



AGENDA

HOME RULE CHARTER COMMISSION Meeting

6:30 PM - Tuesday, November 26, 2024

1371 WEST FM 550 - McLENDON-CHISHOLM, TEXAS 75032

Page

1. CALL TO ORDER
2. INVOCATION AND PLEDGE OF ALLEGIANCE TO U.S. AND TEXAS FLAGS
3. PUBLIC COMMENTS
4. HOME RULE CHARTER-UPDATED DRAFT
 - 4.1. [McLendon Chisholm Charter Draft Version 11262024 \(002\)](#)
5. DISCUSSION AND APPROVAL OF CHAPTERS INDIVIDUALLY FOR INCLUSION IN THE HOME RULE CHARTER TO WIT:
 - 5.1. CHAPTER TEN, ORDINANCES
 - 5.2. CHAPTER ELEVEN, ELECTIONS
 - 5.3. CHAPTER TWELVE, INITIATIVE, REFERENDUM AND RECALL
 - 5.4. CHAPTER THIRTEEN, FRANCHISES
 - 5.5. CHAPTER FOURTEEN, GENERAL AND TRANSITIONAL PROVISIONS
 - 5.6. CHAPTER FIFTEEN, ADOPTION OF CHARTER
6. DISCUSSION FOR THE SETTING OF FUTURE MEETING DATES, TOPICS AND NEXT STEPS
7. ADJOURN

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FOOTER

As authorized by Section 551.071 of the Texas Government Code, this meeting may be convened into closed Executive Session in order to seek confidential legal advice from the City Attorney on any agenda item herein.

I, Angela Jennings, do hereby certify that the above Notice of Meeting of the City Council of McLendon-Chisholm, Texas was posted or before 5:00 p.m., November 22, 2024 on the outside bulletin board at City Hall, a place convenient and readily accessible to the public at all times.

CITY OF McLENDON-CHISHOLM HOME RULE CHARTER

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PREAMBLE

We, the citizens of McLendon-Chisholm, Texas, in order to establish a Home Rule Municipal Government, provide for the future of our City and obtain more fully the benefits of local self-government, protecting individual freedom, and provide for the public welfare, hereby adopt this Home Rule Charter, in accordance with statutes of the State of Texas; and do hereby declare the residents of the City of McLendon-Chisholm, in Rockwall and Kaufman Counties, living within the legally established boundaries of the said City, to be a political subdivision of the State of Texas, incorporated forever under the name of the “City of McLendon-Chisholm” with such powers, rights, privileges, authorities, duties, and immunities as are herein provided.

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CHAPTER ONE: BOUNDARIES

SECTION 1.01 INCORPORATION

All inhabitants of the City of McLendon-Chisholm, Rockwall and Kaufman Counties, Texas, as the boundaries and limits of said City have heretofore been established and now exist or may hereafter be established, shall constitute a municipal body politic incorporated under and known by the name “City of McLendon-Chisholm” with such powers, rights, duties, privileges and immunities as are herein provided.

SECTION 1.02 BOUNDARIES AND LIMITS

The boundaries and limits of the City of McLendon-Chisholm shall be established and described in ordinances duly passed by the City Council of the City of McLendon-Chisholm in accordance with State law. The City Secretary shall at all times keep a correct and complete description and official City map on file, including annexations and disannexations.

SECTION 1.03 EXTENSION AND REDUCTIONS OF BOUNDARIES

- A. The Boundaries of the City may be enlarged by the annexation of additional territory in any manner authorized by State law.
- B. Whenever, in the opinion of the City Council, there exists within the corporate limits of the City and territory, either inhabited or uninhabited, not suitable, or necessary for City Purposes, the City Council may, upon a public hearing and by ordinance duly passed, discontinue said territory as part of the City.
- C. Upon completion of annexation, any additional territory annexed to the City will be a part of the city for all purposes, and the property situated therein shall bear its pro rata part of the taxes levied by the city as provided by State law. The inhabitants of the annexed territory shall be entitled to all rights and privileges of all citizens and shall be bound by the acts, ordinances, resolutions, and regulations of the city.

CHAPTER TWO: FORM OF GOVERNMENT AND POWERS

SECTION 2.01 FORM OF GOVERNMENT

The municipal government provided by this Charter shall be the “Council-Manager” form of government. Pursuant to the provisions of this Charter and subject only to the limitations imposed by the State Constitution, State Statutes, and by this Charter, all powers of the City shall be vested in an elective council, hereinafter referred to as the “City Council” which shall enact local ordinances, adopt budgets, determine policies, and appoint the City Manager. The City Manager shall be held responsible to the City Council for the execution of laws and the administration of the government of the City. All powers of the City shall be exercised in the manner prescribed by the laws of the State of Texas, this Charter and as may be prescribed by ordinance.

SECTION 2.02 POWERS OF THE CITY

The City of McLendon-Chisholm shall be a Home Rule City under the Constitution and laws of the State of Texas and shall have all powers, functions, rights, privileges and immunities of every kind and nature granted to a Home Rule City under Article XI, Section 5, of the Constitution of the State of Texas, known as the Home Rule Amendment, and all other laws passed by the Legislature of the State of Texas relating thereto, or which may hereafter be passed by said Legislature in relation to such matters including, but not limited to the following powers:

- (1) To assess, levy, and collect taxes for general and special purposes on all lawful subjects of taxation.
- (2) To fix and regulate the rates of gas, water, electricity, and other utilities, and to regulate and fix the fares, tolls, and charges of local telephones and exchanges, public carriers and motor vehicles where they are transporting passengers, freight or baggage, and generally to fix and regulate the rates, tolls, or charges and the kind of service of all public utilities of every kind, unless otherwise required by law.
- (3) To sue and be sued, to contract and be contracted with, to buy, sell, lease, mortgage, hold, manage and control such property, as its interests require.
- (4) To make and enforce all law enforcement, health, sanitary and other regulations, and pass such ordinances as may be expedient for maintaining and promoting the peace, good government and welfare of the City, for the performance of the functions thereof, for the order and security of its inhabitants, and to protect the peace, lives, health, and property of such inhabitants and to provide suitable penalties for the violation of any ordinance enacted by the City.

(5) To borrow money on the faith and credit of the City by the issue or sale of bonds, warrants, certificates of obligation, notes or other securities authorized by the laws of the State of Texas.

(6) To acquire, by purchase, gift or devise, or by the exercise of the right of condemnation, and own, in fee simple or otherwise, either public or private property located inside or outside of the corporate limits of the City. Such property may be utilized for the extension, improvement and enlargement of its waterworks system, including riparian rights, water supply reservoirs, stand pipes, watersheds, dams, the laying, building, maintenance and construction of water mains, rights-of-way in connection therewith, and the laying, erection, establishment or maintenance of any necessary appurtenance or facilities which will furnish to the inhabitants of the City an abundant supply of wholesome water; for sewage plants and systems; rights-of-way for water and sewer lines; for parks, playgrounds, fire stations, police stations, incinerators or other garbage disposal plants; for streets, boulevards, and trails or other public ways; for municipal buildings, garages and parking facilities, for any purpose hereinabove named; for the straightening or improving of the channel of any stream, branch or drain or for any other municipal purpose.

(7) To acquire, by eminent domain and own in fee simple, the real estate, fixtures, and systems of a public utility providing retail water or wastewater service, or both, inside or outside of the City's corporate limits as the corporate limits exist upon adoption of the charter or may change. In the ordinance declaring the necessity of acquiring the utility system, the City Council shall make adequate provision for appropriating the funds for the acquisition and make reasonable assurance for the compensation of the utility's going concern value, franchises, easements, contracts, and good will of customers. Unless otherwise provided by ordinance or statute, the eminent domain procedure as set forth in Chapter 21 of the Texas Property Code as applied to acquisition of land shall apply to the acquisition of the utility and the method of determining value and damages to the utility shall be as stated in the Texas Water Code, Section 13.255, as amended.

(8) To institute and prosecute suits without giving security therefore, and appeal from judgments of the courts without giving supersedeas or costs bonds, other bonds or security whatever.

(9) To have the exclusive right to erect, own, maintain and operate a waterworks and sanitary system for the use of said City and its inhabitants and to regulate the same, including the right to prescribe rates for water and sanitary sewer services, and to make such rules and regulations as the City Council may deem expedient. Such rules and regulations may include the power to extend water and sanitary sewer lines and assess a portion or all of the cost therefore and affix a lien against the property and the owner

thereof, and do anything whatsoever necessary to operate and maintain said waterworks and to compel the owner of all property and the agents of such owner to pay all charges for water and sanitary sewer services furnished.

(10) To acquire property within or without its boundaries or within boundaries of other municipalities for any public purpose, in fee simple or lesser interest or estate, by purchase, gift, devise, lease or condemnation when necessary or desirable to carry out any of the powers conferred upon it by this Charter or by the Constitution and the laws of the State of Texas.

(11) To lay out, open, close, establish, alter, widen, raise, lower, extend, grade, supervise, maintain, and improve streets, alleys, trails and parks, and to regulate the use thereof and to require removal of all obstructions or encroachments of every nature and character upon said public streets, sidewalks or other public property.

(12) To create offices, determine the method for selection of officers, and prescribe the qualifications, duties, and tenure of office for officers.

(13) To appropriate the money of the City for all lawful purposes to create, provide for, construct, regulate and maintain public works, public improvements of any nature, economic development and to furnish municipal services as may be provided by resolution or ordinance of the City Council, or as required by law.

(14) To alter the City's boundaries by annexing or disannexing territory in accordance with those provisions set forth in Section 1.03, "Extension and Reductions of Boundaries" of this Charter which is incorporated fully herein by reference.

SECTION 2.03 POWERS: GENERAL

The enumeration of particular powers in the Charter shall not be deemed to be exclusive and such powers shall be construed liberally in favor of the City. In addition to the powers enumerated or implied herein, it is intended that the City shall have and may exercise all powers under the Constitution and laws of the State of Texas, as fully as though they were specifically enumerated by this Charter. All powers of the City shall be exercised in the manner prescribed by this Charter, or if the manner is not detailed herein, then in such manner as may be set forth by ordinance, the State constitution or by State law.

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CHAPTER THREE: CITY COUNCIL

SECTION 3.01 GENERAL POWERS AND DUTIES

The legislative and governing body of the City shall be composed of a Mayor and “Council Members” and shall be known collectively as the “City Council of the City of McLendon-Chisholm,” and referred to in this Charter as the City Council.

All powers of the City Council shall be vested in the City Council, except as otherwise provided by law or this Charter, and the City Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed by the City by Law. Without limitation of the foregoing and among the other powers that may be exercised by the Council, the following are enumerated for greater certainty:

- A. Appoint and remove the City Manager.
- B. Appoint and remove the Municipal Judge and Associate City Judge.
- C. Appoint and remove the City Secretary.
- D. Appoint and remove the City Attorney
- E. Establish and dissolve administrative departments.
- F. Adopt the City budget.
- G. Collectively inquire into the conduct of any office, department or agency of the City and make investigations as to Municipal affairs.
- H. Adopt and modify the official map of the City.
- I. Adopt, modify, modify and carry out plans in cooperation with the planning and Zoning Commission.
- J. Adopt, Modify, and carry out plans in cooperation with planning and Zoning Commission for the replanning, reconstruction, or redevelopment of any area or district which may have in part or in whole by disaster.
- K. Regulate, license and fix the charges of fares made by owning, operating, or controlling any vehicle of any character used for carrying passengers for hire on the public streets and alleys of the City.
- L. Provide for the establishment and designation of fire limits and preserve the kind and characters of buildings or structures or improvements to be erected therein; provide for the erection of fireproof buildings within certain limits; and provide for the condemnation of dangerous structures or buildings or dilapidated buildings or buildings calculated to increase the fire hazard, and the manner of their removal or destruction.
- M. Fix and regulate rates and charges of all utilities and public services defined in this Charter.
- N. Individually, initiate and place items on the agenda for consideration.

SECTION 3.02 QUALIFICATIONS

Each candidate for election to the City Council or office of Mayor shall be a qualified voter of the City, shall be not less than eighteen (18) years of age, shall have resided in the City not less than twelve (12) months immediately preceding Election Day and shall meet the requirements of the Texas Election Code. Each Council Member and the Mayor must continually reside within the City during their term of office, and any removal of their residence from the City during their term of office shall constitute a vacation of their office be vacated, and such vacancy shall be filled as provided in Section 3.06.

SECTION 3.03 TERMS OF OFFICE AND ELECTIONS

- A. **Number.** **The legislative and governing body of the City shall be composed of a Mayor and six (6) "Council Members" .**
- B. **Selection.** The Mayor shall be elected to office at large. The Council shall be elected to office at large, but by specific place which shall be designated as Place One (1), Place Two(2), Place Three(3), Place Four(4),Place Five(5) and Place Six(6) . **Odd numbered positions (1,3,5) shall run the first year, even numbered positions (2,4,6) and the Mayor position shall run the second year.**
- C. **Term.** The Mayor shall serve a term of three(3) years and shall serve until their successor is elected and qualified. Except as set forth in the Transitional Provisions of this Charter, each Council Member shall serve a term of three (3) years and shall serve until their successor is elected and qualified.
- D. **Term limits.** No person will serve more than three consecutive elected terms as either a Council member or as Mayor. In addition, no person will serve more than four consecutive terms as Council member and Mayor (combined). A member who has served the maximum number of full terms may serve additional terms subject to the same limitations after a break in service of one year or more.

SECTION 3.04 MAYOR AND MAYOR PRO TEM

- A. The person elected Mayor shall be the presiding officer of all meetings of the City Council. The Mayor shall be the official head of the City Government for all ceremonial purposes, but shall have no regular administrative duties. The Mayor may participate in the discussion in all matters coming before City Council. The Mayor shall be required to vote as a member thereof, on all legislative and all other matters.
- B. **Additional powers and duties of the Mayor include:**

1. The Mayor shall work closely with the Council to obtain legislation in the public interest and with the City Manager to ensure that the same is enforced and participate in the discussion on all legislative and other matters coming before the Council.
2. The Mayor may administer oaths of office (i.e. swearing-in ceremonies).
3. The Mayor may sign ordinances, resolutions, orders, statements, contracts, deeds, conveyances, easements, bonds, plats, and other documents as directed or authorized by the City Council, except as delegated to the City Manager or designee.
4. The Mayor shall be responsible for providing initiative and guidance in the orderly management and growth of the City.
5. The Mayor may exercise all duties conferred by the Texas Constitution, state law, City Ordinance, City resolution, or other applicable law.

C. The Mayor Pro Tem shall be a Council Member elected by the City Council at the first regular meeting after each election of Council Members and/or Mayor. The Mayor Pro Tem shall act as the Mayor during the disability or absence of the Mayor in this capacity, shall have all the rights conferred upon the Mayor and shall still be entitled to vote as a Council Member.

SECTION 3.05 COMPENSATION

The Mayor and members of the City Council shall serve without compensation, except that the Mayor and Council Members shall be entitled to reimbursement of all necessary and reasonable expenses incurred in the performance of their official Mayoral and City Council duties, upon approval of such expenses by the City Council.

SECTION 3.06 VACANCIES IN THE CITY COUNCIL; FILLING OF VACANCIES

- A. **Vacancies.** The office of a Council Member or Mayor shall become vacant upon that person's death, resignation, forfeiture of office or removal from office in any manner authorized by this Charter or other law.
- B. **Forfeiture of Office.** A Council Member or the Mayor shall forfeit that office if that person: (1) lacks, at any time during the term of office for which elected, any qualification for the office prescribed by this Charter or by law; (2) violates any express prohibition of this Charter or the Code of Ethics adopted under Section 3.07 of this Charter; (3) is convicted of a felony, crime involving moral turpitude or any State law regulating conflicts of interest of municipal officers; (4) ceases to be a resident of the City; or (5) must vacate office by the mandate of any other law.

- C. **Office Subject to Forfeiture.** A Council Member or the Mayor who is absent from three (3) consecutive regular meetings, or twenty-five percent (25%) of regularly scheduled meetings during a twelve-month (12-month) period immediately preceding and including the absence in question, without explanation acceptable to the other members of the City Council, shall be subject to forfeiting his or her position on the City Council, which forfeiture shall occur upon a vote for such a forfeiture by a majority of the members of the City Council then qualified and serving.
- D. **Filling of Vacancies; Council Members.** If there is a vacancy in the City Council, other than that of the Mayor, it shall be filled within thirty (30) days of the occurrence of the vacancy by appointment of a majority of the remaining Council Members, including the Mayor, by selection of a person qualified under state law and this charter. The appointee shall serve until the next municipal election. If the regular term has not ended by the time of the next municipal election, the election will be to fill the position for the remainder of the term in accordance with the Texas Constitution and the Texas Election Code. The City Council shall not have more than two (2) appointed Council members at any one time. If another vacancy occurs while there are two (2) appointed council members or if more than two (2) vacancies occur simultaneously, a special election shall be ordered within sixty (60) days of the last vacancy to elect the successors to the offices vacated. Vacancies filled by special election shall be for the remainder of the term. Vacancies that occur within ninety (90) days prior to the next municipal election, no special election will be called, leaving the seat vacant.

If the vacated office is that of Mayor Pro-Tem, the City Council shall elect a new Mayor Pro-Tem at the next regular meeting.

- E. **Filling of Vacancy; Mayor.** A vacancy in the office of the Mayor shall be filled by appointment by a majority of the members of the City Council then qualified and serving. The appointment shall be for the unexpired term. The appointment procedure shall be as follows:
1. At the next regular City Council meeting following the vacancy and in compliance with the Texas Open Meetings Act, the City Council agenda shall include an item for appointing a new Mayor. The City Council shall make the appointment from the following persons and in the following order, provided that person consents: (a) the Mayor Pro-Tem; or (b) if the Mayor Pro-Tem does not consent, a Council Member. (c) A Council Member may vote for themselves.

2. If the Mayor Pro-Tem and all Council Members do not consent, then the City Council agenda for every regular meeting thereafter shall include an item for appointing a new Mayor until a new Mayor is appointed. At any such meeting and in addition to the persons identified in Section 3.06(E)(1), the City Council may appoint a qualified person of the public that consents.
3. The City Council agenda item required by this Section 3.06(E) may not be considered or discussed in a closed meeting under the Texas Open Meetings Act except when necessary for the City Council to seek the advice of its attorney.

SECTION 3.07 MEETINGS: QUORUM

Regular meetings of the City Council shall be held at the City Hall at such times as may be prescribed from time to time by resolution of the City Council. Special meetings shall be called by the Mayor or five (5) members of City Council. Notice of any regular or special meetings of the City Council shall state the subject to be considered at the meeting. All official meetings of the City Council and of all committees thereof shall be open to the public as provided by State law. A quorum shall consist of four (4) City Council Members or three (3) City Council Members, and the Mayor. The City Council shall determine its own rules of procedure, may punish its members for misconduct and may compel the attendance of absent members.

SECTION 3.08 DISASTER CLAUSE

In case of disaster when a legal quorum of the City Council cannot otherwise be assembled due to multiple deaths or injuries, the surviving members of City Council, or if no member of City Council remains, the following surviving City officials: the Chair of Planning and Zoning, the chair of Board of Adjustments, the chair of the Park Board, the Municipal Judge, and the City Attorney; shall within 24 hours of such disaster appoint a number of qualified residents equal to the number necessary to make a quorum to act during the emergency as the City Council. If for good reasons it knows a quorum of the elected City Council will never again meet, the newly appointed City Council, shall within 15 days of their appointment, call a City Election to be held as soon as authorized under law for election to the vacant offices. If it is determined that a quorum of the elected City Council will meet again, the newly appointed Council Members shall serve until such time as the previous Council Members may again begin serving.

SECTION 3.09 EXTENSIONS OF DECLARATIONS OF DISASTER

The City shall comply with all state laws regarding declarations of disaster. In addition to the requirements of state law, the City Council shall, after the original declarations of a disaster, meet no less than every thirty (30) days to review the circumstances and reasons

and shall, in order to extend any disaster declaration, vote at such meeting to extend the disaster declaration. No vote extending the disaster shall be effective unless adopted by a 3/4 majority of the entire City Council. Should City Council fail to hold such vote or should the vote on extension fail to meet the 3/4 vote threshold, the declaration of disaster shall expire thirty (30) days from the latter of the expiration of (1) the original declaration or (2) the last previously approved expiration.

SECTION 3.10 CODE OF ETHICS

(A) **Purpose and policy.** The City Council shall adopt, maintain and enforce, by ordinance or resolution, a code of ethics for the purpose of, among other things, establishing guidelines for high ethical standards in official conduct by City officials, employees and appointees. The code of ethics shall establish the policy that City officials, employees and appointees shall conduct themselves in a manner consistent with sound business and ethical practices, ensuring that the public interest is always considered in conducting City business, and shall provide guidance in order to instill and maintain a high level of public confidence in the professionalism, integrity, and commitment to the public interest of those in public service. At a minimum, the code of ethics shall include: (1) standards of conduct related to public administration and offenses against public administration, as set out in Chapter 36 of the Texas Penal Code; (2) a travel and expense policy regulating the expenditure of public funds for travel, conferences, and entertainment; (3) policies for reimbursement of actual expenses incurred by members of the City Council and Boards and Commissions as allowed in this Charter; (4) restrictions on serving as surety for the performance of any person doing business with the City or as surety for any City officer or employee required to make a surety bond; and (5) provisions requiring review of the code of ethics at least every five (5) years. The initial adoption of this code of ethics shall occur within one hundred eighty days (180) days of the effective date of this Charter.

(B) **Penalties.** The City Council shall adopt ordinances providing penalties for violation of the code of ethics, which penalties shall include, but not be limited to, removal from office or appointed position or dismissal from employment for any person found to have willfully violated the code of ethics and additionally that any such person shall be ineligible to hold a City office, appointed position or employment for five (5) years after removal or dismissal, in addition to any other penalty that may be provided by law or the code of ethics.

SECTION 3.11 PROHIBITIONS

(A) **Holding Other Office or City Employment.** Except where authorized by law, no Council Member or Mayor shall hold any other elected public office during their term on the City Council. No Council Member or Mayor shall hold any other City office or City employment during their term on the City Council. No former Council Member or Mayor shall hold any compensated appointive office or employment with the City until one (1) year after the expiration of their term on the City Council. Nothing in this section shall be construed to prohibit the City Council from selecting any current or former Council Member or Mayor to represent the Town on the governing board of any City non-profit corporation, association or agency or any regional or other intergovernmental agency, association or corporation.

(B) **Becoming Candidate for Different Office.** Should the Mayor or any Council Member announce his or her candidacy, or in fact become a candidate, in any general, special or primary election for any office of profit or trust under this Charter, the laws of this State or the United States, other than the office then held shall constitute an automatic resignation of the office then held, and the vacancy thereby created shall be filled as provided herein.

(C) **Council relations with the City Manager.** The City Council and its members shall hold the City Manager responsible for the proper administration of all affairs of the City, but neither the City Council nor any board or commission created by it, nor any members thereof, shall dictate the appointment of any person to or their removal from office or employment within the City, or in any manner interfere in the appointment of officers and employees in the departments of the administrative service vested in the City Manager by this Charter. Except for the purpose of inquiry, the City Council nor any member thereof shall give orders to any subordinate of the City Manager either publicly or privately.

CHAPTER FOUR: CITY MANAGER

SECTION 4.01 APPOINTMENTS AND QUALIFICATIONS.

The City Council, by a vote of the majority of the members of the City then qualified and serving, shall appoint a City Manager who shall be the chief administrative officer of the City and shall be responsible to the City Council for the administration of all affairs of the City. The City Manager shall be chosen by the City Council solely on the basis of City Manager's executive and administrative training, experience, and ability. The City Manager need not be a resident of the City when appointed but shall within a reasonable time after such appointment, as determined by the City Council, reside within the City during the balance of the appointment.

SECTION 4.02 TERMS AND COMPENSATION

The City Manager may be removed at the discretion of City Council by an affirmative vote of a majority of the City Council then qualified and serving. The action of the City Council in suspending or removing the City Manager shall be final, it being the intention of this Charter to vest all authority and fix responsibility for such suspension or removal in the City Council. The City Manager shall receive compensation as may be determined by the City Council.

SECTION 4.03 POWERS AND DUTIES

The City Manager shall have the following powers:

- A. The City Manager shall appoint, and when the City Manager deems it necessary for the good of the City, may suspend and/or remove any City employee except as provided by law, this Charter or personnel rules adopted pursuant to this Charter. The City Manager may authorize any employee who is subject to the City Manager's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.
- B. The City Manager shall direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by law or this Charter.
- C. The City Manager shall see that all laws, provisions of this Charter and acts of the City Council, subject to enforcement by the City Manager or by employees subject to the City Manager's direction and supervision, are faithfully executed.
- D. The City Manager shall attend all City Council meetings, except when excused by the Mayor or Mayor Pro-Tem and shall have the right to take part in the discussion but may not vote.

- E. The City Manager shall prepare and accept or designate an appropriate department head or City employee to prepare and accept, items for inclusion in the official agenda of all City Council, boards, and commission meetings.
- F. The City Manager shall prepare and submit the annual budget and capital program to the City Council and administer the annual budget and capital program as adopted by the City Council.
- G. The City Manager shall keep the City Council fully advised as to the financial conditions and future needs of the City and make such recommendations to the City Council concerning the affairs of the City as the City Manager or the City Council deems desirable or necessary.
- H. The City Manager shall make other reports as the City Manager or the City Council may require concerning the operation of the City's departments, offices, or agencies subject to the City Manager's direction or supervision.
- I. The City Manager shall perform such other duties as are specified in this Charter or may be required by the City Council, and are consistent with this Charter, State, or Federal Law.

SECTION 4.04 ACTING CITY MANAGER

By letter filed with the City Secretary, the City Manager shall designate, subject to approval a qualified employee to exercise the powers and perform the duties of City Manager during the City Manager's absence or temporary disability. The City Council may revoke at any time and appoint another qualified person to serve until the City Manager shall return or their disability shall cease. In all other cases of absence, disability or suspension of the City Manager, the City Council may designate a qualified person to perform the duties of office.

CHAPTER FIVE: CITY SECRETARY

SECTION 5.01 APPOINTMENT, REMOVAL AND COMPENSATION

The City Council shall appoint the City Secretary. The City Secretary shall receive such compensation as shall be fixed by the City Council. If the City Secretary is temporarily unable to perform appointed duties, the City Secretary or City Manager may designate an alternate.

SECTION 5.02 DUTIES OF THE CITY SECRETARY

The City Secretary shall:

- (1) Attend all meetings of the City Council and keep accurate records of all actions taken by the council.
- (2) Maintain the official records and files of the City.
- (3) Administer oaths required by law.
- (4) Attest contracts, assessment certificates, ordinances, resolutions, and other legal instruments when executed by the authorized officers of the City.
- (5) Serve as the election official for all City elections.
- (6) Hold and maintain the City seal and affix it to all appropriate documents as required.
- (7) Perform such other duties as may be required by the City Manager, this Charter, City Council or the laws of the State of Texas.

CHAPTER SIX: MUNICIPAL COURT

SECTION 6.01 CREATION

The City Council shall, by ordinance, establish and maintain a Municipal Court to be known as the Municipal Court of the City of McLendon-Chisholm, Texas, and may appoint one or more Municipal Judges to serve in such Court. The Court shall have all the powers and duties as are now or as may hereafter be prescribed by the laws of the State of Texas in connection with the trial of misdemeanor offenses within its jurisdiction.

SECTION 6.02 MUNICIPAL COURT JUDGE

The Judge of the Municipal Court, and all alternates, shall be competent, duly qualified, and licensed attorneys in the State of Texas. The Judge of the Municipal Court shall be appointed to a term of two (2) years and may be appointed to additional and consecutive terms at the will and pleasure of the City Council. The Judge shall receive such compensation as may be determined by the City Council. This compensation shall be fixed and commensurate with the duties performed by the Judge.

SECTION 6.03 CLERK OF THE COURT There shall be a Clerk of the Municipal Court appointed by the City Manager. The Clerk of the Court and any Deputies appointed by the City Manager shall have the power to administer oaths and affidavits, make certificates, affix the seal of said court as necessary and as required by law, and in general do and perform any and all acts usual and necessary to be performed by clerks and deputy clerks of municipal courts of the State of Texas.

SECTION 6.04 JURISDICTION, POWER AND FINES

The Municipal Court shall have jurisdiction: (1) (2) Over the forfeiture and collection of bonds given in proceedings therein, to order the forfeiture of cash appearance bonds upon the failure of the defendant to appear, and to accept the same in lieu of a fine. Concurrent with the appropriate State court, of all criminal cases arising under the criminal laws of the State of Texas, where the offense is committed within the City limits and the penalty does not exceed that which is established for municipal courts by State law. (3) Over all criminal cases arising under the ordinances of the City within the City limits and outside the City limits to the extent authorized by State law. (4) To punish for contempt, admit to bail, and forfeit bonds under such circumstances as provided by law. (5) To enforce all process of the courts in accordance with State law and City ordinances, punish witnesses for failing to obey subpoenas, and compel their attendance by process of attachment.

CHAPTER SEVEN: CITY ATTORNEY

SECTION 7.01 APPOINTMENT

The City Council shall appoint a competent licensed attorney in the State of Texas of recognized ability and they shall be known as the City Attorney.

SECTION 7.02 COMPENSATION The City Attorney shall receive for their services such compensation as may be fixed by the City Council at the time of their appointment, and from time to time by appropriate resolution.

SECTION 7.03 DUTIES OF CITY ATTORNEY The City Attorney shall be the legal adviser of, and attorney for, all the offices and departments of the City, and shall represent the City in all litigation, legal proceedings **and meetings**. The City Council may retain special counsel at any time it deems appropriate and necessary. They shall review and approve as to form **or dissolve** all documents, contracts, resolutions, ordinances, and legal instruments in which the City may have an interest. The City Attorney shall perform other duties prescribed by the Charter, by ordinance or by resolution of the City Council.

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CHAPTER EIGHT: CITY DEPARTMENTS/FISCAL ADMINISTRATION

SECTION 8.01 ADMINISTRATIVE DEPARTMENTS

There shall be such administrative departments as are established by this Charter and such other administrative departments as may be deemed necessary by the Council and as are established by ordinance, all of which shall be under the control and direction of the City Manager.

SECTION 8.02 TAX ADMINISTRATION

- A. The City will have the power to levy, assess and collect taxes of every character and type for any municipal purpose not prohibited by the Constitution and the laws of the State of Texas as now written or hereafter amended.
- B. The City shall have the power to grant tax exemption in accordance with the laws of the State of Texas.

SECTION 8.03 OFFICE OF TAX COLLECTOR

There will be established an office of taxation to collect taxes, the head of which will be the City Tax Collector. The City Council may contract for such services.

SECTION 8.04 TAXES; WHEN DUE AND PAYABLE

- A. All taxes due in the City of McLendon-Chisholm must be payable at the office of the City Tax Collector, or at such location or locations as may be designated by the City Council. They may be paid at any time after the tax rolls for the year have been completed and approved. Taxes for each year must be paid before February 1st of the next succeeding year, and all such taxes not paid prior to that date must be deemed delinquent and must be subject to penalty and interest as the City Council will provide by ordinance. The City Council may provide discounts for the payments of taxes prior to January 1 in amounts not to exceed those established by the laws of the State of Texas.
- B. Failure to levy and assess taxes through omission in preparing the appraisal rolls will not relieve the person, firm or corporation so omitted from obligation to pay such current or past due taxes as shown to be payable by recheck of the rolls and receipts for the years in question, omitting penalty and interest.

SECTION 8.05 TAX LIENS, LIABILITIES AND SUITS

- A. All taxable property located in the City on January 1 of each year will stand charged from that date with a special lien in favor of the City for the taxes due. All persons

purchasing any such property or after January 1 in any year will take the property subject to the liens provided above. In addition to the liens herein provided, on January 1 of any year, the owner of property subject to taxation by the City will be personally liable for taxes that year.

- B. The City will have the power to sue for and recover personal judgment and foreclosure, or to foreclose its lien or liens, or to recover both personal judgment and foreclosure. In any such suit where it appears that the description of any property in the City appraisal rolls is insufficient to identify such property, the City will have the right to plead a good description of the property to be assessed, to prove the same, and to have its judgment foreclosing the tax lien or for personal judgment against the owners for such taxes.

SECTION 8.06 FISCAL YEAR

The fiscal year of the City shall begin on October 1st and end on the following September 30th of each year, but the fiscal year may be changed by the Council by ordinance.

SECTION 8.07 ANNUAL BUDGET

It shall be the duty of the City Manager to submit an annual budget not later than sixty (60) days prior to the end of the current fiscal year to the Council for its review, consideration and revision. The Council shall call a public hearing or hearings on the budget. The Council may adopt a budget with or without amendments. The Council may increase or decrease amounts or programs and may delete programs or amounts except expenditures required by law or for a debt service, provided that no amendment shall increase the authorized expenditures to an amount greater than the total of the estimated income for the current fiscal year plus funds available from prior years. At the close of each fiscal year, the unencumbered balance of each appropriation shall revert to the fund from which it was appropriated and shall be subject to future appropriations, but appropriations may be made in furtherance of improvements or other objects of work of the City that will not be completed within the current year.

SECTION 8.08 FAILURE TO ADOPT ANNUAL BUDGET

If the Council fails to adopt the budget by September 30th, 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 to equal the total current fiscal year tax receipts, unless the ensuing fiscal year budget is approved by September 30th of the current fiscal year.

SECTION 8.09 BONDS AND OTHER EVIDENCE OF INDEBTEDNESS

The City shall have the power to borrow money on the credit of the City and to issue general obligation bonds and other evidences of indebtedness for permanent public improvements or for any other public purpose not prohibited by the Constitution and laws of the State of Texas and to issue refunding bonds to refund outstanding bonds and other evidences of indebtedness of the City previously issued. All such bonds shall be issued in conformity with the laws of the State of Texas. The City shall further have the power to borrow money for the purpose of constructing, acquiring, improving, extending or repairing of public utilities, recreational facilities or any other self-liquidating municipal function not prohibited by the Constitution and laws of the State of Texas, and to issue revenue bonds to evidence the obligations created thereby. Such bonds shall be a charge upon and payable from the properties, or interest therein pledged, or the income there from, or both. The holders of the revenue bonds of the City shall not have the right to demand payment thereof out of monies raised or to be raised by taxation. All such bonds shall be issued in conformity with the laws of the State of Texas. The City shall have the power to borrow money for public improvements in any other manner provided by law, including certificates of obligation as authorized by Chapter 271 of the Texas Local Government Code. All bonds and evidence of indebtedness of the City having been approved by the Attorney General and registered by the Comptroller of Public Accounts shall thereafter be incontestable in any court or other forum for any reason, and shall be valid and binding obligations of the City in accordance with their terms for all purposes.

CHAPTER NINE: BOARDS AND COMMISSIONS

SECTION 9.01 PLANNING AND ZONING COMMISSION

The City Council shall create a Planning and Zoning Commission of the City of McLendon-Chisholm and shall appoint seven (7) members, each of whom shall be a citizen of the City of McLendon-Chisholm. Members shall be appointed for two (2) year staggered terms. Such appointees shall serve without compensation and may not hold any elective office of the State of Texas or any other political subdivision thereof during their terms. A vacancy in an unexpired term shall be filled by the City Council for the remainder of the term. The majority of the appointed members shall constitute a quorum, and decisions may only be made with the affirmative vote of a majority of those members present and voting. The Commission shall select from any of its members a Chairperson and Vice Chairperson. A two-thirds vote of the City Council will be required to overrule the recommendations of the Commission, except as otherwise provided by state law. Following the adoption of the Comprehensive Plan it shall serve as a guide for all future councils and be reviewed every five (5) years.

SECTION 9.02 BOARD OF ADJUSTMENT

The City Council shall appoint a Board of Adjustment comprised of five (5) regular members and three (3) alternate members for two (2) year staggered terms, all of whom shall be citizens of the City of McLendon-Chisholm. Such appointees shall serve without compensation. The Board of Adjustment shall be governed by Chapter 211, Texas Local Government Code, and have such additional duties as may be prescribed by ordinance or applicable State law. A vacancy on the board shall be filled by the City Council for the unexpired term. The Board shall select from any of its members a Chairperson and Vice Chairperson.

SECTION 9.03 PARK BOARD

The City Council may appoint a Park Board that shall be composed of not more than seven (7) members, each of whom shall be a citizen of the City of McLendon-Chisholm. Members shall be appointed for two (2) year staggered terms. Such appointees shall serve without compensation. A vacancy in an unexpired term shall be filled by the City Council for the remainder of the term. The majority of the appointed members shall constitute a quorum, and decisions may only be made by the affirmative vote of the majority of those members present and voting. The Park Board shall select from any of its members a Chairperson and Vice Chairperson. The Park Board shall be charged with responsibility for oversight of all parks and the trail system within the City of McLendon-Chisholm. The Park Board may sponsor such other activities for the betterment of civic life within the City as it shall deem

appropriate and shall have such other duties and responsibilities as may be assigned to it by the City Council. The Park Board may make recommendations to the City Council for improvements to and expansions of existing parks and locations for future parks.

SECTION 9.04 OTHER BOARDS AND COMMISSIONS

The City Council shall have the power and is hereby authorized to create, abolish, establish, and appoint other boards, commissions and committees, as it deems necessary to carry out the functions of the City, and to prescribe the purpose, composition, functions, and tenure of each board, commission, or committee.

SECTION 9.05 APPOINTED TERM LIMITS

Boards and Commission appointees may serve up to three consecutive terms. An appointee who has served the maximum number of terms may serve additional terms subject to the same limitations after a break in service of one year or more.

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CHAPTER TEN: ORDINANCES

SECTION 10.01 PROCEDURE FOR PASSING ORDINANCES AND RESOLUTIONS

The City Council shall evidence its official actions by written ordinances, resolutions, or oral motions. The style of all ordinances shall be: "Be it ordained by the City Council of the City of McLendon-Chisholm, Texas" and the style of all resolutions shall be "Be it resolved by the City Council of the City of McLendon-Chisholm, Texas." Each proposed ordinance shall not be amended or repealed except by adoption of another ordinance. All ordinances and resolutions passed by the City Council shall become effective immediately from and after passage except where publication of a caption is required or where the ordinance, State law, or other provisions of this Charter provide otherwise, in which case the effective date shall be as prescribed in the ordinance.

SECTION 10.02 PUBLICATION OF ORDINANCES The descriptive caption or title of each ordinance containing a penalty shall be published at least once in the official newspaper of the City, and on the City website, unless otherwise provided by State law or this Charter.

SECTION 10.03 CODE OF ORDINANCES The City Council shall have the power to cause the ordinances of the City to be printed, in code form, and shall have the same arranged and digested as often as the Council may deem advisable, provided that failure to print the ordinances as herein provided shall not affect the validity of the same.

CHAPTER ELEVEN: ELECTIONS

ELECTIONS SECTION 11.01 CITY ELECTIONS

Regular City elections shall be held on the first Saturday of May of each year or as otherwise required by the Texas Election Code, at which time members of the City Council, including the Mayor, shall be elected to fill those positions which become vacant that year. The City Council shall fix the hours, place and procedures for holding regular and special elections. Elections shall be held in compliance with applicable State law.

SECTION 11.02 SPECIAL ELECTIONS

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

SECTION 11.03 REGULATION OF ELECTIONS

All City elections shall be governed by the Constitution of the State of Texas, general laws of the State, this Charter, and by ordinance of the City regulating the holding of municipal elections. The City Council shall appoint the election judges and other election officials and shall provide for the compensation of all election officials in City elections and for all other expenses in holding said elections.

SECTION 11.04 CANDIDATES; FILING FOR OFFICE

Any qualified person as prescribed by Section 3.02 of this Charter may make application to have their name placed on the official ballot for the position of Council Member or Mayor. The application shall be made in accordance with all applicable laws and shall state that the candidate agrees to serve if qualified and elected. Each candidate shall execute such an oath and other official form or affidavit as required by the Texas Election Code. The City Secretary shall review the application and notify the candidate whether or not the application satisfies the requirements of this Charter and the Texas Election Code. If an application is insufficient, the City Secretary shall return it immediately to the candidate with a statement of such insufficiency. The candidate may file a new application within the regular time for filing applications. The City Secretary shall keep on file all applications found sufficient at least until the expiration of the term of office for which such candidates filed.

SECTION 11.05 OFFICIAL BALLOT The order of the names of the candidates on the ballot shall be determined by the City Secretary in accordance with the procedures set out in the Texas Election Code. The name of each candidate seeking an elective office, except those

who have withdrawn, died, or become ineligible prior to the time permitted for withdrawal, shall be printed on the official ballot in the name designated by the candidate in accordance with the Texas Election Code. Early voting shall be conducted pursuant to the Texas Election Code.

SECTION 11.06 CANVASSING AND ELECTION RESULTS Returns of every municipal election shall be delivered forthwith by the election judges to the City Secretary, with a copy of the returns being sent to the Mayor. The City Council shall canvass the returns, investigate the qualifications of the candidates and declare the official results of the election not less than two (2) days nor more than six (6) days after the date of the election, or as may be otherwise provided by the Texas Election Code.

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CHAPTER TWELVE: INITIATIVE, REFERENDUM AND RECALL

SECTION 12.01 POWER OF INITIATIVE

The people of the City reserve the power to direct legislation by initiative and, in the exercise of such power, may propose any ordinance not in conflict with this Charter or State law, except an ordinance appropriating money or authorizing the levy of taxes, an ordinance amending an ordinance appropriating money or levying taxes, or an ordinance repealing an ordinance appropriating money or levying taxes. Any initiated ordinance may be submitted by a petition signed by registered voters of the City equal in number to at least Thirty (30) percent of the number of voters in the last regular City election or 300 voters whichever is greater.

SECTION 12.02 POWER OF REFERENDUM

The people of the City reserve the power to approve or reject at the polls any legislation enacted by the City Council, which is subject to the initiative process under this Charter. Within thirty (30) days after the final adoption or publication, whichever date is later, of any ordinance which is subject to referendum, a petition, signed by registered voters of the City equal in number to at least Thirty (30) percent of the number of voters in the City at the time of the last regular City election or 300 voters whichever is greater, may be filed with the City Secretary requesting that any such ordinance be either repealed or submitted to a vote of the people. When such a petition has been certified as sufficient by the City Secretary, the ordinance so specified in the petition shall not go into effect, or further action shall be suspended if it shall have gone into effect, until and unless it is approved by the voters as herein provided.

SECTION 12.03 FORM OF PETITION FOR INITIATIVE AND REFERENDUM

All petition papers circulated for the purpose of an initiative or referendum shall be uniform in size and style. Initiative petition papers shall contain the full text of the proposed ordinance. The signatures to initiative and referendum petitions need not all be appended to one paper, but to each separate paper there shall be attached a statement of the circulator that the petitioner personally circulated the foregoing paper, that all the signatures appended thereto were made in the petitioner's presence and that the petitioner believes them to be the genuine signatures of the persons whose names they purport to be. Each signer of any such petition shall sign their name in ink, shall indicate after their name their place of residence by street, street number and zip code, shall indicate their voter registration certificate number and shall record the date of signature.

SECTION 12.04 FILING, EXAMINATION AND CERTIFICATION OF PETITIONS

All papers comprising a petition for initiative or referendum shall be assembled and filed with the City Secretary as one instrument. Within thirty (30) days after the petition is filed, the City Secretary shall determine whether each paper of the petition has a proper statement of the circulator and whether the petition has been signed by a sufficient number of qualified electors and shall hold any petition paper entirely invalid which does not have attached thereto the statement signed by the circulator thereof. The City Secretary shall certify the result of this examination to the City Council at its next regular meeting. If the City Secretary certifies that the petition is insufficient, the certificate shall specify the particulars in which it is defective and shall at once notify in writing the person filing the petition of this finding. A petition may be amended at any time within ten (10) days after a notice of insufficiency has been sent by the City Secretary, by filing a supplementary petition. In such event, the same procedures shall then be followed by the City Secretary and City Council as in the case of the original petition for the same purpose.

SECTION 12.05 COUNCIL CONSIDERATION AND SUBMISSION TO VOTERS

When the City Council receives an authorized initiative petition, certified by the City Secretary to be sufficient, the City Council shall either (a) pass the initiated ordinance without amendment within twenty (20) days after the date of the certification to the City Council; or (b) submit the initiated ordinance without amendment to a vote of the qualified voters of the City at a regular or special election to be held on a uniform election date of the State of Texas, but not less than ninety (90) days from the date that the City Secretary certifies the submission to the City Council. When the City Council receives an authorized referendum petition, certified by the City Secretary to be sufficient, the City Council shall reconsider the referred ordinance. If, upon such reconsideration, such ordinance is not repealed, it shall be submitted to the voters of the City at a regular or special election to be held on a uniform election date of the State of Texas, but not less than ninety (90) days from the date that the City Secretary certifies the submission to the City Council. Special elections on initiated or referred ordinances shall not be held more frequently than once each six (6) months, and no ordinance on the same subject as an initiated ordinance which has been defeated at any election may be initiated by the voters within two (2) years from the date of such election.

SECTION 12.06 BALLOT FORM AND RESULTS OF ELECTION

Ordinances submitted to the electors in accordance with the initiative and referendum provisions of this Charter shall be submitted by ballot title, which shall contain a clear, concise statement, without argument, of the substance of such ordinance. The ballot used

shall have below the ballot title the following proposition, one above the other in the order indicated: "FOR THE ORDINANCE" and "AGAINST THE ORDINANCE." Any number of ordinances may be voted on at the same election and may be submitted on the same ballot. If a majority of electors voting on a proposed initiated ordinance shall vote in favor thereof, it shall thereupon become an ordinance of the City. A referred ordinance which is not approved by a majority of the electors voting thereon shall thereupon be deemed repealed. If conflicting ordinances are approved by the electors at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

SECTION 12.07 POWER OF RECALL

The people of the City reserve the power to recall the Mayor or any other member of the City Council and may exercise such power by filing with the City Secretary a petition, signed by qualified voters of the City equal in number to at least thirty (30) percent of the number of voters at the last regular municipal election of the City or 300 voters whichever is greater demanding the removal of the Mayor or other member of the City Council. The petition shall be signed and verified in the manner required for an initiative petition, shall contain a general statement of the grounds upon which the removal is sought and one of the signers of each petition paper shall make an affidavit that the statements made therein are true.

SECTION 12.08 RECALL ELECTION

All papers comprising a recall petition shall be assembled and filed with the City Secretary. Within thirty (30) days after the petition is filed, the City Secretary shall determine its sufficiency and, if found to be sufficient, shall certify this fact to the City Council at its next regular meeting. If a recall petition is found to be insufficient, it may be amended within ten (10) days after notice of such insufficiency by the City Secretary, by filing a supplementary petition. In that event, the same procedures shall then be followed by the City Secretary and the City Council as in the case of an original petition. The finding of insufficiency of a recall petition shall not prejudice the filing of a new petition for the same purpose. The City Council Member whose removal is sought by a recall petition may, within five (5) days after such petition has been certified and presented to the City Council, request in writing that a public hearing be held to permit them to present facts pertinent to the charges specified in the petition. In this event, the City Council shall order such public hearing to be held not less than five (5) days nor more than fifteen (15) days after receiving such request for a public hearing. If the City Council Member whose removal is sought does not resign, the City Council shall order a recall election and fix a date for such election, the date of which shall not be less than ninety (90) days from the date the petition was submitted to the City

Council or from the date of the public hearing if one was held, whichever is later, or at the earliest date thereafter permitted by the Texas Election Code.

SECTION 12.09 RECALL BALLOT

Ballots used in recall elections shall read as follows: "SHALL (name of person or persons) BE REMOVED FROM THE CITY COUNCIL BY RECALL?" Below such question there shall be printed the following as to each person named: "FOR THE REMOVAL OF (name of person.)" "AGAINST THE REMOVAL OF (name of person.)" SECTION

12.10 RESULTS OF A RECALL ELECTION

If a majority of the votes cast at a recall election is against removal of a Council Member named on the ballot, that member shall continue in office. If a majority of the votes cast at such election are for the removal of the City Council Member named on the ballot, the City Council shall immediately declare the office vacant and such vacancy shall be filled in accordance with the provisions of this Charter. A City Council Member thus removed shall not be a candidate to succeed himself in an election called to fill the vacancy created.

SECTION 12.11 LIMITATIONS ON RECALL

No recall petition shall be filed against the Mayor or any other Council Member within three (3) months after they first take office, or within three (3) months after an election for their recall, nor within six (6) months of the end of their term.

CHAPTER THIRTEEN: FRANCHISES

SECTION 13.01 POWER TO GRANT FRANCHISE

The City Council shall have the power, subject to the provisions hereof, by ordinance to confer upon any person, firm, corporation or other legal entity the franchise or right to use the public property of the City for the purpose of furnishing to the public any general public service or benefit, including, but not limited to, heat, light, power, telephone service, transportation, or other telecommunication providers for compensation or hire. The City shall have the power by ordinance to grant, renew, and extend all franchises of all public utilities of every character operating within the City. No such franchise shall be granted until after a public hearing shall have been called and held and until such ordinance shall have been passed and accepted by the franchisee.

SECTION 13.02 TRANSFER OF FRANCHISE

No public utility or other franchise shall be transferable except with the approval of the City Council expressed by ordinance.

SECTION 13.03 OWNERSHIP, USE AND CONTROL OF STREETS

No franchise or easement involving the right to use the streets, alleys, highways, parks, and public ways shall be valid unless granted in compliance with the terms of this chapter. No granting of a franchise by ordinance pursuant to this chapter shall convey any ownership or interest in any property of the City other than the right to use the public property for purposes of such franchisee's operations as expressed in the ordinance granting such franchise.

SECTION 13.04 RIGHT OF REGULATION

In granting, amending, renewing and extending public service and utility franchises, the City shall retain the right to: (1) Repeal such franchise by ordinance for failure to comply with the terms thereof, such power to be exercised only after due notice and hearing; (2) Require an adequate extension of plant and service as is necessary to provide adequate service to the public and require maintenance of the plant and fixtures at the highest reasonable standard of efficiency, based upon applicable state and federal regulations; (3) Establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates; (4) Impose regulations to ensure safe, efficient and continuous service to the public. The franchise holder in opening and refilling all earth openings shall re-lay the pavement and do all other work necessary to complete restoration of streets, sidewalks or grounds to a condition equally as good as or better than when disturbed; and (5) Upon notice to franchisee and a reasonable opportunity to be

heard, to regulate, locate, or prohibit the erection of any and all poles, wires, or other utility equipment, conveyance, or structure, on the streets, alleys and public places of said City, and to cause the same to be changed, removed, altered, increased, diminished, placed underground, or be supported by poles of such material, kind, quality and class as may be determined by the City Council whether the same be telegraph, telephone, electric, cable television, or otherwise, and to enforce the provisions hereof by appropriate action in any court of competent jurisdiction.

SECTION 13.05 COMPENSATION FOR FRANCHISE

All persons, corporations, or association of persons, to whom a franchise or privilege may hereafter be granted shall pay to the City for such privilege such compensation as may be fixed by the City Council in the grant of such franchise or privilege. Such compensation as fixed by contract or provided by State law(s) shall become due and payable at such time as the City Council shall fix in the granting of such franchise or privilege. The failure of any franchisee to pay compensation when due may result in forfeiture of the franchise or privilege.

SECTION 13.06 COUNCIL TO FIX AND REGULATE CHARGES, FARES OR RATES

If applicable State law so provides, the City Council shall determine, fix, and regulate the charges, fares or rates of any person, firm, or corporation enjoying a franchise or privilege granted under the provisions of this chapter, and shall prescribe the kind of service to be furnished to the public by such person, firm, or corporation, and the manner in which it shall be rendered and may from time to time alter or change such rules, regulations, and compensation after reasonable notice and public hearing. The rates, charges and fares so fixed shall at all times be reasonable and permit the franchisee a reasonable opportunity to earn a reasonable return on the franchisee's invested capital used and useful in providing service to the public in excess of its reasonable and necessary operating expenses. In this connection, the City Council may require any utility or franchise holder to furnish such financial reports and information as the City Council may request including reports of actual operating costs and the financial conditions of its operations within the City. The City Council may employ, at the expense of such franchisee, necessary outside experts to examine and audit the accounts and records of the franchisee to determine the reasonableness of such charges, fares, and rates.

CHAPTER FOURTEEN GENERAL AND TRANSITIONAL PROVISIONS

SECTION 14.01 EFFECT ON EXISTING LAWS

All City ordinances, resolutions, rules, and regulations in force at the time of the adoption of this Charter and not in conflict with it shall remain in force until altered, amended or repealed by the City Council. All rights of the City under existing franchises and contracts are preserved in full force and effect. All taxes, assessments, liens, encumbrances, obligations and demands of or against the City, fixed or established before such date, shall be valid if properly fixed or established either under the law in force at the time of such proceedings or under the law after the adoption of this Charter. Any ordinances, rules or regulations inconsistent with this Charter are repealed as of the date of adoption of the Charter.

SECTION 14.02 CONTINUATION OF ADMINISTRATIVE OFFICES

All persons holding administrative offices at the time this Charter takes effect shall continue in office and in the performance of their duties in the capacities to which they have been appointed until provisions shall have been made in accordance with the terms of this Charter for the performance of such duties or the discontinuance of such office, if any. The powers conferred and the duties imposed upon any office, department or agency of the City by the laws of the State shall, if such office, department or agency be abolished by this Charter or under its authority, be thereafter exercised and discharged by the office, department or agency designated by the City Council, unless otherwise provided herein.

SECTION 14.03 CONFLICT OF INTEREST

No member of the City Council, the Mayor, or any other officer, whether elected, appointed, paid or unpaid, who exercises responsibilities beyond those that are advisory in nature, shall participate in a vote or decision on a matter involving a business entity or real property in which such officer has a substantial interest if it is reasonably foreseeable that an action on the matter would have an economic effect on the business entity or on the value of the property. No member of the City Council, the Mayor, or any other officer, whether elected, appointed, paid or unpaid, who exercises responsibilities beyond those that are advisory in nature, shall have a financial interest, direct or indirect, in any contract with the City, or shall be financially interested, directly or indirectly, in the sale to the City of any land, materials, supplies or service. Any willful violation of this section shall constitute malfeasance in office, and any officer or employee violating this section shall forfeit their office or position. Any violation of this section, with the knowledge expressed or implied of a person or corporation contracting with the City, shall render the contract involved voidable by the City Council.

SECTION 14.04 NEPOTISM

No officer of the City of McLendon-Chisholm shall appoint, vote for, or confirm the appointment to any paid office, position, clerkship, employment or duty, of any person related within the second degree by affinity or within the third degree by consanguinity to any member of the City Council, Mayor or City Manager, when the salary, fees, or compensation of such appointee is to be paid for, directly or indirectly, out of or from public funds or fees of office of any kind or character whatsoever. This provision shall not prevent the appointment, voting for, or confirmation of any person who shall have been continuously employed in any such office, position, clerkship, employment or duty for at least thirty (30) days, if the officer is appointed, or at least six (6) months, if the officer is elected. When a person is allowed to continue in any such position, the officer related shall not participate in the deliberation or voting upon the appointment, reappointment, employment, confirmation, re-employment, change in status, compensation, or dismissal of such person, unless such action is taken with respect to a bona fide class or category of employees.

A. Non-appointed/ unpaid volunteers are exempt from this provision.

SECTION 14.05 WRONGFUL INTERFERENCE

No Person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification, appointment or attempt to commit any fraud preventing the impartial execution of the personnel provisions, rules and regulations of this Charter.

SECTION 14.06 WRONGFUL INFLUENCE

No Person who seeks appointment or promotion with respect to any City position or appointive City administrative office shall directly, give, render or pay any money, service, or other valuable thing to any person for, or in connection with their test, appointment, proposed appointment, promotion, or proposed promotion.

SECTION 14.07 EMPLOYEE POLITICAL ACTIVITIES

No person who holds any compensated non-elective City position shall make, solicit, or receive any contribution for any candidate for City Council, or take part in the management, affairs or political campaign of such candidate. Such person may exercise their rights as a citizen to express their opinion or vote.

SECTION 14.08 OFFICIAL NEWSPAPER / PUBLICATION

The City Council shall have the power to designate by resolution a newspaper of general circulation in the City as the City's official newspaper. All ordinances, captions of

ordinances, notices and other matters required to be published by this Charter, by ordinance, or by State law, shall be published in the official newspaper and on the City website.

SECTION 14.09 JUDICIAL NOTICE

This Charter shall be recorded in the City Secretary's office in a book kept for that purpose. As soon as practicable after its adoption, an authenticated copy of the Charter shall be certified to the Secretary of State of the State of Texas, at which time the Charter becomes a public act. Such Charter provisions may be read in evidence without pleading or proof of their provision, and judicial notice shall be taken thereof in all courts and places.

SECTION 14.10 SERVICE OF PROCESS

All Legal Process against the City shall be served upon either the City Secretary or the City Manager.

SECTION 14.11 PROPERTY NOT SUBJECT TO GARNISHMENT AND EXECUTION

No property owned or held by the City shall be subject to any garnishment or execution of any kind or nature except as specifically provided by State law.

SECTION 14.12 PUBLIC MEETINGS AND RECORDS

All meetings of the City Council and all boards, commissions and committees appointed by the City Council shall be governed by the provisions of Chapter 551, Texas Government Code and any amendments thereto with regard to the posting of agenda and the holding of public meetings. All public records of every officer, department or agency of the City shall be open to inspection by any citizen at all reasonable business hours, provided that records excepted from public disclosure by Chapter 552, Texas Government Code and any amendments thereto shall be closed to the public and not considered public record for the purpose of this section.

SECTION 14.13 INDEMNIFICATION OF OFFICERS

The City Council shall, by appropriate ordinance, provide for the indemnification and defense of the officers and employees of the City, including the members of the City Council, or any board, commission, or committee, including volunteers, against any loss, cost, or expense, including court costs and attorney's fees, to the extent allowed by law, arising out of the claim, suit, or judgment or settlement thereof, resulting from any alleged negligent act or omission of such officer, employee, member, or volunteer during the discharge of their duties and within the scope of their office, employment, membership, or assigned voluntary position with the City, or in any other case where the City is directed or

authorized by law to do so. Such indemnification will not be provided for any act arising out of the intentional or knowing violation of any penal statute or ordinance or arising out of any conduct determined by final judgment to be an act of fraud or to have been taken with the intent to deceive or defraud, or for any personal or private business of such officer, employee, member, or volunteer, or for the gross negligence or official misconduct, or willful or intentionally wrongful act, or omission of such officer, employee, member, or volunteer.

SECTION 14.14 AMENDMENT OF THIS CHARTER

Amendments of this Charter may be submitted by the City Council to the qualified voters of the City for their approval at an election, no more often than once every three (3) years, held in accordance with Chapter 9, Texas Local Government Code.

SECTION 14.15 BOND OR SECURITY NOT REQUIRED

It shall not be necessary in any action, suit or proceeding in which the City is a party, for any bond, undertaking, or security to be executed on behalf of said City. 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.

SECTION 14.16 SEVERABILITY CLAUSE

If any chapter, section, paragraph, sentence, clause or phrase of this Charter shall be held unconstitutional or invalid for any reason by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such provision so held invalid may appear, except to the extent that an entire chapter, section, paragraph, or sentence may be inseparably connected in meaning and effect with the provision to which such holding shall apply directly.

SECTION 14.17 MEANING OF WORDS

The provision of this Charter shall be liberally construed for the purpose of effecting the objects and ends thereof. Unless some other meaning is manifest, the word "City" shall be construed to mean the "City of McLendon-Chisholm," and the word "and" may be read "or" or the "or" may be read "and" if the sense requires. Words in the present tense include future tense and, except when a more constrictive meaning is manifest, singular may mean plural. The word "Council" shall be construed to mean the City Councilmembers and Mayor of the City of McLendon-Chisholm. The gender of the wording as contained in the Charter shall always be interpreted to mean either sex.

SECTION 14.18 EFFECTIVE DATE

This Charter shall take effect immediately following adoption by the voters and entry of the official order by the City Council declaring the same adopted as soon as practicable. After adoption, the Mayor shall certify to the Secretary of State an authenticated copy of the Charter under the City's seal showing approval by the voters. The City Secretary shall record the Charter in a book kept for that purpose and keep and maintain the same as the official record of the City.

SECTION 14.19 CONTINUATION OF ELECTIVE AND APPOINTIVE OFFICES

Upon adoption of this Charter, the present people filling elective office on the City Council will continue to fill those offices for the terms for which they were elected. Persons who, on the date of this Charter is adopted, are filling appointive and administrative positions with the City which are retained under this Charter, may continue to fill these positions for the term for which they are appointed, unless removed by the City Council or by other means provided in this Charter. **Council Seat Place 6 will be appointed upon approval of the Charter. Three year terms will commence in regular elections for council places 2, 4, and 6 and the Mayor seat in 2026. Three year terms for council places 1,3 and 5 will commence in 2027.**

SECTION 14.20 CONTINUATION OF OPERATION

All City Ordinances, bonds, resolutions, rules and regulations in force on the effective date of this Charter shall remain in force until altered, amended or repealed by the City Council, and all rights of the City under existing franchises and contracts are preserved in full force.

SECTION 15.01 SUBMISSION AND ELECTION

This Charter shall be submitted to the qualified voters of the City of McLendon-Chisholm for adoption or rejection on the 3rd day of May, 2025, at which election, if a majority of the qualified voters voting in such election shall vote in favor of the adoption of this Charter, it shall then immediately become the governing law of the City of McLendon-Chisholm, Texas, until amended or repealed. It being impracticable to submit this Charter so that each subject may be voted on separately, it is hereby prescribed that the form of ballot to be used in such election shall be as follows to wit: ____ “FOR” ADOPTION OF A CHARTER ____ “AGAINST” ADOPTION OF A CHARTER This Home Rule Charter for the City of McLendon-Chisholm, Texas, is respectfully submitted to the City Council of the City of McLendon-Chisholm for the purpose of calling an election on the question of adoption of the Home Rule Charter this st day of 2025. This proposed Charter represents the recommendation of the majority of the membership and signatures are evidenced below.

Mark Russo, Chairperson

Karan McDonald

Dennis London, Vice-Chairperson

Melody Osorio

Jennifer Heldreth, Secretary

John Powers

James Adcox

Troy Reich

Anthony Crawford

Beverly Stibbens

Rich Dean

Lesley Schwalje

Roberta Dolen

Jody Wright

Jerry Brewer, Council Liasion

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