



ORDINANCE NO. 2023-05-31.3

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HAWK COVE, TEXAS,
GOVERNING COUNCIL MEMBERS' INTERACTIONS WITH THE CITY OF HAWK COVE, TEXAS
ADMINISTRATION, STAFF AND EMPLOYEES; PROVIDING FOR ACCOUNT SIGNATORIES;
SETTING PENALTIES FOR VIOLATION; AND PROVIDING 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, to keep City's business moving ahead smoothly and efficiently depends on City's goodwill and working relationships with City's administration, administrative staff and employees relating to City's citizens, business, practices, operations and facilities; and

WHEREAS, City's goodwill and working relationships with City's administrative staff and employees, in turn, depends on City's continuity of, and orderly administration within and among, City officers and offices, administrative staff and employees; 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, including with City's administration, administrative staff and employees, all of whom participate in City's functions on behalf of City's citizens, business, practices, operations and facilities; and in particular, but not limited to, protecting and preserving 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 and provide continuity in: City's critical infrastructure (Tex. Gov't Code, Section 421.001); the flow of City's administration; the stable and productive work environment for the limited personnel of City Administration, Staff and Employees; and avoidance of conflicts and confusion from breaches of City's administrative hierarchy; and

WHEREAS, City acknowledges that enacting this ordinance 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 duty 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. 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. Any addition to, change in, or removal of any positions or persons deemed herein to be City administration ("City Administration") shall require the unanimous vote of all five (5) voting members of the Council at a properly-noticed official Council meeting. Any addition to, change in, or removal of any positions or personnel deemed herein to be City administrative personnel ("Administrative Personnel") shall require the unanimous vote of all five (5) voting members of the Council at a properly-noticed official Council meeting. Any addition to, change in, or removal of any positions or persons deemed herein to be City Administrative Personnel shall be within the sole purview and discretion of City's Administrator.

SECTION 4. The following positions in City's Administrative Personnel are deemed to be City Administration, City Administration Staff or City Employees as stated herein, together with such others as the City Administrator, in the City Administrator's sole discretion, shall create, appoint, hire or remove in the future:

- a. City Administration is hereby deemed to include, and shall not be limited to: City Administrator; City Secretary; City Chief Financial Officer; Financial Data Specialist; Municipal Judge, City Police Chief; City Attorney; and City Prosecutor; and all officers or other employees in or of the departments headed by these City Administration personnel. Of City Administration, only City Secretary shall be an authorized signer on any form of banking account/s.
- b. City Staff is hereby deemed to include, and not be limited to: City Clerks, including, but not limited to, Court and Utilities; City Engineer; City Public Works Director; City Maintenance Department Head; City Utility Supervisor; and City Waste Water Operations. Of City Staff, only City Court Clerk and City Utilities Clerk shall be authorized signers on any form of banking account/s.
- c. City Employees are hereby deemed to include, and not be limited to: City employees employed in any City department and shall be supervised, directly or indirectly, by City Administration and/or City Staff. No City Employee shall be an authorized signer on any form of banking account/s.

SECTION 5. 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, any Administrative Personnel 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 or employees or any departments of Administrative Personnel assigned to City's Administrator by this ordinance. Except as is governed by City's ordinances, the Council and its members shall communicate with City's Administrative Personnel solely through City's Administrator. Neither the Council nor any Council member shall give orders, directions or instructions to any Administrative Personnel publicly, privately or independent of the governing body as a whole.

SECTION 6. 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 7. This Ordinance shall be considered severable, and the invalidity of unconstitutionality of any section, clause, provision or portion of this Ordinance shall not affect the validity or constitutionality of any other section, clause, provision or portion of this Ordinance.

SECTION 8. Any Council or governing body member violating any provision of this Ordinance may be prosecuted for such an offense, and upon conviction shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00). Each separate violation hereof shall be deemed a separate offence, and shall

be punished accordingly, provided, however, compliance may be further sought through injunctive relief in the District Court.

SECTION 9. This ordinance shall be effective immediately upon its passage.

CONCLUSION

Passed and approved this ____ day of _____, 2023.

Darren Evans, Mayor

ATTEST: _____
City Secretary

APPROVED AS TO FORM: _____
City Attorney