



# Amarillo Charter Review

Report to the Amarillo Charter Committee

May 30, 2024



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## Background

This report is an overview of the proposed Charter changes discussed by the Amarillo Mayor and City Council on May 9, 2024. Baker Tilly's input is based on our charter experience in other jurisdictions. Though we will share with the Committee what we believe will work from an overall governance standpoint, we must rely on the Committee and City staff to provide context about Amarillo as a community and the way the current government structure is working. Baker Tilly will also rely on the city attorney to provide legal advice.

The May 9 discussion was led by Mayor Stanley who expressed a strong preference for three-year terms for the mayor and council or, if four-year terms, two-year terms for the mayor. All members present (Councilmember Tibbs absent) supported staggered terms as that would prevent a complete turnover of the city council. There was also a preference for expanding the city council from five to seven members. The workload for a city the size of Amarillo is demanding especially for citizen-politicians who are not full-time. Finally, council members discussed a preference for hiring the city attorney who would report to the council rather than the city manager.

Baker Tilly's research methodology included surveying other comparable cities with Amarillo and presenting the advantages and disadvantages as a starting point for discussion. We work for the City of Amarillo (City) and you as Committee members. Feel free to ask for a change in direction or additional research at any time.

### Texas and Amarillo Elections

Below is an overview of some important information about elections in the State of Texas and the City of Amarillo.

#### **Texas Constitution Article 11, Section 5 (a) Limiting Charter Amendments**

It will be critical to consider Article 11, Section 5 (a) stating no city charter shall be altered, amended, or repealed more often than every two years. Failed ballot measures do not count.

#### **Texas State Election Cycles**

Election cycles are a crucial factor when considering charter changes, especially term lengths. Federal and state elections occur in the Spring and November of even years. Those elections, which are conducted by the counties, become the foundation for two-year election cycles in Texas. The City of Amarillo also has a two-year election cycle for the mayor and council but in odd, rather than even years.

#### **Method of Electing the Council**

Council members in cities with two-year terms may be elected by a plurality of votes cast; however, the Texas Constitution stipulates that in cities with terms longer than two years, or a population exceeding 5,000, members of the governing body must be elected by a majority vote.

#### **Amarillo Election Cycles**

The City conducts municipal elections in May of odd years. Because Amarillo must elect by majority, it can be forced to conduct runoffs. The runoff election is standalone and costly.

#### **Charter Article V Section 8 – Election Day**

The regular municipal elections of the City of Amarillo shall be held on the date allowed by state law that occurs on or nearest to May 1 in each odd numbered year. If state law provides two election dates which are equally near May 1, the council shall select one.

**Charter Article V Section 5 (c) – Elections**

Should any candidate fail to receive a majority of the votes at the regular election for the office for which he [or she] is a candidate, the council shall immediately order a special election in accordance with applicable state law, at which special election the names only of the two candidates receiving the highest number of votes at the regular election, for the office for which they were candidates shall be printed on the ballot and submitted to the registered voters within the city for election, and the candidate receiving the majority of votes at such special election for the place of office for which he [or she] was a candidate, shall be declared duly elected.

**Comparison City Data**

City Secretary, Stephanie Coggins, selected Baker Tilly and Ms. Coggins also researched, collected, and assembled the data for Table 1, which profiles the cities and their elections.

*Table 1. Comparative Data from Ten Texas Home Rule Cities*

City	Population	Total Seats	Council Districts	Represents: Entire City	Term Length	Staggered Terms
<b>El Paso</b>	683,577	Mayor + 8	8	Mayor	4	Yes
<b>Arlington</b>	398,864	Mayor + 8	5	Mayor + 3	3	Yes
<b>Plano</b>	291,296	Mayor + 7	4	Mayor + 3	4	Yes
<b>Lubbock</b>	264,000	Mayor + 6	6	Mayor	2 + 4	Yes
<b>Laredo</b>	263,640	Mayor + 8	8	Mayor	4	Yes
<b>Amarillo</b>	201,234	Mayor + 4	0	Mayor + 4	2	No
<b>Brownsville</b>	199,062	Mayor + 6	4	Mayor + 2	4	Yes
<b>Grand Prairie</b>	197,590	Mayor + 8	6	Mayor + 2	3	Yes
<b>Killeen</b>	156,261	Mayor + 7	4	Mayor + 3	2	Yes
<b>Mesquite</b>	150,184	Mayor + 6	6	Mayor	2	No
<b>Waco</b>	141,377	Mayor + 5	5	Mayor	2	Yes

**Observations**

- All comparison cities have some single-member districts.
- Mesquite and Amarillo have two-year terms that are not staggered.
- Waco and Killeen have two-year terms that are staggered. They have an election every May.
- Plano has two-year terms for the mayor and four-year terms for the council.
- Some council members represent a district but must be elected at large.
- One-half of the comparison cities have four-year terms.
- Every city on the list except Waco and Amarillo has at least seven council members.
- Five of the comparison cities have four-year staggered terms.
- Three of the comparison cities have two-year terms.
- Two of the comparison cities have three-year terms.

## Recommended Charter Amendments

In brief, the proposed changes discussed by the mayor and council on May 9 were staggered terms, extended terms, expanding the size of the city council, and enabling the council to select and direct the city attorney. These issues are presented in that order.

### Terms of Office

The Amarillo City Charter includes the following language about terms:

#### Charter Article V Section 2 – Term of Office

The mayor and each councilmember shall serve for a term of two (2) years until a successor is elected and qualified; unless sooner removed from office as herein provided.

On May 9, 2024, all councilmembers present appeared to favor alternating terms in which the mayor and one or two councilmembers are elected one year, and the others stand for election another year. Alternating election cycles for councilmembers are standard among cities, except for the few cities like Amarillo that have non-staggered, two-year terms.

### Two-year Staggered Terms

Staggering two-year terms would require the City of Amarillo to conduct an election every year. Not only would this double the cost of elections, but voters might also lose interest in city elections due to their frequency. There was no city among the ten comparison cities that had two-year staggered terms. Table 2 below lists advantages and disadvantages of two-year staggered terms.

Table 2. *Advantages and Disadvantages of Two-year Staggered Terms*

Two-year Staggered Terms	
Advantages	Disadvantages
Prevents the wholesale turnover of the entire council	Those running during the even-year (presidential or gubernatorial) election cycle may find it exceedingly difficult to be noticed
Staggered terms may increase stability	Staggered two-year terms would double the cost of elections

### Four-Year Terms

Of the comparison cities, six (or 60%) have four-year terms. Table 3 below has information on the advantages and disadvantages of four-year terms for Amarillo and its mayor and council elections.

Table 3. *Advantages and Disadvantages of Four-year Terms*

Four-Year Terms	
Advantages	Disadvantages
Council members will have more time to focus on duties because they will not be campaigning every other year	Voters may feel they have lost the ability to quickly replace a council member who is not performing
Longer terms equal longer focus and more willingness to take on multiyear projects	A person interviewed by the Globe stated it would be hard to find people who would make a four-year commitment

Four-Year Terms	
Advantages	Disadvantages
With longer terms, council members may be more likely to make unpopular but necessary decisions	A longer term means more possibility of a vacancy on the council. (The City's Charter has a process for filling vacancies by appointment)
Can reduce the cost of elections for the city and the candidate	
Elected officials have more time between elections to get to know constituents	
Provides more time to learn about governing a city the size of Amarillo.	
Less turnover adds to stability, an essential for well-run organizations	

\*One way to address this might be to liberalize recall procedures.

### Four-year Staggered Terms

According to the *Texas Handbook for Mayors and Councils*, more than 90% of home-rule charters provide continuity of the governing body by staggering council terms, thus preventing wholesale changeovers on the council at any one election.

From Baker Tilly's point of view and experience, four-year staggered terms are the most workable for city operations. This combination brings together the best of all options and offers several advantages over other models. However, Amarillo voters in 2020 did not agree. Four-year staggered terms were placed on the ballot as Proposition B (see below language). The measure failed 48% to 52%.

#### Proposition B

To amend Article V, Section 2 of the Amarillo City Charter to provide for a four-year term of office for mayor and each councilmember, with those terms being staggered as provided by ordinance.

Some voters may have mistakenly believed the measure was a means for the mayor and council to lengthen their terms. However, the four-year terms would not apply to the exiting council unless they won re-election. If the four-year staggered terms were adopted in November 2024, three (or two) members of the council would stand for a four-year term in May 2025. The other two (or three) would be elected to a two-year term. The second group (and their opponents) would be on the May 2027 ballot for a four-year term; thus, part of the council would be elected every two years. The advantages and disadvantages of four-year staggered terms are presented in Table 4 below.

Table 4. Advantages and Disadvantages of Four-Year Staggered Terms

Four-Year Staggered Terms	
Advantages	Disadvantages
All advantages of four-year terms	All disadvantages of four-year terms
No opportunity for a complete turnover of council	Harder for the public to keep track of whom is on which election cycle

Four-Year Staggered Terms	
Advantages	Disadvantages
Experienced officials are always on the dais and can guide new members in protocol and decision making	Due to the failure of Proposition B, proponents (other than the City) would need to educate voters about the enactment of four-year terms
While one-half of the council is running for office, the other half is focused on city business	

### Three-Year Staggered Terms

Based on the City Council’s May 9 meeting, Mayor Stanley supports staggered terms. He also suggested extending from two- to three-year terms. He believes this change would be more acceptable to the voters than leaping to four-year terms. Of the comparison cities, only Grand Prairie has three-year terms. They also have a nine-member city council with six members representing districts and the mayor and two of the council elected at-large.

In 2008, Eveline Moulder surveyed cities in the United States to determine the percentage spread on terms for mayors. Her data, presented through the International City Manager’s Association (ICMA), show that three-year terms are rare, used by only 6% of the representative sample, 35% have two-year terms and 45% have four-year terms.

Table 5. ICMA Information on Length of Mayor’s Term of Office

Length of Mayor’s Term	Percentage of Cities
One year	14%
Two years	35%
Three years	6%
Four years	45%
Other	<1%

Source: International City Manager’s Association (ICMA)

Baker Tilly believes that three-year terms are rarely used because they do not synchronize with traditional two-year election cycles. There is either a presidential or a gubernatorial primary every even year followed by a general election. The City of Amarillo holds elections in odd years; but with three-year terms, some members of the council would stand for election during a gubernatorial or presidential primary. We think this could accelerate turnover.

Three-year terms, as they are off-cycle, can lead to confusion and voter fatigue from going to the polls for a city election every year, sometimes twice per year. Three-year terms are harder for candidates as well. When city elections coincide with presidential or gubernatorial elections, the campaigns of the governor or president can overshadow local campaigns.

Table 6 below provides some advantages and disadvantages of three-year staggered terms.



Table 6. Advantages and Disadvantages of Three-Year Staggered Terms

Three-Year Staggered Terms	
Advantages	Disadvantages
Longer than two-year terms thus adding stability to city operations	Confusing to voters who do not typically vote for a city candidate every year
Three-year terms allow for staggering	Throws off election cycles
Might be more palatable to voters because existing terms would not be “doubled”	Candidates running in even years compete with federal and state candidates
Even-year elections would produce a higher turnout because the ballot for council seats would be consolidated with state and federal elections	The City would have an election (maybe two) every year, possibly doubling the cost of elections
	Council members may find themselves in a near-constant state of campaigning, as they must focus on reelection efforts shortly after taking office. This can divert time and attention away from governing and addressing community needs
	Shorter terms may result in a less experienced council compared to those serving longer terms - this could impact their effectiveness in navigating complex issues and making informed decisions
	Three-year terms may not provide enough time to implement and see through long-term projects and policies. Continuity in governance may be disrupted as council members cycle in and out more frequently

### Expanding Council from Five to Seven

On May 9, 2024, the Amarillo City Council spoke of meeting the demands of the office with only five people to share the workload. The mayor and council are paid volunteers who must take care of their personal lives as well as commit time to govern the City. Residents may become dissatisfied that their elected officials are not always available for them.

The more the workload expands, the more difficult it will become to motivate people to run for office. Of the mayor and four council members elected in 2021, only Cole Stanley ran in 2023. According to the *Texas Handbook for Mayors and Councils*, the size of the governing body is determined by that city’s charter.

In Table 7 below, the population of each comparison city was divided by the number of officials (mayor plus council) to find an average number of constituents per elected official. We are aware that there are single-member districts in most of these cities, but as we did not have the breakout per district, we added the mayor plus the number of councilmembers to achieve the divisor.

Table 7. Average Number of Constituents Per Elected Official

City	Population	Elected Officials	Constituents per Representative
El Paso	683,577	Mayor + 8	75,953
Arlington	398,864	Mayor + 8	44,318
Plano	291,296	Mayor + 7	36,412
Lubbock	264,000	Mayor + 6	37,714
Laredo	263,640	Mayor + 8	29,293
Amarillo	201,234	Mayor + 4	40,247
Brownsville	199,062	Mayor + 6	28,437
Grand Prairie	197,590	Mayor + 8	21,954
Killeen	156,261	Mayor + 7	19,533
Mesquite	150,184	Mayor + 6	21,455
Waco	141,377	Mayor + 5	23,563

The results show that eight of the ten comparison cities have fewer constituents per elected official than Amarillo. The ten-city average is 33,863, which is lower than Amarillo’s current representation of 40,247 by 6,384. It is important to note that Amarillo’s population is expected to reach 250,000 in the next couple of years, raising the ratio to 50,000 should the council remain at five elected officials.

Table 8 below shows some advantages and disadvantages of expanding the number of elected officials to seven.

Table 8. Advantages and Disadvantages of Expanding the Council to Seven Members

Expand to Seven Member Council	
Advantages	Disadvantages
A larger council would reduce the council-to-constituent ratio and increase responsiveness to constituents	Due to the Voting Rights Act, expanding to seven council members might force the City into single-member representation (district elections)
Would be easier to deal with any vacancies on the council	The City would need to make physical changes to the dais and city hall
Constituents, staff, and the mayor and council would have the ability to talk to an additional council member without violating the Open Meetings Act	Demands from two additional council members could increase staff workload

Given the projected growth of Amarillo to 250,000, and a desire from some voters to create districts, the introduction of single-member districts might be inevitable. However, that is less likely to occur with a small council. If the tradeoff between risking single-member districts, or staying at five, the Committee might consider an alternative.

### Hiring Staff in Lieu of Expanding to Seven Members

An alternative for reducing the workload without putting Amarillo at risk of creating single-member districts might be to add “council assistants” who could help address constituent needs and free up time for the council members. The assistants could write correspondence, schedule meetings, process expense reimbursements, and take messages.

On the flip side, someone would need to manage the assistants. Do they primarily report to the mayor or are they divided: one for the mayor, one for council members in Places 1 and 2, and a third for council members three and four? This structure might require a Charter change because, as in most other cities, the city manager is responsible for hiring and managing staff.

A better alternative could be to have the assistants report to the city manager or another official such as the city secretary. Although hired by the city manager the assistants would work for the mayor and council with the singular goal of lessening their administrative workload.

### City Attorney

Should the city attorney report to the mayor and council or the city manager?

The city manager takes direction from and represents the interests of the council as a whole. The city attorney represents the interests of the City as a whole. Because the city attorney’s client is the City — with the city council having ultimate authority to act on the City’s behalf — it follows that the city council holds the privilege; thus, many city attorneys report to the elected body.

On major policy issues subject to council approval, the city attorney takes direction from a majority of council members. Contrary direction from staff, an individual council member, or less than a majority, cannot be followed. With councils often being split on major policy issues, the city attorney, like the city manager, must take special care to provide the same balanced advice to “all sides” without going through an intermediary.

Additionally, the city attorney may be required to decide where authority resides between the city council and the city manager and staff. In all cases, it is best practice for the city attorney to provide advice “up the chain” to the ultimate decisionmakers concerned with each matter. For that reason, whether the city attorney reports to the city council or the city manager, he or she must maintain an excellent professional relationship with both. Some cities address this on their organization chart by showing a straight line from the council to the city attorney, and a dotted line from the city manager to the city attorney.

Below, in Table 9, are some additional advantages and disadvantages concerning the reporting relationship of the city attorney to the city council.

*Table 9. Advantages and Disadvantages of the City Attorney Reporting to the City Council*

City Attorney Reporting to the Council	
Advantages	Disadvantages
Ultimately, the city council represents the city, which is the client - therefore, it makes sense for the city attorney to report to those who speak for the client	A city attorney who reports to the city manager might have more job security than a city attorney who reports to the council, especially a council that can be replaced every two years
Some cities use the city attorney as an outside neutral source to investigate complaints like discrimination or harassment from a city manager	It may be better to have the city attorney report to the city manager, who would have more institutional knowledge than the council

## Conclusion

Baker Tilly has presented this information to assist the Amarillo Charter Committee in its deliberations. With additional time, we would talk to city clerks and city secretaries about their experiences conducting elections and what they would change related to terms of office. We would also contact the comparison cities to learn the reporting relationships of the city attorney.

As noted, we are available to research additional information per your request; however, it can take up to two weeks to bring the research together and make the data presentable.