



**CITY OF FAIR OAKS RANCH
HOME RULE COMMISSION COMMITTEE MEETING**

July 11, 2016; 1:00 p.m.

City Hall, Council Chambers, 7286 Dietz Elkhorn, Fair Oaks Ranch, TX 78015

- I. **WELCOME AND OPENING OF HOME RULE COMMISSION BY FAIR OAKS RANCH MAYOR AND CITY ADMINISTRATOR**

 - II. **INTRODUCTION OF COMMISSION MEMBERS**

Frank Trapasso	Bill Sparks
Dale Pearson	Greg Maxton
Conrad Fothergill	David Deleranko
Tom Jaster	John Merritt
Rich Nichols	James McConnell
Bill Regan	

 - III. **PRESENTATION BY CITY ATTORNEY**

 - IV. **APPOINT CHAIR AND VICE-CHAIR**

 - V. **DEVELOPMENT OF TIMELINE**

 - VI. **SET MEETING DATES/TIME**

 - VII. **CONSIDER AGENDA FOR FIRST MEETING**

 - VIII. **APPROVAL PROCESS**

 - IX. **ADJOURNMENT**
-

Signature of Agenda Approval: *Gary Manjar*

I, Priscilla Abrego, City Secretary, certify that the above Meeting Notice was posted on the outside bulletin board at the Fair Oaks Ranch City Hall, 7286 Dietz Elkhorn, Fair Oaks Ranch, Texas, and on the city's website www.fairoaksranchtx.org, both places being convenient and readily accessible to the general public at all times. Said Notice was posted by 5:00 p.m., July 7, 2016 and remained so posted continuously for at least 72 hours before said meeting was convened.

CITY HALL

Municipalities in Texas

History

March 2, 1836 – The Republic of Texas

Incorporations

Special Legislative Charters

December 29, 1845 – The Great State of Texas

Legislative Charters

**1846 – Local Charter Granted to New Braunfels to
be ratified by local voters**

History

1861–1865

1870 - legislative act provided that the governor appoint the mayor and board of aldermen of each incorporated city in the state.

1876 - The Constitution of provided that cities under 10,000 population could be chartered only under general laws; cities over 10,000 would continue to be subject to the special laws of the legislature

1909 - population threshold lowered to 5,000

History

1912 - Texas voters adopted the Home Rule Amendment to the constitution – Article XI, Section 5

1913 Texas legislature passes enabling act

General Law

Type A

Type B

Type C (Commission)

Home Rule

General Law

- General law cities are smaller cities, most of which are less than 5,000 in population. All general law cities operate according to specific state statutes prescribing their powers and duties.
- General law cities are limited to doing what the state authorizes or permits them to do. If state law does not grant general law cities the express or implied power to initiate a particular action, none may be taken.

Article XI, Section 4

Cities and towns having a population of five thousand or less may be chartered alone by general law. They may levy, assess and collect such taxes as may be authorized by law, but no tax for any purpose shall ever be lawful for any one year which shall exceed one and one-half per cent of the taxable property of such city; and all taxes shall be collectible only in current money, and all licenses and occupation taxes levied, and all fines, forfeitures and penalties accruing to said cities and towns shall be collectible only in current money.

General Law Type A Chapter 22 TLGC

LGC Chapter 22

- **Aldermanic**
 - **Wards – 2 Alderman from each Ward; Mayor at large**
 - **At Large – 5 Alderman; Mayor**
- **Two Year Staggered terms**

Home Rule

- Any city over 5,000 population where citizens have adopted a home rule charter is a home rule city. A charter establishes the city's governmental structure and provides for the distribution of powers and duties among the various branches of government. It is the City's Constitution.
- Rather than looking to state law to determine what they may do, home rule cities look to the state constitution and state statutes to determine what they may not do. Thus, if a proposed home rule city action has not been prohibited or pre-empted by the state, the city generally can proceed.

Article XI, Section 5

Cities having more than five thousand (5000) inhabitants may, by a majority vote of the qualified voters of said city, at an election held for that purpose, may adopt or amend their charters. If the number of inhabitants of cities that have adopted or amended their charters under this section is reduced to five thousand (5000) or fewer, the cities still may amend their charters by a majority vote of the qualified voters of said city at an election held for that purpose.

Article XI, Section 5

The adoption or amendment of charters is subject to such limitations as may be prescribed by the Legislature, and no charter or any ordinance passed under said charter shall contain any provision inconsistent with the Constitution of the State, or of the general laws enacted by the Legislature of this State.

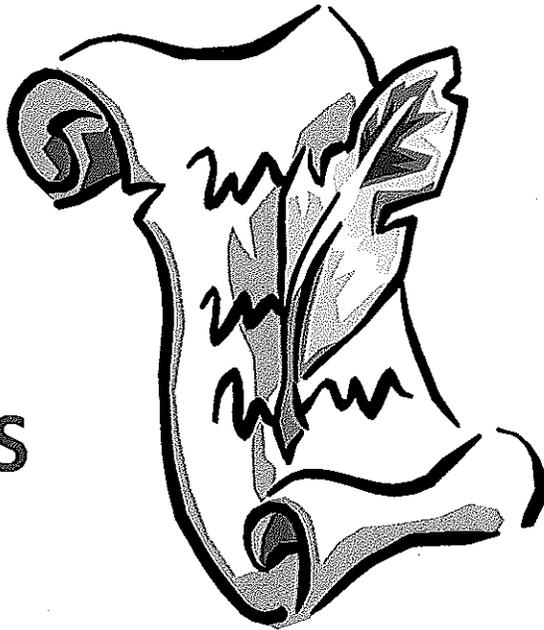
Article XI, Section 5

Said cities may levy, assess and collect such taxes as may be authorized by law or by their charters; but no tax for any purpose shall ever be lawful for any one year, which shall exceed two and one-half percent of the taxable property of such city, and no debt shall ever be created by any city, unless at the same time provision be made to assess and collect annually a sufficient sum to pay the interest thereon and creating a sinking fund of at least two per cent thereon.

Article XI, Section 5

Furthermore, no city charter shall be altered, amended or repealed oftener than every two years.

TEXAS
HOME
RULE
CHARTERS





The municipal charter details the authority of the city, the structure of the government, and the processes by which the government exercises authority.

Policy Document

Legal Document



HOME RULE STATUS



Advantages of Home Rule Status

- **Broad Authority**
- **Flexibility in creating:**
 - **Form of Government**
 - **Administrative Structure**
- **Annexation**
- **Initiative, Referendum, Recall**



Vote of Charter

Sec. 9.003. VOTE ON CHARTER.

- (a) [process for submitting Charter to Voters]
- (b) [copy of charter to be mailed to all registered voters]
- (c) The charter commission shall prepare the charter so that to the extent practicable each subject may be voted on separately.



Texas Local Government Code - Chapter 9

- § 9.005 - Adoption of Charter or Amendment**
- § 9.006 - Concurrent Elections**
- § 9.007 – Certification of Charter or Amendment**
- § 9.008 – Registration of Charter or Amendment**



CONTENT

Content	
	
■	Powers of the City
■	Form of Government
■	Officers
■	Elections
■	Departments
■	Initiative, Referendum, Recall
■	Franchises
■	General Provisions

Content	
	
	Powers of the City
■	Inherent Powers
■	Police Powers
■	Statutory Issues



Form of Government

Texas Local Government Code Chapter 26

Sec. 26.021. FORM OF GOVERNMENT. The municipality may adopt and operate under any form of government, including the aldermanic or commission form



Form of Government

- Council/Mayor – Strong Mayor
- Council/Mayor – Weak Mayor
- Council/Manager
- Commission



Content

Officers

Sec. 26.041. CREATION OF MUNICIPAL OFFICES. The municipality may:

- (1) create offices;
- (2) determine the method for selecting officers; and
- (3) prescribe the qualifications, duties, and tenure of office for officers.

Sec. 26.042. DATE FOR ELECTION OF OFFICERS. The governing body of the municipality may set the date of election for municipal officers in accordance with applicable provisions of the Election Code.



Content

Election Dates

Texas Election Code Section 41.001 - UNIFORM ELECTION DATES

(a) Except as otherwise provided by this subchapter, each general or special election in this state shall be held on one of the following dates:

- (1) the second Saturday in May; or
- (2) the first Tuesday after the first Monday



Content

Elections

- At Large
- At Large by Place
- By District
- Mixed at Large and by District



Content

Elections

- Plurality
- Plurality with a minimum
- Majority
 - Three Year Terms Plus - Texas Constitution, Article XVI, § 11
- Cumulative



Content

Elections

- Years of Term
- Staggered vs. Un-staggered Terms
- Term Limits



Content

Qualifications of Office

Texas Election Code Section 141.001. Candidate must:

- (1) be a United States citizen,
- (2) be 18 years of age or older upon the commencement of the term to be filled at the election,
- (3) have been a resident of Texas for at least 12 months as of the deadline for filing for the office



Qualifications of Office

Texas Election Code Section 141.001. Candidate must: (cont.)

- (4) have resided in the city for at least six months as of the deadline for filing for the office,
- (5) not have been convicted of a felony for which he or she has not been pardoned or otherwise released from the resulting disabilities, and
- (6) not have been found mentally incompetent by a final judgment of the court.



Qualifications of Office

- **Age Requirements**
 - 18 v 21
- **City Residency Requirements**
 - 6 months vs. 12 months

Content



Direct Democracy

**Initiative
Referendum
Recall**

Content



Initiative, Referendum and Recall

An initiative petition asks the city council to act on a specific issue when it has not done so previously.

A referendum petition asks the city council to reverse an action already taken or proposed.

A recall petition asks the city council to call an election for a vote on removal of one or more council members from office.



General Provisions



General Provisions

- Standards of Conduct
- Legal
- Miscellaneous
 - Dissannexation
 - Regulations of Alcohol
 - Disaster Clause
- Enforcement Provisions



General Provisions

- **Standards of Conduct**
 - Conflicts of Interest
 - Prohibitions of Conduct
 - Political Activity
 - Nepotism
 - Gifts



General Provisions

- **Legal**
 - Construction
 - Judicial Notice
 - Severability
 - Security and bonds
 - Limitation of Liability
 - Oaths of Office



General Provisions

- **Miscellaneous**
 - Disannexation
 - Regulations of Alcohol
 - Disaster Clause



Process

- **Develop Timeline**
- **Meeting Dates**
- **Order of section consideration**
 - **Recommend Form of Government to Start**
- **Commission approval process**



Home Work

- Read Chapters 2, 5, 6, and 7 in Texas Home Rule Charters by Blodgett
- www.municode.com



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