

CITY OF HORSESHOE BAY

ORDINANCE NO. 2017-05

**ADOPTION OF AMENDMENT TO CODE OF ORDINANCES:
BOARD OF ADJUSTMENT**

**AN ORDINANCE OF THE CITY OF HORSESHOE BAY, TEXAS ADOPTING
AMENDMENTS TO THE CODE OF ORDINANCES; DECLARING AN
EFFECTIVE DATE; REPEALER; SEVERABILITY; AND PROPER NOTICE AND
MEETING**

WHEREAS, on May 9, 2009 the City held an election for the purpose of the adoption of a home rule charter, which was approved and adopted;

WHEREAS, Texas Local Government Code 211.008 sets forth certain requirements with respect to boards of adjustment of certain types of municipalities, including home rule municipalities such as the City;

WHEREAS, the City Council of Horseshoe Bay desires to bring the City's Code of Ordinances into compliance with Texas Local Government Code 211.008; and

WHEREAS, the City Council of Horseshoe Bay is authorized by statute and under the City's home rule charter to formally adopt the following amendments to the City's Code of Ordinances;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
HORSESHOE BAY, TEXAS:**

I. FINDINGS OF FACT

All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council, and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

II. AMENDMENT

Section 14.02.111 of the City's Code of Ordinances is hereby amended and restated in its entirety to read as follows:

The City Council of the City of Horseshoe Bay hereby creates a Planning and Zoning Commission and a Board of Adjustment. The Planning and Zoning Commission shall have all the rights, powers, privileges and authority authorized and granted to a Planning and Zoning Commission and the Board of Adjustment shall have all the rights, powers, privileges and authority authorized and granted to a Board of Adjustment through the statutes of the State of Texas authorizing and granting home rule cities the power of zoning and subdivision regulation including, but not necessarily limited to, those found in chapters 211 and 212 of the Texas Local Government Code, as may be amended.

Section 14.02.191 of the City's Code of Ordinances is hereby amended and restated in its entirety to read as follows:

Sec. 14.02.191 General

Upon adoption of this article, the City Council hereby creates the Board of Adjustment, hereafter sometimes referred to as the "BOA" which shall function according to the following criteria that establish membership and operating procedures.

Section 14.02.194 of the City's Code of Ordinances is hereby added and shall read in its entirety to read as follows:

Sec. 14.02.194 Creation and Terms of Office

(a) The BOA shall consist of five (5) members, all of whom shall be residents and registered voters of the city.

(b) Each year in December, the City Council will appoint members to fill expiring terms as necessary and outlined in the City Council Rules of Procedure Policy. An alternate member may be appointed for each position. An alternate member may serve in the event of absence or disqualification of the member in that position.

(c) BOA members' terms of office shall be staggered as follows: three (3) of the five (5) members on the BOA shall serve for a term of office of two (2) years beginning January 1 of odd years, and the other two (2) members shall serve for a term of office of two (2) years beginning January 1 of even years. There shall be a limit of four successive terms that a person may serve as a BOA member. A partial term to which a person is appointed or elected shall not be counted as a full two- (2-) year term for the purposes of this article.

(d) Any vacancy(s) on the BOA shall be filled for the unexpired term via appointment by a simple majority vote of the City Council for the remainder of the term. In any case of a tie vote, the City Council would vote again, until the replacement member(s) is (are) selected.

(e) A BOA member's position is automatically considered vacant if the member is absent for:

- (1) Three (3) consecutive, regular meetings; or
- (2) Four (4) meetings (cumulative) during the preceding twelve (12) month period

Exceptions shall be granted if the member has first obtained a written leave of absence from the Chair of the BOA and absences are due to unusual circumstances beyond the member's control (such as sickness of the member or someone in the member's immediate family).

(f) Members of the BOA may be removed from office at any time by a simple majority vote of the full City Council either upon its own motion or upon recommendation of a majority of the BOA.

(g) The members of the BOA shall regularly attend meetings and public hearings of the BOA, shall serve without compensation, and shall not hold any other office within, or serve as an employee of, the city while serving on the BOA. The BOA shall meet a minimum of once per month, at least two (2) weeks prior to the scheduled City Council meeting. If there have been no applications filed for review by the BOA, the Development Services Director shall notify the Chair and no meeting shall be required for that month.

(h) The City Council shall appoint a Chair from among the membership of the BOA. The BOA shall elect from among its membership, a Vice-Chair. The BOA may elect from among its membership a Secretary. Each officer shall hold office for one (1) year or until replaced. The BOA, at its first meeting each year shall select all the positions.

(i) The BOA shall have the power to make rules, regulations and bylaws for its own governance, which shall conform to those set forth by the City Council, and such rules, regulations and bylaws shall be subject to approval by the City Council. Such rules and bylaws shall include, among other items, provisions for the following:

- (1) Regular and Special meetings;
- (2) A record of its proceedings; and
- (3) Reporting to the City Council.

Section 14.02.195 of the City's Code of Ordinances is hereby added and shall read in its entirety as follows:

Section 14.02.195 Voting Procedures

(a) The BOA will follow the parliamentary procedure adopted by the City Council, such as Robert's Rules of Order, Newly Revised, and procedures shall not be in conflict with the laws applicable to the BOA.

(b) Quorum. A quorum shall consist of four (4) members of the BOA. Motions shall carry with a simple majority vote; however, in no case shall less than three (3) votes in favor or against a motion constitute a majority.

(c) Voting. All BOA members, including the Chair, shall be entitled to one vote each upon any question, a quorum being present. Voting procedures shall be in accordance with the parliamentary procedures adopted by the BOA.

(d) Conflict of interest. A member shall not vote or participate in any deliberations regarding a matter before the BOA if the member has any personal financial interest in, or any property within two hundred feet (200') of, the property in question, whether such interest is direct, indirect, financial or otherwise. A member may disqualify him/herself, and in any case where the question of a member's interest is raised, the Chair shall rule on whether the member shall be disqualified.

Section 14.02.196 of the City's Code of Ordinances is hereby added and shall read in its entirety as follows:

Section 14.02.196 Meetings

(a) The BOA shall meet at city hall or in some other specified location as may be designated by the presiding Chair and coordinated through the Development Services Department.

(b) Meetings shall be conducted in accordance with the Texas Open Meetings Law.

III. ADOPTION OF ORDINANCES

(a) The City Council of Horseshoe Bay hereby declares that the foregoing amendments and additions to the Code of Ordinances are incorporated into the Code of Ordinances for all purposes and are hereby adopted.

IV. EFFECTIVE DATE

This Ordinance shall be and become effective immediately upon and after its passage and publication as may be required by governing law.

V. REPEALER

All ordinances or parts of ordinances in force when the provisions of this Ordinance become effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed only to the extent of such conflict.

VI. SEVERABILITY

Should any part, sentence or phrase of this Ordinance be determined to be unlawful, void or unenforceable, the validity of the remaining portions of this Ordinance shall not be adversely affected. No portion of this Ordinance shall fail or become inoperative by reason of the invalidity of any other part. All provisions of this Ordinance are declared to be severable.

VII. PROPER NOTICE AND MEETING

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

ADOPTED AND APPROVED on this 21st day of February 2017 by a vote of the City Council of the City of Horseshoe Bay, Texas.

CITY OF HORSESHOE BAY, TEXAS



Stephen T. Jordan, Mayor

Attest:



Kerri Craig, City Secretary