

ORDINANCE NO. 2018-10

AN ORDINANCE OF THE CITY OF BURNET, ORDERING AND DECLARING THE 2018 CHARTER AMENDMENTS ADOPTED.

WHEREAS: On May 05, 2018 the City of Burnet held an election on the adoption of amendments to the City's Home Rule Charter; and

WHEREAS: On May 15, 2018 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 22nd day of May, 2018 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:

City of Burnet City Charter:

Section 3.04. - Judge of Election Qualifications.

The City Council shall be the judge of the qualifications of its members.

Section 3.05. - Compensation.

The Mayor and Council Members may be compensated. The rate of compensation may be established or changed by the City Council; however, no increase in the rate of compensation shall take effect unless ratified by a majority of the voters in the next regular City election. The Mayor and Council Members shall be entitled, with approval by the City Council, to be reimbursed for reasonable expenses incurred in the performance of specific duties. Levels of reimbursement shall be determined by the City Council.

Section 3.06. - Mayor and Mayor Pro-tem.

The Mayor shall be the official head of the City government. The Mayor shall be the Chair and shall preside at all meetings of the City Council. The Mayor may make motions and may vote on every proposition before the City Council. While the Mayor or alternate presiding officer shall have no power to veto, he/she shall have the power to declare a delay of the initial vote on a matter until the next Council meeting. The Mayor shall, except as provided otherwise by the City Council, sign all official documents such as ordinances, resolutions, conveyances, grant agreements, official plats, contracts and bonds. The Mayor shall appoint special committees as advisable and as instructed by the City Council. The Mayor shall perform such other duties consistent with this Charter or as may be imposed by the City Council.

Section 3.07. –Vacancies, Forfeiture, and Filing of Vacancies.

A. **Vacancies.** The office of a City Council Member or the Mayor shall become vacant upon the death, incapacity, resignation, or removal from office in any manner authorized by law, or forfeiture of office by the office holder.

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

the City Council shall, at its next regular meeting, declare the office to be vacant and shall fill such vacancy as set forth below.

C. **Resignation by filing or another elected position**

If a City Council Member or the Mayor has more than one year remaining on their term and files to run for another elected position within the City government then

said filing shall be considered a resignation of their current position. However, the resigning individual shall holdover in their current position until their successor is sworn in to office.

D. Filling of Vacancies.

1. When a single or double vacancy occurs in the City Council, the remaining members of the City Council shall:
 - a. If the remaining term(s) is less than one year in duration either appoint a qualified person to fill the unexpired term(s) or hold a special election to fill the unexpired term(s). An appointment must be approved by an affirmative vote of at least five (5) members of the City Council members; or
 - b. If the remaining term(s) is one year or more, order an election to fill the unexpired term(s) at the next regular general election.
2. Should three (3) vacancies exist on City Council at the same time then City Council shall order an election to fill the vacancies on the next available uniform election date as provided by law.
3. All appointments to City Council shall serve until the next regular election.
4. All appointments to City Council shall be qualified to serve pursuant to Section 3.03 of this Charter and shall take office immediately upon appointment.

Section 3.14. - Ordinances and Resolutions.

The enacting clause of all ordinances shall be: "Be it ordained by the City Council of the City of Burnet, Texas..." Ordinances, and formal resolutions that establish programs, adopt policy, provide any rule or regulation applicable to the general public, or establish requirements for any general administrative function of the City, shall be introduced in the City Council only in written or printed form and shall contain only one subject each. Resolutions that give directions to the City Manager on a business matter, approve an administrative action, contract or bid, and that approve plans and actions in the course of the day-to-day business of the City, will be sufficient if shown by recording the motion and vote in the minutes of the City Council. Ordinances making appropriations shall be confined to appropriations.

Any reference to the reading of an ordinance made in this Charter shall be understood to mean the reading of the caption of the ordinance only unless a specific request is made by any Council Member for the ordinance to be read in part or in full. Any ordinance that levies a fine or penalty or deals with the budget, taxes, franchises or public utilities or the setting of their rates shall be read at two (2) meetings. Such Ordinances shall be published in full or by caption with a summary in two (2) successive issues of a newspaper of general circulation in the City of Burnet and as files available for download via the Internet with the first publication at least fourteen (14) days before the final reading and passage of the Ordinance.

No ordinance that is not an emergency ordinance, shall be finally passed until it has been read on two (2) separate days not less than twenty-four (24) hours apart.

Section 3.16 Council Investigative Body; Hearings; Process.

A. *General.* In addition to any other specific authority of investigation and hearing provided for in this Charter, the City Council shall have the power to inquire into the official conduct of any department, agency, office, officer, employee, or contract service provider of the City, and for that purpose shall have the power to administer oaths and subpoena witnesses, compel the attendance of witnesses and the production of books, papers and other evidence material to the inquiry. The City Council shall by ordinance provide the process, procedures and requirements for the subpoena of persons, books, papers and other evidence, the giving of notice, and the fine or penalty for the failure or refusal of any person to comply with a subpoena, and shall have the power to punish the misconduct in the manner provided by the ordinance.

B. Hearings Process for Forfeitures of Office and Prohibitions.

1. All hearings held under this subsection shall be conducted in open session, except that the City Council may conduct a closed session to get advice from its attorney pursuant to the Texas Open Meetings Act;
2. The officer holder subject to any investigation and/or hearing under this section shall be entitled to written notice, delivered by certified mail return receipt requested, of the allegations of forfeiture and/or the alleged violation of this Charter as applicable; delivery shall be complete on the fifth business day following upon deposit of the written notice, postpaid and properly addressed, in the mail.
3. A special meeting shall be called to hold the hearing; said special meeting to be held no earlier than fourteen (14) days subsequent from the delivery of written notice and no later than ninety (90) days after delivery of written notice, unless otherwise agreed to by a majority of the City Council and the individual subject to the hearing.
4. A Member of City Council who initiated or is the subject of the investigation or hearing shall not sit at the dais and shall not participate in deliberation or vote;
5. City Council shall adopt by ordinance rules of procedures to be followed;
6. The City Council shall state the nature of the hearing and the allegations to be considered, shall be provided the results of any investigation and a presentation of the evidence against the office holder including, but not limited to testimony from individuals;
7. The individual who is subject to the hearing shall be provided a copy of the results of the investigation, including any written testimony acquired during the

investigation, an opportunity to respond to the allegations and present any relevant evidence including, but not limited to, testimony from individuals;

8. City Council may ask questions of any individual giving testimony;

9. No Public comment shall be allowed;

10. In the case of a violation of Section 3.07 of this Charter City Council shall vote on the forfeiture and on the affirmative vote of two-thirds of the City Council declare the office of said office holder to be forfeited and vacant;

11. In the case of a violation of Section 3.09 of this Charter City Council may on the affirmative vote of a majority of the City Council may take any of the following actions: directing further investigation, requesting further information, take a vote of censure; or, upon the affirmative vote of two-thirds of City Council, declare the office of said office holder to be forfeited and vacant; and

12. Any Investigation conducted pursuant to this section shall be conducted by an outside, independent third party.

Section 4.10. - Boards and Commissions.

Remove in its entirety.

Section 5.05. - Official Ballot.

Remove in its entirety.

Section 5.07. - Taking of Office.

Each newly elected person to the City Council shall be inducted into office at the City Council meeting canvassing the votes.

Section 6.02. - Power of Initiative.

Subject only to the limitations provided in this Article, the people of the City shall have the power to propose legislation on any local government issue, except legislation appropriating money, levying taxes, affecting zoning, annexing land, or setting rates, fees or charges, and, if the City Council fails to adopt an ordinance so proposed, to adopt or reject the proposed legislation at an election. An initiated ordinance may be submitted to the City Council by a petition signed by at least two hundred (200) registered voters of the City or five percent (5%) of the number of voters registered to vote in the previous municipal election whichever number is greater.

Section 6.03. - Power of Referendum.

The voters of this City shall have the power to approve or reject at the polls any ordinance enacted by the City Council that is subject to the Referendum process under this Charter, except for bonds that have been legally awarded to a successful bidder or other legal obligations. The petition for Referendum shall require the signatures of at least two hundred (200) registered voters or five percent (5%) of the number of voters registered to vote in the previous municipal election whichever number is greater.

Section 6.10. - Power of Recall.

The people of the City reserve the power to recall any elected officer of the City and may exercise the power by filing with the City Secretary a petition stating cause for the removal of the elected officer. Such petitions shall be signed by the greater of either five hundred (500) registered voters or ten percent (10%) of the registered voters of the City registered to vote at the last general election. Within fifteen (15) business days after a recall petition is filed, the City Secretary shall determine whether it is properly signed by the requisite number of registered voters residing within the City and shall verify the petition as sufficient or insufficient. If the certificate of the City Secretary shows a Recall Petition to be insufficient, the City Secretary shall notify in writing the persons filing the petition. The written notification shall detail the defects that must be corrected if the petition is to be found sufficient. The petition may then be amended within fifteen (15) business days from the date of such notice by the filing of a supplementary petition and the submitting of additional papers that are signed and filed as prescribed for the original petition. Within fifteen (15) business days after the amendment is filed, the City Secretary shall examine the amended petition and certify as to its sufficiency. If the amended petition is then found to be insufficient, no further proceedings shall be had with regard to it. A separate petition shall be required for each officer to be recalled.

Section 7.02. - Submission of Budget and Budget Message.

On or before the 15th day of August of each fiscal year, the City Manager shall submit to the City Council a budget for the ensuing fiscal year, a five (5) year projected operating budget, five (5) year capital program and an accompanying message.

Section 7.10. - Overspending of Appropriations Prohibited.

No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with authorized appropriations and unless the City Manager or his designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment made shall be illegal. A violation of this provision shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation. Such officer may also be liable to the City for any amount so paid. Except as prohibited by law, however, nothing in this Charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed in whole or in part by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year.

Section 7.14 –Bonds.

Remove in its entirety

Section 7.15. - Capital Program.

Remove in its entirety

Section 7.16. - City Council Action on Capital Program.
Remove in its entirety.

Section 8.05. - Consent of Property Owners.
Remove in its entirety.

Section 8.10. - Municipally Owned Utilities, Public Services and Proprietary Enterprises.
Remove in its entirety.

Section 9.04. - Comprehensive City Plan
No change to Section 9.04-Proposition failed

Section 10.02. – Prohibitions
Remove Sections A. & B.

Section 10.03. - Ethics.
Replace section C. Nepotism with this statement:
City Council shall adhere to and comply with the applicable nepotism laws provided by State law.

Section 10.04. - Oath of Office.
Remove in its entirety.

Section 10.05. - Exemption From Execution, Garnishment and Assignment.
Remove in its entirety.

Section 10.07. - Security or Bond Not Required.
Remove in its entirety.

Section 10.08. - Notice of Claim.

A. The City shall never be liable for any personal injury, whether resulting in death or not, unless the person injured or someone in his behalf, or in the event the injury results in death, the person or persons who may have a cause or action under the law by reason of such death injury, shall file a notice in writing with the City Manager within ninety (90) days after the same has been received, stating specifically in such notice when, where and how the exact injury occurred and the full extent thereof, together with the amount of damages claimed or asserted. The notice requirements provided for herein do not apply if the City has actual notice that death has occurred, or that the claimant has received some injury. Further, should the claimant provide good cause for failure to comply with the notice requirements herein then said notice requirements shall not apply.

B. The City shall never be liable for any claim for damage or injury to personal property unless the person whose personal property has been injured or damaged or someone in his behalf, shall file a claim in writing with the City Manager within ninety (90) days after said damage or injury has occurred and the full extent thereof, and the

amount of damage sustained. The City shall never be liable for any claim for damage or injury to real property caused by negligent act or omission of its officers, servants, agents, or employees, unless the person whose real property has been injured or damaged or someone in his behalf, shall file a claim in writing with the City Manager within ninety (90) days after said damage or injury has occurred, stating specifically when, where and how the injury or damage occurred and the amount of damage claimed. The notice requirements provided for herein do not apply if the City has actual notice that the claimant's property has been damaged. Further, should the claimant provide good cause for failure to comply with the notice requirements herein then said notice requirements shall not apply.

Section 10.10. - Sale or Lease of Real Property Other than Public Utilities or Real Property Acquired by Tax Sale.
Remove in its entirety.

Section 10.11. - Abandonment of Streets, Alleys and Rights of Way.
Remove in its entirety.

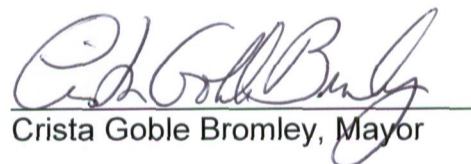
Article XI. - Charter Amendments
Remove in its entirety.

Section 11.02. - Election.
Remove in its entirety.

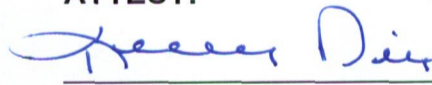
Section 11.03. - Adoption of Amendments.
Remove in its entirety.

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 22nd, day of May, 2018.


Crista Goble Bromley, Mayor

ATTEST:


Kelly Dix, City Secretary

