

ORDINANCE NO. _____

AN ORDINANCE DETERMINING THAT A CHARTER AMENDMENT SHOULD BE SUBMITTED TO THE VOTERS OF THE CITY ON _____.

* * * * *

WHEREAS, the City Charter of the City of Alamo Heights was adopted in 1954, and was amended by the voters on _____; and

WHEREAS, under the Texas Constitution, a City Charter may only be amended every two years and sufficient time has elapsed to amend the City Charter; and

WHEREAS, the City Council received a request from Councilmember Fred Prassel to amend the City Charter to include the rights of initiative and referendum; and

WHEREAS, the City Council has reviewed the request and desires to submit a proposed amendment of the City Charter to the voters at the next uniform election date; and

WHEREAS, pursuant to Texas Local Government Code Section 9.004(e), more than one amendment may be combined in one ballot proposition as long as the amendments contain only one subject.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALAMO HEIGHTS that the following charter amendments all related to one subject and included in a single proposition should be submitted to the voters at the next uniform election date:

CHARTER AMENDMENT PROPOSITION

Article XIX of the City Charter currently titled “Recall of Officers” shall be amended and retitled “Initiative, Referendum and Recall” to include the rights of qualified electors of the city to initiate an ordinance and rescind at the polls an ordinance approved by the city council and the petition and procedures for initiative, referendum and recall of elective officers shall be revised to be consistent with the Texas Elections Code, so that said Article XIX shall after amendment read as follows:

Section 1. Scope of initiative, referendum and recall.

The qualified electors of the city shall have the right to initiate an ordinance, rescind at the polls an ordinance approved by the city council, or recall and remove the mayor or any member of the city council as in this Charter provided. Ordinances appropriating money, levying taxes, fixing public utility rates, deciding issues of public health and safety, zoning or rezoning property, any ordinance not subject to initiative or referendum

as provided by State Law or any ordinance submitted by the council of its own initiative to a vote of the electors shall not be subject to initiative or referendum.

Section 2. Petitions.

Before the question of initiative, referendum or recall shall be submitted to the qualified electors 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 shall be signed by qualified voters of the city equal in number to at least twenty percent (20%) of the number of votes cast at the last regular municipal election of the city, but in no event less than 500 such petitioners in the case of initiative or referendum and no less than 300 such petitioners in the case of recall. Each signer of such petition shall personally print and sign his name thereto in ink and shall write after his name his place of residence, giving name of street and number of place of residence, and shall also write thereon his date of birth and the day of the month and year his signature was affixed.

Section 3. Form of petition.

The petition mentioned above must be addressed to the City Council of the City of Alamo Heights. A petition initiating an ordinance must include the full text of the proposed ordinance. A petition of referendum must identify the number, date and full caption of the ordinance to be submitted to the qualified electors for their consideration. A separate petition shall be submitted for each ordinance to be considered under this Article. A petition demanding recall must distinctly and specifically point out the ground or grounds upon which such petition for removal is predicated, and if there be more than one ground, such as for incompetency, misconduct, or malfeasance in office, shall specifically state each ground with such certainty as to give the officer sought to be removed, notice of the matters and things with which he is charged.

The signatures to 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 personally circulated the foregoing paper, that all the signatures appended thereto were made in his presence, and that he believes them to be the genuine signatures of the persons whose names they purport to be. The signatures shall be verified by oath in the following form:

STATE OF TEXAS)
)
COUNTY OF BEXAR)

I, _____, being first duly sworn, on oath depose and say that I am one of the signers of the above petition; 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.

Signature _____

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

Notary Public in and for Bexar County, Texas"

Section 4. Various papers constituting petition.

The petition may consist of one or more copies, or subscription lists, circulated separately, and the signatures thereto may be upon the paper, or papers containing the form of petition, or upon other papers attached thereto. Verification provided for in the 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 to be counted which were placed thereon more than thirty (30) days prior to the filing of such petition or petitions with the person performing the duties of city secretary.

Section 5. Filing, examination and certification of petitions.

All papers and documents comprising a single petition shall be filed with the person performing the duties of City Secretary on the same day, and the City Secretary shall immediately notify, in writing, the mayor and members of city council. Within five (5) days after a petition is filed, the City Secretary shall determine the validity of the submitted petition in accordance with this Article and state law. The City Secretary shall certify the result of this examination to the city council at its next regular meeting following the above period of examination.

Section 6. Election to be called.

If the city council does not pass and approve an ordinance supported by an initiative petition or rescind an ordinance supported by a referendum petition within forty (40) days or in the event of recall, if the officer, whose removal is sought, does not resign within five (5) days after such petition shall have been duly presented to the City Council of the City of Alamo Heights as provided in the preceding section of this article, then it shall become the duty of said city council to order an election and fix a date for holding such election; and the date of which election shall be in accordance with state and federal law.

Section 7. Initiative or referendum election form of ballot.

Ordinances submitted to a vote of 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 propositions, 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.

Should a majority of the votes cast at such election be for the ordinance titled on the ballot, the ordinance shall be deemed passed and approved. Should a majority of the votes cast at such election be against the ordinance titled on the ballot, such ordinance shall be deemed rescinded or disapproved.

Section 8. Recall election form of ballot.

The form of ballot to be used for a recall election shall be as follows: "Shall (name of person) be removed from office (name of office) by recall?" Immediately following the above question there shall be provided on the ballot, in separate lines, in the order here set out, the words: "FOR the recall of (name of person)" and "AGAINST the recall of (name of person)."

Should a majority of the votes cast at such recall election be for the recall of such officer named on the ballot, he shall be deemed removed from office. Should a majority of the votes cast at such recall election, however, be against the recall of the officer named on the ballot, such officer shall continue in office for the remainder of his term.

Section 9. Recall, restrictions thereon.

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

Section 10. Failure of city council to call an election.

In the event that all of the requirements of this Charter shall have been met and the city council shall fail or refuse to receive the petition, or order such election, or discharge any other duties imposed upon said city council by the provisions of this Charter with reference to such initiative, referendum or recall, then the County Judge of Bexar County, Texas, shall discharge any of such duties herein provided to be discharged by the city council.

Section 11. One or more officers may be recalled at same election.

The mayor and/or one or more council members may be recalled at the same election; and, if in such recall election there shall as a result of such election, remain the mayor or one or more council members who are not recalled, then the mayor, council member or council members not recalled shall discharge all of the duties incumbent upon the governing body of said city until the vacancy or vacancies created at such recall elections are filled by an election for that purpose; but if in any proposed recall election it is

proposed and submitted to recall all the members constituting said city council, then there shall be submitted in the recall petition the names of candidates to fill the vacancies proposed to be created by such election and their names shall be placed upon the ballot; but the name of such officers proposed to be recalled shall not appear on the ballot as candidates.

Section 12. Vacancies in city council due to recall, how filled.

If at any recall election it is not proposed and submitted to recall all of the members constituting said city council, but only one or more and fewer than all, and such election shall result in favor of the recall of one or more of said officers proposed to be recalled, then it shall be the duty of the remaining member or members not recalled and constituting the governing body of the city, after such election is held, to meet, canvass the returns, declare the result of the election, and on the same date order an election to fill such vacancy or vacancies; which election shall be held in accordance with state law. No vacancy caused by recall shall be filled by the City Council of the City of Alamo Heights, but only by election. The remaining members not recalled and constituting the governing body of the city shall constitute a quorum and take all necessary actions to continue conducting City business until the vacancies have been filled by election.

Section 13. Repealing ordinances; publication.

Initiative and referendum ordinances adopted or approved by the electors shall be published and may be amended or repealed by the council, as in the case of other ordinances; provided, however, that no ordinance adopted at the polls under the initiative or referendum shall be amended or repealed by the council within six (6) months of adoption.

BALLOT PROPOSITION

PROPOSITION ONE

Article XIX of the City Charter currently titled “Recall of Officers” shall be amended and retitled “Initiative, Referendum and Recall” to include the rights of qualified electors of the city to initiate an ordinance and rescind at the polls an ordinance approved by the city council and the petition and procedures for initiative, referendum and recall of elective officers shall be revised to be consistent with the Texas Elections Code.

FOR AGAINST

This Ordinance shall be in force and effect from and after the date of its adoption, and it is so ordained.

PASSED AND APPROVED this 23rd day of August, 2010.

MAYOR

ATTEST:

CITY SECRETARY

APPROVED AS TO FORM:

CITY ATTORNEY