ORDINANCE NO. 2016-19

AN ORDINANCE OF THE CITY OF BASTROP, TEXAS, CALLING FOR A SPECIAL ELECTION TO BE HELD IN THE CITY OF BASTROP, TEXAS ON NOVEMBER 8, 2016 FOR THE PURPOSE OF SUBMITTING CHARTER AMENDMENTS TO THE VOTERS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION IN A NEWSPAPER OF GENERAL CIRCULATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Bastrop, Texas, is a home rule city acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the laws of the State of Texas and the City of Bastrop, provide that any amendments to a Home Rule Charter shall be submitted to the qualified voters of the City of Bastrop, Texas.

WHEREAS, the laws of the State of Texas further provide that the Election Code of the State of Texas is applicable to said election, and in order to comply with said Code, an Ordinance should be passed establishing the procedure to be followed in said election, and designating the voting places for said election.

NOW, THEREFORE, BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS THAT:

A special election will be held on November 8, 2016, for the purpose of submitting proposed amendments to the City Charter to the citizens of Bastrop, Texas.

The ballots (voting 'FOR' or 'AGAINST') shall include the following propositions that will result in textual amendments to the City's Home Rule Charter, which was first adopted in May, 2002. The ballots reflecting the proposed amendments shall be submitted to the qualified voters of the City of Bastrop, Texas, at the election, in accordance with Section 9.004 of the Texas Local Government Code, Section 13.09 of the Bastrop City Charter and applicable State laws.

The proposed amendments to the Charter are reflected herein, as follows: (a) proposed 'deleted text' is shown by the use of ~~strikethrough~~ and (b) proposed 'added text' is shown by the use of <u>underlining</u>.]:

Charter Amendment No. 1

"Shall the Charter be amended to change the percentage of signatures required of registered voters for an initiative from 20% to 5%, by making the amendments shown in Charter Proposition 1 below?"

_____ YES **_____ NO**

Charter Proposition 1:

"Shall Section 10.01 of Article X of the Home Rule Charter of the City of Bastrop be amended to read as follows?":

Section 10.01 - Power of Initiative.

The people of the City reserve the power to direct legislation by initiative and, in the exercise of such power, may propose any ordinance not in conflict with this charter or state law, except an ordinance appropriating money or authorizing the levy of taxes or an ordinance repealing an ordinance appropriating money or levying taxes. Any initiated ordinance may be submitted by a petition signed by registered voters of the city equal in number to at least ~~twenty (20)~~ five (5) percent of the number of registered voters residing in the city at the time of the last regular city election.

FISCAL IMPACT FOR CHARTER AMENDMENT - BALLOT NO. 1: None

Charter Amendment No. 2

"Shall the Charter be amended by adding language in the initiative requiring that such signatures must be gathered within 180 days, by adding the language as shown in Charter Proposition 2 below?"

_____ YES **_____ NO**

Charter Proposition 2:

"Shall Section 10.01 of Article X of the Home Rule Charter of the City of Bastrop be amended to read as follows?":

Section 10.01 - Power of Initiative.

The people of the City reserve the power to direct legislation by initiative and, in the exercise of such power, may propose any ordinance not in conflict with this charter or state law, except an ordinance appropriating money or authorizing the levy of taxes or an ordinance repealing an ordinance appropriating money or levying taxes. Any initiated ordinance may be submitted by a petition signed by registered voters of the city equal in number to at least twenty (20) percent of the number of registered voters residing in the city at the time of the last regular city election. A petition signature is invalid if the signer signed the petition earlier than the 180th day before the date the petition is filed.

FISCAL IMPACT FOR CHARTER AMENDMENT - BALLOT NO. 2: None

Charter Amendment No. 3

"Shall the Charter be amended to change the percentage of signatures required of registered voters for a referendum from 20% to 5%, by making the amendments shown in Charter Proposition 3 below?"

_____ YES **_____ NO**

Charter Proposition 3:

"Shall Section 10.02 of Article X of the Home Rule Charter of the City of Bastrop be amended to read as follows?":

Section 10.02 - Power of Referendum.

The people of the City reserve the power to approve or reject at the polls any legislation enacted by the Council which is subject to the initiative process under this Charter. Within thirty (30) days after the final adoption or publication, whichever date is later, of any ordinance which is subject to referendum, a petition, signed by registered voters of the city equal in number to at least ~~twenty (20)~~ five (5) percent of the number of registered voters residing in the City at the time of the last regular City election, may be filed with the City Secretary requesting that any such ordinance be either repealed or submitted to a vote of the people. When such a petition has been certified as sufficient by the City Secretary, the ordinance so specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless it is approved by the voters as herein provided.

FISCAL IMPACT FOR CHARTER AMENDMENT - BALLOT NO. 3: None

Charter Amendment No. 4

"Shall the Charter be amended by adding language in the referendum by requiring that such signatures must be gathered within 180 days, by adding the language as shown in Charter Proposition 4 below?"

_____ YES **_____ NO**

Charter Proposition 4:

"Shall Section 10.02 of Article X of the Home Rule Charter of the City of Bastrop be amended to read as follows?":

Section 10.02 - Power of Referendum.

The people of the City reserve the power to approve or reject at the polls any legislation enacted by the Council which is subject to the initiative process under this Charter. Within thirty (30) days after the final adoption or publication, whichever date is later, of any ordinance which is subject to referendum, a petition, signed by registered voters of the city equal in number to at least twenty (20) percent of the number of registered voters residing in the City at the time of the last regular City election, may be filed with the City Secretary requesting that any such ordinance be either repealed or submitted to a vote of the people. When such a petition has been certified as sufficient by the City Secretary, the ordinance so specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless it is approved by the voters as herein provided. A petition signature is invalid if the signer signed the petition earlier than the 180th day before the date the petition is filed.

FISCAL IMPACT FOR CHARTER AMENDMENT - BALLOT NO. 4: None

Charter Amendment No. 5

"Shall the Charter be amended to change the percentage of signatures required of registered voters for a recall from 25% to 10%, by making the amendments shown in Charter Proposition 5 below?"

_____ YES **_____ NO**

Charter Proposition 5:

"Shall Section 10.07 of Article X of the Home Rule Charter of the City of Bastrop be amended to read as follows?":

Section 10.07 - Power of Recall.

The people of the City reserve the power to recall the Mayor or any other member of the Council and may exercise such power by filing with the City Secretary a petition, signed by qualified voters of the City equal in number to at least ~~twenty-five (25)~~ ten (10) percent of the number of registered voters residing in the City at the time of the last regular municipal election of the City demanding the removal of the Mayor or other member of the Council. The petition shall be signed and verified in the manner required for an initiative petition, shall contain a general statement of the grounds upon which the removal is sought and one of the signers of each petition paper shall make an affidavit that the statements made therein are true.

FISCAL IMPACT FOR CHARTER AMENDMENT - BALLOT NO. 5: None

This City has five (5) election precincts and said election shall be held at the following locations. The polling places shall be open from 7:00 a.m. to 7:00 p.m. on November 8, 2016, **Election Day**.

Election Precinct: 1001 - Bastrop County WCID #2 Bldg, 106 Conference Dr., Bastrop, Texas

Election Precinct: 1002 – First Baptist Church, 1201 Water St., Bastrop, Texas

Election Precinct: 1003 - Bastrop Church of Christ, 287 Highway 20, Bastrop, Texas

Election Precinct: 2009 - Calvary Baptist Church, 3005 Loop 150 E., Bastrop, Texas

Election Precinct: 2011 - Bastrop Fire Department Station #3 (Circle D), 926 FM 1441, Bastrop, Texas

The County Elections Administrator is hereby authorized and instructed to provide and furnish all necessary election supplies to conduct said election. Voting at such election shall be upon paper ballots prepared in conformity to the Texas Election Code.

Section 61.012 of the Texas Election Code requires that the Bastrop City Council must provide at least one accessible voting system in each polling place used in a Texas election on or after January 1, 2006. This system must comply with state and federal laws setting the requirements for voting systems that permit voters with physical disabilities to cast a secret ballot.

The Office of the Texas Secretary of State has certified that the ES&S's AutoMARK Voter Assist Terminal version 1.0 is an accessible voting system that may legally be used in Texas elections.

Sections 123.032 and 123.035 of the Texas Election Code authorize the acquisition of voting systems by local political subdivisions and further mandate certain minimum requirements for contracts relating to the acquisition of voting of such voting systems.

As chief elections officer of the Bastrop City Council, the Bastrop County Elections Administrator shall provide at least one ES&S AutoMARK Voter Assist Terminal version 1.0 in each polling place in every polling location used to conduct any election ordered on or after January 1, 2006.

The following named persons are hereby appointed officers for said election:

Election Precinct: 1001 - Presiding Judge: Regina Hightower -Rep
Alternate Judge: PK Barnett-Dem

Election Precinct: 1002 - Presiding Judge: John Thrift- Dem

Alternate Judge: Cliff Sparks- Rep

Election Precinct: 1003 - Presiding Judge: Don Loucks- Rep
Alternate Judge: Dan Hayes- Dem

Election Precinct: 2009 - Presiding Judge: Roy Baldwin- Rep
Alternate Judge: Melanie Hunt- Dem

Election Precinct: 2011 - Presiding Judge: Carol Ricke- Rep
Alternate Judge: Brenda Sellers- Dem

The clerks for the election will be appointed by the Presiding Judge, in a number not to exceed eight (8) clerks.

Bridgette Escobedo is hereby appointed Clerk for Early Voting. Early Voting locations, dates and times for the above designated election shall be as follows:

Bastrop Courthouse Annex Building, 804 Pecan Street, Lower Level, Conference Room, Bastrop, Tx;

Elgin Public Library, 404 N. Main Street, Elgin, Texas;

Smithville City Hall, 317 Main Street, Smithville, Texas;

Cedar Creek United Methodist Church, 5630 FM 535, Cedar Creek, Texas

The early voting locations shall be open from 8:00 a.m. to 5:00 p.m., Monday, October 24, 2016 through Saturday, October 29, 2016 and Monday, October 31, 2016 through Wednesday, November 3, 2016.

All four early voting locations shall remain open on Thursday, November 3, 2016 and Friday, November 4, 2016 for 12 hours, 7:00 a.m. to 7:00 p.m.

Ballot applications and ballots voted by mail should be addressed to the Early Voting Clerk, Bridgette Escobedo, Bastrop County Elections Administrator, 804 Pecan Street, Bastrop, Texas 78602. Applications for ballots by mail must be received no later than the close of business on October 28, 2016.

For Elections Precincts 1001, 1002, 1003, 2009 and 2011, Staci Calvert is hereby appointed as Presiding Judge of the Early Voting Ballot Board. In accordance with Section 87.0021 et seq. of the Texas Election Code said presiding judge shall appoint at least two (2) other members to the Board and shall process early voting results in accordance with said Texas Election Code.

The Presiding Judge and Alternate Judge will receive compensation at the rate of $10.00 per hour. The Clerks will receive compensation at the rate of $8.00 per hour. The Presiding Judge

will receive an additional $25.00 for picking up the election supplies prior to Election Day and for returning the supplies after the polls close.

Said election shall be held in accordance with the Election Code of this State and only resident qualified voters of said City shall be eligible to vote at said election.

The Mayor shall give notice of this election in accordance with the terms and provisions of Sections 4.004, 83.010, 85.004, and 85.007 of the Election Code, and all necessary orders and writs for said election shall be issued by the proper authority. Returns of said election shall be made to the City Council immediately after the closing of the polls.

It is further found and determined that in accordance with the order of this governing body, the City Secretary will post notice of the date, place and subject of this meeting on the bulletin board located at City Hall, a place convenient and readily accessible to the general public, and said notice having been so posted and remaining posted continuously for at least seventy-two (72) hours preceding the scheduled time of said meeting. A copy of the return of said posting shall be attached to the minutes of this meeting and shall be made a part thereof for all intents and purposes.

This Ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the City of Bastrop, Texas, as amended, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such Code, in which the conflicting provisions of such ordinances and such Code are hereby repealed.

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and section of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

A substantial copy of this Ordinance shall serve as proper notice of the Special Election. Said notice, including a Spanish translation thereof, shall be posted not later than the twenty-first (21st) day before the election on the bulletin board used for posting notices of meetings of the City Council and shall be published on the same day in each of two successive weeks, with the first publication occurring before the 14th day before the date of the election in a newspaper of general circulation in the City of Bastrop, Texas.

This Ordinance shall be in full force and effect from and after its second and final reading.

PASSED AND ACKNOWLEDGED on first reading this the 9th day of August 2016.

PASSED, APPROVED, AND ADOPTED this 16 day of August 2016.

Ken Kesselus, Mayor

ATTEST:

Ann Franklin, City Secretary