



Explanation of proposed 2022 Amendments to the Bastrop Home Rule Charter

Introduction

The City of Bastrop's Home-Rule Charter is a foundational governmental document. Much like a municipality's constitution, the Charter is both the legal source of authority and a limit on the City's authority. Along with state law, it establishes the essential framework for the local government.

The Charter was last amended by the voters at an election held on in 2016. State law prevents charters from being amended more frequently than every two years. Bastrop's Charter states that it should be evaluated at least every six years.

The proposed Charter amendments will be adopted if approved by a majority of the qualified voters at an election held for that purpose. All registered voters of the City will be entitled to cast a vote.

At the Special Election voters can vote FOR or AGAINST each of the individual amendments to the Charter. Below are the individual propositions and brief explanations of why they are offered for consideration. Most propositions may be characterized as non-substantive clean-up edits. This is *educational material, only*. The City of Bastrop as an organization offers these propositions for consideration but does not advocate for or against passage of these items.

Propositions

Prop A: Shall Section 2.03 of the Charter be amended to conform with state law by removing reference to the City's power to annex territory without consent of the inhabitants?

Explanation: Legislative changes to Texas statutory law have made it difficult to annex property without the consent of the property owners. See Texas Local Government Code Chapter 43.

Amended Text: If approved, the section will read (in relevant part):

Section 2.03 - Annexation

The Council shall have the power by ordinance to fix the boundary limits of the City

to provide for the alteration and the extension of said boundary limits, and the annexation of additional territory lying adjacent to the City, in compliance with state law ~~with or without the consent of the territory and inhabitants annexed~~. During the annexation process, the Council shall provide an opportunity for all interested persons to be heard at public hearing(s), in conformance with state law....

Prop. B: Shall Section 3.06(6) of the Charter be amended to conform with state law creating a vacancy on the city council when a council member announces their candidacy for certain elected offices and the unexpired term of the council member exceeds one year and thirty days?

Explanation: The Texas Constitution has a provision commonly referred to as the *Resign to Run* rule, which automatically creates a vacancies in certain elected offices if the incumbent announces they are seeking another elected office. The *Resign to Run* rule applies (in relevant part) when certain candidates for other offices have 1 year and 30 days left on their current term. The current Charter provision only references the 1 year mark, but omits the additional 30 days.

Amended Text: If approved, the section will read (in relevant part):

Section 3.06 - Vacancies, Forfeiture of Office and Filling of Vacancies.

The office of a Council Member shall become vacant upon the member's death, resignation, removal from or forfeiture of that office. A Council Member shall forfeit that office if the Council Member: ...

(6) announces his/her candidacy, or shall in fact become a candidate, in any General, Special or Primary Election, for any office of profit or trust under the laws of the State of Texas or the United States other than the office then held, at any time when the unexpired term of the Council Member then held shall exceed one (1) year and 30 days, such announcement or such candidacy shall constitute an automatic resignation of the Council position then held, as set forth in Article XVI, Sec. 65(b) of the Texas Constitution.

Prop. C: Shall Section 3.15(b) of the Charter be amended to authorize the city council to waive by an affirmative vote of four (4) or more Council Members the requirement that an ordinance be read in two separate meetings?

Explanation: State law does not require that all ordinances be read at two separate meetings before being adopted. However, the current Charter does. There are occasions when it would be expeditious and advantageous to dispense with the second reading (e.g., at the end of the year and during holiday seasons). This amendment allows waiver of the two-reading requirement if the waiver is approved by a super-majority vote of the City Council.

Amended Text: If approved, the section will read (in relevant part):

Section 3.15 - Ordinances in General.

(b) Procedure. An ordinance may be introduced and acted upon at any regular or special meeting of the Council. No ordinance shall be passed, except in cases of emergency, until the descriptive caption of the ordinance shall have been read in two separate meetings of the Council.

The requirement for considering ordinances and reading the descriptive caption thereof at two (2) separate meetings may be dispensed with: (1) where an ordinance relating to the immediate preservation of the public peace, health or safety is adopted as an emergency measure by a majority vote of the Council Members and such emergency ordinance shall take effect immediately upon its adoption and execution without a second consideration; or (2) when a majority vote of four or more Council Members determines through a separate motion that the first reading is sufficient for adequate consideration of the ordinance.

Prop. D: Shall Section 3.16 of the Charter be amended to reflect the fact that codes of technical regulations are available to the public digitally and free of charge?

Explanation: Technical regulations such as the *Building Bastrop Block Technical Manual* are often necessary to implement city policies regarding building and construction. State law does not require such rules to be posted online. Whether to provide technical codes online is a local policy decision. With advances in technology, it is not always necessary or feasible to print and sell hardcopy versions of the City's Code of Ordinances. Instead, the technical codes can now be accessed by the public at-will and without fees from the City's home page.

Amended Text: If approved, the section will read (in relevant part):

Section 3.16 Codes of Technical Regulations.

The Council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedures and requirements governing such an adopting ordinance shall be that prescribed for ordinances generally. A copy of each adopted code of technical regulations, as well as the adopting ordinance, shall be authenticated and recorded by the City Secretary pursuant to Section 3.17.

Copies of any adopted code of technical regulations shall be made available by the City Secretary digitally without charge through the City's website ~~for purchase at a reasonable price.~~

Prop. E: Shall Section 3.17(b) of the Charter be amended to reflect the fact that ordinances are available to the public digitally and free of charge?

Explanation: Ordinances are municipal rules and regulations. State law does not require ordinances be compiled into a published collection called the Code of Ordinances (i.e., codified). Whether to codify ordinances is a local policy decision. State law does not mandate how Codes of Ordinances are published when codified. Bastrop has a Code of Ordinances. With advances in technology, it is no longer necessary or feasible to print expensive hardcopy versions of the City's Code of

Ordinances. Instead, the ordinances can now be accessed by the public at-will and without fees from the City's home page.

Amended Text: If approved, the section will read (in relevant part):

Section 3.17 Authentication and Recording; Codification

(b) Codification. All City ordinances having the force of law shall be codified. The general codification shall be adopted by the Council by ordinance and shall be published ~~online in loose-leaf form~~ and shall include this Charter and any amendments thereto. The official copy of the City Code in the office of the City Secretary shall be kept up to date and properly indexed. It shall not be necessary to repeat in this codification any technical codes adopted by reference. Copies of the City Code shall be available to the public digitally without charge through the City's website ~~furnished to City offices, placed in libraries and public offices for free public reference and made otherwise available for purchase by the public at a reasonable price fixed by the Council. Amendments to the City Code shall also be made available for purchase by the public as they become available.~~

Prop. F: Shall Section 5.02 of the Charter be amended to conform with state law by stating that the term of office of municipal court judges shall be provided for by ordinance?

Explanation: State law states that the city council shall provide by ordinance for the term of office of its municipal judges. The term must be for a definite term of two or four years. Tex. Gov't Code § 30.00006(d). The Bastrop Code of Ordinances provides for a two-year term. The current Charter provision states that the term is three years.

Amended Text: If approved, the section will read (in relevant part):

Section 5.02 - Judge of the Municipal Court.

The Municipal Court shall be presided over by a Judge(s). The Judge(s) shall be nominated by the Mayor and appointed by the Council for a term provided by ordinance ~~of three (3) years to run concurrently with the term of the office of the Mayor, or for the portion of such unexpired term as may remain at the time of the appointment.~~

Prop. G: Shall Section 10.04 of the Charter be amended to conform with state law by requiring petitions calling for initiative or referendum elections to comply with the Texas Election Code?

Explanation: Texas Election Code Ch. 277 states that once petitions can't be amended or supplemented (with certain exceptions) after they are filed. The current language is inconsistent with state law.

Amended Text: If approved, the section will read (in relevant part):

Section 10.04 Filing, Examination and Certification of Petitions

All papers comprising a petition for initiative or referendum shall be assembled and filed with the City Secretary as one instrument.... A petition may be amended or supplemented in compliance with the Texas Election Code ~~at any time within ten (10) days after a notice of insufficiency has been sent by the City Secretary, by filing a supplementary petition. In such event, the same procedures shall then be followed by the City Secretary and Council as in the case of the original petition for the same purpose.~~

Prop. H: Shall Section 10.08 of the Charter be amended to conform with state law by requiring petitions calling for recall elections to comply with the Texas Election Code?

Explanation: Texas Election Code Ch. 277 states petitions can't be amended or supplemented (with certain exceptions) after they are filed. The current language is inconsistent with state law.

Amended Text: If approved, the section will read (in relevant part):

Section 10.08 - Recall Election.

All papers comprising a recall petition shall be assembled and filed with the City Secretary. Within thirty (30) days after the petition is filed, the City Secretary shall determine its sufficiency and, if found to be sufficient, shall certify this fact to the Council at its next regular meeting. A petition may be amended or supplemented in compliance with the Texas Election Code. ~~If a recall petition is found to be insufficient, it may be amended within ten (10) days after notice of such insufficiency by the City Secretary, by filing a supplementary petition.~~

Prop. I: Shall Section 12.01 of the Charter be amended to provide that the number of Planning and Zoning commissioners shall be established by ordinance?

Explanation: State law does not specify the membership of a Planning and Zoning Commission; thus, it is a matter of local preference. The current size of the P&Z under the Charter is 9. This amendment removes reference to the size of the P&Z from the Charter and allows the City Council to set the size of the P&Z by ordinance.

Amended Text: If approved, the section will read (in relevant part):

Section 12.01 - Planning and Zoning Commission.

There shall be established a Planning and Zoning Commission which shall consist of ~~nine (9)~~ residents, serving staggered three-year terms.

Any vacancy on the Commission shall be filled by the Council for the remainder of the unexpired term in question. Members of the Commission shall serve without compensation and may be removed by the Council at its sole discretion. The Commission shall annually elect a Chair and a Vice Chair from among its

membership. A majority of members shall constitute a quorum. The Commission shall keep minutes of its proceedings and such minutes shall be of public record.

Prop. J: Shall Sections 14.03 and 14.04 of the Charter be repealed in their entirety as outdated, transitional provisions that are now irrelevant?

Explanation: These provisions are surplus language included as part of the 2010 Charter amendments as an explanation regarding the implementation of that collection of modifications, which included increasing terms of office from 2 to 3 years. They no longer have any relevance to the current Charter and will not affect any future amendments.

~~Section 14.03—Submission of Charter Amendment to Election.~~

~~The City Council, in preparing these Charter Amendments, finds and declares that it is impracticable to segregate each subject so that the voter may vote "yes" or "no" on the same, for the reason that the Charter is so constructed that in order to enable it to properly function it is necessary that it should be amended as set forth on the seven (7) separate ballots presented. For this reason, the City Council directs that the ballot provisions related to these Charter Amendments be voted upon as set forth on the seven (7) ballot propositions presented, and that these amendments shall be submitted to the qualified voters of the City at an election to be held on the 2nd day of November, 2010. The various Charter Amendments approved by a majority of the qualified voters, voting at this election, shall become the Amended Charter of the City of Bastrop on the date the Council enters an order in the records of the City declaring that the various approved Charter Amendments are adopted and the Home Rule Charter is, thus, Amended to include the ballot changes approved by the voters of the City of Bastrop. No amendments to the Charter are intended nor shall same be made other than those specifically approved by the voters in the upcoming election, and as noted herein.~~

~~Section 14.04—Transitional Elections/Staggered Terms.~~

~~In order to provide for a smooth transition from the former two-year terms for all Council Members to the three-year staggered terms set forth in Charter Section 3.02, the following transitional election rules shall be applied.~~

- ~~(1) Staggering Terms. At the first Council meeting following the approval by the electorate of three-year terms of office pursuant to the Amended Charter, then sitting Council Members, including the Mayor, shall draw lots to determine which Council places and/or Mayoral position shall be subject to a transitional length term of office; in order to provide for staggering of terms, the objective being that as stated in Section 3.02; specifically that each year, two (2) Council places, including the Mayoral position, shall be up for election for 3-year terms of office.~~
- ~~(2) Implementation of Staggered Terms. No City Council Member shall be required to draw lots that would result in a transitional term of less than two years or exceeding four years to accomplish the staggering of terms as set forth herein.~~

~~(3) Deadline for Accomplishing Staggering Terms. The City Council shall accomplish staggering the terms of office for all Council Member places and the Mayoral position on or before the General Election that will occur in 2015.~~

Prop. K: Shall the Charter be amended throughout to replace gender -specific language with gender-neutral terminology?

Explanation: The Charter is replete with gender-specific terms, including:

- his,
- his or her,
- his/her,
- him,
- him/her

Amended Text: If approved, the gender-specific wording listed above will be replaced with they, their, or theirs, as appropriate in context.

Prop. L: Shall Section 4.01 be amended to allow the City Manager to reside in the City Limits and the 1-mile extra-territorial jurisdiction?

Explanation: State law does not dictate where the City Manager must reside; instead that is prescribed in the City Charter.

Amended Text: If approved, the text shall read as follows:

Section 4.01 Appointment, Qualifications and Compensation of the City Manager

The Council shall appoint a City Manager for an indefinite term, who shall be the chief administrative officer of the City. The City Manager shall be chosen by the Council by a majority vote of its entire membership and solely on the basis of executive and administrative training, experience, ability and character and without regard to political consideration. The City Manager need not be a resident of the City at the time of appointment but shall reside within the City limits or within the 1-mile extraterritorial jurisdiction while in office.

Prop. M: Shall section 3.08 be amended to allow the Mayor or 2 council members to appoint to boards and commissions subject to confirmation of the city council?

Explanation: The city charter prescribes that the Mayor appoint board and commission members, and the council confirm.

Amended Text: If approved, the text shall read as follows:

Section 3.08 Mayor and Mayor Pro Tem

The Mayor shall preside over the meetings of the Council and perform such other duties

consistent with the office as may be imposed on the Mayor by this Charter and all ordinances and resolutions passed in pursuance thereof. The Mayor may not vote, except in elections, to break a tie and as otherwise provided in this Charter. The Mayor shall have no veto power. The Mayor or two (2) councilmembers shall appoint members to all City boards and commissions, subject to confirmation by the Council.

Conclusion

This explanation is provided by the City of Bastrop as *educational material, only*. While the City Council voted in favor of calling the Special Election to place these propositions before the voters, the City of Bastrop as an entity does not advocate for or against passage of any particular item.