



AGENDA MEMORANDUM
for the City Council Meeting December 7, 2021

DATE: November 29, 2021
TO: Mayor and Council
FROM: Rebecca Huerta, City Secretary
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826-3105

Written presentment of citizen initiative for future Council Action upon request.

CAPTION: Written presentment of citizen initiative for future Council Action if requested by City Council.

SUMMARY: The City Charter, through initiative proceedings, allows citizens to propose ordinances to the City Council. If the Council fails to adopt the ordinance in substantial form, then the citizens can force an election to adopt or reject the proposed ordinance by submitting a valid petition signed by five percent of registered voters within a requisite timeframe. The City Secretary is required by Article I, Section 4 of the City Charter to present the initiative at the next City Council meeting. The City Council is NOT required to consider this presented ordinance for adoption. If the City Council fails to take action on this ordinance, then the City Secretary must give petition pages to the proponents.

This is a **written** presentment. This agenda does not permit City Council consideration on this date. Instead, a majority of Council can vote to place this item on a future City Council agenda.

BACKGROUND AND FINDINGS:

On November 8, 2021, the City Secretary was presented with a Statement of Intent to Circulate an Initiative Petition regarding an ordinance to authorize the promotion, information, and education to the public on COVID-19 Early Treatment Protocols.

Article I of the City Charter provides for the following procedures when a statement of intent to circulate an initiative petition is received with more than 50 signatures of registered voters:

1. The City Attorney drafts an ordinance:
 - a. in legal form containing the substance of the ordinance,
 - b. consistent with the laws of the State and the United States,
2. The City Secretary presents the initiative for the Council's consideration.
3. The City Council has 45 days from the date of presentment (until January 21, 2022) to consider the adoption of the ordinance as presented.
4. If the Council fails to take action within the allotted time, then the City Secretary must provide petition pages to the petitioner for circulation among the City's registered voters.
5. The petitioner will have 90 days to gather signatures of at least five percent of the registered voters to force an election on this issue.
6. If a petition is submitted, then, within 20 days, the City Secretary will determine if enough signatures were obtained.

7. If the petition does not contain the required number of signatures, then the petitioner has an additional 10 days to supplement signatures, with such supplemental signatures to be verified within 10 days by the City Secretary.
8. If a valid petition is submitted, the Council would include a proposition to adopt or reject the proposed ordinance on the ballot at the next regular city council election, which is scheduled for November 8, 2022.

The attached ordinance contains the first three parts of the initiative petition because these parts complied with the “laws of the State and the United States.” The last part of the initiative petition does not comply with the laws of either “the State of Texas or the United States”. Therefore, that subsection cannot be included in the petition.

The proposed initiative petition demands the City pass an ordinance to:

1. inform, and educate the public of COVID-19 early treatment protocols developed by experienced physicians effectively treating COVID-19 patients and used successfully by United States-based doctors and telemedicine physicians;
2. Promote related risk reduction of SARS-CoV-2 infection and disease severity through prophylaxis measures;
3. Inform and educate the public of ways to improve their immune systems with a healthy diet, dietary supplements and exercise with physician consultation; and
4. Require Corpus Christi hospitals, medical facilities, health care professionals and pharmacies to provide patients with information on COVID-19 early treatment protocols, and prescribe such medicines as Hydroxychloroquine, Ivermectin, Budesonide and other safe, FDA-approved drugs as suggested by such early treatment protocols.

Proposal #4 cannot be drafted in a manner that is “consistent with the laws of the State and the United States”. The state of Texas comprehensively regulates the right of medical professionals to prescribe medications and prohibits most types of medical professionals other than “physicians, advanced practice registered nurses, or physician assistants from prescribing medications. To the extent that the provision of information to patients is not the practice of medicine or is pursuant to legally limited prescription authority, the 1st Amendment to the U.S. Constitution prohibits a government entity from mandating their speech. (See attached memo regarding “Obligation to Draft Ordinance consistent with State and Federal Law in Response to Submission of proposed Initiative mandating promotion of COVID-19 Protocols”)

ALTERNATIVES: Council may:

1. do nothing – The City Secretary will give the Proponent petition pages after 45 days
2. IF Council votes to place the attached ordinance on a future agenda, then vote on the ordinance in the future when it is on the agenda for consideration.

LIST OF SUPPORTING DOCUMENTS:

- Statement of Intent to Circulate petition
- Proposed Ordinance with items from Petitioner that may Legally be Adopted
- Memo regarding “Obligation to Draft Ordinance consistent with State and Federal Law in Response to Submission of proposed Initiative mandating promotion of COVID-19 Protocols”