



PLANNING & ZONING COMMISSION

Tuesday, April 22, 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: Minutes from March 25, 2025, meeting

2. Regular Agenda

- [a.](#) Discuss and consider: Adjustments to Chapter 4 Business regulations, including adding Article 4.06
- [b.](#) Discuss and consider: ADA requirements to new and existing regulations. ADA notifications from cities of similar size to MPR
- [c.](#) Discuss and consider: Edits to Chapters 3, 6 and Appendix B-Zoning Ordinance
- d. Discuss and consider: Potential new member to P&Z

3. MPR Comprehensive Plan Update

4. Items for Future Agendas

5. P & Z Commission Updates & Comments

6. Staff Updates

7. Adjournment

I certify that a copy of the ___4-22-2025___ 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 ___4-17-2025___ 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



NOTICE OF PUBLIC HEARING & PLANNING & ZONING COMMISSION MEETING
Tuesday, March 25, 2025, 5:30 PM
EVENT CENTER 60 MORGAN'S POINT BOULEVARD

Call to Order

Meeting was called to order at 5:30pm by Chairperson, Ken Hobbs

PRESENT

Ken Hobbs
Thomas Westmoreland
Leslie Minor

Sam Agha, Regional Planner for CTCOG

ABSENT

Louis Guillaud

Public Hearing (5:30)

Public hearing was opened at 5:31pm

No public comments

Public hearing was closed at 5:32pm

Public Hearing Decision

Public Hearing for 43 Oakmont Cir, MPR, TX 76513 specific use permit (SUP) application

Motion was made to approve SUP and forward request to City Council with the recommendation that the property owner must provide the name of the management company with phone numbers and have a representative present at the City Council meeting

Motion made by Westmoreland, Seconded by Minor.

Voting Yea: Hobbs

Passed

Call to Order

Regular meeting was called to order at 6:01pm, by Chairperson, Ken Hobbs

Announcements and Citizens Comments

Blake Barr, 55 Hickory Dr, MPR TX - Spoke in regard to annexation of donated land to MPR. He does not want his land included in the annexation

1. Approval of Minutes

- a. Discuss and Consider: Minutes from February 25, 2025, meeting

Motion made to approve minutes from February 25, 2025

Motion made by Westmoreland, Seconded by Minor.

Voting Yea: Hobbs

Passed

2. Regular Agenda

- a. Discuss and Consider: Chapter 4 Business Regulations adjustments, including Article 4.06(new)

Motion made to table Chapter 4 Business Regulations adjustments, including Article 4.06(new) for P&Z members to review and submit edits prior to next P & Z meeting

Motion made by Minor, Seconded by Westmoreland.

Voting Yea: Hobbs

Tabled

- b. Discuss and Consider: ADA requirements for new and existing organizations in MPR as directed by City Council

Motion made to table ADA requirements for new and existing organizations in MPR. A summary will be presented to City Council to consider location of the ADA requirements in the MPR ordinances. With City Council direction, P&Z will make adjustments and re-submit to City Council for approval

Motion made by Minor, Seconded by Westmoreland.

Voting Yea: Hobbs

Tabled

- c. Discuss and Consider: Adjustments to Section 23 and 24 of Appendix B after edits from City Council

Motion made to approve adjustments to Section 23 and 24 of Appendix B after edits from City Council

Motion made by Westmoreland, Seconded by Minor.

Voting Yea: Hobbs

Passed

- d. Discuss and Consider: Donated land to MPR as specified by Donor

Discussed donated land to MPR as specified by Donor

No action required

3. MPR Comprehensive Plan Update

- a. Comprehensive Plan Update

Comprehensive Plan is still being updated

4. Items for Future Agendas

N/A

P & Z Commission Updates & Comments

Planning & Zoning still needs 3 volunteer members to get the commission back to 7 members

Staff Updates

N/A

5. Adjournment

Meeting adjourned at 7:45pm

I certify that a copy of the ___3-25-2025___ 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 ___3-21-2025___ 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

Ken Hobbs, Chairperson

ATTEST:

Camille Bowser, City Secretary

NOT reviewed or Approved by Council -

Item a.

Item a.

Handed out 1/14/25 Meets.

Chapter 4 Business Regulations, Article 4.06

by Mike Reeves, Buddy

Sec. 4.06.001 APPLICABILITY.

Official . ④

① What does this report?

② Specific Use Permit?

③ Sec. 15 of Appendix B

④ INN or FACILITY

This chapter applies to all short-term rental properties, bed and breakfast properties, and operators unless expressly provided otherwise herein. (See Chapter 14 Section 15.4)

Sec. 4.06.002 PURPOSE AND INTENT.

TOURIST Home or

(A) The purpose of this chapter is to safeguard the life, health, safety, welfare, and property of the occupants of residential dwelling units, the neighbors of said occupants, and the general public, through the registration and regulation of short-term rentals and bed and breakfast properties and to ensure the collection and payment of hotel occupancy taxes.

(B) The intent of this chapter is to preserve the neighborhood character of residential subdivisions within the City of Morgans Point Resort and to minimize adverse impacts to residential subdivisions caused by STR and B&B properties.

Sec. 4.06.003 DEFINITIONS.

As used in this chapter, the following definitions shall apply:

BED AND BREAKFAST or B&B. A resident managed residential property where short term lodging is provided that contains no more than ten guest rooms and where breakfast service may be provided to overnight guests only. The resident manager must reside on the property and be present on the property for the duration of any short-term rental. The property may be rented out to multiple short term lodging groups at the same time.

BUILDING OFFICIAL. The Building Official or their designee.

CITY MANAGER. The City Manager or their designee.

HOTEL OCCUPANCY TAX. The hotel occupancy tax required to be assessed and collected for the operation of any short-term rental or bed and breakfast and paid pursuant to TEX. TAX CODE, CH. 351, as amended, and Chapter 11 Article 11.03. Hotel Occupancy Tax per (Ord. No. 23-3, § 7, 9-7-79) of the Morgans Point Resort Code of Ordinances.

LIFE SAFETY INSPECTION. The interior and exterior inspection of the property to verify no potential hazards.

OPERATOR. Any person, firm, or corporation who operates a short-term rental or bed and breakfast.

Next Agenda (FEBRUARY)

New Article

OWNER. Any person, firm, trust, corporation, partnership, or any other legal entity who has a legal or equitable interest in the property.

RESIDENTIAL DWELLING or RESIDENTIAL PROPERTY. A single-family dwelling, an apartment house, a condominium, a duplex, a townhome, a manufactured home, or any portion of such dwellings, including an accessory dwelling unit.

SHORT-TERM RENTAL or STR. The use of a residential dwelling rented to members of the public for consideration on a temporary or transient basis, where the owner, host, or operator is either present on site or is not present on site during the rental period, and used by guests for dwelling, lodging or sleeping purposes for any period less than 30 consecutive days.

SHORT-TERM RENTAL UNIT. Any building or portion thereof, which is designed or used for short-term rental purposes.

REGISTRATION FOR SHORT TERM RENTALS AND BED AND BREAKFASTS.

(A) No person may make available for short-term rental any building or structure within the City of Morgans Point Resort unless such building or structure has previously been registered as a STR in accordance with this chapter and is operated in compliance therewith. No person may operate a bed and breakfast within the City of Morgans Point Resort unless such building or structure has been registered as a B&B in accordance with this chapter and is operated in compliance therewith.

(B) Registration and permitting process.

(1) Prior to operating a short-term rental or bed and breakfast, the owner or operator of the STR or B&B shall obtain a STR Registration form or B&B registration form from the Building Official.

(2) The owner/operator of a short-term rental or bed and breakfast must submit the following information on the registration form:

(a) The owner/operator's name, address, email address, telephone number and number at which the owner/operator can be contacted by text message. If the applicant or owner is a partnership, a corporation, or limited liability company, the application shall list the registered agent;

(b) The name, address, email address and 24-hour phone number for a local contact person. The local contact person is the person that must be designated by the owner/operator who must be available 24 hours per day, seven days per week for the purposes of:

1. Responding in person within one hour to any complaint regarding the condition, operation or conduct of occupants of a STR unit or B&B; and

2. Taking remedial action to resolve any such complaints.

(c) The name and physical address of the proposed STR unit or B&B.

(d) The number of bedrooms and the applicable overnight and daytime occupancy limit of the proposed STR unit or B&B.

(e) Site plan indicating location of parking, **one off-street parking space per bedroom** in the STR unit or B&B is required.

(f) **Such other information as the Building Official deems necessary to administer this section.**

(3) **Previously existing short-term rentals or bed and breakfast. A previously existing STR or B&B that was in continuous use for the 12 months preceding the effective date of this chapter is allowed to continue, subject to the following:**

(a) An owner/operator must provide a sworn affidavit and demonstrate to the satisfaction of the City Manager or their designee that the STR or B&B was being used as a STR or B&B on a continuous basis for the 12 months preceding the effective date of this chapter; and

(b) An owner/operator of a short-term rental or bed and breakfast provides proof in establishing that the STR or B&B **meets all requirements** of this section; and

(c) An owner/operator **shows proof of remitted state and local hotel occupancy taxes** due for a period that covers at least 12 months immediately preceding the effective date of this chapter; and

(d) An owner/operator, within 60 days of the effective date of this section, **must apply** for a Previously Existing STR or B&B Exemption on an application form provided by the Building Official; and

(e) An owner/operator pays the permit fee as required by this chapter.

(f) **Such other information as the Building Official deems reasonably necessary to administer this chapter.**

(4) **Life safety inspection.**

(a) Prior to approval of a short-term rental or bed and breakfast registration or renewal, the operator shall allow, with reasonable notice, an on-site inspection of the STR

or B&B by the City Building Official and/or Fire Marshal to ensure compliance with minimum health and safety requirements for use and occupancy. If the premises fails to pass an inspection, a re-inspection fee may be charged for each subsequent inspection in accordance with the fee established by the city. If, upon completion of an inspection, the premises are found to be in violation of the provisions of this chapter, the city shall provide written notice of such violation and shall set a re-inspection date for a violation to be corrected prior to its occupancy. The applicant shall pay a reinspection in accordance with the city's fees ordinance.

(b) *Minimum fire and life safety requirements for single family and duplex STR and B&B.* Each operator shall ensure these minimum standards are met:

1. Exit routes and building site plan posting in common area and bedrooms.
2. Interconnected smoke alarm in accordance with currently adopted Building and Fire Codes.
3. Carbon Monoxide (CO) detectors mounted on each floor (if required).
4. GFCI's as required by the current 2015 International Residential Code.
- 1, 5. Exit ladders are readily available in each upstairs bedroom (minimum of one code compliant window per room).
6. Every door and window that leads to the outside is operational.
7. 5# Dry-Chem fire extinguisher mounted in full sight in common area of each floor.
8. Class K fire extinguisher mounted in full sight within the kitchen area, or the range top will be protected by the appropriate "Stovetop Firestop" product.
9. Wood, charcoal, or pellet fueled outdoor cooking or burning devices shall be in accordance with currently adopted Fire Codes. A water source (water hose) shall be located within 20 unobstructed feet of the fire source.
10. First Aid Kit (mounted in easily accessible area).

Sec. 4.06.004 REGISTRATION FEE.

(A) Short term rentals and bed and breakfasts are subject to a registration fee as established by the City Council. The STR registration fee shall be \$75 per residential dwelling until and unless changed or modified by the City Council. The B&B registration fee shall be \$75 until and unless changed or modified by the City Council.

\$500

\$500 now

(B) Each individual property utilized as a short-term rental or bed and breakfast must be registered separately.

(C) Each registration shall expire annually on December 31 of each calendar year. Thereafter, registration shall be renewed annually. There shall be no pro rata reduction of a registration fee.

(D) An owner of a short-term rental or bed and breakfast shall designate an agent or representative, to comply with the requirements of this section on behalf of the owner if the owner is absent from the area.

Sec. 4.06.005 HOTEL OCCUPANCY TAX.

(A) *Hotel occupancy tax.* It is a condition of the initial and continued validity of a short-term rental registration or bed and breakfast registration that the operator has paid and remains current on the payment of all hotel occupancy taxes owed to the city under the TEX. TAX CODE, CH. 351, as amended, and Chapter 11 Article 11.03. Hotel Occupancy Tax per (Ord. No. 23-3, § 7, 9-7-79) of the Morgans Point Resort Code of Ordinances.

(B) The operator shall remit to the city's Finance Department, all city hotel occupancy taxes collected pursuant to law by the last business day of the month following each quarterly period.

Sec. 4.06.006 MINIMUM STANDARDS OF CONDUCT.

(A) The owner or operator of a short-term rental or bed and breakfast shall comply with all applicable laws, rules and ordinances pertaining to the use and occupancy of property within the City of Morgans Point Resort.

(B) The owner or operator shall provide a brochure or other publication to all renters of the short-term rental or bed and breakfast which contains information that shall provide basic, minimum standards of conduct for the renters during their visit to the City of Morgans Point Resort. Such brochure shall address the following:

- (1) Advise renters that there is no parking on the grass within the city and ask guests to park on the property or directly in front of the property, if possible;
- (2) Encourage renters to be considerate of neighbors and full-time residents of the area;
- (3) Advise renters of the noise ordinance levels and hours, and ask renters not to create unreasonable noises or disturbances or to engage in disorderly conduct and should discourage renters from playing amplified music outside;

(4) Provide instructions to renters concerning disposal of garbage and handling of garbage containers; and

(5) Provide the renters with the phone number for the City of Morgans Point Resort Police Department.

Sec. 4.06.007 GENERAL CONDITIONS FOR BOTH SHORT-TERM RENTALS AND BED AND BREAKFAST.

(A) The operator shall maintain a current guest register.

(B) Must adjoin a public street.

(C) Will always be considered as a residential use for purposes of determining privacy fence requirements, if any.

(D) On a residentially zoned property, all lighting shall be directed toward the establishment and not the surrounding neighbors.

(E) The operator must post conspicuously in a common area of each unit the name and contact information of the operator as well as the occupancy limits and restrictions on noise.

(F) Functions such as meetings, receptions, weddings or other social events provided for compensation or held by guests are not permitted unless the SRT or B&B is located in a commercial zoning district, or a Planned Development zoning district.

(G) Any advertisement that promotes the availability, listed in any medium, including but not limited to newspaper, magazine, brochure, website, or mobile application, shall include the current Business Registration (Permit) number assigned by the city.

(H) On commercially zoned property, signage shall comply with city ordinances.

Sec. 4.06.008 OTHER CONDITIONS APPLICABLE TO SHORT TERM RENTALS.

(A) No short-term rental may be located on a lot that is within 500 feet of a lot upon which another STR is located.

(B) A minimum of one off-street parking space for each bedroom in the short-term rental unit shall be provided on the same lot or tract as the STR unit.

(C) Renting a short-term rental unit for occupancy by more than three people over the age of 18 years of age per bedroom is prohibited.

(D) Meal service may not be provided in or at any short-term rental.

(E) Neither the operator nor any renter of a short-term rental shall host outdoor gatherings before 7:00 a.m. or after 10:00 p.m. on any day and any such outdoor gathering may include no more than 20 people attending at any one time.

(F) A short-term rental may be occupied by up to six individuals unrelated by blood, marriage or adoption.

(G) Recreational vehicles and camping trailers are prohibited on the premises of a short-term rental establishment in a residentially zoned area.

Sec. 4.06.009 OTHER CONDITIONS APPLICABLE TO BED AND BREAKFASTS.

(A) No bed and breakfast may be located on a lot that is within 500 feet of a lot upon which another B&B is located.

How monitored:
not equal?

(B) A minimum of one off-street parking space is required per rented room for a bed and breakfast.

(C) No more than three people over the age of 18 years of age shall be allowed to reside in a room of a bed and breakfast.

(D) Breakfast service may be provided at a bed and breakfast to overnight guests only.

(E) In a residentially zoned district, no signs shall be permitted on the premises except for a non-illuminated name plate no larger than one square foot in area.

Sec. 4.06.010 REVOCATION, SUSPENSION OR DENIAL OF REGISTRATION.

(A) The Building Official may immediately revoke or suspend the registration, or deny the issuance or renewal of a registration, if it is found that:

(1) The applicant, designated operator or owner has violated or failed to meet any of the provisions of this chapter;

(2) The designated operator or owner has willingly or intentionally allowed a guest to violate any provisions of this chapter;

(3) The designated operator or owner has violated any federal, state or city law pertaining to the use of the property;

(4) The designated operator or owner has willingly or intentionally allowed a guest to violate any federal, state or city law pertaining to the use of the property;

(5) The Police Chief, Fire Chief, Fire Marshal, Building Official, or other City Inspector has determined that the short-term rental or bed and breakfast does not comply with City Codes or would pose a serious threat to public health, safety or welfare; or

(6) The person selecting to register or the operator or owner has made a false statement of material fact on a registration form for a STR registration or a B&B registration.

(7) Failure to pay the registration fee shall result in an immediate suspension of the registration of the STR registration or B&B registration.

(B) If the registration for any STR or B&B is revoked or suspended, the owner or operator must immediately cease the operation of the STR or B&B. The owner or operator may seek to re-register the STR or B&B after the violation has been brought into compliance.

Sec. 4.06.011 APPEAL.

The applicant may appeal to the Planning and Zoning Commission for denial of a permit, a suspension, or revocation. Such an appeal must be submitted in writing and delivered to the City Manager no later than ten business days after the denial, suspension, or revocation decision.

Sec. 4.06.012 VIOLATION; PENALTIES.

(A) Rental of a short-term rental unit or bed and breakfast that does not have a current registration is a violation of this chapter. Each day of any rental is a separate violation and shall constitute a separate offense.

(B) Any person, firm, or corporation that fails to collect and pay hotel occupancy taxes or fails to file or falsely files the required report shall be guilty of a misdemeanor punishable by fine. A penalty plus interest shall be added to the amount due, and the STR registration or B&B registration shall be immediately revoked.

(C) Any person, firm or corporation in violation of any provision of this chapter, other than the non-payment of Hotel Occupancy Taxes, shall be guilty of a misdemeanor, which shall be punishable by a fine of not more than \$500 per day, for each day the violation persists.

CHAPTER 4 BUSINESS REGULATIONS

ARTICLE 4.02. ALCOHOLIC BEVERAGES¹

(New Article 4.06)
to BE ADDED to
this chapter

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.

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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.

CITY SECRETARY OR DESIGNEE

(Supp. No. 1)

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(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)

City Sec or DESIGNEE

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.

- (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

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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. MAKING
- ✓ (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 *Does this apply?*
 - 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. - APPLY?
- (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: Revisions to City of Morgan's Point Resort Code of Ordinances with regards to ADA Requirements.

Discuss and take appropriate action on incorporating ADA requirements to the City of Morgan's Point Resort Code of Ordinances.

Agenda Item Proposed Summary:

P&Z discussed the addition of ADA requirements within the ordinance code document of the City of Morgans Point Resort. Planning staff propose the following options.

Option A Revisions

1. **Chapter 1, General Provisions, Article 1.08. parks And Recreation, Division 3. Marina, Part II Vessel Stall Rentals, (z) Animal Restrictions.** An owner or handler may not allow an animal to be present in a public recreation area described in subsection except:
 - As required under the **Americans with Disabilities Act (ADA)**; or
2. **Chapter 3, Building Regulations, Article 3.02. Technical and Construction Codes and Standards, Division 1, Sec.02.003. Building Inspector.** The City Building Inspector shall inspect all phases of construction as outlined in the building, electrical, plumbing, mechanical codes and **ADA standards** to ensure compliance with the applicable rules and regulations as set forth by this Article. The City Building Inspector shall have the authority to waive minor construction deviations or minor deviations inside of plumbing, electrical or mechanical work if such work is deemed to be safe, durable and within the intent of the applicable code or ordinance.

(Ord. No. 4-1, part I, § I(C), 6-13-02)

3. **Sec. 3.02.013. Off-street parking spaces.** For each building site in residential areas there shall be a minimum of two off-street parking spaces on an improved surface, inclusive of the garage **in line with ADA Accessibility Standards**. 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.

(Ord. No. 4-1, part I, § I(D), 6-13-02)

4. **Division 2. Building Planning and Construction, Sec. 3.02.051. Residential construction.** All design, construction, quality of material, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of one- and two-family dwellings and

townhouses not more than three stories in height in the City and providing for the issuance of permits and the collection of fees therefor; and each of all the regulations, provisions, conditions and terms of the International Residential One- and Two-Family Dwelling Code, 2015 edition, International Energy Conservation Code, 2015, published by the International Code Council, and ADA Accessibility Standards on file in the office of the City, are hereby referred to, adopted and made part hereof as if fully set out in this Article, with amendments thereto.

5. **Division 3. Plumbing Work, Section 3.02.101. Residential construction.** (a) *Standards.* All plumbing work performed within the City limits must be in compliance with the International One- and Two-Family Dwelling Code, 2015 edition and ADA Accessibility Standards. The Building Inspector may authorize minor deviations from the code as long as the work is considered safe, durable and within the intent of the code.

(Ord. No. 2016-05, § 4, 4-12-16)

6. **Division 3. Plumbing Work, Sec. 3.02.102. Commercial construction.** (a) *Standards.* All plumbing work performed within the City limits must be in compliance with the International Building Code, 2015 edition and ADA Accessibility Standards. The Building Inspector may authorize minor deviations from the code as long as the work is considered safe, durable and within the intent of the code.
7. **Division 4. Electrical Work, Sec. 3.02.151. Electrical code; permits.** (a) *Standards.* All electrical work performed within the City limits must be in compliance with the National Electrical Code, 2014 edition and ADA Accessibility Standards. The Building Inspector may authorize minor deviations from the code as long as the work is considered safe and durable and within the intent of the code.
8. **Division 5. Mechanical Work, Sec. 3.02.201. Residential construction.** (a) *Standards.* All mechanical work done within the City limits must be in compliance with the International One- and Two-Family Dwelling Code, 2015 edition and ADA Accessibility Standards. The Building Inspector may authorize minor deviations from the code as long as the work is safe, durable and within the intent of the code.

(Ord. No. 4-1, part VI(A)—(D), 6-13-02; Ord. No. 2016-05, § 7, 4-12-16)

9. **Division 5. Mechanical Work, Sec. 3.02.202. Residential construction.** (a) *Standards.* All mechanical work done within the City limits must be in compliance with the International Building Code, 2015 edition and ADA Accessibility Standards. The Building Inspector may authorize minor deviations from the code as long as the work is safe, durable and within the intent of the code.
10. **Article 3.03. Housing Code, Division 1. Generally, Sec.3.03.062. Authority to Inspect.** To safeguard the safety, health and wealth of the occupant and of the general public, the Building Official is hereby authorized and directed to make inspections to determine the condition of buildings located within the City. For the purpose of making such inspections, the Building Official is hereby authorized to enter, examine and survey at all reasonable times all buildings. The owner or occupant of every building, or the person in charge thereof, shall give the Building Official or his assistants free access to such building at all reasonable times for the purpose of such inspection, examination and survey. Every occupant of a building shall give the owner

thereof or his agents or employees access to any part of such building at all reasonable times for the purpose of making repairs or alterations or such other purposes as are necessary to effect compliance with the provisions of this housing code and ADA Accessibility Standards.

(Ord. No. 4-20, § 1-017, 12-14-89)

11. Article 3.03. Housing Code, Division 5. Standards, Sec. 3.03.141. Compliance. All buildings and dwellings within the City limits which shall be used for the purpose of human habitation or residence shall comply with the provisions of this housing code and ADA Accessibility Standards. All buildings and dwellings within the City limits regardless of use are covered by the provisions of this housing code and ADA Accessibility Standards.

(Ord. No. 4-20, § 1-041, 12-14-89)

12. Article 3.03. Housing Code, Division 5. Standards, Sec. 3.03.147. Plumbing requirements. (a) There shall be provided in every dwelling a kitchen sink and a lavatory basin connected to the municipal water and sewer systems or other sewage system approved by the Building Official, which sink and lavatory basin shall be installed in compliance with the State statutes, ADA Accessibility Standards and the City plumbing code.

13. Article 3.03. Housing Code, Division 5. Standards, Sec. 3.03.147. Heating facilities; water heating equipment. (b) There shall be provided water-heating equipment and facilities in every dwelling which are installed in compliance with the State statutes, ADA Accessibility Standards and the City plumbing code and connected with water lines, and which are capable of heating water to such a temperature as to permit an adequate supply of hot water to be drawn at every required kitchen sink, lavatory basin, and the bathtub or shower at a temperature of not less than 120 degrees Fahrenheit. Such water-heating facilities shall be capable of meeting the requirements of this Section regardless of whether or not the heating facilities of the building or dwelling are in operation.

(Ord. No. 4-20, § 1-048, 12-14-89)

14. Article 3.03. Housing Code, Division 5. Standards, Sec. 3.03.152. Space and egress requirements. (h) In all buildings and dwellings, there shall be a safe and unobstructed means of egress leading to open space at ground level as required in the City building code and ADA Accessibility Standards.

(Ord. No. 4-20, § 1-052, 12-14-89)

15. Article 3.05. Manufactured Homes, Sec. 3.05.005. Building permit required; installation standards. (e)(9) Signed documentation stating construction compliance with the City building code and ADA Accessibility Standards.

(Ord. No. 4-12C, § 5, 7-13-00)

16. Article 3.06.002. Definitions. ACCESSIBLE SPACE means a parking space for an individual with a disability that complies with the Americans with Disabilities Act (ADA) as appropriate.

17. Chapter 10, Subdivision Regulation, Article 10.02. Subdivision Ordinance, Division 4, Improvements, Sec.10.02.093. Completion of improvements. (2) Construct all sidewalks as shown on the approved construction plans and according to the City standard details and ADA specifications. Sidewalks must be constructed and approved for each lot prior to issuance of a certificate of occupancy.

18. Chapter 10, Subdivision Regulation, Article 10.02. Subdivision Ordinance, Division 5, Design Standards, Sec.10.02.121. General. (a) Additional regulations. In addition to the requirements established by this Article, all development within the City limits shall be designed so as to comply with the intent and provisions of the Zoning Ordinance, building and housing codes, master plan, regulations of the Texas Department of Transportation and the Texas Department of Health, **ADA Standards**, and any other applicable law or regulation adopted by a unit of Federal, State, or local government. All development within the extraterritorial jurisdiction of the City shall comply with this Article and all other applicable laws and regulations adopted by a unit of Federal, State or local government.

19. Chapter 10, Subdivision Regulation, Article 10.02. Subdivision Ordinance, Division 5, Design Standards, Sec.10.02.121. General. (c) (1) The neighborhood, as a planning unit, is intended as an area principally for residential use, and of a size that can be served by one elementary school. Space for recreational, educational and shopping facilities to serve the residents of the neighborhood should be provided and designed as an integral part of each neighborhood. The size of lots and blocks should be designed to provide for adequate water and wastewater service, traffic circulation, light, air, open space, landscaping, and off-street ADA compliant parking. The arrangement of lots and blocks and the street system should be designed to make the most advantageous use of topography and natural physical features. Tree masses and large individual trees should be preserved to the greatest extent possible. The system of sidewalks and roadways and the lot layout should be designed to take advantage of the visual qualities of the area. (3) An open space system throughout the urban area should provide a range of active and passive recreation opportunities. Park, open space and recreation facilities should be located with sensitivity to user population, **ADA compliance**, natural features, traffic generation, and nearby land use.

20. Chapter 10, Subdivision Regulation, Article 10.02. Subdivision Ordinance, Division 5, Design Standards, Sec.10.02.122. Blocks and lots. (q) (2) No structures or impervious construction shall be allowed in required side or rear building setback areas except for the following accessory structures on one, two or three family residential lots:

- i. Swimming pools located at least three feet from the property line and screened by a six-foot tall privacy fence; secured by a fence system [that] conforms with applicable building code and **ADA Accessibility Standards**.
- ii. Playscapes not taller than nine feet above mean grade, located at least three feet from the property line and screened by a six-foot tall privacy fence; secured by a fence system [that] conforms with applicable building code and **ADA Accessibility Standards**.
- iii. Driveways to side entry garages.

21. Chapter 14, Zoning, Appendix B. Zoning Ordinance, Section 15, Specific Use Permit, 15.2 Specific Use Permit regulations. (A) In recommendation that a Specific Use Permit for the premises under consideration be granted, the Zoning Commission shall determine that such uses are harmonious and adaptable to building structures and uses of abutting property in the vicinity of the premises under consideration, and shall make recommendations as to the requirements for the paving of streets, alleys and sidewalks, means of ingress and egress to public streets, provisions for drainage, adequate **ADA compliant** off-street parking, protective screening and open space, heights of structures, and compatibility of buildings.

22. Chapter 14, Zoning, Appendix B. Zoning Ordinance, Section 16, Off-street parking and loading requirements, 16.2 General Requirements. (C) A qualifying development must comply with:

1. The minimum number of required off-street accessible spaces is the greater of the number of accessible spaces required under the **Americans with Disabilities Act (ADA)**, as appropriate.
2. An accessible parking space must comply with design, accessibility, and location requirements imposed by the **ADA** as appropriate.

23. Chapter 14, Zoning, Appendix B. Zoning Ordinance, Section 16, Off-street parking and loading requirements, 16.4 Off-street parking and loading – nonresidential. (B) Handicapped parking space(s) shall be provided according to the International Building Code, and the **Americans with Disabilities Act Design Guide**.

Option B Revision

Appendix B. Zoning Ordinance, Section 3. Definitions. 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, and the **ADA Standards** as they exist now or as they may be amended.

Option C Revision

Chapter 3 Building Regulations, Article 3.02. Technical and construction Codes and Standards, Division 2, Building Planning and Construction, Sec 3.02.052. Commercial construction. All design, construction, quality of material, erection, installation, alteration, repair, location, relocation, replacement, or addition to commercial property in the City and providing for the issuance of permits and the collection of fees therefor; and each of all the regulations, provisions, conditions and terms of the International Building Code, 2015 edition, published by the International Code Council, and the **ADA Standards** on file in the office of the City, are hereby referred to, adopted and made part hereof as if fully set out in this Article.

(Ord. No. 2016-05, § 3, 4-12-16)

Public Notifications and Input: No input from the public at the P&Z Commission meeting (03/25/2025).

Recommendation(s): By a vote of 3 to 0, the P&Z recommended presenting the document with the addition of ADA requirements within the City of Morgans Point Resort Code of Ordinances with the City Council for their review.

Voting Yes: Leslie Minor, Thomas Westmoreland, Ken Hobbs

Voting No:

Absent: Louis Guillaud

Agenda Item Action:

City Council to advise on appropriate ADA language to be incorporated within the City of Morgans Point Resort Code of Ordinances with the City Council.

**References for City Council Members:*

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

City of Belton

ARTICLE VII. - BOARDING HOMES, DIVISION 1. – GENERAL, Sec. 11-137. - Purpose. (b) *The city intends that this chapter fully comply with the Federal Fair Housing Amendments Act of 2008, and all other applicable state and federal legislation. It is the express intent of the city that this chapter be construed in a manner consistent with the FHAA, the ADA, and all other applicable state and federal legislation at all times.*

(Ord. No. 2016-10, Pt. 1, 2-23-16)

ARTICLE VII. - BOARDING HOMES, DIVISION 2. – ADMINISTRATIVE, Sec. 11-151. – Reasonable Accommodations. (a) *Purpose. The city intends to ensure that all persons with a disability have an equal opportunity to use and enjoy a dwelling by providing such persons with reasonable accommodations in rules, policies, practices, and procedures promulgated under this chapter consistent with the Fair Housing Amendments Act of 1988 ("FHAA") 42 U.S.C. § 3601, et seq., and the Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. § 12101, et seq., as amended.*

City of Austin

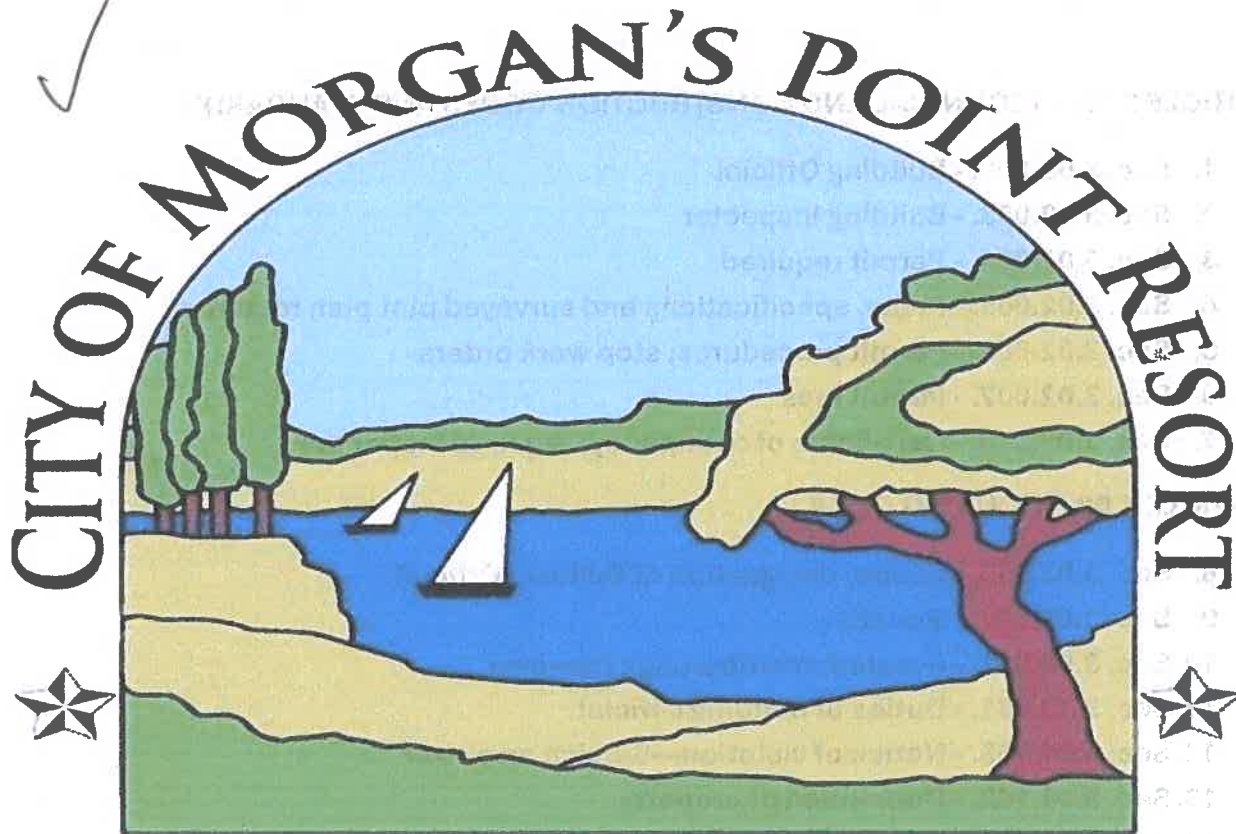
TITLE 13. – Transportation Services, Chapter 13-2 Ground Transportation Passenger Services, Article 2. Ground Transportation Services. Subpart H, Electric Low Speed Vehicles 13-2-331 (B) *An electric low-speed vehicle:(1) may not exceed a gross vehicle weight rating of 3,000 pounds, except to the extent required for a modification necessary to achieve ADA compliance;*

Similar ADA language can be found under the following titles:

- **Title 8. Parks and Recreation**
- **Title 12. Traffic Regulations**

- ***Title 13. Transportation Services***
- ***Title 14. Use of Streets and Public Property***
- ***Title 25. Land Development:*** Under Title 25. Land Development, the City of Austin has used both ADA and Texas Accessibility Standards language.

DRAFT



RECOMMENDED ORDINANCE UPDATES FOR CONSTRUCTION, HOUSING AND ZONING

Recommended Ordinance Updates for Construction, Housing and Zoning

CHAPTER 3 BUILDING REGULATIONS

ARTICLE 3.02. - TECHNICAL AND CONSTRUCTION CODES AND STANDARDS

1. Sec. 3.02.002. - Building Official
2. Sec. 3.02.003. - Building Inspector
3. Sec. 3.02.004. - Permit required
4. Sec. 3.02.005. - Plans, specifications and surveyed plot plan required
5. Sec. 3.02.006. - Permit procedures; stop work orders
6. Sec. 3.02.007. - Permit fees
7. Sec. 3.02.008. - Certificate of occupancy; required inspections

ARTICLE 3.03. - HOUSING CODE

8. Sec. 3.03.003. - Scope; designation of Building Official
9. Sec. 3.03.004. - Penalty
10. Sec. 3.03.031. - Created; membership; hearings
11. Sec. 3.03.061. - Duties of Building Official
12. Sec. 3.03.063. - Notice of violation—Service on owner
13. Sec. 3.03.102. - Demolition of property
14. Sec. 3.03.103. - Conduct of hearing
15. Sec. 3.03.106. - Appeal to City Council
16. Sec. 3.03.152. - Space and egress requirements

CHAPTER 6 HEALTH AND SANITATION

17. ARTICLE 6.02. - HEALTH OFFICER
18. Sec. 6.02.001. - Office created; appointment; term
19. Sec. 6.02.002. - Duties
20. Sec. 6.02.003. - Enforcement of rules and orders of Board of Health
21. Sec. 6.02.004. - Reports and recommendations
22. Sec. 6.04.002. - Enforcement
23. Sec. 6.04.006. - Notice to abate
24. Sec. 6.04.007. - Citations
25. Sec. 6.04.010. - Abatement of dangerous weeds without notice
26. Sec. 6.04.011. - Administrative hearing on abatement of weeds

Recommended Ordinance Updates for Construction, Housing and Zoning

27. Sec. 6.04.012. - Assessment of City's expenses; lien

28. Sec. 6.04.013. - Criminal penalty

29. Sec. 6.05.001. - Definitions

30. Sec. 6.05.008. - Throwing from vehicle

31. Sec. 6.05.009. - Litter blown from or deposited by vehicle

32. Sec. 6.05.012. - Distribution of handbills

APPENDIX B- ZONING ORDINANCE

33. Section 3. - Definitions

34. Section 10. - Single-family Residential. Modified

35. Section 12. - Manufactured Housing

36. Section 13. - Recreational Vehicle/Camper

37. Section 15. - Specific Use Permit

38. Section 16. - Off-street Parking and Loading Requirements

39. Section 18. - Accessory Building and Use Requirements

40. Section 19. - Landscape Requirements—Residential. Modified

41. Section 20. - Screening Fence and Wall Standards

Recommended Ordinance Updates for Construction, Housing and Zoning

CHAPTER 3 BUILDING REGULATIONS

ARTICLE 3.02. - TECHNICAL AND CONSTRUCTION CODES AND STANDARDS

Sec. 3.02.002. - Building Official

~~The City Building Official will be the City Manager.~~ 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

BO: Remove requirement for the City Manager to be the Building Official. The Building Official should not have the authority to allow variances of setback lines. This should be reviewed by P and Z.

Sec. 3.02.003. - Building Inspector

The City Building Inspector shall inspect all phases of construction as outlined in the building, electrical, plumbing and mechanical **and energy** codes to ensure compliance with the applicable rules and regulations as set forth by this Article.

BO: Add "and energy" to the 1st sentence. The State of Texas requires that we enforce energy codes as well as the others stated.

Sec. 3.02.004. - Permit required

It shall be unlawful for any person to start construction on a new building, remodel or alter an existing building, place a storage building upon a home site, install a mobile home, install a septic or sewer system, install a swimming pool, install a fence, perform any electrical, plumbing or mechanical work on any structure, or demolish any structure, without first obtaining a permit for such work. **Refer to 2015 IRC 105.2 to reference what does not require a permit.**

BO: We have the 2015 IRC adopted and R105.2 shows what does not require permits. We need to refer to the IRC language

Sec. 3.02.005. - Plans, specifications and surveyed plot plan required

Recommended Ordinance Updates for Construction, Housing and Zoning

The City Building Official shall require that his office be provided with the following:

- (1) Plans and specifications to include the front, side and rear elevations, foundation plan and a detailed floor plan of the proposed structure.
- (2) A plot plan of the subdivision with the subject lot identified on the plot.
- (3) A survey showing the location of the proposed structure upon the lot in reference to all property boundaries, setback and/or easements.
- (4) A survey reflecting the approximate location of the septic system in relation to the proposed structure and the property lines.

BO: Add "foundation plan" to (1) as all new home construction must have a State of Tx stamped plan. Also add "setback and/or easements" to (3). We need all the information on the survey we can get so we can make an informed decision.

Sec. 3.02.006. - Permit procedures; stop work orders

(c) *Approval of plans and specifications.* All plans and specifications must be approved by the City Building Official prior to the issuance of any permit required by this Article. ~~In addition, the County Fire Marshal must review and approve all commercial construction permits in the interest of fire safety and seating capacity.~~

BO: Remove the last sentence requiring County Fire Marshal to review commercial plans. The Building Official should have the knowledge of fire safety and load requirements as shown in the 2015 IBC

(f) *Expiration of permit.* All permits shall expire and be considered no longer valid 180 days after issuance. ~~unless construction work there under has actually started before the expiration of such period of time. In addition, construction must be completed within one year from the date of issuance of the building permit.~~ The Building Official is authorized to waive these provisions if, in his opinion, the situation warrants such waiver.

BO: This needs to be 180 days flat because it will be nearly impossible to determine when all projects in the city have started. The contractor/owner can ask for a one-time extension of 180 days without fee. The second and subsequent requests for extension will require fee and inspection.

Sec. 3.02.007. - Permit fees

(1) New residential construction.

- a. Includes single- and multiple-family residences.

Recommended Ordinance Updates for Construction, Housing and Zoning

b. Square footage includes all under-roof construction. Multi-story structures shall be calculated as above for each occupied floor and the sum of all floor area shall be construed as the aggregate area.

c. Fees to be paid by individual contractors upon application for a permit are as follows:

1. Building: \$0.06 per square foot (\$25.00 minimum).

2. Foundation: \$64.00 (each inspection).

3. Framing: \$40.00 (one phase inspection).

4. Insulation: \$40.00 (one phase inspection).

5. Wallboard: \$40.00 (one phase inspection).

6. Electrical: \$160.00 (four phase inspection).

Plumbing?
BACK Flow?

BO: Add a wallboard inspection to new construction because we should be inspecting it per 2015 IRC.

(2) New commercial construction.

a. Building: \$0.08 per square foot (minimum \$48.00).

\$50.00

b. Foundation: \$64.00 (each inspection).

c. Framing: \$40.00 (one phase inspection).

d. Electrical: \$160.00 (four phase inspection).

e. Plumbing: \$120.00 (three phase inspection).

BACK Flow?

f. Mechanical: \$80.00 (two phase inspection).

g. Wallboard: \$40.00 (one phase inspection).

h. Sprinkler system: \$64.00 (one phase inspection).

BO: Add a wallboard inspection to new construction because we should be inspecting it per 2015 IBC

(6) Residential/commercial remodel, renovation and alteration.

a. Residential.

1. Building: \$0.06 per square foot (\$50.00 minimum).

2. Foundation: \$64.00 (each inspection).

3. Framing: \$40.00 (each phase inspection).

4. Electrical: \$40.00 (each phase inspection).

Recommended Ordinance Updates for Construction, Housing and Zoning

5. Plumbing: \$40.00 (each phase inspection).
6. Mechanical: \$40.00 (each phase inspection).
7. Wallboard: \$40.00 (one phase inspection).
8. Certificate of occupancy: \$40.00 (one phase inspection).

BO: Add a wallboard inspection to new construction because we should be inspecting it per 2015 IRC/IBC

(7) Swimming pools.

- a. Flat rate fee for each swimming pool: ~~\$80.00~~ \$160.00
- b. Includes a layout inspection, a rough-in inspection of the steel bonding, high/low voltage electrical, deck bonding and plumbing and then a final inspection of the electrical system and security fencing. pool barriers and the required window and door alarms that comply with ASTM f2090.

BO: Change rate of swimming pools due to fact there must be so many inspections for a pool. The current price does not cover the required inspections. We should always conduct a layout inspection to verify the pool is in the correct location. Then when the shell is done, we check shell bonding with stingers and low voltage conduit along with verifying a water bond in the skimmer or at the equipment. We will also verify a halo bond is installed with deck bonding and any other metal parts within 5' of waters edge. Then the final requires fencing and alarms and verifying all pool equipment is bonded.

Sec. 3.02.008. - Certificate of occupancy; required inspections

(b) Required inspections.

(1) Building:

- a. Survey plan setback lines.
- b. Foundation and steel.
- c. Framing.
- d. Insulation.
- e. Wallboard
- f. Masonry/fireplace.
- g. Driveways and flatwork.
- h. Final and certificate of occupancy.

Recommended Ordinance Updates for Construction, Housing and Zoning

(2) Electrical:

- a. TBM (temporary building meter/pole).
- b. Rough-in.
- c. Conditional final.
- d. Final.

e. Electrical service

(3) Plumbing/gas:

- a. Rough-in
- b. Top out (stack)
- c. Final.

(4) Mechanical:

- a. Mechanical rough-in.
- b. Mechanical final.

(5) Energy final

(6) Miscellaneous inspections:

- a. Accessory building.
- b. Garage/carport additions (attached or detached).
- c. Blasting.
- d. Fence.
- e. Swimming pools.
- f. Other.

BO: Add "wallboard, electrical service and energy final inspections to the required inspections for new homes.

Sec. 3.02.012. - Sanitation facilities on construction sites

Temporary sanitation facilities shall be required on all construction sites and shall not be placed on the public street.

Recommended Ordinance Updates for Construction, Housing and Zoning

BO: I have recently had issues with contractors placing port a johns on the street which is a risk for storm water drainage. They should all be on a controlled lot.

Sec. 3.02.015. - Swimming pool fencing

(a) All outdoor swimming pools of a permanent or semi-permanent construction having a depth of more than 14 inches, whether constructed above or below the ground, shall be enclosed by a fence installed in accordance with ~~Appendix B, Section B105, of the International One and Two Family Dwelling Code, 2000 edition.~~ At no time shall the fence be in conflict with or violation of existing ordinances setting out clearances around fire hydrants or clearances from street corners or ordinances touching upon sight clearances.

BO: Replace verbiage with "Ch. 3 Sec. 305 Barrier Requirements of the 2018 International Swimming Pool and Spa Code ISPSC per State of Texas"

Aug 12, 2019 — Texas passed HB 2858 to improve safety of pools and spas throughout the state.

Sec. 3.02.051. - Residential construction

All design, construction, quality of material, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of one- and two-family dwellings and townhouses not more than three stories in height in the City and providing for the issuance of permits and the collection of fees therefor; and each of all the regulations, provisions, conditions and terms of the International Residential Code For One- and Two-Family Dwellings Code, 2015 edition, International Energy Conservation Code, 2015, published by the International Code Council, on file in the office of the City, are hereby referred to, adopted and made part hereof as if fully set out in this Article, with amendments thereto.

BO: Add "Code For" and remove "Code" at the end of the code title to be correct in our terminology.

Sec. 3.02.052. - Commercial construction

All design, construction, quality of material, erection, installation, alteration, repair, location, relocation, replacement, or addition to commercial property in the City and providing for the issuance of permits and the collection of fees therefor; and each of all the regulations, provisions, conditions and terms of the International Building Code, 2015 edition, International Energy Conservation Code, 2015 edition published by the International Code Council, on file in the office of the City, are hereby referred to, adopted and made part hereof as if fully set out in this Article.

BO: Add "International Energy Conservation Code, 2015 edition" to be in compliance with State

Recommended Ordinance Updates for Construction, Housing and Zoning

Sec. 3.02.101. - Residential construction

Standards. All plumbing work performed within the City limits must be in compliance with the International One- and Two-Family Dwelling Code, 2015 edition. International Residential Code For One and Two-Family Dwellings, 2015 edition

BO: Make the above correction to have accurate title of publication

Sec. 3.02.151. - Electrical code; permits

(a) *Standards.* All electrical work performed within the City limits must be in compliance with the National Electrical Code, 2014 edition 2023 edition per TDLR. The Building Inspector may authorize minor deviations from the code as long as the work is considered safe and durable and within the intent of the code.

(b) *Application for permit; bond.* All applications for electrical permits must be personally made by a licensed electrical contractor or licensed electrician. The City will accept electrical licenses that are current from any other City provided the appropriate surety bond has been posted with the Building Official.

BO: Remove "2014 edition" and replace with " 2023 edition per TDLR". The State of Texas minimum requirement for electrical is the 2023 NEC.

The licenses for Electricians are state issued by TDLR. Remove language for city licensing. Makes it confusing.

Sec. 3.02.201. - Residential construction

(a) *Standards.* All mechanical work done within the City limits must be in compliance with the International Residential Code For One- and Two-Family Dwellings Code, 2015 edition. The Building Inspector may authorize minor deviations from the code as long as the work is safe, durable and within the intent of the code.

BO: Make above change to reference correct document title.

Sec. 3.02.251. - Residential construction

(a) *Standards.* All gas work performed within the City limits must be in compliance with the International Residential Code For One- and Two-Family Dwelling Code, 2015 edition. The Building Inspector may authorize minor deviations from the code as long as the work is considered safe, durable and within the intent of the code.

BO: Make above change to reference correct document title.

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Sec. 3.02.303. - On-site sewage facilities

(a) *Generally*. Where the sanitary sewer is not available, septic systems ~~may~~ **shall** be installed as provided herein according to the plans and specifications as outlined below.

BO: Remove "may" and add "shall". There is no other option other than city sewer and OSSF

Sec. 3.02.351. - One- and two-family dwelling code

The City adopts the International Residential ~~Code For~~ **Code** For One- and Two-Family Residential ~~Building Code Dwellings~~ with the following changes:

BO: Make above change to reference correct document title

~~(E) Page 89, R403.1.6, Foundation anchorage:~~

~~Delete: Shall extend a minimum of 7 inches into masonry or concrete:~~

~~Insert: 1/2" x 8" anchors shall extend a minimum of 6 inches into masonry or concrete and be placed within 12 inches of every exterior corner and plate end, and not more than 6 feet on center on all exterior plates:~~

BO: Why. Delete deletion. This is less restrictive and there is an inch less of uplift protection.

ARTICLE 3.03. - HOUSING CODE

Sec. 3.03.003. - Scope; designation of Building Official

~~(c) The City Manager is referred to in this Code as the "Building Official."~~ The City Manager **Building Official** may delegate his responsibility to the City Building Inspector or other City employee as he deems appropriate.

BO: Remove 1st sentence and the position City Manager in the second sentence and replace with Building Official

Sec. 3.03.004.- Penalty

Whenever in this Code or in any ordinance of the City an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or wherever in such code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefor, the violation of any such provision of

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this Code or any such ordinance shall be punishable by a fine not to exceed \$1,000.00 in all cases arising under the ordinances of the City that govern fire safety, zoning and public health and sanitation, other than vegetation and litter violations, ~~and not to exceed \$200.00 in all other cases~~; provided that no penalty shall be greater or less than the penalty provided for the same or a similar offense under the laws of the State. Each day or fractional part thereof any violation of this Code or of any ordinance shall continue shall constitute a separate offense.

BO: Remove "and not to exceed \$200.00 in all other cases" to keep simple. Litter violations are one of the smallest violations of housing code but is shown under \$1000 fine.

Sec. 3.03.031. - Created; membership; hearings.

(a) There is hereby established in the City a board to be called the Housing Board of ~~City Council~~ ^{are we doing this?} Adjustments and Appeals, hereinafter referred to within this Article as the Housing Board, which shall consist of five members. The members of the Housing Board shall be appointed by the City Council. ⁷

(b) Of the members first appointed, two shall be appointed for a term of one year, two for a term of two years, and one for a term of three years, and thereafter they shall be appointed for terms of four years. Vacancies shall be filled for an unexpired term in the manner in which original appointments are required to be made. Continued absence of any member from regular meetings of the Housing Board shall render any such member liable to immediate removal from office. Any member of the Housing Board may be removed at any time by a majority vote of the City Council for inefficiency, neglect of duty or malfeasance in office. ⁷ ^{P & Z 75% attendance}

(c) Three members of the Housing Board shall constitute a quorum. In varying the application of any provision of this Article or in modifying an order of the Building Official, affirmative votes shall be required. No Housing Board member shall act in a case in which he has a personal interest. ⁷ ^{at full membership}

(d) The ~~Building Official~~ ^{or Chair Person} City Secretary or designee shall act as Secretary to the Housing Board and shall make a record of all its proceedings.

(e) The Housing Board shall elect a ~~chairman~~ ^{Chair Person} from among its members.

(f) The Housing Board shall establish rules and regulations for its own procedure and for the conduct of hearings not inconsistent with the provisions of this Article. The Housing Board shall meet at regular intervals to be determined by the ~~Chairman~~ ^{Chair Person}, or, in any event, the Housing Board shall meet within ten days after a notice of appeal has been received.

Recommended Ordinance Updates for Construction, Housing and Zoning

BO: Do we need to create a Housing Board or can City Council act as Board?

Suggest removing "Building Official" from (d) and replace with City Secretary or designee. The Building Official will be too busy presenting a housing case to the Board to be able to record the minutes of the meeting as well.

Sec. 3.03.061. - Duties of Building Official

The Building Official, or his designate, is hereby charged with the duty of enforcing this housing code. For the purposes of the housing code, his designate may include the Fire Marshal, Fire Chief, Police Chief or City Manager.

BO: I was told we do not have an active Fire Marshal for MPR. Suggest removing Fire Marshal and replacing with Fire Chief, Police Chief or City Manager so we have someone that can perform the BO duties in his/her absence.

Sec. 3.03.063. - Notice of violation—Service on owner

(c) The notice shall state that, if such repair, reconstruction, alteration, removal or demolition is not voluntarily completed within the stated time as set forth in the notice, the ~~Housing~~ Building Official shall schedule the subject property for presentation to the Housing Board of Adjustments and Appeals for their review and decision. The owner and all others with legal interest in the property, as shown by deed records of the County, shall be notified of the date, time and place of the hearing of such case presentation.

BO: Remove term "Housing" Official and replace with "Building" Official. Its better having a SPOC Instead of a Building Official, Housing Official, Health Official, Code Official, etc.

~~(3) By publication of such notice in a newspaper of general circulation not less than three times within a 15-day period. This form of notice shall only be used when notice as provided in subsections (1) and (2) above is unobtainable. By posting such notice on or at the property in question.~~

BO: Remove all language in number 3 and add "By posting such notice on or at the property in question". The state of Texas says by registered mail alone it is considered delivered. Removing would save the city money.

CHAPTER 214. MUNICIPAL REGULATION OF HOUSING AND OTHER STRUCTURES

(r) When a municipality mails a notice in accordance with this section to a property owner, lienholder, mortgagee, or registered agent and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered delivered.

Sec. 3.03.102. - Demolition of property

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~~(a) In all instances where the decision of the Building Official requires demolition of property and where, although notice of such order is sent, neither appeal from such order nor compliance with the terms of such order is had, the Building Official shall, after the date set out for the initiation of compliance with the order has passed, file an appeal for such person for the purpose of having such decision reviewed by the Housing Board. The appeal shall be filed in the name of the owner of the property ordered demolished and the Building Official shall notify the owner of such action and the time, date and place of the hearing.~~

~~(b) When the Building Official appeals a case in which demolition is required, he shall cause to be printed in a newspaper of the County a list of such buildings, which shall have a heading describing the hearing, the purpose thereof, and the date thereof and shall list all buildings by street address, lot, block, and subdivision, and the owner's name as per tax records of the City.~~

BO: Remove entire section of 3.03.102. Sec 3.03.101 has the Notice of Appeal procedures that are available to the violators. This is a lot of unnecessary work and cost to city and no other local cities offer this.

Chapter 214 The Texas Housing Code does not specifically require a Building Official to file an appeal for a demolition order.

Sec. 3.03.103. - Conduct of hearing

only one 2?

~~(a) Upon receipt of the notice of appeal, the Building Official shall give written notice to the owner, occupant, mortgagee and/or all other persons having an interest in the building to appear before the Housing Board on the date specified in the notice to show cause why the order contained in the notice of the Building Official should not be complied with. Such written notice may be served by any Police or Warrant Officer of the City or any other persons of good character or may be sent via the United States mail.~~

BO: If sending by mail is sufficient then it makes sense to reduce cost by removing requirement for someone to physically serve the notice.

Sec. 3.03.106. - Appeal to City Council

~~(a) The City Council shall review every case involving a decision of the Housing Board requiring demolition of property for the limited purpose of determining if there is substantial evidence to support the findings and decision of the Housing Board. The aggrieved party shall file with the City Secretary a written notice of appeal to the City Council within ten days after rendition of the decision of the Housing Board. If the~~

Recommended Ordinance Updates for Construction, Housing and Zoning

~~aggrieved party shall fail or refuse to do so, then the Building Official shall file a notice of appeal for him.~~

BO: Why have Council review every Demo order. They should review appeals received from the violators. They should have confidence in the expert witness of the Building Official and prior proceedings with the Housing Board.

Also, they have the opportunity to file an appeal themselves. The state does not require the Building Official to file the appeal for them as shown above

Sec. 3.03.152. - Space and egress requirements

~~(b) Every dwelling shall contain at least 150 square feet of floor space plus 100 square feet of floor space for each occupant, the floor space to be calculated on the basis of total habitable room area~~

BO: Remove all language in Sec 3.03.152 (b). This contradicts the requirements of Zoning Appendix B Table 10.1 Area Regulations. Minimum of any dwelling is 800 square feet

~~(c) Floor area shall be calculated on the basis of habitable room area. However, the closet area and hall area within the dwelling, where provided, may count for not more than ten percent of the required habitable floor area~~

BO: Remove second sentence regarding closet and hall allowed as habitable space. Contradicts adopted 2015 IRC Ch. 2 Definitions, "Habitable Space". A space in a building for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces.

Recommended Ordinance Updates for Construction, Housing and Zoning

CHAPTER 6 HEALTH AND SANITATION

ARTICLE 6.02. - ~~HEALTH OFFICER~~ BUILDING OFFICIAL

BO: Remove "Health Officer" and replace with "Building Official" for consistency.

Sec. 6.02.001. - ~~Office created; appointment; term~~ Employment of Building Official

~~There is hereby created the office of Health Officer, an executive office of the City. He shall be appointed by the City Council for a term of two years or until his successor is appointed. The initial term shall begin upon passage of this Article and shall terminate June 1, 1985. Thereafter the term shall expire on June 1 in each odd-numbered year. The position of~~ Building Official will be at-will employment with the city of MPR

BO: Remove requirement for the Building Official to be appointed. The BO will be hired for employment by the City of MPR.

Sec. 6.02.002. - Duties

It shall be the duty of the ~~Health Officer~~ Building Official to enforce all ordinances containing provisions for the protection of public health, and to make inspections of foodstuffs and of the premises used for storing or selling of provisions as may be provided by ordinance, and he shall perform such other duties and functions as may be required by statute or ordinance

BO: Replace Health Officer with Building Official for consistency.

Sec. 6.02.003. - ~~Enforcement of rules and orders of Board of Health~~

~~The Health Officer shall enforce all the rules and orders of the Board of Health and shall attend the meetings of said board when requested to do so by the presiding officer.~~

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BO: MPR does not have an active Board of Health. Sec 6.02.002 describes duties of Building Official regarding enforcing adopted statutes or ordinances.

Sec. 6.02.004. - Reports and recommendations

The ~~Health Officer~~ Building Official shall make such reports to the City Council as may be required. He shall also make recommendations for rulings, orders or ordinances respecting the public health whenever he is requested to do so, or whenever he deems it necessary or advisable.

BO: Replace Health Officer with Building Official for consistency.

Sec. 6.04.002. - Enforcement

(a) The ~~Chief of Police~~ Building Official is hereby designated and charged with enforcing the procedures for abating nuisances under this Article and shall hereinafter be referred to as the "~~Health Official~~" Building Official. The ~~Health Official~~ Building Official shall conduct administrative hearings as provided by this Article.

(b) The Police Department and its members are hereby authorized under the direction of the ~~Health Official~~ to administer the procedures under this Article, except that any authorized person may abate the nuisance.

(c) The ~~Health Official~~ Building Official, police officers, or an authorized designee of the ~~Health Official~~ Building Official may enter onto or into any private property for the purposes of enforcing this Article in both discovery and abatement if probable cause exists for such belief.

BO: Remove the requirement of Health Official to be the Chief of Police. Also replace all instances of the position Health Official with Building Official for consistency.

Sec. 6.04.006. - Notice to abate

(a) Whenever any public health nuisance exists on property or premises within the City limits in violation of Section 6.04.004 of this Article, the ~~Health Official~~ Building Official shall provide ~~seven~~ 7 to 30 days depending on extent of violation, violators resources, etc. written notice to abate the public health nuisance to the owner or occupant of the property or premises.

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(b) The notice to abate shall be sent by certified mail, return receipt requested, to the owner or occupant of any property or premises within the City limits on which the public health nuisance exists and a posting of such notice will be placed on or at the property in question.

BO: Add a timeframe to abate a property instead of just setting a time limit across the board. Abatement is not limited to a small task. One property may need the front yard abated, but another property needs to abate 5 acres. You cannot abate 5 acres in 7 days reasonably.

Add posting an abatement notice at the property as I post all notices on the properties in question. It alleviates the question of reasonable service to the owner

Sec. 6.04.007. – Citations

The ~~Health Official~~ Building Official or his designees are authorized to issue a citation to any person who violates the provisions of Section 6.04.004 of this Article

BO: Replace Health Official with Building Official for consistency.

Sec. 6.04.010. - Abatement of dangerous weeds without notice

(4) An explanation that the property owner has a right to request an administrative hearing by filing a written request with the ~~Health Official~~ Building Official not later than the 30th day after the date of the abatement of the weeds

BO: Replace Health Official with Building Official for consistency.

Sec. 6.04.011. - Administrative hearing on abatement of weeds:

~~(a) The Health Official shall conduct an administrative hearing on the abatement of the weeds under this Article if, not later than the 30th day after the date of the abatement of the weeds, the property owner files with the Health Official a written request for a hearing.~~

~~(b) The hearing before the Health Official shall be conducted not later than the 20th day after the date a request for a hearing is filed.~~

~~(c) The property owner may testify or present any witnesses or written information relating to the City's abatement of the weeds.~~

~~(d) The City may assess expenses and create liens under this Section as it assesses expenses and creates liens under this Article~~

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BO: Remove all language of Sec. 6.04.011. We have not created this process. We will utilize the Municipal Court that is provided rather than creating more work for everyone that is just not needed.

Sec. 6.04.012. - Assessment of City's expenses; lien

(b) To obtain a lien against the property, the ~~Health Official~~ Building Official or City Secretary shall file a statement of expenses with the County Clerk.

BO: Remove "Health Official" and replace it with "Building Official or City Secretary".

Sec. 6.04.013. - Criminal penalty

(a) Procedures for abatement and removal of a public health nuisance by the ~~Health Official~~ Building Official under this Article are independent and cumulative of criminal penalties provided herein.

BO: Replace Health Official with Building Official for consistency.

Sec. 6.05.001. - Definitions

Exterior storage means storage of goods or items such as household goods, tools, building materials or other items intended to be stored indoors.

BO: Add the definition exterior storage because a lot of time people are storing items outside that may not necessarily be litter, rubbish, refuse, etc. This allows Code Enforcement to address this common issue.

Handbill, commercial means any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, or booklet, or any other printed or otherwise reproduced original or copies of any matter of literature:

(1) Which advertises for sale any merchandise, product, commodity, or thing;

(2) Which directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales;

(3) Which directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind for which an admission fee is charged for the purpose of private gain or profit; but the terms of this clause shall not apply where an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition, or event of any kind when either of the same is held,

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~~given or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order; provided that nothing contained in this clause shall be deemed to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition, or event of any kind without a license where such license is or may be required by any law of this State or ordinance of this City; or~~

~~(4) Which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor.~~

~~**Handbill, noncommercial** means any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, or booklet, or any other printed or otherwise reproduced original or copies of any matter of literature not included in the definition of a commercial handbill or newspaper.~~

BO: Remove verbiage referring to Handbills. This is not a common practice anymore.

~~Sec. 6.05.008. -- Throwing from vehicle~~

~~No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the City or upon private property.~~

BO: Remove Sec 6.05.008. This is not a housing violation, but rather a moving violation

~~Sec. 6.05.009. -- Litter blown from or deposited by vehicle~~

~~No person shall drive or move any truck or other vehicle within the City unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited upon any street, alley or other public place.~~

BO: Remove Sec 6.05.009. This is not a housing violation, but rather a moving violation

~~Sec. 6.05.012. -- Distribution of handbills~~

~~(a) *Depositing in public place.* No person shall throw or deposit any commercial or noncommercial handbill in or upon any sidewalk, street or other public place within the City.~~

~~(b) *Placing under windshield wiper of vehicles.* No person shall throw or deposit any commercial or noncommercial handbill under the windshield wiper of any vehicle.~~

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(c) Depositing on uninhabited or vacant premises. No person shall throw or deposit any commercial or noncommercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant.

(d) Distributing or depositing at posted premises. No person shall throw, deposit or distribute any commercial or noncommercial handbill upon any private premises, if requested by anyone thereon not to do so, or if there is placed on such premises in a conspicuous position near the entrance thereof a sign bearing the words: "No Trespassing," "No Peddlers or Agents," "No Advertisements," or any similar notice indicating in any manner that the occupants or owners of such premises do not desire to be molested or have their right of privacy disturbed, or to have any such handbills left upon such premises.

(e) Depositing at inhabited private premises.

(1) Generally. In case of inhabited private premises which are not posted, any person, unless requested by anyone upon such premises not to do so, may place or deposit any such handbill in or upon such inhabited private premises, if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or sidewalks, streets, or other public places, and except that mailboxes may not be so used when so prohibited by Federal postal law or regulations.

(2) Exemption for mail and newspapers. The provisions of this Section shall not apply to the distribution of mail by the United States, nor to newspapers, except that newspapers shall be placed on private property in such a manner as to prevent their being carried or deposited by the elements upon any street, sidewalk or other public place, or upon private property.

BO: Remove verbiage referring to Handbills. This is not a common practice anymore

APPENDIX B. - ZONING ORDINANCE

Section 3. – Definitions

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-

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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.

BO: Remove definition. HB 2439 removed the city's ability to regulate materials.

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.

BO: We need to use the definitions as shown in the IRC as much as possible for consistency.

2015 IRC- Building shall mean any one- and two-family dwelling or portion thereof, including townhouses, that is used, or designed or intended to be used for human habitation, for living, sleeping, cooking or eating purposes, or any combination thereof, and shall include accessory structures thereto

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

BO: A carport can be attached to a structure and still be considered a carport. I suggest replacing this verbiage and replacing it with verbiage from IZC

2015 IZC- A carport is a structure that is open on not less than 2 sides and has floor surfaces made of approved noncombustible material. Carports that are not open on two or more sides must comply with garage regulations.

Certificate of Occupancy: An official certificate issued by the City through the Building Official for the approved use and occupancy 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. that the structure complies substantially with the plans and specifications that have been submitted to, and approved by the City.

BO: I suggest the additions to be more specific about what a C of O is

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

Recommended Ordinance Updates for Construction, Housing and Zoning

~~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.~~

BO: Remove the City Manager requirement for consistency. Also, the BO should not have the authority to grant variances. This is a P and Z task.

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) or tow behind. 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.

BO: Add "or tow behind" to include all Rv's. I also believe we should define temporary basis at this location, 29 days?

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

BO: Add "foundations" to structural alterations

Temporary Basis: 29 or less days in the same location. 30+ days will be considered permanent basis.

BO: Add definition of temporary basis.

Section 10. - Single-family Residential. Modified

~~G. Storage of any kind is prohibited on any vacant lot which is not adjacent to a main dwelling owned by the same owner.~~

BO: There are problems with excessive outside storage. It creates an environment conducive to pests, etc.

Section 12. - Manufactured Housing

~~2. Modular or industrialized housing units including Tiny Homes.~~

BO: Tiny Homes seem to fit in this category and which are getting very popular.

~~B. All required skirting shall be of a texture and color similar to the materials used in the construction of the manufactured home unit.~~

BO: HB 2439 removed municipality ability to regulate appearance of materials

Section 13. - Recreational Vehicle/Camper

~~D. No permanent structures such as porches, awnings, sheds, fences~~

Recommended Ordinance Updates for Construction, Housing and Zoning

BO: Add verbiage to deter adding permanent structures at RV spots.

Section 15. - Specific Use Permit

The Planning Commission, Building Official or City Council may require additional information or drawings (such as building floor plans), operating data and expert evaluation or testimony concerning the location, function and characteristics of any building or use proposed.

BO: Add "Building Official" because I should also be reviewing SUP's.

The Zoning Commission, Building Official and City Council shall consider the following criteria in determining the validity of the Specific Use Permit request:

BO: Add "Building Official" because I should also be reviewing SUP's.

where is A & B
C. No Specific Use Permit shall be granted unless the applicant, owner and grantee or [of] the Specific Use Permit shall be willing to accept and agree to be bound by and comply with the written requirements of the Specific Use Permit, as attached to the site plan drawing (or drawings) and approved by the Zoning Commission, Building Official and City Council.

BO: Add "Building Official" because I should also be reviewing SUP's.

Section 16. - Off-street Parking and Loading Requirements

~~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.~~

BO: Remove B due to water meter boxes are not traffic rated and Public Works need access to these ROW areas.

Section 18. - Accessory Building and Use Requirements

Home Occupation?
A. An accessory building shall not be used for commercial purposes and shall not be rented in districts zoned other than C/R Commercial/Retail Single-Family Residential (SFR), Multifamily Residential (MFR), or Manufactured Housing (MH).

BO: Remove zones so theres no question with AG

Section 19. - Landscape Requirements—Residential. Modified

19.2 Landscape Requirements

Recommended Ordinance Updates for Construction, Housing and Zoning

A. 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.

BO: Remove A due to water meter boxes are not traffic rated and Public Works need access to these ROW areas.

Section 20. - Screening Fence and Wall Standards

20.4 General Requirements.

~~A. No fence material shall be used to construct a fence except for those listed and regulated in this Chapter or other City ordinances.~~

BO: Remove A. HB 2439 removed municipality ability to regulate appearance of materials

B. Construction in front yards.

1. All fences constructed in the front yard of a residential property shall:

a) Be no taller in height than sixty (60") inches as defined in Section 20.05, G, when opacity is fifty percent (50%) or greater.

b) Be no taller in height than forty-eight (48") inches as defined in Section 20.05, G, when opacity is less than fifty (50%) percent.

c) Not impede the vision triangle.

~~d) Not be constructed using chainlink.~~

BO: Remove D. HB 2439 removed municipality ability to regulate appearance of materials

Recommended Ordinance Updates for Construction, Housing and Zoning