

CITY OF LUFKIN PROPOSED CHARTER AMENDMENT SUMMARY

The City of Lufkin Charter was last amended in 1995. During the almost thirty (30) years since the last amendments; numerous provisions of the Charter are now in conflict with the Texas Local Government Code, the Texas Tax Code, Texas Election Code and other State laws (Texas Open Meetings Act, etc.) governing municipalities. There are twelve (12) proposed amendments to update the City Charter so that it will be synonymous with current State law, current City practices and protocols. Below is a summary of each proposed amendment, the ballot language of each amendment and the reasons and benefits for each. Ballot language for each Proposition is shown in *italics*. Actual wording additions/changes in the Charter are shown by **bold, underlined text for additions**, and deletions of text are shown by ~~striketrough~~. A summary of each change is shown in blue.

PROPOSITION NO. 1: *Shall Article II. Elections, Section 1, General Elections, be amended to require the publication of elections comply with the Texas Election Code?*

Article II, Elections, Section 1, General Election

The City Secretary shall give notice of such election by causing said notice to be published ~~at least forty five (45) days previous to the day of such election~~ **in accordance with the Texas Election Code** in the official newspaper of the City.

This change will bring the charter provision regarding election publication in line with the Texas Election Code. The Texas Election Code prescribes dates regarding the publication of elections. Each election cycle, the Secretary of State releases a calendar (May Uniform Election Calendar) which delineates the timeline for election activities for municipalities. This calendar and its required dates supersede the current publication provisions in the Charter. Simply stated, this amendment will bring the required practice of publishing election notices to reflect the Texas Election Code requirements. There is no negative effect of this amendment as Staff is currently following the Texas Election Code for election activities as prescribed by State law.

PROPOSITION NO. 2: *Shall Article II. Elections, Section 3, Filing of Candidates, be amended to require candidates to file for office in accordance with the Texas Election Code?*

Article II, Elections, Section 3, Filing of Candidates

Any qualified person who desires to become a candidate for election to the council shall file with the City Secretary, ~~at least thirty (30) days prior to the election day~~, an application for his/her name to appear on the ballot **in accordance with the Texas Election Code.**

This amendment will bring the charter provision regarding the filing of candidates in line with the Texas Election Code.

As in Proposition No. 1, the Uniform Election Calendar addresses the timeline for the filing period of candidates. This provision is currently being adhered to; as the dates regarding filing period set forth by the Secretary of State and Texas Election Code supersede the provisions of the Charter. Again, there is no reason that this should not be amended, as this is current practice and required by State law.

PROPOSITION NO. 3: *Shall Article II. Elections, Section 3, Qualifications, be amended to require candidates to meet the requirements for a candidate for office per the Texas Election Code?*

Article III, The Council, Section 3, Qualifications

Each member of the Council shall at the time of his/her election to office, ~~be at least twenty-five (25) years of age and shall be a qualified voter of the State of Texas and a citizen of and tax payer of the city for a period of time not less than two years next preceding his/her election.~~ **meet the requirements for a candidate for office per the Texas Election Code.**

This amendment will bring the charter provision regarding the qualifications of candidates for City Council to reflect the Texas Election Code. Current provisions for candidate qualifications per the City of Lufkin Charter are:

- Be at least twenty-five (25) years of age;
- Be a qualified voter of the State of Texas;
- Be a citizen and taxpayer of the City of Lufkin for no less than (2) years

These provisions conflict with candidate requirements as set forth in Texas Election Code, Chapter 141.001; which are:

- (1) be a United States citizen;
- (2) be 18 years of age or older on the first day of the term to be filled at the election or on the date of appointment, as applicable;
- (3) have not been determined by a final judgment of a court exercising probate jurisdiction to be:
 - (A) totally mentally incapacitated; or
 - (B) partially mentally incapacitated without the right to vote;
- (4) have not been finally convicted of a felony from which the person has not been pardoned or otherwise released from the resulting disabilities;
- (5) have resided continuously in the state for 12 months and in the territory from which the office is elected for six months immediately preceding the following date:
- (6) on the date described by Subdivision (5), be registered to vote in the territory from which the office is elected; and
- (7) satisfy any other eligibility requirements prescribed by law for the office.

During a previous election (2012), the discrepancy in these provisions was vetted through a legal opinion received from the Secretary of State, which stated that provisions of the Texas Election Code supersede any Charter provision for candidacy requirements that are more restrictive than those in the Code. Since that time, Staff has followed the provisions for candidacy requirements as set forth in the Texas Election Code. This amendment also brings the Charter into compliance with Texas Election laws and current practice.

PROPOSITION NO. 4: *Shall Article III, The Council, Section 9, Compensation, be amended to eliminate payment to councilmembers for attendance at City Council meetings?*

Article III, The Council, Section 9, Compensation

~~Each councilman shall receive the sum; of ten and no/100 dollars (\$10.00) and the mayor the sum of fifteen and no/100 dollars (\$15.00) for each meeting of the council; provided that neither the mayor nor any councilman shall receive pay for more than two meetings in any one month; and provide(d) further that neither the mayor nor any councilman shall receive pay for any meeting at which he/she was not present.~~

Councilmembers and the mayor shall not receive any compensation for attendance at council meetings. All necessary expenses incurred by members of the city council in the performance of their official duties shall be paid by the city, subject to approval by the Mayor.

This amendment will eliminate payment for service as a Councilmember from the Charter. Resolution No. 2926 was passed in 1992 eliminating the provision; however, this will formally remove the section from the Charter. The Charter currently states that the Mayor and Councilmembers shall receive a nominal payment for attendance of Council meetings. In 1992, Resolution No. 2926, was passed that eliminated the provisions. This Resolution was challenged by Councilmembers in the late 2000's, and it was determined by the City Attorney that the Resolution did not eliminate the requirement for payment; as a Resolution cannot amend a Charter. Therefore, the payment provision is still in place. During the 1995 Charter Amendment election, a proposed amendment significantly increasing the pay for the Mayor and Councilmembers was defeated by voters. This amendment will officially delete the compensation requirement from the Charter.

PROPOSITION NO. 5: *Shall Article III, The Council, Section 10, Meetings of the Council, be amended to prescribe the frequency, day and time of regular council meetings, provisions for cancellation of meetings and require notices, publications and postings to be in accordance with the Texas Open Meetings Act?*

Article III, The Council, Section 10, Meetings of the Council

~~There shall be regular public meetings of the council at such times and places as shall be prescribed by ordinance or resolution. Regular meetings of the council shall be held at least twice each calendar month. Special meetings may be called at any time by the Mayor or city council. Notice~~

~~of special meetings shall be given to all members of the council by fax sent to each member of the council at his/her last known address at least eight hours prior to the hour of such special meeting designating the time and place of such meeting designating the time and place of such meeting and the subject, or subjects, to be considered at the same and no other subject, or subjects, shall be considered at such special meeting; provided however, that any member of the council may, either before or after such special meeting, waive such notice.~~

There shall be regular public meetings of the council twice a month, generally on the first (1st) and third (3rd) Tuesday of each calendar month at 5:00 p.m. The date and time of meetings may be altered by the Mayor and/or City Manager as needed. A regular scheduled meeting shall be cancelled by approval of a Resolution by the City Council. Special meetings, including emergent meetings, may be called at any time by the Mayor. Notices, publications and postings of any Council meeting, whether regular, special or emergent, shall be in accordance with the Texas Open Meetings Act.

This proposition will amend the provisions regarding notices, publications and postings of meetings, both regular, special and emergent to comply with the Texas Open Meetings Act and the current practice of the council meetings being held on the first (1st) and third (3rd) Tuesday of each month at 5:00 p.m. This amendment will also delineate provisions on the cancellation of meetings. Proposition No. 5 delineates the meeting schedule currently being followed for Council Meetings. It also changes the publication and posting requirements to follow the Texas Open Meetings Act (which supersedes Charter provisions). Amending the wording in this proposition to follow the Texas Open Meetings Act also provides for structure regarding Special and/or Emergent Council meetings. Again, this amendment will bring the Charter in line with State laws applying to the scheduling, conducting and posting of Council meetings.

PROPOSITION NO. 6: *Shall Article VI, Taxation, Section 2, Assessor-Collector of Taxes, be amended to allow the Angelina County Tax Assessor/Collector to be designated as the City's Tax Assessor/Collector?*

Article VI. Section 2. Assessor-Collector of Taxes

~~There shall be a tax assessor collector appointed by the city responsible for the assessment and collection of all taxes levied by the city. He/she, and all employees under him/her, shall be bonded.~~

The City hereby designates the Tax Assessor Collector of Angelina County, Texas, in compliance with the V.T.C.A., Tax Code, hereby authorized and required to assess and collect taxes for the City of Lufkin, and to perform all the duties relating to the assessment and collection of such taxes as provided by the laws of the State of Texas.

This proposition will amend the Charter to allow for the designation of the Angelina County Tax Assessor/Collector as the City's assessor/collector of taxes. State law(s), specifically the Texas Local Government Code and Texas Tax Code, currently assign the duties of Assessor-Collector of Taxes (property) for the City of Lufkin on the Angelina County Tax Assessor/Collector. This proposition simply amends the Charter to follow State law(s) regarding the assessment of property

taxes for the City. It in no way removes the City of Lufkin's ability to assess for Property tax. Propositions No. 6, 7, 8 and 9 all address the assessment, collection and payment of taxes within the City of Lufkin. Chapter 6 of the Texas Property Tax Code sets forth these provisions regarding the handling of property taxes by the County for the City of Lufkin.

PROPOSITION NO. 7: *Shall Article VI, Taxation, Section 3, Assessment of Property for tax purposes be amended to reflect State Law and current City practices?*

Article VI. Section 3. Assessment of Property for tax purposes

~~All property, real, personal or mixed having a situs within the corporate limits of the city on January 1st of each year, not expressly exempted by law, shall be subject to taxation by the city for such year. The council shall prescribe the mode and manner of making renditions, tax lists, assessments and tax rolls. Every person, partnership, association or corporation which holds, owns or controls property within the limits of the city shall, between January 1 and April 1 of each year, file with the city tax assessor-collector a full and complete sworn inventory of such property held, owned or controlled within said limits on January 1 of such year. The council may prescribe by ordinance the mode and manner of making such inventories and penalties for failing or refusing to submit the same. The city tax assessor-collector shall review all renditions made to him/her and determine the value of the property rendered and fix the value thereof for tax purposes. If the city tax assessor-collector fixes a value higher than that shown on the owner's rendition, he/she shall give written notice thereof to such owner at his/her last known address by depositing the same, postage paid, in the United States mail, notifying him/her of such change and advising him/her that he/she may appear before the board of equalization to protest such change. In all cases where no rendition of real and personal property is made by the owner thereof, the city tax assessor-collector shall ascertain the amount and value of such property and assess the same and such assessment shall be as valid and binding as if the property involved had been rendered by such owner, provided that if the city tax assessor-collector shall assess any such property which has not previously been assessed, or if he/she shall assess any such property at a higher valuation from that shown on the last preceding tax roll, he/she shall give notice of such assessment, or such change in assessment, as above provided.~~

~~All assessments of real property, whether rendered by the owner or assessed by the city tax assessor-collector, shall list the value of land and improvements and describe such property sufficiently to identify it, giving the name of the last known owner thereof. The city tax assessor-collector shall assess all property which has been omitted from assessment in prior years upon a current supplemental assessment roll. The taxes upon such supplemental assessments shall be due at once and if not paid within sixty days thereafter shall be deemed delinquent and shall be subject to the same penalty and interest as other delinquent taxes for such year. If the ownership of any property should be unknown to the city tax assessor-collector, he/she shall enter that fact in the record.~~

~~In addition to the powers granted by this section, he/she shall have the same power as county tax assessors and collectors in Texas to make reassessments, all at the same value and tax rates as such~~

~~property should have been assessed and taxed for past years and indicating the year or years for which it is assessed.~~

The City shall review and accept the appraisal rolls from the Angelina County Appraisal District. These rolls shall be the basis for the setting of a tax rate by the City Council.

This proposition will amend the Charter to reflect current practice and State law regarding the assessment of property for taxes by the Angelina County Tax Assessor Collector. As in Proposition No. 6, this amendment prescribes that the Angelina County Appraisal District assumes the responsibility of assessing property for taxing and then providing an “Appraisal Roll” to the City. This “Appraisal Roll” is then used by City Council and Administration Staff to determine the tax rate each fiscal year. This amendment removes outdated language regarding the filing of property records by citizens for tax consideration; assessment of the property not disclosed; payment time frames, penalties for late/non-payments, etc. All of these provisions are now handled by the Angelina County Tax Appraisal District and Tax Assessor/Collector as set forth in State law. The City of Lufkin currently adheres to State law regarding the assessment, tax rate setting and collection of said tax.

PROPOSITION NO. 8: *Shall Article VI, Taxation, Section 4, Board of Equalization be amended to provide that the City Council may contract with the Angelina County Appraisal District to perform the duties of assessment of property taxes to be consistent with State law and current City organization?*

Article VI. Taxation, Section 4. Board of Equalization

~~The council shall each year prior to June 1 appoint a member to the board of equalization as required by state law. The member of said board shall be a qualified voter and a property owner within the city and shall be well informed of property values within the city. Three members will constitute a quorum for the transaction of business. Said board shall choose from its membership a chairman, who shall preside at all meetings of the board, and a vice chairman who shall act in the chairman’s absence. Members of the board shall receive such compensation as may be provided by the council.~~

~~The board of equalization shall convene as soon as practicable after June 1 and shall give public notice of its time and place of meeting. The board shall adjust assessed values and, in addition to the powers herein granted, shall have all the powers of a county commissioner’s court in regard to the equalization of assessed values of property for taxation. Whenever the board shall find it necessary to increase the rendered or assessed value of any property appearing on the assessment rolls, it shall give immediate notice to the owner of such property, or the person rendering the same, and provide said owner an opportunity to appear and show cause why the value of such property should not be changed. The notice herein required may be served by mailing the same to the last known address of the owner, postage paid. The board shall have the same powers to subpoena property owners of the city, witnesses, books, and records as are granted by the laws of the state to the county board of equalization and shall have the power to administer oaths and to punish for contempt as provided by ordinance.~~

~~The board shall be governed by such rules and regulations and shall have such additional powers as may be prescribed by ordinance, but it may adopt such further rules and regulations of its own which are not in conflict with any ordinance, this Charter or the laws of the State of Texas. The board shall cause a record of its proceedings to be made and such record shall be preserved to the same extent and in the same manner as other tax records of the city. Immediately upon completion of its work, the board shall certify its approval of the assessment rolls and forward the same to the council. The council shall thereupon consider and approve the assessment rolls of the city for that tax year.~~

The City Council may contract with the Angelina County Appraisal District Board to perform duties relating to the assessment of taxes including performing appraisals, causing notices to be sent, hearing and ruling on protests and claims and sending final assessment rolls to the City of Lufkin. In these duties, all provisions of the constitution and general laws of the State of Texas, the Ordinances of this City relating thereto, and the provisions of this charter shall be followed.

This proposition will delete any reference to the Board of Equalization for taxation and defer to the Angelina County Appraisal District Board. Proposition No. 8 amends the Charter to assign the performance duties (assessment, appraisals, notices, protests, claims, etc.) to the Angelina County Appraisal District. It deletes the provisions regarding the previous City of Lufkin “Board of Equalization” which was charged with these duties in the past and allows that the City “may” contract with the Angelina County Appraisal District Board to perform the same. As you are aware, the Appraisal District has a Board of Directors as well as an Appraisal Review Board. The City has members on both boards. These two (2) Boards currently perform all of the duties regarding taxing of properties. The word “may” is used in the proposed amendment instead of “shall” in order to preserve the City’s right to retain the power of the duties that are being handled by the Angelina County Appraisal District. This practice has been in place since 1986, when the first contract with the County regarding the assessing and collecting of taxes was approved by City Council. Furthermore, State law states that the County Appraisal District is responsible for these duties for municipalities within its jurisdiction. In essence, this amendment, along with the others regarding taxing, will ensure the Charter provisions follow and comply with State law(s) regarding the taxing of property within the City of Lufkin.

PROPOSITION NO. 9: *Shall Article VI, Taxation, Section 5, Tax Payments, be amended to allow tax payments to be collected by the Angelina County Tax Assessor/Collector?*

Article VI. TAXATION, Section 5. Tax Payments

All taxes due to the city shall be payable at the office of the city Angelina County Tax Assessor-Collector. Ad valorem taxes shall become due and payable on the first day of October in each year, shall be paid before the first day of February thereafter, and, if not so paid, a penalty shall accrue and be added thereto and be enforced and collected in the same manner as such original taxes; such penalty and collection to be provided by ordinance as designated by the city.

This proposition will amend the Charter to reflect current procedures regarding the collection of tax payments. The final proposed amendment in regard to taxing merely assigns the collection of Property Tax to the Angelina County Tax Assessor-Collector, instead of the City. This is current practice and again, is set forth by Chapter 6 of the Texas Property Tax Code.

PROPOSITION NO. 10: *Shall Article XI General Provisions, Section 11, Personal Interests in City Contracts be amended to be consistent with State law and current City practices?*

Article XI. General Provisions, Section 11. Personal Interest in City Contracts

~~No member of the council or other officer or employee of the city shall be directly or indirectly interested in any work, business or contract, the expense, price or consideration of which is paid from the city treasury or by an assessment levied by an ordinance or resolution of the council; nor be the surety on the official bond of any officer of the city or for any person having a contract, work or business with the city for the performance of which security may be required, except on behalf of the city as an officer or employee.~~

Conflicts of interest by City Councilmembers, officers and employees of the City regarding any work, business, contract or purchase which is paid for by the City treasury shall be governed by the provisions of the Texas Local Government Code (Chapter 171). Conflicts of interest shall require a Councilmember to document the interest through an affidavit filed with the City Secretary and publicly abstain from any discussion, proceedings and vote on the same. Employees shall not be directly or indirectly interested in any work, business, contract of purchase of goods which is paid for by the City treasury.

Any willful violation of this section shall constitute malfeasance in office and any officer or employee guilty thereof shall be subject to removal from his/her office or position. Any violation of this section with the knowledge, expressed or implied, of the person or corporation contracting with the city shall render the contract involved void.

This proposition will amend the Charter to reflect current procedures and the Texas Local Government Code (Chapter 171) regarding Conflicts of Interest. Simply put, this Proposition amends the Charter regarding Conflicts of Interest to allow for this issue to be governed by the provisions of Chapter 171 of the Texas Local Government Code, which supersedes the Charter provisions. Again, this is current practice by Administration.

PROPOSITION NO. 11: *Shall Article XI, General Provisions, Section 12, Unauthorized Gifts be amended to be consistent with State law and current City practices?*

Article XI. General Provisions, Section 12 Unauthorized Gifts

No employee of the City of Lufkin nor any member of the City Council shall ever accept any unauthorized free tickets, passes, or service or anything of **more than nominal** value, directly or indirectly, from any person, firm, or corporation upon terms more favorable than are granted to the general public and any employee of the City of Lufkin who shall violate this section shall

~~forfeit such employment~~ **be subject to disciplinary action** and any member of the Council who shall violate this section shall, ~~ipso facto~~, forfeit his/her position as a member of the Council.

This proposition will amend the Charter to reflect current procedures and State law regarding the receiving of gifts. This amendment defines “gifts” and penalties for acceptance of the same. State law provides that municipal employees and elected officials should not accept anything of more than “nominal” value, or anything valued over fifty dollars (\$50.00). This proposition also removes the immediate forfeiture of employment for violation of this provision.

PROPOSITION NO. 12: *Shall Article XI, General Provisions, Section 15, Boundaries of Wards be amended to remove meets and bounds ward lines and insert language consistent with State law and current redistricting guidelines?*

Article XI. General Provisions, Section 15. Boundaries of Wards

The City of Lufkin shall be and is hereby divided into six (6) wards with boundaries **established and amended as required by Federal and State law, and hereafter adopted by the City Council with the U.S. Justice Department approval, if required. The official map and legal description of the City of Lufkin wards and their respective boundaries shall be kept on file in the City Secretary’s office.** ~~and described as follows:~~ **City Councilmembers shall be residents of their respective ward.**

This proposition will remove the printing of the “meets and bounds” descriptions of the wards within the City. These boundaries change with each census. The “meets and bounds” of each of the six (6) wards are currently printed in the 1994 City of Lufkin Charter. Every ten (10) years, once the Federal Census is completed, the City must review the demographics and population within each Ward. Should the discrepancy in population/demographics be above the percentage threshold set by the Federal and State laws, the City must undertake the process of redistricting, which evens the demographic makeup of the population within each Ward. Therefore, the meets and bounds are subject to change. This provision removes the printing of the “meets and bounds” of the City and its Wards, and provides for an Official Map and legal description be kept on file in the City Secretary’s office. The process of reviewing, correcting and the reprinting of the Charter is costly and time consuming to Staff. Furthermore, Citizens will be able to better “see” where boundaries are within the City, rather than trying to read and understand the language of “meets and bounds” as in the Charter now. The amendment provides a more concise and current way of maintaining Ward boundaries.

PROPOSITION NO. 13: *Shall Article XI, General Provisions, Section 19, Amending the Charter, be amended to provide for a review of the Charter every five (5) years?*

Article XI. General Provisions, Section 19. Amending the Charter

This Charter shall be reviewed by the City Council every five (5) years to ascertain the need for amending. Amendments to this Charter may be framed and submitted to the electors of the city by a charter commission in the manner provided by law for framing and submitting a new

charter. Amendments may also be proposed and submitted by ordinance passed by a majority vote of the membership of the council qualified and serving or by a petition signed by not less than twenty-five per cent (25%) of the number who voted at the last regular municipal election; provided, however, that in the latter case the petition must bear the signatures of at least ten per cent (10%) of the qualified voters of the city. When a charter amendment petition shall have been filed with the council in conformity with the provisions of this Charter the council shall forthwith provide by ordinance for submitting such proposed amendment to a vote of the electors. Any ordinance for submitting a charter amendment to the electors shall provide that such amendment be submitted at the next regular municipal election if one shall occur not less than sixty (60) nor more than one hundred twenty (120) days after the passage of the ordinance; otherwise it shall provide for the submission of the amendment at a special election to be called and held within such time. If a proposed amendment is approved by majority of the electors voting thereon it shall become a part of the Charter at the time fixed therein. Each amendment shall be confined to one subject and when more than one amendment shall be submitted at the same time they shall be so submitted as to enable the electors to vote on each amendment separately.

This proposition will add the requirement that the City of Lufkin Charter be reviewed every five (5) years to determine if the need exists for amending. All other provisions in this Section remain the same. This was requested by City Council and will provide for the review and possible amendments if necessary on a timely basis.

SUMMARY:

In summary, the thirteen (13) proposed Charter Amendments provide a much-needed update to the City of Lufkin Charter. Numerous State laws have been implemented since 1994 and now supersede provisions of the Charter. These Amendments will ensure that the City of Lufkin moves into the future with a Charter that not only complies with, but tracks with everchanging Federal and State legislation, which will reduce the need for a Charter election in the future.