

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, REPEALING EXISTING ARTICLE 1.02, "TOWN COUNCIL," OF CHAPTER 1, "GENERAL PROVISIONS," OF THE CODE OF ORDINANCES OF THE TOWN OF PROSPER, TEXAS, AND REPLACING IT WITH A NEW ARTICLE 1.02, "TOWN COUNCIL," OF CHAPTER 1, "GENERAL PROVISIONS," OF THE CODE OF ORDINANCES OF THE TOWN OF PROSPER, TEXAS; MAKING FINDINGS RELATED THERETO; PROVIDING REPEALING, SAVINGS AND SEVERABILITY CLAUSES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on or about December 12, 2006, the Town Council of the Town of Prosper, Texas ("Town Council"), adopted Ordinance No. 06-132, which Ordinance provided, in part, for Rules of Order and Procedure for the Town Council; and

WHEREAS, many of the provisions of said Ordinance are duplicative of provisions in the Town Charter, state law and the Code of Ordinances, and it has been determined that such redundancy is neither advisable nor necessary, and may lead to confusion to the extent there may exist any conflict; and

WHEREAS, in an effort to streamline regulations and provide clarity, it is hereby determined that certain provisions presently found in Article 1.02, "Town Council," of Chapter 1, "General Provisions," of the Code of Ordinances should be repealed and replaced with a new Article 1.02.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, THAT:

SECTION 1

The findings set forth above are hereby found to be true and correct and are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2

From and after the effective date of this Ordinance, existing Article 1.02, "Town Council," of Chapter 1, "General Provisions," of the Code of Ordinances of the Town of Prosper, Texas, is hereby repealed in its entirety and shall be replaced with a new Article 1.02, "Town Council," of Chapter 1, "General Provisions," of the Code of Ordinances to read as follows:

"ARTICLE 1.02 TOWN COUNCIL

Division 1. Generally

Secs. 1.02.001—1.02.030 Reserved.

Division 2. Authority

Sec. 1.02.031 Authority of Town Charter

The provisions of this article are authorized by Section 3.13 of the Town Charter, which provides, in part, that the Town Council shall determine, which may be done by ordinance, resolution or otherwise, its own rules of order and business.

Sec. 1.02.032 Applicability of rules of order and procedure

Unless otherwise provided, the Rules of Order and Procedure adopted herein, as amended from time to time, shall apply to all boards, commissions, and committees of the Town.

Sec. 1.02.033 Councilmember appointments and assignments

The Mayor and Town Council confirm Councilmember appointments to outside agencies, committees, task forces, boards, and commissions. Councilmembers shall provide a link for representing the values, beliefs, and position of the Town Council to these entities, and will periodically report to the Town Council on the activities of these entities.

Sec. 1.02.034 Councilmember participation in community activities

From time to time, Councilmembers may choose to participate in community activities, events, and task forces. When a Councilmember participates in such activities, the Councilmember is acting as an interested party rather than acting on behalf of the Town Council. Acting or participating on behalf of the Town Council is limited to those instances when the Town Council has formally designated the Councilmember as its representative for the matter.

Secs. 1.02.035—1.02.060 Reserved.

Division 3. Town Council meetings

Sec. 1.02.061 Regular meetings

Regular meetings of the Town Council shall be held on the second and fourth Tuesdays of each month. The meetings will begin at 6:00 p.m., unless the time is otherwise modified by a posted agenda, and will be held at a location specified on the posted agenda.

Sec. 1.02.062 Special and emergency Town Council meetings

Special or emergency meetings of the Town Council may be called in conformity with the Town Charter and state law.

Sec. 1.02.063 Executive sessions (closed meetings)

The Town Council may meet in executive session during any regular or special meeting, or anytime otherwise authorized by state law, to consider or hear any matter which is authorized by state law to be heard or considered in executive session.

Secs. 1.02.064—1.02.090 Reserved.

Division 4. Order of business

Sec. 1.02.091 General order

(a) Town Council meetings will be generally conducted in the following order, unless otherwise specified.

(b) Regular meeting agenda:

(1) Call to order and announce a quorum is present (the Mayor may announce the reason a Councilmember is not in attendance of a meeting if requested beforehand by the absent Councilmember).

(2) Invocation and Pledge of Allegiance.

(3) Announcements/Public Recognition.

(4) Presentations.

(5) Consent Agenda/Approval of Minutes.

(6) Citizens' Comments.

(7) Regular Agenda.

(8) Public Hearings.

(9) Department Items.

(10) Executive Session.

(11) Adjournment.

Sec. 1.02.092 Announcements and public recognition

All special presentations and announcements will be calendared and coordinated through the Town Secretary. A period of time, generally not to exceed fifteen (15) minutes, will be set aside for public recognition at each Town Council meeting. Members of the Town Council shall have the opportunity to notify others of community events, functions, and other activities.

Sec. 1.02.093 Consent agenda

The Consent Agenda shall contain routine, non-controversial items that require Town Council action, but generally need little or no Town Council deliberation. Agenda items may be removed from the Consent Agenda at the request of a Councilmember or Town staff, and thereafter shall be considered after approval of the remaining items on the Consent Agenda.

Sec. 1.02.094 Standard adjournment

The Town Council establishes 11:30 p.m. as the hour of adjournment and will not continue beyond that time without a majority vote of the Town Council. To assist in making the

determination to continue an item under consideration, the Town Council should find that discussion, deliberation, and action on the item could be concluded by 12:00 midnight. If agenda items remain after the 11:30 p.m. adjournment, a special meeting may be scheduled or the items deferred until the next regular meeting.

Secs. 1.02.095—1.02.120 Reserved.

Division 5. Rules of conduct

Sec. 1.02.121 General procedure

Robert's Rules of Order, Newly Revised, is adopted and shall prevail if there are procedural questions not addressed by state law and any applicable Town ordinance, statute or other legal requirement.

Sec. 1.02.122 Authority of Mayor

Subject to appeal to the full Town Council, the Mayor shall have the authority to prevent the misuse of motions, the abuse of privilege, or the obstruction of the business of the Town Council by ruling any such matter out of order. In so ruling, the Mayor shall be courteous and fair, and should presume that the moving party is acting in good faith. The Mayor will assist the Town Council in focusing agenda discussions and deliberations.

Sec. 1.02.123 Council deliberation and speaking order

The Mayor is hereby delegated the responsibility to control the debate and speaking order of the Town Council. Town Councilmembers will generally be called upon by the Mayor in the order of the request to speak or by seating order. With the concurrence of the Mayor, a Councilmember holding the floor may address a question to another Councilmember and that Councilmember may respond while the floor is still held by the Councilmember asking the question. A Councilmember may opt not to answer questions while another Councilmember has the floor. Councilmembers shall limit their comments to the subject matter or motion being currently considered by the Town Council.

Sec. 1.02.124 Length of Councilmember comments

Councilmembers will govern themselves as to the length of their comments or presentation. As a courtesy, the Mayor will signal by hand to a Councilmember who has been speaking for over five (5) minutes. This procedure is not meant to limit debate or to cut comments short, but rather to assist Councilmembers in their efforts to communicate concisely.

Sec. 1.02.125 Obtaining the floor

Any member of the Town Council wishing to speak must first obtain the floor by being recognized by the Mayor. The Mayor must recognize any Councilmember who seeks the floor when appropriately entitled to do so.

Sec. 1.02.126 Motions

Motions may be made by any member of the Town Council, including the presiding officer, provided that before the presiding officer offers a motion, the opportunity for making a motion

should be offered to other members of the Town Council. Any member of the Town Council, other than the person offering the motion, may second a motion.

Sec. 1.02.127 Procedures for motions

The following is the general procedure for making motions:

- (a) Before a motion can be considered or debated, it must be seconded.
- (b) A Councilmember who wishes to make a motion should do so through a verbal request to the Mayor.
- (c) A Councilmember who wishes to second a motion should do so through a verbal request to the Mayor.
- (d) Once the motion has been properly made and seconded, the Mayor shall open the matter for discussion, generally offering the first opportunity to the moving party and, thereafter, to any Councilmember properly recognized by the Mayor.
- (e) Once the matter has been fully discussed and the Mayor calls for a vote, no other discussion will be allowed, provided, however, Councilmembers may be allowed to explain their votes.

Sec. 1.02.128 Non-observance of rules

Rules hereby adopted to expedite and facilitate the transaction of the business of the Town Council in an orderly fashion shall be deemed to be procedural only, and the failure to strictly observe any such rules shall not affect the jurisdiction of, or invalidate any action taken by the Town Council.

Secs. 1.02.129—1.02.160 Reserved.

Division 6. Public hearings

Sec. 1.02.161 General procedure

The Town Council procedure for the conduct of public hearings is generally as follows:

- (a) Town staff presents its report.
- (b) Councilmembers may ask questions of staff.
- (c) The applicant or appellant will then be provided the opportunity to present comments, testimony, or arguments. In the case of an appeal when the appellant is different from the applicant, the appellant should be called upon first to provide comments or testimony. The applicant or appellant shall have a total of fifteen (15) minutes for a presentation when recognized by the Mayor or presiding officer. The initial comments or presentation shall be limited to ten (10) minutes and their rebuttal or concluding comments shall be limited to five minutes unless extended by a majority vote of the Town Council.
- (d) Councilmembers may ask questions of the applicant and/or appellant.

(e) The Mayor opens the public hearing (it is not necessary to entertain a motion to open a public hearing if the public hearing is posted on the agenda).

(f) Members of the public are provided with the opportunity to ask questions or make comments relevant to the matter being heard. All individuals addressing the Council shall state their name and address for the record.

(g) The applicant or appellant is provided with the opportunity for rebuttal or concluding comments. In the case of an appeal when the appellant is different from the applicant, both are given the opportunity for closing comments.

(h) The Mayor closes the public hearing (it is not necessary to entertain a motion to close a public hearing).

(i) The Town Council deliberates on the issue.

(j) If the Town Council raises new issues through deliberation and seeks to take additional public testimony, the public hearing must be reopened. At the conclusion of the public testimony, the public hearing shall be closed.

(k) The Town Council further deliberates, makes motions, if any, and takes action.

(l) The Mayor announces the final decision of the Town Council.

Sec. 1.02.162 Public member request to speak at public hearing

(a) Any person wishing to speak at a Public Hearing scheduled on the agenda shall complete a Public Meeting Appearance Card prior to the matter being reached, and present it to the Town Secretary. Upon being recognized by the Mayor, the person may speak or present evidence relevant to the matter being heard. No person may speak without first being recognized by the Mayor. All persons wishing to speak on the matter shall be limited to three (3) minutes each, and there shall be a cumulative limit of sixty (60) minutes for all those speaking in favor of an item and a like limit for those speaking in opposition. The time limit may be extended by a majority vote of the Town Council.

(b) The Mayor, with approval of a majority of the Town Council, may alter any of the enumerated time allocations based on the complexity of the item and the number of persons wishing to speak on the item.

(c) Members of the Town Council who wish to ask questions of the speakers or each other during the public hearing portion may do so, but only after first being recognized by the Mayor. Interaction with the speaker shall be limited to a question or questions, rather than an ongoing dialog.

(d) All persons interested in the matter being heard by the Town Council shall be entitled to submit written evidence or remarks, as well as other graphic evidence. All such evidence presented will be retained by the Town Secretary's Office as part of the record of the hearing, in accordance with the requirements of State law.

Secs. 1.02.163—1.02.190 Reserved.

Division 7. Addressing the town council

Sec. 1.02.191 Citizens' comments

(a) This portion of the Town Council meeting is set aside for members of the public to address the Town Council on any item of business that is not formally scheduled on the agenda or scheduled as a public hearing. Members of the public shall complete a Public Meeting Appearance Card prior to the item being heard and present it to the Town Secretary.

(b) Citizens' comments are generally permitted at the beginning of the regular Town Council meeting, as specified on the agenda. Presentations shall be limited to three (3) minutes each, but may be extended for an additional two (2) minutes with approval of a majority of the Town Council. Citizens' comments shall be limited to a cumulative total not to exceed fifteen (15) minutes for all speakers unless extended by a majority vote of Council.

(c) In compliance with the Texas Open Meetings Act, the Town Council may not deliberate or vote on any matter raised in Citizens' Comments, except for the purpose of determining whether such matter should be placed on a future Town Council agenda. The Mayor, however, may request the Town Manager to provide additional information on a matter of general interest to the full Town Council, the public at large, and to the citizen making the comment.

Sec. 1.02.192 PowerPoint presentations

(a) Members of the public may present a PowerPoint software presentation to the Town Council utilizing the Town's audio/visual equipment or their own equipment.

(b) All PowerPoint presentations must be submitted to the Town Secretary, or appropriate staff, on a staff-approved format not later than noon of the day prior to the Town Council meeting to allow for virus checks and confirm compatibility with Town equipment.

(c) Any CD, flash drive, or other form of media storage submitted that is believed to contain a virus or is unable to be scanned for viruses by Town equipment will not be permitted to be used on Town equipment.

(d) If compatibility or viruses are at issue, a member of the public may provide a printed hard copy of the PowerPoint presentation to the Town Council and staff or run the PowerPoint presentation on the person's own equipment.

Sec. 1.02.193 Public Meeting Appearance Cards

Public Meeting Appearance Cards may be used by members of the public who are present, but do not wish to or cannot verbally address the Town Council during a meeting. A person may indicate his/her comments and support or opposition for an agenda item on a Public Meeting Appearance Card. During the public testimony regarding the item, the Mayor will indicate that the Town Council has received written comments from (name of persons) in support of the project or issue and from (name of persons) in opposition. The minutes will reflect the Town Council's receipt of written comments in support or opposition of the project or issue.

Secs. 1.02.194—1.02.200 Reserved.

Division 8. Waiver and exclusivity of rules

Sec. 1.02.201 Waiver of rules

Any of the foregoing rules in this article may be waived or suspended by a majority vote of the Councilmembers present when it is deemed that there is good cause to do so, based upon the particular facts and circumstances involved.

Sec. 1.02.202 Non-exclusive rules

The rules set forth in this article are not exclusive and do not limit the inherent power and general legal authority of the Town Council, or of its presiding officer, to govern the conduct of Town Council meetings as may be considered appropriate from time to time, or in particular circumstances, for purposes of orderly and effective conduct of the affairs of the Town.

Secs. 1.02.203—1.02.210 Reserved.

Division 9. Procedures administration

Sec. 1.02.211 Adherence to procedures

During Town Council discussions, deliberations, and proceedings, the Mayor has the primary responsibility to ensure that the Town Council, staff, and members of the public adhere to the Council's adopted procedures.

Sec. 1.02.212 Town attorney as procedure advisor

The Town Attorney shall assist the Mayor and Town Council as a resource and as an advisor for interpreting this article."

SECTION 3

All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portion of conflicting ordinances shall remain in full force and effect.

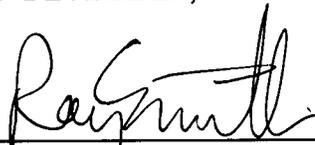
SECTION 4

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Town hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional.

SECTION 7

This Ordinance shall take effect and be in full force from and after its passage, as provided by the Revised Civil Statutes of the State of Texas.

DULY PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 10TH DAY OF DECEMBER, 2013.



Ray Smith, Mayor

ATTEST:



Robyn Battle, Town Secretary

APPROVED AS TO FORM AND LEGALITY:



Terrence S. Welch, Town Attorney