

ORDINANCE NO. 267

AN ORDINANCE PRESCRIBING INITIATIVE AND REFERENDUM PROCEDURES, ADOPTING ADMINISTRATION CODE SECTIONS 2.200 TO 2.290; PROVIDING PENALTIES; AND DECLARING AN EMERGENCY.

THE CITY OF DRAIN ORDAINS AS FOLLOWS:

Section 1. The following sections are hereby adopted as part of the City of Drain's Administration Code:

2.200 Elections - Definitions. For purposes of this chapter the following words shall have their assigned meaning:

(a) "Measure" shall mean a legislative enactment by the common council not necessary for the immediate preservation of the public peace, health, or safety; a part of such an enactment; or a proposed legislative enactment for the city.

(b) "Voter" shall mean a legal voter of the city.

(c) "Regular election" shall mean those city elections held at the same times and places as biennial general state elections.

(d) "Special election" shall mean any election not held on the date of a "Regular election."

(e) "Petition" shall mean an initiative or referendum petition for ordering a measure to be submitted to the voters.

(f) "Refer" shall mean to be subjected to the referendum.

(g) "Write" shall mean to write, type or print.

2.205 Elections - Initiative and Referendum Complete Procedure.

The initiative and referendum powers of the city and its electors shall be exercised in accordance with sections 2.200 to 2.290 of this code and not otherwise. State statutes governing exercise of the initiative and referendum do not apply to exercise of these powers by the city or its electors.

2.210 Elections - Initiatives - Manner of Initiating.

(1) Voters may initiate legislation by filing with the City Administrator a duly prepared initiative petition proposing the legislation and requesting it be submitted to the voters of the city.

(2) The initiative petition shall be in the form prescribed by the City Administrator and shall comply with the requirements of section 2.225 of this code.

(3) Any duly proposed initiative petition which has been certified in accordance with section 2.250 of this code shall be presented to the council by the City Administrator at the next regular meeting of the council.

(4) A Charter or charter amendment proposed by the initiative and any other initiative measure not enacted by the council within 30 days after its proposal shall be submitted to the voters at the time provided in section 2.255 of this code.

2.220 Elections - Referendum - Manner of Referring.

(1) Voters may refer a measure by filing with the City Administrator a duly prepared referendum petition for the measure; or

(2) The Council may refer a measure by ordering submission of the measure to the voters.

(3) The referendum petition shall be in the form prescribed by the City Administrator and shall comply with the requirements of section 2.250 of this code.

(4) No referendum petition shall be deemed duly prepared unless it, and the signatures requisite to its being deemed fully prepared, are deposited at the office of the City Administrator within 30 days after the council enacts the measure.

(5) A duly prepared referendum petition which has been certified in accordance with section 2.250 of this code shall be submitted to the voters at the time provided by section 2.255 of this code.

(6) The council may refer a measure only at the session at which it enacts the measure. A measure referred by the council shall be submitted to the voters at the time provided in section 2.255 of this code.

2.225 Elections - Petition Requirements.

(1) Only the first 20 names appearing on any page of the petition may be considered when computing the number of valid signatures to the petition.

(2) The long ballot title prepared in accordance with section 2.240(2)(e) of this code shall be printed on the first page of the petition and the short ballot title prepared in accordance with Section 2.240(2)(b) shall be printed on each signature sheet of the petition.

(3) No petition shall be deemed duly prepared unless prior to its circulation a copy of it is deposited at the office of the City Administrator and as circulated it complies with the specifications of this section of this code.

(4) The City Administrator shall review the copy of the petition to be circulated and shall immediately:

(a) Check it for the legal sufficiency of the form in which it appears;

(b) Advise the person depositing it whether it is legally sufficient in form; and if it is not so, how to make it so;

(c) Specify the mode of writing the petition and the size and kind of paper on which to write it;

(d) Transmit the copy to the city attorney for preparation of a ballot title.

2.230 Elections - Requisite Number of Signatures.

The number of signatures on a petition requisite to its being deemed duly prepared shall be for an initiative petition 15 percent and for a referendum petition 10 percent of the number of votes cast for the office of mayor at the mayoralty election last preceding the deposit of the petition at the office of the City Administrator after its circulation.

2.235 Elections - Attachment of Measure.

No signature on a petition sheet shall be counted unless attached to it at the time of the signing of the signature is a copy of the measure to which the petition refers.

2.240 Elections - Preparation of Ballot Title; Appeal.

(1) The city attorney shall prepare the ballot title within five days after the council orders the submission of a measure to the voters or after a copy of the petition is first deposited in the office of the City Administrator.

(2) The ballot title shall meet the following requirements:

(a) The ballot title for a measure shall consist of a short title and a long title.

(b) The short title shall be the title by which the measure is commonly spoken of, or a title for commonly referring to the measure, and shall contain not more than 10 words.

(c) The long title shall state the purpose of the measure and shall contain not more than 100 words.

(d) The ballot title for a measure shall state truly and impartially the purpose of the measure in language which is not an argument and does not tend to create prejudice concerning the measure. Nor shall it resemble, so far as to create confusion, the ballot title for another measure to be submitted to the voters at the same election.

(3) A voter dissatisfied with the title within five days after it is delivered to the City Administrator, may appeal to the council by a written appeal deposited at the office of the City Administrator asking for a different ballot title for the measure and stating why the title prepared and filed is unsatisfactory.

(4) Within three days after the deposit of the appeal at the office of the City Administrator, the council shall, either in regular or special session, afford the appellant a hearing and either approve the title or prescribe another ballot title for the measure. The title thus adopted shall be the ballot title for the measure.

2.245 Elections - Affidavit of Petitioner.

No signature on a petition sheet shall be counted unless the person who circulates the sheet verifies it by an affidavit in a form prescribed by the City Administrator.

2.250 Elections - Certification of Signatures.

Within ten days after a duly prepared petition is deposited in the office of the City Administrator, the City Administrator or the designee of the City Administrator shall verify the number and genuineness of the signatures and voting qualifications of the persons signing the petition by references to the registration books in the office of the county clerk of Douglas County. If a sufficient number of qualified voters signed the petition, the City Administrator shall so certify and accept the petition. If the City Administrator determines that an insufficient number of qualified voters signed the petition the City Administrator shall return the petition to the person signing the affidavit as specified in section 2.245 of this code.

2.255 Elections - Time for Voting on Measure.

The time for voting on a measure required to be submitted to the voters shall be the first regular election held more than

60 days after the latest time the measure has been proposed or referred; provided, however, the council may, at its discretion, call for a special election upon the measure and set forth the date of the holding thereof, all to the same effect as if the voting on the measure required to be submitted to the voters were at a regular election.

2.260 Elections - Notice of Election.

(1) The City Administrator, pursuant to directions from the common council, shall give notice of each regular or special election by publishing a notice thereof once each week, for two successive weeks immediately preceding the election, in a newspaper of general circulation in the city, or by posting the notice in a conspicuous place in the city hall and in three public places in the city.

(2) The notice of the election shall state the ballot title and number of each measure to be voted upon at the election.

(3) When a measure is to be voted upon at an election, the date of which is prescribed by state law, the City Administrator shall furnish the clerk of Douglas County a certified copy of the ballot title and number of the measure to be voted upon at the election in conformity with the time limits established by the laws of this state.

2.265 Elections - Titles and Numbers of Measures on Ballot.

(1) On a ballot, a measure shall appear by ballot title only.

(2) On a ballot for an election, the sequence of measures to be voted upon shall be the sequence in which the respective measures are ordered to be submitted to the voters.

(3) On a ballot, initiative measures shall be distinguished from referred measures.

(4) On a ballot, the first measure shall be numbered 51 in numerals. The succeeding measures shall be numbered consecutively 52, 53, 54 and so on.

2.270 Elections - Election Returns.

The votes on a measure shall be counted, canvassed, and returned as follows:

(1) In case of general elections, in the same manner as other votes cast at general elections in the city; and

(2) In case of special elections, in the manner provided by the city charter and ordinances.

2.275 Elections - Proclamation of Mayor.

(1) Immediately upon the completion of the canvass of the votes on a measure submitted to the voters pursuant to this ordinance, the mayor shall issue a proclamation:

(a) Recapitulating the vote on the measure;

(b) Declaring whether the vote shows a majority of those who voted on the measure to be in favor of it; and

(c) In case the vote shows a majority of them to be in favor of the measure, announcing it to be effective from the date of the vote.

(2) The City Administrator shall give public notice of the proclamation by:

(a) Publishing it once in a newspaper of general circulation in the city; or

(b) Posting copies of it in five public places in the city, including the city hall.

(3) The proclamation shall be filed with the measure.

2.280 Elections - Effect of Measures.

(1) A measure submitted to the voters pursuant to this code shall take effect only when approved by a majority of the voters voting upon it.

(2) A measure, so long as it is subject to the referendum, shall have no effect.

(3) Of conflicting measures approved by the voters at an election, the one receiving the greater number of affirmative votes shall be paramount.

2.285 Elections - Unlawful Acts.

(1) No person other than a voter shall sign his or her name to a petition; sign a petition with a name not his or her own; or sign his or her name to a petition with knowledge of previously signing the petition. No person shall knowingly circulate or deposit at the office of the recorder a petition which to his or her knowledge contains a signature signed in violation of this ordinance. No person shall procure or attempt to procure a signature to a petition by fraud. No

person shall make a statement which he or she knows to be false concerning a petition. No person shall make a document provided for by this code which contains a false statement. No person shall pay or receive a valuable consideration for procuring a signature to a petition. No officer shall wilfully violate a provision of this ordinance.

(2) Each violation of one of the above provisions shall be punishable by:

(a) A fine of not more than \$300.00, or

(b) Imprisonment in the county jail for not more than 150 days; or both.

Section 2. All ordinances or resolutions relating to initiative or referendum and any other ordinances or resolutions in conflict herewith are hereby repealed.

Section 3. The provisions contained herein affect the public welfare and safety and, therefore, an emergency is hereby declared to exist, and this ordinance shall be effective immediately upon its passage by the council and approval by the Mayor.

PASSED by the Council this
14 day of Aug, 1979.

Robert A. Gray
Clerk of the Council, Pro Tem

APPROVED by the Mayor this
14 day of Aug, 1979.

Ray J. Stanley
Mayor