

**ORDINANCE NO. 101-92**

AN ORDINANCE ORDERING A SPECIAL ELECTION TO BE HELD ON THE QUESTION OF ADOPTION OF AMENDMENTS TO THE CHARTER OF THE CITY OF DE LEON; PROVIDING FOR A CITY COUNCIL COMPOSED OF A MAYOR AND FIVE (5) COUNCIL MEMBERS ELECTED BY ALL QUALIFIED VOTERS OF THE CITY; PROVIDING FOR CITY COUNCIL TERMS AND ELECTIONS; PROVIDING QUALIFICATIONS FOR OFFICE; PROVIDING FOR ANNUAL ELECTION DATES AND PROCEDURES; PROVIDING FOR MEETINGS OF THE CITY COUNCIL; PROVIDING FOR POWERS AND AUTHORITY OF THE CITY COUNCIL; PROVIDING FOR A MAYORAL VETO; PROVIDING PROCEDURES FOR THE PASSAGE OF ORDINANCES AND RESOLUTIONS; PRESCRIBING THE FORM OF THE BALLOT; DESIGNATING THE POLLING PLACE; PROVIDING FOR THE METHOD OF VOTING; PROVIDING FOR ABSENTEE VOTING; PROVIDING FOR NOTICE OF THE ELECTION; AND PROVIDING AN EFFECTIVE DATE.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DE LEON THAT:**

**SECTION 1:** A special election is ordered to be held in the city on May 2, 1992, between the hours of 7:00 a.m. and 7:00 p.m., for the purpose of submitting to the qualified voters of the city a proposition on whether the Charter of the City of De Leon should be amended. The proposed amendments shall take effect upon their adoption and the entering of an order by the City Council declaring the amendments adopted. The proposed amendments affect only the sections listed below and shall read as follows:

**ARTICLE IV - MUNICIPAL GOVERNMENT**

**Section 1. Governing Body** - The governing body of the City of De Leon shall consist of a City Council composed of a mayor and five (5) council members elected from the city at large. The mayor and council members shall be elected for a term of two (2) years in the manner provided in Article V and shall serve until their successors are elected and take office.

**Section 2. Qualification of Officers** - The mayor and council members shall be qualified voters of the City of De Leon and residents in the State of Texas for at least twelve (12) months and within the city, or an area having been annexed into the city, for at least six (6) months prior to the date of their election. The appointive officers of the city shall serve for a term and have such qualifications as are established by the City Council. No member of the City Council shall hold any other public office except that of notary public or member of a military reserve. If any member of the City Council ceases to possess any of the qualifications of office or shall be finally convicted of a crime involving moral turpitude, his/her office shall immediately become vacant.

**Section 3. Vacancies In Office** - In the event of a vacancy in a council member office for which more than six (6) months remains in

the unexpired term, the City Council shall call a special election to fill such vacancy for the unexpired term. If, at the time of the vacancy, there remains less than six (6) months but more than ninety (90) days in the unexpired term, the vacancy shall be filled within thirty (30) days by a majority vote of the remaining members of the City Council. The person so elected by the City Council shall serve the remainder of the unexpired term. If a vacancy on the City Council occurs less than ninety (90) days prior to the next general city election the vacancy shall be filled at that election.

Special elections to fill unexpired terms shall be held on the earliest date permitted by the Texas Election Code and in the manner provided in Article V.

In the event of a vacancy in the office of the mayor, the council members shall select a mayor from the members of the City Council. The resulting council member vacancy shall be filled as provided in this Section and the mayor so elected shall serve until the next regular city election.

**Section 4. Compensation** - Members of the City Council shall serve without financial compensation provided that, on approval by the City Council, they shall be entitled to reimbursement for necessary expenses incurred in the performance of official duties.

**Section 5. Departments, Offices and Services** - The City Council shall govern the affairs of the city in conformance with the Constitutions of this State and the United States and, notwithstanding any other provision of this Charter, shall in its judgment determine by majority vote the best and most appropriate method and manner of efficiently performing the functions and providing the services of the city. The City Council may create, change, or abolish offices, departments or agencies of the city, and may contract for services as it deems advisable to improve the services or the efficiency of city government.

## ARTICLE V - ELECTIONS

**Section 1. General Election Laws** - Except where otherwise provided herein as permitted by State law, the general election laws of the State of Texas shall, insofar as applicable, control all elections held by the City of De Leon.

**Section 2. Election of the City Council** - The general city election shall be held annually on the first Saturday 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. 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 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.

**Section 3. Notice and Order for Elections** - City elections shall be ordered and notice thereof given as provided in the Texas Election Code and the City Council shall establish the procedures and order elections except as provided therein. Except as otherwise provided in this Article, all elections shall be ordered at least thirty (30) days prior to the date of election and notice shall be given by publication not more than thirty (30) days and not less than twenty (20) days immediately preceding the date of election. Notice of election shall be published in a newspaper published within the city, and if there be no such publication notice shall be published in a newspaper of general circulation within the city.

**Section 4. Polling Places** - The City Council may establish election precincts and provide polling places as necessary for city elections. Until established otherwise by ordinance, the entire city shall be one election precinct and City Hall shall be the polling place for all city elections.

**Section 5. Qualified Voters** - Every resident of the city who is registered to vote shall be entitled to vote in city elections.

**Section 6. Council Places** - The council member positions shall be Place 1, Place 2, Place 3, Place 4 and Place 5. A mayor and the council members for Place 1 and Place 2 shall be elected in even numbered years. The council members for Place 3, Place 4 and Place 5 shall be elected in odd numbered years. Candidates for office shall make application for a place on the ballot within the times prescribed by the Texas Election Code. In the absence of a filing deadline established by the Texas Election Code, applications for a place on the ballot shall be filed no later than 5 p.m. of the 30th day before election day. All applications shall designate the position sought and applications for council member shall include the Place number. It shall be the duty of the City Secretary to place the name of all qualified candidates, making timely application, on the official ballot.

## ARTICLE VI - THE CITY COUNCIL

**Section 1. Regular and Special Meetings-** The City Council shall meet regularly twice each month and may meet in special meeting on call of the mayor. 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 this 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 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 4. Combine Positions-** The City Council may combine the duties of two or more appointed offices 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. 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. 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 3. City Council Judge of its Members -** The City Council shall be the judge of the election and qualifications of its own members, may determine the rules of its proceedings, and shall have power to compel the attendance of absent members and to punish members for disorderly conduct.

After due notice and an opportunity to be heard and upon a three-fourths vote of its members, the City Council shall have the power to remove any elected officer for gross immorality, habitual

drunkenness, incompetency, corruption, misconduct or malfeasance in office. Appointed officers or employees of the city may be removed by majority vote of the City Council at any time after notice in compliance with the open meetings laws.

**Section 4. Attendance** - It shall be the duty of each member of the City Council to attend each regular and special meeting of the City Council and the failure of any member to attend three (3) successive meetings, without good and sufficient cause, shall constitute misconduct in office.

**Section 5. The City Council** - The City Council shall be the legislative and governing body of the city and shall have control of all the city finances, property, functions, services, affairs and programs. The City Council shall have the power to ordain, alter, amend or repeal all ordinances, resolutions, rules, orders, and regulations not repugnant to the Constitution and laws of the United States or of this State. The powers of the City Council shall include the authority to enact and enforce such ordinances, resolutions, rules, orders, regulations and programs as may be advisable, necessary, or reasonable in the judgment of the City Council. The City Council shall have the power and authority to provide for public recreation, the preservation of the public peace and good order, the security and protection of the public health, safety and welfare, the promotion of trade, commerce and economic development, and other services or programs provided by cities within this state. The City of De Leon, by and through its City Council, shall have full and complete power of local self government, including all such authorities and privileges that are now or hereafter provided to cities by the laws of this State, including all the authorities and powers provided any other home rule city of this State by its charter, and such power and authority as necessary to accomplish and enforce the duties and powers conferred upon the city.

**Section 6. Duties of Officers and Employees-** The City Council shall from time to time establish the duties, responsibilities and authority of each appointed officer and employee of the city and the service of each such officer and employee shall be at will. The City Council may require other and further duties of any appointed officer or employee whose duties are prescribed herein, and may define, prescribe and change the duties of any appointed officer or employee as in its judgment be best for the public interest. The City Council shall require good and sufficient bond be given by appointed officers or employees handling funds of the city and may require bond of other officers or employees if considered proper or necessary. The expense of any such bond shall be paid by the city.

**Section 7. Petitions-** Petitions and remonstrances to the City Council shall be presented in writing.

**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 ordinary 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 9. Style of Ordinances-** The style of all ordinances shall be "BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DE LEON," but this style may be omitted when the laws and ordinances of the city are published in book or pamphlet form.

**Section 10. Emergency-** No ordinance, except it be 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.

**Section 11. Effective Date and Veto-** All ordinances and resolutions shall be enrolled and placed in the office of the City Secretary within five (5) days after adoption and, except those declared an emergency, shall be so enrolled before they take effect. It shall be the duty of the mayor to approve or disapprove the same within the five (5) days. If the mayor disapproves any such ordinance or resolution, such disapproval must be made within five (5) days and in writing stating the mayor's objections. In such event, the disapproval and such order, ordinance or resolution shall be returned to the City Council for its further action at a regular or special meeting to be held within five (5) days after such return. If after reconsideration a majority of the City

Council votes in favor of the passage of such ordinance or resolution then such ordinance or resolution shall become effective and the veto of the mayor overturned.

**Section 12. Record and Effective Date-** Every ordinance or resolution finally adopted, except penal ordinances, shall be recorded in a separate book and shall be effective from and after its adoption as an emergency, approval of the mayor, or its passage notwithstanding his veto.

**Section 13. Ordinances Imposing Penalties-** Every ordinance imposing a penalty shall, after its passage and placing of record, be published in a newspaper published in the City of De Leon or, if there be none, a newspaper of general circulation within the city, and shall not take effect until ten (10) days after such publication. The City Secretary shall note on all published ordinances the fact and date that the same has been published, which record shall be prima facie evidence of publication.

**Section 14. Code of Ordinances and Notice-** The city may publish ordinances in pamphlet or book form and, in such event, it shall not be necessary to republish those previously published, and all ordinances of the city including those printed or put in book form by authority of the City Council shall be admitted and received in evidence in all courts without further proof, and a statement in such pamphlet or book that the ordinances and measures therein contained are published by authority of the City Council shall be prima facie evidence thereof.

**Section 15. Record-** Every ordinance or resolution shall, upon becoming effective, be authenticated by the signature of the mayor attested by the City Secretary and recorded in a book kept for that purpose.

**SECTION 2:** Paper ballots shall be used for the special election which election shall be held in compliance with the provisions of the Texas Election Code, and the vote shall be upon an official ballot prepared in such a manner as will permit the voters to vote "For" or "Against" the propositions submitted, with the propositions to be expressed on the official ballot in a form substantially as follows:

PROPOSITION NO. 1

Shall Article IV of the Charter of the City of De Leon be amended in its entirety to provide for: a City Council composed of a mayor and five (5) council members, elected at large, serving two-year terms; the qualifications and residency requirements for City Council members; the filling of vacancies by election of the City Council, or by the voters in a special election; and the City

Council's authority to determine departments, offices, and services of the city?

For \_\_\_\_\_ Against \_\_\_\_\_

PROPOSICION NO. 1

¿Será enmendado totalmente el Artículo IV de la Carta de la Ciudad De Leon proveyendo lo siguiente: Un Consejo de la Ciudad compuesto de un alcalde y cinco (5) miembros del consejo, electos en la ciudad entera, actuando en sus puestos por plazos de dos años; las capacidades y requisitos de residencia para los miembros del consejo; formas de llenar puestos vacantes por elección del consejo de la ciudad, o por los votantes en elecciones especiales; y la autoridad del consejo de la ciudad para determinar los departamentos, las oficinas, y los servicios de la ciudad?

A Favor \_\_\_\_\_ En Contra \_\_\_\_\_

PROPOSITION NO. 2

Shall Article V of the Charter of the City of De Leon be amended in its entirety to provide for: the regular city elections to be held annually on the first Saturday in May; the requirements of notice and order for elections; the establishment of polling places; the qualification of voters; the designation of council member positions, with alternate year elections; and the filing of an application for a place on the official ballot as a candidate for Mayor or council member?

For \_\_\_\_\_ Against \_\_\_\_\_

PROPOSICION NO. 2

¿Será enmendado totalmente el Artículo V de la Carta Constitucional de la Ciudad De Leon proveyendo lo siguiente: elecciones regulares de la ciudad que se efectuarán anualmente el primer Sabado de Mayo; los requisitos de dar avisos y ordenar elecciones; el establecimiento de los sitios de votación; las calificaciones de votantes; la designación de puestos para los miembros del consejo, con elecciones en años alternos; y la forma de someter la solicitud para aparecer en la boleta oficial como candidato para Alcalde o Miembro del Consejo?

A Favor \_\_\_\_\_ En Contra \_\_\_\_\_



PROPOSITION NO. 3

Shall Article VI of the Charter of the City of De Leon be amended in its entirety to provide for: regular City Council meetings twice each month and special meetings on call of the mayor; the quorum and presiding officer of City Council meetings; and the appointment of officers and employees by the City Council?

For \_\_\_\_\_ Against \_\_\_\_\_

PROPOSICION NO. 3

¿Será enmendado totalmente el Artículo VI de la Carta Constitucional de la Ciudad De Leon proveyendo lo siguiente: sesiones con regularidad del Consejo de la Ciudad dos veces al mes y sesiones especiales a criterio de el/la alcalde; el quorum y los oficiales del Consejo de la Ciudad que presiden en las sesiones; y el nombramiento de los oficiales y empleados por el Consejo de la Ciudad?

A Favor \_\_\_\_\_ En Contra \_\_\_\_\_

PROPOSITION NO. 4

Shall Article VII of the Charter of the City of De Leon be amended in its entirety to provide for: the election of a mayor pro tempore by the City Council; the power and authority of the City Council; the procedures governing ordinances, resolutions and claims, including emergency measures; the mayor's veto power; the record and effective dates of ordinances and resolutions; and the publication of ordinances and resolutions?

For \_\_\_\_\_ Against \_\_\_\_\_

PROPOSICION NO. 4

Será enmendado totalmente el Artículo VII de la Carta Constitucional de la Ciudad De Leon proveyendo lo siguiente: la elección de un alcalde interino por el Consejo de la Ciudad; el poder y autoridad del Consejo de la Ciudad; los procedimientos que gobiernan las ordenanzas, resoluciones, y reclamos, incluyendo medidas de emergencias; el poder del veto del alcalde; la documentación y fechas de vigor de ordenanzas y resoluciones; y la publicación de ordenanzas y resoluciones?

A Favor \_\_\_\_\_ En Contra \_\_\_\_\_

**SECTION 3:** The election shall be held and conducted in the manner provided by law governing the holding of city charter elections by

home rule cities of the State of Texas; and the official ballots, together with such other election materials as are required by the Texas Election Code, as amended, shall be printed in both the English and Spanish languages and shall contain such provisions, markings and language as may be required by law.

**SECTION 4:** There shall be one election precinct for the election. The election precinct shall include the entire City of De Leon and the boundary of such precinct shall be the boundary of the City of De Leon. There shall be one polling place for the entire City and the polling place shall be City Hall, 105 South Texas, De Leon, Texas.

**SECTION 5:** Absentee voting, both by personal appearance and by mail, will be by the use of paper ballots and in accordance with the Texas Election Code. Absentee voting shall be conducted at the City Secretary's Office, City Hall, 105 South Texas, De Leon, Texas, between the hours of 8:00 a.m. and 5:00 p.m., beginning on Monday, April 13, 1992, and continuing through Tuesday, April 28, 1992.

**SECTION 6:** The Presiding Judge and Alternative Presiding Judge for such polling place and election shall be established by separate action of even date herewith by the City Council of the City of De Leon.

**SECTION 7:** Pursuant to Article VII, Section 11 of the City Charter the requirement for reading the ordinance at (2) two meetings of the City Commission is waived.

**PASSED AND APPROVED** this the 17th day of March, 1992.

  
\_\_\_\_\_  
Kent Boswell, Mayor

APPROVED:

ATTEST:

  
\_\_\_\_\_  
Barney L. Knight

  
\_\_\_\_\_  
Florence Wood, Secretary