

City of Clute  
Charter Review Commission  
Charter Amendments for the May 4, 2019 Charter Election

**Proposed Changes to the Existing City of Clute Home Rule Charter:** The following changes are proposed on the Ballot for the May 2019 General Election. The recommendation reports in BLACK is the current language, the GREEN text is the proposed language for inclusion in the Charter, the text in RED is the proposed ballot language and the text in BLUE is the rationale behind the change.

**Proposed Change #1: Article 7, Section 7.01**

**Current Charter Language:**

Sec. 7.01. - City manager.

- (a) Appointment for qualifications. The city council shall appoint a city manager who shall be the chief administrative and executive officer of the City of Clute. He shall be chosen by the city council solely on the basis of his executive and administrative training, with experience, and ability, and need not, when appointed, be a resident of the City of Clute. However, during the tenure of his office, he shall reside within the corporate limits of the City of Clute. No member of the city council shall, during the time for which he is selected and for one year thereafter, be appointed to the office of city manager. During the first twelve (12) months of his tenure, the city manager shall become a resident of the City of Clute if he is not at the time of his appointment.

**Proposed Charter Language:**

Sec. 7.01. - City manager.

- (a) Appointment for qualifications. The city council shall appoint a city manager who shall be the chief administrative and executive officer of the City of Clute. He shall be chosen by the city council solely on the basis of his executive and administrative training, with experience, and ability, and need not, when appointed, be a resident of the City of Clute. However, during the tenure of his office, he shall reside within the corporate limits of the City of Clute. No member of the city council shall, during the time for which he is selected and for one year thereafter, be appointed to the office of city manager. During the first twelve (12) months of his tenure, the city manager shall become a resident of the City of Clute if he is not at the time of his appointment. Further the city manager shall be a member in good standing of either the Texas City Manager's Association, the International City Manager's Association or both at the time of appointment or within the first six (6) months of appointment.

**Proposed Ballot Language:**

Shall Section 7.01 be amended to require that the City Manager be a member in good standing with the Texas City Managers Association and/ or the International City Managers Association at the time of or within six (6) months of their appointment to the position?

**Rationale for Change:**

Both the Texas City Managers and International City Managers Associations have very strict overlapping Codes of Ethics for their members above and beyond what is required in the City Charter and Code. This requirement will ensure that the appointee is a participating member in one or both organizations which means that they will participate in ongoing training and adhere to the standards of conduct laid out in those Ethics Codes. Requiring this status for the City Manager will not only add value to the City through enhanced training but also makes a public statement about the reputation and high standards the City expects of its leadership.

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## **Proposed Change #2: Article 10, Section 10.08**

### **Current Charter Language:**

#### Section 10.08 – Sale of City Property

Before the city makes any sale or contract for the sale of any property belonging to the city, either in the form of land, real estate or other properties, having an estimated value of two thousand dollars (\$2,000.00) or less, opportunity shall be given for open competition under such rules and regulations as the city council may prescribe. In the sale of property having an estimated value of more than two thousand dollars (\$2,000.00), the property shall be advertised for sale and bid in a newspaper of general circulation within the City of Clute, Texas; the contract of sale shall be awarded to the highest responsible bidder; either at auction or upon sealed bids; after such public notice and competition as may be prescribed, and upon such other terms and conditions not inconsistent with express provisions of law and of this Charter, as the city council shall order; provided the city council shall have the power to reject all bids and advertise again. These same procedures shall be used whenever the city council acts as transfer agent.

### **Proposed Charter Language:**

#### Section 10.08 – Sale of City Property

From time to time, the City Council shall set forth policies and procedures for the disposition and sale of City Property. Such policies and procedures shall follow the standards and requirements of all relevant State Law for the disposition and sale of Real Property in addition property deemed Salvage and Surplus.

### **Proposed Ballot Language:**

Shall Section 10.08 be revised to ensure that the City Council sets policies and procedures for the sale of property consistent with State Law?

### **Rationale for Change:**

The current language is outdated and can be simplified giving the Council more flexibility while ensuring that the City continues to follow State Law.

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## **Proposed Change #3: Article 10, Section 10.13**

### **Current Charter Language:**

#### Sec. 10.13. - Time warrants.

In any fiscal year, in anticipation of the property tax to be collected for such year and/or subsequent years, or in the anticipation of the collection of a receipt of other revenues of such budget year and/or subsequent years, the city council may by resolution authorize the borrowing of money by the issuance of nonnegotiable time warrants of the city, each of which shall be designated in the following manner:

"A Time Warrant (stating the purpose thereof) of the City of Clute, Brazoria County, Texas," at a rate of interest not to exceed that specified below in section 10.18 of this Charter, and the same shall mature serially each year; provided, however, that no time warrant issue shall ever be issued in excess of ten (10) years, and the same shall not be issued for less than par value plus accrued interest, exclusive of fees, and the same shall contain a callable clause, without forfeiture, at the option of the city council of the City of Clute.

(Ord. No. 83-09, § 3, 4-4-1983)

**Proposed Charter Language:**

**Sec. 10.13. – Certificates of Obligation.**

In any fiscal year, in anticipation of the property tax, sales tax or other revenue which may be obliged under State Law for the retirement of obligations related to an instrument borrowing funds the City Council may issue Certificates of Obligation in lieu of a General Obligation Bond. Said Certificates shall be issued in the manner prescribed by State Law. Such instrument may be used to borrow money for the purpose of constructing, purchasing, improving, extending or repairing of public utilities, recreational facilities or facilities for any other self-liquidating municipal function not now or hereafter prohibited by any general law of the state.

**Proposed Ballot Language:**

Shall Section 10.13 be revised to eliminate the term Time Warrants which are instruments of debt no longer used in Municipal Finance and replace that term with Certificates of Obligation which allow the City to borrow money for necessary construction projects, public improvements, utility enhancements and extensions, recreational facilities or the purchase of equipment?

**Rationale for Change:**

The Charter is exceptionally specific on the types of borrowing instruments allowable for the City to issue, it is also exceptionally dated. Section 10.13 refers to Time Warrants which haven't been part of Municipal Finance for the better part of 30 years. It does not specifically allow for the issue of Certificates of Obligation, which has been the preferred tool for Clute to finance projects for the past twenty (20) years. This would change would eliminate the Time Warrant and replace it with Certificates of Obligation which are already in use and ratify the City's use of such instruments going forward.

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**Proposed Change # 4: Article 10, Section 10.17**

**Current Charter Language:**

Sec. 10.17. - Purposes for which sales and use tax revenue can be expended.

At least forty (40) percent of all monies, funds and revenues derived from and as a result of the local sales and use tax shall be used and expended by the city for the construction of storm sewers, sidewalks, curbs and gutters, for the resurfacing, lighting, and landscaping of existing streets and for the construction of new streets and alleys, including but not limited lighting, landscaping, and the purchase of easements in conformance with the ordinances of the city, but the cost of routine maintenance of streets (patching potholes, etc.,) and the purchase price of equipment therefor shall not be included within such percentage.

(Ord. No. 73-4, § 3, 4-12-1973; Ord. No. 79-10, § 3, 4-12-1979; Ord. No. 85-11, § 3, 4-11-1985; Ord. No. 2013-06, § 3(Amend. 2), 5-21-2013)

**Proposed Charter Language:**

Sec. 10.17. - Purposes for which sales and use tax revenue can be expended.

At least forty (40) percent of all monies, funds and revenues derived from and as a result of the local sales and use tax shall be used and expended by the city for the construction of storm sewers, sidewalks, curbs and gutters, for the resurfacing, lighting, and landscaping of existing streets and for the construction of new streets and alleys, including but not limited lighting,

landscaping, and the purchase of easements in conformance with the ordinances of the city, but the cost of routine maintenance of streets (patching potholes, etc.,) and the purchase price of equipment therefor shall not be included within such percentage.

The aforementioned funds may also be used to repair, replace or relocate existing water and waste water infrastructure within an existing Right of Way. Further not more than fifty (50) percent of the annual gross receipts of the aforementioned funds may be obligated for use to repay instruments of obligation resulting from the borrowing of funds associated with a qualifying project.

(Ord. No. 73-4, § 3, 4-12-1973; Ord. No. 79-10, § 3, 4-12-1979; Ord. No. 85-11, § 3, 4-11-1985; Ord. No. 2013-06, § 3(Amend. 2), 5-21-2013)

**Proposed Ballot Language:**

Shall Section 10.17 of the Charter be modified to allow the City to use the Special Streets, Drainage and Sidewalk Sales Tax allocation to repair, replace or relocate Water and Sewer infrastructure located under or alongside streets, drainage ways and sidewalks?

**Rationale for Change:**

Forty (40) percent is a very sizable allocation and places a significant burden on the General Fund, it also limits the City's ability to fund other projects and function. The proposed change to allow for repair, replacement and relocation of water and waste water infrastructure would allow the City to offset some of the constriction associated with the General Fund by freeing up Enterprise Funds.

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**Proposed Change # 5: Article 10, Section 10.17**

**Current Charter Language:**

Sec. 10.17. - Purposes for which sales and use tax revenue can be expended.

At least forty (40) percent of all monies, funds and revenues derived from and as a result of the local sales and use tax shall be used and expended by the city for the construction of storm sewers, sidewalks, curbs and gutters, for the resurfacing, lighting, and landscaping of existing streets and for the construction of new streets and alleys, including but not limited lighting, landscaping, and the purchase of easements in conformance with the ordinances of the city, but the cost of routine maintenance of streets (patching potholes, etc.,) and the purchase price of equipment therefor shall not be included within such percentage.

(Ord. No. 73-4, § 3, 4-12-1973; Ord. No. 79-10, § 3, 4-12-1979; Ord. No. 85-11, § 3, 4-11-1985; Ord. No. 2013-06, § 3(Amend. 2), 5-21-2013)

**Proposed Charter Language:**

Sec. 10.17. - Purposes for which sales and use tax revenue can be expended.

At least forty (40) percent of all monies, funds and revenues derived from and as a result of the local sales and use tax shall be used and expended by the city for the construction of storm sewers, sidewalks, curbs and gutters, for the resurfacing, lighting, and landscaping of existing streets and for the construction of new streets and alleys, including but not limited lighting, landscaping, and the purchase of easements in conformance with the ordinances of the city, but the cost of routine maintenance of streets (patching potholes, etc.,) and the purchase price of equipment therefor shall not be included within such percentage.

The aforementioned funds may also be used to repair, replace or relocate existing water and waste water infrastructure within an existing Right of Way. Further not more than fifty (50) percent of the annual gross receipts of the aforementioned funds may be obligated for use to repay instruments of obligation resulting from the borrowing of funds associated with a qualifying project.

(Ord. No. 73-4, § 3, 4-12-1973; Ord. No. 79-10, § 3, 4-12-1979; Ord. No. 85-11, § 3, 4-11-1985; Ord. No. 2013-06, § 3(Amend. 2), 5-21-2013)

**Proposed Ballot Language:**

Shall Section 10.17 of the Charter be modified to specifically allow the City to use no more than fifty (50) percent of the Special Streets, Drainage and Sidewalk Sales Tax allocation to repay funds borrowed to fund allowable projects?

**Rationale for Change:**

The implementation of a capped allowance for debt service would increase the City's ability to develop larger projects via financing which would then be repaid using the allocated funds, as opposed to piecemealing several smaller projects over a number of years. It may be inferred that the funds could be used in such a manner now, but this clarifies and places a cap on what can be obligated under future borrowing instruments.

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**Proposed Change #6: Article 11, Section 11.12**

**Current Charter Language:**

Sec. 11.12. - Contents of budget.

The budget shall provide a complete financial plan for the fiscal year. It shall contain the following:

1. The budget message.
2. A consolidated statement of receipts and expenditures for all funds.
3. An analysis of property valuations.
4. An analysis of tax rate.
5. Tax levies and tax collections by years for at least three (3) years or for a number of years for which records are available.
6. General fund resources in detail.
7. Summary of proposed expenditures by function, department, and activity.
8. Summary of proposed expenditures by character and object. Detailed estimates of expenditures shown separately for each activity to support the summaries numbered (7) and (8) above. Such estimates of expenditures are to include an itemization of positions showing the number of persons having each title and rate of pay.
9. A revenue and expense statement for all types of bonds.
10. A description of all bond issues outstanding, showing rate of interest, date of issue, maturity date, amount authorized, amount issued, and amount outstanding.
11. A schedule of requirements for the principal and interest on each issue of bonds.
12. A special funds section.
13. The appropriation ordinance.

14. The tax levying ordinance. A capital improvement program for the budget year and proposed method of financing the same.
15. A plan for capital improvement covering the succeeding five (5) years and proposed method of financing the same.
16. A summary of the condition of machinery, equipment, and buildings.
17. Estimated allowance that should be made for delinquency in tax collections, based on the average delinquency for at least the last four (4) years, when the same is available. The total estimated expenditures of the general fund and debt service fund shall not exceed the total estimated resources of each fund (prospective income). The classification of revenue and expenditure accounts shall conform as nearly as local conditions will permit to the uniform classification as promulgated by the National Committee on Municipal Accounting or some other nationally accepted classification.

**Proposed Charter Language:**

Sec. 11.12. - Contents of budget.

The budget shall provide a complete financial plan for the fiscal year. It shall contain the following:

1. A Budget Message conveying the general State of the City in both physical and financial terms, indicating project status and a description proposed projects for the coming Fiscal Year.
2. A consolidated Statement of Revenues and Expenditures for all operating funds of the City.
3. An analysis of Tax Values and Rates for a minimum of three (3) consecutive years.
4. General and other operating funds in detail showing the prior year's budget, actuals and projections alongside the proposed budget by line item.
5. Discussion of the City's debt including current obligations, showing interest rates, dates of issue, purpose, maturity and balance due as of the end of the current Fiscal Year.
6. Required Ordinances as prescribed by State Law.

**Proposed Ballot Language:**

Shall Section 11.12 be modified to make the City's Annual Operating Budget more concise, easier to understand and more efficient to prepare and present?

**Rationale for Change:**

The current language in the Charter is redundant to the point of tedium. The reality is that much of the specified information, while providing significant detail does allow for the average reader to get "lost in the numbers". The revised language allows for the inclusion of all necessary and pertinent information without requiring the information be cluttered by the inclusion of the same numbers restated in various formats.

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**Proposed Change #7: Article 15, Section 15.23**

**Current Charter Language:**

There is none. This would be a new Section in the Charter.

**Proposed Charter Language:**

**Sec. 15.23 – Election Dates.**

**All references within the preceding and succeeding sections to specific Election Dates are henceforth held to be synonymous with the General Election Dates as proscribed by current State Law and as may be revised by acts of the State Legislature in the future.**

**Proposed Ballot Language:**

Shall the Charter be amended to include Election Dates as standardized by State Law?

**Rationale for Change:**

The Charter makes references in a number of Sections to specific dates for Municipal Elections which are in contravention with State Law, this section would essentially put a “band-aid” on the matter by stating that any reference to Election Dates would be held to be the same as the General Election dates as written into current and future State Law.