

ORDINANCE #05-17

AN ORDINANCE OF THE CITY OF DE LEON, TEXAS ORDERING A SPECIAL ELECTION, TO BE HELD THE 6TH OF MAY 2017, FOR THE SUBMISSION OF PROPOSED AMENDMENTS TO THE CHARTER OF THE CITY OF DE LEON, TEXAS TO THE VOTERS OF THE CITY OF DE LEON, TEXAS; PROVIDING FOR A JOINT ELECTION WITH COMANCHE COUNTY AND CONTRACTING WITH COMANCHE COUNTY FOR ELECTION SERVICES INCLUDING ELECTRONIC VOTING; DESIGNATING A POLLING PLACE AND CONTAINING OTHER PROVISIONS RELATING TO THE ELECTION.

WHEREAS, on November 23, 2016, the City Council of the City of De Leon (the "City Council") took action to begin working on revisions to the Charter of the City of De Leon, Texas (the "Charter");

WHEREAS, the City Council worked on revisions to the Charter at meetings held on December 12, 2016, January 9, 2017, and January 23, 2017 and decided upon the final revisions to be proposed to the voters of the City of De Leon on January 23, 2017;

WHEREAS, pursuant to Section 9.004 of the Texas Local Government Code, the City Council in this Ordinance hereby submits proposed amendments of the Charter to the City's qualified voters for their approval;

NOW, THEREFOR, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DE LEON, TEXAS:

Section 1. That a special municipal election is hereby called and ordered for the 6th day of May, 2017, to submit the following propositions amending the Charter of the City of De Leon, Texas to the qualified voters of the City:

PROPOSITION NO. 1

Shall Article V, Section 2 of the Charter of the City of De Leon, Texas be amended to remove outdated language regarding dates for holding elections and for canvassing elections which are now established by state law?

PROPOSITION NO. 2

Shall Article VI, Section 1 of the Charter of the City of De Leon, Texas be amended to allow for only one regular meeting of the De Leon City Council per month rather than two regular meetings as the Charter is currently written?

PROPOSITION NO. 3

Shall Article VI, Section 1 of the Charter of the City of De Leon, Texas be amended to allow the Mayor or two (2) Council Members to call a special meeting rather than allowing only the Mayor to call a special meeting as the Charter is currently written?

PROPOSITION NO. 4

Shall Article VI, Sections 2, 3, 4, and 5, and Article VII, Sections 1, 2, and 8 of the Charter of the City of De Leon, Texas be amended to reorganize the provisions and clarify the language regarding a quorum, the Mayor's ability to vote, and the Mayor Pro Tempore to make the provisions easier to understand?

PROPOSITION NO. 5

Shall Article VII, Section 10 of the Charter of the City of De Leon, Texas be amended to clarify that two (2) readings are required before either an ordinance or a resolution is adopted by the City Council?

PROPOSITION NO. 6

Shall Article VIII, Section 2 of the Charter of the City of De Leon, Texas be amended to remove outdated provisions regarding the duties of the Mayor?

PROPOSITION NO. 7

Shall Article VIII, Section 4 of the Charter of the City of De Leon, Texas be amended to remove the two (2) year term for peace officers appointed by the City Council and to clarify the duties of City police officials?

PROPOSITION NO. 8

Shall Article VIII, Section 5 of the Charter of the City of De Leon, Texas be amended to modernize the provisions regarding the City Secretary?

PROPOSITION NO. 9

Shall Article VIII, Sections 5 and 6 of the Charter of the City of De Leon, Texas be amended to modernize the provisions regarding the City depository?

PROPOSITION NO. 10

Shall Article VIII, Section 6 of the Charter of the City of De Leon, Texas be amended to have the City Secretary also act as the City Treasurer?

PROPOSITION NO. 11

Shall Article IX, Sections 13, 14, and 15 of the Charter of the City of De Leon, Texas be amended to remove outdated language regarding a City Board of Equalization, the duties and functions of which are now superseded by State law?

Section 2. The official ballots for the special election shall be prepared in accordance with the Texas Election Code to permit the electors to vote “FOR” or “AGAINST” the aforesaid Propositions, with the ballots to contain such provisions, markings, and language as required by law, and with such Propositions to be expressed substantially as follows:

PROPOSITION NO. 1

SHALL ARTICLE V, SECTION 2 OF THE CHARTER OF THE CITY OF DE LEON, TEXAS BE AMENDED TO REMOVE OUTDATED LANGUAGE REGARDING DATES FOR HOLDING ELECTIONS AND FOR CANVASSING ELECTIONS WHICH ARE NOW ESTABLISHED BY STATE LAW?

FOR []
AGAINST []

PROPOSITION NO. 2

SHALL ARTICLE VI, SECTION 1 OF THE CHARTER OF THE CITY OF DE LEON, TEXAS BE AMENDED TO ALLOW FOR ONLY ONE REGULAR MEETING OF THE DE LEON CITY COUNCIL PER MONTH RATHER THAN TWO REGULAR MEETINGS AS THE CHARTER IS CURRENTLY WRITTEN?

FOR []
AGAINST []

PROPOSITION NO. 3

SHALL ARTICLE VI, SECTION 1 OF THE CHARTER OF THE CITY OF DE LEON, TEXAS BE AMENDED TO ALLOW THE MAYOR OR TWO (2) COUNCIL MEMBERS TO CALL A SPECIAL MEETING RATHER THAN ALLOWING ONLY THE MAYOR TO CALL A SPECIAL MEETING AS THE CHARTER IS CURRENTLY WRITTEN?

FOR []
AGAINST []

PROPOSITION NO. 4

SHALL ARTICLE VI, SECTIONS 2, 3, 4, AND 5, AND ARTICLE VII, SECTIONS 1, 2, AND 8 OF THE CHARTER OF THE CITY OF DE LEON, TEXAS BE AMENDED TO REORGANIZE THE PROVISIONS AND CLARIFY THE LANGUAGE REGARDING A QUORUM, THE MAYOR'S ABILITY TO VOTE, AND THE MAYOR PRO TEMPORE TO MAKE THE PROVISIONS EASIER TO UNDERSTAND?

FOR []
AGAINST []

PROPOSITION NO. 5

SHALL ARTICLE VII, SECTION 10 OF THE CHARTER OF THE CITY OF DE LEON, TEXAS BE AMENDED TO CLARIFY THAT TWO (2) READINGS ARE REQUIRED BEFORE EITHER AN ORDINANCE OR A RESOLUTION IS ADOPTED BY THE CITY COUNCIL?

FOR []
AGAINST []

PROPOSITION NO. 6

SHALL ARTICLE VIII, SECTION 2 OF THE CHARTER OF THE CITY OF DE LEON, TEXAS BE AMENDED TO REMOVE OUTDATED PROVISIONS REGARDING THE DUTIES OF THE MAYOR?

FOR []
AGAINST []

PROPOSITION NO. 7

SHALL ARTICLE VIII, SECTION 4 OF THE CHARTER OF THE CITY OF DE LEON, TEXAS BE AMENDED TO REMOVE THE TWO (2) YEAR TERM FOR PEACE OFFICERS APPOINTED BY THE CITY COUNCIL AND TO CLARIFY THE DUTIES OF CITY POLICE OFFICIALS?

FOR []
AGAINST []

PROPOSITION NO. 8

SHALL ARTICLE VIII, SECTION 5 OF THE CHARTER OF THE CITY OF DE LEON, TEXAS BE AMENDED TO MODERNIZE THE PROVISIONS REGARDING THE CITY SECRETARY?

FOR []
AGAINST []

PROPOSITION NO. 9

SHALL ARTICLE VIII, SECTIONS 5 AND 6 OF THE CHARTER OF THE CITY OF DE LEON, TEXAS BE AMENDED TO MODERNIZE THE PROVISIONS REGARDING THE CITY DEPOSITORY?

FOR []
AGAINST []

PROPOSITION NO. 10

SHALL ARTICLE VIII, SECTION 6 OF THE CHARTER OF THE CITY OF DE LEON, TEXAS BE AMENDED TO HAVE THE CITY SECRETARY ALSO ACT AS THE CITY TREASURER?

FOR []
AGAINST []

PROPOSITION NO. 11

SHALL ARTICLE IX, SECTIONS 13, 14, AND 15 OF THE CHARTER OF THE CITY OF DE LEON, TEXAS BE AMENDED TO REMOVE OUTDATED LANGUAGE REGARDING A CITY BOARD OF EQUALIZATION, THE DUTIES AND FUNCTIONS OF WHICH ARE NOW SUPERSEDED BY STATE LAW?

FOR []
AGAINST []

Section 3. If all Propositions are adopted by the qualified voters of the City of De Leon, the following City Charter provisions shall be amended by adding the underscored words and deleting those struck through and bracketed to read in their entirety as follows:

ARTICLE V – ELECTIONS

SECTION 2. Election of the City Council – The general city election shall be held annually on the [~~first Saturday in May~~] general election day in May or the date

nearest thereto as may be required by law. Officers shall be elected at each general election as specified in Section 6.

The City Council shall canvass the results of city elections ~~[on the first business day after the day of election]~~ within the time frame established by the Texas Election Code. The candidates receiving a majority of the votes cast for the office shall be declared elected. If no candidate receives a majority of the votes cast, the two candidates receiving the highest number of votes cast for the office shall be certified as candidates for a run-off election to be held on the following Saturday. The candidate receiving the highest number of votes cast for the office in the run-off election shall be declared elected and if the run-off results in a tie vote, the tie shall be broken in a manner authorized by the Texas Election Code.

The names of the candidates will be listed on the ballot in the order established by a drawing held by the City Secretary and without reference to political party or other designation. Each person voting at the election shall have one vote for each office listed on the ballot.

ARTICLE VI – THE CITY COUNCIL

SECTION 1. Regular and Special Meetings – The City Council shall meet regularly once ~~[twice]~~ each month and may meet in special meeting on call of the mayor or at the request of at least two (2) Council members. The City Council shall adopt and enforce all ordinances necessary and proper for carrying out the powers and duties herein provided. The City Council shall promote the welfare of the citizens in such manner as it deems advisable subject only to the limitations imposed by the Constitution and laws of the United States and this State and Charter.

~~[SECTION 2. **Quorum and Mayor Pro Tempore** – The mayor pro tempore shall preside at all meetings in the absence of the mayor and four (4) members of the City Council shall constitute a quorum. However, no ordinance or resolution shall be finally passed except on the affirmative vote of four (4) members of the City Council.]~~

SECTION 2. Mayor and Mayor Pro Tempore – The Mayor shall preside over the City Council and in the absence of the mayor, the mayor pro tempore shall preside. The mayor, or mayor pro tempore if presiding, shall be entitled to vote on all questions, ordinances, resolutions, and claims coming before the City Council.

~~[SECTION 3. **Appointment of Officers and Employees** – The City Council may appoint such officers and employees as it deems advisable and shall establish the salaries, benefits and fees to be paid the appointed officers and employees of the City.]~~

SECTION 3. Mayor Pro Tempore – The City Council shall elect a mayor pro tempore at the City Council meeting at which newly elected members of the City

Council take office after each general city election. The mayor pro tempore shall hold office for one year, and in the event of the failure, inability, or refusal of the mayor to act, [in] with respect to any matter or duty, the mayor pro tempore shall act.

~~[SECTION 4. **Combine Positions**—The City Council may combine the duties of two or more appointed officers of the city and provide that all such duties be performed by one person.]~~

SECTION 4. **Quorum** – Four (4) members of the City Council shall constitute a quorum. The Mayor, or Mayor Pro Tempore presiding in the Mayor's absence, is considered a member of the City Council for the purpose of establishing a quorum. However, no ordinance or resolution shall be finally passed except on the affirmative vote of four (4) members of the City Council.

~~[SECTION 5. **{OMITTED}**]~~

SECTION 5. **Appointment of Officers and Employees; Combining Positions** - The City Council may appoint such officers and employees as it deems advisable and shall establish the salaries, benefits and fees to be paid the appointed officers and employees of the City. The City Council may combine the duties of two or more appointed officers of the city and provide that all such duties be performed by one person.

ARTICLE VII – THE AUTHORITY AND LIMITATIONS OF THE CITY COUNCIL

SECTION 1. **RESERVED.** ~~[Mayor and Mayor Pro Tempore—The Mayor shall preside over the City Council and in the absence of the mayor the mayor pro tempore shall preside.]~~

SECTION 2. **RESERVED.** ~~[Mayor Pro Tempore—The City Council shall elect a mayor pro tempore at the City Council meeting at which newly elected members of the City Council take office after each general city election. The mayor pro tempore shall hold office for one year, and in the event of the failure, inability, or refusal of the mayor to act, in respect to any matter or duty, the mayor pro tempore shall act.]~~

SECTION 8. **Ordinances, resolutions and claims** – Ordinances and resolutions shall be introduced in written or printed form and, except for ordinances or resolutions appropriating money, shall not contain more than one subject which shall be clearly stated in the title. Except in matters of a temporary character, or matters having reference to the conduct of the ordinance and current affairs of the city, the City Council shall proceed by ordinance only. A majority vote of the City Council shall be necessary for the adoption of any ordinance or resolution, or the allowance of any claim. The vote on all ordinances, resolutions and claims shall be entered of record ~~[and the mayor shall be entitled to vote on all questions, ordinances, resolutions, and claims coming before the City Council.]~~

SECTION 10. ~~[Emergency]~~ Two Readings Required – No ordinance or resolution, ~~[except be it]~~ unless declared an emergency by majority vote, shall be passed until it has been read by the City Council at two meetings, one of which is a regular meeting. This requirement may be dispensed with by the affirmative vote of all the members of the City Council.

An emergency measure within the meaning of this section is an ordinance or resolution for the immediate preservation of the public peace, property, health and safety or which provides for the usual daily operation of the city. The City Council shall, within its discretion, declare what measures are emergency measures and an ordinance or resolution carrying an emergency clause shall be construed to be an emergency measure provided the emergency is set forth and defined in the preamble or in the closing section of such ordinance or resolution.

Any measure making grant, amendment, or extension of any franchise or other special privilege, or increasing the rate to be charged for services by any public utility, shall never be classed as an emergency measure.

ARTICLE VIII – DUTIES AND POWERS AND OFFICERS

SECTION 2. The Mayor of the City, in addition to duties prescribed elsewhere in this Charter, ~~[prescribed]~~ shall be the executive officer of the city and shall have the responsibilities specified in this Section. ~~[he shall see that the laws and ordinances thereof are duly executed.]~~ He shall supervise ~~[and inspect the conduct of all subordinate]~~ officers and employees of the City pursuant to the City Personnel Policies and Procedures as may be adopted by the City Council from time to time. ~~[and shall cause all negligence, carelessness and violations of duty by them to be prosecuted or punished;]~~ The Mayor ~~[; he shall from time to time;]~~ shall communicate to the City ~~[Commission]~~ Council such information, and recommend such measures as may, in his judgment, tend to the improvement of the finances, police, health, comfort and good government of the City. He shall represent the city in all its relations to other municipalities, and with the State, and he shall perform such other duties and exercise such other powers, not above enumerated, as may be given to him by the City Council or by provisions of state law relating to home-rule municipalities. ~~[as are prescribed by the general municipal incorporation laws of this State for mayors of cities of more than five thousand inhabitants incorporated under such laws, and not inconsistent with the provisions and limitations of this Charter.]~~

SECTION 4. Policemen and other police officials ~~[may]~~ shall be appointed by the City Council ~~[Commission]~~, upon recommendation of the chief of police. ~~[and such officials shall hold their offices at the pleasure of the City Commission not to exceed a period of two (2) years under any one appointment and said]~~ Police officials shall perform ~~[such]~~ duties as assigned by the chief of police, and shall receive such compensation as the City Council ~~[Commission]~~ may direct. ~~[Until otherwise provided, such policemen shall have and exercise like powers, rights and authority as are vested by this Charter in the marshal.]~~

SECTION 5. The City Secretary shall attend the meetings of the City Council [~~Commission~~] and shall keep accurate minutes of its proceedings in books to be provided for that purpose. He or she shall correctly enroll all ordinances and resolutions of the City Council [~~Commission~~] and properly record the same. He or she shall take charge of, preserve and keep in good order all books, records, papers, documents and files belonging to the city, the custody of which is not confined to some other official. He or she shall countersign all commissions issued to city officers and licenses issued by the city, or under its authority, and keep a register thereof. He or she shall make out all notices required under any order or ordinance of the city and serve the same when directed so to do by the mayor or other competent authority. He or she shall draw and countersign all checks on City financial accounts [~~warrants on the Treasurer~~], which shall show definitely the fund upon which they are drawn and the purpose for which they are issued, and keep an accurate account thereof in a book to be provided for that purpose. He or she shall be the general accountant of the city and shall keep in books regular accounts of the receipts and disbursements of the city showing under proper heads each cause of receipt or disbursements, and shall also keep an account with each person or officer handling funds of the city, crediting amounts allowed by proper authority, and specifying the particular transaction to which such entries apply. He or she shall keep a register of bonds and other evidences of indebtedness issued by the city and of all evidences of debt due and payable to the city, noting the particulars thereof. He or she shall, before each meeting of the City Council [~~Commission~~], examine all claims and accounts filed against the city, and note his or her approval of such as are found correct and his disapproval of others. He or she shall require all officers of the city connected with its finances, or handling its funds, to make at least monthly reports to the City Council [~~Commission~~], which he or she shall examine and approve, or disapprove, and refer to the City Council [~~Commission~~] for appropriate action. He or she shall audit the books of other departments and officials. [~~and funds of the city shall be paid to the Treasurer through him on deposit warrants to be issued by him in triplicate, one to be given the depositor, one to the City Treasurer, and the other to be retained by him.~~] He or she shall be the clerk of the municipal [~~corporation~~] court and perform all duties incident to that office.

SECTION 6. The City Secretary shall also serve as the City Treasurer. The City Secretary [~~Treasurer shall, upon deposit warrants issued by the City Secretary, receive and, until a depository may be selected,~~] shall securely keep all moneys belonging to the city until such time as those moneys are deposited with the designated depository for City funds. [~~and upon presentation to him of any warrant drawn by proper authority, and showing on its face the purpose for which it was issued and the funds from which it is payable, shall pay such warrant, provided there is sufficient money in the treasury belonging to the fund upon which said warrant is drawn to pay the same.~~] He or she shall render full and correct statements of his or her receipts [~~and payments~~] to the City Council [~~Commission~~] at its first regular meeting in each month, and at any other time he or she may be required to do so, and shall make such other reports as may be required of him or her by any law of the State. [~~Upon~~

~~selection of a city depository the duties of the Treasurer and other officers will conform to the requirements of the city depository statutes insofar as applicable.]~~

ARTICLE IX – REVENUE AND TAXATION

~~SECTION 13. **RESERVED.** [**BOARD OF EQUALIZATION**—The City Commission shall annually, not later than at its first meeting in June of each year, appoint three commissioners, each to be a qualified voter and a resident property owner of the City of De Leon, who shall compose the board of equalization and the commission shall fix the time for the meetings of said board of equalization.]~~

~~SECTION 14. **RESERVED.** [**POWERS AND DUTIES OF BOARD**—Said board of equalization shall have such powers and duties as are defined in Article 946 to 954 inclusive, of the revised Civil Statutes of Texas, 1911, and the members thereof shall take the oath prescribed by Article 955 of said statutes, before entering upon their duties.]~~

~~SECTION 15. **RESERVED.** [**COMPENSATION**—Said members of the board of equalization shall receive such compensation as the city commission may by ordinance provide, not to exceed five (\$5.00) per diem.]~~

Section 4. That for the special election called and ordered for the submission of proposed amendments to the Charter of the City of De Leon, Texas, the City of De Leon Election Administrator shall act as Contracting Officer. The County Clerk shall nominate the election officials to be appointed by the County Clerk for Comanche County. **The Comanche County Clerk is Ruby Lesley at 101 West Central, Comanche, Texas, 76442.** Voting at such election shall be upon paper ballot and DRE (electronic voting system) prepared in conformity to the Texas Election Code.

Section 5. That the City polling place will be located:

**City Hall Auditorium
City of De Leon
125 S. Texas Street
De Leon, Texas 76444**

Section 6. That the County Clerk will be in charge of appointing the Presiding Judge and Alternate Judge to conduct the Special Election for the City of De Leon.

The Presiding Judge shall appoint the clerks of the election in a number not to exceed five (5). The Alternate Judge shall serve as Presiding Judge for an election if the Presiding Judge cannot serve. In an election conducted by the Presiding Judge, the Alternate Judge serves as one of the clerks. The Early Voting Ballot Board shall be comprised of the Presiding Judge and the Alternate Judge. The judge and clerks shall be compensated at a rate of \$8.00 per hour. No judge or clerk shall be paid for more than two hours after the closing of the polls. The election official who delivers the returns of the election shall be paid an additional \$25.00 provided he/she also

returns unused ballots, election supplies, and ballot boxes when he/she makes delivery of the returns of the elections.

Section 7. That the City of De Leon will enter into a contract with the Comanche County Clerk, to lease the electronic voting machines for the May 2017 election, which is mandatory through HAVA. The County Clerk will be in charge of loading the election ballot into the system and tabulating the Early Voting and Election Day votes. The County Clerk will also be in charge of the electronic filing of the election results with the office of the Secretary of State.

Section 8. The election polls at the polling place on Election Day, May 6, 2017, shall be open from 7:00 a.m. to 7:00 p.m.

Section 9. That early voting by personal appearance shall be at the following location:

**City of De Leon City Hall
Council Chambers
125 S. Texas
De Leon, Texas 76444**

Said place of early voting shall be open on each day for early voting which is not a Saturday, a Sunday, or an official state or federal holiday beginning on the 24th day of April, 2017 and continuing through the 2nd day of May, 2017 (preceding the date of said election); except there may be such early voting on a Saturday and Sunday, as may be ordered by the Early Voting Clerk as set forth herein.

The dates and times for early voting by personal appearance shall be as follows:

Dates and times:

Monday	April 24, 2017	8:00 a.m. – 5:00 p.m.
Tuesday	April 25, 2017	8:00 a.m. – 5:00 p.m.
Wednesday	April 26, 2017	8:00 a.m. – 5:00 p.m.
Thursday	April 27, 2017	8:00 a.m. – 8:00 p.m.
Friday	April 28, 2017	8:00 a.m. – 5:00 p.m.
Monday	May 1, 2017	8:00 a.m. – 5:00 p.m.
Tuesday	May 2, 2017	8:00 a.m. – 8:00 p.m.

Thursday, April 27, 2017 and Tuesday, May 2, 2017 will be the two (2) 12-hour days as required by Section 85.005(d) of the Election Code.

The County Clerk shall receive applications to Vote by Mail until April 25, 2017. Request for an application should be mailed to:

**Ruby Lesley
Comanche County Clerk**

101 W. Central
Comanche, Texas 76442
Or you may request by phone at: (325) 356-2655

Section 10. Early voting by personal appearance shall be by DRE machine and paper ballots. Early voting by mail shall be by paper ballots and shall be canvassed by an Early Voting Ballot Board and County Clerk's office.

Section 11. If any section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to a particular set of persons or circumstances, should for any reason be held to be invalid or adjudged unconstitutional by a court of competent jurisdiction, such invalidity shall not affect the remaining portions of this Ordinance, and to such end the various portions and provisions of this Ordinance are declared to be severable; and the City Council of the City of De Leon, Texas, declares it would have passed each and every part of the same notwithstanding the omission of any such part, thus declared to be invalid or unconstitutional, or whether there be one or more parts.


Section 12. It is hereby officially found and determined that the meetings at which this Ordinance is passed were open to the public as required and that public notice of the time, place, and purpose of said meetings was given as required by the *Open Meetings Act, Chapter 551, Local Government Code*.

Section 13. This Ordinance shall take effect immediately upon its adoption by the City Council and publication as required by the Local Government Code.

PASSED AND APPROVED by the City Council of the City of De Leon, Texas on first reading on the 1st day of February, 2017.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of De Leon, Texas, on second reading on the 3rd day of February, 2017.


Michael Reyna, Mayor

ATTEST

Melinda K. Harbour, City Secretary
