

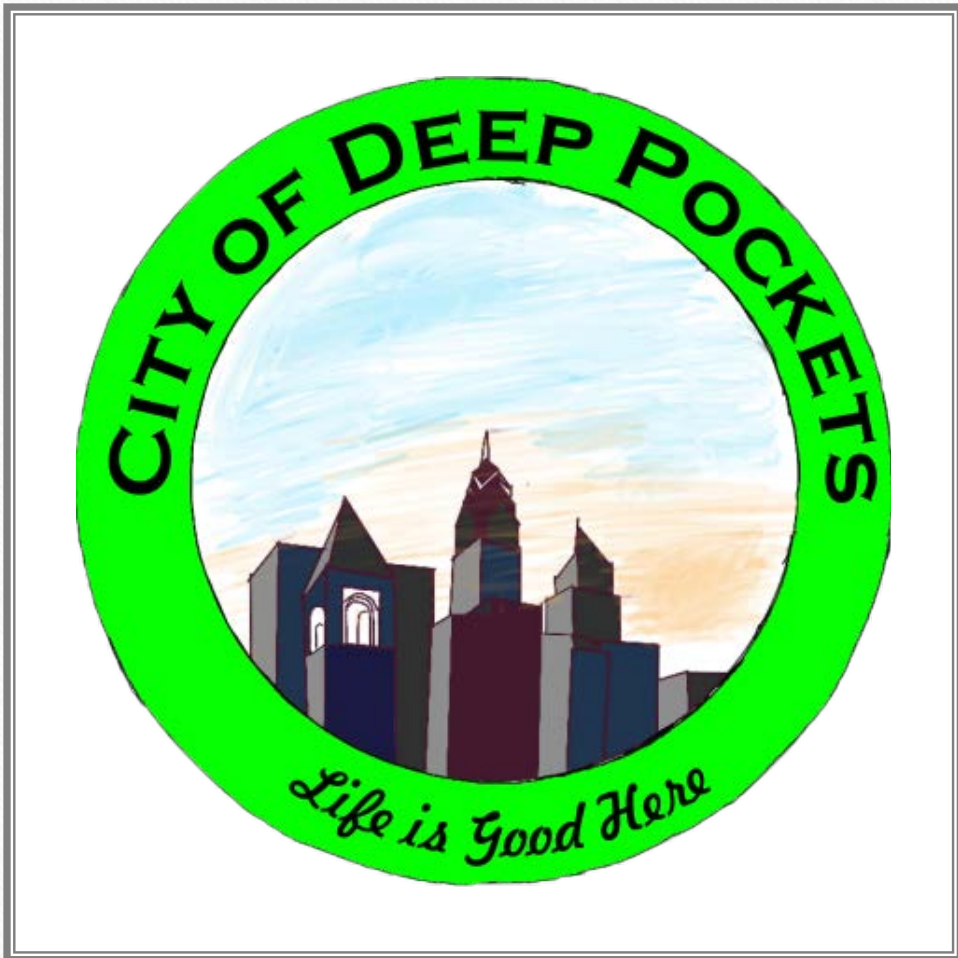
How to Amend Your Home-Rule Charter

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Scope of Presentation

- Mainly Procedure (amendments only)
- Not comprehensive
- Helpful hints



City of Deep Pockets, Texas

- Home Rule City Charter
Amendments

Charter and State Law Amendment Procedure

- Charter controls with some stuff but not others
- HR City 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)
- Election only – by majority of those voting on the amendments

Council wants to amend sections of the charter



AMENDMENTS FOR DEEP POCKETS

- **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.

- **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.

Four Ways to Start Process

- Charter Commission
 - Election to appoint commission (Tex. Loc. Gov't Code § 9.002.)
 - Other appointments for commission
- Council Submission (Tex. Loc. Gov't Code Ann. § 9.004)
- State law initiative (Tex. Loc. Gov't Code Ann. § 9.004(a))
- Charter initiative or method

Important Aspects for Commission

- 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)
VS An amendment may not contain more than one *subject*. Tex. Loc. Gov't Code Ann. § 9.004.
- 30 days before election City must “to mail a copy of the proposed charter to each registered voter of the municipality. Tex. Loc. Gov't Code Ann. § 9.003(b).”
- Commissions do not always keep in mind the cost. If using a commission, make sure to properly budget for costs.

Petition Aspects

- Additional requirements under Chapter 277 of the Election Code because it's controlled by statutes outside of the Election Code
- Petition verification and signature process
- Submission of propositions and logistics

Main Aspects

- Texas Local Government Code Chapter 9
- Charter
- Election Code
- Not exclusive

General Procedures

- Prepare Amendments
- Draft Propositions (must include ballot language)
 - Each proposition is a “measure” under the Texas Election Code. Check Tex. Elec. Code ch. 52.
- Call special election by ordinance with all requirements
- Timely post in newspaper
- Provide required notices (depending on type)
- Canvass
- Formalize version for filing with city secretary and SOS

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 _____

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:

Helpful Hints

- Decide which method of proposition creation works best for the City
- Check your charter and city ordinances for any additional obligations for a charter amendment.
- Consider and budget for expenses
 - Presidential is more expensive but higher turnout
 - Commission requires possibly more mailings
- Draft amendments, then any public meetings, then propositions (including ballot language)

- Propositions should be labeled with letters, not numbers.
- Public Redline version.
- 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.
- 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.
- 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.**
- Check with your local newspaper as to how much lead-time it will need to publish the propositions. (same day for two weeks).
- Create a neutral educational flyer with the propositions. Be mindful of Tex. Elec. Code Ann. § 255.003 (no advocating for or against a measure).
- Does not take effect until placed in record or minutes from the canvass meeting. Tex. Loc. Gov't Code Ann. § 9.005(b). (Possibly use of Resolution in meeting).
- 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).
- Formally adopted version via resolution or ordinance
- Send to publisher
- Remember, Charters cannot be amended more frequently than every two years. Tex. Loc. Gov't Code Ann § 9.004(b).



The End

- At least for another two years.