



## CHARTER REVIEW COMMITTEE AGENDA

**Monday, June 15, 2026**

Notice is hereby given that the Charter Review Committee of the City of Big Spring, Texas will meet in Regular Session on Monday, June 15, 2026, at 5:30 PM at the City Council Chambers Located at 307 East 4th Street, Big Spring, Texas.

### CHARTER REVIEW COMMITTEE ETIQUETTE

Gentlemen are requested to remove their hats inside the City Council Chambers. As a courtesy to those in attendance, please place your cell phone on "Silent" or "Vibrate." Please, no talking during the meetings. Take all conversations outside so that others can hear.

Thank you!

### Open Session

1. Call to Order McDonald

### Public Comment

**Public Comment** – Members of the public are entitled to speak on any topic. Additionally, members of the public may comment on any action item before or during its consideration. Speakers are Requested to Stand at the Podium and State Their Name and Address. Speakers Should Fill out the Form at the Podium and Turn it into the City Secretary. Please Do Not Exceed Five (5) Minutes.

### 2. **Public Comment**

### New Business

3. Consideration and Possible Action to Approve Charter Review Committee Minutes for the Regular Meetings Held on March 4, 2026 and March 5, 2026 3-8 McDonald
4. Consideration and Possible Action on Drafted Measures to Amend the City Charter; and Sample Ordinances Prepared for Consideration Only in the Event Certain Charter Amendments Are Approved by the Council and Subsequently Approved by the Voters; and Any Other Recommendations 9-89 McDonald

from the Committee


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| 5. Consideration and Possible Action on Calling Future Meetings and Agenda Items | McDonlad |
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**Committee Input**

- |                    |          |
|--------------------|----------|
| 6. Committee Input | McDonald |
| 7. Adjourn         | McDonald |

I hereby certify that this agenda was posted on the official bulletin board at the City of Big Spring, City Hall Building, located outside 310 Nolan Street. Given by order of the City Council and **Posted on Tuesday, June 9, 2026** in accordance with Title 5, Texas Government Code and Chapter 551.

In addition, this agenda and supporting documents are posted on the City of Big Spring's Website, [www.mybigspring.com](http://www.mybigspring.com), in accordance with legal requirements.



Tami L. Davis, City Secretary

THE MEETING FACILITY IS ACCESSIBLE TO DISABLED PERSONS. ANY DISABLED PERSON NEEDING SPECIAL ACCOMMODATION OR A HEARING IMPAIRED PERSON WISHING TO HAVE AN INTERPRETER SHOULD REQUEST SERVICES AT LEAST 48 HOURS PRIOR TO THE SCHEDULED MEETING BY CONTACTING TAMI DAVIS AT 432-264-2513 OR EMAIL: [TDAVIS@MYBIGSPRING.COM](mailto:TDAVIS@MYBIGSPRING.COM).

STATE OF TEXAS :  
COUNTY OF HOWARD :  
CITY OF BIG SPRING :

The City Council of the City of Big Spring, Texas, met in a Regular Meeting in the City Council Chambers located at 307 E. 4th St., Big Spring, Texas, at 5:15 PM, March 4, 2026, with the following members present in person:

GLORIA McDONALD	CHAIRPERSON
NOLAN DOMINGUEZ	MEMBER
SCOTT EMERSON	MEMBER
JOHN SCOTT	MEMBER
GLEN FILLINGHAM	MEMBER
TROY TOMPKINS	MEMBER

Member Miguel Gomez was not present at this meeting.

Same and constituting a quorum, for which four Committee members must be present; and the following staff in person;

TODD DARDEN	City Manager
JOHN MEDINA	Assistant City Manager
ANDREW HAGEN	City Attorney
SANDY SMITH	Finance Director
TAMI DAVIS	City Secretary

### Open Session

Call to Order

**Chairperson Gloria McDonald called the Charter Review Committee to order at 5:15 p.m.**

### New Business

Consideration and Possible Action to Approve Charter Review Committee Minutes for the Regular Meeting Held on February 18, 2026

**Motion was made by Member Troy Tompkins to approve the above captioned minutes, seconded by Member Scott Emerson with all members of the board voting "aye".**

Consideration and Possible Action Regarding Training on the Open Meetings Act and the Public Information Act

**No action was taken on this item.**

Continue Discussion and Possible Action Concerning Amendments to the City Charter  
Discussion continued regarding changes to the City Charter and the following recommendations and motions were made as follows:

#### **Article IV - City Government**

Section 7 "Approval or veto of ordinances and resolutions by mayor," to raise the veto of four (4) **to five (5)** of the Councilmen and/or Councilwomen shall vote in favor of the passage of the measure,...

**Motion was made by Chairperson Gloria McDonald to approve the above captioned recommendation, seconded by Member Glenn Fillingham with all members present voting "aye".**

#### **Article V - Elections**

Section 3a "Limitations on Service in Office" to strike this section and do away with term limits.

**Motion was made by Chairperson Gloria McDonald to approve the above captioned recommendation, seconded by Member John Scott with Members Gloria McDonald, Nolan Dominguez, John Scott, Glen Fillingham and Troy Tompkins voting "aye". Member Scott Emerson, being opposed, voting "nay". Motion passed five to one.**

Section 4 "Date of general election; number of councilmen and/or councilwomen to be elected," to strike "~~number of councilmen and/or councilwomen to be elected.~~"

**No motion on this item just a committee consensus to strike the above captioned language.**

#### **Article VI - City Officers and Employees**

Section 2 "Salary of officers," - Discussion to raise the per diem to \$500 for Councilmembers.

**No motion on this item just a committee consensus to let the City Council make that decision.**

Section 11 " Oath and bond of officers," to clean up the language to read "shall be furnished a bond" instead of the current language of "shall furnish bond."

**Motion was made by Member Nolan Dominguez to clean up the above captioned language, seconded by Member Scott Emerson, with all members voting "aye."**

Section 5 "Disciplinary Hearing for City Employees"

**Motion was made by Member John Scott to delete this section, seconded by Chairperson Gloria McDonald, with Members John Scott and Gloria McDonald voting "aye." Members Nolan Dominguez, Scott Emerson, Troy Tompkins and Glenn Fillingham, being opposed, voting "nay." Motion fails four to two.**

Consideration and Possible Action on Calling Future Meetings and Agenda Items

**No action was taken on this item at this time.**

Committee Input

Input

**There were no member input at this time.**

Adjourn

**Chairperson Gloria McDonald adjourned the Charter Review Committee meeting at 7:11 p.m.**

\_\_\_\_\_  
Gloria McDonald, Chairperson

ATTEST:

\_\_\_\_\_  
Tami L. Davis, City Secretary

STATE OF TEXAS :  
COUNTY OF HOWARD :  
CITY OF BIG SPRING :

The City Council of the City of Big Spring, Texas, met in a Regular Meeting in the City Council Chambers located at 307 E. 4th St., Big Spring, Texas, at 5:15 PM, March 5, 2026, with the following members present in person:

GLORIA McDONALD	CHAIRPERSON
NOLAN DOMINGUEZ	MEMBER
SCOTT EMERSON	MEMBER
JOHN SCOTT	MEMBER
GLEN FILLINGHAM	MEMBER
TROY TOMPKINS	MEMBER

Member Miguel Gomez was not present at this meeting.

Same and constituting a quorum, for which four Committee members must be present; and the following staff in person;

TODD DARDEN	City Manager
ANDREW HAGEN	City Attorney
JOHN MEDINA	Assistant City Manager
SANDY SMITH	Finance Director
TAMI DAVIS	City Secretary

### Open Session

Call to Order

**Chairperson Gloria McDonald called the Charter Review Committee to order at 5:15 p.m.**

### New Business

Continue Discussion and Possible Action Concerning Amendments to the City Charter  
Discussion continued regarding changes to the City Charter and the following recommendations and motions were made as follows:

#### **Article VI - City Officers and Employees**

Section 11 "Oath and bond of officers" - Andrew Hagen, City Attorney, brought to the committee a revised measure regarding the official bonds as attached.

**Motion was made by Member Nolan Dominguez to approve the official measure as presented by Mr. Hagen, seconded by Member Troy Tompkins, with all members present voting "aye."**

#### **Article XI. - Recall of Councilmen and/or Councilwomen**

No changes were recommended at this time.

**Article XII. - Miscellaneous Provisions**

No changes were recommended at this time.

**Article XIII. - Charter Election**

No changes were recommended at this time.

**Article XIV. - Initiative and Referendum**

No changes were recommended at this time.

One citizen brought forth some recommendations for the committee to consider as follows:

Election of Municipal Judge

Election of Chief of Police

Limitation on Indemnification and Defense

Drug Testing as a Qualification for Mayor and City Council

**The Committee Members decided that the above captioned recommendations should be taken to the City Council for consideration.**

**The Committee Members also instructed Andrew Hagen, City Attorney, to bring other changes he was considering to change back to the Committee at a later date.**

Consideration and Possible Action on Calling Future Meetings and Agenda Items  
**No action was taken at this time.**

Committee Input

Input

**No Committee Member input at this time.**

Adjourn

**Chairperson Gloria McDonald adjourned the Charter Review Committee meeting at 6:00 p.m.**

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Gloria McDonald, Chairperson

ATTEST:

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Tami L. Davis, City Secretary

Charter Review Committee

Measure: Official bonds

Draft 2:

Current Version:

Every person elected by the electors of said city, or appointed by the City Council or the City Manager to fill any office under the city administration, shall, before entering upon the duties of such office, take and subscribe to such oath(s) as may be required by state law, and shall furnish bond with good and sufficient security to be approved by the Council in such form and amount as shall be prescribed by the Council.

Draft Version:

Every person elected by the electors of said city, or appointed by the City Council or the City Manager to fill any office under the city administration, shall, before entering upon the duties of such office, take and subscribe to such oath(s) as may be required by state law, and shall be covered by an official bond. The City of Big Spring shall obtain and pay the premiums for such bonds, which shall be procured from a regularly accredited surety company authorized to do business under the laws of the State of Texas. Each bond shall be in such form and amount as shall be prescribed by the City Council and shall be payable to the City of Big Spring. All official bonds shall be filed and recorded with the City Secretary.

**Measure #:** \_\_\_\_\_

**Short Name:** City Attorney

**Type:** New Section

**Charter Location:** Article, VI Section 7

## MEASURE SUMMARY

This measure would adopt a Charter provision governing the City Attorney and the Department of Law to clarify roles, authority, and organization.

Specifically, it would:

- Provide for a Department of Law headed by a City Attorney appointed by the Council based on merit and fitness;
- Establish that the City Attorney serves as the chief legal advisor to the City and represents the City as an organization;
- Clarify that the City Attorney does not represent individual officials or employees except as authorized by Council or required by law;
- Authorize Council to determine by ordinance how administrative authority over the Department of Law is allocated;
- Confirm Council's authority to retain outside legal counsel when necessary; and
- Allow the scope of legal services and use of outside counsel to be governed by ordinance or contract.

If adopted, this measure would provide clearer structure and flexibility for the delivery of legal services while preserving the professional and ethical obligations of the City Attorney.

# PROPOSED NEW SECTION

## Article VI, Section 7. Department of law and city attorney.

- (a) There shall be a department of law, the head of which shall be the city attorney. The city attorney shall be appointed by the Council upon merit and fitness alone and shall serve for a term of two years, and be removable at the will of the Council.
- (b) The City Attorney shall be the chief legal advisor to the City and shall provide legal advice, representation, and prosecution services in matters relating to City affairs, as permitted by law.
- (c) The city attorney represents the City as an organization and does not represent any individual officer, official, employee, board, or commission member except as authorized by the Council or required by law.
- (d) The City Council may by ordinance establish the allocation of administrative authority over the department of law, including the hiring, supervision, discipline, and removal of personnel. Any such ordinance shall be consistent with applicable law and shall not impair the professional and ethical obligations of the city attorney.
- (e) Nothing in this Charter shall be construed to limit the authority of the Council to retain special legal counsel or outside attorneys or law firms whenever the Council determines such representation is necessary or advisable, including for matters involving the employment, compensation, evaluation, potential conflict of interest, or removal of the city attorney.
- (f) The scope of the city attorney's representation, the allocation of legal work, and the use of special or outside counsel may be further provided by ordinance or contract.
- (g) Nothing in this section shall be construed to create a property interest in employment beyond applicable law.

## COMMENT / NOTES

The current Charter provisions addressing the City Attorney do not clearly define several key structural and operational elements. The Charter does not fully distinguish between representation of the City as an organization and representation of individual officials, nor does it clearly address the scope and organization of legal services provided to the City.

Under state law, an attorney is responsible for supervising nonlawyer personnel to ensure compliance with legal rules.<sup>1</sup> The Charter grants the city manager "control over all departments and officers created by the council."<sup>2</sup> By creating the department of law by Charter and specifying that it will be supervised by ordinance, and consistent with law, the measure would prevent potential interpretations that could conflict with state law.

In practice, municipalities typically structure legal services to preserve the professional and ethical obligations of the City Attorney while allowing flexibility in the administration of legal personnel and the use of outside counsel. Many cities also retain outside legal counsel for specialized matters or when conflicts of interest arise.

This measure clarifies that the City Attorney represents the City as an organization, preserves Council's authority to retain outside counsel, and allows the allocation of administrative authority over legal personnel to be determined by ordinance. This approach avoids over-specifying these relationships in the Charter and allows the City to adapt its structure over time while maintaining compliance with applicable law and professional standards.

## ISSUE/PURPOSE

The current Charter provisions addressing the City Attorney and the Department of Law do not fully define the structure, authority, and organization of municipal legal services. In particular, the Charter does not clearly distinguish between representation of the City as an organization and representation of individual officials, nor does it clearly address how administrative authority over legal personnel is allocated between the City Manager and the City Attorney. This lack

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<sup>1</sup> Texas Disciplinary Rules of Professional Conduct. § 5.03

<sup>2</sup> Article IV, Section 14.

of clarity may lead to uncertainty regarding roles, responsibilities, and the management of legal services.

The purpose of this measure is to clarify the role of the City Attorney as the legal representative of the City as an organization, to preserve compliance with professional and ethical obligations, and to provide flexibility in the administration of the Department of Law. The measure allows the Council to establish, by ordinance, the allocation of administrative authority over legal personnel and affirms the Council's ability to retain outside legal counsel as needed. This approach provides clear guidance at the Charter level while allowing the City to adapt its legal services structure over time and reduce the potential for ambiguity or governance conflicts.

## IMPACT SUMMARY

**Governance Impact:** Clarifies the role of the City Attorney as legal counsel to the City as an organization. Affirms the Council's authority to appoint the City Attorney and retain outside counsel. Creates the Department of Law. Provides flexibility for Council to determine, by ordinance, how administrative authority over the Department of Law is allocated, improving clarity while avoiding rigid Charter requirements.

**Administrative Impact:** Allows the allocation of administrative authority over legal personnel to be established by ordinance, which may result in updated policies or procedures governing supervision, assignment of work, and coordination between the City Manager and City Attorney. Preserves flexibility to adapt administrative structure over time.

**Fiscal Impact:** No direct fiscal impact. The measure affirms existing authority to retain outside legal counsel, which may continue to result in expenditures depending on Council decisions and legal service needs.

**Legal Impact:** Clarifies the scope of the City Attorney's representation and reinforces compliance with applicable law and professional ethical standards. Reduces legal risk by minimizing ambiguity regarding authority, supervision, and the use of outside counsel, particularly in situations involving potential conflicts of interest.

**Measure #:** \_\_\_\_\_

**Short name:** Disqualification from City Council

**Type:** Amendment

**Charter Location:** Article IV, Section 5

## MEASURE SUMMARY

This measure would revise the Charter provisions establishing the qualifications for the Mayor and City Council Members and clarify the process for determining eligibility to hold office.

Specifically, it would:

- Establish a process for resolving questions about whether a Council Member meets the qualifications for office, either under state law or through procedures adopted by ordinance;
- Provide that no vacancy may be declared based on a qualification issue unless and until a determination is made through those procedures;
- Eliminate the current provision under which a Council Member automatically forfeits office upon losing required qualifications; and
- Remove an outdated transitional provision related to prior district residency requirements

If adopted, this measure would largely maintain existing eligibility standards while replacing automatic disqualification with a defined process for resolving qualification disputes.

## PROPOSED AMENDED SECTION

## Article IV

### Sec. 5. Qualifications of Councilmen and Councilwomen; Mayor.

To be eligible to be a candidate for, or elected to an office of City Council, or to continue to hold any such office, a person must, in addition to meeting all other requirements for office holders as may, from time to time, be specified by the Constitution and general laws of the State of Texas:

- (1) Be a resident of, and have resided continuously within, the corporate limits of the City of Big Spring for twelve (12) months immediately preceding the filing deadline of the regular election;
- (2) Be a qualified, registered voter of the City of Big Spring; and
- (3) For the Office of Councilman or Councilwoman be a resident of and have resided continuously within the District to which they intend to be elected or appointed for twelve (12) months immediately preceding the filing deadline of the regular election, provided that this District residency requirement shall not apply to the current term of one holding office when their residence was disannexed or located in another district as a result of redistricting.

Should an issue arise of whether a member of City Council possesses the requisite qualifications for office, the issue shall be determined in accordance with applicable state law, or by City Council under procedures to be established by ordinance, and no vacancy shall be declared unless and until such a determination is made.

## PROPOSED AMENDED SECTION (Redline)

### Article IV

#### Sec. 5. Qualifications of Councilmen and Councilwomen; Mayor.

To be eligible to be a candidate for, or elected to an office of City Council, or to continue to hold any such office, a person must, in addition to meeting all other requirements for office holders as may, from time to time, be specified by the Constitution and general laws of the State of Texas:

- (1) Be a resident of, and have resided continuously within, the corporate limits of the City of Big Spring for twelve (12) months immediately preceding the filing deadline of the regular election;
- (2) Be a qualified, registered voter of the City of Big Spring; and
- (3) For the Office of Councilman or Councilwoman be a resident of and have resided continuously within the District to which they intend to be elected or appointed for twelve (12) months immediately preceding the filing deadline of the regular election, provided that this District residency requirement shall not apply ~~to the current term of one holding office on November 1, 2021, or to the current term of one holding office~~ when their residence was disannexed or located in another district as a result of redistricting.

~~If, at any time, any member of City Council no longer possesses all the qualifications specified in this Section, the office holder shall automatically forfeit the office held.~~

Should an issue arise of whether a member of City Council possesses the requisite qualifications for office, the issue shall be determined in accordance with applicable state law, or by City Council under procedures to be established by ordinance, and no vacancy shall be declared unless and until such a determination is made.

NOTE\* Language to be added appears underlined and language to be deleted is ~~stricken~~.

## EXISTING SECTION

To be eligible to be a candidate for, or elected to an office of City Council, or to continue to hold any such office, a person must, in addition to meeting all other requirements for office holders as may, from time to time, be specified by the Constitution and general laws of the State of Texas:

- (1) Be a resident of, and have resided continuously within, the corporate limits of the City of Big Spring for twelve (12) months immediately preceding the filing deadline of the regular election;
- (2) Be a qualified, registered voter of the City of Big Spring; and

(3) For the Office of Councilman or Councilwoman be a resident of and have resided continuously within the District to which they intend to be elected or appointed for twelve (12) months immediately preceding the filing deadline of the regular election, provided that this District residency requirement shall not apply to the current term of one holding office on November 1, 2021, or to the current term of one holding office when their residence was disannexed or located in another district as a result of redistricting.

If, at any time, any member of City Council no longer possesses all the qualifications specified in this Section, the office holder shall automatically forfeit the office held.

## COMMENT / NOTES

The current Charter requires that a Council Member automatically forfeit office if the individual no longer satisfies the qualifications for office. The Charter does not provide a process for determining whether a qualification has been lost or for resolving disputes regarding eligibility. This may create uncertainty in situations where facts are disputed or where the application of qualification requirements is unclear.

This measure replaces automatic forfeiture with a process-based approach. Questions regarding a Council Member's qualifications would be resolved in accordance with applicable state law or through procedures adopted by ordinance, and no vacancy could be declared unless and until such a determination is made. This change provides a defined mechanism for resolving disputes and reduces the risk of uncertainty or inconsistent application.

The measure otherwise retains existing eligibility requirements for Mayor and City Council Members, while removing an outdated transitional provision related to prior district residency requirements. Similar process-based approaches are used in many municipalities to address questions of eligibility and vacancy, allowing for clearer procedures and more consistent outcomes.

## ISSUE/PURPOSE

The current Charter provides that a Council Member who no longer meets the qualifications for office automatically forfeits the position. However, it does not establish a clear process for determining whether a qualification has been lost or for resolving disputes regarding eligibility. This lack of procedural guidance may create uncertainty, particularly in situations where facts are disputed or where the application of qualification requirements is unclear.

The purpose of this measure is to replace the automatic forfeiture provision with a defined process for determining whether a Council Member satisfies the qualifications for office. The measure allows such issues to be resolved in accordance with applicable state law or through procedures adopted by ordinance, and provides that no vacancy may be declared unless and until a determination is made. This approach improves clarity, provides a structured method for resolving disputes, and reduces the potential for inconsistent or premature declarations of vacancy.

## IMPACT SUMMARY

**Governance Impact:** Clarifies the process for determining whether a Mayor or Council Member meets the qualifications for office and replaces automatic forfeiture with a defined determination process. This change provides greater procedural clarity and ensures that vacancies based on qualification issues are not declared without a formal finding.

**Administrative Impact:** May require the adoption of procedures by ordinance to address how qualification disputes are reviewed and decided. Could involve additional coordination by the City Secretary, City Attorney, or Council to implement and follow such procedures when issues arise.

**Fiscal Impact:** No direct fiscal impact. Limited additional costs could occur if legal review or proceedings are needed to resolve a qualification dispute, but such situations are expected to be infrequent.

**Legal Impact:** Reduces ambiguity by establishing a defined process for resolving qualification disputes, which may lower the risk of inconsistent or premature vacancy determinations. However, replacing automatic forfeiture with a process-based approach may increase the likelihood of formal disputes or proceedings

before a vacancy is declared, requiring adherence to applicable state law and due process considerations.

Charter Review Committee 2026

City of Big Spring

Measure #: \_\_\_\_\_

Type: Amendment

Charter Location: Article V. Section 4.

## MEASURE SUMMARY

This measure would correct the heading of Section 4, Article V. The wording of the section would not change.

## PROPOSED AMENDED SECTION

Article V. Section 4. Date of general election.

A regular election shall be held on the first uniform election date in May of each year.

## PROPOSED AMENDED SECTION (Redline)

Article V. Section 4. Date of general election; ~~number of councilmen and/or councilwomen to be elected.~~

A regular election shall be held on the first uniform election date in May of each year.

NOTE\* Language to be added appears underlined and language to be deleted is ~~stricken~~.

## EXISTING SECTION

Sec. 4. Date of general election; number of councilmen and/or councilwomen to be elected.

A regular election shall be held on the first uniform election date in May of each year.

## COMMENT / NOTES

In 2021, Measure B amended the text of the section, but not the heading.

## ISSUE/PURPOSE

Correct heading.

## IMPACT SUMMARY

**Governance Impact:** clarification

**Administrative Impact:** none

**Fiscal Impact:** none

**Legal Impact:** Updating an outdated section heading to accurately reflect the content is a clarifying change that reduces potential interpretive ambiguity, with minimal legal impact beyond decreasing confusion for readers and users of the Charter.

**Measure #:** \_\_\_\_\_

**Short Name:** Internal Auditor

**Type:** New Section

**Charter Location:** Article VI, Section 8.

## MEASURE SUMMARY

This measure would authorize the City Council to appoint an internal auditor and establish the duties, qualifications, and authority of that position.

Specifically, it would:

- Allow Council to appoint an internal auditor based on merit and fitness;
- Require the auditor to be a competent accountant and serve only in that role;
- Provide a two-year term, with removal by Council for good and reasonable cause;
- Require the auditor to report directly to Council;
- Grant full access to City records, personnel, and information;
- Authorize the auditor to evaluate internal controls, assess risk, and review financial, compliance, and operational processes and efficiency; and
- Prohibit the auditor from directing City operations or interfering with the administrative authority of the City Manager.

If adopted, this measure would establish an independent internal audit function to provide analysis and recommendations to City Council while preserving the City Manager's administrative authority.

## PROPOSED NEW SECTION

Article VI, Section 8. Internal Auditor

- (a) Council may appoint an individual to serve as the internal auditor based on merit and fitness alone.
- (b) The internal auditor shall be a competent accountant.
- (c) The internal auditor shall serve in a distinct position and shall not simultaneously hold any other appointed or employed position with the City.
- (d) The internal auditor shall serve a term of two years and shall report directly to the City Council.
- (e) Council may remove the internal auditor for good and reasonable cause.
- (f) The internal auditor shall have full and unrestricted access to all City records, personnel, and information necessary to perform the duties of the office. The internal auditor shall coordinate with the city manager as appropriate to facilitate efficient access to information and to minimize disruption to City operations.
- (g) The internal auditor shall be authorized to evaluate internal controls, assess risk, and review financial, compliance, and operational processes and efficiency for the purpose of providing independent and objective analysis and recommendations.
- (h) The internal auditor shall not direct or manage City operations and shall not impair the administrative authority of the city manager.
- (i) Nothing in this section shall be construed to create a property interest in employment beyond applicable law.

## COMMENT / NOTES

The current Charter provisions addressing the internal auditor do not clearly establish several key elements of the position. The Charter does not specify who appoints or may remove the internal auditor, nor does it clarify whether the position is held by an individual or may be fulfilled by an external firm. State law requires the City to undergo an annual audit.<sup>1</sup>

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<sup>1</sup> Chapter 103, Texas Local Government Code.

The Charter further requires the City Council to cause a continuous audit to be performed by a competent accountant;<sup>2</sup> however, it does not specify whether the accountant performing that audit is intended to serve as the internal auditor or as a separate function.

The Charter does not define the qualifications required to serve as internal auditor. The Charter also does not clearly address the scope of the internal auditor's duties or whether those duties may overlap with the administrative authority of the City Manager.

In practice, the City has retained outside firms to conduct audits. Some municipalities also establish internal auditor positions to provide independent, ongoing review of financial controls, risk, and operational processes.

## ISSUE/PURPOSE

The current Charter contains a limited provision referencing an internal auditor but does not clearly define the structure, authority, or function of the position. The Charter does not fully address appointment, qualifications, scope of duties, reporting relationships, or how the role fits within the City's governance framework. This lack of clarity creates uncertainty regarding the purpose and use of the position and its relationship to the administrative authority of the City Manager.

The purpose of this measure is to establish a clear and functional framework for an internal auditor role that may be used by the Council if desired. The measure defines the position's qualifications, independence, reporting relationship, access to information, and scope of review, while preserving the administrative authority of the City Manager and preventing overlap with operational control. This provides a structured mechanism for independent review and analysis while reducing ambiguity and potential governance conflicts.

## IMPACT SUMMARY

**Governance Impact:** The provision does not require the Council to appoint an internal auditor. If established, the position would create a direct reporting

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<sup>2</sup> Article IX, Section 1.

mechanism to Council for independent review of internal controls, risk, and City processes. The provision clarifies that the internal auditor is an individual position and not an external auditing firm, reducing ambiguity regarding the role.

**Administrative Impact:** The provision preserves the administrative authority of the City Manager by limiting the internal auditor's role to review and recommendation functions and prohibiting operational authority.

**Fiscal Impact:** The City does not currently employ an internal auditor and typically retains an external firm to conduct required audits. If Council chooses to appoint an internal auditor, additional personnel costs may be incurred. External audit requirements would remain unchanged.

**Legal Impact:** Defining the internal auditor's appointment, authority, and scope reduces legal risk by minimizing ambiguity and the potential for conflicting interpretations of the Charter.

**Measure #:** \_\_\_\_\_

**Short Name:** Legal Effect of Charter; Judicial Notice

**Type:** New Section

**Charter Location:** Article XII, New Sec. 3

## MEASURE SUMMARY

This measure would add a new Charter provision clarifying the legal status, authority, and use of the City Charter.

Specifically, it would:

- State that the Charter is adopted under the Texas Constitution as a home-rule charter
- Provide that the Charter is the governing law of the City and is binding within the City, to the extent allowed by state and federal law
- Clarify that the Charter controls over any conflicting ordinance, resolution, rule, policy, or other local action
- Provide that the Charter may be introduced in court without formal proof and that courts must recognize it without requiring additional evidence

If adopted, this measure would confirm the Charter's authority as the City's primary governing document and clarify how it is applied and recognized in legal proceedings.

## PROPOSED NEW SECTION

## Article XII, Sec. 3. Legal Effect of Charter; Judicial Notice.

This Charter is adopted pursuant to the Texas Constitution and shall be construed as a home-rule municipal charter. It is the governing law of the City and is legally binding within the City, to the extent allowed by state and federal law. If there is a conflict between this Charter and any ordinance, resolution, rule, policy, or other local action, this Charter will control. This Charter may be read in evidence without pleading or proof, and judicial notice shall be taken thereof in all courts and places without further proof.

## COMMENT / NOTES

This measure adds a provision clarifying the legal status and effect of the City Charter. While Texas home-rule cities already derive their authority from the Texas Constitution and have broad powers to govern local affairs, the Charter does not currently contain a clear statement describing its role as the City's governing legal document or its priority over other local actions.

The measure makes explicit that the Charter is the governing law of the City and controls over ordinances, resolutions, policies, and other local actions in the event of a conflict, subject to applicable state and federal law. This reflects existing legal principles but provides clearer guidance for City officials, staff, and the public regarding the hierarchy of local laws.

The measure also clarifies how the Charter is treated in legal proceedings by providing that it may be used in court without the need for formal proof and that courts must recognize it without additional evidence. This reflects standard legal practice for municipal charters but is not currently stated in the Charter.

Overall, this provision is intended to improve clarity and codify widely recognized legal principles without changing the underlying authority of the City or its governing documents.

## ISSUE/PURPOSE

The current Charter does not include a clear statement describing its legal status as the governing document of the City or its relationship to other local laws and actions. While Texas law recognizes home-rule charters as the foundational authority for municipal governance, the absence of explicit Charter language may create uncertainty regarding the hierarchy of local laws and how conflicts between the Charter and ordinances, resolutions, or administrative actions are resolved.

The Charter also does not currently address how it is treated in legal proceedings, including whether it must be formally proven in court or may be recognized without additional evidence.

The purpose of this measure is to clarify that the Charter is the governing law of the City, to establish that it controls over conflicting local actions to the extent permitted by law, and to provide that it may be recognized in legal proceedings without the need for formal proof. This measure is intended to improve clarity, reinforce existing legal principles, and provide guidance for officials, courts, and the public.

## IMPACT SUMMARY

**Governance Impact:** Clarifies the Charter’s role as the City’s governing legal document and confirms that it controls over conflicting ordinances, resolutions, policies, and other local actions, improving understanding of the hierarchy of local law and reducing ambiguity in governance.

**Administrative Impact:** No significant operational impact. May provide clearer guidance to City officials and staff when interpreting and applying the Charter in relation to other local actions.

**Fiscal Impact:** No fiscal impact.

**Legal Impact:** Codifies generally accepted legal principles regarding the status and effect of a home-rule charter. Improves clarity in legal proceedings by providing that the Charter may be recognized without formal proof, and may reduce disputes regarding the priority of the Charter over other local enactments.



**Measure #:** \_\_\_\_\_

**Short name:** Mayor Pro Tem

**Type:** Amendment

**Charter Location:** Article IV. Section 4.

## MEASURE SUMMARY

This measure would clarify the authority of the City Council regarding the appointment and removal of the Mayor Pro Tempore (also known as the Mayor Pro Tem).

Specifically, it would:

- Provide that the Mayor Pro Tempore serves at the pleasure of the Council
- Allow removal of the Mayor Pro Tempore by a majority vote of the Council at a properly posted meeting

If adopted, this measure would clarify that the Council retains authority to remove the Mayor Pro Tempore and would establish a clear procedure for doing so.

## PROPOSED AMENDED SECTION

Article IV. Section 4.

The mayor, when present, shall preside over the council and shall be recognized as the head of the city government for all ceremonial purposes, for emergency management purposes, and by the governor for purposes of

military law. The mayor may debate and discuss any matters before the city council and shall be entitled to vote on all issues with the city council. The mayor shall, when authorized as necessary by the city council, sign all official documents. Any four (4) members of the council shall constitute a quorum for the transaction of business.

The city council shall elect a member of the city council to serve as mayor pro-tempore based upon criteria established by the city council. The mayor pro-tempore shall act as mayor during the absence or disability of the mayor and during such time as the office of mayor is vacant due to a death, resignation, or removal from office; but only until such time as the vacancy is filled under the provisions of this charter.

The mayor pro tempore serves at the pleasure of the council and may be removed by majority vote of the council at a properly posted meeting.

## PROPOSED AMENDED SECTION (Redline)

### Article IV. Section 4.

The mayor, when present, shall preside over the council and shall be recognized as the head of the city government for all ceremonial purposes, for emergency management purposes, and by the governor for purposes of military law. The mayor may debate and discuss any matters before the city council and shall be entitled to vote on all issues with the city council. The mayor shall, when authorized as necessary by the city council, sign all official documents. Any four (4) members of the council shall constitute a quorum for the transaction of business.

The city council shall elect a member of the city council to serve as mayor pro-tempore based upon criteria established by the city council. The mayor pro-tempore shall act as mayor during the absence or disability of the mayor and during such time as the office of mayor is vacant due to a death, resignation, or removal from office; but only until such time as the vacancy is filled under the provisions of this charter.

The mayor pro tempore serves at the pleasure of the council and may be removed by majority vote of the council at a properly posted meeting.

NOTE\* Language to be added appears underlined and language to be deleted is ~~stricken~~.

## EXISTING SECTION

The mayor, when present, shall preside over the council and shall be recognized as the head of the city government for all ceremonial purposes, for emergency management purposes, and by the governor for purposes of military law. The mayor may debate and discuss any matters before the city council and shall be entitled to vote on all issues with the city council. The mayor shall, when authorized as necessary by the city council, sign all official documents. Any four (4) members of the council shall constitute a quorum for the transaction of business.

The city council shall elect a member of the city council to serve as mayor pro-tempore based upon criteria established by the city council. The mayor pro-tempore shall act as mayor during the absence or disability of the mayor and during such time as the office of mayor is vacant due to a death, resignation, or removal from office; but only until such time as the vacancy is filled under the provisions of this charter.

## COMMENT / NOTES

The current Charter provides for the selection of a Mayor Pro Tempore but does not clearly specify the term length during which the Mayor Pro Tempore serves or the process for removal from that role.

In practice, the Mayor Pro Tempore is a position designated by the City Council, and it is generally understood to function at the discretion of the Council. However, the absence of explicit Charter language addressing removal may create ambiguity regarding the Council's authority to change that designation once made.

This measure clarifies that the Mayor Pro Tempore serves at the pleasure of the Council and may be removed by a majority vote at a properly posted meeting. The

change provides procedural clarity and aligns the Charter with common municipal practice, without altering the underlying structure of city government.

## ISSUE/PURPOSE

The current Charter provides for the selection of a Mayor Pro Tempore but does not clearly address the duration of service or the process for removal from that role. This lack of specificity may create uncertainty as to whether the position is fixed for a defined term or subject to change by the Council once appointed.

The purpose of this measure is to clarify that the Mayor Pro Tempore serves at the pleasure of the Council and may be removed by a majority vote at a properly posted meeting. This clarification ensures that the Council retains control over its internal leadership designation and reduces ambiguity regarding the process for changing that designation if circumstances require.

## IMPACT SUMMARY

**Governance Impact:** Clarifies that the Mayor Pro Tempore serves at the pleasure of the Council and may be removed by majority vote, reinforcing the Council's authority over its internal leadership roles. The measure provides clearer guidance without changing the composition or powers of the governing body.

**Administrative Impact:** No impact on administrative operations or City staff. The change applies only to the Council's internal designation of the Mayor Pro Tempore and may result in the need for a formal vote if Council chooses to change that designation.

**Fiscal Impact:** No fiscal impact.

**Legal Impact:** Reduces ambiguity regarding the duration of service and removal process for the Mayor Pro Tempore, lowering the risk of disputes over Council authority or procedure. Aligns Charter language with common municipal practice regarding internal Council designations.

**Measure #:** \_\_\_\_\_

**Short name:** Higher Council Vote to Override Mayor's Veto

**Type:** Amendment

**Charter Location:** Article IV, Section 7

## MEASURE SUMMARY

This measure would revise the Charter provisions governing the Mayor's veto and the City Council's ability to override that veto.

Specifically, it would:

- Increase the number of Council votes required to override a Mayor's veto from four votes to five votes;
- Require that reconsideration of a vetoed ordinance or resolution occur no sooner than ten days after the Mayor issues the veto; and
- Maintain the existing process for mayoral approval or disapproval of ordinances and resolutions.

If adopted, this measure would require a greater level of agreement among Council Members to override a Mayor's veto and would provide additional time between a veto and Council reconsideration.

## PROPOSED AMENDED SECTION

Article IV, Section 7. Approval or veto of ordinances and resolutions by mayor.

Any ordinance or resolution passed by the City Council shall, before it takes effect, be placed in the office of the City Secretary, and the Mayor shall sign such ordinance or resolution if he approves it. If the Mayor shall disapprove of the enactment, he shall do so in writing, stating his objections, and such ordinance or resolution shall be returned to the City Council for its further action, at a regular or special meeting, as the case may be, to be held not less than ten (10) days after the Mayor has disapproved the measure. If after reconsideration, five (5) of the Councilmen and/or Councilwomen shall vote in favor of the passage of the measure, then such ordinance or resolution shall become effective, the disapproval of the Mayor notwithstanding. If the mayor shall fail to approve or disapprove any ordinance or resolution within three days after it is submitted to him, then it shall become effective without his signature.

## PROPOSED AMENDED SECTION (Redline)

Article IV, Section 7. Approval or veto of ordinances and resolutions by mayor.

Any ordinance or resolution passed by the City Council shall, before it takes effect, be placed in the office of the City Secretary, and the Mayor shall sign such ordinance or resolution if he approves it. If the Mayor shall disapprove of the enactment, he shall do so in writing, stating his objections, and such ordinance or resolution shall be returned to the City Council for its further action, at a regular or special meeting, as the case may be, to be held not less than ~~five~~ ten (10) days after the Mayor has disapproved the measure. If after reconsideration, ~~four~~ five (5) of the Councilmen and/or Councilwomen shall vote in favor of the passage of the measure, then such ordinance or resolution shall become effective, the disapproval of the Mayor notwithstanding. If the mayor shall fail to approve or disapprove any ordinance or resolution ~~measure~~ within three days after it is submitted to him, then it shall become effective without his signature.

NOTE\* Language to be added appears underlined and language to be deleted is ~~stricken~~.

## EXISTING SECTION

Article IV, Section 7. Approval or veto of ordinances and resolutions by mayor.

Any ordinance or resolution passed by the City Council shall, before it takes effect, be placed in the office of the City Secretary, and the Mayor shall sign such ordinance or resolution if he approves it. If the Mayor shall disapprove of the enactment, he shall do so in writing, stating his objections, and such ordinance or resolution shall be returned to the City Council for its further action, at a regular or special meeting, as the case may be, to be held not less than five days after the Mayor has disapproved the measure. If after reconsideration, four of the Councilmen and/or Councilwomen shall vote in favor of the passage of the measure, then such ordinance or resolution shall become effective, the disapproval of the Mayor notwithstanding. If the mayor shall fail to approve or disapprove any measure within three days after it is submitted to him, then it shall become effective without his signature.

## COMMENT / NOTES

The current Charter allows the Mayor to veto ordinances and resolutions and establishes a fixed number of Council votes required to override a veto. These provisions originated under earlier versions of the Charter when the governing body consisted of fewer members.

Subsequent amendments changed the governing body from a Commission to the Council and later expanded the size of the City Council from five members to seven members. However, the fixed number of votes required to override a veto was not adjusted at that time, resulting in a smaller proportion of the governing body being able to override a veto than under prior structures.

This measure updates the number of votes required to override a veto to better reflect the current size of the Council and adjusts the timing for reconsideration of a vetoed measure to align with modern meeting and notice practices.

The authority of the Mayor to veto measures and of the Council to override that veto is not changed; this measure modifies only the vote threshold and timing provisions.

## ISSUE/PURPOSE

The current Charter establishes the Mayor's authority to approve or veto ordinances and resolutions and provides a fixed number of Council votes required to override a veto. That vote threshold was originally adopted when the governing body had fewer members and represented a greater proportion of the governing body than it does today.

As the size of the governing body has changed over time, the fixed number of votes required to override a veto has not been updated, resulting in a majority of Council Members being able to override a mayoral veto when previously a majority plus one member was required. Additionally, the existing timeframe for reconsideration of vetoed measures reflects older meeting practices and may not align as well with current notice and scheduling requirements.

The purpose of this measure is to update the Charter to better reflect the current structure and practices of the City Council by adjusting the vote threshold required to override a veto and extending the time between a veto and Council reconsideration. These changes are intended to clarify the process and better align it with modern governance practices while maintaining the existing framework of mayoral veto authority and Council override.

## IMPACT SUMMARY

**Governance Impact:** Increases the number of Council votes required to override a Mayor's veto and lengthens the time period before reconsideration of a vetoed measure. This change requires a higher level of agreement among Council Members to override a veto and adjusts the balance between mayoral veto authority and Council action, while maintaining existing roles and powers.

**Administrative Impact:** May require adjustment to meeting scheduling and timing to accommodate the longer reconsideration period following a veto. No impact on day-to-day administrative operations or staff responsibilities.

**Fiscal Impact:** No fiscal impact.

**Legal Impact:** Updates the Charter to better align with the current size of the City Council and modern meeting practices, reducing potential ambiguity regarding voting requirements and timing. The measure does not change the legal authority

of the Mayor to veto or the Council to override, but modifies the standards governing those actions.

**Measure #:** \_\_\_\_\_

**Short name:** Meetings in November and December

**Type:** Amendment

**Charter Location:** Article IV, Section 3.

## SUMMARY

This measure would revise the Charter provisions governing the scheduling of City Council meetings.

Specifically, it would:

- Require the City Council to hold two regular meetings each month at times and places set by the Council;
- Allow the Council, by formal action, to reduce the number of regular meetings to one in the months of November and December;
- Require that at least one regular meeting be held in each of those months and clarify that such meeting constitutes the sole regular meeting for that month; and
- Authorize the Mayor, any three Councilmembers, or the City Manager to call special meetings in accordance with state law.

If adopted, this measure would maintain a consistent schedule of regular meetings while providing limited flexibility during certain months, and would clarify minimum meeting requirements.

## PROPOSED AMENDED SECTION

Article IV, Section 3. Council meetings.

The Council shall meet regularly twice each month at such times and places as the Council may determine; provided, however, that in the months of November and December the Council may, by formal action, provide for only one regular meeting in each such month, but in no event shall there be fewer than one regular meeting in either month. Such meeting shall constitute the sole regular meeting of the Council for that month.

## PROPOSED AMENDED SECTION (Redline)

Article IV, Section 3. Council meetings.

The Council shall meet regularly twice each month at such times and places as the Council may determine; provided, however, that in the months of November and December the Council may, by formal action, provide for only one regular meeting in each such month, but in no event shall there be fewer than one regular meeting in either month. Such meeting shall constitute the sole regular meeting of the Council for that month.

~~The City Council shall meet regularly twice a month at such time and place as the council may determine. The Mayor, or any three Councilmen and/or Councilwomen may call the Council together for a special meeting.~~

NOTE\* Language to be added appears underlined and language to be deleted is ~~stricken~~.

## EXISTING SECTION

Article IV, Section 3. Council meetings.

The City Council shall meet regularly twice a month at such time and place as the council may determine. The Mayor, or any three Councilmen and/or Councilwomen may call the Council together for a special meeting.

## COMMENT / NOTES

The Charter currently requires regular meetings of the City Council but does not clearly address how meeting schedules may be adjusted during months when fewer meetings may be appropriate due to holidays or reduced business activity.

This measure retains the general requirement that the City Council meet twice each month, while allowing the Council to reduce the number of meetings to one in the months of November and December. Importantly, the measure clarifies that at least one regular meeting must still be held in each of those months, maintaining continuity of governance and public access.

The measure also clarifies that a single meeting held in November or December constitutes the regular meeting for that month and consolidates authority for calling special meetings, requiring that such meetings be held in accordance with applicable state law.

Overall, the measure balances consistency in regular meetings with limited flexibility, while ensuring that the Council continues to meet at least once each month.

## ISSUE/PURPOSE

The Charter currently establishes requirements for regular meetings of the City Council but does not clearly provide for adjustments in scheduling during months when holding two meetings may not be necessary or practical. This can lead to inefficiencies and uncertainty in scheduling, particularly during November and December.

Additionally, the Charter does not clearly state the minimum number of meetings required in those months if the Council elects to reduce its meeting schedule, which could create ambiguity regarding compliance with meeting requirements.

The purpose of this measure is to maintain a consistent framework for regular meetings while allowing limited flexibility to reduce the number of meetings in specified months. The measure also clarifies that at least one regular meeting must occur in each such month, ensuring continuity of governance and public access to Council proceedings.

## IMPACT SUMMARY

**Governance Impact:** Maintains a regular meeting schedule while allowing limited flexibility in November and December, and ensures that at least one meeting is held in each of those months, supporting continuity of governance and public access.

**Administrative Impact:** Provides clearer guidance for scheduling and agenda planning, particularly during months with reduced activity. May reduce duplicative or unnecessary meetings while preserving required meeting frequency.

**Fiscal Impact:** Minor potential cost savings in months with fewer meetings due to reduced operational and administrative expenses.

**Legal Impact:** Clarifies Charter requirements regarding meeting frequency and minimum meeting obligations, reducing ambiguity and helping ensure compliance with applicable state law governing public meetings and notice requirements.

**Measure #:** \_\_\_\_\_

**Short name:** Official bonds

**Type:** Amendment

**Charter Location:** Article VI, Section 11.

## SUMMARY

This measure would add provisions to the Charter addressing the procurement, payment, and administration of official bonds for City officers and employees.

Specifically, it would:

- Provide that the City is responsible for obtaining required official bonds and paying the associated premiums;
- Require that such bonds be issued by a surety company authorized to do business under the laws of the State of Texas; and
- Require that all official bonds be filed with the City Secretary.

If adopted, this measure would clarify responsibility for bonding requirements, ensure compliance with applicable standards for surety providers, and establish consistent procedures for maintaining official bond records.

## PROPOSED AMENDED SECTION

Article VI, Section 11. Oath and bond of officers.

Every person elected by the electors of said city, or appointed by the City Council or the City Manager to fill any office under the city administration, shall, before entering upon the duties of such office, take and subscribe to such oath(s) as may be required by state law, and shall furnish bond with good and sufficient security to be approved by the Council in such form and amount as shall be prescribed by the Council. The City shall obtain and pay the premiums for such bonds, which shall be procured from a regularly accredited surety company authorized to do business under the laws of the State of Texas. All official bonds shall be filed and recorded with the city secretary.

## PROPOSED AMENDED SECTION (Redline)

Article VI, Section 11. Oath and bond of officers.

Every person elected by the electors of said city, or appointed by the City Council or the City Manager to fill any office under the city administration, shall, before entering upon the duties of such office, take and subscribe to such oath(s) as may be required by state law, and shall furnish bond with good and sufficient security to be approved by the Council in such form and amount as shall be prescribed by the Council. The City shall obtain and pay the premiums for such bonds, which shall be procured from a regularly accredited surety company authorized to do business under the laws of the State of Texas. All official bonds shall be filed with the city secretary.

NOTE\* Language to be added appears underlined and language to be deleted is ~~stricken~~.

## EXISTING SECTION

Article VI, Section 11. Oath and bond of officers.

Every person elected by the electors of said city, or appointed by the City Council or the City Manager to fill any office under the city administration, shall, before entering upon the duties of such office, take and subscribe to such oath(s) as may be required by state law, and shall furnish bond with good and sufficient security to be approved by the Council in such form and amount as shall be prescribed by the Council.

## COMMENT / NOTES

This measure adds a provision clarifying the City's responsibility for official bonds required of officers and employees. While the Charter requires certain officials to be bonded, it does not currently specify who is responsible for obtaining those bonds, how they must be secured, or where they must be maintained.

The measure provides that the City will obtain and pay the premiums for required bonds, which reflects common municipal practice and avoids uncertainty regarding whether individual officers are responsible for securing their own coverage. It also requires that bonds be issued by a surety authorized to do business in the State of Texas, ensuring validity and enforceability.

The measure further requires that all official bonds be filed with the City Secretary, creating a centralized record for administrative, audit, and legal purposes. This improves accessibility and accountability while clarifying current practice.

Overall, the measure clarifies responsibility for bonding requirements, aligns the Charter with standard municipal practices, and improves recordkeeping without changing the substantive requirements for which officials must be bonded.

## ISSUE/PURPOSE

The Charter currently requires certain officials to be bonded but does not clearly address who is responsible for obtaining those bonds, how they must be issued, or how they are to be maintained. This lack of specificity may lead to inconsistent practices or uncertainty regarding responsibility and oversight.

Additionally, the Charter does not establish a clear requirement for maintaining a central record of official bonds, which is important for administrative verification, audit review, and legal purposes.

The purpose of this measure is to clarify that the City is responsible for obtaining and paying for required bonds, to ensure that bonds are issued by authorized surety companies, and to require that such bonds be filed with the City Secretary. The

measure is intended to improve clarity, accountability, and consistency in the administration of bonding requirements.

## IMPACT SUMMARY

**Governance Impact:** Clarifies responsibility for obtaining and maintaining official bonds and confirms that the City, rather than individual officers, is responsible for securing required bonding.

**Administrative Impact:** Provides clear direction to staff regarding procurement and maintenance of bonds, and establishes a centralized filing requirement with the City Secretary, improving internal processes and recordkeeping.

**Fiscal Impact:** Minimal impact, as the City typically already pays bonding premiums as part of standard operations.

**Legal Impact:** Improves clarity and enforceability of bonding requirements by ensuring use of authorized surety providers and maintaining official records. Reduces ambiguity regarding responsibility for bonds and supports audit and legal review processes.

**Measure #:** \_\_\_\_\_

**Short name:** One Reading for Resolutions

**Type:** Amendment

**Charter Location:** Article, Section 10

## SUMMARY

This measure would amend the Charter to remove the requirement that resolutions be read at two meetings of the City Council before adoption.

Specifically, it would:

- Eliminate the requirement that resolutions be considered at two separate meetings
- Retain the requirement that ordinances be read at two meetings unless adopted as an emergency measure

If adopted, this measure would allow the City Council to approve resolutions in a single meeting while maintaining existing procedures for ordinances.

## PROPOSED AMENDED SECTION

Article IV, Sec. 10. Ordinances to be read at two meetings; exception.

No ordinance, except it be an emergency measure, shall be passed until it has been read at two meetings of the City Council, one of which shall be a regular meeting. The affirmative vote of all the members of the Council present shall be

necessary to dispense with this requirement by declaring the existence of an emergency. The City Council shall, within its discretion, declare what measures are emergency measures, and any ordinance carrying an emergency clause shall be construed to be an emergency measure, which emergency measure shall be set forth and defined in the preamble or in the closing section of such ordinance.

## PROPOSED AMENDED SECTION (Redline)

Article IV, Section 10. Ordinances ~~and resolutions~~ to be read at two meetings; exception.

No ordinance ~~or resolution~~, except it be an emergency measure, shall be passed until it has been read at two meetings of the City Council, one of which shall be a regular meeting. The affirmative vote of all the members of the Council present shall be necessary to dispense with this requirement by declaring the existence of an emergency. The City Council shall, within its discretion, declare what measures are emergency measures, and any ordinance ~~or resolution~~ carrying an emergency clause shall be construed to be an emergency measure, which emergency measure shall be set forth and defined in the preamble or in the closing section of such ordinance ~~or resolution~~.

NOTE\* Language to be added appears underlined and language to be deleted is ~~stricken~~.

## EXISTING SECTION

Article IV, Section 10. Ordinances and resolutions to be read at two meetings; exception.

No ordinance or resolution, except it be an emergency measure, shall be passed until it has been read at two meetings of the City Council, one of which shall be a regular meeting. The affirmative vote of all the members of the Council present shall be necessary to dispense with this requirement by declaring the existence of an emergency. The City Council shall, within its discretion, declare what measures are emergency measures, and any ordinance or resolution carrying an emergency clause shall be construed to be an emergency measure, which

emergency measure shall be set forth and defined in the preamble or in the closing section of such ordinance or resolution.

## COMMENT / NOTES

The current Charter requires that both ordinances and resolutions be read at two meetings of the City Council before adoption, unless adopted as emergency measures. In practice, ordinances and resolutions typically serve different purposes, with ordinances generally used for legislative actions of a more permanent nature and resolutions used for administrative or procedural matters.

Requiring two readings for resolutions may limit the ability of the Council to act efficiently on routine or time-sensitive matters. Lubbock's city charter reads in part: " No ordinance, unless it shall be declared to be an emergency measure, and passed by a unanimous vote of the Council, shall be passed on the day on which it shall be introduced."<sup>1</sup>

This measure removes the two-reading requirement for resolutions while retaining it for ordinances. Emergency procedures remain available for ordinances when immediate action is necessary.

## ISSUE/PURPOSE

The current Charter requires that both ordinances and resolutions be read at two meetings prior to adoption, unless adopted as emergency measures. This requirement applies uniformly to all ordinances and resolutions, even though resolutions are typically used for administrative, procedural, or time-sensitive matters that may not require the same level of formality as ordinances.

The purpose of this measure is to distinguish between ordinances and resolutions by retaining the two-reading requirement for ordinances while removing it for resolutions. This change is intended to allow the City Council to act more

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<sup>1</sup> Lubbock City Charter, Article IX, Section 16.

efficiently on matters commonly addressed by resolution, while preserving existing procedural safeguards for ordinances and maintaining the option to use emergency procedures when necessary.

## IMPACT SUMMARY

**Governance Impact:** Distinguishes procedural requirements between ordinances and resolutions, allowing resolutions to be adopted more quickly while maintaining existing safeguards for ordinances. Provides greater flexibility for Council action on routine and administrative matters.

**Administrative Impact:** May streamline Council meeting processes by reducing the number of readings required for resolutions. Could result in fewer repeat agenda items and more efficient handling of routine business. No significant impact on staff responsibilities beyond minor procedural adjustments.

**Fiscal Impact:** No direct fiscal impact.

**Legal Impact:** Differentiates between procedures to adopt ordinances and procedure to adopt resolutions. Reduces potential procedural delays to adopt resolutions without affecting substantive legal requirements for ordinances or emergency actions to adopt ordinances. Low legal risk, as the measure affects process rather than underlying authority.

**Measure #:** \_\_\_\_\_

**Short Name:** Election of Entire City Council following Reapportionment

**Type:** New Section

**Charter Location:** Article V, Section 5

## MEASURE SUMMARY

### MEASURE SUMMARY

This measure would add a new Charter provision establishing procedures for redistricting (reapportionment) following each federal census and for conducting elections after district boundaries are changed.

Specifically, it would:

- Require the City Council to hold at least one public hearing before adopting a reapportionment plan;
- Require Council to redraw district boundaries after each decennial census in compliance with federal and state law;
- Provide that all members of the governing body, including the Mayor, be elected following adoption of new district boundaries;
- Require Council to establish a process, consistent with state law, to assign initial shorter terms in order to restore staggered elections; and
- Provide that certain shortened terms resulting from reapportionment will not count toward term limits.

If adopted, this measure would establish a clear and consistent framework for redistricting and post-reapportionment elections, improve transparency through public input, and address the effect of shortened terms on term limits while preserving the City's system of staggered terms.

# PROPOSED NEW SECTION

## Article V, Section 5. Election of Entire City Council following Reapportionment

(a) Prior to the adoption of a reapportionment plan, the City Council shall hold at least one public hearing to receive input regarding proposed district boundaries and the process for conducting elections and restoring staggered terms following reapportionment, and shall consider such input in adopting the plan.

(b) Upon the adoption of a reapportionment plan, all members of the governing body, including the Mayor, shall be elected at the next uniform election date authorized by state law that allows sufficient time to comply with all legal requirements.

(c) The City Council shall adopt an equitable process to determine which offices shall initially be filled for shorter terms in order to reestablish staggered elections after the election held under subsection (b). In adopting such process, the Council shall consider the remaining length of terms and whether any district was previously subject to a shortened term following reapportionment. Following such election, the Council shall reestablish staggered terms, provided that no term shall exceed three years.

(d) For an elected official, service in a term of office shortened to one year or less as a result of reapportionment under this Section shall not be counted as a term for purposes of term limits.

## COMMENT / NOTES

Constitutional “one person, one vote” requirements, together with federal voting rights laws, require that governing bodies be elected from districts of substantially equal population.

The current Charter provides for district-based representation and staggered terms for members of the City Council but does not include a comprehensive framework addressing how reapportionment following the decennial census interacts with those features. Federal and state law require that district boundaries be periodically adjusted to reflect population changes and ensure equal representation. When

district boundaries are changed, those changes may affect the continued validity of existing terms of office.

For a city with district representation, Texas law provides for elections of the governing body following reapportionment to implement revised district boundaries.<sup>1</sup> For a city with staggered terms, Texas law requires an equitable process to determine how terms of office are adjusted when reapportionment results in shortened terms in order to restore staggered elections.<sup>2</sup>

This measure provides a process for reapportionment and the resulting elections. It requires that all members of the governing body be elected following the adoption of new district boundaries and establishes a method for restoring staggered terms through an equitable process consistent with state law.

By addressing the interaction between district representation, reapportionment, and staggered terms, the measure reduces ambiguity, ensures compliance with applicable law, and establishes a predictable and orderly transition following each redistricting cycle.

The measure also addresses the effect of shortened terms resulting from reapportionment by providing that certain abbreviated terms will not count toward term limits, reducing the likelihood that an officeholder is required to leave office earlier than intended due solely to redistricting.

## ISSUE/PURPOSE

The current Charter provides for district-based representation and staggered terms for the City Council but does not clearly address the process for reapportionment following the decennial federal census or the effect of redistricting on existing terms of office. Federal law, including the Voting Rights Act of 1965, requires periodic redistricting to ensure equal representation, and state law<sup>3</sup> contemplates

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<sup>1</sup> Tex. Local Gov't Code § 21.006(a). The legislation was enacted in in the 88th regular session of the Texas Legislature. 2023 Tex. HB 3613.

<sup>2</sup> Tex. Local Gov't Code § 21.006(b).

<sup>3</sup> Tex. Local Gov't Code § 21.006.

new elections after redistricting to implement updated district boundaries and restore staggered terms.

In the absence of specific Charter provisions, uncertainty may arise regarding the timing of elections after redistricting and the method for reestablishing staggered terms. Changes in district boundaries may affect which voters are represented by current officeholders, making it necessary to conduct elections based on updated districts.

The purpose of this measure is to establish a clear and consistent framework for reapportionment, including the requirement for new elections following redistricting and a method for restoring staggered terms through an equitable process. The measure is intended to:

- ensure compliance with applicable law;
- provide clarity in the transition following redistricting;
- maintain continuity in the City’s system of district representation and staggered terms; and
- address the treatment of shortened terms for purposes of term limits.

## IMPACT SUMMARY

**Governance Impact:** In light of the requirements of federal and state law, provides for a public hearing prior to reapportionment that will in part be for purposes of receiving input as to the affect on district representation, terms of office, staggered terms, and term limits; and limits the impact of term limits on an elected office holder who serves a term of one year or less due to reapportionment. The term limit clause could increase tenure for incumbents in some cases.

**Administrative Impact:** May involve additional planning and coordination by City Council, City Manager, City Attorney, and City Secretary during census years.

**Fiscal Impact:** No material fiscal impact beyond costs associated with elections required under applicable law.

**Legal Impact:** The measure reduces legal risk by providing a defined framework in the Charter for post-reapportionment elections consistent with law.

Charter Review Committee 2026

City of Big Spring

**Measure #:** \_\_\_\_\_

**Short name:** Repeal Term Limits

**Type:** Repeal

**Charter Location:** Article V, Section 3a

## MEASURE SUMMARY

This measure would repeal Article V, Section 3a of the Charter, which establishes term limits for elected officials.

If adopted, this measure would eliminate existing term limits and allow otherwise qualified individuals to serve successive terms in elected office, subject to voter approval.

## PROPOSED AMENDED SECTION

n/a

## PROPOSED AMENDED SECTION (Redline)

~~Sec. 3a. Limitations on Service in Office.~~

~~No current or future elected official shall serve more than two (2) consecutive terms of office. Years or time of service that an official may serve in filling an unexpired term or a partial term of office, to which they were appointed, shall not~~

Repeal Term Limits

p. 1 of 3

~~be counted toward the above limitations. Years or time of service that an official may serve in filling a full term, an unexpired term or a partial term of office, to which they were elected, shall be counted toward the above limitations. No individual shall be qualified to hold office for a period of six years from the end of any second consecutive term.~~

NOTE\* Language to be added appears underlined and language to be deleted is ~~stricken~~.

## EXISTING SECTION

### Sec. 3a. Limitations on Service in Office.

No current or future elected official shall serve more than two (2) consecutive terms of office. Years or time of service that an official may serve in filling an unexpired term or a partial term of office, to which they were appointed, shall not be counted toward the above limitations. Years or time of service that an official may serve in filling a full term, an unexpired term or a partial term of office, to which they were elected, shall be counted toward the above limitations. No individual shall be qualified to hold office for a period of six years from the end of any second consecutive term.

## COMMENT / NOTES

Article V, Section 3a of the Charter establishes term limits for elected officials by restricting the number of consecutive terms that an individual may serve in office and imposing a waiting period before the individual may serve again.

This measure would repeal that provision in its entirety. If repealed, individuals who otherwise meet the qualifications for office would no longer be limited in the number of consecutive terms they may serve and could continue to seek reelection, subject to voter approval.

Term limits are a matter of local policy and vary among municipalities. Some cities maintain term limits to encourage rotation in office, while others do not,

allowing voters to determine whether an individual should continue to serve. Repealing this provision would shift that decision entirely to the electorate without altering the qualifications for office or the timing and conduct of elections.

## ISSUE/PURPOSE

Article V, Section 3a establishes term limits for elected officials by restricting the number of consecutive terms that an individual may serve and requiring a waiting period before the individual may seek office again. While intended to promote rotation in office, this provision limits the ability of voters to retain experienced elected officials if they choose to do so.

The purpose of this measure is to repeal the term limits provision and allow voters to determine, through regular elections, whether an individual should continue to serve in office. The measure does not alter eligibility requirements, election procedures, or term lengths, but instead removes restrictions on consecutive service and leaves the decision of continued service to the electorate.

## IMPACT SUMMARY

**Governance Impact:** Eliminates term limits for elected officials, allowing voters to determine whether individuals may continue to serve beyond the current limits through the regular election process. Removes restrictions on consecutive terms and shifts decision-making authority entirely to the electorate.

**Administrative Impact:** No impact on administrative operations or City staff. Election administration and candidate qualification processes would continue as currently structured.

**Fiscal Impact:** No fiscal impact.

**Legal Impact:** Removes Charter-imposed term limits while maintaining all other eligibility requirements and election procedures. Reduces potential legal issues related to enforcement or interpretation of term limits, but may allow longer periods of continuous service by elected officials.

**Measure #:** \_\_\_\_\_

**Short Name:** Resignation, Service Pending Qualification of Successor

**Type:** New Section

**Charter Location:** [Article, Section, or "New Article"]

## MEASURE SUMMARY

This measure would amend the Charter provisions governing the resignation of officials and the continuation of service pending the appointment and qualification of a successor.

Specifically, it would:

- Clarify when resignations of elected officials, appointive officers, and judges become effective, including procedures for written notice and acceptance;
- Provide that officials will continue to serve until their successors are appointed and qualified, unless the office is otherwise vacated;
- Establish that officials serving fixed terms may continue to serve in a holdover capacity after their term expires until a successor qualifies;
- Define the role of the “appointing authority” and specify whether that authority lies with the City Manager or the City Council depending on the position; and
- Define what constitutes “official action” for purposes of accepting resignations, including requirements for Council action and written action by the City Manager.

If adopted, this measure would clarify resignation procedures, define key terms, and provide a consistent framework for transitions in office, reducing ambiguity and improving continuity in City governance.

# PROPOSED NEW SECTION

## Article VI, Sec. 6. Resignation, Service Pending Qualification of Successor

(a) A written notice of resignation by an elected official, or from the office of mayor pro-tempore, is effective on the date consistent with the law of the State of Texas.

(b) A written notice of resignation submitted to the city secretary or the appointing authority by an appointive officer or judge is effective upon the effective date and time stated on the notice or the date and time of acceptance by the appointing authority, whichever is earlier. The appointing authority may accept such resignation by official action or by appointing a successor. A written notice not referring to a date is presumed effective immediately.

(c) An elected official, mayor pro-tempore, appointive officer, or judge shall continue to hold office until their successor is appointed and duly qualified, unless the office is vacated by death, disqualification, resignation, or removal from office.

(d) Any elected official or appointive officer with a fixed term who continues to perform the duties of their office after the expiration of their term, pending the qualification of their successor, shall be deemed to hold over in office.

(e) In this section, “appointing authority” means the city manager, except in the following cases: city manager, city attorney, municipal judges, and internal auditor, in which cases it is the Council.

(f) In this section, “official action” for City Council means by one or more majority votes at one or more properly noticed meetings in open session with a quorum present; and for city manager, the term “official action” means a signed, dated writing.

(g) This section does not apply to the municipal court clerk.

## COMMENT / NOTES

The current Charter provisions relating to resignation, acceptance of resignation, and service pending the qualification of a successor do not fully address the timing and method by which resignations become effective or how such actions may be taken by the City Council or City Manager. This may create uncertainty in situations involving vacancies, disputed elections, or delayed transitions between officeholders.

This measure clarifies when resignations of elected officials, appointive officers, and judges become effective, including the role of the “appointing authority” and the methods by which that authority may act. It distinguishes between actions taken by the City Council, which must occur at properly noticed meetings, and actions taken by the City Manager, which may be taken by written instrument.

The measure also confirms that officials continue to serve in a holdover capacity until a successor is appointed or elected and duly qualified. This reflects longstanding legal principles designed to ensure continuity of government and avoid vacancies in office.

Overall, the measure provides clearer procedures, reduces ambiguity in resignation and succession, and aligns Charter provisions with common municipal practice.

## ISSUE/PURPOSE

The current Charter does not clearly define when resignations become effective, how they may be accepted, or how governing bodies and appointing authorities must act in such situations. It also does not provide detailed guidance on the continuation of service by officeholders whose terms have expired but whose successors have not yet qualified.

These gaps may lead to uncertainty regarding the status of officeholders, particularly in circumstances involving delayed elections, contested results, or the timing of appointments.

The purpose of this measure is to establish clear and consistent rules for resignation, acceptance of resignation, and holdover service. The measure defines key terms, clarifies the roles of the City Council and City Manager, and ensures continuity of service until successors are duly qualified. This approach promotes

stability, reduces the potential for disputes, and provides predictable procedures for transitions in office.

## IMPACT SUMMARY

**Governance Impact:** Clarifies procedures for resignations and succession, defines the authority responsible for accepting resignations, and confirms that officials continue to serve until successors qualify, improving continuity and reducing ambiguity in governance.

**Administrative Impact:** Provides clearer guidance to the City Secretary, City Manager, and City Council regarding handling of resignations and vacancies. May streamline administrative processes by defining when actions are effective and how they must be carried out.

**Fiscal Impact:** No fiscal impact.

**Legal Impact:** Reduces uncertainty and potential disputes regarding the effectiveness of resignations, the validity of actions taken by appointing authorities, and the status of holdover officeholders. Aligns Charter provisions with established legal principles regarding continuity of office and official action.

**Measure #:** \_\_\_\_\_

**Short name:** Salaries

**Type:** Amendment

**Charter Location:** Article VI, Section 2.

## SUMMARY

If adopted, this measure would remove the requirement that the City Council set the salaries of officers other than Council Members.

## PROPOSED AMENDED SECTION

Article VI, Section 2. Salary of officers

The mayor shall be entitled to a monthly allowance (non-employee compensation) in the amount of \$ 300.00. The other members of the council shall each be entitled to a monthly allowance (non-employee compensation) in the amount of \$ 200.00. Additionally, subject to prior budgetary approval, the mayor and the other members of the council shall be entitled to reimbursement of all reasonable, necessary and documented expenses incurred in the performance of their duties.

## PROPOSED AMENDED SECTION (Redline)

Article VI, Section 2. Salary of officers

~~All salaries other than those of the council shall be fixed by the city council.~~  
The mayor shall be entitled to a monthly allowance (non-employee compensation) in the amount of \$ 300.00. The other members of the council

shall each be entitled to a monthly allowance (non-employee compensation) in the amount of \$ 200.00. Additionally, subject to prior budgetary approval, the mayor and the other members of the council shall be entitled to reimbursement of all reasonable, necessary and documented expenses incurred in the performance of their duties.

NOTE\* Language to be added appears underlined and language to be deleted is ~~stricken~~.

## EXISTING SECTION

### Article VI, Section 2. Salary of officers

All salaries other than those of the council shall be fixed by the city council. The mayor shall be entitled to a monthly allowance (non-employee compensation) in the amount of \$ 300.00. The other members of the council shall each be entitled to a monthly allowance (non-employee compensation) in the amount of \$ 200.00. Additionally, subject to prior budgetary approval, the mayor and the other members of the council shall be entitled to reimbursement of all reasonable, necessary and documented expenses incurred in the performance of their duties.

## COMMENT / NOTES

Texas law authorizes, but does not require, the governing body of a home-rule municipality to set compensation for its officers.<sup>1</sup>

The statute reads: "The governing body of a home-rule municipality may set the amount of compensation for each officer of the municipality."<sup>2</sup>

This measure removes the Charter requirement that the City Council establish salaries for officers other than the Mayor and Council Members, while preserving the Council's authority to do so as permitted by law.

The salaries set for Mayor and Council Members would be unchanged.

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<sup>1</sup> Tex. Local Gov't Code § 141.004.

<sup>2</sup> *Id.*

## ISSUE/PURPOSE

The measure would allow salary determinations for non-Council positions to be set other than by Council. This could allow the City Manager to set them, for example.

## IMPACT SUMMARY

**Governance Impact:** Allows non-Council position salaries to be set by Council or others as allowed by Council.

**Administrative Impact:** None

**Fiscal Impact:** No direct fiscal impact.

**Legal Impact:** This would allow Council to determine salaries for non-Council positions, but not require Council to do so.

**Measure #:** \_\_\_\_\_

**Short Name:** Severability

**Type:** New Section

**Charter Location:** Article XI, Sec. 11.

## MEASURE SUMMARY

This measure would add a new Charter provision addressing the effect of a court decision that finds all or part of the Charter invalid.

Specifically, it would:

- Provide that if any provision of the Charter is held invalid, the remaining provisions will continue in effect; and
- Clarify that if a provision is found invalid as applied to a particular person or situation, the provision may still be applied to others or in different circumstances.

If adopted, this measure would ensure that the Charter remains operative even if one part is found invalid, preserving the effectiveness of the remaining provisions.

## PROPOSED NEW SECTION

Article XI, Sec. 11. Severability

If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected. If the application of the Charter or any of its provisions to any

person or circumstance is held invalid, the application of the Charter and its provisions to other persons or circumstances shall not be affected.

## COMMENT / NOTES

This measure adds a standard severability provision to the Charter. A severability clause provides that if a court determines that a particular provision of the Charter is invalid, the remaining provisions continue in effect to the maximum extent possible.

The Charter currently does not contain an explicit severability clause. Although courts often attempt to preserve the remainder of a law when possible, the absence of a clear statement of intent may create uncertainty in situations where one provision is challenged or invalidated.

This measure clarifies that the City intends for each provision of the Charter to operate independently and for the remaining provisions to remain effective even if one portion is found invalid. It also addresses situations where a provision may be invalid as applied to a particular person or circumstance, while still remaining valid in other contexts.

Severability clauses are common in municipal charters and are intended to preserve the stability and continued operation of local law in the event of a legal challenge.

## ISSUE/PURPOSE

The current Charter does not expressly address the effect of a court decision that invalidates one or more provisions of the Charter. In the absence of a severability clause, there may be uncertainty regarding whether the invalidation of one provision could affect the validity or enforceability of other provisions.

The purpose of this measure is to add a severability provision establishing that the Charter's provisions are intended to operate independently. The measure provides that if any provision, or its application to a particular person or circumstance, is found invalid, the remaining provisions will continue in effect.

This approach promotes continuity of governance, reduces legal uncertainty, and reflects a standard drafting practice intended to preserve the effectiveness of the Charter as a whole.

## IMPACT SUMMARY

**Governance Impact:** Clarifies that the invalidation of one provision of the Charter does not affect the remaining provisions, promoting stability and continuity in the City's governing framework.

**Administrative Impact:** No operational changes. Provides guidance to City officials and staff in understanding how the Charter applies if a provision is subject to legal challenge.

**Fiscal Impact:** No fiscal impact.

**Legal Impact:** Reduces uncertainty in the event of litigation by expressing the City's intent that the Charter's provisions be severable. May help preserve the enforceability of remaining provisions if part of the Charter is found invalid.

**Measure #:** \_\_\_\_\_

**Short name:** Amendment to Disciplinary Hearing for Employees

**Type:** Amendment

**Charter Location:** Article VI. Sec. 5.

## SUMMARY

This measure amends Article VI, Section 5 of the City Charter relating to disciplinary procedures for City employees.

The amendment clarifies and modernizes the process for initiating, reviewing, and appealing disciplinary action by:

- Providing that alleged misconduct may be reported by any person, while requiring that formal disciplinary complaints be issued by an authorized City official;
- Retaining the 180-day limitation period for disciplinary action, while allowing an exception for conduct not reasonably discoverable within that period;
- Establishing clear procedures for notice, appeal, and hearing of disciplinary actions;
- Expanding the definition of eligible hearing officers beyond retired district judges to include other qualified neutral attorneys and former judges;
- Clarifying employee due process rights, including representation, access to relevant documents, presentation of evidence, and cross-examination;
- Assigning the burden of proof to the City to establish good and reasonable cause for discipline;
- Allowing prior sustained disciplinary actions to be considered in determining the severity of discipline; and

- Providing that the City pays the costs of the hearing officer, while each party bears its own attorney's fees unless otherwise required by law.

If adopted, this measure updates the City's disciplinary framework to improve clarity, fairness, and administrative efficiency while preserving management authority under the council–manager form of government.

## PROPOSED AMENDED SECTION

Article VI. Sec. 5. Disciplinary Hearing for City Employees.

### *A. Complaints*

1. Information regarding alleged misconduct may be reported to the City by any person. A complaint against an Employee must be in writing and signed by a Charging Party.
2. A copy of the written complaint shall be provided to the Employee within a reasonable time after it is issued by the Charging Party and prior to the imposition of any Disciplinary Action.
3. No act or acts may be complained of by the Charging Party which did not happen or occur within one hundred eighty (180) days immediately preceding the date of Disciplinary Action; however, this limitation shall not apply where the conduct was not reasonably discoverable within such period through the exercise of due diligence.
4. Past Disciplinary Action that was not reversed by the Hearing Officer or a court of competent jurisdiction may be cited as a factor giving weight to the severity of discipline assessed.

### *B. Disciplinary Action; Right to Hearing*

1. If Disciplinary Action is taken against an Employee who has been employed by the City for more than three hundred sixty-five (365) days, and after the Employee has exhausted internal administrative review procedures established by City policy, the Employee may appeal the action.
2. Upon timely appeal, the Employee is entitled to a hearing before a Hearing Officer as provided herein.

### *C. Definitions.*

For purposes of this Section:

1. “Charging Party” means the City Manager or a Department Head, or their authorized designee acting within the scope of supervisory authority.
2. “Department Head” means a person appointed by the City Manager to oversee a City department.
3. “Disciplinary Action” means termination, suspension without pay, or demotion.
4. “Employee” means any paid employee of the City, but excluding the City Manager, Department Heads, and any position appointed by City Council.
5. “Hearing Officer” means a retired district judge or other qualified neutral attorney or former judge with experience in employment or administrative law.

### *D. Appeal Procedures*

1. To request a hearing, an Employee must file a written notice of appeal with the City Secretary no later than fifteen (15) days after receiving written notice of the Disciplinary Action, or after exhausting internal appeal procedures, whichever is later.
2. The City and the Employee shall attempt to mutually agree upon a Hearing Officer. If no agreement is reached within ten (10) days, a Hearing Officer shall be selected from a reputable neutral provider or appointed by a district court judge upon request of either party.
3. The hearing shall be scheduled as promptly as practicable, taking into account the availability of the parties and the Hearing Officer.

### *E. Hearing Procedures*

1. The hearing shall be conducted in a fair and impartial manner.
2. The Employee shall have the right to:
  - a. be represented by counsel or a representative of the Employee’s choosing;
  - b. review relevant, non-privileged documents related to the Disciplinary Action;
  - c. present evidence and witnesses; and
  - d. cross-examine adverse witnesses.
3. Formal rules of evidence shall not apply, but the Hearing Officer may exclude irrelevant or unduly repetitive evidence.

4. The City shall have the burden to establish, by a preponderance of the evidence, that the Disciplinary Action was taken for good and reasonable cause.

*F. Decision*

1. The Hearing Officer shall determine whether the Disciplinary Action was supported by good and reasonable cause and may:
  - a. uphold the action;
  - b. reverse the action; or
  - c. modify the action.
2. The Hearing Officer shall issue a written decision stating the basis for the determination.
3. The decision of the Hearing Officer shall be final and binding, subject to any rights of judicial review provided by law.

*G. Costs*

1. The City shall pay the fees and expenses of the Hearing Officer.
2. Each party shall bear its own attorney's fees and costs unless otherwise required by law.

*H. Applicability*

1. This Section does not apply to the Mayor, other members of the City Council, or the Mayor Pro Tempore.
2. The emergency management coordinator is not an "Employee" for purposes of this Section.

## PROPOSED AMENDED SECTION (Redline)

Article VI. Sec. 5. Disciplinary Hearing for City Employees.

*A. Complaints*

1. Information regarding alleged misconduct may be reported to the City by any person. A complaint against an Employee must be in writing and signed by a Charging Party.
2. A copy of the written complaint shall be provided to the Employee within a reasonable time after it is issued by the Charging Party and prior to the imposition of any Disciplinary Action.

3. No act or acts may be complained of by the Charging Party which did not happen or occur within one hundred eighty (180) days immediately preceding the date of Disciplinary Action; however, this limitation shall not apply where the conduct was not reasonably discoverable within such period through the exercise of due diligence.
4. Past Disciplinary Action that was not reversed by the Hearing Officer or a court of competent jurisdiction may be cited as a factor giving weight to the severity of discipline assessed.

B. Disciplinary Action; Right to Hearing

1. If Disciplinary Action is taken against an Employee who has been employed by the City for more than three hundred sixty-five (365) days, and after the Employee has exhausted internal administrative review procedures established by City policy, the Employee may appeal the action.
2. Upon timely appeal, the Employee is entitled to a hearing before a Hearing Officer as provided herein.

C. Definitions.

For purposes of this Section:

1. “Charging Party” means the City Manager or a Department Head, or their authorized designee acting within the scope of supervisory authority.
2. “Department Head” means a person appointed by the City Manager to oversee a City department.
3. “Disciplinary Action” means termination, suspension without pay, or demotion.
4. “Employee” means any paid employee of the City, but excluding the City Manager, Department Heads, and any position appointed by City Council.
5. “Hearing Officer” means a retired district judge or other qualified neutral attorney or former judge with experience in employment or administrative law.

D. Appeal Procedures

1. To request a hearing, an Employee must file a written notice of appeal with the City Secretary no later than fifteen (15) days after receiving written notice of the Disciplinary Action, or after exhausting internal appeal procedures, whichever is later.

2. The City and the Employee shall attempt to mutually agree upon a Hearing Officer. If no agreement is reached within ten (10) days, a Hearing Officer shall be selected from a reputable neutral provider or appointed by a district court judge upon request of either party.
3. The hearing shall be scheduled as promptly as practicable, taking into account the availability of the parties and the Hearing Officer.

#### E. Hearing Procedures

1. The hearing shall be conducted in a fair and impartial manner.
2. The Employee shall have the right to:
  - a. be represented by counsel or a representative of the Employee's choosing;
  - b. review relevant, non-privileged documents related to the Disciplinary Action;
  - c. present evidence and witnesses; and
  - d. cross-examine adverse witnesses.
3. Formal rules of evidence shall not apply, but the Hearing Officer may exclude irrelevant or unduly repetitive evidence.
4. The City shall have the burden to establish, by a preponderance of the evidence, that the Disciplinary Action was taken for good and reasonable cause.

#### F. Decision

1. The Hearing Officer shall determine whether the Disciplinary Action was supported by good and reasonable cause and may:
  - a. uphold the action;
  - b. reverse the action; or
  - c. modify the action.
2. The Hearing Officer shall issue a written decision stating the basis for the determination.
3. The decision of the Hearing Officer shall be final and binding, subject to any rights of judicial review provided by law.

#### G. Costs

1. The City shall pay the fees and expenses of the Hearing Officer.
2. Each party shall bear its own attorney's fees and costs unless otherwise required by law.

#### H. Applicability

1. This Section does not apply to the Mayor, other members of the City Council, or the Mayor Pro Tempore.
2. The emergency management coordinator is not an "Employee" for purposes of this Section.

~~A. Complaints. Before a complaint against a city employee may be considered by the Charging party as defined in subsection B(4), the complaint must be placed in writing and signed by the person making the complaint. A copy of the signed complaint must be presented to the affected city employee no later than one hundred and eighty (180) days after the complaint is filed and before any disciplinary action may be taken against the affected city employee. The charging party is hereby restricted to his original written statement and charges against the city employee, which shall not be amended, and no act or acts may be complained of by said charging party which did not happen or occur within one hundred eighty (180) days immediately preceding the date of disciplinary action by the city manager.~~

~~B. Disciplinary Action. If disciplinary action is taken against a city employee who has been employed as an employee for more than three hundred and sixty five (365) days, and has exhausted all internal appeal procedures, the employee is entitled to a public hearing before a Retired District Judge on the written statement and charges against the employee and the disciplinary action taken. In this charter provision:~~

~~(1.) "Retired District Judge" means a qualified neutral to which authority has been delegated to hear appeals of disciplinary action against an employee.~~

~~(2.) "Employee" means any paid employee of the city of Big Spring except the City Manager and department heads.~~

~~(3.) "Disciplinary action" includes termination, suspension, and demotion.~~

~~(4.) “Charging Party” means the city manager, director, department head or city employee with the authority and power to file written disciplinary charges.~~

~~To obtain the hearing, an employee must file a written request to the city secretary no later than the fifteenth (15th) day after the date on which the city employee received the written statement and charges from the charging party.~~

~~The employee and the charging party shall forthwith endeavor to select a mutually agreeable Retired District Judge. If the parties are unable to agree upon a Retired District Judge within ten (10) days after the city employee files his appeal, the parties shall promptly request that a judge of the 118th judicial district court appoint a Retired District Judge. If an appointment cannot be made, a provider service can name a Retired District Judge to hear the disciplinary action.~~

~~The parties shall set the earliest date possible that is available to the Retired District Judge for a hearing. If the Retired District Judge cannot hear the case within forty five (45) days of his selection, the parties shall request another judge.~~

~~Each Party shall pay one-half of any deposit required by the Retired District Judge. The deposits from each party will be applied to the fees and expenses of the Retired District Judge. The remaining fees and expenses of the Retired District Judge shall be borne by the “non-prevailing party,” if any, as determined by the Retired District Judge. Each party shall pay the costs of their own witnesses.~~

~~The employee is entitled to:~~

- ~~(1) examine any document, paper, book, or material considered in the formation of the charges if necessary to establish a proper defense.~~
- ~~(2) be represented by counsel or by a person of his choice; and~~
- ~~(3) present witnesses in his defense and cross-examine any adverse witness.~~

~~The hearing must be fair and impartial, and the Retired District Judge shall determine if the facts justify the disciplinary action taken against the employee. The Retired District Judge may consider only the evidence presented at the hearing. Disciplinary action may not be taken against an employee without good and reasonable cause.~~

~~The Retired District Judge shall either uphold the disciplinary action, dismiss it, or reduce it. The decision of the Retired District Judge is final and binding on all parties.~~

NOTE\* Language to be added appears underlined and language to be deleted is ~~stricken~~.

## EXISTING SECTION

### Article VI. Sec. 5. Disciplinary Hearing for City Employees.

- A. Complaints. Before a complaint against a city employee may be considered by the Charging party as defined in subsection B(4), the complaint must be placed in writing and signed by the person making the complaint. A copy of the signed complaint must be presented to the affected city employee no later than one hundred and eighty (180) days after the complaint is filed and before any disciplinary action may be taken against the affected city employee. The charging party is hereby restricted to his original written statement and charges against the city employee, which shall not be amended, and no act or acts may be complained of by said charging party which did not happen or occur within one hundred eighty (180) days immediately preceding the date of disciplinary action by the city manager.
- B. Disciplinary Action. If disciplinary action is taken against a city employee who has been employed as an employee for more than three hundred and sixty-five (365) days, and has exhausted all internal appeal procedures, the employee is entitled to a public hearing before a Retired District Judge on the written statement and charges against the employee and the disciplinary action taken. In this charter provision:
- (1.) “Retired District Judge” means a qualified neutral to which authority has been delegated to hear appeals of disciplinary action against an employee.
  - (2.) “Employee” means any paid employee of the city of Big Spring except the City Manager and department heads.

(3.) “Disciplinary action” includes termination, suspension, and demotion.

(4.) “Charging Party” means the city manager, director, department head or city employee with the authority and power to file written disciplinary charges.

To obtain the hearing, an employee must file a written request to the city secretary no later than the fifteenth (15th) day after the date on which the city employee received the written statement and charges from the charging party.

The employee and the charging party shall forthwith endeavor to select a mutually agreeable Retired District Judge. If the parties are unable to agree upon a Retired District Judge within ten (10) days after the city employee files his appeal, the parties shall promptly request that a judge of the 118th judicial district court appoint a Retired District Judge. If an appointment cannot be made, a provider service can name a Retired District Judge to hear the disciplinary action.

The parties shall set the earliest date possible that is available to the Retired District Judge for a hearing. If the Retired District Judge cannot hear the case within forty-five (45) days of his selection, the parties shall request another judge.

Each Party shall pay one-half of any deposit required by the Retired District Judge. The deposits from each party will be applied to the fees and expenses of the Retired District Judge. The remaining fees and expenses of the Retired District Judge shall be borne by the “non-prevailing party,” if any, as determined by the Retired District Judge. Each party shall pay the costs of their own witnesses.

The employee is entitled to:

- (1) examine any document, paper, book, or material considered in the formation of the charges if necessary to establish a proper defense.
- (2) be represented by counsel or by a person of his choice; and
- (3) present witnesses in his defense and cross-examine any adverse witness.

The hearing must be fair and impartial, and the Retired District Judge shall determine if the facts justify the disciplinary action taken against the employee. The Retired District Judge may consider only the evidence

presented at the hearing. Disciplinary action may not be taken against an employee without good and reasonable cause.

The Retired District Judge shall either uphold the disciplinary action, dismiss it, or reduce it. The decision of the Retired District Judge is final and binding on all parties.

## COMMENT / NOTES

This amendment reorganizes and modernizes an existing Charter provision that has been difficult to administer in practice. Key changes include separating public reporting of misconduct from the formal initiation of disciplinary charges, clarifying timelines and procedures, and replacing rigid requirements with more flexible standards.

The amendment preserves core protections in the existing Charter—such as the 180-day limitation period and the right to an independent hearing—while updating terminology and procedures to align with current administrative practices and legal standards.

The revisions are intended to reduce ambiguity, minimize procedural disputes, and provide clearer guidance to employees, supervisors, and hearing officers.

## ISSUE/PURPOSE

The current Charter provision governing disciplinary hearings contains several ambiguities and rigid requirements that have created practical and legal challenges, including:

- Unclear distinction between public complaints and formal disciplinary charges;
- Restrictions on amending charges that limit the City's ability to address misconduct effectively;
- Lack of clarity regarding timelines, procedures, and evidentiary standards;

- A narrow requirement that hearings be conducted only by a retired district judge;
- Cost-shifting provisions that may discourage appropriate use of the hearing process; and
- Limited guidance regarding the rights of employees and the responsibilities of the City during disciplinary proceedings.

The purpose of this amendment is to:

- Clarify that disciplinary action may only be initiated by authorized City officials;
- Maintain appropriate time limits on discipline while allowing flexibility for newly discovered misconduct;
- Establish clear, fair, and administrable procedures for appeals and hearings;
- Expand the pool of qualified hearing officers; Define the rights of employees and the burden of proof; and
- Improve consistency, fairness, and transparency in the disciplinary process.

## IMPACT SUMMARY

**Governance Impact:** The amendment reinforces the City’s council–manager form of government by clearly assigning disciplinary authority to the City Manager and Department Heads (or their designees). It preserves independent review through a neutral Hearing Officer while clarifying roles and responsibilities in the disciplinary process.

**Administrative Impact:** The amendment is expected to improve administrative efficiency by:

- Providing clearer procedures and timelines;
- Reducing disputes over process and interpretation;
- Allowing greater flexibility in selecting hearing officers; and
- Eliminating rigid procedural constraints (e.g., inability to amend charges).

City staff may need to update internal policies and forms to conform to the revised Charter language.

**Fiscal Impact:** The amendment shifts responsibility for payment of Hearing Officer fees and expenses to the City, rather than allocating costs based on outcome. This may result in modest and predictable increases in City expenditures for disciplinary hearings but eliminates uncertainty and potential disputes over cost allocation.

No significant ongoing fiscal impact is anticipated beyond these costs.

**Legal Impact:** The amendment strengthens the City's legal position by:

- Clarifying authority to initiate discipline;
- Establishing clear procedural due process protections;
- Defining evidentiary standards and burden of proof; and
- Reducing ambiguity that could lead to litigation.

The addition of a discovery exception to the 180-day limitation period helps prevent dismissal of otherwise valid disciplinary actions involving concealed misconduct, while the clarified framework reduces risk of procedural challenges.

**Measure #:** \_\_\_\_\_

**Short Name:** Municipal Court administration

**Type:** New Section

**Charter Location:** Article X, Section 5

## MEASURE SUMMARY

This measure would add a new Charter provision clarifying the status of the municipal court and defining the respective roles of the municipal court and the City Manager.

Specifically, it would:

- Provide that the municipal court operates as a judicial component of City government and is not an administrative department;
- Establish that the City Manager has administrative authority over court personnel other than judges, including budget, payroll, benefits, position classification, and general personnel policies; and
- Require that such administrative authority be exercised in a manner that does not interfere with judicial decision-making or adjudicative functions

If adopted, this measure would clarify the relationship between the municipal court and the City's administrative structure while preserving judicial independence and ensuring continuity of administrative support.

## PROPOSED NEW SECTION

Article X, Section 5. Municipal Court Administration.

(a) The municipal court is a component of the City's government that operates in a judicial capacity and is not an administrative department of the City.

(b) The city manager shall have administrative authority over court personnel other than judges, including budgetary, payroll, benefits, position classification, and personnel policies of the City as applied to such personnel. The city manager may consult with the presiding judge in exercising this authority.

(c) Such authority shall be exercised consistent with this Charter and state law and shall not be exercised in a manner that directs, controls, or interferes with judicial decision-making or adjudicative functions reserved to the municipal court and its judges by law.

(d) Council may grant the presiding judge the authority to adopt standards of professional and ethical conduct applicable to court personnel reasonably necessary to preserve the integrity, impartiality, and independence of the judiciary and the municipal court, and govern confidentiality of court records and information.

(e) In this section, "court personnel" includes the municipal court clerk and excludes prosecutors.

## COMMENT / NOTES

(Non-binding)

- [Reason for inclusion]
- [Policy rationale]
- [Comparable practices]

This measure clarifies the institutional relationship between the municipal court and the City's administrative structure. While the municipal court is part of the

City government, it operates in a judicial capacity and must remain independent in its decision-making functions.

At the same time, court personnel, facilities, and funding are typically administered through the City's general administrative systems. The measure recognizes this dual structure by confirming that the City Manager retains administrative authority over court personnel (other than judges), while expressly prohibiting interference with judicial or adjudicative functions.

The provision also encourages coordination between the City Manager and the presiding judge in the administration of court-related matters, without granting either party authority over the other's core responsibilities.

This approach reflects common municipal practice and is intended to reduce ambiguity, avoid conflicts, and ensure both effective administration and judicial independence.

## ISSUE/PURPOSE

The Charter does not currently clearly define the relationship between the municipal court and the City's administrative structure. This lack of clarity can lead to uncertainty regarding the roles of the City Manager and the municipal court, particularly with respect to personnel, budgeting, and operational decision-making.

Without clear guidance, there is a risk of either overreach into judicial functions or insufficient administrative coordination, which can create inefficiencies or conflicts.

The purpose of this measure is to clearly delineate the roles of the municipal court and the City Manager by recognizing the court's judicial function while confirming the City Manager's administrative responsibilities. The measure is intended to preserve judicial independence, improve administrative clarity, and provide a consistent framework for coordination between the court and City administration.

## IMPACT SUMMARY

**Governance Impact:** Clarifies the separation between judicial functions and administrative authority, reinforcing the independence of the municipal court while confirming the City Manager’s role in managing personnel and administrative operations.

**Administrative Impact:** Provides clearer direction for handling court personnel, budgeting, and administrative processes. Supports coordination between the City Manager and the presiding judge and may reduce operational conflicts.

**Fiscal Impact:** No direct fiscal impact. Administrative processes related to court operations continue through existing City budgeting and financial systems.

**Legal Impact:** Strengthens legal clarity by defining the relationship between the municipal court and City administration in a manner consistent with principles of judicial independence. May reduce the risk of disputes or challenges related to interference with judicial functions.

*Possible ordinance to follow up if charter measure on disqualification were to go to the voters and pass*

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE RELATING TO MUNICIPAL COURT ADMINISTRATION;  
PROVIDING FOR NOTICE, REVIEW, AND COUNCIL ACTION; AND PROVIDING  
RELATED MATTERS**

**Section 1. Municipal Court Administration**

(a) Purpose. This section implements the Charter provisions governing the administrative relationship between the municipal court and the City administration, while preserving the independence of the municipal court in the exercise of judicial functions.

(b) Status of the Court. The municipal court operates in a judicial capacity and is not an administrative department of the City. Nothing in this section shall be construed to alter or limit the authority of the municipal court or its judges as provided by law.

(c) Administrative Functions. The City Manager shall administer personnel and administrative functions for court personnel other than judges, including payroll, benefits, position classification, budgeting, and the application of general City personnel policies, consistent with the Charter and applicable law.

(d) Court Personnel. Court personnel other than judges are City employees for administrative purposes. Such personnel shall perform their duties in support of the municipal court and under the direction of the presiding judge with respect to court operations, and under the authority of the City Manager with respect to administrative matters.

(e) Coordination. The City Manager and the Presiding Judge shall coordinate in good faith regarding administrative matters affecting court operations, including staffing, scheduling, facilities, budgeting, and standards of professional and ethical conduct, to ensure the effective operation of the municipal court.

(f) Non-Interference. The administrative authority of the City Manager shall not be exercised in a manner that directs, controls, or interferes with judicial decision-making, adjudicative functions, or other matters within the authority of the municipal court and its judges under law.

(g) Budget and Expenditures. Court-related revenues and expenditures shall be included in the City's budget and administered through the City's financial processes. Funds restricted by law for court purposes shall be used in accordance with applicable law. In administering such funds, the City Manager may consult with the Presiding Judge regarding their appropriate use.

(h) Facilities. The City Manager shall be responsible for providing and maintaining facilities for the municipal court. The Presiding Judge shall determine the operational needs of the court for the conduct of judicial proceedings, and the City Manager shall reasonably accommodate such needs consistent with available resources.

(i) The City Manager may authorize the Presiding Judge to perform, or to participate in, administrative functions relating to court personnel, including timekeeping, supervision, and hiring recommendations, provided that such authorization does not transfer or limit the City Manager's administrative authority under the Charter and may be modified or revoked at any time

(j) Policies and Procedures. The City Manager may adopt administrative policies and procedures consistent with this section to implement its provisions. Such policies shall not conflict with the Charter or applicable law.

(k) The Presiding Judge the authority to adopt standards of professional and ethical conduct applicable to court personnel that are reasonably necessary to preserve the integrity, impartiality, and independence of the judiciary and the municipal court, and govern confidentiality of court records and information. In the event of a conflict with standards adopted by the City Manager, such standards adopted by the Presiding Judge shall control only with respect to the performance of court duties, court operations, and the handling of court information, and shall be construed, to the extent reasonably possible, in harmony with municipal personnel policies.

(l) In this section, "court personnel" includes the municipal court clerk and excludes prosecutors.

*Possible ordinance to follow up if charter measure on city attorney and department of law were to go to the voters and pass*

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE GOVERNING THE DEPARTMENT OF LAW AND THE PROVISION OF LEGAL SERVICES**

**Section 1. Department of Law**

(a) In this section, the following terms have their assigned meanings:

(1) "Department" means the Department of Law.

(2) "Municipal attorneys" means City employees who are assigned to the Department and who are licensed to practice law in the State of Texas.

(3) "Nonlawyers" mean City employees who are assigned to the Department and who not licensed to practice law in Texas.

(b) The City Attorney is recognized as the chief legal officer of the City providing legal advice, legal representation, and prosecution services. The Department as created by the Charter is recognized. The City Attorney is recognized as the head of the Department.

(c) Other than the department head, employees assigned to the Department shall be employed at the will of and report to the City Manager, but shall perform their duties under the direction of the City Attorney with respect to legal matters and in accordance with this section. The Department head shall establish lines of supervision and reporting among municipal attorneys and nonlawyers, including the designation of supervising attorneys, provided that such supervision relates to the performance of legal services and does not alter the administrative authority of the City Manager.

(d) All municipal attorneys shall be assigned to the Department and shall perform legal services under the direction of the Department head.

(e) Nonlawyers shall not provide legal advice or engage in the practice of law, but may perform work in support of legal services under the supervision of, and as directed by a municipal attorney.

(f) The City Manager may delegate in whole or in part administrative duties under this section to the Department head and may revoke such delegation at any time.

*Possible ordinance to follow up if charter measure on disqualification were to go to the voters and pass*

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE ESTABLISHING PROCEDURES FOR DETERMINING CONTINUING CITY RESIDENCY OR DISTRICT RESIDENCY OF CITY COUNCIL MEMBERS; PROVIDING FOR NOTICE, REVIEW, AND COUNCIL ACTION; AND PROVIDING RELATED MATTERS**

**WHEREAS**

The City Charter requires members of the City Council elected from single-member districts to reside within the district from which elected and all members of City Council to reside within the City; and

**WHEREAS**

The Charter provides that loss of a required qualification for office does not create an automatic vacancy and that any determination regarding disqualification or vacancy shall be made by City Council in accordance with state law and procedures established by ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF \_\_\_\_\_, TEXAS:

**Section 1. Purpose and Scope.**

This ordinance establishes procedures for evaluating and determining whether a City Council Member subject to a city residency requirement or district residency requirement continues to satisfy that requirement. This ordinance applies only to questions of city residency or district residency and does not address other grounds for removal or forfeiture under state law.

**Section 2. No Automatic Vacancy.**

The loss or alleged loss of city residency or district residency by a City Council member does not create an automatic vacancy. No vacancy shall be declared except as provided in this ordinance and applicable state law.

**Section 3. Initiation of Review.**

A review of a Council Member's continuing city residency or district residency may be initiated upon:

1. a written complaint submitted to the City Secretary; or

2. referral by the City Council through official action.

The initiation of a review is administrative and does not constitute a finding, declaration of vacancy, or disciplinary action.

#### **Section 4. Preliminary Administrative Assessment.**

(a) The City Secretary, or the City Secretary's designee, may conduct a preliminary assessment to determine whether the information presented, if true, could constitute loss of city residency or district residency.

(b) If the City Secretary, or the City Secretary's designee, determines there is no reasonable basis for further review, the matter shall be closed with written notice to the Council and the affected Council Member.

#### **Section 5. Notice to Council Member.**

If further review is warranted, the City Secretary shall provide the affected Council Member with written notice that:

1. identifies the basis of the residency question;
2. states that no determination has been made; and
3. provides the Council Member at least ten (10) days to submit information or a written response regarding residency.

#### **Section 6. Determination by City Council.**

(a) One day or more after the time period for the Council Member to submit information or a written response regarding residency in Section 5, notice of a public hearing on the matter to take place at a city council meeting shall be published. The notice of the public hearing must be published one day or more before the notice of the meeting is published.

(b) At a properly noticed meeting, after holding the public hearing that was noticed in subsection (a), the City Council may, by majority vote conducted in open session: determine that substantial evidence exists to find that the Council Member no longer satisfies the city residency requirement or the district residency requirement, and declare the office vacant.

(c) As alternatives to the action in subsection (b), Council may request the attorney general or other appropriate state official to investigate and consider filing a quo warranto, or Council may take no action.

#### **Section 7. Effect of Council Action.**

(a) A finding by City Council: that the Council Member does not meet a city residency or district residency requirement, and declaration that the office of the Council Member is vacant constitutes the final decision of the City.

(b) A finding under this ordinance does not adjudicate title to office and does not preclude review by a court of competent jurisdiction. Nothing in this ordinance precludes the appropriate state officials from pursuing quo warranto.

(b) During the pendency of any review under this ordinance, the Council Member shall not be suspended from office or deprived of the powers of office absent a court order or express state-law authorization.

### **Section 8. Construction and Compliance with State Law.**

This ordinance shall be construed and applied in a manner consistent with the Texas Constitution, the Texas Election Code, and other applicable state law. In the event of a conflict, state law controls.