City of San Marcos

Regular Meeting Agenda
Charter Review Commission

Monday, April 5, 2021	5:30 PM	Virtual Meeting

Due to COVID-19, this will be a virtual meeting.
To view the meeting, please go to https://us02web.zoom.us/j/81655761989 **or**
Dial in at: 888 788 0099 (Toll Free) **or** 877 853 5247 (Toll Free) **Webinar ID:** 816 5576 1989 **or**
iPhone one-tap: US: +13462487799,,81655761989# or +16699006833,,81655761989#

I. Call To Order

II. Roll Call

III. 30 Minute Citizen Comment Period
Persons wishing to participate (speak) during the Citizen Comment portion of the meeting must email tmoreno@sanmarcostx.gov no later than 12:00 p.m. on the day of the meeting. A call in number to join by phone or link will be provided for participation on a mobile device, laptop or desktop computer. Comments shall have a time limit of three (3) minutes each. Any threatening, defamatory or other similar comments are prohibited by Chapter 2 of the San Marcos City Code.

1. Consider approval, by motion, of the March 22, 2021 regular meeting minutes.

2. Discuss and consider any section of San Marcos' City Charter.

3. Discuss and consider the final report to City Council from the Charter Review Commission.

IV. Discussion and Recommendations for Future Agenda Items
Board Members may provide requests for discussion items for future agenda in accordance with the board's approved bylaws. No further discussion will be held related to topics proposed until they are posted on a future agenda in accordance with the Texas Open Meetings Act.

V. Question and Answer Session with Press and Public
This is an opportunity for the Press and Public to ask questions related to items on this agenda. Each speaker will be provided up to three (3) minutes to speak.

VI. Adjournment

Notice of Assistance at the Public Meetings

The City of San Marcos is committed to compliance with the Americans with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request. If requiring Sign Language Interpreters or alternative formats, please give notice at least 2 days (48 hours) before the meeting date. Individuals who require auxiliary aids and services for this meeting should contact the City of San Marcos ADA Coordinator at 512-393-8000 (voice) or call Texas Relay Service (TRS) by dialing 7-1-1. Requests can also be faxed to 855.461.6674 or sent by e-mail to ADArequest@sanmarcostx.gov.

For more information on the Ethics Review Commission, contact Tina Moreno at 512.393.8151 or tmoreno@sanmarcostx.gov.

City of San Marcos

Meeting Minutes
Charter Review Commission

Monday, March 22, 2021	5:30 PM	Virtual Meeting

I. Call To Order

With a quorum present, the regular meeting of the Charter Review Commission was called to order by Chair Thomaides at 5:37 p.m. on Monday, March 22, 2021.

II. Roll Call

Present: 7 - Chair Thomaides, Commissioner Garcia, Commissioner Kelsey, Commissioner Mayhew, Commissioner Sambrano, Commissioner Sparks, Commissioner Taylor

Absent: 0

Others Present: 1 - Lisa Marie Coppoletta

III. 30 Minute Citizen Comment Period

Lisa Marie Coppoletta cited Romans 13:1 and the importance of the Commission's duties. She reiterated her concern of low citizen participation at Charter meetings and the visibility of all board members during virtual meetings. LMC requested the Commission consider codifying fair engagement with the current mayor in regards to city council virtual meeting procedures.

1. Consider approval, by motion, of the March 8, 2021 regular meeting minutes.

A motion was made by Commissioner Kelsey, seconded by Commissioner Taylor, to approve the minutes. The motion carried by the following vote:

For: 7 - Chair Thomaides, Commissioner Garcia, Commissioner Kelsey, Commissioner Mayhew, Commissioner Sambrano, Commissioner Sparks, and Commissioner Taylor

Against: 0

2. Review, discuss, and take action, as appropriate, on amending Sec. 1.03 – Statement of goals, under Article I – Form of Government and Boundaries, including a draft proposal crafted by Commissioner Mayhew.

A motion was made by Chair Thomaides, seconded by Commissioner Mayhew, to review and approve amendments made (see attachment). The motion carried by the following vote:

DRAFT

For: 7 - Chair Thomaides, Commissioner Garcia, Commissioner Kelsey, Commissioner Mayhew, Commissioner Sambrano, Commissioner Sparks, and Commissioner Taylor

Against: 0

3. Discuss and consider approval, by motion, of the interim report to City Council from the Charter Review Commission.

A motion was made by Commissioner Kelsey, seconded by Commissioner Mayhew, to approve the interim report. The motion carried by the following vote:

For: 7 - Chair Thomaides, Commissioner Garcia, Commissioner Kelsey, Commissioner Mayhew, Commissioner Sambrano, Commissioner Sparks, and Commissioner Taylor

Against: 0

4. Continue section by section review of San Marcos' City Charter, including but not limited to, Article XI – Franchises and Public Service Companies, and Article XII – General Provisions.

A motion was made by Commissioner Mayhew, seconded by Commissioner Kelsey, to amend item (a)(2) of Sec. 12.12 – Charter review commission. The amendment would read as follows: "Propose any recommendations ~~it may deem desirable~~ to ensure compliance with the provisions of the Charter by the several departments of the city government." The motion carried by the following vote:

For: 7 - Chair Thomaides, Commissioner Garcia, Commissioner Kelsey, Commissioner Mayhew, Commissioner Sambrano, Commissioner Sparks, and Commissioner Taylor

Against: 0

A motion was made by Commissioner Mayhew, seconded by Commissioner Kelsey, to amend item (a)(3) of Sec. 12.12 – Charter review commission. The amendment would read as follows: "Propose~~, if it deems desirable,~~ amendments to this Charter to improve the effective application of said Charter to current conditions." The motion carried by the following vote:

For: 7 - Chair Thomaides, Commissioner Garcia, Commissioner Kelsey, Commissioner Mayhew, Commissioner Sambrano, Commissioner Sparks, and Commissioner Taylor

Against: 0

IV. Discussion and Recommendations for Future Agenda Items.

April 5, 2021:

- discuss and consider any section of the San Marcos' City Charter

- discuss and consider the final report to City Council from the Charter Review Commission

V. Question and Answer Session with Press and Public.

None were present for questions and answers from press and public.

VI. Adjournment

The Regular Meeting of the Charter Review Commission meeting was unanimously adjourned at 7:50 p.m.

Michael Cosentino, Staff Liaison

John Thomaides, Chair

DRAFT

Section 1.03 - Statement of Goals.

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, it's 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

CITY CHARTER

City of San Marcos, Texas

(with changes through November 7, 2017 City Election)

ARTICLE I. - FORM OF GOVERNMENT AND BOUNDARIES

Sec. 1.01. - Establishment and purposes of Charter.

Sec. 1.02. - Form of government.

Sec. 1.03. - Statement of goals.

ARTICLE II. - POWERS OF THE CITY

Sec. 2.01. - General.

Sec. 2.02. - Eminent domain.

Sec. 2.03. - Extension or detachment of boundaries.

Sec. 2.04. - Limited purpose annexation.

ARTICLE III. - THE CITY COUNCIL

Sec. 3.01. - Number, selection and term.

Sec. 3.02. - Qualifications.

Sec. 3.03. - Reserved.

Sec. 3.04. - Compensation and reimbursement.

Sec. 3.05. - Mayor, mayor pro tem and deputy mayor pro tem.

Sec. 3.06. - Vacancies.

Sec. 3.07. - Powers and limitations of the city council.

Sec. 3.08. - City council not to interfere in appointments or removals.

Sec. 3.09. - Meetings of the city council.

Sec. 3.10. - Rules of procedure.

Sec. 3.11. - Procedure for passage of ordinances.

Sec. 3.12. - Publication of ordinances.

Sec. 3.13. - Code of Ordinances.

Sec. 3.14. - Official bonds for city employees.

Sec. 3.15. - Investigation by the city council.

Sec. 3.16. - Audit and examination of city books and accounts.

Sec. 3.17. - Expulsion or removal of city officials.

ARTICLE IV. - ADMINISTRATIVE SERVICES

Sec. 4.01. - City manager.

Sec. 4.02. - City clerk.

Sec. 4.03. - Municipal court.

Sec. 4.04. - City attorney.

Sec. 4.05. - City auditor.

Sec. 4.06. - Other administrative units.

Sec. 4.07. - Publication of salaries.

ARTICLE V. - NOMINATIONS AND ELECTIONS

Sec. 5.01. - Elections.

Sec. 5.02. - Regulation of elections.

Sec. 5.03. - Filing for office.

Sec. 5.04. - The official ballot.

Sec. 5.05. - Election by majority.

Sec. 5.06. - Laws governing city elections.

Sec. 5.07. - Conducting and canvassing elections.

Sec. 5.08. - Oath of office.

ARTICLE VI. - INITIATIVE, REFERENDUM AND RECALL

Sec. 6.01. - Power of initiative.

Sec. 6.02. - Power of referendum.

Sec. 6.03. - Forms of petitions.

Sec. 6.04. - Council consideration and submission to voters.

Sec. 6.05. - Results of elections.

Sec. 6.06. - Power of recall.

Sec. 6.07. - Recall election.

Sec. 6.08. - Results of recall election.

Sec. 6.09. - Limitation on recall.

Sec. 6.10. - Examinations and certification of petitions.

Sec. 6.11. - Non-binding ballot propositions.

ARTICLE VII. - MUNICIPAL PLANNING AND ZONING

Sec. 7.01. - Planning and zoning commission.

Sec. 7.02. - Powers and duties of the commission.

Sec. 7.03. - The comprehensive plan.

Sec. 7.04. - Organization.

ARTICLE VIII. - FINANCIAL PROCEDURE

Sec. 8.01. - Fiscal year.

Sec. 8.02. - Preparation and submission of budget.

Sec. 8.03. - Anticipated revenues compared with other years in budget.

Sec. 8.04. - Proposed expenditures compared with other years.

Sec. 8.05. - Budget a public record.

Sec. 8.06. - Notice of public hearing on budget.

Sec. 8.07. - Public hearing on budget.

Sec. 8.08. - Proceedings on budget after public hearing.

Sec. 8.09. - Adoption after public hearing.

Sec. 8.10. - Date of final adoption.

Sec. 8.11. - Effective date of budget; certification; copies made available.

Sec. 8.12. - Budget establishes appropriations.

Sec. 8.13. - Budget establishes amount to be raised by property tax.

Sec. 8.14. - Contingent appropriation.

Sec. 8.15. - Estimated expenditures shall not exceed estimated resources.

Sec. 8.16. - Other necessary appropriations.

Sec. 8.17. - Purchase procedure.

ARTICLE IX. - BORROWING FOR CAPITAL IMPROVEMENTS

Sec. 9.01. - Power to borrow.

Sec. 9.02. - Bond record.

Sec. 9.03. - Misapplication of bond funds.

ARTICLE X. - TAX ADMINISTRATION

Sec. 10.01. - Tax administration.

Sec. 10.02. - Power to tax.

Sec. 10.03. - Property subject to tax, methods of assessment.

Sec. 10.04. - Reserved.

Sec. 10.05. - Taxes; when due and payable.

Sec. 10.06. - Seizure and sale of personal property.

Sec. 10.07. - Tax liens.

Sec. 10.08. - Tax remissions, discount, and compromises.

ARTICLE XI. - FRANCHISES AND PUBLIC SERVICE COMPANIES

Sec. 11.01. - Definitions; powers of the city council.

Sec. 11.02. - Power to grant franchise.

Sec. 11.03. - Reserved.

Sec. 11.04. - Ordinance granting franchise; public hearing.

Sec. 11.05. - Transfer of franchise.

Sec. 11.06. - Franchise value not to be allowed.

Sec. 11.07. - Right of regulation.

Sec. 11.08. - Public service companies to file annual reports.

Sec. 11.09. - Regulation of rates.

Sec. 11.10. - Municipally owned utilities.

Sec. 11.11. - Regulation of city owned public utilities.

ARTICLE XII. - GENERAL PROVISIONS

Sec. 12.01. - Public access to records.

Sec. 12.02. - Personal interest and code of ethics.

Sec. 12.03. - Nepotism and conflict of interest.

Sec. 12.04. - Provisions relating to assignment, execution and garnishment.

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

Sec. 12.06. - Special provisions covering damage suits.

Sec. 12.07. - Separability clause.

Sec. 12.08. - Effect of this Charter on existing law.

Sec. 12.09. - Holdover of officers.

Sec. 12.10. - Applicability of general laws.

Sec. 12.11. - Amending the Charter.

Sec. 12.12. - Charter review commission.

Sec. 12.13. - Reserved.

Sec. 12.14. - Reserved.

Sec. 12.15. - Fluoridation of municipal water supply.

ARTICLE I. - FORM OF GOVERNMENT AND BOUNDARIES

Sec. 1.01. - Establishment and purposes of Charter.

We the people of San Marcos, do ordain and establish this Charter as the foundation of our city government, a home-rule city with the name "City of San Marcos". We further ordain that the City of San Marcos will exist for the purposes enumerated in this Charter, and will have the organizational structure described in this Charter, and will have the powers, duties, limitations, and immunities stated in this Charter.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2006-36, § 2(1), 8-15-06/11-7-06; Ord. No. 2017-45, § 2 (Prop. A), 8-15-17/11-7-17)

Sec. 1.02. - Form of government.

The city government provided by this Charter shall be known as the "council-manager government". Pursuant to this Charter and subject only to the limitations imposed by the state constitution, the statutes of the state and by this Charter, all powers of the city shall be vested in an elective council, hereinafter referred to as the "council", which shall in an open and transparent manner, enact local legislation, adopt budgets, determine policies and appoint the city manager, who in turn shall execute the laws and administer the government of the city. All powers of the city shall be exercised in the manner prescribed by this Charter, or if the manner not be prescribed, then in such manner as may be prescribed by ordinance.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2013-44, Prop. 7, 8-20-13/11-5-13; Ord. No. 2017-45, § 2 (Prop. A), 8-15-17/11-7-17)

State Law reference— Home rule form of government, V.T.C.A., Local Government Code, § 26.001 et seq.

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:

<u>People</u>

- 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

<u>Place</u>

- 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

(Ord. No. 1998-7, Prop. 1, 2-9-98/5-5-98; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. No. 2008-29, § 2(2), 8-19-08/11-4-08; Ord. No. 2013-44, Prop. 8, 8-20-13/11-5-13; Ord. No. 2017-45, § 2(Prop. B), 8-15-17/11-7-17)

ARTICLE II. - POWERS OF THE CITY[2]

Footnotes:
--- (**2**) ---

State Law reference— Home rule powers generally, V.T.C.A., Local Government Code, § 51.071 et seq.

Sec. 2.01. - General.

The city shall be a home rule city, with full power of local self-government, including the right to amend this Charter, as provided by the constitution and laws of this state. It shall have and may exercise all the powers granted to home rule cities by the constitution or laws of Texas, as they now exist or are hereafter amended.

(Ord. No. 1992-9, Prop. 1, 2-10-92/5-2-92; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00)

Sec. 2.02. - Eminent domain.

(a) The city shall have the full power and right to exercise the power of eminent domain when necessary or desirable to carry out any of the powers conferred upon it by this Charter or by the constitution and laws of the State of Texas. The city may exercise the power of eminent domain in any manner authorized or permitted by the constitution and laws of this state, subject to the right of the owner of the property taken. The city shall have and possess the power of eminent domain for any municipal or public purposes, subject to the provisions of this section.

(b) However, the city shall not use the power of eminent domain to acquire property for transfer, or for lease in substantial part, to a private third party for the purpose of economic development. The term "economic

development" means any activity to increase tax revenue, tax base, employment, or the general economic health of the City, when that activity does not result in (1) the transfer of land to public ownership, such as for a road, public utility facility, or municipal building; (2) the transfer of land to a private entity that is a common carrier, such as a utility provider; or (3) the transfer of property to a private entity to remove a harmful use of the land, such as the removal of public nuisances, removal of structures that are beyond repair or that are unfit for human habitation or use, or the acquisition or transfer of abandoned property.

(Ord. No. 1998-7, Prop. 2, 2-9-98/5-5-98; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. No. 2006-36, § 2(2), 8-15-06/11-7-06; Ord. No. 2008-29, § 2(3), 8-19-08/11-4-08)

Sec. 2.03. - Extension or detachment of boundaries.

The city council shall have power by ordinance to fix the boundary limits of the City of San Marcos and to provide for the alteration and extension of boundary limits, the detachment of territory and the annexation of additional territory, in accordance with applicable state annexation laws.

(Ord. No. 1984-11, Prop. 1, 1-30-84/4-7-84; Ord. No. 1986-4, Prop. 1, 1-27-86/4-5-86; Ord. No. 1988-15, Prop. 1, 2-8-88/5-7-88; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 1, 5-9-00/5-6-00)

Sec. 2.04. - Limited purpose annexation.

In addition to the power to annex additional territory for all purposes, the city shall have the power, by ordinance, to fix, alter and extend the corporate boundary limits of the city for the limited purposes of "planning and zoning" and "sanitation and health protection," and to annex for one or both of such limited purposes additional territory lying adjacent to the city; provided, however, that no such territory which lies farther than one mile from the corporate boundary limits enclosing the territory which is a part of the city for all purposes, as those corporate boundary limits are now or may hereafter be established, shall be annexed for any limited purpose or purposes. Wherever the boundary limits of territory annexed for one or both of such limited purposes are not coterminous with the corporate boundary limits enclosing the territory which is a part of the city for all purposes, such boundary limits of the limited territory shall be known as "limited purpose boundary limits". Every ordinance by which territory is to be annexed to the city for one or both of such limited purposes shall state clearly the limited purpose or purposes for which it is being annexed, and shall be published one time, in a newspaper of general circulation in the city and in the form in which it is to be finally adopted, not less than 30 days prior to its final passage.

When any additional territory has been annexed for one or both of the limited purposes, it shall be a part of the city for such limited purpose or purposes only. However, in dealing with the property and inhabitants thereof, the city shall have each and every power which it otherwise possesses and which is reasonable and expedient for the accomplishment of the limited purpose or purposes for which such territory is annexed, and the power of the city to deal with the property and inhabitants of such limited purpose territory shall include the powers enumerated in the next two succeeding sentences but shall not be limited or restricted thereto. With regard to territory annexed for the limited purpose of "planning and zoning," the city shall have the power to control and regulate the use of property and the density of structures, to require compliance with reasonable zoning regulations, to control and regulate the subdivision of property, and to control and regulate the construction of buildings. With regard to territory annexed for the limited purpose of "sanitation and health protection," the city shall have the power to adopt all reasonable regulations pertaining to sanitation and public health and to require compliance with such regulations. Every inhabitant of territory annexed for one or both of the limited purposes, who is otherwise qualified, shall be entitled to vote in city elections on every issue where the question is the election or recall of the mayor or a city council member or the amendment of this Charter, and every such inhabitant shall be deemed to be a citizen of the city in connection with any city ordinance, regulation or action which is, or is alleged to be, applicable to him or his property because of such limited purpose annexation, but will not be eligible to run for any office in the City of San Marcos. The city shall have no power to levy any tax for municipal purposes on either the property or the inhabitants of territory annexed for limited purpose or purposes, and no funds of the city shall be spent in such territory except where

reasonable and expedient for the accomplishment of the limited purpose or purposes for which the territory is annexed; but the city may collect reasonable charges from property owners and inhabitants of such territory for services rendered by the city in the accomplishment of the limited purpose or purposes for which the territory is annexed.

(Ord. No. 1984-11, Prop. 2, 1-30-84/4-7-84; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 1, 5-9-00/5-6-00)

State Law reference— Annexations for limited purposes, V.T.C.A., Local Government Code, § 43.121 et seq.

ARTICLE III. - THE CITY COUNCIL

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 shall be eligible to serve three consecutive terms. The ~~council member~~ person elected to the place of mayor shall hold office for a period of ~~two~~ four years and eligible to serve two consecutive terms.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Res. No. 1979-2R, Prop. 1, 1-8-79/4-7-79; Ord. No. 1984-11, Prop. 3, 1-30-84/4-7-84; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2004-44, § 1, 8-9-04)

Sec. 3.02. - Qualifications.

(a) Each member of the city council, in addition to having other qualifications prescribed by law:

(1) Shall be a qualified voter of the city;

(2) Shall have had his or her principal physical residence for at least one year preceding the election within the corporate limits of San Marcos and shall maintain his or her principal physical residence within the corporate limits of San Marcos throughout his or her term of office; for purposes of this subsection, a person must meet all of the following to meet the requirement for a "principal physical residence" in the city:

(A) The person must use the residence address for voter registration, current driver's license or Texas identification card;

(B) The person must use the residence address as the person's home address on documents such as employment records, resumes, business cards, government forms and loan applications;

(C) The person must not claim a homestead exemption on any property other than the residence;

(3) Shall not hold any other office or employment under the city government while a member of the council, except a member of the city council may be appointed by the city council to represent the council on any board, commission, committee, organization or entity in the council's sole discretion so long as that person's service does not extend beyond the person's council term;

(4) Shall not be an officer or director of any public service company within the city, or outside the city but serving inhabitants of the city, nor be the owner or proprietor of any public service company in the city. "Public service company" is defined as any company, individual, partnership, corporation or other entity recognized by law that uses any of the city's streets, alleys, highways or other public

property to carry out its principal purposes, including but not limited to water, wastewater, gas, electricity and, telecommunications utilities, commercial railway or street railway services, public transit services, solid waste collection, and vehicles for hire.

(5) Shall not have a financial interest in the sale to the city of any land, materials, supplies or service, outside of the person's position with the city.

(6) Shall remain current on all financial obligations to the city relating to the duties of the council member.

(b) The city council shall determine that the qualifications of its own members are continually met. If the council determines that any member of the council has ceased to possess any of these qualifications or has been convicted of a felony, that member shall immediately forfeit office.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 1988-15, Props. 2—4, 2-8-88/5-7-88; Ord. No. 1996-6, Prop. 1, 2-12-96/5-4-96; Ord. No. 1998-7, Prop. 3, 2-9-98/5-5-98; Ord. No. 2000-12, Prop. 2, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 2, 5-9-00/5-6-00; Ord. No. 2002-12, Prop. 1, 2-11-02/5-4-02; Ord. No. 2002-35, Prop. 1, 5-7-02/5-4-02; Ord. No. 2004-10, Prop. 1, 2-23-04/5-15-04; Ord. No. 2006-36, § 2(4), 8-15-06/11-7-06; Ord. No. 2008-29, § 2(4), 8-19-08/11-4-08; Ord. No. 2013-44, Props. 10, 11, 8-20-13/11-5-13; Ord. No. 2017-45, § 2(Prop. C), 8-15-17/11-7-17)

Sec. 3.03. - Reserved.

Editor's note— Formerly, § 3.03 pertained to council to judge election qualifications, and derived from Ord. No. 1996-6, Prop. 2, 2-12-96/5-4-96.

Sec. 3.04. - Compensation and reimbursement.

City Council Compensation shall be set in a public forum by ordinance of the city council; and they shall be entitled to all necessary expenses incurred in the performance of their official duties. There shall be provided in each annual city budget an amount for the expenses of the mayor and of each council member. The mayor and the members of the city council shall be reimbursed for the amounts so provided for in the annual city budget for their actual official city business expenses. The city council by resolution or ordinance shall provide for a means of determining what expenses are reimbursable and what requirements must be met for reimbursement.

(Ord. No. 1984-11, Prop. 4, 1-30-84/4-7-84; Ord. No. 1988-15, Prop. 5, 2-8-88/5-7-88; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. No. 2002-12, Prop. 2, 2-11-02/5-4-02; Ord. No. 2002-35, Prop. 2, 5-7-02/5-4-02; Ord. No. 2008-29, § 2(5), 8-19-08/11-4-08)

Sec. 3.05. - Mayor, mayor pro tem and deputy mayor pro tem.

The mayor shall preside at all meetings of the council and shall be recognized as head of the city government for all ceremonial purposes, for the purpose of receiving service of civil process, and for emergency management purposes. The mayor, as a member of the council, shall be entitled to vote upon all matters considered by the council but shall have no veto power. At its first meeting following each regular election of council members, the council shall by election designate a mayor pro tem, and shall in addition designate a deputy mayor pro tem, who each shall serve in such capacity for a period of one year; provided, however, that in the event a runoff election is required the city council shall not designate a mayor pro tem or deputy mayor pro tem until the runoff election is completed and the duly elected candidates have been officially seated on the council. The mayor pro tem shall act as mayor during the absence or disability of the mayor, and shall have power to perform every act the mayor could perform if present. The deputy mayor pro tem shall act as mayor during the absence or disability of the mayor and mayor pro tem, and shall have power to perform every act the mayor could perform if present.

(Res. No. 1974-5R, Prop. 2, 2-18-74/4-2-74; Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Res. No. 1979-2R, Prop. 1, 1-8-79/4-7-79; Ord. No. 1984-11, Prop. 5, 1-30-84/4-7-84; Ord. No. 1996-6, Prop. 3, 2-12-96/5-4-96; Ord. No. 2000-12, Prop. 4, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 4, 5-9-00/5-6-00; Ord. No. 2006-36, § 2(6), 8-15-06/11-7-06; Ord. No. 2017-45, § 2(Prop. D), 8-15-17/11-7-17)

Sec. 3.06. - Vacancies.

(a) A special election to fill a vacancy shall be called in accordance with state law. In the event the mayor is unable to call a meeting to order the election for any reason, the mayor pro tem or deputy mayor pro tem are authorized and directed to call a meeting to order the election and perform all other required actions incident to the election. In the event of vacancies in the offices of mayor and all members of the city council for any reason, the following persons, in the order prescribed, are authorized and directed to order the election and perform all other required actions incident to the election:

(1) The city manager.

(2) The city clerk.

(3) The city attorney.

(4) The presiding judge of the municipal court.

(b) No such election shall be held sooner than 30 days from the date it is called.

(Ord. No. 1984-11, Prop. 6, 1-30-84/4-7-84; Ord. No. 1986-4, Prop. 2, 1-27-86/4-5-86; Ord. No. 1988-15, Prop. 6, 2-8-88/5-7-88; Ord. No. 1990-8, Prop. 1, 2-12-90/5-5-90; Ord. No. 1996-6, Prop. 4, 2-12-96/5-4-96; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2013-44, Prop. 12, 8-20-13/11-5-13)

Sec. 3.07. - Powers and limitations of the city council.

(a) All powers and authority which are expressly or impliedly conferred on or possessed by the city shall be vested in and exercised by the council.

(b) The council shall have no power to, and shall not:

(1) Sell, convey, lease, mortgage or otherwise alienate any land which is now, or shall hereafter be, dedicated for park purposes, unless the qualified voters of the city shall authorize such act by adopting in a general or special election a proposition submitting the question and setting forth the terms and conditions under which such sale, conveyance, lease, mortgage or other alienation is to be made; provided, that the city council may, after a public hearing, authorize a lease of park property to another governmental entity or to a non-profit corporation or association for a term of up to three years if the council determines that the lease will further the use of the property for park purposes.

(2) Sell, convey, or lease all or any substantial part of the facilities of any municipally owned public utility, provided that the council may lease all or a substantial part of such facilities to any public agency of the State of Texas if the qualified voters of the city authorize such lease by adopting in a general or special election a proposition submitting the question and setting forth the terms and conditions under which such lease is to be made.

(3) Accept or admit liability in, or pay, any claim for damages asserted against the city, without first obtaining a written opinion from the city attorney regarding the city's liability therein.

(c) The council will have the authority to approve the conveyance of land, right-of-way and easements owned by the city. Any such approval will be in the form of an ordinance, and no such ordinance may be adopted as an emergency measure.

(Ord. No. 1994-16, Prop. 2, 3-22-94/5-7-94; Ord. No. 2000-12, Prop. 5, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 5, 5-9-00/5-6-00)

State Law reference— Municipal home rule powers, Texas Const., art. 16, § 5; V.T.C.A., Local Government Code, §§ 26.001 et seq., 51.001, 51.071 et seq.

Sec. 3.08. - City council not to interfere in appointments or removals.

Neither the council nor any of its members shall instruct or request the city manager or any of the city manager's subordinates to appoint to, or remove from, office or employment any person except with respect to those offices which are to be filled by appointment by the council under the provisions of this Charter. Except as provided for in Section 3.15 of this Charter, the council and its members shall deal with the administrative and management functions of the city solely through the city manager and other council appointees, as appropriate, and shall not give orders to any of their subordinates either publicly or privately.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 1988-15, Prop. 7, 2-8-88/5-7-88; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. No. 2017-45, Prop. W, 8-15-17/11-7-17)

Sec. 3.09. - Meetings of the city council.

The city council shall hold twenty-two regular meetings at a minimum each 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 clerk upon the written request of the mayor or any three members of the city council.

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.

(Res. No. 1977-7R, Prop. 2, 1-24-77/4-2-77; Ord. No. 1984-11, Prop. 7, 1-30-84/4-7-84; Ord. No. 1988-15, Prop. 8, 2-8-88/5-7-88; Ord. No. 2000-12, Prop. 6, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 6, 5-9-00/5-6-00; Ord. No. 2017-45, § 2(Props. E, F), 8-15-17/11-7-17)

State Law reference— Open meetings act, V.T.C.A., Government Code, § 551.001 et seq.

Sec. 3.10. - Rules of procedure.

The city council shall determine by ordinance its own rules of procedure and order of business. Four or more council members shall constitute a quorum, but no action of the council shall be of any force or effect unless it is adopted by the favorable votes of four or more of the council members. Minutes of all meetings of the council, including the vote of "ayes" and "noes" upon the passage of all ordinances and resolutions, shall be taken and recorded, and such minutes shall constitute a permanent record to which any citizen may have access at all reasonable times.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. of 8-12-02, § 1)

Sec. 3.11. - Procedure for passage of ordinances.

(a) The council shall legislate by ordinance, and the enacting clause of every ordinance shall be: "Be it ordained by the City Council of the City of San Marcos".

(b) The city attorney shall approve the legality of all ordinances prior to consideration by the council, or shall file with the city clerk written legal objections thereto. Evidence of approval by the city attorney may be by notation on the ordinance itself, or by separate instrument.

(c) Every ordinance enacted by the council shall be signed by the mayor, the mayor pro tem, or two council members and shall be filed with and recorded by the city clerk.

(d) All proposed ordinances requiring a public hearing or hearings shall be finally acted upon by the city council within 90 days of the most recent public hearing at which it was considered. If final action does

not occur within the 90 day period following the public hearing, then another public hearing shall be held before final action on the ordinance. Unless notice requirements are provided by other law, the city clerk shall publish a notice of each public hearing by the city council on an ordinance in a newspaper of general circulation in the city, city website or local media outlets before the public hearing.

(e) Ordinances shall be presented to council and acted on in open meetings on two separate days, unless:

(1) An ordinance is posted and adopted as an emergency measure with only one reading by the favorable vote of five or more council members; or

(2) The adoption of an ordinance under a different procedure is expressly authorized by state law.

(f) An ordinance relating to the changing of a future land use map or zoning district designation shall not be adopted as an emergency measure and shall be adopted only upon approval in two separate readings on two separate days no less than seven days apart.

(g) At the time of the first presentation each ordinance shall be read aloud unless it is publicly posted, available at a readily accessible location and filed with the city clerk at least 72 hours prior to the meeting at which it is to be considered, in which event only the caption need be read aloud.

(h) All ordinances shall be effective upon final reading or publication if publication is required by state law.

(Ord. No. 1986-4, Prop. 3, 1-27-86/4-5-86; Ord. No. 1992-9, Prop. 3, 2-10-92/5-2-92; Ord. No. 1998-7, Prop. 4, 2-9-98/5-5-98; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2006-36, § 2(7), 8-15-06/11-7-06; Ord. No. 2008-29, § 2(6), 8-19-08/11-4-08; Ord. No. 2013-44, Props. 13, 14, 8-20-13/11-5-13; Ord. No. 2017-45, § 2(Prop. G), 8-15-17/11-7-17)

Sec. 3.12. - Publication of ordinances.

Except as otherwise provided by law or by this Charter, the city clerk shall give notice of the enactment of every penal ordinance by causing its caption and penalty, to be published at least one time within ten days following the date of final passage thereof in some newspaper of general circulation within the city. The city clerk shall give notice of the enactment of other ordinances by publishing in the newspaper only if publication is required by state law, this Charter, or city ordinance. The city clerk shall give notice of the enactment of all ordinances on the city's website.

The city clerk shall note on every ordinance and on the record thereof the dates and medium of its publication, and such notation shall be prima facie evidence of compliance with the requirements of this section.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2008-29, § 2(7), 8-19-08/11-4-08; Ord. No. 2013-44, Prop. 15, 8-20-13/11-5-13; Ord. No. 2017-45, Prop. W, 8-15-17/11-7-17)

State Law reference— Publication of ordinances, V.T.C.A., Local Government Code, § 52.013.

Sec. 3.13. - Code of Ordinances.

The council shall cause all general ordinances of the city to be compiled and printed in Code form. Every general ordinance enacted subsequent to such codification shall be enacted as an amendment to the Code. For the purposes of this section general ordinances shall be deemed to be those ordinances of a permanent or continuing nature which affect the residents of the city at large. When adopted by the council, the printed codes of general ordinances contemplated by this section shall be in full force and effect without the necessity of such Code or any part thereof being published in any newspaper. The caption, descriptive clause, and other formal parts of the ordinances of the city may be omitted without affecting the validity of such ordinances when they are published as a Code. Copies of the Code shall be furnished to city officers, placed in libraries and public offices for free public reference and made available through electronic media and for purchase by the public at a reasonable price fixed by the council.

(Ord. No. 1988-15, Prop. 9, 2-8-88/5-7-88; Ord. No. 1998-7, Prop. 5, 2-9-98/5-5-98; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00)

State Law reference— Adoption of codification, V.T.C.A., Local Government Code, § 53.001.

Sec. 3.14. - Official bonds for city employees.

The council shall require bonds or insurance of all municipal officers and employees who receive or pay out any monies of the city. The amount of such bonds or insurance shall be determined by the council and the cost thereof shall be borne by the city.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2013-44, Prop. 16, 8-20-13/11-5-13)

Sec. 3.15. - Investigation by the city council.

The city council shall have power to inquire into the official conduct of any office, department, agency, officer or employee of the city and to make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths and compel the production of books, papers, and other evidence material to the inquiry. The council shall provide by ordinance penalties for contempt in failing or refusing to obey any such subpoena or to produce any such books, papers, or other evidence, and shall have the power to punish any such contempt in the manner provided by such ordinance. Any person participating in such an investigation shall have all rights afforded by the Constitution and laws of the United States and the State of Texas.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2008-29, § 2(8), 8-19-08/11-4-08)

Sec. 3.16. - Audit and examination of city books and accounts.

The city council shall cause an annual audit to be made of the books and accounts of each and every department of the city. At the close of each fiscal year a complete audit shall be made by a certified public accountant, who shall be selected by the city council, and who shall have no personal interest, direct or indirect, in the fiscal affairs of the city government or of any of its officers. Such audit shall include a recapitulation of all internal audits made during the course of each fiscal year, and all audit reports shall be filed with the city council, shall be available for public inspection, and shall be made a part of the archives of the city. Such accountant, so selected, shall not maintain or keep any of the city's accounts or records.

(Ord. No. 2000-12, 2-14-00/5-6-00)

State Law reference— Annual audit required, V.T.C.A., Local Government Code, § 103.001 et seq.

Sec. 3.17. - Expulsion or removal of city officials.

(a) The city council shall have the authority to expel any city council member who is absent three consecutive regular city council meetings unless the council member has secured permission, in advance, from the city council to be absent from at least one of the meetings; provided that any such action for expulsion of a city council member shall require five affirmative votes of city council members.

(b) The city council shall have the authority to remove any city official appointed by the city council, including members of city boards and commissions established under state law, by this Charter, or by ordinance, and the city manager, city clerk, city attorney and municipal court judge. Any such removal of a city official by the city council shall require a majority vote of the membership of the city council and shall be preceded by adequate notice to the official of the time and location of the meeting, the nature of the charge against the official, and an opportunity for a hearing. At any such hearing, evidence both for and against the city official may be offered for the council's consideration. The council may, by ordinance, provide for further or more detailed procedures pertaining to the removal of city official, not inconsistent with this provision.

(Ord. No. 2000-12, Prop. 7, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 7, 5-9-00/5-6-00; Ord. No. 2004-10, Prop. 2, 2-23-04/5-15-04; Ord. No. 2013-44, Prop. 17, 8-20-13/11-5-13)

ARTICLE IV. - ADMINISTRATIVE SERVICES[3]

Footnotes:
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State Law reference— Creation of municipal officers, V.T.C.A., Local Government Code, § 26.041.

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.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 1986-4, Prop. 6, 1-27-86/4-5-86; Ord. No. 1992-9, Prop. 4, 2-10-92/5-2-92; Ord. No. 1994-16, Prop. 3, 3-22-94/5-7-94; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. No. 2002-12, Prop. 3, 2-11-02/5-4-02; Ord. No. 2002-35, Prop. 3, 5-7-02/5-4-02; Ord. of 8-12-02, § 1; Ord. No. 2006-36, § 2(8), 8-15-06/11-7-06; Ord. No. 2008-29, § 2(9), 8-19-08/11-4-08; Ord. No. 2017-45, § 2(Prop. H), 8-15-17/11-7-17)

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~~ extra territorial jurisdiction or Hays County, within 90 days after appointment, and shall have his or her principal physical residence in the ~~city~~ extra territorial jurisdiction or Hays County continuously thereafter while holding that office.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 1981-48, Prop. 1, 6-22-81/8-8-81; Ord. No. 1992-9, Prop. 5, 2-10-92/5-2-92; Ord. No. 1994-16, Prop. 4, 3-22-94/5-7-94; Ord. No. 2000-12, Prop. 8, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 8, 5-9-00/5-6-00; Ord. No. 2008-29, § 2(10), 8-19-08/11-4-08; Ord. No. 2017-45, § 2(Prop. I), 8-15-17/11-7-17)

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~~.

(Res. No. 1974-5R, Prop. 3, 2-18-74/4-2-74; Res. No. 1977-7R, Props. 1, 4, 1-24-77/4-2-77; Ord. No. 1981-48, Prop. 2, 6-22-81/8-8-81; Ord. No. 1986-4, Props. 7, 9, 1-27-86/4-5-86; Ord. No. 1988-15, Prop. 10, 2-8-88/5-7-88; Ord. No. 1994-16, Prop. 5, 3-22-94/5-7-94; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. No. 2006-36, § 2(9), 8-15-06/11-7-06; Ord. No. 2008-29, § 2(11), 8-19-08/11-4-08; Ord. No. 2013-44, Prop. 18, 8-20-13/11-5-13)

State Law reference— Municipal court, V.T.C.A., Government Code, § 29.001 et seq.

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.

(Ord. No. 1984-11, Prop. 9, 1-30-84/4-7-84; Ord. No. 1994-16, Prop. 6, 3-22-94/5-7-94; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. No. 2006-36, § 2(9), 8-15-06/11-7-06; Ord. No. 2013-44, Prop. 19, 8-20-13/11-5-13)

Sec. 4.05. - City auditor.

The city council may appoint a city internal auditor who shall serve at the pleasure of the city council. The city council shall establish the duties and operating procedures of the city internal auditor by ordinance. The city council may enter into a contract for the duties of an internal auditor to be carried out by an outside firm if the council chooses to do so.

(Ord. No. 2010-44, §§ 2, 3, 8-17-10/11-2-10)

Sec. 4.06. - Other administrative units.

The city council may abolish or consolidate such administrative units as it may deem to be to the best interest of the city, and may divide and subdivide the administration of any such units as it may deem advisable; may create new administrative units, and may discontinue any administrative unit at its discretion, except those specifically established by this Charter.

(Ord. No. 2000-12, 2-14-00/5-6-00)

Sec. 4.07. - Publication of salaries.

The salary range of each city position shall be published on the city's website.

(Ord. No. 2017-45, § 2 (Prop. J), 8-15-17/11-7-17

ARTICLE V. - NOMINATIONS AND ELECTIONS[4]

Footnotes:
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State Law reference— Municipal elections, V.T.C.A., Election Code, § 1.001 et seq.

Sec. 5.01. - Elections.

The regular city election shall be held annually on the first Tuesday after the first Monday in November as provided by state law.

(Res. No. 1977-7R, Prop. 5, 1-24-77/4-2-77; Ord. No. 1988-15, Prop. 11, 2-8-88/5-7-88; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. No. 2006-36, § 2(10), 8-15-06/11-7-06; Ord. No. 2008-29, § 2(12), 8-19-08/11-4-08)

State Law reference— Uniform election dates, V.T.C.A., Election Code, § 41.001.

Sec. 5.02. - Regulation of elections.

All elections shall be held in accordance with the laws of the State of Texas regulating the holding of municipal elections and in accordance with the ordinances adopted by the city council for the conduct of elections. The city council shall appoint the election judges and other election officials. Voting precincts shall be established by ordinance and may be altered from time to time in like manner.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 2)

Sec. 5.03. - Filing for office.

Any qualified person as defined in Section 3.02 who desires to become a candidate in a general election to a place on the city council shall file with the city clerk at least 62 days prior to the election day an application for his or her name to appear on the ballot. All candidates shall sign the code of fair campaign practices provided in V.T.C.A. Election Code § 258.004. For an election to be held on the date of the general election for state and county officers, the date of the filing deadline is the 70th day before election day. Such application shall clearly designate the place on the council to which the candidate seeks election and shall contain the candidate's sworn statement of compliance with the qualifications for holding the office sought under the laws of Texas and the provisions of this Charter. All campaign contribution reports filed by candidates shall be legible.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 1992-9, Prop. 6, 2-10-92/5-2-92; Ord. No. 2000-12, Prop. 1, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2004-10, Prop. 3, 2-23-04/5-15-04; Ord. No. 2008-29, § 2(13), 8-19-08/11-4-08; Ord. No. 2013-44, Prop. 20, 8-20-13/11-5-13; Ord. No. 2017-45, § 2(Prop. K), 8-15-17/11-7-17)

Sec. 5.04. - The official ballot.

The names of all candidates for office, except such as may have withdrawn, died, or become ineligible, shall be included on the official ballots without party designation. The order on the ballot of the names of the candidates for each respective council place shall be determined by lot in a drawing to be held under the

supervision of the city clerk, at which drawing each candidate or the candidate's named representative shall have a right to be present. Incumbent council members seeking reelection must file for the place for which they were originally elected; provided that, however, a council member originally elected to place 1, 2, 3, 4, 5 or 6 may file for the place of mayor and a member holding the place of mayor may file for election as council member place 1, 2, 3, 4, 5 or 6.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2017-45, § 2 (Prop. L), 8-15-17/11-7-17)

Sec. 5.05. - Election by majority.

At any regular or special municipal election the candidates in each place on the ballot who shall have received the majority of votes cast in such election for such place shall be declared elected. In the event no candidate for a designated place on the city council receives a majority of the votes cast for that place in the regular or special election, a runoff election shall be held between the two candidates who received the greatest number of votes for such place. The runoff election shall be held not earlier than the 20th or later than the 45th day after the date the final canvass of the regular or special election is completed.

(Res. No. 1977-7R, Prop. 5, 1-24-77/4-2-77; Ord. No. 1981-51, Prop. 11, 7-6-81/8-8-81; Ord. No. 1986-4, Prop. 11, 1-27-86/4-5-86; Ord. No. 1994-16, § 1.2, Prop. 7, 3-22-94/5-7-94; Ord. No. 1998-7, Prop. 12, 2-9-98/5-5-98; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2006-36, § 2(10), 8-15-06/11-7-06)

Sec. 5.06. - Laws governing city elections.

All city elections shall be governed by the constitution of the State of Texas, general laws of the state, this Charter, and ordinances of the city, in the order named.

(Ord. No. 2000-12, 2-14-00/5-6-00)

Sec. 5.07. - Conducting and canvassing elections.

The returns of every municipal election shall be delivered by the election judges to the central counting station immediately after the closing of the polls. Returns of the elections, general and special, shall be presented to the city council on any date permitted by the Texas Election Code at which time the council shall canvass and declare the results of such election.

(Res. No. 1977-7R, Prop. 5, 1-24-77/4-2-77; Ord. No. 1988-15, Prop. 20, 2-8-88/5-7-88; Ord. No. 2000-12, Prop. 9, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 9, 5-9-00/5-6-00)

Sec. 5.08. - Oath of office.

Every officer of the city shall take and subscribe to an oath or affirmation similar to that required by the Texas Constitution for state officers, before entering upon the duties of the office. The oath or affirmation shall be in a form provided by the city clerk, shall be given before a person authorized to administer oaths, and shall be filed and kept in the office of the city clerk.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 1986-4, Prop. 12, 1-27-86/4-5-86; Ord. No. 1990-8, Prop. 2, 2-12-90/5-5-90; Ord. No. 2000-12, 2-14-00/5-6-00)

State Law reference— Oath, Texas Const., art. 16, § 1.

ARTICLE VI. - INITIATIVE, REFERENDUM AND RECALL

Sec. 6.01. - Power of initiative.

The people of the city reserve the power of direct legislation by initiative, and in the exercise of such power may propose any ordinance or repeal any ordinance not in conflict with this Charter, the State Constitution, or the state laws. Any initiated ordinance may be submitted to the council by a petition signed by at least ten per cent of the qualified voters of the city.

(Res. No. 1979-14R, Prop. 11, 2-26-79/4-7-79; Ord. No. 1992-9, Prop. 7, 2-10-92/5-2-92; Ord. No. 2000-12, Prop. 10, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 10, 5-9-00/5-6-00)

Sec. 6.02. - Power of referendum.

The people reserve the power to approve or reject at the polls any legislation enacted by the council which is subject to the initiative process under this Charter. Prior to or within thirty days after the effective date of any ordinance which is subject to referendum, a petition by at least ten per cent of the qualified voters of the city may be filed with the city clerk requesting that any such ordinance be either repealed or submitted to the vote of the people. When such a petition has been certified as sufficient by the city clerk, the ordinance specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless it is approved by the voters as herein provided. Notwithstanding the foregoing, no zoning district boundary ordinance shall be subject to the referendum process.

(Res. No. 1979-14R, Prop. 12, 2-26-79/4-7-79; Ord. No. 1986-4, Prop. 13, 1-27-86/4-5-86; Ord. No. 1992-9, Prop. 7, 2-10-92/5-2-92; Ord. No. 2000-12, Prop. 10, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 10, 5-9-00/5-6-00; Ord. No. 2017-45, § 2(Prop. F), 8-15-17/11-7-17)

Sec. 6.03. - Forms of petitions.

Initiative petition papers shall contain the full text of the proposed legislation in the form of an ordinance, including a descriptive caption. Referendum petition papers shall contain a sufficient description of the ordinance sought to be referred to identify it, or if the ordinance has been passed by the council, the full text of the ordinance sought to be referred shall be included in such papers. Before signatures on any petition paper may be counted, one of the signers of such petition paper, a qualified voter, shall make oath or affirmation before the city clerk or any other officer competent to administer oaths or affirmations, that the statements made therein are true, that each signature to the paper appended is the genuine signature of the person whose name purports to be signed thereto, and that such signatures were placed thereon in that person's presence.

(Res. No. 1974-5R, Prop. 4, 2-18-74/4-2-74; Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 1992-9, Prop. 8, 2-10-92/5-2-92; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, §§ 1, 3; Ord. No. 2006-36, § 2(11), 8-15-06/11-7-06)

Sec. 6.04. - Council consideration and submission to voters.

(a) When the council receives an authorized initiative petition certified by the city clerk to be sufficient, the council, within 30 days after the date of the certification, shall either:

  (1) Pass the initiated ordinance without amendment; or

  (2) Call an election on the adoption of the initiated ordinance without amendments, to be held on the next uniform date authorized by state law for municipal elections which is at least 62 days after the date on which the council acts.

At the election, the council may submit the initiated ordinance without amendment, and an alternative ordinance on the same subject proposed by the council; the voters being given the opportunity to accept or reject both. If both are accepted, then the ordinance receiving the greatest number of affirmative votes is adopted, and the other ordinance is deemed rejected. If both are accepted and receive the same number of affirmative votes, both are deemed rejected.

(b) When the council receives an authorized referendum petition, certified by the city clerk to be sufficient the council shall reconsider the referendum ordinance, and within 30 days, shall either repeal the ordinance or call an election on the repeal of the ordinance, to be held on the next uniform date authorized by state law for municipal elections which is at least 45 days from the date on which the council acts.

(c) Special elections on initiated or referred ordinances shall not be held more frequently than once each six months, and no ordinance on the same subject as an initiated ordinance which has been defeated or on

the same subject as a referred ordinance which has been approved at any election may be initiated by the voters within two years from the date of such election.

(Ord. No. 1984-11, Prop. 10, 1-30-84/4-7-84; Ord. No. 1996-6, Prop. 6, 2-12-96/5-4-96; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2004-10, Prop. 4, 2-23-04/5-15-04; Ord. No. 2006-36, § 2(11), 8-15-06/11-7-06)

Editor's note— Ord. No. 2006-36, § 2(11), adopted Aug. 15, 2006, passed at referendum on Nov. 7, 2006, deleted § 6.04, in its entirety and renumbered §§ 6.05—6.11 as §§ 6.05—6.10 to read as set out herein. Former § 6.05 pertained to filling, examination and certification of petitions and derived from Ord. No. 1986-4, Prop. 14, adopted Jan. 27, 1986, passed at referendum on Apr. 5, 1986; Ord. No. 2000-12, adopted Feb. 14, 2000, passed at referendum on May 6, 2000; and an ordinance adopted Aug. 12, 2002, § 1.

Sec. 6.05. - Results of elections.

Any number of ordinances may be voted on at the same election in accordance with the provisions of this article. Except as otherwise provided in Section 6.05, if a majority of the legal votes cast is in favor of an initiated ordinance, it shall be effective as an ordinance of the city when the result of the election is declared. An ordinance so adopted may be repealed or amended at any time after the expiration of two years by a vote of three-fourths of the council members qualified and serving. A referred ordinance which is rejected by a majority of the legal votes cast in a referendum election shall be deemed repealed when the result of the election is declared.

(Ord. No. 1996-6, Prop. 6, 2-12-96/5-4-96; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2006-36, § 2(11), 8-25-06/11-7-06)

Sec. 6.06. - Power of recall.

(a) The people of the city reserve the power to recall any elected officer of the City of San Marcos and may exercise such power by filing with the city clerk a petition demanding the removal of the officer, signed by at least ten per cent of the qualified voters of the city.

(b) The recall petition shall be on a form approved by the city clerk. Any recall petition form supplied by the city clerk shall be valid for 45 days from the date of its issuance and the expiration date and time shall be noted on the petition form by the city clerk at the time of its issuance. All such forms must be returned to the city clerk before their respective expiration dates in order to be eligible to be verified and certified by the city clerk.

(Ord. No. 1986-4, Props. 15, 16, 1-27-86/4-5-86; Ord. No. 1996-6, Prop. 7, 2-12-96/5-4-96; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2004-10, Prop. 5, 2-23-04/5-15-04; Ord. No. 2006-36, § 2(11), 8-25-06/11-7-06)

Sec. 6.07. - Recall election.

The provisions regulating examination, certification and amendment of initiative petitions shall apply to recall petitions. If the petition is certified by the city clerk to be sufficient, the council shall order and hold an election to determine whether such officer shall be recalled. The election shall be held on the date next authorized by state law for municipal elections which is at least 62 days after certification of the petition calling for the recall election.

(Res. No. 1974-5R, Prop. 5, 2-18-74/4-2-74; Ord. No. 1984-11, Prop. 11, 1-30-84/4-7-84; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2004-10, Prop. 6, 2-23-04/5-15-04; Ord. No. 2006-36, § 2(11), 8-25-06/11-7-06)

Sec. 6.08. - Results of recall election.

If a majority of the votes cast at a recall election shall be against removal of the council member named on the ballot, that council member shall continue in office. If the majority of the votes cast at such election be for the removal of the council member named on the ballot, the council shall immediately declare that member's office vacant and such vacancy shall be filled in accordance with the provisions of this Charter for the filling of vacancies. A council member thus removed shall not be a candidate in an election called to fill the vacancy thereby created.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2006-36, § 2(11), 8-25-06/11-7-06)

Sec. 6.09. - Limitation on recall.

No recall petition shall be filed against a council member within six months after taking office, and no council member shall be subjected to more than one recall election during a term of office.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2006-36, § 2(11), 8-25-06/11-7-06)

Sec. 6.10. - Examinations and certification of petitions.

(a) Within 45 days after an initiative, referendum or recall petition is filed, the city clerk shall determine whether the petition is properly signed by the requisite number of qualified voters. The city clerk shall use the standards and procedures described in state law to make this determination.

(b) In examining a petition, the clerk shall clearly note signatures found to be invalid.

(c) After completing examination of a petition, the clerk shall certify the result to the council at its next regular meeting.

(d) If the certificate of the city clerk shows an initiative or referendum petition to be insufficient, the clerk shall comply with the provisions of state law regarding the filing of a supplementary petition, if applicable. Within 45 days after a supplementary petition is filed, the clerk shall examine the petition and certify as to its sufficiency. If the original petition and supplementary petition are found to be insufficient, no further proceedings shall be had with regard to them.

(Ord. No. 2006-36, § 2(11), 8-15-06/11-7-06; Ord. No. 2013-44, Prop. 25, 8-20-13/11-5-13)

Sec. 6.11. - Non-binding ballot propositions.

The council is authorized to call elections on ballot propositions that are non-binding in nature when the council wishes to obtain an informal indication of the position of the city's voters on an issue. The following shall apply to elections on non-binding ballot propositions:

(1) The ballots must clearly label each proposition as non-binding in the heading of the proposition.

(2) The ballot cannot contain an indication of the effect that approval or disapproval of a proposition will have on the position of the city council on any issue.

(3) The ordinance calling the election and the ordinance declaring the result of the election must both contain a clear statement that the non-binding propositions are not binding on the city council.

(4) The city council shall not place a non-binding proposition on a ballot as a substitute or alternative for a binding proposition the council is obligated to place on the same ballot.

(5) A non-binding proposition may be placed on the ballot by the council only when the ballot will contain other matters. The city council shall not call an election at any time solely for the purpose of placing one or more non-binding propositions before the voters of the city.

(Ord. No. 2002-12, Prop. 4, 2-11-02/5-4-02; Ord. No. 2002-35, Prop. 4, 5-7-02/5-4-02)

ARTICLE VII. - MUNICIPAL PLANNING AND ZONING[5]

Footnotes:
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State Law reference— Planning and zoning, V.T.C.A., Local Government Code, § 211.001 et seq.

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.

(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.

(Ord. No. 1981-51, Prop. 14, 7-6-81/8-8-81; Ord. No. 1990-8, Prop. 3, 2-12-90/5-5-90; Ord. No. 1994-16, Prop. 8, 3-22-94/5-7-94; Ord. No. 1998-7, Prop. 7, 2-9-98/5-5-98; Ord. No. 2000-12, Prop. 11, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 11, 5-9-00/5-6-00; Ord. No. 2004-10, Prop. 7, 2-23-04/5-15-04; Ord. No. 2008-29, § 2(22), 8-19-08/11-4-08; Ord. No. 2013-44, Props. 2—4, 25, 8-20-13/11-5-13; Ord. No. 2017-45, § 2(Prop. M), 8-15-17/11-7-17)

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 years.

(8) Perform such other duties and be vested with such other powers as the council may prescribe in accordance with state law.

(9) Require information from the administrative units of city government in relation to the duties of the commission listed under this section.

(Ord. No. 1981-51, Prop. 14, 7-6-81/8-8-81; Ord. No. 1984-11, Prop. 12, 1-30-84/4-7-84; Ord. No. 1986-4, Prop. 17, 1-27-86/4-5-86; Ord. No. 1990-8, Prop. 4, 2-12-90/5-5-90; Ord. No. 1994-16, Prop. 8, 3-22-94/5-7-94; Ord. No. 2000-12, Prop. 11, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 11, 5-9-00/5-6-00; Ord. No. 2002-12, Prop. 5, 2-11-02/5-4-02; Ord. No. 2002-35, Prop. 5, 5-7-02/5-4-02; Ord. No. 2006-36, § 2(12), 8-15-06/11-7-06; Ord. No. 2013-44, Props. 5, 6, 8-20-13/11-5-13; Ord. No. 2017-45, § 2(Props. N, O), 8-15-17/11-7-17)

Editor's note— The amendment adopted in Ordinance Number 1994-16 created a planning and zoning commission and established this section which repealed sections 7.05 through 7.07 which contained the power and duties of both a planning commission and zoning commission.

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 plan in accordance with Section 7.02. 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.

(Ord. No. 1984-11, Prop. 14, 1-30-84/4-7-84; Ord. No. 1986-4, Prop. 18, 1-27-86/4-5-86; Ord. No. 1994-16, Prop. 8, 3-22-94/5-7-94; Ord. No. 1998-7, Prop. 8, 2-9-98/5-5-98; Ord. No. 2000-12, Prop. 11, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 11, 5-9-00/5-6-00; Ord. No. 2002-12, Prop. 6, 2-11-02/5-4-02; Ord. No. 2002-35, Prop. 6, 5-7-02/5-4-02; Ord. No. 2013-44, Prop. 6, 8-20-13/11-5-13)

Editor's note— The amendment adopted in Ordinance Number 1994-16 reenacted this section which was formerly Charter § 7.08.

Sec. 7.04. - Organization.

The commission shall elect a chair from its membership annually, and shall establish rules of procedure which shall include the following:

(1) A quorum shall consist of a majority of the membership, <u>however, any motion of the Planning & Zoning Commission shall require at least five votes in the affirmative to be adopted</u>.

(2) The chair shall be entitled to vote upon any question.

(3) All meetings shall be open to the public.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Res. No. 1979-2R, Prop. 10, 1-8-79/4-7-79; Ord. No. 1981-51, Prop. 14, 7-6-81/8-8-81; Ord. No. 1992-9, Prop. 9, 2-10-92/5-2-92; Ord. No. 1994-16, Prop. 8, 3-22-94/5-7-94; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2004-44, § 2, 8-9-04)

ARTICLE VIII. - FINANCIAL PROCEDURE[6]

Footnotes:
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State Law reference— Financial matters, V.T.C.A., Local Government Code, § 101.001.

Sec. 8.01. - Fiscal year.

The fiscal year of the City of San Marcos shall begin on the first day of October and shall end on the last day of September of each calendar year. Such fiscal year shall also constitute the budget and accounting year.

(Ord. No. 2000-12, 2-14-00/5-6-00)

State Law reference— Fiscal year, V.T.C.A., Local Government Code, § 101.022.

Sec. 8.02. - Preparation and submission of budget.

(a) ~~By January 31st of e~~Each year, council shall hold a visioning session~~. By February 27th of each year the city council shall hold~~ and a budget policy workshop.

(b) ~~By March 31st of e~~Each year, after a public hearing, the city council shall formulate a policy statement to be used by the city manager as direction during the preparation of the proposed budget.

(c) The city manager, not less than 30 days prior to the time the city council makes its tax levy for the current fiscal year, shall file with the city clerk a proposed budget, which budget shall provide a complete financial plan for the fiscal year, and shall contain a budget message explaining the budget, containing an outline of the proposed financial policies of the city for the ensuing fiscal year, setting forth the reasons for salient changes from the previous fiscal year in expenditure and revenue items, and explaining any major changes in financial policy. Copies of the proposed budget shall be made available at the San Marcos Public Library, at City Hall, and on the city's website.

(Res. No. 1977-7R, Prop. 6, 1-24-77/4-2-77; Ord. No. 1984-11, Prop. 15, 1-30-84/4-7-84; Ord. No. 1998-7, Prop. 9, 2-9-98/5-5-98; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2002-12, Prop. 7, 2-11-02/5-4-02; Ord. No. 2002-35, Prop. 7, 5-7-02/5-4-02; Ord. No. 2006-36, § 2(13), 8-15-06/11-7-06; Ord. No. 2017-45, § 2(Prop. P), 8-15-17/11-7-17)

State Law reference— Budgets, V.T.C.A., Local Government Code, § 102.001 et seq.

Sec. 8.03. - Anticipated revenues compared with other years in budget.

In preparing the budget, the city manager shall place in parallel columns opposite the several items of revenue: the actual amount of each item for the last completed fiscal year, the estimated amount for the current fiscal year, and the proposed amount for the ensuing fiscal year.

(Ord. No. 2000-12, 2-14-00/5-6-00)

Sec. 8.04. - Proposed expenditures compared with other years.

The city manager in the preparation of the budget shall place in parallel columns opposite the various items of expenditures: the actual amount of such items of expenditures for the last completed fiscal year, the estimated amount for the current fiscal year and the proposed amount for the ensuing fiscal year.

(Ord. No. 2000-12, 2-14-00/5-6-00)

Sec. 8.05. - Budget a public record.

The budget and all supporting schedules shall be filed with the city clerk, submitted to the city council and shall be a public record. The city manager shall provide copies for distribution to all interested persons. The budget and all supporting schedules shall be published on the city's website.

(Ord. No. 1992-9, Prop. 10, 2-10-92/5-2-92; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2017-45, § 2(Prop. P), 8-15-17/11-7-17)

Sec. 8.06. - Notice of public hearing on budget.

Not less than 30 days before the date the city council adopts the budget, the city council shall fix the time and place of public hearing on the budget and shall cause to be published in a newspaper of general circulation in the City of San Marcos, and through electronic media, a general summary of the proposed budget and a notice of the hearing setting forth the time and place thereof, the time for which publication shall be in accordance with applicable law.

(Ord. No. 1981-51, Prop. 5, 7-6-81/8-8-81; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2006-36, § 2(13), 8-15-06/11-7-06)

Sec. 8.07. - Public hearing on budget.

At the time and place set forth in the notice required by Section 8.06, or at any time and place to which such public hearing shall from time to time be adjourned, the city council shall hold a public hearing on the budget submitted and all interested persons shall be given an opportunity to be heard for or against any item or the amount of any item therein contained. Copies of the proposed budget shall be available at the San Marcos Public Library, at City Hall, and on the city's website.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2013-44, Prop. 21, 8-20-13/11/5/13)

Sec. 8.08. - Proceedings on budget after public hearing.

As a result of such public hearing, the city council may insert new items or may increase or decrease the items of the budget, except items in proposed expenditures fixed by law, but where it shall increase the total proposed expenditures, it shall also provide for an increase in the total anticipated revenue to at least equal such proposed expenditures.

(Ord. No. 2000-12, 2-14-00/5-6-00)

Sec. 8.09. - Adoption after public hearing.

The budget and the tax rate shall be adopted, after public hearings, in compliance with State law. Copies of the budget shall be available at the San Marcos Public Library, at City Hall, and on the city's website.

(Res. No. 1979-2R, Prop. 6, 1-8-79/4-7-79; Ord. No. 1992-9, Prop. 11, 2-10-92/5-2-92; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2006-36, § 2(13), 8-15-06/11-7-06; Ord. No. 2008-29, § 2(14), 8-19-08/11-4-08; Ord. No. 2013-44, Prop. 22, 8-20-13/11-5-13)

Sec. 8.10. - Date of final adoption.

The budget and the tax rate shall be finally adopted not later than the expiration of the fiscal year.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2006-36, § 2(13), 8-15-06/11-7-06; Ord. No. 2008-29, § 2(14), 8-19-08/11-4-08)

Sec. 8.11. - Effective date of budget; certification; copies made available.

Upon final adoption, the budget shall be in effect for the fiscal year. A copy of the budget, as finally adopted, shall be filed with the city clerk and such other officials as may be designated by law. The final budget shall be printed or otherwise reproduced and copies shall be made available for the use of all offices, departments and agencies and for the use of interested persons and civic organizations.

(Ord. No. 1992-9, Prop. 10, 2-10-92/5-2-92; Ord. No. 1998-7, Prop. 10, 2-9-98/5-5-98; Ord. No. 2000-12, 2-14-00/5-6-00)

Sec. 8.12. - Budget establishes appropriations.

From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes therein named.

(Ord. No. 2000-12, 2-14-00/5-6-00)

Sec. 8.13. - Budget establishes amount to be raised by property tax.

From the effective date of the budget, the amount stated therein as the amount to be raised by property tax shall constitute the amount of the levy for the purposes of the city in the corresponding tax year; provided, that such levy shall not exceed the legal limit provided by the laws and constitution of the State of Texas.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2008-29, § 2(14), 8-19-08/11-4-08)

Sec. 8.14. - Contingent appropriation.

Provision shall be made in the annual budget and in the appropriation ordinance for a contingent appropriation in amount not more than three per centum of the total budget, to be used in case of unforeseen items of expenditure. Such contingent appropriation shall be under the control of and distributed by the city manager after approval of the city council. Expenditures from this appropriation shall be made only in case of established emergencies and a detailed account of such expenditures shall be recorded and reported.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1)

Sec. 8.15. - Estimated expenditures shall not exceed estimated resources.

The total estimated expenditures of the general fund and debt service fund shall not exceed the total estimated resources of each fund (prospective income plus cash on hand). The classification of revenue and expenditure accounts shall conform as nearly as local conditions will permit to the uniform classification as promulgated by the National Committee on Governmental Accounting or some other nationally accepted classification.

(Ord. No. 2000-12, 2-14-00/5-6-00)

Sec. 8.16. - Other necessary appropriations.

The city budget may be amended and appropriations altered in accordance therewith in cases of public necessity, the actual fact of which shall have been declared by the city council.

(Ord. No. 2000-12, 2-14-00/5-6-00)

Sec. 8.17. - Purchase procedure.

No contract or order shall be binding upon the city unless and until the city manager or the manager's designated representative certifies that there is to the credit of such administrative unit a sufficient unencumbered appropriation and an allotment balance to pay for the supplies, materials, equipment, or contractual services, for which the contract or order is to be issued. Before the city makes any purchase or contract for supplies, materials, equipment, or contractual services, opportunity shall be given for competition. The council may by ordinance convey upon the city manager general authority to contract for expenditures without further approval of the council for all budgeted items not requiring competitive bidding or proposals under state law. All purchases shall be made in accordance with applicable ordinances and state law. When required, notice of solicitation for competitive purchases of goods and services shall appear on the city's website and on an internet site for governmental procurements and may also be published in a newspaper of general circulation in the city.

(Res. No. 1977-7R, Props. 1, 7, 1-24-77/4-2-77; Ord. No. 1981-51, Prop. 13, 7-6-81/8-8-81; Ord. No. 1984-11, Prop. 16, 1-30-84/4-7-84; Ord. No. 1986-4, Props. 19—21, 1-27-86/4-5-86; Ord. No. 1988-15, Prop. 12, 2-8-88/5-7-88; Ord. No. 1992-9, Prop. 12, 2-10-92/5-2-92; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2008-29, § 2(15), 8-19-08/11-4-08)

ARTICLE IX. - BORROWING FOR CAPITAL IMPROVEMENTS[7]

Footnotes:
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State Law reference— Authority to issue bonds, Vernon's Ann. Civ. St. art. 701 et seq., art. 823 et seq.; authority to issue bonds for public improvements, Vernon's Ann. Civ. St. art. 11751.

Sec. 9.01. - Power to borrow.

The City of San Marcos shall have the right and power to borrow money on the credit of the city for permanent public improvements or for any other public purpose not prohibited by the constitution or statutes of the State of Texas. The city shall also have the power to borrow money against the revenues of any municipally owned utility and to mortgage the physical properties of such utilities in payment of such debt. In no event, however, shall revenue bonds be considered a general indebtedness of the city nor repaid with funds secured by taxation.

(Ord. No. 1996-6, Prop. 9, 2-12-96/5-4-96; Ord. No. 2000-12, 2-14-00/5-6-00)

Sec. 9.02. - Bond record.

The city manager or the manager's designated representative shall prepare, maintain and cause to be filed in the city manager's office a complete bond record, showing all bonds and certificates of obligation, the date and amount thereof, the rate of interest, a schedule of maturity dates and a record of all bonds and all other transactions of the city council having reference to the refunding of any indebtedness of the City of San Marcos. A copy of the bond record shall be available at the San Marcos Public Library, at City Hall, and on the city's website.

(Ord. No. 1992-9, Prop. 13, 2-10-92/5-2-92; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2006-36, § 2(14), 8-15-06/11-7-06; Ord. No. 2008-29, § 2(16), 8-19-08/11-4-08; Ord. No. 2013-44, Prop. 23, 8-20-13/11-5-13)

Sec. 9.03. - Misapplication of bond funds.

Any officer or employee of the City of San Marcos who shall willfully or knowingly divert or use any funds arising from the issuance of any bond or sinking fund for any other purpose than that for which the fund is created or as herein otherwise authorized, shall be subject to prosecution as provided by the laws of the State of Texas on the diversion and conversion of funds belonging to any of the municipalities of the State of Texas.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 4)

ARTICLE X. - TAX ADMINISTRATION[8]

Footnotes:
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State Law reference— Authority, Texas Const., art. 11, §§ 4, 5; local taxation, V.T.C.A., Tax Code, § 302.001 et seq.

Sec. 10.01. - Tax administration.

The city council shall provide for the administration and collection of property taxes in accordance with state law. This may be accomplished through interlocal agreement with another taxing unit whose taxing jurisdiction overlaps all or part of the city's taxing jurisdiction.

(Ord. No. 1981-51, Prop. 6, 7-6-81/8-8-81; Ord. No. 1992-9, Prop. 14, 2-10-92/5-2-92; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2004-44, § 3, 8-9-04)

Sec. 10.02. - Power to tax.

The City Council of the City of San Marcos shall have the power, and is hereby authorized to levy, assess and collect annual taxes not to exceed the maximum limits set by the constitution and laws of the State of Texas as they now exist or as they may be amended on each $100.00 assessed valuation of all real and personal property within the corporate limits of the City of San Marcos and not exempt from taxation by the constitution and laws of the State of Texas; however, provisions must be made annually to assess and collect a sum sufficient to pay the interest on any debts of the city and to create a sinking fund of at least two percent of such debt.

(Res. No. 1977-7R, Prop. 8, 1-24-77/4-2-77; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2008-29, § 2(17), 8-19-08/11-4-08; Ord. No. 2013-44, Prop. 25, 8-20-13/11-5-13)

Sec. 10.03. - Property subject to tax, methods of assessment.

All real and tangible personal property that the State of Texas has jurisdiction to tax, shall be subject to annual taxation by the City of San Marcos unless exempted by state law if the real property is located within the corporate limits of the City of San Marcos on January 1 and the tangible personal property is:

(1) Located in the City of San Marcos on January 1 for more than a temporary period;

(2) Normally located in the City of San Marcos, even though it is outside the city on January 1, if it is outside the city only temporarily;

(3) Normally returned to the City of San Marcos between uses elsewhere and is not located in any one place for more than a temporary period; or

(4) That in which the owner resides (for property not used for business purposes) or maintains his principal place of business in Texas (for property used for business purposes) in the City of San Marcos and the property is taxable in Texas but does not have a taxable situs pursuant to (1)—(3) above.

All procedures and actions relating to property taxation shall be conducted pursuant to the requirements of the Texas Property Tax Code. Each person, partnership, corporation, association or other legal entity so owning property within the limits of the City of San Marcos, shall render said property as required by the Texas Property Tax Code and the chief appraiser of the Hays County Appraisal District.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 1984-11, Prop. 17, 1-30-84/4-7-84; Ord. No. 2000-12, 2-14-00/5-6-00)

Sec. 10.04. - Reserved.

Editor's note— A Charter amendment adopted April 7, 1984, deleted § 10.04, pertaining to the board of equalization. The section derived unamended from the city's Home Rule Charter as adopted Feb. 24, 1967, and has been reserved for future use.

Sec. 10.05. - Taxes; when due and payable.

All taxes due the City of San Marcos shall be payable at the office of the city assessor-collector and may be paid at any time after October 1. Unless otherwise provided by State law, taxes for each tax year shall be paid before February 1 of the following year, and all such taxes not paid prior to such date shall be deemed delinquent and shall be subject to penalty and interest at the maximum percentage permitted by law.

(Ord. No. 1981-51, Prop. 7, 7-6-81/8-8-81; Ord. No. 1984-11, Prop. 19, 1-30-84/4-7-84; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2008-29, § 2(18), 8-19-08/11-4-08)

Sec. 10.06. - Seizure and sale of personal property.

Personal property is subject to seizure for the payment of a delinquent tax, penalty and interest owed the City of San Marcos. Personal property is subject to seizure for the payment of a tax imposed by the City of San Marcos on property before the tax becomes delinquent as provided by the Texas Property Tax Code. Sale of such seized property shall be pursuant to the federal and state constitution and the Texas Property Tax Code.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 1984-11, Prop. 20, 1-30-84/4-7-84; Ord. No. 2000-12, 2-14-00/5-6-00)

Sec. 10.07. - Tax liens.

(a) The tax levied by the city is hereby declared to be a lien, charge, or encumbrance upon the property upon which the tax is due, which lien, charge or encumbrance the city is entitled to enforce and foreclose in any court having jurisdiction over the same and the lien, charge or encumbrance on the property in favor of the city, for the amount of the taxes due on such property is such as to give the state courts jurisdiction to enforce and foreclose said lien on the property on which the tax is due, not only as against any resident of this state or person whose residence is unknown, but also as against nonresidents. All taxes upon real estate shall especially be a lien and a charge upon the property upon which the taxes are due, which lien may be foreclosed in any court having jurisdiction. The city's tax lien shall exist from January 1, in each year until the taxes are paid.

(b) Personal property may not be seized and a suit may not be filed:

(1) To collect a tax on personal property that has been delinquent more than four years; or

(2) To collect a tax on real property that has been delinquent more than 20 years.

(c) A tax delinquent for more than the limitation period prescribed by this section and any penalty and interest on the tax is presumed paid unless a suit to collect the tax is pending.

(d) The city's tax lien shall be prior to all other claims, and no gift, sale, assignment or transfer of any kind, or judicial writ of any kind, can ever defeat such lien. All persons or corporations owning or holding personal property or real estate in the City of San Marcos on the first day of January of each year shall be liable for all municipal taxes levied thereon for such year. The City of San Marcos is hereby made liable for all of said taxes, whether the same be due upon personal or real property, or upon both.

(Ord. No. 1984-11, Prop. 21, 1-30-84/4-7-84; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2004-44, § 4, 8-9-04)

Sec. 10.08. - Tax remissions, discount, and compromises.

The city council or any other official of the city shall never extend the time for payment of taxes or remit, discount or compromise any tax legally due the city or waive the penalty and interest that may be due thereon to any person, firms or corporations owing taxes to the city for such year or years except as permitted by state law; provided, however, that this provision shall not prevent the compromise of any tax suit.

(Ord. No. 1988-15, Prop. 13, 2-8-88/5-7-88; Ord. No. 2000-12, 2-14-00/5-6-00)

ARTICLE XI. - FRANCHISES AND PUBLIC SERVICE COMPANIES[9]

Footnotes:
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State Law reference— Authority, Vernon's Ann. Civ. St. arts. 1175, 1181, 1182.

Sec. 11.01. - Definitions; powers of the city council.

(a) In this article:

(1) "Public service company" means any company, individual, partnership, corporation or other entity recognized by law that uses the city's streets, alleys, highways or other public property to carry out its principal purposes, including but not limited to public utilities, commercial railway or street railway services, public transit services, solid waste collection, and vehicles for hire.

(2) "Public utility" means any water, wastewater, gas, electricity or telecommunications utility that operates or offers service in the city.

(3) "Telecommunications utility" includes any company that provides or offers to provide telephone, cable television or other similar services for the transmission of voice, data or video information.

(b) The city council has the following powers regarding public service companies of every character operating in the city:

(1) To buy, condemn, construct, lease, maintain, and operate public utility systems in the city;

(2) To sell, manufacture, and distribute the services and output of city public utility systems;

(3) To prohibit the use of city streets, alleys, easements or other grounds by a public service company unless the company first obtains a franchise, permit, certificate or other authorization in accordance with this article and applicable ordinances; and

(4) To regulate public service companies in the interest of public health, welfare, and safety.

(c) The authority of the council under this article is subject to federal and state laws regarding public utilities. The provisions of this article will be disregarded to the extent of any conflict between them and federal and state laws.

(Ord. No. 1996-6, Prop. 10, 2-12-96/5-4-96; Ord. No. 2000-12, Prop. 12, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 12, 5-9-00/5-6-00; Ord. No. 2017-45, Prop. W, 8-15-17/11-7-17)

Sec. 11.02. - Power to grant franchise.

The council shall have the power, by ordinance, to grant, renew, extend, and amend all franchises of all public utilities of every character operating within the city. No franchise shall be for an indeterminate period, and no franchise shall be granted for a term of more than five years from the date of the grant, renewal or extension.

(Ord. No. 1988-15, Prop. 14, 2-8-88/5-7-88; Ord. No. 2000-12, Prop. 12, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 12, 5-9-00/5-6-00; Ord. No. 2017-45, Prop. W, 8-15-17/11-7-17)

Sec. 11.03. - Reserved.

Editor's note— Ord. No. 2008-29, § 2, Prop. No. 19, adopted Aug. 19, 2008, passed at referendum on Nov. 4, 2008, deleted § 11.03 in its entirety. Former § 11.03 pertained to authorizations not to be exclusive and derived from Ord. No. 1988-15, Prop. 14, adopted Feb. 8, 1988, passed at referendum on May 7, 1988; Ord. No. 2000-12, Prop. 12, adopted Feb. 14, 2000, passed at referendum on May 6, 2000; Ord. No. 2000-40, Prop. 12, adopted May 9, 2000, passed at referendum on May 6, 2000.

Sec. 11.04. - Ordinance granting franchise; public hearing.

All ordinances granting, renewing, extending or amending a public utility franchise shall be read at three separate regular meetings of the council, and shall not be finally passed until 30 days after the first reading; and no such ordinance shall take effect until 30 days after its final passage. The council shall conduct a public hearing on any such franchise ordinance before the first reading of the ordinance. Notice of the public hearing, including the full text of the ordinance shall be published once before the first reading, in a newspaper of general circulation in the city, and shall be made available at the San Marcos Public Library, at City Hall, and on the city's website, and the expense of such publication shall be borne by the applicant for the franchise.

(Ord. No. 2000-12, Prop. 12, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 12, 5-9-00/5-6-00; Ord. No. 2017-45, § 2 (Prop. Q), 8-15-17/11-7-17)

Sec. 11.05. - Transfer of franchise.

No public utility franchise shall be assigned or transferred except with the approval of the council expressed by ordinance. The term "assigned or transferred" includes a transfer of a controlling interest in stock,

and an assignment or transfer to an affiliated or subsidiary person or company, but the term does not include the pledging of a franchise as security for a valid debt or mortgage.

(Ord. No. 2000-12, Prop. 12, 2-14-00/5-6-00; Ord. No. 2000-40, Prop. 12, 5-9-00/5-6-00)

Sec. 11.06. - Franchise value not to be allowed.

No value shall be assigned to any franchise granted by the city in fixing reasonable rates and charges for utility service within the city, or in determining the just compensation to be paid by the city for public utility property which it may acquire by condemnation or otherwise.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2000-40, 5-9-00/5-6-00)

Sec. 11.07. - Right of regulation.

Every grant, renewal, extension or amendment of a public utility franchise, whether so provided in the ordinance or not, shall be subject to the right of the council:

(1) To forfeit any such franchise by ordinance at any time for the failure of holder thereof to comply with the terms of the franchise, such power to be exercised only after notice and hearing, and an opportunity to correct the default.

(2) To require such expansion and extension of plant and facilities as are necessary to provide adequate service to the public and maintain plant and fixtures at the highest reasonable standard of efficiency.

(3) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates.

(4) To impose regulations to ensure safe, efficient and continuous service to the public.

(5) To collect from every franchise holder its fair and just proportion of the expense of maintaining areas of public property occupied by the franchise holder, or to compel the franchise holder to perform its fair and just share of the work of maintaining areas of public property occupied by the franchise holder at its own expense.

(6) To examine and audit at any time during regular business hours the accounts and records of any such utility which are relevant to the city's right of regulation.

(7) To prescribe the form of accounts kept by such utility.

(8) To require such compensation and rental as may be permitted by federal or state law.

(Ord. No. 1996-6, Prop. 10, 2-12-96/5-4-96; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2000-40, 5-9-00/5-6-00)

Sec. 11.08. - Public service companies to file annual reports.

The city council by ordinance shall require each public service company operating within the corporate limits of the city to file a sworn annual report of the receipts from the operation of the company for the current year, how expended, how much thereof for betterments or improvements, the rate of tolls or charges for services rendered to the public, and any other facts or information that the council may deem pertinent for its use in intelligently passing upon any questions that may arise between the city and the public service company. These reports shall be filed with the city clerk, and preserved for the use of the city council. The reports may be reviewed periodically by the council to determine the propriety of the rates being charged and will be available at the San Marcos Public Library, at City Hall, and on the city's website.

(Ord. No. 1996-6, Prop. 10, 2-12-96/5-4-96; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2000-40, 5-9-00/5-6-00; Ord. No. 2006-36, § 2(15), 8-15-06/11-7-06; Ord. No. 2013-44, Prop. 24, 8-20-13/11-5-13)

Sec. 11.09. - Regulation of rates.

The council shall have the power to:

(1) Regulate by ordinance the rates of every public service company operating in the city, provided that no such ordinance shall be passed as an emergency measure;

(2) Employ expert advice and assistance in determining a rate and equitable profit to the public service company; and shall have the power to require, as a condition precedent to any hearing concerning rates and service of a company, that the company pay the cost of such expert advice and assistance as chosen and deemed necessary by the council.

(Ord. No. 1988-15, Prop. 15, 2-8-88/5-7-88; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2000-40, 5-9-00/5-6-00)

Sec. 11.10. - Municipally owned utilities.

Accounts shall be kept for each public utility owned or operated by the city, in such manner as to show the true and complete financial results of such city ownership and operation, including all assets and all liabilities, appropriately subdivided by classes, depreciation reserve, other reserves and surplus; also revenues, operating expenses including depreciation, interest payments, rental and other disposition of annual income. The accounts shall show actual capital cost to the city of each utility owned. The accounts shall show as nearly as possible the cost of any service furnished to or rendered by any such utility to any city department. The council shall cause an annual report to be made by a certified public accountant and shall publish such report showing the financial results of such city ownership and operation, giving the information specified in this section and such other data as the council shall require.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2000-40, 5-9-00/5-6-00)

Sec. 11.11. - Regulation of city owned public utilities.

The council has authority to supervise and regulate the operations of city owned public utilities, including the following:

(1) To establish the rates, terms and conditions for the sale of utility services.

(2) To prescribe rules and standards for the construction, extension, maintenance and operation of production, transmission and distribution facilities.

The council may exercise this authority itself, or it may delegate all or part of the authority to a board of citizens to oversee one or more of the city's public utilities.

(Ord. No. 1996-6, Prop. 11, 2-12-96/5-4-96; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2000-40, 5-9-00/5-6-00)

ARTICLE XII. - GENERAL PROVISIONS

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.

(Ord. No. 1988-15, Prop. 16, 2-8-88/5-7-88; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2004-44, § 5, 8-9-04)

State Law reference— Public records act, V.T.C.A., Government Code, § 552.001 et seq.

Sec. 12.02. - 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.

(Res. No. 1979-2R, Props. 5, 7, 1-8-79/4-7-79; Ord. No. 1986-4, Props. 22—24, 1-27-86/4-5-86; Ord. No. 1988-15, Prop. 17, 2-8-88/5-7-88; Ord. No. 1990-8, Prop. 5, 2-12-90/5-5-90; Ord. No. 1998-7, Prop. 11, 2-9-98/5-5-98; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2000-40, 5-9-00/5-6-00; Ord. No. 2006-36, § 2(16), 8-15-06/11-7-06; Ord. No. 2008-29, § 2(20), 8-19-08/11-4-08; Ord. No. 2017-45, § 2(Props. R—U), 8-15-17/11-7-17)

Sec. 12.03. - 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 him or her.

(Ord. No. 1994-16, Prop. 9, 3-22-94/5-7-94; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2017-45, § 2(Prop. V), 8-15-17/11-7-17)

State Law reference— Nepotism, V.T.C.A., Government Code, § 573.001 et seq.

Sec. 12.04. - 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.

(Ord. No. 2000-12, 2-14-00/5-6-00)

State Law reference— Garnishment, V.T.C.A., Local Government Code, §§ 51.076(b), 101.023.

Sec. 12.05. - 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.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2017-45, Prop. W, 8-15-17/11-7-17)

Sec. 12.06. - 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.

(Res. No. 1977-7R, Prop. 1, 1-24-77/4-2-77; Ord. No. 1981-51, Prop. 9, 7-6-81/8-8-81; Ord. No. 1988-15, Prop. 18, 2-8-88/5-7-88; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. of 8-12-02, § 1)

State Law reference— Tort claims, V.T.C.A., Civil Practice and Remedies Code, § 101.101 et seq.

Sec. 12.07. - 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.

(Ord. No. 2000-12, 2-14-00/5-6-00)

Sec. 12.08. - 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.

(Ord. No. 2000-12, 2-14-00/5-6-00)

Sec. 12.09. - 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.

(Ord. No. 2002-12, Prop. 8, 2-11-02/5-4-02; Ord. No. 2002-35, Prop. 8, 5-7-02/5-4-02)

Editor's note— Former § 12.09, interim municipal government, was deleted by Ord. No. 1992-9, adopted Feb. 10, 1992, Prop. 15. The deleted provisions derived from the Home Rule Charter adopted at an election held Feb. 24, 1967.

Sec. 12.10. - 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.

(Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2008-29, § 2(17), 8-19-08/11-4-08)

Sec. 12.11. - 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.

(Ord. No. 1992-9, Prop. 16, 2-10-92/5-2-92; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2015-32, § 2, 8-18-15/11-3-15)

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) Report its finding 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.

(Ord. No. 1986-4, Props. 25, 26, 1-27-86/4-5-86; Ord. No. 1992-9, Props. 16, 17, 2-10-92/5-2-92; Ord. No. 2000-12, 2-14-00/5-6-00; Ord. No. 2000-40, 5-9-00/5-6-00; Ord. of 8-12-02, § 1; Ord. No. 2008-09, § 2(1), 8-19-08/11-4-08)

Sec. 12.13. - Reserved.

Editor's note— Ord. No. 2008-29, § 2, Prop. No. 19, adopted Aug. 19, 2008, passed at referendum on Nov. 4, 2008, deleted § 12.13 in its entirety. Former § 12.13 pertained to non-substantive changes and corrections to Charter provisions and derived from Ord. No. 2000-12, adopted Feb. 14, 2000, passed at referendum on May 6, 2000.

Sec. 12.14. - Reserved.

Editor's note— Former § 12.14 relative to the manner of the original adoption of the Charter by the voters has been deleted by proposition number 27 of the Apr. 5, 1986 Charter amendments.

Sec. 12.15. - 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.

(Ord. No. 2015-32, § 2, 8-18-15/11-3-15)