



CITY OF FAIR OAKS RANCH

CITY COUNCIL REGULAR MEETING

Thursday, January 06, 2022 at 6:30 PM

City Hall Council Chambers, 7286 Dietz Elkhorn, Fair Oaks Ranch

AGENDA

OPEN MEETING

1. Roll Call - Declaration of a Quorum
2. Pledge of Allegiance

CITIZENS and GUEST FORUM

To address the Council, please sign the Attendance Roster located on the table at the entrance of the Council Chambers. In accordance with the Open Meetings Act, Council may not discuss or take action on any item which has not been posted on the agenda. Speakers shall limit their comments to five (5) minutes each.

3. Citizens to be heard.

PRESENTATIONS

4. Presentation of Employee Service Awards to Jimbo Ford, Water/Wastewater Operator II (25 years).

Joanna Merrill, IPMA-SCP, Director of Human Resources and Communications

5. Recognition of Jimmy Washer for his promotion to Maintenance Supervisor.

Joanna Merrill, IPMA-SCP, Director of Human Resources and Communications

6. Emergency Response Plan for Utility Systems.

Julio Colunga, Assistant Director of Public Works
Matthew Schorsch, P.E., Water/Wastewater Master Planning, Freese and Nichols

CONSENT AGENDA

All of the following items are considered to be routine by the City Council, there will be no separate discussion on these items and will be enacted with one motion. Items may be removed by any Council Member by making such request prior to a motion and vote.

7. Approval of the December 7, 2021 Special City Council meeting minutes.

Christina Picioccio, TRMC, City Secretary

8. Approval of the December 14, 2021 Special City Council meeting minutes.

Christina Picioccio, TRMC, City Secretary

9. Approval of the December 16, 2021 Regular City Council meeting minutes.

Christina Picioccio, TRMC, City Secretary

10. Approval of the second reading of an Ordinance amending the Fair Oaks Ranch Code of Ordinances Chapter 3 "Building Regulations".

Jim Earl, Building Official

CONSIDERATION/DISCUSSION ITEMS

11. Consideration and possible action approving the first reading of an Ordinance amending the City of Fair Oaks Ranch Code of Ordinances Chapter 1 "General Provisions" by adding Article 1.10 entitled "Stormwater Pollution Prevention".

Katherine Schweitzer, P.E., Manager of Engineering Services

12. Consideration and possible approval of the first reading of an Ordinance amending the City of Fair Oaks Ranch Code of Ordinances Chapter 12 "Traffic & Vehicles" Article 12.04 "Operation of Golf Carts on Public Streets" by establishing regulations for the operation of recreational off-road vehicles and utility vehicles on city-owned streets and providing additional clarification regarding child safety restraints as defined by the Texas Transportation Code.

Scott Parker, Council Place 5
Chesley Muenchow, Council Place 6
Tim Moring, Chief of Police

13. Consideration and possible action to approve the first reading of an Ordinance amending the City Council Rules of Procedure.

Christina Picioccio, TRMC, City Secretary

REPORTS FROM STAFF AND COMMITTEES

14. Important Election Dates for May 7, 2022.

Christina Picioccio, TRMC, City Secretary

REQUESTS AND ANNOUNCEMENTS

15. Announcements and reports by Mayor and Council Members.
16. Announcements by the City Manager.
17. Requests by Mayor and Council Members that items be placed on a future City Council agenda.

CONVENE INTO EXECUTIVE SESSION

Pursuant to Section 551.101 of the Open Meetings Act, Texas Gov't Code, a quorum of the governing body hereby convenes into closed session:

Sec. 551.071 (Consultation with Attorney) the City Council will meet in private consultation with legal counsel to seek the advice of its attorneys about pending or contemplated litigation, a settlement offer, and/or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas conflicts with Chapter 551 of the Government Code; to wit:

18. To receive legal advice from Special Counsel and the City Attorney regarding the City's ground water rights.
19. Cause No. 2018-CI-00202; the City of Fair Oaks Ranch, Texas vs. Edward I. Hill, Robert E. Heckendorn, Craig M. Luitjen, Roger Fuentes, Wesley A. Pieper, Esther W. Hicks, William A. McDowell, Yolanda D. Ayala, PG Pfeiffer Ranches LLC, Maureen Pfeiffer Stevenson Family Trust.
20. Development issues related to the development agreement for Boerne Ranch Estates/The Reserve.

Sec. 551.072 (Deliberation regarding real property)

21. The City Council will meet in closed session to deliberate the purchase, exchange, lease, or value of real property that may be considered for future location of water and wastewater system improvements.

RECONVENE INTO OPEN SESSION

Discussion and possible action on items discussed in Executive Session.

ADJOURNMENT

Signature of Agenda Approval: s/Tobin E. Maples

Tobin E. Maples, City Manager

I, Christina Picioccio, TRMC, City Secretary, certify that the above Notice of Meeting was posted on the outside bulletin board at the Fair Oaks Ranch City Hall, 7286 Dietz Elkhorn, Fair Oaks Ranch, Texas, and on the City's website www.fairoaksranchtx.org, both places being convenient and readily accessible to the general public at all times.

As per Texas Government Code 551.045, said Notice was posted by 6:30 PM, January 3, 2022 and remained so posted continuously for at least 72 hours before said meeting was convened.

The Fair Oaks Ranch City Hall is wheelchair accessible at the side entrance of the building from the parking lot. Requests for special services must be received forty-eight (48) hours prior to the meeting time by calling the City Secretary's office at (210) 698-0900. Braille is not available. The City Council reserves the right to convene into Executive Session at any time regarding an issue on the agenda for which it is legally permissible; pursuant to Texas Government Code Chapter 551. Section 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices) and 551.087 (Economic Development).

CITY OF FAIR OAKS RANCH AWIA ASSISTANCE RRA & ERP OVERVIEW

January 6, 2022



MEETING AGENDA

Item #6.

1. Project Overview
2. Project Schedule
3. RRA Overview
4. ERP Overview
5. Summary of Project Progress

PROJECT OVERVIEW – AWIA ORIGINS

Item #6.

Public Health Security & Bioterrorism Preparedness & Response Act

- Prompted by 2001 anthrax attacks
- Required utilities >3,300 people to perform security assessments re: bioterrorism

National Infrastructure Protection Plan

- Expanded scope of RAMCAP to include natural hazards

America's Water Infrastructure Act

- Requires utilities >3,300 people to perform risk assessments & emergency response plans

2002

2004

2006

2010

2018

Risk Analysis & Management for Critical Asset Protection

- Prompted by 9/11
- ASME
- Focused on malevolent attacks

AWWA J100

- Guidance document
- Standardized RAMCAP framework for Water/WW Sector

PROJECT OVERVIEW – AWIA DEADLINES

Item #6.

CERTIFICATION DEADLINES

Population Served	Risk Assessment	Emergency Response Plan
≥ 100,000	March 31, 2020	September 30, 2020
50,000 – 99,999	December 31, 2020	June 30, 2021
3,301 – 49,999	June 30, 2021	December 30, 2021

NOTES

- Emergency response plan certifications are due six months from date of risk assessment certification.
- Risk assessment must be reviewed and recertified every 5 years

PROJECT SCHEDULE

Item #6.

Task	December	January	February	March	April	May	June	July	August	September	October	November	December
Phase 1- Risk and Resilience Assessment													
Project Kickoff Meeting, Data Collection and Review													
Identification of Critical Assets and Threats													
Cybersecurity Evaluation													
Risk and Resilience Analysis													
Risk and Resilience Management													
Final RRA Report and Cortication Compliance													
RRA Deadline							★						
Phase 2- Emergency Response Plan													
Coordination Meeting, Data Collection and Review													
Review of Existing Plans and Prepare ERP Outline													
Emergency Response Plan Preparation Workshop													
Draft Emergency Response Plan													
Final ERP and Certification of Compliance													
ERP Deadline													★

RISK & RESILIENCY ASSESSMENT

Item #6.

ASSET/THREAT CHARACTERIZATION



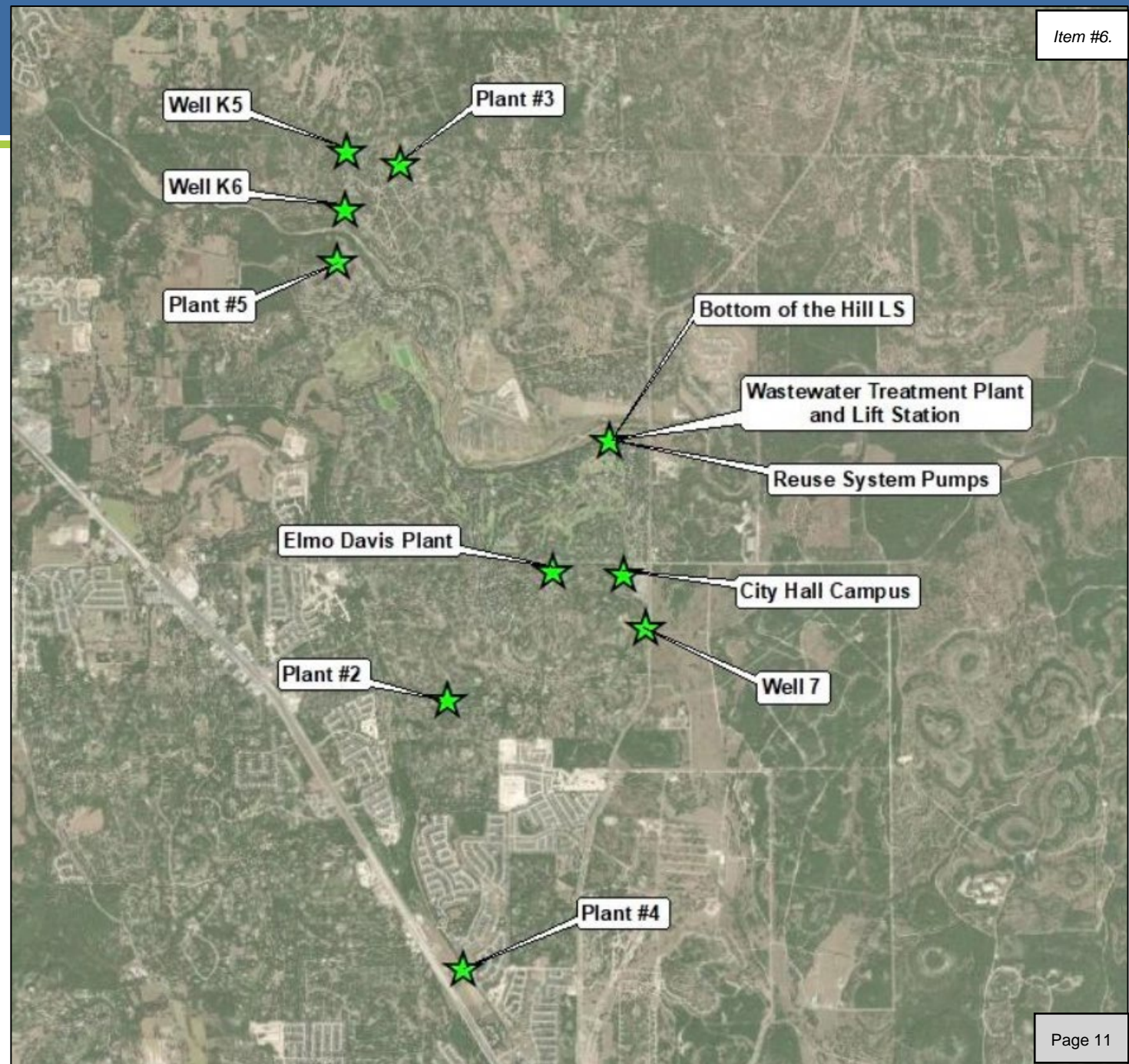
- Assets Critical to Operation and Function of Water System Should be Evaluated
- Potential Threats Fall Under Three Categories:
 - Natural Hazards
 - Malevolent Activities
 - Dependencies

ASSET CHARACTERIZATION

- What is an Asset?
 - An item of value or importance that if targeted, exploited, destroyed, or incapacitated could result in injury, death, economic damage to the owner of the asset or to the community it serves, or destruction of property.
- Types of Assets
 - Physical – pumps, pipes, tanks, power supplies, buildings, etc.
 - Human – operators, maintenance, IS/IT, management, etc.
 - Cyber – SCADA, payment processing, vital records, communications, electronic security, financial processes, etc.

CRITICAL ASSETS

- **Plants** – Elmo Davis, #2, #3, #4, #5
- **Wells** – K5, K6, 7, and 17
- **City Hall Campus**
- **WWTP** – Overall WWTP, Bottom of the Hill LS, WWTP LS, and Reuse System Pumps



THREAT CHARACTERIZATION

Item #6.

Types of Threats

- Malevolent Acts

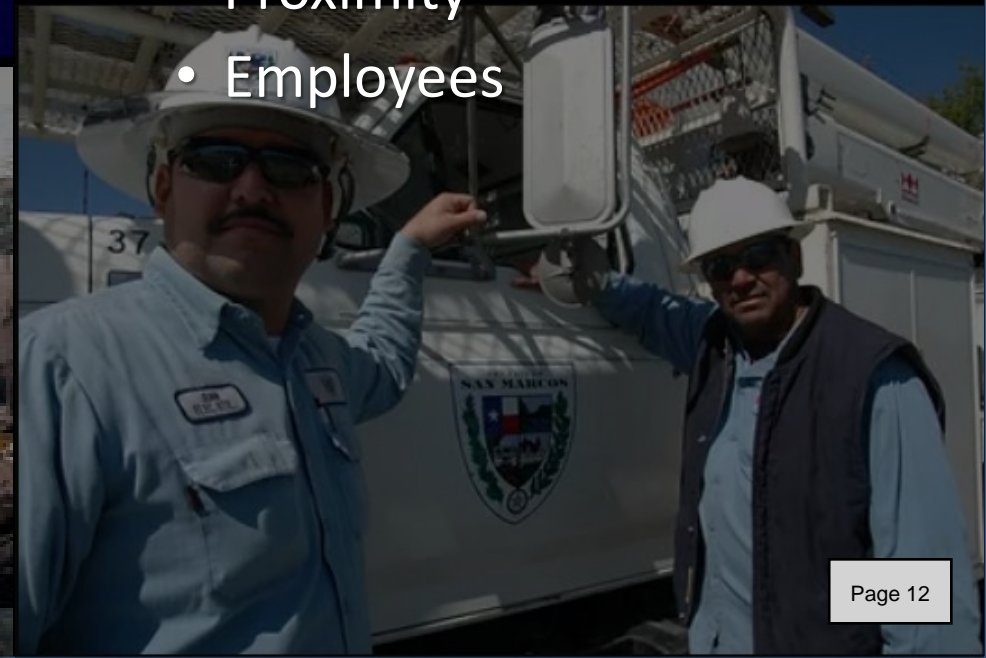
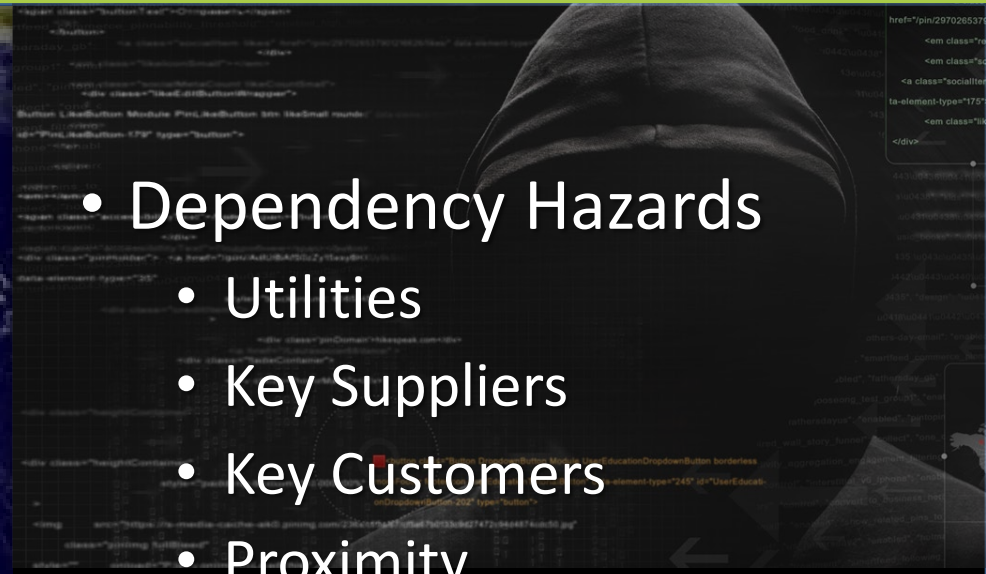
- Contamination
- Sabotage
- Diversion or Theft
- Attacks

- Natural Hazards

- Hurricanes
- Earthquakes
- Tornadoes
- Floods
- Winter Storm
- Wildfire

- Dependency Hazards

- Utilities
- Key Suppliers
- Key Customers
- Proximity
- Employees



Page 12

SUMMARY OF BASELINE RISK

Item #6.

Top 18 asset-threat pairs of 247 evaluated.

			A	B	C	A x B x C
Threat Category	Threat	Critical Asset	Consequence*	Vulnerability*	Threat Likelihood*	Base Risk per Year
Theft	Cyber - Outsider	City Hall Campus	\$500,000	0.50	0.30	\$75,000
Sabotage	Cyber - Insider	City Hall Campus	\$500,000	0.50	0.30	\$75,000
Theft	Cyber - Insider	City Hall Campus	\$500,000	0.30	0.30	\$45,000
Sabotage	Cyber - Outsider	City Hall Campus	\$500,000	0.30	0.30	\$45,000
Sabotage	Cyber - Insider	WWTP	\$157,790	0.50	0.10	\$7,890
Sabotage	Physical - Insider	City Hall Campus	\$208,000	0.50	0.05	\$5,200
Sabotage	Cyber - Outsider	WWTP	\$157,790	0.30	0.10	\$4,734
Sabotage	Physical - Outsider	Plant #4	\$100,000	0.80	0.05	\$4,000
Sabotage	Physical - Insider	WWTP	\$157,790	0.50	0.05	\$3,945
Dependency	Loss of Suppliers	Plant #5	\$39,155	1.00	0.10	\$3,915
Sabotage	Physical - Outsider	Well K6	\$30,000	0.80	0.05	\$1,200
Sabotage	Physical - Outsider	Well K5	\$30,000	0.80	0.05	\$1,200
Sabotage	Physical - Outsider	Well 7	\$30,000	0.80	0.05	\$1,200
Dependency	Loss of Employees	WWTP	\$25,000	0.43	0.10	\$1,075
Attack	Car	City Hall Campus	\$208,000	0.50	0.0039	\$406
Natural	Flood	Bottom of the Hill LS	\$56,558	0.15	0.01	\$85
Natural	Flood	Plant #4	\$17,646	0.15	0.01	\$26
Attack	1 Assailant	City Hall Campus	\$23,420,000	0.30	0.000001	\$7

*Consequence, vulnerability, and threat likelihood data based on information from the EPA's *Community Water System Emergency Response Plan Template*, AWWA's *M19 Manual Emergency Planning for Water and Wastewater Utilities*, and AWWA's *J100 Risk and Resilience Management of Water and Wastewater Systems*.

- FNI recommends fully implementing the recommendations identified in the Local Government Security Assessment Report prepared by CyberDefenses in 2020
- Mitigation measure: hire a cybersecurity consultant to implement recommendations
- Assumed 75% reduction in vulnerability

- Mitigation measure, specific to IT closets: security cameras (fire extinguishers were also recommended but have already been implemented)
- Assumed 50% reduction in vulnerability

EMERGENCY RESPONSE PLAN OVERVIEW

Item #6.

- Purpose and Approach
- Utility Overview
- Emergency Operations
- Emergency Actions and Procedures
- Training, Exercises, and Plan Maintenance
- Certification

ERP: PURPOSE AND APPROACH

- Applies to the functions, operations, and resources necessary to deliver potable water to the City's customers and preserve the mission of the City's Utilities Department
- EPA's *Community Water System Emergency Response Plan Template*
- AWWA M19 Manual *Emergency Planning for Water and Wastewater Utilities*

- Report includes detailed summary of water service provider's current assets
- Water production facilities, booster stations, ground and elevated storage tanks, interconnections, emergency response equipment, safety equipment, wastewater treatment plants*, lift stations*

* Not required to be evaluated

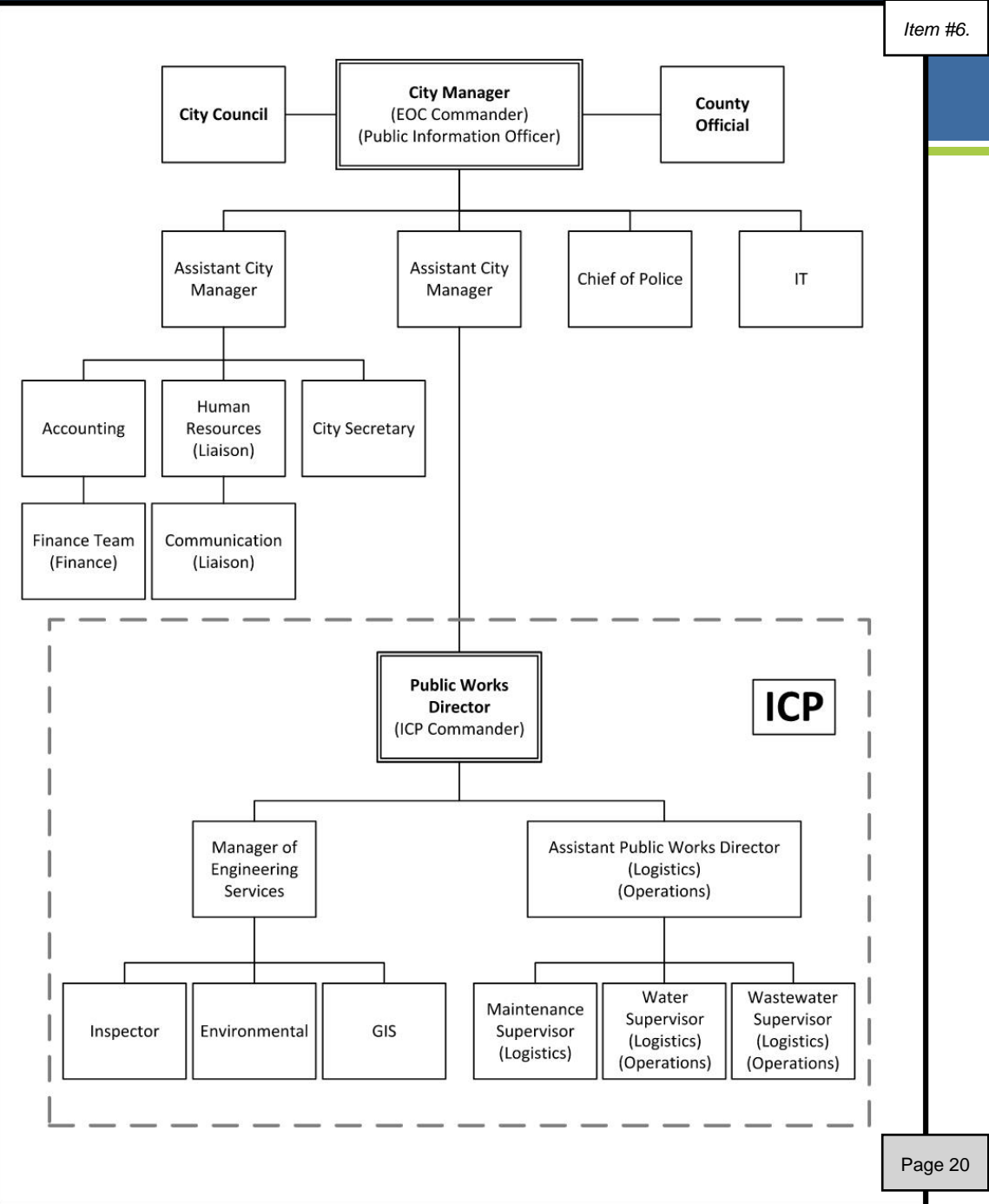
ERP: EMERGENCY OPERATIONS (ICP/EOC)

Item #6.

Levels of Activation	ICP Status	EOC Status	Example Triggers
No ICP or EOC Activation	Not activated	Not activated	<ul style="list-style-type: none"> Normal operations Alarms, warnings, or other alerts that an event may have occurred or may be imminent.
ICP Activated	Activated	Not activated	<ul style="list-style-type: none"> Line break or pump station that does not affect critical customers or hinder emergency services.
Level 1: EOC Activated	Activated (support to EOC)	Limited Activation	<ul style="list-style-type: none"> Severe thunderstorms with damaging hail or winds Localized flooding Hazardous materials spill or leak.
Level 2: EOC Activated	Activated (support to EOC)	Limited or Full Activation	<ul style="list-style-type: none"> Line break or pump station that affects critical customers and/or hinders emergency services. Displacement of a large number of residents for an extended period of time.
Level 3: EOC Activated	Activated (support to EOC)	Full Activation - Other entity than PW/WU as Incident Commander	<ul style="list-style-type: none"> Large-scale Tornado Major flooding Terror attack Encompasses a larger geographical area than the City of Fair Oaks Ranch Chlorine leak

ERP: ORGANIZATION

- Level of response is contingent on the nature of the incident
- As the scale of incident grows, additional regional organization may be necessary




ERP: EMERGENCY ACTIONS AND PROCEDURES

Item #6.

Incident-Specific Response Procedures

Hazard Type	Incident/Emergency
General	General Failure (use with all incidents)
Natural	Extreme Cold and Winter Storms
Natural	Extreme Heat
Natural	Flooding ¹
Natural	Tornado ¹
Natural	Pandemic
Dependency & Proximity	Loss of Utilities ¹
Dependency & Proximity	Loss of Suppliers ¹ (Water System Failure)
Cyber Sabotage & Theft	Cyberattack (Outsider) ¹
Contamination	Source Water Contamination
Attack: Assault Team	Active Shooter (1 Assailant)

¹Credible threats to critical assets identified in the City's RRA.

	Checklist Name:	System Failure	Revision #:	
	Checklist Owner:		Revision Date:	
	Checklist #:		Page #	Page 1 of 2

A. Purpose

The following items outline response actions water utilities can take during an overall system failure.

B. Preparedness


The following items are actions water utilities can take to ensure preparedness and response efficiency:

- Assign a representative of the utility to the incident command post of the community's EOC
- Identify essential personnel and ensure they are trained to perform critical duties in an emergency (and possibly without communication), including the shut down and start up of the system.

C. Procedure

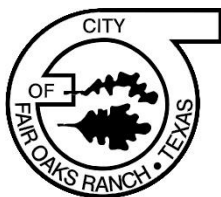
Communication

Activity	Responsible
<input type="checkbox"/> (EXTERNAL) Governmental/Regulatory: Notify your local EMA and state regulatory/primacy agency of system status	
<input type="checkbox"/> (EXTERNAL) Governmental/Regulatory: If needed, request or offer assistance (e.g. equipment or personnel) through mutual aid networks, such as WARN.	
<input type="checkbox"/> (EXTERNAL) Customer: If water shortages or outages occur, notify customers of water advisories; consider collaborating with local media (television, radio, newspaper, etc.) to distribute the message. If emergency water is being supplied, provide information on the distribution locations.	
<input type="checkbox"/> (EXTERNAL) Governmental/Regulatory: Notify regulatory/primacy agency if operations and/or water quality or quantity are affected.	
<input type="checkbox"/> (EXTERNAL) Governmental/Regulatory: Notify regulatory/primacy agency of any changes to the utility operations or required testing parameters.	
<input type="checkbox"/> (EXTERNAL) Governmental/Regulatory: Work with your regulatory agency to assist in identifying and approving alternate water supplies and operational or design changes.	
<input type="checkbox"/> (EXTERNAL) Governmental/Regulatory: Communicate with public health officials, local EMA and other partners to discuss issues related to specific emergencies and public health activities.	
<input type="checkbox"/> (EXTERNAL) Governmental/Regulatory: Communicate with public health officials, local EMA and other partners to evaluate conditions and water use requirements related to HVAC systems required by hospitals and identify alternative means to supply water if the utility is unable to meet demand.	
<input type="checkbox"/> (INTERNAL) Utility: Notify employees of any activated sites for pre-established emergency or temporary connections to nearby communities, as needed.	



- Training logs may be maintained within ERP document
- Exercises within organization and/or with other City and county agencies in accordance with NIMS/ICS framework
- ERP must be updated every five years at a minimum
 - New facilities, staffing changes, or significant modifications to service area should be catalogued as they occur

- ERP was certified on December 22nd
- Certification achieved through online portal
- Plan administrator responsible for certification
- Confirmation from EPA via timestamped email response



CITY OF FAIR OAKS RANCH
CITY COUNCIL SPECIAL MEETING

Tuesday, December 07, 2021 at 6:00 PM

City Hall Council Chambers, 7286 Dietz Elkhorn, Fair Oaks Ranch

MINUTES

OPEN MEETING

1. Roll Call - Declaration of a Quorum

Council Present: Mayor Maxton and Council Members: Stroup, Elizondo, Bliss, Koerner, Parker, and Muenchow

With a quorum present, the meeting was called to order at 6:00 PM.

2. Pledge of Allegiance – The Pledge of Allegiance was led by Mayor Gregory Maxton.

CITIZENS and GUEST FORUM

3. Citizens to be heard – There were no citizens to be heard.

PURPOSE OF SPECIAL CALLED MEETING

4. **Conduct a workshop to discuss transportation planning inclusive of recommendations to present to the Boerne, Fair Oaks Ranch, and Kendall County Transportation Committee.**

After an in-depth discussion the consensus of the Council was to use the Comprehensive Plan, Chapter 5.4, as a base for the briefing to the Boerne, Fair Oaks Ranch, and Kendall County Transportation Committee on behalf of the City. It was agreed that Mayor Maxton would present the briefing.

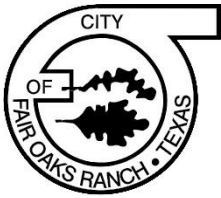
ADJOURNMENT

Mayor Maxton adjourned the meeting at 7:22 PM.

ATTEST:

Gregory C. Maxton, Mayor

Christina Picioccio, TRMC, City Secretary



CITY OF FAIR OAKS RANCH
CITY COUNCIL SPECIAL MEETING

Tuesday, December 14, 2021 at 6:00 PM

City Hall Council Chambers, 7286 Dietz Elkhorn, Fair Oaks Ranch

MINUTES

OPEN MEETING

1. Roll Call - Declaration of a Quorum

Council Present: Mayor Pro Tem Koerner and Council Members: Stroup, Elizondo, Bliss, Koerner, and Parker

Absent: Mayor Maxton and Council Member Muenchow

With a quorum present, the meeting was called to order at 6:00 PM.

2. Pledge of Allegiance – The Pledge of Allegiance was led by Mayor Pro Tem Koerner.

CITIZENS and GUEST FORUM

3. Citizens to be heard – There were no citizens to be heard.

PURPOSE OF SPECIAL CALLED MEETING

4. **Conduct a workshop of a proposed Ordinance amending the City Council Meeting Rules of Procedure.**

Mayor Pro Tem Koerner and City Secretary, Christina Picioccio, led a discussion with City Council regarding their meeting Rules of Procedure. The completed draft Rules of Procedure will be brought back to council at the January 6, 2022 meeting for review and possible action.

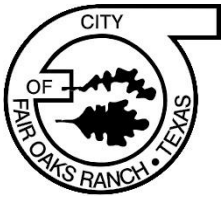
ADJOURNMENT

Mayor Pro Tem Koerner adjourned the meeting at 8:52 PM.

ATTEST:

 Gregory C. Maxton, Mayor

 Christina Picioccio, TRMC, City Secretary



CITY OF FAIR OAKS RANCH
CITY COUNCIL REGULAR MEETING

Thursday, December 16, 2021 at 6:30 PM

City Hall Council Chambers, 7286 Dietz Elkhorn, Fair Oaks Ranch

MINUTES

OPEN MEETING

1. Roll Call - Declaration of a Quorum

Council Present: Mayor Maxton and Council Members: Stroup, Elizondo, Bliss, Koerner, Parker, and Muenchow

With a quorum present, the meeting was called to order at 6:30 PM.

2. Pledge of Allegiance

CITIZENS and GUEST FORUM

3. Citizens to be heard – There were no citizens to be heard.

PRESENTATIONS

4. Joanna Merrill, IPMA-SCP, Director of Human Resources and Communications, introduced new employee, Scott Huizenga, Assistant City Manager.

CONSENT AGENDA

5. **Approval of the December 2, 2021 Regular City Council meeting minutes.**
6. **Approval of a request of an extension of time regarding the approval of a Preliminary Plat request from Elkhorn Ridge SA, LLC for Elkhorn Ridge Unit 4 proposing 26 single-family residential lots, generally located north of the intersection of Dietz Elkhorn Road and Elkhorn Ridge, City of Fair Oaks Ranch, Texas.**
7. **Approval of a Final Plat request from SA Front Gate, LLC for Front Gate Unit 6 proposing 44 single-family residential lots, generally located on the south side of Dietz Elkhorn Road and north of Fair Oaks Parkway, City of Fair Oaks Ranch, Texas.**

MOTION: Made by Council Member Elizondo, seconded by Council Member Koerner, to approve the Consent Agenda.

VOTE: 7-0; Motion Passed.

CONSIDERATION/DISCUSSION ITEMS**8. Consideration and possible action approving the first reading of an Ordinance adopting updated building codes.**

MOTION: Made by Council Member Bliss, seconded by Council Member Stroup, to approve the first reading of an Ordinance amending the Fair Oaks Ranch Code of Ordinances Chapter 3 regarding Building regulations.

VOTE: 7-0; Motion Passed.

9. Consideration and possible action approving a Preliminary Plat request from Elkhorn Ridge SA, LLC for Elkhorn Ridge Unit 4 proposing 26 single-family residential lots, generally located north of the intersection of Dietz Elkhorn Road and Elkhorn Ridge, City of Fair Oaks Ranch, Texas.

This agenda item was not considered as the request for an extension was approved in the Consent Agenda.

REPORTS FROM STAFF AND COUNCIL

- 10. Carole Vanzant, TRMC, Assistant City Manager, provided an update on the Household Hazardous Event.**
- 11. Scott Huizenga, Assistant City Manager, provided to Council a presentation of the year-end financial report.**
- 12. Christina Picioccio, TRMC, City Secretary, provided to Council the Records Destruction Report.**
- 13. Tim Moring, Chief of Police, provided to Council a report regarding Police Department Community Outreach.**

REQUESTS AND ANNOUNCEMENTS**14. Announcements and reports by Mayor and Council Members.**

Council Member Parker announced that he and Council Member Muenchow met with citizens at the Spotted Deer for "Coffee with Council" and felt it was well received.

Mayor Maxton announced that this was the last meeting of the year. He commended Council on the work they've done, and the accomplishments made together. The Mayor thanked Council for their hard work and positive attitude. He also wished everyone a happy holiday season and stated he is looking forward to the New Year.

15. Announcements by the City Manager.

City Manager, Tobin E. Maples, encouraged everyone to look on Facebook and vote for their favorite departmental gingerbread house and thanked staff for their participation.

16. Requests by Mayor and Council Members that items be placed on a future City Council agenda.

Council Member Koerner asked for the annual election calendar presentation. The City Secretary confirmed that this item as already been scheduled for the first meeting of the new year.

CONVENE INTO EXECUTIVE SESSION

City Council did not convene into Executive Session regarding:

Sec. 551.071 (Consultation with Attorney) the City Council will meet in private consultation with legal counsel to seek the advice of its attorneys about pending or contemplated litigation, a settlement offer, and/or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas conflicts with Chapter 551 of the Government Code; to wit:

- 17. To receive legal advice from Special Counsel and the City Attorney regarding the City's ground water rights.
- 18. Cause No. 2018-CI-00202; the City of Fair Oaks Ranch, Texas vs. Edward I. Hill, Robert E. Heckendorn, Craig M. Luitjen, Roger Fuentes, Wesley A. Pieper, Esther W. Hicks, William A. McDowell, Yolanda D. Ayala, PG Pfeiffer Ranches LLC, Maureen Pfeiffer Stevenson Family Trust.

RECONVENE INTO OPEN SESSION

N/A

ADJOURNMENT

Mayor Maxton adjourned the meeting at 7:35 PM.

ATTEST:

Gregory C. Maxton, Mayor

Christina Picioccio, TRMC, City Secretary



CITY COUNCIL CONSIDERATION ITEM
CITY OF FAIR OAKS RANCH, TEXAS
January 6, 2022

AGENDA TOPIC: Approval of the second reading of an Ordinance amending the Fair Oaks Ranch Code of Ordinances Chapter 3 "Building Regulations"

DATE: January 6, 2022

DEPARTMENT: Building Codes

PRESENTED BY: Consent Agenda - Jim Earl, Building Official

INTRODUCTION/BACKGROUND:

The City of Fair Oaks Ranch has from time to time updates the various building codes by Ordinance. The current codes in effect are the International Building Codes 2018 edition and National Electric Code 2017 edition. It is suggested we adopt the 2021 and 2020 editions respectively.

As typical for previous Building Code updates the changes are many and varied but include for example:

- The requirement of a 36" wide path from emergency egress to public way.
- The requirement for a surge protection device at the subpanel.
- The requirement for increased GFCI protection in damp locations.

The City Council passed and approved the first reading of the ordinance adopting updated building codes as suggested at their December 16, 2021 City Council meeting.

POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:

By periodically adopting updated building codes, the Building Codes Department is enabled to enforce new regulations in keeping with ever evolving building standards, thus contributing to the overall health, safety, and welfare of the citizenry of Fair Oaks Ranch.

LONGTERM FINANCIAL & BUDGETARY IMPACT:

Minimal. Staff time to modify builder's permitting information hand-outs as well as code references on the city's web site. The code books were budgeted for this fiscal year.

LEGAL ANALYSIS:

Municipalities are permitted to adopt new building codes as they see fit by state law. Ordinance was reviewed and approved as to form.

RECOMMENDATION/PROPOSED MOTION:

Consent Agenda - I move to approve the second reading of an Ordinance amending the Fair Oaks Ranch Code of Ordinances Chapter 3 "Building Regulations".

AN ORDINANCE

AN ORDINANCE OF THE CITY OF FAIR OAKS RANCH AMENDING THE FAIR OAKS RANCH CODE OF ORDINANCES CHAPTER 3 “BUILDING REGULATIONS”, ARTICLE 3.03 “BUILDING CODE”, ARTICLE 3.04 “RESIDENTIAL CODE”, ARTICLE 3.05 “ENERGY CONSERVATION CODE”, ARTICLE 3.06 “PLUMBING”, ARTICLE 3.07 “ELECTRICITY”, ARTICLE 3.08 “MECHANICAL CODE”, ARTICLE 3.09 “FUEL GAS CODE”, ARTICLE 3.11 “SWIMMING POOLS”, AND CHAPTER 5 “FIRE PREVENTION AND PROTECTION”, ARTICLE 5.02 “FIRE CODE”; PROVIDING FOR A PENALTY OF NOT MORE THAN \$2000 PER VIOLATION PER DAY FOR NONCOMPLIANCE, AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

WHEREAS, it is the desire of the City of Fair Oaks Ranch, Texas, to adopt, in all respects, the various International Codes relating to buildings, residential, energy conservation, plumbing, mechanical, and gas, and to adopt the National Electrical Code, and;

WHEREAS, the adoption of these Codes is done to facilitate proper inspection activities by the City of Fair Oaks Ranch, Texas relating to construction and to maintenance of buildings within the corporate city limits and relating to public safety, health and general welfare, and;

WHEREAS, at times it is necessary to update the city’s Building Regulations in the Fair Oaks Ranch Code of Ordinances Chapter 3 and Fire Prevention and Protection in Chapter 5 of same Code, and;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAIR OAKS RANCH, TEXAS:

PART 1. Chapter 3 “Building Regulations” Article 3.03 “Building Code”; Article 3.04 “Residential Code”; Article 3.05 “Energy Conservation Code”; Article 3.06 “Plumbing”; Article 3.07 “Electricity”; Article 3.08 “Mechanical Code”; Article 3.09 “Fuel Gas Code”; Article 3.11 “Swimming Pools”; and Chapter 5 “Fire Prevention and Protection” Article 5.02 “Fire Code” are hereby amended as set forth in the attached Exhibit A.

PART 2. All existing amendments to the International Residential Code 2018 edition, International Plumbing Code 2018 edition, and National Electric Code 2017 edition, shall remain in effect and be considered amendments to the appropriate codes adopted herein.

PART 3. That the recitals contained in the preamble hereto are hereby found to be true and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the City Council.

PART 4. It is hereby declared to be the intention of the City Council 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 invalid by judgment or decree of any court of competent jurisdiction, such invalidity 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.

PART 5. That it is officially found, determined and declared that the meeting at which this Ordinance is 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, all as required by Chapter 551, as amended, Texas Government Code.

PART 6. This ordinance shall take effect immediately from and after its second reading, passage and publication as may be required by governing law.

PART 7. The repeal or amendment of any ordinance or part of ordinances effectuated by the enactment of this ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying, or altering any penalty accruing or to accrue or as affecting any rights of the City of Fair Oaks Ranch under any section or provisions of any ordinances in effect at the time of passage of this ordinance.

PART 8. The provisions of this ordinance shall be cumulative of all ordinances not repealed by this ordinance and ordinances governing or regulating the same subject matter as that covered herein.

PART 9. Any person, firm, corporation, or association violating the provision of this ordinance shall, upon conviction, be fined in any sum consistent with Section 1.01.009 of the Fair Oaks Ranch Code of Ordinances.

PASSED on first reading this 16th day of December, 2021.

PASSED, APPROVED AND ADOPTED on second reading this 6th day of January 6th, 2022.

Greg Maxton, Mayor

ATTEST:

APPROVED AS TO FORM:

Christina Picioccio, City Secretary

Denton Navarro Rocha Bernal & Zech, P.C.,
City Attorney

Exhibit A

[Deletions shown as strikethrough and additions shown as italics]

A. Chapter 3 “Building Regulations” is hereby amended as follows:

Article 3.03 Building Code

Section 3.03.001 Adopted

(a) The following codes are hereby adopted by reference as though copied herein fully:

- (1) International Building Code, ~~2018~~ 2021 edition *including appendix G*. Section 113 ~~(IBC)~~ ~~board Means of appeals~~ *Appeals* is hereby repealed in its entirety.
- (2) International Existing Building Code, ~~2018~~ 2021 edition. Section 112 ~~board Means of appeals~~ *Appeals* is hereby repealed in its entirety.

Article 3.04 Residential Code

Section 3.04.001 Adopted

(a) The following code is hereby adopted by reference as though copied herein fully: International Residential Code for One- and Two-Family Dwellings, ~~2018~~ 2020 edition, including appendixes ~~A, B, C, D, G, H, J, N, and P~~ *AA, AB, AC, AD, AG, AH, AJ, AN, and AP* but excluding Sections R313 and P2904. Section ~~R112~~ Board of Appeals is hereby repealed in its entirety.

Article 3.05 Energy Conservation Code

Section 3.05.001 Adopted

(a) The following code is hereby adopted by reference as though copied herein fully: International Energy Conservation Code, ~~2018~~ 2021 edition. Section ~~C109~~ *C110* ~~(IEC)~~ Board of Appeals is hereby repealed in its entirety.

Article 3.06 Plumbing Division 2 Plumbing Code

Section 3.06.031 Adopted

(a) The following code is hereby adopted by reference as though copied herein fully: International Plumbing Code, ~~2018~~ 2021 edition. Including Appendix E. Section ~~109~~ *114* ~~(IPC) means of appeal~~ *Means of Appeals* is hereby repealed in its entirety.

Article 3.07 Electricity Division 2 Electrical Code

Section 3.07.031 Adopted

(a) The following code is hereby adopted by reference as though copied herein fully: National Electric Code, ~~2017~~ 2020 edition.

Article 3.08 Mechanical Code

Section 3.08.001 Adopted

- (a) The following code is hereby adopted by reference as though copied herein fully: International Mechanical Code, ~~2018~~ 2021 edition. Section ~~109 113 (IMC) means of appeal~~ *Means of Appeals* and Section 114 Board of appeals ~~is~~ are hereby repealed in ~~its~~ their entirety.

Article 3.09 Fuel Gas Code

Section 3.09.001 Adopted

- (a) The following code is hereby adopted by reference as though copied herein fully: International Fuel Gas Code, ~~2018~~ 2021 edition. *Including Appendices A, B, and C.* Section ~~109 113 (IFGC) means of appeal~~ *Means of Appeal* and section 114 Board of Appeals (IFGC) ~~is~~ are hereby repealed in ~~its~~ their entirety.

Article 3.11 Swimming Pools and Spas

Section 3.11.001 Adopted

- (a) The following code is hereby adopted by reference as though copied herein fully: International Swimming and Spa Code, ~~2018~~ 2021 edition. Section ~~108 111(ISPSC) means of appeal~~ *Means of Appeal* and Section 112 Board of Appeals ~~is~~ are hereby repealed in ~~its~~ their entirety.

B. Chapter 5 “Fire Prevention and Protection” is hereby amended as follows:

Article 5.02 Fire Code

Section 5.02.001 Adopted

- (a) The following code is hereby adopted by reference as though copied herein fully: International Fire Code, ~~2018~~ 2021 edition, *including appendices A, B, C, D, E, F, G, H, I, J, K, L, M, and N.* Section ~~109 111 (IFC) board of appeals~~ *Means of Appeals* is hereby repealed in its entirety.



CITY COUNCIL CONSIDERATION ITEM

CITY OF FAIR OAKS RANCH, TEXAS

January 6, 2022

AGENDA TOPIC: Consideration and possible action to approve the first reading of an Ordinance amending the City of Fair Oaks Ranch Code of Ordinances Chapter 1 "General Provisions" by adding a new article entitled "Stormwater Pollution Prevention"

DATE: January 6, 2022

DEPARTMENT: Public Works and Engineering Services

PRESENTED BY: Katherine Schweitzer, P.E., Manager of Engineering Services

INTRODUCTION/BACKGROUND:

The U.S. Environmental Protection Agency (EPA) issued regulations in 1999 to protect storm water quality in small cities and urbanized areas. In Texas, the Texas Commission on Environmental Quality (TCEQ) was delegated the responsibility for implementing the regulations, commonly called the Phase II Municipal Separate Storm Sewer System (MS4) program. In addition to issuing discharge permits to traditional "point sources," such as municipal wastewater treatment plants, the TCEQ is also responsible for minimizing pollution from "non-point sources", such as stormwater runoff from construction sites, industrial facilities or municipal storm sewer systems. The City of Fair Oaks Ranch is one of several hundred cities, counties, and other public entities required to develop and implement programs to protect storm water quality under Phase II MS4 regulations.

The City currently operates under the Texas Pollutant Discharge Elimination System (TPDES) General Permit No. TXR040000 which was issued in 2019. The General Permit requires permittees to develop and implement a stormwater management program (SWMP), including best management practices (BMPs) for each of the five required minimum control measure (MCM) elements (others are optional or not applicable):

- 1) Public Education, Outreach and Involvement
- 2) Illicit Discharge Detection and Elimination
- 3) Construction Site Stormwater Runoff control
- 4) Post Construction Stormwater Management in New Development/Redevelopment
- 5) Pollution Prevention and Good Housekeeping for Municipal Operations

The General Permit also requires traditional small MS4s (such as our City) to review and revise its relevant ordinance(s) or other regulatory mechanisms, or to adopt new ordinance(s) or regulatory mechanisms that provide the permittee with adequate legal authority to control pollutant discharges into its MS4 in order to meet the requirements of the General Permit.

This proposed ordinance establishes requirements for construction site operators to submit a Stormwater Pollution Prevention Plan (SWP3) prior to receiving a building or site development permit, describes plan content requirements in detail, requires the construction site operator to conduct regular inspections, including after storm events, and authorizes city staff to inspect construction sites for the purpose of ensuring compliance. The proposed ordinance also lists

allowable and prohibited (illicit) discharges into the MS4 and provides a schedule of penalties for non-compliance.

Gaining the attention and timely cooperation of some construction site operators to correct stormwater management issues has, at times, been a challenge. Repeated reminders, emails and phone calls over several weeks were often needed to facilitate corrective action. This proposed ordinance not only gives city staff the necessary tools to enforce compliance (i.e. stop-work orders, administrative penalties, etc.) but also places primary responsibility for routine inspection, monitoring, records keeping and plan update on the construction site operator with city staff in an oversight role.

Much of the regulations and definitions in this proposed stormwater pollution prevention ordinance were taken directly from the TCEQ Stormwater General Permit for Construction Activities TXR150000 and General Permit for Texas Pollutant Discharge Elimination System TXR040000.

POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:

- 1. Improves the operation of the City’s stormwater collection and conveyance system by controlling construction site runoff
- 2. Reduces the potential of drainage blockages, backups, flooding and costly cleanup.
- 3. Improves the water quality of our creeks and tributaries. What goes down the storm sewer drain goes directly into local waters, wetlands, and reservoirs used for drinking water and/or recreation.
- 4. Reduces environmental and public safety risks related to hazardous pollutants.
- 5. Enhances and helps implement the City’s stormwater management program

LONG-TERM FINANCIAL & BUDGETARY IMPACT:

N/A

LEGAL ANALYSIS:

Approved as to form.

RECOMMENDATION/PROPOSED MOTION:

I move to approve the first reading of an Ordinance amending Chapter 1 “General Provisions” by adding a new article entitled “Stormwater Pollution Prevention”.

AN ORDINANCE

AN ORDINANCE OF THE CITY OF FAIR OAKS RANCH AMENDING CHAPTER 1 “GENERAL PROVISIONS” BY ADDING A NEW ARTICLE ENTITLED “STORMWATER POLLUTION PREVENTION”; PROVIDING FOR SEVERABILITY AND REPEAL CLAUSES; PROVIDING FOR A CIVIL AND/OR CRIMINAL PENALTY NOT EXCEEDING \$2000 PER VIOLATION FOR NONCOMPLIANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to the Clean Water Act and Texas Pollution Discharge Elimination System General Permit TXR040000, as it may be amended, the City of Fair Oaks Ranch is required to develop, implement, and enforce a storm water management program designed to reduce the discharge of pollutants into the City’s streets, gutters, ditches, and storm drains, and to the surface waters of the state, and the waters of the United States, to the maximum extent practicable; and

WHEREAS, the City of Fair Oaks Ranch recognizes that protecting and improving water quality within the City’s Municipal Separate Storm Sewer System boundaries will contribute to an improved quality of life and the general welfare of the residents of Fair Oaks Ranch; and

WHEREAS, the City Council of the City of Fair Oaks Ranch deems it necessary to amend Chapter 1 General Provisions by adding a new article titled Stormwater Pollution Prevention.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAIR OAKS RANCH, TEXAS:

- PART 1. Chapter 1 “General Provisions” is hereby amended as set forth in the attached Exhibit A.
- PART 2. That the recitals contain in the preamble hereto are hereby found to be true and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.
- PART 3. It is hereby declared to be the intention of the City Council 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 invalid by judgment or decree of any court of competent jurisdiction, such invalidity 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.
- PART 4. That it is officially found, determined, and declared that the meeting at which this Ordinance is 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, all as required by Chapter 551, as amended, Texas Government Code.
- PART 5. A penalty provision section is established in Section 1.10.015 of the attached Exhibit “A”.
- PART 6. This ordinance shall take effect immediately from and after its second reading, passage and publication as may be required by governing law.

PART 7. The repeal or amendment of any ordinance or part of ordinances effectuated by the enactment of this ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying, or altering any penalty accruing or to accrue or as affecting any rights of the City of Fair Oaks Ranch under any section or provisions of any ordinances in effect at the time of passage of this ordinance.

PART 8. The provisions of this ordinance shall be cumulative of all ordinances not repealed by this ordinance and ordinances governing or regulating the same subject matter as that covered herein.

PASSED and APPROVED on first reading this the 6th day of January 2022.

PASSED, APPROVED and ADOPTED on second reading this the 20th day of January 2022.

Gregory Maxton, Mayor

ATTEST:

APPROVED AS TO FORM:

Christina Picioccio, City Secretary

Denton Navarro Rocha Bernal & Zech, P.C.,
City Attorney

Exhibit A

The City's Code of Ordinances Chapter 1 General Provisions is hereby amended by the addition of the following Article:

STORMWATER POLLUTION PREVENTION

Division 1. Generally

Sec. 001 Policy, purpose, and intent

- (a) Pursuant to the Clean Water Act and Texas Pollution Discharge Elimination System General Permit TXR040000, as it may be amended, the City of Fair Oaks Ranch is required to develop, implement, and enforce a storm water management program designed to reduce the discharge of pollutants into the City's streets, gutters, ditches, and storm drains, and to the surface waters of the state, and the waters of the United States, to the maximum extent practicable.
- (b) The City of Fair Oaks Ranch recognizes that protecting and improving water quality within the City's Municipal Separate Storm Sewer System boundaries will contribute to an improved quality of life and the general welfare of the residents of Fair Oaks Ranch.

Sec. 002-009 Reserved

Division 2. Regulations

Sec. 010 Abbreviations

The following abbreviations when used in this chapter shall have the designated meanings:

BMP	Best management practices
BOD	Five-day Biochemical oxygen demand
CFR	Code of Federal Regulations
COFOR	City of Fair Oaks Ranch
CWA	Clean Water Act
EPA	United States Environmental Protection Agency
MEP	Maximum extent practicable
Mg/l	Milligrams per liter
MS4	Municipal separate storm sewer system
MSGP	Multi-Sector General Permit
NOI	Notice of intent
NPDES	National Pollution Discharge Elimination System
pH	Measure of acidity and alkalinity

SWP3	Stormwater pollution prevention plan
TCEQ	Texas Commission on Environmental Quality
TPDES	Texas Pollutant Discharge Elimination System

Sec. 011 Definitions

For the purposes of this Ordinance, the following definitions shall apply unless the context of their usage clearly indicates otherwise:

Best management practices. Activities, prohibitions, maintenance procedures, structural controls, local ordinances, and other management practices to prevent or reduce the discharge of pollutants.

Clean Water Act. The Federal Water Pollution Control Act, as codified at 33 U.S.C. 1251-1376.

Common plan of development. A construction activity that is completed in separate stages or phases or in a combination with other construction activities. A common plan of development is identified by plats, blueprints, marketing plans, contract, building permit applications, a public notice or hearing, zoning requests, or other similar documentation.

Construction activity (large)(more than 5 acres). Construction activities including clearing, grading, and excavating that result in land disturbance of five or more acres of land. Large construction activity also includes the disturbance of less than five acres of land area that is part of a common plan of development that will ultimately disturb five acres or more of land.

Construction activity (small)(more than 1 less than 5 acres). Construction activities including clearing, grading, and excavating that result in land disturbance of one acre or more but less than five acres of land. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development if the larger common plan will ultimately disturb one acre or more but less than five acres of land.

Construction site operator. The person or persons associated with a small or large construction project that is either:

- (1) The person or persons that have operational control over construction plans and specifications including approval of revisions to the extent necessary to meet the requirements and conditions of state and federal law, including TPDES or NPDES permits allowing stormwater discharge; or
- (2) The person or persons that have day-to-day operational control of those activities at a construction site that are necessary to ensure compliance with a stormwater pollution prevention plan for the site.

Conveyance. Streets, curbs, gutters, manmade channels and ditches, drains, pipes, and other constructed features designed or used for drainage or flood control or to otherwise transport stormwater runoff.

Discharge. The drainage, release, or disposal of pollutants in stormwater and certain non-stormwater from areas where land disturbing activities, construction materials, equipment storage or maintenance, or other industrial activities are located.

Final stabilization. Where the following conditions are met:

- (1) All soil disturbing activities have been completed and a uniform perennial vegetative cover with a density of 70% of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.
- (2) For individual lots in a residential construction site either:
 - (A) The homebuilder completes final stabilization as specified in subsection (1) above; or
 - (B) The homebuilder establishing temporary stabilization for an individual lot prior to the time of transfer of the ownership of the home to the buyer and informs the homeowner of the need for, and benefits of, final stabilization.
- (3) For construction activities on land used for agricultural purposes (e.g. pipelines across crop or range land), final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to a surface water and areas which are not being returned to their preconstruction agricultural use must meet the final stabilization conditions of subsection (1) above.

Groundwater infiltration. Groundwater that enters the MS4 (including storm sewer and foundation drains) through such means as defective pipes, pipe joints, connections, or manholes.

Illicit connection. Any human-made conveyance connecting an illicit discharge directly to the MS4.

Illicit discharge. Any discharge to the MS4 that is not entirely composed of stormwater, except discharges allowed pursuant to state or federal law, including TPDES or NPDES permits allowing stormwater discharge or a separate authorization.

Industrial activities. Manufacturing, processing, material storage and disposal areas, and similar areas where stormwater can contact industrial pollutants related to the industrial activity at an industrial facility described by the TPDES Multi-Sector General Permit, TXR050000, as it may be amended, or by another TPDES or NPDES permit.

Land disturbance (or soil disturbance). Any activity which involves the physical movement or disturbance of earth material by mechanized means. This includes excavating, filling, stockpiling, clearance of vegetation, grading, compaction of soil, creation of borrow pits, or combination thereof. Land disturbance does not include plowing, seeding, planting, cultivating, or harvesting on a farm, including lands that have been lying fallow as part of a conventional rotational cycle. Land disturbance does not include routine maintenance performed to maintain the original line and grade, hydraulic capacity and purpose of a ditch, channel or other similar stormwater conveyance. Land disturbance does not include routine grading of existing dirt roads, asphalt overlays of existing roads, routine clearing of existing rights-of-way or other similar maintenance activities.

Maximum extent practicable. Established by the Clean Water Act, the technology-based discharge standard for MS4s to reduce pollutants in stormwater discharges by selecting and implementing effective BMPs.

Municipal separate storm sewer system (MS4). The conveyance or system of conveyances including roads, streets, catch-basins, curbs, gutters, ditches, manmade channels, or storm drains that are located within the City of Fair Oaks Ranch and that are designed or used for collecting or conveying stormwater; but which are not a combined sewer (sanitary sewer and stormwater) and are not part of the city's sanitary sewer collection system.

MS4 operator. For the purpose of this article, the City of Fair Oaks Ranch.

Point source. Any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

Pollutants of concern. Those pollutants identified as a cause of impairment and including biochemical oxygen demand (BOD), and sediment or parameters that address sediment such as total suspended solids, turbidity or siltation.

Release. Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into groundwater, subsurface soils, surface soils, the MS4, the surface water of the state, or the waters of the United States.

Site development permit. A permit issued by the city for the alteration of the ground for the construction or installation of utilities, streets, sidewalks, structures designed to control erosion and run-off and other grading activities that are not a part of a project that requires a building permit.

Stormwater management program (SWMP). A comprehensive program to manage the quality of discharges into and from the City's MS4.

Stormwater runoff. Rainfall runoff, snowmelt runoff, and surface runoff and drainage.

Structural controls. A pollution prevention practice that requires the construction or use of a device to capture or prevent pollution in stormwater runoff. Structural controls and practices may include but are not limited to: wet ponds, bio-retention, infiltration basins, stormwater wetlands, silt fences, earthen dikes, drainage swales, vegetative lined ditches, vegetative filter strips, sediment traps, check dams, subsurface drains, storm drain inlet protection, rock outlet protection, reinforced soil retaining systems, gabions, and temporary or permanent sediment basins.

Surface water in the state. Lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, wetlands, marshes, inlets, canals, the Gulf of Mexico from the mean high water level out 10.36 miles into the Gulf, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or non-navigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or subject to the jurisdiction of the state; except that waters in treatment systems which are authorized by state or federal law or permit, and which are created for the purpose of waste treatment are not considered to be water in the state.

TPDES. Texas Pollution Discharge Elimination System.

Waters of the United States.

- (1) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
- (2) All interstate waters, including interstate wetlands;
- (3) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds that the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
 - (A) Which are or could be used by interstate or foreign travelers for recreational or other purposes;
 - (B) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
 - (C) Which are used or could be used for industrial purposes by industries in interstate commerce;
- (4) All impoundments of waters otherwise defined as waters of the U.S.;
- (5) Tributaries of waters identified in subsections (1) through (4) of this definition;
- (6) The territorial sea;
- (7) Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in subsections (1) through (6) of this definition; and
- (8) Waste treatment systems, including manmade treatment ponds, lagoons or wetlands designed to meet the requirements of CWA are not waters of the United States.

Wetland. An area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Sec. 012 Pollution prevention and erosion control at construction sites

- (a) All construction site operators, at a minimum, must:
 - (1) As a precondition to receiving a building permit for a small or large construction site, prepare and submit a stormwater pollution prevention plan (SWP3).
 - (2) For projects that do not require a building permit, but will require excavation, fill or grading of more than one acre of land, such as the construction or installation of utilities, new drainageways, streets, or sidewalks, must prepare and submit a SWP3.

- (3) Submission of a SWP3 is not required in order to perform emergency work needed to protect life or property.
- (4) For construction sites that will disturb less than one acre of land, the following provisions apply:
 - (A) No SWP3 need be prepared or submitted.
 - (B) Construction site operators are responsible for retaining all soil and sediment on site and off of adjacent properties and the public right-of-way. This includes dust control and control of vehicle tracking of dirt off site.
 - (C) Soil and sediment that leaves the construction site must be cleaned-up daily.
 - (D) Proper provision for solid waste, construction debris and sanitary waste must be made and maintained.
- (5) The operator of a construction site, required to have a TPDES permit to discharge stormwater shall submit a copy of the Notice of Intent (NOI) to the City at the same time the operator submits the original NOI to the TCEQ. The copy of the NOI may be delivered to the City either in person or by mailing it to: Public Works Director, City of Fair Oaks Ranch, 7286 Dietz Elkhorn, Fair Oaks Ranch, TX 78015.

(b) Stormwater pollution prevention plan (SWP3).

- (1) Prior to commencing large or small construction activity and prior to receiving a building or site development permit from the city, construction site operators that are required by the NPDES or the TPDES to obtain a permit to discharge stormwater must:
 - (A) Develop and submit for review and approval a SWP3 that covers the entire site;
 - (B) Post a signed copy of the NOI at the construction site where it can be readily viewed;
 - (C) Ensure the project specifications allow or provide that adequate BMPs will be developed and modified as necessary to meet the requirements of the SWP3; and
 - (D) Ensure all contractors and sub-contractors are aware of the requirements of the SWP3, that on-site personnel are responsible for the day-to-day implementation of and adherence to the SWP3, and who to contact concerning SWP3 compliance; and
- (2) The SWP3 must:
 - (A) Be completed and initially implemented prior to commencing activities that result in land disturbance;
 - (B) Provide for compliance with the terms and conditions of this article and the NPDES and TPDES for stormwater;
 - (C) Be available at the construction site or readily available at the time of an on-site inspection to TCEQ; the EPA, or city personnel;
 - (D) Be amended whenever there is a change in design, construction, operation, or maintenance that may have a significant effect on the discharge of pollutants or that

was not previously addressed in the SWP3; or because inspections by the site operator, TCEQ, EPA or city indicate the SWP3 is ineffective in eliminating or minimizing pollutants in discharges;

(E) Identify the person or persons responsible for implementation of the plan.

- (c) Issuance of a building permit or site development permit. Before authorizing the issuance of a building permit or a site development permit, the city will review the proposed site plan and SWP3, as well as construction documents, for compliance with this article and the NPDES and TPDES for stormwater.
- (d) City inspection of construction sites. The city building inspector, code compliance officer, city engineer, environmental program manager, and designees are hereby authorized to inspect construction sites for the purpose of ensuring compliance and enforcement of control measures contained in the SWP3s and this article.
- (e) Contents of stormwater pollution prevention plan. The stormwater pollution prevention plan (SWP3) required pursuant to this article, the Clean Water Act, NPDES, and TPDES must include the following information:
 - (1) The SWP3 report must include all the information required from the current General Permit to Discharge Under the Texas Pollutant Discharge Elimination System TXR150000 which includes but is not limited to the following:
 - (A) The nature of the construction activity, potential pollutants and sources;
 - (B) The intended schedule or sequence of major activities that will disturb soils;
 - (C) The number of acres of the entire construction site property and the total number of acres of the site where construction activities will occur, including off-site material storage areas, overburden and stockpiles of dirt, and borrow areas;
 - (D) The soil type and the quality of any existing discharge from the site;
 - (E) A map showing the general location of the site (e.g. a portion of a city or county map);
 - (F) A detailed site map indicating the following:
 - (i) Drainage patterns and approximate slopes anticipated after major grading activities;
 - (ii) Areas where soil disturbance will occur;
 - (iii) Areas which will not be disturbed;
 - (iv) Locations of all major structural controls either planned or in place;
 - (v) Locations where stabilization practices are expected to be used;
 - (vi) Locations of construction support activities including off-site material, waste, borrow or equipment storage areas;
 - (vii) Surface waters (including wetlands) either at, adjacent, or in close proximity to the site; and also indicate whether those water are impaired;

- (viii) Locations where stormwater discharges from the site directly to a surface water body.
 - (ix) Vehicle wash areas
 - (x) Designated points on the site where vehicles will exit onto paved roads (for instance, this applies to construction transition from unstable dirt areas to exterior paved roads)
- (G) The location and description of asphalt plants and concrete plants (if any) providing support to the construction site and that are also authorized under the general permit TXR150000, as it may be amended; and
- (H) The name of receiving waters at or near the site that will be disturbed or that will receive discharges from disturbed areas of the project.
- (2) The following records must be either attached to or referenced in the SWP3 and made readily available upon request to the city, TCEQ or the EPA:
- (A) The dates when major grading activities occur;
 - (B) The dates when construction activities temporarily or permanently cease on a portion of the site; and
 - (C) The dates when stabilization measures are initiated.
- (3) The SWP3s must identify and describe the best management practices (BMPs) that will be used, the general timing or sequence for implementation of such BMPs, and the party responsible for implementation. At a minimum, the description must include erosion and sediment controls designed to retain sediment on site to the maximum extent practicable with due consideration for local topography and rainfall.
- (A) Control measures must be selected, installed, and maintained according to the manufacturer's or designer's specifications.
 - (B) Sediment must be removed from sediment traps and sedimentation ponds no later than the time that design capacity has been reduced by 50%.
 - (C) If sediment escapes the site, accumulations must be removed at a frequency to minimize further negative effects and, whenever feasible, prior to the next rain event.
 - (D) Controls must be specified that limit off-site transport of litter, construction debris and construction materials.
- (4) The SWP3 must describe interim and permanent stabilization practices and a schedule of when the stabilization practices will be implemented. Site plans should ensure that existing vegetation is preserved where it is possible.
- (A) Stabilization practices may include but are not limited to: establishment of temporary vegetation, establishment of permanent vegetation, mulching, geotextiles, sod stabilization, vegetative buffer strips, and protection of existing trees and vegetation.

- (B) Stabilization measures must be initiated as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, and except as provided in subsections (i) and (ii) below, must be initiated no more than fourteen (14) days after the construction activity in that portion of the site has temporarily or permanently ceased.
- (i) Where the initiation of stabilization measures is precluded by seasonably arid conditions, drought, excessive rainfall, or other weather or climatic conditions, stabilization measures must be initiated as soon as practicable.
 - (ii) Where construction activity on a portion of the site is temporarily ceased but earth-disturbing activities will be resumed within twenty-one (21) days, temporary stabilization measures do not have to be initiated on that portion of site.
- (5) The SWP3 must include a description of any structural controls that will be used to divert flows away from exposed soils, to limit the contact of runoff with disturbed areas, or to lessen the off-site transport of eroded soils.
- (A) Sediment basins are required, where feasible, for common drainage locations that serve an area with ten or more acres that are disturbed at any one time. Sediment basins may be either temporary or permanent but must be designed to store either the calculated volume of runoff from a 2-year, 24-hour storm, or designed to provide 3,600 cubic feet of storage per acre drained. When calculating the volume of runoff from a 2-year, 24-hour storm event, it is not required to include the flows from off-site areas and flow from on-site areas that are either undisturbed or have already undergone final stabilization, if these flows are diverted around both the disturbed areas of the site and the sediment basin. In determining whether installing a sediment basin is feasible, the permittee may consider factors such as site soils, slope, available area on site, and public safety. Where sediment basins are not feasible, equivalent control measures, which may include a series of smaller sediment basins, must be used. At a minimum, silt fences, vegetative buffer strips, or equivalent sediment controls are required for all down slope boundaries and for those side slope boundaries as dictated by individual site conditions of the construction area.
- (B) Sediment traps and sediment basins may be used to control solids in stormwater runoff for drainage locations serving less than ten (10) acres. At a minimum, silt fences, hay bales, vegetative buffer strips, or equivalent sediment controls are required for all down slope boundaries (and for those side slope boundaries deemed appropriate as dictated by individual site conditions) of the construction. Alternatively, a sediment basin providing storage for a calculated volume of runoff from these areas for a 2-year, 24-hour storm or 3,600 cubic feet of storage per acre drained may be provided.
- (6) Other controls:
- (A) The SWP3 must describe how off-site vehicle tracking of sediment and the generation of dust will be minimized.

- (B) The SWP3 must include a description of construction and waste materials expected to be stored on site and a description of controls to reduce pollutants from these materials.
 - (C) The SWP3 must include a description of pollutant sources from areas other than construction (including stormwater discharges from dedicated asphalt plants and dedicated concrete plants), and a description of controls and measures that will be implemented at those sites to minimize pollutant discharges.
- (7) The SWP3 must commit to ongoing maintenance to keep all erosion and sediment control and other protective measures identified in the SWP3 in effective operating condition.
- (8) Site inspections:
- (A) The construction site operator shall provide for regular inspections by persons familiar with the SWP3 of the disturbed areas that have not been finally stabilized, areas used for storage of materials that are exposed to precipitation, all structural control measures, and locations where vehicles enter or exit the site for evidence of effectiveness and necessary maintenance. Inspections must occur at least once every seven (7) calendar days; and within twenty-four (24) hours of the end of a storm event of 0.5 inches or greater.
 - (B) The construction site operator must inspect all accessible discharge locations to determine if erosion control measures are effective in preventing visually noticeable changes to receiving waters, including persistent cloudy appearance in water color and noticeable accumulation of sediments. Where discharge locations are inaccessible, nearby downstream locations must be inspected to the extent that such inspections are practicable. The frequency for these inspections must be established in the SWP3 with consideration for local rainfall and soil, but must occur at least once during the construction activity if a discharge occurs.
 - (C) The SWP3 must be modified based on the results of inspections, as necessary, to better control pollutants in runoff. Revisions to the SWP3 must be completed within seven calendar days following the inspection. If existing BMPs are modified or if additional BMPs are necessary, an implementation schedule must be described in an amendment to the SWP3 and wherever possible those changes implemented before the next storm event. If implementation before the next anticipated storm event is impracticable, these changes must be implemented as soon as practicable.
 - (D) A report summarizing the scope of the inspection, names and qualifications of personnel making the inspection, the dates of the inspection, and major observations relating to the implementation of the SWP3 must be made and retained as part of the SWP3. Major observations should include:
 - (i) The locations of discharges of sediment or other pollutants from the site;
 - (ii) Locations of BMPs that need to be maintained;
 - (iii) Locations of BMPs that failed to operate as designed or proved inadequate for a particular location;
 - (iv) Locations where additional BMPs are needed; and

(v) Identification and location of the BMPs that are working effectively.

(E) Actions taken as a result of inspections must be described within and retained as an amendment to the SWP3. Reports must identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report must contain a certification that the facility or site is in compliance with the SWP3 and this permit.

(9) The SWP3 must identify and ensure the implementation of pollution prevention measures for all eligible non-stormwater components of the discharge. This article prohibits, and all SWP3s will be presumed to prohibit:

(A) The discharge from a construction site of any water or other liquid having a pH value lower than 6.0 or higher than 10.5;

(B) The discharge of any type of industrial waste from construction sites;

(C) The deposit of any garbage, rubbish, or yard waste other than at a facility licensed to receive such debris;

(D) The discharge of paint or paintbrush cleaning water or solvents, thinners or turpentine or any combination thereof;

(E) Unused construction materials or used construction materials or debris remaining on the site after construction is completed

(F) The washing of any type of trucks, including, but not limited to, ready-mix trucks or material supply trucks on or around the construction site.

(f) Effective date of coverage. Operators of construction activities eligible for coverage under TXR150000, as it may be amended, are authorized to discharge stormwater associated with construction activity upon issuance by the city of the building permit or site development permit.

(g) Retention of records. The construction site operator must retain a copy of the SWP3 and all reports and actions required by this article and state and federal law, including NPDES, TPDES and general permit No.150000, for a minimum period of three years from the date that final stabilization has been achieved on all portions of the site.

Sec. 013 Illicit discharges

(a) Intent. The intent of this section is to prohibit, detect, and eliminate illicit discharges to the city's MS4.

(b) Allowable non-stormwater discharges. The following non-stormwater sources are not considered illicit discharges to the MS4:

(1) Discharges from firefighting activities (but excluding washing of trucks, run-off water from training activities, test water from fire suppression systems, and similar activities);

(2) Uncontaminated fire hydrant flushings from systems that utilize potable water, surface water, or groundwater that does not contain additional pollutants (but excluding

discharges of hyper chlorinated water, unless the water is first dechlorinated and discharges are not expected to adversely affect aquatic life and excluding flushing where recycled wastewater is used);

- (3) Water from the routine external washing of vehicles, the external portion of buildings or structures, and pavement, where detergents and soaps are used and where spills or leaks of toxic or hazardous materials have not occurred (unless spilled materials have been removed; and if local state, or federal regulations are applicable, the materials are removed according to those regulations), and where the purpose is to remove mud, dirt, or dust;
- (4) Uncontaminated water used to control dust;
- (5) Potable water including waterline flushings (but excluding discharges of hyperchlorinated water, unless the water is first dechlorinated, and discharges are not expected to adversely affect aquatic life);
- (6) Uncontaminated air-conditioning condensate;
- (7) Uncontaminated groundwater or spring water, including foundation or footing drains and water from crawl space pumps where flows are not contaminated with industrial materials such as solvents;
- (8) Runoff or return flow from landscape irrigation, lawn irrigation, and other irrigation utilizing potable water, groundwater, or surface water sources;
- (9) Diverted stream flows;
- (10) Uncontaminated groundwater infiltration;
- (11) Uncontaminated pumped groundwater;
- (12) Individual residential vehicle washing;
- (13) Flows from wetlands and riparian habitats;
- (14) Dechlorinated swimming pool discharges; and
- (15) Street wash water.

(c) Prohibited discharges.

- (1) No person shall deposit, release, throw, drain, cause or allow to be deposited, released, thrown, drained, or discharged, or otherwise cause to enter the MS4, or any other drainage device which connects with the MS4, any of the following described materials or substances:
 - (A) Any acidic waste materials (having a pH value lower than 6);
 - (B) Any alkaline waste materials (having a pH value higher than 10.5);
 - (C) Any water or waste containing floating, or insoluble oil;
 - (D) Gasoline, naphtha, fuel oil, mineral oil or other flammable or explosive liquid, solid or gas;

- (E) Any noxious, malodorous, poisonous, or reactive substance which, either singularly or by interaction with other substances, or by its accumulation in the MS4 becomes injurious or potentially injurious to human, plant or animal life, or property; or
 - (F) Any domestic wastewater or industrial wastewater.
- (2) It shall be a defense to prosecution under this section that such person was authorized to commit any act, under a valid permit from the TCEQ or the US EPA, which would otherwise constitute a violation at the time of commission.
 - (3) No person shall place or drop or cause or allow to be placed or dropped, brush cuttings, clippings, or rubbish within the MS4 or on any street in the city in such a manner that the same may be washed by the flow of water into the MS4.
 - (4) No person shall connect a line conveying sanitary sewage, domestic waste, or industrial effluent to the MS4 or allow such a connection to continue.
 - (5) No person shall discharge or release, or allow or permit the discharge or release of any of the following substances in a manner or location by which such substance may enter the city's MS4:
 - (A) Any wash water or wastewater from cleaning of any pavement where a spill, leak, or other release of oil, motor fuel, or other petroleum or hazardous substance has occurred, unless all harmful quantities of such released material have been previously removed or pretreated;
 - (B) Gasoline, motor oil, used oil filters, wax, grease, antifreeze or any other motor vehicle fluids;
 - (C) Any contaminated water or waste from a commercial carwash facility, from any vehicle washing, cleaning, or maintenance area at any new or used automobile or other vehicle dealership, rental agency, body shop, repair shop, maintenance facility, or from any washing, cleaning, or maintenance area of any commercial or public service vehicle, including any truck, bus, or piece of heavy equipment, by any business or public entity;
 - (D) Any contaminated water or waste from commercial establishments including but not limited to gas stations, service stations, and auto repair shops with areas exposed to weather conditions;
 - (E) Material from an oil/water separator or an oil/water interceptor, grit trap or grease trap. Any oil/water separator or interceptor users who are discharging to the MS4 shall notify the city of the existence of such connections to the MS4 within sixty (60) days of the effective date of this article. If such notification is not made during the allocated sixty (60) days, then the detected connections to MS4 of a oil/water separator or interceptor shall be considered an illicit connection and the city reserves the right to terminate such connection immediately, without prior notice;
 - (F) Any release from a petroleum underground storage tank (PUST), or any leachate or runoff from soil contaminated by a leaking PUST, or any discharge of pumped, confined, or partially treated wastewater from the remediation of any such PUST unless release satisfies all of the following criteria:

- (i) Is in compliance with all municipal, state, and federal laws;
- (ii) No discharge contains any harmful quantity of any pollutant; and
- (iii) The discharge shall not have a pH value lower than 6.0 or higher than 10.5;

(G) Any public or private underground utility manhole, including but not limited to electric power, gas pipeline, cable companies, telephone companies, the collected water, due to rain, surface runoff, cross connection, or illegal discharge;

(H) Any effluent from a cooling tower, condenser, compressor, emissions scrubber, emissions filter, or the blowdown from a boiler;

(I) Any type of wastewater from residential, commercial or industrial sources, any domestic sewage or septic tank waste;

(J) Any runoff or wash down water from any animal pen, kennel, or fowl or livestock containment area;

(K) Any swimming pool water or filter backwash from a swimming pool or fountain, discharge from a water line if it has been disinfected by super-chlorination, any other chemical has been used in line disinfection, or other means and the total residual chlorine exceeds the Surface Water Quality Standard of the State of Texas .

(6) No person shall apply used oil or other vehicle fluid to a road or land for dust suppression, weed abatement, or other similar use that introduces used oil contamination into the environment;

(7) No person shall introduce any type of hazardous waste generated in and around a household including, but not limited to batteries, used paints, solvents, used pesticide, and used toiletries into the MS4;

(8) No person shall use, dispose of, discard, store, or transport an insecticide, herbicide, or fertilizer, in a manner inconsistent with the proper usage, storage, transport and disposal set out in the labeling in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), such that a harmful quantity of the pesticide, herbicide, or fertilizer may enter the MS4.

(9) No person shall wash a commercial dumpster, or residual ready-mix concrete from concrete mixing trucks, in an area where it discharges into MS4.

(d) Mandatory reporting and clean-up of any discharge or release.

(1) The person in charge of any facility, vehicle, or other source of any spilling, leaking, pumping, pouring, emitting, emptying, discharging, escaping, leaching, disposing, or any other release of any of the following quantities of any of the following substances that may enter the MS4, surface water of the state or waters of the U.S., shall immediately notify by telephone the police department concerning the incident:

(A) An amount equal to or in excess of a reportable quantity of any hazardous or extremely hazardous substance, as established under 40 CFR parts 302 and 355, respectively;

- (B) An amount of oil that either: (i) violates applicable water quality standards; or (ii) causes a film or sheen upon or discoloration of the surface of the water or an adjoining shoreline or causes a sludge or emulsion to be deposited beneath the surface of the water or upon an adjoining shoreline; or
 - (C) Any harmful quantity of any pollutant.
- (2) Upon receipt of the police incident report, the Public Works department will work with the point of contact to gather the following information:
- (A) The identity or chemical name of the substance released, and whether the substance is an extremely hazardous substance;
 - (B) The exact location of the release, including any known name of the waters involved or threatened and any other environmental media affected;
 - (C) The time and duration (thus far) of the release;
 - (D) An estimate of the quantity and concentration (if known) of the substance released;
 - (E) The source of the release;
 - (F) Any known or anticipated health risks associated with the release and, where appropriate, advice regarding medical attention that may be necessary for exposed individuals;
 - (G) Any precautions that should be taken as a result of the release;
 - (H) Any steps that have been taken to contain and/or clean up the released material and minimize its impacts; and
 - (I) The names and telephone numbers of the person or persons to be contacted for further information.
- (3) Within fifteen (15) days following such reportable release, the responsible person in charge of the facility, vehicle, or other source of the release shall submit, unless waived by the city, a written report containing the information specified above in subsection (2) above as well as the following additional information:
- (A) The ultimate duration, concentrations, and quantity of the release;
 - (B) All actions taken to respond to, contain, and clean up the released substances, and all precautions taken to minimize the impacts;
 - (C) Any known or anticipated acute or chronic health risks associated with the release;
 - (D) The identity of any governmental/private sector representatives responding to the release; and
 - (E) The measures taken or to be taken by the responsible persons to prevent similar future occurrences.
- (4) The notifications required by subsections (2) and (3) shall not relieve the responsible person of any expense, loss, damage, or other liability which may be incurred as a result of

the release, including any liability for damage to the city, to natural resources, or to any other person or property; nor shall such notification relieve the responsible person of any fine, penalty, or other liability which may be imposed pursuant to city ordinance, or state or federal law.

- (5) Any person responsible for any release as described in this subsection shall comply with all state, federal, and local law requiring reporting, cleanup, containment, and any other appropriate remedial action in response to the release.
- (6) Any person responsible for a release described in this subsection shall reimburse the city for any cost incurred by the city in responding to the release.

Sec. 014 Right of entry; inspections; and sampling

- (a) The city building officials, code compliance officer, city engineer, environmental program manager, and designees are authorized to enter and inspect sites and facilities subject to regulation under this article or discharging stormwater to the city's MS4 to determine if the discharger is complying with all requirements of this article and any state or federal discharge permit, limitation, or requirement.
- (b) Facility operators shall allow such city staff access to all parts of the premises for the purposes of inspection, sampling, records examination, photo recording, and copying of records that must be kept under this article, NPDES, TPDES or TXR150000, as it may be amended, permit to discharge stormwater, including pollution control measures or modifications thereto, self-inspection reports, monitoring records, compliance evaluations, notices of intent, and any other records, reports, or documents related to compliance with this article and with any state or federal stormwater discharge permit.
- (c) City staff shall have the right to set-up on any permitted facility such devices as are necessary in the opinion of the staff to monitor and/or sample the facilities or the site's stormwater discharge.
- (d) Any temporary or permanent obstruction to safe and easy access to the facility or site to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the city staff and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- (e) The City may require, at its reasonable discretion, any discharger to conduct specified sampling, testing, analysis, and other monitoring of its stormwater discharges, and may specify the frequency and parameters of any such required monitoring.
- (f) The City may require, at its reasonable discretion, the discharger to install monitoring equipment at the discharger's expense. The facility's sampling and monitoring equipment shall be always maintained in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow, wastewater and quality shall be calibrated to ensure their accuracy.
- (g) Where a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make necessary arrangements

so that, upon presentation of suitable identification, the city staff will be permitted to enter without delay for the purposes of implementing and enforcing this article.

- (h) The city inspector may seek issuance of a search warrant from any court of competent jurisdiction if the city inspector has been refused access to any part of the premises from which stormwater is discharged, and is able to demonstrate probable cause to believe that there may be a violation of this article or any state or federal discharge permit, limitation or requirement, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the city designed to verify compliance with this article or any order issued hereunder, or to protect the overall public health, safety and welfare of the community.

Sec. 015 Schedule of penalties

(a) Administrative penalties and stop-work orders.

- (1) If the City finds a person in violation with this article, it may order compliance by providing written notice of violation to the responsible person or may issue a stop work order. The notice shall provide a description of the violation, actions required for compliance, and any remediation requirements. If the property must be remediated, the notice must establish a deadline to restore the site. The notice must further advise that, if the violator fails to remediate the site by the deadline, a designated governmental agency or contractor may restore the site at the expense of the violator.
- (2) Notice of violations and assessments of administrative penalties made pursuant to this article shall be hand delivered, sent by courier service or mail to the property owner, site operator, or contractor informing them of the violation and assessment of penalties. Notices sent by regular mail shall be deemed delivered within three business days after their placement with the United State Postal Service.
- (3) The City hereby establishes an administrative penalty in the amount of \$500 for each day a violation exists. The administrative penalty shall be assessed beginning the first day of violation.

(b) Appeal of Notice of Violation.

- (1) An aggrieved person may request an appeal hearing before a hearing officer(s) appointed by the City Manager within fifteen (15) business days after the date on the notice provided in compliance with article. The hearing officer(s) shall evaluate all information offered by the aggrieved person at the hearing. The aggrieved person shall bear the burden of proof to show why, by preponderance of the evidence, the administrative penalty should not be assessed. The hearing officer(s) shall render a decision in writing within three (3) business days of the conclusion of the hearing. Receipt of the decision of the hearing officer(s) by the aggrieved person is presumed on the third business day after the city mails the decision of the hearing officer(s) to the aggrieved person.
- (2) The aggrieved person may appeal the decision from the hearing officer(s) in writing to the City Manager within seven (7) business days from the date the City mails the

decision of the hearing officer(s) to the aggrieved person. In the written appeal, the aggrieved person shall provide the factual basis for the appeal and describe why the decision of the hearing officer(s) is not supported by the evidence. The City Manager shall promptly review the appeal. The decision by the City Manager is final.

(3) If the violation remains uncorrected after 10 calendar days pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, the City or its authorized representatives may enter the regulated property to take the necessary actions to abate the violation and/or restore the property. The City shall provide notice of the cost of abatement with such costs being payable to the City within thirty (30) days. If the charges are not paid as required, the charges shall become a special assessment against the property and shall constitute a lien on the property for the assessment.

- (c) Civil Penalty. Pursuant to Texas Local Government Code, Chapter 54, the City may authorize the filing of a lawsuit seeking injunctive relief and court imposed civil penalties up to five thousand dollars (\$5,000.00) a day for discharges in violation of this article.
- (d) Criminal Penalty. A conviction for a violation of any provision of this Ordinance shall constitute a class C misdemeanor. A person convicted of a violation of any provision of this Ordinance shall be fined an amount not to exceed two thousand dollars (\$2,000.00) per violation. Each violation of this Ordinance shall constitute a separate offense, and each day a violation continues shall be considered a new offense.
- (e) Other remedies. The remedies provided for in this subdivision are cumulative of each other and of any other remedy provided for or allowed by law. In addition to any other remedy allowed by law, the City may seek injunctive relief in any court of proper jurisdiction to restrain or enjoin a violation of any provision of this Ordinance.

Stormwater Pollution Prevention Ordinance

Public Works Department

- I. Pollution Prevention and Erosion Control at Construction Sites
- II. Non-Illicit Discharge Examples
- III. Illicit Discharge Examples
- IV. Best Practices to Prevent Illicit Discharges (Chlorinated Pools)
- V. Enforcement / Schedule of Penalties



Best Practices for protecting your job site from the rain:

STABILIZED CONSTRUCTION ENTRANCE/EXIT



STORM DRAIN PROTECTION



PERIMETER PROTECTION (Silt Fencing, Straw Wattles, Filter Socks, etc.)



DRYWELL PROTECTION



DESIGNATED CONCRETE WASH-OUT STATION



//// CONSTRUCTION BMPs ////



Concrete Washouts Create a containment structure for your concrete washout.



Storm Drain Inlet Protection Protect all inlets around your construction site.



Perimeter Protection Protect the area inside your construction zone with perimeter protection.



Site Stabilization Prevent erosion by adding containment around areas with a slope.



Construction Entrances/Exits Build entrances properly sized for construction vehicles to remove dirt from tires.



Chemical Storage Store hazardous materials and substances under cover and use secondary containment devices.



Non-Illicit Discharge Examples

- Discharges from firefighting activities
- Dechlorinated swimming pool discharges
- Individual residential vehicle washing
- Uncontaminated water used to control dust
- Uncontaminated air-conditioning condensate
- Uncontaminated water used to control dust
- Runoff from landscape irrigation



Illicit Discharge Examples

- Chlorinated water where total residual chlorine exists in any harmful quantity
- Contaminated water or waste from commercial establishments
- Any runoff or wash down water from any animal pen
- Any motor vehicle fluids
- flammable or explosive liquid
- domestic sewage or septic tank waste
- any type of household hazardous waste



Best Practices to Prevent Illicit Discharges (Chlorinated Pools)

Septic Sewer System Customers

- **DO NOT drain chlorinated pools into your septic sewer system as it can cause system failure**
- Allow the water to sit in the sun 5 to 10 days without adding chlorine or other chemicals before draining to yard or landscape areas.
- Using a chlorine test kit, verify that your water is dechlorinated. (0.5ppm or less for chlorine, 200ppm or less for cyanuric acid) and does not exceed the Surface Water Quality Standard of the State of Texas
- Drain slowly enough to grassy or landscaped areas of your property and avoid flooding of neighboring property.



SAWS/FOR Sewer System Customers

- Follow best practices of a septic sewer system customer or
- Locate the sanitary sewer cleanout pipe on your property. Sanitary sewer cleanout pipes are typically located somewhere near the front of the house (sometime hidden in a flower bed) and made of white PVC pipe.
- Using a hose, connect a siphon or sump pump (no more than 50 gallons/minute) to the sanitary sewer cleanout. Keep at least a two-inch gap between the hose and the cleanout pipe.
- Be sure to remember to replace the cleanout pipe cover when pumping is complete.



Enforcement / Schedule of Penalties

Administrative Penalties & Stop Work Order

- Written Notice of Violation or Stop Work Order
- \$500 a day violation exists
- Appeal process for Notice of Violation

Civil & Criminal Penalties

- Civil-up to \$5,000 a day
- Criminal not to exceed \$2,000 per violation
- Other remedies-injunctive relief



Item #11.



CITY OF FAIR OAKS RANCH
ENGINEERING SERVICES DEPT.
VIOLATION NOTICE



STOP WORK ORDER

This is to inform you that as of _____ the project at
(Date)

_____ is in violation of City Ordinance Sec 1.10.0 _____ due to
(Address)

(Description of Violation)
You are instructed to **STOP** work until the project has completed the following

(Actions Remediation Required for Compliance)

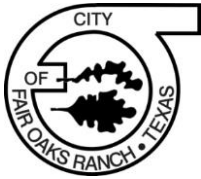
by this date and time

(Deadline for Remediation Requirements)

Failure to remediate the site by the deadline will result in third party restoration of the site at the expense of the violator. Once City staff has verified there are no further actions or remediations needed for compliance work may recommence.

For information on this STOP WORK ORDER call

Katherine Schweitzer
Engineering Services Dept.
City of Fair Oaks Ranch
Telephone: (210) 698-0900



CITY COUNCIL CONSIDERATION ITEM
CITY OF FAIR OAKS RANCH, TEXAS
January 6, 2022

AGENDA TOPIC: Consideration and possible action approving the first reading of an Ordinance amending the City of Fair Oaks Ranch Code of Ordinances Chapter 12 "Traffic & Vehicles" Article 12.04 "Operation of Golf Carts on Public Streets" by establishing regulations for the operation of recreational off-road vehicles and utility vehicles on city-owned streets and providing additional clarification regarding child safety restraints as defined by the Texas Transportation Code.

DATE: January 6, 2022

DEPARTMENT: City Council and Police Department

PRESENTED BY: Scott Parker, Council Member, Place 5
 Chesley Muenchow, Council Member, Place 6
 Tim Moring, Chief of Police

INTRODUCTION/BACKGROUND:

Our city is a bedroom community which desires to retain that flavor. As a council and staff, we are committed to fulfilling our residents expressed desires to protect our quality of life, provide for public health and safety, and protect existing investment and valued community assets. In November 2017, the city found it to be in the best interest of the citizens to retain the right to operate golf carts on our city streets. In accordance with Texas Transportation Code Chapter 551 Subchapter F, City Council, under Ordinance 2017-12, established golf cart regulations. This ordinance can be found in the city's Code of Ordinances Chapter 12 "Traffic & Vehicles" Article 12.04 "Operation of Golf Carts on Public Streets".

At the October 7, 2021 regular business meeting, Council Members Muenchow and Parker sponsored an agenda item to discuss the possibility of allowing recreational off-road vehicles and utility vehicles on city-owned streets. During the discussion, it was noted that UTV's are the vehicle of choice by many residents in the more rural, equestrian, ranch, and farming areas of the City because unlike golf carts, they are designed for more intensive uses such as farming and ranching. The Texas Transportation Code Chapter 551 defines these types of vehicles as off-highway vehicles. Furthermore, it grants cities the authority to control the operations of said motor vehicles on its streets and to prescribe reasonable and safe restrictions related to the stopping, standing, and parking of said vehicles.

At the December 2, 2021 regular business meeting, Council members Muenchow and Parker volunteered to work with the City Manager and Chief of Police to review the existing golf cart ordinance and frame proposed amendments allowing for the use off-road vehicles and utility vehicles on certain roadways within the City. The proposed ordinance before you amends Chapter 12 Article 12.04 with the inclusion of the following:

- A definition of Recreational Off-Road Vehicles and Utility Vehicles as off-highway vehicles.

- Expanded clarification of the operations of golf carts and off-highway vehicles with child passengers to include legal requirements regarding safety restraints as defined by Texas Transportation Code
- Certain exemptions to off-highway vehicle usage under certain circumstances.

POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:

Preservation of quality-of-life characteristics through compliance with state law.

LONG-TERM FINANCIAL & BUDGETARY IMPACT:

None at this time.

LEGAL ANALYSIS:

Approved to form.

RECOMMENDATION/PROPOSED MOTION:

I move to approve the first reading of an ordinance amending the City of Fair Oaks Ranch Code of Ordinances Chapter 12 "Traffic & Vehicles" Article 12.04 "Operation of Golf Carts on Public Streets" by establishing regulations for the operation of recreational off-road vehicles and utility vehicles on city-owned streets and providing additional clarification regarding child safety restraints as defined by the Texas Transportation Code.

AN ORDINANCE

AN ORDINANCE OF THE CITY OF FAIR OAKS RANCH, TEXAS AMENDING THE CITY OF FAIR OAKS RANCH CODE OF ORDINANCES CHAPTER 12 "TRAFFIC & VEHICLES" ARTICLE 12.04 "OPERATION OF GOLF CARTS ON PUBLIC STREETS; PROVIDING FOR A PENALTY CLAUSE; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, Chapter 551, Subchapter F, of the Texas Transportation Code, to allow for the operation of off-highway vehicles within municipalities under certain conditions; and

WHEREAS, the Texas Transportation Code grants to municipalities the authority to control the operations of motor vehicles using its streets and to prescribe reasonable and safe restrictions related to the stopping, standing and parking of vehicles; and

WHEREAS, in November 2017 the City Council passed and approved Ordinance 2021-17 regulating the use of golf carts on city-owned streets; and,

WHEREAS, the Texas Transportation Code includes recreational off-road vehicles and utility vehicles as off-highway vehicles; and,

WHEREAS, the City Council has determined it would be advantageous and beneficial to the citizens of the City of Fair Oaks Ranch, Texas and in the best interest of the public health, safety and welfare of the citizens and the public to establish regulations for the operation of golf carts, recreational off-road vehicles, and utility vehicles.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF FAIR OAKS RANCH, TEXAS:

- PART 1.** Chapter 12 "Traffic and Vehicles"; Article 12.04 "Operation of Golf Carts on Public Streets" is hereby amended as set forth in the attached Exhibit A.
- PART 2.** That the recitals contain in the preamble hereto are hereby found to be true and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the City Council.
- PART 3.** It is hereby declared to be the intention of the City Council 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 invalid by judgment or decree of any court of competent jurisdiction, such invalidity 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.
- PART 4.** That it is officially found, determined, and declared that the meeting at which this Ordinance is 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, all as required by Chapter 551, as amended, Texas Government Code.

PART 5. Any person, firm, entity, or corporation who violates any provision of this Ordinance, as it exists or may be amended, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined a sum not exceeding Five Hundred Dollars (\$500.00). Each continuing day's violation under this Ordinance shall constitute a separate offense.

PART 6. This ordinance shall take effect immediately from and after its second reading, passage and publication as may be required by governing law.

PART 7. The repeal or amendment of any ordinance or part of ordinances effectuated by the enactment of this ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying, or altering any penalty accruing or to accrue or as affecting any rights of the City of Fair Oaks Ranch under any section or provisions of any ordinances in effect at the time of passage of this ordinance.

PART 8. The provisions of this ordinance shall be cumulative of all ordinances not repealed by this ordinance and ordinances governing or regulating the same subject matter as that covered herein.

PASSED and APPROVED on first reading this 6th day of January 2022.

PASSED, APPROVED, and ADOPTED on second reading this 20th day of January 2022.

Greg Maxton, Mayor

ATTEST:

APPROVED AS TO FORM:

Christina Picioccio, City Secretary

Denton, Navarro, Rocha, Bernal and
Zech, City Attorney

Exhibit A

Chapter 12 “Traffic and Vehicles” Article 12.04 “Operation of Golf Carts on Public Streets” is hereby amended as follows:

[Deletions shown as strikethrough and additions shown as underscore]

Article 12.04 Operation of Golf Carts and Off-Highway Vehicles on Public Streets

Sec. 12.04.001 Definitions

The following words, terms, and phrases, when used in this article shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Child Passenger Safety Seat System. An infant or child passenger restraint system that meets the federal standards for crash-tested restraint systems as set by the National Highway Traffic Safety Administration.

Driver. The person driving and having physical control over the golf cart.

Driver’s License. An authorization issued by a State for the operation of a motor vehicle. The term includes:

- a) a temporary license or instruction permit; and
- b) an occupational license.

Golf Cart. A motor vehicle designed by the manufacturer primarily for transporting persons on a golf course.

Owner. The person holding title to the golf cart.

Off-Highway Vehicle. For purposes of this ordinance, includes a recreational off-road vehicle and a utility vehicle.

Parking Area. Those areas accessible to the public by motor vehicular traffic and which are designated for temporary parking of motor vehicles, usually in places referred to as parking lots.

Permit. A certificate/decal of authorization issued to the applicant by the City’s Police Department authorizing the operation of the golf cart for which the permit was issued.

Permit Holder. The person to whom a golf cart permit has been issued.

Public Safety Personnel. Any employee or officer of a governmental law enforcement agency.

Public Street. A publicly owned or dedicated road, street, drive, or other right-of-way for the use of vehicles within the corporate boundaries of Fair Oaks Ranch.

Recreational Off-Road Vehicle. A motor vehicle that is:

- a) equipped with a seat or seats for the use of:
 - 1. the rider; and
 - 2. a passenger or passengers, if the vehicle is designed by the manufacturer to transport a passenger or passengers;
- b) designed to propel itself with four or more tires in contact with the ground;
- c) designed by the manufacturer for off-highway use by the operator only; and
- d) not designed by the manufacturer primarily for farming or lawn care.
- e) not less than 50 inches wide.

Sidewalk. The portion of a street that is between a curb or lateral line of a roadway and the adjacent property line and intended for pedestrian use.

Slow-Moving-Vehicle-Emblem. A triangular emblem that conforms to standards and specifications adopted by the Director of the Texas Department of Transportation under Section 547.104 of the Texas Transportation Code and is displayed in accordance with Section 547.703 of the Texas Transportation Code.

Texas Transportation Code. The code as it currently exists or may be amended.

Traffic way. Any land way open to the public as a matter of right or custom for moving persons or property from one place to another. The traffic way includes all property, both improved and unimproved, between the property lines of a roadway system.

Utility Vehicle. A motor vehicle that is not a golf cart, as defined above, or lawn mower and is:

- a) equipped with side-by-side seating for the use of the operator and a passenger;
- b) designed to propel itself with at least four tires in contact with the ground;
- c) designed by the manufacturer for off-highway use only; and
- d) designed by the manufacturer primarily for utility work and not for recreational purposes.

Working Days. Monday through Friday, excluding city holidays.

Sec. 12.04.002 Golf carts & off-highway vehicles permitted and restricted

A person, other than Public Safety Personnel, may operate a golf cart and/or an off-highway vehicle on a public street, parking area and/or traffic way if the person obtains a permit and meets the following requirements:

- a) The maximum speed limit on the public street is thirty-five (35) miles per hour or less;
- b) The person has a valid driver's license;

- c) The person maintains current financial responsibility for the golf cart, as required of other passenger vehicles in Section 601.051 of the Texas Transportation Code;
- d) The person complies with all applicable federal, state and local laws and ordinances;
- e) The golf cart and/or an off-highway vehicle has the following equipment, which must continuously remain in good working and operational order:
 - 1. Two (2) headlamps;
 - 2. Two (2) tail lamps;
 - 3. Side reflectors (two (2) front, amber in color and two (2) rear, red in color);
 - 4. Parking brake (If equipped from manufacturer);
 - 5. Rearview mirror(s), capable of a clear, unobstructed view of at least two hundred feet (200') to the rear;
 - 6. Slow-moving vehicle emblem for golf carts;
 - 7. For Recreational Off-Road Vehicles and Utility Vehicles, a license plate issued by local tax assessor/collectors office as required by the Texas Transportation Code, section 551A.052. This license plate is required for all off-highway vehicle usage within the City except for exemptions provided under Texas Transportation Code, section 551A.057 which reads as follows:
 - b) the production, cultivation, care, harvesting, preserving, drying, processing, canning, storing, handling, shipping, marketing, selling, or use of agricultural products, as defined by Section 52.002, Texas Agriculture Code; or
 - c) utility work performed by a utility;
 - (1) the operator attaches to the back of the vehicle a triangular orange flag that is at least six feet above ground level;
 - (2) the vehicle's headlights and taillights are illuminated;
 - (3) the operation of the vehicle occurs in the daytime; and
 - (4) the operation of the vehicle does not exceed a distance of 25 miles from the point of origin to the destination.
- f) The equipment described herein meets the Texas and Federal Motor Vehicle Safety Standards, as they exist or may be amended; and
- g) While the golf cart and/or an off-highway vehicle is in motion, the driver and every passenger in a golf cart and/or an off-highway vehicle is seated in a seat designed to hold passengers. No person may stand or ride in the lap of the driver and/or other passenger of a golf cart and/or an off-highway vehicle while it is moving.

Sec. 12.04.003 Additional operational regulations for all golf carts & off-highway vehicles

- a) Except for Public Safety Personnel, golf carts and/or an off-highway vehicles shall not be operated on any sidewalk, pedestrian walkway, jogging path, park trail or any location normally used for pedestrian traffic;
- b) All golf carts and/or an off-highway vehicles are entitled to a full use of a lane on the authorized public streets, parking areas and traffic ways of Fair Oaks Ranch, and no motor vehicle shall be driven in such a manner as to deprive any golf cart and/or an off-highway vehicle of the full use of a lane;

- c) The driver of a golf cart and/or an off-highway vehicle shall not overtake and pass in the same lane occupied by the vehicle being overtaken;
- d) No driver shall operate a golf cart and/or an off-highway vehicle between lanes of traffic or between adjacent lines or rows of vehicles;
- e) The driver of a golf cart and/or an off-highway vehicle operating the golf cart and/or an off-highway vehicle on a public street may only cross a multi-lane federal, county or state route at an intersection controlled by an official traffic control device which stops traffic from all directions. The driver of a golf cart and/or an off-highway vehicle may cross a multi-lane road, other than a federal, state, or county route, if it is required to cross from one portion of a golf course to another portion of the same golf course. If a golf cart crossing path is provided for transition between one section of a golf course to another section of the same golf course across a multi-lane road, the operator shall cross at and within the golf cart crossing path;
- f) The number of occupants in a golf cart and/or an off-highway vehicle shall be limited to the number of persons for whom factory seating is installed and provided on the golf cart and/or an off-highway vehicle;
- g) Children must be properly seated while a golf cart and/or an off-highway vehicle is in motion and may not be transported in a reckless or negligent manner.
 - 1. No child younger than eighteen (18) months of age may be transported in a golf cart and/or off-highway vehicle unless restrained in a child passenger safety seat system as defined in this ordinance.
 - 2. No child 18 months of age but less than six (6) years of age may be transported in a golf cart and/or an off-highway vehicle unless restrained by a safety belt restraint.
- h) Golf carts and/or an off-highway vehicle may not be used for the purpose of towing another golf cart and/or an off-highway vehicle, trailer or vehicle of any kind including, without limitation, a person on roller skates, skateboard or bicycle. A person employed by a golf course may tow a golf cart(s) for the purpose relocating the cart(s) from one portion of a golf course to another portion of the same golf course. Towing of a utility trailer, farm and/or landscaping implement, for purposes of property and/or livestock management is exempt from this restriction.

Sec. 12.04.004 Liability

- a) Nothing in this Article shall be construed as an assumption of liability by Fair Oaks Ranch for any injuries (including death) to persons, pets or property which may result from the operation of a golf cart and/or an off-highway vehicle by an authorized driver; and
- b) Owners are fully liable and accountable for the action of any individual that they provide permission to operate and drive said golf cart and/or an off-highway vehicle, both on personal and/or any authorized public streets, parking areas and traffic ways.

Sec. 12.04.005 Permit required

- (a) No person shall operate, cause to be operated or allow the operation of a golf cart and/or an off-highway vehicle on any authorized public streets, parking areas and traffic ways unless a valid permit has been issued for the golf cart and/or an off-highway vehicle or otherwise allowed by law. A permit is not required for golf carts owned or

leased by the golf course and used entirely on the golf course or crossing from one section of a golf course to another section of the same course. A permit is not required for a privately-owned golf cart used entirely on the golf course or crossing from one section of a golf course to another section of the same course. No golf cart exempted from permitting under this section may be operated on any public streets, parking areas and traffic ways for any other purpose; or if crossing a federal, state, or county roadway is necessary to access the driver's property which traverses both side of the roadway.

- (b) Application for a permit authorizing the operation of a golf cart and/or an off-highway vehicle shall be made by a person who owns leases or otherwise uses a golf cart and/or an off-highway vehicle. Such application shall be made in writing to the City's Police Department on a form designated for that purpose. On such application shall be set forth the following:
 - 1. The name, address, telephone number and state driver's license number, if applicable, of the permit holder;
 - 2. The street address where the golf cart and/or an off-highway vehicle is kept, including the particular suite or apartment number, if applicable;
 - 3. The business name used for the premises where the golf cart and/or an off-highway vehicle is kept, if applicable;
 - 4. The year, make, model, color, vehicle identification number or serial number if no vehicle identification number has been issued to the golf cart and/or an off-highway vehicle, electric or gasoline; and
 - 5. The person(s) and location, designated by the City's Chief of Police, that inspected the golf cart and/or an off-highway vehicle, including a certification by said inspector that the golf cart and/or an off-highway vehicle complies with the requirements of this Ordinance before the issuance of a permit;
- (c) The permit shall be permanently affixed on the left side of the golf cart and/or an off-highway vehicle in such a manner that it is clearly visible from fifty feet (50'). The permit must not be damaged, altered, obstructed, or otherwise made illegible. The permit holder shall apply for replacement permit and pay all applicable cost associated with the issuance and inspection of the golf cart and/or an off-highway vehicle;
- (d) The permit shall only be placed upon the golf cart and/or an off-highway vehicle for which it was issued;
- (e) A permit issued to a golf cart and/or an off-highway vehicle shall become invalid if the golf cart and/or an off-highway vehicle is altered in a manner that fails to comply with any requirement of this Ordinance;
- (f) Permits/Stickers are valid until the ownership transfers. The following fee shall apply:
 - 1. Inspection by Police Department \$20.00 (includes Permit/Sticker);
- (g) The permit holder shall notify the city's Police Department within ten (10) working days if the golf cart and/or an off-highway vehicle transfers ownership or the address of the normal storage location has changed. The information shall be submitted on a form designated by the city's Chief of Police;
- (h) Lost or stolen Permit/Stickers are the responsibility of the Owner. A police report must be filed in the event of a lost or stolen Permit/Sticker. If no record can be found of a

previous application, or the receipt of a Permit/Sticker, the City's Chief of Police may direct the applicant to reapply, and also resubmit any and all fees necessary before a replacement Permit/Sticker is issued;

- (i) Any person who operates a golf cart and/or an off-highway vehicle and fails to receive and properly display a City Permit/Sticker will be subject to all applicable state laws, in addition to being in violation of this Ordinance; and
- (j) A permit may be revoked at any time by the city's Chief of Police, or his designee, if there is any evidence that the permit holder cannot safely operate a golf cart and/or an off-highway vehicle on any authorized public streets, parking areas and traffic ways of the City in compliance with this Ordinance.

Sec. 12.04.006 Public Safety Personnel

Public Safety Personnel may operate a golf cart and/or an off-highway vehicle on any public street, parking area and traffic way without any further restrictions when the golf cart and/or an off-highway vehicle is used in the performance of his/her duties.



CITY COUNCIL WORKSHOP ITEM

CITY OF FAIR OAKS RANCH, TEXAS

January 6, 2022

AGENDA TOPIC: Consideration and possible action to approve the first reading of an Ordinance amending the City Council Rules of Procedure

DATE: January 6, 2022

DEPARTMENT: City Secretary

PRESENTED BY: Christina Picioccio, City Secretary

INTRODUCTION/BACKGROUND

By way of background, in 2013, by resolution, City Council adopted Rules of Procedures for all city council meetings. Subsequent amending Resolutions were adopted in 2015, 2017 and 2021.

In May 2017, voters approved, by election, to adopt the city's Home Rule Charter. Section 3.06.E. of the Charter states, "*City Council shall, except as otherwise provided for in this Charter, create Rules of Procedure for all City Council workshops, regular and special meetings and public hearings by ordinance*".

In September 2018, prior to completing the conversion process from a resolution to an ordinance, a request was made of staff and city council members to review the procedures current at that time and provide the Assistant City Manager with any recommendations. The Assistant City Manager incorporated all council comments and presented for council discussion at the August 15, 2019 council meeting. Council discussed the proposed Rules of Procedures and requested that this topic be brought back as a workshop item at a future meeting.

On February 4, 2021 council voted to amend Part II Rule 4 changing the meeting time of the regular city council meeting held on the first Thursday of each month from 6:30 AM to 6:30 PM. No other changes were made at that time. At the August 5, 2021 city council meeting Council Member Elizondo requested that the City Council Rules and Procedures be brought for council to review and update.

The City Secretary's Office provided council the most recent ordinance passed in February 2021 as well as the proposed "marked-up" 2019 version to receive council recommendations.

This agenda item was originally brought to council for discussion and possible action at the October 7, 2021 council meeting. Due to the nature of the item and the voluminous discussion anticipated, the discussion was postponed and set as a stand-alone workshop.

Council met to discuss at a special meeting held on October 25, 2021, November 16, 2021, and December 14, 2021. Tonight's agenda item is to review the draft Rules of Procedure, make any final adjustments and possibly approve the first reading of the Ordinance.

POLICY ANALYSIS/BENEFIT(S) TO CITIZENS

1. Complies with the requirement of the City Charter, Section 3.06.E in creating a Rules of Procedure for all City Council workshops, regular and special meetings and public hearings by Ordinance.
2. Provided City Council and staff the opportunity to review and recommend enhancements to the current City Council Meeting Rules of Procedures.
3. Provides transparency.

LONGTERM FINANCIAL & BUDGETARY IMPACT

N/A

LEGAL ANALYSIS

Legal reviewed and approved as to form.

RECOMMENDATION/PROPOSED MOTION

I move to approve the first reading of an Ordinance amending the City Council Rules of Procedure.

AN ORDINANCE

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAIR OAKS RANCH
CREATING AND ESTABLISHING RULES OF PROCEDURE; AND PROVIDING FOR
SEVERABILITY AND AN EFFECTIVE DATE

WHEREAS, Section 3.06.E of the City Charter states, “City Council shall, except as otherwise provided for in this Charter, create Rules of Procedure for all City Council workshops, regular and special meetings and public hearings by ordinance”; and

WHEREAS, the City Council has determined that it is in the best interest of the citizens of Fair Oaks Ranch for there to be a broader range of specificity in the manner by which the City Council conducts itself and its business; and,

WHEREAS, state law allows for the City Council to adopt rules that govern how it conducts business; and,

WHEREAS, the City Council of the City of Fair Oaks Ranch, Texas desires to create and establish Rules of Procedure to better serve the interest of the public.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAIR OAKS RANCH TEXAS:

- PART 1.** That the City of Fair Oaks Ranch hereby adopts the Rules of Procedure as set forth in the attached **Exhibit A**
- PART 2.** That the recitals contain in the preamble hereto are hereby found to be true and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.
- PART 3.** It is hereby declared to be the intention of the City Council 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 invalid by judgment or decree of any court of competent jurisdiction, such invalidity 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.
- PART 4.** That it is officially found, determined, and declared that the meeting at which this Ordinance is 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, all as required by Chapter 551, as amended, Texas Government Code.
- PART 5.** This ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.
- PART 6.** The repeal or amendment of any ordinance or part of ordinances effectuated by the enactment of this ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying,

or altering any penalty accruing or to accrue or as affecting any rights of the City of Fair Oaks Ranch under any section or provisions of any ordinances in effect at the time of passage of this ordinance.

PART 7. The provisions of this ordinance shall be cumulative of all ordinances not repealed by this ordinance and ordinances governing or regulating the same subject matter as that covered herein.

PASSED and APPROVED on first reading this 6th day of January 2022.

PASSED, APPROVED, and ADOPTED on second reading this 20th day of January 2022.

Gregory C. Maxton, Mayor

ATTEST:

APPROVED AS TO FORM:

Christina Picioccio, City Secretary

Denton Navarro Rocha Bernal & Zech, P.C.,
City Attorney

EXHIBIT A

CITY OF FAIR OAKS RANCH RULES OF PROCEDURE

CITY COUNCIL MEETING RULES OF PROCEDURE

General Provisions

Rule 1. Scope of Rules. These rules shall govern the conduct of the Council and shall be interpreted to ensure fair and open deliberations and decision making. In general, these rules shall be interpreted to allow the majority to prevail but preserve the right of the minority to be heard.

Rule 2. Rulings; Matters Not Covered. The Presiding Officer, as defined by Rule 15, shall rule, initially, on all questions of procedure. The latest edition of *Robert's Rules of Order*, shall to the extent feasible, govern the proceedings of meetings. The City Secretary or authorized representative shall act as Parliamentarian for Council Meetings.

Rule 3. Interpretation. These rules are intended to supplement and shall be interpreted to conform with the statutes of the State of Texas and the ordinances of the City of Fair Oaks Ranch.

Time and Place of Meetings

Rule 4. Regular Meetings. The City Council shall meet in regular session on the first Thursday and third Thursday in each calendar month beginning at 6:30 PM in the Fair Oaks Ranch Council Chambers or other appropriately posted location. The City Council, by a majority vote, may reschedule or cancel any regular meeting in a manner consistent with Open Meetings or other established requirements. The City may broadcast the regular meetings online and such method will be posted with the regular meeting notice for the public.

Rule 5. Special Meetings. A special meeting is any meeting, other than a regular meeting, where a quorum of Council Members is present to deliberate public business that the City Council has supervision or control over the topic being deliberated.

- A. Special meetings shall be called at the request of the Mayor or City Manager or at the written request of four Council Members to the City Secretary's office. Said meetings will be held at the time and place as posted on the meeting agenda. The City may broadcast special meetings online and such method will be posted with the special meeting notice for the public.
- B. Each member of the Council, the City Manager, the City Secretary, and the city attorney shall be notified of the special meeting.

Rule 6. Executive Sessions. The City Council may meet in executive session in compliance with the Texas Open Meetings Act. The Council will invite any necessary individuals needed for the executive session. A vote, if needed, on a matter discussed in an executive session will be made in an open meeting, and not in executive session.

Rule 7. Absence of a Quorum. A regular or specially called meeting cannot be called to order or continued in the absence of a quorum.

City Council Agenda and Agenda Packet

Rule 8. Agenda. The Meeting Notice ("Agenda"). The agenda includes the meeting notice. The agenda is approved by the Mayor.

- A. Any member of City Council, outside of a City Council meeting, may place an item on an agenda by submitting a request in writing, to the City Secretary.
- B. At a meeting of City Council, any member of City Council may place an item on an agenda by making a request to place the item on a future agenda. No discussion shall occur at the meeting regarding the placement of the item on a future agenda.
- C. The City Manager may place any item on any City Council agenda.
- D. An item proposed by a Council Member may not be refused or postponed without the Council Member's consent.

Rule 9. Agenda Packet. The agenda packet includes the meeting notice ("Agenda") and any supporting documentation for agenda items. The City Manager shall supervise the preparation and approve the agenda packets for all meetings of the City Council.

Upon approval, agenda packets will be sent electronically, by the City Secretary's Office, to Council Members and the City Attorney and, can be picked up at City Hall during normal business hours.

Council Members may provide supportive documents to any agenda items that they own to the City Secretary's office in accordance with the packet preparation schedule.

Rule 10. Consent Agenda. The City Manager may separately designate items as consent items which shall be placed under Consent Agenda on the agenda and be acted upon by the Council under Rule 27. At the City Council meeting, an item may be pulled from the Consent Agenda and placed in the appropriate location of agenda at the request of any member of the City Council.

Conduct of Meetings

Rule 11. Roll Call. Before proceeding with the business of the Council, the City Secretary determines the presence of a quorum as required by law and these rules by calling the roll of Members present and entering those named in the minutes.

Rule 12. Presiding Officer. The Mayor, or in the Mayor's absence or inability to perform, the Mayor Pro Tem, shall be the Presiding Officer at all Council meetings. If both the Mayor and Mayor Pro Tem are absent or unable to perform, the most senior Council Member present shall preside. In the event two or more Members equally possess the greatest seniority, then the eldest person among them shall preside. For this purpose, seniority is measured by current, continuous service on the City Council. The Mayor Pro Tem shall be a Council Member elected by the City Council at the first regular City Council meeting following each regular City election.

Rule 13. Call to Order. The Presiding Officer shall call the meeting to order.

Rule 14. Control of Discussion. The Presiding Officer shall moderate discussion of the Council on each agenda item to assure full participation in accordance with these rules and Robert's Rules of Order. The Presiding Officer will preserve order and decorum, preventing the impugning of any member's motives or other personal comment not relevant to the orderly conduct of business. All persons present in the meeting room should refrain from abusive, rude or inappropriate conduct.

Rule 15. Agenda Items. Each item will be considered in the numerical order as listed on the meeting notice unless otherwise approved by Council as defined in Rule 29. Each agenda item shall be introduced by the Presiding Officer. The standard procedure is as follows for addressing agenda items:

1. Reading of the item by the Presiding Officer. A majority of the Council may require reading ordinances or resolutions by caption.
2. The Presiding Officer will call upon the agenda item owner to present the item.
3. A Council Member may request and receive information, explanations or the opinions of the presenter or City Manager. It is preferred that all such questions of the presenter are conducted prior to any motions, if possible.
4. Ask for citizen comments and/or questions. Comments shall be no more than five minutes per citizen and may be terminated at the discretion of the Presiding Officer. Citizens may ask questions of the presenter and provide comments to the Mayor or any Council Member. Any member of the council may also ask questions of the citizen.
5. If applicable, the Presiding Officer shall ask for a motion; if made, ask if there is a second. If seconded, proceed to the next step. If no motion or second is made, item dies due to lack of motion.
6. Discussion held amongst Council Members on item motion. The Presiding Officer will offer the opportunity for each Council Member to speak once on a motion before allowing a Council Member to speak a second time. The Council Member who made the motion will be afforded the opportunity to speak first in favor of their motion.
8. Unless required by law or a Council Member requests a roll call vote, informal voting (Rule # 24) shall be used.

Rule 16. Limit on Remarks. Each Council Member shall limit their relevant remarks to a reasonable length.

Time limits for Council Member comments may be set for specific agenda items, or any single meeting, by a majority vote of the Council Members present. If limits will be set for a specific agenda item, it must be voted on prior to the agenda item motion.

Rule 17. Presiding Officer's Right to Speak Last. The Presiding Officer has the right to speak last on any item.

Rule 18. Closing Motion Discussion. Discussion shall be closed on any item by the Presiding Officer with the concurrence of a majority of the Council present, or by calling the question by any Council Member so long as all Council Members have been afforded the opportunity to speak at least once.

Rule 19. Council Member Closing Announcements. At every Regular Council Meeting Council Members are given the opportunity to provide announcements or reports under the appropriate agenda item.

Rule 20. Comments Out of Order. Council Members shall not sign up to speak during Citizens to be Heard. Council Members will refrain from speaking unless recognized by the Presiding Officer.

Council Action

Rule 22. Motion Required. All actions requiring a vote shall be moved by a Council Member. A Council Member may make a motion to amend a motion. The amendment must receive a second before it may be discussed and must be voted on prior to voting on the main motion. A motion may be withdrawn or modified by its mover without asking permission. It is considered a motion, if a Council Member formally states, "I move to" or "I so move". Any other comments made by a Council Member regarding a potential motion or consideration of an amendment will not be considered a motion until formally stated.

Rule 23. Recording Names of Moving Members. The City Secretary shall record the name of the Council Member making each motion and seconding each motion.

Rule 24. Call for Vote. At the conclusion of the discussion or if a Council Member calls the question and is seconded, the Presiding Officer shall call for a vote by voice, show of hands or roll call. The Presiding Officer shall announce the results of the vote.

Roll call votes are called *in order of council places*. If a Member does not wish to vote, they answer *present or abstain*.

Rule 25. Abstentions. When abstaining, the member shall state they are abstaining and, if they choose, provide reason as to the abstention. The abstention votes will be recorded in accordance with Robert's Rules.

Rule 26. Recusals. If a member has a conflict of interest as defined by the Texas Local Government Code, Chapter 171, the member shall file an affidavit (See Appendix A) stating the nature and extent of the interest, with the City Secretary, in advance of the meeting.

Rule 27. Separate Consideration. Except as otherwise required by these rules, each agenda item shall be voted upon separately with the vote recorded by the City Secretary. Motions and votes within an agenda item may be split, as desired by City Council. City Council, by approval of a motion, reserves the right to group agenda items for consideration.

Rule 28. Action on Consent Agenda. The Consent Agenda shall be considered as a group, without separate discussion on each item. If any Consent Agenda items are removed, the Presiding Officer shall ask for a motion on the remaining Consent Agenda items.

Rule 29. Consideration Out of Agenda Order. At the request of a Council Member and with the consent of the Council any agenda item may be considered out of Agenda order.

Rule 30. Council Action to Withdraw or Defer. A Council Member wishing to withdraw or defer an item may make a motion to that effect.

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Citizen Participation

Rule 31. Public Participation during Council Meetings. Comments and suggestions by the public are highly valued and encouraged during those parts of a meeting designated for public participation. Speakers shall register to speak in advance. If a topic is on the agenda public comments will be heard during the agenda item. If the topic is not on the agenda public comments will be heard during Citizens to be Heard.

When called forth, the speaker wishing to comment shall step to the microphone, and state their name, city of residence, or county of residence if they do not reside in a city. The Presiding Officer shall encourage speakers to keep comments civil and refrain from including abusive, rude, or inappropriate language.

Rule 32. Citizens to be Heard

Citizens to be Heard will be placed on the agenda before the Consent Agenda and Consideration Items.

In accordance with the Open Meetings Act the Council may not discuss or take action on any item which has not been posted on the agenda. The Presiding Officer may refer a matter raised during Citizens to be Heard for investigation, response, or other action by staff. Speakers should limit their comments to five minutes each and direct all remarks to Council.

In lieu of appearing in person public comments may be submitted in writing (hard copy or electronically) to the City Secretary and received by the City Secretary 24 hours in advance of the meeting. The written comment must include the individual's name, city of residence, or county of residence if they do not reside in a city. The submission must clearly identify the requestor's desire for the comment to be presented at the council meeting. Comments must be limited to 750 words. All written comments will be presented during Citizens to be Heard. The Presiding Officer has discretion on how the comments will be presented.

Rule 33. Total Time Limits. Total time for public comment on any subject under Council consideration can be limited to a fixed period by the Presiding Officer. A majority vote of the Council may extend the time limitations of this rule.

Part VII. Miscellaneous

Rule 34. Suspension or Adjustment of Rules. These rules or any part hereof may be suspended or adjusted for a specific purpose, or any single meeting, by a majority vote of the Council Members present.

ELECTION CALENDAR FOR MAY 7, 2022

January 19	First day to File Application for Candidacy First day for Filing Declaration of Write-in Candidacy
February 3 or 17	City Council Orders General Election Resolution Authorizing Joint Agreement & Authorizing CM to Sign
February 18	Last Day for Filing Application for Candidacy
February 22	Last Day for a Write-in Candidate to Declare Candidacy
February 23	General Election may be Cancelled if No Candidate is Opposed on Ballot
February 25	Last Day for a Ballot and Write-in Candidate to Withdraw from Election
February 28	Draw for order of Names on the Ballot – 4:00 PM
April 7	Due Date for Filing First Report of Campaign Contributions and Expenditures by Opposed Candidates (30th Day Before Election)
April 19 or 22	Publish Notice of Election in Boerne Star
April 25	First day for Early Voting in Person
April 29	Due Date for Filing Second Report of Campaign Contributions and Expenditures by Opposed Candidates (8th day before election)
May 3	Last day of Early Voting in Person
May 7	Election Day Post Unofficial Tabulation of Results
May 10-18	<i>Special Council Meeting Required to Canvass Election</i> Issue Certificates of Election and Sign Statement of Elected Officer
May 19	Perform Oath of Office Per Home Rule Charter - First Day Elected Officials May Assume Duties of Office

*Dates/process subject to change
Dec 7, 2021*