

FREQUENTLY ASKED QUESTIONS – LOCAL OPTION ELECTION

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On May 11, 2016, the Houston Heights Beverage Coalition (“HHBC”) submitted an Application for a Local Option Election Petition to the City of Houston’s City Secretary. Pursuant to the requirements of Chapter 501 of the Texas Election Code, the City Secretary reviewed the Application for a Local Option Election Petition and on May 16, she issued a petition as required by Texas Election Code Section 501.023.

HHBC seeks to obtain sufficient signatures for a local option election to be called for the legal sale of beer and wine for off-premises consumption only, in the area formerly known as the City of Houston Heights as it existed on February 19, 1918 (the “area”).

The following information addresses some frequently asked questions about the local option election process and the recently issued petition.

1. Why is a portion of the area known today as the Houston Heights “dry”?

Article XVI, Section 20 of the Texas Constitution, adopted in 1891, directs the Texas Legislature to pass laws where “the qualified voters of any county, justice's precinct or incorporated town or city, may, by a majority vote of those voting, determine from time to time whether the sale of intoxicating liquors for beverage purposes shall be prohibited or legalized within the prescribed limits.” A territory where liquor sales are allowed is considered “wet,” and a territory where liquor sales are prohibited is considered “dry.”

The City of Houston Heights existed as a separate municipality from the City of Houston until its consolidation with the City of Houston on February 20, 1918. Prior to the consolidation, the City of Houston Heights voted itself dry at an election in September 1912, under the local option liquor laws in effect at that time. In 1937 the Texas Supreme Court affirmed the area’s dry status, and found that the area must remain dry until a local option election is held in “the same area that originally voted dry.” *Houchins v. Plainos*, 110 S.W.2d 549, 555 (Tex. 1937).

2. What are the boundaries of the area formerly known as the City of Houston Heights as it existed on February 19, 1918?

A map of the area formerly known as the City of Houston Heights as it existed on February 19, 1918 is available here: http://www.houstontx.gov/legal/heights_annexed.pdf (please note the file size is large).

The map boundaries were determined from the ordinance ordering an election to consolidate the City of Houston Heights and City of Houston, passed January 16, 1918, and from *The History of the Houston Heights, 1891-1918* (1956), by Sister M. Agatha. The boundaries did not change from when the City of Houston Heights voted to go dry in 1912 to when it was consolidated with Houston in 1918.

3. Who is eligible to sign the petition and how many signatures are needed?

Only registered voters living in the area as of the date the petition was issued may sign the petition. Tex. Elec. Code Ann. § 501.031 (West 2010). The number of signatures on the local option petition must be equal to at least 35% of registered voters in the area who voted in the most recent gubernatorial election. See Tex. Elec. Code Ann. § 501.032 (West 2010). The Harris County Clerk has verified the total number of registered voters in the area who voted in the 2014 governor’s race as 4,315, so **1,511** signatures are needed to order an election.

4. When is the petition due?

The petition must be filed no later than 60 days after it was issued, making the deadline Friday, July 15, 2016. See Tex. Elec. Code Ann. § 501.032 (West 2010).

5. How does the city verify the signatures to ensure those eligible are the only ones counted?

The City Secretary is responsible for verifying the signatures. Within 30 days after the petition is filed, the City Secretary must review the names of the signers of the petition and the voting precincts in which the signers reside to determine if the signers are qualified voters of the area at the time the petition was issued. The Harris County Voter Registrar has provided a list of registered voters in the area as of the date the petition was issued. The City Secretary will also review each signature to determine if it contains all of the required information listed in Texas Election Code Section 501.031, including the signer's name, date of birth, residence address, and date of signing.

6. What happens after the City Secretary reviews the signatures on the petition?

The City Secretary will certify to City Council the number of qualified signatures on the petition. If there are a sufficient number of qualified signatures, on or after the 30th day after the date the petition is filed, City Council must order an election to be held on the issue set out in the petition on the next uniform election date. See Tex. Elec. Code Ann. § 501.032 (West 2010). Assuming the required petition is filed and certified in a timely fashion, it is anticipated that the proposition will be on the ballot in the affected area for the November 2016 election.

7. Is it possible to repeal only a portion of this law while keeping the rest intact?

Yes. Texas Election Code Section 501.035 provides 10 different options for the legalization of various types of alcoholic beverages. If the proposition passes, the sale of alcoholic beverages in the area will be legalized only to the extent set out in the ballot proposition, which is for the legal sale of beer and wine for off-premises consumption only. Thus, a successful legalization election for the issue of off-premise consumption of beer and wine would not legalize mixed beverages in restaurants or beer and wine for on-premise consumption, or the sale of liquor for on-premise or off-premise consumption.

8. If the signatures are valid and the petition is accepted by the city, how will this be presented to the public on a ballot?

If City Council calls an election on the local option issue, Texas Election Code Section 501.035 sets forth the required ballot language. The language must be the same as the issue that was listed on the petition. See Tex. Elec. Code Ann. § 501.105 (West 2010). In this case voters would have the option to vote for or against: "The legal sale of beer and wine for off-premise consumption only."

9. Once the petition is submitted, how can I submit an open records request for a copy of the petition?

Public information requests for a copy of the local option petition should be submitted to the City Secretary's Office. You may submit your request by email to citysecretary@houstontx.gov, by fax at 832-393-1109, or by hand-delivery or mail to: Anna Russell, Office of the City Secretary, 900 Bagby, Houston, Texas 77002. Please note that an individual's date of birth is restricted from public disclosure under common-law privacy, so the City may request permission from a requestor to redact confidential information or seek an opinion from the Office of the Attorney General on withholding the information. See *Paxton v. City of Dallas*, 03-13-00546-CV, 2015 WL 3394061, at *4 (Tex. App.—Austin May 22, 2015, pet. denied).

10. Where can I go to find out more information about the local option election law?

Please visit the following links for the Secretary of State and the Texas Alcoholic Beverage Commission to find out more about local option elections:

<http://www.sos.state.tx.us/elections/laws/liquorelections.shtml>

http://www.tabc.state.tx.us/local_option_elections/