

An Analysis of Texas Home Rule Charters

By

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Abstract

Purpose: The purpose of this Applied Research Project is two-fold. The first is a description of the content of current Texas home rule charters. The second is a description of what changes, if any, have occurred in that content since Blodgett's 1994 monograph.

Method: The research method is a hybrid approach combining surveys and content analysis in order to determine how local government is structured within Texas home rule charters. Survey questionnaire/coding sheets are sent out to the 340 currently existing home rule cities in Texas which are then used to review their content for a determination of what, if any, changes have occurred in home rule structure since 1994.

Findings: Overall findings reveal forms of government remain relatively unchanged since Blodgett's 1994 survey. However, certain aspects of those forms have changed. Generally, there is a trend towards requiring more unanimity in city council decisions, an increase in term limit requirements, and increased mandatory capital budget requirements.

ABOUT THE AUTHOR



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Charlie is a veteran of the U.S. Navy and the first Gulf War.

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CHAPTER ONE

INTRODUCTION

Our people are firmly committed to the doctrine of local self-government. Even as subjects of Spain and citizens of Mexico they lost no opportunity to exhibit the faith, and throughout the history of Texas as a republic and as a state they have taken great pains to give the principle definite application in usage, enactment, and Constitution. (ADAMS v. ROCKWALL COUNTY Tex.Com.App. 1926)

Good Government is no substitute for self-government (Mahatma Ghandi)

In the Forward to Terrell Blodgett's 1994 study of Texas home rule charters, Frank Sturzl, Executive Director of the Texas Municipal League, calls local self-government the "cornerstone of democratic government." In Texas it is the home rule charter that provides citizens the freedom to choose how they would like to structure the "cornerstone of democratic government."

It is axiomatic then that the type of local self-government a municipality's electorate embraces has a tremendous impact on the public administrator. The local government's public administrator is closer to the citizens, who pay their salaries in the form of taxes, than any other public administrator. The local government public administrator's and public official's full scope of authority and power is entirely dependent upon the form of government in which she works. As examples, and without exhaustion, a city administrator who reports directly to a mayor will have different interactions with the governing body, and will have significantly different duties and responsibilities, than a city manager who reports to a city council as a whole;

a council that is subject to an initiative or referendum for the citizens is subject to different political pressures than a council that is not subject to those types of home rule charter provisions; and term limits will directly affect both public administrators and public officials' ability to deal with issues.

From the perspective of citizens, local self government puts them closer to their local elected and appointed officials than any other government official. Those elected by citizens as legislators for local governmental entities are their friends and neighbors. They all work together and play together. However, they have different ideas on how local government should work. How should the power be distributed between elected officials and employees? Should a mayor be the chief administrative officer of the city or should the elective body be required to hire a professional city manager? How long should the locally elected legislators serve in office? How should the powers of taxation, annexation, and spending be dealt with? How should the powers of initiative, referendum and recall be dealt with? These are just a few of the issues that need to be considered when creating a home rule charter, and it is the fact that people are able to make those decisions that is a big part of why local self government is the "cornerstone" of democratic government.

Prior to 1994, Texas citizens, when going through the process to create or amend a home rule charter, had no single collective source for information regarding options available, applicable laws (either constitutional, statutory or case law) or insight into how other municipalities set up their local governments. Such a document would be invaluable to those creating or amending a home rule charter in terms of information regarding limitations, authority and how other municipalities are addressing the operations and formation of government.

In 1994, Terrell Blodgett completed a comprehensive review of the charters of Texas home rule municipalities (Blodgett 1994b). Blodgett very diligently collected survey information regarding all 290 home rule charter cities then existing for the purpose of “reporting the current practices of the 290 home rule cities” (Blodgett 1994b, vii). In addition, for the first time, all of the major statutory provisions limiting home rule authority were listed in one place. This monograph encompassed 139 pages of written text (Blodgett 1994b). Previous to this undertaking, there had been no comprehensive review of Texas home rule charters (McDonald 2000). In 2000, John V. McDonald, in an Applied Research Project for Texas State University, reviewed the twenty Texas home rule charters that had been adopted in the six years since Blodgett’s review (McDonald 2000). Since 2000 many general law cities have adopted a home rule charter, and existing home rule cities have amended a currently existing charter.¹ While McDonald (2000) reviewed the twenty new charters adopted since Blodgett’s (1994b) study, he states in his conclusion that “[c]ontinued research in charters will aid cities that pursue home rule in the future...” It is therefore time to update Blodgett’s study.

Research Purpose

The purpose of this Applied Research Project is two-fold. The first is a description of the content of current Texas home rule charters. The second is a description of what changes, if any, have occurred in that content since Blodgett’s 1994 monograph.

An updated review of the content of municipal charters in Texas would benefit all Texas cities which are either attempting to draft their first charter or going through the process of reviewing and recommending amendment of currently existing charters. Findings are compared

¹ In the previous year and a half, I personally have acted as legal counsel for three municipalities which drafted, and ultimately, adopted their initial home rule charter. I have additionally assisted 2 municipalities as legal counsel in adopting amendments to their currently existing charters and been hired by numerous municipalities to interpret various provisions of their charters for legal purposes.

against those of Blodgett to determine what, if any, changes have occurred in the content of home rule charters in specific areas since 1994.

As part of his analysis, McDonald (2000) completed a case study of the city of Kyle's process in adopting their initial home rule charter. McDonald indicated that the Charter Commissioners relied solely on Blodgett's book for their personal research, and often as the main source of information, when making determinations regarding their charter (McDonald 2000, 39).² To this extent, an update of Blodgett's 1994 study would be beneficial to all cities in Texas.

Chapter Descriptions

This applied research project contains six chapters. Chapter 2 details the historical and legal setting of municipalities in Texas. Its purpose is to give the reader a perspective of how local government evolved. Chapter 3 discusses the structure of home rule governments in Texas via a survey of the literature relevant to various elements of that structure, details Blodgett's findings of 1994, and provides a table summary of the conceptual framework. Chapter 4 discusses the methodology of the study along with the associated strengths and weaknesses and how the weaknesses are managed. Chapter 5 provides an assessment of the results and a comparison to Blodgett's 1994 study. Chapter 6 is a summary of the study.

² In my personal experiences I have discovered that Blodgett's work is the first document a Charter Commission receives when beginning the process of drafting a home rule charter.

CHAPTER TWO

HISTORICAL AND LEGAL SETTING FOR TEXAS MUNICIPALITIES

Chapter Purpose

Texas municipal governments, regardless of whether they are called cities, towns, or villages, developed as a means to manage and cope with the various issues and circumstances that arise when people move within close proximity of each other to live, work and play. Today people decide to incorporate as a home rule municipality for a variety of reasons. Upon reaching the appropriate threshold for becoming a home rule city, it is important that those making the decision as to its form and structure understand the implications and legal issues associated with doing so. It is impossible to make informed decisions regarding “how one wishes to be governed” without knowing and understanding the historical and legal issues of local government prior and up to home rule authority. This Chapter is intended to provide a basic framework for understanding the historical and current legal and policy aspects of home rule authority.

Historical and Legal Setting

The creation of Texas cities is a function of statutory enactments by the Texas legislature and the relevant provisions of the Texas Constitution. Statutes enacted by the Texas legislature that provide authority for the creation or “incorporation” of a city are either specific or general in nature. Specific legislation was special legislation adopted in order to allow the incorporation of an individual city. From 1836 (the date of the establishment of the Republic of Texas) to 1912, the Texas legislature had constitutional authority to incorporate cities by a special legislative act. These special legislative acts were frequently amended or repealed and replaced entirely by a

subsequent act of the legislature. By the end of the republic, there were approximately 53 municipal corporations (Blodgett 1994b, 1).

In 1858, the Texas Legislature enacted a law providing general rules for incorporation of small cities (Blodgett 1994b, 2). This was one of two of the most important early developments (between 1845 and 1861) in municipal creation according to Blodgett (1994b, 2). The other development was the first law allowing for local ratification of a charter, specifically, in 1846 the legislature granted a special charter to New Braunfels, subject to charter ratification by the local voters at a special election (Blodgett 1994b, 2). While this charter was created by the legislature, it was the first time that the legislature had granted a charter subject to approval by local election (Blodgett 1994b, 2).

The Texas Constitution of 1876 provided that cities under 10,000 in population could be incorporated under the general laws of the state, and cities over 10,000 population were subject to specially enacted laws of the legislature (Blodgett 1994b, 2). By 1911 the number of cities over 10,000 had grown so substantially and become so complex, that 25 percent of all legislative enactments were specifically for the purpose of dealing with each city's unique needs (Blodgett 1994b, 2). Subsequently, Texas citizens passed a Constitutional amendment in 1912 adopting a home rule provision (Blodgett 1994b, 2). As passed, Article XI, Section 5 of the Texas Constitution provides that any city with a population of 5,001 or greater may, by vote of its citizens, adopt a home rule charter subject only to those requirements that the legislature may provide. The following year, 1913, the legislature passed the necessary enabling act (Blodgett 1994b, 2). The statute was the last major piece of legislation enacted by the Texas legislature regarding the incorporation of Texas Municipalities.

General Law Municipalities

As a result, today there are generally two types of incorporated municipalities in the State of Texas, general law and home rule. Broadly speaking, general law cities are those municipalities 5,000 in population or less that have chosen to incorporate pursuant to the statutory enactments of the Texas legislature. To that extent the Texas legislature not only prescribes how these cities are to be incorporated but also their specific powers, duties and form of government. A general law city has no authority to act unless the State legislature gives them the specific authority to do so via a statutory enactment. Under the general category of cities, the Texas legislature has created three types, they are: general law: Type “A”; Type “B”; and Type “C”.

Type “A” Municipalities

Type “A” municipalities operate under one of two plans of government: aldermanic or commission. A municipality with the aldermanic form of government operates in accordance with statutes applicable to Type “A” municipalities. The governing body of a municipality operating as a Type “A” municipality is known as the "city council." If the municipality has been divided into wards, the city council consists of a mayor and two council members from each ward. If the municipality has not been divided into wards, the governing body always consists of a mayor and five council members.

In addition to the city council, other municipal officers include a treasurer, tax assessor-collector, city secretary, city attorney, and city engineer, all of which are either elected or appointed, depending on the method chosen by the city council.

Type “B” Municipalities

Type “B” cities may be created by incorporating an area of 201 to 10,000 inhabitants. If the incorporated Type “B” municipality has a population greater than 600, it may become a Type “A” municipality. A Type “B” general city may operate as either an “aldermanic” or “commission” form of government. In a Type “B” municipality with the aldermanic form of government, the governing body is known as the “board of aldermen” and includes six members (a mayor and five aldermen), all of whom are elected at-large by its citizens. At the discretion of the board of aldermen, a Type “B” municipality may provide by ordinance for the appointment or election of such additional officers as are needed to conduct the business of the municipality. Any municipality which has adopted the commission form of government can change over to the aldermanic form of government, and vice versa.

Type “C” Municipalities

A Type “C” municipality operates under a commission form of government. Its governing body is referred to as a “board of commissioners” and consists of a mayor and two commissioners. No other elective officers are required under a Type “C” municipality; however, the board of commissioners must appoint a city clerk and may provide by ordinance for the election or appointment of such other officers as may be required.

In a municipality of 500 or less population, the board of commissioners must follow the requirements applicable to a Type “B” municipality. In a municipality over 500 in population the board of commissioners must follow the requirements applicable to a Type “A” municipality, unless provided for differently. A Type “C” municipality operating under the commission form of government may revert to an aldermanic form of government and vice versa.

Home Rule Municipalities

The second general type of municipality is a home rule city. In 1912, Texas voters approved an amendment to the Texas Constitution authorizing cities on a local basis to adopt a home rule charter (Blodgett 1994b, 3). In 1913 the Texas legislature followed the adoption of the constitutional amendment with the appropriate enabling legislation to allow for home rule authority (Blodgett 1994b, 134). The 1912 amendment is the most significant event in Texas law regarding the affairs of municipal government. The home rule charter amendment took away from the legislature the authority to regulate locally and placed that power in the hands of the city electorate.

The home rule amendment appears as Article XI, Section 5 of the state Constitution. The amending language stated that it was “contemplated to bestow upon any city adopting the charter or amendment hereunder the full power of local self government ...”³

The amendment itself reads generally as follows:

Cities having more than five thousand (5,000) inhabitants may, by a majority vote of qualified voters of said city, at an election held for that purpose, adopt or amend their charters. ... The adoption or amendment of charters as 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. ... Furthermore, no city charter shall be altered, amended or repealed oftener than every two years⁴

³ Session Laws—Acts 1913, 33rd Leg., p. 310, § 4.

⁴ Vernon's Ann. Tex. Const. art. XI, § 5.

Chapter 9 of the Texas Local Government Code, *Home-Rule Municipality*, contains the primary provisions for the adoption of a home rule charter,⁵ and Chapter 26 of the Texas Local Government Code allows a home rule city to adopt “any form of government.”⁶

The Texas Supreme Court has repeatedly recognized that the home rule amendment grants to home rule cities the “full power of local self-government.”⁷ Texas courts of appeals have consistently held that home rule cities derive their authority from the Constitution and look to the legislature only for a limitation on that authority. In other words, legislation is not required for home rule cities to act. One of the first cases decided regarding the challenge of home rule authority says it most eloquently:

The contention that we must look to the laws passed by the Legislature for all power for a city to act cannot be sustained since the adoption of Section 5 of article 11 of the Constitution. That was the rule prior to the adoption of this provision of the Constitution—that a city must be able specifically to point out the authority to act in the grant given it by the Legislature; otherwise it was powerless to act. It was because of this well-recognized rule of law that article 11, § 5, of the Constitution was adopted in 1912. Our Legislature meets but once in every two years, and, as new evils arose to require the different cities and towns to rush to it and ask and secure a grant of authority and power to suppress the evil, it was regarded as too ineffectual a rule of law, and it was intended by this amendment to give the cities the power to act, without the specific grant of authority from the Legislature, and for the Constitution by its terms to confer this power on cities and towns, and it did so, only limiting the power that is granted to such limitation as may be prescribed by the Legislature, and provided that such power should not be so exercised as to be inconsistent with the Constitution of the state or the general laws of the state.

[A] city does not since the adoption of Section 5 of article 11 long have to look to the Legislature for a grant of power to act (this being given by the Constitution), but only look to the acts of the Legislature to see if it has placed any limitations on the power to

⁵ V.T.C.A., Local Government Code §§ 9.001 et seq.

⁶ V.T.C.A., Local Government Code § 26.021.

⁷ *City of Houston v. State ex rel City of West University Place*, 142 Tex. 190, 176 S.W.2d 928, 929 (1943), quoting from, *City of Houston v. City of Magnolia Park*, 115 Tex. 101, 276 S.W. 685, 689 (Com.App.1925).

act granted by Section 5 of article 11. If the Legislature has placed no limitations on the power of a city to act, and the provision is inconsistent with no provision of the Constitution or the general laws of the state, the power of the city is as general and broad as is the power of the Legislature to act.⁸

According to Blodgett (1994b, 3), “[b]y 1920, sixty-five cities had taken advantage of the home rule privilege. And, except for the depression era of the 1930s, the movement has steadily continued.” It is easy to see why. Removal from within the purview of the state and providing for “self-rule” is a strong incentive to change from general law to home rule authority, but it is not enough to understand that removal from state oversight is possible. As discussed in Chapter 3, knowledge as to the extent of home rule authority, specifically, its structure, and history is important.

⁸ *Le Gois v. State*, 80 Tex.Crim. 356, 190 S.W. 724, 725 (1916)

CHAPTER THREE

HOME RULE STRUCTURE AND BLODGETT'S 1994 FINDINGS

Chapter Purpose

This Chapter discusses the history and structure of home rule charters, the different forms of local government found within them, certain components related to those forms, literature associated with them, and Blodgett's 1994 survey results regarding those forms. Finally, it provides an exhibit summarizing the conceptual framework.

Forms of Government

The history of how home rule authority was derived and the various forms of general law cities have been described. As discussed briefly in Chapter Two, a municipality receives its power, or authority, to act from two general sources, either from its state legislature or, more recently, from local authority (Goodnow 1906, 83). Local control is obtained through a document called a "charter." Keller (2002, 61) notes that a "charter is a critical public document." It organizes the government closest to the citizens and is the one document over which they have the most control. A home rule charter gives citizens an unparalleled opportunity for realizing a just and effective corporate political reality at the local level." It is generally understood that before the creation of home rule authority, municipalities lacked the basic independent initiatory authority to perform even routine functions and certainly did not possess exemption from state legislative direction on how those functions should be performed. A city with home rule authority is, for local purposes, a constituent body and within specified limits "escapes the bondage of the State Legislature" and provides a municipality the right to frame and adopt its own governmental powers subject to the limitations of general law (Dodds 1924, 183).

Determining the form of a home rule government is the first step in the process of creating the local government structure. The power of the people to determine the structure of its government via a popular vote (home rule) has led to a wide variety of forms of government; however, three standard forms have emerged: (1) council-mayor; (2) council-manager; and (3) commission (Dodds 1924, 183). Blodgett's (1994b, 31) survey indicated that as of May 7, 1994 there were 290 home rule charters in Texas. Of the 290 home rule charters, Blodgett (1994b) found that 86% used the Council-Manager form of government, and 14% used the Council-Mayor form of government. No home rule charter used the commission form of government. These forms of government are discussed in-depth below.

Council –Mayor

According to Hays and Chang (1990, 167), the governmental structure of council-mayor cities is composed of: “(1) an executive branch with a popularly elected mayor who has the authority to hire and fire other city officials outside the merit system, and (2) a legislative branch in a relatively small city council with 5 to 9 members.” Generally, under this form of government, the mayor has the authority to hire and fire department heads, prepare the budget for consideration, administer it after adoption, and veto acts of the council, which can override that veto only by an extraordinary majority (Blodgett 1994a). The authority of a mayor is determined by the structure of the council-mayor form of government in place either: (1) a strong-mayor or (2) weak-mayor (McClesky 1978).

Under the strong-mayor system, key administrative and appointive powers are concentrated in the hands of a full-time mayor who appoints department heads and handles all administrative duties (Dodds 1924, 183). The Mayor also presides over meetings of the city council. Specific powers given to a mayor in a strong-mayor form of government are: (1) the

power to appoint and remove department heads and the members of most major boards and commissions; (2) the prerogative to prepare the city budget and, following its adoption by the council, to execute the budget; (3) a high enough salary to enable the officeholder to devote full time to being mayor as well as an office budget sufficient to hire an adequate staff; and (4) the power to veto actions by the city council. Council members have no administrative duties. Their role is to enact laws, formulate policies governing the business of the city, and act as the legislative branch of the city government (Texas Municipal League 2005, 10).

Under the weak-mayor form of government, the powers of the mayor are much more restricted. These restrictions on power are a result of various different aspects of the weak-mayor form of government. For example, rather than direct election by the people, the mayor may be selected by the council which dilutes the mayor's political influence; department heads often are appointed and removed by majority vote of the city council, which dilutes the mayor's administrative authority; and very few weak mayors have either the authority to veto actions of the council or the exclusive power to develop and execute the budget (Texas Municipal League 2005, 10).

Council-Manager

The city manager form of government also has the popularly elected council as a legislative body; however, it eliminates the mayor as the chief administrative officer, and instead puts in place a city manager who is chosen and removed by the city council (Dodds 1924, 183). Dayton, Ohio was the first major city in the United States to adopt the council-manager form of government. It was adopted by Dayton shortly after the flood of 1913, which the then current form of government was unable to manage (Dodds 1924, 184). Effective functioning of the council-manager form of government depends on the relationship between the city council and

the city manager and the ability of the city council to play the roles that contribute to the sound governance of the municipality (Svara 2002, 5).

The intention of the city manager form of government is to replace the politically chosen executive (the mayor in the council-mayor form or the commission in the commission form) with a single individual chosen on the basis of administrative ability and to relegate the politics to the elected council (Dodds 1924, 184). Unlike the council-mayor form of government, Terrell Blodgett (1994a) believes the council-manager form of government “uniquely blends political and professional leadership” and “[a]lthough political supremacy of the mayor and council are assured, the elected officials empower the manager with the independence needed to make sound recommendations to council and to manage the local government organization using the highest professional standards.”

The Mayor in a council-manager form of government is selected by vote of the city council or the popular vote of the people (Hays 1990, 167). The 1964 edition of the *Model City Charter* by the then National Municipal League is cited by Hays and Chang (1990, 175) to express the understanding of the traditional role of the mayor under the council-manager form of government. The mayor presides at the meetings of the council, is recognized as head of the city government for all ceremonial purposes and the governor for purposes of military law, but having no administrative responsibilities. Despite this traditional definition Hays and Chang (1990, 175), citing studies by James Svara⁹ and Nelson Wikstrom,¹⁰ state the distinction between the council-manager and council-mayor forms of government “is not as distinctive as the names

⁹ Svara found that although the mayor in a council-manager form of government was not a pale imitation of the executive mayor in a council-mayor form of government, the mayor in council-mayor form of government still provided effective leadership by strengthening other participants in the governing process.

¹⁰ Wikstrom found through field interviews with mayors and managers in council-manager forms of government in Virginia that a majority of mayors functioned as strong policy leaders, whereas only a minority of mayors fit the usual description of a ceremonial head.

suggest owing to the active role that the mayor in a [council-manager] form plays in the provision of leadership.”

Commission

The commission form of government, like the council-mayor form of government, concentrates on both legislative and executive powers in a board called the commission (Dodds 1924, 183). The commission holds all authority within the city (Munro 1911). Each commission member becomes the head of an administrative department based on the decision of the full commission (Dodds 1924, 183). Each commissioner devises the policy of, and represents their department before, the entire commission (Munro 1911). The commission as a whole then coordinates the administrative policies of all the city departments (Dodds 1924, 183). The simplicity of this form of government made for an attractive alternative to many municipalities (Munro 1911). However, the commission form of Government peaked in the early twentieth century after its success in Galveston, Texas (McClesky 1978). As a result of the mismanagement of the city of Galveston by the mayor and city council and in an attempt to expedite recovery from the devastating hurricane of 1900, the Texas state legislature replaced the city's mayor and council with five commissioners (Munro 1916). Many American cities watched the rebirth of Galveston through the commission form of government and made the decision to adopt the form, creating a quick expansion (Munro 1916, 2). However, the commission form of government fell out of favor with the American public just as quickly as it arose. Two issues led to the collapse: (1) many commissioners focused their attention exclusively on the department they represented becoming experts in their area but ignoring other interests of the city; and (2) while many commissioners become experts in their department, they were poor administrators (McClesky 1978, 268).

City Council

Regardless of a Texas home rule city's form of government, many aspects of the city council are common between each. Blodgett (1994b) discusses these major commonalities.

Council Elections

There are two methods of electing city council members - "at-large" and by "district" (Blodgett 1994b, 45). In the at-large system, all candidates for election are placed on the ballot, and candidates who receive the most votes are elected to office (Blodgett 1994b, 45). A variation of the at-large election is the "at-large-by-place" system where each candidate runs for a specific "place" on the city council, and citizen's vote for each place with the candidates receiving the most votes for each place being elected to office (Blodgett 1994b, 46). There are two ways of determining who is elected in at-large and at-large-by place elections, either by a plurality or a majority (Blodgett 1994b, 46). In a plurality system, the candidates receiving the greatest number of votes, regardless of number, are elected to office (Blodgett 1994b, 46). In a majority system, candidates must receive at least 50% of the vote in order to be elected to office (Blodgett 1994b, 46).

The single member district has been argued to provide the greatest opportunity for ethnic minority representation. The single member district approach divides a city into a specific number of geographic regions with a single council member representing each district. In such an election, a citizen may only cast a vote for that council member running for office in her district. Variations of these themes abound: for example, some charters require all council members be elected with the Mayor elected at-large (Blodgett 1994b, 46).

Terms of Office – Years and Limits

All elected officials serve a specific term of office regardless of the form of government in place. However, there are differences in the number of years a council member serves, whether concurrently with each other or staggered, and differences regarding whether limits to the number of terms applies (Blodgett 1994b, 51). Blodgett found that terms of office were the same for Mayors and Council Members. Blodgett (1994b) found that by far the majority of cities in Texas provide for two year terms, with 77% doing so and the remaining cities adopting three or four year terms.

Years

The years in a term of office vary from two to four years. Two year terms require council members to submit their qualifications to voters much more frequently; however, it is further argued that such short terms do not give a council member enough time to become acquainted with the intricacies of city government and its needs (Blodgett 1994b, 51-52). Three year terms clearly lengthen the amount of time a council member has to become educated regarding government issues and to further establish their qualifications for office (Blodgett 1994b, 51-52). The only disadvantage identified by Blodgett associated with three-year terms is the fact that every two municipal elections would fall into a state or national election year which could create confusion and possibly create partisanship issues for the municipal election (Blodgett 1994b, 51-52). Four-year terms clearly give the elected official the greater amount of time to invest in working on municipal issues without having to worry about reelection. However, at the same time, such a longer term can work to insulate a council member from the electorate (Blodgett 1994b, 51-52).

Limits

Blodgett identifies term limits as the legislative issue that has gained more momentum than any other. According to Blodgett (1994b, 52), arguments regarding the merits of term limits are constant and intense. Opponents of the term limits are typically political scientists and “urban experts” who insist that voters have the power of recall every time a particular member comes up for reelection. Proponents of the term limits argue that the advantages of incumbency, both in finances and name recognition give, great advantage to the incumbents. They argue that term limits are essential to ensuring government stays in the hands of the people (Blodgett 1994b, 52).

Home rule charters express term limits in two ways. The first is separate limits for the mayor and council members, and the second is to count the service as a mayor and a council member together for purposes of limits (Blodgett 1994b, 52). Blodgett (1994b, 54) found that a substantial majority of cities in Texas had no limits on a council member or mayor’s ability to run for a city council (76%), with a fairly equal split between separate limits for council members and mayors (14%) and combined limits (10%).

City Manager

The basic structure of the council-manager form of government is similar to that of a private corporation where the stockholders elect a board of directors which then hires a president to run the company. The voters elect a city council which, in turn, hires a city manager to administer the city’s day-to-day affairs (Texas Municipal League 2005, 10). The administrative duties are vested in the city manager, who is designated, either by charter or ordinance, as the chief executive and administrative officer of the city and is responsible for the day-to-day

operations of the municipality in accordance with the policy direction provided by the city council (Texas Municipal League 2005, 10-11). The city manager's role in the council-manager form of government can be divided into three broad areas: (1) external relations, (2) management of daily operations, and (3) coordination between departments (Box 1994, 734-36).

The typical city manager in Texas is appointed for an indefinite term and may be terminated at the will of the city council. Specific duties of the manager may include the following:

- (1) Enforcing all city ordinances, rules, and regulations;
- (2) Supervising all municipal employees and programs;
- (3) Preparing and executing the city's annual budget pursuant to the revenue and expenditure plans adopted by the council;
- (4) Managing the city's funds and preparing periodic reports that advise the council and the general public of the city's financial condition;
- (5) Providing information to the council to facilitate its ability to make informed decisions in the best interests of the community;
- (6) Preparing council meeting agendas and attending all such meetings to serve as a resource to the council and the public; and
- (7) Drawing the council's attention to community needs and recommending alternatives by which the council can respond to those needs.

(Texas Municipal League 2005, 10-11). H. W. Dodds (1924, 191) analogizes the manager as something less than a mayor of a municipality under the council-mayor form of government, yet something more than any single official in an English municipality and struggles to find any other municipal official in the world strictly analogous to the position of city manager.

The city manager is seen both positively as serving "to advance the rational separation of politics from administration, thereby achieving greater efficiency, cooperation, and harmony in government" and negatively as "wielding anti-democratic power over the public policy agenda through control of information and budgets" (Box 1994, 715-16). This negative view persists despite the fact that, ultimately, the city council sets municipal policy via such actions as approval of the budget, setting of the tax rate, determination of payroll, and is the final authority

on all of the many policy decisions that determine the scope and functions of the city government (Texas Municipal League 2005, 10).

While a city manager should not become a political issue and should not become overly involved in questions of policy, it is inevitable that they can and will be pulled into these issues. City councils look to city managers for recommendations as to public improvements and ideas for advancement of civic interests. As a result, people are apt to include the city manager in any policy position, therefore, making it difficult for the city manager to remain in the background. At any time, a question of pure administration could be made a political issue (Dodds 1924, 191). Despite the idea that a city manager should refrain from becoming intimately involved in policy making, John Nalbandian (2001, 63) acknowledges that city managers play a prominent role in policy making through the setting of agendas, developing alternatives for consideration by city council and making other policy recommendations. A 1998 survey of city managers established that managers are heavily involved in the policy-making process. According to the survey, the primary roles reported by managers are: supporting the governing body by providing it with information (99.9 %); supporting the council by identifying community needs and initiating policy proposals (96.0 %); and playing a role in policy initiation through advice and recommendations to the governing body (94.9 %) (DeSantis 1998).

Appointment and Removal

Blodgett (1994b, 76) describes Texas charters as not having paid much attention to the wording requiring appointment of the city manager. Most cities require a majority vote of those council members “present and voting” rather than a majority vote of the entire city council. While Blodgett did not give specific numbers regarding this issue, he did state “only a few of the charters require [a] ‘full’ majority of council for appointment.”

Regarding removal, Blodgett (1994b, 77) determined that 72.5% of the council-manager charters require the majority vote of the entire council membership to remove the city manager, with “virtually all other cities require[ing] only a majority of a quorum.” He further discovered that 67% of Texas cities require a public hearing to be held before the termination of the city manager (Blodgett 1994b, 78).

Departments, Offices, Boards

Administration activities are clarified by the proper division of work among various departments through the coordination and connection of all offices. It is this organization of a municipality into city departments, offices, and boards that insures the success of local government (Munro 1916, 19). There is no standard for the creation, function, or number of departments, and each municipality may form their departments as they desire (Munro 1916, 123). A central issue to be addressed in any home rule charter is who appoints or hires the heads of each department which may be created. According to McDonald (2000, 25), “there is literature and experience to support council involvement in the appointment of the city secretary, city attorney, and the municipal judge;” however, appointment of any remaining department heads is left to the discretion of the city manager. Home rule charters that infringe on the City Manager’s ability to appoint other department heads severely hampers the effectiveness of the city manager. Blodgett (1994b, 79) found that 30% of Texas council-manager charters require the city council to confirm department head appointments.

City Secretary

The position of City Secretary is frequently handled separately within a charter (Blodgett 1994b, 85). Most charters that deal with the position spell out the responsibilities of the position as well (Blodgett 1994b, 85). The other issue dealt with regarding City Secretaries is how they

are appointed and Blodgett (1994b, 85) found a wide disparity between how city secretaries are appointed; however, most charters require the position be appointed by city council (35%), reinforcing the “widespread opinion of city officials that this position is one that ‘belongs’ to the city council.” Blodgett’s (1994b, 86) study indicated that other than direct appointment by city council, 24% of city secretaries were appointed directly by the city manager. The remaining cities used some variation of city council approval; such as appointment by city manager with council approval (15%) or appointment by city council upon recommendation of the city manager (12%). In total, 62% of all cities require approval by the city council in some form (Blodgett 1994b, 86).

City Attorney

Blodgett (1994b, 84) notes that every city should have either a full-time or part-time legal officer depending on the size of the municipality and amount of legal issues they face. Small towns may often contract with outside council to handle legal issues (Blodgett, 84). Many charters provide that the “city attorney, with council approval, can bring in special counsel when the need to do so for a particular court case or other problem arises” (Blodgett 1994b, 84). Pursuant to charter provisions, city attorneys are also the primary authors of municipal ordinances (Blodgett 1994b, 84). As with the city secretary, appointment of city attorneys is handled in various ways including appointment by council, by the city manager or a combination thereof. However, unlike the position of city secretary, the overwhelming majority of cities required the city attorney be appointed directly by the city council (73%). The remaining charter provisions are fairly equally split between variations of council approval with recommendations by the mayor or city manager and direct hire by the city manager.

Municipal Judge

State law establishes a municipal court in every Texas city, and many issues regarding municipal judges are dealt with via state law, therefore restricting a city's authority regarding judges (Blodgett 1994b, 86). However, a city does have some flexibility regarding municipal judges through its charter; for example a charter can: 1) provide for the manner in which the judge is to be chosen (appointed or elected); 2) provide for the appointment of associate or temporary judges; 3) require the judge to be an attorney; and 4) provide for a court clerk (Blodgett 1994b, 86). Blodgett's (1994b, 87) findings on appointment of municipal judges show an extensive number of municipalities appointing directly by council (79%). Unlike the appointment of city secretaries and city attorneys there is no direct appointment by the city manager. All remaining cities either appoint the municipal judges via some variation of approval by the city council (16%), or they are elected (5%) (Blodgett 1994b, 87).

Boards and Committees

McDonald (2000, 27) states that "the use of committees and advisory boards is an increasingly important aspect of citizen involvement in local affairs and that appointment to committees is often left to the mayor, with or without approval of the council." Blodgett (1994b, 94) indicates that 25 different boards or commissions are established in home rule charters with many of them setting out requirements for membership, number of members, duties, and replacement of members.

Financial Administration

One of the most important jobs for a chief executive officer, whether it be the city manager or mayor, is the maintaining of fiscal responsibility, and home rule charters are normally very specific as to the powers and duties of chief executive officers regarding this duty

(Blodgett 1994b, 97). Home rule charters include provisions regarding the designation of the fiscal year, the power to tax and other issues associated with property taxes, the preparation and adoption of an annual operating budget and a capital improvement plan, purchasing and contractual requirements and the issuance of short and long term debt (Blodgett 1994b, 107). Blodgett (1994b, 97) ascertained that a majority of city managers prepared the budgets for their cities. According to Blodgett (1994b, 97), the reason city managers prepare the budget is due to the increased presence of the council-manager form of government. Though cities continually plan for the future, Blodgett (1994b, 97) found that only 39% of the charters reviewed contained a requirement for a capital improvement budget. Blodgett (1994b, 105) also identified October as the month the majority of charters require the fiscal year to begin, keeping them in line with the state. Twenty-three percent of the charters do not require a specific beginning for the fiscal year (Blodgett 1994b, 105). Regarding the necessary vote to adopt the budget, cities were evenly split between whether a majority vote of the entire council or a majority vote of those “present and voting” was required (Blodgett 1994b, 103). Finally, just over half of the charters had a specific provision limiting borrowing to anticipation of revenues (Blodgett 1994b, 107).

Direct Democracy: Initiative, Referendum and Recall

The authority of the people’s participation in the policy making process is referred to as “direct democracy” and includes the tools of initiative, referendum, and recall (Munro 1911, 70). Munro (1926, 241) declares the main reason for the rise of these tools to be deterioration in the abilities of elected officials, particularly aldermen and councilmen. Blodgett (1994b, 111) indicates that the “three tools for direct citizen participation in government are residuals of pre-revolutionary debates, and particularly, of the drafting of the federal constitution” and that “the debate participants, our founders, argued the merits of ‘direct’ democracy with maximum citizen

participation versus the merits of ‘representative’ democracy with elected representatives of the people as the predominant decision-makers.” Texas has no direct democracy provisions at the state level; however, it is very prevalent on the municipal level with “an overwhelming number of Texas city charters call[ing] for all three” (Blodgett 1994b, 112). Blodgett’s research indicated that of the 290 home rule charters, the recall provision is found in 88%¹¹ with the initiative and referendum procedures found in 84% and 82% of the charters, respectfully (Blodgett 1994b, 112).

Initiative and Referendum

The right to petition the executive or the legislature for redress of grievances has been at the root of the United States’ governmental development (Crouch 1943, 491) However the right to petition for redress of grievances has been contentious and was not always approved by everyone as shown by President Taft’s statement that:

I want to show the young men of this country the absurdity of having weary armies of voters tramping frequently to the polls-at the call of would-be reformers-in a struggle for incessant changes in the laws.

(Taylor 1914, 96)

Despite the roots of the initiative and referendum on the state and federal level, the people’s ability to participate directly in the legislative process through petition on the municipal level is a comparatively recent development arising primarily via the home rule movement. In 1897, Nebraska was the first legislature to pass a statute that allowed municipal electors to use the initiative and the petition referendum to legislate on a municipal issue (Crouch 1943, 491).

Crouch (1943, 492) indicates that while municipal direct legislation can assume a number of different forms, it is most seen as the municipal electorate being permitted to initiate

¹¹ Blodgett indicated in his study that 264 cities had a recall provision in their charter. However, when actually added up the number was 257.

ordinances by the petition method. In terms of referendum, the usual type seen is a petition filed with the governing body for the purpose of forcing the governing body to repeal those ordinances enacted with which the electorate disagrees. Crouch states that another variety of referendum is the advisory referendum or “straw vote” where an item is placed on a ballot for vote by the city council but the outcome generally has no binding effect upon the council's decisions. In 1914, Charles Freemont Taylor (1914, 93-4) described the initiative and referendum process thusly:

That is, a reasonable number of voters may, by petition, initiate a law, or suspend the operation of any law passed by the legislature until said law is ratified by direct vote. In either case the direct vote on the initiated or referred statute is taken " at the next general election;" and if it receives an affirmative majority of the votes cast thereon, it is confirmed and becomes law; but if a majority of votes cast thereon are negative, the initiated law is defeated, or the proposed law which passed the legislature is vetoed. This last is sometimes called the voters' veto.

This definition has not changed over the last 80 to 90 years, at least in the State of Texas.

Blodgett (Blodgett 1994b, 111) defined initiative as allowing a municipality's citizens “to petition the city council to take action on a particular issue not previously addressed” and a referendum as a request of the “city council to undo a previous decision.” The Texas Municipal League (2005, 9) defines initiative as:

A procedure under which local voters directly propose (initiate) legislation . . . allow[ing] local voters to circumvent the city council by direct ballot box action on new ordinances that have wide support in the community, but which the council refuses to enact” and defined referendum as “a procedure under which local voters can repeal unpopular, existing ordinances the council refuses to rescind by its own action.

Blodgett (1994b, 111) describes the typical process in the initiative and referendum process as requiring citizens to present a petition, signed by a certain percentage of voters in the last election or a certain percentage of the total number of registered voters in the city, to the city

council. The city council then must either act upon the issue or put it on a ballot for a vote by the electorate. Similar to the initiative, a petition requiring a certain number of signatures is needed for a referendum. The council then either repeals the ordinance that is the subject of the petition or places it on a ballot for a vote by the electorate.

Type of Percentage Requirements

Blodgett (1994b, 113) found two different requirements for signatures on petitions for initiative, referendum and recall. They are by “percentage of registered voters” and by “percentage of those voting in the most recent election.” Charters requiring a “percentage of registered voters” were slightly lower at 43% compared to “percentage of those voting in the most recent election” at 57% (Blodgett 1994b, 113). Those percentages are the same for both initiative and referendum requirements.

Percentage Requirements

Blodgett (1994b, 113-14) showed a wide variety of percentage requirements for initiative and referendum ranging from a low of only 3% and a high of 51%. However approximately half of all charters required a percentage of either 20% or 25% for both initiative and referendum petitions.

Recall

Recall is a process by which local voters may oust city council members prior to the expiration of their term in office (Texas Municipal League 2005, 9). Taylor (1914, 96) defended some of the early criticisms of the initiative and referendum, such as those of President Taft, by touting the benefits of the power of recall. Taylor believed that a “unicameral legislative body of few members, carefully chosen, with long terms, ample salary, in constant service, kept conscious of their duties with the possibility of recall could from time to time promulgate laws so

maturely considered and fitted to the requirements of the people that need would seldom if ever be felt for the statutory initiative or referendum.”

The recall created a relationship between representative and constituent that had not previously been in existence. Prior to the power of recall, no elective public officer could be removed from office before the end of a definite term without initiation of some sort of legal process. The recall changed that by making the public office more of a public trust in that a representative can be removed not only for being found guilty of some statutory crime but also for “behavior unbecoming a representative” (Gilbertson 1911, 163). For those reasons, recall was often, during its inception, challenged in the courts but usually upheld. In affirming the validity of the recall provision in the Dallas Charter, Chief Justice Brown of the Supreme Court of Texas said:

We are unable to see from our viewpoint how it can be that a larger measure of sovereignty committed to the people by this method of government and a more certain means of securing a proper representation in any way militates against its character as a republican form of government and that it is thereby rendered in any sense obnoxious to the provisions of the Constitution of the United States.

(Gilbertson 1911, 163).

Currently, in Texas charter provisions dealing with recall, the voters may typically request that the city council call an election to vote on the removal of an elected official by using a petition for recall, which may be directed at the mayor or any council member (Blodgett 1994b, 111). As with initiative and referendum, Blodgett (1994b, 116) found the type of percentage of voters authorized to sign a recall petition was fairly evenly split between “registered voters” and those “voting in the most recent election” at 41% and 56%, respectfully. However, the actual percentage of those voters was higher on average with 28% of the charters requiring 30% sign the petition and a combined 29% requiring either 20% or 25% to sign the petition.

Franchises

Cities have been authorized to require companies to obtain permission to use the public streets and right-of-way to conduct their business (Blodgett 1994b, 119). Cities provide businesses the right to use the public streets and right-of-way, and in return, the businesses agree to certain regulations such as rates regulation, annual audits, payment for use of the streets and right-of-ways and other regulations. Much of the authority of Cities to regulate public streets and right-of-ways has been preempted by state and federal law;¹² however, Blodgett (1994b, 119) indicates that many charters still addressed certain aspects of the granting of franchises including the power to grant, transfers, length of grant, rates and review of records.

Blodgett (1994b, 121) determined that fewer than 15% of home rule charters require a majority of the entire city council to award a franchise. The number of years that a franchise could be awarded was wide and considerable ranging from 10 years to 50 years, with the terms of 20 and 50 years combining for just over half of required terms (Blodgett 1994b, 122). Only a fraction of the charters did not address such a requirement (Blodgett 1994b, 122).

Charter Amendments

Texas Local Government Code § 9.005 provides for the adoption and amendment of home rule charters. According to Blodgett (1994b, 134), many elected officials keep notes and other records dealing with what sections, paragraphs or phrases in their charter they have questions about. Additionally, many times, work sessions will prompt discussion regarding the charter and the need for certain amendments (Blodgett 1994b, 134). Regarding the charters themselves, most home rule charters address amendments at the end of the charter, with some

¹² For example the State of Texas passed the Public Utility Regulatory Act (PURA) in 1975 and the Gas Utility Regulatory Act in 1983.

mandating the city council review the charter for any needed changes every 5 or 10 years and others require the appointment of a charter commission to review the charter periodically but leave the times up to the then sitting city council. Blodgett's (1994b, 135) survey indicated that between 1960 and 1994, there had been 257 elections to amend existing charters, with 148 of those occurring between 1990 and 1994.

Summary of Conceptual Framework

Exhibit 3.1 summarizes the categories used and links them to the literature.¹³

¹³ For a comprehensive discussion on conceptual framework in research see Shields (1998) and Shields & Tajalli (2006).

Exhibit 3.1
Descriptive Categories Linked to the Literature

| DESCRIPTIVE CATEGORIES | SOURCE |
|---|---|
| Forms of Government <ol style="list-style-type: none"> 1. Council-Mayor 2. Council Manager 3. Commission | Blodgett (1994a), Blodgett (1994b), Box (1994), Dodds (1924), Goodnow (1906), Hays and Chang (1990), McDonald (2000), McClesky (1978), Munro (1911), Munro (1916) |
| City Council <ol style="list-style-type: none"> 1. Council Elections 2. Terms of office <ol style="list-style-type: none"> a. Years b. Limits | Blodgett (1994b) |
| City Manager <ol style="list-style-type: none"> 1. Appointment 2. Removal | Blodgett (1994b) |
| Departments/Personnel/Boards <ol style="list-style-type: none"> 1. City Secretary 2. City Attorney 3. Municipal Judge 4. Boards and Committees | Blodgett (1994a), Blodgett (1994b), DeSantis (1998), McDonald (2000), Nalbandian (2001), Munro (1916) |
| Financial Administration <ol style="list-style-type: none"> 1. Fiscal Year 2. Budgets 3. Capital programs | Blodgett (1994b), McDonald (2000) |
| Direct Democracy <ol style="list-style-type: none"> 1. Initiative 2. Referendum 3. Recall | Blodgett (1994b), Crouch (1943) McDonald (2000), Munro (1911), Munro (1926) |
| Franchises <ol style="list-style-type: none"> 1. Votes on Franchise issuance 2. Time limits on Franchise | Blodgett (1994a), Blodgett (1994b), Gilbertson (1911), McDonald (2000), Munro (1911), Munro (1926), Taylor (1914) |
| Charter Amendments <ol style="list-style-type: none"> 1. Original Charters 2. Amendments | Blodgett (1994b) |
| Forms of Government <ol style="list-style-type: none"> 1. Council-Mayor 2. Council Manager 3. Commission | Blodgett (1994b) |

CHAPTER FOUR

METHODOLOGY AND ETHICAL ISSUES

Statement of Purpose

This chapter introduces the methodology utilized by this applied research project. The chapter additionally addresses the ethical issues associated with social scientific research.

Methodology – A Hybrid Approach

How the citizens of a particular municipality structure their government is best reviewed by a content analysis of their respective charters. In 1994, Blodgett, via a hybrid of survey questionnaire/coding sheets and content analysis, reviewed Texas home rule charters to determine how local government is structured within those charters.¹⁴ As a follow-up, this study utilizes the same methodology. Survey questionnaire/coding sheets sent out to the 340 currently existing home rule cities in Texas are used to review their content and for a determination of what, if any, changes have occurred in home rule structure since 1994.

The study is a limited update to Blodgett's 1994 Texas Home Rule Charter's monograph.¹⁵ As stated, it replicates Blodgett's hybrid survey questionnaire/coding sheet and content analysis method of study. This hybrid method is a form of "unobtrusive research." Babbie (2007, 319) indicates that most modes of research require the researcher to intrude to

¹⁴ Blodgett's original study took over a year to complete with assistance in the form of grants and numerous people, whom he recognized in his Forward. Blodgett personally reviewed every charter included within his study after receiving the survey completed by each individual city. It was an incredible undertaking.

¹⁵ Quite clearly a complete update of Blodgett's 1994 study is not possible within the time and resource limitations of a three-hour Applied Research Project course for Texas State University. As such, it was necessary to "pick and choose" what areas were to be updated. Using McDonald's (2000) study as a model, the basic areas of home rule charter are used for the update generally and then broken down into specific areas that, based on my eight years of experience in municipal law and representing Texas municipalities as City Attorney, I have found to be the most widely discussed by citizens and public administrators. Essentially, the study opens the silverware drawer and takes a closer look at specific utensils within that drawer.

some degree on the subject of the study. However “unobtrusive research” allows the research to study the subject without affecting its outcome (Babbie 2007, 319).

Content Analysis

Like Blodgett’s study, this study asks administrators in cities to describe the characteristics of their home rule charters. Since the charter is the unit of analysis, this study is a content analysis. Content analysis specifically is the “study of recorded human communications, such as books, websites, paintings, and laws” (Babbie 2007, 319). Berelson (1952) names a substantial number of reasons for conducting content analysis which includes to:

1. describe trends in content over time
2. describe the relative focus of attention for a set of topics
3. compare international differences in content
4. compare group differences in content
5. compare individual differences in communication style
6. trace conceptual development in intellectual history
7. compare actual content with intended content
8. expose use of biased terms in propaganda research
9. test hypotheses about cultural and symbolic use of terms

This particular study is appropriate for content analysis because its intent is to describe the difference in content of a document (home rule charters) over time and focus on a particular set of topics (particular components of home rule charters). Through this hybrid of survey and content analysis, the “manifest” content of Texas home rule charters is reviewed. Manifest content is that content of a document that is “concrete” in nature; it is the “visible surface content” as opposed to the underlying meaning (Babbie 2007, 325).

Surveys¹⁶

Because individuals are sent survey questionnaire/coding sheets to fill out, the methodology is much like a survey. There are several advantages to using survey research. First, survey research allows researchers to obtain demographic information from large samples of a population (McIntyre, 1999, 74). Secondly survey research is considered to have a high reliability because it uses a research format in the questionnaire (Babbie 2007, 252). Further, survey research allows for the collection of the large amount of data needed to assess whether changes have occurred since 1994 in how Texas municipalities structure their government through home rule charters.

There are, however, weaknesses associated with using survey research. Babbie (2007, 277) states that “survey research is generally weak on validity and strong on reliability” and that poor participation can be a major problem when conducting survey research, as a poor response rate can result in the data obtained from surveying not being representative of the population being studied. This research project, while not resulting in 10% participation, had good participation. An attempt to have every home rule city in Texas respond was made; but, ultimately 73% of all existing Texas home rule charters were analyzed in this project. Finally, Isaac & Michael (1997, 37) discuss the dangers associated with biases inherent in the wording of questions. However, because the survey questionnaire used in this research is designed to extrapolate only the manifest content of home rule charters, there are no biases associated with

¹⁶ For more Texas State Applied Research Projects that survey Texas Municipalities see Jeffers (2003), Francois (2004), Lester (2005), Lindsey (2005) and Sinclair (2005).

the questions. Further, the terms used in the survey are common terms with which all local government officials are familiar.¹⁷

Process

The survey and content analysis is conducted by using a self-administered survey questionnaire/coding sheet designed to determine the content of that city's home rule charter. In other words, the content analysis coding sheet for each city is filled out by administrators of each representative city. The first step is to send the administrator the survey questionnaire/coding sheet about the charter. The second step occurs when they use the coding sheet and their charter to answer the questions. One would expect that many of the questions would be self evident (form of government) and others would require a more careful review of the charter, resulting in a potential issue of inherent reliability.

In order to establish the proper baseline for comparison of Blodgett's original 1994 work, his city charter worksheet is used as the basis for the survey for this project. Blodgett (1994b) used the general categories of form of government, city council, elections, city manager, departments, offices, boards, financial administration, direct democracy (initiative, referendum and recall), franchises and charter amendments as the descriptive categories included in all Texas home rule charters. Based on the limited nature of this study, the following selected descriptive categories and their distinct sub-parts are reviewed:

- Forms of Government
 - Council-Manager
 - Council-Mayor
 - Commission
- City Council/Mayor
 - Council Elections

¹⁷ In an additional step towards ensuring inter-reader reliability between surveys, whenever their appeared to an inconsistency, contradiction or mistake in a survey response I would review the charter in question for further clarification and/or confirmation of the accuracy of the response.

- Terms of Office
- City Manager
- Departments, Personnel, Boards
- Financial Administration
- Direct Democracy
 - Initiative and Referendum
 - Recall
- Charter Amendments

Operationalization

The operational relationship between the survey questionnaire/coding sheet and each descriptive category is depicted in *Exhibit 4.1*:

**Exhibit 4.1
Operationalization of Descriptive Categories**

| DESCRIPTIVE CATAGORIES | CODING SHEET |
|---|---|
| Forms of Government 1. Council-Mayor 2. Council Manager 3. Commission | a) Council-Manager b) Mayor-Council c) Commission d) Other |
| City Council 1. Council Elections 2. Terms of office a. Years b. Limits | Mayors Term a) 1 yr b) 2 yrs c) 3 yrs d) 4 yrs Councils Term a) 1 yr b) 2 yrs c) 3 yrs d) 4 yrs Term limit applies a) Both b) Separately c) n/a |
| City Manager 1. Appointment 2. Removal | City manager established by charter a) Yes b) No c) n/a Vote required to hire manager a) Majority b) Majority of CC c) Other Hearing provided to discharge manager a) Yes b) No c) n/a Vote required to discharge manager a) Majority b) Maj of CC c) Other All department head appointments require confirmation by council a) Yes b) No c) n/a If not all dept heads, which of the following require confirmation? Finance Director a) Yes b) No c) n/a Police Chief a) Yes b) No c) n/a Other a) Yes b) No c) n/a |
| Departments/Personnel/Boards 1. City Secretary 2. City Attorney 3. Municipal Judge 4. Boards and Committees | City Secretary Appointed by a) Manager b) Mgr w/CC approval c) Council d) CC on rec of Mgr e) Mayor f) Mayor on rec of mgr g) Mayor w/CC approval City Attorney Appointed by a) Manager b) Mgr w/CC approval c) Council d) CC on rec of Mgr e) Mayor f) Mayor on rec of mgr g) Mayor w/CC approval Municipal Judge Appointed by a) Manager b) Mgr w/CC approval c) Council d) CC on rec of Mgr e) Mayor f) Mayor on rec of mgr g) Mayor w/CC approval h) Elected |

| | |
|---|--|
| | Boards and Committees addressed in charter Finance a) Authorized b) Mandated Personnel a) Authorized b) Mandated Legal a) Authorized b) Mandated Planning a) Authorized b) Mandated Police a) Authorized b) Mandated Fire a) Authorized b) Mandated Recreation a) Authorized b) Mandated Parks & Rec a) Authorized b) Mandated Library a) Authorized b) Mandated Health a) Authorized b) Mandated Health Officer a) Authorized b) Mandated Aviation a) Authorized b) Mandated Hospital a) Authorized b) Mandated Other _____ a) Authorized b) Mandated |
| Financial Administration 1. Fiscal Year 2. Budgets 3. Capital programs | Fiscal year begins (month) Vote required for adoption of budget a) Simple Majority b) Maj of CC Capital budget or program a) Yes b) No c) n/a Borrowing in Anticipation of Revenue? |
| Direct Democracy 1. Initiative 2. Referendum 3. Recall | Charter provides for initiative a) Yes b) No c) n/a If yes, _____% of a) Registered b) Last vote c) Minimum names _____ Charter provides for referendum a) Yes b) No c) n/a If yes, _____% of a) Registered b) Last vote c) Minimum names _____ Charter provides for recall a) Yes b) No c) n/a If yes, _____% of a) Registered b) Last vote c) Minimum names _____ |
| Franchises 1. Votes on Franchise issuance 2. Time limits on Franchise | Vote required to grant franchise a) Majority b) Maj of CC Maximum franchise (yrs) specified a) 10 b) 15 c) 20 d) 25 e) 30 f) Not |
| Charter Amendments 1. Original Charters 2. Amendments | Year of adoption of first charter Year of latest amendment |

When taken together, the survey questionnaire/coding sheet provide insight into how Texas municipalities structure their government through home rule charters. Each survey questionnaire/coding sheet, with the assistance of the Texas Municipal League, is sent to all home rule municipalities in Texas. The survey is emailed and mailed to every home rule city in Texas with follow up emails and telephone calls to help ensure maximum participation. The information derived from the survey questionnaire/coding sheet is used to both, determine the structure of home rule charters in Texas and to compare against Blodgett's original findings. *Appendix 1* is the survey questionnaire utilized in the research project¹⁸ and *Appendix 2* is Blodgett's original survey questionnaire. Response rates are always a concern in survey research. According to Babbie (2001, 262 "[t]he body of inferential statistics used in connection with survey analysis assumes that all members of the initial sample complete and return their questionnaires. Because this almost never happens, response bias becomes a concern, with the researcher testing (and hoping) for the possibility that the respondents look essentially like a random sample of the initial sample, and thus a somewhat smaller random sample of the total population." However, what is a "high" or "low" response rate is debatable (Babbie 2001, 262). Babbie (2001, 262) indicates that a "review of the published social research literature suggests that a response rate of 50 percent is considered adequate for analysis and reporting" with response rates of 60 percent being good and response rates of 70 percent being very good. This study had a response rate of 74 percent. Of the 74% of responding cities, 14 percent were not included in Blodgett's 1994 study. Therefore 74% of the cities surveyed were also surveyed in Blodgett's original survey. *Appendix 3* is a list of all cities responding to the survey, *Appendix 4*

¹⁸ As discussed previously because of the inherent time and manpower limitations associated with a project of this nature, this researcher "piggybacked" the survey questions with a survey by the Texas Municipal League and therefore not all survey questions present on the questionnaire are used in this project.

is a list of Blodgett's (1994b) original study and *Appendix 5* is a list of those cities studied by McDonald (2000).

Ethical Issues

Anyone conducting social scientific research needs to be aware of the general agreements shared by researchers about what is proper and improper in the conduct of scientific inquiry (Babbie 2001, 62). Babbie (2001) discusses the ethical tenants that should be observed when conducting social science research. Two important tenants discussed by Babbie is that social scientific research should ensure voluntary participation by the participants and should never result in injury (Babbie 2001, 63). Informed consent is important to these tenants in that it ensures that a participant's voluntary participation is done with a full understanding of the possible risks involved (Babbie 2001, 64). With regards to survey research, the biggest concern often times is ensuring the subjects anonymity and confidentiality (Babbie 2001, 64). One of the means developed to ensure that the participants of a particular study are protected is through the use of an Institutional Review Board (IRB) (Babbie 2001, 69). The main responsibility of an IRB is to ensure that the risks faced by human participants involved in researchers study are minimal (Babbie 2001, 69). Texas State University has implemented an IRB that requires researchers to submit their proposed study for review unless found to be exempt. *Appendix 6* is notification of exemption from review provided by the Texas State University Institutional Review Board for this study.

CHAPTER FIVE

RESULTS AND ANALYSIS

Chapter Purpose

This chapter organizes and summarizes the collected data. The results are produced from responses to specific survey questions. The data are presented by category as outlined in Chapter 3. Comparisons are offered between the results of this study and Blodgett's research.

Forms of Government

No major changes are found between the forms of government in Blodgett's original survey and 2008. The 2008 survey indicates that 89% of the cities surveyed have adopted the council-manager form of government. Blodgett's (1994b, 31) survey indicated that as of May 7, 1994, there were 290 home rule charters in Texas. Of those 290 home rule charters, 86% were under the Council-Manager form of government and 14% were organized under the Council-Mayor form of government. The number of cities with a council-manager form of government increased slightly since Blodgett's survey. Exhibit 5.1 summarizes the findings regarding the forms of government. The survey indicated that 89% of those charters surveyed use the council-manager form of government, 9% use the mayor-council form of government with a minimum of charters implementing a commission form of government. The very small percentage of cities which identified themselves as having a commission form of government in this study have, by charter, mandated the hiring of a city manager. To that extent, they are not a "true" commission form of government but rather operate as council-manager form of government. The survey result could indicate a trend of moving away from the council-mayor form of government to council-manager form of government. This, move away from the council-mayor form of

government may be explained by the ever increasing complexity of running municipal government and the need to have “professionals” in the role of chief executive officer.

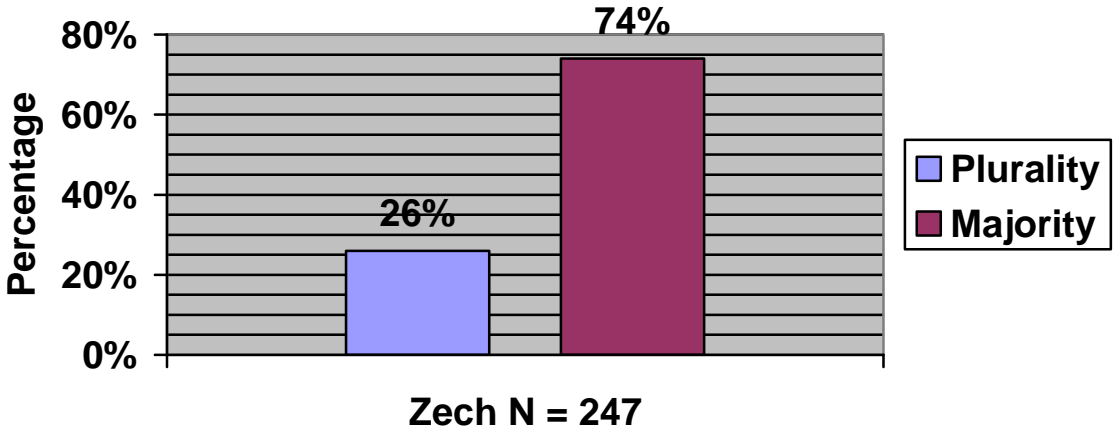
| Exhibit 5.1 | | |
|----------------------------|----------------------------|------------------------|
| FORMS OF GOVERNMENT | | |
| | Blodgett N = 290 | Zech N = 247 |
| Council-Manager | 86 % | 89 % |
| Council-Mayor | 14 % | 9 % |
| Commission | 0 % | 2 % |
| Total | 100 % | 100% |

City Council

Council Elections

Seventy-four percent of the cities responding utilize a “majority” system for voting, a clear preponderance of those responding. While Blodgett entered into an in-depth discussion regarding the pros and cons for adopting either a “majority” or “plurality” form of voting, he did not survey the cities to determine which was most prevalent in home rule cities. The 2008 survey requested information to that end, and the results are summarized in Exhibit 5.2:

Exhibit 5.2 Plurality or Majority



Terms of Office – Years and Limits

Years

In terms of percentages, the number of years in a term for council members and mayors remains relatively unchanged with the clear majority being two-year terms. However, Blodgett found that the years for terms of office were the same for Mayors and Council Members in his 1994 survey; i.e., no city differed in how many years a mayor served in a term compared to a council member. The 2008 results indicate that the terms of office for city council members are different than that of the Mayor in 7% of the cities surveyed. This small change certainly is a difference compared to Blodgett’s findings. The findings regarding years in a term of office are summarized in Exhibits 5.3 and 5.4:

Exhibit 5.3 Terms of Office - Mayors

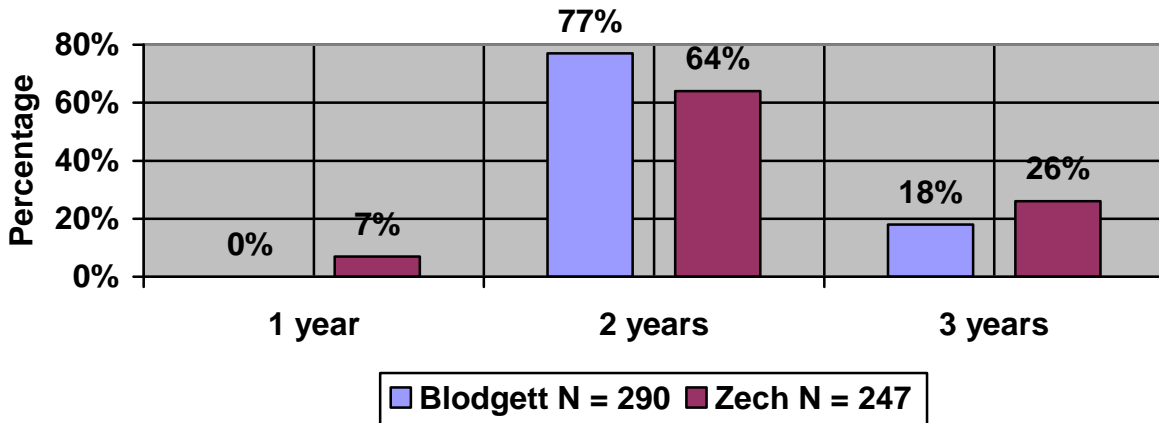
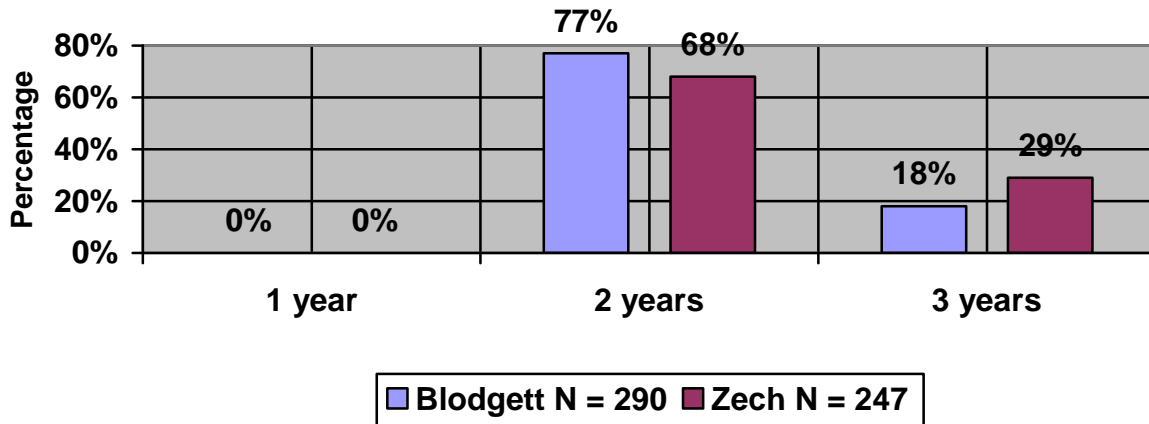
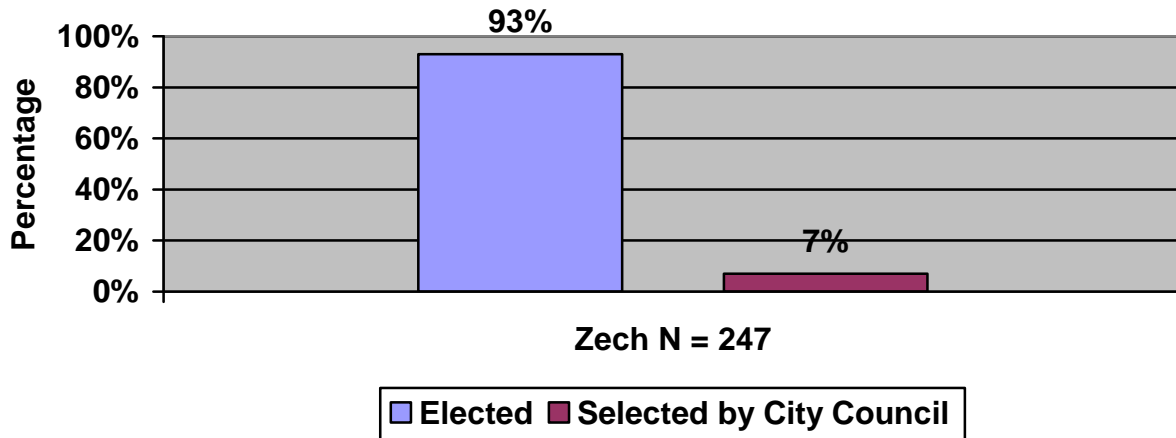


Exhibit 5.4 Terms of Office -City Council



In the 7% percent of cities responding having mayors serving a different number of years than the council members, those mayors serve one-year terms. At first blush, it may appear strange that mayors in these cities serve only one-year terms. However, in these cities, the mayors are selected by the council as a whole following an election rather than being elected by the citizens. Whether the mayor is elected or selected by council is summarized in Exhibit 5.5.

Exhibit 5.5 Selection of Mayor



Generally, where the mayor is appointed by City Council, those cities have charter provisions similar to that of the City of Hewitt, which reads as follows:

Sec. 2.7. Mayor/mayor pro tem.

At its first meeting following each regular election of councilmen, the council shall by election designate one of its numbers as mayor and another of its numbers as mayor pro tem., each of whom shall serve in such capacity for a term of one (1) year. The mayor shall preside at all meetings of the council and shall be recognized as head of the city government for all ceremonial purposes, for the purpose of receiving service of civil process and for emergency purposes, and for military or police purposes, but shall have no administrative duties. The mayor, as a member of the council, shall be entitled to vote upon all affairs considered by the council, but shall have no veto power. The mayor pro tem. shall act as mayor during the absence or disability of the mayor, and shall have power to perform every act the mayor could perform if present.

Blodgett's (1994b) original survey did not find any city where the mayor was appointed by city council. While the difference is slight, only 7%, this change is certainly noticeable in the process to select a mayor by home rule cities.

Limits

There is a substantial difference between the two surveys in the number of terms a council member or mayor may serve. Compared to Blodgett's 1994 study, 17% more cities have charters requiring term limits for council members, and mayors, with a 26% increase in the number of cities that have combined limits for the mayor and council members. Accordingly, there has been a decrease in the number of cities that have separate term limits for mayors and council members. The data from this survey show a trend of limiting the number of years an individual may serve on a city council either as a council member or as a mayor.

Findings regarding term limits and their applicability to Mayor and Council are summarized in Exhibit 5.6.

| Exhibit 5.6 | | |
|---|-----------------------------|-------------------------|
| TERM LIMITS BOTH COUNCIL AND MAYOR | | |
| | Blodgett N = 290 | Zech N = 247 |
| Separate limits for Mayor and Council | 14 % | 5 % |
| Combined limits | 10% | 36 % |
| No term limits | 76 % | 59 % |
| Total | 100 % | 100 % |

City Manager

Appointment

Sixty-one percent of those surveyed require a majority of the full council to appoint the city manager, while only 35% require a majority vote of those council members present. The number is even more dramatic when one considers that another four percent of the cities responding to the survey require the more restrictive “super-majority” of at least two-thirds of the full council to appoint the city manager. As determined in Chapter 3, Blodgett did not give specific numbers regarding what number of cities required a majority of the entire council to hire the city manager; however, he stated that “only a few of the charters require [a] ‘full’ majority of council for appointment.” There has clearly been a substantial shift in policy regarding the appointment of the city manager. The survey results for this project regarding the vote required to hire the city manager is summarized in Exhibit 5.7:

| Exhibit 5.7 | |
|---|-------|
| VOTE REQUIRED TO HIRE CITY MANAGER | |
| Zech N = 223 | |
| Majority of those present | 35 % |
| Majority of the entire city council | 61 % |
| Super-Majority of entire city council | 4 % |
| Total | 100 % |

Removal

The 2008 results, while not dramatically different from Blodgett’s survey, show a decrease in the number of cities requiring a majority vote of the entire council to remove the City

Manager. The distinguishing difference between Blodgett’s survey and 2008 is the requirement of a “super majority” of the entire city council to discharge the city manager. As with the vote required to appoint the city manager, there is now a slight percentage of charters requiring a super majority of at least two-thirds of the entire city council to discharge the city manager. Blodgett (1994b, 77) determined that almost three quarters of the council-manager charters require the majority vote of the entire council membership to remove the city manager, with “virtually all other cities require[ing] only a majority of a quorum.” The summary of results regarding the type of vote necessary to discharge the city manager is found in Exhibit 5.8:

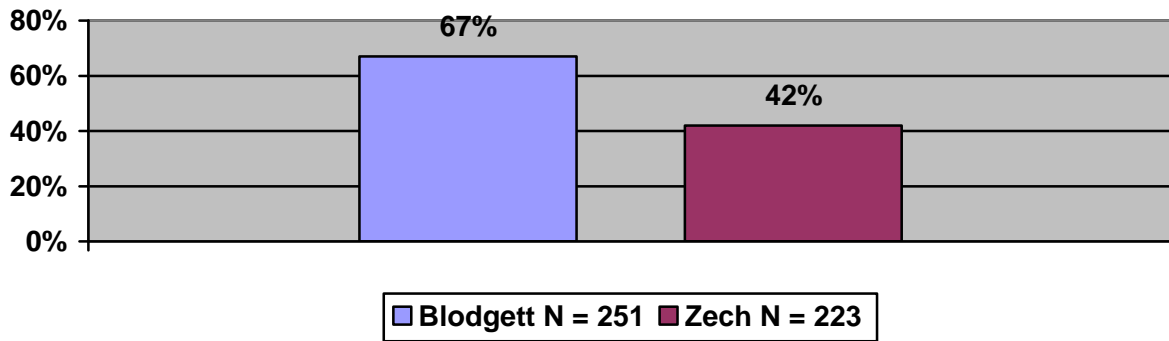
| Exhibit 5.8 | | |
|--|--------------------|-----------------|
| VOTE REQUIRED TO DISCHARGE CITY MANAGER | | |
| | Blodgett N= 251 | Zech N = 223 |
| Majority of those present | 27.5 % | 30 % |
| Majority of the entire city council | 72.5 % | 66 % |
| Super majority of the entire city council | 0 % | 4 % |
| Total | 100% | 100 % |

Public Hearing Requirements

While there appears to be a slight trend in Texas home rule charters requiring the hiring and discharge of city managers be closer to a unanimous decision by the city council, there also appears to be trend moving away from providing the city manager a right to a public hearing

prior to his discharge, as only just under half of those responding have such a requirement. The findings are summarized in Exhibit 5.9:

**Exhibit 5.9
Public Hearing Required to Discharge City Manager**

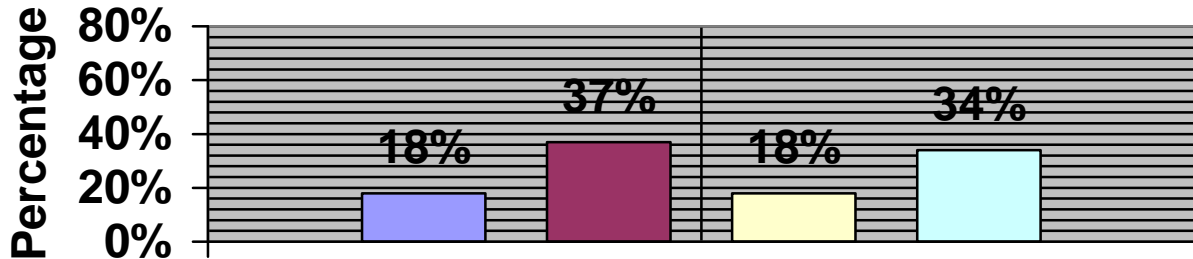


Departments, Offices, Boards

The current survey results established that 18% of those cities responding have charters requiring the city council to confirm the appointment of all department heads hired by the city manager. The remaining 82% require only a select few be confirmed or do not require any of the department heads be confirmed, a substantial decrease as compared to Blodgett’s finding that 39% of Texas home rule charters require the city council to confirm department heads by appointment.

Of those cities in the current survey that do not require all department heads hired by the city manager be confirmed by the city council, 18% percent require the finance director to be confirmed; 37% require the Chief of Police to be confirmed; and 34% require other various department heads to be confirmed. Exhibit 5.10 summarizes this information:

Exhibit 5.10 Council Appointment of Department Heads



Zech N = 223



City Secretary

The appointment of the position of city secretary continues to be firmly held in the hands of the city council as the responses to this survey do not deviate substantially from Blodgett. It can still safely be stated that the position of city secretary “belongs” to the city council, especially when you consider that city council approves the appointment of the city secretary either directly or upon recommendation 70% of the time. Exhibit 5.11 summarizes the survey findings regarding appointment of the City Secretary:

| Exhibit 5.11 | | |
|---|---------------------|-----------------|
| CITY SECRETARY APPOINTMENT | | |
| | Blodgett N = 290 | Zech N = 247 |
| By City Manager | 24 % | 28 % |
| By City Manager with City Council Approval | 15 % | 20 % |
| By City Council | 35 % | 33 % |
| By City Council on recommendation of City Manager | 12 % | 11 % |
| By Mayor with City Council Approval | 7 % | 6 % |
| Other | 7 % | 2 % |
| Total | 100 % | 100 % |

City Attorney

As with the appointment of the city secretary, the method of appointing the city attorney has not changed substantially since Blodgett's 1994 survey. The one noticeable difference occurs in appointment by the city manager, where there appears to be a shift from a straight appointment by the city manager (6% percent in 1994 and 2% in 2008) to appointment by the city council on the recommendation of the city manager (3% in 1994 and 9% in 2008). As with the appointment of the city secretary, the city attorney appointment appears to be held securely in the hands of the city council. Council is involved in the appointment of the city attorney in 97% of the charters, either by direct appointment or upon recommendation. Exhibit 5.12 summarizes the survey findings on appointment of the City Attorney:

| Exhibit 5.12 | | |
|---|----------------------------|---------------------------|
| CITY ATTORNEY APPOINTMENT | | |
| | Blodgett N = 290 | Zech N = 247 |
| By City Manager | 6 % | 2 % |
| By City Manager with City Council Approval | 9 % | 8 % |
| By City Council | 73 % | 72 % |
| By City Council on recommendation of City Manager | 3 % | 8 % |
| By Mayor with City Council Approval | 7 % | 9 % |
| Other | 2 % | 1 % |
| Total | 100 % | 100 % |

Municipal Judge

As of 2008, there has been no noticeable change in the appointment of the municipal judge, with city council appointing the judge, either directly or by recommendation 95% of the time. This finding is very similar to Blodgett's findings in 1994. Exhibit 5.13 summarizes the survey findings on appointment of the Municipal Judge:

| Exhibit 5.13 | | |
|---|---------------------|-----------------|
| MUNICIPAL JUDGE APPOINTMENT | | |
| | Blodgett N = 290 | Zech N = 247 |
| By City Manager with City Council Approval | 3 % | 6 % |
| By City Council | 79 % | 74 % |
| By City Council on recommendation of City Manager | 3 % | 7 % |
| By Mayor with City Council Approval | 6 % | 8 % |
| Elected | 5 % | 3 % |
| Other | 4 % | 2 % |
| Total | 100 % | 100 % |

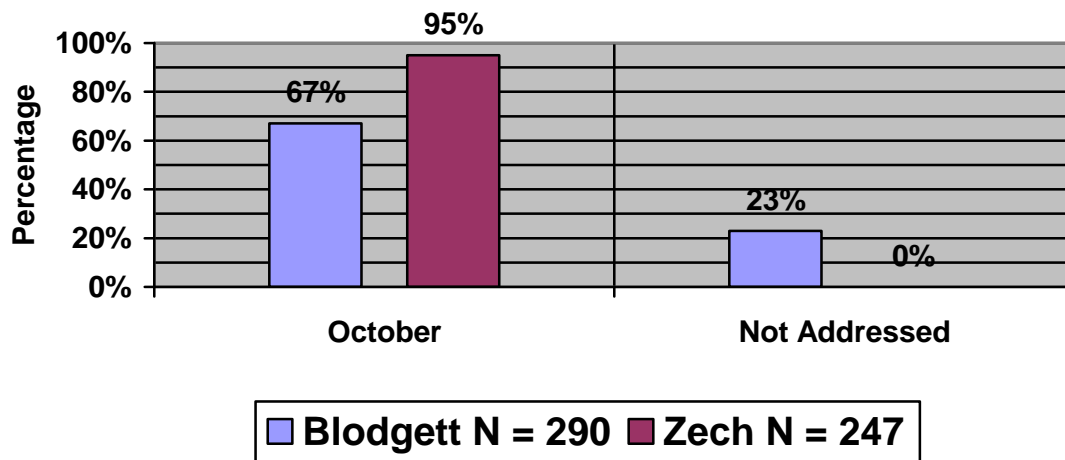
Boards and Committees

Blodgett (1994b, 94) indicates that twenty-five (25) different boards or commissions are established in home rule charters with many of them setting out requirements for membership, number of members, duties, and replacement of members. This survey indicates that there are thirty-six (36) different boards and committees established in the two hundred forty-seven (247) responding city charters. This number is an increase of eleven (11) boards and commissions as compared to those found by Blodgett, indicating that the citizens are increasing the number of boards and committees that they are mandating be created by their legislative bodies.

Financial Administration

A substantial shift is seen in the beginning of a city's fiscal year between surveys. Ninety-five percent of those cities responding have charter provisions requiring their fiscal year begin in the month of October. Blodgett's 1994 survey results established that 67% of charters mandated their fiscal year begin in October. This 28% increase is substantial and establishes a move towards the business norm of using the month of October as the beginning of a fiscal year.¹⁹ Additionally, 23% of the charters Blodgett surveyed did not address the beginning of the municipality's fiscal year at all, whereas only 1 charter does not do so in 2008. Exhibit 5.14 details the findings of this survey regarding various charter provisions providing when a municipality's fiscal year begins:

Exhibit 5.14
Beginning of Fiscal Year



¹⁹ My personal experience has shown that many cities prefer that their regular elections for council members and mayors not interfere with the budget cycle. As most regular city elections occur in May, this could also account for this shift in fiscal year beginning.

Upon a comparison between Blodgett’s 1994 survey results and current results, a pattern emerges establishing an apparent desire for closer unanimity in a council vote for the adoption of the budget. The 2008 survey indicates that 61% of all charters require a majority vote of the entire city council to approve and adopt the budget, a 12% increase over Blodgett’s 1994 survey results showing 49% of the charters requiring a majority vote of the entire council.

The 2008 survey results establish that seventy-two percent of those responding have charter provisions requiring a capital budget or program, and 71% have a specific provision requiring borrowing only upon the anticipation of certain revenue. In Blodgett’s 1994 survey, only thirty-nine percent of the charters mandated a capital budget or program, and just over half of the charters had a specific provision requiring borrowing only on the anticipation of certain revenue. This is a clear move towards mandating specific provisions for adequate planning and may reflect a desire by citizens for more fiscal responsibility within the budget, a municipality’s biggest policy document. The results are summarized in Exhibits 5.15, 5.16 and 5.17:

Exhibit 5.15 Vote Required to Adopt Budget

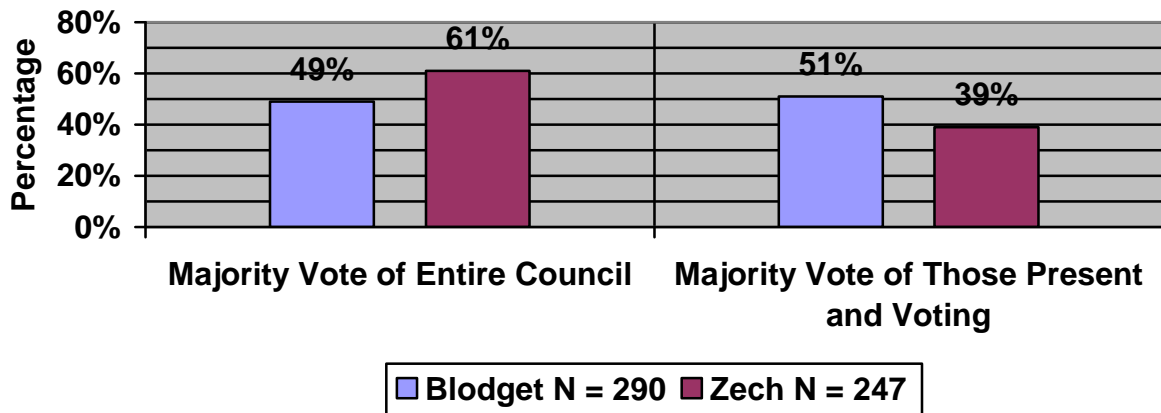


Exhibit 5.16
Capital budget or Program Mandated by Charter

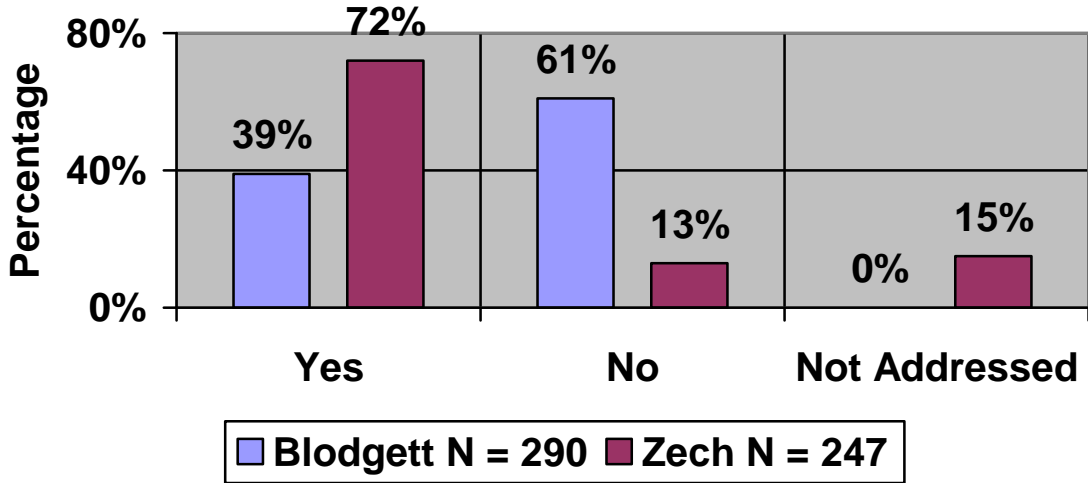
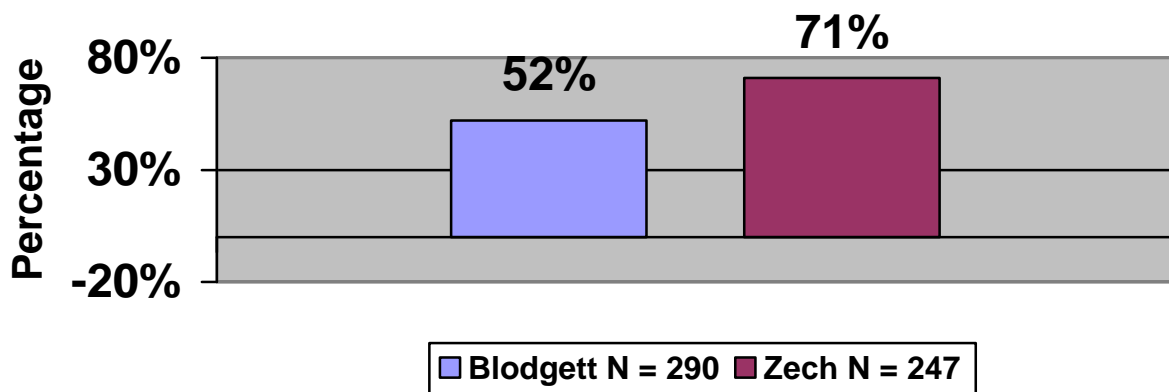


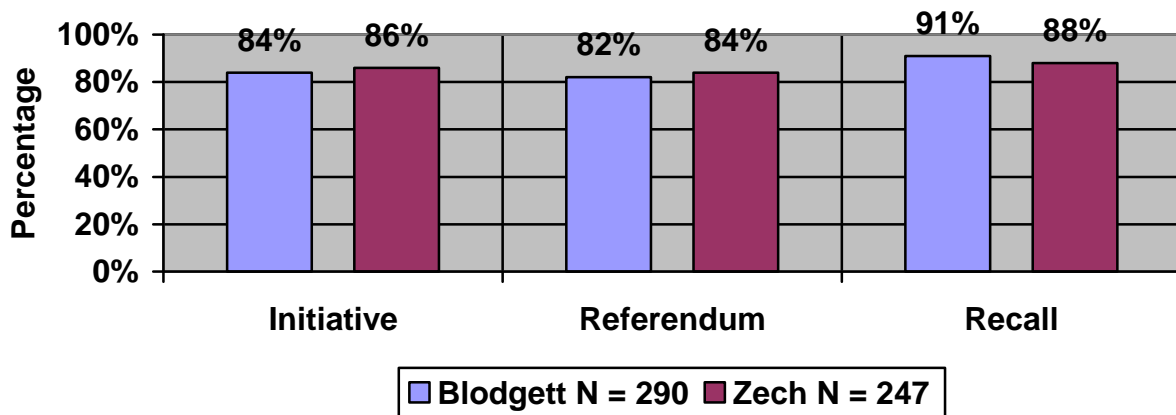
Exhibit 5.17
Specific Charter Provision for Borrowing in Anticipation of Revenue



Direct Democracy: Initiative, Referendum and Recall

Blodgett (1994b) found that Texas charters overwhelmingly provide for all three direct democracy tools. There is relatively little change in that position today. As seen in Exhibit 5.18, the percentages of charters containing provisions for initiative, referendum and recall remain at nearly the same levels as in Blodgett's 1994 survey. It may be stated that the citizen's desire for these local tools are as great today as they were fourteen years ago.

Exhibit 5.18
Initiative, Referendum and Recall



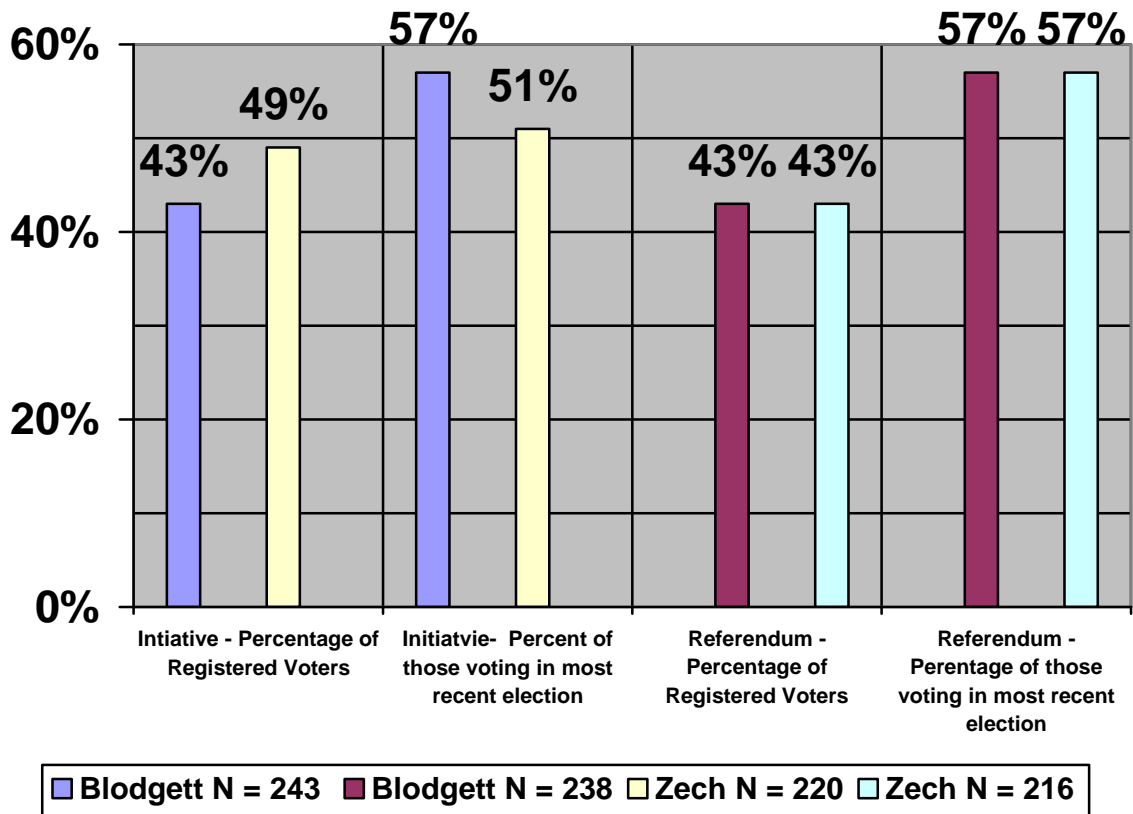
Initiative and Referendum

Types of Signatures

The two surveys do not differ in the types of signatories required from a percentage standpoint. Generally charter provisions remain relatively constant with regard to whether a signature on an initiative or referendum petition needs to be a percentage of the total registered voters in a city or a percentage of those who voted in the last regular election. There is a slight increase in charters requiring a percentage of registered voters for initiative petitions and a corresponding decrease in those charters requiring signatories be a percentage of those voting in

the most recent election. Exhibit 5.19 summarizes the findings with regard to signature requirements for initiatives and referendum:

Exhibit 5.19
Type of Percentage Required on Initiative
and Referendum Petitions



Number of Signatures

As with the types of signatures required, the two surveys do not differ significantly in the number of signatures necessary for petitions from a percentage standpoint. Where there is a difference between the two, is in the “minimum names” category. The 2008 survey indicates a new requirement has arisen that was not present in Blodgett’s 1994 survey.

Five (5) percent and four (4) percent of the charters, in regards to initiative and referendum requirements respectively, require a minimum number of signatures rather than a percentage of voters. Additionally, two other forms of this type of measurement were present in 2008. A small percentage of the charters provide for the greater of either a “particular percentage of voters” or a “minimum number of names”, whichever is greater in order to qualify an initiative or referendum petition. Finally, just fewer than 6% of the charters require a minimum number of names to be met regardless of the percentage requirement in initiative and referendum petitions. Blodgett’s survey indicated that a “percentage of registered voters” or a “percentage of those voting in the most recent election” were the only two criteria used for qualifying a petition for an initiative or referendum. The introduction of a “minimum” number of signatories is new to the process of calculating signatures for either initiative or referendum petitions. Exhibits 5.20 and 5.21 summarize the 2008 survey results and Blodgett’s 1994 findings regarding the percentage number necessary to meet for submitting initiative and referendum petitions:

| Exhibit 5.20 | | |
|---|-----------------------------|-------------------------|
| SIGNATURE REQUIREMENTS FOR INITIATIVE PETITION | | |
| | Blodgett N = 243 | Zech N = 220 |
| 10 % | 18 % | 19 % |
| 15 % | 12 % | 10 % |
| 20 % | 22 % | 21 % |
| 25 % | 26 % | 19 % |

| Exhibit 5.20 - Continued | | |
|---------------------------------|------|------|
| 30 % | 13 % | 13 % |
| Other | 9 % | 13 % |
| Minimum Names | 0 % | 5 % |

| Exhibit 5.21 | | |
|---|----------------------------|------------------------|
| SIGNATURE REQUIREMENTS FOR REFERENDUM PETITION | | |
| | Blodgett N = 238 | Zech N = 216 |
| 10 % | 16 % | 17 % |
| 15 % | 12 % | 10 % |
| 20 % | 23 % | 20 % |
| 25 % | 28 % | 22 % |
| 30 % | 13 % | 15 % |
| Other | 8 % | 12 % |
| Minimum Names | 0 % | 4 % |

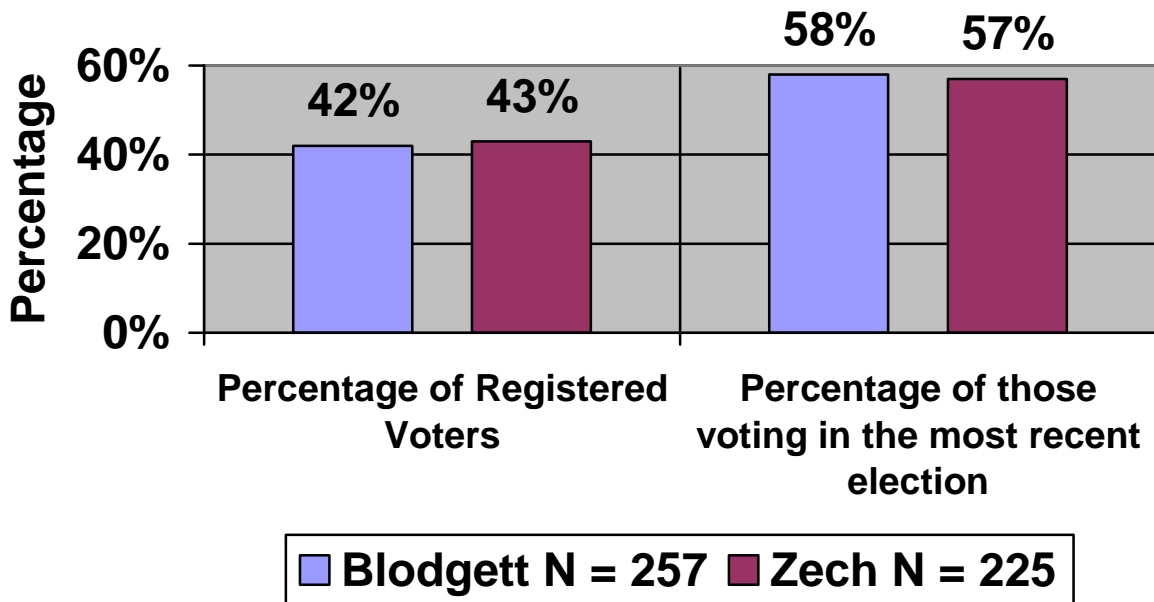
Recall

Types of Signatures

As with initiative and referendum, the two surveys do not differ in the types of signatories required from a “percentage of voters” standpoint. Generally charter provisions are almost exactly the same with regard to whether a signature on a recall petition needs to be a percentage of the total registered voters in a city or a percentage of those who voted in the last

regular election. Exhibit 5.22 summarizes the findings with regards to signature requirements for recall petitions:

Exhibit 5.22 Type of Percentage of Voters Required on Recall Petition



Number of Signatures

As with the types of signatories required, the two surveys do not differ significantly with respect to the number of signatures necessary for petitions from a percentage standpoint. Again, as with initiatives and referendums, the difference exists in the “minimum names” category. The 2008 survey indicates a new requirement has arisen that was not present in Blodgett’s 1994 survey. Blodgett’s survey indicated that a “percentage of registered voters” or a “percentage of those voting in the most recent election” were the only two criteria used for qualifying a petition for a recall. However, a very small percentage of charters now do not require a “percentage” of a

particular type of voter but rather a “minimum number of signatures” regardless of the overall percentage.

Two other alternative forms of this type of measurement were present in Blodgett’s survey as well as the 2008 survey. The first is a requirement that provide for the greater of either, a particular percentage of voters or, a minimum number of names, whichever is greater, in order to qualify a recall petition. The second is to require a minimum number of names to be met regardless of the percentage requirement. These findings are summarized in Exhibit 5.23:

| Exhibit 5.23 | | |
|---|-------------------------------|---------------------------|
| SIGNATURE REQUIREMENTS FOR RECALL PETITION | | |
| | Blodgett (N = 257) | Zech (N = 225) |
| 10 % | 10 % | 13 % |
| 15 % | 6 % | 8 % |
| 20 % | 13 % | 12 % |
| 25 % | 17 % | 13 % |
| 30 % | 28 % | 27 % |
| 50 % | 6 % | 4 % |
| 51 % | 8 % | 8 % |
| Other | 12 % | 13 % |
| Minimum Names | 0 % | 2 % |

Franchises

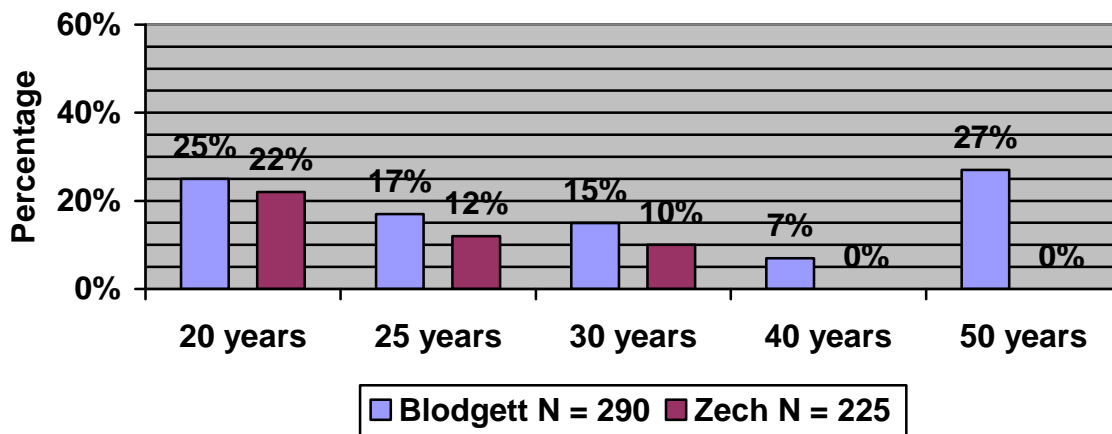
Vote to Award a Franchise

The 2008 survey indicated that 56% of cities surveyed, which address franchises in their charter, require a vote of the majority of the entire city council to award a franchise. This change in how franchises are awarded is substantial, as Blodgett's 1994 survey found that fewer than 15% of home rule charters have the same requirement.

Number of Years a Franchise may be Awarded

The 2008 survey establishes a trend of lengthening the amount of time a franchise may be awarded. It shows that 27% of current charters allow a maximum term of fifty years whereas in 1994, no city allowed for such an extended term for a franchise. Exhibit 5.24 summarizes the 2008 and Blodgett's 1994 survey regarding the number of years that a franchise may be awarded:

**Exhibit 5.24
Maximum Franchise Terms**



Charter Amendments

Blodgett's (1994b, 135) survey indicated that between 1960 and 1994, there had been 257 elections to amend existing charters, with 148 of those occurring between 1990 and 1994.

Of the 247 responses to this survey, fifty-two of the cities had adopted their charter after 1994, and there had been 163 amendments to those chose charters.

CHAPTER SIX

SUMMARY

No major changes are found between the forms of government in Blodgett's original 1994 survey and the 2008 survey. Obviously, the council-manager form of government is just as popular today as it was in 1994 with an unmistakable majority of cities adopting it. Given today's complexities in running city government it is not surprising that citizens' would prefer to have "professionals" in the role of chief executive officer. Additionally, there are no substantial differences between the two surveys in regards to terms and the number of years served; however, a substantial increase is seen in the number of cities that now require specific limits on "how many" terms an elected representative may serve. The move towards restricting terms of office for elected officials is a significant difference between the Blodgetts' 1994 survey and 2008.

A clear pattern emerges with most charters regarding a requirement of greater unanimity in decision making. The requirement of greater unanimity in decision making is found in the hiring and firing decisions over the individuals which the city council has direct control (whether those individuals be a city manager, city attorney, city secretary or municipal judge), in adopting the budgetary documents of the city and, in the awarding of franchises.

As with the form of government, the direct democracy tools of initiative, referendum and recall are still very strong in Texas home rule cities; however, small changes are found in how these tools may be implemented by the citizens. Changes are seen in how signatures are calculated for the purpose of presenting initiative and referendum petitions; specifically the introduction of a "minimum names" requirement which was not present in Blodgett's 1994 study.

In observation of the substantial differences seen between 1994 and 2008 specific conclusions can be derived; charters are requiring their elected officials to “pull together” on decisions made by the governing body, planning tools are being mandated that were not previously mandated in the area of budgeting, and capital projects, and a clear move is seen towards placing specific limits on the amount of time an elected official may serve on a city council.

By 1920 sixty five cities had taken advantage of Texas home rule authority. Seventy-four years later, 290 Texas Cities had adopted a home rule charter. Today the number of home rule cities is 340 and as that number continues to grow, it will be interesting to see how Texas citizens continue to adopt and amend their local government. Clearly, a future review of every single home rule charter as accomplished by Blodgett (1994b) would take a considerable amount of time and resource. However, further research into specific areas as a follow up to this project would prove insightful. Specifically, a detailed study of how the initiative and referendum process are used by the citizens, how often they are invoked, and their success rate would be particularly insightful given the proclivity of initiative and referendum provisions included in home rule charters.

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APPENDICIES

HOME RULE CHARTER SURVEY

City: _____ Date: _____

Completed by: _____ E-mail: _____

Title: _____ Phone: _____

Form of Government

1. a) Council-Manager b) Mayor-Council c) Commission d) Other

Mayor

2. Is mayor member? a) Yes b) No c) n/a
 3. Selection of mayor a) Elected b) By council c) Other

Authority of Mayor

4. Appoints boards and commissions a) Yes b) No c) n/a
 5. --w/approval of council a) Yes b) No c) n/a
 6. Regular vote a) Yes b) No c) n/a
 7. Vote only in tie a) Yes b) No c) n/a
 8. No vote a) Yes b) No c) n/a
 9. Enumerated ceremonial duties a) Yes b) No c) n/a
 10. Martial law a) Yes b) No c) n/a
 11. Enumerated emergency powers a) Yes b) No c) n/a
 12. Appoint CAO a) Yes b) No c) n/a
 13. Appoint department heads a) Yes b) No c) n/a
 14. -- w/approval of council a) Yes b) No c) n/a
 15. Prepare budget a) Yes b) No c) n/a
 16. Mayor veto a) Yes b) No c) n/a

Council

17. Total on council _____
 18. Number of members for regular meeting quorum _____
 19. Number of members for special meeting quorum _____
 20. Number of votes for council to take action on ordinary matters
 a) Majority of those present b) Majority of quorum c) Majority of total council
 21. Residency length requirement a) Yes b) No c) n/a
 22. If yes to previous question a) 6 mo b) 1 yr c) 2 yrs
 d) Other e) Not specific
 23. Reside in district a) Yes b) No c) n/a
 24. Owner of property a) Yes b) No c) n/a
 25. Minimum age _____
 26. Registered/qualified voter a) Yes b) No c) n/a
 27. Barred if tax delinquent a) Yes b) No c) n/a
 28. Other qualifications a) Yes b) No c) n/a

- 29. Missed meetings vacancy a) Yes b) No c) n/a
- 30. Council votes to impeach a) Yes ____# b) No c) n/a
- 31. Council votes to override mayoral veto a) Yes ____# b) No c) n/a

Elections

- 32. In some cities, a federal court or the U.S. Department of Justice has mandated a new way of electing city council members, BUT the charter has not been changed to reflect this new method. If your city council is NOT elected the way your charter currently reads, please check here _____.
- 33. Uniform election date to hold regular city election a) May b) November c) Other
- 34. Filling one vacancy a) Appointment b) Election c) Other
- 35. Filling two vacancies a) Appointment b) Election c) Other
- 36. Term limit applies a) Both b) Separately c) n/a
- 37. Terms staggered a) Yes b) No c) n/a
- 38. Elections by a) Majority b) Plurality
- 39. Name on ballot a) Fill out form b) Petition c) Other
- 40. If petition, number of names _____
- 41. Fee for name on ballot a) Yes \$_____ b) No c) n/a

Election Turnout (Two most recent + most recent contested)

- 42. Date of most recent mayor/city council election _____ (MM/DD/YY)
- 43. Number voting in election _____
- 44. Total registered at time of election _____
- 45. Population at time of election _____
- 46. Contested? a) Yes b) No (See 53)
- 47. Date of next most recent mayor/city council election _____ (MM/DD/YY)
- 48. Number voting in election _____
- 49. Total registered at time of election _____
- 50. Population at time of election _____
- 51. Contested? a) Yes b) No (see 53)
- 52. Date of most recent contested mayor/city council election _____ (MM/DD/YY)
- 53. Number voting in election _____
- 54. Total registered at time of election _____
- 55. Population at time of election _____

Council Meetings

- 56. Required a) Weekly b) Twice/mo c) Once/mo d) Not specific
- 57. Actual a) Weekly b) Twice/mo c) Once/mo d) Not specific
- 58. Mayor Term a) 1 yr b) 2 yrs c) 3 yrs d) 4 yrs
- 59. Council Term a) 1 yr b) 2 yrs c) 3 yrs d) 4 yrs
- 60. Term limits a) Two b) Three c) Four d) Four+ e) n/a

Mayor Salary

- 61. Salary a) Yes b) No c) n/a
- 62. \$ _____ Per: a) Mtg b) Wk c) Mo d) Yr e) Other

63. Salary set by Council a) Yes b) No c) n/a
 64. Expenses: a) Yes b) No c) n/a
 65. \$ _____ Per: a) Mtg b) Wk c) Mo d) Yr e) Other
 66. Expenses set by council a) Yes b) No c) n/a

Mayor Pro Tem Salary

67. Salary a) Yes b) No c) n/a
 68. \$ _____ Per: a) Mtg b) Wk c) Mo d) Yr e) Other
 69. Salary set by Council a) Yes b) No c) n/a
 70. Expenses a) Yes b) No c) n/a
 71. \$ _____ Per: a) Mtg b) Wk c) Mo d) Yr e) Other
 72. Expenses set by council a) Yes b) No c) n/a

Council Salary

73. Salary a) Yes b) No c) n/a
 74. \$ _____ Per: a) Mtg b) Wk c) Mo d) Yr e) Other
 75. Salary set by Council a) Yes b) No c) n/a
 76. Expenses a) Yes b) No c) n/a
 77. \$ _____ Per: a) Mtg b) Wk c) Mo d) Yr e) Other
 78. Expenses Set by Council a) Yes b) No c) n/a

City Manager

79. City manager established by charter a) Yes b) No c) n/a
 80. City manager established by ordinance a) Yes b) No c) n/a
 *If yes, please enclose a copy of the ordinance.
 81. Former member of CC not eligible for a) 1 yr b) 2 yrs c) n/a
 82. Manager participates in CC mtgs a) Yes b) No c) n/a
 83. Vote required to hire manager a) Majority b) Majority of CC c) Other
 84. Hearing provided to discharge manager a) Yes b) No c) n/a
 85. Council prohibited from interference in personnel matters a) Yes b) No c) n/a
 86. All department head appointments require confirmation by council a) Yes b) No c) n/a
 87. If not all dept heads, which of the following require confirmation?
 Finance Director a) Yes b) No c) n/a
 Police Chief a) Yes b) No c) n/a
 Other _____ a) Yes b) No c) n/a
 88. Vote required to discharge manager a) Majority b) Maj of CC c) Other

City Clerk/Secretary

89. Title a) City Clerk b) City Secretary
 90. Appointed by a) Manager b) Mgr w/CC approval c) Council
 d) CC on rec of Mgr e) Mayor f) Mayor on rec of mgr
 g) Mayor w/CC approval
 91. Term a) 1 yr b) 2 yrs c) 3 yrs d) 4 yrs
 e) Pleasure of CC f) Other g) n/a

City Attorney

92. Appointed by a) Manager b) Mgr w/CC approval c) Council
 d) CC on rec of Mgr e) Mayor f) Mayor on rec of mgr
 g) Mayor w/CC approval

Municipal Judge

93. Appointed by a) Manager b) Mgr w/CC approval c) Council
 d) CC on rec of Mgr e) Mayor f) Mayor on rec of mgr
 g) Mayor w/CC approval h) Elected
94. Term a) 1 yr b) 2 yrs c) 3 yrs d) 4 yrs
 e) Pleasure of CC f) Other g) n/a

Municipal Court Clerk

95. Appointed by a) Manager b) Mgr w/CC approval c) Council
 d) CC on rec of Mgr e) Mayor f) Mayor on rec of mgr
 g) Mayor w/CC approval
96. Term a) 1 yr b) 2 yrs c) 3 yrs d) 4 yrs
 e) Pleasure of CC f) Other g) n/a

Financial Administration

97. Outside audit required a) Yes b) No c) n/a
98. Fiscal year begins (month) 1 2 3 4 5 6
 7 8 9 10 11 12
99. FY may be changed by ordinance a) Yes b) No c) n/a
100. Borrowing auth in anticipation of revenue a) Yes b) No c) n/a
101. Limits set on sale of city property a) Yes b) No c) n/a
102. Vote required for adoption of budget a) Simple Majority b) Maj of CC
103. If no vote by EOFY a) Mgr/Mayor's budget effective
 b) Continuation of last yr c) No provision d) Other
104. Detailed budget requirements a) Yes b) No c) n/a
105. Revenues must equal expenditures a) Yes b) No c) n/a
106. Transfer of appropriations a) Mgr btwn depts
 b) w/approval of CC c) Council
107. Capital budget or program a) Yes b) No c) n/a
108. Vote required to set tax rate a) Yes b) No c) n/a
109. Vote required to submit bond election a) Yes b) No c) n/a
110. Purchase limit before CC must act \$ _____
111. Purchase limit before written bids required \$ _____
112. Charter maximum tax rate: a) Yes b) No c) n/a
113. If, yes: Operating \$ _____ Debt Service \$ _____ Total \$ _____

Initiative, referendum, recall

114. Charter provides for initiative a) Yes b) No c) n/a
115. If yes, _____% of a) Registered b) Last vote c) Minimum names _____

116. If yes, how many times during the past five years has this provision been used by the citizenry and what were the results:

| <u>Year</u> | <u>Subject</u> | <u>Resulting Action</u> |
|-------------|----------------|-------------------------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

117. Charter provides for referendum a) Yes b) No c) n/a
 118. If yes, _____% of a) Registered b) Last vote c) Minimum names _____

119. If yes, how many times during the past five years has this provision been used by the citizenry and what were the results:

| <u>Year</u> | <u>Subject</u> | <u>Resulting Action</u> |
|-------------|----------------|-------------------------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

120. Voluntary referendum a) Yes b) No c) n/a
 121. Charter provides for recall a) Yes b) No c) n/a
 122. If yes, _____% of a) Registered b) Last vote c) Minimum names _____

123. If yes, how many times during the past five years has this provision been used by the citizenry and what were the results:

| <u>Year</u> | <u>Position (Mayor/Councilmember)</u> | <u>Result</u> |
|-------------|---------------------------------------|---------------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

124. Limits on recall a) Yes b) No c) n/a
 125. If yes, not before 6 months a) Yes b) No c) n/a
 126. If yes, after unsuccessful election a) Yes b) No c) n/a
 127. If yes, before election a) Yes b) No c) n/a

Charter & Amendments

128. Year of adoption of first charter _____
 129. Year of latest amendment _____
 130. Charter revision commission required every
 a) 5 yrs b) 10 yrs c) 15 yrs d) Other e) State Law f) Not addressed
 131. Charter revision commission presently underway? a) Yes b) No
 132. Charter revision commission presently contemplated? a) Yes b) No
 133. If so, what is expected date of charter election _____ (MM/YY)

Charter Amendment Election Voter Turnout

134. Date of most recent charter amendment election _____ (MM/DD/YY)
 135. Number voting in election _____
 136. Total registered at time of election _____
 137. Population at time of election _____
 138. Number of propositions on ballot _____

Departments established by charter

- | | | |
|--------------------------|---------------|-------------|
| 139. Finance | a) Authorized | b) Mandated |
| 140. Personnel | a) Authorized | b) Mandated |
| 141. Legal | a) Authorized | b) Mandated |
| 142. Planning | a) Authorized | b) Mandated |
| 143. Police | a) Authorized | b) Mandated |
| 144. Fire | a) Authorized | b) Mandated |
| 145. Recreation | a) Authorized | b) Mandated |
| 146. Park and Recreation | a) Authorized | b) Mandated |
| 147. Library | a) Authorized | b) Mandated |
| 148. Health | a) Authorized | b) Mandated |
| 149. Health Officer | a) Authorized | b) Mandated |
| 150. Aviation | a) Authorized | b) Mandated |
| 151. Hospital | a) Authorized | b) Mandated |
| 152. Other _____ | a) Authorized | b) Mandated |

Boards established by charter

| | Board Name | Authorized | Mandated | Admin. |
|------|------------|------------|----------|--------|
| 153. | _____ | Y / N | Y / N | Y / N |
| 154. | _____ | Y / N | Y / N | Y / N |
| 155. | _____ | Y / N | Y / N | Y / N |
| 156. | _____ | Y / N | Y / N | Y / N |
| 157. | _____ | Y / N | Y / N | Y / N |
| 158. | _____ | Y / N | Y / N | Y / N |
| 159. | _____ | Y / N | Y / N | Y / N |
| 160. | _____ | Y / N | Y / N | Y / N |
| 161. | _____ | Y / N | Y / N | Y / N |
| 162. | _____ | Y / N | Y / N | Y / N |
| 163. | _____ | Y / N | Y / N | Y / N |
| 164. | _____ | Y / N | Y / N | Y / N |

Personnel/Officers

- | | | | |
|--|---------------|-------------|--------|
| 165. Charter establishes civil service | a) Yes | b) No | c) n/a |
| 166. Charter establishes CS commission | a) Yes | b) No | c) n/a |
| 167. Charter establishes merit system | a) Yes | b) No | c) n/a |
| 168. Personnel department | a) Authorized | b) Required | |
| 169. Personnel rules | a) Authorized | b) Required | |
| 170. Own retirement system | a) Yes | b) No | c) n/a |
| 171. Authorized to participate | | | |

| | | | | |
|------|---|--------|-------|--------|
| | in retirement/pension system | a) Yes | b) No | c) n/a |
| 172. | Political activity prohibited | a) Yes | b) No | c) n/a |
| 173. | Acceptance of gifts prohibited | a) Yes | b) No | c) n/a |
| 174. | Nepotism prohibited | a) Yes | b) No | c) n/a |
| 175. | Personal interest in contracts prohibited | a) Yes | b) No | c) n/a |

Miscellaneous

| | | | | | | | |
|------|--------------------------------------|-------------|--------------|--------|-------|------------------|--------|
| 176. | Vote required to grant franchise | a) Majority | b) Maj of CC | | | | |
| 177. | Gross receipts | a) 1% | b) 2% | c) 3% | d) 4% | e) Not specified | |
| 178. | Franchise subject to referendum | a) Yes | b) No | c) n/a | | | |
| 179. | Maximum franchise (yrs) specified | a) 10 | b) 15 | c) 20 | d) 25 | e) 30 | f) Not |
| 180. | Council required to adopt comp plan | a) Yes | b) No | c) n/a | | | |
| 181. | Redistricting commission established | a) Yes | b) No | c) n/a | | | |
| 182. | Eminent domain restrictions | a) Yes | b) No | c) n/a | | | |
| 183. | Revenue cap | a) Yes | b) No | c) n/a | | | |
| 184. | Annexation authorized | a) Yes | b) No | c) n/a | | | |
| 185. | Disannexation authorized | a) Yes | b) No | c) n/a | | | |

09/10/93

City Charter Detailed Worksheet

| | | | |
|---------------------------|---|-------------------------|---------------------|
| City: | No.: | Date completed by T.B.: | Date input by D.P.: |
| Form of government: | 1 Council-Manager 2 Mayor-Council 3 Commission 4 Other | | |
| Is mayor member: | 1 Yes 2 No 3 N/A Total on CC _____ Selection of mayor: 1 Elected 2 By Council 3 Other | | |
| CC elected: | 1 AL 2 ALByP 3 SMD 4 Mixed Dist. _____ ALs _____ Reside in Dist. 1 Yes 2 No 3 N/A | | |
| Council votes to impeach: | Mayor veto 1 Yes 2 No 3 N/A / Override votes _____ | | |
| Authority of mayor: | Appoints boards & commissions 1 Yes 2 No 3 N/A With approval of CC 1 Yes 2 No 3 N/A | | |
| Regular vote: | 1 Yes 2 No 3 N/A Vote only in tie 1 Yes 2 No 3 N/A No vote 1 Yes 2 No 3 N/A | | |
| Ceremonial duties: | 1 Yes 2 No 3 N/A Martial law 1 Yes 2 No 3 N/A Spelled in emergency 1 Yes 2 No 3 N/A | | |
| Appoint CAO: | 1 Yes 2 No 3 N/A Appoint dept. heads 1 Yes 2 No 3 N/A Confirmed by Council 1 Yes 2 No 3 N/A | | |
| Prepare budget: | 1 Yes 2 No 3 N/A | | |
| Mayor salary: | NTE 1 Yes 2 No 3 N/A \$ _____ per: 1 Meeting 2 Week 3 Month 4 Year 5 Other | | |
| | NTE 1 Yes 2 No 3 N/A \$ _____ per: 1 Month 2 Year | | |
| Set by Council: | 1 Yes 2 No 3 N/A | | |
| Expenses: | NTE 1 Yes 2 No 3 N/A \$ _____ per: 1 Meeting 2 Week 3 Month 4 Year 5 Other 6 NEC | | |
| Set by Council: | 1 Yes 2 No 3 N/A | | |
| Terms(years): | Mayor 1 2 3 4 Council 2 3 4 Limits: 1 Two- 2 Two 3 Two+ 4 Three- 5 Three 6 Three+ | | |
| Limit applies: | Both 1 Yes 2 No 3 N/A Separately 1 Yes 2 No 3 N/A Rerun wait _____ (years) | | |
| Terms staggered: | 1 Yes 2 No 3 N/A Elections by majority 1 Yes 2 No 3 N/A Plurality 1 Yes 2 No 3 N/A | | |
| Name on ballot: | Fill out form 1 Yes 2 No 3 N/A Petition 1 Yes 2 No 3 N/A No. of names _____ | | |
| Fee: | 1 Yes 2 No 3 N/A Amount \$ _____ Other 1 Yes 2 No 3 N/A | | |
| Council qualifications: | Residence 1 Yes 2 No 3 N/A If Yes 1 6 mo 2 1 yr 3 2 yrs 4 Other 5 Not specified | | |
| | Owner of property 1 Yes 2 No 3 N/A Age _____ Registered voter 1 Yes 2 No 3 N/A | | |
| | Barred if tax delinquent 1 Yes 2 No 3 N/A Other 1 Yes 2 No 3 N/A | | |
| Off Council: | 1 2 3 4 (missed) 1 Yes 2 No 3 N/A | | |
| Filling 1 vacancy: | Appointment 1 Yes 2 No 3 N/A Election 1 Yes 2 No 3 N/A Other 1 Yes 2 No 3 N/A | | |
| Filling 2 vacancy: | Appointment 1 Yes 2 No 3 N/A Election 1 Yes 2 No 3 N/A Other 1 Yes 2 No 3 N/A | | |
| Council meets (required): | 1 Weekly 2 Twice per month 3 Once per month 4 Not specified | | |
| Council meets (actual): | 1 Weekly 2 Twice per month 3 Once per month 4 Not specified | | |
| Mayor Pro Tem salary: | NTE 1 Yes 2 No 3 N/A \$ _____ per: 1 Meeting 2 Week 3 Month 4 Year 5 Other | | |
| | NTE 1 Yes 2 No 3 N/A \$ _____ per: 1 Month 2 Year | | |
| Set by Council: | 1 Yes 2 No 3 N/A | | |
| Expenses: | NTE 1 Yes 2 No 3 N/A \$ _____ per: 1 Meeting 2 Week 3 Month 4 Year 5 Other 6 NEC | | |
| Set by Council: | 1 Yes 2 No 3 N/A | | |
| Council salary: | NTE 1 Yes 2 No 3 N/A \$ _____ per: 1 Meeting 2 Week 3 Month 4 Year 5 Other | | |
| | NTE 1 Yes 2 No 3 N/A \$ _____ per: 1 Month 2 Year | | |
| Set by Council: | 1 Yes 2 No 3 N/A | | |
| Expenses: | NTE 1 Yes 2 No 3 N/A \$ _____ per: 1 Meeting 2 Week 3 Month 4 Year 5 Other 6 NEC | | |
| Set by Council: | 1 Yes 2 No 3 N/A | | |

09/10/93

City Charter Detailed Worksheet

Page: 2 of 3

| | | | |
|---|------|-------------------------|--------------------|
| City: | No.: | Date completed by T.B.: | Date input by D.P. |
| City Attorney: Appointed by: <u>1</u> Manager <u>2</u> Manager with approval of CC <u>3</u> Council <u>4</u> Council on recommendation of manager <u>5</u> Mayor <u>6</u> Mayor on recommendation of manager <u>7</u> Mayor with approval of CC | | | |
| City Clerk / Secretary: <u>1</u> Manager <u>2</u> Manager with approval of CC <u>3</u> Council <u>4</u> Council on recommendation of manager (circle one) <u>5</u> Mayor <u>6</u> Mayor on recommendation of manager <u>7</u> Mayor with approval of CC Term: <u>1</u> 1 year <u>2</u> 2 years <u>3</u> 3 years <u>4</u> 4 years <u>5</u> Pleasure of CC <u>6</u> Other <u>7</u> N/A | | | |
| City Judge: <u>1</u> Manager <u>2</u> Manager with approval of CC <u>3</u> Council <u>4</u> Council on recommendation of manager <u>5</u> Mayor <u>6</u> Mayor on recommendation of manager <u>7</u> Mayor with approval of CC Term: <u>1</u> 1 year <u>2</u> 2 years <u>3</u> 3 years <u>4</u> 4 years <u>5</u> Pleasure of CC <u>6</u> Other <u>7</u> N/A | | | |
| Municipal Court Clerk: <u>1</u> Manager <u>2</u> Manager with approval of CC <u>3</u> Council <u>4</u> Council on recommendation of manager <u>5</u> Mayor <u>6</u> Mayor on recommendation of manager <u>7</u> Mayor with approval of CC Term: <u>1</u> 1 year <u>2</u> 2 years <u>3</u> 3 years <u>4</u> 4 years <u>5</u> Pleasure of CC <u>6</u> Other <u>7</u> N/A | | | |
| Open Meeting Requirements <u>1</u> Yes <u>2</u> No <u>3</u> N/A Exception allowed as by law <u>1</u> Yes <u>2</u> No <u>3</u> N/A | | | |
| City Manager established <u>1</u> Yes <u>2</u> No <u>3</u> N/A City manager allowed <u>1</u> Yes <u>2</u> No <u>3</u> N/A Former member of CC not eligible for: <u>1</u> <u>2</u> <u>3</u> Other (years) Manager participates in CC meeting <u>1</u> Yes <u>2</u> No <u>3</u> N/A Hearing provided manager on removal <u>1</u> Yes <u>2</u> No <u>3</u> N/A Vote required to hire manager: <u>1</u> Majority <u>2</u> Majority of CC <u>3</u> Other Vote required to discharge manager: <u>1</u> Majority <u>2</u> Majority of CC <u>3</u> Other Council prohibited from interference in personal matters <u>1</u> Yes <u>2</u> No <u>3</u> N/A All department head appointments require confirmation by council <u>1</u> Yes <u>2</u> No <u>3</u> N/A If not all, which of these: Finance Director <u>1</u> Yes <u>2</u> No <u>3</u> N/A Police Chief <u>1</u> Yes <u>2</u> No <u>3</u> N/A Other <u>1</u> Yes <u>2</u> No <u>3</u> N/A | | | |
| Departments established in city charter: Finance <u>A</u> / <u>M</u> Personnel <u>A</u> / <u>M</u> Legal <u>A</u> / <u>M</u> Planning <u>A</u> / <u>M</u> Police <u>A</u> / <u>M</u> Fire <u>A</u> / <u>M</u> Recreation <u>A</u> / <u>M</u> Park & Recreation <u>A</u> / <u>M</u> Library <u>A</u> / <u>M</u> Health <u>A</u> / <u>M</u> Health Officer <u>A</u> / <u>M</u> Aviation <u>A</u> / <u>M</u> Hospital <u>A</u> / <u>M</u> Other <u>Y</u> / <u>N</u> | | | |
| Outside audit required <u>1</u> Yes <u>2</u> No <u>3</u> N/A Limit of years <u>1</u> Yes <u>2</u> No <u>3</u> N/A Years limit: <u>2</u> <u>3</u> <u>4</u> <u>5</u> (years) | | | |
| Fiscal year begins: <u>1</u> <u>2</u> <u>3</u> <u>4</u> <u>5</u> <u>6</u> <u>7</u> <u>8</u> <u>9</u> <u>10</u> <u>11</u> <u>12</u> (mo.) May be changed by ordinance <u>1</u> Yes <u>2</u> No <u>3</u> N/A Borrowing authorized in anticipation of revenue <u>1</u> Yes <u>2</u> No <u>3</u> N/A Limits set on sale of city property <u>1</u> Yes <u>2</u> No <u>3</u> N/A Purchase limit before CC must act \$ _____ Purchase limit before written bids required \$ _____ Vote required for adoption of budget: <u>1</u> Simple majority <u>2</u> Majority of total Council If no vote adopted by E-O-F-Y: <u>1</u> Manager/mayor's budget effective <u>2</u> Continuation of last year <u>3</u> No provision <u>4</u> Other Detailed budget requirements <u>1</u> Yes <u>2</u> No <u>3</u> N/A Contingency fund <u>1</u> Yes <u>2</u> No <u>3</u> N/A \$ _____ % _____ Revenues must equal expenditures <u>1</u> Yes <u>2</u> No <u>3</u> N/A No mention <u>1</u> Yes <u>2</u> No <u>3</u> N/A Transfer of appropriations: <u>1</u> Manager between departments <u>2</u> With approval of Council Capital budget or program <u>1</u> Yes <u>2</u> No <u>3</u> N/A | | | |
| Charter maximum tax rate: Operating \$ _____ Debt Service \$ _____ Total \$ _____ None <u>1</u> Yes <u>2</u> No <u>3</u> N/A Vote required to set tax rate: <u>1</u> Majority <u>2</u> Majority of CC <u>3</u> Other Vote required to submit bond election to citizens: <u>1</u> Majority <u>2</u> Majority of CC <u>3</u> Other | | | |

| | |
|-----------------|-----------------|
| Abilene | Coleman |
| Alamo | College Station |
| Alamo Heights | Colleyville |
| Allen | Colorado City |
| Alpine | Commerce |
| Amarillo | Conroe |
| Anna | Converse |
| Anson | Coppell |
| Aransas Pass | Copperas Cove |
| Arlington | Corinth |
| Athens | Corpus Christi |
| Atlanta | Crockett |
| Azle | Cuero |
| Balch Springs | Dalhart |
| Ballinger | Dayton |
| Bastrop | De Leon |
| Baytown, Texas | Decatur |
| Beaumont | Deer Park |
| Bedford | Denison |
| Beeville | Denton |
| Bellaire | Denver City |
| Bellmead | DeSoto |
| Belton | Dickinson |
| Benbrook | Dimmitt |
| Big Spring | Duncanville |
| Boerne | Eagle Pass |
| Bonham | Eastland |
| Borger | Edna |
| BOWIE | El Campo |
| Brady | Electra |
| Breckenridge | Elgin |
| Brenham | Eules |
| Bridge City | Everman |
| Brownfield | Fairview |
| Brownwood | Farmers Branch |
| Bryan | Floresville |
| Burkburnett | Flower Mound |
| Burleson | Forest Hill |
| Burnet | Forney |
| Cameron | Fort Worth |
| Canyon | Fredericksburg |
| Carrizo Springs | Friendswood |
| Carrollton | Frisco |
| Carthage | Gainesville |
| Cedar Hill | Galena park |
| Cedar Park | Garland |
| Celina | Gatesville |
| Cibolo | Georgetown |
| Cleburne | Giddings |
| Clute | Gilmer |

| | |
|------------------|----------------------|
| Gladewater | Littlefield |
| Gonzales | Live Oak |
| Gorman | Lockhart |
| Graham | Longview |
| Granbury | Los Fresnos |
| Grapevine | Lubbock |
| Greenville | Lufkin |
| Gun Barrel City | Lumberton |
| Haltom City | Mansfield |
| Harker Heights | Marble Falls |
| Harlingen | Marshall |
| Heath | McAllen |
| Henderson | McGregor |
| Hewitt | Mesquite |
| Highland Park | Mexia |
| Highland Village | Midland |
| Hillsboro | Mineral Wells |
| Humble | Missouri City |
| Huntsville | Monahans |
| Hurst | Mount Pleasant |
| Hutto | Muleshoe |
| Ingleside | Nacogdoches |
| Irving | Nassau Bay |
| Jacksonville | Navasota |
| Jasper | Nederland |
| Joshua | New Braunfels |
| KATY | North Richland Hills |
| Kaufman | Olney |
| Keene | Orange |
| Kennedale | Palestine |
| Kermit | Pampa |
| Kerrville | Paris |
| Kilgore | Pearland |
| Killeen | Pflugerville |
| Kyle | Pharr |
| La Grange | Plano |
| La Marque | Port Isabel |
| Lacy Lakeview | Port Neches |
| Lago Vista | Portland |
| Lake Dallas | Prosper |
| Lake Jackson | Richardson |
| Lake Worth | Richland Hills |
| Lakeway | Robinson |
| Lamesa | Rockdale |
| Lampasas | Rockport |
| Lancaster | Rosenberg |
| LaPorte | Round Rock |
| Laredo | Rowlett |
| Levelland | Royse City |
| Liberty | Rusk |

Appendix C

Sachse
Saginaw
San Angelo
San Benito
Sanger
Santa Fe
Schertz
Seabrook
Seagoville
Sealy
Seguin
Seminole
Sherman
Sinton
Snyder
Socorro
Southlake
Stephenville
Sugar Land
Sweetwater
Taylor
Temple
Terrell
Terrell Hills
The Colony
Tomball
Trophy Club
Universal City
University Park
Vernon
Victoria
Vidor
Waco
Watauga
Waxahachie
Weatherford
Webster
West Orange
West University Place
Wharton
White Oak
White Settlement
Wichita Falls
Willis
Windcrest
Wylie
Yoakum

| City | Date of First Special Legislative Charter | Date of First Home Rule Charter | Date of Current Charter | Date of Last Charter Amendment |
|-----------------|---|---------------------------------|-------------------------|--------------------------------|
| Abilene | 04-20-11 ² | 11-06-62 | same | 01-17-81 |
| Addison | ---- | 08-12-78 | same | 01-16-93 |
| Alamo * | ---- | 01-20-79 | same | 01-18-92 |
| Alamo Heights * | ---- | 11-23-54 | same | none |
| Alice | ---- | 09-10-49 | same | 04-04-81 |
| Allen | ---- | 01-20-79. | same | none |
| Alpine | ---- | 05-01-93 | same | none |
| Alvin | ---- | 02-23-63 | same | 05-07-94 |
| Amarillo | 05-06-09 | 11-18-13 | same | 08-09-80 |
| Andrews | ---- | 06-09-59 | same | 05-07-94 |
| Angleton | ---- | 02-17-67 | same | 05-04-91 |
| Anson * | ---- | 04-29-20 | same | 04-01-52 |
| Aransas Pass | ---- | 11-20-51 | same | 06-02-86 |
| Arlington | ---- | 01-17-20 | same | 11-02-93 |
| Athens | 09-01-1856 | 09-10-60 | 12-10-66 | 08-13-77 |
| Atlanta | ---- | 11-12-68 | same | 05-07-94 |
| Austin | 12-27-1839 | 08-09-24 | 01-31-53 | 05-07-94 |
| Azle | ---- | 04-06-71 | same | 05-05-90 |
| Balch Springs | ---- | 01-20-90 | same | 05-07-94 |
| Ballinger | ---- | 04-02-63 | same | 05-01-93 |
| Bay City * | ---- | 01-21-89 | same | 05-04-91 |
| Baytown | ---- | 01-24-48 ¹ | same | 01-20-79 |
| Beaumont | 12-16-1838 | 12-30-19 | 12-06-47 | 04-05-86 |
| Bedford | ---- | 09-24-66 | same | 08-14-93 |

| City | Date of First Special Legislative Charter | Date of First Home Rule Charter | Date of Current Charter | Date of Last Charter Amendment |
|-----------------|---|---------------------------------|-------------------------|--------------------------------|
| Beeville | ---- | 10-05-51 | same | 04-10-73 |
| Bellaire | ---- | 04-02-49 | same | 11-03-87 |
| Bellmead | ---- | 11-12-55 ¹ | same | 09-30-61 |
| Belton | 01-15-1852 | 08-18-14 | 08-20-51 | 05-05-90 |
| Benbrook | ---- | 04-02-83 | same | 05-05-90 |
| Big Spring | ---- | 12-07-26 | same | 10-02-73 |
| Bonham | 02-02-1848 | 03-11-47 | same | 04-04-87 |
| Borger | ---- | 11-08-27 | 06-24-30 | 05-02-92 |
| Bowie * | ---- | 04-07-84 | same | 05-06-89 |
| Brady | ---- | 08-14-82 | same | 11-02-93 |
| Breckenridge | ---- | 03-19-54 | same | 01-16-88 |
| Brenham | 11-03-1866 | 09-07-20 | same | 05-01-93 |
| Bridge City | ---- | 04-06-74 | same | 05-01-93 |
| Brownfield | ---- | 11-16-54 ¹ | same | none |
| Brownsville | 01-24-1850 | 12-31-15 | same | 11-02-93 |
| Brownwood | ---- | 07-08-16 | 04-08-55 | 04-05-80 |
| Bryan | ---- | 03-23-17 | 11-04-41 | 05-07-94 |
| Burkburnett | ---- | 05-08-23 | same | 04-04-67 |
| Burleson | ---- | 04-05-69 | same | 08-14-82 |
| Cameron * | 01-14-1856 | 01-28-56 | same | 08-09-80 |
| Canyon | ---- | 06-23-59 | same | 02-20-78 |
| Carrizo Springs | ---- | 04-07-59 | same | 08-15-89 |
| Carrollton | ---- | 09-16-61 | same | 05-02-92 |
| Carthage | 01-19-1852 | 11-30-48 | same | 04-05-86 |
| Cedar Hill * | ---- | 05-31-75 | same | 05-01-93 |

| City | Date of First Special Legislative Charter | Date of First Home Rule Charter | Date of Current Charter | Date of Last Charter Amendment |
|-----------------|---|---------------------------------|-------------------------|--------------------------------|
| Cedar Park | ---- | 01-17-87 | same | none |
| Center | ---- | 04-07-84 | same | none |
| Childress * | ---- | 11-27-17 | same | 05-07-88 |
| Cisco | ---- | 07-28-19 | 02-22-74 | none |
| Cleburne | 05-03-1871 | 09-17-14 | 03-28-50 | 04-05-86 |
| Cleveland | ---- | 01-17-81 | same | 05-01-93 |
| Clute | ---- | 11-05-57 | same | 05-01-93 |
| Coleman | ---- | 03-14-50 | same | 01-19-91 |
| College Station | ---- | 01-08-52 | same | 05-02-92 |
| Colleyville | ---- | 01-15-77 | same | 01-18-92 |
| Colorado City | ---- | 12-03-48 ¹ | same | 04-03-88 |
| Commerce | ---- | 01-30-54 | same | 04-07-79 |
| Conroe * | ---- | 12-14-65 | same | 08-08-92 |
| Converse | ---- | 08-08-91 | same | 04-07-84 |
| Coppell | ---- | 01-18-86 | same | 11-05-91 |
| Copperas Cove | ---- | 01-20-79 | same | 05-01-93 |
| Corpus Christi | 04-25-1846 | 04-30-26 | same | 04-03-93 |
| Corsicana | 02-08-1854 | 12-11-17 | same | 05-05-90 |
| Crockett | 12-29-1837 | 04-07-64 | same | 04-03-82 |
| Crystal City | ---- | 01-31-58 | same | 04-02-83 |
| Cuero | 04-23-1873 | 11-21-44 | 06-10-69 | 11-02-93 |
| Daingerfield | 12-24-1851 | 04-05-80 | same | 05-06-89 |
| Dalhart | ---- | 05-17-60 | same | 08-11-79 |
| Dallas | 02-02-1856 | 01-22-14 | same | 05-01-93 |
| Dayton | ---- | 04-03-76 | same | 05-02-92 |

| City | Date of First Special Legislative Charter | Date of First Home Rule Charter | Date of Current Charter | Date of Last Charter Amendment |
|----------------|---|---------------------------------|-------------------------|--------------------------------|
| DeLeon * | ---- | 12-16-19 | same | 05-02-92 |
| DeerPark | ---- | 12-06-60 | same | 12-08-81 |
| Del Rio | ---- | 05-07-18 | 05-27-67 | 04-05-86 |
| Denison | 03-07-1873 | 10-23-56 | 04-01-75 | 01-19-85 |
| Denton | 09-26-1866 | 04-04-14 | 02-24-59 | 01-19-80 |
| Denver City | ---- | 04-06-85 | same | 05-07-88 |
| DeSoto | ---- | 05-17-69 | same | 05-04-91 |
| Dickinson | ---- | 01-17-87 | same | 05-07-94 |
| Dimmitt | ---- | 05-05-90 | same | none |
| Donna | ---- | 02-19-57 | same | 05-07-94 |
| Dumas | ---- | 03-04-55 | same | 05-01-93 |
| Duncanville | ---- | 05-05-62 | same | 01-21-89 |
| Eagle Pass | ---- | 03-05-18 | 01-30-64 | 05-07-94 |
| Eastland | ---- | 05-16-19 | same | 05-07-94 |
| Edinburg | ---- | 05-05-28 | 04-05-49 | 11-03-81 |
| Edna | ---- | 04-05-66 | same | 04-01-84 |
| El Campo | ---- | 11-30-54 | same | 05-01-93 |
| El Paso * | 05-17-1873 | 01-21-84 | same | 05-07-94 |
| Electra * | ---- | 08-25-17 | same | 08-13-88 |
| Elgin | 05-31-1873 | 08-10-85 | same | 05-01-93 |
| Elsa | ---- | 01-17-81 | same | none |
| Ennis | ---- | 10-07-13 | same | 01-17-81 |
| Eules | ---- | 07-21-62 | same | 11-05-91 |
| Everman | ---- | 04-05-86 | same | 05-06-89 |
| Farmers Branch | ---- | 12-03-56 | same | 01-21-89 |

| City | Date of First Special Legislative Charter | Date of First Home Rule Charter | Date of Current Charter | Date of Last Charter Amendment |
|---------------|---|---------------------------------|-------------------------|--------------------------------|
| Flower Mound | ---- | 11-03-81 | same | 05-06-89 |
| Forest Hill | ---- | 08-14-76 | same | none |
| Fort Worth | 02-17-1873 | 12-11-24 | same | 05-06-89 |
| Fredricksburg | ---- | 05-04-91 | same | none |
| Freeport | ---- | 10-01-49 | 06-18-60 | 05-07-94 |
| Friendswood | ---- | 10-16-71 | same | 05-04-92 |
| Frisco | ---- | 04-04-87 | same | none |
| Gainesville | 02-17-1873 | 05-07-94 | same | none |
| Galena Park * | ---- | 05-31-46 | same | 11-06-79 |
| Galveston | 01-28-1839 | 04-19-60 | same | 11-02-93 |
| Garland | ---- | 10-16-51 | same | 05-07-94 |
| Gatesville | ---- | 12-06-66 | same | none |
| George West | ---- | 01-19-80 | same | 05-02-92 |
| Georgetown | 09-26-1866 | 04-04-70 | 04-16-86 | 05-07-94 |
| Giddings | 04-18-1873 | 01-16-82 | same | 04-01-84 |
| Gladewater | 05-02-1874 | 10-18-55 | same | 08-10-85 |
| Glenn Heights | ---- | 08-08-87 | same | none |
| Gonzales | 12-14-1837 | 12-10-57 | same | 04-02-83 |
| Gorman * | ---- | 04-26-20 | same | 07-15-60 |
| Graham | ---- | 07-28-20 | same | 05-04-91 |
| Granbury | ---- | 01-21-89 | same | 05-04-91 |
| Grand Prairie | ---- | 05-01-48 | same | 11-03-87 |
| Grapevine | ---- | 11-16-65 | same | 05-02-92 |
| Greenville | 02-14-1852 | 11-21-53 | same | 08-08-92 |
| Groves | ---- | 12-30-53 | same | 04-02-77 |

| City | Date of First Special Legislative Charter | Date of First Home Rule Charter | Date of Current Charter | Date of Last Charter Amendment |
|------------------|---|---------------------------------|-------------------------|--------------------------------|
| Haltom City | ---- | 12-03-55 | same | 01-15-94 |
| Harker Heights | ---- | 12-13-71 | same | 05-04-91 |
| Harlingen | ---- | 02-23-27 | same | 04-04-87 |
| Hearne | 04-11-1871 | 05-18-64 | same | none |
| Henderson | 02-01-1845 | 04-01-47 | same | 04-06-85 |
| Hereford | ---- | 09-06-52 ¹ | same | 05-02-79 |
| Hewitt | ---- | 04-03-82 | same | none |
| Highland Park | ---- | 08-26-75 | same | none |
| Highland Village | ---- | 01-18-86 | same | 05-02-92 |
| Hillsboro | 11-12-1866 | 06-01-48 | 04-04-81 | none |
| Hitchcock * | ---- | 05-28-60 | same | 04-12-75 |
| Houston * | 06-05-1837 | 10-15-13 | same | 01-15-94 |
| Humble | ---- | 12-19-70 | same | 05-02-92 |
| Huntsville | 01-30-1845 | 09-28-68 | same | 01-18-92 |
| Hurst | ---- | 12-29-56 | same | 05-02-92 |
| Ingleside | ---- | 11-06-79 | same | none |
| Irving | ---- | 10-25-52 | same | 01-21-89 |
| Jacinto City | ---- | 01-17-81 | same | 08-15-87 |
| Jacksonville | 05-07-1873 | 01-20-31 | same | 01-08-77 |
| Jasper | 12-16-1838 | 10-20-64 | same | 08-10-91 |
| Jersey Village | ---- | 08-09-86 | same | 05-01-93 |
| Katy * | ---- | 01-17-81 | same | 05-01-93 |
| Kaufman | 11-09-1866 | 11-03-87 | same | none |
| Keller | ---- | 04-03-82 | same | none |
| Kermit | ---- | 11-07-89 | same | none |

| City | Date of First Special Legislative Charter | Date of First Home Rule Charter | Date of Current Charter | Date of Last Charter Amendment |
|---------------|---|---------------------------------|-------------------------|--------------------------------|
| Kerrville | ---- | 02-25-42 | same | 05-02-92 |
| Kilgore | ---- | 09-13-60 | same | none |
| Killeen | ---- | 03-03-49 | same | 01-15-94 |
| Kingsville | ---- | 04-18-16 | same | 05-07-94 |
| Kirby | ---- | 05-07-88 | same | 05-04-91 |
| La Feria | ---- | 11-07-89 | same | none |
| La Grange | 11-18-1837 | 01-15-83 | same | none |
| La Marque | ---- | 03-01-57 ¹ | same | 01-19-85 |
| La Porte | ---- | 03-22-49 | 08-09-80 | 05-05-90 |
| Lake Jackson | ---- | 01-30-54 | same | 05-07-94 |
| Lake Worth * | ---- | 04-06-65 | same | 05-11-68 |
| Lakeway | ---- | 05-05-90 | same | 05-07-94 |
| Lamesa | ---- | 05-01-45 | same | 12-28-71 |
| Lampasas | 10-10-1866 | 08-09-86 | same | none |
| Lancaster | ---- | 05-05-56 | same | 01-29-74 |
| Laredo | 01-29-1848 | 01-14-81 | same | 01-16-88 |
| League City * | ---- | 03-27-62 | same | 01-16-93 |
| Levelland | ---- | 01-18-49 | same | 05-02-92 |
| Lewisville | ---- | 01-29-63 | same | 05-02-92 |
| Liberty | 06-07-1837 | 05-06-58 | same | 08-10-91 |
| Littlefield | ---- | 02-20-59 | same | none |
| Live Oak | ---- | 08-31-76 | same | 05-05-90 |
| Lockhart | 02-10-1852 | 02-23-73 | same | 05-05-90 |
| Longview | 05-17-1871 | 02-20-23 | 04-01-78 | none |
| Lubbock | ---- | 12-27-17 | same | 01-18-92 |

| City | Date of First Special Legislative Charter | Date of First Home Rule Charter | Date of Current Charter | Date of Last Charter Amendment |
|---------------|---|---------------------------------|-------------------------|--------------------------------|
| Lufkin | ---- | 03-10-19 | 02-01-66 | 05-07-94 |
| Luling | ---- | 01-15-77 | same | none |
| Mansfield | ---- | 01-28-75 | same | 05-07-88 |
| Marble Falls | ---- | 08-09-86 | same | 08-11-90 |
| Marlin * | 11-12-1866 | 11-08-77 | same | 01-16-93 |
| Marshall | 12-31-1844 | 12-18-13 | same | 01-30-62 |
| McAllen * | ---- | 01-31-27 | same | 08-16-80 |
| McGregor | ---- | 01-20-79 | same | 05-01-89 |
| McKinney | 02-19-1854 | 09-30-13 | 12-21-59 | 05-07-88 |
| Mercedes | ---- | 09-21-71 | same | 05-02-92 |
| Mesquite * | ---- | 08-22-53 | same | 04-04-87 |
| Mexia | 04-07-1873 | 07-07-24 | same | 08-08-92 |
| Midland * | ---- | 11-05-40 ¹ | same | 05-04-91 |
| Midlothian | ---- | 08-09-80 | same | none |
| Mineral Wells | | 08-19-18 | 07-26-66 | 11-05-91 |
| Mission | ---- | 11-09-28 | 08-29-61 | 01-17-87 |
| Missouri City | ---- | 11-23-74 | same | 05-02-92 |
| Monahans | ---- | 10-30-54 | same | 05-04-91 |
| Mt. Pleasant | 03-20-1848 | 04-06-48 | same | 04-05-80 |
| Mulshoe | ---- | 07-05-60 | same | 04-07-79 |
| Nacogdoches * | 06-05-1837 | 03-21-29 ¹ | same | 05-07-88 |
| Nassau Bay | ---- | 04-07-73 | same | 05-07-94 |
| Navasota | 10-27-1866 | 03-20-22 | 10-11-47 | 01-21-84 |
| Nederland | ---- | 03-10-55 | same | 04-04-72 |
| New Braunfels | 05-11-1846 | 01-18-44 | 11-22-66 | 05-01-93 |

| City | Date of First Special Legislative Charter | Date of First Home Rule Charter | Date of Current Charter | Date of Last Charter Amendment |
|----------------------|---|---------------------------------|-------------------------|--------------------------------|
| North Richland Hills | --- | 11-03-64 | same | 08-08-92 |
| Odessa | ---- | 04-03-45 | same | 11-05-91 |
| Olney | ---- | 04-07-79 | same | 05-05-90 |
| Orange | 09-01-1856 | 07-21-14 | 01-12-60 | 08-09-86 |
| Palestine | 03-14-1848 | 08-13-83 | same | 05-02-92 |
| Pampa | ---- | 11-08-27 | same | 08-24-82 |
| Paris | 02-03-1845 | 11-02-48 ¹ | same | none |
| Pasadena * | ---- | 01-12-43 | 12-12-64 | 08-08-92 |
| Pearland | ---- | 02-06-71 | same | 05-07-94 |
| Pearsall | ---- | 05-07-94 | same | none |
| Pecos City | ---- | 04-06-85 | same | 05-06-89 |
| Pflugerville | ---- | 11-02-93 | same | none |
| Pharr | ---- | 11-01-49 | same | 05-06-89 |
| Plainview | ---- | 04-06-20 | same | 11-05-85 |
| Plano | 06-02-1873 | 06-10-61 | same | 05-01-93 |
| Pleasanton | ---- | 08-14-82 | same | 08-12-89 |
| Port Aransas | ---- | 08-12-78 | same | 05-04-91 |
| Port Arthur | 05-06-11 ² | 03-08-32 | 01-26-63 | 05-02-92 |
| Port Isabel | ---- | 01-23-84 | same | none |
| Port Lavaca | ---- | 01-31-56 ¹ | same | 04-04-72 |
| Port Neches | ---- | 04-18-55 | 04-04-67 | 01-15-83 |
| Portland | ---- | 08-08-67 | same | 04-04-87 |
| Quanah * | ---- | 12-11-19 | same | 04-05-69 |
| Ranger * | ---- | 04-03-19 | same | 11-28-61 |
| Raymondville * | ---- | 03-29-55 | same | 04-07-70 |

| City | Date of First Special Legislative Charter | Date of First Home Rule Charter | Date of Current Charter | Date of Last Charter Amendment |
|----------------|---|---------------------------------|-------------------------|--------------------------------|
| Richardson | ---- | 06-23-56 | 01-23-89 | none |
| Richland Hills | ---- | 08-09-86 | same | 05-01-93 |
| River Oaks * | ---- | 01-11-49 | same | 12-07-57 |
| Robstown * | ---- | 03-09-48 | same | 04-06-85 |
| Rockdale | ---- | 04-01-78 | same | none |
| Rockport | 05-26-1871 | 04-12-83 | same | 05-07-94 |
| Rockwall | ---- | 01-19-85 | same | 05-01-93 |
| Rosenberg | ---- | 11-20-56 ¹ | same | 08-08-87 |
| Round Rock | ---- | 08-13-77 | same | 04-05-86 |
| Rowlett | ---- | 01-19-80 | same | 05-04-91 |
| Rusk | 02-02-1850 | 08-08-87 | same | none |
| Sachse | ---- | 04-05-86 | same | 05-05-90 |
| Saginaw | ---- | 01-16-88 | same | none |
| San Angelo | ---- ³ | 08-03-15 | same | 05-06-89 |
| San Antonio | 12-14-1837 | 10-02-51 | same | 05-04-91 |
| San Benito * | ---- | 09-22-20 | same | 12-09-69 |
| San Juan | ---- | 04-05-75 | same | none |
| San Marcos | ---- | 02-24-67 | same | 05-07-94 |
| Santa Fe | ---- | 08-08-81 | same | none |
| Schertz | ---- | 04-06-74 | same | 05-07-94 |
| Seabrook | ---- | 08-11-79 | same | 05-05-90 |
| Seagoville | ---- | 10-25-69 | same | 05-04-91 |
| Seguin | 02-07-1853 | 11-09-71 | same | 05-02-92 |
| Seminole * | ---- | 05-04-91 | same | none |
| Sherman | 04-02-1873 | 03-06-15 | 02-20-73 | 01-16-93 |

| City | Date of First Special Legislative Charter | Date of First Home Rule Charter | Date of Current Charter | Date of Last Charter Amendment |
|-----------------|---|---------------------------------|-------------------------|--------------------------------|
| Silsbee | ---- | 11-03-56 | same | 08-10-87 |
| Sinton | ---- | 11-19-66 | same | 05-01-93 |
| Slaton * | ---- | 03-19-29 | same | 04-05-80 |
| Snyder | ---- | 10-21-52 | same | 05-06-89 |
| Southlake | ---- | 04-04-87 | same | 01-19-91 |
| Stamford | ---- | 03-26-18 ¹ | same | 11-05-55 |
| Stephenville * | ---- | 04-04-61 | same | 05-01-93 |
| Sugar Land | ---- | 01-17-81 | same | 05-05-90 |
| Sulphur Springs | 02-13-1852 | 02-18-47 | same | 11-08-83 |
| Sweetwater | ---- | 12-18-13 | 07-29-47 | 11-08-83 |
| Taylor | ---- ³ | 04-16-14 ¹ | same | 04-04-87 |
| Temple | 03-27-07 | 07-08-22 | 09-22-53 | 01-20-90 |
| Terrell | 03-20-11 ⁴ | 04-03-73 | same | 07-04-84 |
| Terrell Hills | ---- | | 11-05-57 | 05-02-92 |
| Texarkana | 05-02-07 | 04-05-60 | same | 11-18-83 |
| Texas City * | ---- | 02-16-46 | same | 09-06-52 |
| The Colony | ---- | 01-20-79 | same | 01-17-87 |
| Tomball | ---- | 01-17-87 | same | none |
| Tulia | ---- | 12-06-72 ¹ | same | none |
| Tyler | 01-29-1850 | 04-06-15 | 02-09-37 | 05-05-90 |
| Universal City | ---- | 05-06-72 | same | 05-05-89 |
| University Park | ---- | 11-07-89 | same | none |
| Uvalde * | ---- | 09-18-34 | same | 11-13-63 |
| Vernon | ---- | 03-03-16 | same | 01-21-84 |
| Victoria | 02-05-1840 | 10-05-15 | 01-31-56 | 05-07-94 |

| City | Date of First Special Legislative Charter | Date of First Home Rule Charter | Date of Current Charter | Date of Last Charter Amendment |
|-----------------------|---|---------------------------------|-------------------------|--------------------------------|
| Vidor | ---- | 11-08-69 | same | 05-02-92 |
| Waco | 08-29-1856 | 01-29-13 | 11-01-58 | 04-03-87 |
| Watauga | ---- | 01-19-80 | same | 01-15-94 |
| Waxahachie | 04-28-1871 | 06-27-16 | 04-03-71 | 04-02-75 |
| Weatherford | 01-02-1858 | 04-23-18 | same | 04-02-83 |
| Webster | ---- | 01-15-94 | same | none |
| Weslaco * | ---- | 12-14-27 | same | 05-03-93 |
| West Orange * | ---- | 05-19-56 | same | 05-07-88 |
| West University Place | ---- | 12-17-40 | 04-02-83 | 05-06-89 |
| Wharton | 10-11-1866 | 01-20-70 | same | 05-07-94 |
| White Oak * | ---- | 05-07-94 | same | none |
| White Settlement | ---- | 04-06-54 | same | 08-10-91 |
| Wichita Falls | ---- | 11-26-13 | 03-20-20 | 01-16-93 |
| Woodway | ---- | 11-13-73 | same | 05-07-94 |
| Wylie | ---- | 01-19-85 | same | 05-02-92 |
| Yoakum | ---- | 04-01-15 | 01-16-88 | none |

⁵ Sources:

Hans Peter Neilson Gammel, compiler, Laws of Texas, 1822-1897. Ann Arbor, MI: University Microfilms.

Session Laws, Legislature of the State of Texas.

Records, Office of the Secretary of State, Texas.

Charters, Secretary of State's Record Group (RG 307), Archives Division, Texas State Library.

Records, offices of City Secretaries/Clerks, home rule cities, Texas.

City

Boerne

Corinth

Crowley

Forney

Gilmer

Gun Barrel City

Hidalgo

Horizon City

Joshua

Keene

Kennedale

Lacy Lakeview

Lake Dallas

Lumberton

Red Oak

Robinson

Sanger

Sealy

Whitehouse

Appendix F - IRB Exemption

From: ospirb (ospirb@txstate.edu)
To: cezlaw@yahoo.com
Date: Monday, May 19, 2008 4:02:03 PM
Subject: Exemption request 18-84103

Exemption Request

Based on the information in the exemption request 18-84103, which you sent Sunday, May 18, 2008, your project has been found exempt.

Your project is exempt from full or expedited review by the Texas State Institutional Review Board.

--

Institutional Review Boardospirb@txstate.edu

Office of Research Compliance

Texas State University-San Marcos

(ph) 512/245-2314 / (fax) 512/245-3847

JCK 489

601 University Drive

San Marcos, TX 78666

Texas State University-San Marcos is a member of the Texas State University System

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ARTICLE I

FORM OF GOVERNMENT AND POWERS

SECTION 1.01 Establishment

The City of Buda shall have a “Council-Manager” form of government. All powers of the City shall be vested in the Council, hereinafter referred to as the "City Council," which shall enact local legislation, adopt budgets, determine policies and appoint the City Manager. The City Manager shall answer to the City Council for the execution of the laws and the administration of the government of the City. All powers of the City shall be exercised in the manner prescribed by the laws of the State of Texas, this Charter and as may be prescribed by ordinance.

SECTION 1.02 General Powers

The City of Buda shall have the power of local self government to the fullest extent permitted by law. The City shall have all the powers granted to cities by the Constitution and Laws of the State of Texas together with all of the implied powers necessary to carry into execution those powers and those express and implied powers necessary for the government, interests, health, welfare and good order of the City and its inhabitants. All powers shall be exercised and enforced in the manner prescribed by the laws of the State of Texas, in this Charter and the City’s ordinances.

SECTION 1.03 Intergovernmental Relations

The City of Buda may exercise any of its powers or perform any of its functions, and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise with the Government of Texas or any agency thereof, or with the Federal Government or any agency thereof, or with the government of any county, city or political subdivision to accomplish any lawful municipal purpose.

SECTION 1.04 Eminent Domain

The City shall have the full power and right to exercise the power of eminent domain when necessary or desirable to carry out any of the powers conferred upon it by this Charter or by the Constitution and laws of the State of Texas. The City shall have and possess the power of condemnation for any municipal or public purposes even though not specifically enumerated in this Charter, except the power to take private property under the circumstances described in Tex. Gov’t Code §2206.001 as it presently exist or may hereafter be amended.

ARTICLE III

THE CITY COUNCIL AND MAYOR

SECTION 3.01 General Powers and Duties

All powers of the City shall be vested in the City Council, except as otherwise provided by law or this Charter and the City Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the City by law.

SECTION 3.02 Number, Selection, and Term

The City Council shall be composed of the Mayor and six (6) Council members. The Mayor and Council members shall be elected from the City at large for three (3) year terms. Each Council member shall occupy a place on the Council, such places being numbered 1 through 6. Each year two Council places shall be elected for their respective terms except as set forth in the transitional provisions hereinafter set forth.

SECTION 3.03 Qualifications

The Mayor and each Council member shall meet the following:

1. Be a qualified voter in the City and State at the time of taking office;
2. Be a resident of the City;
3. Have resided continuously in the corporate limits of the City for 12 months immediately preceding the date of the election;
4. Not be in violation of any provision in this Charter;
5. Be 21 years of age or older on the first day of the term to be filled at the election;
and
6. Satisfy any other eligibility requirements prescribed by law for the office for which they are a candidate.

SECTION 3.04 Judge of Qualifications

The City Council is the final judge of all elections and the qualifications of its members and of any other elected officials of the City.

SECTION 3.05 Compensation

Each Councilmember shall be paid fifty dollars (\$50.00) per meeting, and the Mayor shall be paid seventy-five dollars (\$75.00) per meeting. Any future increases in compensation for City Council and the Mayor may be set by ordinance by the City Council. When a Council member or Mayor votes for an increase in compensation that increase shall not be effective for that Mayor or Council member until they have been elected at a subsequent election, but it shall be effective for any Council member or Mayor elected after the adoption of the increase in compensation. In addition, each Councilmember shall be entitled to reimbursement for his/her actual and necessary expenses incurred in the performance of his/her specific official duties of office. Said expenses shall be subject to the approval of the council. The policy regulating payment of expenses incurred in performance of official duty shall be determined by the City Council by Resolution.

SECTION 3.06 Mayor

The Mayor shall be the presiding officer of the City Council and shall be recognized as the head of the City government for all ceremonial purposes, for emergency management purposes, and by the governor for purposes of military law. The Mayor may debate and discuss any matters before the City Council and shall vote on all issues with the City Council. The Mayor shall, when authorized as necessary by the City Council, sign all official documents. The Mayor shall appoint, with the advice and consent of the City Council, the members of citizen advisory boards and commissions, whose conditions of membership shall have been set previously by ordinance.

The Mayor shall have no veto power.

ARTICLE V

ADMINISTRATIVE ORGANIZATION

SECTION 5.01 City Manager

A. **Appointment and Qualifications.** The City Council shall appoint a City Manager who shall be the chief administrative and executive officer of the City and shall be responsible to the City Council for the administration of all the affairs of the City. The City Manager shall be chosen by the City Council solely on the basis of the City Manager's executive and administrative training, experience and ability. No member of the City Council shall, during the term to which they are elected and for one year thereafter, be appointed City Manager.

B. **Term and Compensation.** The City Manager shall be appointed for an indefinite term, and may be removed at the discretion of the City Council by an affirmative vote of five (5) members of the City Council. The action of the City Council in suspending or removing the City Manager shall be final, it being the intention of this Charter to vest all authority and fix all responsibility of such suspension or removal in the City Council. The City Manager shall receive compensation as may be fixed by the City Council.

C. **Powers and Duties.** The City Manager shall have the following powers and duties:

1. The City Manager shall appoint and, when the City Manager deems it necessary for the good of the City, may suspend or remove any City employee except as otherwise provided by law, this Charter, or personnel rules adopted pursuant to this Charter. The City Manager may authorize any employee who is subject to the City Manager's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.
2. The City Manager shall direct and supervise the administration of all departments, officers, and agencies of the City, except as otherwise provided by this Charter or by law.
3. The City Manager shall attend all City Council meetings, except when excused by the Mayor or Mayor Pro-Tem, and shall have the right to take part in discussion but may not vote.
4. The City Manager shall see that all laws, provisions of this Charter and acts of the City Council, subject to enforcement by the City Manager or by Employees subject to the City Manager's direction and supervision, are faithfully executed.

5. The City Manager shall prepare and submit the annual budget and capital program to the City Council.
6. The City Manager shall administer the annual budget and capital program.
7. The City Manager shall ensure that the City Comprehensive Plan is maintained and all changes approved by the City Council.
8. The City Manager shall submit to the City Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year.
9. The City Manager shall make such other reports as the City Council may require concerning the operations of the City departments, offices and agencies subject to the City Manager’s direction and supervision.
10. The City Manager shall keep the City Council fully advised as to the financial condition and future needs of the City and make such recommendations to the City Council concerning the affairs of the City as the City Manager deems desirable.
11. The City Manager shall keep a written inventory of all real property and all permanent equipment belonging to the City, said inventory to be subject to annual audit. A system shall be established to control the use and replacement of expendable items.
12. The City Manager shall have the authority to execute on behalf of the City, standard form documents, including but not limited to deeds, releases of liens, rental agreements, easements, right-of-way agreements, joint use agreements, and other similar documents, under the following conditions:
 - a. The execution of the document is necessary to carry out a public works project; utilize, maintain or improve a City facility, street, right-of-way, easement, park or other City property, or to implement other City policies; provided that such project, program or policy has been approved by the City Council;
 - b. That all blanks are filled in on any document correctly and that such document is consistent with the objectives approved by the City Council; and
 - c. That the form of such document shall be approved by the City Attorney.
13. The City Manager shall perform such other duties as are specified in this Charter or may be required by the City Council.

D. **Acting City Manager.** By letter filed with the City Secretary the City Manager shall designate, subject to approval of the City Council, a qualified employee to exercise the powers and perform the duties of City Manager during the City Manager’s temporary absence or disability. The City Council may revoke such designation at any time and appoint another employee of the City to serve until the City Manager shall return or his disability shall cease.

SECTION 5.02 Other Departments, Offices, and Agencies

A. **General Provisions.**

1. **Creation of Departments.** The City Council may continue or establish City departments, offices or agencies in addition to those created by this Charter and may prescribe the functions of all departments, offices and agencies, except that no function assigned by this Charter to a particular department, office or agency may be discontinued or, unless this Charter specifically so provides, assigned to another department.
2. **Direction by City Manager.** All departments, offices and agencies under the direction and supervision of the City Manager shall be administered by an employee appointed by and subject to the direction and supervision of the City Manager. With the consent of Council, the City Manager may serve as the head of one or more such departments, offices or agencies or may appoint one person to serve as the head of two or more of them.

B. **City Attorney.** The City Manager shall appoint a City Attorney for an indefinite term and fix the City Attorney’s compensation. The City Attorney must be a member of the State Bar of Texas. The City Attorney shall serve as chief legal advisor to the City Council, the City Manager, directors of City departments and other City officers and agencies. The City Attorney shall represent the City in all legal proceedings and shall perform any other duties prescribed by this Charter, ordinance or State Laws.

C. **Municipal Court; Judge(s).** The City Council shall establish a municipal court and shall appoint a presiding judge(s) and any such other associate judge(s) as are deemed necessary and fix the compensation therefore. The judge(s) of the municipal court shall serve at the will and pleasure of the City Council, unless otherwise provided by law.

D. **City Secretary.** The City Manager shall appoint the City Secretary. The City Secretary, or their designee, shall give notice of City Council meetings, shall keep the minutes of the proceedings of such meetings, shall authenticate by signature all ordinances and resolutions, and shall perform such other duties as the City Manager shall assign and those elsewhere provided for in this Charter

E. **Department of Taxation.** There shall be established a Department of Taxation to assess and collect taxes, the head of which shall be the City Tax Assessor-Collector, which office shall be filled by appointment by the City Manager with concurrence of the City Council.

The City Tax Assessor-Collector shall give a surety bond for faithful performance of his duties, including compliance with all controlling provisions of the State Law bearing upon the functions of his office, in a sum which shall be fixed by the City Council at not less than fifty thousand dollars (\$50,000.00).

The City Council may, in the interest of economy and efficiency, contract with another political subdivision to handle the assessment and/or collection of taxes. The City Tax Assessor-Collector may be removed from office by the City Manager with the concurrence of the City Council.

SECTION 5.03 Personnel Rules

The City Manager shall be responsible for the preparation of personnel rules, which rules shall be submitted by the City Manager to the City Council. The City Council may accept and adopt such rules as proposed or may adopt them with such amendments as the City Council deems necessary or may reject them in their entirety and direct the City Manager to further consider the rules and present new proposals at a subsequent meeting.

SECTION 5.04 Freedom From Interference

It shall be unlawful for the City Council or any of its members to dictate to the City Manager the appointment of any person to office or employment. The City Council or its members will not interfere in any manner with the City Manager in the performance of the duties of that office or prevent the City Manager from exercising the City Manager's own judgment in the appointment of officers and employees whose employment, appointment, and supervision are reserved by this Charter for the City Manager. Except for the purpose of inquiry and investigations, the City Council and its members shall deal with the City Staff solely through the City Manager, and neither the City Council, as a body or any individual member, nor any individual not having administrative or executive functions under this Charter shall give orders to any of the subordinates of the City Manager, either publicly or privately.

ARTICLE VI

FINANCIAL PROCEDURES

SECTION 6.01 Fiscal Year

The fiscal year of the City shall begin on the first day of October and end on the last day of September.

SECTION 6.02 Preparation and Submission of Budget

The City Manager shall submit a proposed budget containing a complete financial plan for each fiscal year. Such a budget shall be submitted to the City Council not more than one hundred twenty (120) days but not less than sixty (60) days prior to the beginning of each fiscal year. The budget shall contain the following:

- (a) A brief budget message which shall outline the proposed financial policies of the City for the fiscal year, shall set forth the reasons for any major changes in expenditure and revenue items from the previous fiscal year, and shall explain any major change in financial policies.
- (b) Revenue Summary
- (c) Departmental Expenditure Summary
- (d) Departmental Budget
- (e) Schedule of Outstanding Bonded Debt
- (f) Schedule of Capital Outlays by Department
- (g) Review of Property Valuations
- (h) An Analysis of Tax Rates
- (i) Tax Levies and Tax Collection by Year for the Last Three (3) Years
- (j) A Provision for Financing the Current Capital Improvement Program

In preparing the budget, the City Manager shall place in parallel columns opposite the several items of revenues and expenditures, the actual amount of each item for the last complete fiscal year, the estimated amount for the current fiscal year, and the proposed amount for the ensuing fiscal year.

SECTION 6.03 Council Action on Budget

A. **Notice of Hearings.** The City Council shall have published in the official newspaper(s) of the City a notice stating:

- (1) The time and place where copies of the budget are available for inspection by the public, and
- (2) The time and place, not less than two (2) weeks after such publication, for a public hearing on the budget.

B. **Amendment before Adoption.** After the public hearing, the City Council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service, provided that no amendment to the budget shall increase expenditures to an amount greater than the estimated income.

C. **Adoption.** The City Council shall adopt the budget on or before the 20th day of the last month of the fiscal year currently ending. If it fails to adopt the budget by this date, the amounts appropriated for current operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items in it pro-rated accordingly, until such time as the City Council adopts a budget for the ensuing fiscal year. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated and shall constitute a levy of the property tax therein proposed.

SECTION 6.04 Budget Amendments after Adoption

A. **Supplemental Appropriations.** If, during the fiscal year, the City Manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the City Council may make supplemental appropriations for the year up to the amount of such excess.

B. **Emergency Appropriations.** To meet a public emergency affecting life, health, property or the public peace, the Council may make emergency appropriations. To the extent that there are no available unappropriated revenues to meet such appropriations, the Council may by such ordinance authorize the issuance of emergency notes, which may be renewed as necessary.

C. **Reduction of Appropriations.** If at any time during the fiscal year it appears probable to the City Manager that the revenues available will be insufficient to meet the amount appropriated, he shall report to the City Council without delay, indicating the estimated amount of the deficit, any remedial action taken by him and his recommendations as to any other steps to be taken. The City Council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may reduce one or more appropriations.

D. Transfer of Appropriations. At any time during the fiscal year the City Manager may transfer part or all of any unencumbered appropriation balance among programs within a fund department, office or agency and, upon written request by the City Manager, the City Council may transfer part or all of any unencumbered appropriation balance from one fund department, office or agency to another.

E. Limitations; Effective date. No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

SECTION 6.05 Balanced Budget

The total of proposed expenditures shall not exceed the total of estimated income.

SECTION 6.06 Lapse of Appropriations

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned; the purpose of any such appropriation shall be deemed abandoned if three (3) years pass without any disbursement from or encumbrance of the appropriation.

SECTION 6.07 Payments and Obligations Prohibited

No payment shall be made or obligation incurred against any allotment or appropriation unless the City Manager or his designee first certifies that there is a sufficient unencumbered balance in such allotments or appropriations and that sufficient funds there from are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made illegal. Such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation, and he shall also be liable to the City for any amount so paid. However, except where prohibited by law, nothing in this Charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is made or approved by ordinance.

SECTION 6.08 Contracts and Purchase Procedure

The City Council may by ordinance set a maximum amount for which the City Manager shall be authorized to execute contracts and/or to expend funds for budgeted items; provided however, that all contracts and expenditures must comply with state laws requiring competitive bids. The City Council may by ordinance establish an amount above which all contracts or purchases must be approved in advance by the City Council. All contracts and purchases shall be handled in a

manner to obtain the best value for the City.

SECTION 6.09 General Obligation Debt and Certificates of Obligation

The City shall have the power to borrow money on the credit of the City and to issue general obligation bonds and certificates of obligation for permanent public improvements or for any other public purpose not prohibited by the Constitution and Laws of the State of Texas, and to issue refunding bonds to refund outstanding bonds of the City previously issued. All such bonds shall be issued in conformity with the Laws of the State of Texas.

SECTION 6.10 Revenue Bonds

The City shall have power to borrow money for the purpose of constructing, purchasing, improving, extending or repairing of public utilities, recreational facilities or any other self-liquidating municipal function not prohibited by the constitution and laws of the State of Texas, and to issue revenue bonds to evidence the obligation created thereby. Such bonds shall be a charge upon and payable solely from the properties, or interest therein pledged, or the income there from, or both, and shall never be a debt of the City. All such bonds shall be issued in conformity with the laws of the State of Texas.

ARTICLE VIII

PUBLIC UTILITIES AND FRANCHISES

SECTION 8.01 Powers of the City

The City of Buda shall have the full power, to the extent the same is conferred by the Constitution and Laws of the State of Texas, to own, lease, operate, prohibit, regulate and control any public utility within or without the limits of the City and to provide for the compensation and rental to be paid to the City by any public utility for the use of its streets, highways and public areas.

In addition to the City's power to buy, construct, lease, maintain, operate, and regulate public utilities and to manufacture, distribute, and sell the output of such utility operations, the City shall have such regulatory and other powers as may now or hereafter be granted under the Constitution and Laws of the State of Texas.

SECTION 8.02 Board of Directors

The City Council shall be and act as the Board of Directors of all utilities owned and operated by the City.

SECTION 8.03 Franchises

The City Council shall have power by ordinance to grant, renew and extend all franchises of public utilities of every character operating within the City and for such purposes is granted full power. The term "public utility" as used herein is construed to mean any person, firm or corporation furnishing to the public any general public service, including, but not limited to heat, light, gas, power, telephone service, communication services, community antenna or cable television service, sewer service and the treatment thereof, water, wrecker service, the carrying of passengers for hire, or any other public service whereby a right to, in part, appropriate or use the streets, highways, or other property of the City, as necessary or proper is granted. Any ordinance granting, renewing or extending franchises shall not take effect until at least thirty (30) days after its passage; and during such thirty (30) day period the descriptive caption of the ordinance shall be published at least twice in the official newspaper(s) of the City, the expense of the publication being borne by the proponents of the franchise.

SECTION 8.04 Franchise Value Not to be Allowed

Franchises granted by the City under this Charter shall be considered to be of no value in fixing reasonable rates and charges for utility service within the City, and in determining the just compensation to be paid by the City for public utility property which the City may acquire by condemnation or otherwise.

SECTION 8.05 Right of Regulation

All grants, renewals, extensions, or amendments of public utility franchises, whether so provided in the ordinance or not, shall be subject to the right of the City Council:

- (a) To repeal the same by ordinance at any time upon the failure of the grantee to comply with the terms of the franchise, the ordinance, this Charter, any applicable statute of the State of Texas, or the rule of any applicable governmental body, such power to be exercised only after written notice to the franchise holder stating wherein the franchise holder has failed to comply with the terms of the franchise, and if said default is not cured within a reasonable time such power shall be exercised only after the grantee has been given the opportunity for hearing.
- (b) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates.
- (c) To require such expansion, extension, and improvements of plants and facilities as are necessary to provide adequate service to the public; and to require that maintenance of facilities be performed at the highest reasonable standard of efficiency.
- (d) To prescribe the accounts and accounting system to be used by a franchise holder so that they will accurately reflect the value of the property used in rendering its service to the public; and the expenses, receipts, and profits of all kinds of such franchises. (It shall be deemed sufficient compliance with this paragraph if the franchisee keeps its accounts in accordance with the uniform system established by an applicable Federal or State agency for such service.) To examine and audit, at any reasonable time during regular business hours, the accounts and other records of any franchise holder; and to require annual and other reports including reports on operations within the City of Buda.
- (e) To impose such reasonable regulations and restrictions as may be deemed desirable or conducive to the health, safety, welfare, and accommodation of the public.
- (f) To require such compensation and rental as may be permitted by the Laws of the State of Texas.

- (g) To require that the franchise holder restore to the applicable City standards at that time, at his expense, all public and private property damaged or destroyed by construction, maintenance, or removal by such franchise holder.

SECTION 8.06 Extensions

All extensions of public utility service shall become a part of the aggregate property of the public utility, shall be operated as such, and shall be subject to all the obligations and reserved rights contained in this Charter. The extension of any public utility shall be considered as a part of the original grant and shall be terminable at the same time and under the same conditions as the original grant.

SECTION 8.07 Other Franchise Conditions

All franchises heretofore granted are recognized as contracts between the City of Buda and the grantee, and the contractual rights as contained in any such franchise shall not be impaired by the provisions of this Charter, except that the power of the City to exercise the right of eminent domain in the acquisition of any utility property is in all things reserved; and except that the general power of the City, heretofore existing and herein provided for to regulate the rates and services of a grantee, shall include the right to require proper and adequate extension of plant and service and the maintenance of the plant and equipment at the highest reasonable standard of efficiency. All franchises hereafter granted shall be held subject to all terms and conditions contained in the various sections of this article whether or not such terms are specifically mentioned in the franchise.

SECTION 8.08 Regulation of Rates and Service

The City Council subject to State and Federal laws shall have full power, after due notice and hearing, to regulate by ordinance the rates, charges, and fares of every public utility franchise holder operating in the City. Every franchise holder who shall request an increase in rates, charges or fares shall have, at a hearing of the Council called to consider such request, the burden of establishing by clear, competent, and convincing evidence the value of its investment property allocable to service in the City, the amount and character of its expenses and revenues connected with the rendering of such service, and any additional evidence required by the Council. If no agreement between the Council and the franchise holder can be reached on such request for an increase in rates, charges, or fares, the Council may select and employ rate consultants, auditors and attorneys to investigate and, if necessary, litigate such request. The franchise holder shall reimburse the City for its reasonable and necessary expenses so incurred and may be allowed to recover such expenses through its rates during the period of recovery if authorized to do so by the City Council.

ARTICLE IX

INITIATIVE, REFERENDUM AND RECALL

SECTION 9.01 General Authority

A. **Initiative.** The qualified voters of the City shall have power to propose ordinances to the City Council. Such power shall not extend to the budget or any capital program, or relating to appropriation of money, issuing of bonds, setting of utility rates and levy of taxes or salaries of City officers or employees, or any other ordinance not subject to initiative as provided by state statute or case law.

B. **Referendum.** The qualified voters of the City shall have power to require reconsideration by the City Council of any adopted ordinance. Such power shall not extend to the budget or any capital program, or relating to appropriation of money, issuing of bonds, setting of utility rates and levy of taxes or salaries of City officers or employees, or any other ordinance not subject to referendum as provided by state statute or case law.

C. **Recall.** The qualified voters of the City shall have the power to petition for recall of the Mayor or any member of the City Council.

SECTION 9.02 Commencement of Petition; Petitioners' Committee; Affidavit

Any three (3) qualified voters may commence initiative, referendum, or recall proceedings by filing with the City Secretary an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent and setting out in full the proposed initiative ordinance or citing the ordinances sought to be reconsidered, or the name of the Council member or Mayor to be recalled.

SECTION 9.03 Scope of Recall

Any elected City official, whether elected to office by qualified voters or appointed by the City Council to fill a vacancy, shall be subject to recall and removal from office by the qualified voters of the City on those grounds as set forth in Section 22.077 of the Texas Local Government Code as it may be amended from time to time.

SECTION 9.04 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 contain the number of valid signatures of qualified voters totaling at least thirty percent (30%) of the number of qualified voters registered to vote at the last general City election. Each signer of such recall petition shall personally sign their name thereto in ink or indelible pencil and shall write after their name their place of residence, giving the name of the street and the number, and shall also write thereon the day, the month and the year their signature was affixed.

SECTION 9.05 Form and Content of Recall Petition

All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall comply with Chapter 277 of the Texas Election Code as it may be amended from time to time. The petition shall be addressed to the City Council of the City and the content shall distinctly and specifically point to the ground upon which such petition for removal is predicated. Further, said petition shall state distinctly and specifically the alleged action(s) and the factual circumstance(s) surrounding such action(s) taken by the official that warrant the charge as to give the officer sought to be removed notice of the matter(s) and thing(s) with which the officer is charged. If there be more than one (1) ground, said petition shall distinctly and specifically state each ground upon which such petition for removal is predicated and shall distinctly and specifically state the alleged action(s) and the factual circumstance(s) surrounding such action(s) taken by the official that warrant the charges as to give the officer sought to be removed notice of the matter(s) and thing(s) with which the officer is charged. The signatures shall be verified by oath in the following form:

STATE OF TEXAS

COUNTY OF HAYS

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

Signature _____

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

NOTARY PUBLIC, STATE OF TEXAS

My commission expires:_____

SECTION 9.06 Certificate of City Secretary; Amendment; Presentation to Council; Council Review

A. Certificate of City Secretary. Within thirty (30) working days after the petition is filed, the City Secretary shall complete a certificate as to its sufficiency or insufficiency as mandated herein, specifying, if it is insufficient, the particulars wherein it is defective and shall within that thirty (30) working day period send a copy of the certificate to the petitioners' committee by certified mail or by hand delivery to a committee member.

B. Amendment. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the City Secretary within two (2) working days after receiving the copy of the certificate and files a supplementary petition upon additional papers within ten (10) days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of Section 9.05, and within five (5) working days after it is filed, the Secretary shall complete a certificate as to the sufficiency of the petition as amended and send a copy of such certificate to the petitioners' committee by certified mail or by hand delivery to a committee member as in the case of an original petition.

C. Presentation to Council. If a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend under Subsection B of this Section within the time required, the City Secretary shall at the next regular Council meeting present such certificate to the Council and the certificate shall then be a final determination as to the sufficiency of the petition.

SECTION 9.07 Public Hearing to be Held

The officer whose removal is sought may, within five (5) working days after such recall petition has been presented to the City Council, request that a public hearing be held to permit him/her to present the facts pertinent to the charges specified in the recall petition. In this event, the City Council shall order such public hearing to be held, not less than five (5) working days nor more than fifteen (15) working days after receiving such request for a public hearing.

SECTION 9.08 Calling of Recall Election

If the officer whose removal is sought does not resign, then the City Council shall for the next available election date, order an election for holding such recall election. If, after the recall election date is established, the officer vacates his/her position, the election shall be cancelled, in accordance with State Law.

SECTION 9.09 Ballots in Recall Election

Ballots used at recall elections shall conform to the following requirements:

- (1) With respect to each person whose removal is sought, the question shall be submitted: "Shall _____ be removed from the office of _____ by recall?"
- (2) Immediately below each such question, there shall be printed the following words, one above the other, in the order indicated:

"Yes"

"No"

SECTION 9.10 Result of Recall Election

If a majority of the votes cast at a recall election shall be "No", that is against the recall of the person named on the ballot, the officer shall continue in office for the remainder of his/her unexpired term, subject to recall as provided herein. If a majority of the votes cast at such election be "Yes", that is for the recall of the person named on the ballot, the officer shall, regardless of any technical defects in the recall petition, be deemed removed from office upon passing of the resolution canvassing the election, and the vacancy shall be filled by the City Council as provided in Section 3.08 subsection C of this Charter.

SECTION 9.11 Recall Restrictions

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

SECTION 9.12 Initiative; Petition; Procedure

(1) Following a review by the City Attorney for enforceability and legality, qualified voters of the City may initiate legislation by ordinance by submitting a petition addressed to the City Council, which requests the submission of the proposed ordinance to a vote of the qualified voters of the City. Said petition must contain the number of valid signatures totaling at least twenty percent (20%) of the total number of qualified voters registered to vote at the last general City election. Each copy of the petition shall have attached to it a copy of the full text of the proposed ordinance. The petition, its form and content, shall be the same as for recalls as provided in this Article. The certification of the City Secretary, and any amendment to the petition and its presentation to City Council shall be the same as for recalls as provided in this Article.

(2) When an initiative petition has been fully determined sufficient, the Council shall at their next regular Council meeting consider the proposed initiative ordinance in the manner provided in Article III. Upon presentation to the City Council, it shall become the duty of the City Council, within sixty (60) days after the date the petition was finally determined sufficient, to pass and adopt such ordinance without alteration as to meaning or effect, or to call for an election, to be held on a date allowed under the Texas Election Code, at which the qualified voters of the City shall vote on the question of adopting or rejecting the proposed ordinance. Unless otherwise provided by law, any election for an initiative under this Charter shall be held on the first authorized uniform election date that occurs after the seventieth (70th) calendar day after the City Council's decision to submit the ordinance to the voters.

(3) If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the Council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

SECTION 9.13 Referendum; Petition; Procedure; Effect Prior to Election

(1) Qualified voters of the City may require that any ordinance, with the exception of ordinances dealing with any budget or any capital program, or relating to appropriation of money, issuing of bonds, setting of utility rates and levy of taxes or salaries of City officers or employees, or any other ordinance not subject to referendum as provided by state statute or case law, passed by the City Council be submitted to the voters of the City for approval or disapproval, by submitting a petition for this purpose within sixty (60) days after the date the ordinance sought to be reconsidered was adopted.

Said petition must contain the number of valid signatures totaling at least twenty percent (20%) of the total number of registered voters qualified to vote at the last general City election. The petition, its form and content, shall be the same as for recalls as provided in this Article. The certification of the City Secretary, any amendment to the petition and its presentation to City Council shall be the same as for recalls as provided in this Article.

City Council shall either repeal the referred ordinance or submit the referred ordinance to the qualified voters of the City within thirty (30) days after the date the petition was finally determined sufficient.

(2) Pending the holding of such election, each ordinance or resolution shall be suspended from taking effect and shall not later take effect 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 seventieth (70th) day after the decision by the City Council.

(3) If a majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

SECTION 9.14 Voluntary Submission of Legislation by the City Council

The City Council, upon its own motion and by the affirmative vote of a majority of the full membership of the City Council, may submit to popular vote at an election for adoption or rejection any proposed ordinance or resolution or measure, or may submit for repeal any existing ordinance, or resolution, or measure, in the same manner and with the same force and effect as provided in this Article for submission of initiative and referendum petitions, and may, at its discretion, call for an election for this purpose on an authorized uniform election date as provided by State Law.

SECTION 9.15 Form of Ballots

The ballots used when voting upon initiative or referendum shall set forth their nature sufficiently to identify them and shall also set forth, upon separate lines, the words:

"For the Ordinance"

or

"Against the Ordinance"

SECTION 9.16 Ordinances Passed by Popular Vote, Repeal or Amendment

No ordinance which may have been passed by the City Council upon a petition or adopted by popular vote under the provisions of this Article may be repealed or amended by the City Council for a period of three (3) years from the date said ordinance became effective. An ordinance which may have been passed by the City Council upon a petition or adopted by popular vote under the provisions of this Article may be repealed or amended at any time in response to a referendum petition or by submission as provided by Section 9.14 of this Charter.

SECTION 9.17 Franchise Ordinances

Nothing contained in this Article shall be construed to be in conflict with any of the provisions of this Charter pertaining to ordinances granting franchises when valuable rights shall have accrued thereunder.