

## ARTICLE IX. MISCELLANEOUS PROVISIONS

### **Sec. 9.01. No officer or employee to accept gift, etc., from public utility.**

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

### **Sec. 9.02. Personal financial interest in contracts or sales to the city; disclosure; violations.**

- (a) No City officer or employee shall have a personal financial interest, whether direct or indirect, in any contract with or sale to the city of land, materials, supplies or services, provided, however, the term "personal financial interest" does not include employee wages, salaries or benefits and no City officer or employee shall act as agent, broker or representative for other persons or corporations in dealing with the City, whether financially remunerated or not for performing such services. Any City officer or employee who has such a personal financial interest, whether direct or indirect, shall declare that interest to the council or board or department involved and shall refrain from voting upon or otherwise participating in his or her capacity as a City officer or employee in the making of a sale or in the making or performing of such contract or in appearing or acting in such representative capacity. Any City officer or employee who willfully conceals such a personal financial interest or willfully violates the requirements of this section shall be guilty of malfeasance in office or position and shall forfeit his or her office or position. Violation of this section with the knowledge, express or implied, of the person or corporation contracted with or making a sale to the City shall render the contract or sale voidable by the City Manager or the City Council.
- (b) A City officer having a personal interest in a matter other than as described in Subsection (a) hereof shall use individual discretion in deciding whether to abstain from voting on the matter. Officers shall adhere to the highest ethical standards in making such determination. An officer who abstains from voting because of any personal interest described in this section 9.02 shall be "disqualified" within the meaning of section 2.14 hereof.

(Amd. no. 6, 4-20-1968; amd. nos. 21, 22, 28, 1-21-1989)

### **Sec. 9.03. Church and school property not exempt from special assessments.**

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

(Amd. no. 5, 5-9-2009)

### **Sec. 9.04. Notice of damage or injury required.**

The City shall receive written verified notice as a condition precedent to the filing of a claim or law suit against the City not later than six (6) months after the day that the incident occurred. The notice shall be filed with

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the City Secretary and shall describe the following: (1) damage or injury claim; (2) time, date and location where incident occurred; (3) description of incident; (4) estimate of damages.

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

(Amd. no. 23, 1-21-1989; amd. no. 6, 5-9-2009; Ord. No. 3240, Exh. A, 8-20-2013; Ord. No. 3252, Exh. A, 11-19-2013)

#### **Sec. 9.05. City exempt from appeal bonds.**

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

#### **Sec. 9.06. Execution, garnishment and assignment.**

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

#### **Sec. 9.07. No lien on public property; contractors, etc., to notify city of claims.**

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

(Amd. no. 7, 5-9-2009)

#### **Sec. 9.08. Bonds of contractors.**

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

(Amd. no. 15, 1-15-1983; amd. no. 27, 1-21-1989)

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### **Sec. 9.09. Condemnation of dangerous structures.**

Whenever, in the opinion of the governing body of the City, any building, fence, shed, awning or structure of any kind or part thereof is liable to fall down and injure persons or property, the governing body may order the owner or agent of the same, or occupant of the premises, to take down and remove the same within such time as it may direct, and may punish by fine all persons failing so to do. Upon failure to comply, the governing body shall have the additional power to remove the same at the expense of the City on account of the owner of the property and assess the expenses thereof, including condemnation proceedings, as a special tax against the land, and the same may be collected as other special taxes provided for in this Charter, or by suit in any court of competent jurisdiction.

The governing body of the City shall have full power to condemn all dangerous buildings or obstructions of any kind and may provide regulations therefor by Ordinance.

(Amd. no. 28, 1-21-1989)

### **Sec. 9.10. Building permits.**

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

### **Sec. 9.11. Bonds of city official, employee or department director.**

In addition to any bonding provisions herein provided, the City Council may require any City official, department director or City employee, before entering upon his or her duties, to execute a good and sufficient bond with a surety company doing business in the State of Texas, and approved by the City Council, as surety thereon, said bond to be in such amount as the Council may demand, payable to the City of Farmers Branch, and conditioned for the faithful performance of the duties of his or her office; premium of such bond to be paid by the City.

(Amd. no. 28, 1-21-1989)

### **Sec. 9.12. When provisions take effect.**

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

(Amd. no. 12, 5-1-1999)

### **Sec. 9.13. Right to amend the Charter.**

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

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#### **Sec. 9.14. Ordinances, rules and relations validated.**

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

#### **Sec. 9.15. Separability clause.**

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

#### **Sec. 9.16. Nepotism.**

- (a) No person shall be hired to be an employee of the City, or appointed to any paid office of the City, if that person's relationship to the Mayor, any member of the City Council, or the City Manager is any of the following: (1) Spouse; (2) Father; (3) Mother; (4) Stepfather; (5) Stepmother; (6) Daughter; (7) Son; (8) Sister; (9) Brother; (10) Stepbrother; (11) Stepsister; (12) Brother-in-law; (13) Sister-in-law; (14) Grandfather; (15) Grandmother; (16) Granddaughter; (17) Grandson; (18) Aunt; (19) Uncle; (20) Nephew; (21) Niece; (22) First Cousin; (23) Great Grandfather; (24) Great Grandmother; (25) Great Granddaughter; (26) Great Grandson; (27) Great Uncle; (28) Great Aunt; (29) Great Nephew; (30) Great Niece; (31) Second Cousin; or (32) Stepchild.
- (b) No person shall be hired to be an employee of the City, or appointed to any paid office of the City, if the relationship of that person's spouse to the Mayor, any member of the City Council, or the City Manager is any of the following:

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

(Amd. no. 15, 4-3-1971; amd. no. 24, 1-21-1989; Ord. No. 3240, Exh. A, 8-20-2013; Ord. No. 3252, Exh. A, 11-19-2013)

#### **Sec. 9.17. Incompetency.**

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

(Amd. no. 16, 4-3-1971; amd. no. 28, 1-21-1989)

#### **Sec. 9.18. Official misconduct.**

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

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(Amd. no. 17, 4-3-1971; amd. nos. 3, 28, 1-21-1989)

**Sec. 9.19. Indemnification of officials and employees.**

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

(Amd. no. 25, 1-21-1989)

**Sec. 9.20. Charter review.**

The City Council shall beginning in 2028, and thereafter, appoint a committee at least every five (5) years to review this Charter and to make appropriate recommendations to the City Council. The committee shall be appointed not later than July 1 of the year in which the committee is required to be appointed. The committee shall consist of at least thirteen (13) members with at least two (2) members appointed from each City Council District, and up to at least two (2) members nominated by the Mayor. The City Council shall select the chair person for the committee. The Mayor shall be entitled to vote on the appointment of members to the Committee.

(Amd. no. 26, 1-21-1989; amd. no. 13, 5-1-1999; Ord. No. 3503, Exh. A, 5-15-2018; Ord. No. 3868, § 1(Exh. A, Prop. M), 6-4-2024)

**Sec. 9.21. Charter renumbering.**

The City Council shall have the power, by ordinance, to renumber articles, sections, subsections, and subparagraphs of this Charter or any amendment thereto, as it shall deem appropriate.

(Ord. No. 3503, Exh. A, 5-15-2018)