



ORDINANCE NO. 2023-05-31.9

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HAWK COVE, TEXAS,
ESTABLISHING THE QUALIFICATIONS AND PROCEDURES BY WHICH CANDIDATES FOR SEATS
ON THE CITY OF HAWK COVE COUNCIL SHALL BE ELECTED, QUALIFIED, ADMINISTERED
THE OATH OF OFFICE AND INVESTED; PROVIDING FOR CUMULATION AND SEVERANCE;
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, regulations and rules 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, City recognizes the need, and intends by this ordinance, to continue City's past practices of requiring installation no later than thirty (30) days following an election of Council candidates in which to undertake ballot, election and voter canvass; install voter eligibility and election verification (LGC 22.033); and govern elected candidates' qualifications (LGC 22.007) before administering oaths of office (LGC 22.005) and/or otherwise installing new council members (*see*, LGC 22.007); (Tex. Const. Art. XVI, § 17); and

WHEREAS, City acknowledges that this ordinance is the most effective and efficient method of effecting City's goals, duties, responsibilities and intentions 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. Each candidate for any term of office on the City Council of the City of Hawk Cove ("Candidate" or "Candidates", as applicable) shall be duly authorized to act as a member of the Council pursuant to, and the manner required by: the laws of the State of Texas; Hunt County, Texas; and City ordinances, resolutions, regulations and/or rules.

SECTION 3. Except for a Candidate for an unexpired term, each other Candidate shall have been duly elected in the manner required by Texas Election Code.

SECTION 4. All Candidates who are elected or appointed to serve on seats on the Council shall be subject, throughout and following any term of office to which elected, to: any prosecution, including for any and all civil and criminal actions under the laws of the State of Texas, Hunt County, Texas, and any related City ordinances, resolutions, and/or regulations, including for, but not limited to: any recall or removal required, allowed or permitted; and actual or conspiracy to: commit fraud on City voters; engage in or assist in balloting fraud; engage in or assist in voter registration fraud; engage in or assist in ballot harvesting fraud; and/or any violation of the Texas Election Code ("Election Wrongdoing").

SECTION 5. Following any election or elections described herein, and before authorizing any Candidate to act, the Council sitting at the time of such election or elections shall perform a canvass of the election in accordance with the laws of the State of Texas.

SECTION 6. Before administering oaths of office (LGC 22.005) and/or otherwise installing new Council members (*see*, LGC 22.007, Tex. Const. Art. XVI, § 17): the Council sitting at the time of any election or elections, or in its sole discretion such person, persons, entity or entities that that Council shall designate and appoint ("Investigator/s"), shall have not less than thirty (30) days from the date of any such election in which to begin investigation into the election's voter eligibility and election verification (LGC 22.033); and elected candidates' qualifications. In such Investigator/s' sole discretion, such investigation may continue for so long as the Investigator/s continue to collect information, materials and witnesses relating to Election Wrongdoing.

SECTION 7. Whether appointed by Mayoral selection and Council confirmation, or elected, each Candidate shall take such oaths of office, and complete such forms, statements and records, as are required, and in the manner required, by the laws of the State of Texas; Hunt County, Texas; and City ordinances, resolutions or regulations.

SECTION 8. No Candidate shall have any authority, ability, obligation or duty to, or to represent himself or herself as having any authority, ability, obligation or duty to, perform any act for or on behalf of Council, or as an officer of the City of Council member until such Candidate shall have met, complied with and completed all qualifications for that office. Any and all acts performed by any Candidate without having met, complied with and completed all such qualifications shall be void, and shall be, without limitation, subject to any and all civil and criminal actions, prosecutions and penalties of the State of Texas; Hunt County, Texas; and City ordinances, resolutions, regulations and/or rules.

SECTION 9. Only upon meeting, complying with and completing all qualifications for that office, shall an appointed or elected Candidate be administered the Oath of Office. The Oath of Office administered to any Candidate shall be by the Mayor. Only upon meeting, complying with and completing all

qualifications for that office, and completing the Oath of Office administered by the Mayor, shall an appointed or elected Candidate be authorized to perform as a member of Council. Within thirty (30) days following any election for the office of Council member, appointed or elected Candidates who have met, complied with and completed all qualifications for the office of Council member shall be authorized to perform as members of Council.

SECTION 10. Every Council member shall honor, uphold and enforce, all federal and state laws, and City ordinances, resolutions, regulations and rules, with the same force and effect as, and upon completing, the Oath of Office. As a result of the existence of the conditions requiring this ordinance, it shall be enacted by not fewer than four (4) Council members in the presence of all five (5) voting members present in a properly noticed meeting 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 not fewer than four (4) Council members in the presence of all five (5) voting members at a properly-noticed official Council meeting.

SECTION 11. 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 Council candidates. This ordinance shall not operate to repeal or affect, whether in whole or in part, any other such ordinances, policies, practices or 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 12. 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 13. Any Candidate, Council or governing body member violating any provision of this Ordinance shall be prosecuted for such an offense, and upon conviction shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00). Each violation hereof shall be deemed a separate offense, and shall be punished accordingly; provided, however, compliance may be further sought through injunctive relief in the District Court of Hunt County, Texas. In addition to any criminal prosecution, all available and applicable civil remedies shall be pursued against such person or persons.

SECTION 14. 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