

CHARTER AMENDMENTS: FOLLOW UP
ITEMS FROM COUNCIL MEETING ON MAY 20, 2025

Item No. 1: Move provision from Section 7.02(7) regarding planning and zoning commission review of the comprehensive plan to Section 7.03 which deals specifically with the comprehensive plan. [THE PROPOSED ADJUSTMENTS ARE HIGHLIGHTED IN YELLOW]

Sec. 7.02. Powers and duties of the commission.

The commission shall have the power and be required to:

- (1) Be responsible to and act as an advisory body to the council on all matters related to the physical growth and development of the city. The planning and zoning staff shall follow all city ordinances, rules, and regulations and confer with the city attorney before making any recommendations to the planning and zoning commission. The planning and zoning commission shall follow all city ordinances, rules and regulations before making any recommendations to the city council.
- (2) Review and be the final approval authority for the subdivision and platting of land within the city and its extraterritorial jurisdiction. The council or the commission may expressly delegate authority to approve certain minor subdivision plats to the director of the planning and development services department in accordance with the provisions of state law.
- (3) Hold a public hearing and recommend to the city council the approval or disapproval of any proposed change to the city's official zoning map.
- (4) Hold public hearings and approve or deny conditional use permit applications made under the city's zoning ordinances, subject to an appeal of such decisions to the city council. The council, on appeal, may uphold, modify, or reverse the decision of the commission. The council may reverse a decision of the commission to deny a permit only by a vote of at least six members of the council in favor of reversal. Appeals to the council on conditional use permit applications will be based on the record before the planning and zoning commission, Texas and Federal laws, and San Marcos city ordinances and regulations. The decision on appeals before city council will be governed by the substantial evidence rule. Decisions of the commission to revoke or suspend conditional use permits will be final and may not be appealed to the council.
- (5) Submit annually to the city council, not less than one hundred and twenty days prior to the beginning of the fiscal year, a list of recommended capital improvements found necessary or desirable.
- (6) Hold an annual public hearing on the Land Development Code and recommend any necessary or desirable changes to the council.
- ~~(7) Perform an ongoing review of the city's comprehensive plan to include:~~
 - ~~(a) Holding an annual public hearing on the plan and recommend any necessary or desirable changes to the council;~~
 - ~~(b) Holding public hearings and making recommendations to the council regarding updates to the land use and transportation elements of the plan at least once every three years; and~~
 - ~~(c) Holding public hearings and making recommendations to the council regarding the update of the entire comprehensive plan document at least once every five ten years.~~
- ~~(78)~~ Perform such other duties and be vested with such other powers as the council may prescribe in accordance with state law.
- ~~(89)~~ Require information from the administrative units of city government in relation to the duties of the commission listed under this section.

Sec. 7.03. The comprehensive plan.

- (a) The comprehensive plan for the City of San Marcos shall be used to guide the growth and development of the city. The comprehensive plan shall be adopted by ordinance. The city council will endeavor to ensure that city ordinances governing growth and development are consistent with the goals and policies contained in the comprehensive plan; however, land use maps and descriptions contained in the comprehensive plan do not constitute zoning, and do not entitle any property owner to any change in zoning.
- (b) The commission shall conduct an ongoing review of the city's comprehensive plan in accordance with Section 7.02 to include:
 - 1. Holding an annual public hearing on the plan and recommend any necessary or desirable changes to the council;
 - 2. Holding public hearings and making recommendations to the council regarding updates to the land use and transportation elements of the plan at least once every three years; and
 - 3. Holding public hearings and making recommendations to the council regarding the update of the entire comprehensive plan document at least once every five ten years.
- (c) The commission may recommend amendments to the comprehensive plan after at least one public hearing on the proposed action. The council may amend the comprehensive plan after at least one public hearing on the proposed action. The council shall not act on any amendment affecting the comprehensive plan unless and until a recommendation on the amendment is received from the commission.

Item No. 2: Move the provision in Section 12.01 regarding public access to records to the new proposed Article 13, General Provisions, as being a more logical location for this subject. [THE PROPOSED ADJUSTMENTS ARE HIGHLIGHTED IN YELLOW]

ARTICLE XII. ~~GENERAL PROVISIONS~~ ETHICS

Sec. 12.01. Public access to records.

All information collected, assembled or maintained by the city pursuant to law or ordinance or in connection with the transaction of official city business is public information and available to the public during normal business hours of the city under the terms and conditions provided in the Texas Public Information Act as amended.

Sec. 12.02~~1~~. Personal interest and code of ethics.

- (a) (1) All elected and appointed officers of the city shall comply with applicable requirements of state law and city ordinances pertaining to conflicts of interest of local government officials.
- (2) The code of ethics adopted by the city council under subsection (b) of this section shall require annual disclosure by members of the city council and city boards and commissions of their relevant interests in business entities and real property as defined under state law and city ordinances. The financial disclosures shall be updated within 30 days of any significant change in the interests of an official - even if such a change is temporary. For this part "significant" means a change in interest that would tend to render the annual financial disclosure misleading or incomplete.
- (3) No member of the city council, and no employee of the city shall have a financial interest in the sale to the city or purchase from the city of any land, materials, supplies or service, outside of the person's position with the city. Any person having such an interest shall be ineligible for election as a city council member or appointment as an employee of the city, and any city council member or employee who acquires such an interest shall forfeit the office or employment. Any violation of this provision with the actual or constructive knowledge of the city council member or employee shall render the contract voidable by the city manager or the city council. These provisions shall not apply to acquisitions of property by the city as a result of eminent domain proceedings or the threat of eminent domain proceedings. These provisions shall not apply to purchases from the city of land, materials, supplies or services that are made available for purchase to all members of the public.

- (4) For a period of two years from the date of leaving office, a city council member shall not have any financial interest in the sale to the city of any land or interest in land or in any contract for consulting, development, or construction services. Any violation of this subsection with the actual or constructive knowledge of the former city council member shall render the contract voidable by the city manager or the city council. These provisions shall not apply to acquisitions of property by the city as a result of eminent domain proceedings or the threat of eminent domain proceedings.
- (b) It is the policy of the City of San Marcos that all city officials and employees shall act and conduct themselves both inside and outside the city's service so as to give no occasion for distrust for their integrity, impartiality or of their devotion to the best interest of the City of San Marcos and the public trust which it holds. To this end and to expressly assure its accomplishment, the city council shall establish and maintain an ethics review commission, and shall adopt and maintain a code of ethics for officials and employees of the City of San Marcos in ordinance form. The city council shall appoint an ethics review commission composed of seven citizens of the City of San Marcos to serve three-year staggered terms. A chair shall be elected by a majority of the commission after the annual appointment of members to the commission.
- (c) Duties of the ethics review commission:
 - (1) The ethics review commission shall meet at least once a year to review the code of ethics of the City of San Marcos and make recommendations, if any, to the city council.
 - (2) Conduct hearings into allegations of violations of the city's code of ethics, a state conflict of interest law, or the city charter according to the procedures set forth in the city's ethics ordinance.
 - (3) Render advisory opinions on potential conflicts of interest, violation of the city's code of ethics, or the city charter at the request of a public official or employee.
 - (4) Recommend to appropriate authorities cases for prosecution or other action for violation of the code of ethics, a state conflict of interest law, or the city charter.
 - (5) Review and monitor financial reports required by the Texas Election Code with respect to city-sponsored elections.

Sec. 12.032. Nepotism and conflict of interest.

- (a) Public officials of the City of San Marcos are subject to the nepotism prohibitions defined under state law. For purposes of this section, the following are defined as public officials:
 - (1) The mayor and members of city council.
 - (2) City manager.
 - (3) City clerk.
 - (4) City attorney.
 - (5) Presiding judge of the municipal court.
- (b) No business partner or person related, within the second degree by affinity or within the third degree by consanguinity, to the mayor or any member of the city council or other public official of the city shall be employed or appointed to any office, position, board, or commission of the city. This prohibition shall not apply, however, to any person who shall have been continuously employed by the city for a period of at least six months prior to the election or appointment of the public official so related to them.

ARTICLE XIII. GENERAL PROVISIONS

Sec. 13.01. Public access to records.

All information collected, assembled or maintained by the city pursuant to law or ordinance or in connection with the transaction of official city business is public information and available to the public during normal business hours of the city under the terms and conditions provided in the Texas Public Information Act as amended.

Sec. ~~12.04~~ 13.02. Provisions relating to assignment, execution and garnishment.

The property, real and personal, belonging to the city shall not be liable to be sold or appropriated under any writ or execution or cost bill. The funds belonging to the city, in the hands of any person, firm or corporation, shall not be liable to garnishment, attachment, or sequestration; nor shall the city be liable to garnishment on account of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the city nor any of its officers or agents shall be required to answer any such writ of garnishment on any account whatever. The city shall not be obligated to recognize any assignment of wages or funds by its employees, agents or contractors.

Sec. ~~12.05~~ 13.03. City not required to give security or execute bond.

It shall not be necessary in any action, suit or proceeding in which the City of San Marcos is a party, for any bond, undertaking, or security to be demanded or executed by or on behalf of said city in any of the state courts, but in all such actions, suits, appeals, or proceedings, same shall be conducted in the same manner as if such bond, undertaking or security had been given as required by law.

Sec. ~~12.06~~ 13.04. Special provisions covering damage suits.

Before the city shall be liable to damage claim or suit for personal injury, or damage to property, the person who is injured or whose property is damaged or someone in that person's behalf shall give the city manager or the person performing the duties of city clerk, notice in writing within 90 days after the occurrence of the alleged injury, or damage, stating specifically in such notice when, where and how the injury or damage was sustained, and setting forth the extent of the injury or damage as accurately as possible. Provided however, that the ninety-day notice requirement of this section may be extended by a court of competent jurisdiction for good cause shown if the injured party has exercised due diligence, if any delay in giving the notice required by this section is not the result of conscious indifference by the party and if there is no substantial harm to the city caused by the delay. No action at law for damages shall be brought against the city for personal injury or damage to property prior to the expiration of 30 days after the notice hereinbefore described has been filed with the city manager or the person performing the duties of city clerk. In case of injuries resulting in death, before the city shall be liable in damages therefor the person or persons claiming such damages shall after the death of the injured person give notice as above required in case of personal injury. Provided, however, that nothing herein contained shall be construed to mean that the City of San Marcos waives any rights, privileges, defenses or immunities in tort actions which are provided under the common law, the constitution and general laws of the State of Texas.

Sec. ~~12.07~~ 13.05. Separability clause.

If any section or part of section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such section or part of section so held invalid may appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

Sec. ~~12.08~~ 13.06. Effect of this Charter on existing law.

All ordinances, resolutions, rules, and regulations now in force under the city government of San Marcos and not in conflict with the provisions of this Charter, shall remain in force under this Charter until altered, amended or repealed by the council after this Charter takes effect; and all rights of the City of San Marcos under existing franchises and contracts are preserved in full force and effect to the City of San Marcos.

Sec. ~~12.09~~ 13.07. Holdover of officers.

All officers of the city, including appointed members of city boards and commissions, shall continue to perform the duties of their offices until their successors are duly qualified.

Sec. ~~12.10~~ 13.08. Applicability of general laws.

The constitution of the State of Texas, the statutes of said state applicable to home-ruled municipal corporations, as now or hereafter enacted, this Charter and ordinances enacted pursuant hereto shall, in the order mentioned, be applicable to the City of San Marcos. The city shall also have the power to exercise any and all powers conferred by the laws of the State of Texas upon any other kind of city, town or village, not contrary to the provisions of said home-rule statutes, Charter and ordinances, but the exercise of any such powers by the City of San Marcos shall be optional with it, and it shall not be required to conform to the law governing any other cities, towns or villages unless and until by ordinance it adopts same.

Sec. ~~12.11~~ 13.09. Amending the Charter.

Amendments to this Charter may be framed and submitted to the voters of the city in the manner provided by state law and in compliance with the provisions of this Charter pertaining to the holding of elections, including the requirements in Section 6.03 for verification of signatures on any petition paper that have been continuously in effect since the adoption of the original city charter on February 24, 1967.

Sec. ~~12.12~~ 13.10. 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.

Sec. ~~12.13~~ 13.11. Reserved.

Sec. ~~12.14~~ 13.12. Reserved.

Sec. ~~12.15~~ 13.13. Fluoridation of municipal water supply.

The City of San Marcos shall not add, or direct or require its agents to add fluoride in the form of hydrofluorosilicic acid, hexafluorosilicic acid, or sodium silicofluoride to the San Marcos municipal water supply.

