

**CHARTER COMMISSION MEETING**  
**FEBRUARY 4, 2015 AT 6:00 PM**  
**Richardson Civic Center/City Hall**  
**Large Conference Room, Suite 202**  
**411 W. Arapaho Road, Richardson, TX 75080**

The Charter Commission will conduct a meeting on Wednesday, February 4, 2015, at 6:00 p.m. in the Large Conference Room/City Manager's Office (Suite 202) of the Civic Center, 411 W. Arapaho Road, Richardson, Texas 75080.

As authorized by Section 551.071 (2) of the Texas Government Code, this meeting may be convened into closed Executive Session for the purpose of seeking confidential legal advice from the City Attorney on any agenda item listed herein.

**CALL TO ORDER**

1. Consider approval of the January 14, 2014 Charter Review Commission Meeting Minutes.
2. Discuss and take action as necessary regarding previously discussed City Charter, Article 6, *City Manager*, Article 7, *City Attorney – Municipal Court*, Article 8, *Administrative Departments*.
3. Review Richardson City Charter, Article 3, *City Council* and consider any recommendations for amendments thereto.
4. Review Richardson City Charter, Article 4, *Nomination and Election of City Council Members* and consider any recommendations for amendments thereto.
5. As necessary discuss planned review of Richardson Charter for next scheduled meeting.

**ADJOURN**

*I hereby certify that this notice was posted on the Civic Center/City Hall Bulletin Board on Friday, January 30, 2015 by 5:00 p.m.*

CITY OF RICHARDSON

\_\_\_\_\_  
Aimee Nemer, City Secretary

ACCOMMODATION REQUESTS FOR PERSONS WITH DISABILITIES SHOULD BE MADE AT LEAST 48 HOURS PRIOR TO THE MEETING BY CONTACTING SUSAN MATTISON, ADA COORDINATOR, VIA PHONE AT 972 744-0809, VIA EMAIL AT ADACoordinator@cor.gov, OR BY APPOINTMENT AT 1621 E. LOOKOUT DRIVE, RICHARDSON, TX 75082.

**MINUTES**  
**CHARTER REVIEW COMMISSION**  
**JANUARY 14, 2015 MEETING**

**CALL TO ORDER**

Chairman Dubey called the meeting to order at 6:02 p.m. with the following present:

Commissioners Present:

Bob Dubey, Chair  
Ron Taylor, Vice Chair  
Gerald Bright, Commissioner  
Helene Lee, Commissioner  
Jason Lemons, Commissioner  
Bill McCalpin, Commissioner  
John Murphy, Commissioner  
Kim Quirk, Commissioner  
Nancy Wilson, Commissioner  
Erica Yaeger, Commissioner

City Staff Present:

Shanna Sims-Bradish, Asst. City Manager  
Pete Smith, City Attorney  
Joe Gorfida, City Attorney's Office  
Aimee Nemer, City Secretary

Commissioners Absent:

Marta Frey, Commissioner

**Chair's Comments**

Chair Dubey thanked Commissioner Wilson for sending a video link on the Charter history. He also informed the Commissioners about the panel presentation to the Leadership Richardson class and explained that the Charter review process was discussed. Mr. Dubey also reviewed the rules of conduct.

**1. Consider approval of the December 17, 2014 Charter Review Commission Meeting Minutes.**

**Commission Action**

Commissioner Quirk moved to approve the Minutes as presented. Commissioner McCalpin seconded the motion. A vote was taken and passed, 10-0 with Commissioner Frey absent.

**2. Review City Attorney Opinion Memorandum regarding follow up items for Article 5.03, *Appeal* and Article 14.09, *Power of Referendum* and consider any recommendations for amendments thereto.**

**Commission Action**

**Section 5.03** – per the City Attorney's research, no additional recommendations were made.

**Section 14.09** – Commissioner McCalpin moved to approve as presented with recommended changes and the additional change of replacing the "thirty (30) days" rule with "forty-five (45) days in two occurrences of the first sentence; and, replacing the word "thereof" in the second to last sentence with "of the ordinance." Commissioner Wilson seconded the motion. A vote was taken and passed, 10-0 with Commissioner Frey absent.

**3. Review public comments submitted regarding Richardson City Charter, Article 5, *Recall of City Council Members* and consider any recommendations for amendments thereto.**

**Commission Action**

Commissioner Bright moved to approve as presented in the City Attorney memo dated January 14, 2015 (Subject: Response to Chenoweth email re: Charter Section 5.02) with recommended changes. Commissioner Lemons seconded the motion. A vote was taken and passed, 10-0 with Commissioner Frey absent.

**4. Review Richardson City Charter, Article 6, *City Manager* and consider any recommendations for amendments thereto.**

**Commission Action**

**Section 6.01** – Commissioner McCalpin moved to amend this section by adding a period after the word “time” in the second sentence, deleting the remaining sentence, deleting the first three words, “In any event” in the third sentence, and starting the third sentence with “The city manager”. Commissioner Bright seconded the motion. A vote was taken and passed, 10-0 with Commissioner Frey absent.

**Section 6.02** – Commissioner Murphy moved to approve this section as presented with recommended changes. Commissioner Bright seconded the motion. A vote was taken and passed, 10-0 with Commissioner Frey absent.

**Section 6.03** – Commissioner McCalpin moved to approve this section as presented with no recommended changes. Commissioner Yaeger seconded the motion. A vote was taken and passed, 10-0 with Commissioner Frey absent.

**Section 6.04** – Commissioner Yaeger moved to approve this section as presented with recommended changes. Commissioner Wilson seconded the motion. A vote was taken and passed, 10-0 with Commissioner Frey absent.

**Section 6.05** – Commissioner Murphy moved to approve this section as presented with recommended changes. Commissioner Lemons seconded the motion. A vote was taken and passed, 10-0 with Commissioner Frey absent.

**Section 6.06** – Commissioner McCalpin moved to amend the first sentence to read, “The city manager shall be accountable to the council for the proper administration of the city.”; to relocate this sentence to be the second sentence in Section 6.01; to delete the remaining Section 6.06; and to renumber Sections 6.07 and 6.08 accordingly. Commissioner Yaeger seconded the motion. A vote was taken and passed, 10-0 with Commissioner Frey absent.

**Section 6.07** – Commissioner McCalpin moved to approve this section as presented with no recommended changes noting that this section is now numbered 6.06. Commissioner Lee seconded the motion. A vote was taken and passed, 10-0 with Commissioner Frey absent.

**Section 6.08** – Commissioner Lemons moved to approve this section as presented with no recommended changes noting that this section is now numbered 6.07. Commissioner Murphy seconded the motion. A vote was taken and passed, 10-0 with Commissioner Frey absent.

**5. Review Richardson City Charter, Article 7, *City Attorney – Municipal Court* and consider any recommendations for amendments thereto.**

**Commission Action**

**Section 7.01** Commissioner Lemons moved to approve this section as presented with recommended changes. Commissioner Murphy seconded the motion. A vote was taken and passed, 10-0 with Commissioner Frey absent.

**Section 7.02** Commissioner McCalpin moved to approve this section as presented with no recommended changes. Commissioner Lee seconded the motion. A vote was taken and passed, 10-0 with Commissioner Frey absent.

**Section 7.03** – Commissioner Murphy moved to approve this section as presented with no recommended changes. Commissioner Wilson seconded the motion. A vote was taken and passed, 10-0 with Commissioner Frey absent.

**Section 7.04** - Commissioner Bright moved to approve this section as presented with no recommended changes. Commissioner Lemons seconded the motion. A vote was taken and passed, 10-0 with Commissioner Frey absent.

**Section 7.05** – Commissioner Murphy moved to delete this section in its entirety. Commissioner Yaeger seconded the motion. A vote was taken and passed, 10-0 with Commissioner Frey absent.

**Section 7.06** – Commissioner McCalpin moved to delete this section in its entirety. Commissioner Lemons seconded the motion. A vote was taken and passed, 10-0 with Commissioner Frey absent.

**Section 7.07** – Commissioner McCalpin moved to approve this section as presented with no recommended changes. Commissioner Bright seconded the motion. A vote was taken and passed, 10-0 with Commissioner Frey absent.

**Section 7.08** - Commissioner McCalpin moved to approve this section as presented with no recommended changes. Commissioner Lee seconded the motion. A vote was taken and passed, 10-0 with Commissioner Frey absent.

**Section 7.09** – Commissioner Murphy moved to delete this section in its entirety. Commissioner Bright seconded the motion. A vote was taken and passed, 10-0 with Commissioner Frey absent.

**Note** – *Section 7 will be renumbered accordingly with the deletion of sections.*

#### **Recess**

Chair Dubey called for a brief recess at 7:54 p.m. He reconvened the meeting at 7:59 p.m.

### **6. Review Richardson City Charter, Article 8, *Administrative Departments* and consider any recommendations for amendments thereto.**

#### **Commission Action**

**Section 8.01** – Commissioner Murphy moved to approve as presented with no recommended changes. Commissioner Bright seconded the motion. A vote was taken and passed, 10-0 with Commissioner Frey absent.

**Section 8.02** – Commissioner Yaeger moved to approve as presented with recommended changes. Commissioner Lemons seconded the motion. A vote was taken and passed, 10-0 with Commissioner Frey absent.

**Section 8.03** – Commissioner Yaeger moved to approve as presented with recommended changes and an additional change of making “City Manager” lowercase in the first sentence, second occurrence. Commissioner Wilson seconded the motion. A vote was taken and passed, 10-0 with Commissioner Frey absent.

### **7. As necessary discuss planned review of Richardson Charter for next scheduled meeting.**

Chair Dubey reminded Commissioners of the next scheduled meeting on February 4, 2015 to review Articles 3 and 4.

**ADJOURN**

With no further business, Commissioner Bright moved to adjourn the meeting. Commissioner McCalpin seconded the motion. A vote was taken and passed, 10-0 with Commission Frey absent.

ATTEST:

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Bob Dubey, Chair

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CITY SECRETARY

**PGS 1-29-15**

The Texas Election Code applies to the election and qualifications of candidates for election to the city council. Included in your packet are excerpts from the Texas Election Code.

**RICHARDSON CHARTER  
(Articles 3 & 4)**

**ARTICLE 3. - CITY COUNCIL**

**Section 3.01. - Number, election, terms.**

- (a) Except as otherwise provided by this ~~charter~~ ~~Charter of the City of Richardson~~, all powers conferred on the ~~City~~ city shall be exercised by a ~~City Council~~ city council consisting of seven (7) members comprised of a mayor and six (6) council ~~to be composed of six (6) members and a Mayor, nominated and elected in the manner hereafter provided.~~ The members of ~~the city council~~ ~~the City Council and the Mayor~~ shall each be elected by the qualified voters of the entire City to numbered places in the manner provided in this charter ~~and they shall each be elected~~ for a term of two (2) years and until a successor is elected and qualified. As used in this charter, unless the context clearly means otherwise, the word or phrase "city council", "council", "member of the city council", "members of the city council, and "members of the council means and includes the mayor and the six (6) council members. The word or phrase "councilmember" or "members" means the six (6) members of the city council excluding the mayor, unless the context clearly indicates otherwise.
- (b) No person elected or appointed to the city council at the May 2009 city officer election or thereafter, shall serve as a member of the city council in any place for more than six (6) consecutive terms until at least one full term shall have elapsed from the expiration of such person's last term of office.
- (c) For purposes of this section and in computing term limits:
- A member of the council, who resigns or vacates office prior to the expiration of the term for which such person was elected or appointed, shall be deemed to have served a full term.
  - A person appointed or elected to fill a vacancy on the council for an unexpired term shall be deemed to have served a full term if fifty percent (50%) or more of such term is remaining at the time of such appointment or election.

Comment [p1]: Amendment to clarify that the governing body consists of a mayor and 6 council members.

**Section 3.02. - Mayor.**

The ~~Mayor~~ mayor shall be the presiding officer. The mayor shall vote on all matters coming before the council, shall have no power of veto, shall represent the city on all ceremonial occasions and ~~shall~~ shall be known as the official head of the government. The mayor shall serve for a period of two (2) years.

Comment [p2]: Remove capitalization to be consistent

Comment [p3]: Remove editor brackets

Comment [p4]: The citizen initiated election omitted "shall".

**Section 3.03. - Mayor pro tem.**

The city council shall elect one (1) of its members as mayor pro tem, who shall perform the duties of mayor in case of the absence or inability of the mayor to perform the duties of office,

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**The Texas Election Code applies to the election and qualifications of candidates for election to the city council. Included in your packet are excerpts from the Texas Election Code.**

and who shall for such time be vested with all the powers belonging to the mayor. In case of the absence of both the mayor and the mayor pro tem, the remaining councilmembers shall select one (1) of their members to act in the place of the mayor. The mayor pro tem shall be selected after each biennial election and shall serve for a period of two (2) years, subject to removal as mayor pro tem at any time by a vote of two-thirds of the total membership of the council. ~~Upon a vacancy in the Mayor's position, the Mayor Pro Tem shall fill the unexpired term. The Mayor Pro Tem's council position then becomes vacant.~~

### Section 3.04. - Compensation.

Each member of the city council shall receive as compensation the sum of fifty dollars (\$50.00) per diem for each ~~regular~~ city council meeting attended by such member, said compensation in no event to exceed the sum of two thousand six hundred dollars (\$2,600.00) per annum. In addition to the above, all necessary expenses incurred by members of the city council in the performance of their official duties shall be paid by the city.

### Section 3.05. - No council interference.

Neither the council nor any of its committees or members shall dictate or attempt to dictate the appointment of any person to, or removal from, office or employment by the city manager or any of the manager's subordinates, or in any manner interfere in the appointment of officers and employees in the departments of administrative service vested in the city manager ~~by~~ this Charter. Except for the purpose of inquiry, the council and its members shall deal with that part of the administrative service for which the city manager is responsible solely through such city manager and neither the council nor any member thereof shall give orders to any of the subordinates of the city manager in said departments, either publicly or privately.

### Section 3.06. - Council misconduct.

Willful violation of any provision of this ~~Charter~~ charter by any member of the council shall constitute official misconduct, and shall authorize the council, by a vote of two-thirds of the total membership, to expel such offending member from the council, if found guilty after a public hearing, and thereby create a vacancy in the place held by such member.

### Section 3.07. - Council~~member~~ vacancies.

Vacancies in the city council, where the same do not exceed two (2) at any one time, shall be filled by a majority vote of the remaining members of the council, and the persons selected to fill such vacancies shall serve ~~only until the next general city council election. A vacancy filled[,] as in the case of an original election, shall be only~~ for the unexpired period of the term of the ~~councilmember~~ member of the council whose office is to be filled. Where more than two (2) vacancies shall develop at any one time, then a special election shall be called to elect their successors to fill their unexpired terms; provided, that if such vacancies shall occur within sixty (60) days before a general city council election, then no special election to fill such vacancies shall be called; ~~but~~ in that event, ~~the~~ the remaining members of the ~~Council~~ council shall, by a

Comment [p5]: Made capitalization consistent  
Since the mayor is directly elected by the people the place of mayor position would be filled by appointment or an election; the mayor pro tem does not assume the office of mayor

Comment [p6]: Removed "regular" so that it is clarified that for each meeting whether work session or regular meeting the per diem is paid.

Comment [p7]: Added 'city' to be consistent.

Comment [p8]: Made capitalization consistent

Comment [p9]: Clarified section title to refer to all members of the council.

Comment [p10]: Clarified and made language consistent so reference is to mayor or council members. Eliminate unnecessary language.

Comment [p11]: Made capitalization consistent. Removed editors brackets.

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The Texas Election Code applies to the election and qualifications of candidates for election to the city council. Included in your packet are excerpts from the Texas Election Code.

majority vote, fill such vacancies; and the persons so selected shall serve only until the next general city council election, when such vacancies shall be filled, as in the case of an original election.

### Section 3.08. - ~~Meetings~~Regular meetings.

All meetings of the council shall be held in the City Hall or at such other locations as may be designated by the city council and at such times as may be prescribed by ~~council ordinance or resolution; but~~ not less than two (2) ~~regular~~ meetings shall be held each month, unless ~~cancelled by the council~~ postponed for valid reasons.

Comment [p12]: Removed requirement for ordinance or resolution as being unnecessary.

Comment [p13]: Eliminated use of postponement and valid reasons as council would not cancel meeting unless there is good reason. Recommend deleting reference to "regular" to eliminate any confusion. A meeting whether it is a regularly scheduled meeting, a special called meeting or a workshop meeting is a meeting of the council.

Comment [p14]: Added clarifying language.

### Section 3.09. - Special meetings.

Special meetings of the city council shall be called by the city secretary upon the written request of the mayor, the city manager or three (3) members of the council. Any such notice shall state the subject to be considered at the special meeting and no other subject shall be ~~considered~~.

### Section 3.10. - Open meetings.

All meetings of the city council and all committees consisting of members of the council, ~~thereof~~ shall be open to the public except as otherwise permitted by state law, and the rules of the city council shall provide that citizens of the city shall have a reasonable opportunity to be heard at any ~~such~~ open meetings of the city council, in regard to any matter there ~~considered~~.

Comment [p15]: Clarified the right of the public to be heard at open portion of council meeting, and not committee meetings consisting of the council. Not a substantive change but citizens have misconstrued this section.

### Section 3.11. - Quorum.

A quorum shall consist of five (5) members of the council, ~~except~~ where the number of members of the council ~~councilmembers~~, due to vacancies, is reduced to less than five (5), in which event a quorum shall consist of all of the remaining members of the council ~~councilmembers; but a less number than a quorum may adjourn from time to time and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance.~~

Comment [p16]: Clarified that any 5 including the mayor is counted for purposes of a quorum.

Comment [p17]: If less than a quorum the council may not meet. Eliminated rest of text as being unnecessary and covered by section 3.12.

Comment [p18]: May want to consider reducing number for quorum from 5 to 4. Many cities with a 7 member governing body the quorum is 4.

### Section 3.12. - Voting and rules of procedure.

The yes and no votes shall be taken on the passage of all ordinances or resolutions and entered in the minutes of the proceedings of the council, and every ordinance or resolution shall require for final passage the affirmative vote of a majority of the members of the council present. No member of the council shall be excused from voting except on matters involving the consideration of ~~the~~ such member's own official conduct, or where such member's financial interests are involved, unless otherwise required by law. The council shall determine its own rules of procedure, may punish ~~its~~ members of the council for misconduct, and may compel the attendance of absent ~~members~~ of the council.

Comment [p19]: Clarified language. So no doubt that the mayor is also included.

### Section 3.13. - Summoning witnesses.



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**The Texas Election Code applies to the election and qualifications of candidates for election to the city council. Included in your packet are excerpts from the Texas Election Code.**

The city council shall have power to summon and compel the attendance of witnesses and the production of books and papers before it whenever it may be necessary for the more effective discharge of its duties, and shall have the power to punish for contempt before it with the same fines and penalties as the county judge may punish for contempt before the county court. All processes shall be signed by the mayor, attested by the city secretary and shall be served by the chief of police or any police officer of the said city.

### **Section 3.14. - Administering oaths.**

The mayor, city secretary, city judge, city attorney, or any member of the city council shall have authority to administer oaths in any matter pertaining to the municipal affairs.

### **Section 3.15. - City secretary.**

The council shall appoint a city secretary and prescribe the duties and compensation of said officer. The city secretary shall hold office at the pleasure of the council.

## **ARTICLE 4. - NOMINATION AND ELECTION OF CITY COUNCILMEMBERS**

### **Section 4.01. - Number and description of districts.**

The city is hereby divided into four (4) districts, known as Districts 1, 2, 3 and 4 **established by ordinance of the city from time to time.** All boundaries described **in such ordinance** below are the centerlines of designated streets:

- ~~• District No. 1 lies east of US 75. The southern boundary is the southern city limit; the eastern boundary is the eastern city limit; the northern boundary starting at the eastern limit of the city is Belt Line Road, west to Plano Road, north on Plano Road to the extension of Lookout Drive, and west on the extension of Lookout Drive to US 75, and includes all of the city lying within the described boundaries.~~
- ~~• District No. 2 lies east of US 75. The southern boundary is the northern boundary of District No. 1, the eastern boundary is the eastern city limit, and the northern boundary is the northern city limit.~~
- ~~• District No. 3 lies west of US 75. The southern boundary is the southern city limit. The western boundary is the western city limit, and the northern boundary starting at US 75 is Arapaho Road, west to the west fork of Cottonwood Creek, north on Cottonwood Creek to Campbell Road, and west on Campbell Road to the western city limit.~~
- ~~• District No. 4 lies west of US 75. The southern boundary is the northern boundary of District No. 3, and the western boundary is the western city limit, and the northern boundary is the northern city limit.~~

### **Section 4.02. - Designated places.**

Comment [p20]: Council is required by the charter and Federal law to adjust the boundaries. The council has adopted ordinances establishing the boundaries from time to time.

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The Texas Election Code applies to the election and qualifications of candidates for election to the city council. Included in your packet are excerpts from the Texas Election Code.

The places of the several councilmembers shall be designated as Places No. 1, 2, 3, 4, 5 and 6. ~~Councilmembers~~ Council members in Places 1, 2, 3 and 4, shall reside in their correspondingly numbered districts and remain in that district for the period of time that they serve in that place. The ~~mavor~~ Mayor (Place 7) and council members ~~Councilmembers~~ in Places 5 and 6, may reside in any district. The council place for the ~~Mayor~~ mavor shall be designated as Place 7. All six (6) councilmembers and the ~~mavor~~ Mayor shall be elected by all of the qualified voters of the city.

Comment [p21]: Corrected capitalization to be consistent.

### Section 4.03. - District revisions.

The city council shall appoint a commission, starting in January 1992 and every ten (10) years thereafter, to review the district boundaries in order to maintain a substantial equality of population in each district. They shall advise the city council, who shall within six (6) months of appointment fix the boundaries by ordinance, if necessary. The commission shall be made up of voters from all the districts of the city.

### Section 4.04. - Qualifications.

Each member of the city council shall, in addition to the other qualifications prescribed by law, be ~~at on~~ on the date of the ~~member's~~ election a qualified ~~registered~~ voter, a resident of the city for one (1) year ~~previous~~ prior to the date of election, and twenty-one (21) years of age, ~~and shall not be in arrears in the payment of any taxes or other liabilities due the city.~~

Comment [p22]: Changed registered to qualified voter. Eliminated arrears in taxes since Federal courts have held such provisions invalid.

### Section 4.05. - Election date.

The city council general election shall be held biennially in the City of Richardson in each odd-numbered year on the uniform election date in May or other date as may be ~~the second quarter on a date~~ prescribed by state law. There shall be elected at that election six (6) city ~~councilmembers~~ council members and the ~~mavor~~ Mayor.

Comment [p23]: Corrected capitalization to be consistent..

### Section 4.06. - Nomination by petition.

The method of determining the names of the candidates entitled to be placed upon the official ballot for election to the position of Mayor and members of the city council shall be by petition, separately circulated, on behalf of each proposed candidate for a place on the city council, the position of councilmember, and The petition must comply in all respects with the requirements of this charter and state law. ~~must be signed by the number of qualified voters as required by state law and filed with the city secretary not less than the number of days prescribed by state law prior to the election. Signers of such petitions shall write their residence address, county of registration, date signed, printed name and otherwise as prescribed by state law.~~ Each petition circulated on behalf of each proposed candidate shall designate the place to be filled by such candidate. In all elections the name of each candidate shall appear on the official ballot for the place number designated on the petition. No candidate's name shall be placed on the official ballot unless requested by a petition as set out above.

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The Texas Election Code applies to the election and qualifications of candidates for election to the city council. Included in your packet are excerpts from the Texas Election Code.

Section 4.07. - Official ballot.

The names of candidates for mayor and council members, except such as may have withdrawn, died or become ineligible, shall be printed on the official ballots without party designation and in the order ~~The city secretary shall make up the official ballot by place numbers from the names presented. The order in which the names of the candidates for each place shall appear on the ballot shall be~~ determined by lot, in a drawing held under the supervision of the city secretary conducted in accordance with the election laws of the State of Texas. The election shall be held in conformity with the election laws in the City of Richardson and the State of Texas, or with those that may be hereafter enacted. All members of the city council shall be elected by a vote of the qualified voters of the City of Richardson at large. All qualified voters in the city shall be entitled to vote for candidates for each place number.

Comment [p24]: Clarified the language as county election administrators prepare the ballots.

Section 4.08. - Election by majority.

The candidate for mayor ~~Mayor~~ and councilmember receiving a majority of all votes cast as provided in the ~~Charter~~ charter hereof for the position of mayor ~~Mayor~~ and councilmember under the place number which that person's name appears shall be declared the duly elected mayor ~~Mayor~~ and councilmember to hold such position. If no candidate for mayor ~~Mayor~~ or a council member ~~a place~~ shall receive a majority of all votes cast in an election for such place, a runoff election shall be called to be held on a date in accordance with the laws of the State of Texas for that place on the council. At this special election, only the names of the two (2) candidates receiving the highest number of votes at the regular election, for the place for which they are candidates, shall be printed on the ballot and submitted to the qualified voters for election. The candidate receiving the majority of votes in the special election for the place for which such person was a candidate shall be declared duly elected. Should one of such candidates for a place withdraw, die, or become ineligible, the other candidate for such place shall be declared elected to such place without a second election. Any tie shall be decided by lot in accordance with the election laws of the State of Texas. All elections shall be governed by the charter, the Texas Election Code and the laws applicable to municipal elections.

Comment [p25]: Made capitalization consistent and clarified the language and made consistent with state law.

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**~~Section 4.09. — Runoff election.~~**

- ~~a. *Candidates.* If no candidate for Mayor or a place on the city council receives a majority of votes cast for that place, the mayor of the city shall, according to state law, issue a call for a second election to be held on the day as authorized by state law. The two (2) candidates receiving the highest number of votes for a given place shall gain a place on the runoff election. Tie candidates in the general election shall be treated as specified by state law.~~
- ~~b. *Ballot.* The official ballot to be used at the runoff election shall be prepared by the city secretary. The order on the ballot shall be determined by a drawing.~~
- ~~c. *Withdrawal.* If either candidate in a runoff shall withdraw, that candidate shall make a request to the city secretary as specified by state law. If a runoff candidate withdraws, the remaining candidate is considered to be elected and the runoff election for that place is not held.~~

Comment [p26]: Eliminated as now covered by section 4.08 above.

**~~Section 4.10. — Tie election.~~**

~~In the event of a tie in the vote for the two (2) leading candidates for a place on the city council at the first election, a runoff election shall be held as provided for in the Charter. If a tie occurs between the two (2) candidates for a place on the city council in the runoff election, they shall cast lots to determine who shall be elected to office.~~

Comment [p27]: Eliminated since covered above.

# **ELECTION CODE**

## **TITLE 2. VOTER QUALIFICATIONS AND REGISTRATION**

### **CHAPTER 11. QUALIFICATIONS AND REQUIREMENTS FOR VOTING**

**Sec. 11.001. ELIGIBILITY TO VOTE.** (a) Except as otherwise provided by law, to be eligible to vote in an election in this state, a person must:

(1) be a qualified voter as defined by Section 11.002 on the day the person offers to vote;

(2) be a resident of the territory covered by the election for the office or measure on which the person desires to vote; and

(3) satisfy all other requirements for voting prescribed by law for the particular election.

(b) For a person who resides on property located in more than one territory described by Subsection (a)(2), the person shall choose in which territory the residence of the person is located. Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by:

Acts 2005, 79th Leg., Ch. 1107 (H.B. [2309](#)), Sec. 1.06, eff. September 1, 2005.

**Sec. 11.002. QUALIFIED VOTER.** (a) In this code, "qualified voter" means a person who:

(1) is 18 years of age or older;

(2) is a United States citizen;

(3) has not been determined by a final judgment of a court exercising probate jurisdiction to be:

(A) totally mentally incapacitated; or

(B) partially mentally incapacitated without the right to vote;

(4) has not been finally convicted of a felony or, if so convicted, has:

(A) fully discharged the person's sentence, including any term of incarceration, parole, or supervision, or completed a period of probation ordered by any court; or

(B) been pardoned or otherwise released from the resulting disability to vote;

(5) is a resident of this state; and

(6) is a registered voter.

(b) For purposes of Subsection (a)(4), a person is not considered to have been finally convicted of an offense for which the criminal proceedings are deferred without an adjudication of guilt.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 54, Sec. 23, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 16, Sec. 6.01, eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 916, Sec. 27, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 850, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 614 (H.B. [417](#)), Sec. 22, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 744 (H.B. [1226](#)), Sec. 1, eff. June 17, 2011.

#### **TITLE 4. TIME AND PLACE OF ELECTIONS**

##### **CHAPTER 41. ELECTION DATES AND HOURS FOR VOTING**

###### **SUBCHAPTER A. ELECTION DATES**

**Sec. 41.001. UNIFORM ELECTION DATES.** (a) Except as otherwise provided by this subchapter, each general or special election in this state shall be held on one of the following dates:

(1) the second Saturday in May in an odd-numbered year;

(2) the second Saturday in May in an even-numbered year, for an election held by a political subdivision other than a county; or

(3) the first Tuesday after the first Monday in November.

(b) Subsection (a) does not apply to:

(1) a runoff election;

(2) an election to resolve a tie vote;

(3) an election held under an order of a court or other tribunal;

(4) an emergency election ordered under Section 41.0011;

(5) an expedited election to fill a vacancy in the legislature held under Section 203.013;

(6) an election held under a statute that expressly provides that the requirement of Subsection (a) does not apply to the election; or

(7) the initial election of the members of the governing body of a newly incorporated city.

(c) Except for an election under Subsection (a) or Section 41.0011, an election may not be held within 30 days before or after the date of the general election for state and county officers, general primary election, or runoff primary election.

(d) Notwithstanding Section 31.093, a county elections administrator is not required to enter into a contract to furnish election services for an election held on the date described by Subsection (a)(2).

(e) Repealed by Acts 2005, 79th Leg., Ch. 471, Sec. 9, eff. October 1, 2005.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 7, eff. Sept. 1, 1987; Acts 1987, 70th Leg., 2nd C.S., ch. 60, Sec. 1, eff. Oct. 20, 1987; Acts 1991, 72nd Leg., ch. 389, Sec. 2, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 467, Sec. 1, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1219, Sec. 3, eff. June 20, 1997; Acts 1997, 75th Leg., ch. 1349, Sec. 20, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 19.01(15), eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 340, Sec. 2, eff. Sept. 1, 2001; Acts 2003, 78th Leg.,



ch. 1315, Sec. 14, eff. Jan. 1, 2004; Acts 2003, 78th Leg., 3rd C.S., ch. 1, Sec. 1, eff. Jan. 1, 2005.

Amended by:

Acts 2005, 79th Leg., Ch. 471 (H.B. [57](#)), Sec. 1, eff. October 1, 2005.

Acts 2005, 79th Leg., Ch. 471 (H.B. [57](#)), Sec. 2, eff. October 1, 2005.

Acts 2005, 79th Leg., Ch. 471 (H.B. [57](#)), Sec. 9, eff. October 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 519 (H.B. [2144](#)), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. [100](#)), Sec. 4, eff. September 1, 2011.

## **TITLE 9. CANDIDATES**

### **CHAPTER 141. CANDIDACY FOR PUBLIC OFFICE GENERALLY**

#### **SUBCHAPTER A. ELIGIBILITY FOR PUBLIC OFFICE**

##### **Sec. 141.001. ELIGIBILITY REQUIREMENTS FOR PUBLIC OFFICE.**

(a) To be eligible to be a candidate for, or elected or appointed to, a public elective office in this state, a person must:

(1) be a United States citizen;

(2) be 18 years of age or older on the first day of the term to be filled at the election or on the date of appointment, as applicable;

(3) have not been determined by a final judgment of a court exercising probate jurisdiction to be:

(A) totally mentally incapacitated; or

(B) partially mentally incapacitated without the right to vote;

(4) have not been finally convicted of a felony from which the person has not been pardoned or otherwise released from the resulting disabilities;

(5) have resided continuously in the state for 12 months and in the territory from which the office is elected for six months immediately preceding the following date:

(A) for a candidate whose name is to appear on a general primary election ballot, the date of the regular filing deadline for a candidate's application for a place on the ballot;

(B) for an independent candidate, the date of the regular filing deadline for a candidate's application for a place on the ballot;

(C) for a write-in candidate, the date of the election at which the candidate's name is written in;

(D) for a party nominee who is nominated by any method other than by primary election, the date the nomination is made; and

(E) for an appointee to an office, the date the appointment is made; and

(6) satisfy any other eligibility requirements prescribed by law for the office.

(b) A statute outside this code supersedes Subsection (a) to the extent of any conflict.

(c) Subsection (a) does not apply to an office for which the federal or state constitution or a statute outside this code prescribes exclusive eligibility requirements.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 614 (H.B. [417](#)), Sec. 28, eff. September 1, 2007.

**Sec. 141.003. AGE AND RESIDENCE REQUIREMENTS FOR HOME-RULE CITY OFFICE.** (a) Different age and residence requirements from those prescribed by Section 141.001 may be prescribed by a home-rule city charter, but a minimum age may not be more than 21 years and a minimum length of residence in the state or city may not be more than 12 months immediately preceding election day.

(b) A charter provision is void if it prescribes a minimum age requirement of more than 21 years or a minimum length of residence requirement of more than 12 months.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 141.033. FILING APPLICATIONS FOR MORE THAN ONE OFFICE PROHIBITED.** (a) A candidate may not file applications for a place on the ballot for two or more offices that:

(1) are not permitted by law to be held by the same person; and

(2) are to be voted on at one or more elections held on the same day.

(b) If a person files more than one application for a place on a ballot in violation of this section, each application filed subsequent to the first one filed is invalid.

(c) This section does not apply to candidacy for the office of president or vice-president of the United States and another office.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

#### **SUBCHAPTER C. PETITION**

**Sec. 141.061. APPLICABILITY OF SUBCHAPTER.** This subchapter applies to each petition filed in connection with a candidate's application for a place on the ballot.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 493, Sec. 1, eff. Sept. 1, 1987.

**Sec. 141.062. VALIDITY OF PETITION.** (a) To be valid, a petition must:

(1) be timely filed with the appropriate authority;

(2) contain valid signatures in the number required by this code; and

(3) comply with any other applicable requirements for validity prescribed by this code.

(b) A petition may consist of multiple parts.

(c) After the filing deadline:

(1) a candidate may not amend a petition in lieu of a filing fee submitted with the candidate's application; and

(2) the authority with whom the application is filed may not accept an amendment to a petition in lieu of a filing fee submitted with the candidate's application.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 254 (H.B. [1135](#)), Sec. 2, eff. September 1, 2011.

**Sec. 141.063. VALIDITY OF SIGNATURE.** (a) A signature on a petition is valid if:

(1) except as otherwise provided by this code, the signer, at the time of signing, is a registered voter of the territory from which the office sought is elected or has been issued a registration certificate for a registration that will become effective in that territory on or before the date of the applicable election;

(2) the petition includes the following information with respect to each signer:

(A) the signer's residence address;

(B) the signer's date of birth or the signer's voter registration number and, if the territory from which signatures must be obtained is situated in more than one county, the county of registration;

(C) the date of signing; and

(D) the signer's printed name;

(3) the part of the petition in which the signature appears contains the affidavit required by Section 141.065;

(4) each statement that is required by this code to appear on each page of the petition appears, at the time of signing, on the page on which the signature is entered; and

(5) any other applicable requirements prescribed by this code for a signature's validity are complied with.

(b) The signature is the only information that is required to appear on the petition in the signer's own handwriting.

(c) The use of ditto marks or abbreviations does not invalidate a signature if the required information is reasonably ascertainable.

(d) The omission of the state from the signer's residence address does not invalidate a signature unless the political subdivision from which the signature is obtained is situated in

more than one state. The omission of the zip code from the address does not invalidate a signature.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 1349, Sec. 52, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 726 (H.B. [1509](#)), Sec. 1, eff. September 1, 2005.

**Sec. 141.064. METHOD OF ACQUIRING SIGNATURE.** A person circulating a petition must:

(1) before permitting a person to sign, point out and read to the person each statement pertaining to the signer that appears on the petition;

(2) witness each signature;

(3) ascertain that each date of signing is correct; and

(4) before the petition is filed, verify each signer's registration status and ascertain that each registration number entered on the petition is correct.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 141.065. AFFIDAVIT OF CIRCULATOR.** (a) Each part of a petition must include an affidavit of the person who circulated it stating that the person:

(1) pointed out and read to each signer, before the petition was signed, each statement pertaining to the signer that appears on the petition;

(2) witnessed each signature;

(3) verified each signer's registration status; and

(4) believes each signature to be genuine and the corresponding information to be correct.

(b) If a petition contains an affidavit that complies with Subsection (a), for the purpose of determining whether the petition contains a sufficient number of valid signatures, the authority with whom the candidate's application is filed may treat as valid each signature to which the affidavit applies, without further verification, unless proven otherwise.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 141.066. SIGNING MORE THAN ONE PETITION PROHIBITED. (a)**

A person may not sign the petition of more than one candidate for the same office in the same election.

(b) The following statement must appear at the top of each page of a petition: "Signing the petition of more than one candidate for the same office in the same election is prohibited."

(c) A signature on a candidate's petition is invalid if the signer signed the petition subsequent to signing a petition of another candidate for the same office in the same election.



Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 94, eff. Sept. 1, 1997.

**Sec. 141.067. WITHDRAWAL OF SIGNATURE.** (a) A signature may be withdrawn from a petition as provided by this section.

(b) To withdraw a signature, the signer must request that the signer's signature be withdrawn.

(c) To be effective, a withdrawal request must:

(1) be in writing and be signed and acknowledged by the signer of the petition; and

(2) be filed with the authority with whom the petition is required to be filed not later than the date the petition is received by the authority or the seventh day before the petition filing deadline, whichever is earlier.

(d) A withdrawal request filed by mail is considered to be filed at the time of its receipt by the appropriate authority.

(e) The signer must deliver a copy of the withdrawal request to the candidate when the request is filed.

(f) The filing of an effective withdrawal request nullifies the signature on the petition and places the signer in the same position as if the signer had not signed the petition.

(g) If the withdrawal of a signature reduces the number of signatures on the petition below the prescribed minimum for the petition to be valid, the authority with whom the request is filed shall notify the candidate immediately by telephone, telegram, or

an equally or more expeditious method of the number of withdrawn signatures. Before the third day after the date the candidate receives the notice, the candidate's petition may be supplemented with signatures equal in number to the number of signatures withdrawn.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 95, eff. Sept. 1, 1997.

**Sec. 141.068. DUTY OF LOCAL AUTHORITY TO VERIFY SIGNATURES.**

(a) On request of the secretary of state, a voter registrar shall verify the voter registration status of a signer of a petition filed with the secretary who the petition indicates is registered or has been accepted for registration in the county served by the registrar.

(b) On request of the secretary of state, a county clerk shall ascertain from the records in the clerk's custody whether a signer of a petition filed with the secretary is shown to have voted in a particular election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 141.069. VERIFYING SIGNATURES BY STATISTICAL SAMPLE.** If signatures on a petition that is required to contain more than 1,000 signatures are to be verified by the authority with whom the candidate's application is required to be filed, the authority may use as the basis for the verification any reasonable statistical

sampling method that ensures an accuracy rate of at least 95 percent.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 54, Sec. 16(b), eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 1349, Sec. 53, eff. Sept. 1, 1997.

## **TITLE 9. CANDIDATES**

### **CHAPTER 143. CANDIDATE FOR CITY OFFICE**

**Sec. 143.001. APPLICABILITY OF CHAPTER.** This chapter applies to a candidate for a city office.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 143.002. INDEPENDENT CANDIDACY REQUIRED.** Except as provided by Section 143.003, a candidate's name may appear on the ballot only as an independent.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 143.003. PARTISAN CANDIDACY FOR HOME-RULE CITY OFFICE AUTHORIZED.** (a) A city charter may authorize nominations of partisan candidates by political organizations for an office of a home-rule city. Implementing regulations may be prescribed by the charter or by ordinance under charter authorization.

(b) If under Section 232, Texas Election Code (Article 13.55, Vernon's Texas Election Code), as it existed before the adoption of this code, a candidate for a home-rule city office is nominated for

an election held after January 1, 1975, and before the effective date of this code, Section 232, Texas Election Code, continues in effect for the purpose of nominating partisan candidates for that city's offices until the adoption of a charter provision authorizing or prohibiting partisan nominations.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 143.004. APPLICATION REQUIRED.** Subject to Section 143.005, to be entitled to a place on the ballot, a candidate must make an application for a place on the ballot.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 143.005. APPLICATION FOR HOME-RULE CITY OFFICE.** (a) A city charter may prescribe requirements in connection with a candidate's application for a place on the ballot for an office of a home-rule city. This section does not authorize a city charter requirement in connection with the timely filing of an application, and any charter requirement related to an application's timely filing is superseded by Section 143.007 and other applicable filing provisions prescribed by this code.

(b) If a city charter prescribes the requirements that a candidate's application must satisfy for the candidate's name to be placed on the ballot, Section 141.031(a)(4)(L) also applies to the application. The other provisions of Section 141.031 do not apply.

(c) If a city charter requires candidates to pay a filing fee, the amount of the fee and an alternative procedure to payment of the fee shall be prescribed by the charter or by ordinance under charter authorization. However, if an ordinance prescribing an alternative procedure to payment of a filing fee is adopted before the effective date of this code without charter authorization, the ordinance, as it exists on the effective date of this code, continues in effect until the adoption of a charter provision prescribing an alternative procedure or authorizing prescription of an alternative procedure by ordinance.

(d) For any petition required or authorized to be filed in connection with a candidate's application for a place on the ballot for an office of a home-rule city, the minimum number of signatures that must appear on the petition is the greater of:

(1) 25; or

(2) one-half of one percent of the total vote received in the territory from which the office is elected by all candidates for mayor in the most recent mayoral general election.

(e) If the city charter of a home-rule city with a population of more than 1.18 million located primarily in a county with a population of 2 million or more that holds nonpartisan elections for its offices requires both a petition and a \$50 fee to be filed for a candidate's name to be placed on the ballot, those requirements supersede this section.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 54, Sec. 11(a), eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 427, Sec. 5, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 597, Sec. 66, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 669, Sec. 15, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 695, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 614 (H.B. [417](#)), Sec. 30, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. [2702](#)), Sec. 14, eff. September 1, 2011.

**Sec. 143.006. AUTHORITY WITH WHOM APPLICATION FILED.** (a) Except as provided by Subsections (b) and (c), an application for a place on the ballot must be filed with the city secretary.

(b) An authority other than the city secretary may be designated to receive applications by a home-rule city charter or ordinance adopted under charter authorization.

(c) An application for a place on the ballot for the first election of officers following the incorporation of a city must be filed with the authority designated by law.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 143.007. FILING PERIOD.** (a) Except as otherwise provided by this code, an application for a place on the ballot

must be filed not later than 5 p.m. of the 62nd day before election day. An application may not be filed earlier than the 30th day before the date of the filing deadline.

(b) An application filed by mail is considered to be filed at the time of its receipt by the appropriate authority.

(c) For an election to be held on:

(1) the date of the general election for state and county officers, the day of the filing deadline is the 78th day before election day; and

(2) a uniform election date other than the date of the general election for state and county officers, the day of the filing deadline is the 71st day before election day.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 2003, 78th Leg., ch. 925, Sec. 2, eff. Nov. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1109 (H.B. [2339](#)), Sec. 3, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. [100](#)), Sec. 17, eff. September 1, 2011.

## **TITLE 9. CANDIDATES**

### **CHAPTER 145. WITHDRAWAL, DEATH AND INELIGIBILITY OF CANDIDATE**

#### **SUBCHAPTER A. GENERAL PROVISIONS**

**Sec. 145.001. METHOD FOR WITHDRAWAL AS CANDIDATE.** (a) To withdraw from an election, a candidate whose name is to appear on

the ballot must request that the candidate's name be omitted from the ballot.

(b) A withdrawal request must:

(1) be in writing and be signed and acknowledged by the candidate; and

(2) be timely filed with the appropriate authority or an agent of an authority only as expressly provided by this code.

(c) A withdrawal request filed by mail is considered to be filed at the time of its receipt by the appropriate authority.

(d) The time of a withdrawal is the time that an effective withdrawal request is filed.

(d-1) A withdrawal that is not filed in compliance with Subsection (b) has no legal effect and is not considered filed.

(e) This section does not apply to a candidate for president or vice-president of the United States.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 98, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. [2817](#)), Sec. 29, eff. September 1, 2011.

**Sec. 145.002. PROCEDURE FOR OMITTING DECEASED CANDIDATE'S NAME FROM BALLOT.** (a) Except as provided by Subsection (b), if a candidate's name is to be omitted from the ballot under this code because the candidate has died, the authority responsible for



having the official ballot prepared shall omit the candidate's name from the ballot on receipt of reliable information of the death.

(b) If a deceased candidate's name has been certified by the secretary of state for placement on the ballot, the candidate's name may not be omitted from the ballot without authorization from the secretary of state.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 145.003. ADMINISTRATIVE DECLARATION OF INELIGIBILITY.**

(a) Except for a judicial action in which a candidate's eligibility is in issue, a candidate may be declared ineligible only as provided by this section.

(b) A candidate in the general election for state and county officers may be declared ineligible before the 30th day preceding election day by:

(1) the party officer responsible for certifying the candidate's name for placement on the general election ballot, in the case of a candidate who is a political party's nominee; or

(2) the authority with whom the candidate's application for a place on the ballot is required to be filed, in the case of an independent candidate.

(c) A candidate in an election other than the general election for state and county officers may be declared ineligible before the beginning of early voting by personal appearance by the

authority with whom an application for a place on the ballot for the office sought by the candidate is required to be filed.

(d) The presiding officer of the final canvassing authority for the office sought by a candidate may declare the candidate ineligible after the polls close on election day and, except as provided by Subsection (e), before a certificate of election is issued.

(e) In the case of a candidate for governor or lieutenant governor, a declaration of ineligibility by the final canvassing authority's presiding officer may not be made after the final canvass for that office is completed.

(f) A candidate may be declared ineligible only if:

(1) the information on the candidate's application for a place on the ballot indicates that the candidate is ineligible for the office; or

(2) facts indicating that the candidate is ineligible are conclusively established by another public record.

(g) When presented with an application for a place on the ballot or another public record containing information pertinent to a candidate's eligibility, the appropriate authority shall promptly review the record. If the authority determines that the record establishes ineligibility as provided by Subsection (f), the authority shall declare the candidate ineligible.

(h) If a candidate is declared ineligible after the deadline for omitting an ineligible candidate's name from the ballot, the

authority making the declaration shall promptly certify in writing the declaration of ineligibility to the canvassing authority for the election.

(i) If a candidate is declared ineligible, the authority making the declaration shall promptly give written notice of the declaration of ineligibility to the candidate.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1991, 72nd Leg., ch. 203, Sec. 2.58; Acts 1991, 72nd Leg., ch. 554, Sec. 29, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 728, Sec. 56, eff. Sept. 1, 1993.

**Sec. 145.004. FINAL JUDGMENT REQUIRED FOR ADJUDICATION OF INELIGIBILITY.** A candidate's entitlement to a place on the ballot or to a certificate of election is not affected by a judicial determination that the candidate is ineligible until a judgment declaring the candidate to be ineligible becomes final.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 145.005. EFFECT OF VOTES CAST FOR DECEASED, WITHDRAWN, OR INELIGIBLE CANDIDATE.** (a) If the name of a deceased, withdrawn, or ineligible candidate appears on the ballot under this chapter, the votes cast for the candidate shall be counted and entered on the official election returns in the same manner as for the other candidates.

(b) If the deceased, withdrawn, or ineligible candidate receives the vote required for election, the resulting vacancy shall be filled in the regular manner.

(c) If the deceased, withdrawn, or ineligible candidate and another candidate tie for the most votes in an election in which a plurality vote is sufficient for election, the other candidate is considered to be elected. If more than one other candidate is tied with the deceased, withdrawn, or ineligible candidate, the winner of the election shall be determined by resolving the tie between the other candidates in the regular manner for resolving a tie vote in the election.

(d) In a race in which a runoff is required, if the deceased, withdrawn, or ineligible candidate received the vote that would entitle the candidate to a place on the runoff election ballot or tied for that number of votes, the candidates in the runoff shall be determined in the regular manner but without regard to the votes received by the deceased, withdrawn, or ineligible candidate.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 99, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. [2817](#)), Sec. 30, eff. September 1, 2011.

**SUBCHAPTER D. CANDIDATE IN ELECTION OTHER THAN GENERAL ELECTION  
FOR STATE AND COUNTY OFFICERS**

**Sec. 145.091. APPLICABILITY OF SUBCHAPTER.** This subchapter applies to a candidate in a general or special election, except the general election for state and county officers.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 145.092. DEADLINE FOR WITHDRAWAL.** (a) Except as otherwise provided by this section, a candidate may not withdraw from an election after 5 p.m. of the fifth day after the deadline for filing the candidate's application for a place on the ballot.

(b) A candidate in an election for which the filing deadline for an application for a place on the ballot is not later than 5 p.m. of the 62nd day before election day may not withdraw from the election after 5 p.m. of the 53rd day before election day.

(c) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1164, Sec. 44, eff. September 1, 2011.

(d) A candidate in a runoff election may not withdraw from the election after 5 p.m. of the third day after the date of the main election.

(e) Section 1.006 does not apply to this section.

(f) A candidate in an election for which the filing deadline for an application for a place on the ballot is not later than 5 p.m. of the 78th day before election day may not withdraw from the election after 5 p.m. of the 71st day before election day.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, Sec. 40, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 203, Sec. 2.59; Acts 1991, 72nd Leg., ch. 554, Sec. 30, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 925, Sec. 5, eff. Nov. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1109 (H.B. [2339](#)), Sec. 12, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. [2817](#)), Sec. 31, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. [2817](#)), Sec. 44, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. [100](#)), Sec. 22, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 589 (S.B. [904](#)), Sec. 3, eff. September 1, 2013.

**Sec. 145.093. AUTHORITY WITH WHOM WITHDRAWAL REQUEST FILED.**

(a) A candidate must file a withdrawal request with the authority with whom applications for a place on the ballot are required to be filed.

(b) If the authority with whom applications for a place on the ballot are required to be filed is not responsible for having the official ballot prepared for the election, on the filing of a withdrawal request, the authority shall certify the candidate's

name in writing as a withdrawn candidate and promptly deliver the certification to the authority responsible for having the official ballot prepared.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 145.094. WITHDRAWN, DECEASED, OR INELIGIBLE CANDIDATE'S NAME OMITTED FROM BALLOT.** (a) The name of a candidate shall be omitted from the ballot if the candidate:

(1) dies before the second day before the date of the deadline for filing the candidate's application for a place on the ballot;

(2) withdraws or is declared ineligible within the time prescribed by Section 145.092(a), in an election subject to that section;

(3) withdraws or is declared ineligible within the time prescribed by Section 145.092(b), in an election subject to that section; or

(4) withdraws or is declared ineligible before 5 p.m. of the 71st day before election day, in an election subject to Section 145.092(f).

(b) This section does not apply to a runoff election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, Sec. 41, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 203, Sec. 2.60; Acts 1991, 72nd Leg.,

ch. 554, Sec. 31, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 925, Sec. 6, eff. Nov. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1109 (H.B. [2339](#)), Sec. 13, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. [100](#)), Sec. 23, eff. September 1, 2011.

**Sec. 145.095. EFFECT OF WITHDRAWAL FROM RUNOFF.** If a runoff candidate withdraws, the remaining candidate is considered to be elected and the runoff election for that office is not held. Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

**Sec. 145.096. DECEASED OR INELIGIBLE CANDIDATE'S NAME TO APPEAR ON BALLOT.** (a) Except as provided by Subsection (b), a candidate's name shall be placed on the ballot if the candidate:

(1) dies on or after the second day before the deadline for filing the candidate's application for a place on the ballot;

(2) is declared ineligible after 5 p.m. of the third day after the deadline for filing the candidate's application for a place on the ballot, in an election subject to Section 145.092(a);

(3) is declared ineligible after 5 p.m. of the 53rd day before election day, in an election subject to Section 145.092(b);  
or



(4) is declared ineligible after 5 p.m. of the 71st day before election day, in an election subject to Section 145.092(f).

(b) If a candidate in a runoff election dies or is declared ineligible before runoff election day, the candidate's name shall be placed on the runoff election ballot.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, Sec. 42, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 203, Sec. 2.61; Acts 1991, 72nd Leg., ch. 554, Sec. 32, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 925, Sec. 7, eff. Nov. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1109 (H.B. [2339](#)), Sec. 14, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1318 (S.B. [100](#)), Sec. 24, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1178 (S.B. [910](#)), Sec. 14, eff. September 1, 2013.

**Sec. 145.097. HOME-RULE CITY CANDIDATE.** Provisions governing the withdrawal, death, or ineligibility of candidates for city offices prescribed by a home-rule city charter supersede this chapter to the extent of any conflict, except that this subchapter prevails in regard to an election subject to Section 145.092(f).

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by:

Acts 2005, 79th Leg., Ch. 1109 (H.B. [2339](#)), Sec. 15, eff.  
September 1, 2005.