



PLANNING & ZONING COMMISSION

Tuesday, February 25, 2025, 6:00 PM

EVENT CENTER 60 MORGAN'S POINT BOULEVARD

Call to Order

Announcements and Citizens Comments

Presentations

1. Approval of Minutes

- a. Discuss and Consider approving minutes for January 30, 2025 meeting

2. Regular Agenda

- a. Discuss and consider: Chapter 4 Business Regulations, Article 4.06(new)
- b. Discuss and consider: ADA requirements for new and existing organizations in MPR
- c. Discuss and consider: Additional Yes/No questions on P&Z membership application as requested by City Council
- d. Discuss: Comprehensive Plan reviews, adjustments and recommendations (including Steering Committee) to City Council
- e. Discuss: Special Use Permit application for 43 Oakmont Circle, Morgan's Point Resort TX

3. Items for Future Agendas

4. P & Z Commission Updates & Comments

5. Staff Updates

6. Adjournment

I certify that a copy of the __2-25-2025__ agenda of items to be considered by the Morgan's Point Resort was posted and could be seen on the City Hall bulletin board on the __2-21-2025__ at 4:00PM and remained posted continuously for at least 72 hours succeeding the scheduled time of the meeting. I further certify that the following news media were properly notified of the above stated meeting: Belton Journal. The meeting facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodation or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary's office at 254 742-3206 for further information

Camille Bowser, City Secretary



PLANNING & ZONING COMMISSION
Thursday, January 30, 2025, 6:00 PM
EVENT CENTER 60 MORGAN'S POINT BOULEVARD

Call to Order

Meeting called to order by Chairperson, Ken Hobbs, at 6:00pm

PRESENT

Justin Strawn
Louis Guillaud
Ken Hobbs
Thomas Westmoreland
Leslie Minor

CTCOG Planner, Sam Agha

Announcements and Citizens Comments

N/A

Presentations

N/A

1. Approval of Minutes

- a. Discuss and Consider - Approving November 26, 2024, minutes

Motion made to approve November 26, 2024, minutes

Motion made by Minor, Seconded by Guillaud.

Voting Yea: Strawn, Hobbs, Westmoreland

Passed

2. Regular Agenda

- a. Discuss and Consider - Adjustments to Section 23 and 24 of Appendix B to make corrections to Planning and Zoning Commission definitions and membership

Motion made to approve corrections made to Appendix B, Sections 23 and 24, and those corrections will be brought to council.

Motion made by Minor, Seconded by Westmoreland.

Voting Yea: Strawn, Guillaud, Hobbs

Passed

- b. Discuss and Consider - Planning and Zoning vacancies for approval by City Council to reach out for volunteers

Motion made to approve posting Planning and Zoning vacancies on the city's website and on the water bills

Motion made by Westmoreland, Seconded by Guillaud.
Voting Yea: Strawn, Hobbs, Minor

Passed

- c. Discuss and Consider - Application for P&Z membership on Morgan's Point Resort website

Motion made to consider adding a "Yes" and "No" option for potential volunteers to identify if they are currently working with a government entity

Motion made by Guillaud, Seconded by Strawn.
Voting Yea: Hobbs, Westmoreland, Minor

Passed

- d. Discuss and Consider - Final draft of Comprehensive Master Plan

Motion made to table Comprehensive Plan until there is a workshop and a final draft presented

Motion made by Guillaud, Seconded by Westmoreland.
Voting Yea: Strawn, Hobbs, Minor

Passed

- e. Discuss and Consider - City applications that impact P&Z meetings

Motion made to consider adding a title to the top of the page under the City of MPR logo "Specific Use Permit (SUP)

Also to change the word "May" to "Shall" in the title to the Short-Term Rental (SUP) Motion made by Guillaud, Seconded by Westmoreland.
Voting Yea: Strawn, Hobbs, Minor

Passed

3. Items for Future Agendas

1. Review of ADA requirements in ordinances.
2. Chapter 4 Business Regulations adjustments

P & Z Commission Updates & Comments

N/A

Staff Updates

N/A

4. Adjournment

Meeting adjourned at 7:33pm

I certify that a copy of the __1-30-2025__ agenda of items to be considered by the Morgan's Point Resort was posted and could be seen on the City Hall bulletin board on the _1-27-2025__ at 4:00PM and remained posted continuously for at least 72 hours succeeding the scheduled time of the meeting. I further certify that the following news media were properly notified of the above stated meeting: Belton Journal. The meeting facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodation or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary's office at 254 742-3206 for further information

Camille Bowser, City Secretary



PLANNING & ZONING COMMISSION

Morgans Point Resort Item Summary Sheet

Agenda Item: Chapter 4 Business Regulations, Article 4.06(new).

Discuss and take appropriate action on Chapter 4 Business Regulations, Article 4.06(new).

Agenda Item Summary:

The item was brought to the City Council and P&Z by Mike and needs to be incorporated into Chapter 4 Business Regulations.

Agenda Item Action:

The P&Z Commission to consider and discuss recommendations brought forth by Mike on Chapter 4 Business Regulations, Article 4.06(new).

References:

1. *Recommendations by Mike to City Council and P&Z Commission*

CHAPTER 4 BUSINESS REGULATIONS

ARTICLE 4.02. ALCOHOLIC BEVERAGES¹

Sec. 4.02.001. Permit fees.

- (a) *Authorized.* Section 11.38 V.A.T.S., Alcoholic Beverage Code, authorizes incorporated cities to levy and to collect a fee not to exceed one-half the State fee for each alcoholic beverage permit issued for premises located within the City. The City Council has determined that the City should levy and collect the fees under said statute.
- (b) *Payment.* The fees for each licensed business operating within the City must be paid not later than March 1 of each year. The City Secretary shall notify each licensee by February 5 of each year of the amount due and payable by March 1.
- (c) *Penalty.* Any person violating any provision of this Section will be guilty of a misdemeanor and subject to a fine of not to exceed \$200.00 upon conviction. Each day during or upon which said person shall violate or continue violation of any provision of this Section or noncompliance with any requirement of this Section shall constitute a distinct and separate offense. The violation of any provision of this Section shall each constitute a distinct and separate offense.

(Ord. No. 23-4, 2-1-79)

State law reference(s)—Local fee authorized on alcoholic beverage permits, V.T.C.A., Alcoholic Beverage Code § 11.38; local fee authorized on alcoholic beverage licenses, V.T.C.A., Alcoholic Beverage Code § 61.36.

ARTICLE 4.03. PEDDLERS AND SOLICITORS

DIVISION 1. GENERALLY

Sec. 4.03.001. Definition.

The term "peddler" as used in this Article shall mean and include all peddlers, solicitors, hawkers, canvassers, itinerant merchants, or venders, or transient merchants or venders of goods, wares and merchandise, services or any other articles.

(Ord. No. 14-3, § 1, 4-3-74)

¹State law reference(s)—Local regulation of alcoholic beverages, V.T.C.A., Alcoholic Beverage Code § 109.31 et seq.

Sec. 4.03.002. Penalty.

Any person, firm, corporation, association or organization violating any of the provisions of this Article shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not exceeding \$200.00.

(Ord. No. 14-3, § 16, 4-3-74)

Sec. 4.03.003. False or fraudulent representations.

It shall be unlawful for any person required by this Article to have a license, with or without a license, or any other person soliciting or peddling, to make any misrepresentation concerning his authority to solicit or sell, or the manner and means to be used in disposing of the solicited property, or otherwise make any false or fraudulent representations while soliciting or peddling, in connection therewith.

(Ord. No. 14-3, § 9, 4-3-74)

Sec. 4.03.004. Hours of operation.

It shall be unlawful for any peddler or solicitor to engage in the business of peddling or soliciting at any time between 30 minutes prior to sunset and 30 minutes after sunrise, except when the peddler has a specific invitation and appointment with a customer or person to be solicited.

(Ord. No. 14-3, § 11, 4-3-74)

Sec. 4.03.005. Operation on street or right-of-way.

No person shall have the right to sell, exhibit or advertise for sale on any street, sidewalk, alley, median, parkway or portion of public right-of-way within the City any goods, wares, services, or merchandise of any kind or character or to solicit in these places or to use any part of the streets, sidewalks or alleys within the City as a place to carry on such trade, profession, business or solicitation. Upon application to the City Council in writing and based upon a showing of good cause or public need, the City Council shall have the authority to grant permission to any person, firm, corporation, association, or organization for the right to conduct such trade, profession, business or solicitation upon the streets, sidewalks, alleys, medians, parkways or portions of the public right-of-way within the City, if the permit designates the exact location, time and duration of such permit.

(Ord. No. 14-3, § 12, 4-3-74)

Secs. 4.03.006—4.03.030. Reserved.***DIVISION 2. PERMIT*****Sec. 4.03.031. Required.**

It shall be unlawful for peddlers who may move from place to place and from house to house in the City to sell or offer for sale any goods, wares, services or any other commodity, or solicit, sell or take orders for goods, wares, merchandise, services, subscriptions to magazines, or newspapers or make pictures or photographs for future delivery or any delivery or any Article for future delivery without first applying for and obtaining a permit to do so from the Mayor.

(Ord. No. 14-3, § 2, 4-3-74)

Sec. 4.03.032. Charitable solicitation.

It shall be unlawful for any person within the corporate limits of the City or on any street or in any office building or by house-to-house canvass or in any other private place by telephone or postal solicitation to solicit property or financial assistance of any kind for himself or on behalf of any person or organization or to sell or offer to sell any article, tag, service, emblem, publication, ticket, advertisement, subscription, or anything of value or represented value on the plea or the representation that such sale or solicitation or the proceeds therefrom are for a charitable, educational, patriotic or philanthropic purpose unless such person or organization shall have been first issued a permit by the Mayor and such permit is not expired or been suspended or revoked at the time of such solicitation. (This prohibition shall not apply to offerings taken inside a church or place of worship which monies are to be used by the church or for its programs.)

(Ord. No. 14-3, § 3, 4-3-74)

Sec. 4.03.033. Application; fee.

- (a) Any person desiring to engage in the business of peddling or soliciting within the City shall first file a written application for a permit to do so with the Mayor, which application shall show:
- (1) The name and address of the applicant;
 - (2) The name and address of the person or organization which such applicant represents;
 - (3) The name of the immediate last preceding three towns in which he worked;
 - (4) Statement that the applicant has not been convicted within the last five years of an offense:
 - a. Involving narcotics, dangerous drugs or crimes with dangerous weapons;
 - b. Involving the use of force and violence upon the person of another when the offense is designated as a felony in the state of conviction or the State;
 - c. Of fraud, misrepresentation, embezzlement, forgery, or theft when such offense is designated as a felony in the state of conviction or the State;
 - d. In a court of property jurisdiction of violating this Chapter at any time.
 - (5) The kinds of goods, wares, merchandise or service offered or to be offered for sale or, in the case of a solicitation, the purposes for which the solicited funds are to be used;
 - (6) If State law requires that sales tax must be paid upon the purchase of such goods as the applicant proposes to offer for sale, the application for license shall be accompanied by a valid sales tax permit issued by the office of the comptroller of public accounts of the State.
 - (7) Each applicant who proposes to sell or offer for sale goods consisting of any raw, cooked, or processed edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption shall secure on the application form for license hereunder the signature of the Public Health Officer of the City and/or County indicating that such goods meet minimum food standards of the State.
 - (8) If the goods to be sold are transported in or displayed from a vehicle, the vehicle owner's name, address and telephone number and the vehicle's make, model, color, description, identification number and license number.

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- (9) The period of time such applicant wishes to solicit, sell or take orders in the City.
- (b) Such applicant shall also show satisfactory proof of his authority to represent the company or individual such applicant so states that he represents and such proof shall be in writing.
- (c) Each application for a license shall be approved by the Chief of Police or his authorized representative before such license is granted. The Chief of Police shall have a reasonable time to conduct an investigation of an applicant for such license, but such an investigation shall not be longer than three business days. After inspection or investigation, the Chief of Police shall either approve or disapprove the application for license and if disapproved shall give the applicant, upon request, a written statement setting forth the reasons for such disapproval and notifying the applicant of his right to appeal.
- (d) Such written application shall be accepted by the Mayor, accompanied by a fee of \$5.00 (the Mayor shall have power to waive the fee for charitable organizations or newspaper carriers), and no permit hereunder shall be issued until such fee has been paid. No fee shall be required of those persons engaging in interstate commerce.

(Ord. No. 2020-02, 1-14-20)

Sec. 4.03.034. Investigation of applicant.

The Mayor shall have full power to investigate the applicant for the license to determine if the matters set out in the application are true.

(Ord. No. 14-3, § 5, 4-3-74)

Sec. 4.03.035. Issuance; duration.

Upon the Mayor determining that the matters set out in the application are true, the Mayor shall issue a license for a period of time determined by the Mayor, but not in excess of 12 months.

(Ord. No. 14-3, § 6, 4-3-74)

Sec. 4.03.036. Form.

The permit shall be upon any form chosen by the Mayor but shall set forth the fact that the applicant is licensed to solicit or peddle within the City, but in any event it shall have the following printed upon it in prominent letters: "The issuance of this license is not an endorsement by the City of Morgan's Point [Resort], or any of its officers, or employees, and expires on the _____ day of _____, 19____."

(Ord. No. 14-3, § 7, 4-3-74)

Sec. 4.03.037. Revocation.

If, upon receipt of written information or upon his own investigation, the Mayor shall find that any agent, representative or the licensee is misrepresenting or making untrue statements with regard to the solicitation or sales or has made untrue statements in the application, or that in any other way the solicitation has been conducted or is being conducted in a manner which is against the protection of the health, life and property of the citizens of the City and not in conformity with the intents and purposes of this Article, or representing in any way that any permit granted hereunder is an endorsement of such solicitation or sale, then it shall be the duty of the Mayor to suspend such license; provided, however, that, before any license is suspended, the Mayor shall give the licensee 24 hours' notice in writing that a hearing is to be had, and then that at such hearing the Mayor shall

ascertain the facts, and if any reasons above set forth for revoking the license are found to exist, the license shall be revoked.

(Ord. No. 14-3, § 8, 4-3-74)

Sec. 4.03.038. Appeals.

An appeal from any act of the Mayor granting, refusing or revoking any permit may be taken to the City Council within ten days of the action.

(Ord. No. 14-3, § 10, 4-3-74)

Sec. 4.03.039. Transfer.

The license granted under this Article shall not be transferable or assignable, and shall give to no person other than the licensee authority to transact any business or solicitation within the City.

(Ord. No. 14-3, § 14, 4-3-74)

Sec. 4.03.040. Carrying and display.

The licensee shall carry the license rendered by the Mayor with him at all times and shall display such license upon request to any person demanding the same.

(Ord. No. 14-3, § 15, 4-3-74)

ARTICLE 4.04. SEXUALLY ORIENTED BUSINESSES

DIVISION 1. GENERALLY

Sec. 4.04.001. Purpose and intent.

It is the purpose of this Article to regulate sexually oriented businesses in order to protect and promote the health, safety and welfare by preventing the decline of residential and business neighborhoods and further by preventing the growth of criminal activity found to be associated with the unrestricted operation of certain sexually oriented businesses. The provisions of this Article have neither the purpose nor effect of imposing a limitation or restriction on the content of any communication materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this Article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.

(Ord. No. 24-1, § 1, 3-9-95)

Sec. 4.04.002. Definitions.

In this Article:

Adult bookstore or adult video store means a commercial establishment which as one of its principal business purposes offers for sale or rental for any form of consideration any one or more of the following:

- (1) Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, videocassettes or video representations, slides or other visual representations, which depict or describe "specified sexual activities" or "specified anatomical areas."
- (2) Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities."

Adult cabaret means a nightclub, bar, restaurant, or similar commercial establishment which regularly features:

- (1) Persons who appear in a state of nudity or partial nudity;
- (2) Live performances which are characterized by the exposure of "specified sexual areas" or by "specified anatomical activities;" or
- (3) Films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

Adult lingerie store/modeling studio means a commercial establishment where live models exhibit lingerie intended for an adult audience.

Adult lounge means an adult cabaret which is permitted or licensed pursuant to the Alcoholic Beverage Code where alcoholic beverages may be served, sold or consumed.

Adult motel means a hotel, motel, or similar commercial establishment which:

- (1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmission, films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas;" and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions;
- (2) Offers a sleeping room for rent for a period of time less than ten hours; or
- (3) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten hours.

Adult movie theater or adult video theater means a commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides or other photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical activities."

Adult theater means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of "specified anatomical areas" or "specified sexual activities."

Adult video arcade means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion pictures, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexually activities" or "specified anatomical areas."

Church or regular place of worship means any structure used principally as a place wherein persons regularly assemble for religious worship, including, but not limited to, sanctuaries, chapels, cathedrals, churches, synagogues and on-site buildings adjacent thereto, such as parsonages, convents, fellowship halls, Sunday schools and rectories.

Controlled substance means any substance defined as a controlled substance by the Texas Controlled Substance Act, as amended.

Day care means a facility which provides care and/or supervision for adults or children on a day-to-day basis.

Dressing room means an enclosed area designed to allow a single person to try on items of apparel for the purpose of determining suitability.

Escort means a person who accompanies an individual for social purposes for any consideration.

Escort agency means a person who or business association which furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes, for a fee, tip, or other consideration.

Establishment means any of the following:

- (1) The opening or commencement of any sexually oriented business as a new business;
- (2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
- (3) The addition of any sexually oriented business to any other existing sexually oriented business; or
- (4) The relocation of any sexually oriented business.

Gambling shall have the meaning set forth at V.T.C.A., Penal Code § 47.02, as amended.

Intended operator means the person principally in charge of the day-to-day operation of the establishment.

Knowingly shall have the meaning set forth at V.T.C.A., Penal Code § 6.03, as amended.

Licensee means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license.

Modeling studio means a place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.

Nude modeling studio means a place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.

Nudity/partial nudity means appearing in a state of dress which displays one or more specified anatomical areas.

Operates or causes to be operated means to cause to function or to put or keep in operation. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, part owner or license holder of the establishment.

Person means an individual, proprietorship, partnership, corporation, association, limited partnership, limited liability company or other legal entity.

Rent means the act of permitting a room to be occupied for any form of consideration.

Residential district is as defined in the City zoning ordinances, as amended.

Residential use is as defined in the City zoning ordinances, as amended.

Sexual encounter center means a business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

- (1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- (2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or partial nudity.

Sexually oriented business means:

- (1) An adult bookstore, adult video arcade, adult video store, adult cabaret, adult lingerie store/modeling studio, adult lounge, adult motel, adult movie theater, adult video theater, adult theater, escort agency, love parlor, modeling studio, nude modeling studio, sexual encounter center, sex parlor or other commercial enterprise, the primary business of which is the offering of a service or the selling, renting or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer.
- (2) The following are exempted from regulation under this Article:
 - a. A bookstore, movie theater, or video store, unless that business is an adult bookstore, adult movie theater, or adult video store under this Section;
 - b. A business operated by or employing a licensed psychologist, licensed physical therapist, licensed athletic trainer, licensed cosmetologist, or licensed barber engaged in performing functions authorized under the license held;
 - c. A business operated by or employing a licensed physician or licensed chiropractor engaged in practicing the healing arts; or
 - d. A business whose activities only incidentally cause sexual stimulation or sexual gratification.

Specified anatomical areas means those areas which meet the following criteria:

- (1) Less than completely and opaquely covered: (i) human genitals, pubic region, (ii) human buttock or anus, and (iii) female breasts below a point immediately above the top of the areola;
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
- (3) Any combination of the above.

Specified sexual activities means those activities which display:

- (1) Human genitals in a state of sexual stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse or sodomy;
- (3) Fondling or other erotic touching of human genitals, pubic region, buttock or female breasts; or
- (4) Any combination of the above.

Substantial enlargement means the increase in floor area occupied by the business by more than 25 percent, in addition to the floor area that exists on March 9, 1995.

Subrent means the act of permitting a room to be occupied for any form of consideration by one who has rented the room.

Transfer or ownership or control includes any of the following:

- (1) The sale, lease, or sublease of the business;
- (2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
- (3) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for the transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

Viewing room means an area designed to permit one or more persons the opportunity to view or observe a dancer, model, or other performer in a "private" or semi-private environment.

(Ord. No. 24-1, § 2, 3-9-95)

Sec. 4.04.003. Enforcement; penalties.**(a) Criminal penalties.**

- (1) Except as provided by subsection (a)(2) of this Section, any person violating Section 4.04.078 of this Article, upon conviction, is punishable by a fine not to exceed \$2,000.00 per day per violation.
- (2) If the sexually oriented business involved is a nude model studio or sexual encounter center, then violation of Section 4.04.031 or Section 4.04.078 of this Article is punishable as a class B misdemeanor.
- (3) Except as provided by subsection (a)(2) of this Section, any person violating a provision of this Article other than Section 4.04.078 and subsection (a) above, upon conviction, is punishable by a fine not to exceed \$500.00 as a class C misdemeanor.
- (4) It is a defense to prosecution under Section 4.04.031 or 4.04.072(d) that a person appearing in a state of nudity did so in a modeling class operated:
 - a. By a proprietary school licensed by the State; a college, junior college, or university supported entirely or partly by taxation;
 - b. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
 - c. In a structure:
 1. Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing;
 2. Where in order to participate in a class a student must enroll at least three days in advance of the class; and
 3. Where no more than one nude model is on the premises at any one time.

(b) Civil remedies. In addition to any other remedies which may be available at law or in equity, the City may sue in the appropriate district court for an injunction to prohibit the violation of any regulation contained in this Article.

(Ord. No. 24-1, § 12, 3-9-95)

Sec. 4.04.004. Effect on other laws.

Nothing in this Article is intended to legalize anything prohibited under the Texas Penal Code or any other Federal or State law or City ordinance.

(Ord. No. 24-1, § 14, 3-9-95)

Secs. 4.04.005—4.04.030. Reserved.***DIVISION 2. LICENSE***

Sec. 4.04.031. Required; application.

- (a) A person commits an offense if he/she operates, owns, or causes to be operated, within the territorial limits of the City, a sexually oriented business without a valid license authorizing such operation.
- (b) An application for a license must be made on a form provided by the City Manager or his/her designated representative. The application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches. Applicants who must comply with Section 4.04.075 (regulations pertaining to exhibition of sexually explicit films or videos) or Section 4.04.076 (regulations pertaining to adult lingerie store/modeling studios) of this Article shall submit a diagram meeting the requirements of Section 4.04.075 or Section 4.04.076 of this Article.
- (c) The applicant must be qualified according to the provisions of this Article and the premises must be inspected and found to be in compliance with the law by the County Health Department, the Fire Department, and the Chief Building Official; provided, however, that the County Health Department, the Fire Department, and the Chief Building Official shall have 30 days from the date of the applicant mailing application for the license to conduct whatever investigations and/or inquiries are necessary to determine whether or not the premises are in compliance with applicable laws and ordinances; and further provided that the failure of either the County Health Department, the Fire Department, and/or the Chief Building Official to conduct and/or complete such investigations/inquiries shall result in the administrative approval of the application by either the County Health Department, the Fire Department, and/or the Chief Building Official.
- (d) If a person who wishes to operate a sexually oriented business is an individual, he/she must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a 20 percent or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified under Section 4.04.032 (issuance of license) of this Article and each applicant shall be considered a licensee if a license is granted.
- (e) The fact that a person possesses a valid theater license, dance hall license, or amusement device license or business license does not exempt him from the requirement of obtaining a sexually oriented business license. A person who operates a sexually oriented business and possesses a theater license, public house or amusement device license, dance hall license or business license shall comply with the requirements and provisions of this Article and all provisions of all other ordinances of the City.
- (f) Operators of sexually oriented businesses who are lawfully operating as of the effective date of this Article must apply for said license within 30 days of the effective date of this Article.
- (g) A sexually oriented business lawfully operating within the territorial limits of the City on March 9, 1995, may continue to operate during the application review period. During said application review period, the regulations imposed by this Article shall be suspended, and the City shall maintain the status quo.
 - (1) As used in this subsection, the term "status quo" means the last peaceful, uncontested position of the City with respect to the applicant.
 - (2) As used in this subsection, the term "application review period" refers to the period commencing on the date a sexually oriented business files with the City Secretary an application which conforms with the requirements of this Article, and ending on the date such application is approved or disapproved as provided herein.

- (3) This subsection shall not apply to any business which begins to operate a sexually oriented business after June 21, 1994, and all such businesses are expressly required to fully comply with this Article prior to beginning operations.

(Ord. No. 24-1, § 3.01, 3-9-95)

Sec. 4.04.032. Issuance.

- (a) The City Manager or his/her designated representative shall approve the issuance of a license to an applicant within 30 days after the receipt of an application unless he/she finds one or more of the following to be true:
- (1) An applicant is under 18 years of age.
 - (2) An applicant is overdue in payment to the City of taxes, fees, fines or penalties assessed against the applicant or imposed upon the applicant in relation to a sexually oriented business.
 - (3) An applicant has failed to provide information requested on the application form or has supplied false or misleading information in the application process.
 - (4) An applicant has been convicted of a violation of a provision of this Article, other than the offense of operating a sexually oriented business without a license, within two years immediately preceding the application. The fact that a conviction is being appealed shall have no effect.
 - (5) The premises to be used for the sexually oriented business have not been approved by the County Health Department, the Fire Department, and the Chief Building Official as being in compliance with applicable laws or ordinances; provided, however, that the County Health Department, the Fire Department, and the Chief Building Official shall have 30 days from the date of the applicant making application for the license to conduct whatever investigations/inquiries are necessary to determine whether or not the premises are in compliance with applicable laws and ordinances; and further provided that, in the event that either the County Health Department, Fire Department, and/or Chief Building Official shall fail to conduct all investigations/inquiries necessary to complete the application process, such failure to conduct and/or complete such investigations/inquiries shall administratively result in the administrative approval of the application by either the County Health Department, Fire Department, and/or Chief Building Official.
 - (6) The license fee required by this Article has not been paid.
 - (7) An applicant or the proposed establishment is in violation of or is not in compliance with Section 4.04.035 or Section 4.04.071, 4.04.072, 4.04.073, 4.04.074, 4.04.075, 4.04.076, or 4.04.077 of this Article.
- (b) The license, if granted, shall state on its face:
- (1) The name of the person(s) to whom it is granted, the expiration date and the address of the sexually oriented business;
 - (2) The name of the applicant and whether the applicant is an individual, partnership, corporation, association, limited partnership, limited liability company or other legal entity;
 - (3) The name under which the business is to be operated and a description of the sexually oriented business to be conducted;
 - (4) The name, address and telephone number of the owner(s);
 - (5) The street address and legal description of the parcel of land on which the business is to be located, and the telephone number of the enterprise;

- (6) A written declaration, sworn to under oath, that the information contained in the application is true and correct; and
- (7) If the applicant is a non-natural legal entity, the application shall be signed and verified by a duly authorized agent of that entity.
- (c) A site plan [shall be submitted] setting out the dimensions and location for such sexually oriented business. The applicant shall sign a notarized statement attached to the site plan stating that the proposed sexually oriented business complies with the requirements set forth hereinabove. It shall be the duty of the applicant to prepare the site plan and to assure compliance with the distance requirements.

(Ord. No. 24-1, § 3.02, 3-9-95)

Sec. 4.04.033. Fee.

- (a) The license fee for a sexually oriented business shall be \$750.00 and shall be in addition to the City registration (business license).
- (b) Fees shall be charged for each license application and shall be paid to the Finance Department at the time the application and site plan are submitted for processing.

(Ord. No. 24-1, § 3.03, 3-9-95)

Sec. 4.04.034. Display.

A sexually oriented business permit issued under this Article shall be displayed at all times in an open and conspicuous place in the restricted [business] for which it was issued.

(Ord. No. 24-1, § 3.04, 3-9-95)

Sec. 4.04.035. Inspections.

- (a) An applicant or licensee shall permit representatives of the Police Department, County Health Department, Fire Department, and building inspection division to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time it is occupied or open for business.
- (b) A person who operates a sexually oriented business or his/her agent or employee commits an offense if he/she refuses to permit a lawful inspection of the premises by a representative of the Police Department, County Health Department, Fire Department, or building inspection division at any time it is occupied or open for business.
- (c) The provisions of this Section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.

(Ord. No. 24-1, § 3.05, 3-9-95)

Sec. 4.04.036. Expiration.

- (a) Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in Section 4.04.031. Application for renewal should be made at least 30 days before the expiration date, and, when made less than 30 days before the expiration date, the expiration of the license will not be affected.

- (b) When the City Manager or his/her designated representative denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the City Manager or his/her designated representative finds that the basis of denial for renewal of license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the denial became final.

(Ord. No. 24-1, § 3.06, 3-9-95)

Sec. 4.04.037. Suspension.

The City Manager or his/her designated representative shall suspend a license for a period not to exceed 30 days if he/she determines that the licensee or an employee of a licensee has:

- (1) Violated or is not in compliance with Section 4.04.035 or Section 4.04.071, 4.04.072, 4.04.073, 4.04.074, 4.04.075, 4.04.076, or 4.04.077 of this Article;
- (2) Been charged with a violation of any statute, ordinance, or other law pertaining to the possession, use, or consumption of alcoholic beverages while on the business premises during business hours;
- (3) Refused to allow an inspection of the sexually oriented business premises as authorized by this Article;
- (4) Knowingly permitted gambling by any person on the sexually oriented business premises; or
- (5) Demonstrated inability to operate or manage sexually oriented businesses in a peaceful and law-abiding manner thus necessitating action by law enforcement officers.

(Ord. No. 24-1, § 3.07, 3-9-95)

Sec. 4.04.038. Revocation.

- (a) The City Manager or his/her designated representative shall revoke a license if a cause of suspension in Section 4.04.037 occurs and the license has been suspended within the preceding 12 months.
- (b) The City Manager or his/her designated representative shall revoke a license if he/she determines that:
 - (1) A licensee gave false or misleading information in the material submitted to the City Manager or his/her designated representative during the application process;
 - (2) A licensee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises;
 - (3) A licensee or an employee has knowingly allowed prostitution on the premises;
 - (4) A licensee or an employee knowingly operated the sexually oriented business during a period of time when the license was suspended;
 - (5) A licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in or on the licensed premises at any time the business is open to the public. The term "sexual contact" shall have the same meaning as it is defined in V.T.C.A., Penal Code § 21.01;
 - (6) A licensee is delinquent in payment to the City for hotel occupancy taxes, ad valorem taxes, or sales taxes related to the adult entertainment business;
 - (7) A licensee has attempted to assign, transfer, or divide a license to operate a sexually oriented business issued under this Article;

- (8) A licensee or employee knowingly fails to comply with Section 4.04.035(a) or 4.04.035(b).
- (c) When the City Manager or his/her designated representative revokes a license, the revocation shall continue for one year and the licensee shall not be issued a sexually oriented business license for one year from the date revocation became effective. If, subsequent to revocation, the City Manager or his/her designated representative finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective.
- (Ord. No. 24-1, § 3.08, 3-9-95)

Sec. 4.04.039. Appeals.

If the City Manager or his/her designated representative denies the issuance of a license, or suspends or revokes a license, he/she shall send to the applicant, or licensee, at the address of the business as shown on the application, by certified mail, return receipt requested, written notice of his/her action and the right to appeal. The aggrieved party may appeal the decision of the City Manager or his/her designated representative to the zoning board of adjustment in accordance with the zoning ordinance of the City, as amended. The filing of an appeal stays the action of the City Manager or his/her designated representative in suspending or revoking a license until the zoning board of adjustments and appeals makes a final decision. If within a ten-day period the City Manager or any other administrative Officer of the City suspends, revokes, or denies issuance of a dance hall license or amusement device license for the same location involved in the City Manager's or his/her designated representative's actions on the sexually oriented business license, then the City Manager or his/her designated representative or the aggrieved party may consolidate the requests for appeals of those actions into one appeal.

(Ord. No. 24-1, § 3.09, 3-9-95)

Sec. 4.04.040. Transfer.

A sexually oriented business license is not transferable, assignable or divisible. Any attempted or purported transfer, assignment or division shall be void.

(Ord. No. 24-1, § 3.10, 3-9-95)

Secs. 4.04.041—4.04.070. Reserved.

DIVISION 3. OPERATION AND LOCATION

Sec. 4.04.071. Escort agencies.

- (a) An escort agency shall not employ any person under the age of 18 years.
- (b) A person commits an offense if he/she acts as an escort or agrees to act as an escort for any person under the age of 18 years.

(Ord. No. 24-1, § 4, 3-9-95)

Sec. 4.04.072. Nude modeling studios.

- (a) A nude modeling studio shall not employ any person under the age of 18 years.

- (b) A person under the age of 18 years commits an offense if he/she appears in a state of nudity in or on the premises of a nude modeling studio. It is a defense to prosecution under this subsection if the person under 18 years was in a restroom not open to public view or person(s) of the opposite sex.
- (c) A person commits an offense if he/she appears in a state of nudity or knowingly allows another to appear in a state of nudity in an area of a nude modeling studio premises which can be viewed from outside of the licensed premises.
- (d) A nude modeling studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.

(Ord. No. 24-1, § 5, 3-9-95)

Sec. 4.04.073. Adult theaters, adult motion picture theaters and adult video theaters.

- (a) A person commits an offense if he/she knowingly allows a person under the age of 18 to appear in a state of nudity in or on the premises of an adult theater or adult motion picture theater.
- (b) A person under the age of 18 years commits an offense if he/she knowingly appears in a state of nudity in or on the premises of an adult theater or adult motion picture theater.
- (c) It is a defense to prosecution under subsections (a) and (b) of this Section if the person under 18 years is in a restroom not open to the public view or person(s) of the opposite sex.

(Ord. No. 24-1, § 6, 3-9-95)

Sec. 4.04.074. Adult motels.

- (a) Evidence that a sleeping room in a hotel, motel or similar commercial establishment has been rented and vacated two or more times in a period of time that is less than ten hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this Article.
- (b) A person commits an offense if, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually oriented business license, he/she rents or subrents a sleeping room to a person and, within ten hours from the time the room is rented, he/she rents or subrents the same sleeping room again.

(Ord. No. 24-1, § 7, 3-9-95)

Sec. 4.04.075. Exhibition of sexually explicit films or videos.

A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises, in a viewing room of less than 150 square feet of floor space, a film, videocassette, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

- (1) Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed 32 square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or

object and should be drawn to a designated scale or with marked dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The City Manager or his/her designated representative may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

- (2) The application shall be sworn to be true and correct by the applicant.
- (3) No alteration in the configuration or location of a manager's station may be made without the prior approval of the City Manager or his/her designated representative.
- (4) It is the duty of the owners and operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
- (5) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video, photographic, monitoring or surveillance equipment. If the premises have two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
- (6) It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present on the premises, to ensure that the view area specified in subsection (5) of this Section remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times that any patron is present on the premises and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection (1) of this Section.
- (7) It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present on the premises, to ensure that areas to which patrons are permitted access are illuminated by overhead lighting fixtures to an intensity of not less than one footcandle as measured at the floor level at all times during which the premises are open to the public.
- (8) A person having a duty under subsections (4), (6) and (7) of this Section commits an offense if he/she knowingly fails to fulfill that duty.

(Ord. No. 24-1, § 8, 3-9-95)

Sec. 4.04.076. Adult lingerie store/modeling studios.

A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises, in a viewing room of less than 150 square feet of floor space, live models exhibiting lingerie intended for an adult audience, shall comply with the following requirements:

- (1) Adult lingerie store/modeling studio beginning operation after March 9, 1995.
 - a. Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed 32 square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the

north or to some designated street or object and should be drawn to a designated scale or with marked dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The City Manager or his/her designated representative may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

- b. The application shall be sworn to be true and correct by the applicant.
 - c. No alteration in the configuration or location of a manager's station may be made without the prior approval of the City Manager or his/her designated representative.
 - d. It is the duty of the owners and operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
 - e. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video, photographic, monitoring or surveillance equipment. If the premises have two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
 - f. It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present on the premises, to ensure that the view area specified in subsection (1)e of this Section remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times that any patron is present on the premises and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection (1)a of this Section.
 - g. It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present on the premises, to ensure that areas to which patrons are permitted access are illuminated by overhead lighting fixtures to an intensity of not less than one footcandle as measured at the floor level at all times during which the premises are open to the public.
 - h. A person having a duty under subsections (1)a through g of this Section commits an offense if he/she knowingly fails to fulfill that duty.
- (2) Existing businesses. Any adult lingerie store/modeling studio lawfully operating on June 21, 1994, which cannot meet the requirements of subsection (1) above shall meet the following requirements:
- a. Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. The diagram shall also designate the place at which the permit will be conspicuously posted if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The City Manager or his/her designated representative may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
 - b. The application shall be sworn to be true and correct by the applicant.

- c. It is the duty of the owners and operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
- d. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a common access area (hall or corridor) of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video, photographic, monitoring or surveillance equipment. The view required in this subsection must be by direct line of sight from the common access area at a minimum distance of six feet from the entry to the viewing area.
- e. It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present on the premises, to ensure that the view area specified in subsection (2)d of this Section remains unobstructed by any doors, partitions, merchandise, display racks or other materials at all times that any patron is present on the premises and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection (2)b of this Section.
- f. It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present on the premises, to ensure that areas to which patrons are permitted access are illuminated by overhead lighting fixtures to an intensity of not less than one footcandle as measured at the floor level at all times during which the premises are open to the public.
- g. A person having a duty under subsections (2)a through f of this Section commits an offense if he/she knowingly fails to fulfill that duty.

(Ord. No. 24-1, § 9, 3-9-95)

Sec. 4.04.077. Display of sexually explicit material to minors.

- (a) A person commits an offense if, in a business establishment open to persons under the age of 18 years, he/she displays any graphic or visual representation of material which depicts, in a manner calculated to arouse sexual lust or passion for commercial gain or to exploit sexual lust or perversion for commercial gain, any of the following:
 - (1) Human sexual intercourse, masturbation, or sodomy;
 - (2) Fondling or other erotic touching of human genitals, buttocks, or female breasts;
 - (3) Less than completely and opaquely covered human genitals, buttocks, or that portion of the female breast below the top of the areola; or
 - (4) Human male genitals in a discernibly turgid state, whether covered or uncovered.
- (b) In this Section, "display" means to locate an item in such a manner that, without obtaining assistance from an employee of the business establishment:
 - (1) It is available to the general public for handling and inspection; or
 - (2) The cover or outside packaging on the item is visible to members of the general public.

(Ord. No. 24-1, § 10, 3-9-95)

Sec. 4.04.078. Location.

- (a) A person commits an offense if he/she operates or causes to be operated a sexually oriented business within 1,500 feet of:
 - (1) A church or place of religious worship;
 - (2) A day care facility;
 - (3) A school;
 - (4) A hospital;
 - (5) A public building; or
 - (6) A public park.
- (b) A person commits an offense if he/she causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within 300 feet of another sexually oriented business.
- (c) A person commits an offense if he/she causes or permits the operation, establishment, or maintenance of more than one sexually oriented business in the same building, structure, or portion thereof containing another sexually oriented business.
- (d) For the purposes of subsection (a) of this Section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a church or public or private elementary or secondary school, or to the nearest boundary of an affected public park, residential district, or residential lot.
- (e) For the purposes of subsection (b) of this Section, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.
- (f) Any sexually oriented business lawfully operating on March 1, 1995, that is in violation of subsection (a), (b), or (c) of this Section shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed three years, unless sooner terminated for any reason, or if voluntarily discontinued for a period of 30 days or more.
- (g) Such nonconforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use.
- (h) If two or more sexually oriented businesses are within 300 feet of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later-established business(es) is nonconforming.
- (i) A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business license, of a church, public or private elementary or secondary school, public park, hospital, public building, or day care center within 1,500 feet of the sexually oriented business.
- (j) This provision applies only to the renewal of a valid license and does not apply when an application for a license is submitted after a license has expired.

(Ord. No. 24-1, § 11, 3-9-95)

ARTICLE 4.05. CABLE TELEVISION

Sec. 4.05.001. Definitions.

For the purpose of this Article, the following terms, phrases, words, abbreviations, and their derivations shall have the meaning herein given. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

Basic CATV service means the distribution of broadcast television and radio signals by the operator of a cable television system, but shall not include "expanded" or "auxiliary" services, which include, but are not limited to, advertising, leased channels, and programming supplied on a per-program or per-channel charge basis, if any.

Cable television system means a system composed of, without limitation, antenna, cables, wires, line, towers, amplifiers, wave guides, or any other conductors, equipment or facilities, designed, constructed or wired for the purpose of producing, receiving, amplifying and distributing, by coaxial cable, fiber optics, microwave or other means, audio and/or visual radio, television, electronic or electrical signals to and from persons, subscribers and locations in the franchise area.

CATV means a cable television system as hereinafter defined.

Company means the grantee of rights, pursuant to this Article, to operate a cable television system within the City.

Council means the governing body of the City.

Expanded CATV service means any communications service in addition to basic CATV service provided by the operator of a cable television system, either directly or as a carrier for their subsidiaries, affiliates or any other person engaged in communications service, including, but not by way of limitation, programming supplied on a per-channel or per-program charge, burglar alarm service, data or other electronic transmission services, meter reading services, and home shopping services.

Franchise area means that area within the corporate limits of the City, or under the jurisdiction of the City.

Gross annual basic subscriber revenues means all compensation and other consideration derived directly by the operator of a cable television system from subscribers for monthly service from all cable television services.

Person means any person, firm, partnership, association, corporation, company or organization of any kind.

Property of grantee means all property owned, installed or used by the operator of a cable television system in the conduct of a cable television system business within the City.

Street means the surface of and the space above and below any public street, right-of-way, road, highway, freeway, bridge, lane, path, alley, court, sidewalk, parkway, drive, or communications or utility easement, now or hereafter existing as such within the franchise area.

Subscriber means any person or entity receiving basic CATV service.

(Ord. No. 6-7, § 1, 2-4-82)

Sec. 4.05.002. Compliance.

Any person desiring to provide CATV service within the City shall provide such service in accordance with the provisions of this Article, as well as any future amendments to this Article.

(Ord. No. 6-7, § 2, 2-4-82)

Sec. 4.05.003. Right of City to adopt additional regulations.

A CATV operator shall at all times during the term of its franchise be subject to all lawful exercise of the police power of the City. The right is hereby reserved to the City to adopt, in addition to the provisions herein contained and any other existing applicable ordinance, such additional applicable ordinances as it shall find necessary in the exercise of its police power; provided that such additional ordinances shall be reasonable, and shall not conflict with the laws of the State, the laws of the United States of America, or the rules, regulations and policies of the Federal Communications Commission.

(Ord. No. 6-7, § 3, 2-4-82)

Sec. 4.05.004. Indemnification of City; insurance.

- (a) The CATV operator shall indemnify and hold the City harmless at all times during the term of the grant of its franchise from and against all claims for injury or damages to persons or property both real and personal caused by the construction, erection, operation or maintenance of any structures, equipment, appliances, or products authorized or used pursuant to authority of this Article.
- (b) The CATV operator shall, at all times during the existence of its permit or franchise, carry and require its contractors to carry:
 - (1) Insurance in such form and in such companies as shall be approved by the City Attorney to protect the City and themselves from and against any and all claims of injury or damages to persons or property, both real and personal, caused by the construction, erection, operation or maintenance of any structure, equipment, or appliances, and the amount of such insurance against liability due to damage to property shall not be less than \$100,000.00 as to any one person, and \$250,000.00 as to any one accident, and against liability due to injury or death of persons \$250,000.00 as to any one person and \$500,000.00 as to any one accident.
 - (2) Workmen's compensation insurance in compliance with the laws of the State.
 - (3) Automobile insurance with limits of not less than \$250,000.00/\$500,000.00 and automobile property damage insurance with a limit of not less than \$100,000.00.
- (c) The CATV operator, upon receipt of due notice in writing from the City, shall defend at its own expense any action or proceedings against the City in which it is claimed that the injury or damage arose from the CATV operator's activities in the construction or operation of its television system, and in the event of a determination of liability shall indemnify the City. More particularly, the CATV operator, its successors and assigns shall indemnify and hold harmless the City from any and all liability, claim, demand or judgment growing out of any injury to any person or property as a result of the violation or failure on the part of the CATV operator, its successors and assigns to observe its proper duty or because of negligence in whole or in part arising out of the construction, repair, extension, maintenance or operation of its distribution lines, amplifiers or equipment of any kind or character used in connection with its permit or franchise.

(Ord. No. 6-7, § 4, 2-4-82)

Sec. 4.05.005. Use of streets.

- (a) All structures, lines and equipment erected by a CATV operator within the City shall be so located as to cause minimum interference with the proper use of streets, alleys, easements and other public ways and places and to cause minimum interference with the rights or reasonable convenience of property owners, and the CATV operator shall comply with all reasonable, proper and lawful ordinances of the City now or hereafter in force. Existing poles, posts, conduits, and other such structures of any electric power system, telephone company or other public utility in the City shall be made available to the CATV operator for leasing or licensing upon reasonable order to minimize interference with travel and avoid unnecessary duplication of facilities. The City shall actively assist the CATV operator to the fullest extent necessary in obtaining reasonable joint pole or conduit use agreements from the owners of existing poles or conduits. To the extent that existing poles, posts, conduits, and other such structures are not available, or are not available under reasonable terms and conditions, the CATV operator shall have the right to use the city-owned right-of-way and shall be allowed to put cable or other such equipment at least a minimum of 12 inches underground or place additional poles.
- (b) In case of any disturbance by the CATV operator of pavement, sidewalk, driveway or other surfacing, the CATV operator shall, at its own cost and expense and in a manner approved by the City, replace and restore all paving, sidewalk, driveway or surface so disturbed in as good condition as before said work was commenced. That restoration shall be completed as soon as practicable taking into consideration weather and other unavoidable events.
- (c) In the event that at any time during the period of this franchise the City shall lawfully elect to alter or change any street, alley, easement, or other public way requiring the relocation of the CATV operator's facilities, then, in such event, the CATV operator, upon reasonable notice by the City, shall remove, re-lay and relocate the same at its own expense; provided, however, that where public funds are available for such relocation pursuant to law, the CATV operator shall not be required to pay the cost.
- (d) The CATV operator shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its lines to permit the moving of the building. The expense of such temporary removal shall be paid by the person requesting the same, and the CATV operator shall have the authority to require such payment in advance. Written notice or request should be made 48 hours prior to the move.
- (e) The CATV operator shall have the authority to trim trees upon and overhanging all streets, alleys, easements, sidewalks, and public places of the City so as to prevent the branches of such trees from coming into contact with the CATV operator's facilities.
- (f) All poles, lines, structures and other facilities of the CATV operator in, on, over and under the streets, sidewalks, alleys, easements and public grounds or places of the City shall be kept by the CATV operator at all times in a safe and substantial condition.

(Ord. No. 6-7, § 5, 2-4-82)

Sec. 4.05.006. Safety requirements.

- (a) The CATV operator shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.
- (b) All structures and all lines, equipment and connections in, over, under, and upon the streets, sidewalks, alleys and public ways or places of the franchise area, wherever situated or located, shall at all times be kept and maintained in a safe, suitable condition, and in good order and repair.

(Ord. No. 6-7, § 6, 2-4-82)

Sec. 4.05.007. Maps and records of equipment.

The CATV operator shall at all times make and keep full and complete plats, maps and records showing the exact location of all cable television service and electronic distribution system equipment. One copy of said plats, maps and records, as well as any revisions and additions thereto, shall be furnished to the City at no charge.

(Ord. No. 6-7, § 7, 2-4-82)

Sec. 4.05.008. Rights granted by franchise.

A CATV operator which receives a franchise pursuant to this Article shall have the right to operate a cable television service and electronic distribution system during the existence of the franchise, and have the right to extend its distribution system upon the streets, alleys and public grounds of any addition or additions hereafter made to the City's territory and to use the streets, alleys and public grounds to continue to points beyond the corporate limits of the City.

(Ord. No. 6-7, § 8, 2-4-82)

Sec. 4.05.009. Franchise fee.

The CATV operator shall pay the City as a franchise fee, and as compensation for the rights and privileges enjoyed under its franchise agreement, one percent until January 1, 1984, and three percent thereafter, of its gross subscriptions receipts, less State sales tax, Federal excise tax and copyright, received by the company from all its connections to said cable television service and electronic distribution system in the City. The gross subscription shall be computed quarterly and the amounts due to the City shall be computed quarterly and the amounts due to the City shall be paid on or before the tenth day of January, tenth day of April, tenth day of July, and tenth day of October. Gross subscription receipts shall not include installation charges, service charges, or disconnects made to the customers.

(Ord. No. 6-7, § 9, 2-4-82)

Sec. 4.05.010. Service to public buildings and schools.

The CATV operator shall provide without charge one outlet to the City hall and each fire station, police station, and public and nonprofit school [or] private school building that is passed by its cable. The distribution of the cable facility inside such buildings and the extent thereof shall be the option, duty and expense of the building owner.

(Ord. No. 6-7, § 10, 2-4-82)

Sec. 4.05.011. Business office.

The CATV operator shall maintain a business office or agent, which subscribers may telephone or contact during regular business hours without incurring added message or toll charges, so that CATV maintenance service shall be promptly available.

(Ord. No. 6-7, § 11, 2-4-82)

Sec. 4.05.012. System requirements.

Provisions of the requirements for the system shall be and shall remain in accordance with the specifications and requirements promulgated by the Federal Communications Commission, and the CATV operator will:

- (1) Limit failures to a minimum by locating and correcting malfunctioning promptly, but in no event longer than 48 hours after notice, unless such failures are caused by the acts of God or circumstances beyond the control of the franchisee.
- (2) Demonstrate by instruments and otherwise to subscribers that a signal of adequate strength and quality is being delivered and meets all relevant specifications of the Federal Communications Commission and other applicable Federal, State and local regulations. The City may require proof of calibration of such test instruments if deemed necessary in order to arbitrate a specific complaint.

(Ord. No. 6-7, § 12, 2-4-82)

Sec. 4.05.013. Transfer of franchise.

A franchise granted pursuant to this Article cannot in any event be sold, transferred, leased, assigned or disposed of as a whole or in part, or otherwise, without prior consent of the City expressed by resolution, and then only under such conditions as may be prescribed in the consenting resolution; provided, however, that no such consent shall be unreasonably withheld, and further provided that no such consent shall be required for any transfer in trust, mortgage or other hypothecation, as a whole or in part, to secure an indebtedness. There shall be no restriction upon the transfer of this franchise to a controlled subsidiary or to a parent corporation.

(Ord. No. 6-7, § 13, 2-4-82)

Sec. 4.05.014. Payment of installation costs.

All installation costs of the cable communications system company shall be paid by the company itself and not by the City.

(Ord. No. 6-7, § 14, 2-4-82)

Sec. 4.05.015. Franchise required; unauthorized connections.

- (a) From and after the effective date of this Article, it shall be unlawful for any person to construct, install, or maintain within any public street in the City, or within any other public property of the City, or within any privately owned area within the City which has not yet become a public street but is designated or delineated as a proposed public street on any tentative subdivision map approved by the City, any equipment or facilities for distributing any television signals or radio signals through a CATV system, unless a franchise authorizing such use of such street or property or area has first been obtained, and unless such franchise is in full force and effect.
- (b) It shall be unlawful for any person, firm or corporation to make any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of the franchised CATV system within this City for the purpose of enabling himself or others to receive any television signal, radio signal, picture, program or sound, without payment to the operator of said system.
- (c) It shall be unlawful for any person, without the consent of the CATV operator, to willfully tamper with, remove or injure any cables, wires or equipment used for distribution of television signals, radio signals, pictures, programs or sound.

- (d) Any person violating or failing to comply with any of the provisions of this Section may be punished by a fine not to exceed \$200.00, and each day shall constitute an additional offense.

(Ord. No. 6-7, § 15, 2-4-82)

Sec. 4.05.016. Applicability of FCC regulations and State law.

A franchise granted pursuant to this Article shall be governed by and subject to all applicable rules, regulations and policies of the Federal Communications Commission, specifically including part 76, and by the laws of the State. Should there be any modifications of the provisions of Section 76.31 of the rules and regulations of the Federal Communications Commission which must be incorporated into the franchise, the City and CATV operator agree that such incorporation shall be accomplished within one year after the effective date of the Federal Communications Commission's adoption of the modification or upon renewal of the franchise, whichever occurs first.

(Ord. No. 6-7, § 16, 2-4-82)

Sec. 4.05.017. Term of franchise.

A franchise granted pursuant to this Article shall take effect and be in full force from and after passage by the City Council, and the same shall continue in full force and effect for a term of 15 years.

(Ord. No. 6-7, § 17, 2-4-82)

Sec. 4.05.018. Renewal of franchise.

The grantee of a franchise pursuant to this Article shall have the option to request renewal of the franchise for an additional period not to exceed 15 years. Should the grantee desire to exercise this option, it shall notify the City, in writing, not less than three months prior to expiration of the franchise. Upon exercise of the option by the grantee, the City shall conduct a full, open and public renewal proceeding upon prior notice and opportunity of all interested parties to be heard. The renewal proceeding shall be held for the purpose of considering the grantee's performance under the franchise in order to determine whether to renew the franchise. Renewal shall not be unreasonably denied and shall be granted unless the grantee is found to be unqualified to continue operation of this cable television system. If the franchise is renewed by the City, all of the terms and provisions contained therein shall be controlling during the renewal period, except to the extent that said terms and provisions are modified by the City, or unless the franchise is superseded by a new franchise. Should the City, for any reason, be unable to complete the renewal proceeding prior to expiration of the franchise, the grantee shall have the right to continue operation of this cable television system pursuant to the terms of the franchise until such time as the renewal proceeding is concluded. Should the City deny renewal of the franchise, such denial shall be accompanied by a written statement setting forth the reasons for the denial. The grantee shall have the right to request review of any such denial by a court of competent jurisdiction. Furthermore, in the event that the City denies renewal, the grantee shall be afforded a period of six months following denial within which to sell, transfer, or convey this cable television system to a qualified purchaser at fair market value. During this six-month period, which shall run from the effective date of the final order or decision denying renewal, including any appeal, the grantee shall have the right to operate this cable television system pursuant to the terms of the franchise.

(Ord. No. 6-7, § 18, 2-4-82)

Sec. 4.05.019. Forfeiture of franchise.

If the CATV operator should violate any of the terms, conditions, or provisions of the franchise or if the CATV operator should fail to comply with any reasonable provision of any ordinance of the City regulating the use by the CATV operator of the streets, alleys, easements or public ways of the City, and should the CATV operator further continue to violate or fail to comply with the same for a period of 30 days after the CATV operator shall have been notified in writing by the City to cease and desist from any such violation or failure to comply so specified, then the CATV operator may be deemed to have forfeited and annulled and shall thereby forfeit and annul all the rights and privileges granted by this franchise; provided that such forfeiture shall be declared only by written decision of the City Council after an appropriate public proceeding before the City Council affording the CATV operator due process and full opportunity to be heard and to respond to any such notice of violation or failure to comply, and provided further that the City Council may, in its discretion and upon a finding of violation or failure to comply, impose a lesser penalty than forfeiture of this franchise or excuse the violation or failure to comply upon a showing by the CATV operator of mitigating circumstances. The CATV operator shall have the right to appeal any finding of violation or failure to comply and any resultant penalty to any court of competent jurisdiction. In the event that forfeiture is imposed upon the CATV operator, it shall be afforded a period of six months within which to sell to a qualified purchaser at fair market value. During this six-month period, which shall run from the effective date of the final order or decision imposing forfeiture of the franchise, the CATV operator shall have the right to operate the CATV system pursuant to the terms of the franchise.

(Ord. No. 6-7, § 19, 2-4-82)

Sec. 4.05.020. Surrender of franchise.

The CATV operator may surrender the franchise at any time upon filing with the City Clerk a written notice of its intention to do so at least three months before the surrender date. On the surrender date specified in the notice, all of the rights and privileges and all of the obligations, duties and liabilities of the CATV operator in connection with the franchise shall terminate.

(Ord. No. 6-7, § 20, 2-4-82)

Sec. 4.05.021. Miscellaneous regulations.

- (a) *Filing of documents.* When not otherwise prescribed herein, all matters herein required to be filed with the City shall be filed with the City Clerk.
- (b) *Payment of publication costs.* The grantee of a franchise pursuant to this Article shall assume the cost of publication of the franchise as such publication is required by law. A bill for publication costs shall be presented to the grantee by the City Clerk and shall be paid at that time.
- (c) *Emergency use of system.* In the case of any emergency or disaster, the CATV operator shall, upon request of the City, make available its facilities to the City for emergency use during the emergency or disaster period.

(Ord. No. 6-7, § 21, 2-4-82)

Sec. 4.05.022. Minimum channel capacity.

A CATV system constructed pursuant to this Article shall have a minimum of 35-channel capability.

(Ord. No. 6-7, § 22, 2-4-82)

Sec. 4.05.023. Availability of service.

Unless specifically provided otherwise in the ordinance granting a CATV franchise pursuant to this Article, the CATV operator shall construct the CATV system in such a manner as to make CATV service available to all residents of the City.

(Ord. No. 6-7, § 23, 2-4-82)

Sec. 4.05.024. Request for franchise.

Any person wishing to receive a CATV franchise pursuant to this Article from the City shall submit such request to the City Clerk. Such request shall contain the following items and information:

- (1) Full ownership disclosure of the company and parent corporation;
- (2) Verification that adequate funds are available to the company for construction of the CATV system;
- (3) Projections of expected capital costs, revenues and operating expenses;
- (4) Technical design, layout, and channel capacity;
- (5) Construction and maintenance practices;
- (6) Technical performance standards;
- (7) Programming to be provided, including broadcast TV and radio stations, satellite programming, and automated and non-automated programming provided locally by the CATV operator;
- (8) Access channel production facilities, budgets, and staff available to assist access channel users;
- (9) Proposed rates;
- (10) A list of the applicants of other cable systems it now owns as well as systems it has sold in the past; and
- (11) Nonrefundable application fee of \$750.00.

(Ord. No. 6-7, § 24, 2-4-82)



PLANNING & ZONING COMMISSION

Morgans Point Resort Item Summary Sheet

Agenda Item: ADA requirements for new and existing organizations in MPR.

Discuss and take appropriate action on ADA requirements for new and existing organizations in MPR.

Agenda Item Summary:

P&Z needs to have guidance in our ordinances relating to ADA requirements as required by the State and Federal government. P&Z to discuss how to incorporate ADA requirements within City of MPR ordinances/official documentation/applications.

Agenda Item Action:

The P&Z Commission to consider and discuss approval of adding ADA compliance requirements within City of MPR ordinances/official documentation/applications.

References:

1. <https://www.ada.gov/law-and-regs/regulations/title-ii-2010-regulations/>
2. <https://gov.texas.gov/organization/disabilities/ada>
3. <https://www.killeentexas.gov/584/ADA-Accessibility-Services>
4. <https://www.waco-texas.com/files/sharedassets/public/v/2/departments/public-works/engineering/documents/americanswithdisabilitiesacttransitionplan.pdf>

Section 3. Definitions.

For the purpose of these regulations, certain terms and words are to be used and interpreted as defined hereinafter. Words used in the present tense shall include the fixture [future] tense; words in the singular number include the plural and words in the plural number include the singular, except where the natural construction of the writing indicates otherwise. The word shall is mandatory and not Directory.

Accessory Building: A structure located on the same building site as the main building, the use of which is incidental to that of the main building.

Alley: A minor right-of-way, dedicated to public use, which affords a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for public utility purposes.

Apartment House: See Multiple-Family Dwelling.

Approved Fence Materials: materials normally manufactured for, used as, and recognized as, fencing materials such as: wrought iron or other decorative metals suitable for the construction of fences, fired masonry, concrete, stone, metal tubing, wood planks, chainlink and vinyl composite manufactured specifically as fencing materials. Fence materials must also be materials approved for exterior use that are weather and decay-resistant. The provisions of this Ordinance are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this Code, provided that any such alternative has been approved by the Building Official, or his designee. An alternative material, design or method of construction shall be approved where the Building Official finds that the proposed design is satisfactory and complies with the intent of the provisions of this Code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this Ordinance in quality, strength, effectiveness, fire resistance, durability, and safety.

Arbor (Trellis): An open shelter typically constructed of latticework or exposed boards that often provide partial shade or support for climbing plants.

Automobile: See Motor Vehicle.

Building: Any structure intended for shelter, occupancy, housing or enclosure for persons, animals or chattel. When separated by dividing walls without openings, each portion of such structure so separated shall be deemed a separate building.

Building Height: The vertical distance from the average line of the highest and lowest points of that portion of the lot covered by the building to the highest point of coping of a flat roof, or a deck line of a mansard roof or to the average height of the highest gable of a pitch or hip roof.

Building Line: A line parallel, or approximately parallel, to any front lot line at a specific distance therefrom, marking the minimum distance from the front lot or side lot line that a building may be erected.

Building Site: One or more adjacent lots, not separated by a public easement, upon which one dwelling and a maximum of four (4) accessory buildings, properly permitted by the City Building Official, are constructed or placed. Once an accessory building is placed on an adjacent lot(s), such lot(s) is(are) thereafter a part of the original building site and may not be sold separately, except when the accessory building has been removed from the lot(s) other than the lot containing the main building.

Carport: Is defined as a detached structured that is open on all sides designed or used to shelter vehicles.

Certificate of Occupancy: An official certificate issued by the City through the Building Official which indicates conformance with or approved conditional waiver from the zoning regulations and authorizes legal use of the premises for which it is issued; may be referred to as an Occupancy Permit.

Church: A building for regular assembly for religious worship which is used primarily and designed for such purpose and those accessory activities which are customarily associated therewith, and the place of residence for ministers, priests, nuns or rabbis on the premises (tax exempt as defined by State law). For the purposes of this ordinance, bible study and other similar activities which occur in a person's primary residence shall not apply to this definition.

City: The Corporation legally recognized by the State of Texas as the City of Morgan's Point Resort.

City Building Official: City Manager of the City of Morgan's Point Resort, Texas. The City Building Official shall perform all the duties necessary for the processing of permit applications. The City Building Official has the duty to receive, review, approve, modify or reject all applications for the issuance by the City of Building permits. No building permit shall be issued without the written approval of the Building Official. The Building Official shall have the authority to grant variances on setback lines and, side and rear lot lines. The City Building Official may also perform the duties of City Building Inspector.

City Council: The governing body of the City of Morgan's Point Resort, Texas. References to the "City" shall mean the City of Morgan's Point Resort.

Code: The Code of Ordinances of the City of Morgan's Point Resort, Texas.

Community Center: A building or complex of buildings that house cultural, recreational, athletic, or entertainment facilities owned and/or operated by a governmental agency or private nonprofit agency.

Community Home: A dwelling occupied by not more than two (2) persons per bedroom, to include persons with disabilities and their caregivers, but not to exceed a maximum of six (6) persons with disabilities and two (2) supervisors. A community home shall comply with all applicable Sections of this ordinance and the Community Homes for Disabled Persons Location Act, V.T.C.A., Human Resources Code ch. 123, as they exist now or as they may be amended.

Comprehensive Plan: Graphic and textual form policies which govern the future development of the City and which consists of various components governing specific geographic areas and functions and services of the City.

Construction Trailer: A box car, storage container, or mobile trailer used at a construction site where a residential or commercial building is being undertaken and utilized for temporary storage, nonresidential occupancy, or warehousing purposes.

Coverage: The lot area covered by all buildings located thereon, including the area covered by all overhanging roofs.

Dilapidated Fence: a fence which is decayed, deteriorated, or has fallen into partial ruin.

District: Any Section or Sections of the City for which the regulations governing the use of land and the use, density, bulk, height and coverage of buildings and other structures are uniform for each class or kind of building therein.

Dwelling: Any building or portion thereof, which is designed or used as living quarters for one or more families, but not including mobile homes.

Dwelling, Multiple-Family: Attached dwelling units designed to be occupied by three or more families living independently of one another, exclusive of hotels or motels.

Dwelling, Single-Family: A detached dwelling designed to be occupied by not more than one.

Easement: A right created by grant, reservation, agreement, prescription, or necessary implication, which one has in the land of another, and may be dedicated by plat or implied by right. It is either for the benefit of appurtenant land such as for the right to cross, or egress, such a public utility easement, or in specific, such as an exclusive utility easement. An easement may or may not have descriptive metes and bounds.

Family: One or more persons related by blood, marriage, or adoption, or a group not to exceed four (4) persons not all related by blood or marriage, adoption or guardianship, occupying a dwelling unit and living as a single housekeeping unit.

Fence: An artificially constructed barrier enclosing, separating, or screening areas of land, serving as a boundary, a means of protection, a buffer, a decorative element, a means of visually modifying the view, and/or for confinement. Except where otherwise required in this Code, regulations governing the height, location, and opacity of fences also applies to walls, hedges or landscaping used in lieu of a fence or in combination with a fence. A fence is any part of a fence including the base, footings, supporting columns, post, braces, structural members, or any other of its appendages.

Fence Contracting: Engaging in the business of erecting, maintaining, constructing, or reconstructing fences for which a permit is required.

Fence Contractor: A person, who for remuneration, erects, maintains, constructs, or reconstructs a fence on the premises of another. It does not mean the owner who owns or leases the premises on which the fence is located.

Garage, Parking: Any building, or portion thereof, used for the storage of four (4) or more automobiles in which any servicing provided is incidental to the primary storage use, and where repair facilities are not provided.

Garage Sale: As used in this Chapter, "garage sale" shall mean the sale or trade, or offering for sale or trade, of unwanted or surplus goods, wares, merchandise or personal property of a household nature to the general public held (i) on the premises of a private single-family or multiple-family residence by the owner, owners, tenants or occupants thereof, or (ii) on the legally established premises of a charitable or religious organization, as described in paragraphs (3), (10) and (19) of Section 501(c) of Title 26 of the Internal Revenue Code, by the charitable or religious organization. The term "garage sale" shall include, but not be limited to, any patio sales, rummage sales, yard sales, lawn sales, moving sales, estate sales, or other sales similarly conducted at or upon any property zoned for or occupied by a residential use or on the legally established premises of a charitable or religious organization.

Home Occupation: An occupation or activity carried on by the inhabitants of a dwelling which is clearly incidental and secondary to the use of the dwelling for dwelling purposes. The occupation or activity must be conducted entirely within the dwelling or within a detached garage or accessory building. There shall be no repair, trading, selling or delivery of tangible products to customers on the premises. The home occupation or activity may not create increased traffic, obnoxious noise, odors, dust, smoke, fumes, vibrations or electrical interference. The operation of a business such as a beauty or barbershop, tearoom, restaurant, rest home, clinic, child care facility or bed and breakfast facility in this City shall not be deemed a home occupation.

HUD-Code Manufactured Home (Manufactured Home): A structure constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more Sections, which in traveling mode is eight body feet or more in width and forty or more body feet in length, or when erected on site is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein.

Improved Surface: An all-weather surface such as asphalt, concrete, rock, stones, or other similar permanent hard surface material sufficient to prevent mud, dust and loose material from creating a hazardous condition on the roadway.

Kennels (Indoor Pens): An establishment with indoor pens in which more than four (4) dogs or domesticated animals more than one year old are housed, groomed, bred, boarded, trained or sold for commercial purposes.

Kennels (Outdoor Pens): An establishment with outdoor pens in which more than four (4) dogs or domesticated animals more than one year old are housed, groomed, bred, boarded, trained or sold for commercial purposes.

Landscaping: Material such as, but not limited to, grass, groundcovers, shrubs, vines, hedges, trees or palms, and nonliving durable material commonly used in landscaping, such as, but not limited to, rocks, pebbles, sand, walls or fences, but excluding paving.

Loading Space: An off-street space or berth used for the delivery and loading or unloading of vehicles.

Lot: Any plot of land occupied or intended to be occupied by one main building and the required parking, or a group of main buildings, and accessory building and uses, including such open spaces as are required by the Ordinance, and other laws or ordinances, and having its principal frontage on a public street or officially approved place.

Lot, Combination: A combination of two or more platted lots that are legally conjoined to form a single parcel.

Lot, Corner: A lot which has at least two (2) adjacent sides abutting for their full lengths on a street, provided that the interior angle at the intersection of such two (2) sides is less than one hundred thirty-five degrees (135°).

Lot, Depth: The mean horizontal distance between the front and rear lot lines.

Lot Frontage: That dimension of a lot or portion of a lot abutting on a street, excluding the side dimension of a corner lot.

Lot, Interior: A lot other than a corner lot.

Lot, Irregular: A single lot, parcel, or irregular lot that is not rectangular or square in shape.

Lot, Key: A corner lot that is so designed that the lots located directly behind it face the side street of the corner lot and are not separated by an alley.

Lot Line, Rear: The lot line farthest from and most parallel to the front lot line. For triangular lots, the point opposite the front lot line shall be considered the rear lot line and have a value of zero.

Lot Line, Side: Any lot line not the front or rear lot line.

Lot Lines or Property Lines: The lines bounding a lot as defined herein.

Lot Width: The horizontal distance measured between side lot lines parallel to the front lot line, and measured from the point on the building line which is closest to the front lot line.

Main Building: The building or buildings on a lot which are occupied by the primary use.

Masonry Construction: Exterior construction materials including brick, stone, granite, marble, concrete and other built-up/tilt panels.

Mobile Home: A structure that was constructed before June 15, 1976, transportable in one or more Sections, which in the traveling mode is eight body feet or more in width and forty or more body feet in length, or when erected on site is 320 or more square feet, and which is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein.

Motor Vehicle: Any device designed to carry one or more persons which is propelled or drawn by mechanical power, such as automobiles, trucks, motorcycles, and buses.

Multiple-Family Building: (Same as Dwelling, Multiple-Family).

Multiple-Family Residence: (Same as Dwelling, Multiple-Family).

Municipally Owned Facilities and Uses: Any area, land, building, structure, and/or facility owned, used, leased, or operated by the City of Morgan's Point Resort, Texas.

Nonconforming Use: A building, structure, or use of land lawfully occupied at the time of the effective date of this ordinance or amendments thereto, but which does not conform to the use regulations of the district in which it is situated.

Occupancy: The use or intended use of the land or buildings by proprietors or tenants.

Office, Professional and General Administrative: A room or group of rooms used for the provision of executive, management, or administrative services. Typical uses include administrative offices, and services including real estate, insurance, property management, investment, personnel, travel, secretarial services, telephone answering, and business offices of public utilities, organizations and associations, but excluding medical offices.

Opacity: Is the degree of openness which light or view is blocked measured perpendicular to the fence for each fence Section between supports.

Open Storage (Also Outside Storage): The keeping, displaying, or storing, outside a building, of any new or used goods, material, merchandise, or equipment on a lot or tract for more than twenty-four (24) hours.

Parcel: A single lot or group of lots identified by a unique Property ID assigned by the Bell County Appraisal District.

Parking Lot: An off-street, ground level area, usually surfaced and improved, for the temporary storage of motor vehicles.

Plat: A plan of a subdivision of land creating building lots or tracts and showing all essential dimensions and other information essential to comply with the subdivision standards of the City of Morgan's Point Resort and subject to approval by the Zoning Commission and filed in the plat records of Bell County.

Plot: A single unit or parcel of land or a parcel of land that can be identified and referenced to a recorded plat or map.

Premises: Land together with any buildings or structures situated thereon.

Public or Municipal Building or Facility: Any building (except a building used primarily for general office purposes) which is owned, leased, primarily used and/or primarily occupied by the State of Texas, the United States, the City of Morgan's Point Resort, or any subdivision or agency of the State of Texas, the United States or the City of Morgan's Point Resort, or by any public or quasi-public utility.

Public Right-of-Way (ROW): A strip of land which is used as a roadbed for street, alley or a highway and is intended for use by the public at large, or land set aside as an easement or in fee, either by purchase, agreement or condemnation. Generally, describes an area used for the provision of streets and utilities. Unless otherwise specified, the term right-of-way shall refer to a public right-of-way.

Pumphouse: A structure housing pumps for irrigation purposes with a base not larger than sixteen (16) square feet and a height not greater than four (4) feet.

Recreational Vehicle (RV): A portable or mobile living unit used for temporary human occupancy away from the place of permanent residence of the occupants and self propelled (motorized). Also see heavy load vehicle. A recreational vehicle park is an area or commercial campground for RVs and similar vehicles or trailers to reside, park, rent, or lease on a temporary basis.

Repair: A repair to a fence shall be defined as maintenance to a fence where replacement of materials does not exceed fifty (50%) percent of the fence and does not change the scope, location or dimensions of the fence. Repairs shall be made using the same material, or material with comparable composition, color, size, shape and quality of the original fence to which the repair is being made.

Residence: Same as a dwelling; also, when used with District, an area of residential regulations.

Residential District: District where the primary purpose is residential use.

Restaurant (Drive-In Type): An eating establishment where primarily food or drink is served to customers in motor vehicles or where facilities are provided on the premises which encourage the serving and consumption of food in automobiles on or near the restaurant premises.

Restaurant or Cafeteria: An eating establishment where customers are primarily served at tables or self-served and food is consumed on the premises, which may include a drive-through window.

Retail or Service, Incidental: The rendering of incidental retailing or services incidental to the primary use. In the Office District, such uses include a barber or beauty shop, smoke shop, candy counter, restaurant, pharmacy or other incidental activity secondary to the primary office occupancy.

Retail Stores and Shops: An establishment engaged in the selling of goods and merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

Retaining Wall: A wall not laterally supported at the top that resists lateral soil loads and other imposed loads.

Room: A building or portion of a building which is arranged, occupied, or intended to be occupied as living or sleeping quarters but not including toilet or cooking facilities.

Screening: A method of visually modifying the view of a structure, building, feature or use by methods such as fencing, walls, berms, densely planted vegetation or a combination of these methods.

Screening Wall: A wall or architectural extension that may be part of the structure or a stand alone feature that screens from view the interior of a property so that visibility through the wall shall be prevented from the exterior side of the wall or architectural extension.

Setback: The distance from the property line or the right-of-way line of all streets adjacent to the premises on which a fence is located to the part of the fence closest to the property line or right-of-way line.

Shopping Center: A group of primarily retail and service commercial establishments planned, constructed and managed as a total entity with customer and employee parking provided on site, provision for goods delivery separated from customer access, provision of aesthetically appropriate design and protection from the elements.

Short Term Rental: A residential property, including a single-family dwelling or a unit in a condominium, cooperative, or time-share, that is rented wholly or partly for a fee for a period not longer than 30 consecutive days.

Sign: Any device, flag, light, figure, letter, word, message, symbol, plaque, or poster visible from outside the premises on which it is located and designed to inform or attract the attention of persons not on that premises, including searchlights.

Site-Built: A building that is built on the building site for which a building permit was issued and which does not include any pre-assembled, pre-plumbed or pre-wired rooms constructed away from the site.

Story: That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it, or, if there be no floor above it, then the space between the floor and the ceiling next above it. The average height for a story shall be defined as twelve feet (12'). The definition of a story does not include parapets, gables, and other normal roof structures.

Story, Half: A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three feet (3') above the top floor level, and in which space not more than two-thirds ($\frac{2}{3}$) of the floor area is finished off for use. A half story containing independent apartment or living quarters shall be counted as a full story.

Street: Any dedicated public thoroughfare which affords the principal means of access to abutting property. A street is termed a major thoroughfare or arterial when the right-of-way is seventy (70) feet or greater.

Street, Intersection: Any street which joins another Street at an angle, whether or not it crosses the other.

Structural Alterations: Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any substantial change in the roof or in the exterior walls.

Structure: Anything constructed or erected, the use of which requires location on the ground or which is attached to something having a location on the ground (also see definition of Building).

Trailer: Every vehicle designated or used to carry its load wholly or partially on its own structure and to be drawn by a motor vehicle, except devices used exclusively upon stationary rails or tracks.

Trailer or Mobile Home Space: A plot of ground within a mobile home park, trailer court, or mobile home subdivision designed for the accommodation of one mobile home.

Variance: An adjustment in the application of the specific regulations of the Zoning Ordinance to a particular parcel of property which, because of special conditions or circumstances of hardship peculiar to the particular parcel, is necessary to prevent the property from being deprived of rights and privileges enjoyed by other parcels in the same vicinity and zoning district.

Vehicle: A device that can be used to transport or draw persons or property on a highway. The term does not include a device used exclusively on stationary rails or tracks or manufactured housing as that term is defined by the Texas Manufactured Housing Standards Act.

Vision or Visibility Triangle: The corner visibility triangle is defined at an intersection by extending the two curblines from their point of intersection to a distance. These two points are then connected with an imaginary line to form the corner visibility triangle as shown in Figure 3. If there are no curbs existing, then the triangular area shall be formed by extending the property lines for distance of ten feet (10') from their point of intersection. If there are curbs existing, then the triangular area shall be formed by extending the curblines for distance of thirty feet (30') from their point of intersection except where one or more of the streets is listed as an arterial or collector street which requires forty feet (40').

Yard: An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except where otherwise specifically provided in this Ordinance that the building or structure may be located in a portion of a yard required for a main building. In measuring a yard for the purpose of determining the width of the side yard, the depth of a front yard or the depth of a rear yard, the shortest horizontal distance between the lot line and the main building shall be used.

Yard, Front: A yard located in front of the front elevation of a building and extending across a lot between the side yard lines and being the minimum horizontal distance between the front property line and the outside wall of the main building.

Yard, Rear: The area extending across the rear of a lot measured between the lot lines and being the minimum horizontal distance between the rear lot line and the rear of the outside wall of the main building. On both corner lots and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard.

Yard, Side: The area between the building and side line of the lot and extending from the front lot line to the rear lot line and being the minimum horizontal distance between a side lot line and the outside wall of the side of the main building.

Zoning Commission: A board, appointed by the City Council as an advisory body, authorized to recommend changes in the zoning and other planning functions as delegated by the City Council. Also referred to as the "Commission."

Zoning District Map: The official map upon which the boundaries of the various Zoning Districts are drawn and which is an integral part of the Zoning Ordinance.

(Ord. No. 2014-01, 1-14-14; Ord. No. 2014-16, 12-9-14; Ord. No. 2019-10, § 1, 8-20-19; Ord. No. 2020-11, 10-13-20; Ord. No. 2021.08, § 1(Exh. A), 12-14-21)

Section 16. Off-street Parking and Loading Requirements.

16.1 Purpose. To facilitate the adequate provision of parking and loading; to lessen congestion on public streets; to conserve the value of buildings; and to encourage the most appropriate use of land, off-street parking and loading shall be provided as set forth below.

16.2 General Requirements.

- A. The street right-of-way between the roadway and the property line of any property shall not be used for parking of travel trailers, motor homes, boats and/or trailers, whether or not attached to towing vehicles, for longer than 48 consecutive hours.
- B. The street right-of-way between the paved roadway and the property line of adjacent property shall be available for parking of passenger cars and light trucks of not more than one ton carrying capacity. Planting of trees, shrubs or other plants or placement of obstacles which interfere with access to the right-of-way for such authorized parking or other public use of street areas is not permitted. The only exception is that a mailbox may be placed in the street right-of-way in a manner approved specifically in each instance by the Belton, Texas Postmaster.

16.3 Special Off-Street Parking Provisions—Residential Districts.

- A. A truck-tractor, road tractor, semi-trailer, bus, trailer, truck with more than two axles, rated capacity in excess of one and one-half tons (1-½ tons), or with a height of more than nine (9) feet, according to the manufacturer's classification, must stop, park or stand on an improved surface behind any building setback line as shown by the property's plat or the zoning ordinance, in accordance with City ordinance 10-24 [section 12.04.002 of the Code of Ordinances].
- B. An application for a building permit must be submitted and approved by the Building Official for the required paved concrete or asphalt parking space.
- C. For each residential building site, there shall be a minimum of two (2) off-street parking spaces on an improved surface, inclusive of the garage, to allow for stacking and maneuvering. The concrete apron from the roadway to the property line required by City Ordinance 4-1 [article 3.02 of the Code of Ordinances] may be used to satisfy some or all of this requirement.

16.4 Off-Street Parking and Loading—Nonresidential.

- A. For safety and firefighting purposes, unimpeded access through parking areas shall be provided.
- B. Handicapped parking space(s) shall be provided according to the International Building Code, the Americans With Disabilities Act Design Guide, and the Texas Accessibility Code.
- C. Each commercial property must dedicate adequate off-street space to allow for the maneuvering and off-loading of delivery and maintenance trucks.
- D. Application for a building permit on commercial property shall include a drawing showing adequate parking to accommodate the anticipated patronage of the commercial activity. The City Building Official shall be guided by "Standard Engineering Practices" in verifying the adequacy of parking and loading spaces planned.
- E. In the event of a dispute regarding the adequacy of the parking and loading space planned, the applicant for a permit may request the City Council to consider whether or not an appeal of the decision of the Building Official shall be heard.



PLANNING & ZONING COMMISSION

Morgans Point Resort Item Summary Sheet

Agenda Item: P&Z membership application revisions

Discuss and take appropriate action on P&Z membership application revisions.

Agenda Item Summary:

P&Z to discuss adding Yes/No boxes for "Are you a builder/developer" and Yes/No for "Are you currently doing volunteer work" to the P&Z membership application.

Agenda Item Action:

The P&Z Commission to consider and approve recommendations regarding Yes/No boxes for "Are you a builder/developer" and Yes/No for "Are you currently doing volunteer work".

References:

1. N/A



Planning & Zoning Commission Application

Thank you for your interest in volunteering to join the Planning & Zoning Commission! Use this form to provide useful information about yourself. The following information will be shared with current members and City Administration.

Your
Name: _____

—

Your Home Phone Number: _____ Cell
Number: _____

Your
Address: _____

—

How long have you lived in Morgan's Point
Resort: _____

Your email address (please print clearly):

Briefly describe why you would like to join:

Your current organizational affiliations (name of organization and your role):



If you join the Planning & Zoning Commission, you agree to provide at least 2-4 hours a month to be in attendance to meetings, and that you do not have any conflicts of interest in participating.

Your

signature: _____ Date: _____

—

If you are not selected as a member of the Commission, or if you decide not to join, would you like to be a volunteer to assist our organization in various ways that match your skills and interests?

☐ Yes

☐ No

☐ Perhaps

Are you a builder/developer?:

☐ Yes

☐ No

Are you currently involved in any volunteer work?:

☐ Yes

☐ No



PLANNING & ZONING COMMISSION

Morgans Point Resort Item Summary Sheet

Agenda Item: 43 Oakmont Cir Special Use Permit Application

Discuss and take appropriate action on application filed by Michael L. Neely for 43 Oakmont Cir. Special Use Permit Application.

Agenda Item Summary:

SUP application filed by Michael L. Neely with the City of MPR on 12/21/2024 for approval of Short-Term Vacation Rental. The property is located at 43 Oakmont Cir., Belton, TX, 76513 with a total acreage of 0.29 acres, on Section 3, Block 001, Lot 0017. The applicant has provided the following SUP submittal checklist items:

1. Complete "Specific Use Permit" application
2. Site plan/legal survey?
3. Copy of the lease/HUD statement
4. Payment of application fee (check #729)

Agenda Item Action:

The P&Z Commission to consider and discuss approval of SUP application filed by property owner Michael L. Neely.

References:

1. *Recommendations by Mike to City Council and P&Z Commission*

**Office Use Only**

Date: _____ Application # _____ Staff Review _____
P & Z Hearing: _____ Council Hearing: _____ Fees Paid (\$500) ☐ Receipt #: _____

PLEASE PRINT CLEARLY

Applicant Name: Michael L. Neely
Mailing Address: 6800 Brants Ln. City: Ft. Worth State: TX Zip: 76116
Phone: 817-680-0342 E-mail: Katy.C.neely@gmail.com

OWNER'S INFORMATION

Property Owner: Michael L. Neely
Mailing Address: " " City: _____ State: _____ Zip: _____
Phone: " " E-mail: _____

PROJECT SITE ADDRESS: 43 Oakmont Cir., Belton, TX 76513
Legal description: Section 3 Block 001 Lot(s) 0017
Total Acreage or Square Footage: .29 acres Deed recorded in: BOOK/Vol/Page
Bell Cad Parcel ID: 53564 OPR/10584/1800
SPECIFIC CONDITIONAL USE REQUEST: Short term vacation rental

Applicant understands that the purpose of the Specific Use Permit (SUP) process is to allow certain uses which are not specific; permitted uses within a zoning district. To be considered for a SUP, the requested use must be listed under "Specific Uses" within the applicable zoning district.

UTILITIES

Electric Provider: Oexa
Last Septic Inspection Date: NOV. 2024 - Centex Aerobic



SPECIFIC USE PERMIT (SUP) SUBMITTAL CHECKLIST

- ☒ Complete "Specific Use Permit" Application
- ☒ Site plan / legal survey
- ☒ Copy of the lease / HUD statement
- ☐ Agent authorization to represent property owner (if applicable)
- ☐ Letter of authorization from HOA (if applicable)
- ☒ Payment of application fee (credit card, che

Office I

City of Morgan's Point Resort
8 Morgan's Point Boulevard
Morgan's Point Resort, TX 76513

- ☐ Application Completed
- ☐ 200 ft. Certified Letter sent to entities no la
- ☐ Notices to local newspapers sent
- ☐ Initial Septic Inspection Date: _____
- ☐ Initial Home Inspection Date: _____
- ☐ Public Hearing Date: _____
- ☐ P & Z Approval Date: _____
- ☐ Notices to local newspapers sent
- ☐ Council Scheduled Date: _____
- ☐ Council Approval Date: _____
- ☐ Final Inspection Date: _____
- ☐ Certificate of Occupancy Issue Date: _____

Receipt #: 265646465004661
User: adominguez0890@gmail.com
Payment Date: 1/6/2025
Batch: 20255 - Checks/Amanda

17-00-4190 Hotel Occupancy Tax
General

Michael Neely STR

Amount Due: \$500.00
Applied: \$500.00
Balance: \$0.00

1/6/2025

Check #: 729

Check: \$500.00

Applied: \$500.00
Change: \$0.00



MY REQUEST IS BASED ON THE FOLLOWING:

- The use requested by the applicant is set forth as a conditional use in the zoning ordinance.
- The nature of the use is reasonable.
- The special use does not adversely affect the safety or convenience of vehicular or pedestrian circulation, including reasonably anticipated traffic and uses in the area.
- The specific use permit does not adversely affect an adjacent property by its resulting traffic through the location, or its lighting; and
- That any additional conditions specified, if any, ensure that the intent and purposes of the zoning ordinances are being upheld.

SUBMITTAL VERIFICATION

My signature attests to the fact that the attached application package is complete and accurate to the best of my knowledge. I understand the City review of this Application is dependent upon the accuracy of the information provided and that any inaccurate or inadequate information provided by me, my firm, or agent may delay the review of the Application. I authorize City of Morgan's Point Resort Staff to visit and inspect the property for which this application is being submitted. I agree to attend or have a representative attend the Planning & Zoning Commission and City Council meetings. I have checked the subdivision plat notes, deed restrictions, restrictive covenants and/or zoning actions to ensure that there are no restrictions on the subject property and understand that the City zoning action does not relieve any obligation of these restrictions.

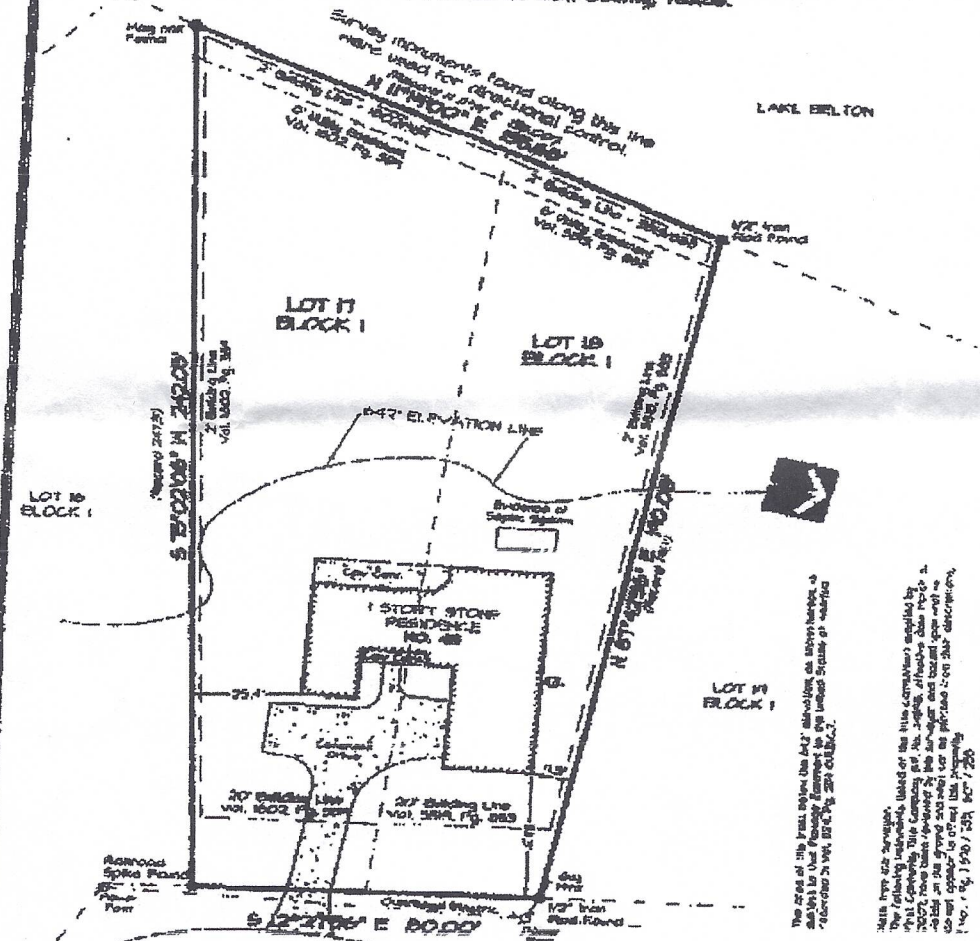
Applicant's Signature: _____

M. Nally

Date: _____

12/21/24

Surveyor's sketch showing LOTS SEVENTEEN (17) and EIGHTEEN (18), BLOCK ONE (1), of HORGAN'S POINT RESORT CITY, SECTION 3, a subdivision in Bell County, Texas, according to the plat of record in Cabinet A, Slide 242-D, Plat Records of Bell County, Texas.



OAKMONT CIRCLE
PUBLIC MAINTAINED ROADWAY
CAB. A, SL. 242-D

This sketch represents a survey made on the ground. During the performance of this survey, persons working under my supervision observed conditions within and along the boundaries and to the best of my knowledge they are as shown. The location of visible structural improvements with respect to the boundary lines are as shown. This document is not valid for any purpose unless signed and sealed by a Registered Professional Land Surveyor.

ALL COUNTY SURVEYING, INC.
• Surveying
• Mapping
• Construction Layout
1809 South 21st Street
Tempe, Texas 85284
254-718-2212 Killeen 254-634-4636
Fax 254-774-7608



Plot Date: 12-15-2006
Survey Completed: 12-19-2006
Scale: 1" = 30'
JOB NO.: 218424
Drawn by: JLM
Surveyor: J.S. & 4826
Copyright 2006 All County Surveying, Inc.



ADDITIONAL QUESTIONS AND LIST OF CONDITIONS THAT MAY BE INCLUDED IN A SHORT-TERM RENTAL SUP

PROPERTY OWNER: Michael L. Neely
 LOCATION OF PROPERTY: 43 Oakmont Circle, Belton 76513
 LEGAL DESCRIPTION: SECTION 3 BLOCK 001 LOT(S) 0017
 EXISTING USE: Short term rental
 HOMEOWNERS ASSOCIATION CONTACT INFO: _____

Sec. 15.4 Specific Use Permit Fees

No permit required by this article shall be issued until the fees prescribed in this section have been paid, nor shall any amendment to a permit be approved until the additional fees, if any, have been paid. The fee for Specific Use Permits Application shall be:

1. Upon applying for a Specific Use Permit: \$500.00 Application Fee
2. Upon Denial of a Specific Use Permit: 50% refund of the Specific Use Permit application fee

SF – Single-Family Residential and MF – Multifamily Residential

1. Bed and Breakfast Inn or Facility, Tourist Home or Short-Term Rental.
 - a) A maximum of 8 adults and 3 motor vehicles for a structure with 3 or more bedrooms.
 - b) A maximum of 6 adults and 2 motor vehicles for a structure with 2 bedrooms.
 - c) A maximum of 4 adults and 2 motor vehicles for a structure with only one bedroom.
 - d) A maximum of 2 household pets for each structure. Dogs, cats and domestic ferrets must be currently vaccinated (annually) for the rabies virus.

Initial MN OFF-STREET PARKING: All parking will be off-street. 3 Off-street parking spaces will be provided for off-street guest parking, which will be adequate for a maximum occupancy of 8 adult guest with 3 motor vehicles. Parking will be in these spaces only.

Sec. 3.02.013 Off-street parking spaces

For each building site in residential areas there shall be a minimum of two (2) off-street parking spaces on an improved surface, inclusive of the garage. The concrete apron from the roadway to the property line required by this article may be used to satisfy some or all of this requirement. (Ordinance 4-1, part I, sec. I(D), adopted 6/13/02; Ordinance adopting Code)

**Sec. 12.04.001 Parking in right-of-way; obstructions in right-of-way****(a) Restrictions.**

- (1) Parking of trailers, motor homes or boats. The street right-of-way between the roadway and the property line of any property shall not be used for parking of travel trailers, motor homes, boats and/or trailers, whether or not attached to towing vehicles, for longer than 48 consecutive hours.

Sec. 12.04.002 Parking large vehicles in residential area; parking vehicle with motor or equipment running

(a) Parking large vehicles. A person commits an offense if he stops, parks, or stands a truck-tractor, road tractor, semi-trailer, bus, trailer or a truck with more than two axles, rated capacity in excess of one and one-half tons or with a height of more than nine feet, according to the manufacturer's classification, in front of or forward of any building setback line (as shown by the property's plat or the zoning ordinance) and not upon an improved surface which has been inspected and approved by the city, upon property within a residential area.

(b) Parking vehicle with motor or equipment running. It shall be unlawful for any person owning or having control of any motor vehicle or trailer to park or leave standing said motor vehicle or trailer in a residential area with the motor or accessory equipment (such as a refrigeration unit) running.

Initial MN **NOISE AND LIGHTING:** Exterior lighting to be only landscape lighting. All noise audibles from outside, and all light visible from outside the property shall be maintained at low levels appropriate to a single-family neighborhood. No large parties are permitted.

Sec. 8.03.003 Specific noises prohibited

The playing of any radio, phonograph or any musical instrument in such manner, or with such volume, particularly during the hours between 11:00 p.m. and 7:00 a.m., as to create a noise such as reasonably calculated to disturb a person of ordinary disposition under the same or similar circumstances residing in a dwelling or other type of residence in the vicinity. No stationary loudspeaker or amplifier shall be operated on any weekday between the hours of 11:00 p.m. and 7:00 a.m., and no such stationary loudspeaker or amplifier shall be operated at any time on Sunday between the hours of 7:00 a.m. and 1:00 p.m.

NUMBER OF BEDROOMS: 3 PROPOSED MAXIMUM OCCUPANCY: 8 guests.

Initial MN **OCCUPANT REGULATIONS AND GUIDELINES:** Guest Guidelines are attached hereto and made a part of the Specific Use Permit. The short-term rental shall be operated in accordance with the guidelines. These guidelines shall be furnished to all guests.



Initial MN **PROPERTY MANAGEMENT:** Owner will provide guests and City police department with owner's telephone number to assure Owner's immediate knowledge of any concerns that may arise. (If not, owner occupied) Owner agrees to always retain under contract a responsible local management company the property is used as a non-owner-occupied short-term rental. The management company shall advise guests of the applicable conditions contained herein, receive, and pass on the owner any complaints received and at owner's direction act upon such complaints. (If owner occupied) The property shall be the owner's principal place of residence and the owner shall actively always supervise and manage the property that it is used as a short-term rental.

Initial MN **MISCELLANEOUS:** Owner agrees to maintain the property in a manner conducive to the health and safety of the guests and the neighborhood. All trash and garbage will be placed in provided receptacles. No trash bags shall be left out in the open. The exterior of the rental and the landscaping, including lawns, will be always maintained in good condition.

Initial MN **REVOCATION:** The sup may be revoked by the City Council upon recommendation of the Planning and Zoning Commission in the event of the violation of any of the conditions contained therein.

Initial MN **OWNER COMPLIANCE:** Owners agree to comply with all City of Morgan's Point Resort Ordinances, and all state, county and City laws, rules and regulations.

ACCEPTED AND AGREED TO:

MN Neely

OWNER SIGNATURE

Michael L. Neely

PRINT NAME

12/21/24

DATE

OWNER SIGNATURE

PRINT NAME

DATE

A. Settlement Statement

U.S. Department of Housing
and Urban Development

OMB No. 2502-0265

Item e.

B. Type of Loan			
1. <input type="checkbox"/> FHA	2. <input type="checkbox"/> FmHA	3. <input type="checkbox"/> Conv Unins	6. File Number
4. <input type="checkbox"/> VA	5. <input type="checkbox"/> Conv Ins.	6. <input type="checkbox"/> Seller Finance	18-4404
		7. Loan Number	8. Mortgage Ins Case Number
C. Note: This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "(p.o.c.)" were paid outside the closing; they are shown here for informational purposes and are not included in the totals.			
D. Name & Address of Borrower MICHAEL L. NEELY SR.		E. Name & Address of Seller MICHAEL L. NEELY JR. 716 Blake Court Edmond, OK 73003 Tax ID:	
		F. Name & Address of Lender CASH	
G. Property Location MORGAN'S POINT BELL CO. 3, Block 1, Lot 17, Bell County 43 OAKMONT CIRCLE BELTON, TX 76513 See Addendum		H. Settlement Agent Name Monteith Abstract & Title Company, Inc. - Temple Branch 2010 Bird Creek Drive, Suite 102 Temple, TX 76502 Tax ID: 742044233	
		I. Settlement Date 9/5/2018 Fund: 9/5/2018	
J. Summary of Borrower's Transaction		K. Summary of Seller's Transaction	
100. Gross Amount Due from Borrower		400. Gross Amount Due to Seller	
101. Contract Sales Price	\$245,800.00	401. Contract Sales Price	\$245,800.00
102. Personal Property		402. Personal Property	
103. Settlement Charges to borrower	\$327.26	403.	
104.		404.	
105.		405.	
Adjustments for items paid by seller in advance		Adjustments for items paid by seller in advance	
106. City property taxes		406. City property taxes	
107. County property taxes		407. County property taxes	
108. Annual assessments 09/05/18 to 12/31/18	\$3.23	408. Annual assessments 09/05/18 to 12/31/18	\$3.23
109. School property taxes		409. School property taxes	
110. MUD taxes		410. MUD taxes	
111. Other taxes		411. Other taxes	
112.		412.	
113.		413.	
114.		414.	
115.		415.	
116.		416.	
120. Gross Amount Due From Borrower	\$246,130.49	420. Gross Amount Due to Seller	\$245,803.23
200. Amounts Paid By Or in Behalf Of Borrower		500. Reductions in Amount Due to Seller	
201. Deposit or earnest money		501. Excess Deposit	
202. Principal amount of new loan(s)		502. Settlement Charges to Seller (line 1400)	\$2,199.55
203. Existing loan(s) taken subject to		503. Existing Loan(s) Taken Subject to	
204. Commitment fee		504. Payoff of first mortgage loan	\$182,512.29
205.		505. Payoff of second mortgage loan	
206.		506.	
207.		507.	
208.		508.	
209.		509.	
Adjustments for items unpaid by seller		Adjustments for items unpaid by seller	
210. City property taxes		510. City property taxes	
211. County property taxes 01/01/18 to 09/05/18	\$2,879.81	511. County property taxes 01/01/18 to 09/05/18	\$2,879.81
212. Annual assessments		512. Annual assessments	
213. School property taxes		513. School property taxes	
214. MUD taxes		514. MUD taxes	
215. Other taxes		515. Other taxes	
216.		516.	
217.		517.	
218.		518.	
219.		519.	
220. Total Paid By/For Borrower	\$2,879.81	520. Total Reduction Amount Due Seller	\$187,591.65
300. Cash At Settlement From/To Borrower		600. Cash At Settlement To/From Seller	
301. Gross Amount due from borrower (line 120)	\$246,130.49	601. Gross Amount due to seller (line 420)	\$245,803.23
302. Less amounts paid by/for borrower (line 220)	\$2,879.81	602. Less reductions in amt. due seller (line 520)	\$187,591.65
303. Cash From Borrower	\$243,250.68	603. Cash To Seller	\$58,211.58

Section 4(a) of RESPA mandates that HUD develop and prescribe this standard form to be used at the time of loan settlement to provide full disclosure of all charges imposed upon the borrower and seller. These are third party disclosures that are designed to provide the borrower with pertinent information during the settlement process in order to be a better shopper.

The Public Reporting Burden for this collection of information is estimated to average one hour per response, including the time for reviewing instructions searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number. The information requested does not lend itself to confidentiality.

L. Settlement Charges					Paid From Borrower's Funds at Settlement	Paid From Seller's Funds at Settlement
700. Total Sales/Broker's Commission based on price		\$245,800.00	@ % =	\$0.00		
Division of Commission (line 700) as follows:						
701.	to					
702.	to					
703. Commission Paid at Settlement						
704.	The following persons, firms, or corp.	to			\$0.00	\$0.00
705.	received a portion of the real estate	to				
706.	commission amount shown above:	to				
707.	Marketing Fee	to				
800. Items Payable in Connection with Loan						
801.	Loan Origination Fee %	to				
802.	Loan Discount %	to				
803.	Appraisal Fee	to				
804.	Credit Report	to				
805.	Lender's Inspection Fee	to				
806.	Mortgage Insurance Application	to				
807.	Assumption Fee	to				
900. Items Required by Lender To Be Paid in Advance						
901.	Interest from 9/5/2018 to 10/1/2018 @ \$0/day					
902.	Mortgage Insurance Premium for months	to				
903.	Hazard Insurance Premium for years	to				
1000. Reserves Deposited With Lender						
1001.	Hazard insurance	months @	per month		\$0.00	
1002.	Mortgage insurance	months @	per month		\$0.00	
1003.	City property taxes	months @	per month		\$0.00	
1004.	County property taxes	months @	per month		\$0.00	
1005.	Annual assessments	months @	per month		\$0.00	
1006.	School property taxes	months @	per month		\$0.00	
1007.	MUD taxes	months @	per month		\$0.00	
1008.	Other taxes	months @	per month		\$0.00	
1011.	Aggregate Adjustment				\$0.00	
1100. Title Charges						
1101.	Settlement or closing fee	to				
1102.	Abstract or title search	to				
1103.	Title examination	to				
1104.	Title insurance binder	to				
1105.	Document preparation	to				
1106.	Notary fees	to				
1107.	Attorney's fees	to	HARRELL, STOEBCNER & RUSSELL, PC			\$100.00
(includes above items numbers: NO ATTY/FIDELITY/JD)						
1108.	Title insurance	to	Monteith Abstract & Title Company			\$1,683.00
(includes above items numbers:)						
1109.	Lender's coverage	\$0.00/\$0.00				
1110.	Owner's coverage	\$245,800.00/\$1,683.00				
1111.	Escrow Services	to	Monteith Abstract & Title Company, Inc.		\$300.00	\$300.00
1112.	FEDEX CHARGES	to	Monteith Abstract & Title Company, Inc.			\$22.25
1113.	Tax Certificates	to	CENTAX SERVICES, LLC			\$49.80
1114.	T-53 Chain of Title	to	Monteith Abstract & Title Company, Inc.			
1115.	Guaranty Fee	to	Monteith Abstract & Title Company, Inc.			
1116.	GARC Fee	to	Monteith Abstract & Title Company, Inc.			\$4.50
1200. Government Recording and Transfer Charges						
1201.	Recording fees	Deed \$19.00	Mortgage ; Releases		\$19.00	
1202.	City/county tax/stamps	Deed	Mortgage to			
1203.	State tax/stamps	Deed	Mortgage to			
1204.	E-Recording Fees	to	Monteith Abstract & Title Company, Inc.		\$4.26	
1300. Additional Settlement Charges						
1301.	Survey	to	Existing Survey			
1302.	Pest Inspection	to				
1303.	Home Warranty	to				
1304.	MORGANS POINT RESORT MAINT	to	Morgans Point Resort City		\$4.00	
1305.	MORGANS POINT RESORT DUES	to	Morgans Point Resort City			\$40.00
1306.	.	to				
1307.	.	to				
1308.	.	to				
1309.	.	to				
1310.	.	to				
1400. Total Settlement Charges (enter on lines 103, Section J and 502, Section K)					\$327.26	\$2,199.55

Item e.

RE: SPECIFIC USE PERMIT REQUEST

Michael Neely/Katy Page

43 Oakmont Circle

Belton, TX 76513

February 20, 2025

City of Morgan's Point Resort

8 Morgan's Point Boulevard

Morgan's Point Resort, TX 76513

Dear Camille Bowser,

My name is Katy Page and I am the daughter and power of attorney for my father and property owner, Michael Neely. I am writing today as I will not be able to attend the hearing regarding my fathers proposed short term rental application.

My father purchased this property from my brother in 2018 with the hopes to retire and live out his days on Lake Belton. Unfortunately, during the snow storms of 2021, my father slipped on the ice and broke his hip. Soon after he was diagnosed with Multiple Sclerosis, and after reoccurring falls, I made the difficult decision to move my father to an assisted living facility near my residence in Fort Worth in 2022.

Up until November, 2024, I was fortunate to have located and secured long term tenants, which was the greatest blessing, as it enabled my father to afford his facility. Without income from renting his home he would not be able to stay, as Social Security is his only other source of income and only covers a fraction of his monthly room and board.

When the real estate market took a downturn I struggled to find another long term tenant, and knew I wouldn't bring fair market value if we had to sell during low season. In order to keep up with his facility fees and medical bills after a recent surgery, I reached out to a short term rental management company to help find a tenant to generate funds.

The real estate market is still slow and we have not been able to secure consistent tenants due to the seasonality of the property, but it has still been enough to help subsidize expenses.

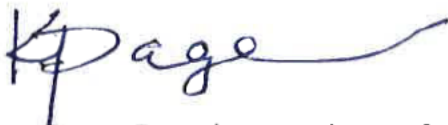
Without the income generated from my fathers property, he would not be able to afford to stay in his facility and receive the level of care he now requires. I have a family of 4 and we do not have the space or accommodations to move him in.

I can ensure that the property is being well managed and overseen by a team of local professionals to ensure the integrity and overall condition of the home is maintained.

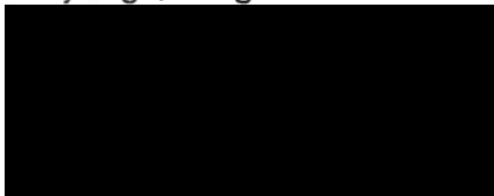
I hope that the officials and residents of Morgan's Point will seriously consider and approve my fathers unique situation and financial need for this income generating property.

I look forward to hopefully reaching a favorable decision. Please feel free to contact me with any questions, concerns, financials or property information.

Sincerely,

A handwritten signature in blue ink that reads "K Page". The "K" is stylized with a long vertical stroke, and "Page" is written in a cursive script.

Katy Page, Daughter and POA for Michael Neely



Fort Worth, TX 76116



SUP Specific Use Permit

Camille Bowser <Camille.Bowser@mprtx.us>

Thu, Feb 13, 2025 at 3:33 PM

To: [REDACTED]

Cc: Ken Hobbs <hobbs1968@yahoo.com>

Good afternoon,

I would like to start by apologizing for taking so long to get back with you regarding your application. You will be receiving a letter with the following public hearing information, and this is the same letter your neighbors within 200 ft of your property will be receiving:

Subject: Notice of Public Hearing – Specific Use Permit Request

Dear Property Owner,

The Morgan's Point Resort Planning and Zoning Commission will conduct a public hearing to consider a request for a Specific Use Permit (SUP) for Short Term Vacation Rental on property located at [43 Oakmont Cir, Morgan's Point Resort TX 76513](#): Section 3, Block 001, Lot(s) 0017 & 0018 - Bell Cad Parcel ID 5634 & 53564

- Hearing Date: March 25, 2025
- Time: 5:30 PM
- Location: Event Center, [60 Morgan's Point Blvd, Morgan's Point Resort TX 76513](#)
- Applicant: Michael L Neely
- Proposed Use: Short Term Vacation Rental
-

Following the Planning and Zoning Commission's review, the request will be forwarded to the City Council for final consideration at a separate hearing on April 8, 2025.

You are invited to attend and provide input on this matter. If you have any questions or wish to submit written comments, please contact Camille Bowser at 254-742-3206 or camille.bowser@mprtx.us

Camille Bowser

City of Morgan's Point Resort

City Secretary

PH: 254-742-3206