

ORDINANCE NO. _____

ORDINANCE OF THE CITY COUNCIL OF HERCULES AMENDING HERCULES MUNICIPAL CODE TITLE 2, CHAPTER 2, "BOARDS AND COMMISSIONS", TO: 1) CLARIFY THAT VACANCIES FOR ALL COMMISSIONS SHALL BE FILLED IN ACCORDANCE WITH THE PROCESS ESTABLISHED BY COUNCIL RESOLUTION, AND 2) ALLOW THE CITY COUNCIL TO ESTABLISH COMMISSION REGULAR MEETING DATES AND TIMES BY RESOLUTION

WHEREAS, the City of Hercules has established the Planning Commission, the Finance Commission, the Education Commission, and the Community and Library Services Commission, each Commission tasked with the conduct of City business as specified in Title 2, Chapter 2 of the Hercules Municipal Code; and

WHEREAS, the meeting dates and times for Commission meetings are spelled out within Title 2, Chapter 2 of the Hercules Municipal Code, so that changing the dates and times for meetings requires amending the Municipal Code by way of an amending ordinance, which necessitates a public hearing and two readings; and

WHEREAS, the vacancy provisions for the City's Commissions are not consistent, and the City Council desires to apply the same procedure for filling vacancies for each of the Commissions so that vacancies shall be filled in accordance with the process for appointments established by City Council Resolution No. 10-068; and

WHEREAS, in order to promote administrative efficiency and avoid unnecessary delay, the City Council desires to amend Title 2, Chapter 2 of the Municipal Code to expressly allow the City Council to establish Commission meeting dates and times by Resolution.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Hercules that the City Council hereby amends the Hercules Municipal Code, Title 2, Chapter 2, "Boards and Commissions", to read as follows:

"Chapter 2. Boards and Commissions

Article 1. Planning Commission

Sec. 2-2.101 Planning Commission; Membership.

There is hereby established a Planning Commission which shall be composed of five (5) members, who shall be appointed by the Council. Members must be residents of the City of Hercules and at least eighteen (18) years of age. No member may be a Council member, officer or employee of the City. All members shall serve at the pleasure of the City Council and may be removed at any time, with or without cause, by a majority vote of the Council. (Ord. 391 § 1, 2004: Ord. 171 § 1 (part), 1983)

Sec. 2-2.102 Terms of Office.

The terms of office for members of the Planning Commission shall be two (2) years; provided, that the first members of the Planning Commission appointed after the effective date of the ordinance codified in this Article shall serve terms as follows:

Two (2) members for a term of one (1) year.

Three (3) members for a term of two (2) years.

The determination of the respective terms of such initial members shall be by lot conducted by the City Clerk. Each member shall serve until his successor is duly appointed and qualified. (Ord. 171 § 1 (part), 1983)

Sec. 2-2.103 Attendance at Meetings.

Any member of the Planning Commission who is absent from three (3) meetings of the Planning Commission during any rolling twelve (12) month period shall be automatically removed from the Commission. The vacancy thereby created shall be filled as provided in Section [2-2.104](#). (Ord. 474 § 1, 2013: Ord. 370 § 1 (part), 2002: Ord. 171 § 1 (part), 1983)

Sec. 2-2.104 Vacancies.

If a vacancy occurs in the membership of the Planning Commission whether by death, resignation, automatic removal as provided in Section [2-2.103](#) of this Article, removal by the Council or for any other reason, ~~the Council shall forthwith appoint another person to fill such vacancy to serve the remainder of the term of the person that such new appointee is succeeding~~ the vacancy shall be filled in accordance with the process for appointments established by City Council resolution, as amended from time to time. (Ord. 171 § 1 (part), 1983)

Sec. 2-2.105 Compensation.

Each member of the Planning Commission shall receive a salary of fifty dollars (\$50.00) for attendance at a regular scheduled meeting of the Planning Commission. Such salary shall be paid with the first payroll distribution of each month for the preceding month and will commence with the effective date of this ordinance. No compensation will be provided for non-attendance at a regular scheduled meeting, attendance at special meetings, or when a regular scheduled meeting has been canceled. (Ord. 361 § 1, 2001: Ord. 171 § 1 (part), 1983)

Sec. 2-2.106 Chairperson and Vice-Chairperson.

The Planning Commission shall annually elect a Chairperson and Vice-Chairperson to serve a term of one (1) year. The Chairperson shall preside at all meetings and shall report to the Council on all recommendations of the Commission. The Vice-Chairperson shall perform the functions of the Chairperson in case of absence of the Chairperson. Upon completion of the one (1) year term as Vice-Chairperson, the Vice-Chairperson shall be given the first option to serve as Chairperson of the Planning Commission. (Ord. 370 § 1 (part), 2002: Ord. 171 § 1 (part), 1983)

Sec. 2-2.107 Meetings.

The Commission shall hold two (2) regular meetings each month at a public meeting place within the City of Hercules. Such meetings shall be held on the ~~first and third Mondays of each month commencing at 7:00 p.m.~~ dates and at the times established by City Council resolution, said dates and times to be posted on the City's official website. A special meeting may be called at any time by the Chairperson or by a majority of the members of the Planning Commission. All meetings of the Commission shall be open to the public and the provisions of the Ralph M. Brown Act (Government Code Section [54950](#), et seq.) shall apply. (Ord. 374 § 1, 2002: Ord. 171 § 1 (part), 1983)

Sec. 2-2.108 Quorum.

A majority of the members of the Commission shall constitute a quorum for the transaction of business at any meeting, but action may be taken by the Commission only by majority vote of the total membership of the commission. (Ord. 171 § 1 (part), 1983).

Sec. 2-2.109 Duties.

In addition to the duties imposed by State law, the Planning Commission shall have the following duties:

- (a) Perform all the functions assigned to it by the zoning and design review ordinances of the City of Hercules;
- (b) Annually or more frequently as may be needed, review the General Plan of the City of Hercules and make recommendations to the City Council with respect thereto;
- (c) Prepare, review and recommend specific (neighborhood) plans or amendments to existing such plans;
- (d) Act as the Advisory Agency with respect to subdivision maps for the purpose of reviewing and making recommendations to the Council with respect to such maps;
- (e) Review and make recommendations to the Council with respect to Environmental Impact Reports;
- (f) Advise and recommend to the Council regarding the acquisition, use and disposition of City-owned real property;
- (g) Annually review the capital improvement program of the City and make recommendations to the Council for establishing and modifying the list of priority projects in keeping with the scope and intent of the General Plan;
- (h) Coordinate plans and programs with other city, county, regional, state and federal agencies in matters of common concern;
- (i) Review and submit annually to the Council a report of its activities;
- (j) Such other duties relating to planning, zoning and community development as may be directed by the Council. (Ord. 171 § 1 (part), 1983)

Article 2. Community Services Commission

(Repealed by Ordinance No. 444)

Article 3. Library Commission

(Repealed by Ordinance No. 444)

Article 4. Education Commission

Sec. 2-2.401 Education Commission Membership.

There is hereby established an Education Commission which shall be composed of seven (7) members, who shall be appointed by the Council. All members shall serve at the pleasure of the City Council and may be removed at any time, with or without cause, by a majority vote of the Council.

Five (5) members must be residents of the City of Hercules and at least eighteen (18) years of age. The City Council shall appoint a minimum of one (1) member of the commission to serve from each of the following school areas: Lupine Hills Elementary School, Ohlone Elementary School, Hanna Ranch Elementary School, Hercules Middle/High School, and the Foxboro area. If appointments cannot be made by district, the Council may make appointments at large.

Two (2) members must be students who reside in Hercules. One (1) member shall be a middle school student (6th to 8th grade) or high school student (9th to 12th grade) from the West Contra Costa Unified School District, and one (1) member shall be a middle school student (6th to 8th grade) or high school student (9th to 12th grade) from the John Swett Unified School District. If appointments cannot be made by students from both districts, the Council may make appointments from one (1) district. (Ord. 425 § 1, 2007: Ord. 389 § 1 (part), 2004: Ord. 384 § 1 (part), 2004)

Sec. 2-2.402 Terms of Office.

The term of office for members of the Education Commission shall be two (2) years, the middle school student and high school student shall serve a term of one (1) year, provided that the first members of the Education Commission appointed after the effective date of the ordinance codified in this Article shall serve terms as follows:

Three (3) members for an initial term of one (1) year. Four (4) members for a term of two (2) years.

The determination of the respective terms of such initial members shall be by lot conducted by the City Clerk. Each member shall serve until a successor is duly appointed and qualified.

Appointments to the position of City Representative and Alternate to the West Contra Costa Unified School District Citizens' Bond Oversight Committee shall be made at the discretion of the City Council. Such appointments shall be for a period of two (2) years. (Ord. 414 § 1 (part), 2006: Ord. 389 § 1 (part), 2004: Ord. 384 § 1 (part), 2004)

Sec. 2-2.403 Attendance at Meetings.

Any member of the Education Commission who is absent from three (3) meetings of the Education Commission during any rolling twelve (12) month period shall be automatically removed from the Commission, and the Council shall fill the vacancy thereby created as provided in Section [2-2.404](#) of this Article. (Ord. 384 § 1 (part), 2004)

Sec. 2-2.404 Vacancies.

If a vacancy occurs in the membership of the Education Commission, whether by death, resignation, automatic removal as provided in Section [2-2.403](#) of this Article, removal by the Council or for any other reason, ~~the Council shall forthwith appoint another person to fill such vacancy to serve the remainder of the term of the person that such new appointee is succeeding~~ the vacancy shall be filled in accordance with the process for appointments established by City Council resolution, as amended from time to time. (Ord. 384 § 1 (part), 2004)

Sec. 2-2.405 Compensation.

Members shall receive their actual and necessary expenses incurred in the discharge of their duties, which shall not include travel to and from meetings held within the City of Hercules, but shall receive no other compensation for their service as a member of the Education Commission. (Ord. 384 § 1 (part), 2004)

Sec. 2-2.406 Chairperson and Vice-Chairperson.

The Education Commission shall annually elect a Chairperson and Vice-Chairperson to serve a term of one (1) year. The Chairperson shall preside at all meetings and shall report to the Council on all recommendations of the

Commission. The Vice-Chairperson shall perform the functions of the Chairperson in case of absence of the Chairperson. Upon completion of the one (1) year term as Vice-Chairperson, the Vice-Chairperson shall be given the first option to serve as Chairperson of the Education Commission. (Ord. 384 § 1 (part), 2004)

Sec. 2-2.407 Meetings.

The Commission shall hold one (1) regular meeting each month at a public meetings place within the City of Hercules. Such meetings shall be held on the ~~second Thursday of each month~~ dates and at the times established by City Council resolution, said meeting dates and times to be posted on the City's official website. A special meeting may be called at any time by the Chairperson or by a majority of the members of the Education Commission. All meetings of the Commission shall be open to the public and the provision of the Ralph M. Brown Act (Government Code Section [54950](#), et seq.) shall apply. (Ord. 384 § 1 (part), 2004)

Sec. 2-2.408 Quorum.

A majority of the members of the Commission shall constitute a quorum for the transaction of business at any meeting; action may be taken by a majority of the members present. (Ord. 384 § 1 (part), 2004)

Sec. 2-2.409 Duties.

The Education Commission shall be advisory to the City Council and shall have the following duties:

- (a) Shall advise the City Council on matters of policy and public interest related to the subject of the education of the children of the City of Hercules.
- (b) Shall investigate and make advisory reports on such matters to the City Council.
- (c) Shall render such other specific issues as are consistent with the role of an advisory board on the education system, to include recommendations and advice to the West Contra Costa Unified School District and the John Swett Unified School District on education issues within the City.

(d) Shall work together with representatives from both the West Contra Costa Unified School District and the John Swett Unified School District to establish a permanent and positive working relationship with both districts.

(e) The Commission member serving as the City's Representative to the West Contra Costa Unified School District Bond Measure Oversight Committee shall routinely report to the entire Education Commission on actions taken at the meetings of the West Contra Costa Unified School District Bond Measure Oversight Committee. (Ord. 384 § 1 (part), 2004)

Article 5. Community and Library Services Commission

Sec. 2-2.501 Membership.

There is hereby established a Community and Library Services Commission which shall be composed of five (5) members, who shall be appointed by the Council. All members shall serve at the pleasure of the City Council and may be removed at any time, with or without cause. Four (4) members must be residents of the City of Hercules, registered to vote and at least eighteen (18) years of age. One (1) member shall be a high school student (ninth grade to twelfth grade) who is a resident of the City of Hercules. (Ord. 485 § 1 (part), 2015; Ord. 444 § 2 (part), 2009)

Sec. 2-2.502 Terms of Office.

(a) Terms of Office. The term of office for members of the Community and Library Services Commission who are eighteen (18) years of age or older at the time of appointment shall be two (2) years. The term of office for any member of the Community and Library Services Commission who is under the age of eighteen (18) at the time of appointment shall be one (1) year.

(b) The first members of the Commission appointed after the effective date of the ordinance codified in this article shall serve terms as follows:

(1) Three (3) members shall serve an initial term of one (1) year.

(2) Three (3) members shall serve an initial term of two (2) years.

(c) The determination of the respective terms of such initial members shall be as follows:

(1) Consideration will be given to incumbents of the Community Services Commission and Library Commission with one (1) year remaining on their current terms for appointment to the Community and Library Services Commission.

(2) Council members and the Vice Mayor shall make one (1) appointment each. The Mayor shall appoint one (1) adult member and one (1) youth member.

(3) Designation of the one (1) year and two (2) year terms shall be made by lottery draw conducted by the City Clerk.

(d)(1) Each member shall serve until his successor is duly appointed and qualified.

(2) Upon expiration of the initial terms of the appointed Commissioners, appointments to the Commission shall be made in accordance with the process for appointments established by City Council resolution, as amended from time to time.

(e) One (1) member of this Commission shall serve as the City's Representative to the Contra Costa County Library Commission. That representative shall be nominated by the Commission and such nomination shall be forwarded to the City Council for consideration. Such appointment shall be for a period of two (2) years. (Ord. 444 § 2 (part), 2009)

Sec. 2-2.503 Attendance at Meetings.

Any member of the Community and Library Services Commission who is absent from three (3) meetings of the Commission during any rolling twelve (12) month period shall be automatically deemed to have resigned from the Commission. The vacancy thereby created shall be filled as provided in Section [2-2.504](#) of this Article. (Ord. 444 § 2 (part), 2009)

Sec. 2-2.504 Vacancies.

If a vacancy occurs in the membership of the Community and Library Services Commission whether by death, resignation, automatic removal as provided in Section [2-2.503](#) of this Article, removal by the Council or for any other reason, the vacancy shall be filled in accordance with the process for appointments

established by City Council resolution, as amended from time to time. (Ord. 444 § 2 (part), 2009)

Sec. 2-2.505 Compensation.

Members shall receive their actual and necessary expenses incurred in the discharge of their duties, which shall not include travel to and from meetings held within the City of Hercules. Members shall receive no other compensation for their service as a member of the Community and Library Services Commission. (Ord. 444 § 2 (part), 2009)

Sec. 2-2.506 Chairperson and Vice-Chairperson.

The Community and Library Services Commission shall annually elect a Chairperson and Vice-Chairperson to serve a term of one (1) year. The Chairperson shall preside at all meetings and shall report to the City Council on all recommendations of the Commission. The Vice-Chairperson shall perform the functions of the Chairperson in case of absence of the Chairperson. Upon completion of the one (1) year term as Vice-Chairperson, the Vice-Chairperson shall be given the first option to serve as Chairperson of the Commission. (Ord. 444 § 2 (part), 2009)

Sec. 2-2.507 Meetings.

The Commission shall hold one (1) regular meeting each month at a public meeting place within the City of Hercules. Such meeting shall be held on the ~~second Monday of each month commencing at 7:00 p.m.~~ dates and at the times established by City Council resolution, said meeting dates and times to be posted on the City's official website. A special meeting may be called at any time by the Chairperson or by a majority of the members of the Commission. All meetings of the Commission shall be open to the public and the provisions of the Ralph M. Brown Act (Government Code Section [54950](#), et seq.) shall apply. (Ord. 444 § 2 (part), 2009)

Sec. 2-2.508 Quorum.

Three (3) members of the Commission shall constitute a quorum for the transaction of business at any meeting. Action may be taken by a majority of the members present after a quorum has been established. (Ord. 485 § 1 (part), 2015; Ord. 444 § 2 (part), 2009)

Sec. 2-2.509 Duties.

The Community and Library Services Commission shall be advisory to the City Council and shall have the following duties:

- (a) Develop plans and recommendations for parks, playgrounds, recreational facilities and use of community buildings and advise the City Council with respect thereto;
- (b) Work with the Recreation and Community Services Department on the development and evaluation of recreation programs and community activities;
- (c) Provide assistance and support in the initiation and operation of City-sponsored community events;
- (d) In cooperation with the Recreation and Community Services Department make recommendations to the City Council with respect to priorities for recreation and community services expenditures in the City's capital improvement program;
- (e) Review and comment on the annual operating and capital improvement budgets for the Recreation and Community Services Department;
- (f) Render advice and assistance to the City Council with respect to community service needs such as child care and youth summer employment;
- (g) Review and make recommendations with respect to fees for the use of parks, playgrounds, recreational facilities and community buildings;
- (h) Shall advise the City Council on matters of policy and public interest related to the management, use and preservation of library facilities and property;
- (i) Shall investigate and make advisory reports on such matters to the City Council;
- (j) Shall render such other specific services as are consistent with the role of an advisory board on the library system, to include recommendations and advice to the County Librarian on matters related to the library system within the City;

(k) The Commission member serving as the City's Area Representative to the Contra Costa County Library Commission shall routinely report to the entire Library Commission on actions taken at the Contra Costa County Library Commission meetings;

(l) Review and make recommendations regarding the Arts in Public Places Program;

(m) Review and coordinate exhibits at the Hercules Public Library;

(n) Such other duties relating to recreation activities and community and library service needs as may be directed by the City Council. (Ord. 444 § 2 (part), 2009)

Article 6. Finance Commission

Sec. 2-2.601 Membership.

There is hereby established a Finance Commission which shall be composed of five (5) members, who shall be appointed by the Council. All members shall serve at the pleasure of the City Council and may be removed at any time, with or without cause. Members must be residents of the City of Hercules, registered to vote, and at least eighteen (18) years of age. The City Manager shall appoint an ex officio staff person to serve as the Commission's Secretary and Custodian of Records, who shall not have a vote. (Ord. 481 § 1 (part), 2014)

Sec. 2-2.602 Terms of Office.

(a) To establish staggered terms, the first members of the Commission appointed after the effective date of the ordinance codified in this Article shall serve terms as follows:

(1) Two (2) members shall serve an initial term of one (1) year.

(2) Three (3) members shall serve an initial term of two (2) years.

(b) The determination of the respective terms of such initial members shall be as follows:

(1) Consideration will be given to incumbents of the Citizen's Ad Hoc Finance Committee and the Measure O Committee.

(2) Designation of the one (1) year and two (2) year terms shall be made by lottery draw conducted by the City Clerk.

(c) (1) Each member shall serve until his successor is duly appointed and qualified.

(2) Upon expiration of the initial terms of the appointed commissioners, appointments to the Commission shall be made in accordance with the process for appointments established by City Council resolution, as amended from time to time. (Ord. 481 § 1 (part), 2014)

Sec. 2-2.603 Attendance at Meetings.

Any member of the Finance Commission who is absent from three (3) meetings of the Commission during any rolling twelve (12) month period shall be automatically deemed to have resigned from the Commission. All Commission appointees are required to be provided notice of the automatic removal provision after each absence, and prior to termination. The vacancy thereby created shall be filled as provided in Section [2-2.604](#). (Ord. 481 § 1 (part), 2014)

Sec. 2-2.604 Vacancies.

If a vacancy occurs in the membership of the Finance Commission, whether by death, resignation, automatic removal as provided in Section [2-2.603](#), removal by the Council or for any other reason, the vacancy shall be filled in accordance with the process for appointments established by City Council resolution, as amended from time to time. (Ord. 481 § 1 (part), 2014)

Sec. 2-2.605 Compensation.

Members shall receive their actual and necessary expenses incurred in the discharge of their duties, which shall not include travel to and from meetings held within the City of Hercules. Members shall receive no other compensation for their service as a member of the Finance Commission. (Ord. 481 § 1 (part), 2014)

Sec. 2-2.606 Chairperson and Vice-Chairperson.

The Finance Commission shall annually elect a Chairperson and Vice-Chairperson to serve a term of one (1) year. The Chairperson shall preside at all meetings and shall report to the City Council on all recommendations of the Commission. The Vice-Chairperson shall perform the functions of the

Chairperson in case of absence of the Chairperson. Upon completion of the one (1) year term as Vice-Chairperson, the Vice-Chairperson shall be given the first option to serve as Chairperson of the Commission. (Ord. 481 § 1 (part), 2014)

Sec. 2-2.607 Meetings.

The Commission shall hold one (1) regular meeting each month at a public meeting place within the City of Hercules. Such meeting shall be held on the ~~Monday of the fourth week of each month commencing at 7:00 p.m.~~ dates and at the times established by City Council resolution, said meeting dates and times to be posted on the City's official website. A special meeting may be called at any time by the Chairperson or by a majority of the members of the Commission. All meetings of the Commission shall be open to the public and the provisions of the Ralph M. Brown Act (Government Code Section [54950](#) et seq.) shall apply. (Ord. 481 § 1 (part), 2014)

Sec. 2-2.608 Quorum.

Three (3) members of the Commission shall constitute a quorum for the transaction of business at any meeting. Action may be taken by a majority of the members present after a quorum has been established. (Ord. 481 § 1 (part), 2014)

Sec. 2-2.609 Duties.

The Finance Commission shall be advisory to the City Council with no authority to direct staff, and shall have the following duties:

- (a) Quarterly review of City's financial status; review and comment on audit reports; review and comment on the proposed budget; and review and comment on items of extraordinary financial impact.
- (b) Make recommendations to the City Council with respect to budget priorities.
- (c) Review and comment on the City's annual operating and capital improvement budgets.
- (d) Advise the City Council on matters of policy and public interest related to the management of the City's finances and budget.

(e) Serve as the Oversight Committee for Measure “A,” including providing an annual report, to ensure that utility user tax funds are spent in accordance with the voter approved measure adopted in June 2013.

(f) Serve as the Oversight Committee for Measure “O,” including providing an annual report, to ensure that the sales tax revenues approved by Hercules voters are spent in accordance with the voter approved measure adopted in June 2012.

(g) Take on any additional review and advisory functions assigned by the City Council by duly adopted resolution. (Ord. 481 § 1 (part), 2014)”