

ORDINANCE NO. 2008-29

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS, ORDERING A GENERAL AND SPECIAL ELECTION TO BE HELD ON NOVEMBER 4, 2008 FOR THE PURPOSE OF ELECTING A MAYOR, CITY COUNCIL MEMBER, PLACE 3, A CITY COUNCIL MEMBER, PLACE 4; SUBMITTING PROPOSED AMENDMENTS TO THE CITY CHARTER AND A NON-BINDING REFERENDUM EXTENDING THE HOURS FOR THE SALE OF ALCOHOLIC BEVERAGES FOR ON-PREMISES CONSUMPTION TO 2:00 A.M. TO THE VOTERS; ESTABLISHING EARLY VOTING LOCATIONS AND POLLING PLACES FOR THIS ELECTION; MAKING PROVISIONS FOR CONDUCTING THE ELECTION; AND DECLARING AN EMERGENCY.

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

SECTION 1. A general and special election is ordered to be held by the City of San Marcos (the "City") at the various polling places and election precincts within the corporate limits of the City, as hereinafter designated, on November 4, 2008 from the hours of 7:00 a.m. to 7:00 p.m. This general and special City election will be conducted jointly with Hays County and will be administered for the City by the Hays County Elections Administrator, but this general and special City election is not a county-wide election. At this election the qualified voters of the City will elect a Mayor for a term of two years and City Council Member for Place 3 and a City Council Member for Place 4 with each Council Member position having a term of three years. In addition at this election, ballot propositions will be submitted to the qualified voters of the City for proposed amendments to the City Charter, in accordance with applicable provisions of the City Charter and State law. A non-binding referendum authorizing the San Marcos City Council to adopt an ordinance extending the hours for the sale of alcoholic beverages for on-premises consumption to 2:00 A.M. will also be submitted to the qualified voters at this election.

SECTION 2. The following proposed text amendments will be submitted to the qualified voters of the City at the election, in accordance with Section 9.004 of the Texas Local Government Code and Sections 12.11 and 12.12 of the San Marcos City Charter and other applicable laws [proposed deleted text is shown with ~~striketroughs~~ and proposed added text is underlined.]:

AMENDMENT NO. 1

SHALL THE FIRST SENTENCE SECTION 12.12 OF THE CITY CHARTER, RELATING TO CHARTER REVIEW COMMISSIONS, BE AMENDED TO READ AS FOLLOWS:

Sec. 12.12. Charter Review Commission.

Beginning in January 2013 and at least every four years thereafter, ~~The city council shall appoint at its first regular meeting in July of each odd numbered year,~~ a charter review commission of seven citizens of the City of San Marcos.

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AMENDMENT NO. 2

SHALL SECTION 1.03 OF THE CITY CHARTER, STATING THE GOALS OF THE CITY GOVERNMENT, BE AMENDED TO READ AS FOLLOWS:

SEC. 1.03. STATEMENT OF GOALS.

~~The goals of the city government are to create a strong community, foster a high quality of life, promote neighborhood integrity, support sound community and economic development, conserve and protect the city's natural resources and the environment, and safeguard the health, safety and welfare of the city's residents.~~

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, foster intergovernmental liaison and communication, encourage responsible citizenship, promote sound community and economic development, conserve and protect the city's natural resources and environment.

AMENDMENT NO. 3

SHALL SECTION 2.02(a) OF THE CITY CHARTER, REGARDING EMINENT DOMAIN, BE AMENDED TO READ AS FOLLOWS:

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 rights of the owners of the property taken, ~~to adequate~~

~~compensation, and subject to the provisions of this section. The power of eminent domain shall include the right of the city to take the fee in land so condemned, and the right to condemn public property for municipal or public purposes. The city shall have and possess the power of eminent domain for any municipal or public purposes, subject to the provisions of this section.~~

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AMENDMENT NO. 4

SHALL SECTION 3.02(a)(2) OF THE CITY CHARTER, REGARDING THE QUALIFICATIONS OF MEMBERS OF THE CITY COUNCIL, BE AMENDED TO READ AS FOLLOWS:

Sec. 3.02. Qualifications.

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

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(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 ; ~~or shall have had his or her principal physical residence for a period of not less than one year immediately preceding the person's election, in any territory not formerly within the corporate limits of the city, but which is annexed under the provisions of Section 2.03 of this Charter,~~ 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 and driver's license purposes;
- (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; and

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

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AMENDMENT NO. 5

SHALL SECTION 3.04 OF THE CITY CHARTER, REGARDING CITY COUNCIL COMPENSATION, BE AMENDED TO READ AS FOLLOWS:

Sec. 3.04 Compensation and Reimbursement.

City Council Compensation shall be set in a public forum by ordinance of the city council;  
~~Members of the city council shall serve without pay or compensation and; provided, however,~~  
and ~~that~~ 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.

AMENDMENT NO. 6

SHALL SECTION 3.11 OF THE CITY CHARTER, REGARDING THE PROCEDURE FOR PASSAGE OF ORDINANCES, BE AMENDED TO READ AS FOLLOWS:

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 adopted 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 meeting on ~~three-two-several~~ separate days, unless:

(1) an ordinance is adopted as an emergency measure by the favorable vote of five or more council members;

(2) an ordinance relates to the changing of a future land use map or zoning district designation, in which case it may be approved by the city council on one reading only, if all other requirements are met, and the council has the opportunity to vote to reconsider the ordinance at the next regular meeting after the change was approved if reconsideration is requested by a council member who was absent from the previous meeting or who voted on the prevailing side at the previous meeting; or

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

(f) 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.

~~(g) Unless otherwise provided by law or by this Charter, no ordinance shall become effective until ten days after the date of its final passage, unless it relates to the immediate preservation of the public peace, health, or safety, is adopted as an emergency measure, and contains a statement~~

~~of the nature of the emergency. In such event, the emergency ordinance shall become effective upon publication of notice of the ordinance in accordance with this article. All ordinances shall be effective upon final reading or publication if publication is required by state law.~~

AMENDMENT NO. 7

SHALL SECTION 3.12 OF THE CITY CHARTER, REGARDING THE PUBLICATION OF ORDINANCES, BE AMENDED TO READ AS FOLLOWS:

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 ~~and of every other ordinance required by law or by this Charter to be published,~~ by causing the said ordinance, or 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 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

AMENDMENT NO. 8

SHALL SECTION 3.15 OF THE CITY CHARTER, REGARDING INVESTIGATIONS BY THE CITY COUNCIL, BE AMENDED TO READ AS FOLLOWS:

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.

AMENDMENT NO. 9

SHALL SECTION 4.01(a) OF THE CITY CHARTER, REGARDING THE APPOINTMENT AND QUALIFICATIONS OF THE CITY MANAGER, BE AMENDED TO READ AS FOLLOWS:

SEC. 4.01. CITY MANAGER.

(a) Appointment and qualifications: The city council shall appoint a city manager who shall be the chief administrative and executive officer of the city, and shall be responsible to the city council for the administration of all the affairs of the city. The manager shall be chosen by the city council ~~solely~~ 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.

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AMENDMENT NO. 10

SHALL SECTION 4.02 OF THE CITY CHARTER REGARDING THE CITY CLERK BE AMENDED TO READ AS FOLLOWS:

SEC. 4.02. CITY CLERK.

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

AMENDMENT NO. 11

SHALL SECTION 4.03(c) OF THE CITY CHARTER, REGARDING APPOINTMENT OF THE MUNICIPAL COURT CLERK AND ASSISTANTS BE AMENDED TO READ AS FOLLOWS:

SEC. 4.03. MUNICIPAL COURT.

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(e) The ~~city manager~~ presiding judge shall appoint a municipal court clerk and any assistants ~~the manager deems advisable~~ with the approval of the city council. ~~The compensation of the municipal court clerk and assistants shall be fixed by the city manager.~~

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AMENDMENT NO. 12

SHALL SECTION 5.01 OF THE CITY CHARTER, REGARDING THE DATE OF REGULAR CITY ELECTIONS BE AMENDED TO READ AS FOLLOWS:

SEC. 5.01. ELECTIONS.

The regular city election shall be held annually on the first Tuesday after the first Monday in November ~~fourth uniform election date of the calendar year~~ as provided by state law.

AMENDMENT NO. 13

SHALL SECTION 5.03 OF THE CITY CHARTER, REGARDING FILING AN APPLICATION FOR A PLACE ON THE BALLOT AS A CANDIDATE FOR CITY COUNCIL, BE AMENDED TO READ AS FOLLOWS:

SECTION. 5.03. FILING FOR OFFICE.

Any qualified person who desires to become a candidate for 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. 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 70<sup>th</sup> 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

qualification for holding the office sought under the laws of Texas and the provisions of this Charter.

AMENDMENT NO. 14

SHALL SECTIONS 8.09, 8.10, AND 8.13 OF THE CITY CHARTER, REGARDING ADOPTION OF THE BUDGET AND TAX RATE, BE AMENDED TO READ AS FOLLOWS:

SECTION. 8.09. ADOPTION AFTER PUBLIC HEARING.

The budget and the tax rate shall be adopted, ~~only after 10 days have lapsed since the public hearings, in compliance with State law on the budget.~~

SECTION. 8.10. DATE OF FINAL ADOPTION.

The budget and the tax rate shall be finally adopted not later than ~~7 days prior to the expiration of the fiscal year and should the city council fail to so adopt a budget, the then existing budget together with its tax levying ordinance and its appropriation ordinance, shall be deemed adopted for the ensuing fiscal year.~~

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 ~~a determination~~ of the amount of the levy for the purposes of the city in the corresponding tax year; provided, ~~however, that in no event shall~~ such levy shall not exceed the legal limit provided by the laws and constitution of the State of Texas.

AMENDMENT NO. 15

SHALL SECTION 8.17 OF THE CITY CHARTER, REGARDING PURCHASING PROCEDURES, BE AMENDED TO READ AS FOLLOWS:

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.

#### AMENDMENT NO. 16

SHALL SECTION 9.02 OF THE CITY CHARTER, REGARDING THE KEEPING OF A BOND REGISTER, BE AMENDED TO READ AS FOLLOWS:

#### SECTION. 9.02. BOND ~~REGISTER~~.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 ~~register~~ 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. ~~When bonds or their certificates of obligation or their coupons are paid, their cancellation shall be noted in the register.~~

#### AMENDMENT NO. 17

SHALL SECTIONS 10.02 AND 12.10 OF THE CITY CHARTER BE AMENDED TO CORRECT TYPOGRAPHICAL ERRORS AND TO PROVIDE PROPER PUNCTUATION AND READ AS FOLLOWS:

#### 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 ~~of~~ 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 per cent of such debt.

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. ~~but~~ 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.

AMENDMENT NO. 18

SHALL SECTION 10.05 OF THE CITY CHARTER, REGARDING THE DELINQUENCY DATE FOR PAYMENT OF CITY TAXES, BE AMENDED TO READ AS FOLLOWS:

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.

AMENDMENT NO. 19

SHALL SECTION 11.03 OF THE CITY CHARTER, PROHIBITING THE GRANTING OF AN EXCLUSIVE FRANCHISE TO A PUBLIC SERVICE COMPANY, BE DELETED IN ITS ENTIRETY AS FOLLOWS:

~~SEC. 11.03. AUTHORIZATIONS NOT TO BE EXCLUSIVE.~~

~~No franchise, permit, certificate or other authorization to construct, maintain or operate a public service company, and no renewal extension of any such authorization, shall be exclusive.~~

AMENDMENT NO. 20

SHALL SECTION 12.02(c) OF THE CITY CHARTER, RELATING TO THE DUTIES OF THE ETHICS REVIEW COMMISSION, BE AMENDED TO READ AS FOLLOWS:

SEC. 12.02. PERSONAL INTEREST AND CODE OF ETHICS.

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(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 or a state conflict of interest law — ~~Any allegation by any citizen, public officials or employees that a person has violated the code of ethics or a state conflict of interest law may be referred to any member of the commission who then may request the commission to convene to review the allegation~~ according to the procedures set forth in the city's ethics ordinance.

(3) Render advisory opinions on potential conflicts of interest or violation of the city's code of ethics at the request of a public official or employee covered by the code of ethics.

(4) Recommend to appropriate authorities cases for prosecution or other action for violation of the code of ethics or a state conflict of interest law.

(5) Review and monitor financial reports required by the Texas Election Code with respect to city-sponsored elections.

AMENDMENT NO. 21

SHALL SECTION 12.13 OF THE CITY CHARTER, RELATING TO NON-SUBSTANTIVE CHANGES AND CORRECTIONS TO THE CITY CHARTER, BE DELETED IN ITS ENTIRETY AS FOLLOWS:

~~SEC. 12.13. NON-SUBSTANTIVE CHANGES AND CORRECTIONS TO CHARTER PROVISIONS~~

~~In order to preserve unity and enhance public understanding, the council shall have the power, by ordinance to renumber, rearrange and make non-substantive corrections to all articles, sections, and paragraphs of this Charter or any amendments thereto, and upon the passage of any such ordinance, a copy thereof, certified by the city clerk shall be forwarded to the Texas Secretary of State for filing.~~

AMENDMENT NO. 22

SHALL SECTION 7.01(b) OF THE CITY CHARTER, RELATING TO QUALIFICATIONS OF MEMBERS OF THE PLANNING AND ZONING COMMISSION, BE AMENDED TO READ AS FOLLOWS:

(b) To be eligible for appointment to the commission, eight of the commission members must have resided and owned real property in the city for a period of three years before the date of appointment, and the remaining member must have resided and owned real property in the city's extraterritorial jurisdiction for a period of three years before the date of appointment. To be eligible for continued service on the commission, the commission members appointed as city residents must maintain residence and property ownership in the city, and the commission member appointed as an extraterritorial jurisdiction resident must maintain residence and property ownership in the extraterritorial jurisdiction.

SECTION 3. The ballots for the City election will conform to the requirements of the Texas Election Code, and will have the measures described in Section 2 of this Ordinance stated as propositions as follows:

PROPOSITION NO. 1

FOR/AGAINST The amendment of Section 12.12 of the City Charter to require the city council to appoint a charter review commission in January 2013 and at least every four years thereafter.

PROPOSITION NO. 2

FOR/AGAINST The amendment of Section 1.03 of the City Charter to revise the statement of goals of city government.

PROPOSITION NO. 3

FOR/AGAINST The amendment of Section 2.02 of the City Charter to delete language regarding the eminent domain process that is duplicative of state law.

PROPOSITION NO. 4

FOR/AGAINST The amendment of Section 3.02(a)(2) of the City Charter to provide that residency in the city's extraterritorial jurisdiction prior to annexation shall no longer qualify an individual to serve on the city council

PROPOSITION NO. 5

FOR/AGAINST The amendment of Section 3.04 of the City Charter to provide that city council compensation shall be set in a public forum by ordinance of the city council.

PROPOSITION NO. 6

FOR/AGAINST The amendment of Section 3.11 of the City Charter to provide that ordinances shall be approved on two separate days, shall become effective upon final reading or publication, and permit notices of public hearings on proposed ordinances to be published on the city's website or local media outlets unless newspaper publication is otherwise required.

PROPOSITION NO. 7

FOR/AGAINST The amendment of Section 3.12 of the City Charter to direct the city clerk to publish adopted ordinances in the newspaper only when required by state law, charter or ordinance.

PROPOSITION NO. 8

FOR/AGAINST The amendment of Section 3.15 of the City Charter to affirm the legal rights of persons participating in investigations conducted by the city council.

PROPOSITION NO. 9

FOR/AGAINST The amendment of Section 4.01(a) of the City Charter to include education as a basis for appointment of the city manager.

PROPOSITION NO. 10

FOR/AGAINST The amendment of Section 4.02 of the City Charter to provide that the city clerk shall perform the duties assigned by the city council and require the city clerk to establish and maintain a principal physical residence in the city within 90 days after appointment.

PROPOSITION NO. 11

FOR/AGAINST The amendment of Section 4.03(c) of the City Charter to provide for the appointment of the municipal court clerk and any assistants by the presiding judge with the approval of the city council.

PROPOSITION NO. 12

FOR/AGAINST The amendment rewording Section 5.01 of the City Charter to state that the regular city election will be held on the first Tuesday after the first Monday in November.

PROPOSITION NO. 13

FOR/AGAINST The amendment of Section 5.03 of the City Charter to follow the 70 day candidate filing deadline set by state law for elections held on the same date as a general election for state and county offices.

PROPOSITION NO. 14

FOR/AGAINST The amendment of Sections 8.09, 8.10, and 8.13 to clarify the procedures for adoption of the budget and tax rate; require the approval of the budget and tax rate prior to the end of the current fiscal year following public hearings required by state law; and require the budget to set forth the tax levy for the corresponding tax year.

PROPOSITION NO. 15

FOR/AGAINST The amendment of Section 8.17 of the City Charter to provide that notices of the competitive purchases of goods and services, when required by law, shall be given on the city's website and on an internet site for governmental purchases and may also be published in a newspaper of general circulation in the city.

PROPOSITION NO. 16

FOR/AGAINST The amendment of Section 9.02 of the City Charter to require the city manager or the manager's designee to maintain a bond record instead of a bond register.

PROPOSITION NO. 17

FOR/AGAINST The amendment of Sections 10.02 and 12.10 of the City Charter to correct typographical errors and provide correct punctuation without changing the substance of those sections.

PROPOSITION NO. 18.

FOR/AGAINST The amendment of Section 10.05 of the City Charter to provide that taxes for a particular tax year shall be paid by February 1 of the following year unless a later payment date is allowed by state law.

PROPOSITION NO. 19

FOR/AGAINST The amendment deleting Section 11.03 of the City Charter that currently prohibits the city council from granting, renewing, or extending an exclusive franchise, permit, or other authorization to construct, maintain, or operate a public service company.

PROPOSITION NO. 20

FOR/AGAINST The amendment of Section 12.02(c) of the City Charter to provide that the ethics review commission shall conduct hearings and investigations according to procedures set forth in the city’s ethics ordinance.

PROPOSITION NO. 21

FOR/AGAINST The amendment deleting Section 12.13 of the City Charter which states that the city council has the power to make non-substantive changes and corrections to the city charter by adoption of an ordinance.

PROPOSITION NO. 22

FOR/AGAINST The amendment to Section 7.01(b) of the City Charter to state that members of the Planning and Zoning Commission must own property throughout their terms of office.

SECTION 4. The ballots will include the following non-binding proposition:

NON-BINDING REFERENDUM

FOR/AGAINST Shall the San Marcos City Council be authorized to adopt an ordinance extending the hours for the sale of alcoholic beverages for on-premises consumption to 2:00 a.m.

SECTION 5. The polling places for each precinct for this election shall be as follows:

PRECINCT NO.	POLLING PLACE LOCATION
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110 (portion in City)	Masonic Temple 3024 Hwy. 123 San Marcos, Texas
111	Dunbar Center 801 MLK Drive San Marcos, Texas
112	Guadalupe Hall 218 Roosevelt San Marcos, Texas
113	Election Administrator's Office 401-C Broadway San Marcos, Texas
114	Allenwood Homes Auditorium 1201 Thorpe Lane San Marcos, Texas
116	Hernandez Intermediate School 333 Stagecoach Trail San Marcos, Texas
120	San Marcos Housing Authority Residents Office 820 Sturgeon Street San Marcos, Texas
127	Tobias Elementary School 1005 E. FM 150 Kyle, Texas
315	Doris Miller Jr. High School 301 Foxtail Run San Marcos, Texas
330	Lamar Central Office Annex 500 Hutchison Street San Marcos, Texas
332	First Lutheran Church 130 W. Holland St. San Marcos, Texas
334	Old Fish Hatchery Building 201 CM Allen Pkwy San Marcos, Texas 78666

336	Merrill Gardens at San Marcos Auxiliary Room 1720 Ranch Road 12 San Marcos, Texas 78666
446	Travis Elementary School 1437 Old Post Road San Marcos, Texas
447	South Hays County Fire Station 3300 Hilliard Road San Marcos, Texas

SECTION 6. As per the contract, the Hays County Election Administrator shall appoint presiding judges and alternate judges to serve in this election, and it shall be each such judge's duty to hold the election in their respective precincts

SECTION 7. Each presiding judge may appoint up to four clerks, and with the permission of the Hays County Election Administrator, additional clerks, to serve for each precinct in this election.

SECTION 8. The precincts numbered 110, 111, 112, 113, 114, 116, 120, 127, 315, 330, 332, 334, 336, 446 and 447 shall be polling places for the election.

SECTION 9. Joyce Cowan is appointed clerk for early voting for the City.

SECTION 10. The main early polling place for early voting by personal appearance for the election is the Hays County Election Administrator's Office, 401-C Broadway. Early voting by personal appearance shall be conducted during normal working days Monday- Friday (excluding holidays) in the Hays County Election Administrator's Office from October 20, 2008 through October 24, 2008 from 8:00 a.m. to 5:00 p.m.; on October 25, 2008 from 10:00 a.m. to 4:00 p.m.; on October 26, 2008 from 1:00 p.m. to 5:00 p.m.; and on October 27, 2008 through October 31, 2008 from 7:00 a.m. to 7:00 p.m. In addition, temporary branch and mobile early polling places for early voting by personal appearance for the City election are established at the following locations, with voting to be conducted at the dates and times indicated:

<u>Location</u>	<u>Date</u>	<u>Time</u>
San Marcos City Library	October 20-24, 2008	8:00a.m. to 5:00p.m.
Large Meeting Room	October 25, 2008	10:00a.m. to 4:00p.m.
625 E. Hopkins	October 26, 2008	1:00p.m. to 5:00p.m.
San Marcos, Texas	October 27-31, 2008	7:00a.m. to 7:00p.m.
Kyle City Hall	October 20, 2008	10:00a.m. to 8:00p.m.
100 W. Center	October 25, 2008	10:00a.m. to 4:00p.m.
Kyle, Texas	October 27, 2008	10:00a.m. to 8:00p.m.

Dripping Springs ISD Office 510 W. Mercer Street Dripping Springs, Texas	October 21, 2008 October 25, 2008 October 28, 2008	10:00a.m. to 8:00p.m. 10:00a.m. to 4:00p.m. 10:00a.m. to 8:00p.m.
Texas State University-San Marcos LBJ Student Center 700 Student Center Drive San Marcos, Texas	October 22-23, 2008 October 29-30, 2008	10:00a.m. to 7:00 p.m. 10:00a.m. to 7:00 p.m.
Wimberley Community Center 14068 Ranch Road 12 Wimberley, Texas	October 23, 2008 October 25, 2008 October 30, 2008	10:00a.m. to 8:00p.m. 10:00a.m. to 4:00p.m. 10:00a.m. to 8:00p.m.
Buda City Hall 121 N. Main Street Buda, Texas	October 24, 2008 October 25, 2008 October 29, 2008 October 31, 2008	10:00a.m. to 8:00p.m. 10:00a.m. to 4:00p.m. 10:00a.m. to 8:00 p.m. 10:00a.m. to 8:00p.m.
Woodcreek City Hall 17 Wildwood Circle Woodcreek, Texas	October 20, 2008 October 27, 2008	10:00a.m. to 8:00p.m. 10:00a.m. to 8:00p.m.
Performing Arts Center 979 Kohlers Crossing Kyle, Texas	October 21, 2008 October 29, 2008	10:00a.m. to 8:00p.m. 10:00a.m. to 8:00p.m.
Belterra Clubhouse 801 Belterra Drive Dripping Springs, Texas	October 23, 2008 October 30, 2008	10:00a.m. to 8:00p.m. 10:00a.m. to 8:00p.m.
Wimberley High School 100 Carney Lane Wimberley, Texas	October 26, 2008	1:00p.m. to 5:00p.m.
City of Kyle Fire Station 150 Bunton Road Kyle, Texas	October 31, 2008	10:00a.m. to 8:00p.m.

SECTION 10. Early voting by mail ballot shall be conducted in accordance with applicable provisions of the Texas Election Code. The address of 401-C Broadway, San Marcos, Texas 78666, shall be the early voting clerk's mailing address to which ballot applications and ballots voted by mail may be sent for the City.

SECTION 11. All early votes and other votes to be processed in accordance with early voting procedures pursuant to the Texas Election Code shall be delivered to the Early Voting Ballot Board at the Hays County Election Administrator's office which is located in the City, in accordance with the Election Code. Early votes shall be counted at the central counting station. The Early Voting Ballot Board shall perform in accordance with applicable provisions of the Election Code.

SECTION 12. A Direct Record Electronic ("DRE") System, as the term is defined in the Texas Election Code, shall be utilized in connection with the election. This system shall be utilized for all early voting as well as for all precinct voting conducted on election day. The Hays County Election Administrator will appoint a programmer, who shall prepare a program for the automatic tabulating equipment. Ample voting equipment shall be provided for early voting and in each of the various precincts on election day. The central counting station is established as the Hays County Elections Administrator's office, 401-C Broadway, San Marcos, Texas.

SECTION 13. The Hays County Elections Administrator will appoint the Early Voting Ballot Board, a Presiding Judge of the Central Counting Station, a Tabulation Supervisor of the Central Counting Station, and a Central Counting Station Manager.

SECTION 14. The election will be held in accordance with the provisions of the Charter and Ordinances of the City of San Marcos and the laws of the State of Texas. The deadline for filing by candidates for the position of Mayor, Council Member Place 3, and Councilmember Place 4 is 5:00 p.m. on August 26, 2008.

SECTION 15. An executed copy of this Ordinance will serve as proper notice of the election.

SECTION 16. Notice of the election, including a Spanish translation thereof, will be published at least once in a newspaper published in San Marcos on or after October 5, 2008 and on or before October 27, 2008, and will be posted on the bulletin board at City Hall on or before October 14, 2008.

SECTION 17. A writ of election as required by the Texas Election Code will be delivered on or before October 20, 2008 by the Hays County Election Administrator to the presiding and alternate judges of each election precinct in which the election is ordered to be held.

SECTION 18. Testing of the automatic tabulating equipment will be performed and notice thereof will be given in accordance with Subchapter D of Chapter 127 of the Texas Election Code.

SECTION 19. The rate of compensation to be paid judges, clerks, and assistants to the Central Counting Station Presiding Judge and Tabulation Supervisor for services rendered during the election will be compensated at the rate of no more than \$10.00 per hour.

SECTION 20. The additional compensation to be paid judges who deliver returns of the election is established at \$25.00.

SECTION 21. If any portion of this Ordinance is held invalid by a court of competent jurisdiction, the remaining provisions of this Ordinance shall remain in full force and effect.

SECTION 22. The importance of this Ordinance creates an emergency and an imperative public necessity, and the provisions of the Charter requiring that ordinances be presented at three separate meetings, and that ordinances do not take effect until ten days after the date of its final passage are suspended, and this Ordinance will take effect upon publication of notice of its adoption in a newspaper of general circulation within the City.

PASSED, APPROVED AND ADOPTED on August 19, 2008.

Susan Narvaiz  
Mayor

Attest:

Approved:

Sherry Mashburn  
City Clerk

Michael J. Cosentino  
City Attorney

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