



Meeting Agenda
Regular Meeting of the
Oak Point Planning & Zoning Commission

Oak Point City Hall
100 Naylor Road
Oak Point, Texas 75068

Tuesday, July 2, 2019
6:00 P.M.

1. Call to Order, Roll Call, and Announce a Quorum is Present (Collins)
2. Pledge of Allegiance and Pledge to the Texas Flag (Collins)
3. Consider and act upon minutes from the March 5, 2019 and June 4, 2019 meetings of the Planning & Zoning Commission (Vaughn)
4. Presentation on HB 2439 (Ashley)
5. Consider and act to approve an ordinance amending the comprehensive zoning ordinance by amending Chapter 14, Exhibit A, Section XVI of the Code of Ordinances of the City of Oak Point, Texas, entitled "Board of Adjustment" is amended by amending section XVI.B.2 to require City Council to approve rules of procedure; amending section XVI.D. by amending the process for appeals to the Board of Adjustment; providing a severability cause; providing for an effective date of September 1, 2019. (City Attorney)

6. Consider and act upon topics to be scheduled for a future Planning & Zoning Commission meeting (Collins)

The Planning & Zoning Commission is not permitted to take action on or engage in any discussion regarding an item not listed on the agenda. However, this agenda item provides an opportunity for any member of the Planning & Zoning Commission to propose that a topic be scheduled for a future meeting. Upon an item being proposed for discussion, the Planning & Zoning Commission will vote to determine its collective desire to schedule the item for discussion and/or action at a future meeting. A majority vote of the Planning & Zoning Commission is required to schedule an item for discussion and/or action at a future meeting.

7. Adjourn (Collins)

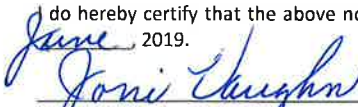
The Planning & Zoning Commission of the City of Oak Point, Texas, reserves the right to meet in a closed session on any item listed on this Agenda should the need arise, pursuant to authorization by Texas Government Code, Sections 551.071 (consultation with attorney), 551.072 (deliberations about real property), 551.073 (deliberations about gifts and donations), 551.074 (personnel matters), 551.076 (deliberations about security devices), 551.087 (economic development), 418.183 (homeland security).

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to the meeting. Please contact City Hall at 972-294-2312 or FAX 972-294-1619 for further information.

NOTE: It is possible a quorum of Oak Point Council Members could be present, but the City Council will not take action on any issues.

CERTIFICATION:

I do hereby certify that the above notice of this public meeting was posted on the designated bulletin boards by 5:00 a.m. (p.m.) on the 28th day of June 2019.



Joni Vaughn, City Secretary

This notice was removed at _____ a.m./p.m. on the _____ day of _____, 2019.

Joni Vaughn, City Secretary





Meeting Minutes
Regular Meeting of the
Oak Point Planning & Zoning Commission

Oak Point City Hall
100 Naylor Road
Oak Point, Texas 75068

Tuesday, March 5, 2019
6:00 P.M.

1. Call to Order, Roll Call, and Announce a Quorum is Present.

Chairperson Collins called the meeting to order at 6:04 p.m. with the following roll call:

Neil Collins	Chairperson	Present
David McBeth	Vice Chairperson	Present
Robert Burke	Commissioner	Absent
Helen Buttermark	Commissioner	Present
Scott Dufford	Commissioner	Present
Bill Gusick	Commissioner	Present
Jeff Stafford	Commissioner	Arrived at 6:17 pm
Barney Carrington	Alternate	Present
Brent Coleman	Alternate	Present

City staff present:

Stephen Ashley	City Manager
Joni Vaughn	City Secretary

And with a quorum present the following items were addressed:

2. Pledge of Allegiance and Pledge to the Texas Flag.

Chairperson Collins led the Pledge of Allegiance and Pledge to the Texas Flag.

3. Consider and act upon minutes from the February 5, 2019 meeting of the Planning & Zoning Commission.

Commissioner Buttermark noted there was an error in the attendance as she was noted as absent and was present. Commissioner Dufford motioned to approve the minutes from the February 5, 2019 Planning & Zoning Commission meeting as amended; motion seconded by Commissioner Buttermark.

Motion passed with a vote of 7-0

4. Public Hearing on a request for a final plat of a 13.219 acre tract of land, consisting of block G, lots 9-21; Block H, Lots 12-23; Block O, Lots 3-19; of Wildridge Phase 4C situated the Elizabeth A. Shahan Survey, Abstract No. 1204, City of Oak Point, Denton County, Texas, being a portion of a called 191.237-acre tract, described as Tract 10A in a Special Warranty Deed to LH Wildridge, LLC, recorded in Document No. 2017-20269, Deed Records, Denton County, Texas.

City Manager Ashley explained the request for final plat. Chairperson Collins opened the Public Hearing at 6:08 pm. No one came forward to speak. Chairperson Collins closed the Public Hearing at 6:10 pm.

5. Consider and act upon a request for a final plat of a 13.219 acre tract of land, consisting of block G, lots 9-21; Block H, Lots 12-23; Block O, Lots 3-19; of Wildridge Phase 4C situated the Elizabeth A. Shahan Survey, Abstract No. 1204, City of Oak Point, Denton County, Texas, being a portion of a called 191.237-acre tract, described as Tract 10A in a Special Warranty Deed to LH Wildridge, LLC, recorded in Document No. 2017-20269, Deed Records, Denton County, Texas.

Commissioner Buttermark made a motion to approve a final plat of a 13.219 acre tract of land, consisting of block G, lots 9-21; Block H, Lots 12-23; Block O, Lots 3-19; of Wildridge Phase 4C situated the Elizabeth A. Shahan Survey, Abstract No. 1204, City of Oak Point, Denton County, Texas, being a portion of a called 191.237-acre

tract, described as Tract 10A in a Special Warranty Deed to LH Wildridge, LLC, recorded in Document No. 2017-20269, Deed Records, Denton County, Texas; motion seconded by Commissioner McBeth.

Motion passed with a vote of 7-0

6. Review and discuss the Zoning and Development Activity Report for February 2019.

City Manager Ashley reviewed the Zoning and Development report with the Board. 7 Eleven still has not picked up their permits. There is a meeting of the Comprehensive Plan Action Committee on Thursday, March 7th at 6:00 pm.

7. Review and discuss the definition of a slab.

City Manager Ashley reported that City Attorney Moore asked that the Commission table this item until he can review the language more thoroughly. Commissioner Dufford made a motion to table the item until the next meeting; motion seconded by Commissioner Gusick.

Motion passed with a vote of 7-0

8. Review and discuss an overview of the rules of order, procedures and ethics for the Planning and Zoning Commission.

City Manager Ashley presented a Power Point presentation reviewing what the code of ordinances states about rules of order, procedures, and ethics for the Planning and Zoning Commission as well as offering some additional suggestions on the topics.

9. Consider and act upon topics to be scheduled for a future Planning & Zoning Commission meeting.

There were no topics for future agendas discussed.

10. Adjourn.

Chairperson Collins motioned to adjourn; motion seconded by Commissioner Brent Coleman.

Motion passed with a vote of 7-0.

The meeting adjourned at 7:00 p.m.

Neil Collins, Chairperson

ATTEST:

Joni Vaughn, City Secretary



Meeting Minutes
Regular Meeting of the
Oak Point Planning & Zoning Commission
to include the
Comprehensive Plan Action Committee

Oak Point City Hall
100 Naylor Road
Oak Point, Texas 75068

Tuesday, June 4, 2019
6:00 P.M.

1. Call to Order, Roll Call, and Announce a Quorum is Present

Chairperson Collins called the meeting to order at 6:02 p.m. with the following roll call:

Neil Collins	Chairperson	Present
David McBeth	Vice Chairperson	Present
Helen Buttermark	Commissioner	Absent
Scott Dufford	Commissioner	Present
Bill Gusick	Commissioner	Present
Jeff Stafford	Commissioner	Present
Barney Carrington	Alternate	Present
Brent Coleman	Alternate	Absent

City staff present:

Stephen Ashley	City Manager
Joni Vaughn	City Secretary

And with a quorum present the following items were addressed:

2. Pledge of Allegiance and Pledge to the Texas Flag

Chairperson Collins led the Pledge of Allegiance and Pledge to the Texas Flag.

3. Consider and act upon minutes from the April 2, 2019 meeting of the Planning & Zoning Commission

Motion to approve the minutes from the April 2, 2019 meeting was made by Commissioner Dufford and seconded by Commissioner Carrington.

Motion passed 5-0

4. Presentation of the Comprehensive Plan by Freese and Nichols, Inc

Daniel Harrison from Freese & Nichols presented the final draft of the 2019 Oak Point Comprehensive Plan and answered questions from the Commission and citizens.

5. Review and Discussion of the Comprehensive Plan

The Commission reviewed and discussed the Comprehensive Plan. There was discussion regarding how often the Comprehensive Plan would be reviewed. The plan is for the CPAC subcommittee to meet every four months to review the implementation of the plan; annually to discuss whether any changes need to be made; and every three years to update the plan. The Commission requested the Freese and Nichols add a map legend to describe each zoning category on page 24.

6. Consider and act upon recommendation of the proposed Comprehensive Plan to City Council

Motion to accept the Comprehensive Plan Update with the addition of a legend on page 24 and recommend approval to the City Council was made by Commissioner Dufford and seconded by Commissioner Gusick.

Motion passed 5-0

7. Consider and act upon topics to be scheduled for a future Planning & Zoning Commission meeting
Commissioner Dufford requested an agenda item regarding the masonry requirements in zoning district RX3.

8. Adjourn

Motion to adjourn was made by Commissioner Dufford and seconded by Chairman Collins.

Motion passed 5-0

Meeting adjourned at 7:15 pm

Neil Collins, Chairperson

ATTEST:

Joni Vaughn, City Secretary



To: Planning & Zoning Board of Directors
From: Stephen Ashley, City Manager
Re: HB 2439
Date: June 06, 2019

Agenda Item:

Presentation on HB 2439 – Signed by Governor Abbott and becomes Effective September 1, 2019.
Prohibits stricter limits on building materials than those in model codes

Description of Agenda Item:

Presentation on HB 2439 which prohibits state and local governmental entities from requiring standards for building materials used in construction or renovation that were stricter than those set by a national model code published within the last three code cycles.

This bill void rules, charter provisions, ordinances, orders, building codes, and other regulations adopted by governmental entities that conflicted with the bill's provisions

Budget Impact:

N/A

Legal Obligations and Review:

The bill would authorize the attorney general or an aggrieved party to file an action in district court to enjoin a violation or threatened violation of the bill and would authorize the court to grant appropriate relief and award of the recovery of reasonable attorney's fees and costs. HB 2439 would waive sovereign and governmental immunity to the extent necessary to enforce the bill.

Attached Documents:

1. HB 2439

Board, Committee and/or Staff Recommendation:

There is no recommendation from City Staff currently.

Other Options:

Being reviewed.

1 AN ACT
2 relating to certain regulations adopted by governmental entities
3 for the building products, materials, or methods used in the
4 construction or renovation of residential or commercial buildings.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Title 10, Government Code, is amended by adding
7 Subtitle Z to read as follows:

8 SUBTITLE Z. MISCELLANEOUS PROVISIONS PROHIBITING CERTAIN

9 GOVERNMENTAL ACTIONS

10 CHAPTER 3000. GOVERNMENTAL ACTION AFFECTING RESIDENTIAL AND

11 COMMERCIAL CONSTRUCTION

12 Sec. 3000.001. DEFINITIONS. In this chapter:

13 (1) "National model code" has the meaning assigned by
14 Section 214.217, Local Government Code.

15 (2) "Governmental entity" has the meaning assigned by
16 Section 2007.002.

17 Sec. 3000.002. CERTAIN REGULATIONS REGARDING BUILDING
18 PRODUCTS, MATERIALS, OR METHODS PROHIBITED. (a) Notwithstanding
19 any other law and except as provided by Subsection (d), a
20 governmental entity may not adopt or enforce a rule, charter
21 provision, ordinance, order, building code, or other regulation
22 that:

23 (1) prohibits or limits, directly or indirectly, the
24 use or installation of a building product or material in the

1 construction, renovation, maintenance, or other alteration of a
2 residential or commercial building if the building product or
3 material is approved for use by a national model code published
4 within the last three code cycles that applies to the construction,
5 renovation, maintenance, or other alteration of the building; or

6 (2) establishes a standard for a building product,
7 material, or aesthetic method in construction, renovation,
8 maintenance, or other alteration of a residential or commercial
9 building if the standard is more stringent than a standard for the
10 product, material, or aesthetic method under a national model code
11 published within the last three code cycles that applies to the
12 construction, renovation, maintenance, or other alteration of the
13 building.

14 (b) A governmental entity that adopts a building code
15 governing the construction, renovation, maintenance, or other
16 alteration of a residential or commercial building may amend a
17 provision of the building code to conform to local concerns if the
18 amendment does not conflict with Subsection (a).

19 (c) This section does not apply to:

20 (1) a program established by a state agency that
21 requires particular standards, incentives, or financing
22 arrangements in order to comply with requirements of a state or
23 federal funding source or housing program;

24 (2) a requirement for a building necessary to consider
25 the building eligible for windstorm and hail insurance coverage
26 under Chapter 2210, Insurance Code;

27 (3) an ordinance or other regulation that regulates

1 outdoor lighting that is adopted for the purpose of reducing light
2 pollution and that:

3 (A) is adopted by a governmental entity that is
4 certified as a Dark Sky Community by the International Dark-Sky
5 Association as part of the International Dark Sky Places Program;
6 or

7 (B) applies to outdoor lighting within five miles
8 of the boundary of a military base in which an active training
9 program is conducted;

10 (4) an ordinance or order that:

11 (A) regulates outdoor lighting; and

12 (B) is adopted under Subchapter B, Chapter 229,
13 Local Government Code, or Subchapter B, Chapter 240, Local
14 Government Code;

15 (5) a building located in a place or area designated
16 for its historical, cultural, or architectural importance and
17 significance that a municipality may regulate under Section
18 211.003(b), Local Government Code, if the municipality:

19 (A) is a certified local government under the
20 National Historic Preservation Act (54 U.S.C. Section 300101 et
21 seq.); or

22 (B) has an applicable landmark ordinance that
23 meets the requirements under the certified local government program
24 as determined by the Texas Historical Commission;

25 (6) a building located in a place or area designated
26 for its historical, cultural, or architectural importance and
27 significance by a governmental entity, if designated before April

1 1, 2019;

2 (7) a building located in an area designated as a
3 historic district on the National Register of Historic Places;

4 (8) a building designated as a Recorded Texas Historic
5 Landmark;

6 (9) a building designated as a State Archeological
7 Landmark or State Antiquities Landmark;

8 (10) a building listed on the National Register of
9 Historic Places or designated as a landmark by a governmental
10 entity;

11 (11) a building located in a World Heritage Buffer
12 Zone; and

13 (12) a building located in an area designated for
14 development, restoration, or preservation in a main street city
15 under the main street program established under Section 442.014.

16 (d) A municipality that is not a municipality described by
17 Subsection (c)(5)(A) or (B) may adopt or enforce a regulation
18 described by Subsection (a) that applies to a building located in a
19 place or area designated on or after April 1, 2019, by the
20 municipality for its historical, cultural, or architectural
21 importance and significance, if the municipality has the voluntary
22 consent from the building owner.

23 (e) A rule, charter provision, ordinance, order, building
24 code, or other regulation adopted by a governmental entity that
25 conflicts with this section is void.

26 Sec. 3000.003. INJUNCTION. (a) The attorney general or an
27 aggrieved party may file an action in district court to enjoin a

1 violation or threatened violation of Section 3000.002.

2 (b) The court may grant appropriate relief.

3 (c) The attorney general may recover reasonable attorney's
4 fees and costs incurred in bringing an action under this section.

5 (d) Sovereign and governmental immunity to suit is waived
6 and abolished only to the extent necessary to enforce this chapter.

7 Sec. 3000.004. OTHER PROVISIONS NOT AFFECTED. This chapter
8 does not affect provisions regarding the installation of a fire
9 sprinkler protection system under Section 1301.551(i), Occupations
10 Code, or Section 775.045(a)(1), Health and Safety Code.

11 Sec. 3000.005. SEVERABILITY. If any provision of a rule,
12 charter provision, ordinance, order, building code, or other
13 regulation described by Section 3000.002(a) is held invalid under
14 this chapter, the invalidity does not affect other provisions or
15 applications of the rule, charter provision, ordinance, order,
16 building code, or other regulation that can be given effect without
17 the invalid provision or application, and to this end the
18 provisions of the rule, charter provision, ordinance, order,
19 building code, or other regulation are severable.

20 SECTION 2. This Act takes effect September 1, 2019.

H.B. No. 2439

President of the Senate

Speaker of the House

I certify that H.B. No. 2439 was passed by the House on April 30, 2019, by the following vote: Yeas 124, Nays 21, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2439 on May 23, 2019, by the following vote: Yeas 133, Nays 9, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2439 was passed by the Senate, with amendments, on May 19, 2019, by the following vote: Yeas 26, Nays 5.

Secretary of the Senate

APPROVED: _____

Date

Governor



To: Planning & Zoning Board of Directors
From: Stephen Ashley, City Manager
Re: HB 2497
Date: June 06, 2019

Agenda Item:

Presentation on HB 2497 – Signed by Governor Abbott and becomes Effective September 1, 2019. HB 2497 would require a board of adjustment to obtain approval from a municipality's governing body when adopting rules.

Description of Agenda Item:

CSHB 2497 would require a board of adjustment to obtain approval from a municipality's governing body when adopting rules. The bill also would specify that a person could not appeal a decision made by an administrative official that was related to a specific application, address, or project, unless that person:

- filed the application that was the subject of the decision;
- was the owner or representative of the owner of the property that was the subject of the decision;
- was aggrieved by the decision and was the owner of real property within 200 feet of the property that was the subject of the decision; or
- was an officer, department, board, or bureau of the municipality affected by the decision.

The bill would specify that an appeal had to be filed no more than 20 days after the decision was made. The board would decide the appeal at the next meeting for which notice could be provided following the hearing and not later than 60 days after the appeal was filed.

Budget Impact:

N/A

Legal Obligations and Review:

N/A

Attached Documents:

1. HB 2497

Board, Committee and/or Staff Recommendation:

Approve the Ordinance amending the Comprehensive Zoning Ordinance, by amending Chapter 14, Exhibit A, Section XVI of the Code of Ordinances of the City of Oak Point, Texas Entitled "Board of Adjustments" is Amended by Amending Section XVI.B.2. to Require City Council to Approve Rules of Procedure; Amending Section XVI.D. by Amending the Process for Appeals to the Board of Adjustment.

1 AN ACT

2 relating to rules of and appeals to a municipal board of adjustment.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

4 SECTION 1. Section 211.008(e), Local Government Code, is
5 amended to read as follows:

6 (e) The board by majority vote shall adopt rules in
7 accordance with any ordinance adopted under this subchapter and
8 with the approval of the governing body. Meetings of the board are
9 held at the call of the presiding officer and at other times as
10 determined by the board. The presiding officer or acting presiding
11 officer may administer oaths and compel the attendance of
12 witnesses. All meetings of the board shall be open to the public.

13 SECTION 2. Section 211.010, Local Government Code, is
14 amended by amending Subsections (a), (b), and (d) and adding
15 Subsection (a-1) to read as follows:

16 (a) Except as provided by Subsection (e), any of the
17 following persons may appeal to the board of adjustment a decision
18 made by an administrative official that is not related to a specific
19 application, address, or project:

- 20 (1) a person aggrieved by the decision; or
21 (2) any officer, department, board, or bureau of the
22 municipality affected by the decision.

23 (a-1) Except as provided by Subsection (e), any of the
24 following persons may appeal to the board of adjustment a decision

1 made by an administrative official that is related to a specific
2 application, address, or project:

3 (1) a person who:

4 (A) filed the application that is the subject of
5 the decision;

6 (B) is the owner or representative of the owner
7 of the property that is the subject of the decision; or

8 (C) is aggrieved by the decision and is the owner
9 of real property within 200 feet of the property that is the subject
10 of the decision; or

11 (2) any officer, department, board, or bureau of the
12 municipality affected by the decision.

13 (b) The appellant must file with the board and the official
14 from whom the appeal is taken a notice of appeal specifying the
15 grounds for the appeal. The appeal must be filed not later than the
16 20th day after the date the decision is made [~~within a reasonable~~
17 ~~time as determined by the rules of the board~~]. On receiving the
18 notice, the official from whom the appeal is taken shall
19 immediately transmit to the board all the papers constituting the
20 record of the action that is appealed.

21 (d) The board shall set a reasonable time for the appeal
22 hearing and shall give public notice of the hearing and due notice
23 to the parties in interest. A party may appear at the appeal
24 hearing in person or by agent or attorney. The board shall decide
25 the appeal at the next meeting for which notice can be provided
26 following the hearing and not later than the 60th day after the date
27 the appeal is filed [~~within a reasonable time~~].

1 SECTION 3. (a) Section 211.008(e), Local Government Code,
2 as amended by this Act, applies only to rules adopted by a municipal
3 board of adjustment on or after the effective date of this Act.

4 (b) Section 211.010(a), Local Government Code, as amended
5 by this Act, applies only to an appeal based on a decision made by an
6 administrative official on or after the effective date of this Act.
7 An appeal based on a decision made by an administrative official
8 before the effective date of this Act is governed by the law in
9 effect on the date the decision was made, and the former law is
10 continued in effect for that purpose.

11 SECTION 4. This Act takes effect September 1, 2019.

H.B. No. 2497

President of the Senate

Speaker of the House

I certify that H.B. No. 2497 was passed by the House on May 8, 2019, by the following vote: Yeas 145, Nays 2, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2497 was passed by the Senate on May 22, 2019, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____
Date

Governor

ORDINANCE No. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OAK POINT, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE, BY AMENDING CHAPTER 14, EXHIBIT A, SECTION XVI OF THE CODE OF ORDINANCES OF THE CITY OF OAK POINT, TEXAS, ENTITLED “BOARD OF ADJUSTMENT” IS AMENDED BY AMENDING SECTION XVI.B.2. TO REQUIRE CITY COUNCIL TO APPROVE RULES OF PROCEDURE; AMENDING SECTION XVI.D. BY AMENDING THE PROCESS FOR APPEALS TO THE BOARD OF ADJUSTMENT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE OF SEPTEMBER 1, 2019.

WHEREAS, the Planning and Zoning Commission and the City Council of the City of Oak Point, Texas, in compliance with the laws of the State of Texas, and the Code of Ordinances of the City of Oak Point, Texas, have given the requisite notices by publication and otherwise, and have held due hearings and afforded a full and fair hearing to all property owners generally and to all persons interested, and the City Council of the City of Oak Point, Texas, is of the opinion and finds that said changes should be granted and that the Zoning Ordinance should be amended; and

WHEREAS, in 2019, the Texas Legislature approved House Bill 2497 (2019) amending sections 211.008 and 211.010 of the Texas Local Government Code. This amendment requires the City to amend Sections 12.92 and 12.98 of the Code of Ordinances of the City of Oak Point, Texas.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OAK POINT, TEXAS:

Section 1. FINDINGS INCORPORATED

The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

Section 2. That Chapter 14, Exhibit A, Section XVI of the Code of Ordinances of the City of Oak Point, Texas, entitled “Board of Adjustment” is hereby amended to read as follows:

“Sec. XVI. Board of adjustment.

A. Creation and Organization.

1. There is hereby created a Board of Adjustment consisting of five (5) members and up to two (2) alternate members to be appointed for terms of two (2) years. Members and alternates will be residents of the City nominated by the Mayor and City Council and appointed by the City Council. Terms shall expire on July 15 of each year. Members may be reappointed for additional terms.

2. The Board of Adjustment shall elect a chairperson and vice chairperson from the members of the Board at the first meeting following July 15. The chairperson shall serve as presiding officer for a period of one year and may be reappointed for additional terms. In the absence of the chairperson, the vice chairperson shall assume all duties of the chairperson.
3. The City Council may remove a board member for cause on a written charge after a public hearing. Any member failing to attend three (3) consecutive meetings of the Board may be removed by City Council action.
4. A vacancy on the Board shall be filled for the unexpired term. A vacancy among the alternate members is filled in the same manner as a vacancy among the regular members.
5. The initial membership shall be appointed in staggered terms with two members being appointed for one year and three members being appointed for two years. Alternates shall also be appointed for staggered terms.
6. Alternate members serve in the absence of one or more regular members when requested to do so by the mayor or city manager. Alternate members are subject to removal in the same manner as a regular member.

B. Conduct of Business.

1. Each case before the Board of Adjustment must be heard by at least 75 percent of the members.
2. The Board, by majority vote, shall adopt rules of procedure in accordance with State Law and any other ordinance adopted by the City Council, and with the approval of the City Council.
3. Meetings of the Board are held at the call of the presiding officer and at other times as determined by the Board.
4. The presiding officer or acting presiding officer may administer oaths and compel the attendance of witnesses.
5. All meetings of the Board shall be open to the public and shall comply with the requirements for open meetings.
6. The Board shall keep minutes of its proceedings that indicate the vote of each member on each question or the fact that a member is absent or fails to vote. The Board shall keep records of its examinations and other official actions. The minutes and records shall be filed immediately in the Board's office and are public records.

C. Authority of the Board.

1. The Board of Adjustment may:

- a. Hear and decide an appeal that alleges error in an order, requirement, decision or determination made by an administrative official in the enforcement of this ordinance or an ordinance adopted by the governing body;
 - b. Hear and decide special exceptions to the terms of the Zoning Ordinance when the ordinance requires the Board to do so;
 - c. Authorize in specific cases a variance from the terms of the Zoning Ordinance if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement would result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done; and
 - d. Hear and decide other matters authorized by an ordinance adopted by the City Council.
2. In exercising its authority under Subsection C.1, the Board may reverse or affirm, in whole or in part, or modify an administrative official's order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for that purpose the Board has the same authority as the administrative official.
 3. The concurring vote of 75 percent of the members of the Board is necessary to:
 - a. Reverse an order, requirement, decision, or determination of an administrative official;
 - b. Decide in favor of an applicant on a matter on which the Board is required to pass under the Zoning Ordinance; or
 - c. Authorize a variation from the terms of a Zoning Ordinance.

D. Appeal to Board.

1. Any of the following persons may appeal to the Board of Adjustment a decision made by an administrative official that is not related to a specific application, address, or project:
 - a. A person aggrieved by the decision; or
 - b. Any Officer, Department, Board or Bureau of the municipality affected by the decision.
2. Any of the following persons may appeal to the board of adjustment a decision made by an administrative official that is related to a specific application, address, or project:
 - a. A person who:

1. filed the application that is the subject of the decision;
 2. is the owner or representative of the owner of the property that is the subject of the decision; or
 3. is aggrieved by the decision and is the owner of real property within 200 feet of the property that is the subject of the decision; or
- b. any officer, department, board, or bureau of the municipality affected by the decision.
3. The appellant must file with the Board and the official from whom the appeal is taken a Notice of Appeal specifying the grounds for the appeal. The appeal must be filed not later than the 20th day after the date the decision is made. On receiving the notice, the official from whom the appeal is taken shall immediately transmit to the Board all the papers constituting the record of the action that is appealed.
 4. An appeal stays all proceedings in furtherance of the action that is appealed unless the official from whom the appeal is taken certifies in writing to the Board facts supporting the official's opinion that a stay would cause imminent peril to life or property. In that case, the proceedings may be stayed only by a restraining order granted by the Board or a court of record on application, after notice to the official, if due cause is shown.
 5. The Board shall set a reasonable time for the appeal hearing and shall give public notice of the hearing and due notice to the parties in interest. A party may appear at the appeal hearing in person or by agent or attorney. The Board shall decide the appeal at the next meeting for which notice can be provided following the hearing and not later than the 60th day after the date the appeal is filed.
- E. Judicial Review of Board Decision.
1. Any of the following persons may present to a court of competent jurisdiction a verified petition stating that the decision of the Board of Adjustment is illegal in whole or in part and specifying the grounds of the illegality:
 - a. A person aggrieved by a decision of the Board;
 - b. A taxpayer; or
 - c. An officer, department, board, or bureau of the municipality.
 2. The petition must be presented within 10 days after the date the decision is filed in the Board's office.
- F. Waiting Period.
1. No appeal to the Board of Adjustments shall be allowed on the same piece of property or

on the same or similar question prior to the expiration of one (1) year from the date of a ruling of the Board of Adjustment on any appeal to such body unless property in the same zoning area shall have, within such one (1) year period, been altered or changed by a ruling of the Board of Adjustment, in which each case such change of circumstances shall permit the allowance of an appeal.

2. The Board of Adjustment may deny any variance without prejudice pursuant to Board of Adjustment Rules of Procedure.”

Section 4. SEVERABILITY CLAUSE

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation of this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section 5. REPEALER CLAUSE

Any provision of any prior ordinance of the City whether codified or uncodified, which are in conflict with any provision of the Ordinance, are hereby repealed to the extent of the conflict, but all other provisions of the ordinances of the City whether codified or uncodified, which are not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

Section 6. EFFECTIVE DATE

This Ordinance shall become effective on September 1, 2019.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Oak Point, Texas, on this the _____ day of _____, 2019.

Keith Palmer, Mayor

ATTEST:

Joni Vaughn, City Secretary