

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE CITY OF PFLUGERVILLE, TEXAS, AMENDING THE CITY OF PFLUGERVILLE CODE OF ORDINANCES TITLE IX (GENERAL REGULATIONS), CHAPTER 95 (PARKS AND RECREATION), SECTIONS 95.20 THROUGH 95.28 (PARKS AND RECREATION COMMISSION ORDINANCE) BY AMENDING PROVISIONS AFFECTING THE PARKS AND RECREATION COMMISSION'S MEMBERSHIP, ORGANIZATION, DISMISSAL, MEETINGS AND DUTIES; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE AND REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND DECLARING AN EFFECTIVE DATE.

**WHEREAS**, on May 27, 1986, the City Council adopted Ordinance No. 229-86-5-27, to be known as the Parks and Recreation Commission Ordinance, which created a Parks Department and established a Parks and Recreation Commission (Commission) and the rules and regulations governing said Commission; and

**WHEREAS**, on December 12, 1989, the City Council adopted Ordinance No. 311-89-12-12 which established the position of Parks and Recreation Director, authorized the City Administrator to oversee the Parks and Recreation Department, required submission of monthly statements of receipts and disbursements of the department and established rules of order and procedure for the Commission and redefined the responsibilities of the Commission; and

**WHEREAS**, on February 25, 1992, the City Council adopted Ordinance No. 348-92-02-25 to authorize the appointment of an alternate member to the Commission; and

**WHEREAS**, on December 9, 2003, the City Council adopted Ordinance No. 727-03-12-09, which amended the date that Commission members began their terms of office as necessary to make the dates uniform; and

**WHEREAS**, on January 9, 2007, the City Council adopted Ordinance No. 856-07-01-09, which amended the term of the student member to a one-year term beginning June 1 of each year; and

**WHEREAS**, on February 22, 2011, the City Council adopted Ordinance No. 1071-11-02-22, which provided that the Commission shall make recommendations related to the Department concerning those matters as set forth in the City Charter of the City and serve as the affiliate of the City of Pflugerville as a member of Keep Texas Beautiful; and

**WHEREAS**, on November 27, 2012, the City Council adopted Ordinance No. 1125-12-11-27, which appointed the Commission to serve as the members of the Tree Care Advisory Board and that the Parks and Recreation Director or designee was to oversee the care of public trees; and

**WHEREAS**, on November 8, 2016, the voters of the City of Pflugerville approved an amendment to the City Charter that removed the Commission from the City Charter and replaced it with a separate Parks and Recreation Advisory Board to be appointed on an as needed basis to complete specific projects and to not be continuous; and

**WHEREAS**, the City Charter specifies that in addition to the boards and commissions established by the Charter, the City Council by ordinance may establish any boards and commissions it deems necessary for the conduct of city business and the management of municipal affairs; and

**WHEREAS**, the City Council of the City of Pflugerville now finds it appropriate to review and make amendments to the Parks and Recreation Commission Ordinance, Chapter 95, Sections 95.22 through 95.28 of the Code of Ordinances.

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

**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 and findings of fact.

**Section 2. Amendment to Municipal Code of Ordinances.** The Code of Ordinances of the City of Pflugerville, Texas, is hereby amended by amending **Chapter 95 (Parks and Recreation)**, Sections 95.22 through 95.28 of the Parks and Recreation Commission Ordinance as follows:

**§ 95.22 PARKS DEPARTMENT.**

(A) Creation. There is hereby created a Parks and Recreation Department of the city. The Department shall be overseen by the Parks and Recreation Director.

(B) Director. The position of Parks and Recreation Director of the city is hereby established. The Director shall be under the supervision of the City Manager.

(C) Funding.

(1) Funds for the operation of the Department shall be allocated in the city budget for each fiscal year.

~~(2) — The City Manager shall submit to the City Council and the Parks and Recreation Commission a monthly statement of all receipts and disbursements of the Department in sufficient detail to show the exact financial condition of the Department.~~

~~(3) — The Commission shall make timely recommendations to the City Council for the budgeting of the Department funds in the preparation of the fiscal year budget.~~

**§ 95.23 CREATION OF COMMISSION; MEMBERSHIP.**

(A) Creation. There is hereby created the Parks and Recreation Commission of the city.

(B) Membership.

~~(1) The Commission is composed of seven regular members and one alternate member who may serve in the absence of a regular member. Membership shall include residents of both genders. One regular member of the Commission shall be a high school student.~~

~~(2) All Commission members shall be appointed by the City Council and shall serve without compensation.~~

~~(3) The term of office of Commission members is two years and shall commence on the first day of January. The term of the alternate is for one year and shall commence on the first day of January of each year. The term of the student member thereafter is for one year, commencing on the first day of June of each year~~

(1) Each candidate for appointment as a member of the Parks and Recreation Commission shall be a registered voter of the city who has resided within the corporate city limits, or within territory annexed prior to the appointment, for at least twelve months preceding the appointment.

(2) Commission members shall serve without compensation and shall not be employed by or hold any other position in city government. In addition to any other requirements prescribed by the City Council, members shall maintain the qualifications established by this section while in office.

(3) The Commission shall be composed of six members to serve two-year terms and one high school student member to serve a one-year term. The student member shall not be required to be a registered voter. The City Council shall also appoint an alternate member who may vote if a regular member is absent.

(4) Members of the Commission shall be limited to three consecutive full terms in office. A person who has served three consecutive full terms as a regular member may not again hold the same office until at least one term out of office has passed.

(5) All Commission members shall be appointed by the City Council and shall serve without compensation.

(6) The term of office of Commission members is two years and shall commence on the first day of January. The term of the alternate is for one year and shall commence on the first day of January of each year. The term of the student member is for one year, commencing on the first day of June of each year.

## **§ 95.24 ORGANIZATION.**

~~(A) The Commission shall select from its members a Chairperson and a Secretary. The Commission shall annually elect a chairman and a vice-chairman and may elect a secretary. Such officers shall hold office for the term of one year or until their successors take office.~~

(B) ~~The Commission shall adopt, subject to the approval of the City Council, such rules and regulations governing its proceedings as it may deem proper. Such rules and regulations shall not be inconsistent or in conflict with the ordinances, resolutions, and regulations of the city. The Commission shall establish rules of procedure consistent with city ordinances, resolutions, and regulations.~~

(C) The Commission shall abide by all rules and regulations established in the Public Parks Ordinance of the city. (See §§95.01 through 95.08)

## **§ 95.25 DISMISSAL FROM COMMISSION.**

(A) ~~Members of the Commission shall be subject to dismissal by the Council for cause in accordance with the following provisions: Commission members shall actively participate in the Commission's activities, and any member who is absent for three consecutive regular meetings of the Commission without valid excuse, as determined by the Commission, or moves one's residence outside the city limits shall automatically be dismissed from membership.~~

~~(1) Before the Council may take action to dismiss any member of the Commission, such member shall first receive notice of the proposed dismissal and notice of the Council meeting at which the dismissal will be considered.~~

~~(2) Any member of the Commission informed of the action of the Council to dismiss such member may request a hearing before the City Council, prior to such dismissal becoming effective, by filing with the City Secretary a written request for hearing within five days from the date of notification of the City Council's dismissal action.~~

~~(3) Upon filing of request for hearing, the member shall be provided with a bill of particulars which specifies the basis of the proposed dismissal and date and time of hearing thereon, which shall be at least five days after receipt of the bill of particulars.~~

~~(4) Dismissal from the Commission shall become automatically effective and final if no request for hearing is received by the City Secretary by the end of such five-day period.~~

(B) ~~Absence from three consecutive regular meetings of the Commission, or moving one's residence outside the city limits, shall automatically create a vacancy on the Commission with respect to the position held by such Commission member. No member of the Commission shall remain in his position after being elected or appointed to city office.~~

## **§ 95.26 COMMISSION MEETINGS.**

(A) The Commission shall hold at least one regular meeting each month and shall fix regular meeting dates at a regular meeting place. Special meetings may be called as necessary ~~for the receipt of public input.~~ A majority of the Commission members serving shall constitute a quorum to do business.

~~(B) A majority of the Commission members serving shall constitute a quorum to do business.~~

(C) Special meetings may be held upon call of the Chairperson, ~~Mayer~~, City Manager, City Attorney, Parks and Recreation Director, or upon request of three or more members of the Commission. All meetings shall be held in accordance with the Texas Open Meeting Act (TEX. GOV'T CODE, §§551.001 et seq.), as it now exists, or as same may hereafter be amended or codified, to the extent of its applicability to the Commission.

(D) Every regular or special meeting of the Commission shall be open to the public, except as may be authorized by the Texas Open Meetings Act.

## **§ 95.27 DUTIES OF THE COMMISSION.**

~~The Commission shall make recommendations to the Council related to the Department concerning those matters set forth in the Charter of the city, Charter Sec. 8.07(e) and shall serve as the affiliate of the City of Pflugerville as a member of Keep Texas Beautiful and execute additional duties so as to maintain standing.~~

(A) The Commission shall consider recommendations related to the Department upon request of the City Council and/or City Manager to include, without limitation, as follows:

- (1) Annually submit a five-year comprehensive park plan to the City Manager, at least one hundred twenty days before the beginning of the budget year. The plan shall list projects in order of preference with a recommendation for the year of construction for each project.
- (2) Make recommendations to the City Manager concerning the management, maintenance, use or improvement of all parks and public recreational facilities owned or controlled by the city.
- (3) Make recommendations to the City Manager concerning acquiring and holding any real property that may be needed for carrying out the Department's purposes by purchase, devise, bequest, or otherwise for parks and recreation purposes whenever it determines that private property should be taken in the name of the city.
- (4) Make recommendations to the City Manager concerning receipt of donations, legacies, or bequests for the improvement or maintenance of public parks or for the acquisition of \_\_\_\_\_ new \_\_\_\_\_ parks.

(B) The Commission shall serve as the affiliate of the City of Pflugerville as a member of Keep Pflugerville Beautiful Affiliate and execute additional duties so as to maintain standing.

(C) The Commission shall serve as Tree Care Advisory Board and shall execute the duties as prescribed in Section 95.42 of the City of Pflugerville Code of Ordinances.

(D) The Commission shall appoint one member to serve on the Deutschen Pfest Committee and shall consider recommendations to be brought forward to the City Manager regarding the

Deutschen Pfest event to include designation of proceeds for proposed parks projects.

(E) Perform other duties and be vested with other powers as the City Council shall from time to time prescribe or any other matters designated by city ordinance

**§ 95.28 — JURISDICTION.**

~~The jurisdiction of the Commission shall not extend to property under the control or responsibility of any public works department of the city, including, but not limited to, well sites, sewer plants, drainage facilities, streets, and alleys. In the event of any conflict of jurisdiction arising between the Commission and any other department of the city, or in regard to any administrative detail thereof, the same shall be referred to the City Council and its decision thereon shall be final.~~

**§ 95.28 RESERVED.**

**Section 3. Repealer.** This Ordinance shall be cumulative of all other ordinances of the City of Pflugerville, and this Ordinance shall not operate to repeal or affect any other ordinances of the City of Pflugerville except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, are hereby repealed.

**Section 4. Severability.** If any provision of this Ordinance is illegal, invalid, or unenforceable under present or future laws, the remainder of this Ordinance will not be affected and, in lieu of each illegal, invalid, or unenforceable provision, a provision as similar in terms to the illegal, invalid, or unenforceable provision as is possible and is legal, valid, and enforceable will be added to this Ordinance.

**Section 5. Effective Date.** That this Ordinance will become effective on its adoption and passage by the City Council in accordance with Section 3.15(d) of the City Charter.

PASSED AND APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2019.

CITY OF PFLUGERVILLE, TEXAS

By: \_\_\_\_\_  
Victor Gonzales Mayor

ATTEST:

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Karen Thompson, City Secretary

APPROVED AS TO FORM:

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CHARLES E. ZECH, City Attorney  
DENTON NAVARRO ROCHA BERNAL & ZECH, PC