

ORDINANCE NO. 2017-62

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS, CANVASSING RETURNS AND DECLARING RESULTS OF THE GENERAL ELECTION, HELD ON NOVEMBER 7, 2017, FOR THE PURPOSE OF ELECTING CITY COUNCIL MEMBER, PLACE THREE AND CITY COUNCIL MEMBER, PLACE FOUR, DECLARING AN EMERGENCY CREATING THE NEED TO ADOPT THIS ORDINANCE WITH ONLY ONE READING; AND PROVIDING AN EFFECTIVE DATE.

**RECITALS:**

1. On November 7, 2017 a general election was held for the purpose of electing City Council Member, Place Three and City Council Member, Place Four.
2. The City Council of the City of San Marcos, Texas convened on November 15, 2017 to consider the returns of the runoff election held on November 7, 2017 with the following members present: \_\_\_\_\_.
3. It appears to the Council, and the Council finds, that the election was in all respects lawfully held.
4. It appears to the Council, and Council finds, that the tabulation of the results of the election is correct.

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

SECTION 1. The general election held on November 7, 2017 was duly called, notice of the election was given in accordance with law, and the election was held in accordance with law.

SECTION 2. The tabulation of votes cast in the general election held on November 7, 2017, for the purposes stated in Recital 1 above, a copy of which is attached to and made a part of this ordinance as Exhibit "A," is adopted as the official tabulation of the votes cast at the election, and the tabulation will be filed and recorded in the official records of the City of San Marcos as the official canvass of the election.

SECTION 3. The official canvass of the returns of the election reflects the following:

A. For City Council Member, Place Three:

Ed Mihalkanin	<u>1,441</u>
Amy Stanfield	<u>762</u>

B. For City Council Member, Place Four:

Jane Hughson	<u>1,749</u>
Joshua Simpson	<u>405</u>

C. The following votes were cast for and against the following numbered propositions:

PROPOSITION - A

The amendment of Sections 1.01 and 1.02 to replace references to “municipal government” with the term “city government.”

FOR 1,797

AGAINST 258

PROPOSITION - B

The amendment of Section 1.03 of the City Charter (Statement of Goals) to add the following as goals of the city government: to promote high quality affordable housing; and to conserve and protect the San Marcos River, its springs, aquifer, and tributaries.

FOR 1,866

AGAINST 256

PROPOSITION - C

The amendment of Section 3.02 of the City Charter (Qualifications of Council Members) to allow the address shown on a current Texas identification card to be used, in addition to a current Texas driver’s license, to prove the person’s principal physical residence is in the city.

FOR 1,780

AGAINST 323

#### PROPOSITION - D

The amendment of Section 3.05 of the City Charter to change all references to “mayor pro tempore” to “mayor pro tem” and to require the appointment of a deputy mayor pro tem after each regular election of council members.

FOR           1,726

AGAINST    302

#### PROPOSITION - E

The amendment of Section 3.09 of the City Charter (Meetings of the City Council) to require the council to hold twenty-two regular meetings at a minimum each year instead of requiring the council to hold two regular meetings each month.

FOR           1,464

AGAINST    596

#### PROPOSITION - F

The amendment of Sections 3.09 and 6.02 of the City Charter to replace all references to the “city secretary” with the term “city clerk.”

FOR           1,815

AGAINST    252

#### PROPOSITION - G

The amendment of Section 3.11 of the City Charter (Passage of Ordinances) to require the city attorney to approve the legality of ordinances or file written objections prior to consideration by the city council instead of after adoption.

FOR           1,805

AGAINST    221

PROPOSITION - H

The amendment of Section 4.01 of the City Charter (City Manager) to require a vote of at least five member of the city council, instead of four, to remove the city manager.

FOR 1,237

AGAINST 796

PROPOSITION - I

The amendment of Section 4.02 of the City Charter (City Clerk) to allow the city clerk to authenticate ordinances and resolutions by electronic signature.

FOR 1,636

AGAINST 420

PROPOSITION - J

The amendment to add a new section 4.07(Publication of Salaries) to require the salary range of each city position to be published on the city's website.

FOR 1,963

AGAINST 145

PROPOSITION – K

The amendment of Section 5.03 of the City Charter (Filing For Office) to require all candidates to sign the code of fair campaign practices in the Texas Election Code and require campaign contribution reports to be legible.

FOR 2,003

AGAINST 98

### PROPOSITION – L

The amendment of Section 5.04 of the City Charter (The Official Ballot) to reword the first sentence thereof to read as follows:

“The names of all candidates for office, except such as may have withdrawn, died, or become ineligible, shall be ~~printed~~ included on the official ballots without party designation.”

FOR            1,555

AGAINST    483

### PROPOSITION - M

The amendment of Section 7.01 of the of the City Charter (Planning and Zoning Commission) to eliminate real property ownership as a requirement for appointment or continued service on the commission; increase the residency requirement for appointment from three years to five years; and delete obsolete references to a commission member residing in the city’s extraterritorial jurisdiction.

FOR            1,228

AGAINST    810

### PROPOSITION - N

The amendment of Section 7.02 of the City Charter (Powers and Duties of the Planning and Zoning Commission) to add a provision that requires the planning and zoning staff to consult with the city attorney and follow all city ordinances, rules, and regulations before making any recommendations to the commission; and requires the commission to follow all city ordinances, rules, and regulations before making any recommendations to the city council.

FOR            1,859

AGAINST    201

### PROPOSITION - O

The amendment of Section 7.02 of the City Charter (Powers of the Planning and Zoning Commission) to clarify that a vote of at least six members of the city council (currently stated as "a three-fourths vote of the council") is required to reverse the denial of a conditional use permit by the commission and require appeals to the council on conditional use permit applications to be based on Texas and federal laws, city ordinances, and regulations.

FOR           1,611

AGAINST     380

### PROPOSITION - P

The amendment of Section 8.02 of the City Charter (Preparation and Submission of Budget) and Section 8.05 (Budget a Public Record) to require the city council to take the following actions each year in the preparation of the city budget: conduct a visioning session by January 31<sup>st</sup> ; conduct a budget policy workshop by February 27<sup>th</sup>; formulate a budget policy statement by March 31<sup>st</sup>; make copies of the proposed budget available at the San Marcos Public Library, at City Hall, and on the city's website; and publish the adopted budget and all supporting schedules on the city's website

FOR           1,902

AGAINST     142

### PROPOSITION – Q

The amendment of Section 11.04 of the City Charter (Ordinance Granting Franchise) to make the city's current practice of making the full text of an ordinance granting a public utility franchise available at the San Marcos Public Library, at City Hall, and on the city's website a charter requirement.

FOR           1,925

AGAINST     110

### PROPOSITION - R

The amendment of Section 12.02(a)(2) of the City Charter (Personal Interest and Code of Ethics) to add a provision to require updating of annual financial disclosure statements filed by city council members and members of boards and commissions within thirty days of any significant changes that would, if not disclosed, render the statement misleading or incomplete.

FOR 1,917

AGAINST 130

### PROPOSITION – S

The amendment of Section 12.02(a)(3) of the City Charter (Personal Interest and Code of Ethics) to prohibit members of the city council and city employees from purchasing land, materials, supplies or services from the city with the exception of purchases made available to all members of the public.

FOR 1,922

AGAINST 140

### PROPOSITION - T

The amendment adding a new subsection 12.02(4) to the City Charter to prohibit former council members from having any financial interest in the sale to the city of any land or interest in land or in a contract for consulting, development, or construction services for a period of two years after leaving office. Allowing the council or city manager to void contracts entered into in violation of this provision. Providing an exception for the city's acquisition of land or an interest in land from a former council member under the threat of eminent domain proceedings.

FOR 1,881

AGAINST 175

PROPOSITION – U

The amendment of Section 12.02, Subsection (c) of the City Charter (Duties of the Ethics Review Commission) to add a new provision that gives the Commission the authority to conduct hearings and make recommendations regarding alleged violations of the city charter.

FOR           1,843

AGAINST   191

PROPOSITION - V

The amendment to Section 12.03 of the City Charter (Nepotism) to reword the section caption to include both nepotism and conflict of interest; prohibit the employment or appointment of a business partner or person related within the second degree by affinity or within the third degree by consanguinity to the mayor, a council member, the city manager, city clerk, city attorney or presiding judge of the city to any office, position, board, or commission of the city; and provide an exemption for persons who have been continuously serving in their office or position for at least six months prior to the election or appointment of the related public official.

FOR           1,832

AGAINST   216

PROPOSITION – W

Amending the City Charter to correct grammatical, punctuation and spelling errors.

FOR           2,001

AGAINST   107

SECTION 4. That Ed Mihalkanin received a majority of the votes and is elected to serve as City Council Member, Place Three.



SECTION 5. That Jane Hughson received a majority of the votes and is elected to serve as City Council Member, Place Four.

SECTION 6. Propositions A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, V, and W are hereby adopted and the San Marcos City Charter is hereby amended as of the effective date of this ordinance to incorporate the text amendments corresponding to each of those propositions as set forth in Ordinance 2017-45 that called the special charter amendment election.

SECTION 7. 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 this the 15<sup>th</sup> day of November, 2017.

John Thomaides  
Mayor

Attest:

Jamie Lee Case  
City Clerk

Approved:

Michael J. Cosentino  
City Attorney