council is reduced to less than three (3) members on account of vacancies, the remaining members shall constitute a quorum for the sole purpose of calling an election. The vote upon the passage of all ordinances and resolutions shall be taken by "Ayes" and "Nays" and entered upon the minutes. Every ordinance and resolution upon its final passage shall be authenticated by the signature of the presiding officer and the Town Secretary.

(Amend. of 5-15-2004)

§ 3.08.4. Nepotism.

No person related within the second degree by affinity or third degree by consanguinity to the Mayor or any member of the Council or the Town Manager shall be appointed to any paid office, position, clerkship or other service of the Town.

(Amend. of 5-15-2004)

State law references: Nepotism, V.T.C.A., Government Code § 573.001 et seq.

§ 3.09. Council Not to Interfere in Town Manager Appointments and Removals.

Neither the Town Council nor any of its members shall direct or request the appointment or removal of any person from office by the Town Manager or by any of his subordinates. However, the Council may consult and advise with the Town Manager, make inquiry regarding the appointments or removals, and may express their opinion in regard thereto. In regard to administrative and executive duties under the Town Manager, the Council and its members shall deal solely through the Town Manager, either publicly or privately. Willful violation of the foregoing provisions of this Charter by any member of the Council shall constitute misconduct and shall authorize the Council by a vote of the majority of its membership to expel such offending member of the Council if found guilty after public hearing, and thereby create a vacancy in the place held by such member.

(Amend. of 5-15-2004)

§ 3.10. Rules of Procedure.

The Council shall by ordinance determine its own rules and order of business. The rules shall provide that citizens of the Town shall have a reasonable opportunity to be heard at any meeting. The Council shall provide for the minutes to be taken and a record made of all meetings by the Town Secretary. Such minutes shall be a public record. Three (3) Councilmembers shall constitute a quorum for the purpose of transaction of business and no action of the Council shall be valid or binding unless adopted by the affirmative vote of three (3) or more members of the Council.

(Amend. of 5-15-2004)

§ 3.10.1. Effect on Ordinances, Resolutions.

All ordinances and resolutions of the Town now in existence and not inconsistent with the provisions of the Charter shall remain in full force and effect until altered, amended or repealed.

(Amend. of 5-15-2004)

§ 3.11. Bonds for Employees.

The Town Manager and the Town Secretary and such other Town officers and employees as the Town Council may require shall, before entering upon the duties of their office, enter into a good and sufficient fidelity bond in a sum to be determined by the Town Council payable to the Town of Flower Mound. The fidelity bond shall be conditioned upon the faithful discharge of the duties of such persons and upon the faithful accounting for all monies, credits and things of value coming into the hands of such persons and such bonds shall be signed as surety by a company authorized to do business under the laws of the State of Texas. The premium of such bonds shall be paid by the Town of Flower Mound and such bonds must be acceptable to the Town Council.

(Amend. of 5-15-2004)

§ 3.12. Investigative Powers of the Council.

The Council shall have the power to inquire into or investigate the official conduct of any department, agency, officer or employee of the Town and for that purpose shall have the power to, subpoena witnesses, compel the production of books, papers, records or other evidence, and as it shall provide by ordinance, to punish and set penalties for contempt for failure or refusal to obey any such subpoena or to produce any such books, papers, records or other evidence.

(Amend. of 5-15-2004)

§ 3.13. Audit and Examination of Town Books and Accounts.

The Town Council shall cause an independent annual audit to be made of the books and accounts of each and every department of the Town and may provide for more frequent audits as it deems necessary. Such audit shall be made by a Certified Public Accountant or firm of

accountants, who shall be selected by the Town Council and who shall have no interest, direct or indirect, in the financial affairs of the Town government or in any of its officers. The accountant shall not maintain or keep any of the Town's accounts or records. The Council may designate such accountant or firm annually or for a period not exceeding two (2) years, provided that the designation for any particular year shall be made at least ninety (90) days prior to the end of such fiscal year. Nothing herein shall prevent the Town Council from redesignating the same accountant or firm which has previously been designated to prepare an audit. If the State of Texas makes such an audit, the Council may accept it in satisfaction of the requirement of this section. Such audit shall include a recapitulation of all internal audits made during the course of each fiscal year. All audit reports shall be filed with the Town Council, shall be available for public inspection and shall be made a part of the archives of the Town.

(Amend. of 5-15-2004; Ord. No. 33-07, (Prop. 4, approved at referendum 5-12-2007), adopted 5-21-2007)

State law references: Annual audit required, V.T.C.A., Local Government Code § 103.001 et seq.

ARTICLE IV. ADMINISTRATIVE SERVICES*

***State law references:** Creation of municipal officers, V.T.C.A., Local Government Code § 26.041.

§ 4.01. Administrative Departments.

There shall be such administrative departments as are established by this Charter and may be established by ordinance and, except as otherwise provided in this Charter, these administrative departments shall be under the direction of the Town Manager.

The Council shall have the power by ordinance to establish administrative departments or offices not provided by this Charter. The Council may discontinue, redesignate, or combine any of the departments and/or administrative offices.

The head of each department shall be a director or superintendent who shall be appointed by the Town Manager and such director or superintendent shall have supervision and control over his department. Excluding the Fire Department and Police Department, two (2) or more departments may be headed by the same individual and the Town Manager may head one (1) or more departments.

(Amend. of 5-15-2004)

§ 4.02. Town Manager--Appointment and Qualifications.

The Council by majority vote shall appoint a Town Manager. The method of selection shall be left to the discretion of the Council so long as the method ensures orderly, nonpartisan action toward securing a competent and qualified person to fill the position. The Town Manager shall be chosen solely upon the basis of the person's executive and administrative training, experience and ability.

(Amend. of 5-15-2004)

§ 4.02.1. Compensation of Town Manager.

The Town Manager shall receive compensation as may be determined by the Council according to the person's experience, education and training. The compensation should be agreed upon before appointment with the understanding that the Council may change the compensation at its discretion.

(Amend. of 5-15-2004)

§ 4.02.2. Term and Removal.

The Town Manager shall not be appointed for a definite term but may be removed at the discretion of the Council, by vote of the majority of the Council. The action of the Council in suspending or removing the Town Manager shall be final. It is the intention of this Charter to vest all authority and place all responsibilities of such suspension or removal with the Council.

(Amend. of 5-15-2004)

§ 4.02.3. Powers and Duties.

The Town Manager shall be responsible to the Council for the proper administration of all the affairs of the Town and to that end shall have the power and be required to:

- (1) See that all State laws and Town ordinances are effectively enforced;
- (2) Appoint, suspend and/or remove all or any one of the directors of departments;
- (3) Attend all meetings of the Council except when excused by the Council;
- (4) Prepare a proposed budget annually and submit it to the Council on or before July 31st of each year and be responsible for its administration after its adoption;
- (5) Prepare and submit to the Council at the end of the fiscal year a complete report on the finances and administrative activities of the Town for the preceding year;
- (6) Keep the Council advised of the financial condition and future needs of the Town and make such recommendations as may seem advisable;
- (7) Prepare personnel rules subject to the approval of the Council;
- (8) Perform such other duties as may be prescribed by this Charter or required by the Council, as consistent with this Charter.

(Amend. of 5-15-2004)

§ 4.02.4. Acting Town Manager.

The Town Manager, within thirty (30) days after taking office, shall designate by letter filed with the Town Secretary, a qualified administrative officer of the Town to perform the duties of the Town Manager in his absence or disability. No member of the Council shall serve as Acting Town Manager.

(Amend. of 5-15-2004)

§ 4.03. Town Secretary.

The Council shall appoint a Town Secretary who shall act as the Secretary to the Council and shall hold office at the pleasure of the Council.

(Amend. of 5-15-2004)

§ 4.03.1. Duties of the Town Secretary.

The duties of the Town Secretary shall be as follows:

- (1) Record the minutes of all official meetings of the Council; provided, however, only the captions of duly enacted ordinances and resolutions shall be recorded in the minutes;
- (2) Be the custodian of all municipal records and provide for the safety and security thereof; and maintain the Town seal and affix to all instruments requiring the seal.

§ 4.03.2. Compensation of Town Secretary.

The Council shall set the compensation of the Town Secretary according to the person's experience, education, and training.

(Amend. of 5-15-2004)

§ 4.04. Municipal Court of Record.

There shall be established and maintained a court designated as the Municipal Court of Record for the trial of misdemeanor offenses, with all such powers and duties as are now or may hereafter be prescribed by laws of the State of Texas relative to municipal courts of record.

(Amend. of 5-15-2004)

State law references: Municipal court, V.T.C.A., Government Code Chapter 30, Subchapter TT.

§ 4.04.1. Judge of Court.

The Judge of the municipal court shall be appointed by the Town Council and shall serve at the discretion of the Council. The Judge shall be an attorney currently licensed to practice in the State of Texas, and shall receive such salary as may be determined by the Council.

(Amend. of 5-15-2004)

State law references: Municipal court, V.T.C.A., Government Code Chapter 30..

§ 4.04.2. Court Administrator.

There shall be a clerk of the municipal court appointed by the Town Manager to be

designated as the Court Administrator. The Court Administrator and any deputies shall have the power to administer oaths and affidavits, make certificates, affix the seal of the court thereto, and generally do and perform any and all acts usual and necessary performed by clerks and deputies of courts. The Council shall require the Court Administrator before entering upon the duties of the office, to execute a good and sufficient surety company bond, in such amount as the Council may demand, payable to the Town and conditioned for the faithful performance of the duties of the office. The premium of the bond shall be paid by the Town.

(Amend. of 5-15-2004)

State law references: Municipal court, V.T.C.A., Government Code § 29.001 et seq.

§ 4.04.3. Absence of Judge.

In case of the disability or absence of the Judge of the Municipal Court, the Council shall appoint a qualified person as provided in § 4.04.1 above to act in his place.

State law references: Municipal court, V.T.C.A., Government Code § 29.001 et seq.

§ 4.04.4. Fines.

All costs and fines imposed by the Municipal Court shall be paid to the Town treasury for the use and benefit of the Town.

State law references: Municipal court, V.T.C.A., Government Code § 29.001 et seq.

§ 4.05. Town Attorney.

The Town Council shall appoint a competent, duly qualified and licensed attorney practicing law in the State of Texas to be an attorney for the Town, hereinafter referred to as the "Town Attorney." The Town Attorney shall serve at the discretion of the Council and shall receive the compensation as may be determined by the Town Council. The Town Attorney shall be the legal adviser and attorney for all of the offices and departments of the Town, and shall represent the Town in all litigation and legal proceedings; provided, that the Council may retain special counsel at any time they deem same appropriate and necessary. The Town Attorney shall review and concur or dissent upon all documents, contracts and legal instruments in which the Town may have an interest. The Town Attorney shall perform other duties prescribed by this Charter, by ordinance or as directed by the Council.

(Amend. of 5-15-2004)

§ 4.06. Police Department.

There shall be established and maintained a Police Department, to preserve order within the Town, and to secure the residents of said Town from violence, and the property therein, from injury or loss.

(Amend. of 5-15-2004)

§ 4.06.1. Police Chief.

The Police Chief shall be the chief administrative officer of the Police Department. The

Chief shall, with the approval of the Town Manager, appoint and remove the employees of the department and shall perform such duties as may be required by the Town Manager. The Police Chief shall be appointed by the Town Manager for an indefinite term. The Police Chief shall be fully responsible to the Town Manager for the administration of the department, and for the carrying out and enforcement of the resolutions and ordinances of the Town. The Police Chief may be removed from office by the Town Manager.

(Amend. of 5-15-2004)

§ 4.06.2. Special Police.

No person, except as authorized by general law, by this Charter, or by the ordinances passed pursuant hereto, shall act as special police or special detective.

§ 4.07. Fire Department.

There shall be established and maintained a Fire Department to provide means for protection against fires.

(Amend. of 5-15-2004)

§ 4.07.1. Fire Chief.

The Fire Chief shall be the chief administrative officer of the Fire Department. The Fire Chief shall, with the approval of the Town Manager, appoint and remove the employees of the department and shall perform such duties as may be required by the Town Manager. The Fire Chief shall be fully responsible to the Town Manager for the administration of the department, and for the carrying out and enforcement of the resolutions and ordinances of the Town. The Fire Chief may be removed from office by the Town Manager.

(Amend. of 5-15-2004)

ARTICLE V. NOMINATIONS AND ELECTIONS*

***State law references:** Municipal elections, V.T.C.A., Election Code § 1.001 et seq.

§ 5.01. Elections.

The regular Town election shall be held annually on a date in accordance with the laws of the State of Texas.

(Amend. of 5-15-2004)

State law references: Uniform election dates, V.T.C.A., Election Code § 41.001.

§ 5.02. Regulation of Elections.

All general and special elections shall be held in accordance with the laws of the State of

Texas regulating the holding of municipal elections and in accordance with this Charter and ordinances or resolutions adopted by the Council for the conduct of elections. The Council shall appoint the election judges and other election officials and shall provide for the compensation of all election officials in the Town elections and for all other expenses in holding said elections.

§ 5.03. Special Elections.

The Council, by ordinance or resolution, may call such special elections as are authorized by the State of Texas law or this Charter, set the time and place of holding same and provide all means for holding such special elections, provided that every special election shall be called and held as nearly as practical, according to the provisions governing regular elections.

(Amend. of 5-15-2004)

§ 5.04. Filing for Office.

Each candidate for an elective office shall meet the qualifications set forth in § 3.02.1 of this Charter. If a member of any board appointed by the Council shall announce candidacy or becomes a candidate for election to any Town elected office, he may continue to serve on that board until elected. If a Town employee shall announce candidacy or becomes a candidate for election to any public office, he shall immediately forfeit employment held under the Town.

(Amend. of 5-15-2004; Ord. No. 33-07, (Prop. 3, approved at referendum 5-12-2007), adopted 5-21-2007)

§ 5.05. The Official Ballot.

The names of all candidates for office, except such as may withdraw, die or become ineligible, shall be printed on the official ballots without party designations, in the order determined in a drawing of lots, conducted by the Town Secretary. All official ballots shall be printed prior to the beginning of Early Voting. Early voting shall be governed by the Texas Election Code.

(Amend. of 5-15-2004)

§ 5.06. Election by Majority.

At any regular or special election, the candidates in each place or office who shall have received the majority of votes cast in such election shall be declared elected. Should any candidate fail to receive the majority of votes for the office or place for which he is a candidate, the Council shall immediately order a runoff election to be held on a date in accordance with the laws of the State of Texas and as set by ordinance of the Town. At this special election, only the names of the two (2) candidates receiving the highest number of votes at the regular election, for the office or place for which they are candidates, shall be printed on the ballot and submitted to the qualified voters for election. The candidate receiving the majority of votes in the special election for the place or office for which he was a candidate shall be declared duly elected.

(Amend. of 5-15-2004)

§ 5.07. Conducting and Canvassing Elections.

Returns of every municipal election shall be delivered forthwith by the election judges to the proper authority in compliance with the laws of the State of Texas. The Town Council shall canvass the returns, and declare the official results of the election in accordance with the laws of the State of Texas. The returns of every municipal election shall be recorded in the minutes of the Council. The qualified person receiving the majority of votes cast for any office shall thereupon be declared elected by the Council.

(Amend. of 5-15-2004)

§ 5.08. Oath of Office.

- (a) All elected or appointed officers, before taking the Oath or Affirmation of office as prescribed by the Constitution and entering the duties of office, shall subscribe to the following statement:

"I solemnly swear (or affirm), that I have not directly or indirectly paid, offered, or promised to pay, contributed, or promised any public office or employment as a reward for the giving or withholding a vote at the election at which I was elected, or if the office is one of appointment, to secure my appointment, So help me God."

- (b) All elected or appointed officers, before they enter upon the duties of the office, shall take the following oath or affirmation or such other oath or affirmation as shall be required by the Texas Constitution:

"I, _____, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of _____, of the Town of Flower Mound, Texas, and will to the best of my ability preserve, protect and defend the Constitution and laws of the United States and of this State and the Charter and Ordinances of this Town."

(Amend. of 5-15-2004)

State law references: Oath, Texas Const., art. 16, § 1.

ARTICLE VI. RECALL

§ 6.01. Scope of Recall.

Any elected Town official, whether elected to office by the qualified voters of the Town or appointed by the Council to fill a vacancy, shall be subject to recall and removal from office by the qualified voters of the Town on grounds of incompetence, misconduct, malfeasance in office or who willfully violates any provision of the Charter.

§ 6.02. Petition for Recall.

Before the question of recall of such officer shall be submitted to the qualified voters of the Town, a petition demanding such question to be so submitted shall first be filed with the person performing the duties of the Town Secretary; which said petition shall be signed by three hundred (300) qualified voters or a number equal to at least fifteen percent (15%) whichever is greater, of those who were qualified voters on the date of the last regular municipal election as determined from the list of qualified voters maintained by the Voter Registrar of Denton County. Each signer of such recall petition shall personally sign his name thereto in ink or indelible

pencil, and shall write after his name his place of residence, giving the name of the street and number, his voter registration certificate number and shall also write thereon the day, the month and the year his signature was affixed.

(Amend. of 5-15-2004)

§ 6.03. Form of Recall and Oath.

The recall petition mentioned above must be addressed to the Council of the Town of Flower Mound, must distinctly and specifically point out the ground or grounds upon which such petition for removal is predicated, and, if there be more than one ground, such as for incompetence, misconduct or malfeasance in office, shall specifically state each ground with such certainty as to give the officer sought to be removed notice of the matters and things with which he is charged. The signature shall be verified by oath in the following form:

TABLE INSET:

STATE OF TEXAS)
COUNTY OF DENTON	(

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

TABLE INSET:

Subscribed and sworn to before me this _____ day of _____, 20_____.

TABLE INSET:

_____	Notary Public, Denton County, Texas
-------	-------------------------------------

§ 6.04. Certification of Petition.

Within ten (10) days after the filing of such petition, the Town Secretary shall examine the petition and from the list of qualified voters ascertain whether or not the petition is signed by the requisite number of qualified voters. If necessary, the Council shall allow the Town Secretary extra help for that purpose and she shall attach to the petition a certification showing the result of each examination. No signature to such petition shall be valid if dated more than forty-five (45) days prior to submittal to the Town Secretary for certification. The petition shall become the property of the Town upon filing and one amendment to the petition shall be allowed once the petition has been filed.

(Amend. of 5-15-2004)

§ 6.05. Petition Found Sufficient.

If the petition is found sufficient, the Town Secretary shall immediately notify, in writing,

the officer so sought to be removed, by mailing such notice to his mailing address. The Town Secretary shall submit the petition to the Council without delay. In the event the Councilperson fails to resign, the Council shall order and set a date for holding the recall election, provided that if an election is to be held within the Town for any other purpose within sixty (60) days from the date of the notification, then the recall election shall be held on the same day. If the Councilperson in question resigns, no election shall be necessary and the vacancy shall be filled by the Council as in other cases or vacancies.

(Amend. of 5-15-2004)

§ 6.06. Public Notice.

The Council shall make or cause to be made publication or notice and provide for holding a recall election for the successor Councilperson. The election shall be conducted and the result thereof declared in all respects as other Town elections.

(Amend. of 5-15-2004)

§ 6.07. Official Ballot.

Any officer so elected shall hold office only during the unexpired term of his predecessor. Any person sought to be removed may be a candidate to succeed himself and, unless he requests otherwise in writing, the Town Secretary shall place his name on the official ballot without nomination. The names of other candidates for such position shall be placed on the official ballot in the same manner as provided in Article V of this Charter. At such election, the candidate receiving a majority of all votes cast for such office, according to the rules regulating the election of Councilpersons as set forth in this Charter, shall be declared elected. At such election, if some other person than the incumbent receives a majority of all votes cast for such office, the incumbent shall thereupon be deemed removed from the office upon the qualification of his successor. In case the party who receives a majority of all votes cast at said election should fail to qualify within the [ten] (10) days after receiving notification of his election, the office shall then become vacant. If the incumbent receives a majority of all votes cast at such election, he shall continue in office and shall not be subject to any other recall for any grounds existing prior to said election. In the event that a runoff election is required, the procedure set forth shall be followed.

§ 6.08. Recall Petition Prohibited.

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

(Amend. of 5-15-2004)

§ 6.09. Refusal of Recall Petition.

In case all of the requirements of this Charter shall have been met and the Town Council shall fail or refuse to receive the recall petition, or order such recall election, or discharge any other duties imposed upon said Town Council by the provisions of this Charter with reference to such recall, then the Council may be mandamusd to act by a court of law.

(Amend. of 5-15-2004)

ARTICLE VII. LEGISLATION BY THE PEOPLE, INITIATIVE AND REFERENDUM

§ 7.01. General Powers.

The qualified voters of the Town of Flower Mound, in addition to the method of legislation hereinbefore provided, shall have the power to direct legislation by initiative and referendum. In exercising such power, legislation may not be proposed for:

- (1) Ordinances appropriating money or levying taxes;
- (2) Ordinances repealing ordinances appropriating money or levying taxes;
- (3) Ordinances granting franchises;
- (4) Ordinances determining salaries;
- (5) Ordinances that would be inconsistent with this Charter or law.

(Amend. of 5-15-2004)

§ 7.02. Petition Requesting Submission for Ordinance by Initiative.

Any proposed ordinance may be submitted to the governing body of the Town of Flower Mound by a petition signed by the qualified voters of the Town equal in number to the percentage hereinafter required. The signatures to the petition need not all be appended to one paper, but each signer of such petition shall personally sign his name in ink or indelible pencil, and shall also write the name of the street and number of his place of residence. The signer shall also write his voter registration certificate number and the day, month and year his signature was affixed to the petition. The initiative petition must be addressed to the Council of the Town of Flower Mound. The signatures shall be verified by oath in the following form:

TABLE INSET:

STATE OF TEXAS)
COUNTY OF DENTON)

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

TABLE INSET:

Subscribed and sworn to before me this _____ day of _____, 20_____.

TABLE INSET:

_____	Notary Public, Denton County, Texas
-------	-------------------------------------

(Amend. of 5-15-2004)

§ 7.03. Town Secretary to Examine Petition.

Within ten (10) days after the filing of a petition, the Town Secretary shall examine the petition and from the list of qualified voters ascertain whether or not the petition is signed by the requisite number of qualified voters. If necessary, the Council shall allow the Town Secretary extra help for that purpose and she shall attach to the petition a certification showing the result of each examination. No signature to such petition shall be valid if dated more than forty-five (45) days prior to submittal to the Town Secretary for certification. The petition shall become the property of the Town upon filing and one amendment to the petition shall be allowed once the petition has been filed. If the petition is found sufficient, the Town Secretary shall immediately (not later than seven (7) working days) submit the petition to the Town Council.

(Amend. of 5-15-2004)

§ 7.04. Council Either to Pass Ordinance or Call Election.

If the petition accompanying the proposed ordinance is signed by qualified voters equal in number to fifteen percent (15%) of the qualified voters of the Town or three hundred (300) of the qualified voters of the Town, whichever is greater, and contains a request that the ordinance be submitted forthwith to a vote of the people at a special election, the governing body of the Town shall either:

- (1) Pass said ordinance without alteration within forty-five (45) days after the attachment of the Town Secretary's certificate of sufficiency to the accompanying petition (subject to referendum vote under the provisions of this Charter); or
- (2) The governing body of the Town shall proceed to call a special election at which the ordinance, without alteration, shall be submitted to a vote of the people.

(Amend. of 5-15-2004)

§ 7.05. Submitted at General Election When Only 5% Sign.

If the petition is signed by electors equal in number to at least five percent (5%), but less than fifteen percent (15%) or three hundred (300) of the qualified voters of the Town of Flower Mound, as required by Sec. 7.04 of this Charter, then such ordinance, without alteration, shall be submitted by the governing body of the Town to a vote of the people at the next general municipal election on a uniform election date that shall occur at any time after thirty (30) days from the date of the Town Secretary's certificate of sufficiency attached to the petition accompanying such ordinance.

(Amend. of 5-15-2004)

§ 7.06. Form of Ballot; Provision for Repeal.

The ballots used when voting upon the ordinance shall contain the words "For" and "Against" (stating the nature of the proposed ordinance). If a majority of the qualified electors voting on said proposed ordinance shall vote in favor thereof, such ordinance shall thereupon become a valid and binding ordinance of the Town.

(Amend. of 5-15-2004)

§ 7.07. Voluntary Submission or Legislation by the Council.

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

(Amend. of 5-15-2004)

§ 7.08. Publication of Proposed and Referred Ordinances.

The Town Secretary shall publish at least once in the official newspaper of the Town the proposed or referred ordinance or resolution within fifteen (15) days before the date of the election, and shall give such other notices and do such other things relative to such election as required in general municipal elections or by the ordinance or resolution calling the election.

§ 7.09. Adoption of Ordinances.

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

(Amend. of 5-15-2004)

§ 7.10. Inconsistent Ordinances.

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

§ 7.11. Ordinances Passed by Petition, Popular Vote; Repeal or Amendment.

Any ordinances or resolutions which may have been passed by the Town Council upon a petition or adopted by popular vote under the provisions of this Article shall be repealed or amended only by the Town Council, in response to a referendum petition, or by submission, as provided herein.

(Amend. of 5-15-2004)

§ 7.12. Further Regulations by Town Council.

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

§ 7.13. Franchise Ordinances.

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

(Amend. of 5-15-2004)

§ 7.14. Petition for Referendum Not Allowed.

No petition for referendum shall be submitted for:

- (a) Ordinances required by the general laws of the State of Texas or by the provisions of this Charter;
- (b) Ordinances passed for the immediate preservation of the public peace, health, or safety under emergency conditions as specified in this Charter;
- (c) Ordinances prohibited from initiative process by § 7.01 of this Charter.

(Amend. of 5-15-2004)

§ 7.15. Referendum Petition Requirements.

A petition for referendum may be submitted to the governing body of the Town when signed by fifteen percent (15%) of the qualified voters of the Town or by three hundred (300) of the qualified voters of the Town, whichever is greater. The procedures for submission, examination and amendments of the petition shall be in accordance with § 7.02 and § 7.03 of this Charter.

§ 7.16. Election Required for Municipal Utility or Public Improvement Districts.

Should any person, persons or corporation request that the Town Council approve the implementation of a Municipal Utility District or a Public Improvement District, the following shall be accomplished before the Municipal Utility District or Public Improvement District may be authorized to operate within the corporate limits of the Town of Flower Mound:

- (a) The request shall be made to the Town Council at a regular meeting. The Town Council, following discussion and debate of the issue, may approve the implementation of a Municipal Utility District or a Public Improvement District by vote of the Council members;
- (b) Following vote of the Council to approve such Municipal Utility or Public Improvement District, the Council shall call a special election to allow the qualified voters of the Town to consider the question of allowing the District to be placed in the Town of Flower Mound;
- (c) The election shall be held on the next uniform election date allowed by the laws of the State of Texas which provides sufficient time to prepare for such election in compliance with the laws of the State of Texas;
- (d) The ballot used when voting upon said question shall contain the words "For", and "Against" (stating the nature of the district). If a majority of the qualified voters voting on the proposed district shall vote in favor thereof, such district shall thereupon become permitted within the Town of Flower Mound.

(Amend. of 5-15-2004)

ARTICLE VIII. MUNICIPAL PLANNING AND ZONING*

***State law references:** Planning and zoning, V.T.C.A., Local Government Code § 211.001 et seq.

§ 8.01. Platting of Property.

- (a) Hereafter, every owner of any tract of land situated within the corporate limits of the Town of Flower Mound, Texas, who may divide the same in two or more parts for the purpose of laying out any subdivision or any addition to the Town, shall comply with the provisions of the Subdivision Regulations or ordinances of the Town, and V.T.C.A. Local Government Code, Chapter 212, as is now existing and may be hereafter amended is adopted and incorporated herein for all purposes.
- (b) The provisions of § 8.01(a) above shall apply similarly to the owner of any tract of land situated within the extraterritorial jurisdiction of the Town of Flower Mound, if not in an incorporated city or town.

(Amend. of 5-15-2004)

§ 8.02. Development of Property.

The Town Council shall cooperate with persons interested in the development of property within or beyond the town limits. No expenditure of public funds, however, shall be authorized for the development of privately owned subdivisions, situated within or beyond the corporate limits of the Town.

(Amend. of 5-15-2004)

§ 8.03. Planning and Zoning Commission.

The Town Council shall have the power and authority to appoint a Town Planning and Zoning Commission in accordance with the General Laws of the State of Texas, as provided for in V.T.C.A., Local Government Code § 211.001 et seq., as now or hereafter amended. The Town Council of the Town of Flower Mound shall have all of the rights, privileges, powers and authority; given, permitted and granted under the laws of the State of Texas relative to planning and zoning in, for and of municipalities and their environs.

(Amend. of 5-15-2004)

§ 8.04. Park Board.

The Town Council shall at its discretion appoint seven (7) citizens and qualified voters of the Town of Flower Mound, who shall constitute its Park Board, and who shall serve at the pleasure of the Town Council for such term as may be established by ordinance. The Park

Board shall perform such duties as the Town Council may direct.

(Amend. of 5-15-2004)

§ 8.05. Amendments to the Master Plan and SMARTGrowth Program.

Any amendment to the Master Plan of the Town of Flower Mound or any amendment of the SMARTGrowth Program requires the approval of three-fourths (3/4) of the membership of the Council.

(Amend. of 5-15-2004)

ARTICLE IX. MUNICIPAL FINANCE*

***State law references:** Financial matters, V.T.C.A., Local Government Code § 101.001.

§ 9.01. Fiscal Year.

The fiscal year of the Town of Flower Mound shall begin on the first (1st) day of October and end on the last day of September of each calendar year. Such fiscal year shall also constitute the budget and accounting year.

State law references: Fiscal year, V.T.C.A., Local Government Code § 101.022.

§ 9.02. Preparation and Submission of Budget.

The Town Manager shall submit a proposed budget to the Council between sixty (60) and ninety (90) days prior to the beginning of each fiscal year. The budget shall provide a complete financial plan for the fiscal year and shall contain, but not be limited to the following:

- (a) A budget message that shall consist of an outline explaining the proposed financial policies of the Town for the upcoming fiscal year, and that shall set forth the reasons for changes from the previous year in expenditures and revenue items, and that shall explain any major changes in financial policy.
- (b) A consolidated statement of anticipated receipts and proposed expenditures of all funds.
- (c) An analysis of property valuations.
- (d) An analysis of the tax rate.
- (e) Tax levies and tax collections by years for at least five (5) years.
- (f) General fund resources in detail.
- (g) Special revenue fund resources in detail.
- (h) Summary of proposed expenditures by function, department and activity.
- (i) Detailed estimates of expenditures shown separately for each activity to support the summary in (h) above.

- (j) A revenue and expense statement for all service funds.
- (k) A description of all bond issues outstanding, showing rate of interest, date of issue, maturity date, amount authorized, amount issued and amount outstanding.
- (l) A schedule of requirements for the principal and interest of each issue of bonds.
- (m) The appropriation ordinance.
- (n) The tax levying ordinance.
- (o) A comparative schedule showing the amount of bonded debt at the beginning of the fiscal year and projected at the end of the fiscal year based on the approved capital budget.

(Amend. of 5-15-2004; Ord. No. 33-07, (Props. 5, 6, approved at referendum 5-12-2007), adopted 5-21-2007)

State law references: Budgets, V.T.C.A., Local Government Code § 102.001 et seq.

§ 9.03. Anticipated Revenues Compared with Other Years in Budget.

The Town Manager in the preparation of the budget shall place in parallel columns opposite the various items of revenue: the actual amount of each item of revenue for the last completed fiscal year; the estimated amount for the current fiscal year; and the proposed amount for the ensuing fiscal year.

(Amend. of 5-15-2004)

§ 9.04. Proposed Expenditures Compared with Other Years.

The Town Manager in the preparation of the budget shall place in parallel columns opposite the various items of expenditures: the actual amount of each expenditure for the last completed fiscal year; the estimated amount for the current fiscal year; and the proposed amount for the ensuing fiscal year.

(Amend. of 5-15-2004)

§ 9.05. Budget a Public Record.

The budget and all supporting schedules shall be filed with the Town Secretary, submitted to the Town Council and shall be a public record. A copy of the budget shall be made available to any person upon request.

(Amend. of 5-15-2004)

§ 9.06. Notice of Public Hearing on Budget.

At the meeting of the Town Council at which the budget is submitted, the Town Council shall determine the time and place of a public hearing on the budget. The Council shall cause a notice of the hearing, setting forth the time, place and date, to be published in the official newspaper of the Town of Flower Mound as required by law.

(Amend. of 5-15-2004)

§ 9.07. Public Hearing on Budget.

At the time and place set forth in the notice required by § 9.06, or at any time and place to which such public hearing shall from time to time be adjourned, the Town Council shall hold a public hearing on the budget submitted and all interested persons shall be given an opportunity to be heard for or against any item or the amount of any item therein contained.

§ 9.08. Vote Required for Adoption.

The budget shall be adopted by the favorable vote of three (3) of the members of the Town Council.

§ 9.09. Failure to Adopt.

If the Town Council fails to adopt the budget by the thirtieth (30th) day of September, the amounts appropriated for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis with all items in it prorated accordingly until such time as the Council adopts a budget for the ensuing fiscal year. The levy of property tax will be set in accordance with the laws and Constitution of the State of Texas.

(Ord. No. 33-07, (Prop. 7, approved at referendum 5-12-2007), adopted 5-21-2007)

§ 9.10. Effective Date of Budget; Certification of Copies; Copies Made Available.

Upon final adoption, the budget shall be in effect for the fiscal year. A copy of the budget, as finally adopted, shall be filed with the Town Secretary, the County Clerk of Denton County, and the State Comptroller of Public Accounts at Austin. The final budget shall be printed or otherwise reproduced and copies shall be made available for the use of all offices, departments and agencies and for the use of interested persons and organizations.

(Amend. of 5-15-2004)

§ 9.11. Budget Establishes Appropriations.

From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be appropriated to the purposes therein named.

(Amend. of 5-15-2004)

§ 9.12. Budget Establishes Amount to be Raised by Property Tax.

From the effective date of the budget, the amount stated therein as the amount to be raised by property tax shall constitute the amount of the levy necessary for the purposes of the Town in the corresponding tax year; provided, however, that in no event shall such levy exceed the legal limit provided by the laws and Constitution of the State of Texas.

(Amend. of 5-15-2004)

§ 9.13. Reserve.

Provision shall be made in the annual budget and in the appropriation ordinance for a reserve in an amount not less than ten percent (10%) of the budgeted amount in the General Fund and Utility Fund, to be used in case of unforeseen items of expenditure. Such reserve shall be under the control of the Town Manager and distributed by him after approval of the Town Council.

(Ord. No. 33-07, (Prop. 8, approved at referendum 5-12-2007), adopted 5-21-2007)

§ 9.14. Transfer of Appropriations.

During the fiscal year, the Town Council shall have the power to transfer funds allocated by the budget from one department to another department, and to re-estimate revenues and expenditures. If the Town Council determines it is in the best interest of the Town to apply for and accept a private, county, state or federal grant of funds for a particular purpose, the Council's action in accepting the award of said grant and any corresponding expenditures shall constitute a budget appropriation in the amount of said grant funds.

(Ord. No. 33-07, (Prop. 9, approved at referendum 5-12-2007), adopted 5-21-2007)

§ 9.15. Power to Tax.

The Town Council shall have the power under the provisions of the State law to levy, assess and collect an annual tax upon real and personal property within the Town to the maximum amount provided by the Constitution and general laws of the State of Texas.

(Amend. of 5-15-2004)

State law references: Authority, Texas Const., art. 11, §§ 4, 5; local taxation, V.T.C.A., Tax Code § 302.001 et seq.

§ 9.16. Property Subject to Tax.

All real and personal property within the Town of Flower Mound on the first day of January, shall be subject to ad valorem taxation unless otherwise expressly exempted by law.

(Amend. of 5-15-2004)

§ 9.17. Board of Directors of Appraisal District.

Participation in the selection of members to serve on the Board of Directors of the Denton Central Appraisal District shall be in accordance with the Texas Property Tax Code.

(Amend. of 5-15-2004)

§ 9.17.1. Appraisal of Property.

All taxable property located or situated within the corporate limits of the Town shall be appraised in accordance with the Texas Property Tax Code.

§ 9.17.2. Certifications and Adoption.

The Board shall be required to keep an accurate record of all its proceedings which shall be available for public inspection. Immediately upon completion of its work, the Board shall certify its approval of the assessment rolls which shall be returned to the Town Council. The Council shall in turn approve the rolls as returned to it and shall thereupon certify and adopt the same as the assessment rolls to be used for the collection of taxes for the current year. The Town shall thereafter cause tax statements to be mailed to each person, firm or corporation named upon the tax rolls. Compliance with this section shall be in accordance with the Texas Property Tax Code.

(Amend. of 5-15-2004)

§ 9.18. Taxes, When Due and Payable.

- (a) All taxes due the Town shall be payable at the office of the Town or any office designated by the Town to for the collection and payment of taxes and may be paid at any time after the tax rolls for the year have been completed and approved, which shall not be later than October 1st. Taxes shall be paid before February 1st of each year succeeding the year for which the taxes are levied, and all such taxes not paid prior to such date shall be deemed delinquent and shall be subject to such penalty and interest as the Town Council may provide by ordinance. Failure to levy and assess taxes through omission in preparation of the approved tax roll shall not relieve the person, firm or corporation so omitted from the obligation to pay such current or past due taxes shown to be payable by recheck of the rolls and receipts for the years in question, unless otherwise provided by law.
- (b) Except as otherwise provided by law or this Charter, the Town Council shall have the power to provide by ordinance such rules, regulations and mode of procedure to enforce the collection by and payment to the Town of all taxes due the Town as it may deem expedient, and may provide such penalties for the failure to pay such taxes as it may deem expedient.

§ 9.19. Tax Liens.

A lien is hereby created on all property, personal and real, in favor of the Town of Flower Mound, for all taxes, ad valorem, or otherwise. Said lien shall exist from January 1st in each year until the taxes are paid. A tax 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 Town may pursue such property, and whenever found out, may seize and sell enough thereof to satisfy such taxes. All persons or corporations owning or holding personal property or real estate in the Town of Flower Mound on the first (1st) day of January of each year shall be liable for all municipal taxes levied thereon for such year.

(Amend. of 5-15-2004)

§ 9.20. Issuance of Bonds.

In keeping with the Constitution of the State of Texas and not contrary thereto, the Town of Flower Mound shall have the right, authority and power to borrow money on the credit of the Town for any public purpose not now or hereafter prohibited by the Constitution and laws of the State of Texas. The Town shall have the right to issue all tax bonds, revenue bonds, funding

and refunding bonds, time warrants and other evidences of indebtedness as now authorized, or as may hereafter be authorized, to be issued by cities and towns by the laws of the State of Texas.

(Amend. of 5-15-2004)

§ 9.21. Chief Financial Officer.

The Town Manager shall appoint a competent person as Chief Financial Officer and such assistants as the Town Council shall deem advisable. The Chief Financial Officer shall perform the duties delegated to him by the Town Manager and those which may be imposed upon him by the laws of the State of Texas.

(Amend. of 5-15-2004)

ARTICLE X. FRANCHISES AND PUBLIC UTILITIES

§ 10.01. Powers of the Town.

In addition to the Town's power, right and authority, to buy, construct, lease, maintain, operate and regulate public utilities, and to manufacture, distribute and sell the output of such utilities' operations, the Town shall have all further rights, authorities, and powers as may now, or hereafter, be granted under the Constitution and laws of the State of Texas.

State law references: Authority, Vernon's Ann. Civ. St. art. 1175.

§ 10.02. Franchise: Powers of Town Council.

The Town Council shall have power by ordinance to grant, amend, renew and extend all franchises of all public utilities of every character operating within the Town of Flower Mound. All ordinances granting, amending, renewing, or extending franchises for public utilities shall be read at two (2) separate regular meetings of the Town Council and shall not be effective until thirty (30) days after its passage; and pending such time, the full text of such ordinance shall be published once each week for two (2) consecutive weeks in the official newspaper of the Town of Flower Mound, and the expense of such publication shall be borne by the proponent of the franchise. No public utility franchise shall be granted for a term of more than 20 years; nor shall same be transferable, except with the approval of the Town Council expressed by ordinance.

(Amend. of 5-15-2004)

§ 10.03. Franchise Value Not to be Allowed.

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

(Amend. of 5-15-2004)

§ 10.04. Right of Regulation.

All grants, removals, extensions, or amendments of public utility franchises, whether it be so provided in the ordinance or not, shall be subject to right and power of the Town Council of the Town of Flower Mound:

- (a) To repeal the franchise ordinance at any time upon the failure of the grantee to comply with any provision of the franchise ordinance, the Charter of the Town of Flower Mound, an applicable statute of the State of Texas, or the rules of any applicable governing body;
- (b) To require proper and adequate extension of plant and service, and the maintenance of the plant and fixtures at the highest reasonable standard of efficiency;
- (c) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates;
- (d) At any time, to examine and audit the accounts and other records of any such utility, and to require annual, and other reports, including reports on operations within the Town of Flower Mound;
- (e) To impose such reasonable regulations and restrictions as may be deemed desirable or conducive to the safety, welfare and accommodation of the public;
- (f) To require such compensation and rental as may be permitted by the laws of the State of Texas.

§ 10.05. Grant Not to be Exclusive.

Any grant, contract, or franchise, to construct, maintain, or operate a public utility, for or in Flower Mound, Texas, and any renewal or extension of such grant, contract, or franchise, shall not be exclusive.

§ 10.06. Consent of Property Owners.

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

(Amend. of 5-15-2004)

§ 10.07. Extensions.

All extensions of public utilities within the town limits shall become a part of the aggregate property of the public utility, shall be operated as such, and shall be subject to all the obligations and reserved rights contained in this Charter and in any franchise grant made to such public utility. The right to use and maintain any extensions shall terminate with the termination of the original franchise grant, and shall be terminable as provided in § 10.04 of this Charter. In case of an extension of a public utility operated under a franchise hereafter granted, such right shall be terminable at the same time and under the same conditions as the original grant.

§ 10.08. Other Conditions.

All franchises heretofore granted are recognized as contracts between the Town of Flower Mound and the grantee. The contractual rights as contained in any such franchise shall not be impaired by the provisions of this Charter, except that the power of the Town of Flower Mound to exercise the right of eminent domain in the acquisition of utility property is in all things reserved, and except the general power of the Town to regulate the rates and services of a grantee, which shall include the right to require proper and adequate extension of plant and service and the maintenance of the franchise hereafter granted shall be held subject to all the terms and conditions contained in the various sections of this article whether or not such terms are specifically mentioned in the franchise. Nothing in this Charter shall operate to limit in any way, as specifically stated, the discretion of the Town Council in imposing terms and conditions as may be reasonable in connection with any franchise granted.

(Amend. of 5-15-2004)

§ 10.09. Accounts of Municipally Owned Utilities.

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

§ 10.10. Sales of Electricity, Water and Sewer Service.

- (a) The Town Council shall have the right, power and authority to sell and distribute electricity and water, and to sell and provide for sewer services, and any other utilities, to any person, firm or corporation outside the limits of the Town of Flower Mound, and to permit them to connect with said system under contract with the Town, under such terms and conditions as may appear to be for the best interest of the Town.
- (b) The Town Council shall have the right, power and authority to prescribe the kind of materials used within or beyond the limits of the Town of Flower Mound in the construction of electric, water and sewer utilities, where it furnishes the service, and to inspect the same and require them to keep in good order and condition at all times and to make such rules and regulations as shall be necessary and proper, and prescribe penalties for noncompliance with same.

§ 10.11. Regulation of Rates and Service.

The Town Council shall have the absolute right, authority and power after due notice and

hearing to regulate by ordinance, the rates and services of every public utility operating in the Town of Flower Mound; and shall have the power to employ, at the expense of the grantee, expert assistance and advice in determining a reasonable rate and equitable profit to the grantee. The Town Council shall also have the right, authority, and power to require at any time or times, detailed reports and financial statements on the operations of any such public utility, which reports and statements shall be in such form, and contain such information, as the Council shall prescribe.

(Amend. of 5-15-2004)

ARTICLE XI. GENERAL PROVISIONS

§ 11.01. Construction of Charter.

Any word or phrase in the Charter which would appear to be gender specific, including, but not limited to, words such as "he," "his," "him," "she," and "her," shall be read and construed as gender-neutral terms. Each Charter provision using such a term shall be equally applicable to both males and females.

(Amend. of 5-15-2004)

§ 11.02. Publicity of Records.

All records and accounts of every office, department or agency of the Town shall be open to inspection by any citizen or by any representative of the press at all reasonable times and under such reasonable regulations as may be established by the Public Information Act, the Town Council or the Mayor, other than those records and documents excepted from public disclosure by law.

(Amend. of 5-15-2004)

State law references: Public records act, V.T.C.A., Government Code § 552.001 et seq.

§ 11.03. Personal Interest.

No officer or employee of the Town of Flower Mound shall have a financial interest, direct or indirect, in any contract with the Town, or be financially interested, directly or indirectly, in the sale to the Town of any land, material, supplies or services, except on behalf of the Town as an officer or employee. Any willful violation of this section shall constitute malfeasance in office, and any officer or employee guilty thereof shall forfeit his office or position.

(Amend. of 5-15-2004)

State law references: Voting conflicts, V.T.C.A., Local Government Code § 171.001 et seq.

§ 11.04. Provisions Relating to Assignment, Execution and Garnishments.

The real and personal property belonging to the Town shall not be liable to be sold or appropriated under any writ of execution or cost bill. The funds belonging to the Town in the hands of any person, firm or corporation shall not be liable to garnishment on account of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the

Town nor any of its officers or agents shall be required to answer any such writ of garnishment on any account whatever. The Town shall not be obligated to recognize any assignment of wages or funds by its employees, agents or contractors.

(Amend. of 5-15-2004)

State law references: Garnishment, V.T.C.A., Local Government Code §§ 51.076(b), 101.023.

§ 11.05. Town Not Required to Give Security or Execute Bond.

It shall not be necessary in any action, suit or proceeding in which the Town of Flower Mound is a party, for any bond, undertaking or security to be demanded or executed by or on behalf of the Town in any of the State courts, but all such actions, suits, appeals or proceedings, shall be conducted in the same manner as if such bond, undertaking or security had been given as required by law.

(Amend. of 5-15-2004)

§ 11.06. Special Provisions Covering Damage Suits, Etc.

- (a) The Town of Flower Mound, Texas shall never be liable for any personal injury, whether resulting in death or not, unless the person injured, or someone in his 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 Town Manager or the Town Secretary within six months after the occurrence of such injury. The notice shall state specifically when, where and how the exact injury occurred and the full extent thereof, together with the amount of damage claimed or asserted. The Town of Flower Mound 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 his behalf, shall file a claim in writing with the Town Manager or the Town Secretary within six months 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.
- (b) The Town of Flower Mound, Texas, 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 his behalf, shall file a claim in writing with the Town Manager or the Town Secretary within six months 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 Town of Flower Mound shall never be liable on account of any damage or injury to a person or to personal property arising from or occasioned by any defect in any public street, highway, alley, grounds or public work of the Town of Flower Mound, unless the specific defect causing the damage or injury shall have been actually known to the Town Manager at least twenty-four (24) hours prior to the occurrence of the injury or damage, or unless the attention of the Town Manager or the Town Secretary 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 Town Manager or the Town Secretary of the specific defect causing the damage or injury shall

apply where the defect arose from any omission of the Town itself, through its agents, servants, or employees, or acts or third parties.

- (c) No provision of this section shall ever be so construed as to expand the ordinary liability of the Town; and it is expressly provided that nothing herein contained shall be construed to mean that the Town of Flower Mound, Texas, waives any rights, privileges, defenses or immunities in tort actions which are provided under the common law, the Constitution, and general laws of the State of Texas.

(Amend. of 5-15-2004)

State law references: Tort claims, V.T.C.A., Civil Practice and Remedies Code § 101.101 et seq.

§ 11.07. Rearrangement and Renumbering.

The Town Council shall have the power by ordinance to renumber and rearrange all articles, sections and paragraphs of this Charter, or any amendments thereto, as it shall deem appropriate, without changing the meaning or effect of any part hereof. Upon the passage of any such ordinance, a copy, certified by the Town Secretary, shall be forwarded to the Secretary of State of the State of Texas for filing.

(Amend. of 5-15-2004)

§ 11.08. Judicial Notice.

This Charter shall be deemed a public act and shall have the force and effect of a general law. It may be read in evidence without pleading or proof, and judicial notice shall be taken thereof in all courts and places, without further proof.

(Amend. of 5-15-2004)

§ 11.09. Construction of Charter.

This Charter shall not be construed as a mere grant of enumerated powers, but shall be construed as a general grant of power, and as a limitation of power on the government of the Town of Flower Mound, in the same manner as the Constitution of Texas is construed as limitation of the powers of the Legislature. Except where expressly prohibited by this Charter, each and every power under Article XI, Section 5, of the Constitution of Texas, which it would be competent for the people of the Town of Flower Mound to grant expressly to the Town, shall be construed to be granted to the Town by this Charter.

(Amend. of 5-15-2004)

§ 11.10. Accepting Gifts, Favors or Privileges.

No officer or employee of the Town of Flower Mound shall ever accept, directly or indirectly, any gift, favor or privilege, from any public utility corporation, or other corporation, person or persons, enjoying a grant, contract, franchise, privilege or easement from or with said Town, during the term of office of such officer, or during such employment of such employee; except as may be authorized by law, resolution or ordinance. Any officer or employee of the Town 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.

(Amend. of 5-15-2004)

§ 11.11. Powers to Remit Penalties.

The governing body shall have the right to remit, in whole or in part, any fine or penalty belonging to the Town which may be imposed under any ordinance or resolution passed pursuant to this Charter.

(Amend. of 5-15-2004)

§ 11.12. Property Not Exempt from Special Assessments.

No property of any kind, by whomsoever owned or held or by whatsoever institution, agency, political subdivision or organization, owned or held, whether in trust or by nonprofit organization, or corporation, or by "foundation," or otherwise, (except property of the Town of Flower Mound, Texas), shall be exempt in any way from any of the special taxes, charges, levies and assessments, authorized or permitted by this Charter for local improvement for the public welfare.

(Amend. of 5-15-2004)

§ 11.13. No Lien on Public Property; Contractors, Etc.

No lien of any kind or character may be created, and none shall ever exist or be established on or against the public buildings, property, public halls, parks, or public works of the Town of Flower Mound, Texas. All subcontractors, materialmen, mechanics, artisans, and laborers upon any public works or projects of the Town of Flower Mound are hereby required to notify the Town in writing of all claims against it that they may have on account of such work. When such notice has been timely, duly and properly given, the Town shall retain an amount from any funds due the Contractor sufficient to satisfy all claims; provided that such notice may be given at any time after such indebtedness becomes due and before final settlement; and provided further, that no contractor or subcontractor shall issue any "time checks" on or on account of any public works of said Town.

(Amend. of 5-15-2004)

§ 11.14. Severability Clause.

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

(Amend. of 5-15-2004)

§ 11.15. Retirement System and Social Security; Group Insurance.

The Town Council shall have the power to provide for coverage of its appointed officers and employees under the Worker's Compensation, Retirement and Social Security systems provided or permitted by laws of the State of Texas for such officers and employees of the Town; and for "group insurance coverage" of such officers and employees; the Town Council having the power to provide for the payment of all or any part of the cost thereof.

(Amend. of 5-15-2004)

§ 11.16. Special Powers Under Local Government Code.

The Town Council and the Town of Flower Mound shall specially have all rights, powers and authority given and granted by and under V.T.C.A. Local Government Code and all amendments thereof and thereto. The Town shall have all authority under Local Government Code Sec. 217.042, as it may be amended, relative to nuisances within and outside of the town limits and the prohibition thereof.

(Amend. of 5-15-2004)

§ 11.17. Town Depository.

The provisions of the general laws of the State of Texas governing the selection and designation of a Town depository are hereby adopted as the law governing the selection and designation of a depository of and for the Town of Flower Mound.

(Amend. of 5-15-2004)

State law references: V.T.C.A. Local Government Code Chapter 105.

§ 11.18. Amending the Charter.

Amendments to this Charter may be framed and submitted to the voters of the Town in the manner provided by V.T.C.A. Local Government Code Chapter 9 as now or hereafter amended; but not more often than once every two (2) years, as provided by the laws of the State of Texas.

(Amend. of 5-15-2004)

§ 11.19. Charter Review Commission.

The Town Council may appoint a Charter Review Commission, composed of at least five qualified voters of the Town of Flower Mound, Texas.

(Amend. of 5-15-2004)

§ 11.20. Review of the Charter.

A regular review of this Charter shall be held at least every five years, beginning in 2011.

(Amend. of 5-15-2004; Ord. No. 33-07, (Prop. 10, approved at referendum 5-12-2007), adopted 5-21-2007)