

ORDINANCE NO.

AN ORDINANCE AMENDING ORDINANCE NO. 20071129-011; AMENDING CITY CODE CHAPTER 2-1 RELATING TO CITY BOARDS; VALIDATING BOARD MEMBER AND BOARD ACTIONS; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. The council finds that:

- (A) The City's volunteer boards improve the value of governance in the City by providing increased citizen input in the regulatory process.
- (B) The council approved Ordinance No. 20071129-011, effective December 10, 2007, adopting a new Chapter 2-1 (*City Boards*) to create uniform administrative processes for board operations, including bylaws, meeting frequency, and quorum.
- (C) Ordinance No. 20071129-011 created training requirements for serving board members that required completion not later than April 8, 2008, and provided that failure to complete the training resulted in automatic vacation of a board member's position. The training for board members was not available until April 23, 2008. The majority of affected board members completed the training by December 31, 2008.
- (D) Ordinance No. 20071129-011 created a deadline for adoption of standardized bylaws by all advisory boards by January 23, 2008. The majority of the boards adopted uniform bylaws by December 31, 2008.
- (E) In adopting Ordinance No. 20071129-011, council did not intend to prevent the continued performance by existing boards, but did intend to encourage compliance with new training and administrative processes.
- (F) Administrative extension of the deadlines created in Ordinance No. 20071129-011 is a ministerial act.
- (G) By amending Ordinance No. 20071129-011 and Chapter 2-1 (*City Boards*) and adopting this ordinance, council intends to eliminate any administrative uncertainty about the validity of board actions and maintain the continued performance of the council's advisory boards.

1 **PART 2.** Part 6 of Ordinance No. 20071129-011 is amended to read:

2 **PART 6.** This part applies to a board member serving on December 10, 2007.

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- 4 (A) A serving or carry-over board member shall complete the training
5 described in Section 2-1-23 (*Training*) not later than December 31,
6 2008 [~~April 8, 2008~~].
- 7
- 8 (B) A board member who fails to complete the required training
9 automatically vacates his or her position and is not eligible for
10 reappointment until the member completes the required training.
- 11
- 12 (C) The city clerk shall notify the nominating council member if a board
13 member's training record creates an automatic vacancy that requires a
14 new appointment.
- 15

16 **PART 3.** Part 8 of Ordinance No. 20071129-011 is amended to read:

17 **PART 8.** Each Board shall adopt the City's standard board bylaws not later than
18 December 31, 2008 [~~January 23, 2008~~]. Each board shall elect interim officers at
19 the first regular meeting after the bylaws are adopted, and the interim officers shall
20 serve until the first annual election prescribed in the bylaws.

21 **PART 4.** City Code Section 2-1-21 is amended to read:

22 **§ 2-1-21 ELIGIBILITY REQUIREMENTS AND REMOVAL.**

23

- 24 (A) A board member is appointed by and serves at the pleasure of the city council.
- 25 (B) A person must be a resident of the City to be eligible for appointment to a City
26 board, unless an exception to the residency requirement is created by federal or
27 state law, the City Charter, [ø] a City ordinance, or other council action. A
28 board member who was required to be a resident of the City when appointed
29 and who moves his primary residence outside of the City limits vacates his
30 position on the date he moves his residence, subject to the hold over provision
31 in Section 2-1-27 (*Vacancy and Hold Over Capacity*).
- 32 (C) A person who is registered or is required to register as a lobbyist under
33 Chapter 4-8 (*Regulation of Lobbyists*) or who is employed by a person
34 registered or required to register under that chapter is not eligible to serve on a
35 board until the expiration of three years after the date that the person ceases to
36 be registered, required to be registered, or employed by a person registered or
37 required to register.

- (D) A board member whose years of service exceed the limitation prescribed by Section 2-1-22 (*Membership Term and Limitation*) is not eligible for reappointment.
- (E) A person must file a written application with the city clerk to be eligible for appointment to a City board.
- (F) After a person is appointed to a board, the person is not eligible to begin service until the person has signed a written acknowledgment stating that the person:
- (1) has taken the oath of office;
 - (2) has received a copy of and agreed to comply with the City's ethics and personal responsibility guidelines; and
 - (3) has agreed to complete the training required by Section 2-1-23 (*Training*).
- (G) To maintain eligibility, a board member must:
- (1) complete the initial and annual refresher board courses required by Section 2-1-23 (*Training*);
 - (2) comply with Section 2-7-72 (*Public Financial Statements*), if applicable; ~~[and]~~
 - (3) comply with the attendance requirements of Section 2-1-26 (*Attendance Requirements And Automatic Vacation*); and
 - (4) comply with the residency requirements of Subsection 2-1-21(B).
- (H) A person may not serve on more than one City-established board simultaneously, except as a representative of another board or as required by federal or state law or City ordinance or resolution.
- (I) ~~[Except as provided in Subsection (H), a board member whose term has expired continues to serve in a hold-over capacity until the earlier of the date a successor is appointed to fill the position or the 60th day after the term expiration date.]~~
- ~~[(J)]~~ A board member who becomes ineligible to serve under ~~[this chapter or]~~ federal or state regulation may not continue to serve even though a successor has not been appointed. ~~[A board member who was required to be a resident of the City when appointed and who moves his primary residence outside of~~

1 ~~the City limits becomes ineligible to serve on the date he moves his~~
2 ~~residence.]~~

3 (J) ~~[K]~~ A board member may be removed at any time by an affirmative vote of
4 the majority of the council.

5 (K) ~~[L]~~ Unless otherwise provided by this chapter, a City employee may not serve
6 as a member of a City board if:

7 (1) the employee is classified at the executive level;

8 (2) the employee is required to file an annual financial statement;

9 (3) the employee works for the Law Department, the Financial Services
10 Department, the Purchasing Department, or the Project Management
11 Division of the Public Works Department;

12 (4) the employee is a purchasing agent or has the authority to purchase or
13 contract for the City;

14 (5) the subject matter within the scope of the City department in which the
15 City employee is employed makes it likely that the board will consider
16 subject matter related to the City department; or

17 (6) the City department in which the City employee is employed provides
18 staff support to the board.

19 **PART 5.** City Code Subsection 2-1-23(A) is amended to read:

20 **§ 2-1-23 TRAINING.**

21
22 (A) A board member must comply with the training requirements of this section to
23 maintain eligibility to serve on the board. A board member who does not
24 comply with the training requirements automatically vacates his position,
25 subject to the hold over provision in Section 2-1-27 (Vacancy and Hold Over
26 Capacity).

27 **PART 6.** City Code Subsection 2-1-25(A) is amended to read:

28 **§ 2-1-25 PUBLIC FINANCIAL STATEMENTS.**

29 (A) A board member who does not file a public financial statement required by
30 Section 2-7-72 (Public Financial Statements) ~~[is ineligible to serve and]~~
31 automatically vacates the member's position, subject to the hold over provision
32 in Section 2-1-27 (Vacancy and Hold Over Capacity).

PART 7. City Code Section 2-1-26 is amended to read:

§ 2-1-26 ATTENDANCE REQUIREMENTS AND AUTOMATIC VACATION.

- (A) Except as provided in Subsection (B), a board member automatically vacates the member's position if the member is absent for three consecutive regular meetings or one-third of all regular meetings in a 12-month period, subject to the hold over provision in Section 2-1-27 (*Vacancy and Hold Over Capacity*).
~~[Absences before December 31, 2007 are excluded in determining a member's number of absences.]~~
- (B) Subsection (A) does not apply to an absence due to the board member's illness or injury if the member notifies the staff liaison of the reason for the absence not later than the date of the next regular meeting of the board.
- (C) The City department assigned to provide staff support to a board shall keep attendance records and notify the city clerk if a board member fails to comply with attendance requirements.
- (D) The city clerk shall notify the nominating council member if a board member's attendance record creates an automatic vacancy that requires a new appointment.
- ~~[(E) An automatic vacation of a board position under this section is effective on the earlier of the date a successor is appointed to fill the position or the 30th day after the notification under Subsection (D).]~~

PART 8. Chapter 2-1 is amended to add a new section 2-1-27 to read:

§ 2-1-27 VACANCY AND HOLD OVER CAPACITY.

- (A) A board member whose term has expired continues to serve in a hold-over capacity until the earlier of the date a successor is appointed to fill the position or the 60th day after the term expiration date.
- (B) A board member who automatically vacates his position under Section 2-1-23 (*Training*) or Section 2-1-25 (*Public Financial Statements*):
- (1) may maintain eligibility if, not later than the 30th day after the expiration of the applicable deadline, the member completes the eligibility requirement; and

(2) continues to serve in a hold-over capacity until the earlier of the date a successor is appointed to fill the position or the 60th day after the expiration of the applicable deadline.

(C) A board member who vacates his position under Subsection 2-1-21(B) (*Eligibility Requirements and Removal*) continues to serve in a hold-over capacity until the earlier of the date a successor is appointed to fill the position or the 60th day after the city clerk notifies the nominating council member that the board member's residency creates an automatic vacancy that requires a new appointment.

(D) A board member who vacates his position under Section 2-1-26 (*Attendance Requirements and Automatic Vacation*) continues to serve in a hold-over capacity until the earlier of the date a successor is appointed to fill the position or the 60th day after the date the city clerk notifies the nominating council member that the board member's attendance record creates an automatic vacancy that requires a new appointment.

(E) The council may waive the deadlines established in Sections 2-1-23 (*Training*) and 2-1-25 (*Public Financial Statements*), the residency requirement established in Subsection 2-1-21(B) (*Eligibility Requirements and Removal*), and the attendance requirement established by 2-1-26 (*Attendance Requirements and Automatic Vacation*) by voice vote of the council without the need for an amending ordinance.

PART 9. This part applies to a board member serving between December 10, 2007 and the effective date of this ordinance.

(A) Except as provided in Subpart (B), the council waives the application of the automatic vacation provisions for a board member who failed to maintain eligibility under Section 2-1-23 (*Training*) and Section 2-1-25 (*Public Financial Statements*).

(B) This part does not apply to a board member who has previously been disqualified and has been replaced by the council.

PART 10. This part applies to a city board in existence on April 8, 2008.

(A) Except as provided in Subsection (B), the council validates and confirms all acts and proceedings of a city board created under City Code Chapter 2-1 (*City Boards*) that were taken after December 10, 2007 and before the effective date of this Ordinance and relate to or are associated with the board's duties and responsibilities under the City Code, including Titles 25 and 30, City ordinance, or state law, as of the dates on which they occurred. The acts and

proceedings may not be held invalid because they were not in accordance with the City Code, including Titles 25 and 30, a City ordinance, or other City regulation.

(B) Subsection (A) does not apply to any matter that on the effective date of this Act:

(1) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court; or

(2) has been held invalid by a final judgment of a court.

PART 11. The council finds that the need to maintain the continued performance of the council's advisory boards constitutes an emergency. Because of this emergency, this ordinance takes effect immediately on its passage for the immediate preservation of the public peace, health and safety.

PASSED AND APPROVED

_____, 2009

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Will Wynn
Mayor

APPROVED: _____

David Allan Smith
City Attorney

ATTEST: _____

Shirley A. Gentry
City Clerk