



**NOTICE OF MEETING
OF THE
HOME RULE CHARTER REVIEW COMMITTEE
OF BUDA, TEXAS**

*An agenda information packet is available for public inspection
In the Buda Public Library.*

This notice is posted pursuant to the Texas Open Meetings Act. Notice is hereby given that a **Regular Home Rule Charter Review Committee Meeting** of the City of Buda, Texas, will be held on **Thursday, October 20, 2011 at 7:00 PM.** in the City Hall Council Chambers at 121 Main Street, Buda, Texas 78610, at which time the following subjects will be discussed:

A. CALL TO ORDER

B. ROLL CALL

C. PLEDGE OF ALLEGIANCE

D. PUBLIC COMMENTS At this time, comments will be taken from the audience on non-agenda related topics for a length of time not to exceed three minutes per person. To address the Home Rule Charter Review Committee, please submit a Citizen's Comment Form to the City Secretary **prior** to the start of the meeting. *No action may be taken by the City Council during Public Comments*

E. CONSENT AGENDA

1. Approval of the Home Rule Charter Review Committee meeting minutes, dated September 8, 2011.
Toni Milam, City Secretary

F. REGULAR AGENDA ITEMS

1. Deliberation and possible action regarding Article IX – Initiative, Referendum and Recall as outlined in the Buda Home Rule Charter including discussion as it related to *re: Jim Hollis, Christopher Juusola, Civil Action vs. The City of Buda.*
Kenneth Williams, City Manager/Ross Fischer, City Attorney

G. HOME RULE CHARTER REVIEW COMMITTEE REQUESTS FOR FUTURE AGENDA ITEMS

No deliberation or discussion may take place by the City Council during this agenda item

H. ADJOURNMENT

City Hall is wheelchair accessible and accessible parking spaces are available. Requests for accommodations must be made 48 hours prior to the meeting. Please contact the City Secretary at (512) 312-0084, or FAX (512) 312-1889 for information or assistance.

I, the undersigned authority, do hereby certify that the above Notice of Meeting of the Governing Body of the City of Buda, was posted on the bulletin board in front of Buda City Hall, which is readily accessible to the public at all times, by 7:00 p.m. on Saturday, October 15, 2011


Toni Milam, City Secretary, TRMC

I hereby certify that the above shown notice was removed from the posting location at the Buda City Hall, 121 Main Street, Buda, Texas 78610, at _____ on the _____ day of _____ 2011 and satisfies the 72-hour posting requirement.

Toni Milam, City Secretary, TRMC

City of Buda
Home Rule Charter Review Committee Meeting Minutes
September 8, 2011 – 7:00 p.m.

A. CALL TO ORDER

Chairman Brinkley called the meeting to order at 7:00 p.m.

B. ROLL CALL

Mark Brinkley - Present
Michael Britton - Absent
Benita Gunn - Absent
John White - Absent
Jose Montoya - Absent
Carolyn Fees - Present
Stephen Cooper – Present
Colin Strother – Present
Tommy Poer – Present

Those in attendance from City Staff:

City Manager – Kenneth Williams
City Attorney – Ross Fischer
City Secretary – Toni Milam
Guest Interns – Laura DelaGarza
Jean Dykstra

C. PLEDGE OF ALLEGIANCE

- D. PUBLIC COMMENTS** At this time, comments will be taken from the audience on non-agenda related topics for a length of time not to exceed three minutes per person. To address the Home Rule Charter Review Committee, please submit a Citizen's Comment Form to the City Secretary **prior** to the start of the meeting. *No action may be taken by the City Council during Public Comments*
No public comments.

E. CONSENT AGENDA

1. Approval of the Home Rule Charter Review Committee meeting minutes, dated July 21, 2011.

Toni Milam, City Secretary

Motion by Committee member Strother, with a second by Committee member Poer to approve the minutes of July 21, 2011 with noted corrections to the minutes. In Agenda item #2 of the minutes dated July 21, 2011, it was requested by Member Fees that there be clarification on the number of years be added to the three terms. "sit out for two (2) three year (3) terms. Member Poer requested a correction to the spelling of "pentence" to read "pittance". Motion approved with Ms. Poer voting nay. Member Brinkley opened the discussion back up for more corrections, Ms. Poer stated no more for discussion. The motion still stands with Member Strother and Member Poer seconding. Motion approved.

2. Approval of the Home Rule Charter Review Committee Meeting minutes, dated August 11, 2011.

Toni Milam, City Secretary

Motion by Member Fees, with a second by Member Strother to approve the minutes dated August 11, 2011. Motion approved.

F. REGULAR AGENDA ITEMS

1. Deliberation and possible action regarding Article III – The City Council and Mayor as outline in the Buda Home Rule Charter.

Kenneth Williams, City Manager/Ross Fischer, City Attorney

Motion by Member Strother, with a second by Member Fees, that term limit requirements be removed from Article III, Section 3.02. Chairman Brinkley called for a roll call vote: Member Cooper voted no; Member Strother voted yes; Chairman Brinkley voted no; Member Fees voted yes; and Member Poer voted yes. By a vote of 3-2 in favor of removing the term limit requirements, remaining as is currently stated in the Charter. Motion approved.

Discussion was held regarding Section 3.03 on qualifications for filing to run for office. Chairman Brinkley served on the original Committee and expounded on what the Committee's thinking was when they set the age at 21 in order to file to run for office. Motion by Chairman Brinkley, with a second by Member Poer to set the age at 21 years of age to file for office. At this time, Chairman Brinkley called for a roll call vote. Member Cooper voted no; Member Strother voted no; Chairman Brinkley voted yes; Member Fees voted no; Member Poer voted yes. By a vote of 3-2, the motion was not approved setting the age at 21. With there still remaining a conflict regarding the qualifications for filing to run for office, further discussion was held regarding an age limit, as opposed to being qualified/registered to vote. Points of discussion by Attorney Fischer brought out there are two different qualifications, one being a certain age when filing to run for office, and another requirement when taking office. Chairman Brinkley requested Attorney Fischer bring back at a future meeting, the language to be considered. Attorney Fischer reiterated, Section 3.03(1) would remain in effect, which would read "Be a qualified voter in the City and State at the time of filing for office". Member Strother also mentioned striking the age requirement, but leave in the requirement for when they file to run for office, a qualified voter. Motion by Member Strother, with a second by Member Cooper to amend Section 3.03, by striking sub-section 5, which states "be 21 years of age or older on the first day of the term to be filled at election; and". Attorney Fischer suggested renumbering the remainder of Section 3.03. Member Brinkley called for a roll call vote: Member Cooper voted yes; Member Strother voted yes; Chairman Brinkley voted no; Member Fees voted yes; and Member Poer voted yes. By a vote of 4-1, the motion carries.

Discussion was held regarding Section 3.05 Compensation, with no other changes. Motion by Member Strother, with a second by Member Fees that Section 3.08(B)(3) be amended to read "is convicted of a felony or is convicted of a misdemeanor involving moral turpitude." and insert a new Subsection C "Removal from Office, that "If it is alleged that a Council member or the Mayor has forfeited office, the City Council may conduct an investigation to determine whether forfeiture has occurred. If an investigation is commenced, the City Council must provide notice to the officer alleged to have forfeited office and provide the officer with an opportunity to respond. The officer subject of the investigation may not participate in the Council's deliberation or action on the removal from office. The City Council may, by four (4) affirmative votes, remove from office a person found to have forfeited his or her office." Re-number "Filing of Vacancies as Subsection D. Chairman Brinkley called for a roll call vote: Member Cooper voted yes; Member Strother voted yes; Chairman Brinkley voted yes; Member Fees voted yes; and Member Poer voted yes. Motion approved.

After further discussion from Attorney Fischer, Motion by Member Strother, with a second by Member Fees to amend the amended language in Section 3.03, subsection (1) to strike "

registered" and replace with "qualified" voter in order to file for office. With all members voting yes, motion approved.

2. Deliberation and possible action regarding Article IV – Elections as outlined in the Buda Home Rule Charter.

Kenneth Williams, City Manager/Ross Fischer, City Attorney

At this time, City Secretary Toni Milam gave a presentation regarding SB100 and how it could affect the future elections.

Motion by Member Strother, with a second by Member Fees to amend the language in Section 4.01 to read "The general City election shall be held annually on the uniform election date" striking the specificity of a date in May. Chairman Brinkley called for a roll call vote: Member Cooper voted yes; Member Strother voted yes; Chairman Brinkley voted yes; Member Fees voted yes; and Member Poer voted yes. Motion approved.

3. Deliberation and possible action regarding Article VII – Planning and Zoning as outlined in the Buda Home Rule Charter.

Kenneth Williams, City Manager/Ross Fischer, City Attorney

No formal action taken at this time on this particular Article.

4. Deliberation and possible action regarding Article VIII – Public Utilities and Franchises as outlined in the Buda Home Rule Charter.

Kenneth Williams, City Manager/Ross Fischer, City Attorney

No formal action taken at this time on this particular Article.

G. HOME RULE CHARTER REVIEW COMMITTEE REQUESTS FOR FUTURE AGENDA ITEMS

No deliberation or discussion may take place by the City Council during this agenda item

The next meeting will be held October 20, 2011 due to Staff being out to attend the Texas Municipal League's Conference. Article IX will be on the next agenda, with the November meeting finishing up with Article X, XI, XII.

H. ADJOURNMENT 8:30 p.m.

Motion by Member Strother, with a second by Member Fees to adjourn. Motion approved.

Toni Milam, City Secretary, TRMC

M E M O R A N D U M

TO: City of Buda Charter Review Committee **FROM:** Jennifer Dykstra
RE: *In re Hollis* (The U.S. Foodservice case) **DATE:** 10-Oct-11
FILE NO: 126001K

Introduction

This memorandum is being presented in response to a request from the City of Buda Charter Review Committee for an explanation of what happened with court proceedings surrounding the City Council's designation of land in Buda's extraterritorial jurisdiction (ETJ) that would later develop into the site for a U.S. Foodservice distribution center.

Background

Background Information

In May 2003, the Buda City Council adopted a resolution approving the creation of the Winfield Municipal Utility District (later renamed the Sunfield Municipal Utility District) within the City's ETJ.¹ In June 2009, the City Council approved its third amendment to this original MUD, which allowed for light industrial use on a portion of the property.² The land use change allowed for the construction of a \$50 million, 500,000-square-foot U.S. Foodservice regional headquarters and distribution center on about 40 acres near the intersection of Turnersville Road and County Road 118.³ After this approval by the City Council, residents of Buda – led by BudaFirst.org - collected signatures on a referendum petition, which was certified by the City Secretary as bearing a sufficient

¹ *In re Hollis*, No.03-09-00589-CV, 2009 WL 6567734, at *1 (Tex. App.—Austin Nov., 19, 2009, pet. denied) (mem. op.)

² *Id.*

³ Sean Batura, *Buda Still Facing U.S. Foods Fight*, SAN MARCOS MERCURY, Oct. 7, 2009, <http://smmercury.com/41279/buda-still-facing-us-foods-fight/>.

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number of signatures. However, at the subsequent City Council meeting, the City Council refused to submit the matter to a vote.

Parties to the Suit

Jim Hollis and Christopher Juusola were listed as parties to the suit and asked the Court to compel the City Council to hold an election. They, as part of BudaFirst, received financial support from landowners near the disputed ETJ territory and other citizens to challenge the decision of the City Council in court.⁴ The Court found jurisdiction to hear the case from the qualified voters of the City of Buda under Tex. Elec. Code Ann. §273.061.⁵ The City of Buda, comprised of the mayor, council members and city secretary, was the opposing party in the suit. U.S. Foodservice and a developer, 2428 Partners LP, who had financial stake in the case wrote briefs in support of the City of Buda to the Court.

Procedural History

The case was originally filed in Hays County District Court and was then brought to the Third Court of Appeals in Austin where the Court upheld the City Council's decision to not submit the referendum for a vote because the Court found that the ordinance was not a legislative act and therefore not subject to a referendum vote under state law. Hollis asked the Supreme Court of Texas to hear the case, but the Court decline, allowing the Court of Appeals ruling in the City's favor to stand.

⁴ *Id*

⁵ *In re Hollis* at *1 ("We have jurisdiction over this petition under section 273.061 of the election code. See Tex. Elec. Code Ann. § 273.061 (West 2003) ("The supreme court or a court of appeals may issue a writ of mandamus to compel the performance of any duty imposed by law in connection with the holding of an election . . .").")

Memorandum to City of Buda Charter Review Committee *Re In re Hollis* September 30, 2011 ; page 3

Issue

The issue in the case is whether it was proper for the City Council to refuse to submit the referendum to the voters. What the case turned on was whether the City Council's approval of Amendment No. 3 qualifies as an ordinance for purposes of the referendum process outlined in the City Charter.⁶

What the Charter Says

The relevant portion of the charter in the case is Section 9.13(1):

“Qualified voters of the City may require that any **ordinance**⁷, with the exception of ordinances dealing with any budget or any capital program, or relating to appropriation of money, issuing of bonds, setting of utility rates and levy of taxes or salaries of City officers or employees, or any other ordinance not subject to referendum as provided by state statute or case law, passed by the City Council be submitted to the voters of the City for approval or disapproval, by submitting a petition for this purpose within sixty (60) days after the date the ordinance sought to be reconsidered was adopted.”

The case turned on how “ordinance” was defined.

What the Court Said

The Court of Appeals held that as a matter of law, the amendment to the original MUD was not subject to the initiative and referendum process outlined in the City Charter because it would have been a violation of state law to legislate land use designation of land that is located in the City's ETJ.⁸ The following is an outline of how the Court made this determination:

⁶ *In re Hollis* at *1

⁷ Formatting added by author

⁸ *In re Hollis* at *2.

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- First, the Court had to determine whether the City Council's actions (the amendment) qualify as an ordinance for purposes of the referendum process.
 - The test the Court used was “[a] matter is proper for initiative and referendum is (1) the subject matter of the proposed ordinance is legislative in character; and (2) it has not been withdrawn or excluded by general law or the charter. . .”⁹
- The Court then had to decide whether the action is legislative in nature to resolve whether the matter was proper for a vote.
 - The Court cited Section 212.003(a)(1), Texas Local Government Code,¹⁰ which essentially says that a city has no right to legislate land use in its extraterritorial jurisdiction. The Court says that because land use designation in the ETJ can only occur by agreement between the City and a landowner¹¹ and not by a legislative act, then the approval of the agreement is not legislative in nature.
- The Court concluded that the action by the City Council was not legislative in nature and therefore it did not qualify as an ordinance under the City Charter.¹²
- The Court did explain that zoning and land use designations are generally considered to be legislative in nature, and therefore an ordinance under the City Charter, however, the

⁹ *Id.* (citing *Humphrey v. Balli*, 61 S.W.3d 519, 523 (Tex.App.-San Antonio 2001, no pet.).

¹⁰ That statute provides:

(a) The governing body of a municipality by ordinance may extend to the extraterritorial jurisdiction of the municipality the application of municipal ordinances adopted under Section 212.002 and other municipal ordinances relating to access to public roads or the pumping, extraction, and use of groundwater by persons other than retail public utilities, as defined by Section 13.002, Water Code, for the purpose of preventing the use or contact with groundwater that presents an actual or potential threat to human health. However, unless otherwise authorized by state law, in its extraterritorial jurisdiction a municipality shall not regulate:

(1) the use of any building or property for business, industrial, residential, or other purposes[.]

¹¹ “The governing body of a municipality may make a written contract with an owner of land that is located in the extraterritorial jurisdiction of the municipality to: specify the uses and development of the land before and after annexation, if annexation is agreed to by the parties” Tex. Loc. Gov’t Code § 212.172(b)(8).

¹² *In re Hollis* at *2.

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distinction in the case is that this particular amendment dealt with land in the ETJ, which is governed by state law.¹³ Unlike zoning, however, a development agreement is no the unilateral imposition of a legislative policy on a landowner; rather, it is a fairly negotiated contractual transaction. The implication is that if an issue like this were to occur within city limits, a referendum vote would be proper under the current wording of the charter.

What does this mean?

In short, the Charter cannot provide remedies in the initiative and referendum chapter for a future situation like this one because state law has preempted home-rule cities on this issue. The Local Government Code specifically addresses that a city cannot regulate land use in an extraterritorial jurisdiction by a legislative action —like an ordinance being subject to a referendum vote. A charter provision that designated such acts in direct contradiction to state law would likely be held invalid by the courts.

¹³ *Id* at *1.

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ARTICLE IX INITIATIVE, REFERENDUM AND RECALL

SECTION 9.01 General Authority

A. Initiative. The qualified voters of the City shall have power to propose ordinances to the City Council. Such power shall not extend to the budget or any capital program, or relating to appropriation of money, issuing of bonds, setting of utility rates and levy of taxes or salaries of City officers or employees, or any other ordinance not subject to initiative as provided by state statute or case law.

B. Referendum. The qualified voters of the City shall have power to require reconsideration by the City Council of any adopted ordinance. Such power shall not extend to the budget or any capital program, or relating to appropriation of money, issuing of bonds, setting of utility rates and levy of taxes or salaries of City officers or employees, or any other ordinance not subject to referendum as provided by state statute or case law.

C. Recall. The qualified voters of the City shall have the power to petition for recall of the Mayor or any member of the City Council.

SECTION 9.02 Commencement of Petition; Petitioners' Committee; Affidavit

Any three (3) qualified voters may commence initiative, referendum, or recall proceedings by filing with the City Secretary an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent and setting out in full the proposed initiative ordinance or citing the ordinances sought to be reconsidered, or the name of the Council member or Mayor to be recalled.

SECTION 9.03 Scope of Recall

Any elected City official shall be subject to recall and removal from office by the qualified voters of the City on those grounds as set forth in Section 22.077 of the Texas Local Government Code as it may be amended from time to time.

SECTION 9.04 Petitions for Recall

Before the question of recall of such officer shall be submitted to the qualified voters of the City, a petition demanding such question to be so submitted shall first be filed with the person performing the duties of City Secretary, which said petition must contain the number of valid signatures of qualified voters totaling at least thirty percent (30%) of the number of qualified voters registered to vote at the last general City election. Each signer of such recall petition shall personally sign their name thereto in ink or indelible pencil and shall write after their name their

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place of residence, giving the name of the street and the number, and shall also write thereon the day, the month and the year their signature was affixed.

SECTION 9.05 Form and Content of Recall Petition

All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall comply with Chapter 277 of the Texas Election Code as it may be amended from time to time. The petition shall be addressed to the City Council of the City and the content shall distinctly and specifically point to the ground upon which such petition for removal is predicated. Further, said petition shall state distinctly and specifically the alleged action(s) and the factual circumstance(s) surrounding such action(s) taken by the official that warrant the charge as to give the officer sought to be removed notice of the matter(s) and thing(s) with which the officer is charged. If there be more than one (1) ground, said petition shall distinctly and specifically state each ground upon which such petition for removal is predicated and shall distinctly and specifically state the alleged action(s) and the factual circumstance(s) surrounding such action(s) taken by the official that warrant the charges as to give the officer sought to be removed notice of the matter(s) and thing(s) with which the officer is charged. The signatures shall be verified by oath in the following form:

STATE OF TEXAS

COUNTY OF HAYS

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__.

NOTARY PUBLIC, STATE OF TEXAS

My commission expires:

SECTION 9.06 Certificate of City Secretary; Amendment; Presentation to Council; Council Review

A. Certificate of City Secretary. Within thirty (30) working days after the petition is filed, the City Secretary shall complete a certificate as to its sufficiency or insufficiency as mandated

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herein, specifying, if it is insufficient, the particulars wherein it is defective and shall within that thirty (30) working day period send a copy of the certificate to the petitioners' committee by certified mail or by hand delivery to a committee member.

B. Amendment. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the City Secretary within two (2) working days after receiving the copy of the certificate and files a supplementary petition upon additional papers within ten (10) days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of Section 9.05, and within five (5) working days after it is filed, the Secretary shall complete a certificate as to the sufficiency of the petition as amended and send a copy of such certificate to the petitioners' committee by certified mail or by hand delivery to a committee member as in the case of an original petition.

C. Presentation to Council. If a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend under Subsection B of this Section within the time required, the City Secretary shall at the next regular Council meeting present such certificate to the Council and the certificate shall then be a final determination as to the sufficiency of the petition.

SECTION 9.07 Public Hearing to be Held

The officer whose removal is sought may, within five (5) working days after such recall petition has been presented to the City Council, request that a public hearing be held to permit him/her to present the facts pertinent to the charges specified in the recall petition. In this event, the City Council shall order such public hearing to be held, not less than five (5) working days nor more than fifteen (15) working days after receiving such request for a public hearing.

SECTION 9.08 Calling of Recall Election

If the officer whose removal is sought does not resign, then the City Council shall for the next available election date, order an election for holding such recall election. If, after the recall election date is established, the officer vacates his/her position, the election shall be cancelled, in accordance with State Law.

SECTION 9.09 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:

City of Buda

“Yes”

“No”

SECTION 9.10 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/her unexpired term, subject to recall as provided herein. 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 upon passing of the resolution canvassing the election, and the vacancy shall be filled by the City Council as provided in Section 3.08 subsection C of this Charter.

SECTION 9.11 Recall Restrictions

No recall petition shall be filed against any officer of the City within six (6) months after the officer’s election, nor within six (6) months after an election for such officer’s recall.

SECTION 9.12 Initiative; Petition; Procedure

(1) Following a review by the City Attorney for enforceability and legality, qualified voters of the City may initiate legislation by ordinance by submitting a petition addressed to the City Council, which requests the submission of the proposed ordinance to a vote of the qualified voters of the City. Said petition must contain the number of valid signatures totaling at least twenty percent (20%) of the total number of qualified voters registered to vote at the last general City election. Each copy of the petition shall have attached to it a copy of the full text of the proposed ordinance. The petition, its form and content, shall be the same as for recalls as provided in this Article. The certification of the City Secretary, and any amendment to the petition and its presentation to City Council shall be the same as for recalls as provided in this Article.

(2) When an initiative petition has been fully determined sufficient, the Council shall at their next regular Council meeting consider the proposed initiative ordinance in the manner provided in Article III. Upon presentation to the City Council, it shall become the duty of the City Council, within sixty (60) days after the date the petition was finally determined sufficient, to pass and adopt such ordinance without alteration as to meaning or effect, or to call for an election, to be held on a date allowed under the Texas Election Code, at which the qualified voters of the City shall vote on the question of adopting or rejecting the proposed ordinance. 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 seventieth (70th) calendar day after the City Council’s decision to submit the ordinance to the voters.

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(3) If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the Council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

SECTION 9.13 Referendum; Petition; Procedure; Effect Prior to Election

(1) Qualified voters of the City may require that any ordinance, with the exception of ordinances dealing with any budget or any capital program, or relating to appropriation of money, issuing of bonds, setting of utility rates and levy of taxes or salaries of City officers or employees, or any other ordinance not subject to referendum as provided by state statute or case law, passed by the City Council be submitted to the voters of the City for approval or disapproval, by submitting a petition for this purpose within sixty (60) days after the date the ordinance sought to be reconsidered was adopted.

Said petition must contain the number of valid signatures totaling at least twenty percent (20%) of the total number of registered voters qualified to vote at the last general City election. The petition, its form and content, shall be the same as for recalls as provided in this Article. The certification of the City Secretary, any amendment to the petition and its presentation to City Council shall be the same as for recalls as provided in this Article.

City Council shall either repeal the referred ordinance or submit the referred ordinance to the qualified voters of the City within thirty (30) days after the date the petition was finally determined sufficient.

(2) 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 seventieth (70th) day after the decision by the City Council.

(3) If a majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

SECTION 9.14 Voluntary Submission of Legislation by the City Council

The City Council, upon its own motion and by the affirmative vote of a majority of the full membership of the City Council, may submit to popular vote at an 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 initiative and referendum petitions, and may, at its discretion, call for an election for this purpose on an authorized uniform election date as provided by State Law.

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SECTION 9.15 Form of Ballots

The ballots used when voting upon initiative or referendum 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"	

SECTION 9.16 Ordinances Passed by Popular Vote, Repeal or Amendment

No ordinance which may have been passed by the City Council upon a petition or adopted by popular vote under the provisions of this Article may be repealed or amended by the City Council for a period of three (3) years from the date said ordinance became effective. An ordinance which may have been passed by the City Council upon a petition or adopted by popular vote under the provisions of this Article may be repealed or amended at any time in response to a referendum petition or by submission as provided by Section 9.14 of this Charter.

SECTION 9.17 Franchise Ordinances

Nothing contained in this Article shall be construed to be in conflict with any of the provisions of this Charter pertaining to ordinances granting franchises when valuable rights shall have accrued thereunder.

BASTROP CHARTER ARTICLE X INITIATIVE, REFERENDUM AND RECALL

Section 10.01 Power of Initiative

The people of the City reserve the power to direct legislation by initiative and, in the exercise of such power, may propose any ordinance not in conflict with this charter or state law, except an ordinance appropriating money or authorizing the levy of taxes or an ordinance repealing an ordinance appropriating money or levying taxes. Any initiated ordinance may be submitted by a petition signed by registered voters of the city equal in number to at least twenty (20) percent of the number of registered voters residing in the city at the time of the last regular city election.

Section 10.02 Power of Referendum

The people of the City reserve the power to approve or reject at the polls any legislation enacted by the Council which is subject to the initiative process under this Charter. Within thirty (30) days after the final adoption or publication, whichever date is later, of any ordinance which is subject to referendum, a petition, signed by registered voters of the city equal in number to at least twenty (20) percent of the number of registered voters residing in the City at the time of the last regular City election, may be filed with the City Secretary requesting that any such ordinance be either repealed or submitted to a vote of the people. When such a petition has been certified as sufficient by the City Secretary, the ordinance so specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless it is approved by the voters as herein provided.

Section 10.03 Form of Petition for Initiative and Referendum

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

Section 10.04 Filing, Examination and Certification of Petitions

All papers comprising a petition for initiative or referendum shall be assembled and filed with the City Secretary as one instrument. Within thirty (30) days after the petition is filed, the City Secretary shall determine whether each paper of the petition has a proper statement of the circulator and whether the petition has been signed by a sufficient number of qualified electors and shall hold any petition paper entirely invalid which does not have attached thereto the statement signed by the circulator thereof. The City Secretary shall certify the result of this examination to the Council at its next regular meeting. If the City Secretary shall certify that the petition is insufficient, the certificate shall specify the particulars in which it is defective and

shall at once notify in writing the person filing the petition of this finding. A petition may be amended at any time within ten (10) days after a notice of insufficiency has been sent by the City Secretary, by filing a supplementary petition. In such event, the same procedures shall then be followed by the City Secretary and Council as in the case of the original petition for the same purpose.

Section 10.05 Council Consideration and Submission to Voters

When the Council receives an authorized initiative petition, certified by the City Secretary to be sufficient, the Council shall either (a) pass the initiated ordinance without amendment within twenty (20) days after the date of the certification to the Council; or (b) submit the initiated ordinance without amendment to a vote of the qualified voters of the City at a regular or special election to be held on a uniform election date of the state of Texas, but not less than ninety (90) days from the date that the City Secretary certifies the submission to the Council.

When the Council receives an authorized referendum petition, certified by the City Secretary to be sufficient, the Council shall reconsider the referred ordinance. If, upon such reconsideration, such ordinance is not repealed, it shall be submitted to the voters of the City at a regular or special election to be held on a uniform election date of the state of Texas, but not less than ninety (90) days from the date that the City Secretary certifies the submission to the Council.

Special elections on initiated or referred ordinances shall not be held more frequently than once each six (6) months, and no ordinance on the same subject as an initiated ordinance which has been defeated at any election may be initiated by the voters within two (2) years from the date of such election.

Section 10.06 Ballot Form and Results of Election

Ordinances submitted to the electors in accordance with the initiative and referendum provisions of this Charter shall be submitted by ballot title which shall contain a clear, concise statement, without argument, of the substance of such ordinance. The ballot used shall have below the ballot title the following proposition, one above the other in the order indicated: "FOR THE ORDINANCE" and "AGAINST THE ORDINANCE." Any number of ordinances may be voted on at the same election and may be submitted on the same ballot.

If a majority of electors voting on a proposed initiated ordinance shall vote in favor thereof, it shall thereupon become an ordinance of the City. A referred ordinance which is not approved by a majority of the electors voting thereon shall thereupon be deemed repealed. If conflicting ordinances are approved by the electors at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

Section 10.07 Power of Recall

The people of the City reserve the power to recall the Mayor or any other member of the Council and may exercise such power by filing with the City Secretary a petition, signed by qualified voters of the City equal in number to at least twenty-five (25) percent of the number of registered

voters residing in the City at the time of the last regular municipal election of the City demanding the removal of the Mayor or other member of the Council. The petition shall be signed and verified in the manner required for an initiative petition, shall contain a general statement of the grounds upon which the removal is sought and one of the signers of each petition paper shall make an affidavit that the statements made therein are true.

Section 10.08 Recall Election

All papers comprising a recall petition shall be assembled and filed with the City Secretary. Within thirty (30) days after the petition is filed, the City Secretary shall determine its sufficiency and, if found to be sufficient, shall certify this fact to the Council at its next regular meeting. If a recall petition is found to be insufficient, it may be amended within ten (10) days after notice of such insufficiency by the City Secretary, by filing a supplementary petition. In that event, the same procedures shall then be followed by the City Secretary and the Council as in the case of an original petition. The finding of insufficiency of a recall petition shall not prejudice the filing of a new petition for the same purpose.

The Council Member whose removal is sought by a recall petition may, within five (5) days after such petition has been certified and presented to the Council, request in writing that a public hearing be held to permit him/her to present facts pertinent to the charges specified in the petition. In this event, the Council shall order such public hearing to be held not less than five (5) days nor more than fifteen (15) days after receiving such request for a public hearing.

If the Council Member whose removal is sought does not resign, the Council shall order a recall election and fix a date for such election, the date of which shall not be less than ninety (90) days from the date the petition was submitted to the Council or from the date of the public hearing if one was held, whichever is later, or at the earliest date thereafter permitted by the state election code.

Section 10.09 Recall Ballot

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

"FOR THE REMOVAL OF (name of person.)"

"AGAINST THE REMOVAL OF (name of person.)"

Section 10.10 Results of a Recall Election

If a majority of the votes cast at a recall election shall be against removal of a Council Member named on the ballot, that member shall continue in office. If a majority of the votes cast at such election be for the removal of the Council Member named on the ballot, the Council shall immediately declare the office vacant and such vacancy shall be filled in accordance with the

provisions of this Charter. A Council Member thus removed shall not be a candidate to succeed himself/herself in an election called to fill the vacancy created.

Section 10.11 Limitations on Recall

No recall petition shall be filed against the Mayor or any other Council Member within six (6) months after he/she first takes office, nor within six (6) months after an election for his/her recall, nor within six (6) months of the end of his/her term.

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Sec. 6.01. - General.

The citizens reserve the powers of initiative, referendum and recall, which may be exercised in the manner and subject to the limitations provided in this Article.

Sec. 6.02. - Initiative.

Subject only to the limitations provided in this Article, the people of the city shall have the power to propose legislation on any local government issue, except legislation appropriating money, levying taxes, affecting zoning, annexing land, or setting rates, fees or charges, and, if the council fails to adopt an ordinance so proposed, to adopt or reject the proposed legislation at an election.

Sec. 6.03. - Referendum.

The people of the city shall have the power to require reconsideration by the council of any adopted ordinance regarding any issue that would be a proper subject for an initiative, and if the council fails to repeal an ordinance so reconsidered, to approve or reject the ordinance at an election. Such power shall not extend to the budget; capital expenditures; levy of taxes; any bonds, certificates of obligation or any similar obligations; zoning; annexation; or any rates, fees and charges; provided that tax increases shall be subject to petition as provided by state law.

Sec. 6.04. - Conflict.

No initiative or referendum action shall conflict with this charter, the constitution or any state statute.

Sec. 6.05. - Signatures.

Initiative and referendum petitions must be signed by registered voters residing within the city in number equal to twenty-five percent (25%) of the number of votes cast at the last general election of the city. The signatures to the initiative or referendum petition need not all be appended to one paper, but each signer shall sign his or her name in ink or indelible pencil and shall add or cause to be added his or her place of residence within the city by street and number, printed name and date of signature. The signatures on a petition section shall not be considered unless there is attached to the petition section a signed, notarized and dated affidavit, executed by a resident of the city who circulated the petition section, which affidavit shall include his or her printed name, the address by street and number within the city, and the date he or she signed the affidavit; stating that he or she circulated each page and section of the attached petition; that each signature thereon was affixed in his or her presence; that each signature thereon is the signature of the person whose name it purports to be; and that to the best of his or her knowledge and belief each person signing the petition section was, at the time of signing, a registered voter residing within the City of Kyle.

Sec. 6.06. - Commencement of Proceedings.

A qualified voter may commence an initiative or referendum proceeding by filing with the city secretary the complete form of a petition proposed to be circulated, including signature pages, together with a copy of the full text of the initiative ordinance, or the ordinance to be reconsidered. The ordinance set forth with the petition shall be complete and in proper form including the caption.

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The city secretary shall place the time and date on the petition and documents when filed, examine the filing for sufficiency as to form and place the time and date of the certification for circulation on such petition and documents. The city secretary shall provide a certified copy of such filing as certified for circulation to the person presenting same, the city manager and the city attorney, and file a copy of such certified documents and petition in the archives of the city.

The circulated petition must be returned and refiled with the city secretary within ninety (90) days after the date the petition is certified for circulation. Signatures obtained prior to the date of such certification shall be invalid and a petition returned after the expiration of ninety (90) days shall not be considered.

Sec. 6.07. - Examination and Sufficiency.

The city secretary shall examine each signature separately and disqualify any signature not having all of the information required, or not found to be that of a qualified voter of the city, determine whether the petition contains the requisite number of valid signatures, and complete a certification as to the sufficiency of the petition signatures within fourteen (14) days following the date the circulated petition is filed with the city secretary. The petitioner shall be notified by certified mail of the sufficiency of, or any insufficiencies in, the petition.

If the petition is certified as sufficient, the city secretary shall present a certificate to the city manager who shall cause the same to be placed on the agenda for the first council meeting that is three or more days after the date of the certification.

If the petition is certified as insufficient due to the disqualification or invalidity of signatures the petitioner shall have fourteen (14) days following the date the number of signatures is found insufficient to file a supplementary petition with additional signatures sufficient in number to equal the required number of signatures. Upon supplementary petitions being timely filed, the city secretary shall have seven (7) days from the date such supplementary petition is filed to certify the petition as sufficient or insufficient.

Sec. 6.08. - Referendum-Suspension of Ordinance.

When an authorized referendum petition is certified by the city secretary as sufficient, the ordinance sought to be reconsidered shall be suspended; and such suspension shall continue until the council repeals the ordinance or the ordinance is upheld by election.

Sec. 6.09. - Action on Petition.

Within thirty (30) days after the date an initiative petition has been certified to the council as sufficient, the council shall request a formal legal opinion from the city attorney on the legality of the proposed ordinance. If the city attorney issues a written opinion that the proposed ordinance is clearly and facially invalid, the council shall not be required to call an election on such initiative. Otherwise, within forty-five (45) days after an initiative or referendum petition has been certified to the council as sufficient, the council shall:

(a)

Adopt the proposed initiative ordinance without any change in substance; or

(b)

Repeal the referred ordinance; or

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(c)

Call an election on the proposed or referred ordinance.

The election on a proposed or referred ordinance shall be held on the next available uniform election date after the date of the council's action and for which notice may be timely given in compliance with state law and this charter. Such election may coincide with a regular city election should such election fall within the specified time. However, special elections on initiated or referred ordinances shall not be held more frequently than once each six (6) months and no ordinance substantially the same as a defeated initiative ordinance shall be adopted by the council or initiated within two (2) years after the date of the election. No referred ordinance repealed at an election may be readopted by the council within two (2) years from the date of the election at which such ordinance was repealed. Copies of the proposed or referred ordinances shall be made available at each polling place.

Sec. 6.10. - Procedure and Results of Election.

Not more than thirty (30) and not less than fifteen (15) days prior to the special election, the city secretary shall cause the proposed or referred ordinance to be published in its entirety at least once in a newspaper of general circulation in the city.

The ballots used when voting upon such proposed and referred ordinances shall set forth the nature of the ordinance sufficiently to identify the ordinance and shall also set forth a proposition as provided in this charter. If a majority of the qualified voters voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances adopted by the council. If conflicting ordinances are approved at the same election, the ordinance receiving the greatest number of affirmative votes shall prevail.

An ordinance adopted by initiative may not be repealed or amended at any time prior to the expiration of two (2) years from the date of its adoption, except at an election held for such purpose or such amendment being approved by the council by not less than six (6) affirmative votes.

If a majority of the qualified voters on a referred ordinance vote against the ordinance, it shall be considered repealed upon certification of the election results. If a majority of the qualified voters voting on a referred ordinance vote for the ordinance, it shall be upheld and, in such event, may not again be the subject of a petition within twelve months following the date of such election.

Sec. 6.11. - Power of Recall.

The people of the city reserve the power to recall any elected city officer and may exercise the power by filing with the city secretary a petition signed by qualified voters of the city equal in number to at least fifteen percent (15%) of the number of registered voters within the city, demanding the removal of the elected officer. The petition shall be signed and verified as required for an initiative petition and a separate petition must be filed for each officer being recalled. If the council orders a recall election for any member, such election shall be held in the manner provided in this Article.

Sec. 6.12. - Recall Election.

The provisions regulating examination, certification, and amendment of initiative petitions shall apply to recall petitions. If the city secretary certifies the petition as sufficient, the city council shall, at the first meeting for which timely notice may be given, order a special election to be held at the earliest time permitted by this charter and state law, to determine whether the officer shall be

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recalled. If a majority of votes cast at a recall election be for the recall of the officer, the office shall be vacant.

Sec. 6.13. - Limitation on Recall.

No recall petition shall be filed against an officer within six (6) months after taking office; no officer shall be subjected to more than three (3) recall elections during the term of office; and no officer shall be recalled at an election held less than three (3) months prior to the expiration of the term of office being served by such officer.

Sec. 6.14. - Failure of City Council to Call an Election.

If the city secretary shall certify the petition as sufficient and the city council shall fail or refuse to order such recall election, or to discharge any other duty imposed upon the council with reference to the recall, then any citizen of the city may file suit in the district courts to compel the council to order the election.

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Sec. 6.01. - Scope of recall.

Any elected City official, whether elected to office by the qualified voters of the City or appointed by the City Council to fill a vacancy, shall be subject to recall and removal from the office by the qualified voters of the City.

(Charter amendment approved by voters November 6, 1979; January 20, 1996)

Sec. 6.02. - Petition for recall.

Before the question of recall of such officer shall be submitted to the qualified voters of the City, a petition demanding such question to be so submitted shall first be filed with the person performing the duties of the City Secretary; which said petition shall be signed by qualified voters of the City equal in number to at least ten percent (10%) of the number of qualified voters as currently certified to by the County Election Administrator. Such petition shall contain a general statement of the grounds for which the removal is sought.

A signature on a petition for recall is valid only if the petition includes the following information with respect to each signer:

- (a) the signer's residence address, including the county;
- (b) the signer's date of birth and the signer's voter registration number;
- (c) the date of signing; and
- (d) the signer's printed name.

(Charter amendment approved by voters November 6, 1979; January 20, 1996; May 5, 2000)

Sec. 6.03. - Recall procedure.

Any qualified voters of the City may make and file with the person performing the duties of City Secretary an affidavit containing the name or names of the officer(s) whose removal is sought and a statement of the grounds for removal. The City Secretary shall immediately notify in writing the officer(s) sought to be removed that the affidavit has been filed and shall inform the officer(s) of its statement of grounds. The City Secretary shall within a period of two (2) working days from the time the affidavit was filed thereupon make available to the qualified voters making such affidavit copies of petition blanks demanding such removal. The City Secretary shall keep a sufficient number of such printed petition blanks on hand for distribution. Such blanks when issued by the City Secretary shall bear the signature of the City Secretary and be of such form as prescribed in Section 6.04 of this Article, and shall be numbered, dated, and indicate the name of the person to whom issued. The City Secretary shall enter in a record to be kept in his or her office the name of the qualified voters to whom the petition blanks were issued and the number to said person.

(Charter amendment approved by voters November 6, 1979; January 20, 1996; May 6, 2000)

Sec. 6.04. - Form of recall petition.

The recall petition mentioned above must be addressed to the City Council of the City of Round Rock, must distinctly and specifically state the ground(s) upon which such petition for removal is predicated, and, if there be more than one ground, such as for incompetency, noncompliance with

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this Charter, misconduct or malfeasance in office, shall specifically state each ground with such certainty as to give the officer sought to be removed notice of such matters and things with which he or she is charged. Recall petition papers provided by the person performing the duties of City Secretary shall be in form substantially as follows:

We the undersigned qualified voters of the City of Round Rock hereby demand the question of removing (Name of Person) from the office of (Name of Office) be submitted to a vote of the qualified voters of the City. The charges and specifications upon which this demand for removal is predicated are as follows:

.....
.....

..... Signature Printed Name Address, including county Date of Birth Voter Registration No.
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The signatures shall be verified by oath in the following form:

"STATE OF TEXAS, COUNTY OF WILLIAMSON:

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 whose name it purports to be.

Sworn and subscribed to before me this _____ day of _____,

Notary Public in and for
Williamson County, Texas"

(Charter amendment approved by voters January 20, 1996; May 6, 2000)

Sec. 6.05. - Various papers constituting recall petition.

(a)

The petition may consist of one or more copies, or subscription list, circulated separately, and the signatures thereto may be upon the paper or papers containing the form of petition, or upon other papers attached thereto. Verifications provided for in the next preceding section of this Article may be made by one or more petitioners, and the several parts or 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 forty-five (45) days prior to the filing of such original petition or petitions with the person performing the duties of City Secretary on the same day, and the said Secretary shall immediately notify, in writing by registered mail, the officer so sought to be removed, by mailing such notice to such officer's address.

(b)

Certification procedures as described in Section 7.04 shall be followed in certification of the recall petition.

(Charter amendment approved by voters January 20, 1996)

Sec. 6.06. - Presentation of recall petition to City Council.

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The person performing the duties of City Secretary shall present such certified petition to the City Council at the next regular City Council meeting.

(Charter amendment approved by voters January 20, 1996)

Sec. 6.07. - Public hearing to be held on recall petition.

The officer whose removal is sought may, within five (5) days after such recall petition has been presented to the City Council, request that a public hearing be held to permit such officer to present facts pertinent to the charges specified in the recall petition. In this event, the City Council shall order such public hearing to be held, not less than five (5) days nor more than fifteen (15) days after receiving such request for a public hearing.

(Charter amendment approved by voters January 20, 1996)

Sec. 6.08. - Recall election to be called.

If the officer whose removal is sought does not resign, then it shall become the duty of the City Council to order an election and fix a date for holding such recall election, the date of which election shall be in accordance with V.T.C.A., Election Code.

(Charter amendment approved by voters January 20, 1996)

Sec. 6.09. - Ballots in recall election.

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

(a)

With respect to each person whose removal is sought, the question shall be submitted: "Shall (Name of Person) be removed from the office of (Name of Office) by recall?"

(b)

Immediately below each such question there shall be printed the two following propositions, one above the other, in order indicated:

"FOR the removal of _____ / _____ / _____ by recall."

"AGAINST the removal of _____ / _____ / _____ by recall."

Sec. 6.10. - Result of recall election.

If a majority of the votes cast at a recall election shall be against the recall of the person named on the ballot, he or she 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 an election be for the recall of the person named on the ballot, he or she shall, regardless of any technical defects in the recall petition, be deemed removed from office and the vacancy shall be filled as vacancies in the City Council are filled.

In no instance shall an officer removed from office by recall election succeed himself or herself, nor shall such officer's name appear on a ballot for elective office of the City within a period of two (2) years following the date of the election at which such officer was removed from office.

(Charter amendment approved by voters January 20, 1996)

Sec. 6.11. - Recall; restrictions thereon.

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No recall petition shall be filed against any officer of the City within six (6) months after such officer's election or appointment, nor within six (6) months after an election for such officer's recall.

(Charter amendment approved by voters January 20, 1996)

Sec. 6.12. - Failure of City Council to call an election.

In case all of the requirements of this Charter shall have been met and the City Council shall fail or refuse to receive the recall petition, or to order such recall election, or to discharge any other duties imposed upon said City Council by the provisions of this Charter with reference to such recall, then the County Judge of Williamson County, Texas, or other judge of competent jurisdiction shall discharge any such duties herein provided to be discharged by the person performing the duties of City Secretary or by the City Council.

(Charter amendment approved by voters January 20, 1996)

Sec. 7.01. - General authority.

(a)

Initiative. The qualified voters of the City shall have power to propose ordinances to the City Council, except ordinances appropriating money or levying of taxes, or applicable to zoning, not in conflict with this Charter, the state Constitution, or the state laws; and, if the City Council fails to adopt an ordinance so proposed, to adopt or reject it at a City election.

(b)

Referendum. The qualified voters of the City shall have power to require reconsideration by the City Council of any adopted ordinance and, if the City Council fails to repeal an ordinance so reconsidered, to approve or reject it at a City election, provided that such power shall not extend to the budget or capital program or any emergency ordinance or ordinance relating to appropriation of money or levy of taxes, or applicable to zoning, or to bonds issued pursuant to the authority of an election or elections theretofore held.

(Charter amendment approved by voters November 6, 1979; January 20, 1996)

Sec. 7.02. - Commencement of proceedings; petitioners' committee; affidavit.

Any five (5) or more qualified voters of the City may commence initiative or referendum proceedings by filing with the City Secretary an affidavit stating that they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered.

No later than ten (10) days after the date that the aforesaid affidavit is filed and received by the City Secretary, supplemental affidavits may be filed adding names to the petitioners' committee membership.

The affidavit shall also designate one member as the Committee Chairperson and state the name, address and telecopier number (if any) of the Committee Chairperson to which all notices provided herein shall be served. The name of the Committee Chairperson may be changed by an amendment to the affidavit signed by at least a majority of the committee members.

All notices provided herein may be served on the Committee Chairperson by personal delivery, by telephonic document transfer to the current telecopier number, if any, or by mail, which

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shall be complete upon deposit of the paper, enclosed in a postpaid, properly addressed wrapper, in a post office or official depository under the care and custody of the United States Postal Service.

Within ten (10) business days after the affidavit of the petitioners' committee is filed, the person performing the duties of City Secretary shall issue the appropriate petition blanks to the petitioners' committee.

(Charter amendment approved by voters January 20, 1996; May 6, 2000; May 15, 2004)

Sec. 7.03. - Petitions.

(a)

Number of signatures. Initiative and referendum petitions must be signed by qualified voters of the City equal in number to at least five percent (5%) of the number of total qualified voters of the City as currently certified to by the County Election Administrator, or 250, whichever is greater.

(b)

Form and content. All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.

A signature on a petition for initiative or referendum is valid only if the petition includes the following information with respect to each signer:

(1)

the signer's residence address, including county;

(2)

the signer's date of birth and voter registration number;

(3)

the date of signing; and

(4)

the signer's printed name.

(c)

Affidavit of Circulator. When filed, each paper of a petition shall have attached to it an affidavit executed by the circulator thereof stating that he or she personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in the circulator's presence, that the circulator believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.

(d)

Time for filing petitions. Petitions must be filed within forty-five (45) days after the initial issuance of the appropriate blanks to the petitioners' committee.

(Charter amendment approved by voters January 20, 1996; May 6, 2000; May 15, 2004)

Sec. 7.04. - Determination of sufficiency.

(a)

Certificate of City Secretary. Within ten (10) days after the petition is filed, the person performing the duties of City Secretary shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall immediately

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upon completion of certification serve a copy of the certificate to the Committee Chairperson, as set forth in Section 7.02

(b)

Sufficient Petition, Final Determination. If the petition is certified sufficient, the person performing the duties of City Secretary shall present the certificate to the City Council by the next regular City Council meeting and the certificate shall be a final determination as to the sufficiency of the petition.

(c)

Insufficient Petition, Final Determination. If a petition is certified insufficient, and the petitioners' committee does not elect to request City Council review under subsection (d) of this section within the time required, the City Secretary shall present a certificate to the City Council by the next regular City Council meeting which shall be a final determination of the insufficiency of the petition.

(d)

Insufficient Petition, Appeal. If a petition has been certified insufficient, the committee may, within two (2) working days after receiving the copy of such certificate, file a request that it be reviewed by the City Council. The City Council shall review the certificate at its next regular meeting following the filing of such request and approve or disapprove it, and the City Council's determination shall then be a final determination.

(e)

Court Review: New Petition. A final determination as to the sufficiency of a petition shall be subject to review in a court of competent jurisdiction and higher. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

(Charter amendment approved by voters January 20, 1996; May 15, 2004)

Sec. 7.05. - Referendum petitions; suspension of effect of ordinance.

When a referendum petition is determined to be sufficient, the ordinance sought to be reconsidered shall be suspended, and such suspension shall continue until the City Council repeals the ordinance or the ordinance is upheld by election.

(Charter amendment approved by voters January 20, 1996)

Sec. 7.06. - Action on petitions.

(a)

Action by City Council. Within sixty (60) days after the date the initiative or referendum petition has been finally determined sufficient, the City Council shall:

(1)

adopt a proposed initiative ordinance without any change in substance; or

(2)

repeal a referred ordinance; or

(3)

call an election on the proposed or referred ordinance as specified in Section 7.06(b).

(b)

Submission to Voters. The election on a proposed or referred ordinance shall be held on the next available uniform election date as required by state law. Said called election may

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coincide with a regular City election should such City election fall within the specified period. Special elections on initiated or referred ordinances shall not be held more frequently than once each six (6) months, and no ordinance substantially the same as an initiated ordinance which has been defeated or on substantially the same as a referred ordinance which has been approved at any election may be initiated by the voters within two (2) years from the date of such election. Copies of the proposed or referred ordinance shall be made available at the polls.

(c)

Publication of Proposed and Referred Ordinance. The person performing the duties of City Secretary shall give such notices and do such other things relative to such election as are required in general municipal elections or by the ordinance calling said election.

(d)

Withdrawal of Petition. An initiative or referendum petition may be withdrawn at any time prior to the time the petition has been determined to be sufficient by filing with the City Secretary a request for withdrawal signed by at least eighty percent (80%) of the members of the petitioners' committee. Upon filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated.

(Charter amendment approved by voters January 20, 1996; May 6, 2000; May 10, 2006)

Sec. 7.07. - Form of ballots.

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

"FOR THE ORDINANCE," and "AGAINST THE ORDINANCE."

Sec. 7.08. - Results of election.

(a)

Initiative. If a majority of the qualified voters voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the City Council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail.

(b)

Repeal or Amendment of an Initiated Ordinance. An ordinance adopted by initiative may be repealed or amended at any time after the expiration of two (2) years by a vote of five (5) or more of the City Council members qualified and serving.

(c)

Referendum. If a majority of the qualified voters voting on a referred ordinance vote against the ordinance, it shall be considered repealed upon certification of the election results. If a majority of the qualified voters voting on a referred ordinance vote for the ordinance, it shall be considered in effect and petition shall become void.

(d)

Adoption of an Ordinance Repealed by Referendum. An ordinance repealed by referendum may be reenacted at any time after the expiration of two (2) years by a vote of five (5) or more of the City Council members qualified and serving.

(Charter amendment approved by voters January 20, 1996; May 6, 2000)

City of Round Rock Charter
