

**PROPOSED CHARTER AMENDMENTS  
SPECIAL ELECTION, TUESDAY, NOVEMBER 8, 2016**

*The following is intended for informational purposes ONLY on an issue of official concern to Murphy voters. It is not intended to urge a vote in favor of or against the proposed amendments to the Charter.*

**TIMELINE OF PROCESS**

The City of Murphy adopted the Murphy City Charter (“Charter”), a home rule charter, on February 7, 2004. Proposed amendments were submitted to and approved by the voters of the City of Murphy on November 2, 2010. The Charter states that the City Council shall appoint a Charter Review Commission (“Commission”) at least once every six (6) years. The Commission consists of at least eleven (11) citizens of the City who inquire into the operation of the City government under the Charter and determine whether any Charter provisions require revision.

On April 5, 2016, the Council appointed a Commission. The Commission is comprised of the following Murphy residents:

- Barbara Harless, Chair
- John Wideman, Vice Chair
- Chi Egwuekwe
- Will Ewin IV
- Michelle Foley
- Bernard J. Grant
- James Holley
- Christine Johnson
- Jody Johnson
- Kevin McGillis
- Revis E. Smith

Between April-June 2016, the Charter Review Commission reviewed each provision of the Charter, accepted public comments, and hosted a town hall meeting to receive public input on the Charter prior to the Commission's presentation and recommendation to City Council. The Commission reported its findings and presented its final recommendations to the City Council.

On July 19, 2016, the City Council considered and voted on all recommendations made by the Commission and on August 16, 2016, the City Council called for a Charter amendment election on November 8, 2016, for the voters of the City of Murphy to vote on the adoption of 15 amendments to the Charter.

The City Council and Charter Review Commission Agendas, Packets, Audio and Minutes are available and can be reviewed at <http://www.murphytx.org/archive.aspx>.

**DRAFT PROPOSITION AMENDMENTS:**

**PROPOSITION NO. 1**

Shall the Charter be amended to provide that the term “qualified voter” is defined in accordance with state law consistently throughout the Charter.

**PROPOSITION SUMMARY:**

Changes in these sections clarify that the term “qualified voter” used in the Charter has the same meaning as state law. Tex. Election Code 11.002 defines “qualified voter” as a person who:

- (1) is 18 years of age or older;
- (2) is a United States citizen;
- (3) has 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) has not been finally convicted of a felony or, if so convicted, has:
  - (A) fully discharged the person's sentence, including any term of incarceration, parole, or supervision, or completed a period of probation ordered by any court; or
  - (B) been pardoned or otherwise released from the resulting disability to vote;
- (5) is a resident of this state; and
- (6) is a registered voter.

**If approved, this amendment would result in the following changes to the Charter:**

**“Section 3.03. Qualifications of City Council**

Unless otherwise provided, the term “qualified voter” in this Charter means a qualified voter in accordance with the Texas Election Code residing in the City.”

**“SECTION 6.02 Petitions for Recall**

Before the question of recall of such officer shall be submitted to the qualified voters 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 must be signed by thirty percent (30%) of the number of votes cast for the place or position held by that member of the City Council in the last general municipal election for that place or position, or three hundred (300) ~~registered~~ qualified voters, whichever is greater. Each signer of such recall petition shall be a qualified voter of the City and shall provide all requisite information as required by the Texas Election Code and this Charter.”

**“SECTION 6.13 Initiative**

Following a review by the City Attorney for enforceability and legality, qualified voters of the City may initiate legislation by submitting a petition addressed to the City Council that requests the submission of a proposed ordinance or resolution to a vote of the qualified voters of the City. Said petition must be signed by a minimum of thirty percent (30%) of the number of votes cast at the last regular City election, or three hundred (300) ~~registered~~ qualified voters, whichever is greater, and each copy of the petition shall have attached to it a copy of the proposed legislation. . . .”

### **PROPOSITION NO. 2**

**Shall Section 3.04 of the Charter relating to reimbursement of council members’ actual expenses incurred in the performance of official duties be amended so that council members be reimbursed when provided for in the annual city budget and subject to the city’s reimbursement policies.**

#### **PROPOSITION SUMMARY:**

Changes in this Section clarify that council members’ actual expenses must be budgeted in the City Budget and that reimbursement for expenses must be in accordance with the reimbursement policies of the city.

#### **If approved, this amendment would result in the following changes to the Charter:**

##### **“SECTION 3.04 Compensation**

Compensation of the City Council shall be \$50 per council meeting for which the Council Member is present. The compensation of the Mayor shall be \$75 per council meeting for which the Mayor is present. For council meetings which the Mayor Pro-Tem or other Council Member acts as Mayor, that person shall receive \$75. The City Council may also be entitled to reimbursement for actual expenses incurred in the performance of official duties when provided for in the annual City Budget and in accordance with the reimbursement policies adopted by the City Council.”

### **PROPOSITION NO. 3**

**Shall the Charter be amended to clarify the authority of the city and mayor during emergencies and disasters in conformity with state law.**

#### **PROPOSITION SUMMARY:**

This proposition clarifies the authority of the Mayor and the City during emergencies and disasters in conformity with provisions of state law. Texas Gov. Code Gov’t Code §§ 418.108-.1015 authorize the Mayor to declare a disaster and order evacuation of an area and provide for continuation of government functions during declared disasters. The Texas Open Meetings Act regulates emergency meetings of the City Council. Texas procurement statutes regulate contracting during disasters and emergencies. Because the City only requires one reading of an ordinance by City Council to become effective, the emergency ordinance provisions of the Charter are not necessary.

**If approved, this amendment would result in the following changes to the Charter:**

**“SECTION 3.05 Mayor, Mayor Pro-Tem and Deputy Mayor Pro-Tem**

...

2) The Mayor shall also represent the City in intergovernmental relationships, and shall perform other duties specified by the City Council, imposed by this Charter and by ordinances and resolutions passed in pursuance thereof. Additionally, the Mayor, the City Manager, or designee shall sign, after authorization by the City Council, all contracts and conveyances made or entered into by the City and all bonds, warrants and any other obligation issued under the provisions of this Charter, in the manner prescribed in the ordinance or resolution authorizing the signing of any such obligation. The Mayor may declare a local state of disaster and order the evacuation of all or part of the population from a stricken or threatened area.”

**~~“SECTION 3.15 Emergency Ordinances~~**

~~(1) — The City Council may adopt emergency ordinances only to meet public emergencies affecting life, health, property or the public peace. In particular, such ordinances shall not levy taxes, grant or renew or extend a franchise, or regulate the rate charged by any public utility for its services. Neither shall they authorize the borrowing of money except as provided elsewhere in this Charter.~~

~~(2) — An emergency ordinance shall be introduced in the form and manner generally prescribed for ordinances, except that they shall be plainly designated in the title as an emergency ordinance and shall contain after the enacting clause a declaration stating that an emergency exists and describing the emergency in clear and specific terms.~~

~~(3) — An emergency ordinance may be introduced at any City Council meeting and can be adopted with or without amendment or rejected at the meeting at which it is introduced.~~

~~(4) — Emergency ordinances shall become effective upon adoption and shall be published as soon thereafter as practicable as required by law. Every emergency ordinance so adopted, except one authorizing the borrowing of money as described herein, is automatically repealed as of the sixty-first (61st) day following the day on which it became effective. The ordinance may be re-enacted if the emergency still exists.”~~

**“SECTION 6.12 General Power of Initiative and Referendum**

...

(2) Referendum: Such power shall not extend to the budget or, capital program or any ~~emergency ordinance or ordinance~~ not subject to referendum as provided by state law.”

**“SECTION 7.15 Purchasing**

...

(3) Emergency contracts as authorized by law and this Charter may be negotiated by the City Council or City Manager if given authority by the City Council, ~~without competitive bidding,~~ and in accordance with state law. Such emergency shall be declared by the ~~City Manager and approved by the City Council,~~ or may be declared by the City Council Mayor.”

**“SECTION 12.10 Disaster Clause**

In case of disaster where a portion of the City is located wholly or partly in a disaster area declared by the president of the United States or the governor, when a legal quorum of the City Council cannot otherwise be assembled due to multiple deaths or injuries as a result of the disaster, the surviving members of the City Council, highest surviving City official, and the County Judge of Collin County or his/her designee, must within twenty-four (24) hours of such disaster, appoint a five (5) member commission, which would include any surviving elected City officials, to govern the City, respond to the emergency, and within fifteen (15) days of such disaster call a City election to be held as soon as practicable within ~~fifteen (15) days of such disaster,~~ or as provided in the Texas Election Code, for election of a required quorum, if for good reasons it is known a quorum of the present City Council will never again meet.”

**PROPOSITION NO. 4**

**Shall the Charter be amended to require that the city council elect council members as mayor pro-tem and deputy mayor pro-tem annually.**

**PROPOSITION SUMMARY:**

These amendments would require the City Council to vote annually at the first meeting of June to select the Council Members to fill the positions of Mayor Pro-Tem and Deputy Mayor Pro-Tem. Without these amendments, a vote is not required if an election for City Council is not held during the year.

**If approved, this amendment would result in the following changes to the Charter:**

**“SECTION 3.05 Mayor, Mayor Pro-Tem and Deputy Mayor Pro-Tem**

...

(3) The Mayor Pro-Tem shall be a Council Member elected to be the Mayor Pro-Tem by the City Council annually at the first meeting of ~~each Council after~~

~~each election June~~ or as soon thereafter as practicable, but not later than the last business day of July ~~in the year the election was held~~. The Mayor Pro-Tem shall act as Mayor during the disability or absence of the Mayor and in this capacity shall have the rights conferred upon the Mayor.

(4) The Deputy Mayor Pro-Tem shall be a Council Member elected to be the Deputy Mayor Pro-Tem by the City Council annually at the first meeting of ~~each Council after each election June~~ or as soon thereafter as practicable, but not later than the last business day of July ~~in the year the election was held~~. The Deputy Mayor Pro-Tem shall act as Mayor during the disability or absence of the Mayor and Mayor Pro-Tem, and in this capacity shall have the rights conferred upon the Mayor.”

### **PROPOSITION NO. 5**

**Shall Section 3.06 of the Charter relating to the procedure for city council to declare a council member office vacant for excessive absences be amended to allow the city council discretion to commence the procedure to declare a council member’s office vacant.**

#### **PROPOSITION SUMMARY:**

This amendment will provide City Council with discretion whether to vacate a Council Member’s office if the Council Member misses more than three (3) consecutive regular meetings. Currently, City Council must vacate the office if the Council Member misses three (3) consecutive regular meetings, without explanation acceptable to a majority of the remaining Council Members. The explanation requires a public hearing for the Council Member facing expulsion to be heard regarding absences. By removing the mandatory nature of Section 3.06, this amendment to the Charter allows City Council the discretion to not require a public hearing if the reasons for the absences are of a private nature and allow a Council Member to remain on the City Council without a public hearing.

#### **If approved, this amendment would result in the following changes to the Charter:**

##### **“SECTION 3.06 Vacancies, Forfeiture and Filling of Vacancies**

...

(2) If any Member of the City Council is absent from three (3) consecutive regular meetings, without explanation acceptable to a majority of the remaining Council Members, his or her office ~~shall~~ may be declared vacant, by resolution, at the next regular meeting of the City Council. The City Council shall convene a public hearing before exercising its authority under this provision, and permit the Council Member facing expulsion to be heard regarding absences.”

### **PROPOSITION NO. 6**

**Shall Section 3.06 of the Charter be amended to provide that city council may fill by appointment a single vacancy in the office of council member, other than mayor, for the remainder of the unexpired term if the unexpired term is twelve (12) months or less and**

there is not more than one (1) vacancy in the office of council member at the time of appointment.

**PROPOSITION SUMMARY:**

This amendment adopts the authority granted by a 2013 amendment to the Texas Constitution, H.J.R No. 87, which authorized a home-rule municipality to provide in its charter the procedure to fill a vacancy on its governing body by appointment for the remainder of the unexpired term if the unexpired term is twelve (12) months or less.

**If approved, this amendment would result in the following changes to the Charter:**

**“SECTION 3.06 Vacancies, Forfeiture and Filling of Vacancies**

...

(5) A vacancy in the office of a Council Member, where the remaining unexpired term of the office is twelve (12) months or less, shall be filled by appointment by majority vote of the remaining members of the City Council by a person meeting the qualifications of the Charter to serve the remainder of the unexpired term. When the remaining unexpired term of the office is more than twelve (12) months, the vacancy shall be filled by special election within one hundred twenty (120) days after such vacancy occurs, in accordance with the Texas Constitution and the Texas Election Code. When there are two (2) or more vacancies at any one time, the vacancies shall be filled by special election within one hundred twenty (120) days after such vacancies occur, in accordance with the Texas Constitution and the Texas Election Code. If the vacated office is that of Mayor Pro-Tem or Deputy Mayor Pro-Tem, the City Council shall elect a new Mayor Pro-Tem or Deputy Mayor Pro-Tem at the next regular meeting.”

**PROPOSITION NO. 7**

**Shall the Charter provisions related to filing for elective office be amended to clarify that the filing requirements for candidates for mayor and council member be consistent with state law.**

**PROPOSITION SUMMARY:**

This amendment clarifies that candidates for elective office must follow the filing requirements as provided in Texas Election Code §§ 141 et al. This amendment also consolidates Sections 5.02 and 3.03 of the Charter by deleting Section 5.02.

**If approved, this amendment would result in the following changes to the Charter:**

**“SECTION 3.03 Qualifications of City Council**

In addition to any other qualifications prescribed by law, a candidate for the Mayor and each City Council shall meet the following qualifications ~~as also set forth in Section 5.02 of this Charter while in office:~~

...

(6) Candidates for elective City offices shall file for office in accordance with the Texas Election Code and comply with all other City ordinances or resolutions that may be applicable.”

**~~“SECTION 5.02 Filing for Office~~**

~~(1) Candidates for elective City offices shall file for office in accordance with the Texas Election Code.~~

~~(2) Candidates for elective City offices shall meet the following qualifications:~~

~~(A) Shall be at least twenty one (21) years of age at the time of the election for which they are filing;~~

~~(B) Shall be a qualified voter; and~~

~~(C) Shall have resided within the corporate limits of the City, or recently annexed territory, for at least twelve (12) months immediately preceding Election Day.~~

~~(3) No candidate for elective City office may file in a single election for more than one (1) office or position as provided by this Charter.~~

~~(4) No employee of the City shall continue in any City employee position after filing for an elective office provided for in this Charter.~~

~~(5) Candidates for elective City offices shall comply with all other City ordinances or resolutions that may be applicable.”~~

**PROPOSITION NO. 8**

**Shall Section 6.10 of the Charter be amended to clarify that recall elections be held in accordance with state law.**

**PROPOSITION SUMMARY:**

This amendment clarifies that recall elections are held on uniform election dates as required by Texas Election Code §§ 41 et al. The existing provisions of the Charter restrict recall petitions from being filed against an elected official of the City within six (6) months after the official’s election. This provision clarifies that a recall petition can be filed within six (6) months of the end of the official’s term, but the recall election would not be held until the official is otherwise up for reelection.

**If approved, this amendment would result in the following changes to the Charter:**

**“SECTION 6.10 Restrictions on Recall**

...

(3) Recall elections shall be held in accordance with the Texas Election Code.”

#### **PROPOSITION NO. 9**

**Shall Section 6.14 of the Charter related to referendum elections be amended to clarify that an ordinance or resolution subject to a referendum election be suspended from enforcement pending the holding of the referendum election.**

#### **PROPOSITION SUMMARY:**

This amendment clarifies that an ordinance or resolution takes effect when adopted by City Council in accordance with law but that enforcement of the ordinance or resolution will be suspended until the election if a referendum petition is filed. If the referendum is approved at the election, the ordinance or resolution will not be enforced.

#### **If approved, this amendment would result in the following changes to the Charter:**

#### **“SECTION 6.14 Referendum**

Qualified voters of the City may require that any ordinance or resolution passed by the City Council or instituted by the initiative process under this Charter be submitted to the voters of the City for approval or disapproval, by submitting a petition for this purpose within thirty (30) days after final passage of said ordinance or resolution, or within thirty (30) days after its publication. Said petition shall be addressed, signed and verified as required for recall petitions in this Article and shall be submitted to the City Secretary. Immediately upon the filing of such petition, the City Secretary shall confirm the signatures on the petition and, if the petition is determined to be legally sufficient, present said petition to the City Council. Thereupon the City Council shall immediately reconsider such ordinance or resolution and, if the City Council does not entirely repeal the same, shall submit it to popular vote as provided in Section 6.13 of this Charter. Pending the holding of such election, each ordinance or resolution shall be suspended from ~~taking effect~~ enforcement and shall not later ~~take effect~~ be enforced unless a majority of the qualified voters voting thereon at such election shall vote in favor thereof. Unless otherwise provided by law, any election for a referendum under this Charter shall be held on the first authorized uniform election date that occurs after the sixty fifth (65th) day after the petition was presented to the City Council.

#### **PROPOSITION NO. 10**

**Shall Section 6.20 of the Charter be amended to allow city council to repeal an ordinance or resolution adopted by initiative or referendum if a court of final jurisdiction declares the ordinance or resolution on direct challenge to be unconstitutional, preempted, or otherwise unenforceable.**

**PROPOSITION SUMMARY:**

An ordinance or resolution adopted by popular vote can only be repealed or amended by City Council in response to a referendum petition or by submission to the voters. This amendment allows the City Council to repeal an ordinance or resolution approved by popular vote if the law is directly challenged and declared by a court of final jurisdiction to be unconstitutional, preempted, or otherwise unenforceable.

**If approved, this amendment would result in the following changes to the Charter:**

**“SECTION 6.20 Ordinances Passed by Popular Vote, Repeal or Amendment**

No ordinance or resolution which may have been passed by the City Council upon a petition or adopted by popular vote under the provisions of this Article shall be repealed or amended except by the City Council in response to a referendum petition or by submission as provided by Section 6.15 of this Charter.

If an ordinance or resolution adopted by popular vote under the provisions of this Article is directly challenged and declared to be unconstitutional, preempted, or otherwise unenforceable by a court of final jurisdiction, the City Council, upon its own motion and by majority vote, may repeal the ordinance or resolution.”

**PROPOSITION NO. 11**

**Shall Section 7.02 of the Charter be amended to provide that the budget prepared by the city manager comply with, and contain such information, as required by state law.**

**PROPOSITION SUMMARY:**

Changes to this Section harmonize the budget adoption process with state law. State law includes information and itemizations that must be included in the annual budget. This amendment will ensure the Charter is consistent with state law if amendments are made to state law in the future.

**If approved, this amendment would result in the following changes to the Charter:**

**“SECTION 7.02 Submission of Budget and Budget Message**

On or before the tenth (10th) day of August of the fiscal year, the City Manager shall submit to the City Council a budget for the ensuing fiscal year and an accompanying budget message. The budget shall comply with and contain such information and itemization, as may be required by state law.”

**PROPOSITION NO. 12**

**Shall Section 8.01 of the Charter relating to forfeiture of a position on a city board, commission or committee for excessive absences be deleted to clarify the sole authority of city council to appoint and remove an individual from a position on a board, commission or committee.**

**PROPOSITION SUMMARY:**

This amendment clarifies that individuals on city boards, commissions, and committees serve at the pleasure of City Council, which has authority to appoint and remove individuals from city boards, commissions, and committees at any time. This amendment removes the procedure to forfeit a position on a city board, commission, or committee based on absences. Council monitors attendance of individuals on city boards, commissions, and committees and has exclusive authority to remove such individuals.

**If approved, this amendment would result in the following changes to the Charter:**

**“SECTION 8.01 Authority, Composition and Procedures**

...

~~(5) — Any member of a board, commission or committee who is absent from three (3) consecutive regular meetings, or twenty five percent (25%) of regularly scheduled meetings during the twelve (12) month period immediately preceding and including the absence in question, without explanation acceptable to a majority of the other members, shall be deemed to have forfeited his or her position on the board, commission or committee.”~~

**PROPOSITION NO. 13**

**Shall the Charter be amended to clarify that an individual must be a legal resident of the city to be appointed to a city board, commission or committee.**

**PROPOSITION SUMMARY:**

This amendment removes the requirement that an individual must be a qualified voter in the City in order to serve on a city board, commission, or committee. An individual must be a legal resident of the City to serve on a city board, commission, or committee.

**If approved, this amendment would result in the following changes to the Charter:**

**“SECTION 8.01 Authority, Composition and Procedures**

....

(2) Individuals who ~~are qualified voters in~~ legal residents of the City may be appointed by the City Council to serve on one (1) or more boards, commissions or committees. Such appointees shall serve at the pleasure of the City Council and may be removed at the discretion of the City Council, except for the members of the Board of Adjustment, who may be removed only for cause. Except as otherwise provided in this Charter, members of any such board, commission or committee shall serve without compensation, but may be reimbursed for actual expenses as approved by the City Council.”

**“SECTION 9.01 Organization**

(1) There is hereby established a Planning and Zoning Commission, which shall consist of not less than seven (7) members who shall be appointed by the City Council to staggered terms of two (2) years in accordance with the existing zoning ordinance. ~~The Commission members shall be qualified City Voters.~~ Any vacancy occurring during the unexpired term of a member shall be filled by the City Council for the remainder of the unexpired term. After being duly appointed, the Commission shall elect from its members a Chairman, Vice Chairman and Secretary to serve for one (1) year beginning in that month. Members of the Commission may be removed, with or without cause, by an affirmative vote of a majority of the full membership of the City Council.”

**“SECTION 9.05 Board of Adjustment**

...

(2) The Board shall consist of seven (7) members who shall be appointed by the City Council to staggered terms of two (2) years. ~~The Board shall consist of qualified City voters.”~~

**PROPOSITION NO. 14**

**Shall the Charter be amended to prohibit the sale of liquor in any zoning district which allows residential development.**

**PROPOSITION SUMMARY:**

This new provision provides a backstop against nullification of liquor prohibitions in zoning ordinances as provided for by “Texas Alcoholic Beverage Code: Sec. 109.31. MUNICIPAL REGULATION OF LIQUOR. A city by charter may prohibit the sale of liquor in all or part of the residential sections of the city.”

**If approved, this amendment would result in the following changes to the Charter:**

**“SECTION 11.10 Sale of Liquor Prohibited in Residential Districts**

**The sale of liquor, as defined in the Texas Alcoholic Beverage Code, as amended, shall be prohibited by a person or entity holding a package store permit, as described in the Texas Alcoholic Beverage Code, as amended, in any zoning district which allows, in whole or in part, residential development in the City.”**

**PROPOSITION NO. 15**

**Shall the Charter be amended to renumber the articles, sections, subsections and paragraphs of the Charter as necessary following the amendment election.**

**PROPOSITION SUMMARY:**

This provision allows for the renumbering of articles, sections, subsections and paragraphs of the Charter necessitated by amendments to the Charter.