

## **ORDINANCE NO. 2025-15**

### **AN ORDINANCE OF THE CITY COUNCIL OF BURNET, TEXAS, AMENDING CITY OF BURNET CODE OF ORDINANCES, CHAPTER 2 ARTICLE III (ENTITLED "APPOINTED BODIES") AND CHAPTER 2, SECTION 2-277 (ENTITLED "ADVISORY COMMITTEE; PROVIDING FOR PENALTY; PROVIDING CUMULATIVE, REPEALER AND SEVERABILITY CLAUSES; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, the City of Burnet City Council is authorized by the City Charter and state law to establish and regulate appointed boards, commissions, and committees that serve the public interest and advise the Council on matters of community importance; and

**WHEREAS**, the City Council finds it necessary to revise and modernize Article III of Chapter 2 of the Code of Ordinances to clarify the structure, authority, and responsibilities of appointed bodies; and

**WHEREAS**, the Council further desires to update and consolidate the provisions related to the Advisory Committee found in Section 2-277 to reflect its composition and responsibilities in accordance with current city practices and state law concerning impact fees and capital improvements planning; and

**WHEREAS**, the City Council finds that amending Article III and Section 2-277 of Chapter 2 is in the best interest of the City and its residents and will enhance the functionality and public trust in the City's appointed bodies; and

**WHEREAS**, City Council, finds, determines, and declares that publication of notice of this Ordinance, as required by Section 3.14 of the City Charter and the laws of the State of Texas, was made by the City Secretary within the period prescribed by Section 3.14; and

**WHEREAS**, City Council, finds, determines, and declares that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given as required by Chapter 551 of the Texas Government Code.

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

**Section One. Code Amendment.** The City Code of Ordinances, Chapter 2, is hereby amended by replacing Article III in its entirety with the text below and by replacing Section 2-277, "Advisory Committee," in its entirety with the text below:

## ARTICLE III. APPOINTED BODIES

### DIVISION 1. GENERAL PROVISIONS

#### **Sec. 2-41. Generally.**

- (a) *Authority.* Pursuant to the Charter and the laws of this state, city council is vested with the authority to establish and abolish appointed bodies, as may be mandated by state statute or other law, or as city council deems beneficial or necessary to serve the public good.
- (b) *Purpose.* The purpose of this article is to provide guidance generally as to the establishment, appointment of members, and operations of appointed bodies. The authority, functions and responsibilities of such appointed bodies may be prescribed in this section or by separate ordinance, resolution, or order of city council.
- (c) *Scope.* Except as provided in subsections (1) and (2) immediately below, this article is applicable to all bodies appointed by city council, whether such body is designated as a board, commission, agency, bureau, committee or by other designation; or is established by ordinance, resolution or order. Appointed bodies not falling within the scope of this Article are as follows:
  - (1) *Ad hoc committees.* Ad hoc committees are appointed for a specific purpose and for a specific length of time. Ad hoc committees may be appointed by ordinance, resolution, or order of city council. The instrumentality of appointment shall name the committee members, articulate the charge of the committee, and the length of time, if applicable, the committee has to accomplish its charge. An Ad hoc committee shall have no decision-making authority.
  - (2) *Staff appointed committees.* A staff appointed committee is appointed for a specific purpose or for a specific length of time, whose members shall be appointed by the City Manager or the City Manager's designee. The establishment of a staff appointed committee must be approved by city council by ordinance, resolution, or order. The instrumentality of establishment shall articulate the charge of the committee, and designate the committee as standing or temporal. A staff appointed committee shall have no decision-making authority. Staff appointed committees shall include, but are not limited to, Airport Advisory Board, Police Department Citizen Advisory Board, Golf Course Advisory Committee, Fire Appeal Board. No person within the second degree of affinity or third degree of consanguinity of the City Manager, or City Manager's designee, shall be eligible for appointment; nor, shall any person within the first degree of affinity or second degree of consanguinity of a staff appointed committee member be appointed to the same committee as the related member. Computation of degree of consanguinity and affinity shall be pursuant to Chapter 573 Texas Government Code.
- (d) *Establishment.* The authority, functions and responsibilities of such appointed bodies shall be established by city council ordinance, resolution, or order. In its

sole prerogative, city council may abolish an appointed body; or modify or alter an appointed body's authority, functions, charge, and responsibilities. In the event of a conflict between the ordinance, resolution, or order establishing an advisory body and this section the ordinance, resolution, or order establishing the advisory body shall prevail.

- (e) *Term.* Members of standing consulting and standing advisory bodies shall be appointed for two-year terms. Members may be reappointed and may serve on two or more advisory bodies unless such appointments are prohibited by law.
- (f) *Appointments.* Each advisory board position shall be assigned a place number. Even numbered places shall be appointed in even numbered years and odd numbered places shall be appointed in odd numbered years.
- (g) *At will appointment.* Except as provided by state statute, members appointed to an appointed body serve at the pleasure of city council and a member may be removed by city council with or without cause.

## **Sec. 2-42. Members.**

- (a) *Qualifications and applications.*
  - (1) Members of the Zoning Board of Adjustment, the Planning and Zoning Commission must be qualified voters and residents of the City of Burnet. Members of all other advisory bodies, unless otherwise specified herein, must be qualified voters and residents of the state of Texas. Failure of a member to maintain the required residency status shall result in the member's immediate resignation.
  - (2) Members of the Economic Development Corporation Board must: (1) live in the city; (2) live in the county in which the major part of the city is located; or (3) live within 10 miles of the city and in a county bordering the county in which the major part of the city is located.
  - (3) Applicants are subject to a background check, the results of which shall be made available to city council and for public inspection.
  - (4) Applicants with a felony, class A misdemeanor, or crime of moral turpitude on their record, or with such charges pending, shall be subject to being determined by council to be disqualified to serve.
  - (5) No person within the second degree of affinity or third degree of consanguinity of a sitting city council member shall be eligible for appointment; nor, shall any person within the first degree of affinity or second degree of consanguinity of an advisory body member be appointed to the same advisory body as the related member. Computation of degree of consanguinity and affinity shall be pursuant to Chapter 573 Texas Government Code.
  - (6) Applicants shall complete an application form as provided by the city manager.

- (b) *Ethics.* City council has adopted an Ethics Code, which is codified as Chapter 2 Article VIII of the City Charter. Prior to beginning service on an appointed body each member shall sign a pledge of adherence to the standards of conduct required by the Ethics Code.
- (c) *Criminal charges.* A member shall notify the city secretary within ten days of any criminal charge of felony, class A misdemeanor, or crime of moral turpitude lodge against the member by local, state, or federal law enforcement. Said notification must be in writing.
- (d) *Attendance.* Meeting attendance is critical to effective service as a member. Therefore, the unexcused absence for three consecutive regularly scheduled meetings, or 50% of the regularly scheduled meetings during any calendar year shall be deemed as a member's resignation.
- (e) *Education and training.* Members may be required to participate in orientation and annual educational and training events as provided by the City.
- (f) *Vacancies.* City Council shall appoint a new member to fill an Appointed Body vacancy caused by resignation or removal as follows:
  - (1) As soon as practicable after the vacancy is created, the City Secretary shall publish a solicitation for applicants to fill the vacancy on the City's website.
  - (2) At a meeting falling after the publication City Council shall select an applicant to fill the vacancy for its unexpired term.
  - (3) Notwithstanding the foregoing, City Council may fill a vacancy that causes the possibility of creating a lack of a quorum as soon as practicable without solicitation for applicants.

#### **Sec. 2-43. Meetings.**

- (a) *Rules of order.* Appointed bodies shall conduct business under rules of order adopted by the body and approved by city council. Until such time as an appointed body adopts rules of order, pursuant to this section, they shall conduct business in accordance with Robert's Rules of Order 12th Edition.
- (b) *Texas Open Meetings Act.* The Planning and Zoning Commission, Zoning Board of Adjustment, Fire Code Appeals Board, Economic Development Corporation, Historic Preservation Commission, and other advisory bodies with decision making authority or otherwise required to comply with the Texas Open Meetings Act shall:
  - (1) publish notice of all meetings in accordance with the requirements of Texas Open Meetings Act; and
  - (2) conduct such meetings in accordance with the requirements of the Texas Open Meetings Act; and
  - (3) keep meeting minutes in accordance with the requirements of the Texas Open Meetings Act.
- (c) *Other advisory bodies.* Advisory bodies with no decision-making authority are not subject to the Open Meeting Act. However, such advisory bodies shall open their

meetings to the public and, when practicable, post notice of the time, place and subject matter of such meetings at least 72 hours in advance.

- (d) *Reports.* Advisory bodies required to comply with subsection (b) , immediately above, shall also provide City Council with a report of each meeting which shall minimally contain the name of members present, whether members absent were excused from attendance, the caption of each item discussed at the meeting, the names of the members making the main motion, second and any amendatory motions, and the names of the members voting in favor of the motion, in opposition to the motion or abstaining from vote on the motion.
- (e) *Liaisons.*
  - (1) Council liaison. City council may appoint a councilmember as liaison to one or more appointed bodies. The role of the council liaison is that of a non-voting ex-officio member, to act as a communication conduit between city council and the appointed body.
  - (2) Staff liaison. The city manager may assign a staff member as an ex-officio member to a respective board to perform support services and may or may not, provide technical data, prepare agendas, post notices of meetings, prepare minutes of the meetings, and other related functions and will not be entitled to vote or preside over meetings.

## DIVISION 2. ADVISORY BODIES ESTABLISHED BY ORDINANCE

### **Sec. 2-44. Planning and zoning commission.**

- (a) *Establishment.* In accordance with Chapter 212 Subchapter A Local Government Code there is hereby established a planning commission. In accordance with Chapter 211 Subchapter A Local Government Code the members of the planning commission shall serve as the zoning commission. The commission shall serve as the city's first review authority on land use, zoning, and development to ensure alignment with the City's Comprehensive Plan and strategic objectives.
- (b) *Name.* This body is designated as the City of Burnet Planning and Zoning Commission and may be referred to simply as the commission.
- (c) *Duties and authority.* The commission shall review and make recommendations to the City Council on zoning, subdivision plats, special use permits, site development proposals, and other land use matters as prescribed in City Code chapters 98 and/or 118. The Commission shall evaluate proposals based on consistency with the City's Comprehensive Plan, infrastructure capacity, economic development priorities, and community impact.
- (d) *Membership.* The commission shall consist of five members. Three members shall constitute a quorum.
- (e) *Officers.* Commission officers shall be the chairperson, vice chairperson and secretary. All officers must be appointed members of the commission except the secretary who may be a member of city staff.

- (1) The chairperson shall preside over all meetings, may appoint committees, and preside over such committees; certify all commission official documents and minutes; and act in the absence of the secretary.
  - (2) The vice chairperson shall act in the absence of the chairperson, and if both the chairperson and secretary are absent, serve as the secretary.
  - (3) The secretary shall cause a record of meeting attendance and minutes; provide notification of meetings to commission members, file official records and reports of the commission with the city secretary; and provide notification and publications of commission meetings as prescribed by law.
- (f) *Meetings.* The commission's regular meetings shall occur the first Monday of each month. The chairperson may call special meetings as may be required to comply with statutory plat approval timelines or address other emergency matters.
- (g) *Voting.* Voting shall be subject to the following:
- (1) No affirmative action shall be valid unless authorized by a majority vote of the members present.
  - (2) Members must abstain from voting or discussion of any matter that poses a conflict of interest.
  - (3) Negative votes and abstentions shall be counted as a “nay” vote on any motion before the commission.
  - (4) Should after the reading of the caption and deliberation on a matter for recommendation to City Council the vote of the commission is tied, or should the commission fail to take action to approve, deny, or postpone action, the vote, or lack thereof, shall be recorded and reported as a recommendation of denial.
  - (5) Unless otherwise prohibited by statute the commission may only postpone action to a future date once. Such postponed action shall be placed on the first available agenda of the commission.
- (h) *Reports.* After any vote for recommendation of denial, or any vote that is not unanimous, on an agenda item, requiring a recommendation to city council, the chairperson shall poll each commissioner on the rationale for his or her vote. This information shall be included in the meeting minutes; and made part of the commission report on said agenda item.
- (i) *Ethics.* In addition to the City's Ethics Code compliance requirements, the commission (while acting in its capacity as the planning commission) shall comply with the requirements of Sec. 212.017 of Texas Local Government Code (entitled “Conflicts of Interest: Penalty”).

## **Sec. 2-45. Zoning board of adjustment.**

The zoning board of adjustment is established and governed by City Code chapter 118, article IV.

**Sec. 2-46. Historic preservation board of directors.**

The historic preservation board of directors is established and governed by chapter 118, article X, City Code.

**Sec. 2-47. Airport board of adjustment.**

The airport board of adjustment is established and governed by City Code chapter 18, article I.

**Sec. 2-48. Economic development corporation board of directors.**

The economic development corporation board of directors is established and governed by June 11, 2008 Articles of Incorporation and the Burnet Economic Development Corporation Bylaws.

**Sec. 2-49. Parks and recreation advisory board.**

The parks and recreation advisory board is established and governed by City Code chapter 74, article II.

**Sec. 2-50. Board of ethics.**

The board of ethics is established and governed by City Code chapter 2, article VIII.

**Sec. 2-51 Advisory committee.**

The advisory committee is established and governed by City Code Chapter 2, article X.

**Section two. Amendment.** The City Code of Ordinances Chapter 2 is hereby amended by replacing Section 2-277 advisory committee in its entirety with the text below:

**Sec. 2-277 Advisory committee.**

- (a) The advisory committee shall consist of the members of the appointed planning and zoning commission. If the commission does not include at least one representative of the real estate, development or building industry the city council shall appoint at least one representative, having such qualifications, as a voting member of the advisory committee. If any impact fee is to be applied to the extraterritorial jurisdiction of the city, a representative from that area shall be appointed by the city council.
- (b) The duties of the advisory committee shall be as follows:
  - (1) Advise and assist the adoption of land use assumptions;
  - (2) Review the capital improvements plan and file written comments;

- (3) Monitor and evaluate implementation of the capital improvements plan;
  - (4) File semi-annual reports with respect to the progress of the capital improvements plan and report to the city council any perceived inequities in implementing the plan or imposing the impact fee; and
  - (5) Recommend to the city council as necessary and required the timely amendment and/or update of the capital improvements plan and the impact fees.
- (c) All information and professional reports concerning the development and implementation of the capital improvements plan shall be made available to the advisory committee, and the city staff and contract officers of the city shall provide the committee with such support and assistance as may be required.

**Section Two. Findings.** The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

**Section Three. Penalty.** A violation of this ordinance is unlawful and subject to City Code of Ordinances Sec. 1-6 (entitled “general penalty”).

**Section Four. Cumulative.** This ordinance shall be cumulative of all provisions of all ordinances and codes, or parts thereof, except where the provisions of this Ordinance are in direct conflict with the provisions of such Ordinances, in which event Section 5, (entitled “Repealer”) shall be controlling.

**Section Five. Repealer.** All ordinances and codes, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein.

**Section Six. Severability.** If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this Ordinance would have been enacted without such invalid provision.

**Section Seven. Publication.** The publishers of the City Code are authorized to amend said Code to reflect the changes adopted herein and to correct typographical errors and to format and number paragraphs to conform to the existing Code.

**Section Eight. Effective Date.** This Ordinance shall be effective upon the date of final adoption hereof.



**PASSED, APPROVED, AND ADOPTED** on this 8<sup>th</sup> day of April 2025

**CITY OF BURNET, TEXAS**

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Gary Wideman, Mayor

**ATTEST:**

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Maria Gonzales, City Secretary

