



ORDINANCE NO. 2023-05-31.1

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HAWK COVE, TEXAS, REPLACING
ORDINANCE NO. 1028-003 IN ITS ENTIRETY; ESTABLISHING AND CLARIFYING
THE OFFICE OF CITY ADMINISTRATOR; AND PROVIDING: FOR THE APPOINTMENT, POWERS,
DUTIES AND COMPENSATION OF THE CITY ADMINISTRATOR; CUMULATION WITH ALL RELATED
ORDINANCES; A SEVERABILITY CLAUSE; AND AN EFFECTIVE DATE**

WHEREAS, The City of Hawk Cove, Texas ("City") is a Type-A General Law Municipality located in Hunt County, Texas, created in accordance with the provisions of Chapter 6 of the Local Government Code and operating pursuant to the enabling legislation of The State of Texas; and

WHEREAS, the final and ultimate responsibility for the government of City and administration of its business rests in The City of Hawk Cove, Texas, City Council ("Council" or "governing body"), which Council consists of the Mayor of The City of Hawk Cove, Texas, ("Mayor") and five (5) aldermen ("Council members"); and

WHEREAS, it is the duty of the Council to enact and enforce ordinances, resolutions and regulations to protect and preserve the business, property, health, safety, morals and general welfare of City's citizens and City business and operations; to preserve peace and good order in the municipality (see, LGC, Sections 22.042, 54.001, 54.002 and 54.003) so as to foster, establish and maintain goodwill and productive working City relationships, both within and outside of The City of Hawk Cove ("City"); and

WHEREAS, it is a function of the Council to regulate itself (see, Local Government Code ("LGC"), Section 22.072(b)) and ensure compliance by all members of the Council with all City obligations, including the obligation to keep the City's business moving ahead smoothly and efficiently (see, p. 32, *Handbook for Mayors and Councilmembers*, Texas Municipal League, © 2022), as enacted by City's ordinances; and

WHEREAS, after due consideration, the Council hereby deems that City's present ordinances, resolutions and regulations are inadequate for: protecting and preserving the business, property, health, safety and general welfare of City's citizens and City business and operations; preserving peace and good order in the municipality; fostering, establishing and maintaining goodwill and productive working City relationships both within and outside of City; and in particular as are related, but not limited, to protecting and preserving City's obligations under City's debt contract with the U.S.D.A.; and

WHEREAS, the inadequacy of City's present ordinances, resolutions and regulations creates an emergency and/or an exigency, and/or unusual and unforeseen conditions that could not have been expected or considered through the use of reasonably diligent thought and attention, that calls for immediate action and now requires Council to acknowledge, respond to and fulfill its duty to enact and enforce additional, amended or replacement ordinances, resolutions and regulations to better protect and preserve the business, property, health, safety, morals and general welfare of City's citizens and City business and operations; to preserve peace and good order in the municipality; to foster, establish and

maintain goodwill and productive working City relationships both within and outside of City; and in particular as are related, but not limited, to protecting and preserving City's obligations under City's debt contract with the U.S.D.A.; and

WHEREAS, the Council intends specifically by this ordinance to protect, preserve, provide and maintain continuity and transparency in: City's critical infrastructure (Tex. Gov't Code, Section 421.001); City's citizens' health and the environment; minimizing citizens' health risks by reducing environmental pollution (Tex. Gov't Code, Section 421.001); avoiding violations of the Texas Open Meetings Act; promoting the smooth and efficient flow of City's administration; continuing the stable and productive work environment for City's few Administrative Personnel; avoiding conflicts and confusion from breaches of City's administrative hierarchy; and, among other obligations, servicing City's debt contract with the U.S.D.A. as well as City's business and operations connected to that debt; and

WHEREAS, City acknowledges that appointment of a City Administrator is the most effective and efficient method of effecting City's goals, duties and responsibilities as referred to above; and

WHEREAS, in acknowledgment of, response to and fulfillment of Council's duties as recognized herein;

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

SECTION 1. The above recitals are hereby found to be true and correct and are incorporated herein for all purposes.

SECTION 2. Council Requirements: As a result of the existence of the conditions requiring this ordinance, it shall be enacted by the unanimous vote of all five (5) voting members of the Council. Any change of or any endeavor to rescind, revoke, repeal, cancel, reverse or abrogate this ordinance, or to affect in any way any penalty imposed by and resulting under this ordinance, whether in whole or in part, shall require the unanimous vote of all five (5) voting members of the Council at a properly-noticed official Council meeting.

SECTION 3. Administrator Status, Contract, Appointment and Confirmation: City acknowledges that: Administrator is an officer of the municipality; previous City ordinances created the office of Administrator and provided Administrator's authority, powers and duties; and City presently is under contract to City's present Administrator.

City shall contract with the Administrator, and such contract shall govern all aspects of the employment relationship between City and Administrator. The Administrator's term of office shall continue indefinitely. Administrator shall be subject to discharge at the will of the City Council pursuant to such contract. City Council shall honor, comply with and fulfill all terms and conditions of such contract.

The Mayor shall appoint the Administrator subject to confirmation by the governing body. The Administrator shall serve as the administrative head of the City's municipal government and as the liaison between the City, the public, and in all contracts with, by or on behalf of City.

Administrator's actions relating to City's affairs are subject to the authority of the City Council if not contracted otherwise.

SECTION 4. Non-Interference with Administrator's Duties: Neither the Council nor any of its committees or members shall dictate or attempt to dictate any person's appointment to, employment of or removal from, office or employment by City's Administrator or any of City's Administrator's subordinates, or in any manner interfere in the appointment, employment or removal of officers and employees in the departments of administrative service vested in City's Administrator by this ordinance. Except for the purpose of inquiry, the Council and its members shall deal with that part of the administrative service for which City's Administrator is responsible solely through City's Administrator, and neither the Council nor any City Council member shall give orders to any of the subordinates of City's Administrator in those departments, either publicly or privately.

SECTION 5. Administrator's Absence or Disability: During the City Administrator's absence or disability, the Administrator's duties shall, first, default to the City Secretary; and in the absence or disability of both, the City Administrator and the City Secretary, the City Council may, if the City Administrator's contract permits, designate a properly qualified person to perform the duties of the office until the City Administrator returns.

SECTION 6. Administrator's Powers and Duties - General: Administrator is authorized to attend, and shall not be excluded from, any and all non-Council meetings, conferences and communications relating to all City business and contracts, including but not limited to, for example, any meetings, conferences and communications relating to City's debt contract with the U.S.D.A.; and including, but not limited to: such interactions with governmental entities, contractors, suppliers, vendors and materialmen.

Administrator shall have sole discretion and management authority to, by way of example and including but not limited to:

- A. In conjunction with the City Secretary, supervise and oversee day-to-day operations of all City employees, departments and staff, including through department heads, if any;
- B. Attend all Regular, Special and Executive meetings of the City Council, preparing and providing supporting documents and information pertinent to agenda items;
- C. Serve as liaison between the City Council and all City personnel, with the authority to appoint additional liaisons for various departments to promote communication to the Council;
- D. In conjunction with City Secretary, act as City Personnel Director; hiring and terminating (without City Council approval), evaluating and directing any and all City personnel; and is authorized to form a panel comprised of Administrator, the City Secretary, an applicable Department Head, one (1) council person, and any department liaison if one exists, for hiring;
- E. Monitor the budget and all financial affairs of the City; working closely with the Council, any Budget Committee, and department heads, if any, to: develop a comprehensive budget and work program; coordinate annual budget preparation; approve expenditures; and implement budgetary adjustments as appropriate and necessary, and may appoint a budget committee consisting of the Mayor, Administrator, and at least two (2) other appointees;
- F. Together with the Mayor and City Secretary, assist in overseeing the yearly operating budget and capital improvements budgets; and report to the Council on the status of the City's budget;
- G. Implement all Council's policy decisions and provide staff in all departments with the clear and efficient operating procedures necessary to carry out Council policy mandates;
- H. Serves as one of the approval agents for City purchasing, and shall be authorized and responsible for up to Fifty Thousand Dollars and No/100 (\$50,000.00) in purchasing authority pursuant to the laws of this State;

- I. Attend meetings and conventions on behalf of City when reasonable and necessary; and
- J. In conjunction with City Secretary, act as Human Resources Administrator; and
- K. Establish the days and hours of operation of, as well as any and all access to, any and all City office buildings, departments, structures, plants and facilities, including The City of Hawk Cove, Texas, Judy Fowler Memorial Complex.

SECTION 7. Powers and Duties – Council Meetings and Agendas: As City administrative officer, Administrator is, and shall be, an ex officio member of all City and Council boards and committees for liaison purposes. Administrator shall receive all notices of Regular, Special and Executive meetings at the same time and in the same manner as Council members. Council acknowledges Administrator's responsibility, and shall afford Administrator the right, to take part and fully participate in all Council meetings and discussions, except that Administrator shall not vote. At any such meetings: Administrator shall have no legislative power; and shall direct, inform and advise the governing body in matters related to City's interest, welfare, business and related activities.

Subject only to recommendations by the City Council, the City Administrator shall have the sole right, responsibility, duty and authority to determine any and all items to be placed on any City Council agendas for Regular, Special and Executive meetings. City and Council shall not require agenda items that are not in the best interest of City; are subjective in nature; serve officers' personal agendas; or that lead to or cause legal liability for City.

SECTION 8. Powers and Duties – City Administration: Administrator, in Administrator's sole discretion, shall analyze, or contract for the analysis of, the functions, duties, activities and performance of all City departments, divisions, services and employees. Administrator shall attempt to procure facts and submit suggestions for long-range improvements to the governing body.

City, Council and Administrator shall prevent political activity from interfering with Administrator's, and thereby City's, functions. Administrator shall be authorized as allowed by law to take unilateral action on construction and/or equipment purchases. In addition, Administrator, exclusively, and together and in conjunction with the City Secretary as reasonable and necessary, shall have the following duties, including, but not limited to:

- A. Act to ensure that all City laws, ordinances and contracts are properly created and enforced. City Administrator has express authority, and is required, to confer with City's Attorney on all matters relating to the legal progress and administration of all City business and operations, including, by way of examples only and without limitation: policies, procedures and practices involving: City jurisdiction; employees and employment; City financial structure and viability; City infrastructure and viability; structure and enforcement of Council meetings, ordinances, resolutions and practices; fees, fines, penalties and taxes; business contacts, contracts and goodwill; real property; pending, prospective or threatened litigation involving City, the governing body, and/or City officers and employees; economic development negotiations; and federal, state, county and local laws.
- B. Exercise supervision and control over all department heads and departments, whether presently or previously created or to be created in the future; and all communications, including between departments and City's Council.
- C. Be notified of all Regular, Special and Executive meetings, which City Administrator shall attend and in which City Administrator shall have the non-voting right and responsibility to participate.

- D. Assist in expediting Council business by ensuring that the Council's discussion is limited to, and focused on, items posted on the agenda or on items that should be posted on future agendas.
- E. Enforce the rules of procedure, order and decorum adopted by the Council and as are determined or ruled on by the Mayor.
- F. When necessary, sign all documents reflecting actions taken by the Council, including, where applicable, contracts by or on behalf of City.
- G. Serve as Records Management Officer and curator, assisting the City Secretary and other administrative personnel, and oversee the City's record retention program.
- H. Exercise all of City's public communications, including by or through any and all media forms and platforms.
- I. Assist all other administrative personnel in releasing public information in accordance with the Texas Open Records Act and federal Freedom of Information Act.
- J. Assist in the preparing for, and notification of, official actions.
- K. Assist the City Secretary in preparing City correspondence.
- L. Assist the City Secretary wherever needed, possible and as time allows.

SECTION 9. Repeal of Conflicting Ordinances, Policies and Procedures: This ordinance shall be and is hereby declared to be cumulative with, and not be limited to, all other ordinances, resolutions, policies, sections, subsections, articles, paragraphs, sentences, clauses, phrases or words and procedures relating or pertaining to City Administration and City's day-to-day business, operations and facilities. This ordinance shall not operate to repeal or affect, whether in whole or in part, any other such ordinances, policies and procedures, except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinances, policies and procedures are hereby repealed, but only to the extent of any such conflict.

SECTION 10. Severability: If any provision, section, subsection, article, paragraph, sentence, clause, phrase or word of this ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void, or invalid, or for any reason unenforceable, whether in whole or in part, the validity of the remaining portions of this ordinance or the application to such other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council of City in adopting this ordinance that no portion thereof or provision contained herein shall become inoperative or fail by any reason of unconstitutionality or invalidity of any other portion or provision.

SECTION 11. Providing an Effective Date: This Ordinance shall become effective immediately upon its passage.

CONCLUSION

Passed and approved by the City Council of The City of Hawk Cove, Texas, this ____ day of _____, 2023.

Darren Evans, Mayor

ATTEST: _____
City Secretary

APPROVED AS TO FORM: _____
City Attorney