

ORDINANCE NO. 2023-O-01

AN ORDINANCE OF THE CITY OF LULING, TEXAS, ORDERING A SPECIAL ELECTION TO BE HELD IN CONJUNCTION WITH THE CITY OF LULING REGULAR GENERAL ELECTION ON MAY 6, 2023, FOR THE PURPOSE OF SUBMITTING PROPOSITIONS TO THE QUALIFIED VOTERS OF LULING, TEXAS FOR CERTAIN PROPOSED AMENDMENTS TO THE EXISTING HOME RULE CHARTER OF THE CITY; STATING PROPOSED AMENDMENTS TO BE VOTED UPON AT SAID ELECTION; DESIGNATION OF EARLY VOTING DATES AND TIMES AND POLLING PLACES OF SAID ELECTION; PROVIDING THE FORM OF THE BALLOT AND DIRECTING THAT THE NOTICE OF ELECTION BE GIVEN; PROVIDING FOR FISCAL IMPACT ESTIMATES; CONTAINING OTHER PROVISIONS REQUIRED BY THE TEXAS ELECTION CODE; DIRECTING PUBLICATION AS REQUIRED BY LAW; FINDING THAT THE MEETINGS AT WHICH THIS ORDINANCE IS CONSIDERED ARE OPEN TO THE PUBLIC AS REQUIRED BY LAW; PROVIDING FOR SEVERABILITY AND THE REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Texas Local Government Code, Section 9.004(b) provides that the ordinance ordering a charter amendment election shall provide for the special election to be held on the first authorized uniform election date prescribed by the Texas Election Code or on the earlier of the date of the next municipal general election or presidential general election; and

WHEREAS, May 6, 2023 is the date provided for in the Texas Election Code for the next regular general election in the City of Luling, Texas, therefore the City is authorized to order a special charter amendment election to be held on May 6, 2023; and

WHEREAS, Article XII, Section 12.13 of the Home Rule Charter of the City of Luling provides for amending the Charter and having the amendments submitted to the voters; and

WHEREAS, the Home Rule Charter amendment election shall be held and conducted in accordance with Sections 9.001, 9.004 and 9.005 of the Texas Local Government Code and all other applicable election laws; and

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LULING, TEXAS:

SECTION 1.
GENERAL PROVISIONS

That a Special Election shall be held on May 6, 2023 for the purpose of submitting ballot propositions to the qualified voters of the City of Luling, Texas for proposed amendments to the existing Home Rule Charter.

Subsection A: That a Special Election shall be held in the City of Luling, Texas on the 6th day of May, 2023 at which election ballot propositions for proposed amendments to the City of Luling Home Rule Charter shall be voted upon by the resident qualified voters of the City of Luling.

Subsection B: That early voting by personal appearance in said election shall be conducted at the following main early voting location **333 E. Austin St.**, Luling, Texas, as follows:

Between the hours of 8:00 and 5:00 p.m. beginning April 24, 2023 and ending May 2, 2023. Early voting extended hours will be conducted from 7 a.m. to 7:00 p.m. on Monday, May 1, 2023 and Tuesday, May 2, 2023.

Subsection C: That all applications for ballots by mail shall be mailed to:

**Caldwell County Election Office
1403 Blackjack Street
Lockhart, Texas 78644
Phone: 512-668-4347
Email: caldwellec@co.caldwell.tx.us
Website: <https://www.co.caldwell.tx.us/page/caldwell.ElectionsOffice>**

Applications for Ballots by Mail must be received no later than the close of business on April 25, 2023.

Federal Post Card Applications must be received no later than the close of business on April 25, 2023.

Subsection D: That said election shall be held at the following designated voting places in the City of Luling, Texas, for voters of the particular Wards:

**Luling Civic Center
333 E. Austin Street
Luling, Texas 78648**

**Luling Southside
1035 S Magnolia
Luling, Texas 78648**

Subsection E: That said election shall be held in accordance with the provisions of the Constitution and Laws of the State of Texas, and only duly qualified resident voters of the City of Luling shall be allowed to vote.

Subsection F: Notice of said election shall be given as provided by in the Texas Election Code and the Texas Local Government Code.

Subsection G: The City Secretary is hereby authorized and instructed to publish notice of said election as required by law.

Subsection H: There are a total of three (3) amendment propositions on the ballot for the May 6, 2023 special charter amendment election. It is estimated that all three (3) of the proposed amendments are anticipated to have no fiscal impact to the City of Luling if the three (3) proposed amendments are approved at the special election.

Subsection I: There shall be placed on the official ballot the following proposed amendments to the City Charter for the City of Luling, Texas, and the ballot shall provide that the voter may approve or disapprove the propositions which are stated individually as follows:

AMENDMENT NO. 1

SHALL ARTICLE IV, SECTION 4.03 OF THE LULING CITY CHARTER REGARDING THE FIRE DEPARTMENT BE AMENDED AS FOLLOWS?

ARTICLE IV. - ADMINISTRATIVE SERVICES

Section 4.03. – Fire department.

There shall be maintained a Fire Department to provide for protection against fires and other disaster services and the City Council shall provide for the maintenance, support and regulation of a Fire Department and for the guarding against fires.

- (a) Fire Chief. The Fire Chief shall be the chief administrative officer of the Fire Department. The Fire Chief shall be ~~elected annually by the Volunteer Fire Department subject to the approval of~~ appointed by the City Manager. The Fire Chief shall appoint and remove the employees of said department and shall perform such duties as may be required of him/her by the City Council. The Fire Chief shall be responsible to the City Manager for the administration of his/her department and the carrying out of the directives of the City Council. He/she may be removed from office by the City Manager with the approval of the City Council.
- (b) Fire Marshal. The Fire Marshal shall be responsible for the enforcement of ordinances pertaining to general protection from fire of the residents of the City. The Fire Marshal shall be appointed by and be responsible to the City Manager.
- (c) Volunteer Fire Department. Authority is hereby granted to maintain a Volunteer Fire Department.

AMENDMENT NO. 1 SHALL BE PLACED ON THE BALLOT IN THE FORM OF THE FOLLOWING PROPOSITION:

PROPOSITION NO. 1

- | | | |
|--------------------------|-----|---|
| <input type="checkbox"/> | YES | Shall Article IV, Section 4.03 of the Luling City Charter be amended to state the City of Luling Fire Chief shall be appointed by the City Manager? |
| <input type="checkbox"/> | NO | |

AMENDMENT NO. 2

SHALL ARTICLE III, SECTION 3.01 OF THE LULING CITY CHARTER REGARDING CITY COUNCIL TERMS OF OFFICE BE AMENDED AS FOLLOWS?

ARTICLE III. - THE CITY COUNCIL

Section 3.01. - Number, selection and term.

The Legislative and governing body of the City shall consist of a Mayor and five Councilmembers and shall be known as the "Council of the City of Luling".

- (a) The Mayor shall be elected from the City at large.
- (b) Each Councilmember shall be elected from one of five wards. The boundaries of the five wards shall be shown on the official City Map filed with the Office of the City Secretary. The Councilmembers shall be elected from wards that shall be drawn by ordinance and shall be as nearly equal in population as practicable. The boundaries of the wards shall be reexamined and redetermined by ordinance, where appropriate following each succeeding Federal decennial census, or at other time where substantial variances in the population of each ward has occurred, taking into consideration annexations, disannexations, shifts in populations, compactness and any other criteria established by Federal law.
- (c) The Mayor shall be the presiding officer of the City Council and shall be recognized as head of the City Government for all ceremonial purposes. Mayor shall perform such other duties and exercise such authority as may be prescribed and conferred by law or the City Council. The Mayor shall be entitled to vote on all matters under consideration by the City Council.
- (d) In each even-numbered year two Councilmembers (Wards 4 and 5) and a Mayor (at large) shall be elected, and in each odd-numbered year three Councilmembers (Wards 1, 2, and 3) shall be elected.
- (e) The Mayor and each Councilmember shall hold office for a period of three (3) ~~two (2)~~ years and serve until a successor is elected and qualified. All elections shall be held in the manner provided in Article VI of this Charter. The Mayor or Councilmembers shall take office at the next regular meeting of the Council after they are elected or appointed.

AMENDMENT NO. 2 SHALL BE PLACED ON THE BALLOT IN THE FORM OF THE FOLLOWING PROPOSITION:

PROPOSITION NO. 2

YES

NO

Shall Article III, Section 3.01 of the Luling City Charter be amended to change the length of terms of office of the position of Mayor and the members of the City Council from two (2) years to three (3) years?

AMENDMENT NO. 3

SHALL ARTICLE III, SECTION 3.06 OF THE LULING CITY CHARTER REGARDING FILLING VACANCIES ON THE CITY COUNCIL BE AMENDED AS FOLLOWS?

ARTICLE III. - THE CITY COUNCIL

Section 3.06. ~~Vacancies.~~ Filling City Council vacancies by appointment or special election.

~~When a vacancy occurs~~ Vacancies in the City Council, ~~the remaining members of the Council shall, within ten (10) days, appoint a qualified person to fill the unexpired term. However, the City Council shall not appoint more than one (1) Councilmember in any twelve-month period, and in case a vacancy has been filled by the City Council within twelve (12) months prior to the subsequent vacancy, or if more than one vacancy occurs at the same time or before a prior vacancy has been filled, the City Council shall call a special election within ten (10) days from the date of the last vacancy occurring, to be held at the next uniform election day allowed under the Texas Election Code thereafter, for the purpose of electing the successors to the office or offices vacated.~~ arising from resignation, forfeiture, removal, recall, death, or any cause shall be filled by majority vote of the qualified voters at a special election called for such purpose within one hundred and twenty (120) days after such vacancy or vacancies occur. If any such vacancy shall occur within one hundred twenty (120) days preceding a regular election, then the special election to fill the vacancy for the unexpired term shall be held on the same date as the next regular election. Additionally, if the remaining unexpired term of the vacant Council position is twelve (12) months or less, then no special election to fill the vacancy shall be held and the vacant Council position shall be filled by appointment by the remaining Councilmembers, and the appointed Councilmember shall serve until the next regular City election for the vacant Council position. Appointed Councilmembers shall have the same qualifications as an elected Councilmember.

AMENDMENT NO. 3 SHALL BE PLACED ON THE BALLOT IN THE FORM OF THE FOLLOWING PROPOSITION:

PROPOSITION NO. 3

YES

NO

Shall Article III, Section 3.06 of the Luling City Charter be amended to provide that vacancies on the City Council shall be filled by special election to be held within one hundred twenty (120) days of the vacancy unless the vacancy occurs not more than 120 days prior to the next regular election, in which case the vacancy shall be filled at a special election to be held on the same date as the next regular election; providing further that if the remaining unexpired term of any vacant Council position is twelve (12) months or less, the vacant Council position shall be filled by appointment by the remaining Councilmembers, and the appointed Councilmember shall serve until the next regular City election?

AMENDMENT NO. 4

SHALL ARTICLE V, SECTION 5.01 OF THE LULING CITY CHARTER REGARDING MUNICIPAL COURT BE AMENDED AS FOLLOWS?

ARTICLE V. - LEGAL AND JUDICIAL SERVICES

Section 5.01. - Municipal court.

- (a) There shall be established and maintained a Court designated as a "Municipal Court" for the trial of misdemeanor offenses, with all such powers and duties as are now or hereafter may be prescribed by laws of the State of Texas relative to Municipal Courts.
- (b) ~~The Judge of said Court shall be a qualified voter of the City;~~ City Council shall appoint the Judge to a two-year term, and he/she shall receive such salary as may be fixed by ordinance of the City Council.
- (c) The City Secretary or an Assistant City Secretary shall be ex officio Clerk of said Court.
- (d) The Clerk of said Court shall have the power to administer oaths and affidavits; make certificates; affix the seal of said Court thereto; and generally do and perform any and all acts usual and necessary by the Clerk of Courts in issuing process of said Courts and conducting the business thereof.
- (e) In cases of the disability or absence of the Judge of the Municipal Court, the Mayor shall ~~act as Judge of said Court~~ appoint a qualified person to temporarily act in the judge's place.

AMENDMENT NO. 4 SHALL BE PLACED ON THE BALLOT IN THE FORM OF THE FOLLOWING PROPOSITION:

PROPOSITION NO. 4

YES

NO

Shall Article V, Section 5.01 be amended to not require the Judge of the Municipal Court to be a qualified voter of the City and by authorizing the Mayor to appoint a qualified person to temporarily act in the judge's place in the case of disability or absence of the judge?

SECTION 2.
SAVINGS CLAUSE

All provisions of any ordinance, resolution or other action of the City in conflict with this Ordinance are hereby repealed to the extent they are in conflict. Any remaining portions of said ordinances, resolutions or other actions shall remain in full force and effect.

SECTION 3.
SEVERABILITY

Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, sentences and clauses and phrases remaining should any provision be declared unconstitutional or invalid.

SECTION 4.
REPEALER

Any other ordinance or parts of ordinances in conflict with this Ordinance are hereby expressly repealed.

SECTION 5.
EFFECTIVE DATE

This Ordinance shall become effective upon adoption and publication as required by law.

SECTION 6.
PROPER NOTICE AND MEETINGS

It is hereby officially found and determined that the meetings at which this Ordinance was passed were open to the public as required and that public notice of the time, place and purpose of said meetings were given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

PASSED AND APPROVED on this the ____ day of February, 2023.

Hon. CJ Watts, Mayor
City of Luling

ATTEST:

Martha Velasquez, City Secretary
City of Luling