

**ORDINANCE NO. O-2019-31**

**AN ORDINANCE AMENDING ORDINANCE O-2018-45 OF THE CITY OF PHARR, TEXAS; INCLUDING PROCEDURES FOR PLACEMENT OF ITEMS ON THE OFFICIAL AGENDA OF MEETINGS OF THE CITY OF PHARR; PROHIBITING DISCLOSURE OF DISCUSSION BY ANY OFFICIAL OR PERSON PRESENT DURING CLOSED SESSIONS; DECLARING SUCH DISCLOSURE TO BE A VIOLATION OF CHARTER AS WELL AS A CRIMINAL ACT RESULTING IN PENALTIES, FINES, OTHER PUNISHMENT; DECORUM AND ORDER OF PERSONS PRESENT; SEARCH OF PERSONS AND POSSESSIONS; PUBLIC HEARING POLICY; PLACEMENT OF AGENDA ITEMS AND RECONSIDERATION OF ITEMS; PROVIDING FOR SEVERABILITY CLAUSE; PROVIDING FOR EFFECTIVE DATE AND DISPENSING WITH THE READING REQUIREMENT; AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING**

**WHEREAS**, the community has over the years urged that the image of the City of Pharr and its citizenry be improved by focusing on problem solving and the diverse exchange of ideas; and

**WHEREAS**, the City of Pharr has become what it is today as a result of the exchange of ideas of those interested in the development and growth of the city; and

**WHEREAS**, the governing body may hold meetings that are open to the public and viewed by many interested in the on-goings of Pharr city business; and

**WHEREAS**, the governing body may desire that any and all public discourse be limited to issues listed on the official, legally posted agenda; and

**WHEREAS**, the business of the City of Pharr should be conducted with respect, dignity, and accountability; and

**WHEREAS**, the City of Pharr acts to immediately impose procedures for the orderly conduct of city business and incorporate any and all provisions of the Pharr City Charter and clarify other issues; and

**WHEREAS**, the City of Pharr expects that its elected and other officials protect, defend, and further the interests of the City of Pharr; and

**WHEREAS**, the City of Pharr elected and other officials should be held to a standard of the utmost loyalty in faithfully carrying out the duties of the office each holds.

***NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF PHARR, TEXAS, THAT:***

## **SECTION 1: DEFINITIONS; OPEN MEETINGS; PUBLIC HEARINGS.**

- a) **"Governmental or Governing body"** shall mean and be defined for the purpose of interpreting and enforcing this ordinance as described by Section 551.001 (3)(B)-(L) of the Texas Local Government Code, which includes the Pharr Board of Commissioners (a municipal governing body in the state) and, a deliberative body that has rulemaking or quasi-judicial power and that is classified as a department, agency, or political subdivision of a municipality.
- (b) Meetings of the governing body are public meetings unless excepted in accordance with applicable state laws or this ordinance. All matters included herein will further the public's health, safety, and welfare.
- (c) **Public Hearings; Those Affected; Public Hearing Sign-in Requirement.** If a public hearing is listed on a legally posted agenda, a person or entity that received notice from the city on a pending item for consideration, a person that may be positively or adversely affected physically, by use or damage to property, or to any other legally recognizable interest, may be allowed to address the governing body during the public hearing portion of the meeting following registration with the presiding city clerk and prior to the scheduled meeting. A registered speaker during the public hearing may not exceed 1.5 minutes when addressing the board. A sign-in form for participation in public a hearing shall be promulgated by the presiding city clerk and be made available at the city clerk's office. The public hearing sign-in form shall include the person or entity's name, address, telephone number, other contact information, organization if applicable, and other notices, authorizations, and acknowledgements as may be allowed by law from time to time. No registered speaker may be allowed to address the governing body once the public hearing has closed.

## **SECTION 2: PROCEDURES.**

- (a) The order of procedure shall follow the order of the agenda; however, the mayor or presiding officer shall have the authority to vary the order of procedure in order to expedite the proceedings, provided that no properly registered person shall be denied an opportunity to address the governing body on a public hearing item on the day for which the item is scheduled because of a variance to the order of procedure.
- (b) No person shall address the governing body without first being recognized by the mayor or presiding officer.
- (c) No person, either individually or in a representative capacity, shall address the governing body on an agenda item that is under consideration by the governing body unless recognition is allowed as specified in subsection (b) of this section.

- (d) The presiding officer or any member of the governing body may make a motion pertaining to the subject matter of such agenda. All motions, authorizations, decisions, and actions, except those requiring a greater number as set out in the Charter or under state law, shall be approved upon a majority vote of the presiding officer and governing body so voting thereon.
- (e) Any posted meeting of the governing body may be recessed to another time and place for the purposes of consideration and action on any items not acted on during such meeting by the announcement by the presiding officer during such meeting of the time, date and place at which such recessed meeting shall be continued.
- (f) Each person addressing the governing body shall give their name and address in an audible tone of voice for the record, state the subject they wish to discuss, state who/whom the person is representing if representing an entity, organization, or other persons. All remarks shall be addressed to the governing body as a whole and not to any member thereof. No person shall be permitted to enter into any discussion, either directly or through a member of the governing body, without the permission of the presiding officer. No question may be asked a member of the governing body, or a member of the city staff, without the permission of the presiding officer.
- (g) In order to expedite matters and to avoid repetitious presentations, whenever any identifiable group of persons wishes to address the governing body on the same subject matter, it shall be proper for the presiding officer to request that a spokesman be chosen by the group to address the governing body and, in case additional matters are to be presented by any other member of such group, to limit the number of such persons addressing the board.
- (h) After a motion has been made or a public hearing has been closed, no member of the public shall address the governing body on the matter under consideration without first securing permission to do so by the presiding officer.
- (i) Any person, business, corporation, or other entity that desires to solicit services to the city shall not use a public hearing agenda item for discussion or consideration of such services. The governing body will consider solicitations only if placed on the agenda and, if applicable, after such legal requirements have been satisfied for the purchasing and contracting of such services.

### **SECTION 3: ORDER AND DECORUM.**

- (a) **Board members.** While the governing body is in session, the members must observe order and decorum, and a member shall neither, by

conversation or otherwise, delay or interrupt the proceedings or the peace of the governing body, nor disturb any member while speaking or refuse to obey the orders of the presiding officer.

- (b) **Employees.** Members of the city staff and employees shall observe the same rules of order and decorum as are applicable to the board of commissioners.
- (c) **Persons addressing the board.** Any person who willfully utters loud, threatening or abusive language including but not limited to profanities, or engages in any disorderly conduct that constitutes defamation, true threats, fighting words, obscenities, defamation (including libel and slander), blackmail, solicitation to commit crimes, or that may impede, incite, disrupt or disturb the orderly conduct of any meeting, hearing or other proceeding, shall be called to order by the presiding officer or immediately removed. If such conduct continues, the governing body may at its discretion order that any violator be barred from further participation before the governing body.
- (d) **Members of the audience; Search.** All persons in close proximity to members of the governing body and official meeting areas shall be subject to a search of purses, bags, backpacks, and other items used for carrying personal possessions. It shall be unlawful for any person to engage in disorderly conduct such as: hand clapping, stomping of feet, whistling, yelling and similar demonstrations, which conduct disturbs the peace and good order of the meeting. Use of placards, banners, signs, exhibits, displays, clothing, and other visual aids or devices that display sentiments that may be threatening, abusive, profane, or result in any disorderly conduct are not permitted in the governing body's meeting area during meeting times. No conversation among persons in the audience shall take place that may disturb the order of business. All mobile and other communication devices including telephones shall be on silent or a non-audible mode. Hand clapping may be allowed as an exception to this provision in instances allowed by the presiding officer such as celebratory or positive acknowledgment.
- (e) **The Presiding Officer** shall reserve the right to impose reasonable rules and modify rules regarding the public's participation, including procedures, order, and decorum.

#### **SECTION 4. DISTURBANCE ABATEMENT.**

- (a) **Warning.** All persons at the meetings of the governing body shall, at the request of the presiding officer, be silent. If, after receiving a warning from the presiding officer, a person persists in disturbing the meeting, such officer may order him/her to remove himself/herself from the meeting. If he/she does not remove himself/herself, the presiding officer may order that the city manager or a law enforcement officer have the person removed.

- (b) **Removal.** The chief of police, or such member of the police department as the presiding officer may designate, shall be sergeant-at-arms of the board of commissioner's meetings. The chief shall carry out all orders and instructions given by the presiding officer for the purpose of maintaining order and decorum at the meeting. Upon instruction of the presiding officer, it shall be the duty of the sergeant-at-arms to remove from the meeting any person who disturbs the proceedings of the governing body.
- (c) **Necessitating removal.** It shall be unlawful for any person at a meeting of the governing body to resist removal by the sergeant-at-arms.
- (d) **Motions to enforce.** Any member of the governing body may move to require the presiding officer to enforce the terms of this section, and the affirmative vote of a majority of the governing body shall require him to do so.
- (e) **Adjournment.** If any meeting of the governing body is willfully disturbed by a group of persons so as to render the orderly conduct of such meeting unfeasible and when order cannot be restored by the removal of individuals who are creating the disturbance, the meeting may be adjourned, and the remaining business considered at the next regular meeting.

#### **SECTION 5: USE OF CAMERAS AND RECORDERS.**

Cameras, including television and motion picture cameras, electronic sound recording devices and any other mechanical, electrical or electronic recording devices may be used in a reasonable manner in the public section of the commission chamber but only in the areas designated by the City.

#### **SECTION 6: PROVISIONS APPLICABLE TO BOARDS AND COMMITTEES.**

The rules and procedures set out herein shall be applicable to the city's elected body and to a deliberative body that has rulemaking or quasi-judicial power and that is classified as a department, agency, or political subdivision of the municipality.

#### **SECTION 7: NOTICE SHALL BE PLACED IN CONSPICUOUS PLACE.**

All or part of the provisions of this ordinance may be placed in an area to be viewed by the public at or near the meeting site.

#### **SECTION 8: PLACEMENT OF ITEMS ON THE OFFICIAL MEETING AGENDA.**

(a) Any elected or appointed official shall be prohibited from placing any item for the purposes of discussion or to be acted upon if the subject matter may result in either an unbudgeted expenditure of funds, or interference with a pending investigation or other legal matter.

(b) Matters that have been voted on the governing body shall not be placed on the agenda for reconsideration within six (6) months, unless a member of the governing body on the prevailing side, or a member of the governing body appointed or elected to the governing body since the matter was considered, makes a written request to the reconsider the matter in question.

**SECTION 9: CLOSED SESSION DELIBERATIONS.**

It shall be unlawful for any person present during a closed session meeting of the governing body to disclose the matters discussed or any information received during the closed session to a non-privy third party unless otherwise ordered by a court of law. Violation of this provision by an elected or appointed official shall be deemed a failure to faithfully execute the duties of office under Article X, Section 4 of the Pharr City Charter. Violation of this provision may also result in the maximum fine allowed by law as well as other relief at law or equity allowed by law for violation and enforcement of Ordinances.

**SECTION 10: ENFORCEMENT; PUNISHMENT; PENALTIES.**

(a) Should any person or business violate the prohibitions contained herein, the City Attorney may take any action to enforce this or any ordinance to prevent and summarily abate the action, and any and all other relief as may be necessary.

(b) Any violation of this Ordinance shall be subject to both civil and criminal penalties. A criminal conviction shall be a Class C misdemeanor. A violator shall also be subject to the maximum penalties allowed by law for failing to appear in Court when charged with an offense as described herein. If conduct constituting an offense under this ordinance also constitutes an offense under another law, the person may be prosecuted under all applicable laws.

(c) A liable party shall be subject to a civil penalty up to \$200 per violation, in addition to court costs, and other fees allowed by law.

**SECTION 11: SAVINGS CLAUSE.** Except as hereby amended, any personnel policies, procedures, and directives of the City of Pharr, Texas, not in conflict with this resolution shall remain in full force and effect, unimpaired hereby.

**SECTION 12: SEVERABILITY CLAUSE.** The invalidity of any section, clause, sentence or provision of this ordinance shall not affect the validity of any other part thereof. The effects of this Ordinance shall at all times be in compliance with state, federal, and other guidelines as directed.

**SECTION 13: 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 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 Texas Government Code.

**SECTION 14: EFFECTIVE DATE; PUBLICATION.**

The fact that new H.B. 2840 is effective September 1, 2019 creates an emergency. The requirement that this Ordinance is to be read on three (3) separate meetings is hereby waived and dispensed with and this Ordinance shall take effect and be in full force immediately after approval and passage. Publication, if necessary, may also be in caption form as allowed under Section 9 of the Pharr City Charter.

**PASSED AND APPROVED ON FIRST READING BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF PHARR, TEXAS, on this the 7<sup>th</sup> day of August, 2019.**

CITY OF PHARR



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AMBROSIO HERNANDEZ  
MAYOR

ATTEST:



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HILDA PEDRAZA, CITY CLERK

**PASSED AND APPROVED ON SECOND AND FINAL READING BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF PHARR, TEXAS, on this the 19<sup>th</sup> day of August, 2019.**

CITY OF PHARR



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AMBROSIO HERNANDEZ  
MAYOR

ATTEST:



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HILDA PEDRAZA, CITY CLERK