

CITY OF HARLINGEN
ORDINANCE NO. 2026-39

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF HARLINGEN, TEXAS, AMENDING PART II, SUBPART A, CHAPTER 2, "ADMINISTRATION," ARTICLE II, "CITY COMMISSION," OF THE CODE OF ORDINANCES, CITY OF HARLINGEN, TEXAS, BY ADDING A NEW SECTION 2-24, "MEETINGS, AGENDAS, AND PUBLIC PARTICIPATION," TO ADOPT REGULATIONS THAT ENSURE THAT MEETINGS OF THE CITY COMMISSION ARE CONDUCTED IN A WAY THAT ALLOWS THE BUSINESS OF THE CITY TO BE UNDERTAKEN EFFECTIVELY AND EFFICIENTLY WHILE PROTECTING THE PUBLIC'S RIGHT TO ADDRESS THE CITY COMMISSION; PROVIDING SAVINGS, REPEALING, AND SEVERABILITY CLAUSES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Harlingen, Texas (the "City") is a Home Rule Municipality acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, the City is authorized by Texas Local Government Code § 51.001 to adopt or amend any ordinance that is for the good government, peace, or order of the municipality or for the trade and commerce of the municipality; and

WHEREAS, Article V, Section 1 of the City Charter provides that the City Commission shall determine its own rules and agenda and shall establish by ordinance how an item may be placed on the agenda; and

WHEREAS, Section 551.007(b) of the Texas Government Code requires the City Commission to allow each member of the public who desires to address the City Commission regarding an item on the agenda for an open meeting to address the City Commission regarding that item before or during the City Commission's consideration of the item; and

WHEREAS, Section 551.007(c) of the Texas Government Code authorizes the City Commission to adopt reasonable rules regarding the public's right to address the City Commission under Section 551.007, including rules that limit the total amount of time that a member of the public may address the City Commission on a given item; and

WHEREAS, Section 551.007(d) of the Texas Government Code requires that a member of the public who addresses the City Commission through a translator be given at least twice the amount of time as a member of the public who does not require the assistance of a translator, to ensure that non-English speakers receive the same opportunity to address the City Commission; and

WHEREAS, Section 551.007(e) of the Texas Government Code provides that the City Commission may not prohibit public criticism of the City Commission, including criticism of any act, omission, policy, procedure, program, or service, and nothing in this ordinance shall be construed to prohibit such criticism; and

WHEREAS, consistent with *Stratta v. Roe*, 961 F.3d 340 (5th Cir. 2020), members of the City Commission are not "members of the public" for purposes of the public comment period provided for herein; and

WHEREAS, the City Commission recognizes the importance of maintaining open meetings that encourage meaningful public participation while ensuring order and efficiency in the conduct of city business; and

WHEREAS, the regulations adopted herein are content-neutral and viewpoint-neutral rules of order and decorum directed exclusively at conduct that disrupts, disturbs, or impedes the orderly conduct of City Commission meetings, and not at the message, ideas, subject matter, or viewpoint of any speaker; and

WHEREAS, the City Commission finds that the regulations adopted herein are reasonable considering the purpose served by the limited public forum created for public comment at City Commission meetings, and that the regulations are reasonable time, place, and manner regulations; and

WHEREAS, was considered on August 5th, 2026, and August 19th, 2026, City Commission meetings, where the public was given an opportunity to speak on these regulations; and

WHEREAS, the City Commission finds, determines, and declares that the meeting at which this Ordinance was adopted was open to the public and public notice of the time, place, and subject matter of the public

business to be considered at such meeting, including this Ordinance, was given as required by Chapter 551 of the Texas Government Code; and

WHEREAS, the City Commission now deems it necessary, expedient, and in the best interest of the City, and to promote good governance, to adopt the below revisions.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF HARLINGEN:

Section 1. Incorporation of Premises. The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes as the legislative findings of the City Commission.

Section 2. Amendments. Part II, Subpart A, Chapter 2, “Administration,” Article II, “City Commission,” of the Code of Ordinances, City of Harlingen, Texas, is hereby amended by adding a new Section 2-24, “Meetings, agendas, and public participation,” to read entirely as shown in Exhibit “A,” attached hereto and incorporated herein. Sections 2-25 through 2-45 of Article II remain reserved. Nothing in this Ordinance amends or repeals Section 2-21 of the Code of Ordinances, and in the event of any conflict between new Section 2-24 and Section 2-21 concerning the placement of items on an agenda, Section 2-21 controls.

Section 3. Code of Ordinances Revisions. The publisher of the City’s Code of Ordinances is hereby authorized to revise the Code of Ordinances to reflect the changes provided for in this Ordinance; to correct typographical errors where necessary; and to format and number paragraphs to conform to the existing Code of Ordinances.

Section 4. Repealing Clause. 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 occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

Section 5. Severability. Should any section, subsection, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that remaining portions of this Ordinance shall remain in full force and effect. The City of Harlingen hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

Section 6. Effective Date. Pursuant to Article V of the City Charter, this Ordinance shall become effective upon its introduction and approval at two separate meetings of the City Commission, on its second and final reading and passage.

Section 7. Open Meetings. It is hereby found, determined, and declared as a matter of legislative finding that the meeting at which this Ordinance was passed was open to the public as required by law, and that public notice of the time, place, and purpose of said meeting was given, all as required by Chapter 551 of the Texas Government Code, including Section 551.041.

INTRODUCED and PASSED at FIRST READING on the 5th day of August 2026.

APPROVED and PASSED on SECOND and FINAL READING on the 19th day of August 2026.

CITY OF HARLINGEN



Norma Sepulveda, Mayor,

ATTEST:



Mayra Herrera, City Secretary

EXHIBIT “A”
PART II—THE CODE
SUBPART A—GENERAL ORDINANCES
Chapter 2—ADMINISTRATION
ARTICLE II. CITY COMMISSION

§ 2-24. Meetings, agendas, and public participation.

(a) Definitions.

Agenda packets means supporting information for agenda items provided by the city secretary to the city commission for the purpose of conducting a meeting.

Presiding Chair means the Mayor, the Mayor Pro-Tem, or in the absence of either, that member of the City Commission presiding over the meeting or workshop.

Regular sessions means business meetings held according to a schedule established by city commission resolution or by the city charter. The date or time of a regular session may be changed by majority vote of the city commission or by the mayor due to conflict or scheduling necessity. Regular sessions are the commission's recurring scheduled business meetings, as distinguished from special sessions or work sessions.

Routine business means items of normal city business, including: canvassing an election, authorizing a contract, zoning which has previously been discussed at a public hearing, approval of minutes, deeds, easements, final reading and adoption of ordinances, auditor's reports as to cash count, standard subdivision agreements, calls for bids, reports of administrative actions and proposals, leases, and agreements previously approved in principle or any other business within the city's legal authority.

Special sessions means business meetings which are not regular sessions.

Work sessions means meetings called for the exchange of information only in which no action will be taken.

(b) Agenda preparation.

1. The placement of items on the agenda of a city commission meeting, the preparation and posting of the agenda, and the deadlines for submission of agenda items are governed by Section 2-21 of this article. Regular city commission meeting agendas shall be posted as required by Section 551.043 of the Texas Open Meetings Act.
2. An item titled “public comment”, or citizen communication shall be included as a numbered item on the regular or special agenda. The purpose of public comment shall be to provide a limited public forum to allow members of the public to bring issues to the attention of the city commission, and to make the city commission aware of the public's concerns and views, regarding items on the posted agenda or any other matter within the jurisdiction of the city commission, as defined in subsection (d)(1)(a) of this section. In accordance with the Texas Open Meetings Act, the city commission cannot take action on or deliberate any subject brought up during public comment/citizen communication that is not on the posted agenda. However, the mayor or any member of the city commission may, pursuant to Section 551.042 of the Texas Government Code : (i) make a statement of factual information given in response to the inquiry; (ii) recite existing policy in response to the inquiry or (iii) propose that the item be placed on a future agenda or refer it to the proper city department for action.

(c) Consent agenda.

Routine business that is brought before the city commission may be considered under an agenda item called “consent agenda.” All items appearing under “consent agenda” shall be approved, adopted, accepted, etc., by one motion of the city commission. Specific consent agenda items may be set aside from the consent agenda by the mayor, a city commission member, for separate discussion and action.

(d) Public input during meetings.

(1) Limited public forum established; scope.

- a. The public comment period and the public hearing portions of a city commission meeting constitute a limited public forum, opened by the city commission solely to allow members of the public to bring to the attention of the city commission any matter involving city business that is within the jurisdiction of the city commission. A matter is within the jurisdiction of the city commission if the city commission has legal authority to take binding governmental action concerning the matter through the exercise of its legislative, regulatory, budgetary, contractual, proprietary, or appointment powers under the City Charter or the laws of the State of Texas.
- b. A person wishing to address an item that is the subject of a public hearing at the same meeting may address that item during either the public comment period or the public hearing on that item.
- c. The forum is not opened for matters that are neither on the posted agenda nor within the jurisdiction of the city commission, including matters concerning property, activities, or governmental services provided by a different governmental entity which may be located or provided wholly outside the corporate limits of the city, and matters committed exclusively to the federal or state government upon which the city commission has no authority to act or deliberate. This limitation is a subject-matter boundary defining the purpose of the forum and shall be applied without regard to the speaker's viewpoint. Nothing in this subsection prohibits public criticism of the city commission, including criticism of any act, omission, policy, procedure, program, or service, as provided by Section 551.007(e) of the Texas Government Code.

(2) Conduct.

- a) Meetings of the City Commission are convened for the conduct of the public business of the city. Discussion at a meeting shall be confined to items posted on the agenda for that meeting and to matters within the jurisdiction of the City. This subsection applies equally to members of the Commission, to City staff, and to members of the public. Private matters unrelated to City business or to the performance of a city office, employment, or contract are outside the scope of discussion at a meeting. Consistent with Tex. Gov't Code § 551.042, if a member of the public inquires about a subject not on the posted agenda, a member of the Commission may respond only with a statement of specific factual information, a recitation of existing policy, or a proposal to place the subject on the agenda for a subsequent meeting. Nothing in this rule limits the right of any person to criticize the City Commission, the City, or any act, omission, policy, procedure, program, or service of the City. Tex. Gov't Code § 551.007(e). The presiding officer shall enforce this rule uniformly, without regard to the identity of the speaker or the viewpoint expressed.
- b) Cell phones. Attendees must refrain from the operation and use of cellular telephones, pagers, or any mechanical or electronic devices in a manner that disrupts city commission proceedings.
- c) Signs, placards, banners, and expressive attire. Attendees may wear clothing, buttons, armbands, hats, or other attire expressing a sentiment or message, and may display signs or placards held silently at or below shoulder height, provided that no sign, placard, or banner may: (i) be attached to a stick, pole, or other rigid object; (ii) obstruct the view of other attendees, the aisles, or the exits; or (iii) be waved, thrust, or otherwise displayed in a manner that actually disrupts the proceedings. This rule shall be enforced without regard to the content or viewpoint of any message displayed.

the commencement of the meeting. The presenter shall provide **eight (8) copies** of any written materials or visual aids for distribution to the Mayor, each City Commissioner, the City Manager, the City Attorney, and the City Secretary for the official record.

- e) Only city commission members and city staff may approach the dais.
- f) Attendees shall not engage in conduct that disrupts, disturbs, or impedes the orderly conduct of the meeting, including conduct of the kind described in Sections 42.01 and 42.05 of the Texas Penal Code. These rules are civil rules of order and decorum, not penal provisions; accordingly, a finding of noncompliance does not require proof of the culpable mental state, or satisfaction of the standard of proof, required for a criminal conviction. A finding of noncompliance requires only determination that the conduct, viewed objectively, disrupted, disturbed, or impeded the meeting. Speech or expression shall not be deemed disruptive because of the viewpoint it expresses, because it is critical of the city commission or of any member thereof, or because it criticizes any act, omission, policy, procedure, program, or service of the city, consistent with Section 551.007(e) of the Texas Government Code.
- g) Violation of these rules shall not be a municipal offense; however, any police officer or other person assigned to provide security for the city commission meeting shall advise any person who fails to comply with these rules of his or her noncompliance. Any person who, after being advised of his or her noncompliance, continues to engage in conduct that disrupts, disturbs, or impedes the meeting shall be ejected from the commission chambers by security personnel for the remainder of that meeting only. The operation of these rules shall not be construed to preclude any person from prosecution for violation of any applicable penal law, nor shall ejection under these rules extend to any future meeting of the city commission absent separate process authorized by law.

(3) Citizens Participation / Public comment.

a. Registration of public comment speakers.

1. Any person who wishes to address the city commission must register with the city secretary by 3p.m. on the day of the scheduled city commission meeting. Each speaker must identify the City Commission agenda item, or other matter within the City Commissions Jurisdiction, that they attend to address.
2. The city secretary shall prepare a speaker list of all individuals who have registered. Every registered speaker shall be permitted to speak for 3 minutes, and speakers shall be called upon the presiding chair. In accordance with Section 551.007(b) of the Texas Government Code, each member of the public who desires to address the city commission regarding an item on the agenda shall be permitted to address the city commission regarding that item before or during the city commission's public hearing of the item.
3. The Presiding Chair may allow a speaker an additional fifteen seconds to wrap up comments. The Presiding Chair may increase the per-speaker time limit for a meeting or for a particular item based solely on content-neutral factors, such as the length of the agenda, the number of registered speakers, or the need for an interpreter. Any adjustment shall apply equally to all speakers on the same item or matter. An electronic timer shall be placed in front of every public meeting within eyesight of the speaking member of the public to notify them of how much time they have left to speak. The City Secretary or their designated representative shall notify the speaker when the clock starts.
4. No speaker may yield his or her time to another speaker. For matters that are not on the posted agenda, the total public comment period shall be limited to five (5) speakers. This limitation shall not apply to comments regarding posted agenda items. Nothing in this subsection shall be construed to deny any member of the public the right to address the City Commission regarding a posted agenda item

as provided by Section 551.007(b) of the Texas Government Code.

5. Once acknowledged by the Presiding Chair, the speaker shall come to the designated microphone, state his or her name and, and the address or district in which he or she resides before engaging in public comment. Public comments shall be directed to the Mayor and the City Commission. Speakers shall remain at the designated microphone and direct their remarks toward the dais while addressing the City Commission.
 6. Each speaker who requires the assistance of a translator to address the city commission shall be given at least twice the amount of time given to a member of the public who does not require a translator, as required by Section 551.007(d) of the Texas Government Code. The city may provide a translator if given notice, no later than 3pm on the day of the meeting.
- b. If a speaker's comments are longer than the allotted time, the speaker may submit written remarks by providing 8 copies to the city secretary prior to the meeting for distribution to the commission.
 - c. The Presiding Chair has the responsibility and duty to rule a speaker out of order if the speaker violates the following guidelines for public comment. These rules shall be enforced fairly and without regard to the speaker's viewpoint:
 1. No speaker may use public comment to address matters outside the scope of the limited public forum established by subsection (d)(1) of this section.
 2. Speakers must stay within their allotted time. A speaker may not continue speaking past the expiration of his or her allotted time in a manner that impairs the rights of other would-be public comment participants. A speaker may use his or her allotted time as the speaker chooses, including by remaining silent.
 3. Speakers may not engage in speech or conduct that disrupts, disturbs, or impedes the orderly conduct of the meeting, as provided in subsection (d)(2). of this section, and may not engage in speech that is unprotected by the First Amendment, such as true threats, incitement to imminent lawless action, or obscenity. Criticism of the city commission, of any office of the city thereof, regard and act, omission, policy, procedure, program, or service of the city does not violate these rules and shall not be a basis for ruling a speaker out of order. Tex. Gov't Code § 551.007(e).
 4. At any time during public comment, on the City Attorney's own initiative, he/she may state a point of order advising the Presiding Chair that a speaker is disrupting the meeting or is addressing a matter outside the scope of public comments or the posted agenda item. The City Attorney shall identify the rule at issue. A statement under this subsection is advisory only, is not a ruling, and does not terminate the speaker's time.
 5. If a speaker continues to violate these rules after one warning, the presiding chair may terminate the speaker's remaining time and, if the speaker's continued conduct disrupts, disturbs, or impedes the meeting, may remove, or cause to be removed by security personnel, the individual from the commission chambers. Any individual removed shall be excluded from the remainder of that meeting only, and such removal shall not extend to any future meeting of the city commission absent separate process authorized by law.

(4) Public comment form.

A Spanish and English version of a public comment form shall be available online on the home page for the city secretary. The public comment form may be amended from time to time as deemed necessary.

(5) Public hearing(s).

- a. Each person addressing the city commission shall give his or her name and address or

District in an audible tone of voice for the record, state whom he or she is representing if he or she represents an organization or other persons, and, unless further time is granted by majority vote of the city commission on equal terms for all speakers on the item, shall limit his or her remarks to three minutes. No person, other than members of the city commission, the city manager, or the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the city commission, without the permission of the presiding chair. No question may be asked about a city commission member or a member of the city staff without the permission of the Presiding Chair.

- b. After a motion has been made or a public hearing has been closed, no member of the public shall be recognized to address the City Commission further on the matter under consideration unless the public hearing is reopened by a majority vote of the City Commission. Nothing in this subsection shall be construed to deny any member of the public the right to address the City Commission on an agenda item before or during the City Commission's consideration of that item, as provided by Section 551.007(b) of the Texas Government Code.
- c. If a speaker's comments are longer than the allotted time, the speaker may submit written remarks by providing them to each member of the city commission through the city secretary, with one copy made available to the city secretary for his or her official record.
- d. The Presiding Chair has the responsibility and duty to rule a speaker out of order if the speaker violates the following guidelines for public hearings. These rules shall be enforced fairly and without regard to the speaker's viewpoint:
 1. No speaker may use the public hearing to address issues that are unrelated to the item called before the city commission or which fall outside the subject matter for which the limited purpose public forum has been created.
 2. Speakers must stay within their allotted time. A speaker may not continue speaking past the expiration of his or her allotted time in a manner that impairs the rights of other would-be public hearing participants. A speaker may use his or her allotted time as the speaker chooses, including by remaining silent.
 3. Speakers may not engage in speech or conduct that disrupts, disturbs, or impedes the orderly conduct of the meeting, as provided in subsection (d)(2). of this section, and may not engage in speech that is unprotected by the First Amendment, such as true threats, incitement to imminent lawless action, or obscenity. Criticism of the city commission, of any member thereof, or of any act, omission, policy, procedure, program, or service of the city does not violate these rules and shall not be a basis for ruling a speaker out of order. Tex. Gov't Code § 551.007(e).
 4. Speakers shall direct all comments to the city commission as a whole, and not the city manager, or members of city staff, as provided in subsection (d)(2). of this section. This rule governs only to whom remarks are addressed; it does not limit the content of any speaker's remarks, including criticism protected by Section 551.007(e) of the Texas Government Code.
 5. At any time during the public hearing, on the City Attorney's own initiative he/she may state a point of order advising the Presiding Chair that a speaker is disrupting the meeting or is addressing a matter outside the scope of public hearing or the posted agenda item. The City Attorney shall identify the rule at issue. A statement under this subsection is advisory only, is not a ruling, and does not terminate the speaker's time.
 6. If a speaker continues to violate these rules after one warning, the presiding chair may terminate the speaker's remaining time and, if the speaker's continued conduct actually disrupts, disturbs, or impedes the meeting, may remove, or cause to be removed by security personnel, the individual from the commission chambers. Any individual so removed shall be excluded from the remainder of

that meeting only, and such removal shall not extend to any future meeting of the city commission absent separate process authorized by law.

(e) Use of cameras and recorders.

1. Consistent with Section 551.023(a) of the Texas Government Code, any person in attendance may record all or any part of an open meeting of the city commission by means of a camera, video camera, cellular telephone, tape recorder, or any other means of audio or visual reproduction.
2. Pursuant to Section 551.023(b) of the Texas Government Code, the following reasonable rules governing the location of recording equipment and the manner in which recording is conducted are adopted to maintain order at meetings and to provide for the security of the commission chambers:
 - a. A person may record from his or her seat using a handheld personal device, such as a cellular telephone, provided the person remains seated while recording and the device is not used in a manner that obstructs the view of other attendees or disrupts the proceedings notwithstanding this rule.
 - b. Recording with a tripod, monopod, stand, or other mounting equipment, and recording while standing, shall be conducted only from the designated recording area at the back corner of the commission chambers which are closest to the elevator. Individuals attending the meeting may stand to photograph during the recognition and proclamation section of the meeting.
 - c. A speaker addressing the city commission may use a cellular telephone or other personal recording device to record from the podium, provided the speaker removes the device from the podium when the speaker concludes his or her remarks and leaves the podium.
 - d. As a matter of security, no recording device or other item may be left unattended or abandoned anywhere in the commission chambers. Any item left unattended may be removed by security personnel.
 - e. These rules regulate only the location of recording equipment and the manner in which recording is conducted. They shall not be applied so as to prevent any person from recording an open meeting, and they shall be enforced without regard to the identity or viewpoint of the person recording.

§ 2-25 through § 2-45. (Reserved)