



# City Council Agenda Item Report

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**SUBJECT: DELIBERATION AND POSSIBLE ACTION REGARDING AN ORDINANCE AMENDING  
\_\_\_\_\_ PERTAINING TO THE REQUIREMENTS, QUALIFICATIONS  
AND COMPOSITION OF ALL CITY BOARDS AND COMMISSIONS.**

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## 1. BACKGROUND/HISTORY

The City Council requested discussion of the requirements, qualifications and composition of City boards and commissions at the January 15<sup>th</sup> meeting in light of difficulty maintaining complete membership on each. A brief follow-up was provided February 5<sup>th</sup>, with direction from City Council to discuss the item in a future, less formal workshop setting. That workshop took place May 18<sup>th</sup> as part of the City Council retreat, where direction was received to bring it to a regular meeting for additional discussion. On June 18<sup>th</sup>, City Council had a presentation and discussion regarding the items of most interest: term limit elimination, allowing ETJ residents to serve in Commission leadership, and allowing Commissioners to serve on more than one Commission.

Of those three topics, elimination of term limits received broad support. The Council also supported dual-service, provided that the dual-service did not present conflict opportunities. Finally, the Council determined that the leadership issue should be left as is, but that the Council would consider specific requests from the respective Commission on a case-by-case basis.

## 2. FINDINGS/CURRENT ACTIVITY

The attached ordinance accomplishes the following:

- Eliminates term limits
- Allows citizens to sit on other Commissions under certain circumstances
- Clarifies the Commission leadership policy

Term-limit elimination is straight-forward: references to term limits were eliminated.

Clarification on Commission leadership was also straight-forward: simply adding a statement that Commissions can request a waiver of the restriction from City Council on a case-by-case basis.

Service on multiple Commissions varies by Commission. The following matrix should help the City Council visualize which Commissions can have the same citizen holding a position. Staff based the matrix on whether decisions on each board directly affected other boards where they

might be making another decision on the same issue (allowing that individual's opinion to be considered twice).

	<b>EDC</b>	<b>P&amp;Z</b>	<b>HPC</b>	<b>Library</b>	<b>Parks</b>	<b>ZBOA</b>	<b>CBOA</b>
<b>EDC</b>		No	Yes	Yes	No	No	No
<b>P&amp;Z</b>	No		No	Yes	No	Yes	Yes
<b>HPC</b>	Yes	No		Yes	Yes	Yes	Yes
<b>Library</b>	Yes	Yes	Yes		Yes	Yes	Yes
<b>Parks</b>	No	No	Yes	Yes		Yes	Yes
<b>ZBOA</b>	No	Yes	Yes	Yes	Yes		Yes
<b>CBOA</b>	No	Yes	Yes	Yes	Yes	Yes	

The Dupree Local Government Corporation and Reinvestment Zone No. 1 were not included in this since they are not conventional boards.

**3. FINANCIAL IMPACT**

N/A

**4. ACTION OPTIONS/RECOMMENDATION**

Staff provides this topic for discussion and direction without recommendation.

**5. ATTACHMENTS**

Draft Ordinance

ORDINANCE NO. \_\_\_\_\_ -\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BUDA, TEXAS AMENDING ARTICLE 1.02, ARTICLE 18.02 AND ARTICLE 1.02, ARTICLE 18.02 AND ARTICLE 18.03 OF THE CODE OF ORDINANCES OF THE CITY OF BUDA BY MODIFYING REQUIREMENTS AND QUALIFICATIONS FOR CITY BOARDS, COMMISSIONS AND COMMITTEES; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the requirements for serving on the City’s boards and commissions need to be consistent with revisions to the City’s Master plans and development regulations; and

**WHEREAS**, the City Council has determined that certain changes to the requirements and qualifications to serve on the City’s boards and commissions require modification to better facilitate their respective duties toward furthering the public good; and

**WHEREAS**, this ordinance was passed and approved at a meeting of the City Council of the City of Buda held in compliance with the Texas Open Meetings Act at which a quorum of the City Council Members were present and voting.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BUDA, TEXAS, THAT:**

**Section 1.** Article 1.02, *Boards, Commissions and Committees*, is hereby replaced in its entirety as follows:

**ARTICLE 1.02 BOARDS, COMMISSIONS AND COMMITTEES**

*Division 1. Generally*

**Secs. 1.02.001–1.02.030 Reserved**

*Division 2. Zoning Board of Adjustment and Appeals\**

**Sec. 1.02.031 Created; appointment of members; terms**

(a) This division creates the zoning board of adjustment and appeals (“board”) appointed by the city council. The board shall consist of five (5) members and two (2) alternate members. All of the members and alternate members shall be residents of the city at the time they are appointed and during their term in office.

(b) Members and alternate members shall serve two-year staggered terms with four (4) members being appointed in January of even-numbered years and three (3) members being appointed in January of odd-numbered years.

(c) The initial board shall consist of three (3) regular members appointed to two-year terms and two (2) regular members appointed to a one-year term; and one alternate member appointed to a two-year term and an alternate member appointed to a one-year term. After the initial one-year terms have expired, all members, both regular and alternate, shall be appointed to two-year terms.

~~(d) Unless otherwise approved by the city council, members of the commission shall serve a maximum of three (3) consecutive terms. After a member serves his or her three (3) maximum consecutive terms, such ex member cannot immediately reapply for the planning and zoning commission; however, such ex member can apply immediately for positions to other boards or commissions that may have vacancies or reappointments. An appointment to fill a vacancy shall be for the unexpired term. A member serving to fill an unexpired term shall be eligible for reappointment to serve two (2) full two-year terms.~~

~~(e) Should an alternate member be appointed to serve as a board member, such appointment shall be for two (2) full two-year terms regardless of time served as an alternate member.~~

(f) When there will be an absence of one or more members at a scheduled board meeting, alternate members may serve when requested to do so by the city manager or his/her designee.

(g) Members and alternate members may only be removed for cause as found by the city council, on a written charge after a public hearing.

### **Sec. 1.02.032 Qualifications of members**

(a) When appointing members, the city council shall make every reasonable and practical attempt to appoint board members and alternate board members from different geographical locations within the corporate limits of the city and from different interest groups. The council shall avoid appointing a board that has a concentration of members from the same or similar economic, business, racial or vocational interests, but instead shall endeavor to the extent reasonably practical to diversify the membership of the board to the end that the entire community is represented thereon.

(b) If a city resident member of the board ceases to reside in the city and his or her relocation reduces the number of city residents, that person shall give notice of such fact and may be deemed to have resigned, upon approval by the city council, from the board as of the date his or her residence changed, and, if approved by council, the city council shall appoint a resident board member to fill the remainder of the resigning member's term. A quorum of the board shall be required to open meetings, conduct business and take action on any agenda items.

(c) The city council may take into consideration an applicant's history on delinquency in payment of any city taxes, utility bills, citations, municipal court judgments and assessments and so forth in qualifying the applicant.

(d) Notwithstanding any city ad hoc committees or except where duplicate appointments are authorized by ordinance, city charter or by state law, a person may not ~~be appointed~~ serve as a member of the zoning board of adjustment and appeals if he or she is also currently serving on the ~~planning and zoning commission, historic preservation commission, parks and recreation commission, library commission,~~ economic development corporation board of directors or, local government corporation ~~or any other permanent city board or commission.~~

**Sec. 1.02.033 Officers; rules; meetings; quorum; record; conflict of interest**

(a) All cases before the board must be heard by at least 75% of the members. The concurring vote of 75% of the members of the board is necessary to:

- (1) Reverse an order, requirement, decision or determination of an administrative official;
- (2) Decide in favor of an applicant on a matter on which the board is required to pass under a zoning ordinance or issue; or
- (3) Authorize a variation from the terms of a zoning ordinance or issue.

In all other cases, a simple majority of the members present at an official meeting is necessary to approve a matter.

(b) The board shall have a chairperson and a vice-chairperson elected from its membership to serve for a one-year term. Officers shall be elected annually by the board.

(c) The chairperson shall preside over the board and shall have the right to vote on all items before the board. The vice-chairperson shall fulfill the duties of the chairperson when the chairperson is not available for any reason.

(d) The city manager or his or her designee shall be an ex officio member of the board.

(e) The board, by majority vote, may adopt rules or bylaws in accordance with this division and the requirements of the Local Government Code as necessary for the orderly conduct of its business, subject to approval by the city council.

(f) The board shall meet upon the call of the presiding officer and at other times as determined by the board rules. The presiding officer or acting presiding officer may administer oaths and compel attendance of witnesses. All meetings of the board shall comply with the Texas Open Meetings Act.

(g) The board shall keep minutes of its proceedings and indicate the vote of each member on each question or the fact that a member is absent or abstains. The board shall keep records of its examinations and other official actions. The minutes and records shall be filed with the city secretary and its records are public records.

(h) A board member shall be required to complete any state-mandated training, to include but not limited to Open Meetings Act training, within ninety (90) days after appointment. Any training expenses incurred by the member may be eligible for reimbursement by the city subject to the city's travel and training policy.

(i) A board member having any potential conflict of interest on any policy, decision, or determination before the board shall disclose to each of the other members the nature of his potential conflict and shall abstain from voting on such policy, decision or determination. In the event that the board member recognizes a conflict or clear potential for conflict of interest, he or she shall recuse him or herself from discussion and action on the topic involving such conflict. The disclosure shall be recorded in the board's minutes. Intentional or knowing failure to disclose a conflict of interest shall be governed under the general penalty section as set forth in section 1.01.009 of this code.

(j) When there will be an absence of one or more members at a scheduled board meeting, alternate members may serve when requested to do so by the mayor, city manager or his or her designee, or presiding officer or acting presiding officer.

#### **Sec. 1.02.034 Powers and duties**

The board shall have the following powers and duties:

- (1) To hear and decide appeals where the applicant alleges that there is an error in any order, requirement, decision or determination made by city staff or the city council in the enforcement of the city's zoning regulations and ordinances;
- (2) To hear and decide requests for special exceptions to the city's zoning regulations and ordinances;
- (3) To hear and decide judicial variances; and
- (4) To decide such other matters as may be assigned by the city council from time to time.

#### **Sec. 1.02.035 Appeals**

(a) Any of the following persons may appeal to the board a decision made by an administrative official:

- (1) A person aggrieved by the decision.

(2) Any officer, department, board, commission or bureau of the city affected by the decision.

(3) Only the city manager shall have the right to request an administrative exception.

(b) Appeal of a board decision. Appeal of any decision of the board shall be taken to a state court of competent jurisdiction by filing a verified petition stating that the decision of the board is illegal in whole or in part and specifying the grounds of the illegality. The petition must be filed within ten (10) days after the date that the board's decision is filed with the city secretary.

**Secs. 1.02.036–1.02.070 Reserved**

*Division 3. Historic Preservation Commission*

**Sec. 1.02.071 Purpose; subject to Unified Development Code**

The city council hereby declares that the purpose of this division is to preserve, protect and enhance areas of historical or cultural significance, including sites, structures, and landmarks within the city and its extraterritorial jurisdiction in order to promote the economic, cultural, educational and general welfare of the public. Where there is a conflict between any provision of this division and any provision of the Unified Development Code, the Unified Development Code shall control.

**Sec. 1.02.072 Definitions**

For the purposes of this division, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

*Appurtenant feature.* Features that define the design of a building or property, which may include, but are not limited to, porches, railings, columns, shutters, fences, sidewalks, driveways, garages, outbuildings, arbors, ponds and pools.

*Certificate of design compliance.* A certificate issued by the historic preservation commission pursuant to this division and/or the city's Unified Development Code. The term includes a certificate of historic design compliance.

*Commission.* The Buda Historic Preservation Commission.

*Designated historic district, historic district or district.* A geographically defined area established pursuant to this division and/or pursuant to the city's Unified Development Code.

*Designated historic landmark, historic landmark or landmark.* Any site designated as a landmark pursuant to this division and/or the city's Unified Development Code.

Exterior features. Features that include the architectural style, general design, and general arrangement of the exterior of a building or structure, including type and texture of materials, and types and styles of all windows, doors, walls, roofs, light fixtures, signs, and significant trees and other foliage.

Person. An individual, group, corporation, political subdivision or government agency.

Significant trees. Trees which measure 24 caliper inches four feet above the ground, or those that are identified with historic personages or important events in city, county, state or national history.

### **Sec. 1.02.073 Created; appointment of members; terms**

(a) This division creates the historic preservation commission (“commission”) appointed by the city council. The commission shall consist of seven (7) members who shall reside either in the incorporated city limits or its extraterritorial jurisdiction.

(b) The members of the commission shall serve two-year staggered terms, with four (4) members being appointed in April of even-numbered years and three (3) members being appointed in April of odd-numbered years.

(c) On the initial commission, four (4) of the members shall be appointed for one-year terms and three (3) of the members shall be appointed for two-year terms. Thereafter, all terms shall be two-year terms.

~~(d) Unless otherwise approved by the city council, members of the commission shall serve a maximum of three (3) consecutive terms. After a member serves his or her three (3) maximum consecutive terms, such ex-member cannot immediately reapply for the historic preservation commission; however, such ex-member can apply immediately for positions to other boards or commissions that may have vacancies or reappointments. An appointment to fill a vacancy shall be for the unexpired term. A member serving to fill an unexpired term shall be eligible for reappointment to serve two (2) full two-year terms.~~

(e) Unless otherwise required by state law, all members serve at the pleasure of the city council and may be removed at any time with or without cause.

### **Sec. 1.02.074 Qualifications of members**

(a) Unless otherwise determined by city council, at least five (5) of the members of this commission shall reside within the corporate limits of the city and no more than two (2) members shall be residents of the city’s extraterritorial jurisdiction. The city council shall consider individuals who show an interest, competence or knowledge in the architectural, archeological, cultural, social, economic, ethnic or political history and/or heritage activities of the city. Moreover, the city council may allow for preferential consideration of applicants residing along Old Black Colony Road from Cole Springs to FM 1626.

(b) If a city resident member of the commission ceases to reside in the city and his or her relocation reduces the number of city resident commission members below four (4), that person shall give such notice of such fact and may be deemed to have resigned from the commission as of the date his or her residence changed, and the city council shall appoint a resident commission member to fill the remainder of the resigning member's term. The temporary lack of four (4) resident members created by the vacancy shall not impair the ability of the commission to perform its duties nor the actions taken by the commission. If a resident commission member moves to the city's extraterritorial jurisdiction and the relocation leaves at least four (4) resident members on the commission, the relocated member shall continue to hold his or her place on the commission. A quorum of the commission shall be required to open meetings, conduct business and take action on any agenda items.

(c) The city council may take into consideration an applicant's history on delinquency in payment of any city taxes, utility bills, citations, municipal court judgments and assessments and so forth in qualifying the applicant.

(d) Notwithstanding any city ad hoc committees or except where duplicate appointments are authorized by ordinance, city charter or by state law, a person may not ~~be appointed~~serve as a member of the historic preservation commission if he or she is ~~currently also~~ serving on the ~~city zoning board of adjustment and appeals,~~ planning and zoning commission, ~~parks and recreation commission, library commission,~~ economic development corporation board of directors, or local government corporation ~~or any other permanent city board or commission.~~

#### **Sec. 1.02.075 Officers; rules; meetings; quorum; record; conflict of interest**

(a) The commission shall have a chairperson and a vice-chairperson elected from its membership to serve for a one-year term. Officers shall be elected annually by the commission. ~~Such officers shall be residents within the city limits.~~If the Commission wishes to appoint an officer residing outside of the city limits, then the Commission must request City Council approve such appointment.

(b) The chairperson shall preside over the commission and shall have the right to vote on all items before the commission. The vice-chairperson shall fulfill the duties of the chairperson when the chairperson is not available for any reason.

(c) The city manager or his or her designee shall be an ex officio member of the commission.

(d) The commission may establish rules or bylaws as necessary for the orderly conduct of its business, subject to approval by the city council.

(e) The commission shall meet at least monthly, if there is business at hand, at a time and place established by the commission. Special meetings may be called by the chairperson or interim chairperson of the commission, city manager or his or her designee or upon the request of any three (3) commission members. All meetings of the commission shall be open to the public and shall conform with the Texas Open Meetings Act, section 551 of the Government Code.

(f) A quorum shall consist of a majority of the members of the commission except that when a vacancy exists, a quorum shall consist of a majority of the remaining members.

(g) The commission shall keep a record, which shall be reasonably available to the public, of its resolutions, proceedings and actions.

(h) A commission member shall be required to complete any state-mandated training, to include but not limited to Open Meetings Act training, within ninety (90) days after appointment. Any training expenses incurred by the member may be eligible for reimbursement by the city subject to the city's travel and training policy.

(i) A commission member having any potential conflict of interest, as defined by this code or state law, on any policy, decision, or determination before the commission shall disclose to each of the other members the nature of his potential conflict and shall abstain from voting on such policy, decision or determination. In the event that the commission member recognizes a conflict or clear potential for conflict of interest, he or she shall recuse him or herself from discussion and action on the topic involving such conflict. The disclosure shall be recorded in the commission's minutes. Intentional or knowing failure to disclose a conflict of interest shall be governed under the general penalty section as set forth in section 1.01.009 of this code.

#### **Sec. 1.02.076 Powers and duties**

The commission shall serve in an advisory capacity to the mayor and city council and shall have the following purposes and duties, as well as other duties as assigned by the city council, as necessary to perform the business of the commission:

(1) Advise the city council about uses of funds available from private and/or public sources for the benefit of local heritage and/or historic activities, projects or organizations serving the city and its citizens, as allowed by law;

(2) Review applications for certificates of design compliance in accordance with the city's Unified Development Code;

(3) Prepare rules and procedures of the commission, subject to approval by the city council;

- (4) Adopt criteria for the designation of historic, architectural, and cultural landmarks and properties located in the city or historic districts therein, subject to city council approval;
- (5) Conduct surveys and maintain an inventory of significant historic, architectural and cultural landmarks and properties located in the city or historic districts therein;
- (6) Recommend the designation of resources as landmarks and historic districts;
- (7) Establish subcommittees from among its members and delegate responsibilities to these subcommittees to carry out the purposes of this division;
- (8) Develop and participate in public education programs to promote public awareness of the value of historic preservation in the city;
- (9) Recommend the acquisition of landmark structures by the city where their preservation is essential to the purpose of this division but private preservation is not feasible;
- (10) Accept on behalf of the city the donation of preservation easements, development rights, and other gifts of value for the purpose of historic preservation, subject to approval by the city council;
- (11) Recommend to the city council tax abatement programs for historic landmarks or districts;
- (12) Prepare design guidelines for the review of historic landmarks and districts, subject to approval by the city council;
- (13) Provide for the design of signs and/or markers designating properties and historic landmarks or districts, subject to the approval of the city council;
- (14) Recommend amendments to this division, to the city council as the commission deems necessary to effectuate the purposes of this division;
- (15) Conduct studies regarding the protection, enhancement, restoration, perpetuation or use of local historic landmarks and historic districts, and submit reports and recommendations to the city council or other city agencies based on the studies; and
- (16) At the request of the city council, prepare and submit an annual report to the city council summarizing the work of the commission performed during the previous year.

**Sec. 1.02.077 Appointment of historic preservation officer**

The city council shall appoint the city manager or his or her designee to serve as the historic preservation officer. This officer shall administer this division and advise the

commission on matters submitted to it. The officer also is responsible for coordinating the city's historic preservation activities with those of county, state and federal agencies and non-profit organizations.

**Secs. 1.02.078–1.02.100 Reserved**

*Division 4. Planning and Zoning Commission\**

**Sec. 1.02.101 Created; appointment of members; terms**

(a) This division creates the planning and zoning commission (“commission”) appointed by the city council. The commission shall consist of seven (7) members who shall reside either in the incorporated city limits or its extraterritorial jurisdiction.

(b) The members of the commission shall serve two-year staggered terms, with four (4) members being appointed in January of even-numbered years and three (3) members being appointed in January of odd-numbered years.

(c) On the initial commission, four (4) of the members shall be appointed for one-year terms and three (3) of the members shall be appointed for two-year terms. Thereafter, all terms shall be two-year terms.

~~(d) Unless otherwise approved by the city council, members of the commission shall serve a maximum of three (3) consecutive terms. After a member serves his or her three (3) maximum consecutive terms, such ex-member cannot immediately reapply for the planning and zoning commission; however, such ex-member can apply immediately for positions to other boards or commissions that may have vacancies or reappointments. An appointment to fill a vacancy shall be for the unexpired term. A member serving to fill an unexpired term shall be eligible for reappointment to serve two (2) full two-year terms.~~

(e) Unless otherwise required by state law, all members serve at the pleasure of the city council and may be removed at any time with or without cause.

**Sec. 1.02.102 Qualifications of members**

(a) Unless otherwise determined by city council, at least five (5) of the members of this commission shall reside within the corporate limits of the city and no more than two (2) members shall be residents of the city's extraterritorial jurisdiction.

(b) If a city resident member of the commission ceases to reside in the city and his or her relocation reduces the number of city resident commission members below four (4), that person shall give such notice of such fact and may be deemed to have resigned from the commission as of the date his or her residence changed, and the city council shall appoint a resident commission member to fill the remainder of the resigning member's term. The temporary lack of four (4) resident members created by the vacancy shall not impair the ability of the commission to perform its duties nor the actions taken by the commission. If a resident commission member moves to the city's extraterritorial jurisdiction and the

relocation leaves at least four (4) resident members on the commission, the relocated member shall continue to hold his or her place on the commission. A quorum of the commission shall be required to open meetings, conduct business and take action on any agenda items.

(c) The city council may take into consideration an applicant's history on delinquency in payment of any city taxes, utility bills, citations, municipal court judgments and assessments and so forth in qualifying the applicant.

(d) Notwithstanding any city ad hoc committees or except where duplicate appointments are authorized by ordinance, city charter or by state law, a person may not ~~be appointed~~serve as a member of the planning and zoning commission if he or she is ~~currently also~~ serving on the city ~~zoning board of adjustment and appeals~~, historic preservation commission, parks and recreation commission, ~~library commission~~, economic development corporation board of directors, or local government corporation ~~or any other permanent city board or commission~~.

#### **Sec. 1.02.103 Officers; rules; meetings; quorum; record; conflict of interest**

(a) The commission shall have a chairperson and a vice-chairperson elected from its membership to serve for a one-year term, officers shall be elected annually by the commission. ~~Such officers shall be residents within the city limits. If the Commission wishes to appoint an officer residing outside of the city limits, then the Commission must request City Council approve such appointment.~~

(b) The chairperson shall preside over the commission and shall have the right to vote on all items before the commission. The vice-chairperson shall fulfill the duties of the chairperson when the chairperson is not available for any reason.

(c) The city manager or his or her designee shall be an ex officio member of the commission.

(d) The commission may establish rules or bylaws as necessary for the orderly conduct of its business, subject to approval by the city council.

(e) The commission shall meet at least monthly, if there is business at hand, at a time and place established by the commission. Special meetings may be called by the chairperson or interim chairperson of the commission, city manager or his or her designee or upon the request of any three (3) commission members. All meetings of the commission shall be open to the public and shall conform with the Texas Open Meetings Act, section 551 of the Government Code.

(f) A quorum shall consist of a majority of the members of the commission except that when a vacancy exists, a quorum shall consist of a majority of the remaining members.

(g) The commission shall keep a record, which shall be reasonably available to the public, of its resolutions, proceedings and actions.

(h) A commission member shall be required to complete any state-mandated training, to include but not limited to Open Meetings Act training, within ninety (90) days after appointment. Any training expenses incurred by the member may be eligible for reimbursement by the city subject to the city's travel and training policy.

(i) A commission member having any potential conflict of interest on any policy, decision, or determination before the commission shall disclose to each of the other members the nature of his potential conflict and shall abstain from voting on such policy, decision or determination. In the event that the commission member recognizes a conflict or clear potential for conflict of interest, he or she shall recuse him or herself from discussion and action on the topic involving such conflict. The disclosure shall be recorded in the commission's minutes. Intentional or knowing failure to disclose a conflict of interest shall be governed under the general penalty section as set forth in section 1.01.009 of this code.

**Sec. 1.02.104 Powers and duties**

The commission shall serve in an advisory capacity to the mayor and city council and shall have the following purposes and duties, as well as other duties as assigned by the city council, as necessary to perform the business of the commission:

- (1) Develop, support, and recommend updates and amendments to the city's comprehensive plan, at the direction and with the approval of the mayor and city council;
- (2) Advise the mayor, city council and staff on matters related to the creation of and amendments to the Land Development Code for the city;
- (3) Propose regulations governing the subdivision and zoning of land within the planning and platting jurisdiction of the city;
- (4) Review and recommend consent, denial, or conditional consent to zoning and subdivision platting and zoning and site development applications within the platting and planning jurisdiction of the city; and
- (5) Perform such other functions as the city council may from time to time grant to the commission for the purpose of promoting the health, safety, morals or general welfare of the city.

**Secs. 1.02.105–1.02.120 Reserved**

*Division 5. Construction Board of Appeals*

**Sec. 1.02.121 Created; appointment of members; terms**

(a) This division creates the construction board of appeals (“board”) appointed by the city council. The commission shall consist of five (5) members and two (2) alternates who shall reside either in the incorporated city limits or its extraterritorial jurisdiction.

(b) The members of the board shall serve two-year staggered terms, with four (4) members being appointed in January of even-numbered years and three (3) members being appointed in January of odd-numbered years.

(c) The initial board shall consist of three (3) regular members appointed to two-year terms and two (2) regular members appointed to a one-year term; and one alternate member appointed to a two-year term and an alternate member appointed to a one-year term. After the initial one-year terms have expired, all members, both regular and alternate, shall be appointed to two-year terms.

~~(d) Unless otherwise approved by the city council, members of the board shall serve a maximum of three (3) consecutive terms. After a member serves his or her three (3) maximum consecutive terms, such ex member cannot immediately reapply for the board; however, such ex member can apply immediately for positions to other boards or commissions that may have vacancies or reappointments. An appointment to fill a vacancy shall be for the unexpired term. A member serving to fill an unexpired term shall be eligible for reappointment to serve two (2) full two-year terms.~~

(e) Should an alternate member be appointed to serve as a board member, such appointment shall be for two (2) full two-year terms regardless of time served as an alternate member.

(f) When there will be an absence of one or more members at a scheduled board meeting, alternate members may serve when requested to do so by the city manager or his/her designee.

(g) Unless otherwise required by state law, all members serve at the pleasure of the city council and may be removed at any time with or without cause.

#### **Sec. 1.02.122 Qualifications of members**

(a) Unless otherwise determined by city council, at least five (5) members of the entire board membership shall reside within the corporate limits of the city and no more than two (2) members of the entire board membership shall be residents of the city’s extraterritorial jurisdiction.

(b) It is preferred that at least three (3) members have a background in at least one of the following professions or disciplines:

- (1) Registered design professional who is a registered architect or engineer; or a builder or superintendent of building construction with years of experience in a responsible charge of work.

(2) Registered design professional with structural engineering or architectural experience.

(3) Registered design professional with mechanical and plumbing engineering experience; or a mechanical contractor with years of experience in a responsible charge of work.

(4) Registered design professional with electrical engineering experience; or an electrical contractor with years of experience in a responsible charge of work.

(5) Registered design professional with fire protection engineering experience; or a fire protection contractor with years of experience in a responsible charge of work.

At the discretion of the city council, council members may elect to choose more than one board member from the same profession or discipline.

(c) If a city resident member of the board ceases to reside in the city and his or her relocation reduces the number of city resident board members below five (5), that person shall give such notice of such fact and may be deemed to have resigned from the board as of the date his or her residence changed, and the city council shall appoint a resident board member to fill the remainder of the resigning member's term. The temporary lack of five (5) resident members created by the vacancy shall not impair the ability of the board to perform its duties nor the actions taken by the board. If a resident board member moves to the city's extraterritorial jurisdiction and the relocation leaves at least five (5) resident members on the board, the relocated member shall continue to hold his or her place on the board.

(d) The city council may take into consideration an applicant's history on delinquency in payment of any city taxes, utility bills, citations, municipal court judgments and assessments and so forth in qualifying the applicant.

(e) Notwithstanding any city ad hoc committees or except where duplicate appointments are authorized by ordinance, city charter or by state law, a person may ~~be not appointed~~ serve as a member of the board if he or she is ~~currently also~~ serving on the city ~~planning and zoning commission, zoning board of adjustment, historic preservation commission, parks and recreation commission, library commission,~~ economic development corporation board of directors, or local government corporation ~~or any other permanent city board or commission.~~

#### **Sec. 1.02.123 Officers; rules; meetings; quorum; record; conflict of interest**

(a) The board shall have a chairperson and a vice-chairperson elected from its membership to serve for a one (1) year term. Officers shall be elected annually by the commission. ~~Such officers shall be residents within the city limits. If the Board wishes to appoint an officer residing outside of the city limits, then the Board must request City Council approve such appointment.~~

(b) The chairperson shall preside over the board and shall have the right to vote on all items before the board. The vice-chairperson shall fulfill the duties of the chairperson when the chairperson is not available for any reason.

(c) The city manager or his or her designee shall be an ex officio member of the board.

(d) The board may establish rules or bylaws as necessary for the orderly conduct of its business, subject to approval by the city council.

(e) The board shall meet upon the call of the presiding officer and at other times as determined by the board rules. The presiding officer or acting presiding officer may administer oaths and compel attendance of witnesses. All meetings of the board shall comply with the Texas Open Meetings Act.

(f) A quorum of the board shall be required to open meetings, conduct business and take action on any agenda items. A quorum shall consist of a majority of the members of the board except that when a vacancy exists, a quorum shall consist of a majority of the remaining members.

(g) The board shall keep minutes of its proceedings and indicate the vote of each member on each question or the fact that a member is absent or abstains. The board shall keep records of its examinations and other official actions. The minutes and records shall be filed with the city secretary and its records are public records.

(h) A board member shall be required to complete any state-mandated training, to include but not limited to Open Meetings Act training, within ninety (90) days after appointment. Any training expenses incurred by the member may be eligible for reimbursement by the city subject to the city's travel and training policy.

(i) A board member having any potential conflict of interest on any policy, decision, or determination before the commission shall disclose to each of the other members the nature of his potential conflict and shall abstain from voting on such policy, decision or determination. In the event that the commission member recognizes a conflict or clear potential for conflict of interest, he or she shall recuse him or herself from discussion and action on the topic involving such conflict. The disclosure shall be recorded in the commission's minutes. Intentional or knowing failure to disclose a conflict of interest shall be governed under the general penalty section as set forth in this code.

(j) When there will be an absence of one or more members at a scheduled board meeting, alternate members may serve when requested to do so by the mayor, city manager or his or her designee, or presiding officer or acting presiding officer.

#### **Sec. 1.02.124 Powers and duties**

The board shall have the following purposes and duties:

(1) To hear and decide appeals of orders, decisions or determinations made by the building or code official relative to the application and interpretation of chapter 6 of this code as adopted and amended from time to time by the city council; and

(2) To decide such other matters as may be assigned by the city council from time to time.

**Sec. 1.02.125 Applicability, process, approval criteria and appeals**

(a) Applicability. The owner of property within the city limits may seek relief from the regulations found in chapter 6 of this code by requesting an appeal from the construction board of appeals.

(b) Process.

(1) The owner of the affected property or its authorized agent may seek an appeal by applying to the city manager or his or her designee on such forms and with such supporting documents as may be required by the city. An applicant for relief may appeal the decision of the city manager or city staff to the construction board of appeals within ten (10) days of the written decision of the city manager or city staff.

(2) The construction board of appeals shall set a hearing on the appeal of the staff decision, give public notice in an official newspaper or a newspaper of general circulation in the municipality containing the time and place of the hearing and a general description of the item to be considered or reviewed as well as written notice to the applicant seeking relief, and decide the same within forty-five (45) days of the making of the appeal. Any party may appear at the hearing in person or by agent. The applicant bears the burden of proof in establishing that relief is justified.

(3) Public notice. Before the 15th day before the date of the hearing before the construction board of appeals, the city manager or his/her designee shall cause to be published public notice in an official newspaper or a newspaper of general circulation in the municipality. The notice shall contain notice of the time and place of the hearing and a description of the item to be considered or reviewed.

(c) Approval criteria. In considering whether to grant relief from the regulations found in chapter 6 of this code, the construction board of appeals shall consider the following criteria:

(1) An application for appeal shall be based on a claim that the true intent of the codes as adopted in chapter 6 of this code or the rules or any amendments legally adopted thereunder have been incorrectly interpreted, do not fully apply to the development in question or an equally good or better form of construction or means are proposed to satisfy the requirements of the codes.

The construction board of appeals shall have no authority to waive requirements of the codes as adopted in chapter 6 of this code.

(d) Responsibility for final action. The ruling of the construction board of appeals is final, unless the applicant timely appeals the ruling to the city council for review and final action.

(e) Appeals from the construction board of appeals. The applicant or the city may appeal a decision of the construction board of appeals to the city council for “de novo” reconsideration and final determination. An appeal from a decision of the construction board of appeals shall be submitted in writing, on a form prescribed by the city, to the city secretary within ten (10) days of the meeting date of the decision by the construction board of appeals.

**Section 2.** Article 18.02, *Parks*, Division 2, *Parks and Recreation Commission* is hereby replaced in its entirety as follows:

*Division 2. Park and Recreation Commission*

**Sec. 18.02.031 Created; appointment of members; terms**

(a) This division creates the parks and recreation commission (“commission”) appointed by the city council. The commission shall consist of seven (7) members who shall reside either in the incorporated city limits or its extraterritorial jurisdiction.

(b) The members of the commission shall serve two-year staggered terms, with four (4) members being appointed in April of even-numbered years and three (3) members being appointed in April of odd-numbered years.

(c) The initial commission, four (4) of the members shall be appointed for one-year terms and three (3) members shall be appointed for two-year terms. Thereafter, all terms shall be two-year terms.

~~(d) Unless otherwise approved by the city council, members of the commission shall serve a maximum of three (3) consecutive terms. After a member serves his or her three (3) maximum consecutive terms, such ex-member cannot immediately reapply for the parks and recreation commission; however, such ex-member can apply immediately for positions to other boards or commissions that may have vacancies or reappointments. An appointment to fill a vacancy shall be for the unexpired term. A member serving to fill an unexpired term shall be eligible for reappointment to serve two (2) full two-year terms.~~

(e) Unless otherwise required by state law, all members serve at the pleasure of the city council and may be removed at any time with or without cause.

**Sec. 18.02.032 Qualifications of members**

(a) Unless otherwise determined by city council, at least five (5) of the members of this commission shall reside within the corporate limits of the city and no more than two (2) members shall be residents of the city's extraterritorial jurisdiction.

(b) If a city resident member of the commission ceases to reside in the city and his or her relocation reduces the number of city resident commission members below four (4), that person shall give such notice of such fact and may be deemed to have resigned from the commission as of the date his or her residence changed, and the city council shall appoint a resident commission member to fill the remainder of the resigning member's term. The temporary lack of four (4) resident members created by the vacancy shall not impair the ability of the commission to perform its duties nor the actions taken by the commission. If a resident commission member moves to the city's extraterritorial jurisdiction and the relocation leaves at least four (4) resident members on the commission, the relocated member shall continue to hold his or her place on the commission. A quorum of the commission shall be required to open meetings, conduct business and take action on any agenda items.

(c) The city council may take into consideration an applicant's history on delinquency in payment of any city taxes, utility bills, citations, municipal court judgments and assessments and so forth in qualifying the applicant.

(d) Notwithstanding any city ad hoc committees or except where duplicate appointments are authorized by ordinance, city charter or by state law, a person may not ~~be appointed~~serve as a member of the parks and recreation commission if he or she is ~~currently serving~~also serves on the city ~~zoning board of adjustment and appeals~~, planning and zoning commission, ~~historic preservation commission, library commission~~, economic development corporation board of directors, or local government corporation ~~or any other permanent city board or commission~~.

### **Sec. 18.02.033 Officers; rules; meetings; quorum; record; conflict of interest**

(a) The commission shall have a chairperson and a vice-chairperson elected from its membership to serve for a one-year term. Officers shall be elected annually by the commission. ~~Such officers shall be residents within the city limits. If the Commission wishes to appoint an officer residing outside of the city limits, then the Commission must request City Council approve such appointment.~~

(b) The chairperson shall preside over the commission and shall have the right to vote on all items before the commission. The vice-chairperson shall fulfill the duties of the chairperson when the chairperson is not available for any reason.

(c) The city manager or his or her designee shall be an ex officio member of the commission.

(d) The commission may establish rules or bylaws as necessary for the orderly conduct of its business, subject to approval by the city council.

(e) The commission shall meet at least monthly, if there is business at hand, at a time and place established by the commission. Special meetings may be called by the chairperson or interim chairperson of the commission, city manager or his or her designee or upon the request of any three (3) commission members. All meetings of the commission shall be open to the public and shall conform with the Texas Open Meetings Act, section 551 of the Government Code.

(f) A quorum shall consist of a majority of the members of the commission except that when a vacancy exists, a quorum shall consist of a majority of the remaining members.

(g) The commission shall keep a record, which shall be reasonably available to the public, of its resolutions, proceedings and actions.

(h) A commission member shall be required to complete any state-mandated training, to include but not limited to open meetings act training, within ninety (90) days after appointment. Any training expenses incurred by the member may be eligible for reimbursement by the city subject to the city's travel and training policy.

(i) A commission member having any potential conflict of interest on any policy, decision, or determination before the commission shall disclose to each of the other members the nature of his potential conflict and shall abstain from voting on such policy, decision or determination. In the event that the commission member recognizes a conflict or clear potential for conflict of interest, he or she shall recuse him or herself from discussion and action on the topic involving such conflict. The disclosure shall be recorded in the commission's minutes. Intentional or knowing failure to disclose a conflict of interest shall be governed under the general penalty section as set forth in section 1.01.009 of this code.

#### **Sec. 1.02.034 Powers and duties**

The commission shall serve in an advisory capacity to the mayor and city council and shall have the following purposes and duties, as well as other duties as assigned by the city council, as necessary to perform the business of the commission:

(1) The commission shall act in an advisory capacity to the city council and the planning and zoning commission with advice and recommendations on all policies, rules and regulations relating to the administration of a public park and recreation program.

(2) The commission shall provide advisory oversight of public playgrounds, athletic fields, recreation centers and other facilities and activities on any of the properties owned or controlled by the city or on other properties with the consent of the owners and authorities.

(3) The commission shall have the power to conduct any form of recreation activity that will employ the leisure time of the people in a constructive and wholesome manner.

(4) At the request of the city council, the commission shall make a complete annual report and other required reports to the city council.

(5) The commission will act in an advisory capacity with other municipal departments and/or political subdivisions to provide and establish, operate, conduct, and maintain a supervised recreation system and to acquire, operate, improve and maintain property, both real and personal, for parks, playgrounds, recreation centers, and other recreation facilities and activities.

(6) The commission will follow the directives of the city's comprehensive plan and any subsequent master plans regarding parks, recreation, trails and so forth.

**Section 3.** Article 18.03, *Library*, Division 2, *Library Commission* is hereby replaced in its entirety as follows:

*Division 2. Library Commission*

**Sec. 18.03.031 Created; appointment of members; terms**

(a) This division creates the public library commission ("commission") appointed by the city council. The commission shall consist of seven (7) members who shall reside either in the incorporated city limits or its extraterritorial jurisdiction.

(b) The members of the commission shall serve two-year staggered terms, with four (4) members being appointed in April of even-numbered years and three (3) members being appointed in April of odd-numbered years.

(c) On the initial commission, four (4) of the members shall be appointed for one-year terms and three (3) members shall be appointed for two-year terms. Thereafter, all terms shall be two-year terms.

~~(d) Unless otherwise approved by the city council, members of the commission shall serve a maximum of three (3) consecutive terms. After a member serves his or her three (3) maximum consecutive terms, such ex-member cannot immediately reapply for the library commission; however, such ex-member can apply immediately for positions to other boards or commissions that may have vacancies or reappointments. An appointment to fill a vacancy shall be for the unexpired term. A member serving to fill an unexpired term shall be eligible for reappointment to serve two (2) full two-year terms.~~

(e) Unless otherwise required by state law, all members serve at the pleasure of the city council and may be removed at any time with or without cause.

### **Sec. 18.03.032 Qualifications of members**

(a) Unless otherwise determined by city council, at least five (5) of the members of this commission shall reside within the corporate limits of the city-and no more than two (2) members shall be residents of the city's extraterritorial jurisdiction.

(b) If a city resident member of the commission ceases to reside in the city and his or her relocation reduces the number of city resident commission members below four (4), that person shall give such notice of such fact and may be deemed to have resigned from the commission as of the date his or her residence changed, and the city council shall appoint a resident commission member to fill the remainder of the resigning member's term. The temporary lack of four (4) resident members created by the vacancy shall not impair the ability of the commission to perform its duties nor the actions taken by the commission. If a resident commission member moves to the city's extraterritorial jurisdiction and the relocation leaves at least four (4) resident members on the commission, the relocated member shall continue to hold his or her place on the commission. A quorum of the commission shall be required to open meetings, conduct business and take action on any agenda items.

(c) The city council may take into consideration an applicant's history on delinquency in payment of any city taxes, utility bills, citations, municipal court judgments and assessments and so forth in qualifying the applicant.

(d) Notwithstanding any city ad hoc committees or except where duplicate appointments are authorized by ordinance, city charter or by state law, a person may not ~~be appointed~~serve as a member of the public library commission if he or she is ~~currently also~~ currently serving on the city council, ~~zoning board of adjustment and appeals, planning and zoning commission, historic preservation commission, parks and recreation commission, economic development corporation board of directors, or~~ local government corporation or any other permanent city board or commission.

### **Sec. 18.03.033 Officers; rules; meetings; quorum; record; conflict of interest**

(a) The commission shall have a chairperson and a vice-chairperson elected from its membership to serve for a one-year term. Officers shall be elected annually by the commission. ~~Such officers shall be residents within the city limits. If the Commission wishes to appoint an officer residing outside of the city limits, then the Commission must request City Council approve such appointment.~~

(b) The chairperson shall preside over the commission and shall have the right to vote on all items before the commission. The vice-chairperson shall fulfill the duties of the chairperson when the chairperson is not available for any reason.

(c) The city manager or his or her designee shall be an ex officio member of the commission.

(d) The commission may establish rules or bylaws as necessary for the orderly conduct of its business, subject to approval by the city council.

(e) The commission shall meet at least monthly, if there is business at hand, at a time and place established by the commission. Special meetings may be called by the chairperson or interim chairperson of the commission, city manager or his or her designee or upon the request of any three (3) commission members. All meetings of the commission shall be open to the public and shall conform with the Texas Open Meetings Act, section 551 of the Government Code.

(f) A quorum shall consist of a majority of the members of the commission except that when a vacancy exists, a quorum shall consist of a majority of the remaining members.

(g) The commission shall keep a record, which shall be reasonably available to the public, of its resolutions, proceedings and actions.

(h) A commission member shall be required to complete any state-mandated training, to include but not limited to Open Meetings Act training, within ninety (90) days after appointment. Any training expenses incurred by the member may be eligible for reimbursement by the city subject to the city's travel and training policy.

(i) A commission member having any potential conflict of interest on any policy, decision, or determination before the commission shall disclose to each of the other members the nature of his potential conflict and shall abstain from voting on such policy, decision or determination. In the event that the commission member recognizes a conflict or clear potential for conflict of interest, he or she shall recuse him or herself from discussion and action on the topic involving such conflict. The disclosure shall be recorded in the commission's minutes. Intentional or knowing failure to disclose a conflict of interest shall be governed under the general penalty section as set forth in section 1.01.009 of this code.

#### **Sec. 18.03.034 Powers and duties**

The commission shall serve in an advisory capacity to the mayor and city council and shall have the following purposes and duties, as well as other duties as assigned by the city council, as necessary to perform the business of the commission:

(1) Recommend policies for the operation of the library.

(2) Act in an advisory capacity to the city council for the continued development and improvement of the public library.

(3) Promote close communication between the city and all private citizens in order to secure the greatest degree of public benefit from library resources and services.

(4) Advise in the formulation of reasonable policies governing the use of library facilities and resources based upon recommendations of the library director.

(5) To perform such other duties as may be assigned by the city council from time to time.

**Section 4.** If any clause or provision of this Ordinance shall be deemed to be unenforceable for any reason, such unenforceable clause or provision shall be severed from the remaining portion of the Ordinance, which shall continue to have full force and effect.

**Section 5.** Passage. Pursuant to Section 3.11(A) of the City Charter, if the Council determines that the first reading of this ordinance is sufficient for adequate consideration by an affirmative vote of five or more members of the City Council during the first reading and the Ordinance is passed by a the affirmative vote of four or more members of the City council, this Ordinance is adopted and enacted without further readings. In the event a second reading is necessary, this Ordinance is adopted and enacted upon the affirmative vote of four or more members of the City Council upon second reading.

**Section 6.** Effective Date. Pursuant to Section 3.11(D) of the City Charter, this ordinance is effective upon adoption, except that every ordinance imposing any penalty, fine or forfeiture shall become effective only after having been published once in its entirety, or a caption that summarizes the purpose of the ordinance and the penalty for violating the ordinance in a newspaper designated as the official newspaper of the City. An ordinance required by the Charter to be published shall take effect when the publication requirement is satisfied.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Buda, on this the \_\_\_\_ day of \_\_\_\_\_, 2013.

APPROVED:

\_\_\_\_\_  
Todd Ruge, Mayor

ATTEST:

\_\_\_\_\_  
Joy Hart, City Secretary