

Ordinance No. 2009.09
Village of Salado
County of Bell
State of Texas
October 1, 2009

Rules of Procedure for Board of Aldermen Meetings

AN ORDINANCE OF THE VILLAGE OF SALADO, TEXAS AMENDING ORDINANCE NO. 2009.02 ESTABLISHING POLICIES AND PROCEDURES FOR BOARD OF ALDERMEN MEETINGS, INCLUDING PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT; PURPOSE; DEFINITIONS; GENERAL RULES OF PROCEDURE AT MEETINGS; DISRUPTIVE OR DISORDERLY CONDUCT; INDIVIDUALS WITH DISABILITIES; RECORDING OF MEETINGS; ENFORCEMENT; RELATION TO OTHER ORDINANCES; SEVERABILITY; PROPER NOTICE AND MEETING

WHEREAS, the Board of Aldermen of the Village of Salado seeks to provide for the efficient administration of Village business; and

WHEREAS, the Board of Aldermen seeks to maintain order and decorum at Board of Aldermen Meetings; and

WHEREAS, the Board of Aldermen finds that the promulgation of procedural rules for Board meetings furthers the effective and efficient administration of Village business and encourage orderly public participation in the democratic process; and

WHEREAS, the Board of Aldermen finds that disorderly or disruptive behavior during the course of its meetings unreasonably interferes with the conduct of Village business; creates confusion and dismay among meeting participants, observers, and the general public; and stifles public comment and participation in the democratic process; and discourages the majority of meeting attendees who conduct themselves appropriately; and

WHEREAS, the Board of Aldermen finds that the unreasonably obtrusive use of a tape recorder, video camera, or other means of aural or video reproduction may disrupt the effective and efficient administration of Board of Aldermen meetings; may cause undue anxiety to those persons in attendance; and may discourage public participation in the democratic process; thus making it necessary to adopt reasonable rules relating to the location of recording equipment and the manner in which the recording is conducted; and

WHEREAS, the Board of Aldermen finds it to be in the best interest of the public safety, health and general welfare to adopt reasonable rules and regulations to maintain order and to regulate conduct at its meetings; and

WHEREAS, the Board of Aldermen is authorized to adopt such rules and regulations by virtue of section 22.038 of the Texas Local Government Code and by section 551.023 of the Texas Government Code; and

WHEREAS, the Board of Aldermen has carefully reviewed the rules and regulations established by this Ordinance; and

WHEREAS, the Board of Aldermen has received public input by and through a public meeting at which the ordinance was adopted; and

WHEREAS, the Board of Alderman previously enacted Ordinance No. 2009.02 on February 19, 2009; and

WHEREAS, the Board of Alderman deems it in the best interest of the Village of Salado to amend Ordinance No. 2009.02 in its entirety and for said Ordinance to be replaced in its entirety as follows:

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE VILLAGE OF SALADO, COUNTY OF BELL, STATE OF TEXAS:

SECTION 1. The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

SECTION 2. Ordinance No. 2009.02 is amended in its entirety and shall read as provided in Attachment "A" attached hereto and incorporated herein as if fully set forth for all purposes.

SECTION 3. That this Ordinance shall become effective after its passage.

SECTION 4. This Ordinance, upon its enactment and effective date, shall repeal all conflicting provisions that may be contained in other Village ordinances or regulations. Except to the extent they apply to obligations and violations arising prior to the enactment of this Ordinance.

SECTION 5. All rights and remedies of the Village are expressly saved as to any and all violations of the provisions of any previous ordinances which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 6. In the event that any one or more of the provisions, clauses, or words of this ordinance or the application thereof to any situation or circumstance shall for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other provisions, clauses, or words of this ordinance or the application thereof to any other situations or circumstance and it is intended that this ordinance shall be severable and that it shall be construed and applied as if such invalid or unconstitutional clause, section, provision, or word had not been included herein.

SECTION 7. That the meeting at which this Ordinance was enacted, was open to the public as required by the Texas Open Meetings Act, and that notice of the time, place, and subject matter of the meeting was given as required by the Texas Open Meetings Act.

PASSED AND APPROVED this, the 1st day of October 2009, by a 4 (ayes) to 0 (nays) and 0 (abstentions) vote of the Board of Aldermen of Salado, Texas.

VILLAGE OF SALADO:

Merle Stalcup, Mayor

ATTEST:

Dianna Zulauf, Village Secretary

SECTION 1. FINDINGS OF FACT

The Board hereby finds all of the above premises to be true and correct legislative and factual findings of the Village of Salado, and, so finding, the Board hereby incorporates them into the body of this Ordinance as if copied in their entirety.

SECTION 2. PURPOSE

This Ordinance is adopted so that the Board of Aldermen may promote the public health, safety, morals and general welfare within the Village through the enactment of reasonable procedures and rules designed to facilitate the orderly and efficient conduct of Board of Aldermen meetings in a manner that promotes a positive Village image reflecting order, harmony and pride, thereby strengthening the economic stability of the Village. By and through this Ordinance, the Board of Aldermen additionally seeks to establish fair, reasonable, and efficient guidelines for maintaining order and promoting effective public participation at Board of Aldermen meetings.

SECTION 3. DEFINITIONS

A. General

Words and phrases used in this Ordinance shall have the meanings set forth in this Section. Words and phrases that are not defined in this Ordinance but are defined in other ordinances of the Village of Salado shall be given the meanings set forth in those ordinances. Other words and phrases shall be given their common, ordinary meaning unless the context clearly requires otherwise. Headings and captions are for reference purposes only, and shall not be used in the interpretation of this Ordinance.

B. Specific Definitions

(1) "Board" means the Board of Aldermen (i.e., the governing body) of the Village of Salado, Texas.

(2) "Board of Aldermen meeting" means any public meeting held by the Board of Aldermen of the Village of Salado as authorized or required by the Texas Constitution and applicable state law.

(3) "Board Room" means the meeting space designated for Board of Aldermen meetings located in Village Hall at 301 North Stagecoach Road, Salado, Texas 76571.

(4) "Closed Meeting" means a meeting to which the public does not have access (i.e., executive session).

(5) "Conduct" means an act or omission and its accompanying mental state.

(6) “Deliberation” means a verbal exchange during a meeting by a quorum of the Board of Aldermen, or between a quorum of the Board of Aldermen and another person, concerning a public issue within the jurisdiction of the Board of Aldermen.

(7) “Designated recording area” means that area of the Board Room clearly marked as a space for all persons wishing to operate tape recorders, video cameras, or other means of aural or visual reproduction, within which such persons may operate such electronic recording devices during Board of Aldermen meetings.

(8) “Electronically record” means to capture aural or visual sounds and/or images through the use of a tape recorder, video camera, or other means of aural or visual reproduction.

(9) “Intentional” means the culpable mental state of “intent” as defined by Section 6.03 of the Texas Penal Code. A person acts intentionally, or with intent, with respect to the nature of his or her conduct or to a result of his or her conduct when it is his or her conscious objective or desire to engage in the conduct or cause the result.

(10) “Meeting” means any official proceeding of the Board. This term includes, but is not limited to, all Regular, Special (i.e., “called”), Emergency and Executive Session (i.e., “closed”) Meetings.

(11) “Misdemeanor” means an offense so designated by law or punishable by fine, by confinement in jail, or by both fine and confinement in jail.

(12) “Official proceeding” means any type of administrative, executive, legislative or judicial proceeding that may be conducted before a public servant.

(13) “Official tape recording” means any audio recording made by the Village Secretary or other village official or employee at the direction of the Board of Aldermen and as part of that village official’s or employee’s official duties.

(14) “Open” means the public is allowed to attend.

(15) “Person” means a human individual.

(16) “Public servant” means a person elected, selected, appointed, employed or otherwise designated as one of the following, even if that person has not yet qualified for office or assumed his or her duties:

- (a) An officer, employee, or agent of the Village;
- (b) An attorney at law or notary public when participating in the performance of a governmental function;
- (c) A candidate for nomination or election to public office; or
- (d) A person who is performing a public function under a claim of right although he or she is not legally qualified to do so

(17) “Quorum” means a majority of the Board of Aldermen for regular meetings, and two-thirds of the aldermen for special meetings and meetings to consider the imposition of taxes.

(18) “Recklessly” means the culpable mental state of “recklessness” as defined by Section 6.03 of the Texas Penal Code. A person acts recklessly, or is reckless, with respect to the circumstances surrounding his or her conduct or the result of his or her conduct when he or she is aware of but consciously disregards a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor’s standpoint.

(19) “Unlawful” means criminal or tortious or both and includes what would be criminal or tortious but for a defense not amounting to justification or privilege.

(20) “Use of a tape recorder, video camera, or other means of aural or visual reproduction” means the use of any device used to capture and record and/or transmit and replay sounds and/or images. This term includes, but is not limited to, tape recorders, video cameras, digital cameras, web cameras, and live video streaming devices.

(21) “Village” means the Village of Salado, a duly incorporated, Type B Texas municipality located in Bell County.

SECTION 4. GENERAL RULES OF PROCEDURE AT MEETINGS

A. Time and Place for Meetings

(1) The Board of Aldermen shall hold regular meetings on the first and third Thursdays of each month at 6:00 p.m.

(2) When the day for any regular meeting falls on a legal holiday, the regularly scheduled meeting for such day shall be cancelled unless otherwise specified by the Board of Aldermen. At other times that the Mayor deems appropriate, the Mayor may cancel one or more regular meetings.

(3) The Mayor may call a special meeting on the Mayor’s own motion or on the application of three Board members. Each member of the Board of Aldermen, the Village Secretary, and the Village Attorney must be notified of the special meeting.

(4) Except as otherwise provided in this paragraph, the Board of Aldermen shall conduct all meetings in the Board Room, located at 301 North Stagecoach Road, Salado, Texas. However, the Board of Aldermen may from time to time elect to meet at other locations and, upon such election, shall give public notice of the change of location in accordance with State law. If by reason of fire, flood or other emergency, it is unsafe to meet in the Board Room, for the duration of the emergency the Board may hold its meetings at such other place as the Mayor, or, in the Mayor’s absence, the Mayor Pro Tem, shall designate.

(5) Meetings may be cancelled or recessed to the next business day with or without notice by the Mayor, a majority of the Board, or a majority of the members of the Board in attendance at the meeting.

B. Agenda of Meetings

(1) The Village shall comply with all notice requirements of the Texas Open Meetings Act, Chapter 551 of the Texas Government Code.

(2) The Mayor and/or the Village Secretary shall be responsible for preparing the agenda for Board meetings. The Mayor may determine which items to include in the agenda, provided that, the Mayor shall include any item requested by a Board Member. Board Members shall submit requests to the Mayor and/or the Village Secretary at least three and a half (3 1/2) business days in advance of the day of the meeting.

(3) A citizen may request inclusion on the agenda by submitting a request in writing to the Mayor at least four (4) business days in advance of the day of the meeting. The requested item may be included on the agenda at the Mayor's discretion.

(4) Upon the motion of the Mayor or any Board Member, the Board of Aldermen may elect to table an agenda item by an affirmative vote by a majority of Board Members present at the meeting.

(5) In compliance with the Texas Open Meetings Act, the Board shall not deliberate or vote on a matter not appearing on the agenda, except for purposes of presenting statements of current fact or policy or for determining whether the matter should appear on a future agenda.

C. Ordinances in General

(1) The Village shall be responsible for adopting or amending any ordinance necessary for the health, safety and welfare of its citizens, including but not limited to: any code of technical regulation; the establishment, alteration, or abolishment of any Village department(s), office(s), or agency(ies); provide for a fine or other penalty or establish a rule of regulation for violation of which a fine or other penalty is imposed; levy taxes; adopt or amend the annual budget; grant, renew, or extend a franchise; convey or lease or authorize the conveyance or lease of any lands of the Village; and amend or repair any ordinance previously adopted as provided by the Texas Local Government Code.

(2) Every proposed ordinance shall be introduced in writing and be in the form required for final adoption. Every proposed ordinance shall be placed on the Agenda of Meetings for the Village in compliance with the requirements of the Texas Open Meetings Act and contain the required publication pertinent to the type of ordinance proposed.

(3) An ordinance may be introduced by any member of the Board of Aldermen at any regular or special meeting of the Aldermen, provided it has been properly placed as an agenda item.

(4) The Alderman responsible for placement of the ordinance on the agenda, or having knowledge and information related to the ordinance, shall present the ordinance and address questions from other Aldermen and the public, if necessary, regarding the proposed ordinance.

(5) The ordinance shall be finally passed and adopted after the ordinance has been read at least two (2) times at any regular or special meeting of the Board of Aldermen, except for

those instances in which the Board of Aldermen, through a supermajority (i.e., $\frac{3}{4}$ of those Aldermen present and voting), vote to suspend the requirements of this section. It shall be an exception to the requirement to read an ordinance at two (2) meetings if the purpose or reason for the ordinance relates to one of the following:

- State of Emergency or emergency related issue;
- Required by law to be passed within a certain time frame, not permitting for two (2) separate readings;
- Administrative, executive matters or duties;
- Commemorative, honorary

(6) Upon passage and adoption of an ordinance as provided by this subsection, the Village Secretary shall take necessary steps to finalize the implementation of the ordinance, as required by law.

D. Public Participation

(1) In accordance with the terms of the Texas Open Meetings Act, Section 551 of the Texas Government Code, all meetings of the Board of Aldermen shall be open to the public unless the Board is in Executive Session or State law otherwise allows a meeting to be closed.

(2) At the Board of Aldermen's discretion, the Board may permit a person to address the Board concerning an item on the agenda or to present a subject for the Board's consideration during the Public Comment period in accordance with the provisions of this Ordinance.

(3) Persons wishing to make public comments shall abide by the following rules:

- (a) Prior to the meeting, or during the meeting prior to discussion of a specific matter upon which a person wishes to comment, speakers who wish to address the Board of Aldermen should complete a Public Meeting Appearance Card and present it to the Village Secretary. Speakers shall indicate whether they wish to comment on a specific agenda item or on a separate matter during the Public Comment period.
- (b) When recognized, the speaker should approach the podium, state his/her name and address for the record, and, if speaking on behalf of an organization or other group, identify the group represented.
- (c) Only one person may address the Board at any one time.
- (d) Speakers should address all remarks to the Board of Aldermen as a whole, not to individual members.
- (e) Speakers should limit their presentations to no more than three (3) minutes each. There shall be no substitutions or pooling of speakers.
- (f) The Mayor or the Board may encourage speakers to not merely repeat views expressed by others.

- (g) Speakers must limit presentations to matters within the Village's subject matter jurisdiction.

(4) At any point during the meeting, the Board of Aldermen may opt to limit the number of speakers on a particular topic or topics not yet reached. All persons who complete a Public Meeting Appearance Card, whether or not allowed to speak, may submit written comments or exhibits to the Village Secretary for inclusion in the Record File Copy of the agenda.

E. Parliamentary Procedure

The Board may by resolution adopt rules of parliamentary procedure.

F. Presiding Officer

The Presiding Officer of the Council is responsible for conducting the meeting. When present and participating, the Mayor shall serve as presiding officer. When the Mayor is not present or if the mayor abstains from participation on a matter, the Mayor Pro-Tem shall serve as the presiding officer. If neither the Mayor nor the Mayor Pro-Tem are able to serve, the remaining Board Members may by majority vote designate a Member of the Board to preside over the meeting.

SECTION 5. DISRUPTIVE OR DISORDERLY CONDUCT

A. Hindering Proceedings by Disorderly Conduct

(1) No person shall intentionally hinder an official proceeding by noise or violent or tumultuous behavior or disturbance.

(2) No person shall recklessly hinder an official proceeding by noise or violent or tumultuous behavior or disturbance and continue after explicit official request to desist.

B. Disrupting a Meeting

No person shall prevent or disrupt a meeting, or obstruct or interfere with the meeting by physical action or verbal utterance.

C. Aldermen Attendance

Three consecutive absences from regular meetings (unless sick or received an excused absence from the Mayor in advance) will cause an automatic vacation of position on the Board of Aldermen.

SECTION 6. RECORDING OF MEETINGS

A. Location of Recording Equipment.

(1) The Board shall designate an area within the Board Room for the operation of tape recorders, video cameras, and other means of aural or visual reproduction. Operation of such equipment is limited to the designated recording area.

(2) The designated recording area shall be indicated by means reasonably calculated to provide sufficient space for all persons wishing to operate a tape recorder, video camera, or other means of aural or visual reproduction to occupy the designated recording area with reasonable comfort and sufficiently near to the proceedings to facilitate adequate recording.

(3) No person shall operate a tape recorder, video camera, or other means of aural or visual reproduction within the Board Room outside of the designated recording area.

(4) The provisions of this Section do not apply to the creation of an official tape recording of a Board of Aldermen meeting by a duly authorized Village official. Nor do these provisions apply to duly authorized closed (*i.e.*, “executive”) sessions.

B. Recording of Individuals Outside of the Board Meeting

(1) Members of the news media and other interested persons may request personal interviews to be scheduled with Village officials by calling (254) 947-5060.

(2) As members of the governing body, the Mayor and members of the Board of Aldermen are the official spokespersons for the Village. The Board of Aldermen may, at its discretion, appoint other individuals to represent and communicate the interests of the Village to the media and public at-large.

SECTION 7. INDIVIDUALS WITH DISABILITIES

The Village of Salado seeks to ensure effective communication with members of the public who attend and participate in Board of Aldermen meetings. An individual who requires auxiliary aids and services or other accommodation should contact the Mayor with a request for such services. The Village encourages such individuals to submit requests at least forty-eight (48) hours in advance of a meeting so that the Village may effectively address the individuals’ requests.

SECTION 8. ENFORCEMENT

A. Civil and Criminal Penalties

The Village shall have the power to administer and enforce the provisions of this Ordinance as may be required by governing law. Any person violating any provision of this Ordinance is subject to suit for injunctive relief as well as prosecution for criminal violations.

B. Criminal Prosecution

Any person violating any provision of this Ordinance shall, upon conviction, be fined a sum not exceeding five hundred dollars (\$500.00). Each instance that a provision of this Ordinance is violated shall constitute a separate offense. An offense under this Ordinance is a misdemeanor.

C. Civil Remedies

Nothing in this Ordinance shall be construed as a waiver of the Village's right to bring a civil action to enforce the provisions of this Ordinance and to seek remedies as allowed by law, including, but not limited to, the following:

(1) Injunctive relief to prevent specific conduct that violates the Ordinance or to require specific conduct that is necessary for compliance with the Ordinance; and

(2) A civil penalty up to one hundred dollars (\$100.00) when it is shown that the defendant was actually notified of the provisions of the Ordinance and after receiving notice committed acts in violation of the Ordinance or failed to take action necessary for compliance with the Ordinance; and

(3) Other available relief.

D. Authority of Presiding Officer

The Presiding Officer is hereby granted the authority to order any person removed from the meeting, or to take any appropriate legal action against any person who violates any provision of this Ordinance.

SECTION 9. RELATION TO OTHER ORDINANCES

This Ordinance shall not be construed to require or allow any act that is prohibited by any other ordinance. This Ordinance is specifically subordinate to any ordinance or regulations of the Village pertaining to building and construction safety or to pedestrian and traffic safety. Nothing in this Ordinance shall be construed to impose a duty not required by the Open Meetings Act or to relieve the Village of complying with the Open Meetings Act.

SECTION 10. SEVERABILITY

It is hereby declared to be the intention of the Board of Aldermen that the phrases, clauses, sentences, paragraphs and sections of this Ordinance be 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 or sections of this Ordinance, and the remainder of this Ordinance shall be enforced as written.