

Memorandum



DATE February 13, 2020

TO Honorable Members of the Government Performance and Financial Management Committee

SUBJECT Consider Amendments to Section 8-1.4, "Qualifications," of Chapter 8, "Boards and Commissions," of the Dallas City Code

1. Qualified Voter Requirement.

On February 6, 2020, pursuant to City Council Rules of Procedure Section 6.2, Councilmember Resendez submitted a five-signature memorandum requesting that the Mayor refer the following item to a city council committee:

Proposed amendment to Section 8-1.4, "Qualifications," of the Dallas City Code, Chapter 8, "Boards and Commissions," deleting the requirement that a board or commission member must be a qualified voter in the city at the time of appointment.

The Mayor, in accordance with City Council Rules of Procedure Section 6.2(f), referred Councilmember Resendez' five-signature memorandum and proposed ordinance amendment to the Government Performance and Financial Management Committee.

a. Current Chapter 8 and Charter Qualifications.

Dallas City Code Chapter 8, Section 8-1.4, "Qualifications," requires that all board and commission appointees meet seven qualifications, including being a qualified voter in the city at the time of appointment.¹ (See attached Section 8-1.4).

In addition to the qualified voter requirement for boards and commissions in Chapter 8, the Charter requires that city plan commissioners and park and recreation board members be qualified voters.² This qualification may only be amended through a Charter amendment.

¹ DALLAS CITY CODE § 8-1.4.

² DALLAS CITY CHARTER at. Ch. XV, § 3 and Ch. XVII, § 2(a) and see Ch. III, §3.

b. Qualified Voter.

The Dallas City Charter provides that “qualified electors of the state who reside within the city” are qualified voters.³ Also, qualified voters of the state are defined in the Texas Election Code.⁴ To be a qualified voter, a person must be a registered voter.⁵ Under state law, a qualified voter and a registered voter must: (1) be 18 years of age or older, (2) be a United States citizen, (3) not be partially or totally mentally incapacitated, and (4) not have been finally convicted of a felony unless they have fully discharged their sentence or been pardoned.

c. Application Process for Appointees.

Appointees to boards and commissions must provide the City Secretary’s Office with their voter registration number. The City Secretary’s Office then checks with the county to determine that the registration is active and within the city. Dallas County is required to update voter registration information daily to the state. If the voter registration information is correct and current, the appointee is considered a qualified voter.⁶

d. Proposed Amendment.

The qualified voter requirement in Chapter 8 may be deleted, except when required under the Charter or another city ordinance.

2. Waiver of Special Qualifications.

On January 27, 2020, pursuant to City Council Rules of Procedure Section 6.2, Councilmember Bazaldua submitted a five-signature memorandum requesting that the Mayor refer the following item to a city council committee:

Proposed amendment to Section 8-1.4, “Qualifications,” of the Dallas City Code, Chapter 8, “Boards and Commissions,” providing a waiver provision for special qualifications for appointees in other chapters.

The Mayor, in accordance with City Council Rules of Procedure Section 6.2(f), referred Councilmember Bazaldua’s five-signature memorandum and proposed ordinance amendment to the Government Performance and Financial Management Committee.

³ *Id.* Ch. IV, § 2 (For purposes of the Dallas City Charter and Dallas City Code a qualified voter and a registered voter are synonymous.)

⁴ TEX. ELEC. CODE ANN. §11.002.

⁵ *Id.* at §§11.002 and 13.001. (The requirements to register to vote and the requirements to be a qualified voter are similar. However, the requirements to register to vote have additional age requirements and a county residency requirement.)

⁶ Conversation with Jesse Salazar, Assistant City Secretary, on January 16, 2020.

As noted above, Section 8-1.4, “Qualifications,” requires that all board and commission appointees meet seven minimum qualifications.⁷ (See attached Section 8-1.4). Other chapters in the Dallas City Code may require special qualifications for specific boards and commissions, such as the requirement that one member of the Landmark Commission must be a real estate appraiser (See attached Section 51A-3.103(a)).

City Council Rules of Procedure Section 6.2(f) require the council committee chair to place the item on their council committee agenda not later than the second council committee meeting after receiving the referral from the Mayor. The Government Performance and Financial Management Committee must make a recommendation on both items to city council not later than the next meeting after being briefed, and the committee must forward its recommendations by memorandum to the Mayor for placement on a city council agenda.⁸

If you any questions, please feel free to call me at 214.670.4268.



TAMMY L. PALOMINO
Chief, General Counsel Division

c: Honorable Mayor and Members of the City Council
T.C. Broadnax, City Manager
Christopher J. Caso, Interim City Attorney
Mark Swann, City Auditor
Biliera Johnson, City Secretary
Kimberly Bizzor Tolbert, Chief of Staff

Majed A. al-Ghafry, Assistant City Manager
Jon Fortune, Assistant City Manager
Joey Zapata, Assistant City Manager
Nadia Chandler-Hardy, Assistant City Manager
Michael Mendoza, Chief, Economic Development and
Neighborhood Services

⁷ DALLAS CITY CODE § 8-1.4.

⁸ City Council Rules of Procedure Section 6.2(f)(2). (“The Mayor shall place the item on a city council briefing or voting agenda not later than the second regular meeting after receipt of the city council committee’s written recommendation.”)

**SEC. 8-1.4 QUALIFICATIONS CONSIDERATIONS
IN APPOINTMENTS TO BOARDS.**

(a) In addition to the qualifications for service on a board that are mandated by the city charter or other ordinances, an appointee to a board must:

(1) have been a resident of the city for at least six months prior to the date of appointment;

(2) be a qualified voter in the city at the time of appointment;

(3) have no conviction that is considered by the city council to be so serious that it should serve as a disqualification;

(4) not be an adversary party to pending litigation or a claim against the city or a city employee, except for eminent domain proceedings; disqualification of an appointee under this subparagraph may be waived by the city council after review of the specific circumstances unless the subject of the litigation or claim involves the board on which the appointee will serve or the department providing support services to that board;

(5) not be an employee or a business associate of either an adversary party or a representative of an adversary party, nor have a pecuniary interest, in any pending litigation or claim, other than an eminent domain proceeding, against the city relating to the board on which the appointee will serve or the department providing support services to that board or against any individual officer or employee of the support department (unless unrelated to such individual's office or employment); disqualification of an appointee under this subparagraph may not be waived;

(6) not be in arrears on any city taxes, water service charges, or other obligations owed the city; and

(7) have a creditable record of attendance pursuant to Section 8-20 in any previous board service.

(b) Notwithstanding Subsection (a), an appointee to a board is not required to live in the district for which he or she is appointed, unless district residency for a board is expressly required by this code.

(c) A person may serve on only one board at a time, except that this restriction does not apply to ex officio board positions. It is the city council's intent that a board member is not required to resign one board position before being appointed to another board but must resign the first position before accepting appointment to the new board position.

(d) Notwithstanding Subsection (c), a person may serve on up to two boards of directors of reinvestment zones established under the Tax Increment Financing Act, as amended.

(e) A person appointed to a board must meet, at the time of appointment and during the entire period of service on the board, all qualifications for appointment to that board that are required by this section and any other applicable provision of a city ordinance or the city charter. This subsection does not apply to a qualification waived by the city council pursuant to specific authority granted in a provision of a city ordinance or the city charter applicable to the board to which the person is appointed.

(f) The city secretary, using resources available to the city, shall inform the city council if any person nominated for appointment to a board has been convicted of a misdemeanor offense, other than a traffic violation, or of any felony offense.

(g) A person is not disqualified from board service under Subsection (a)(6) if the person has entered into an agreement (authorized by the city, state law, or court order) to pay the obligation on a scheduled payment plan and is current on payments under the plan and in compliance with all terms and conditions of the plan. Before the person is appointed or reappointed to any board, the city secretary shall inform the city council if the person is on such a payment plan. The city secretary shall monitor compliance with the payment plan and notify the city council and the city attorney whenever the person is not in compliance with the plan.

(h) Except as provided in this subsection, if a person does not meet or continue to meet the qualifications set forth under this section, the city secretary shall send the following:

(1) a notice that the person forfeits membership on the board due to failure to satisfy a qualification requirement under Paragraph (1), (2), (5), (6), or (7) of Subsection (a) of this section.

(2) a notice that the city secretary shall place an item on a council agenda to consider appointment of the person to the board or removal of the person from the board for failure to satisfy a qualification requirement under Paragraph (3) or (4) of Subsection (a) of this section.

SEC. 51A-3.103. LANDMARK COMMISSION.

(a) Creation; membership; appointment.

(1) There is hereby created a landmark commission to be composed of 15 members. Each city council member shall appoint one member to the landmark commission. The city council may appoint three alternate members to the landmark commission who serve in the absence of one or more regular members when requested to do so by the chair or by the city manager. The membership (including alternate members) must include at least: one real estate developer with experience in redevelopment of commercial historic properties, one architect, one historian, one urban planner, one landscape architect, and one real estate appraiser. All members must have demonstrated experience in historic preservation and outstanding interest in the historic traditions of the city and have knowledge and demonstrated experience in the fields of history, art, architecture, architectural history, urban history, city planning, urban design, historic real estate development, or historic preservation.

(2) The city council shall solicit for consideration nominees for appointment to the landmark commission from, but not limited to: the Dallas County Historical Commission; the Dallas County Heritage Society; the Dallas chapter of the American Institute of Architects; the Dallas Historical Society; the Dallas chapter of the American Planning Association; the Dallas chapter of the American Society of Landscape Architects; the Dallas Bar Association; the North Texas Chapter of the Appraisal Institute; the city plan commission; Preservation Dallas; Black Dallas Remembered; the African-American Museum; ACAL de Mexico; the Dallas Black Chamber of Commerce; the Dallas Hispanic Chamber of Commerce; the Greater Dallas Asian American Chamber of Commerce; the local Urban Land Institute Section; the Dallas Real Estate Council; the CCIM Commercial Real Estate Network; the Board of Realtors; and such other individuals and organizations experienced in historic preservation. The membership of the landmark commission must, as nearly as may be practicable, reflect the racial and ethnic makeup of the city's population.

(3) Each member of the landmark commission shall be appointed for a two-year term beginning on October 1 of each odd-numbered year. All members shall serve until their successors are appointed and qualified. A vacancy for the unexpired term of any member shall be filled in the same manner as the original appointment was made. Alternate members serve for the same period and are subject to removal the same as regular members. The city council shall fill vacancies occurring in the alternate membership in the same manner as full city council appointments to other boards. The members shall serve without compensation. The Mayor shall appoint the chair and the full council shall appoint the vice-chair.

(4) In addition to the 15 regular members, representatives from the city plan commission, department of sustainable development and construction, the building inspection division of the department of sustainable development and construction, code compliance department, the department of planning and urban design, and the park and recreation department shall sit on the landmark commission as ex officio members. The ex officio members are not

entitled to vote but assist the landmark commission in various functions. The department shall provide adequate staff support to the landmark commission and shall assign a member of the staff to act as the historic preservation officer.