

**CITY OF SANDY OAKS, TEXAS**

**ORDINANCE NO. 2019-125**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANDY OAKS, TEXAS CREATING A PLANNING AND ZONING COMMISSION; PROVIDING FOR VOTING AND MEETING PROCEDURES; PROVIDING FOR POWERS AND DUTIES; PROVIDING FOR AUTHORITY IN THE ETJ; PROVIDING FOR SEVERABILITY; PROVIDING FOR A FINDING OF PROPER NOTICE AND MEETING AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City of Sandy Oaks, Texas ("City") is a Type A General Law Municipality incorporated and operating under the laws of the State of Texas; and

**WHEREAS**, Chapter 211 of the Local Government Code authorizes a general law municipality to appoint a Planning and Zoning Commission to exercise the powers authorized by Chapter 211; and

**WHEREAS**, the City Council finds that the enactment of this ordinance is necessary for the purpose of promoting the public health, safety, morals, or general welfare and protecting and preserving places and areas of historical, cultural, or architectural importance and significance;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SANDY OAKS, TEXAS:**

**SECTION 1. FINDINGS OF FACT.** The above recitals are hereby found to be true and correct legislative and factual findings of the City Council of the City and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

**SECTION 2. GENERAL.** The Planning and Zoning Commission (also referred to as the "P&Z" or the "Commission") shall function according to the following criteria that establish membership and operating procedures.

**SECTION 3. CREATION.**

- A. There is hereby created, in accordance with Chapter 211 of the Texas Local Government Code, the "Planning and Zoning Commission," hereafter sometimes referred to as the "P&Z" or the Commission, which shall consist of five members which shall be persons owning property in the City and registered voters.
- B. Members of the P&Z may serve simultaneously on any other City board or commission, except for the City Council or the Board of Adjustment.
- C. Members shall be nominated by the Mayor or a member of the City Council, and each person so nominated must be approved by a majority vote of the City Council members present.
- D. All appointments to the P&Z shall serve a term of office of two (2) years, except as noted below. Expiration of terms shall be staggered so that an overlapping occurs (in the first one-year period, the terms of two members shall expire during that year, and

the term of three members shall expire in the second year). Members may be reappointed with no limitation on the number of terms one member may serve.

- E. Any vacancy on the P&Z shall be filled for the unexpired term via appointment by a majority vote of the City Council members present for the remainder of the term.
- F. A P&Z member's position is automatically considered vacant if the member is absent for:
  - 1. three (3) consecutive, regular meetings; or
  - 2. four (4) regular meetings (cumulative) during the preceding twelve (12) month period.
  - 3. Exceptions shall be granted if the member first requests and obtains a written leave of absence from the Chairperson of the P&Z, 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).
- G. Members of the P&Z may be removed from office by the City Council at any time by a majority vote of the full City Council, either:
  - 1. upon its own motion; or
  - 2. upon recommendation of a majority of the full P&Z.
- H. The City Council shall appoint a Chairman from among the membership of the P&Z. The P&Z shall elect from among its membership, a Vice-Chairperson. The P&Z may elect from among its membership a Secretary. Each officer shall hold office for one (1) year or until replaced. The P&Z, at its first meeting on or after March 15, 2019, shall select all the positions. If requested by the Commission, the City Clerk may serve as Secretary to the Commission and shall keep all minutes of the proceedings of the Commission and record all actions and recommendations made by the Commission.
- I. The P&Z shall have the power to make rules, regulations and bylaws for its own governance, which shall conform with those set forth by the City Council. 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 (other than Executive Sessions);
  - 2. A record of its proceedings, to be open for inspection by the public;
  - 3. Reporting to the City Council regularly; and
  - 4. Reviewing the Master Plan regularly.

#### **SECTION 4. VOTING PROCEDURES.**

- A. The P&Z 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 P&Z.

- B. The P&Z shall have the power to make the rules, regulations and bylaws for its own governance, consistent with State law and rules promulgated by the City Council.
- C. **Quorum** - A quorum shall consist of a majority of members of the P&Z (*i.e.* three members). Motions shall carry with majority vote of the members present.
- D. **Voting** - All P&Z members, including the Chairperson, shall be entitled to one vote each upon any question. Any issue to be voted upon by the Commission shall be resolved by a majority of the members present unless otherwise required by State law. Voting procedures shall be in accordance with the parliamentary procedures adopted by the P&Z, with reference to Robert's Rules of Order.
- E. **Conflict of Interest.**
  - 1. A P&Z member shall not vote or participate in any deliberations regarding a matter before the P&Z if the member has a conflict of interest or substantial interest as provided by this section and applicable State law.
  - 2. A P&Z member shall not vote or participate in any deliberations if the member has a substantial interest in any tract within two hundred feet (200') of the property in question. The member has a substantial interest in real property if the interest is an equitable or legal ownership with a fair market value of \$2,500 or more.
  - 3. If a business entity has an equitable or legal ownership interest in a tract or property before the Commission, the P&Z member has a substantial interest in the business entity if:
    - a. the member owns 10 percent or more of the voting stock or shares of the business entity or owns either 10 percent or more or \$15,000 or more of the fair market value of the business entity; or
    - b. funds received by the person from the business entity exceed 10 percent of the person's gross income for the previous year.
  - 4. A member is considered to have a substantial interest if a person related to the P&Z member in the first degree by consanguinity (blood) or affinity (marriage), as determined under Chapter 573, Government Code, has a substantial interest under this section.

## **SECTION 5. MEETINGS.**

- A. The P&Z shall meet at City Hall or in some other specified location as may be designated by the Chairperson, and at such intervals as may be necessary to orderly and properly transact the business of the P&Z.
- B. The members of the P&Z shall regularly attend meetings and public hearings of the P&Z.
- C. P&Z members shall serve without compensation, and shall not hold any other office within the City, except as provided by Section 3(B) herein, or serve as an employee of the City while serving on the P&Z.



- D. Meetings of the P&Z shall be held at least once a month at the call of the Chairperson or Secretary, and at such other times as the P&Z may determine. If there have been no applications filed for review by the P&Z, the City Secretary shall notify the Chairperson and no meeting shall be required for that month.
- E. Meetings shall be open to the public, and minutes shall be kept and shall be treated as public record. Meetings shall be conducted in accordance with the Texas Open Meetings Act and Chapters 211 and 212 of the Local Government Code, as may be amended.

**SECTION 6. AUTHORITY IN EXTRATERRITORIAL JURISDICTION (ETJ).** Statutes of the State of Texas authorizing and empowering cities to regulate the platting and recording of subdivisions or additions within the City's corporate limits and establishing ETJ are hereby adopted. The P&Z, acting through its duly authorized officials, shall have all the rights, powers, privileges and authority authorized and granted by and through said statutes and any lawfully executed agreements by the City pertaining to regulation of subdivisions in the City limits and ETJ.

**SECTION 7. POWERS & DUTIES.**

- A. The P&Z shall have all the rights, powers, privileges and authority authorized and granted by the City Council and through the statutes of the State of Texas authorizing and granting cities the power of zoning and subdivision regulation as found in Chapters 211 and 212 of the Texas Local Government Code, as may be amended.
- B. The P&Z shall be an advisory body and adjunct to the City Council, and shall make recommendations regarding amendments to the Master Plan, changes of zoning, zoning ordinance amendments, and zoning to be given to newly annexed areas. P&Z shall make recommendations regarding the approval of plats of subdivisions as may be submitted to it for review and other planning related matters as authorized by Chapter 212 of the Local Government Code or delegated to the P&Z by the City Council.

**SECTION 8. JOINT MEETINGS.** Whenever the City Council and the P&Z are required by the laws of the State of Texas to conduct public hearings in matters pertaining to planning, zoning or subdividing property, and at other times when it is in the best interest of the City to do so, the City Council and the P&Z are hereby authorized, after published notice as required by law, to hold joint meetings and to conduct joint public hearings.

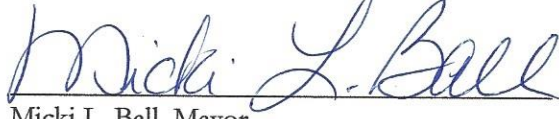
**SECTION 9. SEVERABILITY.** If any section, paragraph, sentence, clause, phrase or word of this Ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance, and the City Council hereby declares that it would have passed such remaining portions despite invalidity or unconstitutionality.

**SECTION 10. PROPER NOTICE AND MEETING.** It is hereby officially found and determined that the meeting at which this ordinance was 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 of the Government Code.

**SECTION 11. EFFECTIVE DATE.** This Ordinance shall take effect immediately upon its passage and approval by the City Council.

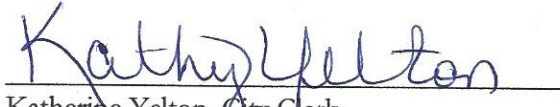
PASSED AND APPROVED THIS 21<sup>ST</sup> DAY OF JANUARY, 2019.

CITY OF SANDY OAKS, TEXAS

A handwritten signature in blue ink that reads "Micki L. Ball". The signature is written in a cursive style with a horizontal line underneath.

Micki L. Ball, Mayor

ATTEST:

A handwritten signature in blue ink that reads "Katherine Yelton". The signature is written in a cursive style with a horizontal line underneath.

Katherine Yelton, City Clerk