

ORDINANCE NO. 2021-61

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS, ORDERING A GENERAL AND SPECIAL ELECTION TO BE HELD ON NOVEMBER 2, 2021 FOR THE PURPOSE OF ELECTING A CITY COUNCIL MEMBER FOR PLACE 5, A CITY COUNCIL MEMBER FOR PLACE 6 AND TO SUBMIT PROPOSED AMENDMENTS TO THE SAN MARCOS CITY CHARTER TO THE VOTERS; MAKING PROVISIONS FOR CONDUCTING THE ELECTION; PROVIDING FOR THE APPROVAL OF THIS ORDINANCE AS AN EMERGENCY MEASURE ON ONLY ONE READING; AND PROVIDING AN EFFECTIVE DATE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

SECTION 1. A general and special election is ordered to be held by the City of San Marcos (the "City") at the various polling places and election precincts within the corporate limits of the City, yet to be designated, on November 2, 2021 from the hours of 7:00 a.m. to 7:00 p.m. This General and Special City Election will be conducted jointly with Hays County and will be administered for the City by the Hays County Elections Administrator. At the General Election the qualified voters of the City will elect a City Council Member for Place 5 and a City Council Member for Place 6 with each Council Member position having a term of three years. At the concurrent Special City Election, the voters will consider proposed amendments to the San Marcos City Charter as set forth in this ordinance. The official canvass of the election shall be held November 15, 2021 following Election Day. In the event it becomes necessary to conduct a Runoff Election, it shall be held on December 7, 2021. Canvass of the returns of the runoff election, if necessary, shall be held on December 16, 2021.

SECTION 2. The ballots for the City election will conform to the requirements of the Texas Election Code, and will contain the following propositions that correspond to and summarize each of the proposed charter text amendments set forth in section 3 of this ordinance:

PROPOSITION - A

FOR/AGAINST	The amendment of Section 1.03 of the City Charter (Statement of Goals) to replace the current section with a new statement of goals of city government that is organized by the categories of people, place, environment, economy, and public services.
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PROPOSITION - B

FOR/AGAINST The amendment of Section 3.01(c) of the City Charter (City Council – Number, Selection and Term) to establish term limits for council members by providing that a council member elected at the regular election held in November of 2022 or at any regular election held thereafter shall be ineligible to run for any city council position, other than mayor, for two years after serving three consecutive terms of office.

PROPOSITION - C

FOR/AGAINST The amendment of Section 3.01(c) of the City Charter (City Council – Number, Selection and Term) to establish term limits for the position of mayor by providing that a person elected as mayor at the regular election held in November of 2024 or at any regular election held thereafter shall be ineligible to run again for mayor for a period of two years after serving four consecutive terms in that position.

PROPOSITION - D

FOR/AGAINST The amendment of Section 3.09 (Meetings of the City Council) to require all regular city council meeting agendas to include “Citizen Comment Period” and “Question and Answer Session with Press and Public” as agenda items.

PROPOSITION - E

FOR/AGAINST The amendment of Section 4.01(b) of the City Charter (City Manager – Term and Salary) to allow the removal of city manager by a vote of four members of the entire city council instead of five members, as currently required.

PROPOSITION - F

FOR/AGAINST The amendment of Section 4.01(c)(2) of the City Charter (City Manager – Duties of the City Manager) to remove the requirement for city council approval of the city manager’s appointment of assistant city managers.

PROPOSITION - G

FOR/AGAINST The amendment of Section 4.02 of the City Charter (City Clerk) to remove the requirement for city council approval of the city clerk’s appointment of assistant city clerks.

PROPOSITION - H

FOR/AGAINST The amendment of Section 4.02 of the City Charter (City Clerk) to change the residency requirement for the position of city clerk to allow the person appointed to that position to reside in either the city limits, as currently required, or within Hays County or within the city's extraterritorial jurisdiction.

PROPOSITION - I

FOR/AGAINST The amendment of Section 4.03(b) of the City Charter (Municipal Court) to remove the requirement for city council approval of the presiding judge's appointment of a municipal court clerk and assistant clerks

PROPOSITION - J

FOR/AGAINST The amendment of Section 4.03(b) of the City Charter (Municipal Court) to remove the residency requirement for appointment of the presiding judge.

PROPOSITION - K

FOR/AGAINST The amendment of Section 4.04 of the City Charter (City Attorney) to remove the requirement for city council approval of the city attorney's appointment of assistant city attorneys.

PROPOSITION - L

FOR/AGAINST The amendment of Section 7.01(a) of the City Charter (Planning and Zoning Commission) to add a provision stating that no action of the planning and zoning commission shall have any force or effect unless it is adopted by a vote of five or more of its members.

PROPOSITION - M

FOR/AGAINST The amendment of Section 12.12(a)(4) of the City Charter (Charter Review Commission) to require the charter review commission to make a final report of its recommendations and require that the chair or a designated member of the commission present the report to the city council.

SECTION 3. If approved by the voters, the San Marcos City Charter would be amended as follows: [proposed deleted text is shown with ~~strikethroughs~~ and proposed added text is underlined]:

TEXT AMENDMENT – FOR PROP “A”

SECTION 1.03 OF THE CITY CHARTER WOULD BE AMENDED TO READ AS FOLLOWS:

Sec. 1.03. - Statement of goals.

~~The goals of the city government are to safeguard the health, safety and welfare of the city's residents, provide for a high quality of life including, but not limited to, neighborhood integrity, a clean and abundant water supply, a cost efficient electricity supply, efficient police and fire departments, educational opportunities, effective road and transportation systems, a healthy business environment, well maintained parkland and recreational opportunities, foster intergovernmental liaison and communication, encourage responsible citizenship, promote sound community and economic development, promote high quality affordable housing, conserve and protect the city's natural resources and environment and, in particular the San Marcos River, its springs, aquifer, and tributaries.~~

The topics and goals of the City Government are:

People

- Equal access to opportunity and prosperity
- Engaged and informed residents
- Strong social ties supported by social, civic and faith organizations
- A diverse and welcoming culture that is celebrated and respected
- Supported services and advocacy for disadvantaged, vulnerable, and at-risk groups

Place

- A safe, secure community
- Attractive, walkable neighborhoods with diverse housing types, values and character
- Inviting and accessible parks and public spaces that provide recreation experiences, respect the environment, and connect people and places
- Promotes affordable housing
- A community that respects and preserves our history, historical structures, and culture
- Beautiful streetscapes and public places
- A city that enables healthy active lifestyles
- A thriving local arts and creative community

Environment

- Efficient use and reuse, and conservation of resources
- Clean, plentiful, and accessible water, air, land and food resources
- Conserve and protect all the city's unique natural resources and ecosystems, including the San Marcos River, its springs, aquifer, and tributaries

Economy

- A thriving, resilient, and diverse economy
- An exemplary climate for business, with an entrepreneurial spirit, support for innovation, ease of doing business, and world-wide competitiveness
- Job opportunities that support a good standard of living and financial stability
- A culture that encourages innovation

Public Services

- Fiscally responsible, accountable, and responsive public services and civic investments
- Effective transportation networks supportive of all transportation modes and users
- Active regional cooperation and collaboration among governments, community leaders, and residents

TEXT AMENDMENT – FOR PROP “B”

SECTION 3.01(C) OF THE CITY CHARTER WOULD BE AMENDED TO READ AS FOLLOWS:

Sec. 3.01. – Number, Selection and term.

(a) The legislative and governing body of the city shall consist of seven council members and shall be known as the "City Council of San Marcos".

(b) The members of the city council shall be elected from the city at large, and each council member shall be elected to occupy a place on the council, such places being numbered and designated 1, 2, 3, 4, 5, 6 and mayor.

(c) Each council member for places 1, 2, 3, 4, 5 and 6 shall hold office for a period of three years, staggered so that two members shall be elected to a regular term each year. A council member elected at the regular election in November of 2022 or at any regular election held thereafter shall be ineligible to run for any council position, other than mayor, for a period of two years after serving three consecutive terms. The council member elected to the place of mayor shall hold office for a period of two years.

TEXT AMENDMENT - FOR PROP “C”

SECTION 3.01(C) OF THE CITY CHARTER WOULD BE AMENDED TO READ AS FOLLOWS:

Sec. 3.01. – Number, Selection and term.

(a) The legislative and governing body of the city shall consist of seven council members and shall be known as the "City Council of San Marcos".

(b) The members of the city council shall be elected from the city at large, and each council member shall be elected to occupy a place on the council, such places being numbered and designated 1, 2, 3, 4, 5, 6 and mayor.

(c) Each council member for places 1, 2, 3, 4, 5 and 6 shall hold office for a period of three years, staggered so that two members shall be elected to a regular term each year. The council member elected to the place of mayor shall hold office for a period of two years. A person elected as mayor at the regular election held in November of 2024 or at any regular election held thereafter shall be ineligible to run again for mayor for a period of two years after serving four consecutive terms in that position.

TEXT AMENDMENT – FOR PROP “D”

SECTION 3.09 OF THE CITY CHARTER WOULD BE AMENDED TO READ AS FOLLOWS:

Sec. 3.09. - Meetings of the city council.

The city council shall hold at least two twenty-two regular meetings ~~in~~ at a minimum each month year at a time to be fixed by it for such regular meetings, and may hold as many additional meetings during the month as may be necessary for the transaction of the business of the city and its citizens. All meetings of the city council shall be held within the city, except that the city council may conduct a meeting at a location outside the city after publishing notice of the meeting in one issue of a newspaper in general circulation in the City of San Marcos. All meetings of the city council shall be public; however, the council may recess for the purpose of discussing in a closed session any matter permitted to be so discussed by state law, provided that the general subject matter for consideration is expressed in the motion calling for such a session and that final action thereon shall not be taken by the council until the matter is placed on the agenda. Special meetings of the council shall be called by the city secretary upon the written request of the mayor or any three members of the city council. All regular city council meeting agendas shall include “Citizen Comment Period” and “Question and Answer Session with Press and Public” as agenda items.

The city council shall provide by ordinance for procedures to call meetings, set meeting agendas, conduct meetings, provide for reasonable time limits on presentations to the council and any other matters necessary to the efficient and fair conduct of the public's business.

TEXT AMENDMENT - FOR PROP “E”

SECTION 4.01(B) OF THE CITY CHARTER WOULD BE AMENDED TO READ AS FOLLOWS:

Sec. 4.01. – City Manager.

(a) *Appointment and qualifications:* The city council shall appoint a city manager who shall be the chief administrative and executive officer of the city, and shall be responsible to the city council for the administration of all the affairs of the city. The manager shall be chosen by the city council on the basis of education, executive and administrative training, experience and ability; and need not, when appointed, have his or her principal physical residence in the City of San Marcos. The manager shall establish his or her principal physical residence in the city, within 90 days after appointment, and shall have his or her principal physical residence in the city continuously thereafter while holding that office.

(b) *Term and salary:* The city manager shall not be appointed for a definite term, but may be removed by a vote of ~~five~~ four members of the entire council. The action of the city council in suspending or removing the city manager shall be final, it being the intention of this Charter to vest all authority and fix all responsibility of each suspension or removal in the city council. In case of temporary absence or disability, the city manager may designate by letter filed with the city clerk a qualified administrative officer of the city to perform the duties of the city manager for a period not to exceed 30 days. In the event of failure of the city manager to make such designation, the council may by resolution appoint an officer of the city to perform the duties

of the city manager, until the manager shall return or the disability shall cease. The city manager shall receive compensation as may be fixed by the council.

(c) Duties of the city manager:

(1) To appoint and remove all employees of the city, except where such authority is reserved to the city council or otherwise prescribed by this Charter or by state law.

(2) To appoint an assistant or assistants with the approval of the city council, and to supervise, direct and control all administrative units of the city, except those supervised by other appointees of the council.

(3) To prepare and submit the annual budget to the city council in accordance with the requirements of this Charter and state law.

(4) To keep the city council fully advised of the financial condition and needs of the city.

(5) To recommend to the city council for action such administrative measures as the manager deems necessary or expedient.

(6) To perform other duties as provided by this Charter and as prescribed by the city council.

TEXT AMENDMENT – FOR PROP “F”

SECTION 4.01(C)(2) OF THE CITY CHARTER WOULD BE AMENDED TO READ AS FOLLOWS

Sec. 4.01. – City Manager.

(a) Appointment and qualifications: The city council shall appoint a city manager who shall be the chief administrative and executive officer of the city, and shall be responsible to the city council for the administration of all the affairs of the city. The manager shall be chosen by the city council on the basis of education, executive and administrative training, experience and ability; and need not, when appointed, have his or her principal physical residence in the City of San Marcos. The manager shall establish his or her principal physical residence in the city, within 90 days after appointment, and shall have his or her principal physical residence in the city continuously thereafter while holding that office.

(b) Term and salary: The city manager shall not be appointed for a definite term, but may be removed by a vote of five members of the entire council. The action of the city council in suspending or removing the city manager shall be final, it being the intention of this Charter to vest all authority and fix all responsibility of each suspension or removal in the city council. In case of temporary absence or disability, the city manager may designate by letter filed with the city clerk a qualified administrative officer of the city to perform the duties of the city manager for a period not to exceed 30 days. In the event of failure of the city manager to make such designation, the council may by resolution appoint an officer of the city to perform the duties of the city manager, until the manager shall return or the disability shall cease. The city manager shall receive compensation as may be fixed by the council.

(c) Duties of the city manager:

(1) To appoint and remove all employees of the city, except where such authority is reserved to the city council or otherwise prescribed by this Charter or by state law.

(2) To appoint an assistant or assistants ~~with the approval of the city council~~, and to supervise, direct and control all administrative units of the city, except those supervised by other appointees of the council.

(3) To prepare and submit the annual budget to the city council in accordance with the requirements of this Charter and state law.

(4) To keep the city council fully advised of the financial condition and needs of the city.

(5) To recommend to the city council for action such administrative measures as the manager deems necessary or expedient.

(6) To perform other duties as provided by this Charter and as prescribed by the city council.

TEXT AMENDMENT – FOR PROP “G”

SECTION 4.02 OF THE CITY CHARTER WOULD BE AMENDED TO READ AS FOLLOWS:

Sec. 4.02. - City Clerk.

The city council shall appoint a city clerk, who shall give notice of council meetings, shall keep the minutes of the proceedings of such meetings, shall authenticate by signature or electronic signature all ordinances and resolutions, and shall perform such other duties as city council, shall assign and those elsewhere provided for in this Charter. The city clerk's compensation shall be fixed by the city council. The city clerk may appoint an assistant or assistants, ~~with the approval of the council~~. The city clerk shall establish his or her principal physical residence in the city, within 90 days after appointment, and shall have his or her principal physical residence in the city continuously thereafter while holding that office.

TEXT AMENDMENT – FOR PROP “H”

SECTION 4.02 OF THE CITY CHARTER WOULD BE AMENDED TO READ AS FOLLOWS:

Sec. 4.02. - City Clerk.

The city council shall appoint a city clerk, who shall give notice of council meetings, shall keep the minutes of the proceedings of such meetings, shall authenticate by signature or electronic signature all ordinances and resolutions, and shall perform such other duties as city council, shall assign and those elsewhere provided for in this Charter. The city clerk's compensation shall be fixed by the city council. The city clerk may appoint an assistant or assistants with the approval of the council. The city clerk shall establish his or her principal physical residence in the city, or in Hays County, or in the city's extraterritorial jurisdiction, within 90 days after appointment, and shall have his or her principal physical residence in the city, or in Hays County, or in the city's extraterritorial jurisdiction continuously thereafter while holding that office.

TEXT AMENDMENT – FOR PROP “I”

SECTION 4.03(B) OF THE CITY CHARTER WOULD BE AMENDED TO READ AS FOLLOWS:

Sec. 4.03. - Municipal Court

a) A municipal court is established for the trial of misdemeanor offenses, with jurisdiction, powers and duties as prescribed by ordinance and state laws.

(b) The city council shall appoint a presiding judge for the municipal court and any associate judges it deems advisable. The presiding judge and each associate judge shall be a competent and duly qualified and licensed attorney authorized to practice law in the State of Texas. The presiding judge shall establish his or her principal physical residence in the city within 90 days after appointment, and shall have his or her principal physical residence in the city continuously thereafter while holding that office. The compensation of the judges shall be fixed by the city council.

The presiding judge shall appoint a municipal court clerk and any assistants, ~~with the approval of the city council.~~

TEXT AMENDMENT – FOR PROP “J”

SECTION 4.03(B) OF THE CITY CHARTER WOULD BE AMENDED TO READ AS FOLLOWS:

Sec. 4.03. - Municipal Court

a) A municipal court is established for the trial of misdemeanor offenses, with jurisdiction, powers and duties as prescribed by ordinance and state laws.

(b) The city council shall appoint a presiding judge for the municipal court and any associate judges it deems advisable. The presiding judge and each associate judge shall be a competent and duly qualified and licensed attorney authorized to practice law in the State of Texas. ~~The presiding judge shall establish his or her principal physical residence in the city within 90 days after appointment, and shall have his or her principal physical residence in the city continuously thereafter while holding that office.~~ The compensation of the judges shall be fixed by the city council.

The presiding judge shall appoint a municipal court clerk and any assistants ~~with the approval of the city council.~~

TEXT AMENDMENT – FOR PROP “K”

SECTION 4.04 OF THE CITY CHARTER WOULD BE AMENDED TO READ AS FOLLOWS:

Sec. 4.04. City Attorney

The city council shall appoint a city attorney, who shall be a competent and duly qualified and licensed attorney, authorized to practice law in the State of Texas. The city attorney shall establish his or her principal physical residence in the city within 90 days after appointment, and shall have his or her principal physical residence in the city continuously thereafter while holding that office. The city attorney's compensation shall be fixed by the city council. The city attorney may appoint an assistant or assistants, ~~with the approval of the city council.~~ The city attorney, or other attorneys selected by the city attorney with the approval of the city council, shall represent the city in all litigation. The city attorney shall be the legal advisor and counsel for the city and all city officers and administrative units; provided, that the city council may retain special counsel at any time it deems same appropriate and necessary. The city attorney shall prepare or review all ordinances and shall prosecute all criminal cases in the municipal court in person or through an assistant.

TEXT AMENDMENT – FOR PROP “L”

SECTION 7.01(A) OF THE CITY CHARTER WOULD BE AMENDED TO READ AS FOLLOWS:

Sec. 7.01. – Planning and zoning commission.

- (a) A city planning and zoning commission is established. The commission shall consist of nine members appointed for staggered three-year terms. Commission members shall be appointed by the council and serve without compensation. No action by the commission shall have any force or effect unless it is adopted by a vote of five or more of its members.
- (b) To be eligible for appointment to the commission, all commission members must have resided in the city for a period of five years before the date of appointment. To be eligible for continued service on the commission, the commission members must maintain residence in the city.
- (c) The council shall establish, by ordinance, the month in which appointments are made, and the month in which terms of office commence. The council may prescribe, by ordinance, educational requirements to be met after persons are appointed to the commission.
- (d) In making appointments to the commission, council shall seek to ensure broad citizen representation which includes geographic, professional, gender, racial, and viewpoint diversity. The commission shall establish bylaws to govern rules of procedure and the annual election of officers. All meetings of the commission shall be open to the public.

TEXT AMENDMENT – FOR PROP “M”

SECTION 12.12(A)(4) OF THE CITY CHARTER WOULD BE AMENDED TO READ AS FOLLOWS:

Sec. 12.12. – Charter Review Commission

Beginning in January 2013 and at least every four years thereafter, the city council shall appoint a Charter review commission of seven citizens of the City of San Marcos.

(a) *Duties of the commission:*

(1) Inquire into the operation of the city government under the Charter provisions and determine whether any such provisions require revision. To this end public hearings may be held; and the commission shall have the power to compel the attendance of any officer or employee of the city and to require the submission of any of the city records which it may deem necessary to the conduct of such hearing.

(2) Propose any recommendations it may deem desirable to ensure compliance with the provisions of the Charter by the several departments of the city government.

(3) Propose, if it deems desirable, amendments to this Charter to improve the effective application of said Charter to current conditions.

(4) The commission shall provide a final report. The chair or designated member of the commission, shall report its findings and present its proposed amendments, if any, to the city council.

(b) The city council may take action to amend the Charter in the manner provided by state law.

(c) *Term of office:* The term of office of such Charter review commission shall be six months, and, if during such term no report is presented to the city council, then all records of the proceedings of such commission shall be filed with the person performing the duties of the city clerk and shall become a public record.

SECTION 4. The election will be held in accordance with the provisions of the Charter and Ordinances of the City of San Marcos and the laws of the State of Texas. The deadline for filing by candidates for the position of Council Member, Place 5 and Council Member, Place 6 is 5:00 p.m. on August 16, 2021.

SECTION 5. An executed copy of this Ordinance will serve as proper notice of the election.

SECTION 6. Notice of the election, including a Spanish translation thereof, will be published at least once in a newspaper published in San Marcos on or after October 3, 2021 and on or before October 19, 2021, and will be posted on the bulletin board at City Hall on or before October 15, 2021.

SECTION 7. A writ of election as required by the Texas Election Code will be delivered on or before October 19, 2021 by the Hays County Election Administrator to the presiding and alternate judges of each election precinct in which the election is ordered to be held.

SECTION 8. If any portion of this Ordinance is held invalid by a court of competent jurisdiction, the remaining provisions of this Ordinance shall remain in full force and effect.

SECTION 9. The importance of this Ordinance creates an emergency and an imperative public necessity, and the provisions of the Charter requiring that ordinances be presented at two separate meetings be waived and, this Ordinance will take effect immediately upon adoption.

CONSIDERED, APPROVED, AND ADOPTED on August 3, 2021

Jane Hughson
Mayor

Attest:

Approved:

Tammy K. Cook
Interim City Clerk

Michael J. Cosentino
City Attorney