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78th Legislature

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May 17, 2004

FILE # ML-43701-04
I.D. # 43701

Honorable Greg Abbott
Attorney General of Texas
P.O. Box 12548
Austin, Texas 78711-2548

RQ-0242-GA

Dear General Abbott:

I request your official opinion on questions involving the City of Georgetown's Home Rule Charter and the Texas Constitution.

Specifically, the City of Georgetown needs guidance on two related issues:

1. Whether a provision in the Georgetown City Charter limiting the frequency of elections for initiated or referred ordinances applies in the case of a "tax freeze" election? For example, if the City receives a petition under Tex. Const. Art. 8, § 1-b(h) and calls an election on the issue as required by law, and if at that election the measure is defeated, must the City refuse to call an election on the same measure for a period of two years as required by Section 4.05 of its City Charter even if it receives another petition prior to the end of the two year period?
2. Whether the provision in the Georgetown City Charter limiting the frequency with which special elections can be called to not more than once every six months applies if the City receives petitions under Tex. Const. Art. 8, § 1-b(h) more frequently than every six months?

Enclosed for your convenience is a copy of Sec. 4.05 of the Georgetown City Charter regarding council consideration and submission to voters. I appreciate your attention to this matter.

Sincerely,

Handwritten signature of Stephen E. Ogden in black ink.
Stephen E. Ogden

SEO/ca

Enclosure

cc: Honorable Gary Nelson



Sec. 4.05. Council consideration and submission to voters.

When the Council receives an authorized initiative petition certified by the City Secretary to be sufficient, the Council shall either: (a) pass the initiated ordinance without amendment within thirty (30) days after the date of the certification to the Council; or (b) submit said initiated ordinance without amendments to a vote of the qualified voters of the City at a regular or special election to be held on the next uniform election date in order to comply with State election laws; or (c) at such election submit to a vote of the qualified voters of the City said initiated ordinance without amendment, and an alternative ordinance on the same subject proposed by the Council. When the Council receives an authorized referendum petition certified by the City Secretary to be sufficient, the Council shall reconsider the referred ordinance, and if upon such reconsideration such ordinance is not repealed within thirty (30) days, it shall be submitted to the qualified voters of the City at a regular or special election to be held on the next uniform election date in order to comply with State election laws. Special elections on initiated or referred ordinances shall not be held more frequently than once each six (6) months, and no ordinance on the same subject as an initiated ordinance which has been defeated or on the same subject as a referred ordinance which has been approved at any election may be initiated by the voters within two (2) years from the date of such election. (Amended by voters in the May 1994 General Election)

Sec. 4.06. Results of referendum elections.

Any number of ordinances may be voted on at the same election in accordance with the provisions of this Article. If a majority of the legal votes cast is in favor of an initiated ordinance, it shall thereupon be effective as an ordinance of the City. A favorable vote of a majority plus one of all Councilmembers qualified and serving be required to repeal or amend an ordinance passed at a referendum election. A referred ordinance which is rejected by a majority of the legal votes cast in a referendum election shall be deemed thereupon repealed. (Ord. No. 880170 § 5 (part), 5-10-88)

Sec. 4.07. Recall of City Officials.

The people of the City reserve the power to recall any elected officer of the City of Georgetown, on the grounds of incompetence, misconduct, or malfeasance in office, and may exercise such power by filing a petition, as described herein, with the City Secretary.

A petition to recall the Mayor only shall be, signed by registered voters of the City equal in number to at least fifteen (15) percent of the number of all of the registered voters in the City at the time of the last regular municipal election, demanding the removal of the Mayor. The petition shall be signed and verified as required by this Charter's provisions and State law.

A petition to recall a Council member shall be signed only by the registered voters of the single member council district that the Council member represents, and the signatures must be equal in number to at least fifteen (15) percent of the number of registered voters residing