

ORDINANCE NO. 2015-09

AN ORDINANCE OF THE CITY OF BURNET, ORDERING AND DECLARING THE 2015 CHARTER AMENDMENTS ADOPTED.

WHEREAS: On May 09, 2015 the City of Burnet held an election on the adoption of amendments to the City's Home Rule Charter; and

WHEREAS: On May 19, 2015 City Council canvassed the votes of said election; and

WHEREAS: Texas Local Government Code Section 9.05 (b) provides that an amendment to a charter does not take effect until the governing body of the municipality enters an order in the records of the municipality declaring that the amendment is adopted; and

WHEREAS: pursuant to notice of a public meeting held in compliance with the Texas Open Meetings Act, the City Council of the City of Burnet, Texas, convened into a regular meeting of the City Council on the 19th day of May, 2015 for the purpose of entering an order into the records of the City and declaring that the amendments to the City Charter are adopted; and

WHEREAS: In order to ensure compliance with the requirements of Texas Local Government Code Section 9.05 (b) the City Council desires to adopt the order declaring the Charter Amendments adopted.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, THAT:

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

Section 2. Proceedings. That an election was duly called and held on May 09, 2015 and final votes were canvassed on May 19, 2015 on the question of the adoption of amendments to the City of Burnet Home Rule Charter.

Section 3. Adoption of Amendments. It is hereby ordered that the following measures are hereby declared to be adopted based on the canvassing of the following elections:

Section 1.04 – Annexation

- a. Additional territory may be annexed to the city in any manner and by any procedure that may now be provided by law or that may be hereafter provided by law.
- b. Any area of the City may be disannexed pursuant to any procedure allowed under state law or by adoption of an ordinance after notice and a public hearing.

Section 2.01. - General Powers.

The City shall have all powers possible for a city to have under the Constitution and laws of the State of Texas as fully and completely as though they were specifically enumerated in this Charter.

Section 2.02 –Specific Powers.

Remove in its entirety.

Section 2.03 – Eminent Domain.

Remove in its entirety.

Section 2.04 - Zoning in General.

Remove in its entirety.

Section 3.01. - Number, Selection and Term.

The City Council shall be composed of the Mayor and six (6) Council Members elected from the City at large. The Mayor and Council Members shall be elected in the manner provided in Article V of this Charter to serve for two (2) year terms and for no more than three (3) consecutive terms. Terms served as Council Member shall be considered separately from those served as Mayor; however, no person may serve more than six consecutive terms as Mayor and Council Member. A Mayor or City Council Member elected at a special election or appointed by City Council to serve a vacated place shall be elected or appointed to serve the remainder of the unexpired term of the office without the time counting against a full two-year term.

Section 3.02 – Transition

Remove in its entirety.

Measure No. 8**Section 3.03. - Qualifications.**

A citizen who desires to become a candidate for an elective City office shall file with the City Secretary a signed, sworn application for the citizen's name to appear on the ballot. The application shall represent that the citizen meets each qualification for the office.

Each candidate for an elective City office shall have the following qualifications as of the time and date the candidate files the application:

- A. Shall be a U.S. citizen.
- B. Shall be a registered voter of the City, and twenty-one (21) years of age or over.
- C. Shall have resided for at least twelve (12) months preceding the election within the corporate limits of the City or within an area having been annexed into the City.
- D. Shall not be Delinquent in the payment of any Property Taxes or other liabilities due the City. "Delinquent", as it relates to Property Taxes, is defined herein as that term is defined in the Texas Property Code. With regards to other liabilities due the City "Delinquent" is defined herein to mean that payment has not been received within ninety (90) days from due date.
- E. Shall not have been finally convicted of a felony from which the candidate has not been pardoned or otherwise released from the resulting disabilities.
- F. Shall be disqualified by reason of having been judged incompetent by a final judgment of court, or by reason of any provision of any other section of this Charter or by any provision of State law.
- G. Shall not be a candidate for any other office in the same election.
- H. Shall not be an employee of the City at the time of filing for office.

Section 3.08 - General Powers and Duties of Elected Officials

The City Council shall be the legislative and governing body of the City and, except as otherwise provided by State law or this Charter, all powers of the City shall be vested in the City Council which shall provide for the exercise of all powers and for the performance of all duties and obligations imposed on the City by law.

The City Council shall have control of all the City finances, property, streets, functions, services, affairs and programs, and shall have the power to ordain, alter, amend or repeal and enforce ordinances, resolutions, rules, orders, and regulations, for any public purpose, including but not limited to recreation; the regulation, licensing and control of streets; public property; municipal finances; the preservation of the public peace and good order; the security and protection of the public health, safety and welfare of the citizenry; the promotion of trade, commerce and economic development; the beautification and quality of life within the City; and to provide for any other public service or program provided by any city within the State of Texas.

Section 4.02. - Departments.

There shall be such departments as established by this Charter and as established by ordinance. The City Manager shall direct and supervise all departments, unless this Charter directs otherwise. The City Council shall have power by ordinance to establish departments not herein provided by this Charter and may discontinue, redesignate or combine any of the departments created by ordinance. No changes shall be made by the City Council in the organization of the departments of the City until the recommendations of the City Manager shall have been heard by the City Council.

Section 4.06 – Director of Public Safety

Remove in its entirety.

Section 4.07 – Police Department

Remove in its entirety.

Section 4.08 – Fire Department.

Remove in its entirety.

Section 4.09 – Director of Public Works.

Remove in its entirety.

Section 5.01 - Election of Mayor and City Council Members

At the regular election held in odd numbered years a Mayor shall be elected, and three (3) City Council Members shall be elected to serve in the City Council positions for which the term of office expires in that year. At the regular election in even numbered years, three City Council Members shall be elected to serve in the three City Council positions for which the term of office expires in that year. The term of each office shall be two (2) years and the office holders shall serve until their successors are elected and take office.

Each qualified voter of the City may vote for one (1) Mayoral candidate and three (3) City Council candidates in odd numbered years, and for three City Council candidates in even numbered years. The candidate for Mayor that receives the highest number of votes cast shall be elected, and in each election the three (3) candidates for City Council Member that individually receive the highest number of votes shall be elected. The election shall be ordered by the City Council. The City Secretary shall give notice of the election in the manner required by the laws of the State of Texas.

Section 5.02 - Notice and Order for Elections.

A. The regular City election shall be held annually on the uniform election date in May, or at such other times as may be specified by State Law, at which time officers will be elected to fill those offices which become vacant that year.

B. The City Council shall fix the place for holding such election.

- C. The City Council may, by ordinance or resolution, order a special election, fix the date and place for holding same, and provide all means for holding such special election.
- D. Notice of elections shall be published in a newspaper of general circulation of the City of Burnet, such publication to follow the requirements of the Election Code and any applicable law.
- E. Early voting shall be governed by the general election laws of the State of Texas.

Section 5.03 - Regulation of Elections

- A. All elections shall be held in accordance with the laws of the State of Texas regulating the holding of municipal elections and in accordance with the ordinances adopted by the City Council for the conduct of elections.
- B. The City Council shall appoint the election judges and other election officials.

Section 5.04 – Special Elections

The City Council may call special elections as required or authorized by the laws of the State of Texas or this Charter, fix the time and place of holding these elections, and provide all means for holding such special elections, provided that every special election shall be held on a Saturday, or a uniform election date, unless otherwise provided by law or this Charter. Except as required by this Charter or State law, every special election shall be called and held as nearly as practicable according to the provisions governing regular elections.

Section 5.05 - Official Ballot

The names of all candidates for office, except such as may have withdrawn, died or become ineligible, shall be placed on official ballots without party designations specifying the council place for which each is seeking election.

Section 5.06 - Filing for Office

- A. Any person having the qualifications set forth under Section 3.03 of this Charter shall have the right to file an application to have their name placed on the official ballot as a candidate for any elective office.
 - 1. Any such application shall be in writing, signed by such candidate, and filed with the City Secretary in accordance with the Texas Election Code and this Charter.
 - 2. An application filed in accordance herewith shall entitle such applicant to a place on the official ballot.

B. A candidate of City Council shall specify the place number or position the candidate is seeking.

Section 5.07 - Taking of Office

Each newly elected person to the City Council shall be inducted into office at the first regular City Council meeting following the canvass of the votes.

Section 5.09 – Run-Off Elections

Run-off elections shall be conducted pursuant to state law.

The candidate(s) receiving the highest number of votes cast for the office being filled in the run-off election shall be declared elected, and if the run-off results in a tie vote, the tie shall be broken in a manner authorized by the Texas Election Code, or by lot or chance as agreed by and between the candidates. The following circumstances require a run-off election that shall be conducted as prescribed by State election laws:

Section 7.05 – City Council Action on Budget

A. Adoption. The City Council shall comply with state law in the adoption of the budget and, unless otherwise in conflict with state law, shall adopt the budget on or before the last day of the last month of the current fiscal year. If the City Council fails to adopt the budget by this date, the budget proposed by the City Manager shall go into effect.

Section 7.07 – Amendments after Adoption

A. Supplemental Appropriations. City Council shall comply with any requirements of state law in amending the budget after adoption.

Section 7.12. - Purchase Procedure.

All purchases made and contracts executed by the City shall be completed pursuant to state law.

Section 8.01. - Public Utilities, Public Services and Proprietary Enterprises.

The City shall not provide any public utility, public service or proprietary enterprise outside the City limits except by a written contract with the prospective customer requesting such services and only when the provision of such services appears to be in the best interests of the City.

Section 8.02 – Franchises

Remove in its entirety.

Section 8.04. - Regulation of Franchises.

All grants, removals, extensions, or amendments of public utility, public service and proprietary enterprise franchises should be negotiated to include, to the extent possible, the following right of City Council to:

- A. forfeit the franchise by ordinance for failure of the holder to comply with the terms of the franchise, this Charter, any applicable statute of the State of Texas or the rule of any applicable governmental body. This right may be exercised only after written notice to the franchise holder stating how the holder has failed to comply with the terms of the franchise and setting a reasonable time for the correction of the failure. Forfeiture may occur only after a hearing and after expiration of a reasonable time for correction;
- B. impose reasonable regulations to ensure safe, efficient and continuous service to the public;
- C. require expansion, extension, enlargement and improvement of plant and facilities as necessary to provide adequate service to the public;
- D. require franchise holders to furnish to the City, without cost to the City, full information regarding the location and precise description of all facilities of the franchise holder in, over and under the City; and to regulate and control the location, relocation and removal of the facilities;
- E. require compensation, franchise fees and fees for the rental, use and occupancy of City property not inconsistent with State law;
- F. collect from public utilities, public service providers and proprietary enterprises operating in the City a proportionate part of the increased cost of City operations and services attributable to the occupancy by or use of public property by the public utility, public service or proprietary enterprise; to collect a proportionate part of the cost of City operations and services required as a result of damage to or disturbance of public property caused by the public utility, public service or proprietary enterprise; and to compel the public utility, public service provider or proprietary enterprise to perform at its own expense repairs or other operations made necessary by the occupancy or use of or damage to or disturbance of public property by the public utility, public service or proprietary enterprise;
- G. require one franchise holder to allow other holders to use its facilities if the City Council considers that joint use to be in the public interest. In the event of joint use, reasonable terms of use may be imposed by and a reasonable rental shall be paid to the owner for the use of the facility. The inability of franchise holders to agree on terms and rentals for the use of each other's facilities shall not be an excuse for failure to comply with a joint use requirement by the City Council;
- H. require franchise holders to keep records that accurately reflect the value of the franchise holder's property used and useful in rendering its service to the public and which reflect the franchise holder's expenses, receipts and profits of all kinds;

- I. examine and audit, at any time during business hours, the accounts and other records of the franchise holders;
- J. require reports on the operations of public utilities, public services and proprietary enterprises in the form and containing information that the City Council directs;
- K. establish specifications for materials and construction for public utilities, public services and proprietary enterprises used within or beyond the limits of the City, and
- L. prescribe penalties for noncompliance with any provision of this Article or the ordinances pertaining to franchises, public utilities, public services, and proprietary enterprises.

Section 8.06 – Extensions.

Remove in its entirety.

Section 8.07 – Regulation of Rates.

Remove in its entirety.

Section 8.08 – Other Conditions.

Remove in its entirety.

Section 8.09

Remove in its entirety.

Section 8.10. - Municipally Owned Utilities, Public Services and Proprietary Enterprises.

Annually, a certified public accountant will prepare, and the City Council will cause to be published, a financial report for each public utility, public service and proprietary enterprise owned or operated by the City. Each report will contain the information specified in this Section and other information as required by the City Council. The City Council will establish by ordinance the submission and inclusive dates of each report.

A monthly financial recap shall be made available as a downloadable file via the internet.

Section 8.11 – Records.

Remove in its entirety.

Section 9.01 – Power to Zone

Remove in its entirety.

Section 9.02 – Commission: Composition and Rules.

Remove in its entirety.

Section 9.03 – Commission: Powers and Duties

Remove in its entirety.

Section 9.05 – Board of Adjustment

Remove in its entirety.

Section 10.01 - Publicity of Records

- A. All records and accounts of every office, department or agency of the City shall be open to inspection by any citizen or by any representative of the press pursuant to the Texas Public Information Act.
- B. The Burnet web site shall publicize as files available for download via the Internet the budget; existing and proposed ordinances; pending contracts and bids; minutes of the last City Council meeting; proposed agendas for upcoming City Council meetings; times and locations for all public City meetings; audit summaries; monthly balance sheet reports for all public utilities, public services and proprietary enterprises; names, addresses and telephone numbers of all City Council persons and standing committee members, and all City career opportunities and other matters as prescribed by this Charter. Failure to post any such matter shall not invalidate any action taken with respect to such matter, nor give rise to any equitable or legal claim whatsoever. References in this Charter to the World Wide Web shall include means of access to the Internet or its equivalent and/or successor.
- C. The City Council shall not designate an official newspaper, but it shall cause notices of all information as required by this Charter, existing ordinances, or by the Constitution and laws of the State of Texas to be published in a local newspaper of general circulation in the City.

Section 3.09 - City Council Responsibilities:

The City Council is elected to carry-out the duties of the office as provided for in state law and this Charter including, but not limited to. Strategic planning, establishing service levels and financial goals, land use, and capital improvements. The City Council shall review the Charter, establish annual goals and objectives for the budget, and conduct performance reviews on the City Manager, Municipal Judge and other positions reporting directly to the City Council on an annual basis.

Section 3.07. - Vacancies, Forfeiture, and Filling of Vacancies.

B. Forfeiture of Office. If the Mayor or any City Council Member

- 1. fails to maintain the qualifications set forth in Section 3.03 of this Charter (unless the residence of a member of the Council is de-annexed, then the member shall serve the remainder of his/her term of office), or
- 2. has been found by at least five (5) affirmative votes of the City Council to have violated any express prohibition of this Charter, or
- 3. is convicted of a crime involving moral turpitude or a felony, or

4. fails to attend three (3) consecutive regular Council meetings without being excused by the City Council, then the City Council shall, at its next regular meeting, declare the office to be vacant and shall fill such vacancy as set forth below, or

5. has more than one year remaining on their term and files to run for another elected position within the city government.

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Section 4. Severability. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance shall be declared invalid by judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this ordinance or Section of the Code which this ordinance is contained and the remainder of this Section of the Code and ordinance shall be enforced as written.

PASSED AND APPROVED this, the 19th, day of May, 2015.

Gary Wideman, Mayor

ATTEST:

Kelly Dix, City Secretary

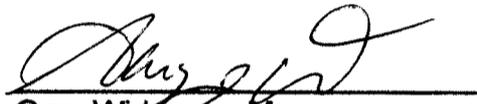
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Gary Wideman, Mayor

ATTEST:



Kelly Dix, City Secretary



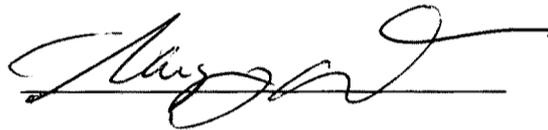
**AFFIDVITE OF CERTIFICATION OF AMENDMENT AND AUTHENTICITY OF THE
CITY OF BURNET'S HOME RULE CHARTER AMENDMENTS**

THE STATE OF TEXAS §
 §
COUNTY OF BURNET §

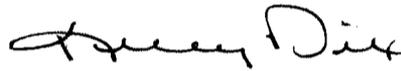
BEFORE ME, the undersigned authority, on this day personally appeared Gary Wideman who, being by me duly sworn, deposed as follows:

My name is Gary Wideman. I am over the age of twenty-one (21) years, am of sound mind and am fully capable of making this affidavit. The testimony recited below is within my personal knowledge and is true and correct.

I am the Mayor of the City of Burnet. Attached hereto as Exhibit "A" is a true and correct copy of the City of Burnet's Home Rule City Charter as amended by the citizens of Burnet on May 9th, 2015. In addition, attached hereto as Exhibit "B" is a true and correct copy of the canvassing of the election held on May 19th, 2015 amending the City's Home Rule Charter.



SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned authority on this 19th day of May 2015, to certify which witness my hand and official seal.



Kelly Dix
Notary Public, State of Texas

(SEAL)

