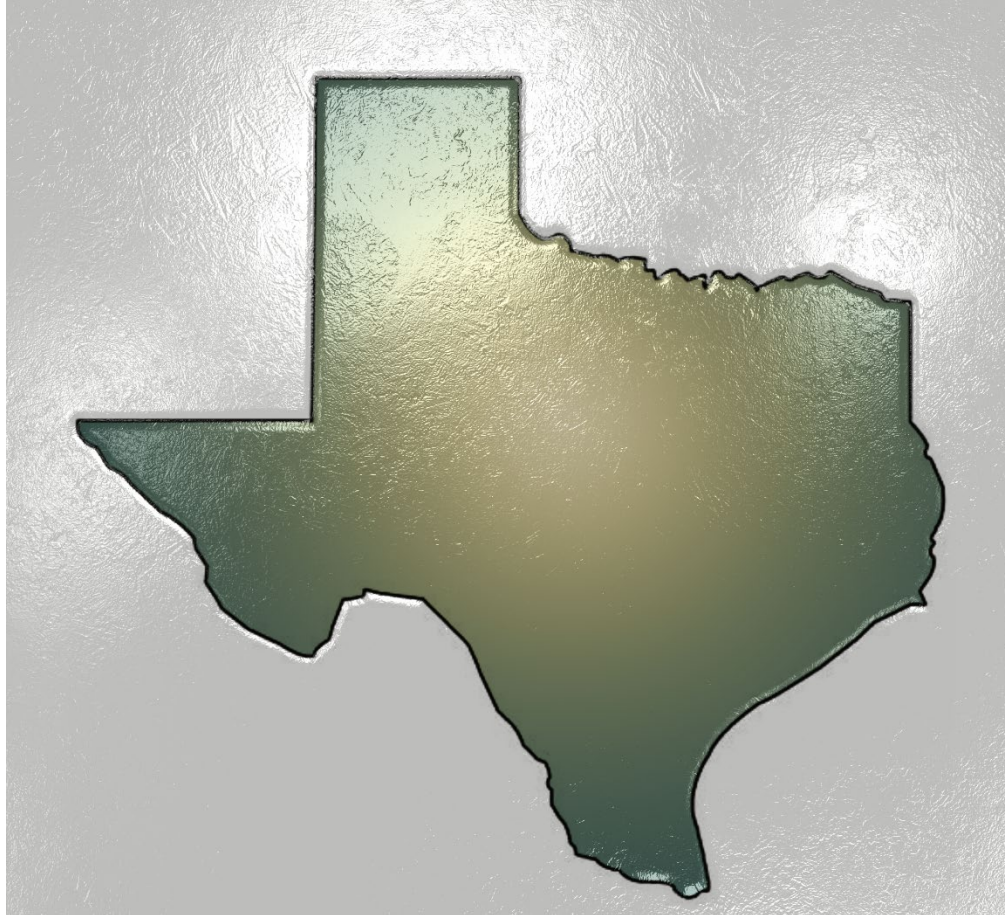


How to Amend Your Home-Rule Charter



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I. Home-Rule Charters – Power and Basics

While this is a paper and presentation for “amending” a home-rule charter, it is important to first understand where the power to create a charter comes from in the first place. The authority for citizens to incorporate under a home-rule charter is found in Article 11, § 5 of the Texas Constitution. The purpose of the Home-Rule Amendment to the Constitution, which was passed by Texas Voters in 1912, is to bestow upon cities coming thereunder full power of local self-government, *City of Monahans v. State ex rel. Cook*, 348 S.W.2d 176, 177–78 (Tex. Civ. App.—El Paso 1961, writ ref’d n.r.e.), and to grant them full power to do by their charter and ordinances everything which the legislature could have granted them to do. *Mun. Gas Co. v. City of Sherman*, 89 S.W.2d 436, 438 (Tex. Civ. App.—Dallas 1935), aff’d, 133 Tex. 324, 127 S.W.2d 193 (Comm’n App. 1939). Therefore, a home-rule city looks to the acts of the legislature not for grants of power, but only for limitations on their powers. *State ex rel. Rose v. City of La Porte*, 386 S.W.2d 782, 785 (Tex. 1965).

A city’s charter is its constitution, and the city can exercise only such powers that are expressly granted by said charter, those which may be reasonably implied from the powers granted, or those that are incidental to the purpose for which the corporation was created. *Davis v. City of Taylor*, 123 Tex. 39, 67 S.W.2d 1033 (1934); *Anderson v. City of San Antonio*, 123 Tex. 163, 67 S.W.2d 1036 (1934); *Foster v. City of Waco*, 113 Tex. 352, 255 S.W. 1104 (1923). Nor can it perform a governmental function in any manner contrary to the express provisions of its charter. *Willman v. City of Corsicana*, 213

S.W.2d 155, 157 (Tex. Civ. App.—Waco 1948), aff’d sub nom. *City of Corsicana v. Willmann*, 147 Tex. 377, 216 S.W.2d 175 (1949). Home-rule cities have full power of local self-government. Tex. Loc. Gov’t Code § 51.072.

The powers of home-rule cities are subject to, and may be limited by, their charters, the Constitution or statutes. *Lower Colo. Riv. Auth. v. City of San Marcos*, 523 S.W.2d 641, 644 (Tex. 1975). Limitation on the power of a home-rule city may be either express or implied; however, a limitation will not be implied unless the provisions to that end are clear and compelling. *Id.* at 645.

When power over a particular subject matter has been delegated to a municipal corporation by the legislature without any express limitations, the extent to which that power shall be exercised rests in the discretion of the municipal authorities. *Davis*, 67 S.W.2d at 1034; *Barnett v. City of Plainview*, 848 S.W.2d 334, 339 (Tex. App.—Amarillo 1993, no writ). As long as the municipal authority exercises its power and discretion in good faith and for a municipal purpose, the courts have no ground upon which to interfere. *Id.*

I. How to Amend

Although a home-rule municipality is empowered to amend its charter in any manner, it must do so consistent with the Texas Constitution and the general laws of the state. A city that operates under the Home Rule Amendment is empowered to adopt and amend its charter in any manner which it may desire, consistent with and in accordance with the State Constitution and the general laws of the State. *Forwood v. City of Taylor*, 147 Tex. 161, 214 S.W.2d 282 (1948); *Davis*,

123 Tex. 39; *City of Denton v. Denton Home Ice Co.*, 119 Tex. 193, 27 S.W.2d 119 (Comm'n App. 1930); *Royal Crest, Inc. v. City of San Antonio*, 520 S.W.2d 858, 865 (Tex. Civ. App.—San Antonio 1975, writ ref'd n.r.e.)). In the absence of constitutional and statutory limitations, such power and authority may be derived from the city charter, if such charter provisions are not in violation of or prohibited by the Constitution or the general laws of the State. *Id.*

The Texas Constitution states that a city may adopt or amend its charter by a majority vote of the qualified voters of said city, at an election held for that purpose. Tex. Const. art. XI, § 5. Charters cannot be amended more frequently than every two years. Tex. Loc. Gov't Code Ann. § 9.004(b).

The first place to start for city charter adoptions and amendments is Chapter 9 of the Texas Local Government Code. There are two primary mechanisms to amend a charter under normal state law procedures: 1) a charter commission submission to the city council to submit as propositions in an election, 2) a submission of propositions from the city council for an election, or 3) the Texas Local Government Code provides for voter petitions to amend the charter. Tex. Loc. Gov't Code Ann. § 9.004(a); *In re Roof*, 130 S.W.3d 414, 417 (Tex. App.—Houston [14th Dist.] 2004, no pet.). Individual charters can also provide for amendments through means such as petitions from voters as initiatives, but without going through a charter commission or the provision outlined in Tex. Loc. Gov't Code Ann. § 9.004(a).

A. Charter Commissions – Start of Process

1) Election for Charter Commission

The governing body of the municipality may, by an ordinance adopted by at least a

two-thirds vote of its membership, order an election by the voters of the municipality on the question: “Shall a commission be chosen to frame a new charter?” Tex. Loc. Gov't Code Ann. § 9.002. In the ordinance, the question must read *exactly* as it is stated in § 9.002. The election that this ordinance orders is NOT an election to amend the charter; rather, the ordinance orders an election wherein qualified voters vote on whether a charter commission must be appointed to create a draft of the propositions for a new charter.

Additionally, the governing body shall by ordinance order the election (to select a charter commission) if presented with a petition signed by at least 10 percent of the qualified voters of the municipality. Tex. Loc. Gov't Code Ann. § 9.002(a). This is separate from any initiative process spelled out in a charter to cause an amendment to the charter as this process is tied to the creation of a charter commission.

The election ordinance for charter selection shall provide for the election to be held on the date of the municipality's next general election scheduled after the 30th day but on or before the 90th day after the date the ordinance is adopted. Tex. Loc. Gov't Code Ann. § 9.002(b). However, if no general election is scheduled during that period that allows sufficient time to comply with other requirements of law, the election shall be ordered for the first authorized uniform election date prescribed by the Election Code that allows sufficient time to comply with other requirements of law and that occurs after the 30th day after the date the ordinance is adopted and published in a newspaper published in the municipality. *Id.*

The ballot at the election to select a charter commission shall also provide for the election from the municipality at large of a

charter commission to draft a charter if a majority of the qualified voters voting on the question of choosing a charter commission approve the question. Tex. Loc. Gov't Code Ann. § 9.002(c). The commission must consist of at least 15 members, but if it has more than 15 members it may not have more than one member for each 3,000 inhabitants of the municipality. The ballot may not contain any party designation. *Id.*

This process is typically used to create the initial charter commission but has specific exceptions to applying to the first charter commission if citizens have already started the drafting process. Tex. Loc. Gov't Code Ann. § 9.002(d).

2) Appointment of Charter Commission

An existing charter can provide for an alternative appointment method for a charter commission. Many charters provide for regular time periods charter commissions should be appointed or should review the charter. Further, unless expressly prohibited by the charter, the City Council may appoint a charter commission under its own authority with the purpose of submitting propositions to the Council to consider before submitting to the voters.

3) When a Charter Commission is the Mechanism

The charter prepared by the charter commission shall be submitted to the qualified voters of the municipality at an election to be held on the first authorized uniform election date prescribed by the Election Code that allows sufficient time to comply with other requirements of law and that occurs on or after the 40th day after the

date the charter commission completes its work. Tex. Loc. Gov't Code Ann. § 9.003(a). The governing body of the municipality shall provide for the submission of the charter at the election to the extent that the provisions for submission are not prescribed by general law. *Id.*

Before the 30th day before the date of the election, the governing body of the municipality shall order the municipal clerk or the municipal secretary to mail a copy of the proposed charter to each registered voter of the municipality. Tex. Loc. Gov't Code Ann. § 9.003(b). This applies when the commission is involved, not necessarily under other methods.

The charter commission shall prepare the charter so that to the extent practicable each subject may be voted on separately. Tex. Loc. Gov't Code Ann. § 9.003(c).

B. Council Submission – Start of Process

The governing body of a municipality, on its own motion, may submit a proposed charter amendment to the municipality's qualified voters for their approval at an election. Tex. Loc. Gov't Code Ann. § 9.004.

The governing body must call a special election for the charter amendment. Tex. Loc. Gov't Code Ann. § 9.004(b). In calling such election, it must be done by ordinance. *Id.* The ordinance ordering the election shall provide for the election to be held on the first authorized uniform election date prescribed by the Election Code or on the earlier of the date of the next municipal general election or presidential general election. *Id.* The election date must allow sufficient time to comply with other requirements of law and must occur on or after the 30th day after the date the ordinance is adopted. *Id.*

While amendments must have only one subject, the ordinance calling the election can be a single ordinance calling an election for all amendments. *City of Lubbock v. Geo. L. Simpson & Co.*, 31 S.W.2d 665, 668 (Tex. Civ. App.—Amarillo 1930, writ dism'd).

Notice of the election shall be published in a newspaper of general circulation published in the municipality. The notice must:

(1) include a substantial copy of the proposed amendment; and

(2) include an estimate of the anticipated fiscal impact to the municipality if the proposed amendment is approved at the election;¹ and

(3) be published on the same day in each of two successive weeks, with the first publication occurring before the 14th day before the date of the election.

Tex. Loc. Gov't Code Ann. § 9.004(c).

The ballot shall be prepared so that a voter may approve or disapprove any one or more amendments without having to approve or disapprove all of the amendments. Tex. Loc. Gov't Code Ann. § 9.004.

C. Voter-Initiated Amendment

Section 9.004 of the Texas Local Government outlines the right of the qualified voters of a municipality to petition their governing body to amend its charter, a power sometimes referred to as “initiative and referendum.” See *In re Roof*, 130 S.W.3d at 417; see also *Coalson v. City Council of Victoria*, 610 S.W.2d 744, 747 (Tex. 1980); *Taxpayers’ Ass’n of Harris Cty. v. City of*

Houston, 129 Tex. 627, 105 S.W.2d 655, 657 (1937) (stating that “the power of initiative and referendum . . . is the exercise by the people of a power reserved to them, and not the exercise of a right granted. It follows that, in order to protect the people of the city in the exercise of this reserved legislative power, such charter provisions should be liberally construed in favor of the power reserved.”); accord *In re Woodfill*, 470 S.W.3d 473, 480 (Tex. 2015) (quoting *Taxpayers’ Ass’n of Harris Cty.*, 129 Tex. 627). When the requirements of § 9.004 are met, the proposed amendment(s) must be put to a vote, and the duty of the municipal officials to do so is a ministerial one. See *Coalson*, 610 S.W.2d at 747 (addressing predecessor statute); *In re Roof*, 130 S.W.3d at 417–18; *City of Galena Park v. Ponder*, 503 S.W.3d 625, 631 (Tex. App.—Houston [14th Dist.] 2016, no pet.)

II. Procedural and Substantive Logistics

A. Election Process

The election process for a proposition on a measure controls for charter amendments. A “measure” is “a question or proposal submitted in an election for an expression of the voters’ will.” Tex. Elec. Code Ann. § 1.005(12). Voters record their votes in an election through an “official ballot.” *Id.* § 52.001(a). The ballot need not recite the wording of the measure. *Dacus v. Parker*, 466 S.W.3d 820, 825 (Tex. 2015). Instead, the ballot must contain a “proposition” for the measure, which is “the wording appearing on a ballot to identify a measure.” Tex. Elec. Code Ann. § 1.005(15); *In re Durnin*, 21-

¹ This provision expressly does not waive governmental immunity for any purpose and a person may not seek injunctive relief or any other judicial

remedy to enforce the estimate of the anticipated fiscal impact on the municipality. Tex. Loc. Gov't Code Ann. § 9.004(f).

0170, 2021 WL 791079, at *6 (Tex. Mar. 2, 2021)

The conditions of the Election Code must be followed to pass a charter amendment. There are various nuances to the election process that are not covered here. But, in general:

- A special election on the measure must be called by the City Council (i.e. authority to call an election.) Tex. Elec. Code Ann. § 4.002
- Each election order must state the date of the election and the offices or measures to be voted on at the election. Tex. Elec. Code Ann. § 3.006.
- For an election ordered by an authority of a political subdivision, the date and nature of each election shall be entered in the official records of the political subdivision's governing body. *For an election on a measure, the entry must include a description of the measure.* Tex. Elec. Code Ann. § 3.008 (emphasis added).
- Notice of an election must be given in conformity with Tex. Elec. Code Ann. § 4.003 and comply with the content requirements of Tex. Elec. Code Ann. § 4.004.
- Canvassing applies under Tex. Elec. Code Ann. Chapter 67.
 - The tabulation must include for each precinct the total number of voters who cast a ballot for a candidate or *for or against a measure* in the election. Tex. Elec. Code

Ann. § 67.004 (emphasis added).

- The presiding officer of the canvassing authority shall note the completion of the canvass in the minutes or in the public meeting recording. Tex. Elec. Code Ann. § 67.004
- Bilingual requirements may also apply under Chapter 272 of the Texas Election Code.

However, because we are talking about charter amendments, you must also take into account any specialized requirements contained within your own charter and ordinances.

Further, if your charter propositions were created by initiative or some form of petition authorized by a charter, the election process must also comply with Chapter 277 of the Election Code.

B. Proposition Organization

An amendment may not contain more than one *subject*. Tex. Loc. Gov't Code Ann. § 9.004. That does not mean it is limited to one charter section. The word 'amendment' has been broadly construed as meaning a change accomplished by several amendments of as many charter provisions; it need not be limited to a change in a word, sentence, or paragraph. *Gibson v. City of Orange*, 272 S.W.2d 789, 790 (Tex. Civ. App.—Beaumont 1954, writ ref'd). This means a proposition may amend multiple charter sections, which may be interconnected. *Gibson*, 272 S.W.2d 789) (charter amendment to create office of city manager); *Garitty v. Halbert*, 235 S.W. 231 (Tex. Civ. App.—Dallas 1921, writ dism'd w.o.j.) (charter amendment regarding school taxes).

Voters at an election to adopt a charter or an amendment to a charter are permitted to vote at the same election for persons to hold office under the charter or amendment. Tex. Loc. Gov't Code Ann. § 9.006 (for example, a special election for fill a vacancy).

C. Publication and Notice

The copy of the proposed amendment must be adequate in form to apprise the voters of the nature of the proposal. *Turner v. Lewie*, 201 S.W.2d 86 (Tex. Civ. App.—Fort Worth 1947, writ dismissed), writ dismissed. Laws requiring notice of general elections, held on days fixed by law, are usually held to be directory only, because it is presumed that time and place of the election is known to all without special notice. But the rule is different as to special elections. It is usually held that the required notice of a special election constitutes a condition upon which authority is granted to hold the election, and that there must be a substantial compliance with the law. *Turner*, 201 S.W.2d at 88–89).

D. Ballot Language

The Texas Election Code grants discretion to “the authority ordering the election [to] prescribe the wording of a proposition” unless otherwise provided by law. Tex. Elec. Code § 52.072(a). The “proposition” is “the wording appearing on a ballot to identify a measure,” and the “measure” is “a question or proposal submitted in an election for an expression of the voters' will”—in this case, the proposed Charter amendment. See Tex. Elec. Code § 1.005(12), (15). The proposition must be printed “in the form of a single statement.” Tex. Elec. Code Ann. § 52.072(b). *Dacus*, 466 S.W.3d at 823.

The common law protects the integrity of the election with a minimum standard for the ballot language. *Dacus*, 466 S.W.3d at 823.

Voters are presumed to be familiar with every measure on the ballot.¹⁰ Election notices for city charter amendments must be published in the newspaper before the election, and the notice must “include a substantial copy of the proposed amendment.” Tex. Loc. Gov't Code § 9.004(c)(1). Accordingly, the amendment need not be printed in full on the ballot—not all details must be there. See *R.R. Comm'n v. Sterling Oil & Ref. Co.*, 147 Tex. 547, 218 S.W.2d 415, 418 (1949). The proposition on the ballot, according to the Election Code, serves to “identify a measure.” Tex. Elec. Code § 1.005(15). However, it must still identify the measure by its chief features. *Dacus*, 466 S.W.3d at 825. While not every detail need be on the ballot, and short, general descriptions are often acceptable, the core purpose and the impact it can have on voters is what they need to know about. *Dacus*, 466 S.W.3d at 826. Further, a ballot question must be submitted “with such definiteness and certainty that the voters are not misled.” *Reynolds Land & Cattle Co. v. McCabe*, 72 Tex. 57, 12 S.W. 165 (1888).

Charter amendments are special measures. They are therefore propositions controlled by certain sections of chapter 52 of the Texas Election Code. Relevant provision state:

§ 52.072. Propositions

(a) Except as otherwise provided by law, the authority ordering the election shall prescribe the wording of a proposition that is to appear on the ballot.

(b) A proposition shall be printed on the ballot in the form of a single statement and may appear on the ballot only once.

(c) Except as provided by Subsection (d), in an election in which an office and a measure are to be voted on, each proposition stating a measure shall appear on the ballot after the listing of offices.

(d) If an election of officers is contingent on the adoption of a proposition appearing on the same ballot, the proposition shall appear on the ballot before the listing of offices.

(e) In addition to any other requirement imposed by law for a proposition, including a provision prescribing the proposition language, a proposition submitted to the voters for approval of the imposition, increase, or reduction of a tax shall specifically state, as applicable:

(1) with respect to a proposition that only seeks voter approval of the imposition or increase of a tax, the amount of or maximum tax rate of the tax or tax increase for which approval is sought; or

(2) with respect to a proposition that only seeks voter approval of the reduction of a tax, the amount of tax rate reduction or the tax rate for which approval is sought.

(f) A political subdivision that submits to the voters a proposition for the approval of the issuance of debt obligations shall prescribe the wording of the proposition that is to appear on the ballot in accordance with the requirements of Subchapter B, Chapter 1251, Government Code. In this subsection, “debt obligation” and “political subdivision” have the meanings assigned by Section 1251.051, Government Code.

Tex. Elec. Code Ann. § 52.072

§ 52.073. Voting Square and Instruction for Propositions

(a) On a ballot on which a proposition is to appear, “FOR” and, below it, “AGAINST” shall be printed to the left of the proposition.

(b) A brace or other suitable device shall be printed to indicate to which proposition each “FOR” and “AGAINST” applies.

(c) A square for voting shall be printed to the left of each “FOR” and each “AGAINST.”

(d) Immediately above the propositions, the following instruction shall be printed: “Place an ‘X’ in the square beside the statement indicating the way you wish to vote.”

(e) The authority responsible for prescribing the wording of a proposition may substitute “YES” and “NO” on the ballot for “FOR” and “AGAINST” if the authority considers those words more appropriate.

Tex. Elec. Code Ann. § 52.073

§ 52.095. Propositions

(a) Except as otherwise provided by law, the authority ordering an election in which more than one measure is to be voted on shall determine the order in which the propositions are to appear on the ballot.

(b) Each political subdivision's proposition on the ballot shall be assigned a unique number or letter on the ballot as follows:

- (1) except as provided by Subdivision
- (2), for each proposition on the ballot,

the authority ordering the election shall assign a letter of the alphabet to the measure that corresponds to its order on the ballot; and

(2) for each proposition on the ballot to be voted on statewide, the authority ordering the election shall assign a number to the measure that corresponds to its order on the ballot.

(c) Each proposition on the ballot must identify the name of the authority ordering the election on the measure.

(d) The secretary of state shall prescribe procedures necessary to implement this section.

Tex. Elec. Code Ann. § 52.095

The amendments, propositions and ballot language creates a reverse triangle with the amendments normally being the most substantial aspects in length, the propositions explaining the amendments being less than the amendments in text but more than the ballot language, and the ballot language being the most succinct of the three.

E. Education

When a charter amendment election has been called, a city normally wants to educate the public about the propositions. This can be a narrow line to walk; however it is certainly possible.

Cities should be aware of Tex. Elec. Code Ann. § 255.003 which states “[a]n officer or employee of a political subdivision may not knowingly spend or authorize the spending of public funds for political advertising.” However, this does not apply to a communication that factually describes the purposes of a measure if the communication does not advocate passage or defeat of the measure. Tex. Elec. Code Ann. § 255.003(b). So as long as the City officials follow the requirements of this provision, it can provide

information about the propositions and their purpose. If there are any concerns about a particular communication, the city can request an opinion from the Commission, which creates an affirmative defense to any prosecution. Tex. Elec. Code Ann. § 255.003(d)-(e).

F. After Election

A proposed amendment to a municipality's charter is adopted if it is approved by a majority of the qualified voters of the municipality who vote at an election held for that purpose. Tex. Loc. Gov't Code Ann. § 9.005(a).

A charter or an amendment does not take effect until the governing body of the municipality enters an order in the records of the municipality declaring that the charter or amendment is adopted. Tex. Loc. Gov't Code Ann. § 9.005(b).

This is accomplished in various ways. One way is to issue an order when canvassing the election declaring each proposition which passed. Another one way is to adopt a resolution or ordinance which incorporates a full version of the charter incorporating all the sections which passed.

As soon as practicable after a charter amendment, the mayor or chief executive officer of the municipality shall certify to the secretary of state an authenticated copy of the charter or amendment under the municipality's seal showing the approval by the voters of the municipality. Tex. Loc. Gov't Code Ann. § 9.007(a).

All city charters and their amendments are filed with the Texas secretary of state and are declared to be “public acts” for which courts are required to take judicial notice. Tex. Loc. Gov't Code Ann. § 9.007(b); 9.008(b). Charters and amendments are also

required to be maintained by the city secretary. Tex. Loc. Gov't Code § 9.008(a).

This is an important step, not because failing to do so means the charter is subject to challenge, but to allow the charter to be admitted as any other law within a court without it being subject to an evidentiary challenge. However, judicial notice does not require introduction of the charter into evidence nor proof that it has been filed with the secretary of state. *Stone v. City of Dallas*, 244 S.W.2d 937, 942–43 (Tex. Civ. App.—Waco 1951, writ dism'd); *Gonzales v. State*, 723 S.W.2d 746 (Tex. Crim. App. 1987)).

III. Helpful Hints

Merely from a personal perspective, helpful tips to keep in mind include:

- Long before an election is called, decide which method of proposition creation works best for the City – council-initiated propositions or charter commission.
- Check your charter and city ordinances for any additional obligations for a charter amendment.
- Check which election is being targeted. Elections which occur during presidential elections are more expensive but have higher voter turnout.
- For commission or council drafted amendments, draft carefully. In many cases, if your city, commission or citizens are proposing multiple amendments, it tends to be better to have multiple public hearings on the progress of the amendments and to obtain citizen and council input.
- Do not draft the propositions until the amendments are in the substantial form you expect they will be

submitted to the council. Then draft the propositions.

- Propositions should be labeled with letters, not numbers.
- Prior to calling the election but after the propositions are done being tinkered with, determine if you need a Spanish translation in conformity with Chapter 272 of the Election Code. This is also a good thing to bring up earlier to the city council so they know they should not continue to adjust the language the closer it gets to the deadline to call the election.
- The city secretary should get any updated forms from the Secretary of State applicable as the forms and regulations may change slightly from election to election.
- Call the election by ordinance, not resolution or order.
- The propositions must state the ballot language and be attached to the ordinance calling the election.
- Remember, the City will have to pay to post the propositions in the newspaper, so lengthy propositions can be expensive. Make sure to budget for proposition language which captures the full essence of the amendments.
- Further, for propositions which utilized a charter commission to draft the propositions, do not forget that by 30th day before the date of the election, the governing body of the municipality shall order the municipal clerk or the municipal secretary to mail a copy of the proposed charter to each registered voter of the municipality. Tex. Loc. Gov't Code Ann. § 9.003(b). Remember to budget for that as well.

- Place the proposed amendments and propositions on the City’s website with easy to locate links and placements.
- The City Secretary should create a charter-specific election calendar. The timing of the election elements may change slightly depending on the method of creating the propositions (charter commission, council, initiative, etc.).
- Check with your local newspaper as to how much lead-time it will need to publish the propositions. Also, remember, the scheduling. It must be published on the **same day** in each of **two successive weeks**, with the first publication occurring **before the 14th** day before the date of the election.
- Create a neutral educational flyer with the propositions and reference the location of the amendments on the website. Be mindful of not using City funds to advocate for or against a proposition.
- It is also helpful to integrate the proposed amendments into a redline version which can be posted on the website so the voters can see what the full set of changes are. However, be careful to make sure it is clear this version is for educational purposes as a single document and is not a single measure to be voted on. However, citizens tend to like seeing the redline version to see what exactly is being proposed to be changed in one document.
- The city secretary should consider, in advance, what method will be used to enter the propositions in the minutes or record at the canvassing and have that method ready to utilize once

results are tallied for submission to the council.

- If possible, have a full version of the amended character drafted, but in a way to easily revert to existing language should specific propositions not pass. You will be able to move more quickly once the canvassing is complete.
- Follow up and adopt, by resolution or ordinance, a formalized and fully adopted version. This makes referencing the formal version easier in the future, easier to send to the Secretary of State, and easier to deal with in court. Make sure to calendar the deadline for this.
- For those cities who have codified their ordinances, make sure to send the formalized version to your publisher.

IV. Conclusion.

Because charters are different and each city is different, there is no way to provide a fully comprehensive method for amending the charter within the limited time and purpose of this presentation and paper. However, I hope this provides you a starting point and some helpful suggestions in order to make any charter amendment process less stressful and more efficient.

ORDENANZA NO. 2021- _____

UNA ORDENANZA DEL AYUNTAMIENTO MUNICIPAL DE DEEP POCKETS, TEXAS, QUE ORDENA UNA ELECCION ESPECIAL A CELEBRARSE EN LA CUIDADE DE DEEP POCKETS, TEXAS, EL 1 DE MAYO DE 2021 PARA SOMETER PROPUESTAS A LOS VOTANTES REGISTRADOS DE LA CUIDADE DE DEEP POCKET, TEXAS PARA LAS ENMIENDAS PROPUESTAS A LOS ESTATUTOS DE LA CUIDAD.

CONSIDERANDO QUE, el Ayuntamiento de la Ciudad de Deep Pockets, Texas desea realizar una elección especial para que los votantes consideren las enmiendas propuestas a los estatutos de su estatuto autónomo; y

CONSIDERANDO QUE, el Ayuntamiento de la Ciudad de Deep Pockets, Texas autoriza al Alcalde a firmar la orden que convoca a la Elección Especial y cualquier orden posterior que ajuste los lugares, fechas y horarios de votación que están sujetos a cambios debido a acuerdos con el Departamento Electoral del Condado Krazy y otros acuerdos se elección conjunta hasta la fecha límite de publicación final dicho aviso de conformidad con el Código Electoral de Texas (el “Código”) § 4.003(a)(b) y (c); y

CONSIDERANDO QUE, el Ayuntamiento de la Ciudad de Deep Pockets, Texas desea convocar una elección especial para las elecciones de mayo de 2021 a las propuestas de enmienda de la carta constitutiva.

POR CONSIGUIENTE, ORDENESE POR EL AYUNTAMIENTO DE LA CUIDADE DE DEEP POCKETS, TEXAS QUE:

SECCIÓN I

CONVOCATORIA A UNA ELECCIÓN MUNICIPAL ESPECIAL

QUE se lleve a cabo una elección especial en la ciudad de Deep Pockets, Texas, el primer sábado del mes de mayo de 2021, siendo el 1er día de mayo con el fin de presentar las siguientes medidas que figuran en el Anexo A, adjunto y totalmente incorporado en la presente ordenanza. Tales medidas son enmiendas propuestas a los estatutos y su redacción se incorpora a la presente orden como referencia.

SECCIÓN II

VOTACIÓN ANTICIPADA EN PERSONA

(Sujeta a Cambio)

QUE los lugares principales de votación previstos para la votación anticipada en persona para la elección son:

Krazy County Elections Office	396 North Nutty Avenue, City of Deep Pockets, Texas
Poor Man's Church	12359 Rich Ave, City of Deep Pockets, Texas

La votación anticipada en persona se llevará a cabo en los siguientes horarios y fechas:

Fechas	Horario
Lunes 19 de abril de 2021 - Viernes 23 de abril de 2021	8:00 a.m. – 5:00 p.m.
Sábado 24 de abril de 2021	9:00 a.m. – 4:00 p.m.
Domingo 25 de abril de 2021	1:00 p.m. – 6:00 p.m.
Lunes 26 de abril de 2021 - Martes 27 de abril de 2021	7:00 a.m. – 7:00 p.m.

SECCIÓN III VOTACIÓN ANTICIPADA POR CORREO

QUE la votación anticipada por correo se llevará a cabo de acuerdo con las disposiciones aplicables del Código Electoral de Texas.

- A. La dirección de la Oficina Electoral del Condado de Krazy, 396 North Nutty Avenue, Deep Pockets, Texas 78000, deberá ser la dirección postal del secretario de votación anticipada a la que se pueden enviar las solicitudes de boletas y las boletas votadas por correo, de la Ciudad para los residentes del Condado de Krazy.

SECCIÓN IV LUGARES DE VOTACIÓN (Sujetos a cambio)

QUE los lugares de votación anticipada que se enumeran a continuación estarán abiertos el Día de la Elección de 7:00 a.m. a 7:00 p.m. el sábado 1 de mayo de 2021:

- A. Para el Condado Krazy, en los lugares que determinen y publiquen los funcionarios electorales del Condado Krazy. A continuación, se designan los lugares de votación iniciales y se espera que sean confirmados.

Distrito 1	Poor Side Story	4523 Jedeaseas Road
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Distrito 2	Poor Man's Church	12359 Rich Ave, City of Deep Pockets, Texas
Distrito 3	Richie Rich Lane	14 Gold Carrot Lane

**SECCIÓN V
MÉTODO DE VOTACIÓN**

QUE el uso del sistema de votación Hart DRE Verity Touch, Access Touch y controlador, como se define el término en el Código Electoral de Texas, se utilizará en relación con la elección de los residentes del Condado de Krazy. Este sistema se utilizará para la votación anticipada, así como para la votación del distrito realizada el Día de la Elección. Joseph Whdafreak es nombrada programadora y elaborará un programa para el equipo de tabulación automática. Se proporcionará un amplio equipo de votación para la votación anticipada y en los distritos específicos el Día de la Elección. La estación central de escrutinio se establece como la Oficina Electoral del Condado de Krazy.

**SECCIÓN VI
NOMBRAMIENTO DE JUECES TITULARES**

QUE la Oficina Electoral del Condado Krazy nombrará al Consejo de Boletas de Votación Anticipada, un Juez Titular del Consejo de Boletas de Votación Anticipada y un Juez Titular de la Estación Central de Escrutinio.

**SECCIÓN VII
LEY APLICABLE**

QUE la elección se llevará a cabo de acuerdo con las disposiciones de los Estatutos de la Ciudad de Deep Pockets y las leyes del Estado de Texas. El aviso de la elección, incluida una traducción al español del mismo, se publicará al menos una vez en el periódico local de acuerdo con el Código Electoral de Texas y se publicará en el tablero de anuncios del Ayuntamiento en 1000 Grande Lane, Deep Pockets, Texas.

QUE, el Ayuntamiento Municipal de la Ciudad Deep Pockets, Texas autoriza al Alcalde a firmar la orden que convoca a la Elección Especial y cualquier orden posterior que ajuste los lugares, fechas y horarios de votación que están sujetos a cambios, debido a acuerdos con el Departamento Electoral del Condado de Comal y otros acuerdos de elección conjunta hasta la fecha límite de publicación final de dicho aviso de conformidad con el Código Electoral de Texas (el "Código") § 4.003(a)(b) y (c).

SECCIÓN VIII
PRUEBAS DE EQUIPOS DE TABULACIÓN AUTOMÁTICA

QUE se realizarán pruebas del equipo de tabulación automática y se notificará acerca de las mismas de acuerdo con el Código Electoral de Texas. Cada Condado designará el equipo de tabulación y el personal requerido por el Código Electoral.

SECCIÓN IX
COMPENSACIÓN PARA TRABAJADORES ELECTORALES

QUE la tarifa de compensación para todos los trabajadores electorales será decidida por las Oficinas Electorales del Condado de Krazy.

PROMULGADA, ADOPTADA Y ACEPTADA: el día de hoy ____ de _____ de 2021.

CITY COUNCIL OF THE CITY OF
DEEP POCKETS, TEXAS

PARA NOID JONES, ALCALDE

DA FE:

FRAZZLED H. AIRS

Secretario Municipal

APPROVADA EN CUANTO AL FORMATO:

SARA LEARNER

Fiscal Municipal

Muestra A

PROPUESTA A

¿SE DEBERÁ MODIFICAR LA SECCIÓN 3.06 DE LA CARTA DE LA CIUDAD DE DEEP POCKETS CON EL PROPÓSITO DE CAMBIAR LAS CALIFICACIONES Y CONDICIONES, CON EL FIN DE LLENAR VACANTES EN EL CONSEJO DE LA CIUDAD?

Esta propuesta modificaría las secciones y subsecciones especificadas alistadas enseguida de la siguiente manera: las palabras subrayadas indican las modificaciones que se añaden y las palabras tachadas indican modificaciones que se eliminan. El resto de las secciones y subsecciones sin modificaciones alistadas permanecerán sin cambio y en pleno vigor y efecto salvo que se modifique expresamente por otra propuesta adoptada durante la misma elección.

Sec. 3.06.—Vacantes.

~~Los vacantes en el Consejo que surjan por cualquier motivo se llenarán por voto mayoritario de los votantes calificados en una elección especial ordenada por este motivo dentro de ciento veinte (120) días después de que tal vacante o vacantes ocurran, o según se disponga de manera alternativa por las leyes del estado de Texas.~~

Todas las vacantes en el Consejo de la Ciudad, sin importar la causa, con términos no vencidos serán ocupadas por cualquier miembro del del Consejo de la Ciudad existente que pueda contener la respiración por más tiempo. El alcalde o el acalde provisional fijará la fecha y hora para la contenida entre los concejales, El jefe de policía, que ha sido designado por el administrador de la ciudad, será el juez oficial del concurso de contenciones. Un titular de un cargo que haya perdido el cargo en virtud de esta Carta no es elegible para ser designado para cubrir un período no vencido creado por dicha pérdida.

La propuesta en la boleta declarará los siguiente:

PROPUESTA A

¿SE DEBERÁ MODIFICAR LA SECCIÓN 3.06 DE LA CARTA DE LA CIUDAD DE DEEP POCKETS CON EL PROPÓSITO DE CAMBIAR LAS CALIFICACIONES Y CONDICIONES, CON EL FIN DE LLENAR VACANTES EN EL CONSEJO DE LA CIUDAD?

A FAVOR _____

EN CONTRA _____

PROPUESTA D

¿SE DEBERÁ MODIFICAR LA SECCIÓN 3.05(g) DE LA CARTA DE LA CIUDAD DEEPP
POCKETS PARA CAMBIAR EL PODER DEL ALCALDE DURANTE UN TIEMPO DE
EMERGENCIA?

Esta propuesta modificaría las secciones y subsecciones especificadas alistadas enseguida de la siguiente manera: las palabras subrayadas indican las modificaciones que se añaden y las palabras tachadas indican modificaciones que se eliminan. El resto de las secciones y subsecciones sin modificaciones alistadas permanecerán sin cambio y en pleno vigor y efecto salvo que se modifique expresamente por otra propuesta adoptada durante la misma elección.

Sec. 3.05.—Alcalde y Alcalde Temporal.

...

(c) *Facultades del Alcalde en tiempo de emergencia.* Toda vez que el Alcalde lo determine necesario para imponer las leyes de la Ciudad, o para prevenir peligro, o proteger la vida o bienes, en caso de disturbios, brote, calamidad, o desorden público, o cuando tiene él motivo de temer cualquier violación seria de la ley u orden, brote, o cualquier otro peligro bajo el sol, **el/ella proclamará su miedo, la emergencia, desastres, peligro o razón y utilizara tales poderes y autorizaciones permitidos por las leyes locales, estatales, y federales o la ley de cualquier tierra mítica a la que se pueda hacer referencia razonablemente en literatura.** Durante ese tiempo, los ciudadanos de la Cuidad Estado estarán sujetos a las ordenes del Alcalde y realizaran los deberes que el/ella pueda requerir.

La propuesta en la boleta declarará los siguiente:

PROPUESTA D

¿SE DEBERÁ MODIFICAR LA SECCIÓN 3.05(g) DE LA CARTA DE LA CIUDAD DEEPP
POCKETS PARA CAMBIAR EL PODER DEL ALCALDE DURANTE UN TIEMPO DE
EMERGENCIA?

A FAVOR _____
EN CONTRA _____

ORDINANCE NO. 2021 - _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DEEP POCKETS, TEXAS, ORDERING A SPECIAL ELECTION TO BE HELD IN THE CITY OF DEEP POCKETS, TEXAS, ON MAY 1, 2021 TO SUBMIT PROPOSITIONS TO THE REGISTERED VOTERS OF THE CITY OF DEEP POCKETS, TEXAS, AS, FOR PROPOSED AMENDMENTS TO THE CITY CHARTER.

WHEREAS, the City Council of the City of Deep Pockets, Texas desires to hold a special election for the voters to consider proposed charter amendments to its home-rule charter; and

WHEREAS, the City Council of the City of Deep Pockets, Texas authorizes the Mayor to sign the order calling the Special Election and any subsequent orders adjusting the polling locations, dates and times that are subject to change due to agreements with the Krazy County Elections Department and other joint election agreements up until the final posting deadline of such notice pursuant Texas Election Code (“Code”) § 4.003(a)(b) and (c); and

WHEREAS, the City Council of the City of Deep Pockets, Texas now desires to call a special election for the May 2021 election to the charter amendment propositions.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DEEP POCKETS, TEXAS, THAT:

**SECTION I
CALL OF A SPECIAL MUNICIPAL ELECTION**

THAT a special election be held in the City of Deep Pockets, Texas on the first Saturday of the month of May, 2021, the same being the 1st day in May for the purpose of submitting the following measures contained in Exhibit A, attached and fully incorporated into this ordinance. Such measures are proposed charter amendments and their language is incorporated to this order by reference herein.

**SECTION II
EARLY VOTING BY PERSONAL APPEARANCE
(Subject to Change)**

THAT the anticipated main polling place for early voting by personal appearance for the election is:

Krazy County Elections Office	396 North Nutty Avenue, City of Deep Pockets, Texas
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Poor Man's Church	12359 Rich Ave, City of Deep Pockets, Texas

Early voting by personal appearance shall be conducted between the hours and dates as follows:

Dates	Time
Monday, April 19, 2021- Friday, April 23, 2021	8:00 a.m.- 5:00 p.m.
Saturday, April 24, 2021	9:00 a.m.- 4:00 p.m.
Sunday, April 25, 2021	1:00 p.m.- 6:00 p.m.
Monday, April 26, 2021- Tuesday, April 27, 2021	7:00 a.m.- 7:00 p.m.

SECTION III EARLY VOTING BY MAIL

THAT early voting by mail ballot shall be conducted in accordance with applicable provisions of the Texas Election Code.

- A. The address of the Krazy County Elections Office, 396 North Nutty Avenue, City of Deep Pockets, Texas 78000, shall be the early voting clerk's mailing address to which ballot applications and ballots voted by mail may be sent for the City for Krazy County residents.

SECTION IV POLLING PLACES (Subject to Change)

THAT the anticipated polling places listed below shall be open on Election Day from 7:00 a.m. to 7:00 p.m. on Saturday, May 1st, 2021:

- A. For Krazy County, at such locations as determined and posted by the Krazy County Elections Officers. Initial Polling Places have been designated below.

District 1	Poor Side Story	4523 Jedeseas Road
District 2	Poor Man's Church	12359 Rich Ave, City of Deep Pockets, Texas
District 3	Richie Rich Lane	14 Gold Carrot Lane

SECTION V METHOD OF VOTING

THAT use of Hart DRE Verity Touch, Access Touch, and controller voting system, as the term is defined in the Texas Election Code, shall be utilized in connection with the election for Krazy County residents. This system shall be utilized for early voting as well as for district voting conducted on Election Day. Joseph Whdafreak is appointed as programmer, and he shall prepare a program for the automatic tabulating equipment. Ample voting equipment shall be provided for early voting and in the specific districts on Election Day. The central counting station is established as the Krazy County Elections Office.

**SECTION VI
APPOINTMENT OF PRESIDING JUDGES**

THAT the County Election office of Krazy County will appoint the Early Voting Ballot Board, a Presiding Judge for the Early Voting Ballot Board, and a Presiding Judge for the Central Counting Station.

**SECTION VII
GOVERNING LAW**

THAT the election will be held in accordance with the provisions of the Charter of the City of Deep Pockets and the laws of the State of Texas. Notice of the election, including a Spanish translation thereof, will be published at least once in the local newspaper in accordance with the Texas Election Code and will be posted on the bulletin board at City Hall at 1000 Grand Lane, Deep Pockets, Texas.

THAT the City Council of the City of Deep Pockets, Texas authorizes the Mayor to sign the order calling the Special Election and any subsequent orders adjusting the polling locations, dates and times that are subject to change due to agreements with Krazy County Elections Department and other joint election agreements up until the final posting deadline of such notice pursuant Texas Election Code (“Code”) § 4.003(a)(b) and (c).

**SECTION VIII
TESTING OF AUTOMATIC TABULATING EQUIPMENT**

THAT testing of the automatic tabulating equipment will be performed and notice thereof will be given in accordance with the Texas Election Code. Each County shall designate the tabulating equipment and personnel required under the Election Code.

**SECTION IX
COMPENSATION FOR ELECTION WORKERS**

THAT the rate of compensation for all polling workers will be decided by the Krazy County Election Offices.

PASSED AND APPROVED: this _____ day of _____ 2021

CITY COUNCIL OF THE CITY OF
DEEP POCKETS, TEXAS

PARA NOID JONES, MAYOR

ATTEST:

FRAZZLED H. AIRS

City Secretary

APPROVED AS TO FORM:

SARA LEARNER

City Attorney

Exhibit A

PROPOSITION A

SHALL SECTION 3.06 OF THE CITY CHARTER OF THE CITY OF DEEP POCKETS BE AMENDED TO CHANGE THE QUALIFICATIONS AND CONDITIONS FOR FILLING VACANCIES ON THE CITY COUNCIL?

This proposition would amend the specifically listed sections and subsections below as indicated with underlined words being amended additions and words struck through being amended deletions. The remainder of the sections and subsections with no listed amendments remain unchanged and in full force and effect unless expressly amended by another proposition passed during the same election:

Sec. 3.06. - Vacancies.

~~Vacancies on the council arising for any causes shall be filled by majority vote of the qualified voters at a special election called for such purpose within one hundred and twenty (120) days after such vacancy or vacancies occur, regardless of what the stupid State of Texas says.~~

All vacancies on City Council, regardless of cause, with unexpired terms shall be filled by whichever member of the existing City Council who can hold their breath the longest. The mayor or the mayor pro tem shall set the date and time for the breath-holding contest amongst existing councilmembers. The chief of police, who has been appointed by the City Manager, shall be the official judge of the breath-holding contest. An office holder who has forfeited the office under this Charter is ineligible to be appointed to fill an unexpired term created by such forfeiture.

The proposition on the ballot shall state as follows:

PROPOSITION A

“SHALL SECTION 3.06 OF THE CITY CHARTER OF THE CITY OF DEEP POCKETS BE AMENDED TO CHANGE THE QUALIFICATIONS AND CONDITIONS FOR FILLING VACANCIES ON THE CITY COUNCIL?”

FOR
AGAINST

PROPOSITION B

SHALL SECTION 3.05(g) OF THE CITY CHARTER OF THE CITY OF DEEP POCKETS BE AMENDED TO CHANGE THE POWER OF THE MAYOR DURING A TIME OF EMERGENCY?

This proposition would amend the specifically listed sections and subsections below as indicated with underlined words being amended additions and words struck through being amended deletions. The remainder of the sections and subsections with no listed amendments remain unchanged and in full force and effect unless expressly amended by another proposition passed during the same election:

Sec. 3.05. - Mayor and Mayor Pro Tem.

...

- (g) *Emergency powers of Mayor.* Whenever the Mayor shall deem it necessary in order to enforce the laws of the City, or to avert danger, or to protect life or property, in case of riot, outbreak, calamity or public disturbance, or when he has reason to fear anything specific under the sun, he/she shall proclaim his/her fear, the emergency, disaster, danger, or reason and shall utilize such powers and authorizations allowed by local, state and federal law or the law of any mythical land which can be reasonably referenced in literature. During such time all citizens of the ~~City~~ State shall be subject to the orders of the Mayor, and shall perform such duties as he/she may require.

...

The proposition on the ballot shall state as follows:

PROPOSITION B

“SHALL SECTION 3.05(g) OF THE CITY CHARTER BE AMENDED TO CHANGE THE POWER OF THE MAYOR DURING A TIME OF EMERGENCY?”

FOR

AGAINST
