

**ORDINANCE #53, Rev. #1**

**June 15, 2021**

**AN ORDINANCE OF THE CITY OF HIGHLAND HAVEN, TEXAS, REPEALING RESOLUTION NUMBERS 008 and 009; CREATING THE PLANNING AND ZONING COMMISSION; PROVIDING THE POWERS AND DUTIES OF THE COMMISSION; PROVIDING FOR APPOINTMENT, MEETINGS AND DUTIES OF COMMISSIONERS; PROVIDING OPEN MEETINGS AND SEVERABILITY CLAUSES; PROVIDING FOR CERTAIN RELATED MATTERS; AND ESTABLISHING AN EFFECTIVE DATE.**

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN (BOARD) OF THE CITY OF HIGHLAND HAVEN, TEXAS, THAT:**

**Section 1. Creation and Purpose.** A Planning and Zoning Commission is created in order to accomplish the following purposes:

- (a) To identify community needs and to advise the Board of their short-range and long-range implications for the total development of the City;
- (b) To recommend achievable community goals as a basis for long-range planning and development programs;
- (c) To recommend plans, programs, and policies that will aid the entire community in achieving its defined goals; and
- (d) To interpret the adopted plans and programs to concerned citizens so that private activities and desires may be accomplished in harmony with public needs and policies.

**Section 2. Membership and Appointment.** The Planning and Zoning Commission shall be composed of five (5) persons with five (5) qualified electors of the City. Each Alderman will appoint one (1) member to the Planning and Zoning Commission. The Board of Aldermen will consider for appointment to the Commission only those persons who have demonstrated their civic interest, general knowledge of the community, independent judgment, interest in planning and zoning, and availability to prepare for and attend meetings. It is the intent of the Board that members shall, by reason of diversity of their individual backgrounds, constitute a Commission, that is broadly representative of the community.

**Section 3. Terms of Office; Filling of Vacancies.** The terms of the Commission members shall run concurrent with that of the appointing alderman. Commission members may be appointed to succeed themselves. Vacancies shall be filled for un-expired terms, but no member shall be appointed for a term in excess of two years. Newly appointed members shall be installed at the first regular commission meeting after their appointment. A majority vote of the Board may remove members at any time, with or without cause.

**Section 4. Appointment of Chairperson and Vice-Chairperson,** The Chairperson shall be voted by the Planning and Zoning Commission with a Recommendation sent to the Board of Aldermen for final approval.

**Section 5. Organization; Selection of Officers; Record of Proceedings.** The Commission shall hold an organization meeting in June of each year. The Commission shall select a Secretary and such other officers, as it deems necessary from its membership. The Commission shall meet regularly and shall designate the time and place of its meetings. The Commission shall keep a record of its proceedings consistent with the provisions of this ordinance and the requirements of law.

**Section 6. Duties and Powers.** The Planning and Zoning Commission is charged with the duty and invested with the authority to:

(a) Inspect property at reasonable hours when required to discharge its responsibilities under the laws of the state and of the City.

(b) Formulate and recommend to the Board for its adoption a comprehensive plan for the orderly growth and development of the City and its environs, and from time to time recommend such changes in the plan as will facilitate the movement of people and goods, and will promote the health, recreation, safety, and general welfare of the citizens of the City.

(c) Formulate a zoning plan to best carry out the goals of the comprehensive plan; hold public hearings and make recommendations to the Board relating to the creation, amendment, and implementation of zoning regulations and districts as provided by ordinance, Local Government Code, as amended, authorizing cities to pass regulations.

(d) Exercise all the powers of a commission to provide recommendations to the Board for approval or disapproval the plans, plats, or replats and vacations of plans; plats or replats only if they are variances to zoning ordinances as set out in the subdivision ordinance and Texas 212 (Municipal Regulation of Subdivisions and Property Development), Local Government Code or floodplain management issues. The following limitations are imposed as to replats and construction permits:

(1) Replats. Combinations and single divisions of Highland Haven Subdivision platted lots require P&Z action.

(2) Construction Permitting review by P&Z is only required for new residence construction and major residential remodeling as pertains to first floor elevation requirement under the Flood Plain Management Ordinance. P&Z review and recommendation may be limited to that of the P&Z or designated representative.

(e) Study and make recommendations on the location, extension, planning, vacating, and closing of public rights-of-way, public parks, and other public places.

(f) Study and make recommendations concerning the capital improvements program, including the construction of public buildings, bridges, street fixtures, and other structures and appurtenances. Study and make recommendations on the design or alteration and on the location or relocation of works of art which are, or may become, the property of the City.

(g) Initiate, in the name of the City, for consideration at public hearings, all proposals: for the opening, vacating, or closing of public rights-of-way, parks, or other public places; for the original zoning of annexed areas; and for the change of zoning district boundaries on an area-wide basis and to forward its recommendations regarding same to the Board.

(h) Formulate and recommend to the Board policies and regulations consistent with the adopted comprehensive plan governing the location and/or operation of utilities, public facilities, and services owned or under the control of the City.

(i) Review and make recommendations concerning annexation of land into the City.

#### **Section 7. Meetings and Quorum.**

(a) Any member may make a motion.

(b) A motion to approve any matter before the Commission or to recommend approval of any request requiring Board action shall require a majority vote of the quorum of the members present. When fewer than all the members are present for the voting and when all motions to recommend on a given application fail to carry by a majority of the quorum of members present, consideration of the application shall be continued to the next regular meeting upon motion carried by a majority of those present. However, a request or application shall not be continued to the next regular meeting and shall be recorded in the minutes as a denial if all the members are present for the vote and a motion fails to carry by a majority vote.

#### **Section 8. Disqualification from voting.**

- (a) A member shall disqualify himself/herself from voting whenever they find that they have a personal or monetary interest in the property under appeal or that they will be directly affected by the decision of the Commission.
- (b) A member must disqualify himself or herself from voting whenever any applicant, or the applicants, has sought to unduly influence the vote of the member on the application, other than in the public hearing,

#### **Section 9. Rules of Procedure.**

(a) Organization and officers. In the absence of both the Chairperson and Vice-Chairperson, the Commission shall elect an Acting Chairperson.

(b) Meetings.

(1) Quorum. A quorum shall consist of a majority of the appointed members holding office. In case of more than one vacancy, no less than three members shall be required for a quorum.

(2) Agenda. An agenda shall be prepared for each meeting of the Commission, and shall attach to each agenda a report of matters pending further action by the Commission. The Secretary shall post a copy of the agenda on the City Hall outside bulletin board as required by law for a period of three full calendar days, not counting the day of posting, but which may count the day of the meeting.

(3) Regular Meetings. Regular meetings shall be held in the City Hall, unless otherwise determined by the Commission.

(4) Special Meetings. Special meetings for any purpose may be held on the call of the Chairperson, or on request of two or more members and by giving written notice to all members deposited in the mail, email, or telephone at least 72 hours before the meeting, or as may be scheduled by a majority of the Commission at any previous meeting. The time and place of the special meeting shall be determined by the convening authority.

(5) Public Meetings. Any party in interest may appear in his own behalf or be represented by council or agent.

(c) Official records.

(d) Official records. The official records shall be the minutes of the Commission, together with all findings, decisions, and other official records of the Commission.

(e) Recording of Vote. The minutes of the Commission's proceedings shall show the vote of each member, or indicate a member's absence or failure to vote.

(f) Files Retention. All matters coming before the commission shall be filed in the city's records. Records retention will be in accordance with City Record Management Plan and the provisions of the Texas Local Government Records Act (Title 6, subdivision C, Local Government Code).

(g) Public Record. The official records and citizen requests filed for Commission action in regular or special meetings shall be on file in the City Hall and shall be open to public during customary working hours.

(h) Application Procedures.

(1) Written request required. Every proposal submitted by citizens or the City for Commission action shall be made in writing. The City shall provide application forms. The proposal shall be filed on City-provided forms, shall be accompanied by all prescribed fees, and shall be complete in all respects before the City shall accept it for filing.

(2) Schedules and instructions. Every proposal or request for Commission action or recommendation shall be filed, processed, and considered in accordance with this section.

(3) Submission of supporting information. Information supporting a request or recommendation to approve or disapprove any proposal before the Commission shall be submitted in writing or to the Commission.

(4) Withdrawal of proposal. When any applicant desires to withdraw his or her proposal he or she may do so by filing a written request with the Secretary. Such request shall be effective upon the date of its official receipt, provided, however, that no such request will be

accepted after notices have been mailed, except on action of the Commission. Withdrawal of a proposal at any stage of its processing shall terminate all consideration of and the case file shall be closed.

**Section 10. Amendment.** City of Highland Haven Resolutions numbers 008 and 009 are hereby replaced hereby. Should any ordinance or statute in conflict with this ordinance, the more restrictive one shall apply.

**Section 11. Severability.** Should any section or part of this ordinance be held unconstitutional, illegal, or invalid, or the application to any person or circumstance for any reason therefore be held ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this ordinance are declared to be severable.

**Section 12. Effective Date.** This ordinance shall take effect immediately upon its passage and approval by the Board on the date set forth below.

**Section 13. Open Meetings.** It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the *Open Meetings Act, Chapter. 551, Texas. Government. Code.*

**Section 14. City Resolutions 008 and 009 are hereby repealed.**

**PASSED AND APPROVED on this 15<sup>th</sup> day of June 2021.**

*Lezley Baum*  
Lezley Baum Administrative Assistant

*Olan Kelley*  
Olan Kelley, Mayor

(Seal)