



TOWN CHARTER

TOWN OF PROSPER, TEXAS

Approved by the Voters of the Town of Prosper on
November 7, 2006
Amended May 14, 2011
Amended May 6, 2017

**HOME RULE CHARTER
OF THE
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**HOME RULE CHARTER
OF THE
TOWN OF PROSPER, TEXAS**

PREAMBLE

We, the citizens of Prosper, Texas, in order to establish a Home Rule municipal government, provide for the future progress of our Town and obtain more fully the benefits of local self-government, and provide for the public welfare, hereby adopt this Home Rule Charter, in accordance with the statutes of the State of Texas; and do hereby declare the residents of the Town of Prosper, in Collin and Denton County, Texas living within the legally established boundaries of the said Town, to be a political subdivision of the State of Texas, incorporated forever under the name and style of the “Town of Prosper” with such powers, rights, privileges, authorities, duties, and immunities, as are herein provided.

ARTICLE I

Form of Government and Boundaries

SECTION 1.01 Form of Government

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

SECTION 1.02 The Boundaries

The citizens of the Town, Collin and Denton County, Texas, residing within its corporate limits, as heretofore or hereafter established, are hereby constituted and shall continue to be a municipal body politic and corporate, in perpetuity, under the name of the “Town of Prosper” with such powers, privileges, rights, duties, authorities, and immunities, as are herein provided. The records of the Town of Prosper’s boundaries shall be kept on file with the Town Secretary.

SECTION 1.03 Extension of Boundaries

The boundaries of the Town may be enlarged and extended by the annexation of additional territory, irrespective of size and configuration, by the method hereinafter set forth:

- (1) The Town Council shall have the power by ordinance to fix the boundary limits of the Town and to provide for the alteration and extension of said boundary limits, and the annexation of additional territory lying adjacent to the Town, in any manner provided by law.
- (2) When any additional territory has been so annexed, same shall be a part of the Town and the property situated therein shall bear taxes levied by the Town, and

the citizens thereof shall be entitled to all the rights and privileges of the other citizens of said Town, and shall be bound by the acts, ordinances, resolutions, and regulations of the Town.

ARTICLE II

Powers of the Town

SECTION 2.01 General Powers of the Town

The Town shall have all powers and rights of self-government and home rule that exists now or may be granted to municipalities by the Constitution and laws of the State of Texas, unless such power or right is expressly prohibited or restricted by this Charter. The enumeration of particular powers in this Charter shall not be held or deemed to be exclusive, and in addition to the powers enumerated herein, implied herein or appropriate to the exercise thereof, the Town shall have and may exercise all other powers which under the Constitution and laws of the State of Texas it would be competent for this Charter specifically to enumerate.

SECTION 2.02 Public Improvements

The Town shall have the power to, among other things, construct and maintain, within or without its corporate limits, public improvements as authorized by State statutes and such other public improvements as the Town Council shall determine to serve a public purpose of the Town, including but not limited to, constructing and maintaining streets, flood control and sanitary facilities, water and storm drainage facilities in, over, under or upon all public property or easements granted for that purpose and to levy assessments for the costs of such improvements. The Town shall have the power to collect attorney's fees for the collection of paving assessment in foreclosure cases as allowed under state law. It shall have the power to cause liens to be established for the purpose of securing the payment of such levies and shall have the power to compel the use of such improvements by the citizens of the Town.

SECTION 2.03 Miscellaneous Powers

The Town shall have the power to, among others, establish and maintain ordinances and regulations governing the use of lands within the Town and to enforce by all lawful means these ordinances and regulations, within and without its corporate limits. The Town shall have the power to authorize, regulate and inspect all construction and existing structures within or without its limits, consistent with state statutes, and to establish and enforce ordinances and regulations concerning their use, construction and reconstruction. The Town shall have the power to contract and be contracted with, to buy, sell, lease, lease-purchase, mortgage and/or manage property, to acquire property by donation or condemnation, and to control such property as its interests require. The Town shall have the power to license and regulate persons, corporations and associations engaged in any business, occupation, profession or trade when authorized by state law. The Town shall have all powers granted by any section of this Charter.

ARTICLE III

The Town Council

SECTION 3.01 Composition

- (1) The "Town Council" shall be composed of a "Mayor" and six (6) "Council Members" elected under the Place System, with there being Places 1, 2, 3, 4, 5 and 6. The Mayor and each Council Member shall be elected at large, and unless sooner removed under the provisions of this Charter, shall serve for a term of three (3) years, and until their successor has been elected and duly qualified. All of the Town Council holding office at the time of passage of any amendments to this Charter shall continue to hold their respective office until the respective term for which they were elected expires.
- (2) Terms of the Council Members shall be staggered so that every year there shall be an election for two (2) of the Places as follows: Places 1 and 4; Places 2 and 6; and Places 3 and 5. The Mayor shall be elected in the same year as Places 1 and 4.

SECTION 3.02 Limitations on Terms

No person shall serve as Mayor for more than three (3) consecutive elected terms, and no person shall serve as Council Member for more than three (3) consecutive elected terms. No person shall serve as Council Member and Mayor (combined) for more than eighteen (18) consecutive years.

For purposes of this Section 3.02 and computing the limitations on terms:

- (1) a Mayor or Council Member, who vacates, for any reason, Town office before the end of the term for which he or she was elected, shall be considered to have completed that term.
- (2) an appointment or election to fulfill an unexpired Council Member term, or unexpired Mayor term if applicable, shall be computed as follows:
 - (i) if fifty percent (50%) or more of the term is remaining, it shall be included in the computation of term limits; or
 - (ii) if less than fifty percent (50%) of the term is remaining, it shall not be included in the computation of term limits.

Any Council Member or Mayor, who is ineligible to run for elected Town office due to the limitations on terms as provided herein, shall remain ineligible to hold an elected Town office for a period of ten (10) months following the expiration of the most recent term of Town office for which he or she was elected.

To account for the transition to term limits, the term that each person on the Town Council is currently filling, as of January 1, 2011, and all terms consecutively served prior to that current term shall not count for purposes of determining whether three (3) consecutive terms have been served.

SECTION 3.03 Qualifications of Town Council

In addition to any other qualifications prescribed by law, the Mayor and each Council Member shall meet the qualifications set forth in Article V of this Charter while in office.

SECTION 3.04 Compensation

The Town Council shall be entitled to reimbursement for actual reasonable expenses incurred in the performance of official duties.

SECTION 3.05 Mayor, Mayor Pro-Tem and Deputy Mayor Pro-Tem

- (1) The Mayor shall attend and preside at meetings of the Town Council. The Mayor shall participate in the discussion of all matters coming before the Town Council and shall have a vote on all matters before the Town Council. The Mayor shall also represent the Town in intergovernmental relationships, present an annual state of the Town message, and perform other duties specified by the Town Council and/or imposed by this Charter and by ordinances and resolutions passed in pursuance thereof. Additionally, the Mayor may sign, after authorization by the Town Council, all contracts and conveyances made or entered into by the Town and all bonds, warrants and any other obligation issued under the provisions of this Charter, in the manner prescribed in the ordinance or resolution authorizing the signing of any such obligation. The Mayor shall be recognized as head of the Town government for all ceremonial purposes, and by the Governor for purposes of military law, but shall have no regular administrative duties.
- (2) The Mayor Pro-Tem shall be a Council Member elected by the Town Council at the first regular meeting after each election of Council Members and/or Mayor or at the first regular meeting after any applicable run-off election, whichever is later. The Mayor Pro-Tem shall act as Mayor during the disability or absence of the Mayor, and in this capacity shall have the rights conferred upon the Mayor.
- (3) The Deputy Mayor Pro-Tem shall be a Council Member elected by the Town Council at the first regular meeting after each election of Council Members and/or Mayor or at the first regular meeting after any applicable run-off election, whichever is later. The Deputy Mayor Pro-Tem shall act as Mayor during the disability or absence of the Mayor and Mayor Pro-Tem, and in this capacity shall have the rights conferred upon the Mayor.

SECTION 3.06 Vacancies, Forfeiture and Filling of Vacancies

- (1) The office of a Council Member or the Mayor shall become vacant upon his or her death, resignation, forfeiture of, or removal from office by any manner authorized by law.
- (2) If any member of the Town Council is absent from three (3) consecutive regular meetings, or twenty-five percent (25%) of regularly scheduled meetings during the twelve-month (12-month) period immediately preceding and including the absence in question, without explanation acceptable to a majority of the remaining members of the Town Council, his or her office shall be declared vacant at the next regular meeting of the Town Council by resolution.
- (3) Any person on the Town Council who ceases to possess the required qualifications for office or who is convicted of a felony or of a misdemeanor involving moral turpitude or is convicted of violating any state laws regulating conflicts of interest of municipal officers shall forfeit his or her office. Every forfeiture shall be declared and enforced by the Town Council.
- (4) A vacancy on the Town Council shall be filled by election in accordance with the Texas Constitution; however, a vacancy may be filled by appointment if the

vacancy is created in an unexpired term having twelve (12) months or less remaining thereupon. The Mayor or Council Member thus elected or appointed shall serve for the unexpired portion of the term of the vacated position.

SECTION 3.07 Powers of the Town Council

All powers of the Town and the determination of all matters of policy shall be vested in the Town Council. Except where in conflict with and otherwise expressly provided by this Charter, the Town Council shall have all powers authorized to be exercised by the Constitution and laws of the United States and the State of Texas and the acts amendatory thereof and supplementary thereto, now or hereafter enacted. Without limitation of the foregoing and among the other powers that may be exercised by the Town Council, the following are hereby enumerated for greater certainty:

- (1) Appoint and remove the Town Manager;
- (2) Appoint and remove the Municipal Judge(s) of the Municipal court;
- (3) Appoint and remove the Town Attorney;
- (4) Designate items to appear on a future agenda of a Town Council meeting for consideration and/or discussion;
- (5) Establish administrative departments;
- (6) Adopt the budget of the Town;
- (7) Collectively inquire into the conduct of any office, department or agency of the Town and make investigations as to municipal affairs;
- (8) Provide for a Planning & Zoning Commission and a Board of Adjustment and other boards as deemed necessary, and appoint the members of all such boards and commissions. Such boards and commissions shall have all powers and duties now or hereafter conferred and created by this Charter, by Town ordinance or by law;
- (9) Adopt and modify the official map of the Town;
- (10) Adopt, modify and carry out plans in cooperation with the Planning & Zoning Commission for the replanning, improvement and redevelopment of specific areas of the Town;
- (11) Adopt, modify and carry out plans in cooperation with the Planning & Zoning Commission for the replanning, reconstruction or redevelopment of any area or district which may have been destroyed in whole or part by disaster;
- (12) Regulate, license and fix the charges or fares made by any person owning, operating or controlling any vehicle of any character used for the carrying of passengers for hire on the public streets and alleys of the Town;
- (13) Provide for the establishment and designation of fire limits and prescribe the kind and character of buildings or structures or improvements to be erected therein; provide for the erection of fireproof buildings within certain limits; and provide for the condemnation of dangerous structures of buildings or dilapidated buildings or buildings calculated to increase the fire hazard, and the manner of their removal or destruction;
- (14) Fix and regulate rates and charges of all utilities and public services; and
- (15) Adopt plats, unless the Town Council votes to give this authority to the Planning & Zoning Commission or Town staff.

SECTION 3.08 Prohibitions

- (1) Except where authorized by law or by this Charter, no Mayor or Council Member shall hold any other Town office or Town employment during his or her term as Mayor or Council Member. No former Mayor or Council Member shall hold any compensated appointive office or Town employment until one (1) year after the expiration of the term for which they were elected or appointed to the Town Council.
- (2) Members of the Town Council shall not in any way dictate the appointment or removal of the Town administrative officers or employees whom the Town Manager or any of the Town Manager's subordinates are empowered to appoint. The Town Council, at a meeting called for that purpose, may express its views and fully and freely discuss with the Town Manager anything pertaining to appointment and removal of such officers and employees.
- (3) Except for the purpose of inquiries and investigations as provided by this Charter, the Town Council shall deal with Town officers and employees who are subject to the direction and supervision of the Town Manager solely through the Town Manager. The Town Council shall not give orders to any such officer or employee either publicly or privately except as otherwise provided in this Charter.

SECTION 3.09 Meetings of the Town Council

- (1) The Town Council shall hold at least one (1) regular meeting each month and as many additional meetings as it deems necessary to transact the business of the Town. The Town Council shall fix by ordinance the date and time of the regular meetings.
- (2) Special meetings of the Town Council shall be held at the call of the Mayor or a majority of the Council Members upon provision of public notice in accordance with state law.
- (3) Except as provided by state law, all Town Council meetings shall be open to the public and shall be held and notice given in accordance with the Texas Open Meetings Act.

SECTION 3.10 Quorum and Voting

Four (4) members of the Town Council shall constitute a quorum for the purpose of transaction of business. No action of the Town Council, except as specifically provided in this Charter, shall be valid or binding unless adopted by the affirmative vote of a majority of the Town Council present. If a certain percentage of affirmative votes to pass a measure is required, the number of affirmative votes must be measured against the entire qualified Town Council, not just the number present and voting.

SECTION 3.11 Conflict of Interest

Should any person on the Town Council have a conflict of interest, pursuant to any state laws and/or Town ordinances regulating conflicts of interest of municipal officers, with an agenda item then before the Town Council, he or she shall openly declare same before discussion proceeds, and he or she is thereby prohibited from discussing the item or voting on the question, and is not considered as present and voting for the purposes of calculating the outcome of a vote.

SECTION 3.12 Abstention

Should any person on the Town Council choose to abstain from voting on any question before the Town Council, where no conflict of interest exists, the person’s vote shall be recorded as an abstention in the official minutes of the meeting.

SECTION 3.13 Rules of Procedure

The Town Council shall determine, which may be done by ordinance, resolution or otherwise, its own rules of order and business. The Town Council shall provide that the citizens of the Town shall have a reasonable opportunity to clearly hear and be heard at public hearings with regard to specific matters under consideration. The Town Council shall provide for minutes to be taken and recorded for all public meetings as required by law. Such minutes shall be a public record and shall be kept and maintained by the person performing the duties of the Town Secretary.

SECTION 3.14 Passage of Ordinances in General

- (1) The Town Council shall legislate by ordinance only, and the enacting clause of every ordinance shall be “Be it ordained by the Town Council of the Town of Prosper, Texas . . .”. Each proposed ordinance shall be introduced in the written or printed form required for adoption. No ordinance shall contain more than one (1) subject which shall be clearly expressed in its title. General appropriation ordinances may contain various subjects and accounts for which monies are to be appropriated. After adoption, an ordinance shall not be amended or repealed except by the adoption of another ordinance amending or repealing the original ordinance. Copies of any proposed ordinance, in the form required for adoption, shall be furnished to the Town Council. Copies of the proposed ordinance, in the form required for adoption, shall be available at the Town offices and shall be furnished to citizens upon request to the Town Secretary from and after the date on which such proposed ordinance is posted as an agenda item for a Town Council meeting and, if amended, shall be available and furnished in amended form for as long as the proposed ordinance is before the Town Council.
- (2) A proposed ordinance which has been amended in substance after its placement on the agenda for a Town Council meeting may not be voted on at such meeting. Such amended ordinance shall be placed upon the agenda of a subsequent meeting of the Town Council in accordance with the provisions of this Article. All persons interested in such ordinance shall have a reasonable opportunity to be heard.
- (3) Unless otherwise required by law, every ordinance shall become effective upon adoption or at any later time(s) specified in the ordinance, except that every ordinance imposing any penalty, fine or forfeiture shall become effective only after having been published once in its entirety or summary form after adoption, in a newspaper designated as the official newspaper of the Town.
- (4) If a majority of the Town Council present request that the ordinance title and caption or its entirety be read, it must be read.

SECTION 3.15 Emergency Ordinances

- (1) The Town Council may adopt emergency ordinances only to meet public emergencies affecting life, health, property or the public peace. In particular, such ordinances shall not levy taxes, grant or renew or extend a franchise, or regulate the rate charged by any public utility for its services. Neither shall they authorize

- the borrowing of money except as provided elsewhere in this Charter.
- (2) An emergency ordinance shall be introduced in the form and manner generally prescribed for ordinances, except that they shall be plainly designated in the title as an emergency ordinance and shall contain after the enacting clause a declaration stating that an emergency exists and describing the emergency in clear and specific terms.
 - (3) An emergency ordinance may be introduced at any Town Council meeting and can be adopted with or without amendment or rejected at the meeting at which it is introduced. The affirmative vote of at least five (5) members of the Town Council shall be required for adoption.
 - (4) Emergency ordinances shall become effective upon adoption and shall be published as soon thereafter as practicable. Every emergency ordinance so adopted, except one authorizing the borrowing of money as described herein, is automatically repealed as of the sixty-first (61st) day following the day on which it became effective. The ordinance may be re-enacted if the emergency still exists.

SECTION 3.16 Authentication, Recording, Codification, Printing and Distribution

- (1) All ordinances and resolutions adopted by the Town Council shall be authenticated by seal and signature of the person performing the duties of the Town Secretary and numbered consecutively as adopted. They shall be properly indexed and placed in a book kept open for public inspection.
- (2) The Town Council may codify the ordinances of the Town. If adopted, the codification shall be known and cited as “The Prosper Town Code” and shall be in full force and effect without the necessity of such code or any part thereof being published in any newspaper. The caption, descriptive clause and other formal parts of the ordinances of the Town may be omitted without affecting the validity of such ordinances when codified. Every general ordinance enacted subsequent to such codification shall be enacted as an amendment to the code. For the purpose of this section, general ordinances shall be deemed to be those ordinances of a permanent or continuing nature which affect the residents of the Town at large. Copies of the code shall be furnished to Town Officers, placed in Town offices and made available for purchase by the public at a reasonable price to be fixed by the Town Council.
- (3) The Town Council shall cause all ordinances and amendments to this Charter to be printed promptly following their adoption. A copy of each ordinance and amendment shall be placed in appropriate Town offices for public reference. Printed ordinances and Charter amendments shall be sold to the public at a reasonable price to be fixed by the Town Council.

SECTION 3.17 Investigations by the Town Council

The Town Council shall have the power to inquire into the official conduct of any department, agency, office, officer or employee of the Town. For that purpose, the Town Council shall have the power to administer oaths, subpoena witnesses and compel the production of books, papers or other evidence material to the inquiry. The Town Council shall provide, by ordinance, penalties for contempt for failing or refusing to obey any such subpoena or to produce any such books, papers, or other evidence, and shall have the power to punish any such contempt in the manner provided by the ordinance.

SECTION 3.18 Bond

The Town Council shall require all municipal officers and employees who receive or pay out any monies of the Town to be bonded or cause each to be covered under a Public Employee Dishonesty Property Crime Coverage Policy with a company that maintains a minimum rating of “A” by A.M. Best’s Key Rating Guide, or other equivalent rating service(s), authorized to transact business in the State of Texas. The amount of the bonds or policy coverage limits shall be determined by the Town Council and the cost shall be borne by the Town.

SECTION 3.19 Code of Ethics

The Town Council shall adopt and maintain, by ordinance or resolution, a Code of Ethics for the purpose of, among other things, establishing and defining the bounds of reasonable ethical behavior by the Town Council and all appointed Town Officials.

ARTICLE IV

Town Administration

SECTION 4.01 Town Manager

- (1) The Town Council shall appoint, upon the affirmative vote of a majority of the full membership of the Town Council, a Town Manager who shall serve as Chief Administrative Officer of the Town. The Town Manager shall be responsible to the Town Council for administration of all the affairs of the Town, with only those exceptions that are named in this Charter. The Town Manager shall be appointed solely upon the Town Manager’s executive, administrative and educational qualifications. The Town Manager need not be a resident of the Town when appointed, but shall, if required by the Town Council, reside within the Town during the balance of the tenure of his or her appointment.
- (2) The Town Council shall fix the compensation of the Town Manager, and the Town Manager’s compensation may be amended, from time to time, in accordance with the Town Manager’s experience, qualifications and performance.
- (3) The Town Manager shall be appointed for an indefinite term, and may be removed at the discretion of the Town Council by the affirmative vote of a majority of the full membership of the Town Council. Upon decision to remove the Town Manager, notice, in writing, of such decision shall be furnished to him or her.
- (4) In case of the absence, disability or suspension of the Town Manager, the Town Council may designate a qualified administrative officer of the Town to perform the duties of the office.
- (5) The Town Manager shall:
 - (A) Appoint, suspend and remove all Town employees and appointive administrative officers provided for in this Charter, except as otherwise provided by law, this Charter or personnel rules adopted pursuant thereto;
 - (B) Direct and supervise the administration of all departments, offices and agencies of the Town, except as otherwise provided by law or this Charter;
 - (C) See that all state laws and Town ordinances are effectively enforced;
 - (D) Attend all Town Council meetings, with the right to take part in discussion, but the Town Manager shall not vote;

- (E) Prepare and accept, or designate an appropriate department head or Town employee to prepare and accept, items for inclusion in the official agenda of all Town Council meetings and meetings of all boards and commissions;
- (F) Prepare and recommend to the Town Council the annual budget and capital program, and administer the budget as adopted by the Town Council;
- (G) Keep the Town Council fully advised at least quarterly as to the financial conditions and future needs of the Town, and make such recommendations concerning the affairs of the Town, as the Town Manager or the Town Council deems desirable or necessary;
- (H) Make reports as the Town Manager or the Town Council may require concerning the operations of the Town departments, offices, or agencies subject to the Town Manager's direction or supervision; and
- (I) Perform such other duties as are specified in this Charter or may be required by the Town Council, and are consistent with this Charter or state or federal law.

SECTION 4.02 Town Secretary

- (1) The Town Manager shall be responsible for hiring and terminating the Town Secretary.
- (2) The Town Manager shall fix the compensation of the Town Secretary, and the Town Secretary's compensation may be amended, from time to time, in accordance with the Town Secretary's experience, qualifications and performance.
- (3) The Town Secretary shall:
 - (A) Give notice of all official public meetings of the Town Council in a manner consistent with this Charter and state laws;
 - (B) Attend all public meetings and hearings of the Town Council;
 - (C) Keep the minutes of the proceedings of all public official meetings and hearings of the Town Council in a manner prescribed by the Town Council consistent with applicable law;
 - (D) Act as custodian of all official records of the Town Council;
 - (E) Hold and maintain the seal of the Town and affix this seal to all appropriate documents;
 - (F) Authenticate by signature and seal and record all ordinances, resolutions and proclamations of the Town; and
 - (G) Perform such other duties as may be required by the Town Manager consistent with this Charter and the laws of the State of Texas.

SECTION 4.03 Municipal Court

- (1) The Town Council shall establish and cause to be maintained a Municipal Court. The Court shall have all the powers and duties as are now, or as may be, prescribed by the laws of the State of Texas.
- (2) The Town Council shall appoint by the affirmative vote of a majority of the full membership of the Town Council such Municipal Judges of the Municipal Court as may be necessary. The Municipal Judge(s) of the Municipal Court(s) shall be appointed to a term of two (2) years and may be appointed to additional consecutive terms upon completion of his/her/their term(s) of office. The appointment of the Municipal Judge(s) may be terminated at any time by the

affirmative vote of a majority of the full membership of the Town Council. The Municipal Judge(s) shall receive compensation as may be determined by the Town Council.

- (3) In the event of failure of any Municipal Judge to perform his or her duties, the Mayor shall act in the Municipal Judge's place and stead (and in the event of a vacancy, until a Municipal Judge is appointed by the Town Council to fill the vacancy). If the Mayor acts as Municipal Judge, the Mayor shall be compensated at the same salary, if any, as the Municipal Judge for whom the Mayor is acting.
- (4) The Clerk and Deputy Clerks of the Municipal Court(s) shall have the power to administer oaths, certify affidavits, make certificates, affix the seal of the Court, and perform all usual and necessary clerical acts in conducting the business of the Court(s) including but not limited to, the keeping of records and accounts of the Municipal Court(s).
- (5) All special expenses and fines imposed by the Municipal Court(s) shall be paid into the Town Treasury for the use and benefit of the Town, as may be consistent with present and future laws.

SECTION 4.04 Town Attorney

- (1) The Town Council shall appoint by the affirmative vote of a majority of the full membership of the Town Council a competent, duly qualified, licensed, and practicing attorney in the State of Texas who shall serve as the Town Attorney.
- (2) The Town Attorney shall:
 - (A) Serve as the legal advisor to the Town Council and Town Manager;
 - (B) Represent the Town in litigation and legal proceedings as directed by the Town Council and the Town Manager; and
 - (C) Review and provide opinions as requested by the Town Council or Town Manager on contracts, legal instruments, ordinances of the Town and other Town business.
- (3) The Town Council shall have the right to retain special counsel at any time that it may deem necessary and appropriate.
- (4) The Town Attorney and Special Counsel shall receive compensation as may be determined by the Town Council.
- (5) The Town Attorney, with approval of the Town Council, may select additional attorneys to act for him or her and the Town in its representation and/or litigation.
- (6) The Town Attorney may be removed by the affirmative vote of a majority of the full membership of the Town Council.

SECTION 4.05 Administrative Departments, Offices and Agencies

- (1) The Town Council may, after hearing recommendations of the Town Manager, establish, abolish, redesignate and/or combine departments, offices or agencies in addition to those provided for by this Charter, and may prescribe the functions and duties of such departments, offices and agencies.
- (2) Except as provided elsewhere in this Charter, all departments, offices and agencies of the Town shall be under the direction and supervision of the Town Manager, and shall be administered by officers appointed by and subject to the direction and supervision of the Town Manager. The Town Manager may, with the consent of

- the Town Council, serve as the head of one (1) or more Town departments, offices or agencies or appoint one (1) person as head of two (2) or more of them.
- (3) The Town Manager may appoint a Town Tax Collector, whose duties and functions shall be those usual to the office and consistent to existing or future laws of the State of Texas as they may apply to Town or County Tax Collectors. The Town Manager may recommend that the Town Council enter into an outside contract for such services.

SECTION 4.06 Personnel System

- (1) Personnel rules shall be prepared by the Town Manager and presented to the Town Council, who may adopt them by ordinance, with or without amendment. The adopted rules shall establish the Town as an Equal Opportunity Employer and shall govern the equitable administration of the Personnel System of the Town.
- (2) The adopted rules shall provide for the following requirements:
- (A) A pay and benefit plan for all Town employment positions;
 - (B) A plan for working hours, attendance policy and regulation and provision for sick and vacation leave;
 - (C) Procedure for the hearing and adjudication of grievances;
 - (D) Additional practices and procedures necessary to the beneficial and equitable administration of the Town's personnel system;
 - (E) A plan for annual oral and written evaluation based on a job description for all Town employees by their immediate supervisor, including evaluation of the Town Manager, Municipal Judge, and Town Attorney by the Town Council; and
 - (F) Procedure for the giving and receiving of gifts by Town employees.

ARTICLE V

Nominations and Elections

SECTION 5.01 Town Elections

- (1) All Town elections shall be conducted in accordance with the Texas Election Code.
- (2) The regular Town election shall be held annually on the uniform election date in May or such other date as required by the Texas Election Code. The Town Council shall be responsible for specification of places for holding such elections.
- (3) The Town Council may, by resolution, order a special election for purposes consistent with this Charter and laws of the State of Texas. The Town Council will fix the time and places for such a special election, and provide all means for holding same.

SECTION 5.02 Filing for Office

- (1) Candidates for elective Town offices shall file for office in accordance with the Texas Election Code.
- (2) Candidates for elective Town offices shall meet the following qualifications:
- (A) Shall be at least eighteen (18) years of age at the time of the election for which they are filing;
 - (B) Shall meet all requirements to be a qualified voter set forth in the Texas

- Election Code, and shall have been a registered voter in the Town of Prosper for at least twelve (12) months immediately preceding the filing date;
- (C) Shall have resided within the corporate limits of the Town for at least twelve (12) months immediately preceding the filing date;
 - (D) No candidate may file in a single election for more than one (1) office or position as provided by this Charter;
 - (E) The office of an incumbent elected Town official shall become vacant when the person holding such office files an application to have his or her name placed on an official ballot as a candidate for any elective public office other than the one such person holds, unless otherwise prohibited by law; and
 - (F) Shall comply with all other Town ordinances or resolutions that may be applicable.
- (3) If a member of any board or commission appointed by the Town Council shall announce candidacy or becomes a candidate for election to the Town Council, he shall immediately forfeit the board or commission position with the Town.

SECTION 5.03 Official Ballots

- (1) The official ballot will be prepared in accordance with the Texas Election Code.
- (2) The order of the names of the candidates on the ballot shall be determined by lot in a public drawing to be held under the supervision of the person performing the duties of the Town Secretary in accordance with the Texas Election Code.
- (3) Procedures for voting by absentee ballot shall be consistent with the Texas Election Code.
- (4) An ordinance, bond issue, or Charter amendment to be voted on by the voters of the Town shall be presented for voting by a clear, concise statement of the proposition, approved by the Town Council, which statement shall describe the substance of the measure without argument or prejudice.
- (5) Procedures for write-in votes shall be consistent with the Texas Election Code.

SECTION 5.04 Official Results

- (1) The candidate for elective office receiving a majority of the votes cast shall be declared the winner. In the event that no candidate receives a majority of all votes cast for any one place at such election, the Town Council shall, upon completion of the official canvass of the ballots, issue a call for a runoff election to be held within thirty (30) days following the issuance of such call, or in accordance with the Texas Election Code. At such runoff election, the two (2) candidates receiving the highest number of votes (or three (3) persons in case of tie for second place) for any one place in the first election shall again be voted for.
- (2) The returns of every municipal election shall be handled in accordance with the Texas Election Code. These returns shall be delivered from the election judges to the person performing the duties of the Town Secretary and the Mayor at Town Hall as soon as possible after the closing of the polls. Election returns, general and special, shall be presented to the Town Council at their next meeting following the election, at which time the Town Council shall canvass and declare the results of the election, which shall be recorded in the minutes of the meeting.

SECTION 5.05 Taking of Office

- (1) Each newly elected person to the Town Council shall be sworn into office at the next meeting following the declaration of the results of the election.
- (2) At such meeting the oath shall be in accordance with the Town Charter.

ARTICLE VI

Recall, Initiative, and Referendum

SECTION 6.01 Scope of Recall

Any elected Town official, whether elected to office by registered voters or appointed by the Town Council to fill a vacancy, shall be subject to recall and removal from office by the registered voters of the Town on grounds of incompetency, misconduct, or malfeasance in office.

SECTION 6.02 Petitions for Recall

Before the question of recall of such officer shall be submitted to the registered voters of the Town, a petition demanding such question to be so submitted shall first be filed with the person performing duties of Town Secretary, which said petition must be signed by qualified voters of the Town of at least thirty percent (30%) of the number of voters voting in the last regular Town election, or one hundred and fifty (150), whichever is greater. Each signature on a recall petition shall conform to the requirements for information as set forth in the Texas Election Code, as amended.

SECTION 6.03 Form of Recall Petition

The recall petition mentioned above must be addressed to the Town Council of the Town, must be distinctly and specifically pointed to the grounds upon which such petition for removal is predicated, and, if there be more than one (1) ground, said petition shall specifically state each ground with such certainty as to give the officer sought to be removed notice of the matters and things with which the officer is charged. The petition shall be verified by oath in the following form:

“State of Texas”

County of _____

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

Signature

Sworn and subscribed before me this _____ day of _____, 20____.

Signed: _____

Notary Public in and for
State of Texas

SECTION 6.04 Various Papers Constituting Recall Petition

The petition may consist of one (1) or more copies, or subscription lists, circulated separately, and the signatures thereto may be upon the paper or papers containing the form of petition, or upon other paper attached thereto. Verifications provided for in Section 6.03 of this Article may be made by one (1) or more petitioners, and the several parts of copies of the petition may be filed separately and by different persons, but no signatures to such petition shall remain effective or be counted which were placed thereon more than one hundred eighty (180) days, or such other length of time as may be allowed by the Texas Election Code, prior to the filing of such petition or petitions with the person performing the duties of Town Secretary. All papers comprising a recall petition shall be filed with the person performing the duties of Town Secretary on the same day, and the said person performing the duties of Town Secretary shall immediately notify, in writing, the officer so sought to be removed, by mailing such notice to the officer's Town address.

SECTION 6.05 Presentation of Petition to the Town Council

Within twenty-one (21) days after the date of the filing of the papers constituting the recall petition, the person performing the duties of Town Secretary shall verify the number of valid signatures and present such petition to the Town Council of the Town.

SECTION 6.06 Public Hearing to be Held

The officer whose removal is sought may, within seven (7) days after such recall petition has been presented to the Town Council, request that a public hearing be held to permit him or her to present the facts pertinent to the charges specified in the recall petition. In this event, the Town 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.

SECTION 6.07 Calling of Recall Election

If the officer whose removal is sought does not resign, then the Town Council shall order an election and set the date for holding such recall election. The date selected for the recall election shall be in accordance with the Texas Election Code. If after the recall election date is established, the officer vacates his or her position, the election shall be cancelled.

SECTION 6.08 Ballots in Recall Election

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

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

“Yes”
“No”

SECTION 6.09 Result of Recall Election

If a majority of the votes cast at a recall election shall be “No”, that is against the recall of the person named on the ballot, the officer shall continue in office for the remainder of his or her unexpired term, subject to recall as before. If a majority of the votes cast at such election be “Yes,” that is for the recall of the person named on the ballot, the officer shall, regardless of any technical defects in the recall petition, be deemed removed from office and the vacancy be filled by the Town Council as provided in this Charter.

SECTION 6.10 Recall, Restrictions Thereon

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

SECTION 6.11 Failure of the Town Council to Call an Election-Recall

In case that all the requirements of this Charter shall have been met and the Town Council shall fail or refuse to receive the recall petition, or order such recall election, or discharge any other duties imposed on the Town Council by the provisions of this Charter with reference to such recall, then the District Judge of Collin County, Texas, shall discharge any of such duties herein provided to be discharged by the person performing the duties of Town Secretary or by the Town Council.

SECTION 6.12 General Power of Initiative and Referendum

The registered voters of the Town, in addition to the method of legislation herein before provided, shall have the power of direct legislation by the initiative and referendum.

- (1) Initiative: Such power shall not extend to the budget or capital program or any ordinance not subject to initiative as provided by state law, relating to appropriation of money, issuing of bonds, levy of taxes or salaries of Town officers or employees.
- (2) Referendum: Such power shall not extend to the budget or capital program or any emergency ordinance or ordinance not subject to referendum as provided by state law, relating to appropriation of money, issuing of bonds, or levy of taxes.

SECTION 6.13 Initiative

Following a review by the Town Attorney for enforceability and legality, registered voters of the Town may initiate legislation by submitting a petition addressed to the Town Council which requests the submission of a proposed ordinance or resolution to a vote of the registered voters of the Town. Said petition must be signed by qualified voters of the Town of at least thirty percent (30%) of the number of voters voting in the last regular Town election, or one hundred and fifty (150), whichever is greater, and each copy of the petition shall have attached to it a copy of the proposed legislation. The petition shall be signed in the same manner as recall petitions are signed, as provided in this Article, and shall be verified by oath in the manner and form provided for recall petitions in this Article. The petition may consist of one (1) or more copies as permitted for recall petitions. Such petition shall be filed with the person performing the duties of Town Secretary. Within twenty-one (21) days after the filing of such petition, the person performing the duties of Town Secretary shall present said petition and proposed ordinance or resolution to the Town Council. Upon presentation to the Town Council, it shall become the duty of the Town Council,

within two (2) regularly scheduled Town Council meetings after the receipt thereof, to pass and adopt such ordinance or resolution without alteration as to meaning or effect in the opinion of the persons filing the petition, or to call a special election, to be held within thirty (30) days thereafter and/or on a date allowed under the Texas Election Code, at which the registered voters of the Town shall vote on the question of adopting or rejecting the proposed legislation. However, if any other municipal election is to be held within sixty (60) days after the filing of the petition, the question may be voted on at such election. Any election order so issued shall comply fully with the Texas Election Code. Unless otherwise provided by law, any election for an initiative under this Charter shall be held on the first authorized uniform election date that occurs after the sixty-fifth (65th) day after the petition was presented to the Town Council.

SECTION 6.14 Referendum

Registered voters of the Town may require that any ordinance or resolution, with the exception of ordinances or resolutions appropriating money, authorizing the issuance of public securities or levying taxes, passed by the Town Council be submitted to the voters of the Town for approval or disapproval, by submitting a petition for this purpose within thirty (30) days after final passage of said ordinance or resolution, or within thirty (30) days after its publication. Said petition shall be addressed, signed, and verified as required for recall petitions in this Article and shall be submitted to the person performing the duties of Town Secretary. Immediately upon the filing of such petition, the person performing the duties of Town Secretary shall present said petition to the Town Council. Thereupon the Town Council shall immediately reconsider such ordinance or resolution and, if the Town Council does not entirely repeal the same, shall submit it to popular vote as provided in Section 6.13 of this Charter. Pending the holding of such election, each ordinance or resolution shall be suspended from taking effect and shall not later take effect unless a majority of the qualified voters voting thereon at such election shall vote in favor thereof. Unless otherwise provided by law, any election for a referendum under this Charter shall be held on the first authorized uniform election date that occurs after the sixty-fifth (65th) day after the petition was presented to the Town Council.

SECTION 6.15 Voluntary Submission of Legislation by the Town Council

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

SECTION 6.16 Form of Ballots

The ballots used when voting upon such proposed and referred ordinance, resolutions or measures, shall set forth their nature sufficiently to identify them and shall also set forth upon separate lines the words:

- “For the Ordinance” or
- “Against the Ordinance” or
- “For the Resolution” or
- “Against the Resolution”

SECTION 6.17 Publication of Proposed and Referred Ordinances

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

SECTION 6.18 Adoption of Ordinances

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

SECTION 6.19 Inconsistent Ordinances

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

SECTION 6.20 Ordinances Passed by Popular Vote, Repeal or Amendment

No ordinance or resolution which may have been passed by the Town Council upon a petition or adopted by popular vote under the provisions of this Article shall be repealed or amended except by the Town Council in response to a referendum petition or by submission as provided by Section 6.15 of this Charter.

SECTION 6.21 Further Regulations by the Town Council

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

SECTION 6.22 Failure of the Town Council to Call an Election-Initiative or Referendum

In case that all of the requirements of this Charter shall have been met and the Town Council shall fail or refuse to receive the initiative or referendum petition, or order such initiative or referendum election, or discharge any other duties imposed on the Town Council by the provisions of this Charter with reference to such initiative or referendum, then the District Judge of Collin County, Texas, shall discharge any of such duties herein provided to be discharged by the person performing the duties of Town Secretary or by the Town Council.

ARTICLE VII

Financial Procedures

SECTION 7.01 Fiscal Year

The fiscal year of the Town shall begin on the first day of October and end on the last day of September on the next succeeding year. Such fiscal year shall also constitute the budget and accounting year.

SECTION 7.02 Submission of Budget and Budget Message

On or before the fifteenth (15th) day of August of the fiscal year, the Town Manager shall submit to the Town Council a budget for the ensuing fiscal year and an accompanying budget message.

SECTION 7.03 Budget Message

The Town Manager's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the Town for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the Town's debt position and include such other material as the Town Manager deems desirable.

SECTION 7.04 Budget a Public Record

The budget and all supporting schedules shall be filed with the person performing the duties of Town Secretary when submitted to the Town Council and shall be open to public inspection by anyone interested.

SECTION 7.05 Public Hearing on Budget

At the Town Council meeting when the budget is submitted, the Town Council shall name the date and place of a public hearing, which shall be scheduled and published in accordance with the requirements of Chapter 102, Local Government Code, as amended. At this hearing, interested citizens may express their opinions concerning items of expenditures, giving their reasons for wishing to increase or decrease any items of expense.

SECTION 7.06 Proceeding on Adoption of Budget

After public hearing, the Town Council shall analyze the budget, making any additions or deletions which they feel appropriate, and shall, prior to the beginning of the next fiscal year, adopt the budget by the affirmative vote of a majority of the full membership of the Town Council. Should the Town Council take no final action on or prior to such day, the current budget shall be in force on a month-to-month basis until a new budget is adopted.

SECTION 7.07 Budget, Appropriation and Amount to be Raised by Taxation

On final adoption, the budget shall be in effect for the budget year. Final adoption of the budget by the Town Council shall constitute the official appropriations as proposed by expenditures for the current year and shall constitute the basis of official levy of the property tax as the amount of tax to be assessed and collected for the corresponding tax year. Estimated expenditures will in no case exceed proposed revenue plus the undesignated fund balance from the previous fiscal year. Unused appropriations may be transferred to any item required for the same general purpose.

SECTION 7.08 Contingent Reserve

Provision shall be made in the annual budget maintaining a contingency reserve fund balance designation in an amount not less than twenty percent (20%) of the total general fund expenditures, to be used in case of unforeseen items of expenditure or revenue shortfalls. This shall apply to current operating expenses and shall not overlap with any other amount of reserves maintained by the Town. Such contingency reserve appropriation shall be under the control of the Town Manager and distributed by him or her only in the event of an emergency or after supplemental appropriation by the Town Council. The proceeds of the contingency reserves shall be disbursed only by transfer to departmental appropriation, the spending of which shall be charged to the departments or activities for which the appropriations are made.

SECTION 7.09 Amending the Budget

Under conditions which may arise and which could not reasonably have been foreseen in the normal process of planning the budget, the Town Council may, by the affirmative vote of a majority of the full membership of the Town Council, amend or change the budget to provide for any additional expense in which the general welfare of the citizenry is involved. These amendments shall be by ordinance, and shall become an attachment to the original budget.

SECTION 7.10 Certification; Copies Made Available

A copy of the budget, as finally adopted, shall be filed with the person performing the duties of Town Secretary and such other places required by state law or as the Town Council shall designate. The final budget shall be printed or otherwise reproduced and sufficient copies shall be made available for the use of all offices, agencies, and for the use of interested persons and civic organizations.

SECTION 7.11 Capital Program

The Town Manager shall submit a five-year (5-year) capital program as an attachment to the annual budget. The program as submitted shall include:

- (1) A clear general summary of its contents;
- (2) A list of all capital improvements which are proposed to be undertaken during the five (5) fiscal years succeeding the budget year, with appropriate supporting information as to the necessity for such improvements;
- (3) Cost estimates, method of financing, and recommended time schedules for each improvement; and
- (4) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition. The Capital program will be updated and presented to the Town Council annually.

SECTION 7.12 Defect Shall Not Invalidate the Tax Levy

Errors or defects in the form or preparation of the budget or the failure to perform any procedural requirements shall not nullify the tax levy or the tax rate.

SECTION 7.13 Lapse of Appropriations

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made had been accomplished or abandoned. The purpose of any such appropriation shall be deemed abandoned if three (3) years pass without any disbursement from or encumbrance of the appropriation. Any funds not expended, disbursed or encumbered shall be deemed excess funds.

SECTION 7.14 Borrowing

The Town shall have the power to borrow money on the credit of the Town and also to issue or incur bonds and other evidences of indebtedness, and such powers may be exercised to finance public improvements or for any other public purpose not prohibited by the Constitution and the laws of the State of Texas, and the Town may issue refunding bonds to refund outstanding bonds and other evidences of indebtedness of the Town previously issued or incurred.

All such bonds and other evidences of indebtedness shall be issued in conformity with the laws of the State of Texas and may be secured by or paid, in whole or in part, from ad valorem tax revenues, revenues derived from other taxing powers of the Town, revenues derived by the Town from any fee or service charge, including revenues derived from the operations of any public utilities, utility systems, recreational facilities or any other municipal function to the extent not prohibited by the Constitution and laws of the State of Texas. Such bonds or evidences of indebtedness may be a charge upon and payable from the properties, or interest therein pledged, or the income therefrom, or both to the extent not prohibited by the Constitution or laws of the State of Texas. The proceeds of bonds or other evidences of indebtedness issued or incurred by the Town shall be used only for the purpose for which the bonds or other indebtedness was issued or incurred.

SECTION 7.15 Purchasing

- (1) The Town Council may by ordinance, give the Town Manager general authority to contract for expenditure without further approval of the Town Council for all budgeted items not exceeding limits set by the Town Council within the ordinance.
- (2) All contracts for expenditures or purchases involving more than the limits must be expressly approved in advance by the Town Council. All contracts or purchases involving more than the limits set by the Town Council shall be awarded by the Town Council in accordance with state law.
- (3) Emergency contracts as authorized by law and this Charter may be negotiated by the Town Council or Town Manager if given authority by the Town Council, without competitive bidding, and in accordance with state law. Such emergency may be declared by the Town Manager and approved by the Town Council or declared by the Town Council.

SECTION 7.16 Administration of Budget

- (1) No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made, unless the Town Manager, or the Town Manager's designee, first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable.
- (2) Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made illegal. Such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such payment or obligation, and the officer shall also be liable to the Town for any amount so paid.
- (3) This prohibition shall not be construed to prevent the making or authorizing of payments, or making of contracts for capital improvements to be financed wholly or partly by the pledge of taxes, the issuance of bonds, time warrants, certificates of indebtedness, or certificates of obligation, or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, providing that such action is made or approved by ordinance.
- (4) The Town Manager shall submit to the Town Council each month a report covering

the revenues and expenditures of the Town in such form as requested by the Town Council.

SECTION 7.17 Depository

All monies received by any person, department or agency of the Town for or in connection with the affairs of the Town shall be deposited promptly in the Town depository or depositories. The Town depositories shall be designated by the Town Council in accordance with such regulations and subject to the requirements as to security for deposits and interest thereon as may be established by ordinance and law. Procedures for withdrawal of money or the disbursement of funds from the Town depositories shall be prescribed by ordinance.

SECTION 7.18 Independent Audit

At the close of each fiscal year, and at such other times as may be deemed necessary, the Town Council shall call for an independent audit to be made of all accounts of the Town by a certified public accountant. No more than five (5) consecutive annual audits shall be completed by the same firm. The certified public accountant selected shall have no personal interest, directly or indirectly, in the financial affairs of the Town or any of its officers. The report of audit, with the auditor's recommendations will be made to the Town Council. Upon completion of the audit, the Independent Auditor's Report and Annual Financial Report shall be published on the Town's website and copies of the audit placed on file in the office of the person performing the duties of Town Secretary, as a public record.

SECTION 7.19 Power to Tax

- (1) The Town shall have the power to levy, assess and collect taxes of every character and type for any municipal purpose not prohibited by the Constitution and laws of the State of Texas as now written or hereafter amended.
- (2) The Town shall have the power to grant tax exemptions in accordance with the laws of the State of Texas.

SECTION 7.20 Office of Tax Collector

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

SECTION 7.21 Taxes; When Due and Payable

- (1) All taxes due in the Town shall be payable at the office of the Town Tax Collector, or at such location or locations as may be designated by the Town Council, and may be paid at any time after the tax rolls for the year have been completed and approved. Taxes for each year shall be paid before February 1 of the next succeeding year, and all such taxes not paid prior to that date shall be deemed delinquent, and shall be subject to penalty and interest as the Town Council shall provide by ordinance. The Town Council may provide discounts for the payment of taxes prior to January 1 in an amount not to exceed those authorized by the laws of the State of Texas.
- (2) Failure to levy and assess taxes through omission in preparing the appraisal rolls shall 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 7.22 Tax Liens, Liabilities and Suits

- (1) All taxable property located in the Town on January 1 of each year shall stand charged from that date with a special lien in favor of the Town for the taxes due. All persons purchasing any such property on or after January 1 in any year shall 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 Town shall be personally liable for the taxes due for that year.
- (2) The Town shall have the power to sue for and recover personal judgment for taxes without 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 Town appraisal rolls is insufficient to identify such property, the Town shall 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.

ARTICLE VIII

Boards and Commissions

SECTION 8.01 Authority, Composition and Procedures

- (1) The Town Council shall create, establish or appoint, as may be required by the laws of the State of Texas or this Charter, or deemed desirable by the Town Council, such boards, commissions and committees as it deems necessary to carry out the functions and obligations of the Town. The Town Council shall, by ordinance or resolution, prescribe the purpose, composition, function, duties, accountability and tenure of each board, commission and committee where such are not prescribed by law or this Charter.
- (2) Individuals who are residents of the Town or its extraterritorial jurisdiction may be appointed by the Town Council to serve on one (1) or more boards, commissions or committees. Notwithstanding, each member of the Planning & Zoning Commission must be a qualified Town voter as required by Section 9.01. Such appointees shall serve at the pleasure of the Town Council and may be removed at the discretion of the Town Council. Except as otherwise provided in this Charter, members of any such board, commission or committee shall serve without compensation but may be reimbursed for actual reasonable expenses incurred in the performance of official duties.
- (3) All boards, commissions or committees of the Town shall keep and maintain minutes of any proceedings held.
- (4) No officer or employee of the Town nor any person who holds a compensated appointive position with the Town shall be a member of any board, commission or committee created or established by this Charter other than in an advisory and/or ex officio capacity.
- (5) Any member of a board, commission or committee who is absent from three (3) consecutive regular meetings, or twenty-five percent (25%) of regularly scheduled meetings during the twelve-month (12-month) period immediately preceding and including the absence in question, without explanation acceptable to a majority

of the other members, shall forfeit his or her position on the board, commission, or committee.

ARTICLE IX

Planning & Zoning Commission

SECTION 9.01 Organization

- (1) There is hereby established a Planning & Zoning Commission which shall consist of at least seven (7) members who shall be appointed by the Town Council to staggered terms of two (2) years in accordance with any ordinance adopted by the Town Council. The Commission members shall be qualified Town voters. Any vacancy occurring during the unexpired term of a member shall be filled by the Town Council for the remainder of the unexpired term. In October of each year, the Commission shall elect from its members a Chairman, Vice-Chairman, and Secretary to serve for one (1) year beginning in that month. Members of the Commission may be removed by an affirmative vote of a majority of the full membership of the Town Council.
- (2) The Commission shall meet at least once a month. The Commission shall keep minutes of its proceedings which shall be of public record. Minutes will be recorded by the Commission Secretary. The Commission shall serve without compensation.
- (3) A majority of the full membership of the Commission members shall constitute a quorum for the purpose of transaction of business. No action or recommendation of the Commission, except as specifically provided in this Charter, shall be valid or binding unless adopted by the affirmative vote of a majority of the Commission members present. The Chairman shall be a voting member of the Commission. If the Vice-Chairman presides over the meeting in the Chairman's absence, the Vice-Chairman shall vote.

SECTION 9.02 Duties and Powers

- (1) The Commission shall be responsible to and act as an advisory board to the Town Council. The Commission shall:
 - (A) Review all current and proposed ordinances and amendments pertaining to planning and zoning and make recommendations to the Town Council for action to be taken;
 - (B) Make proposals to the Town Council to amend, extend and add to the Comprehensive Plan for the physical development of the Town;
 - (C) Keep public records of its resolutions, findings and determinations; and
 - (D) Review plats and zoning requests and make recommendations to the Town Council for final adoption of same.
- (2) The Commission, shall have full power to:
 - (A) Exercise the authority of the Commission as provided by state law, this Charter and Town ordinances;
 - (B) Make reports and recommendations relating to the Comprehensive Plan and development of the Town; and
 - (C) Adopt plats, if it has been given that authority by the Town Council.

- (3) The affirmative vote of a majority of the Town Council present is required to overrule a recommendation of the Commission that a proposed zoning amendment, supplement, or change be denied.

SECTION 9.03 Procedure

- (1) All rules and regulations adopted by the Commission shall be forwarded in writing to the Town Manager who shall submit them to the Town Council with the Town Manager's recommendations. The Town Council may amend, adopt or reject any such rules or regulations. If any rules or regulations should be rejected, the Commission may modify them and submit such modified rules and recommendations to the Town Council.
- (2) Should any person on the Commission have a conflict of interest, pursuant to any state laws and/or Town ordinances regulating conflicts of interest of municipal officers, with an agenda item then before the Commission, he or she shall openly declare same before discussion proceeds, and he or she is thereby prohibited from discussing the item or voting on the question, and is not considered as present and voting for the purposes of the tally.
- (3) Should any person on the Commission choose to abstain from voting on any question before the Commission, where no conflict of interest exists, the person's vote shall be recorded as an abstention in the official minutes of the meeting.

SECTION 9.04 The Comprehensive Plan: Procedure and Legal Effect

- (1) The Comprehensive Plan shall include, but not be limited to, the Future Land Use Plan and the Thoroughfare Plan. The existing Comprehensive Plan for the physical development of the Town contains recommendations for the growth, development and beautification of the Town and its extraterritorial jurisdiction. Additions to and amendments of the Comprehensive Plan shall be by ordinance or resolution, but before any such revision, the Commission shall hold at least one (1) public hearing on the proposed action.
- (2) A copy of the proposed revisions to the Comprehensive Plan shall be forwarded to the Town Manager who shall submit the proposal to the Town Council, together with the Town Manager's recommendations, if any. The Town Council, after a public hearing, shall adopt or reject such proposed revision or any part thereof as submitted within sixty (60) days following its submission by the Town Manager. If the proposed revisions or part thereof should be rejected by the Town Council, the Town Council may request the Commission to make other modifications and again forward it to the Town Manager for submission to the Town Council.
- (3) Following the adoption by the Town Council of the Comprehensive Plan, and any revisions thereto, it shall serve as a guide to all future Town Council action concerning land use and development regulations and expenditures for capital improvements. Any proposal which deviates from the Comprehensive Plan regarding land use and development regulations shall not be authorized until and unless the location and extent thereof shall have been submitted to and approved by the Commission. In case of denial, the Commission shall communicate its reasons to the Town Council, which shall have the power to overrule such denial with the affirmative vote of a majority of the Town Council present, and upon such

overruling, the Town Council or the appropriate office, department or agency shall have authority to proceed.

ARTICLE X

Utility and Public Service Franchises and Licenses

SECTION 10.01 Authority

The Town shall have the power to buy, own, sell, construct, lease, maintain, operate and regulate public services and utilities and to manufacture, distribute and sell the output of such services and utility operations. The Town shall not supply any utilities service outside the Town limits, except by a written contract and/or by ordinance. The Town shall have such regulatory and other power as may now or hereafter be granted under the Constitution and laws of the State of Texas.

SECTION 10.02 Ordinance Granting Franchise

No franchise shall be granted for a term of more than twenty (20) years from the date of the grant, renewal or extension of any franchise.

SECTION 10.03 Transfer of Franchise

No public service or utility franchise is transferable, except with the approval of the Town Council. However, the franchisee may pledge franchise assets as security for a valid debt or mortgage.

SECTION 10.04 Franchise Value Not to be Allowed

Franchises granted by the Town are of no value in fixing rates and charges for public services or utilities within the Town and in determining just compensation to be paid by the Town for property which the Town may acquire by condemnation or otherwise.

SECTION 10.05 Right of Regulation

In granting, amending, renewing and extending public service and utility franchises, the Town reserves unto itself all the usual and customary rights, including, but not limited to, the following rights:

- (1) To repeal the franchise by ordinance for failure to begin construction or operation within the time prescribed, or for failure to comply with terms of the franchise;
- (2) To require all extensions of service within the Town limits to become part of the aggregate property of the service and operate subject to all obligations and reserved rights contained in this Charter. Any such extension is considered part of the original grant and terminable at the same time and under the same conditions as the original grant;
- (3) To require expansion and extension of facilities and services and to require maintenance of existing facilities to provide adequate service at the highest level of efficiency;
- (4) To require reasonable standards of service and quality of product and prevent rate discrimination;
- (5) To impose reasonable regulations and restrictions to insure the safety and welfare of the public;
- (6) To examine and audit accounts and records and to require annual reports on local

- operations of the public service or utility;
- (7) To require the franchisee to restore, at franchisee's expense, all public or private property to a condition as good as or better than before disturbed by the franchisee for construction, repair or removal;
 - (8) To require the franchisee to furnish to the Town, from time to time within a reasonable time following request of the Town, at franchisee's expense a general map outlining current location, character, size, length, depth, height and terminal of all facilities over and under property within the Town and its extraterritorial jurisdiction; and
 - (9) To require compensation, rent or franchise fees to be paid to the Town as may be permitted by the laws of the State of Texas.

SECTION 10.06 Regulation of Rates

- (1) The Town Council has the power to fix and regulate the rates and charges of all utilities and public services, consistent with state statutes.
- (2) Upon receiving written request from a utility or public service requesting a change in rates, or upon a recommendation from the Town that rates for services provided by or owned by the Town be changed, the Town Council shall call a public hearing for consideration of the change.
- (3) A holder of a franchise to provide a public service or utility in the Town must show the necessity for the change in rates by any evidence required by the Town Council, including but not limited to, the following:
 - (A) Cost of its investment for service to the Town;
 - (B) Amount and character of expenses and revenues connected with rendering the service;
 - (C) Copies of any reports or returns filed with any state or federal regulatory agency within the last three (3) years; or
 - (D) Demonstration that the return on investment, if any, is within state and federal limitations.
- (4) If not satisfied with the sufficiency of evidence, the Town Council may hire rate consultants, auditors and attorneys to investigate and, if necessary, litigate requests for rate changes, the expense of which shall be reimbursed to the Town by the franchisee.

SECTION 10.07 Licenses

The Town shall have the power to license, levy and collect fees in order to license any lawful business, occupation or calling subject to control pursuant to the police powers of the State of Texas and/or for any other purpose not contrary to the Constitution and laws of the State of Texas.

ARTICLE XI

General Provisions

SECTION 11.01 Public Records

All records of the Town shall be open to inspection in accordance with state law.

SECTION 11.02 Official Newspaper

The Town Council shall declare annually an official newspaper of general circulation in the Town. All ordinances, notices and other matters required by this Charter, Town ordinance, or the Constitution and laws of the State of Texas shall be published in the official newspaper.

SECTION 11.03 Oaths

All elected and appointed officers of the Town shall take and sign an oath of office based on those prescribed for state elective and appointive offices, respectively, in the Constitution of the State of Texas.

SECTION 11.04 Severability

If any section or part of this Charter is held invalid by a court of competent jurisdiction, such holding shall not invalidate or impair the validity, force or effect of any other section or part of this Charter.

SECTION 11.05 Wording Interpretation

The gender of the wording throughout this Charter shall always be interpreted to mean either sex. All singular words shall include the plural and all plural words shall include the singular. All references to the state law or laws of the State of Texas, however expressed in this Charter, shall mean “as presently enacted or as may be amended or superceded.” The use of the word “Town” in this Charter shall mean the Town of Prosper, Texas, and the use of the word “Charter” shall mean this Home Rule Charter.

SECTION 11.06 Town Depository

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

SECTION 11.07 Sale of Liquor Prohibited in Residential Districts

The sale of liquor, as defined in the Texas Alcoholic Beverage Code, as amended, shall be prohibited by a person or entity holding a package store permit, as described in the Texas Alcoholic Beverage Code, as amended, in any zoning district which allows, in whole or in part, residential development in the Town.

ARTICLE XII

Legal Provisions

SECTION 12.01 Assignment, Execution and Garnishment

- (1) Property, real and personal, belonging to the Town shall not be liable to be sold or appropriated under any writ of execution or cost bill. Funds belonging to the Town in the hands of any person, firm or corporation, shall not be liable to garnishment, attachment or sequestration; nor shall the Town be liable to garnishment, attachment or sequestration; nor shall the Town be liable to garnishment on account of any debt it may owe or funds or property it may have

on hand owing to any person. Neither the Town nor any of its officers or agents shall be required to answer any such writ of garnishment on any account whatsoever.

- (2) The Town shall not be obligated to recognize any assignment of wages or funds by its employees, agents or contractors, except as provided by the laws of this State or the United States of America.

SECTION 12.02 Security and Bond

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

SECTION 12.03 Notice of Claim

The Town shall not be held liable on account of any claim for the death of any person or injuries to any person or damage to any property unless the person making such complaint or claiming such damages shall, within ninety (90) days after the time at which it is claimed such damages were inflicted upon such person or property, file with the Town a written statement, under oath, stating the nature and character of such damages or injuries, the extent of the same, the place where same happened, the circumstances under which same happened and the condition causing same, with a detailed statement of each item of damages and the amount thereof, giving a list of any witnesses known by affiant to have seen the accident.

SECTION 12.04 Power to Settle Claims

The Town Council shall have the power to compromise and settle any and all claims and lawsuits of every kind and character, in favor of, or against, the Town, including suits by the Town to recover delinquent taxes.

SECTION 12.05 Service of Process Against the Town

All legal process against the Town shall be served upon either the Town Secretary or the Town Manager.

SECTION 12.06 Judicial Notice

This Charter shall be deemed a public act, may be read in evidence without pleading or proof, and judicial notice shall be taken thereof in all courts and places.

SECTION 12.07 Pending Matters

All rights, claims, actions, orders, contracts and legal or administrative proceedings shall continue except as modified pursuant to the provisions of this Charter and in each case shall be maintained, carried on or dealt with by the Town department, office or agency appropriate under this Charter.

SECTION 12.08 Property Not Exempt From Special Assessments

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

SECTION 12.09 Town Council May Require Bonds

In addition to any provisions contained herein, the Town Council may require any Town official, department director, or Town 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 Town Council. The premium of such bond shall be paid by the Town.

SECTION 12.10 Disaster Clause

In case of disaster when a legal quorum of the Town Council cannot otherwise be assembled due to multiple deaths or injuries, the surviving persons of the Town Council, or highest surviving Town official, if no elected official remains, must, within twenty-four (24) hours of such disaster, request the highest surviving officers of the local Chamber of Commerce and the Board of Trustees of the local school district, and the County Judge of Collin County to appoint a commission to act during the emergency and call a Town election within fifteen (15) days of such disaster, or as provided in the Texas Election Code, for election of a required quorum, if for good reasons it is known a quorum of the present Town Council will never again meet.

ARTICLE XIII

Nepotism, Prohibitions and Penalties

SECTION 13.01 Nepotism

No person related within the second degree by affinity or within the third degree by consanguinity to the Mayor or any Council Member or the Town Manager shall be employed by or contracted with for the Town. This shall not apply to the following:

- (1) Any person employed by the Town prior to the person related in the above degree filing to run for elective office or being nominated for an appointment, or
- (2) Any person who is a seasonal employee or intern of the Town.

SECTION 13.02 Equality of Rights

Equality of rights under state and federal law shall not be denied or abridged with respect to appointment to or removal from any position.

SECTION 13.03 Wrongful Influence

No person who seeks appointment or promotion with respect to any Town position shall, directly or indirectly, give, render or pay any money, service, or other valuable thing to any person for, or in connection with, his or her test, appointment or promotion.

SECTION 13.04 Wrongful Interference

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

SECTION 13.05 Employees' Political Activities

No person who holds any compensated non-elective Town position shall make, solicit or receive any contribution for any candidate for Town Council, or take part in the management, affairs or

political campaign of such candidate. Such person may exercise his or her rights as a citizen to express his or her opinion and cast his or her vote.

SECTION 13.06 Penalties

Any person who willfully engages in and is found in violation of any of the activities prohibited in sections 14.02, 14.03, 14.04 or 14.05 of this Article shall be ineligible for appointment or election to a position in the Town for a period of five (5) years from that time. If the person is an officer or employee of the Town at the time of the violation, he or she shall immediately forfeit his or her office or position, if found in violation.

SECTION 13.07 Conflict of Interest

No officer, whether elected or appointed, or any employee, whether full or part-time, of the Town shall have a substantial financial interest, direct or indirect, in any contract, other than employment contracts, with the Town; or have a substantial financial interest, direct or indirect in the sale to the Town of any land, materials, supplies or services, except on behalf of the Town as an officer or employee, except as allowed by state law. Any willful violation of this section shall constitute malfeasance in office and any officer or employee found guilty thereof shall thereby forfeit his or her office or position. Any violation of this section with the knowledge, express or implied, of the person or the corporation contracting with the governing body of the Town shall render the contract involved voidable by the Town Manager or the Town Council.

SECTION 13.08 No Officer to Accept Gifts, Etc.

No officer of the Town shall ever accept, directly or indirectly, any gift or benefit except as authorized in the Town's Code of Ethics as set forth in the Code of Ordinances, as it exists or may be amended. If found in violation of this section, the officer shall immediately forfeit his or her office and shall be ineligible for appointment or election to a position in the Town for a period of five (5) years from the date the violation is determined to have occurred.

ARTICLE XIV

Review and Amendment of Charter

SECTION 14.01 Charter Review Commission

- (1) The Town Council shall appoint a Charter Review Commission at least once every ten (10) years, or earlier if not prohibited by law. The Charter Review Commission shall consist of ten (10) citizens of the Town who shall:
 - (A) Inquire into the operation of the Town government under the Charter and determine whether any provisions require revision. To this end, public hearings may be held. The Commission may compel the attendance of any officer or employee of the Town and require submission of any Town records;
 - (B) Propose any recommendations it deems desirable to ensure compliance with the Charter of the Town government; and
 - (C) Report its findings and present its recommendations to the Town Council.
- (2) The Town Council shall receive and have published in the official newspaper of the Town a comprehensive summary of the report presented by the Commission, shall consider any recommendations made, and may order any amendments

suggested to be submitted to the voters of the Town in the manner provided by state law as now written or hereafter amended.

- (3) The term of office of the Commission shall be for not more than six (6) months, at the end of which time a report shall be presented to the Town Council and all records of proceedings of the Commission shall be filed with the Town Secretary and become a public record.

SECTION 14.02 Petition to Amend Charter

Amendments to this Charter may be framed and submitted to the qualified voters of the Town in the manner provided by the Constitution and the laws of the State of Texas; including upon the Town Council’s own motion or upon petition by five percent (5%) of the registered voters in the Town or twenty-thousand (20,000) registered voters of the Town, whichever is less. Each signature on a petition to amend shall conform to the requirement for information as set forth in the Texas Election Code, as amended.

SECTION 14.03 Form of Petition to Amend Charter

The petition to amend mentioned above must be addressed to the Town Council of the Town, must distinctly and specifically list each amendment to the Charter proposed to be voted on at an election. The petition shall be verified by oath in the following form:

“State of Texas”

County of _____

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

Signature

Sworn and subscribed before me this _____ day of _____, 20_____.

Signed: _____

Notary Public in and for
State of Texas

SECTION 14.04 Various Papers Constituting Petition to Amend

The petition to amend may consist of one (1) or more copies, or subscription lists, circulated separately, and the signatures thereto may be upon the paper or papers containing the form of petition, or upon other paper attached thereto. Verifications provided for in Section 15.03 of this Article may be made by one (1) or more petitioners, and the several parts of copies of the petition

may be filed separately and by different persons, but no signatures to such petition shall remain effective or be counted which were placed thereon more than one hundred eighty (180) days, or such other length of time as may be allowed by the Texas Election Code, prior to the filing of such petition or petitions with the person performing the duties of Town Secretary. All papers comprising a petition to amend shall be filed with the person performing the duties of Town Secretary on the same day, and the said person performing the duties of Town Secretary shall immediately notify the Town Manager and Town Mayor of receipt of the petition.

SECTION 14.05 Presentation of Petition to the Town Council

Within twenty-one (21) days after the date of the filing of the papers constituting the petition to amend, the person performing the duties of Town Secretary shall verify the number of valid signatures and present such petition to the Town Council of the Town.

SECTION 14.06 Calling of Election to Amend Charter

An election to amend the Charter shall not be held more often than once every two (2) years. Upon its own motion, or following presentation by the Town Secretary of a proper petition to amend with a sufficient number of valid signatures, the Town Council shall, by ordinance, order an election and set the date for holding such election. The date selected for the election and the ordinance ordering the election shall be in accordance with the Texas Election Code and the Texas Local Government Code.

SECTION 14.07 Failure of the Town Council to Call an Election Following Receipt of Valid Petition to Amend

In case that all the requirements of this Charter shall have been met and the Town Council shall fail or refuse to receive the petition to amend, or order such election, or discharge any other duties imposed on the Town Council by the provisions of this Charter or state law with reference to such election to amend, then the District Judge of Collin County, Texas, shall discharge any of such duties herein provided to be discharged by the person performing the duties of Town Secretary or by the Town Council.