

**CITY OF KERRVILLE, TEXAS  
ORDINANCE NO. 2023-23**

**AN ORDINANCE AMENDING CHAPTER 26 “BUILDINGS AND BUILDING REGULATIONS”, ARTICLE IX “BUILDING BOARD OF ADJUSTMENT AND APPEALS” OF THE CODE OF ORDINANCES, CITY OF KERRVILLE, TEXAS; BY AMENDING REQUIREMENTS APPLICABLE TO ALTERNATE MEMBERS, MAKING CONSISTENT THE NUMBER OF BOARD MEMBERS, AMENDING THE MEETING SCHEDULE, AND REVISING THE REQUIREMENT FOR A QUORUM; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; ESTABLISHING AN EFFECTIVE DATE; AND PROVIDING OTHER MATTERS RELATED TO THE SUBJECT**

**WHEREAS**, City Council previously created a single, multi-trade board known as the Building Board of Adjustment and Appeals (“Board”), as found within Chapter 26, Article IX, of the City’s Code of Ordinances (the “Article”); and

**WHEREAS**, City Council created the Board to hear appeals, grant variances, and to recommend amendments to and the adoption of standardized building codes to be considered for adoption by Council; and

**WHEREAS**, due to some inconsistencies in the Article, to address an aspect of the duties of alternate members, and to better align the meeting schedule with the needs of the City, staff recommends amending the Article as provided; and

**WHEREAS**, City Council finds it to be in the public interest to amend Chapter 26, Article IX in the manner and for the reasons provided above;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:**

**SECTION ONE.** Chapter 26 “Buildings and Building Regulations”, Article IX “Building Board of Adjustment and Appeals” of the Code of Ordinances of the City is amended by amending Section 26-250, subsection (c) with deleted language indicated by red, strikeout (~~deleted~~) as follows:

**“Sec. 26-250. Building Board of Adjustment and Appeals.**

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(c) *Alternates.* In an effort to obtain a quorum, increase efficiency, or for other reasons, the city council shall appoint two alternate members to the board. Each alternate member shall meet any one of the qualification provisions applicable to regular members. An alternate member shall serve only in the absence of one or more regular members when requested to do so by the chief building official so

that all cases considered by the board are heard by a minimum of at least four members. Alternate members may only participate in meetings if called to act and shall then act as a regular member for the entire meeting. ~~Even where not called upon to act as a regular member, alternate members shall attend all meetings and are subject to the attendance requirements applicable to the board.~~"

**SECTION TWO.** Chapter 26 "Buildings and Building Regulations", Article IX "Building Board of Adjustment and Appeals" of the Code of Ordinances of the City is amended by amending Section 26-250, subsection (e) with deleted language indicated by red, strikeout (~~deleted~~) and new language indicated by blue, underline (addition) as follows:

**"Sec. 26-250. Building Board of Adjustment and Appeals.**

.(e) *Term of appointment.* All regular and alternate members of the board shall be appointed to serve two-year terms beginning on September 1 and ending on August 31 of the appropriate years. The terms of ~~four~~ three of the regular members appointed shall expire in odd-numbered years. The terms of the remaining ~~three~~ two regular members shall expire in even-numbered years. The expiration of the term for each alternate, if any, shall alternate between an even and odd year. The city council may appoint members to the board, regular or alternate, for terms of lesser duration than two years when making the initial appointments or when otherwise necessary to comply with the provisions of this article. ~~For purposes of making initial appointments and to stagger the terms, council shall appoint the regular members meeting the qualifications of subsection (b)(1), (2), (6), and (7) for terms not to exceed one year and shall appoint the regular members meeting the qualifications of subsection (b)(3), (4), and (5) for terms not to exceed two years.~~"

**SECTION THREE.** Chapter 26 "Buildings and Building Regulations", Article IX "Building Board of Adjustment and Appeals" of the Code of Ordinances of the City is amended by amending Section 26-250, subsection (j) with deleted language indicated by red, strikeout (~~deleted~~) and new language indicated by blue, underline (addition) as follows:

**"Sec. 26-250. Building Board of Adjustment and Appeals.**

.(j) *Meetings; voting.* Meetings of the board shall be held ~~at least quarterly~~, at the call of the chair, and at such other times as ~~the members of the board determine required for the board to fulfill its duties as provided herein~~. All board members, regular and an alternate member(s), but only where the alternate is substituting for and acting as a regular member, shall be voting members and have the right,

duty, and obligation to vote on all matters that come before the board except for matters which involve a board member's company or employer, a board member's workmanship, or where prohibited by this article or law. A majority of members present and voting shall be necessary to constitute an official action of the board unless as provided herein."

**SECTION FOUR.** Chapter 26 "Buildings and Building Regulations", Article IX "Building Board of Adjustment and Appeals" of the Code of Ordinances of the City is amended by amending Section 26-250, subsection (l) with deleted language indicated by red, strikeout (~~deleted~~) and new language indicated by blue, underline (addition) as follows:

**"Sec. 26-250. Building Board of Adjustment and Appeals.**

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(l) *Quorum.* ~~Four~~ Three voting members of the board, which may include an alternate member(s) but only where substituting for and acting as a regular member, shall constitute a quorum for the transaction of business. The board should remain aware of the requirement specified in section 26-251, subsection (f).

**SECTION FIVE.** The City Secretary is authorized and directed to submit this Ordinance to the publisher of the City's Code of Ordinances and the publisher is authorized to amend said Code to reflect the amendments adopted herein and to correct typographical errors and to index, format, and number and letter paragraphs to the existing Code, as appropriate.

**SECTION SIX.** The provisions of this Ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this Ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

**SECTION SEVEN.** If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this Ordinance. City Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

**SECTION EIGHT.** This Ordinance shall become effective immediately upon approval.

JULY PASSED AND APPROVED ON FIRST READING, this the 25 day of  
A.D., 2023.

PASSED AND APPROVED ON SECOND AND FINAL READING, this  
the 08 day of August, A.D., 2023.

Judy Eychner  
Judy Eychner, Mayor

APPROVED AS TO FORM:

MCH  
Michael C. Hayes, City Attorney

ATTEST:

Shelley McElhannon  
Shelley McElhannon, City Secretary