



NOTICE OF PUBLIC HEARING & PLANNING & ZONING COMMISSION MEETING
Tuesday, March 25, 2025, 5:30 PM and Tuesday, March 25, 2025, 6:00 PM
EVENT CENTER 60 MORGAN'S POINT BOULEVARD

Call to Order

Public Hearing (5:30)

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

- Open Public Hearing
- Public Comments (3 minutes to speak)
- Close Public Hearing Announcements and Citizens Comments
- Discussion and possible motion to **approve, deny, or approve with conditions** before forwarding to the City Council.

Planning and Zoning Commission Meeting (6:00 P.M)

Announcements and Citizens Comments

1. Approval of Minutes

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

2. Regular Agenda

- a. Discuss and Consider: Chapter 4 Business Regulations adjustments, including Article 4.06(new)
- b. Discuss and Consider: ADA requirements for new and existing organizations in MPR as directed by City Council
- c. Discuss and Consider: Adjustments to Section 23 and 24 of Appendix B after edits from City Council
- d. Discuss and Consider: Donated land to MPR as specified by Donor

3. MPR Comprehensive Plan Update

- a. 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 ___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

Camille Bowser, City Secretary



PLANNING & ZONING COMMISSION

Morgans Point Resort Item Summary Sheet

Agenda Item: 43 Oakmont Cir Special Use Permit Application

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

Agenda Item Summary:

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

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

Agenda Item Action:

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

References:

1. *Appendix B, Zoning Ordinance: Section 15. Specific Use Permit*

15.1 Specific Uses. The City Council by an affirmative vote may, after public hearing and proper notice to all parties affected, and after recommendations from the Zoning Commission that the uses are in general conformance with the Comprehensive Plan and general objectives of the City and containing such requirements and safeguards as are necessary to protect adjoining property, authorize application [sic] and shall be accompanied by a site plan drawn to scale and showing the general arrangement of the project, together with essential requirements such as off-street parking facilities; size, height, construction materials, and locations of buildings and the uses to be permitted; location and instruction [construction] of signs; means of ingress and egress to public streets; the type of visual screening such as walls, plantings and fences; and the relationship of the intended use to all existing properties and land uses in all directions to a minimum distance of two hundred feet (200'). The Planning Commission 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.

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 off-street parking, protective screening and open space, heights of structures, and compatibility of buildings. The Zoning Commission and City Council shall consider the following criteria in determining the validity of the Specific Use Permit request:*
- 1. Is the use harmonious and compatible with its surrounding existing uses or proposed uses?*
 - 2. Are the activities requested by the applicant normally associated with the requested use?*
 - 3. Is the nature of the use reasonable?*
 - 4. Has any impact on the surrounding area been mitigated?*
- B. *In granting a Specific Use Permit, the City Council may impose conditions which shall be complied with by the owner or grantee before a certificate of occupancy may be issued by the building official for use of the building on such property pursuant to such Specific Use Permit and such conditions precedent to the granting of the certificate of occupancy. Any special conditions shall be set forth in writing by the City Council prior to issuance of the Certificate of Occupancy.*
- 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 and City Council.*
- D. *If required, a building permit shall be applied for and secured within six (6) months from the time of granting the Specific Use Permit, provided however, that the City Council, may authorize an extension of this time upon recommendation by the Zoning Commission. After six (6) months from the date of approval has elapsed, the Zoning Commission and City Council may review the site plan for continued validity. If the site plan is determined invalid, the property owner(s) must submit a new or revised site plan for approval prior to any construction or application for building permit for the area designated for the Specific Use Permit.*
- E. *No building, premises, or land used under a Specific Use Permit may be enlarged, modified, structurally altered, or otherwise significantly changed unless a separate Specific Use Permit is granted for such enlargement, modification, structural alteration, or change.*
- F. *The City Council authorizes granting of a Specific Use Permit, the Zoning Map shall be amended according to its legend to indicate that the affected area has conditioned and limited uses, and said amendment is to indicate the appropriate zoning district for the approved use and prefixed by an "S" designation.*

15.3 Use Regulations. A building permit or premises used for any of the following purposes shall be permitted by Specific Use Permit only unless already allowed by right in a District's Permitted Uses.

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

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

SF—Single-Family Residential and MF—Multifamily Residential

1. *Bed and Breakfast Inn or facility, Tourist Home or Short-Term Rental.*

- a. A maximum of 8 adults and 3 motor vehicles for a structure with 3 or more bedrooms.*
- b. A maximum of 6 adults and 2 motor vehicles for a structure with 2 Bedrooms.*
- c. A maximum of 4 Adults and 2 motor vehicles for a structure with only one bedroom.*
- d. A maximum of 2 household pets for each structure. Dogs, cats and domestic ferrets must be currently vaccinated (annually) for the rabies virus.*

DRAFT



Office Use Only

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

PLEASE PRINT CLEARLY

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

OWNER'S INFORMATION

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

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

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

UTILITIES

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



SPECIFIC USE PERMIT (SUP) SUBMITTAL CHECKLIST

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

Office I

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

- | | |
|--|--------------------------------|
| <input type="checkbox"/> Application Completed | Receipt #: 265646465004661 |
| <input type="checkbox"/> 200 ft. Certified Letter sent to entities no la | User: adominguez0890@gmail.com |
| <input type="checkbox"/> Notices to local newspapers sent | Payment Date: 1/6/2025 |
| <input type="checkbox"/> Initial Septic Inspection Date: _____ | Batch: 20255 - Checks/Amanda |
| <input type="checkbox"/> Initial Home Inspection Date: _____ | 17-00-4190 Hotel Occupancy Tax |
| <input type="checkbox"/> Public Hearing Date: _____ | General |
| <input type="checkbox"/> P & Z Approval Date: _____ | Michael Neely STR |
| <input type="checkbox"/> Notices to local newspapers sent | Amount Due: \$500.00 |
| <input type="checkbox"/> Council Scheduled Date: _____ | Applied: \$500.00 |
| <input type="checkbox"/> Council Approval Date: _____ | Balance: \$0.00 |
| <input type="checkbox"/> Final Inspection Date: _____ | 1/6/2025 |
| <input type="checkbox"/> Certificate of Occupancy Issue Date: _____ | Check #: 729 |
| | Check: \$500.00 |
| | Applied: \$500.00 |
| | Change: \$0.00 |



MY REQUEST IS BASED ON THE FOLLOWING:

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

SUBMITTAL VERIFICATION

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

Applicant's Signature: _____

M. Nally

Date: _____

12/21/24



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

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

Sec. 15.4 Specific Use Permit Fees

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

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

SF – Single-Family Residential and MF – Multifamily Residential

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

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

Sec. 3.02.013 Off-street parking spaces

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



Sec. 12.04.001 Parking in right-of-way; obstructions in right-of-way

(a) Restrictions.

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

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

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

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

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

Sec. 8.03.003 Specific noises prohibited

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

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

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



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

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

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

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

ACCEPTED AND AGREED TO:

MN Neely

OWNER SIGNATURE

OWNER SIGNATURE

Michael L. Neely

PRINT NAME

PRINT NAME

12/21/24

DATE

DATE

A. Settlement Statement

U.S. Department of Housing
and Urban Development

OMB No. 2502-0265

B. Type of Loan

1. <input type="checkbox"/> FHA	2. <input type="checkbox"/> FmHA	3. <input type="checkbox"/> Conv Unins	6. File Number	7. Loan Number	8. Mortgage Ins Case Number
4. <input type="checkbox"/> VA	5. <input type="checkbox"/> Conv Ins.	6. <input type="checkbox"/> Seller Finance	18-4404		

C. Note: This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "(p.o.c.)" were paid outside the closing; they are shown here for informational purposes and are not included in the totals.

D. Name & Address of Borrower MICHAEL L. NEELY SR.	E. Name & Address of Seller MICHAEL L. NEELY JR. 716 Blake Court Edmond, OK 73003 Tax ID:	F. Name & Address of Lender CASH
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G. Property Location MORGAN'S POINT BELL CO. 3, Block 1, Lot 17, Bell County 43 OAKMONT CIRCLE BELTON, TX 76513 See Addendum	H. Settlement Agent Name Monteith Abstract & Title Company, Inc. - Temple Branch 2010 Bird Creek Drive, Suite 102 Temple, TX 76502 Tax ID: 742044233 Place of Settlement Monteith Abstract & Title Company, Inc. 2010 Bird Creek Drive, Suite 102 Temple, TX 76502	I. Settlement Date 9/5/2018 Fund: 9/5/2018
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J. Summary of Borrower's Transaction		K. Summary of Seller's Transaction	
100. Gross Amount Due from Borrower		400. Gross Amount Due to Seller	
101. Contract Sales Price	\$245,800.00	401. Contract Sales Price	\$245,800.00
102. Personal Property		402. Personal Property	
103. Settlement Charges to borrower	\$327.26	403.	
104.		404.	
105.		405.	
Adjustments for items paid by seller in advance		Adjustments for items paid by seller in advance	
106. City property taxes		406. City property taxes	
107. County property taxes		407. County property taxes	
108. Annual assessments 09/05/18 to 12/31/18	\$3.23	408. Annual assessments 09/05/18 to 12/31/18	\$3.23
109. School property taxes		409. School property taxes	
110. MUD taxes		410. MUD taxes	
111. Other taxes		411. Other taxes	
112.		412.	
113.		413.	
114.		414.	
115.		415.	
116.		416.	
120. Gross Amount Due From Borrower	\$246,130.49	420. Gross Amount Due to Seller	\$245,803.23
200. Amounts Paid By Or in Behalf Of Borrower		500. Reductions in Amount Due to Seller	
201. Deposit or earnest money		501. Excess Deposit	
202. Principal amount of new loan(s)		502. Settlement Charges to Seller (line 1400)	\$2,199.55
203. Existing loan(s) taken subject to		503. Existing Loan(s) Taken Subject to	
204. Commitment fee		504. Payoff of first mortgage loan	\$182,512.29
205.		505. Payoff of second mortgage loan	
206.		506.	
207.		507.	
208.		508.	
209.		509.	
Adjustments for items unpaid by seller		Adjustments for items unpaid by seller	
210. City property taxes		510. City property taxes	
211. County property taxes 01/01/18 to 09/05/18	\$2,879.81	511. County property taxes 01/01/18 to 09/05/18	\$2,879.81
212. Annual assessments		512. Annual assessments	
213. School property taxes		513. School property taxes	
214. MUD taxes		514. MUD taxes	
215. Other taxes		515. Other taxes	
216.		516.	
217.		517.	
218.		518.	
219.		519.	
220. Total Paid By/For Borrower	\$2,879.81	520. Total Reduction Amount Due Seller	\$187,591.65
300. Cash At Settlement From/To Borrower		600. Cash At Settlement To/From Seller	
301. Gross Amount due from borrower (line 120)	\$246,130.49	601. Gross Amount due to seller (line 420)	\$245,803.23
302. Less amounts paid by/for borrower (line 220)	\$2,879.81	602. Less reductions in amt. due seller (line 520)	\$187,591.65
303. Cash From Borrower	\$243,250.68	603. Cash To Seller	\$58,211.58

Section 5 of the Real Estate Settlement Procedures Act (RESPA) requires the following: • HUD must develop a Special Information Booklet to help persons borrowing money to finance the purchase of residential real estate to better understand the nature and costs of real estate settlement services; • Each lender must provide the booklet to all applicants from whom it receives or for whom it prepares a written application to borrow money to finance the purchase of residential real estate; • Lenders must prepare and distribute with the Booklet a Good Faith Estimate of the settlement costs that the borrower is likely to incur in connection with the settlement. These disclosures are mandatory.

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

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

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

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

I have carefully reviewed the HUD-1 Settlement Statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction. I further certify that I have received a completed copy of pages 1, 2 and 3 of this HUD-1 Settlement Statement.

Michael L. Neely Sr.
MICHAEL L. NEELY SR.

SETTLEMENT AGENT CERTIFICATION

The HUD-1 Settlement Statement which I have prepared is a true and accurate account of this transaction. I have caused the funds to be disbursed in accordance with this statement.

Sarah L. Rodman 9/5/18
Settlement Agent Date

Warning: It is a crime to knowingly make false statements to the United States on this or any other similar form. Penalties upon conviction can include a fine and imprisonment. For details see: Title 18 U.S. Code Section 1001 and Section 1010.

Previous Editions are Obsolete

Michael L. Neely Jr.
MICHAEL L. NEELY JR.

Seller's Taxpayer Identification Number Solicitation and Certification
You are required by law to provide the Settlement Agent named above with your correct taxpayer identification number. If you do not provide the Settlement Agent with your correct taxpayer identification number, you may be subject to civil or criminal penalties imposed by law. Under Penalties of perjury, I certify that the number shown on this statement is my correct taxpayer identification number.

Seller's Signature

Date

Page 3

form HUD-1 (3/86)
Handbook 4305.2

I have carefully reviewed the HUD-1 Settlement Statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction. I further certify that I have received a completed copy of pages 1, 2 and 3 of this HUD-1 Settlement Statement.

Michael L. Neely Sr.
MICHAEL L. NEELY SR.

SETTLEMENT AGENT CERTIFICATION

The HUD-1 Settlement Statement which I have prepared is a true and accurate account of this transaction. I have caused the funds to be disbursed in accordance with this statement.

Shirley 9/5/18
Settlement Agent Date

Warning: It is a crime to knowingly make false statements to the United States on this or any other similar form. Penalties upon conviction can include a fine and imprisonment. For details see: Title 18 U.S. Code Section 1001 and Section 1010.

Previous Editions are Obsolete

Michael L. Neely Jr.
MICHAEL L. NEELY JR.

Seller's Taxpayer Identification Number Solicitation and Certification
You are required by law to provide the Settlement Agent named above with your correct taxpayer identification number. If you do not provide the Settlement Agent with your correct taxpayer identification number, you may be subject to civil or criminal penalties imposed by law. Under Penalties of perjury, I certify that the number shown on this statement is my correct taxpayer identification number.

Seller's Signature

Date

Page 3

form HUD-1 (3/86)
Handbook 4305.2

RE: SPECIFIC USE PERMIT REQUEST

Michael Neely/Katy Page

43 Oakmont Circle

Belton, TX 76513

February 20, 2025

City of Morgan's Point Resort

8 Morgan's Point Boulevard

Morgan's Point Resort, TX 76513

Dear Camille Bowser,

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

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

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

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

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

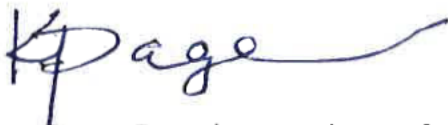
Without the income generated from my fathers property, he would not be able to afford to stay in his facility and receive the level of care he now requires. I have a family of 4 and we do not have the space or accommodations to move him in.

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

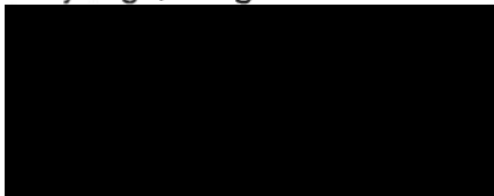
I hope that the officials and residents of Morgan's Point will seriously consider and approve my fathers unique situation and financial need for this income generating property.

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

Sincerely,

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

Katy Page, Daughter and POA for Michael Neely



Fort Worth, TX 76116

SUP Specific Use Permit

Camille Bowser <Camille.Bowser@mprtx.us>

Thu, Feb 13, 2025 at 3:33 PM

To: [REDACTED]

Cc: Ken Hobbs <hobbs1968@yahoo.com>

Good afternoon,

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

Subject: Notice of Public Hearing – Specific Use Permit Request

Dear Property Owner,

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

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

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

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

Camille Bowser

City of Morgan's Point Resort

City Secretary

PH: 254-742-3206



PLANNING & ZONING COMMISSION
Tuesday, February 25, 2025, 6:00 PM
EVENT CENTER 60 MORGAN'S POINT BOULEVARD

Call to Order

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

PRESENT

Louis Guillaud
 Ken Hobbs
 Thomas Westmoreland
 Leslie Minor

Sam Agha - CTCOG

Announcements and Citizens Comments

N/A

Presentations

N/A

1. Approval of Minutes

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

Motion made to approve minutes for January 30, 2025, meeting

Motion made by Westmoreland, Seconded by Guillaud.

Voting Yea: Hobbs, Minor

Passed

2. Regular Agenda

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

Motion made to table

Motion made by Guillaud, Seconded by Westmoreland.

Voting Yea: Hobbs, Minor

Tabled

- b. Discuss and consider: ADA requirements for new and existing organizations in MPR

Motion made to table

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

Tabled

- c. Discuss and consider: Additional Yes/No questions on P&Z membership application as requested by City Council

Motion made to add Yes/No questions and additional edits to P&Z application

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

Passed

- d. Discuss: Comprehensive Plan reviews, adjustments, and recommendations (including Steering Committee) to City Council

No Action Taken

- e. Discuss: Special Use Permit application for 43 Oakmont Circle, Morgan's Point Resort TX

The management company will be contacted to see if they will be able to be the representative for 43 Oakmont Circle at public hearing on March 25, 2025.

Future Agenda Items

N/A

P & Z Commission Updates & Comments

Announced Justin Strawn's resignation

Staff Updates

N/A

3. Adjournment

Meeting adjourned at 7:06pm

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

Camille Bowser, City Secretary



PLANNING & ZONING COMMISSION

Morgans Point Resort Item Summary Sheet

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

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

Agenda Item Summary:

The agenda item was brought to the City Council and P&Z by Mike in February 2025 to help improve the Chapter 4 Business Regulations, Article 4.06 by including new language and needs to be incorporated into Chapter 4 Business Regulations accordingly.

Agenda Item Action:

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

References:

1. *Recommendations have been shared by Mike with the P&Z Commission for review*

NOT reviewed or Approved by Council -

Item a.

Handed out 1/14/25 Meet.

Chapter 4 Business Regulations, Article 4.06

by Mike Reeves, Buddy

Sec. 4.06.001 APPLICABILITY.

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.

(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)

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.
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 now

\$500

(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.

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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.

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.

(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)

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.

(Supp. No. 1)

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

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

Sec. 4.03.034. Investigation of applicant.

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

(Ord. No. 14-3, § 5, 4-3-74)

Sec. 4.03.035. Issuance; duration.

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

(Ord. No. 14-3, § 6, 4-3-74)

Sec. 4.03.036. Form.

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

(Ord. No. 14-3, § 7, 4-3-74)

Sec. 4.03.037. Revocation.

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

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

(Ord. No. 14-3, § 8, 4-3-74)

Sec. 4.03.038. Appeals.

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

(Ord. No. 14-3, § 10, 4-3-74)

Sec. 4.03.039. Transfer.

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

(Ord. No. 14-3, § 14, 4-3-74)

Sec. 4.03.040. Carrying and display.

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

(Ord. No. 14-3, § 15, 4-3-74)

ARTICLE 4.04. SEXUALLY ORIENTED BUSINESSES

DIVISION 1. GENERALLY

Sec. 4.04.001. Purpose and intent.

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

(Ord. No. 24-1, § 1, 3-9-95)

Sec. 4.04.002. Definitions.

In this Article:

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

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- (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 *MAKING* application for the license to conduct whatever investigations and/or inquiries are necessary to determine whether or not the premises are in compliance with applicable laws and ordinances; and further provided that the failure of either the County Health Department, the Fire Department, and/or the Chief Building Official to conduct and/or complete such investigations/inquiries shall result in the administrative approval of the application by either the County Health Department, the Fire Department, and/or the Chief Building Official.
- ✓ (d) If a person who wishes to operate a sexually oriented business is an individual, he/she must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a 20 percent or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified under Section 4.04.032 (issuance of license) of this Article and each applicant shall be considered a licensee if a license is granted.
- ✓ (e) The fact that a person possesses a valid theater license, dance hall license, or amusement device license or business license does not exempt him from the requirement of obtaining a sexually oriented business license. A person who operates a sexually oriented business and possesses a theater license, public house or amusement device license, dance hall license or business license shall comply with the requirements and provisions of this Article and all provisions of all other ordinances of the City.
- ✓ (f) Operators of sexually oriented businesses who are lawfully operating as of the effective date of this Article must apply for said license within 30 days of the effective date of this Article.
- ✓ (g) A sexually oriented business lawfully operating within the territorial limits of the City on March 9, 1995, may continue to operate during the application review period. During said application review period, the regulations imposed by this Article shall be suspended, and the City shall maintain the status quo.
 - ✓ (1) As used in this subsection, the term "status quo" means the last peaceful, uncontested position of the City with respect to the applicant.
 - ✓ (2) As used in this subsection, the term "application review period" refers to the period commencing on the date a sexually oriented business files with the City Secretary an application which conforms with the requirements of this Article, and ending on the date such application is approved or disapproved as provided herein.

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

(Ord. No. 24-1, § 3.01, 3-9-95)

Sec. 4.04.032. Issuance.

- (a) The City Manager or his/her designated representative shall approve the issuance of a license to an applicant within 30 days after the receipt of an application unless he/she finds one or more of the following to be true:

- (1) An applicant is under 18 years of age.
- (2) An applicant is overdue in payment to the City of taxes, fees, fines or penalties assessed against the applicant or imposed upon the applicant in relation to a sexually oriented business.
- (3) An applicant has failed to provide information requested on the application form or has supplied false or misleading information in the application process.
- (4) An applicant has been convicted of a violation of a provision of this Article, other than the offense of operating a sexually oriented business without a license, within two years immediately preceding the application. The fact that a conviction is being appealed shall have no effect.
- (5) The premises to be used for the sexually oriented business have not been approved by the County Health Department, the Fire Department, and the Chief Building Official as being in compliance with applicable laws or ordinances; provided, however, that the County Health Department, the Fire Department, and the Chief Building Official shall have 30 days from the date of the applicant making application for the license to conduct whatever investigations/inquiries are necessary to determine whether or not the premises are in compliance with applicable laws and ordinances; and further provided that, in the event that either the County Health Department, Fire Department, and/or Chief Building Official shall fail to conduct all investigations/inquiries necessary to complete the application process, such failure to conduct and/or complete such investigations/inquiries shall administratively result in the administrative approval of the application by either the County Health Department, Fire Department, and/or Chief Building Official.
- (6) The license fee required by this Article has not been paid.
- (7) An applicant or the proposed establishment is in violation of or is not in compliance with Section 4.04.035 or Section 4.04.071, 4.04.072, 4.04.073, 4.04.074, 4.04.075, 4.04.076, or 4.04.077 of this Article.

- (b) The license, if granted, shall state on its face:

- (1) The name of the person(s) to whom it is granted, the expiration date and the address of the sexually oriented business;
- (2) The name of the applicant and whether the applicant is an individual, partnership, corporation, association, limited partnership, limited liability company or other legal entity;
- (3) The name under which the business is to be operated and a description of the sexually oriented business to be conducted;
- (4) The name, address and telephone number of the owner(s);
- (5) The street address and legal description of the parcel of land on which the business is to be located, and the telephone number of the enterprise;

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

(Ord. No. 24-1, § 3.02, 3-9-95)

Sec. 4.04.033. Fee.

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

(Ord. No. 24-1, § 3.03, 3-9-95)

Sec. 4.04.034. Display.

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

(Ord. No. 24-1, § 3.04, 3-9-95)

Sec. 4.04.035. Inspections.

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

(Ord. No. 24-1, § 3.05, 3-9-95)

Sec. 4.04.036. Expiration.

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

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

(Ord. No. 24-1, § 3.06, 3-9-95)

Sec. 4.04.037. Suspension.

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

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

(Ord. No. 24-1, § 3.07, 3-9-95)

Sec. 4.04.038. Revocation.

- (a) The City Manager or his/her designated representative shall revoke a license if a cause of suspension in Section 4.04.037 occurs and the license has been suspended within the preceding 12 months.

- (b) The City Manager or his/her designated representative shall revoke a license if he/she determines that:

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

- (8) A licensee or employee knowingly fails to comply with Section 4.04.035(a) or 4.04.035(b).
- (c) When the City Manager or his/her designated representative revokes a license, the revocation shall continue for one year and the licensee shall not be issued a sexually oriented business license for one year from the date revocation became effective. If, subsequent to revocation, the City Manager or his/her designated representative finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective.

(Ord. No. 24-1, § 3.08, 3-9-95)

Sec. 4.04.039. Appeals.

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

(Ord. No. 24-1, § 3.09, 3-9-95)

Sec. 4.04.040. Transfer.

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

(Ord. No. 24-1, § 3.10, 3-9-95)

Secs. 4.04.041—4.04.070. Reserved.

DIVISION 3. OPERATION AND LOCATION

Sec. 4.04.071. Escort agencies.

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

(Ord. No. 24-1, § 4, 3-9-95)

Sec. 4.04.072. Nude modeling studios.

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

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

(Ord. No. 24-1, § 5, 3-9-95)

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

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

(Ord. No. 24-1, § 6, 3-9-95)

Sec. 4.04.074. Adult motels.

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

(Ord. No. 24-1, § 7, 3-9-95)

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

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

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

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

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

(Ord. No. 24-1, § 8, 3-9-95)

Sec. 4.04.076. Adult lingerie store/modeling studios.

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

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

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

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

(2) Existing businesses. Any adult lingerie store/modeling studio lawfully operating on June 21, 1994, which cannot meet the requirements of subsection (1) above shall meet the following requirements:

- a. Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. The diagram shall also designate the place at which the permit will be conspicuously posted if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The City Manager or his/her designated representative may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
- b. The application shall be sworn to be true and correct by the applicant.

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

(Ord. No. 24-1, § 9, 3-9-95)

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

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

(Ord. No. 24-1, § 10, 3-9-95)

Sec. 4.04.078. Location.

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

(Ord. No. 24-1, § 11, 3-9-95)

ARTICLE 4.05. CABLE TELEVISION

Sec. 4.05.001. Definitions.

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

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

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

CATV means a cable television system as hereinafter defined.

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

Council means the governing body of the City.

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

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

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

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

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

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

Subscriber means any person or entity receiving basic CATV service.

(Ord. No. 6-7, § 1, 2-4-82)

Sec. 4.05.002. Compliance.

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

(Ord. No. 6-7, § 2, 2-4-82)

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

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

(Ord. No. 6-7, § 3, 2-4-82)

Sec. 4.05.004. Indemnification of City; insurance.

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

(Ord. No. 6-7, § 4, 2-4-82)

Sec. 4.05.005. Use of streets.

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

(Ord. No. 6-7, § 5, 2-4-82)

Sec. 4.05.006. Safety requirements.

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

(Ord. No. 6-7, § 6, 2-4-82)

Sec. 4.05.007. Maps and records of equipment.

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

(Ord. No. 6-7, § 7, 2-4-82)

Sec. 4.05.008. Rights granted by franchise.

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

(Ord. No. 6-7, § 8, 2-4-82)

Sec. 4.05.009. Franchise fee.

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

(Ord. No. 6-7, § 9, 2-4-82)

Sec. 4.05.010. Service to public buildings and schools.

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

(Ord. No. 6-7, § 10, 2-4-82)

Sec. 4.05.011. Business office.

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

(Ord. No. 6-7, § 11, 2-4-82)

Sec. 4.05.012. System requirements.

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

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

(Ord. No. 6-7, § 12, 2-4-82)

Sec. 4.05.013. Transfer of franchise.

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

(Ord. No. 6-7, § 13, 2-4-82)

Sec. 4.05.014. Payment of installation costs.

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

(Ord. No. 6-7, § 14, 2-4-82)

Sec. 4.05.015. Franchise required; unauthorized connections.

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

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

(Ord. No. 6-7, § 15, 2-4-82)

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

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

(Ord. No. 6-7, § 16, 2-4-82)

Sec. 4.05.017. Term of franchise.

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

(Ord. No. 6-7, § 17, 2-4-82)

Sec. 4.05.018. Renewal of franchise.

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

(Ord. No. 6-7, § 18, 2-4-82)

Sec. 4.05.019. Forfeiture of franchise.

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

(Ord. No. 6-7, § 19, 2-4-82)

Sec. 4.05.020. Surrender of franchise.

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

(Ord. No. 6-7, § 20, 2-4-82)

Sec. 4.05.021. Miscellaneous regulations.

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

(Ord. No. 6-7, § 21, 2-4-82)

Sec. 4.05.022. Minimum channel capacity.

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

(Ord. No. 6-7, § 22, 2-4-82)

Sec. 4.05.023. Availability of service.

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

(Ord. No. 6-7, § 23, 2-4-82)

Sec. 4.05.024. Request for franchise.

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

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

(Ord. No. 6-7, § 24, 2-4-82)



PLANNING & ZONING COMMISSION

Morgans Point Resort Item Summary Sheet

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

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

Agenda Item Summary:

As suggested by the City Council on 03/11/2025 at the City Council workshop, P&Z Commission to identify different sections for inclusion of ADA requirements language within City of MPR ordinances.

Agenda Item Action:

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

References:

1. *City of MPR Ordinance Codes Document with ADA Language additions shared with the P&Z Commission for Review.*
2. <https://www.ada.gov/law-and-regs/regulations/title-ii-2010-regulations/>
3. <https://gov.texas.gov/organization/disabilities/ada>
4. <https://www.killeentexas.gov/584/ADA-Accessibility-Services>
5. <https://www.waco-texas.com/files/sharedassets/public/v/2/departments/public-works/engineering/documents/americanswithdisabilitiesacttransitionplan.pdf>

CHAPTER 1 GENERAL PROVISIONS

ARTICLE 1.01. CODE OF ORDINANCES¹

Sec. 1.01.001. Adoption.

There is hereby adopted the Code of Ordinances of the City of Morgan's Point Resort, Texas.

Editor's note(s)—Upon republication by Municipal Code Corporation, § 1.01.001 was revised to remove language referencing the former publisher.

Sec. 1.01.002. Designation and citation of Code.

The ordinances embraced in this Chapter and the following chapters, articles and sections shall constitute and be designated the "Code of Ordinances, City of Morgan's Point Resort, Texas," and may be so cited.

Sec. 1.01.003. Catchlines of articles, divisions and sections.

The catchlines of the several articles, divisions and sections of this Code are intended as mere catchwords to indicate the contents of the article, division or section and shall not be deemed or taken to be titles of such articles, divisions and sections, nor as any part of the articles, divisions and sections, nor, unless expressly so provided, shall they be so deemed when any of such articles, divisions and sections, including the catchlines, are amended or reenacted.

State law reference(s)—Headings of statutes, V.T.C.A., Government Code § 311.024.

Sec. 1.01.004. Definitions and rules of construction.

In the construction of this Code and of all ordinances and resolutions passed by the City Council, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the City Council:

Generally. Words shall be construed in their common and usual significance unless the contrary is clearly indicated.

City and Town each means the City of Morgan's Point Resort, Texas.

City Administrator, City Manager, City Secretary, Chief of Police or other City Officers. The term "City Administrator," "City Manager," "City Secretary," "Chief of Police" or other City officer or department shall be construed to mean the City Administrator, City Manager, City Secretary, Chief of Police or such other municipal officer or department, respectively, of the City of Morgan's Point Resort, Texas.

¹State law reference(s)—Authority of municipality to codify ordinances, V.T.C.A., Local Government Code ch. 53.

Computation of time means whenever a notice is required to be given or an act to be done a certain length of time before any proceeding shall be had, the first day is excluded and the last day is included. If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day that is not a Saturday, Sunday, or legal holiday.

State law reference(s)—Computation of time, V.T.C.A., Government Code § 311.014.

Council. Whenever the term "Council" or "City Council" or "the Council" is used, it shall mean the City Council of the City of Morgan's Point Resort, Texas.

State law reference(s)—References to municipal governing body and to members of municipal governing body, V.T.C.A., Local Government Code § 21.002.

County. The term "County" or "this County" shall mean the County of Bell, Texas.

Delegation of authority means whenever a provision of this Code of Ordinances requires or authorizes an officer or employee of the City to do some act or perform some duty, it shall be construed to authorize such officer or employee to designate, delegate and authorize subordinates to perform the act or duty unless the terms of the provision specifically designate otherwise.

Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships, associations and corporations, as well as to males.

State law reference(s)—"Gender" defined, V.T.C.A., Government Code § 312.003(c).

Joint authority means words purporting to give authority to three or more officers or other persons shall be construed as giving such authority to a majority of such officers or other persons, unless it is otherwise declared.

State law reference(s)—Grants of authority, V.T.C.A., Government Code § 312.004.

May. The word "may" is permissive.

State law reference(s)—Construction of word "may," V.T.C.A., Government Code § 311.016.

Month means a calendar month.

State law reference(s)—"Month" defined, V.T.C.A., Government Code § 312.011.

Must and shall. Each is mandatory.

State law reference(s)—Construction of words "must" and "shall," V.T.C.A., Government Code § 311.016.

Number. Any word importing the singular number shall include the plural, and any word importing the plural number shall include the singular.

State law reference(s)—"Number," V.T.C.A., Government Code § 312.003(b).

Oath shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

State law reference(s)—"Oath," "swear" and "sworn" defined, V.T.C.A., Government Code § 312.011.

Official time standard means whenever certain hours are named in this Code, they shall mean standard time or daylight saving time, as may be in current use in the City.

State law reference(s)—Standard time, V.T.C.A., Government Code § 312.016.

Or, and. The word "or" may be read "and," and the word "and" may be read "or," as the sense requires it.

Owner, applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or of a part of such building or land.

Person shall extend and be applied to associations, corporations, firms, partnerships, organizations, business trusts, estates, trusts, and bodies politic and corporate, as well as to individuals.

State law reference(s)—"Person" defined, V.T.C.A., Government Code § 311.005.

Preceding, following means next before and next after, respectively.

Property means and includes real and personal property.

State law reference(s)—"Property" defined, V.T.C.A., Government Code § 311.005.

Real property means and includes lands, tenements and hereditaments.

Sidewalk means that portion of a street between the curblin and the adjacent property line intended for the use of pedestrians.

Signature or subscription shall include a mark when a person cannot write.

State law reference(s)—"Signature" and "subscribe" defined, V.T.C.A., Government Code § 312.011.

State. The term "the State" or "this State" shall be construed to mean the State of Texas.

Street shall have its commonly accepted meaning and shall include highways, sidewalks, alleys, avenues, recessed parking areas and other public rights-of-way, including the entire right-of-way.

Tense. Words used in the past or present tense include the future, as well as the past and present.

State law reference(s)—"Tense," V.T.C.A., Government Code § 312.003(a).

V.T.C.S., V.T.P.C., V.T.C.C.P., V.T.C.A. Such abbreviations refer to the divisions of Vernon's Texas Statutes Annotated.

Written or in writing shall be construed to include any representation of words, letters, or figures, whether by printing or otherwise.

State law reference(s)—"Written" or "in writing" defined, V.T.C.A., Government Code § 312.011.

Year means a calendar year.

State law reference(s)—"Year" defined, V.T.C.A., Government Code § 312.011.

Sec. 1.01.005. Severability of parts of Code.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code, since the same would have been enacted by the City Council without the incorporation in the Code of any such unconstitutional phrase, clause, sentence, paragraph or section.

State law reference(s)—Severability of statutes, V.T.C.A., Government Code § 312.013.

Sec. 1.01.006. Repeal of ordinances.

The repeal of an ordinance or any portion thereof shall not repeal the repealing clause of an ordinance or revive any ordinance which has been previously repealed.

State law reference(s)—Effect of repeal of statutes, V.T.C.A., Government Code § 311.030.

Sec. 1.01.007. Amendments or additions to Code.

All ordinances of a general and permanent nature, and amendments to such ordinances, hereafter enacted or presented to the City Council for enactment, shall be drafted, so far as possible, as specific amendments of, or additions to, the Code of Ordinances. Amendments to this Code shall be made by reference to the chapter and section of the Code which is to be amended, and additions shall bear an appropriate designation of Chapter, Article and Section; provided, however, the failure to do so shall in no way affect the validity or enforceability of such ordinances.

Sec. 1.01.008. Supplementation of Code.

- (a) By contract or by City personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the City Council. A supplement to the Code shall include all substantive permanent and general parts of ordinances passed by the City Council during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages that have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.
- (b) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by omission thereof from reprinted pages.
- (c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified Code. For example, the codifier may:
 - (1) Organize the ordinance material into appropriate subdivisions;
 - (2) Provide appropriate catchlines, headings and titles for articles, sections and other subdivisions of the Code printed in the supplement and make changes in such catchlines, headings and titles;
 - (3) Assign appropriate numbers to articles, sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing article or section or other subdivision numbers;
 - (4) Change the words "this ordinance" or words of the same meaning to "this Chapter," "this Article," "this Section," "this subsection," etc., as the case may be; and
 - (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance material inserted into the Code, but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

Sec. 1.01.009. General penalty for violations of Code; continuing violations.

- (a) 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 whenever in this Code or such 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 this Code or any such ordinance shall be punished by a fine of not exceeding \$500.00.
- (b) A fine or penalty for the violation of a rule, ordinance or police regulation that governs fire safety, zoning or public health and sanitation, including the dumping of refuse, may not exceed \$2,000.00.

- (c) Unless otherwise specifically stated in this Code, any violation of this Code or of any ordinance that is punishable by a fine that does not exceed \$500.00 does not require a culpable mental state, and a culpable mental state is hereby not required to prove any such offense. Unless otherwise specifically stated in this Code, any violation of this Code or of any ordinance that is punishable by a fine that exceeds \$500.00 shall require a culpable mental state.
- (d) No penalty shall be greater or less than the penalty provided for the same or a similar offense under the laws of the State.
- (e) Unless otherwise stated in this Code or in any ordinance, each day any violation of this Code or of any ordinance shall continue shall constitute a separate offense.
- (f) In the event that any such violation is designated as a nuisance under the provisions of this Code, such nuisance may be summarily abated by the City. In addition to the penalty prescribed above, the City may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

State law reference(s)—Penalties for violations, V.T.C.A., Local Government Code § 54.001; penalty for class C misdemeanor, V.T.C.A., Penal Code § 12.23; requirement of culpability, V.T.C.A., Penal Code § 6.02.

ARTICLE 1.02. ADMINISTRATION

DIVISION 1. GENERALLY

Sec. 1.02.001. Emergency actions by City officers, agents or employees.

Every officer, agent or employee of the City, while responding to emergency situations, is hereby authorized to act in such a manner as to most effectively deal with the emergency. This provision shall prevail over every other ordinance of the City and, to the extent to which the City has the authority to so authorize, over any other law establishing a standard of care in conflict with this Section. Neither the City nor the employee shall be liable for any failure to use ordinary care in such emergency.

(Ord. No. 1-12, 12-5-85)

Secs. 1.02.002—1.02.040. Reserved.

DIVISION 2. CLAIMS AGAINST CITY

Sec. 1.02.041. Claims for damage or injury.

The City shall never be liable for any claims for property damage or for personal injury, whether such personal injury results in death or not, unless the person damaged or injured, or someone in his behalf, or, in the event the injury results in death, the person or persons who may have a cause of action under the law by reason of such death or injury, shall, within six months from the date the damage or injury was sustained, give notice in writing to the Mayor and City Council of the following facts:

- (1) The date and time when the injury or damage occurred and the place where the injured person or property was at the time when the injury was received or damage occurred.
- (2) The nature of the injury sustained.

- (3) The apparent extent of the damage or injury sustained.
- (4) A specific and detailed statement of how and under what circumstances the damage or injury occurred.
- (5) The amount for which each claimant will settle.
- (6) The actual place of residence of each claimant by street, number, City and State on the date the claim is presented.
- (7) In the case of personal injury or death, the names and addresses of all persons who, according to the knowledge or information of the claimant, witnessed the happening of the injury or any part thereof, and the names of the doctors, if any, to whose care the injured person is committed.
- (8) In case of property damage, the location of the damaged property at the time the claim was submitted, along with the names and addresses of all persons who witnessed the happening of the damage or any part thereof.

Sec. 1.02.042. Refusal of claim required prior to suit.

No suit of any nature whatsoever shall be instituted or maintained against the City unless the plaintiff therein shall aver and prove that previous to the filing of the original petition the plaintiff applied to the City Council for redress, satisfaction, compensation, or relief, as the case may be, and that the same was by vote of the City Council refused.

Sec. 1.02.043. Service of notices.

All notices required by this Division shall be effectuated by serving them upon the City Secretary at the following location: Municipal Building, 2600 Roosevelt Drive, Arlington, Texas 76016, and all such notices shall be effective only when actually received in the office of the person named above.

Sec. 1.02.044. Waiver of requirements.

Neither the Mayor, a City Council Member, nor any other officer or employee of the City shall have the authority to waive any of the provisions of this Division.

Sec. 1.02.045. Notices to be sworn.

The written notice required under this Division shall be sworn to by the person claiming the damage or injuries or by someone authorized by him to do so on his behalf. Failure to swear to the notice as required herein shall not render the notice fatally defective, but failure to so verify the notice may be considered by the City Council as a factor relating to the truth of the allegations and to the weight to be given to the allegations contained therein.

Sec. 1.02.046. Applicability of State law.

This Division shall be cumulative of the provisions of Title 5, Chapter 101 of the Civil Practice and Remedies Code of the State. For a claim within the scope of such code, this Division shall be deemed supplemental thereto. For any claim within the scope of such code, this Division shall govern the submission and processing of the same.

ARTICLE 1.03. BOARDS, COMMISSIONS AND COMMITTEES

DIVISION 1. GENERALLY

Secs. 1.03.001—1.03.030. Reserved.

DIVISION 2. COMMUNITY ACTIVITIES COMMITTEE

Sec. 1.03.031. Established.

The establishment of the Community Activities Committee is hereby authorized.

(Ord. No. 14-26, § 1, 5-9-02)

Sec. 1.03.032. Purpose; composition.

- (a) The Community Activities Committee will be operated by volunteer, non-paid persons interested in providing this civic service to the community.
- (b) The Committee is intended to move plans, organize and implement social activities for adults and children residing in the community.
- (c) The Committee is intended to coordinate diverse social events that will encourage the entire community to participate. These events include but are not limited to the following: kid fishing derby, Independence Day celebration and parade activities, Halloween party, Christmas floats and parade activities, Easter egg hunts, bicycle rodeo and other social activities as approved by the Committee.
- (d) The Committee may as needed solicit as many additional volunteers for specific events as necessary to perform the necessary duties as outlined by the Committee.

(Ord. No. 14-26, § 2, 5-9-02)

Sec. 1.03.033. Duties.

The Committee is responsible for:

- (1) Obtaining volunteer workers to operate each social activity.
- (2) Establishing dates and hours of community social activities.
- (3) Establishing rules for the activity.
- (4) Providing public relations activities and arranging for press coverage.
- (5) Establishing subcommittees as needed.
- (6) Electing the necessary officer or activity chairman as necessary for organized operations.
- (7) Turning over to the City Secretary for deposit any monies coming into the possession of the Committee from any source other than the City treasury.
- (8) Providing annual estimated budgets to the City Manager.

(Ord. No. 14-26, § 3, 5-9-02)

Sec. 1.03.034. Volunteers; officers.

- (a) The Committee may at its discretion acquire volunteers as necessary to accomplish approved City social functions and for the duration needed at the discretion of the Committee.
- (b) The Committee shall elect a Chairperson, a Vice-Chairperson and a Secretary, each to serve at least one year. Such elections shall be held each January.

(Ord. No. 14-26, § 4, 5-9-02)

Sec. 1.03.035. Funds; expenses.

- (a) All cash coming into the possession of the Community Activities Committee or its volunteers shall be turned over, following receipt, to the City Secretary for deposit into the community activities fund. All such funds shall be used specifically for support of community activities as noted in Section 1.03.032(c) of this Division. The community activities funds will be part of the City's annual budget.
- (b) All expenses by the Committee are subject to review and approval of the City Council.

(Ord. No. 14-26, § 5, 5-9-02)

Sec. 1.03.036. Community participation.

All citizens in the community will be encouraged to enjoy and participate in all City social activities. News of the Committee needs, achievements, goals, and other information of interest on behalf of this Committee will be published frequently in the City newsletter.

(Ord. No. 14-26, § 6, 5-9-02)

Secs. 1.03.037—1.03.070. Reserved.

ARTICLE 1.04. DEVELOPMENT CORPORATION

Sec. 1.04.001. Findings.

- (a) The Development Corporation Act of 1979, article 5190.6, Texas Revised Civil Statutes, as amended (the "Act") authorizes the City to create and administer a development corporation to act on behalf of the City in the promotion and development of new and expanded business enterprises, including certain projects, as defined in the Act.
- (b) The corporation has been or will be created and organized as a Texas nonprofit corporation pursuant to the provisions of the Act.
- (c) The City has not created another corporation to be governed by the Act.
- (d) The City Council has reviewed and approved the articles of incorporation and approves the creation of the corporation, as a non-for-profit entity, as its constituted authority and instrumentality to accomplish the specific purpose of promotion and development of new and expanded business enterprises, including certain projects, to promote and encourage employment and the public welfare.

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(e) The immediate creation of the corporation is necessary for the purposes set out above.

(Ord. No. 4-33, § 1, 1-18-11)

Sec. 1.04.002. Creation.

The corporation is hereby authorized and approved for creation as a development corporation under the provisions of the Act.

(Ord. No. 4-33, § 2, 1-18-11)

Sec. 1.04.003. General powers.

The corporation is hereby designated as a duly constituted authority and instrumentality of the City (within the meaning of those terms in the regulations of the United States Department of Treasury and rulings of the Internal Revenue Service prescribed and promulgated pursuant to section 103 of the Internal Revenue Code of 1986, as amended) and shall be authorized to act on behalf of the City for the specific public purposes of the promotion and development of industrial and manufacturing enterprises to promote and encourage employment and public welfare; but the corporation is not intended to be and shall not be a political subdivision or a political corporation within the meaning of the constitution and the laws of the State, including, without limitation, Article III, Section 52 of the State constitution, and the unit does not delegate to the corporation any of its attributes of sovereignty, including the power to tax, the power of eminent domain and the police power.

(Ord. No. 4-33, § 3, 1-18-11)

Sec. 1.04.004. Authority to issue obligations, acquire and sell property, and make loans.

The corporation may, under the conditions set forth in this Article, issue obligations on behalf of the unit, acquire, lease, sell or convey certain properties and make loans for the promotion and development of commercial, industrial and manufacturing enterprises to promote and encourage employment and the public welfare, including new and expanded manufacturing, industrial and commercial enterprises, to the extent provided in the Act. The unit shall not lend its credit or grant any public money or thing of value in aid of the corporation, except under a contract authorized by V.T.C.A., Local Government Code § 380.002. Furthermore, obligations issued by the corporation with the approval of the unit shall be deemed not to constitute a debt of the State, of the unit or of any other political corporation, subdivision or agency of the State or a pledge of the faith and credit of any of them, but such obligations shall be payable solely from the funds herein provided. The corporation shall not be authorized to incur financial obligations which cannot be paid from proceeds of the obligations or from revenues realized from the lease or sale of a project or realized from a loan made by the corporation to finance or refinance in whole or in part a project. "Project" shall have the same meaning as given in the Act.

(Ord. No. 4-33, § 4, 1-18-11)

Sec. 1.04.005. Governing documents.

The articles of incorporation of the corporation and the bylaws of the corporation, in the forms attached to Ordinance 4-33, are hereby approved for use and adoption by the corporation; provided, however, that any amendments to the articles of incorporation or bylaws shall be subject to the further approval of the governing body. However, the City Attorney of the governing body may authorize any ministerial changes to the bylaws as is

necessary to make such bylaws prior to the adoption of the same by the corporation consistent with the purposes and intent of this Article.

(Ord. No. 4-33, § 5, 1-18-11)

Sec. 1.04.006. Term of directors.

The Directors appointed shall serve two-year staggered terms. During the initial meeting of the Board of Directors, the Directors shall select, by lottery, which three of the members shall serve an initial one-year term and which four members shall serve an initial two-year term. Terms shall end on December 31 of each year.

(Ord. No. 4-33, § 6, 1-18-11)

Sec. 1.04.007. Dissolution.

Upon dissolution of the corporation, the dissolution proceedings shall transfer title to all funds and properties then owned by the corporation at such time to the City.

(Ord. No. 4-33, § 7, 1-18-11)

ARTICLE 1.05. EMERGENCY MANAGEMENT

DIVISION 1. GENERALLY

Sec. 1.05.001. National Incident Management System adopted.

The City hereby adopts the National Incident Management System dated March 1, 2004.

(Ord. No. 5-3, 8-16-05)

Secs. 1.05.002—1.05.030. Reserved.

DIVISION 2. EMERGENCY MANAGEMENT PROGRAM

Sec. 1.05.031. Operational organization.

- (a) There exists the office of Emergency Management Director of the City, which shall be held by the Mayor in accordance with State law.
- (b) An Emergency Management Coordinator may be appointed by and serve at the pleasure of the Director.
- (c) The Director shall be responsible for a program of comprehensive emergency management within the City and for carrying out the duties and responsibilities set forth in this Division. He/she may delegate authority for execution of these duties to the coordinator, but ultimate responsibility for such execution shall remain with the Director.
- (d) The operational emergency management organization of the City shall consist of the officers and employees of the City as designated by the Director in the emergency management plan, to include organized volunteer

groups. The functions and duties of this organization shall be distributed among such officers and employees in accordance with the tasking set forth in the emergency management plan.

(Ord. No. 5-2, § 1, 12-14-89)

Sec. 1.05.032. Powers and duties of Director.

The duties and responsibilities of the Emergency Management Director shall include the following:

- (1) Conduct an ongoing survey of actual or potential hazards which threaten life and property within the City and an ongoing program of identifying and requiring or recommending the implementation of measures which would lessen occurrence or reduce the impact of such hazards if a disaster did occur.
- (2) Supervision of the development and approval of an emergency management plan for the City, and recommend for adoption by the City Council all mutual aid arrangements necessary for plan implementation.
- (3) Authority to declare a local state of disaster. The declaration may not be continued or renewed for a period to exceed seven days except with the consent of the City Council. Any order or proclamation declaring, continuing, or terminating a local state of disaster shall be given prompt and general publicity and shall be filed promptly with the City Secretary.
- (4) Issuance of necessary proclamations, regulations or directives necessary for carrying out the purposes of this Division. Such proclamations, regulations, or directives shall be disseminated promptly by the best means available to bring the contents to the attention of the general public and, unless circumstances warrant, promptly filed with the City Secretary.
- (5) Direction and control of the City's emergency management organization as well as the training of emergency management personnel.
- (6) Resolve all questions of authority and responsibility that may arise within the emergency management organization of the City.
- (7) Maintain liaison with other district, State, regional or Federal emergency management organizations.
- (8) Marshaling of necessary personnel, equipment or supplies from any department to provide and carry out the provisions of the emergency management plan.
- (9) Supervision of the drafting and implementation of mutual aid agreements, in cooperation with the representatives of the State and of other local political subdivisions, and the drafting and execution, as appropriate, of agreements with the County and other municipalities within the County, for the County-wide coordination of emergency management efforts.
- (10) Supervision of, and final authorization for, the procurement of necessary supplies and equipment, including acceptance of corporate donations and private contributions which may be used for improving emergency management within the City.
- (11) Authorizing of agreements, after approval by the City Attorney, for use of private property for public shelter and other purposes.
- (12) Survey of the availability of existing personnel, equipment, supplies and services which could be used during a disaster, as provided for herein.
- (13) Other requirements as specified in the Texas Disaster Act of 1975 (V.T.C.A., Government Code ch. 418).

(Ord. No. 5-2, § 2, 12-14-89)

Sec. 1.05.033. Emergency management plan.

A comprehensive emergency management plan shall be developed and maintained in a current state. The plan shall set forth the form of the organization, establish and designate divisions and functions, assign responsibilities, tasks, duties, and powers, and designate officers and employees to carry out the provisions of this Division. As provided by State law, the plan shall follow the standards and criteria established by the State Division of Emergency Management. Insofar as possible, the form of organization, title and terminology shall follow the recommendations of the State Division of Emergency Management. When approved, all departments and agencies shall perform the functions assigned by the plan and maintain their portion of the plan in a current state of readiness. The emergency management plan shall be considered supplementary to this Division and have the effect of law during the time of a disaster.

(Ord. No. 5-2, § 3, 12-14-89)

Sec. 1.05.034. Interjurisdictional program.

The Mayor is hereby authorized to join with the County Judge and the mayors of the other cities in the County in the formation of an Emergency Management Council for the County. The Mayor shall have the authority to cooperate in the preparation of a joint emergency management plan and in the appointment of a Joint Emergency Management Coordinator, as well as all powers necessary to participate in a County-wide program of emergency management insofar as said program may affect the City.

(Ord. No. 5-2, § 4, 12-14-89)

Sec. 1.05.035. Override.

At all times when the orders, rules, and regulations made and promulgated pursuant to this Division shall be in effect, they shall supersede and override all existing ordinances, orders, rules, and regulations whenever a conflict or inconsistency exists.

(Ord. No. 5-2, § 5, 12-14-89)

Sec. 1.05.036. Liability.

This Division is an exercise by the City of its governmental functions for the protection of the public peace, health, and safety and neither the City, the agents and representatives of the City, nor any individual, receiver, firm, partnership, corporation, association, or trustee, nor any of the agents thereof, in good faith carrying out, complying with or attempting to comply with any order, rule, or regulation promulgated pursuant to the provisions of this Division shall be liable for any damage sustained to persons as the result of said activity. Any person owning or controlling real estate or other premises who voluntarily and without compensation grants to the City a license or privilege or otherwise permits the City to inspect, designate and use the whole or any part or parts of such real estate or premises for the purpose of sheltering persons during an actual, impending or practice enemy attack or natural or man-made disaster shall, together with his successors in interest, if any, not be civilly liable for the death of, or injury to, any person on or about such real estate or premises under such license, privilege or other permission or for loss of, or damage to, the property of such person.

(Ord. No. 5-2, § 6, 12-14-89)

Sec. 1.05.037. Commitment of funds.

No person shall have the right to expend any public funds of the City in carrying out any emergency management activity authorized by this Division without prior approval by the City Council, nor shall any person have any right to bind the City by contract, agreement or otherwise without prior and specific approval of the City Council unless during a declared disaster. During a declared disaster, the Mayor may expend and/or commit public funds of the City when deemed prudent and necessary for the protection of health, life, or property.

(Ord. No. 5-2, § 7, 12-14-89)

Sec. 1.05.038. Offenses; penalty.

- (a) It shall be unlawful for any person willfully to obstruct, hinder, or delay any member of the emergency management organization in the enforcement of any rule or regulation issued pursuant to this Division, or to do any act forbidden by any rule or regulation issued pursuant to the authority contained in this Division.
- (b) It shall likewise be unlawful for any person to wear, carry or display any emblem, insignia or any other means of identification as a member of the emergency management organization of the City unless authority to do so has been granted to such person by the proper officials.
- (c) Any unauthorized person who shall operate a siren or other device so as to simulate a warning signal, or the termination of a warning, shall be deemed guilty of a violation of this Division and shall be subject to the penalties imposed by this Division.
- (d) Convictions for violations of the provisions of this Division shall be punishable by fine not to exceed \$200.00.

(Ord. No. 5-2, § 8, 12-14-89)

Sec. 1.05.039. Limitations.

This Division shall not be construed so as to conflict with any State or Federal statute or with any military or naval order, rule, or regulation.

(Ord. No. 5-2, § 10, 12-14-89)

ARTICLE 1.06. RECORDS MANAGEMENT**Sec. 1.06.001. Definition of City records.**

All documents, papers, letters, books, maps, photographs, sound or video recordings, microfilm, magnetic tape, electronic media or other information-recording media, regardless of whether public access to it is open or restricted under the laws of the State, created or received by the City or any of its officers or employees pursuant to law or in the transaction of public business are hereby declared to be the records of the City and shall be created, maintained and disposed of in accordance with the provisions of this Article or procedures authorized by it and in no other manner.

(Ord. No. 2-33, § 1, 7-11-91)

Sec. 1.06.002. Additional definitions.

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

Department head means the officer who by ordinance, order, or administrative policy is in charge of an office of the City that creates or receives records.

Essential record means any record of the City necessary to the resumption or continuation of operations of the City in an emergency or disaster, to the re-creation of the legal and financial status of the City, or to the fulfillment of obligations to the people of the State.

Permanent record means any record of the City for which the retention period on a records control schedule is given as permanent.

Records control schedule means a document prepared by or under the authority of the Records Management Officer listing the records maintained by the City, their retention periods, and other records disposition information that the records management program may require.

Records management means the application of management techniques to the creation, use, maintenance, retention, preservation, and disposal of records for the purpose of reducing the costs and improving the efficiency of recordkeeping. The term includes the development of records control schedules, the management of filing and information retrieval systems, the protection of essential and permanent records, the economical and space-effective storage of inactive records, control over the creation and distribution of forms, reports, and correspondence, and the management of micrographics and electronic and other records storage systems.

Records Liaison Officers means the persons designated under Section 1.06.010 of this Article.

Records Management Committee means the Committee established in Section 1.06.006 of this Article.

Records Management Officer means the person designated in Section 1.06.005 of this Article.

Records management plan means the plan developed under Section 1.06.007 of this Article.

Retention period means the minimum time that must pass after the creation, recording, or receipt of a record, of the fulfillment of certain actions associated with a record, before it is eligible for destruction.

(Ord. No. 2-33, § 2, 7-11-91)

Sec. 1.06.003. City records declared public property.

All City records as defined in Section 1.06.001 of this Article are hereby declared to be the property of the City. No City official or employee has, by virtue of his or her position, any personal or property right to such records even though he or she may have developed or compiled them. The unauthorized destruction, removal from files, or use of such records is prohibited.

(Ord. No. 2-33, § 3, 7-11-91)

Sec. 1.06.004. Policy.

It is hereby declared to be the policy of the City to provide efficient, economical, and effective controls over the creation, distribution, organization, maintenance, use and disposition of all City records through a comprehensive system of integrated procedures for the management of records from their creation to their ultimate disposition, consistent with the requirements of the Texas Local Government Records Act and accepted records management practice.

(Ord. No. 2-33, § 4, 7-11-91)

Sec. 1.06.005. Designation of Records Management Officer.

The City Secretary, and the successive holders of said office, shall serve as Records Management Officer of the City. As provided by State law, each successive holder of the office shall file his or her name with the Director and librarian of the State library within 30 days of the initial designation or of taking up the office, as applicable.

(Ord. No. 2-33, § 5, 7-11-91)

Sec. 1.06.006. Records Management Committee.

A Records Management Committee consisting of a Councilmember, the City Manager and the City Attorney is hereby established. The Committee shall:

- (1) Assist the Records Management Officer in the development of policies and procedures governing the records management program;
- (2) Review the performance of the program on a regular basis and propose changes and improvements if needed;
- (3) Review and approve records control schedules submitted by the Records Management Officer; and
- (4) Actively support and promote the records management program throughout the City.

(Ord. No. 2-33, § 6, 7-11-91)

Sec. 1.06.007. Records management plan to be developed; approval of plan; authority of plan.

- (a) The Records Management Officer and Records Management Committee shall develop a records management plan for the City for submission to the City Council. The plan must contain policies and procedures designed to reduce the costs and improve the efficiency of recordkeeping, to adequately protect the essential records of the City, and to properly preserve those records of the City that are of historical value. The plan must be designed to enable the Records Management Officer to carry out his or her duties prescribed by State law and this Article effectively.
- (b) Once approved by the City Council, the records management plan shall be binding on all offices, departments, divisions, programs, commissions, bureaus, boards, committees, or similar entities of the City and records shall be created, maintained, stored, microfilmed, or disposed of in accordance with the plan.
- (c) State law relating to the duties, other responsibilities, or recordkeeping requirements of a department head do not exempt the department head or the records in the department head's care from the application of this Article and the records management plan adopted under it and may not be used by the department head as a basis for refusal to participate in the records management program of the City.

(Ord. No. 2-33, § 7, 7-11-91)

Sec. 1.06.008. Duties of Records Management Officer.

In addition to other duties assigned in this Article, the Records Management Officer shall:

- (1) Administer the records management program and provide assistance to department heads in its implementation;
- (2) Plan, formulate, and prescribe records disposition policies, systems, standards, and procedures;
- (3) In cooperation with department heads, identify essential records and establish a disaster plan for each City office and department to ensure maximum availability of the records in order to reestablish operations quickly and with minimum disruption and expense;
- (4) Develop procedures to ensure the permanent preservation of the historically valuable records of the City;
- (5) Establish standards for filing and storage equipment and for recordkeeping supplies;
- (6) Study the feasibility of and, if appropriate, establish a uniform filing system and a forms design and control system for the City;
- (7) Provide records management advice and assistance to all departments by preparation of a manual or manuals of procedure and policy and by on-site consultation;
- (8) Monitor records retention schedules and administrative rules issued by the State Library and Archives Commission to determine if the records management program and the City's records control schedules are in compliance with State regulations;
- (9) Disseminate to the City Council and the department information concerning State laws and administrative rules relating to City records;
- (10) Instruct Records Liaison Officers and other personnel in policies and procedures of the records management plan and their duties in the records management program;
- (11) Direct Records Liaison Officers or other personnel in the conduct of records inventories in preparation for the development of records control schedules as required by State law and this Article;
- (12) Ensure that the maintenance, preservation, destruction or other disposition of City records is carried out in accordance with the policies and procedures of the records management program and the requirements of State law;
- (13) Maintain records on the volume of records destroyed under approved records control schedules, the volumes of records microfilmed or stored electronically, and the estimated cost and space savings as the result of such disposal or disposition;
- (14) Report annually to the City Council on the implementation of the records management plan in each department of the City.

(Ord. No. 2-33, § 8, 7-11-91)

Sec. 1.06.009. Duties and responsibilities of department heads.

In addition to other duties assigned in this Article, department heads shall:

- (1) Cooperate with the Records Management Officer in carrying out the policies and procedures established in the City for the efficient and economical management of records and in carrying out the requirements of this Article;
- (2) Adequately document the transaction of government business and the services, programs, and duties for which the department head and his or her staff are responsible; and

- (3) Maintain the records in his or her care and carry out their preservation, microfilming, destruction, or other disposition only in accordance with the policies and procedures of the records management program of the City and the requirements of this Article.

(Ord. No. 2-33, § 9, 7-11-91)

Sec. 1.06.010. Designation of Records Liaison Officers.

Each department head shall designate a member of his or her staff to serve as Records Liaison Officer for the implementation of the records management program in the department. If the Records Management Officer determines that in the best interests of the records management program more than one Records Liaison Officer should be designated for a department, the department head shall designate the number of Records Liaison Officers specified by the Records Management Officer. Persons designated as Records Liaison Officers shall be thoroughly familiar with all the records created and maintained by the department and shall have full access to all records of the City maintained by the department. In the event of the resignation, retirement, dismissal of, or removal by action of the department of a person designated as a Records Liaison Officer, the department head shall promptly designate another person to fill the vacancy. A department head may serve as Records Liaison Officer for his or her department.

(Ord. No. 2-33, § 10, 7-11-91)

Sec. 1.06.011. Duties and responsibilities of Records Liaison Officers.

In addition to other duties assigned in this Article, Records Liaison Officers shall:

- (1) Conduct or supervise the conduct of inventories of the records of the department in preparation for the development of records control schedules;
- (2) In cooperation with the Records Management Officer, coordinate and implement the policies and procedures of the records management program in their departments; and
- (3) Disseminate information to department staff concerning the records management program.

(Ord. No. 2-33, § 11, 7-11-91)

Sec. 1.06.012. Records control schedules to be developed; approval; filing with State.

- (a) The Records Management Officer, in cooperation with department heads and Records Liaison Officers, shall prepare records control schedules on a department-by-department basis listing all records created or received by the department and the retention [period for each series. Records control] schedules shall also contain such other information regarding the disposition of local government records as the records management plan may require.
- (b) Each records control schedule shall be monitored as needed by the Records Management Officer on a regular basis to ensure that it is in compliance with records retention schedules issued by the State and that it continues to reflect the recordkeeping procedures and needs of the department [and] by the records management program of the City.
- (c) Before its adoption, a records control schedule or amended schedule for a department must be approved by the department head and the members of the Records Management Committee.
- (d) Before its adoption, a records control schedule must be submitted to and accepted for filing by the Director and Librarian as provided by State law. If a schedule is not accepted for filing, the schedule shall be amended to

make it acceptable for filing. The Records Management Officer shall submit the records control schedules to the Director and Librarian.

(Ord. No. 2-33, § 12, 7-11-91)

Sec. 1.06.013. Implementation of records control schedules; destruction of records under schedule.

- (a) A records control schedule for a department that has been approved and adopted under Section 1.06.007 shall be implemented by the department head and Records Liaison Officers according to the policies and procedures of the records management plan.
- (b) A record whose retention period has expired on a records control schedule shall be destroyed unless an open records request is pending on the record, the subject matter of the record is pertinent to a pending lawsuit, or the department head requests in writing to the Records Management Committee that the record be retained for an additional period.
- (c) Prior to the destruction of a record under an approved records control schedule, authorization for the destruction must be obtained by the Records Management Officer from the Records Management Committee.

(Ord. No. 2-33, § 13, 7-11-91)

Sec. 1.06.014. Destruction of unscheduled records.

A record that has not yet been listed on an approved records control schedule may be destroyed if its destruction has been approved in the same manner as a record destroyed under an approved schedule and the Records Management Officer has submitted to and received back from the Director and Librarian an approved destruction authorization request.

(Ord. No. 2-33, § 14, 7-11-91)

Sec. 1.06.015. Records center.

A records center, developed pursuant to the plan required by Section 1.06.007, shall be under the direct control and supervision of the Records Management Officer. Policies and procedures regulating the operations and use of the records center shall be contained in the records management plan developed under Section 1.06.007.

(Ord. No. 2-33, § 15, 7-11-91)

Sec. 1.06.016. Micrographics.

Unless a micrographics program in a department is specifically exempted by order of the City Council, all microfilming of records will be centralized and under the direct supervision of the Records Management Officer. The records management plan will establish policies and procedures for the microfilming of local government records, including policies to ensure that all microfilming is done in accordance with standards and procedures for the microfilming of local government records established in rules of the State Library and Archives Commission. The plan will also establish criteria for determining the eligibility of records for microfilming and protocols for ensuring that a microfilming program that is exempted from the centralized operations is, nevertheless, subject to periodic review by the Records Management Officer as to cost-effectiveness, administrative efficiency, and compliance with Commission rules.

(Ord. No. 2-33, § 16, 7-11-91)

ARTICLE 1.07. LIBRARY

Sec. 1.07.001. Established.

The establishment and operation of an informal lending library, to be known as the Mary Ruth Briggs Library, is hereby authorized.

Sec. 1.07.002. Operation.

- (a) The lending library will be operated by volunteers, non-paid persons, interested in providing this civic service to the community.
- (b) The reading materials and any other materials to be lent to users of the library will be that which has been or will be donated to, or purchased by, the Library Committee members or their designee.
- (c) The library is intended to provide a service by which citizens of this community may borrow books and other library materials. The process for such borrowing and returning of materials shall be orderly and preferably through the use of an appropriate cataloging system of classification.
- (d) The library may support other activities to encourage the use of the library reading materials as deemed beneficial by the Library Committee, including, but not limited to, a summer reading program and a preschool reading program.

Sec. 1.07.003. Library Committee.

- (a) A City Library Committee, consisting of six persons, is hereby established. The Committee will meet at least quarterly.
- (b) The members of the Committee shall be appointed by the City Council. The term of office of each member is two years. These members and their corresponding terms shall be known as positions 1—6. Positions 1, 3, and 5 expire in odd-numbered years on May 31. Positions 2, 4 and 6 expire in even-numbered years on May 31. All appointments or reappointments shall be done by resolution noting the position number and term. The Committee shall elect a Chairperson, Vice-Chairperson, Secretary, and Treasurer, each to serve one year. Such elections shall be held each year after the three members are appointed by the City Council.
- (c) The Committee is responsible for:
 - (1) Obtaining volunteer workers to operate the library.
 - (2) Establishing the hours of operation of the library.
 - (3) Accepting or rejecting donated materials.
 - (4) Establishing rules for lending and return of materials lent, including fines or other actions upon failure of borrowers to return materials on time.
 - (5) Establishing a procedure for hearing complaints regarding any aspect of the library operation, taking final action on such complaints, and referring any appeals of such actions desired by the complainants to the City Council for consideration.
 - (6) Conveying any money received for library improvements, other than from the City budget, to the City Secretary for deposit into the library's dedicated fund for donations.

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(Supp. No. 1)

- (7) Utilizing facilities furnished by the City to house the library, keeping such facilities clean and presentable as the structural condition of the facilities permits.
- (8) Reporting annually to the City Council, on a date to be set by the City Manager, the categories of intended use of donated or other funds which may be raised during the ensuing year for the library.

Sec. 1.07.004. Funds.

Dedicated contributions to the library will be maintained in the library's dedicated fund. Usage of these funds requires approval by the Library Committee. All monies received by the library or Library Committee shall be turned over, after receipt, to the City Secretary for deposit into this fund. All monies shall be used solely for support of the library. The monies in this fund will accumulate from year to year.

Sec. 1.07.005. Community participation.

All citizens in the community will be encouraged to enjoy and participate in the use of the library. News of the library's needs, achievements, goals, and services, plus any other information of interest on behalf of the library, will be published frequently via available media.

(Ord. No. 2013-1, 3-12-13)

ARTICLE 1.08. PARKS AND RECREATION

DIVISION 1. GENERALLY

Sec. 1.08.001. Use of tennis courts at Lee Kleypas Park.

(a) *Definitions.*

Tennis means a sport usually played between two players (singles) or between two teams of two players each (doubles). Each player uses a racket that is strung to strike a hollow rubber ball covered with felt past a net into the opponent's court.

(b) *Use regulations.* The tennis courts located within Lee Kleypas Park are to be used for the playing of the game of tennis only. Skateboards, roller blades, bicycles and other sports activities (including, but not limited to, soccer, basketball, volleyball, baseball, and football) are not permitted on the tennis courts. No hard-sole or cleated footwear shall be worn on the tennis courts.

(c) *Penalty* means any person violating any provision of this Section shall be deemed guilty of a misdemeanor, and upon conviction in the municipal court of the City or any other court of jurisdiction shall be subject to a fine not to exceed \$500.00 for each offense.

(Ord. No. 14-27, 4-12-10)

Sec. 1.08.002. Drilling and mining or the reopening of any abandoned well or mine.

(a) All forms of drilling and mining are permanently prohibited in any public park located within the City limits.

(b) No previously drilled and abandoned well or mine may be reopened in any public park located within the City limits.

(Ord. No. 2019-13, 10-8-19)

Secs. 1.08.003—1.08.030. Reserved.

DIVISION 2. SWIMMING POOL

Sec. 1.08.031. Hours of operation.

The pool shall open Memorial weekend in May of each year and shall remain open until the start of the Belton School year, and then only be open weekends through Labor Day of that year. The pool shall be closed on Mondays except when a Federal holiday falls on a Monday, then it shall be open on the Monday and close the following Tuesday. The hours of operation and fees will be under the discretion of the City Manager and reviewed annually by the City Council.

Sec. 1.08.032. Use regulations.

The following rules shall apply to the swimming pool:

- (1) Children under 12 years of age must be escorted by a person 16 years of age or older. There must be one adult for every five children under 12 years of age. Children 12 years or under will not be left unattended at pool.
- (2) The lifeguard has the authority to remove or suspend pool privileges for disciplinary actions or violation of this Division. Appeals for disciplinary action can be made to the City Manager.
- (3) Swimmers must wear a swimsuit—no cut-offs. T-shirts may be worn in pool, but they must be white t-shirts due to bleaching color causing water discoloration.
- (4) Suntan oil or lotions may not be worn in pool. A shower is provided sun block is permitted.
- (5) No running, pushing, dunking, diving or horseplay is permitted.
- (6) No food, drinks glass containers or large raft in pool. It shall be left to the discretion of the lifeguard on duty to determine when these shall be removed from the pool.
- (7) No smoking is permitted in pool area. Smoking is permitted outside the fence 15 feet from the entrance.
- (8) Pool may be subject to closing for any safety or health reason. Lifeguard has authority to enforce all rules and regulations regarding the pool and adjacent area.
- (9) Pool pass or gate fee must be paid by anyone in a swimsuit utilizing pool.
- (10) No lifeguard is on duty at the wading pool. All children must be supervised by an adult.
- (11) Patio area cannot be reserved during regular pool hours—it is available on a first come basis. The patio area may be used during regular pool hours for picnics or parties.
- (12) Pool and pool area is not included in rental of community center.
- (13) City Manager will determine days and hours for: water aerobics classes, young children's swim and swim lessons (if offered).
- (14) Contact City Hall for group events, so we may provide extra lifeguards for your safety, if necessary.

Sec. 1.08.033. Fees.

- (a) Family pass. To be used by members of the immediate family. One card to be issued to each family. Cost: Family four or more \$100.00 plus \$25.00 for each additional person.
- (b) Senior citizen age 50+ pass: \$50.00 for one, \$60.00 for two.
- (c) Individual pass whose name appears on card. Cost: \$60.00.
- (d) Single admittance/gate fee. Cost: \$5.00.

Sec. 1.08.034. Pool rental.

- (a) Pool may be rented by property owner and/or residents of the City and that property owner/resident must attend the function. Rental hours are only from 7:30 p.m. until 10:00 p.m., Tuesday through Sunday. Rental does not include the community center facilities. Pool passes do not apply.
 - (1) Up to 50 guest: \$250.00.
 - (2) Over 50 guests: \$5.00 per extra person.
 - (3) Deposit: \$200.00.
- (b) Parties are required to have one adult for every five children and if not, the lifeguard has the right to refuse entry.
- (c) Lifeguard will be provided by the City and they are in control of the pool area.
- (d) No alcoholic beverage will be allowed in the pool area.
- (e) Renters are responsible for cleanup of pool area, emptying trash cans, and for placing tables, chairs, etc. in original locations. Failure to do so can cause forfeiture of all or part of the deposit and also pay for any additional expenses the City deems necessary to cover any excessive cleaning and/or damages that your use of the swimming pool and area has caused.
- (f) Smoking permitted in designated areas only. Must be 15 feet from the gate entrance.

Sec. 1.08.035. Penalty.

Any person violating any provisions of this Division 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 Division or noncompliance with any requirement of this Division shall constitute a distinct and separate offense.

(Ord. No. 2020-07, 6-9-20)

Secs. 1.08.036—1.08.070. Reserved.***DIVISION 3. MARINA******Part I. In General***

Sec. 1.08.071. Use regulations.

- (a) *Swimming.* It shall be unlawful to swim in any area of the marina that is within 100 feet of the structure of the marina.
- (b) *Fishing.* It shall be unlawful for persons to fish from the marina docks and walkways.
- (c) *Parking.* It shall be unlawful to park motor homes or any other large vehicle that requires more than one marked parking. It shall be unlawful to park any vehicles outside of the marked parking spaces on the lower marina parking lot. Vehicles shall be parked so as not to obstruct traffic on the upper parking area in the vicinity of the restrooms.
- (d) *Vessels prohibited in certain area.* It shall be unlawful to have a vessel of any kind in the area between the bank of the lower parking lot and the structure of the marina.
- (e) *Penalty.* Any violator of this Section shall, upon conviction, be guilty of a misdemeanor and shall be fined no more than \$500.00.

Secs. 1.08.072—1.08.100. Reserved.*Part II. Vessel Stall Rentals***Sec. 1.08.101. Rental priority system.**

- (a) Stalls shall be rented in compliance with the lease agreement between the City and the Corps of Engineers, Department of the Army.
- (b) An applicant for rental of a vessel stall shall show proof of ownership (registration by the Texas Parks and Wildlife Department) to establish the fact that they own the vessel to be moored in the stall.
- (c) The City Manager or his designee shall maintain a waiting list register and file of applications for stall rentals. Names of applicants shall be placed on the waiting list register in the order they were received at City Hall. An applicant who wishes to rent a vessel stall must complete and sign an application on a copy of the form available from the Marina Manager. The applicant shall indicate on the application which size stall they desire. A separate application shall be submitted for each desired stall size. Each application shall be charged an application fee as per the fee schedule. The application fee for the leased stall shall be applied to the first month's rental fee. The application fee for a rejected stall is nonrefundable. Fees for applications withdrawn prior to any stall being offered will be refunded. The applicant must present the completed application in person or by mail to City Hall.
- (d) When a vacant stall becomes available, the City employee designated by the City Manager shall attempt to make contact by telephone with the next person on the waiting list register to offer rental of the stall. If contact cannot be made within three working days, an attempt shall be made to reach by telephone the next following person on the register. A record shall be kept showing the dates and times that attempts were made to make contact with the applicants who could not be reached within three working days. Once contact has been made, the applicant must accept or reject the stall within 48 hours (two working day). If the offered stall is rejected, the applicant name shall be deleted from the waiting list register. A record shall be kept of the date and time of the rejection.
- (e) Renters may not sublease any vessel stall.
- (f) Persons who wish to rent more than two stall may enter their names on the waiting list to gain priority for assignment of a stall. However, the rental of a stall shall not be offered or permitted:

- (1) If the person reached on the waiting list is a joint or sole owner of two vessels already moored at the marina; and
- (2) If there are other renters lower on the waiting list who requested a stall of the size available for rental at the time.

If there are no applicants lower on the waiting list who request or who will accept a stall of the size available at the time, then the additional stall may be rented to a renter who is a joint or sole owner of two vessels already moored.

Sec. 1.08.102. Lease agreement; renewal of lease; rental payments; delinquency.

- (a) Each person accepting a stall in the marina shall be required to sign a lease agreement with the City. This agreement shall state the size of stall rented, the amount of rent per month, agreeing to rental payments due dates, and actions that shall be taken by the City in cases of delinquent payments. A written lease shall be the rental agreement between the renter of a vessel stall or mooring and the City. The term of the lease shall be annual, with an automatic, annual renewal for one year. The City reserves the right to cancel any lease (with cause) with 90 days' notice to renter. Leases may be renewed by the City, however, changes in policy established by the City during the term of an expiring lease shall be applicable to and be a part of the provisions of the renewed lease.
- (b) Upon the initial rental of a stall, the patron must pay the first month's rental prior to being issued a key to the marina. Billings for stall rentals are made the first week of each month and are due upon receipt of said billing. Those persons desiring may request annual billings, and they shall be billed the first week of the month that their current rental will expire. Annual billings must be paid not later than 15 days after the expiration of the previous year.
- (c) Those persons who are delinquent one month shall be notified in their next billing that they must make payment within 15 days. If payment is not received within 45 days of the due date, the City shall notify the individual by certified mail that the vessel has been impounded as of that date and, if payment is not made within five days, his vessel may be removed from the stall and the stall rented to another party. This subsection shall be quoted verbatim in the lease agreement prescribed in subsection (a) above.
- (d) The first month's lease shall include a security deposit equal to the monthly lease price.
- (e) Tenant shall provide marina management with 30 days' notice of intent to terminate their lease. Failure to provide notice will result in the forfeiture of the tenant's deposit.

Sec. 1.08.103. Patron responsibilities.

Marina patrons are responsible for the maintenance and control of their vessels moored in the marina. The Marina Manager may, if time permits, pump water from the vessels after a rain; however, the patron is responsible for attending to their vessels after rains. The Marina Manager shall not be responsible to monitor or control the use of the patron's vessel.

Sec. 1.08.104. Complaints.

Complaints concerning the operation of the marina should be directed to the Marina Manager. Should a patron feel his complaint has not been resolved by the Marina Manager, the complaint should be filed with the City Manager.

Sec. 1.08.105. Rates.

- (a) The following stall fees and storage locker fees are as established by the City Council and effective January 1, 2016.

MARINA RATES

Stall Size	Monthly Rent	Yearly Payment
20'	\$125.00	\$1,500.00
22'	138.50	1,662.00
24'	151.00	1,812.00
26' open	137.50	1,650.00
26'	163.50	1,962.00
30'	197.50	2,370.00
50'	337.50	4,050.00
Lockers	6.00	72.00
Application fee	One time	50.00

- (b) The City Manager may waive stall rental fees to public safety agencies or other public entities that provide public services on Belton Lake.
- (c) If a yearly vessel stall payment is made, all charged oil and gas purchases, will be deducted out of the yearly vessel stall credit amount.

Sec. 1.08.106. General rules.

- (a) *Registration.* All vessels shall maintain and properly display current State registration issued by the Texas Parks and Wildlife Department.
- (b) *Seaworthy condition.* Only vessels, in good and seaworthy condition, and under their own power shall be permitted to enter the assigned stall/space. All vessels must be able to operate under their own power at all times.
- (c) *Vessel condition.* Vessels are to be maintained in good mechanical and aesthetic condition at all times. Vessels not in good mechanical and aesthetic condition, as determined by the Marina Manager, must be repaired or they will not be admitted to or permitted to remain in the marina. With due cause, a marine survey, conducted by an accredited marine surveyor, may be requested at the discretion of the vessel owner, at the vessel owner's expense, any time prior to arrival or while the vessel remains in the marina.
- (d) *Maintenance in the marina.* Maintenance in the marina, whether by vessel owner or commercial contractor, shall be limited to normal preventative maintenance. These procedures are to include changing batteries, fluids, and expendable parts (e.g., belts, filters, etc.). Extensive repairs may require, at the sole discretion of the Marina Manager, that the vessel be removed from the marina prior to the work being done. Vessel washing is permitted using marina approved biodegradable soaps and cleaners. No rotary disk sanding or spray painting is allowed in the marina.
- (e) *Vessels per stall.* Only one vessel is allowed per rental stall. A vessel is defined as any watercraft, other than a seaplane on water, used or capable of being used, as a means of transportation on water.
- (f) *Alcoholic beverages.* Public consumption of alcoholic beverages on marina facilities is prohibited.
- (g) *Modifications or additions.* Modifications or additions (e.g., installing fenders, hose caddies, screening, etc.) to any portion of the docks are not permitted. Tenants shall not add to, take away from, or otherwise alter,

by construction or otherwise, without approval in writing by the Marina Manager, their stalls or adjacent common dock ways, or electrical and/or service facilities. Tenants shall not generally paint, carpet, or otherwise cover their stalls or adjacent common dock ways.

- (h) *Commercial activities.* Commercial activities, vending, or otherwise collecting funds is not permitted. Commercial activities include, but are not limited to, rental or leasing of vessels, chartering of vessels or boarding paying passengers, use of the marina address, use of a vessel, telephone, or facsimile number in any advertising, brochure, letterhead, business card, or other commercial document that is located at the marina. Any questions should be directed to the Marina Manager.
- (i) *Charcoal and gas cooking.* Is not permitted on the docks or on the exterior of any vessel in or attached to the marina.
- (j) *Fireworks.* Are not permitted in the marina, on the docks, or on any vessel in or attached to the marina.
- (k) *Loud noises.* Loud noises such as hailers, loud music, or unnecessarily loud revving of engines will not be permitted. Dock parties must conclude by 11:00 p.m. Sunday—Thursday, and by 12:00 midnight Friday and Saturday.
- (l) *No discharges.* No discharges are permitted in Belton Lake. Sewage, treated or untreated, must go to an onboard holding tank and be discharged at a septic pump out station. Bilges must be kept free of any contaminants (e.g. oil, fuel, antifreeze, etc.). A discharge is defined as any spilling, leaking, pumping, pouring, emitting, emptying, or dumping as per U.S. Code title 33 navigation and navigable waters. Y valves should be in the "closed" or "holding tank" position and locked at all times while boating in inland waters.
- (m) *Emergency.* In the event that an emergency has occurred during the owner's absence, the marina reserves the right but not the responsibility to take such action as it deems necessary and prudent to safeguard said vessel, its stall/space, adjacent vessel, or property of the marina. Owner agrees to reimburse the marina for any and all cost it incurs on behalf of owner's vessel in emergency situations.
- (n) *Contracted services.* No contractor, service organization or individual will be permitted to be mechanical work on any vessel berthed at the marina without proof of insurance coverage on file and prior approval from the Marina Manager. Contractors must sign in with marina office daily.
- (o) *Storage on docks.* Owners shall not store or place supplies, bikes, equipment dinghies, skiffs, surfboards, accessories or materials or debris of any kind on docks or finger piers. Owners shall not construct or place any lockers, chests, storage cabinets or similar structures on the docks or finger piers. "Dock steps" must be approved by the marina Director. Combustibles shall not be stored anywhere on the dock.
- (p) *Vessel relocation.* The marina management reserves the right for vessel relocation required for emergencies, special events, or space. The marina management reserves the right to deny stall lease, if, in its judgment, a boat is inappropriate for a certain stall because of width, draft, length, or maneuverability.
- (q) *Violations.* Violations of the above rules and regulations, disorder, depredations or indecorous conduct by an owner, his crew, agents or guests that might injure or annoy other persons, harm the reputation of the marina, or cause damage to property shall be cause for immediate removal of the vessel in question and termination of the agreement at the discretion of the City. Violation of any City or County ordinance, State or Federal laws, rules of the road including navigation laws of the United States, violation of regulation of City, County, State or Federal agencies shall be cause for the marina to terminate the agreement immediately and exclude the owner and their vessel from the marina.
- (r) *Insurance.* Tenant is responsible for providing insurance coverage for the vessel and related personal property stored in the vessel stall.
- (s) *Vessel liability.* All reasonable precautions will be taken by the marina to ensure the tenant's property and safety. However, the marina assumes no responsibility for the safety of any vessel stored in the marina and

will not be liable for fire, theft, sinking or damage to said vessel, its equipment or any property in or on said vessel, however arising.

- (t) *Personal/property liability.* The marina shall not be liable for any loss of property by theft, burglary or otherwise from said stalls or dockage space or from tenant's vessel, nor shall the marina be liable for any damage or injury to any person or property in and about the marina premises including the stalls and dockage space that may be caused by the elements, by the marina employees, by tenants guests and invitees or by any other cause whatsoever, and the tenant hereby covenants and agrees to make no claim for such loss, damage or injury at any time against the marina and covenants and agrees to indemnify and hold harmless the marina therefrom.
- (u) *Securing vessel.* All vessels shall be secured in their berths in a safe and secure manner. The marina shall have the authority to correct any nonconformance to this policy and assess reasonable costs incurred. Bow pulpits or other attachments to a tenant's vessel must not extend past the pedestal. Vessels shall not extend over five feet on finger pier.
- (v) *Tenant and guest behavior.* The tenant (and guests for whom they are responsible) agrees to conduct themselves at all times when on the premises of the marina, or on any vessel docked therein, so as to create no annoyance, hazard, or nuisance to the marina or other tenants. Noise shall be kept to a minimum at all times. Discretion shall be used in operation of engines, generators, radios, and TV's so as not to create a nuisance or disturbance.
- (w) *Vessel fueling.* There shall be no fueling of vessels at tenant stalls or storage area. All fueling operations will be conducted at the gas dock.
- (x) *Vessel ingress and egress.* When entering or leaving the marina, vessels must be under motorized power, and observe the no wake zones.
- (y) *Swimming.* Swimming or diving shall not be permitted in the marina.
- (z) *Animals.* Animals must be leashed when off vessels. Pet owners shall be responsible for cleanup of animal feces immediately. Animals must not be permitted to disturb members or their guests. An unattended dog constitutes a nuisance.
- (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
 - When an approval authorizes an animal to be present in a public recreation area.
- (aa) *Vessel operation.* Vessels backing from stalls have the right-of-way, and all other vessels must yield that right-of-way. Vessels leaving the marina have the right-of-way over vessels approaching or entering the marina.

(Ord. No. 2015-13, 10-13-15)

ARTICLE 1.09. MAINTENANCE FEES

Sec. 1.09.001. Delinquent accounts.

The maintenance fees shall not be reduced, deducted, or waived without the approval of the City Council.

(Ord. No. 17-1, § 1, 2-14-12)

Sec. 1.09.002. Liens.

A lien shall be placed on all delinquent maintenance fees accounts each year by February 10 of the following year. All lien expenses shall be charged to the delinquent account

(Ord. No. 17-1, § 2, 2-14-12)

CHAPTER 2

ANIMAL CONTROL

ARTICLE 2.01. GENERAL PROVISIONS²

Sec. 2.01.001. Definitions.

For the purposes of this Chapter, and as used herein, the following terms shall have the meaning in this Section given them:

Animal means a living being of the biological kingdom Animalia, having a capacity for spontaneous movement and rapid motor response to stimulation, and not of a species having a capacity for articulate speech.

At large.

- (1) Not under the control of the owner either by leash, cord, or other suitable material attached to a collar or harness; or
- (2) Not restrained securely within an enclosure or fence.

Cat means the male and female of any domesticated member of the feline species of animals. "Adult cat" shall mean any cat of more than 12 weeks of age.

Dangerous dog. (As defined by V.T.C.A., Health and Safety Code § 822.041.)

- (1) Makes an unprovoked attack on a person that causes bodily injury and occurs in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own; or
- (2) Commits unprovoked acts in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own and those acts cause a person to reasonably believe that the dog will attack and cause bodily injury to that person.

Dog means the male and female of any domesticated member of the canine species of animals. "Adult dog" shall mean any dog of more than 12 weeks of age.

Fowl means a bird of any kind. This definition shall not include hawks or falcons kept in compliance with Federal and State permitting regulations.

Keep means to retain on the premises by any means; to harbor, shelter, control, own, or have custody of or possession of.

²State law reference(s)—Authority of governing body to regulate animals, V.T.C.A., Local Government Code § 215.025 et seq.; health and safety of animals, V.T.C.A., Health and Safety Code ch. 821 et seq.

Maintain means to feed, shelter, protect, provide for or bear the expense of.

Nuisance means an animal shall be considered a nuisance if it:

- (1) Damages, soils, defiles, or defecates on private property (other than the owner's) [or] on public areas unless such waste is immediately removed and disposed of;
- (2) Causes unsanitary, dangerous, or offensive conditions on any property, including the owner's;
- (3) Creates a disturbance by excessive barking or other animal noise (and no person is trespassing or threatening to trespass or no person is teasing or provoking the animal) which would offend a person of ordinary sensibilities under the same or similar circumstances;
- (4) Chases, molests, attacks, or interferes with any person or other domestic or wild animals on public property or the private property of others;
- (5) Is repeatedly at large;
- (6) Is without an owner/guardian.

Occupied as a residence means property where a person physically resides at an address within the City limits and that said address is the same place that is the person's regular living place and is called home by that person.

Owner means any person, firm, association, partnership or corporation owning, keeping, in charge of, in control of, maintaining or harboring one or more animals or fowl, except a person holding an animal for animal control.

Person means any natural person, corporation, partnership, association, firm or legal entity.

Pet means an animal that is tamed or domesticated and kept as a companion or treated with fondness.

Stray shall be intended to mean any dog or cat not wearing a collar.

Trap means any device placed by an Animal Control Officer, employed or used in the capture of animals, which is not under the constant supervision of an officer and which functions in such a manner as to confine any animal entering same.

Wild animal means any animal or reptile which, in its natural state, possesses dangerous or vicious propensities, and includes, but is not limited to, coyotes, wolves, bears, wildcats (puma, bobcat, lynx, cougar, serval), lions, tigers, poisonous snakes, alligators, crocodiles, lizards and monkeys, whether or not said animal or reptile has been trained.

(Ord. No. 14-7A, § 2, 2-15-05; Ord. No. 2017-04, 8-8-17; Ord. No. 2022-04 , § 1(Exh. A), 5-10-22)

Sec. 2.01.002. Penalty.

Any person or persons violating any provision of this Chapter shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than \$1,000.00. Each and every violation of the provisions of this Chapter shall constitute a separate offense and every day of violation shall constitute a separate violation.

(Ord. No. 14-7A, § 20, 2-15-05)

Sec. 2.01.003. Owner responsibility; registration of dogs and cats.

- (a) *Animals at large.* An owner or guardian of an animal commits an offense if by criminal negligence he permits an animal to go at large upon the premises of others or upon the streets and other ways of the City (enforcement will be determined by the Animal Control Officer or Police Officer).
- (b) *Nuisances.* An owner or guardian of an animal commits an offense if by criminal negligence he allows his animal to create a nuisance as defined herein.
- (c) *Registration of dogs and cats.* It shall be unlawful for the owner or guardian of any dog or cat in the City to fail to obtain an annual license tag for such animals from the City and to display (except cats) such tag from the collar or harness about the neck of such animal. The City will review the receipt issued by the licensed veterinarian and if in order will issue a metal tag for registration. A permanent record of tags issued will be maintained in the City files.
- (d) *Restraint of animals.* An owner or guardian of an animal commits an offense if by criminal negligence he fails to keep the animal in an adequate enclosure, which is one that complies with all of the requirements of this subsection.
 - (1) Subject to the further requirements of this subsection, an enclosure shall be an area that is completely surrounded by a substantial fence or other structure of sufficient strength, height, construction, materials, and design as to prevent any domestic animal from escaping from the area and to isolate the animal from the public and from other animals not under the control of the same owner. Enclosure requirements for dangerous dogs will exceed the requirements described in this subsection and will be determined on a case by case basis by city officials.
 - (2) For all dogs, an enclosure shall have an outside-perimeter barrier that is a minimum height of 48 inches when measured from the ground. Any portion of a building that is intended to form part of an enclosure must have a continuous wall (inclusive of windows and doors) that meets the applicable height requirement.
 - (3) All non-building portions of an enclosure, including gates, shall be constructed of chain link, welded wire, wrought iron, brick, mortared stone, concrete block, wood stockade, or other similar fencing-type material approved by the director.
 - (4) Where a building forms a part of an enclosure, there shall be minimal separation between the building and the remaining parts of the enclosure to prevent escape of the animal or animals intended to be contained.
 - (5) An enclosure shall be designed, erected, and maintained in accordance with all applicable zoning and building regulations of this Code.
 - (6) When not in use, all gates shall be closed and secured in a manner that prevents an animal from leaving the enclosure.
 - (7) Broken or damaged portions of an enclosure shall be repaired with like material and provide a seamless barrier that reasonably inhibits or prevents escape.
 - (8) If petitioned by an owner, the director may modify or waive the requirements of subsections (2), (3), and (7), provided that the director determines that proposed alternate measures will adequately contain the animal(s) in question. In considering a petition, the director may take into account factors that include, but are not limited to, zoning requirements, deed restrictions and covenants, and the size and physical characteristics of the animal or animals to be enclosed. The decision of the director shall be final and unappealable.

(e) It shall be unlawful for a person to use a chain to attach a dog to a stationary object or trolley system for restraint.

(f) This subsection does not prohibit a person from walking a dog with a hand-held leash.

(Ord. No. 14-7A, § 1, 2-15-05; Ord. No. 2022-04, § 1(Exh. A), 5-10-22)

State law reference(s)—Registration of dogs and cats, V.T.C.A., Health and Safety Code § 826.031 et seq.

Sec. 2.01.004. Wild animals prohibited.

The keeping or possession of wild animals within the limits of the City is prohibited, unlawful, and is hereby declared to be a nuisance. Hawks or falcons kept in compliance with Federal and State permitting regulations are exempt from this Section.

(Ord. No. 2017-04, 8-8-17)

State law reference(s)—Dangerous wild animals, V.T.C.A., Health and Safety Code § 822.101 et seq.

Sec. 2.01.005. Fighting dogs or other animals.

It shall be unlawful for any person to keep or use in any way or be connected with or have an interest in the management of or to receive money for the admission of any person to any place kept or used for the purpose of fighting dogs or other animals, or for the person to aid, encourage, assist, or arrange for a dog or other animal fight or to permit or suffer any place belonging to or under his control to be kept or so used.

(Ord. No. 14-7A, § 4, 2-15-05)

State law reference(s)—Cruelty by causing livestock animals to fight, V.T.C.A., Penal Code § 42.09(a)(6); cruelty by causing nonlivestock animals to fight, V.T.C.A., Penal Code § 42.092(b)(7); dog fighting, V.T.C.A., Penal Code § 42.10.

Sec. 2.01.006. Dogs running at large.

It shall be unlawful for the owner of any dog to permit or allow such dog to be at large within the City limits. All dogs off the property of the owner must be under the complete control of the owner either by leash, rope, chain or cage.

(Ord. No. 14-7A, § 7, 2-15-05)

Sec. 2.01.007. Impoundment of dogs and cats.

(a) Any dog found to be running at large with or without a collar or harness with vaccination and license tags attached within the City limits shall be immediately impounded and kept for a minimum of 72 hours and then disposed of; provided, however, that the owner of any such animal impounded under the terms of this Section shall be allowed to take such dog from the place of impoundment upon payment of the stated impoundment fee of \$25.00 per day or any part of a day, presentation of proof of a current and valid rabies vaccination, and City license registration. The fee is to be paid to the City at the City Hall.

(b) Any person may impound any dog or cat found on their property and deliver such to the Animal Control Officer. Such animal shall be treated the same as a dog or cat impounded by the Animal Control Officer.

(Ord. No. 14-7A, § 7a, 2-15-05)

State law reference(s)—Restraint, impoundment and disposition of dogs and cats, V.T.C.A., Health and Safety Code § 826.033.

Sec. 2.01.008. Dangerous dogs.

The owner of a dog that has been determined to be a dangerous dog as defined by this Chapter shall be responsible for complying with V.T.C.A., Health and Safety Code ch. 822, Regulation of Animals.

(Ord. No. 14-7A, § 8, 2-15-05)

State law reference(s)—Authority of City to regulate the keeping of dangerous dogs, V.T.C.A., Health and Safety Code § 822.041 et seq.

Sec. 2.01.009. Limitation on number of dogs and cats.

- (a) It shall be unlawful for any person to keep, maintain, or shelter more than four adult dogs, plus one litter to age of three months, within the City.
- (b) The provisions of this Section shall apply equally to the keeping of cats. A person may keep four dogs and four adult cats, plus a litter of each to age three months.
- (c) The limitations of this Section shall not apply to dogs or cats kept upon the business premises of any veterinarian, kennel, animal shelter, pet shop, or scientific research institution located in a zoning district zoned for such use.

(Ord. No. 14-7A, § 12, 2-15-05)

Sec. 2.01.010. Keeping animal on unoccupied property.

It shall be unlawful to keep, shelter or enclose any dog, cat or any animal on any property within the City limits which is not occupied as a residence by a person, with the exception of the Lakewood Ranches Section of the City, Sections I and II.

(Ord. No. 14-7A, § 13, 2-15-05)

Sec. 2.01.011. Raising, breeding or selling household pets.

Dogs, cats, or other household pets may be raised, bred, or kept provided they are not for any commercial purposes. The sale or trade of dogs, cats, or other household pets by persons in a household shall not be construed to be for commercial purpose as long as there are no more than ten such sales or trades per household per year.

(Ord. No. 14-7A, § 14, 2-15-05)

Sec. 2.01.012. Vehicle striking animal.

The driver of any vehicle which collides with or strikes any domesticated animal shall stop such vehicle immediately at the scene of such accident, or as close as possible without interfering with traffic, render reasonable assistance to said animal and then notify the owner of said animal or report said accident and the injury to the Police Department. The provisions of this Section shall not apply to any emergency vehicle or to a driver taking an ill or injured person to medical care, [and] it shall not require assistance to an animal if providing such assistance would place any person in danger from the animal or traffic.

(Ord. No. 14-7A, § 7b, 2-15-05)

Sec. 2.01.013. Destruction of diseased animals and fowl.

It shall be the duty of every person keeping or maintaining any animal or fowl which becomes infected or afflicted with a disease which is contagious or a threat to the life and health of other such animals and fowl, or to humans, to humanely destroy said animal or fowl and dispose of its remains when directed, in compliance with the established regulations of the County Health Department and applicable State laws and regulations.

(Ord. No. 14-7A, § 9, 2-15-05)

Sec. 2.01.014. Disposal of dead animals and fowl.

- (a) *Generally.* It is the responsibility of an animal owner, except for animals and fowl kept by veterinarians or persons engaged in medical or scientific research, and those mounted by a taxidermist, to dispose of dead animals and fowl within 24 hours of the time of death. The manner in which dead animals and fowl are disposed of shall, at minimum, comply with the established regulations of the Health Department and applicable State laws and regulations.
- (b) *Disposal on public property prohibited.* It shall be unlawful for any person to dispose of any dead animal or fowl upon the public property within the City. Public property shall include, but not be limited to, streets, alleys, easements, parks, buildings and grounds owned, operated or rented by any level of government.

(Ord. No. 14-7A, §§ 9a, 9b, 2-15-05)

Sec. 2.01.015. Disposal of animal waste.

The owner of every animal shall make sanitary disposal of any excreta deposited by his animal on public walks, streets, or recreation areas, or upon private property not within the control, possession or supervision of said owner.

(Ord. No. 14-7A, § 10, 2-15-05)

Sec. 2.01.016. Tampering with traps set by Animal Control.

It shall be unlawful for any person to tamper with, move, destroy, damage, spring, or cause to malfunction any trap set by the Department of Animal Control, or to release any dog or cat from any such trap.

(Ord. No. 14-7A, § 11, 2-15-05)

Sec. 2.01.017. Bow hunting or trapping.

- (a) It shall be unlawful for any person or persons to operate or use a bow and arrow, crossbow or similar device for the purpose of hunting and the taking of any animal or game bird within the City limits.
- (b) It shall be unlawful for any person or persons to set or use any trap, snare or other device for the purpose of entrapment of any fur-bearing animal or game bird within the City limits. It shall be a defense to prosecution under subsection (b) of this Section if special permission is obtained from the Chief of Police for the control of nuisance animals.

(Ord. No. 14-18, 11-1-84)

ARTICLE 2.02. RABIES CONTROL

Sec. 2.02.001. Vaccination of dogs, cats and ferrets required.

The owner of each dog, cat, or domestic ferret kept within the City shall have every such dog, cat or domestic ferret vaccinated against rabies in accordance with V.T.C.A., Administrative Code § 169.29 and once each year thereafter. It shall be unlawful for any person to own or keep a dog, cat, or domestic ferret within the City limits unless the same has been vaccinated against rabies.

State law reference(s)—Rabies vaccinations, V.T.C.A., Health and Safety Code § 826.021 et seq.

Sec. 2.02.002. Wearing of vaccination tag.

It shall be unlawful for an owner to allow a dog over the age of four months to be at large without wearing a current metal vaccination tag issued by a veterinarian during the preceding 12 months. The vaccination tag must be for the animal that is wearing it. It shall be prima facie evidence of vaccination against rabies that a dog is wearing attached to its collar a current metal vaccination tag.

Sec. 2.02.003. Reporting of suspected rabid animals; quarantine.

- (a) A person having knowledge of an animal bite or scratch to an individual that the person could reasonably foresee as capable of transmitting rabies or knowledge of an animal that is reasonably suspected to be rabid shall report such knowledge immediately to Animal Control or the Police Department.
- (b) The owner of an animal that is reported to be rabid or to have exposed an individual to a risk of contracting rabies shall submit the animal to a licensed veterinarian to be quarantined until such time as it can be definitely determined whether such animal is infected with rabies, but in no case less than ten days. All regulations of V.T.C.A., Health and Safety Code tit. 10, Health and Safety of Animals, ch. 826, must be followed.
- (c) It is an offense under this Chapter for a person to refuse to submit for quarantine any animal reasonably suspected of being rabid. It is also an offense to knowingly sell, release or otherwise dispose of an animal before the expiration of the quarantine period if the animal is reasonably suspected of being rabid.
- (d) An animal that is lacking proof of current vaccination for rabies at the time it bites a person is presumed to be under suspicion of rabies.

State law reference(s)—Rabies reports and quarantine, V.T.C.A., Health and Safety Code § 826.041 et seq.

Sec. 2.02.004. Designation of Local Rabies Control Authority.

- (a) The position of Local Rabies Control Authority is hereby created to enforce all State statutes, the ordinances or rules of the City, and the rules adopted by the Executive Commissioner under the rabies quarantine provisions of V.T.C.A., Health and Safety Code § 826.045.
- (b) The Code Enforcement Officer of the City is designated as the Local Rabies Control Authority.

(Ord. No. 2016-06, 4-14-16)

ARTICLE 2.03. ANIMALS OTHER THAN HOUSEHOLD PETS

Sec. 2.03.001. Limitation on number.

- (a) Animals or fowl may be raised, bred, or kept in pens or enclosures provided there is a minimum of two contiguous acres at the residence, but limitations are listed below for the total number of animals and/or fowl per residence. This Section only applies to Lakewood Ranches 1 and 2 and Stonehenge.
 - (1) Large animal: one (horse, mule, donkey, llama, cow, etc.) per one and one-fourth acres.
 - (2) Medium size animals: two (sheep, goat, miniature horse, etc.) per one and one-fourth acres.
 - (3) Small animals: four per three-fourths acre.
 - (4) Fowl: four per three-fourths acre.
- (b) A combination of animals is allowed, but in no case shall the number of animals on any single residence exceed ten animals.

(Ord. No. 14-7A, § 15, 2-15-05)

Sec. 2.03.002. Keeping on unoccupied property; sheds and other structures; keeping for commercial purposes.

- (a) All existing unoccupied structures or structures to be built to house animals or fowl must be approved by the Building Control Board before being utilized to house the animals or fowl. No animals or fowl shall be raised, bred, or kept for commercial purposes within the City limits.
- (b) No shed, coop, barn, or other structure shall be erected, placed, or altered on any real property until construction plans of the structure and specifications and a plat map showing the location of the structure have been approved by the City Building Control Board as to the quality of workmanship and materials and harmony of external design with the existing structures within the area. No used building materials shall be used that will be exposed on the exterior or the structure unless said materials will be painted, stained, or covered with masonry.

(Ord. No. 14-7A, § 16, 2-15-05)

Sec. 2.03.003. Enclosure required; location of enclosures.

- (a) *Horses, cows and similar animals.* It shall be the duty of every person who is authorized to raise or keep any horse, mule, pony, cow, goat, or similar animal to keep said animal in a stable, shed, pen, fence, or other enclosure a minimum distance of 150 feet from every building or structure used for sleeping, dining, or living. Such pen, stable, shed, fence or other enclosure must be kept in a manner not to jeopardize the health and comfort of the public or persons residing in the vicinity of the enclosure. In the event that a building or structure is built for sleeping, dining, or living within 150 feet of the enclosure it shall be incumbent upon the owner of the animals to move the enclosure the required distance of 150 feet from the building or structure that was built. If the 150 feet requirement cannot be met for any reason, the owner of the animals must remove the animals from the property. The pen or cage cannot be closer than 25 feet to the nearest property line of the lot, tract, or parcel on which said pen or cage is located.

- (b) *Fowl or small animals.* It shall be the duty of every person who is authorized to raise or keep chickens, ducks, geese, guineas, rabbits, pigeons, guinea pigs, white rats, white mice, hamsters, and other small animals and fowl to keep such in a pen, coop, or enclosure and it shall be unlawful to allow said animals to be at large. Such pen, coop, or enclosure must be a distance of 150 feet from any building or structure used for sleeping, dining, or living. Such pen, coop, or enclosure must be kept in a manner not to jeopardize the health and comfort of the public or persons living in the vicinity of such enclosures. In the event that a building or structure used for sleeping, dining, or living is built within the 150 feet distance of such enclosure, it shall be incumbent upon the owner of such animals to move the such enclosure the required 150 feet from the building or structure that was built. If the 150 feet requirement cannot be met for any reason, the owner of the animals must remove the animals from the property.

(Ord. No. 14-7A, § 17, 2-15-05)

Sec. 2.03.004. Special provisions for 4-H and FFA projects.

Notwithstanding the limitations of Section 2.03.002, the keeping of rabbits and fowl as a bona fide 4-H club or FFA project sponsored by the Belton or the Temple Independent School District may be authorized but strictly controlled under the following rules and limitations:

- (1) A permit must be obtained from the City by application to the City before rabbits or fowl are brought into the City.
- (2) A permit fee of \$5.00 must be paid to the City.
- (3) A statement signed by the schoolteacher who is to sponsor the project, giving the following information, must accompany the application:
 - a. The name of the student who will have the project.
 - b. The type of project, fowl or rabbit (not both).
 - c. The number of animals or fowl applicable to the project.
 - d. The date the project will be completed (each year is a separate project).
 - e. A statement that it is a bona fide project in connection with the 4-H club or FFA sponsored by the Belton or Temple School District.
- (4) Not more than 25 broiler or capon fowl shall be raised as a project. No other fowl shall be part of the project.
- (5) Not more than two adult doe rabbits shall be in a project. The doe shall not be bred more than four times per year. Not more than eight young per litter shall be raised.
- (6) Not more than one adult buck rabbit shall be in a project. He shall be kept in a separate hutch.
- (7) The cages, hutches, and other facilities used for the project shall be built, cleaned, and cared for in accordance with the Texas Agricultural Extension Service, Texas A & M University, Publication PS5.141 for fowl and SA5.010 for rabbits. The Building Inspector must approve cages or hutches.
- (8) The permit for the project shall expire on the date stated in subsection (3)d above. Cages or hutches shall be removed from the premises not more than 30 days from the date of the completion of the project.
- (9) Noises or odors resulting from the conduct of the projects which are offensive to neighbors and which are not corrected within five days after a written complaint by a neighbor shall be a violation of this Chapter as provided in Section 2.01.002 hereof.

(Ord. No. 14-7A, § 18, 2-15-05)

Sec. 2.03.005. Swine prohibited.

It shall be unlawful for any person to raise, breed, or keep any kind of swine within the City limits.

(Ord. No. 14-7A, § 19, 2-15-05)

CHAPTER 3 BUILDING REGULATIONS

ARTICLE 3.02. TECHNICAL AND CONSTRUCTION CODES AND STANDARDS

DIVISION 1. GENERALLY

Sec. 3.02.001. Penalty.

- (a) A person who shall violate a provision of this Article or fail to comply therewith or with any of the requirements thereof, or who shall erect, construct, alter or repair, or has erected, constructed, altered or repaired, a building or structure in violation of a detailed statement or plan submitted and approved thereunder, or of a permit or certificate issued thereunder, shall be guilty of a misdemeanor and punishable by a fine of not more than \$1,000.00. Each day or fractional part thereof said violation exists shall constitute a separate offense.
- (b) The owner of a building, structure or premises where anything in violation of this Article shall be placed or shall exist, and any architect, builder, contractor, agent, person or corporation employed in connection therewith and who may have assisted in the Commission of such violation, shall each be guilty of a separate offense and upon conviction thereof shall be fined as herein provided.

(Ord. No. 4-1, part II, § IX, 6-13-02)

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.

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

Sec. 3.02.003. 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)

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.

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

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

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 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.
- (4) A survey reflecting the approximate location of the septic system in relation to the proposed structure and the property lines.

(Ord. No. 4-1, part II, § I, 6-13-02)

Sec. 3.02.006. Permit procedures; stop work orders.

- (a) *Certification of compliance.* The property owner and his representative must sign a statement to the effect that all the requirements of this Article will be complied with during the construction period. The statement will be as follows:

CERTIFICATION OF COMPLIANCE

The undersigned owner of Lot(s) _____ of Block _____ of Section _____ of the City of Morgan's Point Resort, Texas, hereby authorizes _____ to make application to the City Building Official of the City of Morgan's Point Resort, Texas, for the issuance of a building permit for the undersigned to build the following improvement on said property:

(Describe, generally, the improvements to be constructed)

Said improvements, when completed, will be used for the following purposes:

I/We certify that We will comply with all requirements of Ordinance 4-1, of the City of Morgan's Point Resort.

Dated this the _____ day of _____, ____,

Signature: _____

Owner

Signature: _____

Builder/Contractor

- (b) *Application for permit.* All applications for permits must be personally signed by the owner of the property where the work is to be performed, or by someone authorized by the property owner to make such application for said owner. If the property owner cannot personally make the application then said owner's authorized representative must sign the compliance statement as set forth in subsection (a) of this Section and said statement will be filed with the City Building Official prior to the approval of any building permit.
- (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.
- (d) *Inspections required.* The Building Inspector shall make the required inspections on all construction to ensure that the provisions of this Article and the applicable codes are complied with, and that such work is proceeding safely.
- (e) *Stop work orders.* The Building Official and/or the Building Inspector shall be authorized to place a stop work order on any work being done which is found, in his opinion, to be in violation of or in noncompliance with this Article or any applicable code as set forth herein. Whenever any work is found to be in violation of a provision of the building, electrical, plumbing or mechanical code and, in his opinion, the continuation of said work would be contrary to public welfare, he may require that all further work be suspended until such violation has been remedied.
- (f) *Expiration of permit.* All permits shall expire and be considered no longer valid 180 days after issuance unless construction work thereunder 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.

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

Sec. 3.02.007. Permit fees.

No permit required by this Article shall be issued until the fees prescribed in this Section have been paid, nor shall any amendment to a permit be approved until the additional fees, if any, have been paid. Fees for building permits will be based on the following schedule:

- (1) New residential construction.
 - a. Includes single- and multiple-family residences.
 - 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. Electrical: \$160.00 (four phase inspection).
 6. Plumbing: \$120.00 (three phase inspection).
 7. Mechanical: \$80.00 (two phase inspection).
 8. Sprinkler system: \$64.00 (one phase inspection).
 9. Blasting: \$32.00 (one phase inspection).
 10. Driveway and flatwork: \$40.00 (each inspection).
 11. Certificate of occupancy: \$40.00 (one phase inspection).
 12. Reinspection: \$40.00 (each inspection).
- (2) New commercial construction.
- a. Building: \$0.08 per square foot (minimum \$48.00).
 - 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).
 - f. Mechanical: \$80.00 (two phase inspection).
 - g. Sprinkler system: \$64.00 (one phase inspection).
 - h. Blasting: \$32.00 (one phase inspection).
 - i. Driveway and flatwork: \$40.00 (each inspection).
 - j. Certificate of occupancy: \$40.00 (one phase inspection).
 - k. Reinspection: \$40.00 (each inspection).
- (3) Manufactured homes. (Refer to Article 3.05.)
- a. Move-in: \$80.00 (one phase inspection).
 - b. Electrical: \$40.00 (one phase inspection).
 - c. Plumbing: \$40.00 (one phase inspection).
 - d. Mechanical: \$40.00 (one phase inspection).
 - e. Sprinkler system: \$40.00 (one phase inspection).
 - f. Blasting: \$32.00 (one phase inspection).
 - g. Driveway and flatwork: \$40.00 (each inspection).
 - h. Certificate of occupancy: \$40.00 (one phase inspection).
 - i. Reinspection: \$40.00 (each reinspection).
- (4) Storage buildings (without electrical or plumbing). Building: \$0.06 per square foot (\$40.00 minimum).
- (5) Garage/carports (attached or detached).
- a. Building: \$0.06 per square foot (\$40.00 minimum).

- b. Foundation: \$64.00 (each inspection).
 - c. Electrical: \$40.00 (each phase inspection).
 - d. Plumbing: \$40.00 (each phase inspection).
 - e. Mechanical: \$40.00 (each phase inspection).
- (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).
 - 5. Plumbing: \$40.00 (each phase inspection).
 - 6. Mechanical: \$40.00 (each phase inspection).
 - 7. Certificate of occupancy: \$40.00 (one phase inspection).
 - 8. Reinspection: \$40.00 (each reinspection).
 - b. Commercial.
 - 1. Building: \$0.08 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).
 - 5. Plumbing: \$40.00 (each phase inspection).
 - 6. Mechanical: \$40.00 (each phase inspection).
 - 7. Certificate of occupancy: \$40.00 (one phase inspection).
 - 8. Reinspection: \$25.00 (each reinspection).
- (7) Swimming pools.
- a. Flat rate fee for each swimming pool: \$80.00.
 - b. Includes a rough-in inspection of the steel, electrical, bonding and plumbing and then a final inspection of the electrical system and security fencing.
- (8) Razing, demolishing and removal of structures and manufactured housing.
- a. Permit fee: \$24.00.
 - b. No permit will be issued until a \$300.00 surety bond has been posted with the Building Official. Said bond is to ensure the proper cleanup of the premises subsequent to the removal of the structure.
- (9) Reinspection fee. A reinspection fee of \$25.00 will be billed to the general contractor or owner for each reinspection required.
- (10) Fences; permit fee. \$25.00.

(Ord. No. 2019-07, 11-12-19)

Sec. 3.02.008. Certificate of occupancy; required inspections.

- (a) *Certificate of occupancy.* No structure designed for human occupancy, for which a building permit has been issued, will be considered complete and habitable until the City Building Official or the Building Inspector has issued a certificate of occupancy for that structure. A certificate of occupancy may not be issued until all provisions of this Article have been met and all required inspections have been satisfactorily approved.
- (b) *Required inspections.*
- (1) Building:
 - a. Survey plan setback lines.
 - b. Foundation and steel.
 - c. Framing.
 - d. Insulation.
 - e. Masonry/fireplace.
 - f. Driveways and flatwork.
 - g. Final and certificate of occupancy.
 - (2) Electrical:
 - a. TBM (temporary building meter/pole).
 - b. Rough-in.
 - c. Conditional final.
 - d. Final.
 - (3) Plumbing/gas:
 - a. Rough-in.
 - b. Top out (stack).
 - c. Final.
 - (4) Mechanical:
 - a. Mechanical rough-in.
 - b. Mechanical final.
 - (5) Miscellaneous inspections:
 - a. Accessory building.
 - b. Garage/carport additions (attached or detached).
 - c. Blasting.
 - d. Fence.
 - e. Swimming pools.
 - f. Other.

(Ord. No. 4-1, part I, § II, 6-13-02)

Sec. 3.02.009. Control of trash and building materials on construction sites.

As per Article 13.03 and Article 6.05, it shall be the duty of the owner or the contractor of any building to ensure that trash or building materials are kept within the confines of the property upon which the structure is being built. It shall be unlawful for the owner or contractor to allow trash, brush or building materials to be thrown, blown or placed upon any street, sidewalk, right-of-way, alley or public place. It shall be the duty of the owner or contractor to remove all unused building materials, trash, garbage, etc., from the premises upon completion of the structure.

(Ord. No. 4-1, part II, § IV, 6-13-02)

Sec. 3.02.010. Scaffolding.

It shall be unlawful for any person to erect, or cause to be erected or used, any scaffold in the City, for use in the erection of stone, brick or other building material, unless the same is well secured and safely supported, and in sufficient width, so as to ensure the safety of persons working thereon, or passing by or under the same, against the falling thereof, or such materials as may be used, placed or deposited thereon.

(Ord. No. 4-1, part II, § V, 6-13-02)

Sec. 3.02.011. Guarding of holes and excavations.

It shall be unlawful for any person having charge of any private or public improvements in this City to leave any hole, ditch or excavation in or adjoining any public place without guarding, covering or fencing the same, so as to prevent persons or animals from danger of falling therein.

(Ord. No. 4-1, part II, § VI, 6-13-02)

Sec. 3.02.012. Sanitation facilities on construction sites.

Temporary sanitation facilities shall be required on all construction sites.

(Ord. No. 4-1, part II, § VII, 6-13-02)

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)

Sec. 3.02.014. Fencing in residential areas.

- (a) A fence or wall may be installed on the rear property line, inclusive of easement providing unencumbered accesses [access is] provided to utility personnel and equipment. If such easement exists, the fence shall not be placed in the easement. A fence may be placed on the side property line to the rear of the front setback

line, or at the front face of the main dwelling, whichever is farthest from the front property line. Such fence or wall shall not exceed six and one-half feet in height.

- (b) Where a corner lot is platted with two front yards and a house is constructed facing one of the front yards, the second front yard shall be deemed to be a side yard which may be fenced in the same manner as any other side yard adjacent to a side street. The fence shall not extend beyond the front of the house or the front setback line, whichever is farthest from the front property line.
- (c) Where a building site contains more than one lot, any fence placed on the side property line of any such lot shall not extend beyond the front of the house, except for the side property line next to the lot on which the main dwelling is located, in which case the fence shall not extend beyond the front face of the dwelling or the front setback line, whichever is farthest from the front property line.

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

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.
- (b) It shall be unlawful for any person, firm or corporation to own, in whole or part, or to be in possession of any swimming pool which is not fenced as provided in this Section.

(Ord. No. 4-1, part II, § VIII, 6-13-02)

State law reference(s)—Swimming pool enclosures, V.T.C.A., Local Government Code § 214.101 et seq.

Secs. 3.02.016—3.02.050. Reserved.

DIVISION 2. BUILDING PLANNING AND CONSTRUCTION³

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 Texas 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.

³State law reference(s)—Building and residential codes, V.T.C.A., Local Government Code § 214.211 et seq.; International Residential Code adopted as a municipal residential building code, V.T.C.A., Local Government Code § 214.212; International Building Code adopted as municipal commercial building code, V.T.C.A., Local Government Code § 214.216.

(Ord. No. 2016-05, § 2, 4-12-16)

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, 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)

Secs. 3.02.053—3.02.100. Reserved.

DIVISION 3. PLUMBING WORK

Sec. 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)

- (b) *Application for permit; bond.* All applications for plumbing permits must be personally made by a licensed plumbing contractor or a master plumber licensed by the State. Prior to the issuance of any plumbing permit the plumbing contractor or licensed plumber must file a surety bond in the sum of \$2,000.00 with the Building Official, said bond to be payable to the City, and conditioned upon the faithful performance of his duties. The Building Official shall have the authority to allow homeowners to perform plumbing work within and upon structures owned and occupied by said homeowner.
- (c) *Permit fees.* Plumbing fees will be calculated in accordance with Section 3.02.007 of this Article.
- (d) *Penalties.* The same penalties apply as reflected in Section 3.02.001 of this Article for any violations of the plumbing code.

(Ord. No. 4-1, part IV(A)—(D), 6-13-02)

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.
- (b) *Application for permit; bond.* All applications for plumbing permits must be personally made by a licensed plumbing contractor or a master plumber licensed by the State. Prior to the issuance of any plumbing permit, the plumbing contractor or licensed plumber must file a surety bond in the sum of \$2,000.00 with the Building Official, said bond to be payable to the City, and conditioned upon the faithful performance of his duties.

- (c) *Permit fees.* Plumbing fees will be calculated in accordance with Section 3.02.007 of this Article.
- (d) *Penalties.* The same penalties apply as reflected in Section 3.02.001 of this Article for any violations of the plumbing code.

(Ord. No. 4-1, part IV(E)—(H), 6-13-02; Ord. No. 2016-05, § 5, 4-12-16)

Secs. 3.02.103—3.02.150. Reserved.

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.
- (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. Prior to the issuance of any electrical permit, the electrical contractor or licensed electrician must file a bond in the sum of \$2,000.00 with the Building Official, said bond to be payable to the City, and conditioned upon the faithful performance of his duties. The Building Official shall have the authority to allow homeowners to perform electrical work within and upon structures owned and occupied by said homeowner.
- (c) *Permit fees.* Electrical permit fees will be calculated in accordance with Section 3.02.007 of this Article.
- (d) *Penalties.* The same penalties shall apply as reflected in Section 3.02.001 of this Article for any violations of the electrical code.

(Ord. No. 4-1, part V, 6-13-02; Ord. No. 2016-05, § 6, 4-12-16)

Secs. 3.02.152—3.02.200. Reserved.

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.
- (b) *Application for permit; bond.* All applications for mechanical permits must be made by a mechanical contractor licensed by the State. Prior to the issuance of any mechanical permit, the mechanical contractor must file a surety bond in the sum of \$2,000.00 with the Building Official, said bond to be payable to the City and conditioned upon the faithful performance of his duties. The Building Official shall have the authority to allow homeowners to perform mechanical work within and upon structures owned and occupied by said homeowner.

- (c) *Permit fees.* Mechanical fees will be calculated in accordance with Section 3.02.007 of this Article.
- (d) *Penalties.* The same penalties shall apply as reflected in Section 3.02.001 of this Article for any violations of the mechanical code.

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

Sec. 3.02.202. Commercial 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.
- (b) *Application for permit; bond.* All applications for mechanical permits must be made by a mechanical contractor licensed by the State. Prior to the issuance of any mechanical permit, the mechanical contractor must file a surety bond in the sum of \$2,000.00 with the Building Official, said bond to be payable to the City and conditioned upon the faithful performance of his duties.
- (c) *Permit fees.* Mechanical fees will be calculated in accordance with Section 3.02.007 of this Article.
- (d) *Penalties.* The same penalties shall apply as reflected in Section 3.02.001 of this Article for any violations of the mechanical code.

(Ord. No. 4-1, part VI(E)—(H), 6-13-02; Ord. No. 2016-05, § 8, 4-12-16)

Secs. 3.02.203—3.02.250. Reserved.

DIVISION 6. GAS WORK

Sec. 3.02.251. Residential construction.

- (a) *Standards.* All gas work performed within the City limits must be in compliance with the International 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.
- (b) *Application for permit; bond.* All applications for gas plumbing permits must be personally made by a licensed plumbing contractor or a master plumber licensed by the State. Prior to issuance of any gas plumbing permit, the plumbing contractor or master plumber must file a surety bond in the sum of \$2,000.00 with the Building Official, said bond to be payable to the City, and conditioned upon the faithful performance of his duties. The Building Official shall have the authority to allow homeowners to perform gas plumbing work within and upon structures owned and occupied by said homeowner.
- (c) *Permit fees.* Gas plumbing permit fees will be calculated in accordance with Section 3.02.007 of this Article.
- (d) *Penalties.* The same penalties shall apply as reflected in Section 3.02.001 of this Article for any violations of the gas code.

(Ord. No. 4-1, part VII(A)—(D), 6-13-02; Ord. No. 2016-05, § 9, 4-12-16)

Sec. 3.02.252. Commercial construction.

- (a) *Standards.* All gas work performed within the City limits must be in compliance with the International Building Code, 2000 edition, 1st 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.
- (b) *Application for permit.* All applications for gas plumbing permits must be personally made by a licensed plumbing contractor or a master plumber licensed by the State. Prior to issuance of any gas plumbing permit, the plumbing contractor or master plumber must file a surety bond in the sum of \$2,000.00 with the Building Official, said bond to be payable to the City, and conditioned upon the faithful performance of his duties.
- (c) *Permit fees.* Gas plumbing permit fees will be calculated in accordance with Section 3.02.007 of this Article.
- (d) *Penalties.* The same penalties shall apply as reflected in Section 3.02.001 of this Article for any violations of the gas code.

(Ord. No. 4-1, part VII(E)—(H), 6-13-02)

Secs. 3.02.253—3.02.300. Reserved.***DIVISION 7. SEWER/SEPTIC SYSTEMS*****Sec. 3.02.301. Application for permit; blasting permit; penalty.**

- (a) All applications for permits must be made by the homeowner or the contractor who will perform the work. Should blasting be required for the installation of said system, a permit must be issued in compliance with Article 3.07.
- (b) The same penalties shall apply as set forth in Section 3.02.001 of this Article for any violations of the sewer/septic system requirements.

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

Sec. 3.02.302. Issuance of permit.

The following procedures shall be complied with in obtaining a sewer/septic system permit:

- (1) All applications for septic permits must be submitted to the County Health District for approval and will State in writing that the structure for which the permit is requested will or will not be connected to the sewage treatment plant located in this City.
- (2) If the structure for which the permit is requested is not to be connected to the sewage treatment plant referred to above, the permit may be issued unless its issue is prohibited by provisions or restrictions contained elsewhere in this Article or other ordinances.
- (3) If the structure for which the permit is requested will be connected to the sewage treatment plant referred to above, the permit will be withheld until an opinion in writing is obtained by the City Manager or Building Official from the State Commission on environmental quality stating that the connection of the structure for which the permit is requested will not cause an overload of sewage input which would exceed the capacity of the plant to treat. All fees and other costs, if any, in connection with obtaining this statement will be paid in advance by the applicant at the time the application for permit is presented to the City.

(Ord. No. 4-1, part VIII, § II, 6-13-02)

Sec. 3.02.303. On-site sewage facilities.

- (a) *Generally.* Where the sanitary sewer is not available, septic systems may be installed as provided herein according to the plans and specifications as outlined below.
- (b) *Location near flood area.* If the septic system is located within 75 horizontal feet from the 50-year flood level (the 642 elevation line) of Lake Belton, the applicant must get approval from the Corps of Engineers prior to the installation of the system.
- (c) *Construction standards.* Construction standards for on-site sewerage facilities adopted by the State Commission on environmental quality on May 23rd, 2001, or the most current rules enforced by the County Public Health District, are further adopted by the City without change, and made effective within the City by this Article.
- (d) *Application for permit.*
 - (1) The application for sewer/septic permit called for by Section 3.02.301(a) shall be known as application for permit to construct on-site sewage facility (OSSF).
 - (2) A completed site evaluation form which has been approved by a registered professional engineer or a qualified site evaluator must be submitted with the application for OSSF permit.
 - (3) The application must include a water line locator form as provided by the City.
 - (4) Application for an OSSF permit must show that the facility and proposed OSSF will meet the requirements for estimated daily sewage flow, application rate and all applicable setback requirements.
 - (5) Each builder, whether a general contractor or subcontractor, who applies for this permit must have in his possession a copy of the publication referred to in subsection (c) above, and each builder shall confirm in writing on the application form that he has the publication in his possession.
- (e) *Cesspools and seepage pits prohibited.* Cesspools and seepage pits will not be used or approved within the City limits.
- (f) *Plot plan.* All requests for sewer/septic permits which contemplate installation or alteration of septic systems will be accompanied by a plot of the building site showing the exact location of the sewer/septic system.
- (g) *Penalties.* Penalties shall apply as reflected in Section 3.02.001 of this Article for any violations of the sewer/septic system requirement.

(Ord. No. 4-1, part VIII, § III, 6-13-02)

Secs. 3.02.304—3.02.350. Reserved.

DIVISION 8. AMENDMENTS

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

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

(1) Building.

(A) Page 3, R105.2, Work exempt from permit.

Delete: Item 1 through 4.

Insert: Improved driveways of concrete, asphalt, or pavers are required across city utility easements. The requirement of a culvert will be determined on a case-by-case basis and shall be a minimum of 18-inch diameter with concrete headwall. Occasionally, a drainage report may be required as determined by the city.

(B) Page 6, R106.1.2, Manufacturer's installation instruction.

Delete: Shall be available on the jobsite at the time of inspection.

Insert: Shall be available upon request of the Building Inspector or Building Official.

(C) Page 7, R109.1.4, Frame and masonry inspections.

Delete: Masonry throughout the section.

(D) Page 67, R313.2 Automatic fire systems. Delete entire section.

(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.

(F) Page 166, R602.5, Interior nonbearing walls.

Delete entire section.

Insert: Refer to R602.4.

(2) Plumbing.

(A) Page 603, P2801.6, Required pan.

Delete: In locations where leakage of the tanks or connections will cause damage.

(3) Electrical. Refer to 2014 edition of the National Electrical Code.

(Ord. No. 2016-05, § 10, 4-12-16)

Secs. 3.02.352—3.02.400. Reserved.***DIVISION 9. GRIEVANCES*****Sec. 3.02.401. Procedure.**

Any person or persons jointly or severally aggrieved by any decision of the Building Official may present a written request to the City Council setting forth the grounds of such grievance. Such request shall be presented to the City Council within ten days after the filing of the decision of the Building Official and shall be heard by the City Council at the next regularly scheduled meeting after the expiration of five days from the date said request is filed with the City Council.

(Ord. No. 4-1, part X, 6-13-02)

ARTICLE 3.03. HOUSING CODE

DIVISION 1. GENERALLY

Sec. 3.03.001. Title.

This Article shall be known as the City minimum housing code, hereinafter referred to within this Article as the "housing code."

(Ord. No. 4-20, § 1-001, 12-14-89)

Sec. 3.03.002. Purpose.

This housing code is hereby declared to be remedial, and shall be construed to secure the beneficial interest and purposes thereof, which are public safety, health, and general welfare, through structural strength, stability, sanitation, adequate light and ventilation, and safety to life and property from fire and other hazards incident to the construction, alteration, repair, removal, demolition, use and occupancy of buildings.

(Ord. No. 4-20, § 1-002, 12-14-89)

Sec. 3.03.003. Scope; designation of Building Official.

- (a) The provisions of this housing code shall apply to the construction, alteration, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or any appurtenances connected or attached to a building.
- (b) No provision of this housing code shall be held to deprive any Federal or State agency, or any municipal authority [having jurisdiction, of any power or authority] which it had on the effective date of this act or of any remedy then existing for the enforcement of its orders, nor shall it deprive any individual or corporation of its legal rights as provided by law.
- (c) The City Manager is referred to in this Code as the "Building Official." The City Manager may delegate his responsibility to the City Building Inspector or other City employee as he deems appropriate.

(Ord. No. 4-20, § 1-003, 12-14-89)

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 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.

(Ord. No. 4-20, § 1-063, 12-14-89)

Sec. 3.03.005. Burden of proof of exceptions.

In any prosecution for the violation of any provision of this Code, it shall not be necessary for the complaint to negate or for the State [City] to prove any exception contained in this Code concerning any prohibited act; provided that any such exception made therein may be urged as a defense by the person charged by such complaint.

(Ord. No. 4-20, § 1-064, 12-14-89)

Secs. 3.03.006—3.03.030. Reserved.

DIVISION 2. HOUSING BOARD OF ADJUSTMENT AND APPEALS

Sec. 3.03.031. Created; membership; hearings.

- (a) There is hereby established in the City a board to be called the Housing Board of 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.
- (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.
- (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.
- (d) The Building Official 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 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, or, in any event, the Housing Board shall meet within ten days after a notice of appeal has been received.

(Ord. No. 4-20, § 1-010, 12-14-89)

Secs. 3.03.032—3.03.060. Reserved.

DIVISION 3. ADMINISTRATION

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.

(Ord. No. 4-20, § 1-016, 12-14-89)

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)

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

- (a) Whenever the Building Official determines that there are reasonable grounds to believe that there has been a violation of any provision of this housing code, or of any rule or regulation adopted pursuant thereto, he shall give notice of such alleged violation to the person or persons responsible therefor.
- (b) Such notice shall:
 - (1) Be put in writing;
 - (2) Include a statement of the reasons why it is being issued;
 - (3) Include a statement of the time considered reasonable for the party receiving notice to commence to vacate and/or make repairs or otherwise comply with the requirements of the notice. A reasonable time shall not exceed 30 days, except in cases of unusual or extenuating circumstances. The time to commence may be extended by the Building Official for an additional period of up to 60 days; provided, however, an application for an extension is made by the owner, occupant, or some other person interested in the property at least five days before the expiration of the time to commence vacation, repair, or demolition or otherwise comply with the notice. A reasonable time to complete the vacation, repair, or demolition or otherwise comply as provided in the notice and such reasonable time for completion shall not exceed 90 days from the date of notice unless the time is extended by resolution of the City Council.
- (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 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.
- (d) Service of notice shall be as follows:
 - (1) By delivery to the owner personally;

- (2) Via registered or certified mail to the owner, occupant, mortgagee, and all other persons having an interest in the building or property as shown by the deed records of the County; and/or
- (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.

(Ord. No. 4-20, § 1-018, 12-14-89)

Sec. 3.03.064. Same—Service when owner absent from City.

Where the owner, occupant, mortgagee, or other interested party is absent from the City, all notices or orders provided for herein shall be sent via registered mail or certified mail to the owner, occupant, mortgagee, and/or all other persons having an interest in the dwelling or building, to the last known address of each. Such mailing and, in the case of dangerous or uninhabitable buildings, the below-described posting, shall be deemed adequate service.

(Ord. No. 4-20, § 1-019, 12-14-89)

Sec. 3.03.065. Photographs of uninhabitable and dangerous buildings.

If the Building Official shall, upon inspection of any building within the City, find the same to be uninhabitable and dangerous, he shall make photographs of the defective building and place them with the records concerning such building.

(Ord. No. 4-20, § 1-020, 12-14-89)

Sec. 3.03.066. Posting of placard on uninhabitable and dangerous buildings.

- (a) If the Building Official shall, upon inspection of any building within the City, find the same to be uninhabitable and dangerous, he shall place a placard on the uninhabitable and dangerous building reading as follows:

WARNING

This building has been found to be an UNINHABITABLE AND DANGEROUS STRUCTURE by the Building Official. This building is to be vacated immediately. This placard is to remain on the structure until it is repaired or demolished in accordance with the notice dated _____ which has been mailed to all persons having an interest in this building or property as shown by the Tax Office of Bell County, Texas. It is a violation of the Morgan's Point Resort Minimum Housing Code for anyone to remove this placard until such notice has been complied with.

Signed _____
Building Official

- (b) No person shall occupy any building posted with such placard nor shall any person deface, destroy or remove any such placard.
- (c) A copy of such notice shall be posted in a conspicuous place on the uninhabitable and dangerous dwelling or building to which it relates.

(Ord. No. 4-20, § 1-021, 12-14-89)

Sec. 3.03.067. Placarded building to be secured.

When the placard authorized by Section 3.03.066 has been posted on any building in the City found to be in violation of this housing code, the owner or operator thereof shall render it secure from entry by unauthorized persons.

(Ord. No. 4-20, § 1-022, 12-14-89)

Sec. 3.03.068. Vacation of uninhabitable and dangerous buildings.

Where any building, or portion thereof, fails to comply with the provisions of this housing code because of the particular use of such building, it shall be unlawful for any person to make such use or allow such use to be made of such building or portion thereof. Whenever a building is found to violate Section 3.03.143 and to present an immediate danger requiring demolition of the premises because of potential injury to the occupants, the Building Official shall order the immediate evacuation of the building and it shall remain vacated until the danger is eliminated.

(Ord. No. 4-20, § 1-023, 12-14-89)

Sec. 3.03.069. Emergency cases.

In cases where it reasonably appears that there is immediate danger to the life or safety of any person unless an uninhabitable and dangerous building is immediately repaired, vacated or demolished, the Building Official shall cause the immediate repair, vacation or demolition of such uninhabitable and dangerous building or dwelling. The costs of such emergency repair, vacation, demolition or other compliance shall be collected in the same manner as provided in Section 3.03.146.

(Ord. No. 4-20, § 1-024, 12-14-89)

Secs. 3.03.070—3.03.100. Reserved.***DIVISION 4. APPEALS*****Sec. 3.03.101. Notice of appeal.**

- (a) The Housing Board shall have the power, and it is hereby authorized, to hear any person who may appeal from any decision of the Building Official with respect to the repair, vacation, or demolition of any building, or portion thereof.
- (b) Appeal shall be made by written statement, original and two copies, addressed to the board and mailed or delivered in person to the Secretary of the Building Official within ten days after receipt of his final written decision.
- (c) Appeal to the Housing Board shall operate as a stay against all proceedings under the notice of the Building Official until the Housing Board renders a decision.
- (d) Upon receipt of the written notice of appeal, the Building Official shall notify the chairman of the Housing Board. The chairman shall call a meeting of the Housing Board to be held within ten days after receipt of the notice of appeal.

(Ord. No. 4-20, § 1-031, 12-14-89)

Sec. 3.03.102. Demolition of property.

- (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.

(Ord. No. 4-20, § 1-032, 12-14-89)

Sec. 3.03.103. Conduct of hearing.

- (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.
- (b) Upon appeal, the Housing Board shall assume the duties and powers of the Building Official. All hearings of the Housing Board shall be de novo. All hearings shall be public, and the appellant, his representatives, and the Building Official and any other person whose interest may be affected by the matter on appeal shall be given an opportunity to be heard. Written entry of appearance at such hearing shall fulfill the requirements for service of any notice. The chairman may administer oaths and compel the attendance of witnesses.

(Ord. No. 4-20, § 1-033, 12-14-89)

Sec. 3.03.104. Powers of board.

- (a) Upon hearing, the Housing Board may reverse or modify the order of the Building Official and may vary the application of the provisions of this housing code to any particular case when, in its opinion, the enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of this housing code and the public interest.
- (b) A decision of the Housing Board to vary the application of any provision of this housing code or to modify an order of the Building Official shall specify in what manner such variation or modification is made, and the conditions upon which it is made and the reasons therefor.

(Ord. No. 4-20, § 1-034, 12-14-89)

Sec. 3.03.105. Decisions.

- (a) Concurring vote of a majority of but not less than three members of the Housing Board present at the hearing shall be necessary to reverse or modify any notice or order issued under the provisions of this housing code, or to authorize a variance in the application of any of its provisions.
- (b) All decisions of the Housing Board shall be in writing. The Housing Board shall keep clear and detailed minutes of all its proceedings including the decisions and the reasons therefor and the vote of each member participating therein. Such record, immediately following the Housing Board's decision, shall be filed in the office of the Building Official, who upon request shall promptly furnish a copy to the appellant, his representative, and any person who has filed a written entry of appearance.
- (c) Every decision of the Housing Board shall be final, except when such decision shall require the destruction or demolition of property, subject to such remedy as any aggrieved party might have at law or in equity. When the decision of the Housing Board is to uphold the order of the Building Official, in cases not requiring demolition of property, the Building Official shall, if the owner does not comply, file a complaint in the municipal court alleging violation of this housing code.

(Ord. No. 4-20, § 1-035, 12-14-89)

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 aggrieved party shall fail or refuse to do so, then the Building Official shall file a notice of appeal for him.
- (b) An appeal to the City Council shall stay all proceedings under the notice to vacate or order to demolish from which such appeal has been taken until the City Council renders a decision.
- (c) The City Secretary shall present the written appeal, together with the complete record of the proceedings, findings and decisions of the Housing Board, to the City Council at its next regular meeting. Any interested person shall have the right to appear and be heard. The written appeal, with supporting briefs, if any, the records of proceedings of the Housing Board and the written findings and decisions of the Housing Board shall be reviewed and considered by the City Council.
- (d) Unless a majority of the City Council members present vote that the decision of the Housing Board is not supported by substantial evidence, the decision of the Housing Board shall stand approved. When the decision of the City Council is that the decision of the Housing Board is not supported by substantial evidence, the City Council, as the finding warrants, either shall dismiss any notice to vacate or order to demolish approved by the Housing Board, or shall reinstate any notice to vacate or order to demolish dismissed by the Housing Board, or shall order a new hearing by the Housing Board.
- (e) The findings and action of the City Council shall be in the form of a resolution and a copy shall be attached to the record of proceedings, findings, and decision of the Housing Board. Additional copies of the resolution shall be forwarded by the City Secretary to the Building Official, where all persons affected by the City Council's action may obtain a copy upon request. The record of proceedings, findings and decisions of the Housing Board and the City Council resolution shall be kept on file in the office of the Building Official and shall be available for public inspection.

- (f) Whenever the action of the City Council, upon a review of a decision of the Housing Board, adversely affects a party to the notice to vacate or order to demolish, such party may file suit in any court of competent jurisdiction.

(Ord. No. 4-20, § 1-036, 12-14-89)

Secs. 3.03.107—3.03.140. Reserved.

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)

Sec. 3.03.142. Elimination of uninhabitable and dangerous structures.

All uninhabitable and dangerous structures, including dwellings, are hereby declared to be public nuisances, and shall be repaired, vacated, or demolished.

(Ord. No. 4-20, § 1-042, 12-14-89)

Sec. 3.03.143. Conditions constituting uninhabitable and dangerous structure.

An uninhabitable and dangerous building or dwelling is defined as any building or dwelling:

- (1) Whose walls or other vertical structural members list, lean or buckle in excess of one-eighth inch horizontal measurement for each one foot of vertical measurement;
- (2) Which, exclusive of the foundation, shows 33 percent or more of damage or deterioration of the supporting member or members, or 50 percent of damage or deterioration of the nonsupporting enclosing or outside walls or covering;
- (3) Which has been damaged by fire, explosion, wind, vandalism or elements of nature so as to have become dangerous to life, safety, morals, or the general health and welfare of the occupants thereof or the people of the City;
- (4) Which has inadequate facilities for egress in case of fire or panic or which has insufficient stairways, elevators, fire escapes or other means of ingress or egress;
- (5) Which has parts thereof which are so attached that they may fall and injure members of the public or property;
- (6) Which, because of its condition, is unsafe, or unsanitary, or dangerous to the health, morals, safety or general welfare of the people of this City; and/or

- (7) Which exists in violation of any provision of the City's housing code, plumbing code, fire code, or electrical code or the statutes of the State as revised, or that fails to comply with any portion of this building code.

(Ord. No. 4-20, § 1-043, 12-14-89)

Sec. 3.03.144. Guidelines for ordering repair, vacation or demolition.

The following guide shall be followed by the Building Official in ordering the repair, vacation or demolition of any uninhabitable and dangerous building or dwelling:

- (1) *Repair.* If a building can reasonably be repaired so that it will no longer exist in violation of the terms of this housing code, the Building Official shall order it repaired within a reasonable time. A reasonable time shall be as defined in Section 3.03.063.
- (2) *Vacation.* If a building is in such condition as to make it a danger to the health, safety or general welfare of its occupants or the citizens of the City, the Building Official shall order it vacated.
- (3) *Demolition.* The Building Official shall order the building demolished if:
 - a. A building is at least 50 percent damaged or deteriorated, on either a structural or original value basis;
 - b. A building is an immediate danger to the life or safety of any person and is not immediately made not an immediate danger;
 - c. A building is in need of repair under subsection (1) above and is not repaired within the reasonable time set forth therein; and/or
 - d. A building is in such condition as to make it dangerous to the health, safety, or general welfare, has been ordered vacated by the Building Official, and has not been cured of the defects within 60 days.

(Ord. No. 4-20, § 1-044, 12-14-89)

Sec. 3.03.145. Demolition requirements.

When such a placarded residential building is to be demolished, it shall be the responsibility of the owner or those with ownership interest to see that demolition is accomplished in accordance with the following provisions:

- (1) Materials taken from the building will not be stacked or placed on an adjoining property owner's lot;
- (2) Such materials may be stored on the lot where demolition is occurring, but should be removed as promptly as possible;
- (3) Demolition shall not cause damage to adjacent property;
- (4) All utilities will be discontinued and the sanitary sewer outlet permanently sealed after the building is demolished to prevent escaping sewer gases and inflow of surface water;
- (5) All building materials and debris from the demolished building shall be removed so that the property will be cleared of any such building portions;
- (6) The demolition site shall be left in a rake-clean condition, removing all concrete slabs, piers or other materials associated with the building;

- (7) The demolition site shall be graded to a uniform grade to facilitate adequate drainage without causing pooling or drainage onto adjacent property.

(Ord. No. 4-20, § 1-045, 12-14-89)

Sec. 3.03.146. Demolition by City.

- (a) If, at the expiration of the time allowed for compliance with the provisions of this housing code, a building, structure or dwelling ordered demolished has not been demolished, it shall be demolished at the expense of the owner thereof by the City or its contractor. The materials of such building shall be sold and the net cost of the demolition shall be charged to the owner, and if any balance remains, such balance shall be held for the owner, or any other interested parties entitled thereto. If the cost of demolition exceeds the salvage value of the building materials, such excess shall create a lien in favor of the City upon the real property on which the demolished building had been situated.
- (b) Such lien may be made a matter of record by the filing of a statement by the Mayor with the County Clerk as provided by V.T.C.A., Local Government Code § 214.001 et seq. showing the expense of the demolition. Such lien shall accrue at ten percent interest per annum from the date demolition was completed. Payment of all liens created in accordance with this Section shall be made to the City Manager. For payment made subsequent to the filing of a lien with the County Clerk, an appropriate release of lien will be prepared and the City Manager or his designated representative is hereby authorized to sign such release.
- (c) Suit may be filed and foreclosure had in the name of the City for the amount of any lien filed in accordance with the procedures established herein, and the statement of the Mayor shall be prima facie proof of the amount expended by the City for demolition.

(Ord. No. 4-20, § 1-046, 12-14-89)

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.
- (b) There shall be provided in every dwelling a flush water closet and a bathtub or shower connected to the municipal water and sewer systems or other sewage system approved by the Building Official, which flush water closet and bathtub or shower shall be installed in compliance with the State statutes and the City plumbing code. Such flush water closet and bathtub or shower shall be enclosed in a separate room to afford privacy to a person within such room with no opening therefrom directly into a kitchen or other cooking area.
- (c) Every kitchen sink, lavatory basin and bathtub or shower required by the provisions of this Article shall be connected with operable hot and cold water lines.

(Ord. No. 4-20, § 1-047, 12-14-89)

Sec. 3.03.148. Heating facilities; water-heating equipment.

- (a) Every dwelling shall have heating facilities which are installed in compliance with the standards and regulations set forth in the State statutes and City plumbing code and electrical code, which heating facilities shall be maintained in a safe and good working condition and are capable of safely and adequately heating

all habitable rooms, bathrooms and water closet compartments in every dwelling located therein to a temperature of at least 70 degrees Fahrenheit at a distance of three feet above floor level, under ordinary minimum winter conditions.

- (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)

Sec. 3.03.149. Light and ventilation.

- (a) Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be ten percent of the floor area of such room. Whenever walls or other portions of a structure face a window of any such room and such structures are located less than three feet from the window and extended to a level above that of the ceiling of any such room, such a window shall not be deemed to face directly to the outdoors and shall not be included in contributing to the required minimum total window area. Whenever the only window in a room is a skylight-type window in the top of such room, the total window area of such skylight shall equal at least 15 percent of the total floor area of such room.
- (b) Every habitable room shall have at least one window or skylight which can easily be opened, or such other device as will adequately ventilate the room. The total openable window area in every habitable room shall be equal to 45 percent of the minimum window area size.

(Ord. No. 4-20, § 1-049, 12-14-89)

Sec. 3.03.150. Electric service.

- (a) Every dwelling shall be wired for electric lights and convenience receptacles, which shall be installed according to the City electrical code.
- (b) Each habitable room shall contain at least two wall-type convenience outlets or one such convenience outlet and one ceiling-type fixture with wall switch. Every bathroom, water closet room, laundry room and furnace room shall be supplied one ceiling or wall-type electric light fixture and one wall-type convenience outlet.
- (c) Every hall and stairway in every dwelling shall be adequately lighted by electric lights at all times when natural daylight is not sufficient.
- (d) All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used and installed in accordance with the City electrical code.
- (e) Where the determination is made, upon examination of the existing electrical service supply, that such electrical service is obsolete or is being used in such manner as would constitute a hazard to the occupants or would otherwise constitute a hazard to life and property, the following shall be used as a guide for determining the potential use and adequacy of such service supply:

Gross Area of Habitable Space	Minimum Capacity of Service Supply
0—600 sq. ft.	60 amp service
601—1,000 sq. ft.	100 amp service

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(Supp. No. 1)

1001—1,500 sq. ft.	150 amp service
1501—over	200 amp service

(Ord. No. 4-20, § 1-050, 12-14-89)

Sec. 3.03.151. Safe and sanitary maintenance.

- (a) Every foundation wall, exterior wall and exterior roof shall be substantially weathertight, watertight and rodent-proof. All exterior walls shall be made impervious to the adverse effects of weather by periodic application of paint or a similar protective coating and shall be kept in a sound condition and good repair. All foundation walls and exterior roofs shall be maintained in a safe manner and capable of supporting the loads which normal use may cause to be placed thereon.
- (b) Every floor, interior wall and ceiling shall be substantially rodent-proof and shall be kept in sound condition and good repair and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.
- (c) Every window, exterior door and basement or cellar door and hatchway shall be substantially weathertight, watertight and rodent-proof and shall be kept in sound working condition and good repair.
- (d) Every inside and outside stair, porch, and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause and shall be kept in sound condition and good repair.
- (e) Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so as to be substantially impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.

(Ord. No. 4-20, § 1-051, 12-14-89)

Sec. 3.03.152. Space and egress requirements.

- (a) No person shall occupy or shall let to another for occupancy any dwelling which does not comply with the following minimum standards for space, use and location.
- (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.
- (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. At least one-half of the floor area of every habitable room shall have a ceiling height of at least seven feet and the floor area of any part of any room where the ceiling height is less than five feet shall not be considered as part of the floor area in computing the total floor area of the room to determine maximum permissible occupancy.
- (d) Every room occupied for sleeping purposes shall contain at least 70 square feet of floor space for one occupant and an additional 50 square feet of floor space for each occupant above 12 years of age.
- (e) No dwelling shall have room arrangements whereby access to a bathroom or water closet compartment intended for use by occupants of more than one sleeping room can be had only by going through another sleeping room, nor shall room arrangements be such that access to a sleeping room can be had only by going through another sleeping room or a bathroom or water closet compartment.

- (f) At least one-half of the floor area of every habitable room shall have a ceiling height of at least seven feet. The floor area of that part of any room where the ceiling height is less than five feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy thereof.
- (g) Basement floors and walls must be substantially watertight. The total window area, total openable area and ceiling height in basements must be equal to those required for habitable rooms. The required minimum window area of every basement must be entirely above the grade adjoining such window area, and shall not include stairwells or accessways.
- (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)

Sec. 3.03.153. Control of insects, rodents and other infestations; drainage.

- (a) In every dwelling, for protection against rodents, mosquitoes, flies and other insects, every opening directly from a dwelling to outdoor space shall have supplied and installed screens. All screening required under this Section shall not be less than 16 meshes to the square inch and shall be installed and maintained in a manner affording complete protection against entry in the dwelling of flies, mosquitoes, rodents, and insects.
- (b) Every occupant of a dwelling containing a single dwelling shall be responsible for the extermination of insects, rodents, or other pests on the premises. Every occupant of a dwelling in a dwelling containing more than one dwelling shall be responsible for such extermination whenever his dwelling is the only one infested. Notwithstanding the foregoing provisions, whenever infestation is caused by failure of the owner to maintain a dwelling in a rat-proof or reasonably insect-proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwellings in any dwelling, or in the shared or public parts of any dwelling containing two or more dwellings, extermination thereof shall be the responsibility of the owner.
- (c) Every yard shall be properly graded so as to obtain thorough drainage and so as to prevent the accumulation of stagnant water.

(Ord. No. 4-20, § 1-053, 12-14-89)

Sec. 3.03.154. Responsibilities of owner.

- (a) The owner of a dwelling shall be responsible for the maintenance, cleanliness, extermination, good operating condition, and provision of the following facilities, utilities, portions of the dwelling and services to be provided, except where such responsibility is assumed by an operator or occupant in a formal lease agreement:
 - (1) All halls, corridors, water closet compartments or bathrooms used in common by occupants of more than one dwelling;
 - (2) Provision of garbage and refuse disposal facilities or containers where the number of dwellings in a dwelling exceeds one;
 - (3) Extermination of insects, rodents, or other pests, except that if there are two or more dwellings in a dwelling and only one dwelling is infested, the occupant of such infested dwelling shall be responsible for its extermination, unless the dwelling is not maintained in a reasonable rat-proof or insect-proof condition;

- (4) Provision of all other facilities, utilities, services or conditions required by this housing code unless otherwise specified;
- (5) Cutting of grass, weeds and other growth on the premises where the number of dwellings in a building exceeds one or if the dwelling is unoccupied.
- (b) The owner or person in control of any private property shall at all times maintain the premises free of litter. Provided, however, that this Section shall not prohibit the storage of litter in authorized private receptacles for collection.
- (c) The owner or person in control shall exercise preventative maintenance consisting of painting, waterproofing and repair to prevent deterioration due to the elements. This Section shall include, but not be limited to, the prevention of loose siding, siding with holes, excessive cracks or rotted boards which permit air to penetrate rooms, loose roof covering, holes or leaks in the roof causing damage to the structure or rooms, and rotting, sagging or deteriorating supports for stairs and porches.

(Ord. No. 4-20, § 1-054, 12-14-89)

Sec. 3.03.155. Responsibilities of occupant.

Every occupant of a dwelling shall be responsible for the following as applied to that portion of the dwelling which he occupies and controls:

- (1) Keeping the occupied area and all plumbing, equipment and facilities provided operating in a clean, sanitary condition at all times;
- (2) Disposing of rubbish and garbage or storing such wastes in proper containers in a neat and sanitary manner and providing such disposal or storage facilities as are not required and provided under Section 3.03.154;
- (3) Cutting of grass, weeds and other growth on the premises.

(Ord. No. 4-20, § 1-055, 12-14-89)

Sec. 3.03.156. Responsibilities of owner and occupant.

- (a) It shall be unlawful for the owner and/or occupant of a building or dwelling to utilize the premises for the open storage of any abandoned motor vehicle, icebox, refrigerator, stove, glass, building material, building rubbish or similar items.
- (b) It shall be the duty and responsibility of every owner and/or occupant to keep the premises of such residential property clean and to remove from the premises all such abandoned items, including, but not limited to, weeds, dead trees, trash and garbage, upon notice from the Building Official.

(Ord. No. 4-20, § 1-056, 12-14-89)

ARTICLE 3.04. BUILDING NUMBERING

Sec. 3.04.001. Purpose.

The City may establish by ordinance certain regulations which are created for the public good. The public good is defined as any provision whereby preservation of life, property, and safety and regulations thereof are

created. Mandatory numbers shall create a situation whereby police, fire, and EMS may readily identify a residence.

(Ord. No. 14-25, § 14-25a, 12-9-99)

Sec. 3.04.002. Penalty; citations.

- (a) The owner of the structure, inhabited or uninhabited, shall be subject to criminal prosecution for failure to comply with this Article as described by Section 3.04.004 of this Article. At the discretion of the official, and if the numbers are not affixed after the tenth day on which notice to affix was mailed or served, the official or his designee may issue a summons regarding the violation of this Article, by:
 - (1) The citation/summons may [be delivered] by hand delivery; or
 - (2) The citation/summons may be delivered by letter addressed to the post office address of the owner of the property, certified U.S. mail, return receipt requested, along with a copy sent regular U.S. mail.
- (b) An offense under this Article is a class C misdemeanor which shall be prosecuted in the municipal court and shall be punishable by a fine not less than \$100.00 and not to exceed \$500.00.

(Ord. No. 14-25, § 14-25f, 12-9-99)

Sec. 3.04.003. Enforcement.

The Chief of Police of the City Police Department or his designate is hereby designated and charged with enforcing the procedures for enforcement of this Article and shall hereinafter be referred to as the "official."

(Ord. No. 14-25, § 14-25b, 12-9-99)

Sec. 3.04.004. Numbering required; standards.

- (a) Any structure, manufactured housing, house trailer, or building, whether commercial or residential, shall have attached to the structure itself visible markings which show the permanent address of the structure as defined and assigned by the County 911 address system and the United States Postal Service, which should be one and the same.
- (b) The mandatory address numbering system shall have the following:
 - (1) Numbers affixed to the structure which can be visible from the City streets;
 - (2) Numbers shall be legible and contrasting from the color of the structure;
 - (3) Shall be at least four inches in height if the residence is 100 feet or less from the roadway, and six inches in height if the structure is 100 feet or more from the roadway; and
 - (4) If a structure is situated such that the residence is either obstructed by natural vegetation or set off the roadway at a distance which prohibits the numbers from being viewed from the roadway, then a minimum of four-inch numbers shall be affixed to either a permanent ground-mounted mailbox situated directly in front of the residence, and if the mailbox is situated in such a manner it is not located directly in front of the residence, then an address placard, mounted onto a pole at least three feet above the level of the ground, mounted directly in front of the residence, shall be erected.

(Ord. No. 14-25, § 14-25c, 12-9-99)

Sec. 3.04.005. New structures.

The City Building Official and his staff shall be appointed by the "official" as a designate. No structure shall be given the final inspection for habitation inspection unless the structure is compliant with Section 3.04.004 of this Article.

(Ord. No. 14-25, § 14-25d, 12-9-99)

Sec. 3.04.006. Responsibility for compliance.

The owner of the property on which there is a failure to have affixed address numbering shall be responsible for the compliance with Section 3.04.004 of this Article.

(Ord. No. 14-25, § 14-25e, 12-9-99)

ARTICLE 3.05. MANUFACTURED HOMES**Sec. 3.05.001. Definitions.**

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

HUD-code manufactured home means a structure constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which in the traveling mode is eight body feet or more in width and 40 or more body feet in length, or when erected on-site is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein.

Mobile home means a structure that was constructed before June 15, 1976, transportable in one or more sections, which in the traveling mode is eight body feet or more in width and 40 or more body feet in length, or when erected on-site is 320 or more square feet, and which is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems.

(Ord. No. 4-12C, § 2, 7-13-00)

Sec. 3.05.002. Penalty.

Any person violating any portion of this Article shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed \$500.00 a day until such violation is corrected.

(Ord. No. 4-12C, § 9, 7-13-00)

Sec. 3.05.003. Types allowed.

The HUD-code manufactured home is the only type of manufactured home that may be installed within the City. Such installation is subject to regulations hereinafter stated.

(Ord. No. 4-12C, § 3, 7-13-00)

Sec. 3.05.004. Mobile homes prohibited.

The installation of mobile homes within the City is hereby prohibited.

(Ord. No. 4-12C, § 4, 7-13-00)

State law reference(s)—Authority to prohibit installation of mobile homes used for residences, V.T.C.A., Occupations Code § 1201.008.

Sec. 3.05.005. Building permit required; installation standards.

- (a) It shall be unlawful for any person to place a HUD-code manufactured home onto a home site within the City or to build upon or make alterations or repairs which change the structural appearance or utilities connections until a building permit authorizing such actions has been issued by the City.
- (b) Before a used manufactured home (previously occupied) is transported into the City, it must be certified habitable prior to site installation and meet the specifications of the HUD code; therefore, must be inspected by a HUD-approved inspector. In the absence of a HUD-approved inspector, a licensed Building Inspector (by the State) can certify the condition of the manufactured home.
- (c) Building permits shall not be issued for installation of a used manufactured home until the home is inspected while the home is still in traveling mode and approved by the Building Official and the Building Inspector regarding its condition and harmony with other compliant homes in the area.
- (d) Existing sewage disposal systems for manufactured homes shall be inspected and approved by the County Health Department or their designee before a building permit is issued. Construction plans for new sewage disposal systems for a manufactured home must be approved by the County Health Department before a building permit for a manufactured home is issued.
- (e) Application for a building permit must be accompanied by the following:
 - (1) Building Inspector's certificate as described in subsection (b) above.
 - (2) Payment of necessary fees. (See Section 3.05.006 of this Article.)
 - (3) City-provided application, submitted by the owner of the manufactured home or his agent.
 - (4) Legal survey specifying the lot dimensions and utility easements.
 - (5) Plot plan showing the proposed location of the structure within the building setback lines and existing or proposed on-site sewage system.
 - (6) Manufacturer specification sheets demonstrating the floor plan, elevations and utility systems.
 - (7) Documented approval from the County Health Department for the sewage disposal system and of any changes to be made if applicable.
 - (8) Application submitted to the Building Official or his designee at City Hall.
 - (9) Signed documentation stating construction compliance with the City building code and ADA Accessibility Standards.
- (f) So that needed inspections may be performed, the holder of the permit shall notify the Building Official at the following times:
 - (1) When the home is placed and anchorage is complete.
 - (2) When the potable water supply lines, sewer lines and electrical service meter base are in place.

- (3) When skirting is installed.
 - (4) When code-approved landings and stairs are installed at all exterior doors.
 - (g) The HUD-code manufactured home will not receive a certificate of occupancy until all of the above conditions are complied with.
- (Ord. No. 4-12C, § 5, 7-13-00)

Sec. 3.05.006. Permit and inspection fees.

Manufactured home permit and inspection fees are as provided in Section 3.02.007.

Sec. 3.05.007. Location.

No installation of manufactured homes shall be permitted in sections of the City other than as provided in the zoning ordinance.

(Ord. No. 4-12C, § 7(A), 7-13-00)

Sec. 3.05.008. Anchorage.

Anchorage of manufactured homes shall be in accordance with State and Federal guidelines.

(Ord. No. 4-12C, § 7(B), 7-13-00)

Sec. 3.05.009. Time limit for completing installation.

All installation or construction anticipated in the building permit shall be completed within 90 days of the issuance of the permit.

(Ord. No. 4-12C, § 7(C), 7-13-00)

Sec. 3.05.010. Certificate of occupancy required.

A HUD-code manufactured home shall not be occupied as a habitat until a certificate of occupancy has been issued for the home.

(Ord. No. 4-12C, § 7(D), 7-13-00)

Sec. 3.05.011. Occupancy of camping trailer or recreational vehicle.

Except as provided by the zoning ordinance, no camping, camping trailers or recreational vehicles shall be used as a temporary or permanent residence.

(Ord. No. 4-12C, § 7(E), 7-13-00)

ARTICLE 3.06. FLOOD DAMAGE PREVENTION

Sec. 3.06.001. Statutory authorization, findings of fact, purpose and methods.

- (a) *Statutory authorization.* The legislature of the State has, in the Flood Control and Insurance Act, Texas Water Code, Section 16.315, delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses. Therefore, the City Council does ordain as follows.
- (b) *Findings of fact.*
 - (1) The flood hazard areas of the City are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.
 - (2) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.
- (c) *Statement of purpose.* It is the purpose of this Article to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:
 - (1) Protect human life and health;
 - (2) Minimize expenditure of public money for costly flood control projects;
 - (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
 - (4) Minimize prolonged business interruptions;
 - (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
 - (6) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
 - (7) Ensure that potential buyers are notified that property is in a flood area.
- (d) *Methods of reducing flood losses.* In order to accomplish its purposes, this Article uses the following methods:
 - (1) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
 - (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
 - (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
 - (4) Control filling, grading, dredging and other development which may increase flood damage;
 - (5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(Ord. No. 4-26, art. I, 10-21-08)

Sec. 3.06.002. Definitions.

Unless specifically defined below, words or phrases used in this Article shall be interpreted to give them the meaning they have in common use and to give this Article its most reasonable application.

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

Alluvial fan flooding means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

Apex means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

Appurtenant structure means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

Area of future conditions flood hazard means the land area that would be inundated by the one percent annual chance (100-year) flood based on future conditions hydrology.

Area of shallow flooding means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's flood insurance rate map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as zone A on the flood hazard boundary map (FHBM). After detailed rate-making has been completed in preparation for publication of the FIRM, zone A usually is refined into zone A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE or V.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation (BFE) means the elevation shown on the flood insurance rate map (FIRM) and found in the accompanying flood insurance study (FIS) for zone A, AE, AH, A1-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a one percent chance of equaling or exceeding that level in any given year, also called the base flood.

Basement means any area of the building having its floor subgrade (below ground level) on all sides.

Breakaway wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Critical feature means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

Development means any man-made change to improved and unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Elevated building means, for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Existing construction means, for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood elevation study means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Flood insurance rate map (FIRM) means an official map of a community, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

Flood insurance study (FIS). See "flood elevation study."

Flood protection system means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood-modifying works are those constructed in conformance with sound engineering standards.

Floodplain or floodprone area means any land area susceptible to being inundated by water from any source (see definition of flooding).

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including, but not limited to, emergency preparedness plans, flood control works and floodplain management regulations.

Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such State or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing. Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway. See "regulatory floodway."

Functionally dependent use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a State inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved State program as determined by the Secretary of the Interior; or
 - b. Directly by the Secretary of the Interior in states without approved programs.

Levee means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

Levee system means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

Manufactured home means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a recreational vehicle.

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean sea level means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum to which base flood elevations shown on a community's flood insurance rate map are referenced.

New construction means, for the purpose of determining insurance rates, means structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of

concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

Recreational vehicle means a vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projections;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Special flood hazard area. See "area of special flood hazard."

Start of construction, for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications which have been identified by the local Code Enforcement Official and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Variance means a grant of relief by a community from the terms of a floodplain management regulation. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) [of the National Flood Insurance Program regulations] is presumed to be in violation until such time as that documentation is provided.

Water surface elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

(Ord. No. 4-26, art. 2, 10-21-08)

Sec. 3.06.003. General provisions.

- (a) *Lands to which this Article applies.* This Article shall apply to all areas of special flood hazard within the jurisdiction of the City.
- (b) *Basis for establishing areas of special flood hazard.* The areas of special flood hazard identified by the Federal Emergency Management Agency in the current scientific and engineering report entitled "The Flood Insurance Study (FIS) for Bell County TX and Incorporated Areas," dated September 26, 2008, with accompanying flood insurance rate maps (FIRM) dated September 26, 2008, and any revisions thereto, are hereby adopted by reference and declared to be a part of this Article.
- (c) *Establishment of development permit.* A floodplain development permit shall be required to ensure conformance with the provisions of this Article.
- (d) *Compliance.* No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this Article and other applicable regulations.
- (e) *Abrogation and greater restrictions.* This Article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Article and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- (f) *Interpretation.* In the interpretation and application of this Article, all provisions shall be:
 - (1) Considered as minimum requirements;
 - (2) Liberally construed in favor of the governing body; and
 - (3) Deemed neither to limit nor repeal any other powers granted under State statutes.
- (g) *Warning and disclaimer of liability.* The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions, greater floods can and will occur and flood heights may be increased by man-made or natural causes. This Article does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Article shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this Article or any administrative decision lawfully made hereunder.

(Ord. No. 4-26, art. 3, 10-21-08)

Sec. 3.06.004. Administration.

- (a) *Designation of Floodplain Administrator.* The Building Official/City Manager is hereby appointed the Floodplain Administrator to administer and implement the provisions of this Article and other appropriate Sections of 44 CFR (Emergency Management and Assistance, National Flood Insurance Program Regulations) pertaining to floodplain management.
- (b) *Duties and responsibilities of Floodplain Administrator.* Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:
 - (1) Maintain and hold open for public inspection all records pertaining to the provisions of this Article.
 - (2) Review permit applications to determine whether to ensure that the proposed building site project, including the placement of manufactured homes, will be reasonably safe from flooding.
 - (3) Review, approve or deny all applications for development permits required by adoption of this Article.
 - (4) Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
 - (5) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the Floodplain Administrator shall make the necessary interpretation.
 - (6) Notify, in riverine situations, adjacent communities and the State Coordinating Agency, which is the State Water Development Board (TWDB), prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
 - (7) Assure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.
 - (8) When base flood elevation data has not been provided in accordance with Section 3.06.003(b), the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of Section 3.06.005.
 - (9) When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
 - (10) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in zones A1-30, AE, and AH on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community first completes all of the provisions required by Section 65.12.
- (c) *Permit procedures.*
 - (1) Application for a floodplain development permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the

foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

- a. Elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures;
 - b. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
 - c. A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Section 3.06.005(b)(2);
 - d. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;
 - e. Maintain a record of all such information in accordance with subsection (b)(1) of this Section;
- (2) Approval or denial of a floodplain development permit by the Floodplain Administrator shall be based on all of the provisions of this Article and the following relevant factors:
- a. The danger to life and property due to flooding or erosion damage;
 - b. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - c. The danger that materials may be swept onto other lands to the injury of others;
 - d. The compatibility of the proposed use with existing and anticipated development;
 - e. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - f. The costs of providing governmental services during and after flood conditions, including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
 - g. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
 - h. The necessity to the facility of a waterfront location, where applicable;
 - i. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.

(d) *Variance procedures.*

- (1) The City Council shall hear and render judgment on requests for variances from the requirements of this Article.
- (2) The City Council shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this Article.
- (3) Any person or persons aggrieved by the decision of the City Council may appeal such decision in the courts of competent jurisdiction.
- (4) The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
- (5) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State inventory of historic places, without regard to the procedures set forth in the remainder of this Article.

- (6) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in subsection (c)(2) of this Section have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (7) Upon consideration of the factors noted above and the intent of this Article, the City Council may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this Article (Section 3.06.001(c)).
- (8) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (9) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (10) Prerequisites for granting variances:
 - a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - b. Variances shall only be issued upon:
 - 1. Showing a good and sufficient cause;
 - 2. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - 3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - c. Any applicant to which a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- (11) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - a. The criteria outlined in subsections (d)(1) through (9) of this Section are met; and
 - b. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(Ord. No. 4-26, art. 4, 10-21-08)

Sec. 3.06.005. Flood hazard reduction standards; penalty.

- (a) *General standards.* In all areas of special flood hazards, the following provisions are required for all new construction and substantial improvements:
 - (1) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

- (2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
 - (3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
 - (4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
 - (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
 - (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwaters; and
 - (7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (b) *Specific standards.* In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 3.06.003(b), Section 3.06.004(b)(8), or subsection (c)(3) of this Section, the following provisions are required:
- (1) *Residential construction.* New construction and substantial improvements of any residential structure shall have the lowest floor (including basement) elevated to or above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection, as proposed in Section 3.06.004(c)(1)(A), is satisfied.
 - (2) *Nonresidential construction.* New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level or, together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.
 - (3) *Enclosures.* New construction and substantial improvements with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - a. A minimum of two openings on separate walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - b. The bottom of all openings shall be no higher than one foot above grade.
 - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(4) *Manufactured homes.*

- a. Require that all manufactured homes to be placed within zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
- b. Require that manufactured homes that are placed or substantially improved within zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- c. Require that manufactured homes being placed or substantially improved on sites in an existing manufactured home park or subdivision within zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of subsection (b)(4) of this Section be elevated so that either:
 1. The lowest floor of the manufactured home is at or above the base flood elevation; or
 2. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(5) *Recreational vehicles.* Require that recreational vehicles placed on sites within zones A1-30, AH, and AE on the community's FIRM either (i) be on the site for fewer than 180 consecutive days, or (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements of Section 3.06.004(c)(1) and the elevation and anchoring requirements for manufactured homes in subsection (b)(4) of this Section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.

(c) *Standards for subdivision proposals.*

- (1) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall be consistent with Section 3.06.001(b), (c) and (d) of this Article.
- (2) All proposals for the development of subdivisions, including the placement of manufactured home parks and subdivisions, shall meet the floodplain development permit requirements of Section 3.06.003(c) and Section 3.06.004(c) and the provisions of this Section.
- (3) Base flood elevation data shall be generated for subdivision proposals and other proposed development, including the placement of manufactured home parks and subdivisions, which is greater than 50 lots or five acres, whichever is lesser, if not otherwise provided pursuant to Section 3.06.003(b) or Section 3.06.004(b)(8) of this Article.
- (4) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall have adequate drainage provided to reduce exposure to flood hazards.

- (5) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
- (d) *Standards for areas of shallow flooding (AO/AH zones).* Located within the areas of special flood hazard established in Section 3.06.003(b) are areas designated as shallow flooding. These areas have special flood hazards associated with flood depths of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:
- (1) All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified); or
 - (2) All new construction and substantial improvements of nonresidential structures:
 - a. Have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified); or
 - b. Together with attendant utility and sanitary facilities be designed so that below the base specified flood depth in an AO zone, or below the base flood elevation in an AH zone, level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.
 - (3) A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this subsection, as proposed in Section 3.06.004(c), are satisfied.
 - (4) Require within zone AH or AO adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.
- (e) *Penalty.* No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Article and other applicable regulations. Violation of the provisions of this Article by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this Article or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the City Council from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. No. 4-26, art. 5, 10-21-08)

ARTICLE 3.07. BLASTING

DIVISION 1. GENERALLY

Sec. 3.07.001. General restrictions.

Persons seeking permits for blasting shall use the utmost care and caution so as to prevent stones and other materials from flying so as to endanger life and property and shall obey any restrictions or requirements approved by the City Council. The following restrictions shall apply to blasting within the City:

- (1) No blasting shall be allowed in the following areas, except by a variance granted by the Building Inspector and the City Manager jointly after a site review. The Building Inspector or City Manager must be present at the blasting site during the actual blasting.
 - a. Section 8A, Block 15, Lots 13—37.
 - b. Section 8B, Block 5, Lots 4—21.
 - c. Section 4, Block 31, Lots 7—14.
 - d. Section 4, Block 30, Lots 14—20.
 - e. Section 4, Block 38, Lots 1—5.
- (2) Where existing homes are within 200 feet of the blasting, the Building Inspector shall inspect for proper charges and materials being used by the contractor.

(Ord. No. 14-2, § 2, 8-3-78; Ord. No. 14-2B, 11-5-82)

Sec. 3.07.002. Capping cartridges.

No person shall cap a cartridge within 100 feet of where explosives are stored, nor shall a person cap more cartridges than are necessary for immediate use.

(Ord. No. 14-2, § 6, 8-3-78)

Sec. 3.07.003. Blasting near structures.

Any blasting contiguous to or near any structure must be so conducted as not to cause damage to such structure, and, to this end, weak walls or other supports must be shored up and other measures taken to prevent damages. When blasting in the vicinity of a weak structure is unavoidable, only light blasts with short lines of resistance and small charges shall be used.

(Ord. No. 14-2, § 7, 8-3-78)

Sec. 3.07.004. Tamping charges.

Blasting charges must be tamped only by means of wooden tampers and by the application of direct pressure. Tamping by strokes or blows or with a rod or stick, the end of which is in any way frayed or split, is prohibited.

(Ord. No. 14-2, § 8, 8-3-78)

Sec. 3.07.005. Covering of material to be blasted.

Immediately after loading or tamping the holes and before firing any blasts, except when the same are in a tunnel or subway and distant from the opening more than 50 feet, or in a place so far from a building or highway

that flying debris may not damage them, the material to be blasted must be covered on all exposed sides with timbers held securely together with strong chains or rope and covered with stout woven matting or wire, rope or some other equally serviceable material to prevent the debris from flying. After this covering has been placed in position, the blast must be fired without unnecessary delay.

(Ord. No. 14-2, § 9, 8-3-78)

Sec. 3.07.006. Warning.

Not less than three minutes before firing a blast, the blaster must give warning thereof by causing competent men, carrying red flags, to be stationed at a minimum distance of 200 feet from the blast at each avenue of approach or point of danger, and these men must give the warning of danger both by voice and by waving such red flags.

(Ord. No. 14-2, § 10, 8-3-78)

Sec. 3.07.007. Unexploded charges.

- (a) Immediately after firing a blast, the blaster shall cause all debris to be removed and shall make a thorough examination of the area to determine whether there remains any unexploded charge.
- (b) In case a charge shall fail to explode, the tamping must not be removed, but the old charge must be exploded by drilling a single hole at least 12 inches away, which last hole shall then be loaded and fired in the usual manner.

(Ord. No. 14-2, § 11, 8-3-78)

Sec. 3.07.008. Additional drilling.

In case a blast fails to carry away the entire drill hole, no further drilling must be done in that hole.

(Ord. No. 14-2, § 12, 8-3-78)

Sec. 3.07.009. Quantity of explosives.

The quantity of explosives in all blasting charges shall be limited so that no injury to person or property shall result therefrom.

(Ord. No. 14-2, § 13, 8-3-78)

Sec. 3.07.010. Detonators.

Only electric detonators, electric squibs, and electric delays can be used to detonate explosives as defined in or regulated by this Article. This shall not forbid the use of detonating fuse similar in action and characteristics to Primacord or Cordeau.

(Ord. No. 14-2, § 14, 8-3-78)

Secs. 3.07.011—3.07.040. Reserved.

DIVISION 2. PERMIT

Sec. 3.07.041. Required.

No person shall blast within the corporate limits of the City without having first obtained a permit for same, which shall be in the form and performed in the manner provided for herein.

(Ord. No. 14-2, § 1, 8-3-78)

Sec. 3.07.042. Issuance; fee.

Blasting permits shall be issued by the City Secretary as provided for herein and shall set forth with particularity the name of the contractor or other responsible party applying therefor, the name of the property owner upon whose property the blasting is to be done, and the location of the property. The permit shall require the person or firm applying therefor to hold the City harmless, indemnify the City, and accept responsibility for all damages which may occur to any person or property because of the blasting, whether caused by negligence of the permittee, the City or its agents, servants and employees, or any third party. The person or firm applying for the permit shall be required to pay a permit fee of \$15.00.

(Ord. No. 14-2, § 3, 8-3-78)

Sec. 3.07.043. Duration.

Every permit for blasting issued by the City Secretary shall be valid and operative for a period not to exceed 30 days from the date of issuance thereof.

(Ord. No. 14-2, § 4, 8-3-78)

Sec. 3.07.044. Revocation.

All permits issued pursuant to this Article are subject to revocation when, in the opinion of the Building Inspector, the spirit of this Article is being violated.

(Ord. No. 14-2, § 5, 8-3-78)

ARTICLE 3.08. STREETS AND SIDEWALKS

DIVISION 1. GENERALLY

Secs. 3.08.001—3.08.030. Reserved.

DIVISION 2. EXCAVATIONS

Sec. 3.08.031. Penalty.

The violation of any provision of this Division is declared a misdemeanor, and each day or part thereof the violation shall continue shall be considered a separate violation, each violation being punishable by a fine of not more than \$200.00.

(Ord. No. 14-14, § VIII, 3-6-80)

Sec. 3.08.032. Permit required; exceptions.

No person shall dig any hole or trench upon, through, or beneath the streets, avenues, roads, alleys and public grounds of the City, nor lay any pipes, mains, laterals, or any connecting or service pipes, nor any underground sewer or underground wiring, along, across or beneath the streets, avenues, roads, alleys and public grounds of the City, without first having obtained from the City a permit to perform such work, except in the following cases:

- (1) No permit shall be required of any utility company to set utility poles in any street or road right-of-way, or alley right-of-way.
- (2) In cases of emergency, utility companies may cut or puncture the traveled portions of streets, roads, or alleys without first getting a permit to do such work; provided that, where such cuttings or punctures are made by any such utility company in the traveled portion of a street, road or alley, such company shall apply for and obtain a permit for such work on the first working day after the work is done.
"Emergency" for the purpose of this Division means a break in a utility pressure line, cable or wiring that would result in the interruption of service for more than four hours.

(Ord. No. 14-14, § I, 3-6-80)

Sec. 3.08.033. Application for permit.

Application for a permit required by this Division shall be submitted in writing in such form as the City may prescribe from time to time. The application shall contain such information as is prescribed by the City and shall be accompanied by a map or plan of the proposed work. No permit shall be issued until the application and map or plan are approved by the City.

(Ord. No. 14-14, § II, 3-6-80)

Sec. 3.08.034. Bond.

No permit required by this Division shall be issued to any person until he has filed a bond, in the sum of \$3,000.00, with a good and sufficient surety, with the City. Such bond shall be effective for any permit for a period of one year after such permit is issued and shall cover all permits issued to the principal of such bond as long as such bond is on file. The form of the bond shall be as shown in attachment 1 to Ordinance 14-14.

(Ord. No. 14-14, § III, 3-6-80)

Sec. 3.08.035. Supervision and inspection of work by City.

All work for which a permit is required by this Division must be performed strictly according to the requirements of the City and shall be performed under the City's supervision and in such manner and at such times as the City shall prescribe and approve. The City shall inspect the work as required to ensure that the work is

performed in a satisfactory manner. No work will be completed unless the City has performed a final inspection of the project.

(Ord. No. 14-14, § IV, 3-6-80)

Sec. 3.08.036. Work to be performed at expense of permittee.

All work for which a permit is required by this Division shall be performed at the sole expense of the person making application for the permit, and without expense to the City.

(Ord. No. 14-14, § V, 3-6-80)

Sec. 3.08.037. Specifications.

All work made within the right-of-way of any street, road, or alley or across any public grounds within the City limits shall be made in accordance with the specifications set out in this Section.

(1) *Paved streets.*

- a. If any excavation is made in any street that is improved with any type of paving, no material from the excavation shall be used to backfill such excavation, except that amount necessary to bed pipe, cable, or conduit to a point six inches above the top of the pipe, cable or conduit. This material shall be thoroughly tamped or compacted by a suitable means to ensure maximum compaction. The remaining excavated depth of the excavation shall be backfilled with gravel of a grade known as road-gravel, and compacted either by tamping, pounding or jetting. Backfill shall be placed to the grade of the finished surface of the surrounding areas and [not] opened to traffic for a period of not less than 72 hours. Where required, a concrete slab shall be placed immediately after expiration of the 72-hour compaction period. The concrete slab shall be closed to traffic not less than 24 hours before the asphalt surfacing is replaced.
- b. Where the excavation is in an improved area, all edges shall be cut to a straight line before the concrete slab is poured. After the backfill has reached maximum compaction, material shall be removed to a depth as specified below and an area extending six inches beyond the area of excavation shall be excavated to the same depth and a slab of class B concrete shall be placed over the area so excavated:
 1. If the area is improved with any type of asphalt surfacing, the excavation shall be made to a depth of six and one-half inches and the concrete slab shall be five inches in thickness.
 2. If the area is improved with concrete pavement, the concrete slab shall be the same thickness and reinforced as the original pavement.

(2) *Unpaved streets.* In all other streets, whether unimproved or surfaced with gravel, backfill shall be made in the same manner as provided for other areas, but no concrete slab shall be required.

(3) *Removal of unused excavated material from improved area.* When excavation is made in any improved area, either street, road or alley, all unused excavated material shall be removed within 24 hours after backfill is completed.

(4) *Unimproved streets, roads and alleys.* When an excavation is made in any unimproved street, road or alley, the backfilling of such excavation may be made as follows: Excavated material may be used as backfill to a point within 12 inches of the surrounding area. Backfill shall be placed in layers of not more than eight inches and each layer shall be thoroughly compacted by approved methods. The remaining gravel and backfill shall be compacted by wetting and tamping. All unused excavated material shall be

removed from the area within 24 hours after backfilling is completed, or, if feasible, it may be spread as fill in low places in the street or alley.

- (5) *Backfilling and repair of area between paved surface and right-of-way property line.* When excavation is made in an area between the paved surface of the street and the right-of-way property line, excavated material may be used for backfill, the material shall be thoroughly compacted and the area finished in a manner equal to that as originally existed.

(Ord. No. 14-14, § VI, 3-6-80)

Sec. 3.08.038. Barricades and flares.

Any person performing any work for which a permit is required by this Division shall protect the same with such barricades, fences or flares as may be required by the City.

(Ord. No. 14-14, § VI, 3-6-80)

CHAPTER 4 BUSINESS REGULATIONS

ARTICLE 4.02. ALCOHOLIC BEVERAGES⁴

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.

⁴State law reference(s)—Local regulation of alcoholic beverages, V.T.C.A., Alcoholic Beverage Code § 109.31 et seq.

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)

Sec. 4.03.002. Penalty.

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

(Ord. No. 14-3, § 16, 4-3-74)

Sec. 4.03.003. False or fraudulent representations.

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

(Ord. No. 14-3, § 9, 4-3-74)

Sec. 4.03.004. Hours of operation.

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

(Ord. No. 14-3, § 11, 4-3-74)

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

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

(Ord. No. 14-3, § 12, 4-3-74)

Secs. 4.03.006—4.03.030. Reserved.

DIVISION 2. PERMIT

Sec. 4.03.031. Required.

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

(Ord. No. 14-3, § 2, 4-3-74)

Sec. 4.03.032. Charitable solicitation.

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

(Ord. No. 14-3, § 3, 4-3-74)

Sec. 4.03.033. Application; fee.

- (a) Any person desiring to engage in the business of peddling or soliciting within the City shall first file a written application for a permit to do so with the Mayor, which application shall show:
- (1) The name and address of the applicant;
 - (2) The name and address of the person or organization which such applicant represents;
 - (3) The name of the immediate last preceding three towns in which he worked;
 - (4) Statement that the applicant has not been convicted within the last five years of an offense:
 - a. Involving narcotics, dangerous drugs or crimes with dangerous weapons;
 - b. Involving the use of force and violence upon the person of another when the offense is designated as a felony in the state of conviction or the State;
 - c. Of fraud, misrepresentation, embezzlement, forgery, or theft when such offense is designated as a felony in the state of conviction or the State;
 - d. In a court of property jurisdiction of violating this Chapter at any time.

- (5) The kinds of goods, wares, merchandise or service offered or to be offered for sale or, in the case of a solicitation, the purposes for which the solicited funds are to be used;
 - (6) If State law requires that sales tax must be paid upon the purchase of such goods as the applicant proposes to offer for sale, the application for license shall be accompanied by a valid sales tax permit issued by the office of the comptroller of public accounts of the State.
 - (7) Each applicant who proposes to sell or offer for sale goods consisting of any raw, cooked, or processed edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption shall secure on the application form for license hereunder the signature of the Public Health Officer of the City and/or County indicating that such goods meet minimum food standards of the State.
 - (8) If the goods to be sold are transported in or displayed from a vehicle, the vehicle owner's name, address and telephone number and the vehicle's make, model, color, description, identification number and license number.
 - (9) The period of time such applicant wishes to solicit, sell or take orders in the City.
- (b) Such applicant shall also show satisfactory proof of his authority to represent the company or individual such applicant so states that he represents and such proof shall be in writing.
 - (c) Each application for a license shall be approved by the Chief of Police or his authorized representative before such license is granted. The Chief of Police shall have a reasonable time to conduct an investigation of an applicant for such license, but such an investigation shall not be longer than three business days. After inspection or investigation, the Chief of Police shall either approve or disapprove the application for license and if disapproved shall give the applicant, upon request, a written statement setting forth the reasons for such disapproval and notifying the applicant of his right to appeal.
 - (d) Such written application shall be accepted by the Mayor, accompanied by a fee of \$5.00 (the Mayor shall have power to waive the fee for charitable organizations or newspaper carriers), and no permit hereunder shall be issued until such fee has been paid. No fee shall be required of those persons engaging in interstate commerce.

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

Sec. 4.03.034. Investigation of applicant.

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

(Ord. No. 14-3, § 5, 4-3-74)

Sec. 4.03.035. Issuance; duration.

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

(Ord. No. 14-3, § 6, 4-3-74)

Sec. 4.03.036. Form.

The permit shall be upon any form chosen by the Mayor but shall set forth the fact that the applicant is licensed to solicit or peddle within the City, but in any event it shall have the following printed upon it in

prominent letters: "The issuance of this license is not an endorsement by the City of Morgan's Point [Resort], or any of its officers, or employees, and expires on the _____ day of _____, 19____."

(Ord. No. 14-3, § 7, 4-3-74)

Sec. 4.03.037. Revocation.

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

(Ord. No. 14-3, § 8, 4-3-74)

Sec. 4.03.038. Appeals.

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

(Ord. No. 14-3, § 10, 4-3-74)

Sec. 4.03.039. Transfer.

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

(Ord. No. 14-3, § 14, 4-3-74)

Sec. 4.03.040. Carrying and display.

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

(Ord. No. 14-3, § 15, 4-3-74)

ARTICLE 4.04. SEXUALLY ORIENTED BUSINESSES

DIVISION 1. GENERALLY

Sec. 4.04.001. Purpose and intent.

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

(Ord. No. 24-1, § 1, 3-9-95)

Sec. 4.04.002. Definitions.

In this Article:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Establishment means any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sexually oriented business means:

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

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

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

Specified sexual activities means those activities which display:

- (1) Human genitals in a state of sexual stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse or sodomy;

- (3) Fondling or other erotic touching of human genitals, pubic region, buttock or female breasts; or
- (4) Any combination of the above.

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

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

Transfer or ownership or control includes any of the following:

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

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

(Ord. No. 24-1, § 2, 3-9-95)

Sec. 4.04.003. Enforcement; penalties.

(a) *Criminal penalties.*

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

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

(Ord. No. 24-1, § 12, 3-9-95)

Sec. 4.04.004. Effect on other laws.

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

(Ord. No. 24-1, § 14, 3-9-95)

Secs. 4.04.005—4.04.030. Reserved.

DIVISION 2. LICENSE

Sec. 4.04.031. Required; application.

- (a) A person commits an offense if he/she operates, owns, or causes to be operated, within the territorial limits of the City, a sexually oriented business without a valid license authorizing such operation.
- (b) An application for a license must be made on a form provided by the City Manager or his/her designated representative. The application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches. Applicants who must comply with Section 4.04.075 (regulations pertaining to exhibition of sexually explicit films or videos) or Section 4.04.076 (regulations pertaining to adult lingerie store/modeling studios) of this Article shall submit a diagram meeting the requirements of Section 4.04.075 or Section 4.04.076 of this Article.
- (c) The applicant must be qualified according to the provisions of this Article and the premises must be inspected and found to be in compliance with the law by the County Health Department, the Fire Department, and the Chief Building Official; provided, however, that the County Health Department, the Fire Department, and the Chief Building Official shall have 30 days from the date of the applicant mailing application for the license to conduct whatever investigations and/or inquiries are necessary to determine whether or not the premises are in compliance with applicable laws and ordinances; and further provided that the failure of either the County Health Department, the Fire Department, and/or the Chief Building Official to conduct and/or complete such investigations/inquiries shall result in the administrative approval of the application by either the County Health Department, the Fire Department, and/or the Chief Building Official.
- (d) If a person who wishes to operate a sexually oriented business is an individual, he/she must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a 20 percent or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified under Section 4.04.032 (issuance of license) of this Article and each applicant shall be considered a licensee if a license is granted.
- (e) The fact that a person possesses a valid theater license, dance hall license, or amusement device license or business license does not exempt him from the requirement of obtaining a sexually oriented business license. A person who operates a sexually oriented business and possesses a theater license, public house or

amusement device license, dance hall license or business license shall comply with the requirements and provisions of this Article and all provisions of all other ordinances of the City.

- (f) Operators of sexually oriented businesses who are lawfully operating as of the effective date of this Article must apply for said license within 30 days of the effective date of this Article.
- (g) A sexually oriented business lawfully operating within the territorial limits of the City on March 9, 1995, may continue to operate during the application review period. During said application review period, the regulations imposed by this Article shall be suspended, and the City shall maintain the status quo.
 - (1) As used in this subsection, the term "status quo" means the last peaceful, uncontested position of the City with respect to the applicant.
 - (2) As used in this subsection, the term "application review period" refers to the period commencing on the date a sexually oriented business files with the City Secretary an application which conforms with the requirements of this Article, and ending on the date such application is approved or disapproved as provided herein.
 - (3) This subsection shall not apply to any business which begins to operate a sexually oriented business after June 21, 1994, and all such businesses are expressly required to fully comply with this Article prior to beginning operations.

(Ord. No. 24-1, § 3.01, 3-9-95)

Sec. 4.04.032. Issuance.

- (a) The City Manager or his/her designated representative shall approve the issuance of a license to an applicant within 30 days after the receipt of an application unless he/she finds one or more of the following to be true:
 - (1) An applicant is under 18 years of age.
 - (2) An applicant is overdue in payment to the City of taxes, fees, fines or penalties assessed against the applicant or imposed upon the applicant in relation to a sexually oriented business.
 - (3) An applicant has failed to provide information requested on the application form or has supplied false or misleading information in the application process.
 - (4) An applicant has been convicted of a violation of a provision of this Article, other than the offense of operating a sexually oriented business without a license, within two years immediately preceding the application. The fact that a conviction is being appealed shall have no effect.
 - (5) The premises to be used for the sexually oriented business have not been approved by the County Health Department, the Fire Department, and the Chief Building Official as being in compliance with applicable laws or ordinances; provided, however, that the County Health Department, the Fire Department, and the Chief Building Official shall have 30 days from the date of the applicant making application for the license to conduct whatever investigations/inquiries are necessary to determine whether or not the premises are in compliance with applicable laws and ordinances; and further provided that, in the event that either the County Health Department, Fire Department, and/or Chief Building Official shall fail to conduct all investigations/inquiries necessary to complete the application process, such failure to conduct and/or complete such investigations/inquiries shall administratively result in the administrative approval of the application by either the County Health Department, Fire Department, and/or Chief Building Official.
 - (6) The license fee required by this Article has not been paid.

- (7) An applicant or the proposed establishment is in violation of or is not in compliance with Section 4.04.035 or Section 4.04.071, 4.04.072, 4.04.073, 4.04.074, 4.04.075, 4.04.076, or 4.04.077 of this Article.
- (b) The license, if granted, shall state on its face:
- (1) The name of the person(s) to whom it is granted, the expiration date and the address of the sexually oriented business;
 - (2) The name of the applicant and whether the applicant is an individual, partnership, corporation, association, limited partnership, limited liability company or other legal entity;
 - (3) The name under which the business is to be operated and a description of the sexually oriented business to be conducted;
 - (4) The name, address and telephone number of the owner(s);
 - (5) The street address and legal description of the parcel of land on which the business is to be located, and the telephone number of the enterprise;
 - (6) A written declaration, sworn to under oath, that the information contained in the application is true and correct; and
 - (7) If the applicant is a non-natural legal entity, the application shall be signed and verified by a duly authorized agent of that entity.
- (c) A site plan [shall be submitted] setting out the dimensions and location for such sexually oriented business. The applicant shall sign a notarized statement attached to the site plan stating that the proposed sexually oriented business complies with the requirements set forth hereinabove. It shall be the duty of the applicant to prepare the site plan and to assure compliance with the distance requirements.

(Ord. No. 24-1, § 3.02, 3-9-95)

Sec. 4.04.033. Fee.

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

(Ord. No. 24-1, § 3.03, 3-9-95)

Sec. 4.04.034. Display.

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

(Ord. No. 24-1, § 3.04, 3-9-95)

Sec. 4.04.035. Inspections.

- (a) An applicant or licensee shall permit representatives of the Police Department, County Health Department, Fire Department, and building inspection division to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time it is occupied or open for business.

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

(Ord. No. 24-1, § 3.05, 3-9-95)

Sec. 4.04.036. Expiration.

- (a) Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in Section 4.04.031. Application for renewal should be made at least 30 days before the expiration date, and, when made less than 30 days before the expiration date, the expiration of the license will not be affected.
- (b) When the City Manager or his/her designated representative denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the City Manager or his/her designated representative finds that the basis of denial for renewal of license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the denial became final.

(Ord. No. 24-1, § 3.06, 3-9-95)

Sec. 4.04.037. Suspension.

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

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

(Ord. No. 24-1, § 3.07, 3-9-95)

Sec. 4.04.038. Revocation.

- (a) The City Manager or his/her designated representative shall revoke a license if a cause of suspension in Section 4.04.037 occurs and the license has been suspended within the preceding 12 months.
- (b) The City Manager or his/her designated representative shall revoke a license if he/she determines that:
 - (1) A licensee gave false or misleading information in the material submitted to the City Manager or his/her designated representative during the application process;

- (2) A licensee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises;
 - (3) A licensee or an employee has knowingly allowed prostitution on the premises;
 - (4) A licensee or an employee knowingly operated the sexually oriented business during a period of time when the license was suspended;
 - (5) A licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in or on the licensed premises at any time the business is open to the public. The term "sexual contact" shall have the same meaning as it is defined in V.T.C.A., Penal Code § 21.01;
 - (6) A licensee is delinquent in payment to the City for hotel occupancy taxes, ad valorem taxes, or sales taxes related to the adult entertainment business;
 - (7) A licensee has attempted to assign, transfer, or divide a license to operate a sexually oriented business issued under this Article;
 - (8) A licensee or employee knowingly fails to comply with Section 4.04.035(a) or 4.04.035(b).
- (c) When the City Manager or his/her designated representative revokes a license, the revocation shall continue for one year and the licensee shall not be issued a sexually oriented business license for one year from the date revocation became effective. If, subsequent to revocation, the City Manager or his/her designated representative finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective.

(Ord. No. 24-1, § 3.08, 3-9-95)

Sec. 4.04.039. Appeals.

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

(Ord. No. 24-1, § 3.09, 3-9-95)

Sec. 4.04.040. Transfer.

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

(Ord. No. 24-1, § 3.10, 3-9-95)

Secs. 4.04.041—4.04.070. Reserved.

DIVISION 3. OPERATION AND LOCATION

Sec. 4.04.071. Escort agencies.

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

(Ord. No. 24-1, § 4, 3-9-95)

Sec. 4.04.072. Nude modeling studios.

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

(Ord. No. 24-1, § 5, 3-9-95)

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

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

(Ord. No. 24-1, § 6, 3-9-95)

Sec. 4.04.074. Adult motels.

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

sleeping room to a person and, within ten hours from the time the room is rented, he/she rents or subrents the same sleeping room again.

(Ord. No. 24-1, § 7, 3-9-95)

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

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

- (1) Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed 32 square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The City Manager or his/her designated representative may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
- (2) The application shall be sworn to be true and correct by the applicant.
- (3) No alteration in the configuration or location of a manager's station may be made without the prior approval of the City Manager or his/her designated representative.
- (4) It is the duty of the owners and operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
- (5) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video, photographic, monitoring or surveillance equipment. If the premises have two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
- (6) It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present on the premises, to ensure that the view area specified in subsection (5) of this Section remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times that any patron is present on the premises and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection (1) of this Section.
- (7) It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present on the premises, to ensure that areas to which patrons are permitted access are illuminated by overhead lighting fixtures to an intensity of not less than one footcandle as measured at the floor level at all times during which the premises are open to the public.

- (8) A person having a duty under subsections (4), (6) and (7) of this Section commits an offense if he/she knowingly fails to fulfill that duty.

(Ord. No. 24-1, § 8, 3-9-95)

Sec. 4.04.076. Adult lingerie store/modeling studios.

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

- (1) Adult lingerie store/modeling studio beginning operation after March 9, 1995.
 - a. Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed 32 square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The City Manager or his/her designated representative may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
 - b. The application shall be sworn to be true and correct by the applicant.
 - c. No alteration in the configuration or location of a manager's station may be made without the prior approval of the City Manager or his/her designated representative.
 - d. It is the duty of the owners and operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
 - e. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video, photographic, monitoring or surveillance equipment. If the premises have two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
 - f. It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present on the premises, to ensure that the view area specified in subsection (1)e of this Section remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times that any patron is present on the premises and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection (1)a of this Section.
 - g. It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present on the premises, to ensure that areas to which patrons are permitted access

are illuminated by overhead lighting fixtures to an intensity of not less than one footcandle as measured at the floor level at all times during which the premises are open to the public.

- h. A person having a duty under subsections (1)a through g of this Section commits an offense if he/she knowingly fails to fulfill that duty.
- (2) Existing businesses. Any adult lingerie store/modeling studio lawfully operating on June 21, 1994, which cannot meet the requirements of subsection (1) above shall meet the following requirements:
- a. Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. The diagram shall also designate the place at which the permit will be conspicuously posted if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The City Manager or his/her designated representative may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
 - b. The application shall be sworn to be true and correct by the applicant.
 - c. It is the duty of the owners and operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
 - d. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a common access area (hall or corridor) of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video, photographic, monitoring or surveillance equipment. The view required in this subsection must be by direct line of sight from the common access area at a minimum distance of six feet from the entry to the viewing area.
 - e. It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present on the premises, to ensure that the view area specified in subsection (2)d of this Section remains unobstructed by any doors, partitions, merchandise, display racks or other materials at all times that any patron is present on the premises and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection (2)b of this Section.
 - f. It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present on the premises, to ensure that areas to which patrons are permitted access are illuminated by overhead lighting fixtures to an intensity of not less than one footcandle as measured at the floor level at all times during which the premises are open to the public.
 - g. A person having a duty under subsections (2)a through f of this Section commits an offense if he/she knowingly fails to fulfill that duty.

(Ord. No. 24-1, § 9, 3-9-95)

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

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

(Ord. No. 24-1, § 10, 3-9-95)

Sec. 4.04.078. Location.

- (a) A person commits an offense if he/she operates or causes to be operated a sexually oriented business within 1,500 feet of:
 - (1) A church or place of religious worship;
 - (2) A day care facility;
 - (3) A school;
 - (4) A hospital;
 - (5) A public building; or
 - (6) A public park.
- (b) A person commits an offense if he/she causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within 300 feet of another sexually oriented business.
- (c) A person commits an offense if he/she causes or permits the operation, establishment, or maintenance of more than one sexually oriented business in the same building, structure, or portion thereof containing another sexually oriented business.
- (d) For the purposes of subsection (a) of this Section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a church or public or private elementary or secondary school, or to the nearest boundary of an affected public park, residential district, or residential lot.

- (e) For the purposes of subsection (b) of this Section, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.
- (f) Any sexually oriented business lawfully operating on March 1, 1995, that is in violation of subsection (a), (b), or (c) of this Section shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed three years, unless sooner terminated for any reason, or if voluntarily discontinued for a period of 30 days or more.
- (g) Such nonconforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use.
- (h) If two or more sexually oriented businesses are within 300 feet of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later-established business(es) is nonconforming.
- (i) A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business license, of a church, public or private elementary or secondary school, public park, hospital, public building, or day care center within 1,500 feet of the sexually oriented business.
- (j) This provision applies only to the renewal of a valid license and does not apply when an application for a license is submitted after a license has expired.

(Ord. No. 24-1, § 11, 3-9-95)

ARTICLE 4.05. CABLE TELEVISION

Sec. 4.05.001. Definitions.

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

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

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

CATV means a cable television system as hereinafter defined.

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

Council means the governing body of the City.

Expanded CATV service means any communications service in addition to basic CATV service provided by the operator of a cable television system, either directly or as a carrier for their subsidiaries, affiliates or any other person engaged in communications service, including, but not by way of limitation, programming supplied on a

per-channel or per-program charge, burglar alarm service, data or other electronic transmission services, meter reading services, and home shopping services.

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

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

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

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

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

Subscriber means any person or entity receiving basic CATV service.

(Ord. No. 6-7, § 1, 2-4-82)

Sec. 4.05.002. Compliance.

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

(Ord. No. 6-7, § 2, 2-4-82)

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

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

(Ord. No. 6-7, § 3, 2-4-82)

Sec. 4.05.004. Indemnification of City; insurance.

- (a) The CATV operator shall indemnify and hold the City harmless at all times during the term of the grant of its franchise from and against all claims for injury or damages to persons or property both real and personal caused by the construction, erection, operation or maintenance of any structures, equipment, appliances, or products authorized or used pursuant to authority of this Article.
- (b) The CATV operator shall, at all times during the existence of its permit or franchise, carry and require its contractors to carry:
 - (1) Insurance in such form and in such companies as shall be approved by the City Attorney to protect the City and themselves from and against any and all claims of injury or damages to persons or property, both real and personal, caused by the construction, erection, operation or maintenance of any structure, equipment, or appliances, and the amount of such insurance against liability due to damage to property shall not be less than \$100,000.00 as to any one person, and \$250,000.00 as to any one

accident, and against liability due to injury or death of persons \$250,000.00 as to any one person and \$500,000.00 as to any one accident.

- (2) Workmen's compensation insurance in compliance with the laws of the State.
- (3) Automobile insurance with limits of not less than \$250,000.00/\$500,000.00 and automobile property damage insurance with a limit of not less than \$100,000.00.
- (c) The CATV operator, upon receipt of due notice in writing from the City, shall defend at its own expense any action or proceedings against the City in which it is claimed that the injury or damage arose from the CATV operator's activities in the construction or operation of its television system, and in the event of a determination of liability shall indemnify the City. More particularly, the CATV operator, its successors and assigns shall indemnify and hold harmless the City from any and all liability, claim, demand or judgment growing out of any injury to any person or property as a result of the violation or failure on the part of the CATV operator, its successors and assigns to observe its proper duty or because of negligence in whole or in part arising out of the construction, repair, extension, maintenance or operation of its distribution lines, amplifiers or equipment of any kind or character used in connection with its permit or franchise.

(Ord. No. 6-7, § 4, 2-4-82)

Sec. 4.05.005. Use of streets.

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

- (e) The CATV operator shall have the authority to trim trees upon and overhanging all streets, alleys, easements, sidewalks, and public places of the City so as to prevent the branches of such trees from coming into contact with the CATV operator's facilities.
- (f) All poles, lines, structures and other facilities of the CATV operator in, on, over and under the streets, sidewalks, alleys, easements and public grounds or places of the City shall be kept by the CATV operator at all times in a safe and substantial condition.

(Ord. No. 6-7, § 5, 2-4-82)

Sec. 4.05.006. Safety requirements.

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

(Ord. No. 6-7, § 6, 2-4-82)

Sec. 4.05.007. Maps and records of equipment.

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

(Ord. No. 6-7, § 7, 2-4-82)

Sec. 4.05.008. Rights granted by franchise.

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

(Ord. No. 6-7, § 8, 2-4-82)

Sec. 4.05.009. Franchise fee.

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

(Ord. No. 6-7, § 9, 2-4-82)

Sec. 4.05.010. Service to public buildings and schools.

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

(Ord. No. 6-7, § 10, 2-4-82)

Sec. 4.05.011. Business office.

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

(Ord. No. 6-7, § 11, 2-4-82)

Sec. 4.05.012. System requirements.

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

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

(Ord. No. 6-7, § 12, 2-4-82)

Sec. 4.05.013. Transfer of franchise.

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

(Ord. No. 6-7, § 13, 2-4-82)

Sec. 4.05.014. Payment of installation costs.

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

(Ord. No. 6-7, § 14, 2-4-82)

Sec. 4.05.015. Franchise required; unauthorized connections.

- (a) From and after the effective date of this Article, it shall be unlawful for any person to construct, install, or maintain within any public street in the City, or within any other public property of the City, or within any privately owned area within the City which has not yet become a public street but is designated or delineated as a proposed public street on any tentative subdivision map approved by the City, any equipment or facilities for distributing any television signals or radio signals through a CATV system, unless a franchise authorizing such use of such street or property or area has first been obtained, and unless such franchise is in full force and effect.
- (b) It shall be unlawful for any person, firm or corporation to make any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of the franchised CATV system within this City for the purpose of enabling himself or others to receive any television signal, radio signal, picture, program or sound, without payment to the operator of said system.
- (c) It shall be unlawful for any person, without the consent of the CATV operator, to willfully tamper with, remove or injure any cables, wires or equipment used for distribution of television signals, radio signals, pictures, programs or sound.
- (d) Any person violating or failing to comply with any of the provisions of this Section may be punished by a fine not to exceed \$200.00, and each day shall constitute an additional offense.

(Ord. No. 6-7, § 15, 2-4-82)

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

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

(Ord. No. 6-7, § 16, 2-4-82)

Sec. 4.05.017. Term of franchise.

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

(Ord. No. 6-7, § 17, 2-4-82)

Sec. 4.05.018. Renewal of franchise.

The grantee of a franchise pursuant to this Article shall have the option to request renewal of the franchise for an additional period not to exceed 15 years. Should the grantee desire to exercise this option, it shall notify the City, in writing, not less than three months prior to expiration of the franchise. Upon exercise of the option by the grantee, the City shall conduct a full, open and public renewal proceeding upon prior notice and opportunity of all interested parties to be heard. The renewal proceeding shall be held for the purpose of considering the grantee's performance under the franchise in order to determine whether to renew the franchise. Renewal shall not be

unreasonably denied and shall be granted unless the grantee is found to be unqualified to continue operation of this cable television system. If the franchise is renewed by the City, all of the terms and provisions contained therein shall be controlling during the renewal period, except to the extent that said terms and provisions are modified by the City, or unless the franchise is superseded by a new franchise. Should the City, for any reason, be unable to complete the renewal proceeding prior to expiration of the franchise, the grantee shall have the right to continue operation of this cable television system pursuant to the terms of the franchise until such time as the renewal proceeding is concluded. Should the City deny renewal of the franchise, such denial shall be accompanied by a written statement setting forth the reasons for the denial. The grantee shall have the right to request review of any such denial by a court of competent jurisdiction. Furthermore, in the event that the City denies renewal, the grantee shall be afforded a period of six months following denial within which to sell, transfer, or convey this cable television system to a qualified purchaser at fair market value. During this six-month period, which shall run from the effective date of the final order or decision denying renewal, including any appeal, the grantee shall have the right to operate this cable television system pursuant to the terms of the franchise.

(Ord. No. 6-7, § 18, 2-4-82)

Sec. 4.05.019. Forfeiture of franchise.

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

(Ord. No. 6-7, § 19, 2-4-82)

Sec. 4.05.020. Surrender of franchise.

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

(Ord. No. 6-7, § 20, 2-4-82)

Sec. 4.05.021. Miscellaneous regulations.

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

(Ord. No. 6-7, § 21, 2-4-82)

Sec. 4.05.022. Minimum channel capacity.

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

(Ord. No. 6-7, § 22, 2-4-82)

Sec. 4.05.023. Availability of service.

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

(Ord. No. 6-7, § 23, 2-4-82)

Sec. 4.05.024. Request for franchise.

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

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

(Ord. No. 6-7, § 24, 2-4-82)

CHAPTER 5 FIRE PREVENTION AND PROTECTION

ARTICLE 5.01. GENERAL PROVISIONS

Sec. 5.01.001. Arson reward.

The City hereby offers a reward in the amount of \$1,000.00 for information leading to the arrest and indictment of any person for the crime of arson committed within the City limits, said reward to be paid out of the City's general fund upon recommendation by the City Fire Marshal and City Manager and authorized by the City Council.

(Ord. No. 12-4, 1-3-85)

State law reference(s)—Arson, V.T.C.A., Penal Code § 28.02.

Sec. 5.01.002. Outdoor burning.

- (a) *Prohibited.* Outdoor burning of any material is prohibited within the City limits except fires in fixed or portable grills, barbecue pits, hibachis or similar devices. All such fire or fires in fixed or portable grills, barbecue pits, hibachis or other devices at any structure used for residential purposes other than one- and two-family dwellings shall, when in use, be a minimum of ten feet from the structure, not under any portion of the structure that is made partly or totally of a combustible material, and will remain in such prescribed location until completely cool to the touch.
- (b) *Violations; penalty.* A person, property owner, or occupant commits an offense if the person violates any provision of this Section and is subject to criminal prosecution. Violation of this Section is a class C misdemeanor which will be prosecuted in municipal court and shall be punishable by a fine of not less than \$200.00 and not more than \$1,000.00 per occurrence and can be levied per day for each day that the violation exists after notice.

(Ord. No. 16-8, §§ 6(b), 8, 3-8-01)

State law reference(s)—Texas Clean Air Act, V.T.C.A., Health and Safety Code ch. 382.

Sec. 5.01.003. Parking of vehicles transporting petroleum products.

No vehicle used for hauling or transporting liquefied petroleum gases, gasoline, naphtha, kerosene, diesel fuel or any other combustible, volatile petroleum product shall be parked or left unattended upon any premises or upon any public way, street or alley at any time. Nor shall such vehicle be parked or left overnight within the corporate limits of the City. Violators of this Section shall, upon conviction, be found guilty of a misdemeanor and fined not less than \$1.00 and not more than \$200.00.

(Ord. No. 12-3, 8-26-70)

ARTICLE 5.02. FIREWORKS⁵

Sec. 5.02.001. Definitions.

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

Fireworks.

- (1) The term "fireworks" shall mean any firecrackers, cannon crackers, skyrockets, Roman candles, squibs, fire balloons, star shells, gerbs or any other substance in whatever combination by any designed name intended for use in obtaining visible or audible pyrotechnic display, and such term shall include all articles or substances within the commonly accepted meaning of fireworks, whether herein specifically designated or defined or not.
- (2) The term "fireworks" shall not include toy pistols or toy guns that have a plastic or paper "cap" device that has less than 0.025 of a gram of explosive compounds and shall not prevent the sale of such caps by commerce.
- (3) Nothing in this definition shall be construed as forbidding the sale and use of blank cartridges for ceremonial, theatrical or athletic events.

Minor means a person under the age of 17 years of age.

Person includes any individual, firm, partnership, joint venture, association, concern, corporation, company, estate, trust, business, receiver, syndicate, or any group or combination acting as a unit.

Sell or display means selling, offering to sell, exhibiting, or possessing with intent to give away, sell, or offer to sell within the City.

Use means purchasing, possessing, setting off or otherwise causing to explode, or discharge, or burn [any] of any devices listed as prohibited or any flammable device, to discharge them or to throw them from land, air, or highway into any area of the City. The prohibition includes any substance which can be used in combination to cause an explosive reaction. This definition also means and includes casting, throwing, lighting or firing any such combustible or explosive device.

(Ord. No. 12-5, § 2, 12-12-02)

Sec. 5.02.002. Enforcement; penalty.

- (a) Any violation of this Article is hereby declared to be a nuisance. In addition to any other relief provided by this Article, the City Attorney may apply to a court of jurisdiction for an injunction to prohibit the continuation of any violation of this Article. The application for relief may include seeking a temporary restraining order, temporary injunction and permanent injunction.
- (b) The Fire Official is directed and required to seize and cause to be safely destroyed any fireworks found in violation of this Article. Any duly constituted Peace Officer is empowered to stop the transportation of and

⁵State law reference(s)—State regulation of fireworks and fireworks displays, V.T.C.A., Occupations Code ch. 2154; authority of city to prohibit or further regulate fireworks, V.T.C.A., Occupations Code § 2154.004.

detain any fireworks found being transported illegally or possessed illegally, seizing such fireworks to be destroyed by the Fire Official.

- (c) Any person violating any of the provisions of this Article shall be deemed guilty of a misdemeanor, and upon conviction in the municipal court of the City or any other court of jurisdiction shall be subject to a fine not to exceed \$500.00 for each offense; except, however, where a different penalty has been established by State law for such offense the penalty shall be that fixed by State law.

(Ord. No. 12-5, § 8, 12-12-02)

Sec. 5.02.003. Sale, possession or use prohibited; violations by minor.

- (a) It shall be unlawful for any person to sell, offer for sale, have in his possession, fire, set off, discharge or use, or cause or permit to be sold, offered for sale, possessed, fired, set off, discharged or used, any fireworks within the City limits.
- (b) No parent or guardian of a minor shall furnish, encourage, or act in conjunction with a minor in the commission of having, keeping, storing, selling, offering for sale, giving away, using, detonating, transporting, or manufacturing of fireworks within the corporate limits of the City. The violation of this Section shall be an offense regardless of whether or not the minor shall be charged or found guilty of the offense. The commission of the offense by the minor on the property under the control of or owned by the parent or guardian shall be prima facie proof that the parent or guardian aided the minor in such action.

(Ord. No. 12-5, § 3, 12-12-02)

Sec. 5.02.004. Storage.

The presence of fireworks within the jurisdiction of the City is a violation of this Article and is hereby declared to be a common and public nuisance. No person shall store fireworks within the City limits except if necessary for the performance of a public exhibition to be held pursuant to a permit issued as hereinafter provided. Storage of fireworks for a public exhibition shall be in a safe place, securely locked or guarded so that no child or unauthorized person shall have access, and shall be protected from fire hazards. The Fire Chief and/or Fire Marshal of the City shall inspect the storage to determine whether it complies with the terms of this Section.

(Ord. No. 12-5, § 4, 12-12-02)

Sec. 5.02.005. Exception for fireworks being transported outside City.

Notwithstanding anything stated in this Article, it shall not be an offense to possess fireworks in the locked trunk, locked toolbox, or cargo area of a vehicle for the sole purpose of transporting the fireworks for use outside the City limits.

(Ord. No. 12-5, § 5, 12-12-02)

Sec. 5.02.006. Right of entry.

The Fire Official or City Peace Officer is hereby authorized to enter any building where the unlawful presence of fireworks is suspected in order to inspect the same for the presence of such fireworks, but such authority does not include the right to enter a private dwelling or apartment.

(Ord. No. 12-5, § 6, 12-12-02)

Sec. 5.02.007. Public displays.

- (a) A permit for public display of fireworks shall be issued by the City Council after examination of the proposal by the City Fire Chief or Fire Marshal. No such permit shall be issued if it appears from the information available to the City Fire Chief or Fire Marshal and to the City Council that there are substantial dangers to people or property due to the location, the fireworks proposed to be used or the procedures proposed to be used. Application for such public display must be made 72 hours prior to the stated council meeting preceding the date of the scheduled event. The license shall not be permitted until the applicant has provided a fee in the amount of \$50.00 for such license. Such fee shall be delivered to the City Clerk, to be placed in the general fund of the City. Each applicant must provide documentation of public liability insurance of not less than \$1,000,000.00. In lieu of insurance, the applicant may provide to the City a bond in the amount of \$1,000,000.00 from a surety company. The City shall also be designated as an insured by the insurance policy and bonded by the bond.
- (b) For any public display of fireworks at least two fireman and one fire apparatus must be present during any such event. The permittee shall also be responsible to arrange such security as necessary to permit safe and orderly flow to and from the event. Any costs incurred for such event shall be paid in advance by the promoter of such event.
- (c) Any fireworks display authorized by permit shall be limited to aerial display only.

(Ord. No. 12-5, § 7, 12-12-02)

ARTICLE 5.03. FUEL STORAGE TANKS**Sec. 5.03.001. Penalty.**

The violation of any provision of this Article is declared a misdemeanor, and each day or part thereof the violation shall continue shall be considered a separate violation, each violation being punishable by a fine of not more than \$200.00.

(Ord. No. 16-4, § IV, 3-6-80)

Sec. 5.03.002. Permit required for installation of underground tanks.

No person shall install any underground fuel storage tank at a filling station, in or at a wholesale station, or at any other place within the City limits, for storage of gasoline, diesel, kerosene or other flammable fuels, with the exception of liquefied petroleum gas, without first obtaining a permit from the City.

(Ord. No. 16-4, § I, 3-6-80)

Sec. 5.03.003. Application for permit; fee.

A request for permit must be submitted to the City Secretary, along with a drawing depicting the location of the tanks in reference to the property lines and a narrative of the type of fuel, the size of tanks, the designation of the type of fuel to be stored and specifications for installing the tanks. The cost of the permit shall be \$20.00.

(Ord. No. 16-4, § III, 3-6-80)

Sec. 5.03.004. Inspection.

All fuel tanks installed must be inspected by the City Building Inspector prior to the covering of the tanks.

(Ord. No. 16-4, § IV, 3-6-80)

Sec. 5.03.005. Installation requirements; design and construction; above-ground tanks.

- (a) Above-ground fuel storage tanks of any type are prohibited, except liquefied petroleum gas (LPG), within the City limits.
- (b) Above-ground LPG tanks may be installed adjacent to the resident's home as long as the tank installation is in conformance with the State and Federal safety laws.
- (c) Underground fuel storage tanks shall be not less than two feet below the surface entirely surrounded by at least a six-inch blanket of sand and earth well-tamped in place, and the top of the tank must be below the level of the lowest pipeline in the building used in connection with the equipment. All underground storage tanks for gasoline or other flammable fuels shall be designed and constructed to withstand safely the service to which subjected. Such tanks must bear the label of approval of the National Board of Fire Underwriters.

(Ord. No. 16-4, § II, 3-6-80)

CHAPTER 6 HEALTH AND SANITATION

ARTICLE 6.02. HEALTH OFFICER

Sec. 6.02.001. Office created; appointment; term.

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.

(Ord. No. 2-15, § I, 2-3-83)

Sec. 6.02.002. Duties.

It shall be the duty of the Health Officer 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.

(Ord. No. 2-15, § II, 2-3-83)

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.

(Ord. No. 2-15, § III, 2-3-83)

Sec. 6.02.004. Reports and recommendations.

The Health Officer 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.

(Ord. No. 2-15, § IV, 2-3-83)

ARTICLE 6.03. SMOKING***DIVISION 1. GENERALLY***

Secs. 6.03.001—6.03.030. Reserved.

DIVISION 2. SMOKING IN CITY HALL**Sec. 6.03.031. Definitions.**

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

Smoke or *smoking* includes the carrying or holding of a lighted pipe, cigar or cigarette of any kind, or any other lighted smoking equipment or device, and the lighting of or emitting or exhaling the smoke of a pipe, cigar or cigarette of any kind.

(Ord. No. 14-19, § 1, 1-12-95)

Sec. 6.03.032. Penalty.

The violation of any provision of this Division shall be unlawful and a misdemeanor offense; each day a violation of this Division continues shall constitute a separate offense, and each offense is punishable by a fine not to exceed \$2,000.00.

(Ord. No. 14-19, § 4, 1-12-95)

Sec. 6.03.033. Prohibition.

It is an offense under this Division for a person to knowingly or intentionally smoke in the City Hall building.

(Ord. No. 14-19, § 2, 1-12-95)

Sec. 6.03.034. Posting of signs.

The City Manager shall place a sign or signs, visible at each entrance to the premises, notifying persons entering the premises that smoking is prohibited.

(Ord. No. 14-19, § 3, 1-12-95)

ARTICLE 6.04. NUISANCES DANGEROUS TO PUBLIC HEALTH**Sec. 6.04.001. Statutory authorization.**

In accordance with the authority granted under V.T.C.A., Health and Safety Code ch. 342 (Local Regulation of Sanitation), the City regulates the abatement of nuisances from real property and premises within the City limits, which includes abating certain nuisances without notice, imposing penalties, assessing expenses and creating and foreclosing on liens in tax code proceedings.

(Ord. No. 14-24, § 14-24a, 12-9-99)

Sec. 6.04.002. Enforcement.

- (a) The Chief of Police 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." The Health 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, police officers, or an authorized designee of the Health 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.

(Ord. No. 14-24, § 14-24b, 12-9-99)

Sec. 6.04.003. Definitions.

- (a) As used in this Article:

Abate means eliminate by removal, repair, rehabilitation, demolition, cleaning, filling, draining, disinfecting, vacating or by other means of compliance with applicable ordinances and laws.

Any and all objectionable, unsightly, or unsanitary matter includes all uncultivated vegetable growth, objects and matters not included within the meaning of the other terms as used in this Article, which are liable to produce or tend to produce an unhealthy, unwholesome, or unsanitary condition to the premises within the general locality where the same is located.

Brush means all trees or shrubbery under seven feet in height which are not cultivated or cared for by a person owning or controlling the premises. For the purposes of this Section, brush shall not be classified as that growing flora which is pristine in nature and/or situated in a area deemed as natural by the property owner, unless such constitutes a health and risk hazard to the citizens of the City.

Lots or parcels of real estate, in addition to those grounds within their respective boundaries, includes any right-of-way adjoining private property and all property, lots or parcels of ground lying and being adjacent to and

extending beyond the property line of any such property, lots or parcels of real estate to the curblin of the adjacent streets where a curblin has been established, and has been [extending] ten feet beyond the property line where no curblin has been established on adjacent streets.

Premises includes all privately owned including vacant land or a building designed or used for residential, commercial, business, industrial, or religious purposes, yard, ground, walk, driveway, fence, porch, steps, or other structure appurtenant to the property.

Property includes all property, lots, or parcels of real estate within the City limits, whether developed and with structures or vacant and undeveloped.

Rubbish means all refuse, junk and trash and debris, discarded tin and plastic containers, glass, metal, wood, old vessels of all sorts, useless articles, discarded clothing and textiles of all sorts and discarded furniture, tires or other materials that have been discarded or sold at a nominal price by a previous owner of the material, and in general all litter and other things usually included within the meaning of the term.

Weeds means all rank and uncultivated vegetable growth or matter which has grown to more than 12 inches in height or which, regardless of height, is liable to become an unwholesome or decaying mass or a breeding place for mosquitoes, reptiles or vermin.

- (b) For the purposes of this Section, it shall be deemed a defense to enforcement that, based upon the opinion of the official, a lot or homeowner's property is not considered a health hazard with vegetative growth simply by the natural growing cycle of the growth. Unless a health hazard exists, simply a "thicket" area which falls into the natural scheme of the area does not constitute a violation under this Section or this Article.

(Ord. No. 14-24, § 14-24c, 12-9-99)

Sec. 6.04.004. Prohibited conditions.

- (a) Whatever is dangerous to human health or welfare, or whatever renders the ground, the water, the air, or food a hazard to human health, is hereby declared to be a public health nuisance.
- (b) A person may not cause, permit, or allow a public health nuisance described under subsection (c) of this Section on any property or premises within the City limits.
- (c) The following specific acts, conditions, and things are declared to constitute public health nuisances [and] are unlawful:
 - (1) The deposit or accumulation of any filth, carrion, foul, decaying, or putrescent substance or other impure, unwholesome or offensive matter in or upon any building, establishment, ground, property, lot, or street, or in or upon any public or private place, in such a way as to become offensive or objectionable, the overflow of any foul liquids, or the escape of any gases, dusts, fumes, mists, and sprays to such an extent that the same, or any one of them, shall become or be likely to become hazardous to health or a source of discomfort to persons living or passing in the vicinity thereof;
 - (2) A polluted well, or cistern, spring, or stream, or the pollution of any body of water used for drinking purposes;
 - (3) Keeping any building or room in such a state of uncleanness or the crowding of persons in any building or room in such a manner as to endanger the health of the persons dwelling therein;
 - (4) Allowing cellars, temporary tents or sheds, and/or mobile campers to be used as sleeping rooms;
 - (5) A building or portion of a building occupied as a dwelling which is not provided with a plentiful supply of pure water directly into the structure via municipal water services;

- (6) A building or portion of a building occupied as a dwelling which is not lighted and ventilated by means of at least one window, opening to the outer air, in each room, except windowless rooms which have an approved mechanical ventilation system capable of a change of air every 30 minutes and artificial light provides illumination of six footcandles over the area of the room at a height of 30 inches;
- (7) The accumulation of manure, unless it is in a properly constructed container or has been distributed over a yard for fertilization purposes;
- (8) Permitting the existence of weeds, brush, rubbish, and all other objectionable, unsightly, or insanitary matter covering or partly covering the surface of any property, lots, or parcels of real estate situated within the City limits. A primitive lot with natural growth and vegetation does not constitute a violation of this Section unless it proves to be a health hazard based upon the decision of the official and deemed as such;
- (9) Permitting property, lots, or parcels of real estate situated within the City limits to have the surface thereof filled or partly filled with holes or be in such condition that the same holds or is liable to hold stagnant water therein, or from any cause be in such condition as to be liable to cause disease or produce, harbor, or spread disease germs of any nature or tend to render the surrounding atmosphere unhealthy, unwholesome, offensive, or obnoxious;
- (10) Permitting the accumulation or collection of any water, stagnant, linger [sic] otherwise, in which the mosquito breeds or which may become a breeding place for mosquitoes;
- (11) Permitting the detectible presence of urine or the presence of feces, vomit, and other bodily fluids in or upon any property, including any walkway adjacent to any paved portion of a street abutting the property that may be accessible to the public in such a manner that the presence of any of the foregoing may be detected in the vicinity of the property.

(Ord. No. 14-24, § 14-24d, 12-9-99)

Sec. 6.04.005. Abatement required.

- (a) The owner or occupant of property or premises within the City limits shall be responsible to abate, remove, or eliminate any public health nuisance described by Section 6.04.004 of this Article.
- (b) The failure of the owner or occupant to abate a public health nuisance as required constitutes an offense as described under this Article.

(Ord. No. 14-24, § 14-24e, 12-9-99)

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 shall provide seven days' written notice to abate the public health nuisance to the owner or occupant of the property or premises.
- (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.
- (c) The notice shall contain:
 - (1) The assigned property location address along with the name/address of the legal property owner of such location;
 - (2) A description of the public health nuisance;

- (3) Statement of action, to detail the ordinance, fine, and days to abate; and
- (4) State to the owner of the property advising if failure to abate or abatement does not occur within seven days, the City shall have the right to abate and charge a fee, levied as a possible lien for the action.

(Ord. No. 14-24, § 14-24f, 12-9-99)

Sec. 6.04.007. Citations.

- (a) The Health 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.
- (b) The citation shall contain:
 - (1) The identity of the property where the nuisance is located, along with the legal property owner and mailing address of such;
 - (2) A description of the public health nuisance; and
 - (3) A statement that the violation of this Article is a class C misdemeanor and can be punishable up to \$500.00 per day for each incident and will require the charged individual to appear before the City court.
- (c) The citation shall be delivered:
 - (1) Personally by hand delivery;
 - (2) By letter addressed to the post office address of the property owner by certified mail, return receipt requested, and by regular mail delivery; or
 - (3) If personal service cannot be obtained or the post office address is unknown:
 - a. By publication at least twice within ten consecutive days;
 - b. By posting the notice on or near the front door of each building on the property to which the violation relates; or
 - c. By posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates, if the property contains no buildings.

(Ord. No. 14-24, § 14-24g, 12-9-99)

Sec. 6.04.008. Abatement by City authorized.

If the owner of the property does not comply with the notice of violation as provided according to Section 6.04.006, the City may:

- (1) Do the work or make the improvements required;
- (2) Pay for the work done or improvements made; and
- (3) Charge the expenses incurred to the owner of the property.

(Ord. No. 14-24, § 14-24h, 12-9-99)

Sec. 6.04.009. Abatement of recurring nuisances without further notice.

- (a) If the owner of the property commits another violation of the same kind or nature on or before the first anniversary date of the notice of violation as provided to the owner under Section 6.04.006 of this Article, the City may without further notice correct the violation at the owner's expense and assess the expense against the property.
- (b) If a violation occurs within the one-year period as provided in subsection (a) of this Section, and the City has not been informed of any ownership change, then the City may take any action permitted by this Article.
- (c) For the purpose of subsection (a) of this Section, the initial notice to the owner shall be provided by certified mail, return receipt requested, according to this Article.

(Ord. No. 14-24, § 14-24i, 12-9-99)

Sec. 6.04.010. Abatement of dangerous weeds without notice.

- (a) The City may abate, without notice, weeds that:
 - (1) Have grown higher than 48 inches tall; and
 - (2) Are an immediate danger to the health, life, and safety of any person;
 - (3) And the lot is improved for a structure or is occupied by a structure.
- (b) The City shall give notice to the property owner in the matter required under this Article no later than the tenth day after the date the City abates the weeds.
- (c) The notice shall contain:
 - (1) An identification of the property, along with the name of the property owner and address of such;
 - (2) A description of the nuisance that occurred on the property;
 - (3) A statement that the City abated the weeds; and
 - (4) An explanation that the property owner has a right to request an administrative hearing by filing a written request with the Health Official not later than the 30th day after the date of the abatement of the weeds.

(Ord. No. 14-24, § 14-24j, 12-9-99)

State law reference(s)—Additional authority to abate dangerous weeds without notice, V.T.C.A., Health and Safety Code § 342.008.

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.

(Ord. No. 14-24, § 14-24k, 12-9-99)

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

- (a) The City may assess expenses incurred under this Article against the real estate on which the work is done or the improvements are made.
- (b) To obtain a lien against the property, the Health Official shall file a statement of expenses with the County Clerk.
- (c) The lien is secured for the expenditures made and interest accruing at the rate of ten percent on the amount due from the date of payment by the City.
- (d) The lien is inferior only to tax liens.
- (e) The City may bring a suit for foreclosure in the name of the City to recover the expenditures and interest due.
- (f) The statement of expense or a certified copy of the statement is prima facie proof of the expenses incurred by the City in doing the work or making the improvements.

(Ord. No. 14-24, § 14-24l, 12-9-99)

Sec. 6.04.013. Criminal penalty.

- (a) Procedures for abatement and removal of a public health nuisance by the Health Official under this Article are independent and cumulative of criminal penalties provided herein.
- (b) A person commits an offense if the person violates Section 6.04.004 of this Article and is subject to criminal prosecution.
- (c) The owner or occupant of the property on which the nuisance is located commits an offense if the owner or occupant fails to abate a public health nuisance as required under this Article and is subject to criminal prosecution.
- (d) An offense under this Article is a class C misdemeanor which shall be prosecuted in municipal court and shall be punishable by a fine of not less than \$200.00 per occurrence and not more than \$500.00 per occurrence and can be levied per day the violation exists after notice.

(Ord. No. 14-24, § 14-24m, 12-9-99)

ARTICLE 6.05. LITTER

Sec. 6.05.001. Definitions.

For the purposes of this Article, the following words and phrases shall have the meanings respectively ascribed to them:

Garbage means putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

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, 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.

Litter means garbage, refuse, and rubbish as defined herein and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

Newspaper means any newspaper of general circulation as defined by general law, any newspaper duly entered with the Post Office Department of the United States, in accordance with Federal statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law, and in addition thereto shall mean and include any periodical or current magazine regularly published with not less than four issues per year, and sold to the public.

Park means a park, reservation, playground, beach, recreation center or any other public area in the City, owned or used by the City and devoted to active or passive recreation.

Private premises means any dwelling, house, building, or other structure designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building, or other structure.

Public place means any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, spaces, grounds, and buildings.

Refuse means all putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and solid market and industrial wastes.

Rubbish means nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

Vehicle means every device in, upon or by which person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

(Ord. No. 16-3, § 1, 4-4-77)

Sec. 6.05.002. Penalty.

Any person violating any Section of this Article shall be fined not less than \$25.00 and not more than \$200.00 per violation.

(Ord. No. 16-3, § 21, 4-4-77)

Sec. 6.05.003. Depositing in public place.

No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the City except in public receptacles, in authorized private receptacles for collection, or in official City dumps.

(Ord. No. 16-3, § 2, 4-4-77)

Sec. 6.05.004. Depositing injurious material in public park or recreational area.

- (a) No person shall throw or deposit in any public park or recreational area in the City, other than in designated trash receptacles, any glass bottle, glass, nails, tacks, wire, cans, or any other substance likely to injure any person.
- (b) The public parks and recreational areas of the City shall be posted with signs informing the public of the prohibition by this Section and the penalty for the violation hereof. The posting of such a sign shall be deemed prima facie evidence that the area posted is a public park or recreational area covered by the terms of this Section.

(Ord. No. 16-3, § 3, 4-4-77)

Sec. 6.05.005. Placement in receptacles so as to prevent scattering.

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

(Ord. No. 16-3, § 4, 4-4-77)

Sec. 6.05.006. Depositing or sweeping into gutter or street; duty to keep sidewalk clean.

No person shall sweep into or deposit in any gutter, street or other public place within the City the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free from litter.

(Ord. No. 16-3, § 5, 4-4-77)

Sec. 6.05.007. Duties of business owners and operators.

No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place within the City the accumulation of litter from any building or lot or from any public or private

sidewalk, driveway, or parking lot. Persons owning or occupying places of business within the City shall keep the sidewalk in front of their business premises free of litter.

(Ord. No. 16-3, § 6, 4-4-77)

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.

(Ord. No. 16-3, § 7, 4-4-77)

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.

(Ord. No. 16-3, § 8, 4-4-77)

Sec. 6.05.010. Depositing in park.

No person shall throw or deposit litter in any park within the City except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere.

(Ord. No. 16-3, § 9, 4-4-77)

Sec. 6.05.011. Depositing in water body or fountain.

No person shall throw or deposit litter in any fountain, pond, lake, stream, bay or any other body of water in a park or elsewhere in the City.

(Ord. No. 16-3, § 10, 4-4-77)

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.
- (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.

(Ord. No. 16-3, §§ 11—15, 4-4-77)

Sec. 6.05.013. Posting notices on poles, trees, etc.

No person shall post or affix any notice, poster or other paper or device, calculated to attract the attention of the public, to any lamppost, public utility pole or tree, or upon any public structure except as may be authorized or required by law.

(Ord. No. 16-3, § 16, 4-4-77)

Sec. 6.05.014. Depositing on occupied private property.

No person shall throw or deposit litter on any occupied private property within the City, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property.

(Ord. No. 16-3, § 17, 4-4-77)

Sec. 6.05.015. Duty to maintain premises free of litter.

The owner or person in control of any private property shall at all times maintain the premises free of litter; provided, however, that this Section shall not prohibit the storage of litter in authorized private receptacles for collection.

(Ord. No. 16-3, § 18, 4-4-77)

Sec. 6.05.016. Depositing on vacant lot.

No person shall throw or deposit litter on any open or vacant private property within the City, whether owned by such person or not.

(Ord. No. 16-3, § 19, 4-4-77)

Sec. 6.05.017. Dumping concrete or cement.

No person shall dump or deposit cement or concrete on any public or private property within the City except when the cement or concrete dumped or deposited is done so for actual construction purposes such as a foundation, sidewalk, cement slab, walls, floors, art forms, or other cement or concrete objects.

(Ord. No. 16-3, § 20, 4-4-77)

CHAPTER 7

MUNICIPAL COURT

ARTICLE 7.01. GENERAL PROVISIONS⁶**Sec. 7.01.001. Clerk.**

The City Secretary is hereby appointed Ex-Officio Clerk of the municipal court of the City, to serve for a term as set out in V.T.C.A., Government Code § 29.010. The Clerk may be removed from office by the City Council prior to the expiration of any term of office. The Ex-Officio Court Clerk shall have all powers granted to court clerks by the laws of the State.

(Ord. No. 2-5, 8-4-76)

State law reference(s)—Municipal court clerk generally, V.T.C.A., Government Code § 29.010.

ARTICLE 7.02. FINES, COSTS AND SPECIAL ASSESSMENTS**Sec. 7.02.001. Building security fund.**

- (a) *Established; amount of fee.* As authorized by V.T.C.A., Code of Criminal Procedure art. 102.017, there is hereby created a municipal court building security fund. Each defendant convicted of a misdemeanor offense in the municipal court shall pay a \$3.00 security fee as a cost of court. This fee shall be deposited into a fund to be known as the municipal court building security fund. A person is considered convicted for purposes of this court cost fee under any circumstance provided in V.T.C.A., Code of Criminal Procedure art. 102.017(c).
- (b) *Administration; authorized uses.* The municipal court building security fund shall be administered under the direction of the City Council and shall be used to finance security equipment and services for buildings that house a municipal court as more particularly provided by V.T.C.A., Code of Criminal Procedure art. 102.017(d).

(Ord. No. 9-2, 11-8-01)

⁶State law reference(s)—Municipal courts generally, V.T.C.A., Government Code § 29.001 et seq.; jurisdiction of municipal courts, V.T.C.A., Government Code § 29.003.

State law reference(s)—Authority to establish municipal court building security fund, V.T.C.A., Code of Criminal Procedure art. 102.017.

Sec. 7.02.002. Technology fund.

(a) *Established.*

- (1) There is hereby created and established a municipal court technology fund, herein known as the fund, pursuant to V.T.C.A., Code of Criminal Procedure art. 102.0172.
- (2) The fund shall be maintained in an interest-bearing account and may be maintained in the general revenue account.

(b) *Amount of fee; assessment and collection.*

- (1) The fee shall be in the amount of \$4.00.
- (2) The fee shall be assessed and collected from the defendant upon conviction for a misdemeanor offense in the municipal court as a cost of the court. A defendant is considered convicted if:
 - a. A sentence is imposed on the person;
 - b. The person is placed on community supervision, including deferred adjudication community supervision; or
 - c. The court defers final disposition of the person's case.
- (3) The fee shall be collected on conviction for an offense committed on or after January 1, 2000.
- (4) The Clerk of the Court shall collect the fee and pay the fee to the Municipal Secretary, who shall deposit the fee into the municipal court technology fund.

(c) *Designated uses; administration.*

- (1) A fund shall be used only to finance the purchase of technological enhancements for the municipal court of the City, including those items as specified in V.T.C.A., Code of Criminal Procedure art. 102.0172.
- (2) The fund shall be administered by or under the direction of the City Council.

(Ord. No. 9-1, 12-9-99)

State law reference(s)—Authority of municipality to establish municipal court technology fund, V.T.C.A., Code of Criminal Procedure art. 102.0172.

CHAPTER 8 OFFENSES AND NUISANCES

ARTICLE 8.01. GENERAL PROVISIONS⁷

⁷State law reference(s)—Authority of governing body to adopt ordinance, rule or police regulation for the good government, peace or order of municipality, V.T.C.A., Local Government Code § 51.001; nuisances and general sanitation, V.T.C.A., Health and Safety Code § 341.011 et seq.

Sec. 8.01.001. Use of easement greens.

(a) *Prohibited acts.*

- (1) It shall be unlawful for any person to cut any tree within the easement green that is larger than ten inches in circumference or three inches in diameter. Special permission may be obtained from the City Manager to cut and remove dead trees located within easement greens.
- (2) Persons using the easement greens for vehicle traffic shall not damage the easements so that they become unsightly, such as to make ruts that will cause soil erosion. Persons causing such damage will be required to make repairs to the damaged areas.
- (3) Any utility company using the easement greens shall repair any damage caused by the use of large trucks, digging or trenching equipment, etc.
- (4) It shall be unlawful for any person to place brush, building materials, paper, metal, trash or garbage upon an easement green.
- (5) It shall be unlawful for any type of vehicle, trailer, or any other obstacle to be parked or placed upon an easement green.

(b) *Violations; penalty.*

- (1) Any violation of this Section shall result in a complaint being filed by the Police Department in writing to the violator. The violation must be resolved within ten working days from date of notification of the violation. Should the violation fail to be resolved within the cited time frame, a summons will be issued to the violator to appear in municipal court.
- (2) The violation of any provisions of this Section is declared a misdemeanor, and each day or part thereof the violation shall continue shall be considered a separate violation, each violation being punishable by a fine of not more than \$200.00.

(Ord. No. 2017-07, att. B, 11-14-17)

Sec. 8.01.002. Prevention of spread of oak wilt.

(a) *Requirements.* Any public or private utility company, surveyor, governmental agency, contractor, house moving company, or commercial tree service business, whether a sole proprietor, corporation, limited partnership, liability company or joint venture, engaged in the trimming of Live Oak, Shumard Oak, Spanish Oak, or Black Jack Oak (any Red Oak group) trees, shall be required to carry out the procedures herein described:

- (1) Prior to trimming each Live Oak, Shumard Oak, Spanish Oak, Black Jack Oak (and Red Oak group) tree, all cutting devices to be used on said tree shall be thoroughly treated with a solution of at least six ounces chlorine bleach and one gallon of water.
- (2) Upon removing any limb greater than three-fourths-inch in diameter, or creating a wound of one inch square or larger, said wound shall be immediately treated with a tree wound paint.

(b) *Penalty.* Violation of the requirements contained herein shall constitute a class C misdemeanor punishable by a fine of not less than \$10.00 nor greater than \$200.00 for each and every violation.

(Ord. No. 14-20, 5-11-95)

ARTICLE 8.02. MINORS

DIVISION 1. GENERALLY

Secs. 8.02.001—8.02.030. Reserved.

DIVISION 2. CURFEW

Sec. 8.02.031. Definitions.

For the purpose of this Division, the following words, terms and phrases shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Curfew hours means:

- (1) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. on the following day; and
- (2) 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday.

Direct route means the shortest path of travel through a public place to reach a final destination without any detour or stop along the way.

Emergency means a sudden or unexpected occurrence of a serious and urgent situation which requires immediate action to preserve life or property, including but not be limited to a fire, a natural disaster, an automobile accident, or seeking immediate medical treatment for any person.

Interstate transportation means transportation between states of the United States or between a state of the United States and foreign country, to which any travel through the City is merely incidental.

Intrastate transportation means transportation between locations within the State, to which any travel through the City is merely incidental.

Minor means any person less than 17 years of age.

Parent means a person who is the assumed parent or adoptive parent of a minor; as used herein "parent" shall also include a court-appointed guardian, or other person 21 years of age or older who has been authorized by the parent or by a court order or by the court-appointed guardian to have the care and physical control of a minor.

Public place means any place to which the public or a substantial group of the public has access, and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transportation facilities, restaurants and shops.

Sec. 8.02.032. Offenses.

- (a) It shall be unlawful for any minor to intentionally or knowingly remain, walk, run, stand, drive or ride about in or upon any public place in the City during curfew hours.
- (b) It shall be unlawful for a parent of a minor to knowingly allow or permit the minor to be in violation of the curfew imposed in subsection (a) of this Section.

- (c) It shall be unlawful for any owner, operator, or employee of any privately owned place of business operated for a profit, to which the public is invited, to knowingly allow a minor or minors to remain upon the premises of said place of business during curfew hours.
- (d) It shall not be a defense to the application of this Division that a parent gave the minor the permission to violate this Division for no purpose other than the parent had the authority over his minor to do so.

Sec. 8.02.033. Exceptions and defenses.

- (a) No officer shall detain a minor where an exception to the application hereof is apparent. It is a defense to prosecution under Section 8.02.032 that, at the time of the act that otherwise would constitute an offense:
 - (1) The minor was accompanied by his or her parent;
 - (2) The minor was accompanied by an adult 21 years of age or older approved by the parent;
 - (3) The minor was on an emergency errand;
 - (4) The minor was attending a school, religious or government-sponsored activity, or going to or coming from a school, religious or government-sponsored activity;
 - (5) The minor was engaged in a lawful employment activity or labor organization meeting or going to or coming from said lawful employment or labor organization meeting;
 - (6) The minor was on the premises of the place where such minor resides or on the premises of a next-door neighbor and said neighbor was not communicating an objection to a peace officer regarding the presence of said minor;
 - (7) The minor was in a motor vehicle involved in intrastate or interstate transportation or was awaiting transportation by such means;
 - (8) The minor was married or had been married or had disabilities of minority removed in accordance with the Texas Family Code;
 - (9) The minor was on a direct route to his or her place of residence from an activity which he or she left within the lawful curfew time;
 - (10) In a prosecution under Section 8.02.032(c), the owner/operator or employee of the place of business promptly notified the Police Department that a minor was present on the premises of the business during curfew hours and refused to leave: or
 - (11) The minor was exercising his or her First and Fourteenth Amendment rights protected by the United States Constitution, including, but not limited to, the free exercise of religion, freedom of speech, and the right of assembly.
- (b) It shall not be a defense to the application of this Division that a parent gave the minor permission to violate this Division.

Sec. 8.02.034. Enforcement procedure.

- (a) Any peace officer, upon finding a minor in violation of Section 8.02.032(a), shall record the name and address of the minor and his or her parent(s) or guardian(s), and shall issue a citation to the minor for the violation of this Division referring said juvenile and parent to appear before the municipal court. At the discretion of the investigating police officer, a written warning citation may be issued. Said minor shall be ordered by the officer to go home by the most direct means and route. In the event said minor is in pedestrian mode or has no transportation, the officer shall transport the minor to his or her residence or shall make arrangements for said minor's parents or guardian to take custody of said minor.

- (b) A copy of the citation shall be forwarded to the City's Police Department, which shall send correspondence to the parent(s) or guardian(s) of the minor who was found in violation of this Division, advising of the violation of this Division and addressing the City's expectation and requirement of parental control of the minor.

Sec. 8.02.035. Periodic review.

This Division shall be reviewed before the third anniversary of the passage of this Section, and every three years thereafter, as required by V.T.C.A., Local Government Code § 370.002, as amended. Such review shall be conducted following a public hearing upon the need to continue the Division, and the City Council shall have the option to continue, abolish, or modify the Division based upon its review of the Division's effects on the community and on the problems the Division is intended to remedy.

Sec. 8.02.036. Penalty.

- (a) Any minor violating the provisions of this Division shall be guilty of a class C misdemeanor as defined in the Texas Penal Code and shall be dealt with in accordance with the provisions of V.T.C.A., Family Code tit. 3 and V.T.C.A., Code of Criminal Procedure tit. 3.
- (b) A parent who violates Section 8.02.032(b) or a person who violates Section 8.02.032(c) shall be guilty of a misdemeanor, which shall be punishable by a fine of not less than \$100.00 or more than \$500.00.
- (c) In assessing punishment for either a parent or a minor, the municipal court judge may consider community service.

(Ord. No. 2020-01, 1-14-20)

ARTICLE 8.03. NOISE

Sec. 8.03.001. Penalty.

The violation of any provision of this Article is declared a misdemeanor, and each day or any part thereof the violation shall continue shall be considered a separate violation, each violation being punishable by a fine of not more than \$200.00.

Sec. 8.03.002. Unreasonable noise prohibited.

The creation of any unreasonable loud, disturbing and unnecessary noises in the City is hereby prohibited. Noises of such character, intensity and duration as are reasonably calculated to cause material distress, discomfort or injury to persons of ordinary sensibilities, or to be detrimental to the life or health of any ordinary reasonable person, are hereby prohibited.

Sec. 8.03.003. Specific noises prohibited.

The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this Article; provided, however, that such enumeration shall not be construed to be exclusive of other noises, to wit:

- (1) The sounding of any horn or signal device on any automobile, motorcycle, bus, or other vehicle while not in motion, except as a danger signal if another vehicle is approaching apparently out of control, or

- if in motion only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for any unnecessary and unreasonable period of time.
- (2) The playing of any radio, phonograph or any musical instrument in such manner, or with such volume, particularly during the hours between 11:00 p.m. and 7:00 a.m., as to create a noise such as reasonably calculated to disturb a person of ordinary disposition under the same or similar circumstances residing in a dwelling or other type of residence in the vicinity. No stationary loudspeaker or amplifier shall be operated on any weekday between the hours of 11:00 p.m. and 7:00 a.m., and no such stationary loudspeaker or amplifier shall be operated at any time on Sunday between the hours of 7:00 a.m. and 1:00 p.m.
 - (3) The use of any automobile, motorcycle, or vehicle so out of repair, so loaded or operated in such manner as to create loud or unnecessary noises such as spinning or squealing tires, grating, grinding, rattling or other noise.
 - (4) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or boat engine except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
 - (5) The use of any mechanical device operated by compressed air, except pneumatic drills, unless the noise thereby created is effectively muffled and reduced.
 - (6) The erection (including excavation), demolition, alteration or repair of any building or subdivision construction activities in a residential or business district other than between the hours of 7:00 a.m. and 8:00 p.m., except in case of urgent necessity in the interest of public safety, and then only with a permit from the City Manager, which permit may be renewed for a period of three days or less while the emergency continues.
 - (7) The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale of merchandise.
 - (8) The use of loudspeakers or amplifiers on trucks or other vehicles, except where specific license is granted by the City Manager.
 - (9) The keeping of any animal or bird which by causing frequent or long-continued noise shall disturb the comfort and repose of any person of ordinary sensibilities in the immediate vicinity.

(Ord. No. 2015-16, 11-10-15)

ARTICLE 8.04. WEAPONS

Sec. 8.04.001. Discharge of firearms and other weapons.

- (a) *Firearms.* Any person who shall fire or discharge any cannon, gun, pistol, or firearm of any description, except in cases of urgent or grave necessity, in the City, shall be guilty of a misdemeanor, except as provided herein. The firing or discharge of guns, pistols, cannons, and/or firearms is allowed in the following circumstances:
 - (1) Under the direction and under regulations to be established by the Chief of Police and the City Manager, animal control personnel and police officers may fire or discharge guns, pistols, cannons, firearms or blowguns which fire projectiles designed to render animals, reptiles, fowl, or amphibians harmless, while the officers are in the line of their daily duties; or

- (2) Any police officer in the protection of oneself or another in the line of duty as prescribed by State law.
- (b) *Bows and arrows.*
- (1) Any person who shall discharge or cause to be discharged an arrow from a bow, compound bow or crossbow within the City limits shall be guilty of a misdemeanor if the purpose for the discharging of the arrow is as follows:
- a. Discharging of an arrow for taking of sporting game, an animal or fowl of any type; or
 - b. Discharging of an arrow for the purpose of rendering disabled or crippling of an animal, reptile, amphibian, or fowl of any species.
- (2) A target arrow may be used within the City limits for target practice only, providing the following conditions exist:
- a. A suitable target trap be established which would prevent the free flow of the arrow in all circumstances;
 - b. No unattended/unsupervised minor is utilizing the target area;
 - c. No arrows may be barbed, offset, or otherwise constructed to create muscle destruction or designed to prevent quick removal; and
 - d. All arrows must be tagged with the shooter's name written on the arrow.

Sec. 8.04.002. Firearms—Permitted circumstances of use.

The provisions of Section 8.04.001 shall not apply in the following cases:

- (1) To sheriffs, constables, marshals, policemen or other duly appointed peace officers in the discharge of their official duties, nor to any person summoned by any such officer to assist in making arrests or preserving the peace while said person so summoned is actually engaged in assisting such officer;
- (2) To members of the Army, Navy or Marine Corps of the United States, or the National Guard when on duty, nor to any other organizations which, by the United States Federal government, are authorized to use such firearms;
- (3) To members of any lawfully organized club when using said firearms for the purpose of practicing shooting at targets upon police-approved target ranges;
- (4) To persons using firearms in necessary self-defense and in a reasonable manner;
- (5) To the owner or occupant of any land who has been granted temporary permission by the Chief of Police to shoot birds, otherwise lawfully killed, when they become a nuisance on such land;
- (6) To persons firing blank cartridges in shows, athletic contests, or other public performances;
- (7) At a municipal firing range when authorized by the Chief of Police or the City Manager;
- (8) On land as described in V.T.C.A., Local Government Code § 229.002.

Sec. 8.04.003. Penalty.

Any person, or persons, who violates any of the provisions of this Section shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not less than \$200.00 nor more than \$500.00 for each offense, and each violation hereof shall be deemed a separate and distinct offense for each day and shall be punishable as such.

(Ord. No. 2015-06, 7-14-15)

ARTICLE 8.05. JUNKED VEHICLES, ABANDONED VEHICLES AND OTHER ABANDONED PROPERTY

Sec. 8.05.001. Definitions.

In this Article:

Abandoned motor vehicle has the meaning prescribed by V.T.C.A., Transportation Code § 683.002 (Abandoned Motor Vehicle).

Abandoned property means personal property, other than a motor vehicle, that is left unattended in a public place:

- (1) In violation of law;
- (2) For more than 48 continuous hours; or
- (3) In a manner that interferes with vehicular or pedestrian traffic.

Inoperable motor vehicle means a motor vehicle that, because of mechanical failure, breakdown, or disrepair, cannot be started, driven, operated, steered, or stopped under its own power and without causing damage to the vehicle.

Junked vehicle means:

- (1) A vehicle that is self-propelled and:
 - a. Does not have lawfully attached to it:
 1. An unexpired license plate; and
 2. A valid motor vehicle inspection certificate; and
 - b. Is:
 1. Wrecked, dismantled or partially dismantled, or discarded; or
 2. Inoperable and has remained inoperable for more than:
 - i. 72 consecutive hours, if the vehicle is on public property; or
 - ii. 30 consecutive days, if the vehicle is on private property.
- (2) A boat or personal watercraft that:
 - a. Does not have lawfully attached to it an unexpired vessel registration; and
 - b. Is:
 1. Wrecked, dismantled or partially dismantled, or discarded; or
 2. Inoperable and has remained inoperable for more than:
 - i. 72 consecutive hours, if the vehicle is on public property; or
 - ii. 30 consecutive days, if the vehicle is on private property.

(Ord. No. 14-22A, § 14-22a, 12-21-10)

Sec. 8.05.002. Declaration of nuisance; offenses; penalty.

- (a) Abandoned property, an abandoned motor vehicle, or a junked vehicle is a public nuisance.
- (b) An inoperable motor vehicle left on public property for more than 48 continuous hours is a public nuisance.
- (c) A person commits an offense if the person creates or maintains a public nuisance described by this Section. Each day that the nuisance persists is a separate offense.
- (d) A culpable mental state is not required, and need not be proved, for an offense under this Section.
- (e) An offense under this Section is a class C misdemeanor punishable by a fine not to exceed \$500.00.

(Ord. No. 14-22A, § 14-22b, 12-21-10)

Sec. 8.05.003. State law on abandoned motor vehicles adopted; enforcement.

- (a) V.T.C.A., Transportation Code ch. 683 (Abandoned Motor Vehicles) is adopted by reference.
- (b) The City may abate a nuisance, take custody of a vehicle, and dispose of a vehicle as provided in V.T.C.A., Transportation Code ch. 683 (Abandoned Motor Vehicles).
- (c) The municipal court shall issue necessary orders to enforce procedures prescribed by this Article or by V.T.C.A., Transportation Code ch. 683 (Abandoned Motor Vehicles).

(Ord. No. 14-22A, § 14-22c, 12-21-10)

Sec. 8.05.004. Impoundment and storage fees.

- (a) The City Council shall by ordinance establish the fees for the impoundment and storage of abandoned property, an abandoned motor vehicle, or a junked motor vehicle.
- (b) Notwithstanding a fee established by ordinance, the City may recover the actual costs incurred by the City in impounding, storing, advertising the property, and providing required notices.

(Ord. No. 14-22A, § 14-22d, 12-21-10)

Sec. 8.05.005. Interference with impoundment.

- (a) A person commits an offense if the person knowingly interferes with the impoundment of property under this Article or under V.T.C.A., Transportation Code ch. 683 (Abandoned Motor Vehicles).
- (b) An offense under this Section is a class C misdemeanor punishable by a fine not to exceed \$500.00.

(Ord. No. 14-22A, § 14-22e, 12-21-10)

Sec. 8.05.006. Exception for trash receptacles.

This Article does not apply to a trash receptacle placed in compliance with City ordinances.

(Ord. No. 14-22A, 14-22f, 12-21-10)

Sec. 8.05.007. Impoundment of abandoned property other than motor vehicle.

- (a) The City may remove abandoned property to a place of impoundment designated by the City Manager.
- (b) If the person's name and address is known, the City Manager shall, no later than the tenth business day after the date of the impoundment, notify a person whose property is impounded under this Section that the property has been impounded.
- (c) The City has a lien against impounded property for the fees provided by ordinance and for costs incurred by the City in impounding, storing, and advertising the property, and providing required notices. The lien is prior and superior to all other liens of every kind, except a lien for ad valorem taxes. The City may retain possession of the property until all costs are paid and may sell the property as provided in this Section.
- (d) A person legally entitled to possession of impounded property may redeem the property by paying the fees and costs described in subsection (c).
- (e) The City Manager may sell impounded property as provided in this subsection.
 - (1) Before selling impounded property, the City Manager shall post notices at the County courthouse and at the City Hall, and shall have the notice published once a week for two consecutive weeks in the official newspaper of the City. The date of the posted notices and of the first published notice must be no later than the 14th day before the date of the sale. The notice must describe the impounded property, state that the property is redeemed and will be sold, and state the date, time, place, and manner of sale.
 - (2) If impounded property is not redeemed by the date and time stated in the notice, the property shall be sold as provided in the notice. The buyer takes the property conditioned on the right of redemption under subsection (f).
 - (3) The City Manager shall deduct the fees and costs described in subsection (c) from the proceeds of the sale and hold the balance, if any, for the owner of the property. If the owner fails to claim the proceeds before the 31st day after the date of the sale, the proceeds become the property of the City.
- (f) If the property has been sold, a person legally entitled to possession of impounded property may redeem the property from the buyer of the property by paying the buyer double the amount paid by the buyer of the property, and any reasonable expenses incurred by the buyer for keeping the property. Property may not be redeemed under this subsection after the 30th day after the date of the sale.

(Ord. No. 14-22A, § 14-22g, 12-21-10)

State law reference(s)—Disposition of abandoned or unclaimed property, V.T.C.A., Code of Criminal Procedures art. 18.17.

Sec. 8.05.008. Notice before impoundment of abandoned motor vehicle.

- (a) Not later than 48 hours before impounding an abandoned motor vehicle under this Article, a police officer or a civilian employee designated by the Police Chief shall securely affix a visible, dated, brightly colored notice to the vehicle. The Police Chief shall maintain a record of the date and time each notice is affixed.
- (b) Proof that the motor vehicle was not removed from the public or private property after the notice was attached to the vehicle is prima facie proof in any court that:
 - (1) The vehicle was left unattended and abandoned for the period of time between the affixing of the notice and the impounding of the motor vehicle; and

- (2) The owner of the vehicle allowed the motor vehicle to remain at the place where the motor vehicle was impounded for the period of time between the affixing of the notice and the impounding of the motor vehicle.

(Ord. No. 14-22A, § 14-22h, 12-21-10)

Sec. 8.05.009. Notice to remove junked vehicle.

- (a) If a junked vehicle is located on property in violation of this Article, the Police Chief shall mail by certified or registered mail, return receipt requested, a written order to the owner or the occupant of the property, or, if the vehicle is located on a public right-of-way, to the owner or occupant of the property adjacent to the right-of-way, that:
 - (1) States the nature of the public nuisance;
 - (2) Orders the owner or occupant to remove and abate the vehicle no later than the tenth day after receipt of the notice;
 - (3) Describes the right to request a hearing; and
 - (4) States the consequence of a failure to request a hearing as set forth in this Section.
- (b) An owner or occupant who receives a notice under subsection (a) may request a hearing to determine whether a vehicle is a junked vehicle. The owner or occupant must make the request to the municipal court clerk not later than the tenth day after the date the owner or occupant receives the notice. The request may be made in person or in writing, without the requirement of bond.
- (c) If an owner or occupant does not timely request a hearing under subsection (b):
 - (1) It is conclusively presumed that the vehicle is a junked vehicle; and
 - (2) The Police Chief shall:
 - a. Remove the vehicle; and
 - b. Take possession of the vehicle.
- (d) In addition to the order mailed under subsection (a), a police officer shall securely affix a visible, dated, brightly colored notice to the vehicle. The notice must be of a color other than the color used for a notice under Section 8.05.008 (notice before impoundment of an abandoned vehicle). The notice shall state:
 - (1) The information required in subsection (a); and
 - (2) The date the notice was affixed.
- (e) The notice described in subsection (d) is not a condition or requirement precedent to any proceeding or official action to abate a public nuisance, and a proceeding or action is not void, voidable, or in any way affected by a failure to affix the notice. The time within which a hearing must be requested is controlled by the order under subsection (a).

(Ord. No. 14-22A, § 14-22i, 12-21-10)

Sec. 8.05.010. Hearing on junked vehicle.

- (a) If a hearing is requested under Section 8.05.009(b), the municipal court clerk shall notify the owner or occupant of a date and a time when the owner or occupant may appear before a municipal court judge for a hearing to determine whether a vehicle is a junked vehicle.

- (b) A municipal court judge shall determine by a preponderance of the evidence whether or not a vehicle is a junked motor vehicle. The hearing is civil in nature and shall be as summary as due process and orderly procedure allow.
 - (c) On a finding that a vehicle is a junked vehicle, the judge shall order that:
 - (1) The owner or occupant shall remove the vehicle and abate the nuisance no later than the tenth day; and
 - (2) If the owner or occupant fails or refuses to abate or remove the vehicle as ordered, the Police Chief shall:
 - a. Remove the vehicle; and
 - b. Take possession of the vehicle.
 - (d) The municipal court clerk shall deliver notice of a hearing set under this Section to the Police Chief.
 - (e) The relocation of a junked vehicle that is a public nuisance to another location in the City or the County after a proceeding for the abatement and removal of the public nuisance has commenced has no effect on the proceeding if the junked vehicle constitutes a public nuisance at the new location.
- (Ord. No. 14-22A, § 14-22j, 12-21-10)

CHAPTER 9 PERSONNEL

ARTICLE 9.02. TEXAS MUNICIPAL RETIREMENT SYSTEM⁸

Sec. 9.02.001. On file.

The specific ordinances providing for participation in the Texas Municipal Retirement System, as adopted by the City, are not included in this Article, but they are hereby specifically saved from repeal and shall be maintained on file in the office of the City Secretary.

ARTICLE 9.03. POLICE

DIVISION 1. GENERALLY

Sec. 9.03.001. Office of Marshal abolished; office of Chief of Police and Police Department created.

- (a) The office of Marshal of the City is hereby dispensed with and abolished.

⁸State law reference(s)—Texas Municipal Retirement System generally, V.T.C.A., Government Code ch. 851 et seq.

- (b) The office of Chief of Police and the Police Department are hereby created, said Chief of Police and Police Department to be appointed and removed by the City Council and being at all times under the control of the City Manager.
 - (c) The duties of the former office of Marshal are hereby conferred upon the Chief of Police.
- (Ord. No. 11-8, 12-1-76)

Sec. 9.03.002. Qualifications and general duties of Chief of Police.

The Chief of Police shall be well informed in the law and ordinances of the City and shall at all times be vigilant and active in causing them to be duly enforced and obeyed throughout the limits of the City. The Chief of Police shall perform such duties as may be imposed upon him by State law or City ordinance.

(Ord. No. 11-1, 8-26-70)

Sec. 9.03.003. Supervision and control of police force.

The Chief of Police shall supervise, control and direct the police force or police officers of the City and see that members thereof promptly and faithfully perform their duties. He shall apportion the police force or police officers into different areas of the City, so that the entire City may be protected at all times.

(Ord. No. 11-2, 8-26-70)

Sec. 9.03.004. Arrest of persons violating law or ordinance.

- (a) It shall be the duty of the Chief of Police and/or his deputies to arrest, with or without warrant, any person who, in his presence, violates any ordinance of the City, or when informed by any credible person that such person [to] be arrested has violated any ordinance of the City, or State law, and is about to escape.
- (b) It shall be the duty of the Chief of Police and his deputies, on becoming cognizant of the violation of any law or ordinance, to forthwith arrest, with or without process, any and all persons guilty of such violations, or of aiding, abetting or assisting therein, and to take such person or persons before the municipal court or other competent tribunal within the City for trial.

(Ord. No. 11-3, 8-26-70)

Sec. 9.03.005. Preservation of free passage; protection of persons and property.

It shall be the special duty of the Chief of Police and his deputies to see that free passage for persons and vehicles is at all times preserved on the streets, sidewalks, and other public places in the City and to protect the rights of persons and property.

(Ord. No. 11-4, 8-26-70)

Sec. 9.03.006. Arrest of persons found in suspicious places or circumstances.

It shall be the duty of each and every member of the Chief of Police's office or his deputies to arrest, with or without warrant, all persons found in suspicious places or under circumstances which reasonably show that such person has been guilty of some felony or breach of the peace.

(Ord. No. 11-5, 8-26-70)

Sec. 9.03.007. Special police officers.

- (a) The Mayor is hereby given authority to appoint special police officers at private places of business and institutions for duty in and at such places of business and institutions, upon request and upon the recommendation of the owners or proprietors of such places of business and institutions and of the Chief of Police.
- (b) Such appointee shall be paid by the person requesting his appointment and in no event shall the City be liable for the pay of these parties.
- (c) Before any special police officer shall be appointed, he shall furnish the City a good and sufficient bond or public liability policy in writing in the sum of \$5,000.00, to be approved by the Mayor, and sufficiently conditioned that the holder of such special police officer appointment shall well and truly pay to the City, for the benefit of every judgment creditor, other than the appointee or his employer or employees, who has been injured or whose property has been damaged through negligence on the part of the appointee in the performance of his duties as special police officer. The bond or public liability policy required by this Section shall be executed by a solvent surety company or insurance company authorized to do business in this State.
- (d) While on duty in and at such places of business and institutions, such special police officer shall have the power and authority of the Chief of Police, and shall see that the laws and City ordinances of the City are complied with. Such special police officer shall be subject to the rules and regulations of the Chief of Police's office and all ordinances of the City relating to the management and control of the office of Chief of Police.

(Ord. No. 11-6, 8-26-70)

Secs. 9.03.008—9.03.040. Reserved.***DIVISION 2. NON-PAID AUXILIARY POLICE FORCE*****Sec. 9.03.041. Purpose.**

Whereas the City has continued to grow, the need for a non-paid professional police force to augment the active force in times of active law enforcement in case of emergencies or on special occasions is a necessity.

(Ord. No. 11-11, pt. 1, 5-10-01)

Sec. 9.03.042. Composition; control and supervision.

- (a) The non-paid police force, an auxiliary police force, shall be composed of licensed peace officers from the State who hold at least a basic peace officer's license. Application for the force shall be processed in duplicate manner as that of the regular police force. It shall be composed of not more than ten members. The non-paid police force shall be an entity of the City Police Department but shall have a supervisory sergeant, who is also a non-paid member of the force, as the liaison between the regular force and the non-paid force. The non-paid force shall be headed by the Chief of Police. Members of the non-paid police force must adhere to the principles, policies, and beliefs of the paid force with no compensation for their duties.
- (b) The members of the non-paid police force shall be under the authority, control, and command of the Chief of Police of the City, subject to all the provisions of ordinances of the City. Members of the non-paid police force shall be appointed by application process and are considered on probation for a period of one year from the commission date.

(Ord. No. 11-11, pt. 2, 5-10-01)

Sec. 9.03.043. Identification card; status as peace officers; resignation, termination or expulsion of members.

- (a) Each non-paid officer is to be issued a departmental identification card which shows he or she as a member of the police force. The card is to be signed by the Chief of Police and must be carried by each member of the non-paid force at all times. Under Vernon's Civil Statutes, the non-paid officer commissioned as a full peace officer is vested with all the rights and privileges that accompany "peace officer" status in the State. Upon termination or separation from the department, the non-paid officer is to surrender his or her identification card and badge of office. There is no expectation of tenure. A non-paid police officer may be terminated from duty for violation of any of the policies and procedures of the Police Department or City, and/or for failure to log the minimum hours of time required of a non-paid police officer. A member of the non-paid police force may resign at any time he or she wishes; however, it shall be his or her duty to notify the Chief of Police in writing as stated by City policy.
- (b) In addition to penalties provided by law, any violation of law under color of performance of his or her duties as a member of the non-paid police force and any breach of rules and regulations established by the Chief of Police shall subject any members of the non-paid police force to summary expulsion. Such expulsion will be made knowledge to the State Commission on Law Enforcement Officer Standards and Education.

(Ord. No. 11-11, pt. 3, 5-10-01)

Sec. 9.03.044. Duties.

The duties of the non-paid police force, subject at all times to the direction and discretion of the Chief of Police, shall be to assist the regular force of the Police Department of the City in the enforcement of law and the maintenance of peace and order. The Chief of Police may, by order, establish rules and regulations to govern the non-paid force, to affix specific duties of its members and to provide for the maintenance of discipline within the non-paid police force. He may change such orders from time to time, and may command members of the police non-paid force to obey the orders of the regular police force when the Chief of Police is not present. At all times, the non-paid officers shall take direction from the regular police force when working alongside in a police-related incident. The Chief may prescribe other duties than those mentioned herein to be performed by the police non-paid force, not inconsistent with the provisions hereof.

(Ord. No. 11-11, pt. 4, 5-10-01)

Sec. 9.03.045. Minimum hours; handgun qualification and in-service training; uniforms and equipment.

Each non-paid member of the City police force shall be required to log in a minimum of 16 clock hours a month to remain a member of the department. Each member is to log their hours worked and such log shall become a legal document of the City Police Department. Each non-paid police force member is to qualify yearly with his or her handgun as prescribed by the State Commission on Law Enforcement Officer Standards and Education, as well as, at their own expense, complete 40 clock hours of police in-service training (to include mandatory training) every two-year TCLEOSE cycles. The City Police Department, if available, will assist with non-paid officer uniforms, but the bulk of the expense is to be borne by the non-paid officer. No firearms, duty ammunition, or utility gear is to be furnished by the City.

(Ord. No. 11-11, pt. 5, 5-10-01)

Sec. 9.03.046. Eligibility for membership; qualifications.

A list of eligible members to the non-paid police force shall be compiled from those who make a written application for the position. TCLEOSE (State Commission on Law Enforcement Officer Standards and Education) guidelines shall be followed in the appointment. Each step of required documentation must be completed for each member of the non-paid police force. Each non-paid police officer is an ambassador of the City and shall abide in such manner at all times. Each member shall be of good character, have temperate personal habits, and be physically capable of performing the duties of a police officer. Non-paid officers shall not be holders of public office for pay, as this would constitute a conflict of interest situation. In addition, no City employee is eligible, notwithstanding the past, to be a member of the non-paid police force for like reasons. All applicants shall be approved by the Chief of Police.

(Ord. No. 11-11, pt. 6, 5-10-01)

ARTICLE 9.04. PERSONNEL POLICIES MANUAL**Sec. 9.04.001. Adopted.**

The personnel policies of the City, Ordinance 2013-2, adopted by the City on March 12, 2013, as amended, is included at the end of this Code as Appendix A. Such ordinance is printed therein as enacted, with only nonsubstantive formatting and style changes. Capitalization, punctuation and numbering of articles, sections and subsections have been retained as enacted. Subsequent amendments will be inserted in their proper place and denoted by a history note following the amended provisions. The absence of a history note indicates the material is unchanged from the original. Obviously misspelled words have been corrected without notation. Any other material added for purposes of clarification is enclosed in brackets. (Editorially supplied)

CHAPTER 10**SUBDIVISION REGULATION****ARTICLE 10.02. SUBDIVISION ORDINANCE*****DIVISION 1. GENERALLY*****Sec. 10.02.001. Purpose.**

The regulations contained herein are intended to protect the health, safety, and welfare of the citizens of the community. These regulations have been adopted to:

- (1) Provide minimum standards by which land may be subdivided and developed for the benefit of the citizens of the community;
- (2) Provide developers with guidance and assistance in the expedient preparation and approval of subdivision plats;
- (3) Prevent the citizens of the community from being burdened with the maintenance of substandard streets or roads; and

- (4) Provide for the welfare of the public by providing standards for the location, design, and construction of roadways, roadway intersections, drainage improvements, and other features that provide for the safety of the general public.

(Ord. No. 14-28, § I-1, 3-15-11)

Sec. 10.02.002. Authority.

- (a) This Article is adopted pursuant to the police powers of general law cities, and under authority of the Constitution and general laws of the State of Texas, including, but not limited to, V.T.C.A., Local Government Code ch. 212.
- (b) In accordance with the City's police powers and authority, and as specifically authorized by V.T.C.A., Local Government Code ch. 212, and other applicable laws, the Planning and Zoning Commission, as a condition of subdivision plat or replat approval, shall require the owners and developers of land who desire to subdivide, plat or replat, or lay out any land for development within the City or its extraterritorial jurisdiction, for urban development or other purpose, to provide for building setback lines, to dedicate streets, alleys, parks, easements or other public places or facilities of adequate width and size and to coordinate street layouts and street planning with the City's master plan, with other municipalities, and with County, State and federally designated highways, as they may deem best in the interest of the general public, in order to provide for the orderly development of the areas and to secure adequate provision for traffic, light, air, recreation, transportation, water, drainage, sewage and other facilities.

(Ord. No. 14-28, § I-2, 3-15-11)

Sec. 10.02.003. Jurisdiction.

Except as specifically provided otherwise herein, this Article shall apply to all subdivisions and all related land development activities, as they are both defined herein, and all land, any part of which is located within the jurisdiction of the City. The jurisdiction of the City shall be defined as follows:

- (1) The corporate limits of the City of Morgan's Point Resort, Texas; and
- (2) The extraterritorial jurisdiction of the City of Morgan's Point Resort, Texas; and
- (3) Any additional area outside subsections (a) and (b) above as permitted by law and which has been approved by the Council.

(Ord. No. 14-28, § I-3, 3-15-11)

Sec. 10.02.004. Policy.

In order to carry out the purposes hereinabove stated, it is hereby declared to be the policy of the City to consider the subdivision and/or development of land as subject to the control of the municipality, pursuant to the master plan, if any, as adopted or amended from time to time, for the orderly, planned, efficient and economical development of the City and its jurisdiction. This Section shall be administered such that:

- (1) Land to be subdivided and/or developed shall be of such nature, shape and location that with proper and careful design and development it can be safely used for building purposes without danger to health or risk of fire, flood, erosion, landslide or other menace to the general welfare;
- (2) A final plat shall not be recorded until the necessary public utilities and facilities and other required improvements exist or arrangements are made for their provision;

- (3) Buildings, lots, blocks and streets shall be arranged so as to provide for an attractive and healthful environment and to facilitate fire protection, and provide ample access to buildings for emergency equipment;
- (4) Land shall be subdivided and developed with due regard to topography and existing vegetation with the object being that the natural beauty and natural resources of the land shall be preserved to the maximum extent possible; and,
- (5) Existing features which would add value to development or to the City as a whole, such as scenic and special features, both natural and manmade, historic sites, native hardwood trees exceeding 18 inches caliper and similar natural assets shall be preserved in the design of the subdivision whenever possible.

(Ord. No. 14-28, § I-4, 3-15-11)

Sec. 10.02.005. Applicability.

The provisions of this Article, including design standards and improvement requirements, shall, except as specifically provided otherwise in this Article, apply to all subdivisions of land within the jurisdiction of the City, including, but not limited to, the following forms of land subdivision and development activity:

- (1) The division of land into two or more tracts, lots, sites or parcels, any part of which shall contain less than five acres in area when subdivided;
- (2) The division of land into two or more tracts, lots, sites or parcels, any part of which when subdivided shall contain five acres or more in area and will require the dedication or conveyance of any access, public right-of-way, easement, or any public improvement;
- (3) Land previously subdivided or platted into tracts, lots, sites or parcels, which subdivision was subject to, but not in accordance with, City or County ordinances in effect at the time of such subdividing or platting;
- (4) The combining of two or more contiguous tracts, lots, sites or parcels for the purpose of creating one or more legal lots in order to achieve a more developable site, except as otherwise provided herein;
- (5) Any planned unit development for which two or more lots, tracts, or parcels are designed, established or created for occupancy, use or a building site, or for which a building permit, plumbing permit, electrical permit, floodplain permit, utility tap, or certificate of acceptance for required public improvements is required by the City;
- (6) The platting of any existing legal deed-divided unplatted lot, parcel, site or tract;
- (7) The voluntary platting and recording of a subdivision plat dividing any land within the jurisdiction of the City into lots, parcels, sites or tracts;
- (8) Any plat having received approval from the Commission or the Council for which said approval has expired; or
- (9) The dedication of any street or alley through any tract of land, regardless of the area involved.

(Ord. No. 14-28, § I-5, 3-15-11)

Sec. 10.02.006. Definitions.

The following words, terms, and phrases, when used in this Article, shall have the meanings ascribed to them in this Section. Words used in the present tense include the future tense. Words used in the plural number include the singular, and words in the singular include the plural. The words, "shall" and "will" are mandatory and not

permissive. The word "may" is permissive and not mandatory. The word "herein" means in this Article. The word "regulations" means the provisions of any applicable ordinance, rule, regulation or policy. The word "person" means any individual, partnership, incorporated or unincorporated association, firm, corporation, governmental agency, political subdivision, or legal entity conducting business in accordance with this Article. The words "used or occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied."

Access means a way of approaching or entering a property.

Acre means a unit of area equal to 43,560 square feet. When calculating the acreage of any lot the gross square footage within the lot shall be used, provided any area within a private roadway easement or an easement for a shared access driveway shall be excluded.

Adjacent means abutting and directly connected to or bordering.

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

Applicant means a person applying for plan approval under this Article.

Approval means the final approval in a series of required actions. For instance, the approval date of a plat requiring approval of the Commission and then the Council is the date of Council approval.

Arterial street means a street designed to provide movement of traffic through the City.

Base floodplain means that area subject to inundation by flood, having a one-percent probability of occurrence in any given year, based on existing conditions of development within the watershed area, as determined by the flood insurance study for Bell County and/or Morgan's Point Resort provided by the Federal Emergency Management Agency (FEMA).

Block means a parcel of land, intended to be used for urban purposes, which is entirely surrounded by public streets, highways, railroad right-of-way, public walks, parks or green strips, rural land, drainage channels, or a combination thereof.

Bond means any form of security including a cash deposit, surety bond, collateral, property, or instrument of credit in an amount and form satisfactory to the City Council.

Building or setback line means a line or lines designating the interior limit of the area of a lot within which structures may be erected. The building lines generally provide the boundaries of the buildable area of any given lot and no structure or building may be erected between a building and the corresponding lot line.

Building permit means a permit issued by the City of Morgan's Point Resort which is required prior to commencing construction or reconstruction of any structure.

Buffer means a barrier constructed of wood, masonry, vegetation, and/or other landscape material in such a manner that adjacent uses will be separated to such a degree that objectionable noise, heat, glare, visual clutter, dust, loss of privacy, air circulation, and other negative externalities shall be abated.

Centerline, when referring to a waterway or drainage, means the centerline of the waterway and refers to existing topographically defined channels. If not readily discernible, the centerline shall be determined by:

- (1) The low flow line; or
- (2) The center of the two-year floodplain.

City means the City of Morgan's Point Resort, Texas.

City Administrator means the Chief Administrative Officer of the City of Morgan's Point Resort, Texas or his/her designated representative.

City Council or Council means the Morgan's Point Resort City Council.

City limits means within the incorporated boundaries of the City.

City staff means the officers, employees, and agents of the City assigned and designated from time to time by the City Administrator and/or Council, including, but not limited to, the City Engineer, to review and/or comment and report on development plans.

City standard details and specifications, when published, means a library of City-approved drawings and technical data representing typical drainage, transportation, erosion and sedimentation control, and utility appurtenances to be constructed for City acceptance.

Collector street means a street that serves as the most direct link for traffic from local streets to major or minor arterial streets.

Commission means the Planning and Zoning Commission of the City, or the City Council if a Planning and Zoning Commission is not operational.

Commissioners court means the Bell County Commissioners Court.

Contiguous means adjacent property whose property lines are shared and are not separated by a street, alley, easement green or right-of-way.

Corner lot means a lot located at the intersection of and abutting on two or more streets.

County means Bell County, Texas.

County appraisal district means the Bell County Appraisal District.

Crossfall means the transverse slope as related to a given longitudinal slope and measured by the rise to run ratio.

Crosswalk means a strip of land dedicated for public use and which is reserved across a lot or block for the purpose of providing pedestrian access to adjacent areas.

Cul-de-sac means a residential street having one end open to vehicular traffic and having one permanently closed end terminated by a vehicular turnaround.

Dead-end street means a street, other than a cul-de-sac, with only one outlet.

Dedication means the grant of an interest in property for public use.

Deed restrictions means a restrictive covenant expressed in a contract between the buyer and the seller of real property that imposes duties on the buyer or restricts the buyer's use of the land. These restrictions are usually expressed in the form of language in the deed to the property.

Design storm means a probable rainfall event, the frequency of which is specified in periods of years and which is used to design drainage facilities and determine flood elevations.

Detention means the temporary storage of stormwater runoff, with controlled peak discharge rates.

Detention time means the amount of time a body of water [is] actually present in a stormwater detention facility.

Developer (subdivider) means any person or agent thereof, dividing or proposing to divide land so as to constitute a subdivision as that term is defined herein. In any event, the term "developer" ("subdivider") shall be restricted to include only the owner, equitable owner, or authorized agent of such owner or equitable owner, of land sought to be subdivided.

Developed area means that portion of a lot, easement, or parcel upon which a building, structure, pavement or other improvements have been placed.

Development means a subdivision of land as defined herein or the construction or placement of any buildings, utilities, access, roads or other structures, excavation, mining, dredging, grading, filling, clearing or removing vegetation, and the deposit of refuse, waste, or fill. Lawn and yard care, including mowing of tall weeds and grass, gardening, tree care and maintenance, removal of trees or other vegetation damaged by natural forces, and ranching and farming shall not constitute development. Utility, drainage, and street repair, and any construction maintenance and installation which does not require land disturbance or result in additional impervious cover shall also not constitute development.

Development plan means a scaled drawing representing an area of land to be improved/developed and indicating the legal boundary of said property and the nature and extent of all existing and proposed improvements to said project. Development plans are not specified herein.

Double frontage lot means a lot which runs through a block from street to street and which abuts two or more streets.

Drainageway. See "waterway."

Drainfield means a private sewage facility, disposal area, trench, or bed utilized for final wastewater disposal.

Drive approach means a paved surface connecting the street to a front lot line.

Driveway means a portion of a lot used for access to the lot from a public highway, road, or street and not used for public circulation.

Dwelling unit means a residential unit designed to accommodate one household.

Easement means a grant of one or more of the property rights by the property owner to and/or for the use by the public, a corporation, or another person or entity.

Drainage easement means the right for the passage of natural drainage across private land, together with the right to enter thereon for the purpose of maintaining drainage structures and the free flow of drainage.

Nonaccess easement means an easement dedicated to the City, prohibiting vehicular access.

Utility easement means an easement granted for installing and maintaining utilities, access, over or under land, together with the right to enter thereon with machinery and other vehicles necessary for the maintenance of utilities.

Engineer means any person registered and currently licensed to practice engineering by the Texas State Board of Registration for Professional Engineers.

City Engineer means the engineer for the City [of] Morgan's Point Resort or his/her designated representative.

County Engineer means the engineer for the County of Bell or his/her designated representative.

Environment means the aggregate of social and physical conditions that influence the life of the individual and/or community.

Escrow funds means a deposit of cash or other approved security with the local government or approved bank or other financial institution in lieu of a performance or maintenance bond.

ETJ limits means the limits of the City's extraterritorial jurisdiction.

Extraterritorial jurisdiction (ETJ) means the unincorporated area, not a part of any City, which is contiguous to the corporate limits of any City. The extraterritorial jurisdiction of the various population classes of cities is as granted V.T.C.A., Local Government Code ch. 43.

FEMA means the Federal Emergency Management Agency.

Filing date means, with respect to plats and plans, the date their first public hearing before the Commission regarding such plat or plan; provided that, with respect to the required Council approval of preliminary plats, the filing date for such Council approval shall be the date of the first public hearing by the Council.

Floodplain means channel of a waterway and the adjacent land area subject to inundation during the design storm.

Floodway means channel of a waterway and the adjacent land areas that must be reserved in order to discharge the design storm without cumulatively increasing the water surface elevation.

French drain means a constructed feature that collects sub-surface water from poorly drained areas and carries it to a main drainage line, dry well, ravine, or the street.

Front yard means a space extending the full width of the lot between any building setback line and the front lot line, and measured perpendicular to the building at the closest point to the front lot line.

Frontage means that side of a lot, parcel, or tract of land abutting a street right-of-way and ordinarily regarded as the frontal orientation of the lot.

Gated subdivision means a limited access subdivision. See "subdivision."

GIS means geographic information system.

Governing body means the City Council of the City of Morgan's Point Resort, Texas.

G.P.S. means global positioning system.

Grade means the slope of a road, street, other public way, or utility line specified in terms of percent (%); the topographic relief of a parcel of land; the average elevation at ground level of the buildable area of a lot or parcel of land.

Grading means any stripping, cutting, filling or stockpiling of earth or land, including the land in its cut or filled condition.

Hardwood means broadleaf angiosperm typified by broad, flat leaves, as opposed to conifers or needled species, and which are typically, but not necessarily leafless for some time during the year.

Improvements means any street, alley, roadway, barricade, sidewalk, bikeway, pedestrian way, water line system, wastewater system, storm drainage network, public parkland, landscaping, or other facility or portion thereof for which the local government may ultimately assume responsibility for maintenance and operation or which may affect an improvement for which local government responsibility is established.

Individual on-site wastewater system or private sewage facility means all systems and methods used for the disposal of sewage, other than organized sewage disposal systems. Private sewage facilities are usually composed of three units: the generating unit (the residence, institution, etc.), treatment unit, and the disposal unit (the drainfield that may be an absorption trench or bed, or an evapotranspiration bed). A private sewage facility includes a septic tank, seepage tile sewage disposal system or any other on-lot sewage treatment device approved and installed in accordance with all local, State, and Federal laws and regulations.

Industrial means nonresidential use of any site involved in manufacturing and/or external storage of goods; any site generating significant negative externalities, such as noise, dust, glare, etc. and/or any site where hazardous materials are stored and/or generated.

Interior lot means a lot, other than a corner lot, bounded by a street on only one side.

Landscape development means trees, shrubs, ground cover, vines or grass installed in planting areas.

Legal lot means either a lot recorded in the official County records pursuant to and in compliance with the subdivision regulations in effect at the time of its creation, or a tract of land having existed in its present configuration prior to October 1, 1927.

Legally platted lot means a lot which is part of a subdivision approved by the City and recorded in the official County records.

Letter of credit means a letter from a bank or other reputable creditor acceptable to the City that guarantees to the City that upon failure of the subdivider to fulfill any improvement requirements, funds will be provided to the City to complete the specified improvements at the City's request.

Local health district means the Bell County Health District.

Lot means subdivision of a block or other parcel intended as a unit for transfer of ownership, or for development, or for occupancy and/or use.

Manufactured home means a structure falling within the definition of manufactured housing in V.T.C.A., Occupations Code ch. 1201.

Manufactured home community means a plot or tract of land that is separated into two or more spaces or lots that are rented, leased, sold or offered for rental, lease, or sale for the installation of manufactured homes for use and occupancy as residences. As used in this Article, this term shall include manufactured home subdivisions and manufactured home rental communities, as defined herein. A single manufactured home community may be both a manufactured home subdivision and a manufactured home rental community if multiple lots will be both sold and leased, in which event the community must comply with both relevant sets of regulations.

Manufactured home rental community means a manufactured home community in which two or more spaces or lots are rented, leased, or offered for rent or lease for a term of less than 60 months without a purchase option.

Manufactured home subdivision means a manufactured home community in which two or more of the spaces or lots are to be sold or offered for sale.

Master plan means the overall official plan for the physical development of the community which has been adopted to provide long-range policies including all specified individual elements thereof among which are the plans for mean land intensities; land subdivision; circulation; and community facilities, utilities and services; and, if none, means professional urban planning and engineering practices.

Multifamily residence means duplex, triplex, quadraplex, apartments, condominiums, or townhouses as those structures are commonly defined.

Natural channel means the topography of a waterway prior to construction, installation of improvements, or any regrading.

Natural drainage means a stormwater runoff conveyance system not altered by development.

Neighborhood means the area of the City characterized by residential land uses which is bounded by physical (such as river, major street, lack of access) and/or political features (such as voting districts and subdivision boundaries).

Neighborhood park means a privately owned parcel of land, within a subdivision, dedicated solely for recreational uses and maintained by the residents of said subdivision.

Official County records means the official records of Bell County, Texas.

Off-site improvements means any required improvement which lies outside of the property being developed.

One hundred-year floodplain means that flood which has a probability of occurring once in a 100-year period or a one percent chance in any given year.

Overland drainage means stormwater runoff which is not confined by any natural or manmade channel such as a creek, drainage ditch, storm sewer, or the like.

Parent tract means a tract or lot as described by deed or plat, which includes one or more lots that are being subdivided.

Park fund means a special fund established by the City to retain monies paid by developers in accordance with the parkland dedication provisions of these regulations and to be used for the purchase of parkland or improvements in the vicinity of the subdivided property for which funds have been collected.

Pavement width means that paved portion of a street designed and constructed to sustain vehicular traffic and is exclusive of any surface to be used to park vehicles or to contain, control, and direct design storm surface runoff. Where curbs are laid, it is the portion between the face of curbs and may include a surface to be used to park vehicles or to contain, control, and direct design storm surface runoff.

Person means any individual, partnership, incorporated or unincorporated association, firm, corporation, governmental agency, political subdivision, or legal entity conducting business in accordance with this Article.

Planned unit development (PUD) means a subdivision, at least 250 acres in size and in the City's extraterritorial jurisdiction.

Planning and Zoning Commission means the City of Morgan's Point Resort Planning and Zoning Commission.

Plat means a map depicting the division or subdivision of lands into lots, blocks, parcels, tracts, or other portions. A replat or resubdivision will be considered a plat.

Plat, preliminary means the map of a proposed land subdivision showing the character and proposed layout of the tract in sufficient detail to indicate the suitability of the proposed development.

Plat, final means a map of a land subdivision prepared in a form suitable for filing of record with necessary affidavits, dedications and acceptances, and with complete bearings and dimensions of all lines defining lots and blocks, streets, alleys, public areas and other dimensions of land.

Playscape means any structure permanently anchored to the ground that is designed for recreational purposes. Sports courts such as basketball or tennis courts are not considered playscapes.

Primary structure means a structure in which the principal use of the lot is conducted. For example, for single-family residential lots, the house is the primary structure.

Privacy fence means an opaque fence or screen at least six feet in height. A fence shall be considered opaque if it is made of opaque materials and constructed so that gaps in the fence do not exceed one-half inch. Fences using boards placed on alternating sides of fence runners shall be considered opaque if the boards overlap at least one-half inch.

Public means, with respect to land and interests in land within the City limits, the City; and, with respect to land and interests in land within the ETJ limits, the general public.

Public use means places of noncommercial public assembly or administrative functions where the primary activity is contained within a building(s), including, but not limited to: churches, schools and government buildings.

Rear yard means a space extending across the full width of the lot between the principal building and the rear lot line, and measured perpendicular to the building to the closest point of the rear lot line.

Required yard means the open space between a lot line and the buildable area within which no structure shall be located except as provided for herein.

Reserve strip means a narrow strip of property usually separating a parcel of land from a roadway or utility line easement, that is characterized by limited depth which will not support development and which is intended to prevent access to the roadway or utility easement from adjacent property and which are prohibited by these regulations unless their control is given to the City.

Reverse frontage lot means a double frontage lot which is to be developed with the rear yard abutting a collector street and with the primary means of ingress and egress provided on a residential street.

Right-of-way means a strip of land occupied or intended to be occupied by street, crosswalk, railroad, road, electric transmission line, or oil or gas pipe line, water main, sanitary or storm sewer main, or for other similar purpose or use. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereinafter established and shown on the final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Right-of-way intended for streets, crosswalks, water mains, wastewater lines, storm drains, or any other use involving maintenance by a public agency shall be dedicated to the public by the maker of the plat where such right-of-way is established.

Recreational vehicle (RV) means a vehicle, such as a camper or a motor home, used for traveling and recreational activities.

Road means any public or private road, street or highway that is entirely or partially located in an unincorporated area. A strip of land used for travel between places.

Same ownership means ownership by the same person, corporation, firm, entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities, or unincorporated associations in which a stock holder, partner, or associate or a member of his/her family owns an interest in each corporation, firm, partnership, entity, or unincorporated association.

Secondary structure means any structure that is subordinate and incidental to the primary structure: and is subordinate in area, extent and purpose to the primary structure; and contributes to the comfort, convenience or necessity of the occupants, business or industry in the primary structure, and is located on the same lot as the primary structure.

Setback or building line means a line or lines designating the interior limit of the area of a lot between said line and the corresponding line within which area structures may not be erected. The building lines generally provide the boundaries of the buildable area of any given lot.

Shall, will, may. The words, "shall" and "will" are mandatory and not permissive. The word "may" is permissive and not mandatory.

Side yard means a space extending from the front yard to the rear yard between the setback line and the side lot line measured perpendicular from the side lot line to the closest point of the setback line.

Slope means the vertical change in grade divided by the horizontal distance over which that vertical change occurred. The slope is usually given as a percentage.

Single-family residence means a single structure occupied by a single-family and which may be of conventional construction, an in-place home, manufactured home, or mobile home.

Solid waste means garbage, rubbish, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations and from community and institutional activities.

Solid waste facility means all contiguous land, including structures, appurtenances, and other improvements on the land, used for processing, storing, or disposing of solid waste. The term includes a publicly or privately owned solid waste facility consisting of several processing, storage, or disposal operational units such as one or more landfills, surface impoundments or a combination of units.

State plane coordinate system means a coordinate system used by states to locate spatial information with a high degree of accuracy. This coordinate system is widely used in Texas for GIS (geographic information system) purposes. There are five zones and Bell County is in the Texas Central Zone (The Lambert System).

Street means any public or private right-of-way which affords the primary means of vehicular access to abutting property.

Street, arterial means a major thoroughfare designed to move large volumes of traffic over longer distances at higher speeds. This is generally external to any subdivision. It may serve as link between collector streets and expressways.

Street, collector means a roadway designed with a primary function of collecting and distributing traffic between residential streets and the arterial street system.

Street, residential means a roadway designed to provide direct access to homes with no provision for through traffic.

Street line means that line limiting the right-of-way of the street and being identical with the property line of persons owning property fronting on the streets.

Street side yard means the side yard of a corner lot abutting the street right-of-way.

Street yard means a space extending across the length and/or width of a lot between the street right-of-way and the closest faces of the buildings on the lot.

Structure means anything constructed or erected on the ground or which is attached to something located on the ground. Structures include buildings, telecommunications towers, sheds, parking lots that are the primary use of a parcel, and permanent signs. Sidewalks and paving shall not be considered structures unless located within a public utility or drainage easement.

Structural integrity means the ability of a structure to maintain stability against normal forces experienced by said structure.

Subdivider (developer). See "developer."

Subdivision means the division or redivision of land into two or more lots, tracts, sites, or parcels for the purpose of development, laying out any addition to the City, or for laying out any subdivision or building lots, or any lot, street, alley, access easement, public utility easement, park, or other portion intended for use by the public, or for the use of any owner, purchaser, renter, occupant, person or entity.

Surveyor means any person licensed to practice surveying by the Texas Board of Professional Land Surveying.

TCEQ means the Texas Commission on Environmental Quality.

Traffic impact analysis (TIA) means a study of the impacts of a development on the City's transportation system.

TxDOT means the Texas Department of Transportation.

TxDOT current specifications means the standard specifications for construction and maintenance of highways, streets, and bridges.

Urbanization means the process of constructing public improvements required to support suburban or urban land use.

Utilities means electric and/or telephone lines; water and/or sewer systems, or other buried or aerial utilities, the construction of which may be regulated by the City, County, or State.

Variance means a grant of relief to a person from the requirements of this Article when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this Article.

Watershed means an area from which stormwater drains into a given basin, river or creek.

Waterway means any natural or manmade channel conducting stormwater from a two-year storm event at a depth of eight inches or more and at a rate of 15 cubic feet per second or more. Street pavement shall in no instance be considered a waterway.

Working days means Monday through Friday exclusive of City-recognized holidays.

Yard means an open space that lies between the principal or accessory building or buildings and the nearest lot line.

Yard depth means the shortest distance between a lot line and a yard line.

Yard line means a line drawn parallel to a lot line at a distance therefrom equal to the depth of the required yard.

Zero lot line means the location of a building on a lot in such a manner that one or more of the building's sides rests directly on or immediately adjacent to the lot line.

(Ord. No. 14-28, § IV-1, 3-15-11; Ord. No. 2022.02 , 2-8-22)

Secs. 10.02.007—10.02.030. Reserved.

DIVISION 2. ADMINISTRATION

Sec. 10.02.031. General.

For all development of land within the scope of this Article, a plan of the development shall be prepared and submitted to the City for approval or disapproval, as provided for in this Article.

- (1) *City responsibilities.* The City shall administer the provisions of this Article and in furtherance of such authority, the City shall:
 - a. Maintain permanent and current records with respect to this Article, including amendments thereto;
 - b. Receive and file all preliminary plats and final plats, together with their requisite applications;
 - c. Forward copies of the preliminary plat and final plat to the County, when the development is located within the City's extraterritorial jurisdiction;
 - d. Review all preliminary plats, amended plats, short form plats and final plats to determine whether such plats comply with this Article, the master plan, applicable laws, and the zoning ordinance, where applicable;
 - e. Forward plats to the Commission as required by this Article, together with its recommendations thereon;
 - f. If required, forward plats to the Council, together with the recommendations of the Commission and City staff; and
 - g. Make such other determinations and decisions as may be required of the City by this Article, the Commission, or the Council.
- (2) *Interpretation of provisions.* In the interpretation and application of the provisions of this Article, the following regulations shall govern:

- a. In the City's interpretation and application, the provisions of this Article shall be regarded as minimum requirements for the protection of the public health, safety, comfort, convenience, prosperity, and welfare. This Article shall be regarded as remedial and shall be liberally construed to further its underlying purposes.
- b. Whenever both a provision of this Article and any other provision of this Article, or any provision in any other law, ordinance, resolution, rule or regulation of any kind contain any restrictions covering any of the same subject matter, the more restrictive provision or the provision imposing a higher standard or requirement shall govern.
- c. Where there arises a question concerning the meaning or intent of a provision of this Article, the City is hereby implored to render a written decision setting forth the exact manner in which said provision shall be interpreted and administered. In the event exception is taken by any interested party to such a decision the matter shall be appealed to the Commission, and, as appropriate, to the City Council, whose decision shall be final.
- d. Any written decision shall be attached to and made a part of this Article, until rescinded by amendment of this Article as provided for herein.
- e. The terms, provisions, and conditions of this Article shall be interpreted and applied in a manner consistent with V.T.C.A., Local Government Code ch. 212, particularly as to property within the extraterritorial jurisdiction of the City, Section 7(c) [Section 10.02.062(c)].

(Ord. No. 14-28, § II-1, 3-15-11)

Sec. 10.02.032. Fees.

To defray the costs of administering this Article, the applicant seeking plat approvals shall pay to the City, at the time of submittal, the prescribed fees as set forth in the current administrative fee schedule approved by the Council, and on file in the office of the City, together with all engineering and other professional fees and expenses incurred by the City for and with respect to such application and plat.

(Ord. No. 14-28, § II-2, 3-15-11)

Sec. 10.02.033. Amendments.

The Council may, from time to time, adopt, amend, and make public rules and regulations for the administration of this Article. This Article may be amended by the Council after public hearing, due notice of which shall be given as required by law.

(Ord. No. 14-28, § II-3, 3-15-11)

Sec. 10.02.034. Enforcement; violations.

- (a) *Administrative action.* The City Engineer and/or the City Administrator shall enforce this Article by appropriate administrative action, including, but not limited to:
 - (1) The rejection of plans, maps, plats, and specifications not found to be in compliance with this Article and good engineering practices; and
 - (2) The issuance of stop work orders.
- (b) *Enforcement of regulations.* No subdivision of land within the City or its extraterritorial jurisdiction may be recorded until a final plat, accurately describing the property to be subdivided and platted, has been

approved by the City in accordance with this Article and applicable laws, signed and dated by the chair of the Planning and Zoning Commission and/or other designated officers of the City, and filed in the official County records.

- (c) *Building permits.* No building permit, certificate of occupancy, plumbing permit, electrical permit, floodplain permit, utility tap, or certificate of acceptance for required public improvements shall be issued by the City for or with respect to any land within the City limits; and no floodplain permit, utility tap or certificate of acceptance for required public improvement shall be issued by the City for or with respect to land within the extraterritorial jurisdiction (ETJ) limits for any parcel or plat of land which was developed after the effective date of, and not in conformity with, the provisions of this Article until:
 - (1) All improvements required by this Article have been constructed and accepted by the City; or
 - (2) Assurances for the completion of improvements have been provided in accordance with this Article.
- (d) *Excavating, clearing, or construction.* No excavation, clearing of land, or construction shall begin within any proposed subdivision until such time as the City Engineer approves the plans and specifications for such subdivision.
- (e) Except as otherwise provided for in this Article, it shall be unlawful for any person, firm, or corporation to develop, improve or sell any lot, parcel, tract, or block of land within the City's jurisdiction for other than agricultural purposes, regardless of the size or shape of said lot, parcel, tract, or block, unless such lot, parcel, tract, or block of land conforms with this Article.
- (f) *Other enforcements.* This Article may be further enforced by injunction and other judicial proceedings, either at law or in equity; and, in lieu of, or in addition to any other authorized enforcement or action taken, any person who violates any term or provision of this Article, with respect to any land or development within the City, by fine and penalties as provided herein.
- (g) *Court proceedings.* Upon the request of the City Council, the City Attorney or other authorized attorney shall file an action in the district courts to enjoin the violation, or threatened violation, of this Article, or to obtain declaratory judgment, and to seek and recover court costs and attorney fees, and/or to recover damages in an amount sufficient for the City to undertake any construction or other activity necessary to bring about compliance with a requirement regarding the property and established pursuant to this Article.
- (h) *Penalty.* Any person who shall violate any of the provisions of this Article, or shall fail to comply therewith, or with any of the requirements thereof within the City limits shall be deemed guilty of an offense and shall be liable for a fine not to exceed the sum of \$2,000.00. Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein.

(Ord. No. 14-28, §§ II-4, III-1, 3-15-11)

Secs. 10.02.035—10.02.060. Reserved.

DIVISION 3. PLATTING PROCEDURE

Sec. 10.02.061. Plat requirement.

The owner of any tract of land divided into two or more parts to lay out a subdivision of the tract, including an addition, lots, streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts must have a plat of the subdivision prepared. A division of a tract includes a division regardless of whether it

is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method.

(Ord. No. 14-28, § V-1, 3-15-11)

Sec. 10.02.062. Exemptions.

- (a) The provisions of this Article shall not apply to:
 - (1) Sales of land by metes and bounds in tracts of five acres or more in area, except as otherwise specifically provided in this Article;
 - (2) Cemeteries complying with all State and local laws and regulations;
 - (3) Divisions of land created by order of a court of competent jurisdiction;
 - (4) Any subdivision of land for which a preliminary plat or final plat has been filed with the City on or before the effective date of this Article, excluding any such plan or plat for which approval has expired or hereafter expires; or
 - (5) The combination of two platted lots for the creation of a more developable site and where the Planning and Zoning Commission finds that:
 - a. The proposed use is the same as that for which the subdivision was platted by the subdivider;
 - b. No increase is anticipated in the estimated traffic generation or utility demands; and
 - c. Off-site stormwater runoff is neither increased nor concentrated.
- (b) The provisions of this Article shall not apply to the division of an existing legal lot, said division being caused by the City's acquisition of a part of said legal lot, when the Council finds that the acquisition by the City is in the best interest of the public health, safety, and welfare of the citizens of Morgan's Point Resort and/or its ETJ. Upon the Council so finding, the resulting parcels shall be deemed to constitute legal lots for the purposes of developing under the requirements of this Article and other applicable City regulations. In creating said division, the Council is empowered to attach to the resulting parcels acquired by the City, and the remainder parcels not acquired by the City upon agreement with the owner, such conditions as it finds reasonable and necessary to offset any adverse effects resulting from the City's acquisition as a part of the original legal lot, insofar as any such condition is not contrary to the spirit and intent of this Article.
- (c) The provisions of this Article shall not be construed, interpreted or applied to land located within the extraterritorial jurisdiction of the City in a manner to regulate:
 - (1) The use of any building or property for any lawful purpose;
 - (2) The bulk, density or number of buildings on a tract or parcel of land;
 - (3) The floor to area ratio of any building to be constructed on any lot; or
 - (4) The number of residential units that can be built on an acre of land.

(Ord. No. 14-28, § V-2, 3-15-11)

Sec. 10.02.063. Variances.

- (a) The Council may authorize variance(s) from these regulations in an open session when it is clearly shown the granting of relief in the form of a lesser standard will not impact adversely on public health, safety, general

welfare, traffic conditions, and not alter the nature, character, and quality of the subdivision. No relief shall be authorized unless the Council finds:

- (1) That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this Article would deprive the applicant of the reasonable use of his land;
 - (2) That the relief is necessary for the preservation and enjoyment of a substantial property right of the applicant;
 - (3) That the granting of the relief will not be detrimental to the public finances, health, safety or welfare, or injurious to other property in the area; and
 - (4) That the granting of the relief will not have the effect of preventing the orderly subdivision of other land in the area in accordance with the provisions of this Article;
 - (5) The applicant has not created the hardship from which relief is sought.
- (b) Such finding of the Council, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the Council meeting at which such relief is granted. Relief may be granted only when in harmony with the general purposes and intent of this Article, and does not alter the nature, character and quality of the subdivision so that the public health, safety, and welfare are secured. Pecuniary hardship to the developer shall not be the basis for any relief from these regulations.
- (c) Because the conditions for which the variance(s) from these regulations may be requested are reasonably expected to have existed prior to submittal of the preliminary plat, they shall be submitted at the time of submittal of the preliminary plat and will be considered in the same manner and time line as the preliminary plat. In no case will variances be sought as a remedy to inadequate preparation by the developer.

(Ord. No. 14-28, § V-3, 3-15-11)

Sec. 10.02.064. General procedure.

- (a) Plats for the development of land within the scope of this Article shall be drawn and submitted to the Commission and Council for their approval or disapproval, as provided herein.
- (b) Notwithstanding any provision of this Article to the contrary, a developer shall not commence construction activities within the City's jurisdiction, including clearing and/or rough grading, before first obtaining all the City approvals required by this Article.
- (c) Generally, the subdivision process is comprised of two individual steps, including the preliminary plat and the final plat. Each step of the development process has established deadlines and expirations that must be met in order for the application and any approval(s) granted to remain valid, in effect, and eligible to continue to the next step of, or to complete, the development process. Compliance with each such established deadline constitutes a separate required performance and approval.

(Ord. No. 14-28, § V-4, 3-15-11)

Sec. 10.02.065. Preliminary plat.

- (a) *Purpose.* The preliminary plat provides detailed graphic information and associated text indicating property boundaries, easements, land use, streets, utilities, drainage, and other information required to evaluate proposed subdivisions of land. A preliminary plat shall be required for any subdivision of land, except as otherwise provided for in this Article, subsequent to concept plan approval.

- (b) *Format.* The preliminary plat will be drawn on 24 by 36-inch sheet(s) at a scale of one inch equals 200 feet with all dimensions labeled accurately to the nearest foot. When more than one sheet is necessary to accommodate the entire area, an index sheet showing the entire subdivision at a scale of one inch equals 400 feet shall be attached to the plat.
- (c) *Content.* The preliminary plat shall include all of the tract intended to be developed at one time, and any off-site improvements required to accommodate the project. The preliminary plat shall contain or have attached thereto:
- (1) *General information.*
 - a. Name, address and phone numbers of the developer, record owner, and authorized agents (engineer, land planner, etc.).
 - b. The proposed name of the subdivision shall not have the same spelling or be pronounced similarly to the name of any other subdivision located within the City or within the extraterritorial jurisdiction of the City. However the use of the same base names for different sections or phases is required when the units are contiguous with their namesakes and individually identified by a section or phase number.
 - c. The date, scale, and north indicator.
 - d. A location map showing the relation of the subdivision to streets and other prominent features in all directions for a radius of at least one mile using a scale of one inch equals 2,000 feet. The latest edition of the USGS 7.5 minute quadrangle map is recommended.
 - e. The owner's name, deed or plat reference, and property lines of property within 300 feet of the subdivision boundaries as determined by the most recent tax rolls.
 - f. Certification and signature blocks as required by the City and the County.
 1. Certification from a registered professional engineer and approval by the State Health Department (if applicable) that water satisfactory for human consumption is available in adequate supply at the time of submission, except that such certification is not required if the property will be served by the City water system.
 2. Certification from the County Health District that a subdivision is located in an area which cannot reasonably be served by an organized wastewater collection system and that the use of septic tank or other means of disposal has been approved by the County Health District. Said certificate shall show the limitations, if any, of such approval.
 - g. The total acreage of the property to be subdivided and the subtotals by land use.
 - (2) *Existing conditions.*
 - a. The existing property lines, including bearings and distances, of the land being subdivided. Property lines shall be drawn sufficiently wide to provide easy identification.
 - b. The scaled location of existing water courses, dry creek beds, wells, sinkholes and other similar topographic features.
 - c. Centerline of water courses, creeks, existing drainage structures and other pertinent data shall be shown.
 - d. The City shall require the following note on the amended plat: This subdivision is subject to all general [notes and restrictions appearing on the plat of _____, Lot(s) _____, recorded at Cabinet ___, Slide ___ of Plat Records of Bell County, Texas.]

- e. The scaled location of areas subject to flooding shall be shown, delineating the regulatory 100-year floodplain, and any other floodplains identified in the City's master drainage plan.
 - f. Topographic data indicating one-foot contour intervals for slopes less than five percent, two-foot contour intervals for slopes between five and ten percent, and five-foot contour intervals for slopes exceeding ten percent. The contoured area shall extend outward from the property boundary for a distance equal to 25 percent of the distance across the tract, but not fewer than 50 feet nor more than 200 feet.
 - g. The locations, sizes, and descriptions of all existing utilities, including, but not limited to, wastewater lines, lift stations, wastewater and storm sewer manholes, water lines, water storage tanks, and wells within the subdivision, and/or adjacent thereto.
 - h. The location, dimensions, names, and descriptions of all existing or recorded streets, alleys, reservations, railroads, easements or other public rights-of-way within the subdivision, intersecting or contiguous with its boundaries or forming such boundaries, as determined from existing deed and plat records. The existing right-of-way width of any boundary street to the proposed subdivision shall also be shown.
 - i. The location of City limit lines and/or outer border of the City's extraterritorial jurisdiction, as depicted on the City's most recent base map, if either traverses the subdivision or is contiguous to the subdivision boundary.
- (3) *Improvements.*
- a. The location, size, and description of any proposed drainage appurtenances, including storm sewers, detention ponds and other drainage structures proposed to be constructed on and off the site, and designed in accordance with the requirements of this Article.
 - b. The developer shall include a copy of the complete application for floodplain map amendment or revision, as required by the Federal Emergency Management Agency (FEMA), if applicable.
 - c. The location, dimensions, names, and descriptions of all proposed streets, alleys, parks, open spaces, blocks, lots, reservations, easements, and rights-of-way; and areas within the subdivision indicating the connection to or continuation of other improvements in adjacent subdivisions.
 - d. The location of building setback lines shall be indicated either by dashed lines on the plat or by specifications printed on the plat.
 - e. Numbers to identify each lot and each block.
 - f. The lengths of each proposed property line of all lots. The area of each nonrectangular lot shall be provided.
- (4) *Support documents.*
- a. A drainage study, consisting of a drainage area map with contours, location, and capacities of existing and proposed drainage features, and calculations in accordance with this Article and good engineering practices, shall be provided to ensure the property will be developed in accordance with City drainage policies.
 - b. Utility demand data, consistent with the proposed uses indicated on the preliminary plat, to determine the adequacy and the consistency of proposed utility improvements.
 - c. A letter of certification, when applicable, that the plat has been submitted to the County Health District for review (applicable to all projects proposing septic systems and/or containing any portion of the regulatory 100-year floodplain outside of the City limits).

- (5) *Accuracy of data.* The applicant shall be responsible for verifying the accuracy of all data submitted, including that which might be obtained from the City, excepting that data which can only be obtained from the City.
- (d) *Procedure for submittal.* A preliminary plat for any proposed subdivision of land shall be submitted to the City for Commission approval.
- (1) Legible prints, as indicated on the application form, shall be submitted at least 30 days prior to the regular meeting of the Commission at which the preliminary plat is to be heard, along with the following:
 - a. Completed application forms and the payment of all applicable fees.
 - b. A summary letter stating briefly the type of street surfacing, drainage, water and wastewater facilities proposed, and declaring the intent to either dedicate parkland or pay fees-in-lieu of said dedication if such dedication or fees apply.
 - c. A petition requesting annexation, if applicable.
 - d. A letter requesting any variances from the provisions of this Article.
 - e. Any attendant documents needed to supplement the information provided on the preliminary plat.
 - (2) For projects located within the City's extraterritorial jurisdiction, one extra copy of the above-referenced items must be provided to the County for review and approval. The applicant shall be responsible for any additional information required by the County for preliminary plan approval.
 - (3) City staff shall review all preliminary plat submittals for completeness at the time of application. If, in the judgment of City staff, the preliminary plat submittal substantially fails to meet the minimum informational requirements as outlined above, it will not be accepted for review.
 - (4) Prior to the Commission meeting at which the preliminary plat is presented, City staff shall review the plat for consistency with City ordinances, codes, policies and plans.
 - (5) City staff shall prepare a report analyzing the preliminary plat submittal, as well as any comments received concerning the concept plan, and recommending either the approval or disapproval of the preliminary plat. This report shall be available at least five working days prior to the Commission meeting.
 - (6) If the developer chooses to withdraw the preliminary plat, in writing, by noon of the third working day preceding the Commission meeting, the submittal may appear on the next Commission agenda after repayment of the applicable fees.
- (e) *Notification.* The City shall publish a public notice at least once in a newspaper of general circulation in the City not fewer than 15 nor more than 30 days prior to said public hearing.
- (f) *Approval.*
- (1) The Commission, after holding public hearings in accordance with City ordinances and codes, shall act on the request for preliminary plat approval.
 - (2) The failure of the Commission to act within 30 days of the preliminary plat filing date shall be deemed an approval of the plat, except as otherwise agreed to by the developer.
 - (3) Zoning of the tract, if applicable, that shall permit the uses proposed by the preliminary plat, or any pending zoning amendment necessary to permit the proposed uses, shall have been adopted by the Council prior to approval of the preliminary plat.

- (4) Approval of the preliminary plat shall not constitute approval of the final plat, but shall constitute a vesting of the right to develop under City ordinances, codes, and policies in effect on the date of the approval, provided that neither the preliminary plat nor any subsequent plat or permit has been, or is, allowed to expire.
 - (5) The developer should be aware that specific approvals from other agencies may be required.
 - (6) Upon approval of the preliminary plat, the developer shall furnish two Mylar reproducible copies of the approved plat to be kept on file at the City as public record.
 - (g) *Expiration.*
 - (1) The approval of the preliminary plat shall expire 12 months after the filing date, unless:
 - a. A corresponding final plat on all, or a portion of, the land approved on the preliminary plat is filed, or
 - b. An extension is granted by the Commission in accordance with this Article.
 - (2) If a preliminary plat expires, it may be reinstated only upon resubmittal of the unaltered, approved plat to the Commission and Council and the approval by both bodies. All fees shall be repaid as if the plat were initially being submitted.
 - (h) *Extension.* The developer may apply for an extension, in writing, prior to the end of the initial 12-month period, stating reasons for needing the extension and demonstrating pursuit of approval for final plat in accordance with this Article. Upon receipt of this written request, the Commission may, at its discretion, grant up to a two-year extension so long as the preliminary plat remains consistent with the master plan and/or ordinances of the City.
 - (i) *Revision.* If a revision to a previously approved preliminary plat is required, then no application for final plat shall be accepted until the revised preliminary plat has been submitted and approved by the Commission. This signed, approved document shall be kept on file as public record in the offices of the City.
 - (j) *Responsibility.* Notwithstanding the approval of any preliminary plat by the Council, Commission, or the City Engineer, the developer and the engineer that prepare and submit such plats shall be and will remain responsible for the adequacy of the design and nothing in this Article shall be deemed or construed to relieve or waive the responsibility of the developer or his/her engineer for, or with respect to any plat submitted.
- (Ord. No. 14-28, § V-5, 3-15-11)

Sec. 10.02.066. Final plat.

- (a) *Purpose.* The final plat provides detailed graphic information and associated text indicating property boundaries, easements, streets, utilities, drainage, and other information required for the maintenance of public records of the subdivision of land.
 - (1) A final plat shall be required for all subdivisions of land.
 - (2) The final plat shall conform to the approved preliminary plat.
- (b) *Format.* The final plat shall be drawn on 24 by 36-inch Mylar sheets at a scale of one inch equals 200 feet with all dimensions labeled accurately to the nearest one-tenth of a foot. When more than one sheet is necessary to accommodate the entire area, an index sheet showing the entire subdivision at a scale of one inch equals 400 feet shall be attached to the plat.
- (c) *Content.* The final plat shall include the complete tract intended to be developed at one time, and shall contain or have attached thereto:

(1) *General information.*

- a. The proposed name of the subdivision shall not have the same spelling or be pronounced similarly to the name of any other subdivision located within the City or within the extraterritorial jurisdiction of the City. However, the use of the same base names for different sections or phases is required when the units are contiguous with their namesakes and individually identified by a section or phase number.
- b. The date, scale, north arrow, address of the owner(s) of record, developer, registered public surveyor, and registered professional engineer are required for platting the tract. The engineer and surveyor shall affix their seals to the plat in conjunction with the signing of the certification requirements.
- c. A location map showing the relation of the subdivision to streets and other prominent features in all directions for a radius of at least one mile using a scale of one inch equals 2,000 feet. The latest edition of the USGS 7.5 minute quadrangle map is recommended.
- d. Identification and location of proposed uses and reservations for all lots within the subdivision.
- e. The owner's names and the property lines of property within 300 feet of the subdivision boundary, together with the respective plat or deed references as determined by the most recent tax rolls.
- f. Certification, signature, and revision blocks as required by the City and County, including, but not limited to, the following:
 1. Certification from a registered professional engineer and approval by the State Health Department (if applicable) that water satisfactory for human consumption is available in adequate supply at the time of submission, except that such certification is not required if the property will be served by the City water system.
 2. Certification from the County Health District that a subdivision is located in an area which cannot reasonably be served by an organized wastewater collection system and that the use of septic tank or other means of disposal has been approved by the County Health District. Said certificate shall show the limitations, if any, of such approval.
- g. Lot area, width and depth, public utility and drainage easements, and setbacks shall conform to the requirements as established for the designated land use as set forth in this Article.

(2) *Existing conditions.*

- a. The existing property lines, including bearings and distances, of the land being subdivided. Property lines shall be drawn sufficiently wide to provide easy identification.
- b. The location, dimensions, names, and descriptions of all existing and recorded streets, alleys, reservations, railroads, easements or other public rights-of-way within the subdivision, intersecting or contiguous with its boundaries or forming such boundaries, as determined from current deed and plat records. The existing right-of-way width of any boundary street to the proposed subdivision shall also be shown.
- c. Location of City limit lines and/or outer border of the City's extraterritorial jurisdiction, as depicted on the City's most recent base map, if either such line traverses the subdivision or is contiguous to the subdivision boundary.

(3) *Survey control information.*

- a. True bearings and distances to the nearest established street lines, official monuments, or existing subdivision corner shall be accurately described on the plat and rotated to the state

plane coordinate system. Using said system, X and Y coordinates shall be identified for four property corners.

- b. The description and location of all permanent monuments or benchmarks, standard monuments, survey control points and lot pins.
- c. Suitable primary control points to which all dimensions, bearings and similar data shall be referenced. At least one corner of the subdivision shall be located with respect to a corner of the original survey of which it is a part.
- d. Sufficient data shall be shown on the plat for each lot to provide mathematical closure.

(4) *Improvements.*

- a. The location, bearings, distances, widths, purposes, and approved names of proposed streets, alleys, easements, and rights-of-way to be dedicated to public use.
- b. Streets. Provide complete curve data (delta, arc length, radius, tangent, point of curve, point of reverse curve, point of tangent, long chord with bearing) between all lot corner pins.
- c. Water courses and easements. Provide distances to be provided along the side lot lines from the right-of-way line or the high bank of a stream. Traverse line to be provided along the edge of all major waterways in a convenient location, preferably along a utility easement if paralleling the drainage easement or stream.
- d. The property lines and number designations of all proposed lots and blocks, with complete bearings, distances, and dimensions for front, rear, and side lot lines. The surveyor shall certify that all lots meet the City's minimum requirements set forth herein.
- e. The use, property dimensions, names, and boundary lines of all special reservations to be dedicated for public use, including sites for schools, churches, parks, and open spaces; common ownership; or subsequent development.
- f. The location of building setback lines indicated by dashed lines or specifications printed on the plat, and the location, dimensions, and descriptions of all required easements within the subdivision, intersecting, or contiguous with its boundaries or forming such boundaries.
- g. The proposed location of sidewalks for each street, to be shown as a dotted line inside the proposed right-of-way lines.

(5) *Support documents.* The following supporting documents must accompany the final plat:

- a. Developer shall include a copy of the approved application for floodplain map amendment or revision, as required by the Federal Emergency Management Agency (FEMA), if applicable.
- b. If a subdivision is located in an area served by any utility other than the City, the developer shall furnish a letter from such utility certifying their approval of the location of the utility easements shown on the plat and indicating the utility's intent to serve the property, except that said letters are not required if the easements conform to those approved on the preliminary plat.
- c. If the construction of all improvements needed to serve the subdivision is not completed prior to the filing of the plat for recordation, then the developer must provide financial assurance for the completion of the remainder of those improvements in accordance with this Article.

(6) The applicant shall be responsible for verifying the accuracy of all data submitted.

- (d) *Procedure for submittal.* After approval of the preliminary plat for a proposed subdivision, a final plat for that subdivision shall be submitted to the City for Commission approval before recordation.

- (1) Legible prints, as indicated on the application form, shall be submitted at least 30 days prior to the regular meeting of the Commission at which the final plat is to be heard, along with the following:
 - a. Completed application forms and the payment of all applicable fees.
 - b. Any materials or documents required by the Commission and/or Council as a condition of preliminary plat approval.
 - c. A letter requesting any variances from the provisions of this Article, if not previously approved as part of the preliminary plat, and posted pursuant to the requirements of this Article.
 - d. Two copies of the deed restrictions or covenants, if such documents are to be used. These shall be filed for record in conjunction with the filing of the final plat.
 - e. Certification from all applicable taxing authorities that all taxes due on the property have been paid.
 - f. Performance and maintenance guarantees as required by the City.
 - g. Any attendant documents needed to supplement the information provided on the final plat.
- (2) For projects located within the City's extraterritorial jurisdiction, one extra copy of the above-referenced items must be provided to the County for review and approval. The applicant shall be responsible for any additional information required by the County for final plat approval.
- (3) City staff shall review all final plat submittals for completeness at the time of application. If, in the judgment of City staff, the final plat submittal substantially fails to meet the minimal informational requirements as outlined above, it will not be accepted for review.
- (4) Prior to the Commission meeting at which the final plat is presented, City staff shall review the plat for consistency with City codes, policies and plans.
- (5) City staff shall prepare a report analyzing the final plat submittal, as well as any comments received concerning the preliminary plat, and recommending either the approval or disapproval of the final plat. This report shall be available at least five working days prior to the Commission meeting.
- (6) If the developer chooses to withdraw the final plat, in writing, by noon of the third working day preceding the Commission meeting, the submittal may appear on the next Commission agenda after repayment of the applicable fees.
- (e) *Notification.* Public notification of final plats filed as part of an approved preliminary plat shall not be required.
- (f) *Approval.* The Commission, after holding a public hearing, shall act on the request for final plat approval.
 - (1) The failure of the Commission to act within 30 days of the final plat filing date shall be deemed an approval of the plat, except as otherwise agreed to by the developer.
 - (2) The developer shall begin construction of the required public improvements or file a financial surety instrument for the improvements within six months after final plat approval by the Commission, or such approval of the final plat shall be void.
 - (3) Unless the final plat is recorded in the official County records within 12 months after approval by the Commission, such approval of the final plat shall be void, except that the developer may apply in writing to allow extension of approval prior to the end of such 12-month period, stating just cause therefor, and the Commission may grant an extension not to exceed one year.
 - (4) Zoning of the tract, if applicable, that shall permit the proposed use, or any pending zoning amendment necessary to permit the proposed use, shall have been adopted by the Council prior to approval of the final plat.

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- (5) The developer should be aware that specific approvals from other agencies may be required.
 - (6) The City Engineer and developer's engineer must certify that the design standards of division 5 have been complied with and that the development and improvements meet sound engineering practices.
 - (g) *Revision.* If revision of the final plat is required by the Commission, then the final plat shall not be recorded until the revised final plat has been resubmitted and approved by City staff for compliance with the Commission's requirements, and the Council's requirements, if any.
 - (h) *Recordation.*
 - (1) Prior to the recordation of the final plat, one original copy of the final plat shall be submitted to the City for signatures, and:
 - a. The final plat shall have been approved by the Commission pursuant to the provisions of this Article.
 - b. All conditions of final plat approval established by the Commission shall have been determined to be complete by City staff.
 - c. Construction plans for all required improvements shall have been approved by the City Engineer.
 - d. Fees-in-lieu of parkland dedication as required by this Article, if applicable, shall have been paid.
 - e. Performance and maintenance guarantees for all required improvements shall have been established pursuant to this Article.
 - f. Copies of any agreements required providing for the proper and continuous operation, maintenance, and supervision of any facilities that are of common use or benefit which cannot be satisfactorily maintained, or which have been rejected for operation and/or maintenance, by an existing public agency shall be executed.
 - g. Written acceptance of all improvements required by this Article, by the City Engineer, or in lieu of acceptance, assurance of completion of said improvements pursuant to this Article, shall be received by the City.
 - h. Applicable fees pursuant to City ordinance shall be paid, including, but not limited to, all professional fees, engineer, and attorney fees incurred by the City for or with respect to the review, processing, and approval of the application for the approval of the subdivision plat.
 - i. Notes shall be added to the plat describing any variances approved by the Commission.
 - (2) City staff shall, upon determination that all provisions of this Article have been satisfied, and all the above conditions have been met, obtain signatures certifying final plat approval by the chairperson of the Commission, and the Mayor, as attested to by the City Secretary.
 - (3) Once the original final plat has been certified by the chairperson of the Commission and the Mayor, City staff shall notify the developer that the original final plat is ready for reproduction.
 - (4) The developer, at his/her own expense, shall make two photographic Mylar copies of the original, signed final plat, and return the photographic Mylar copies and the original final plat to the City Engineer for recordation.
 - (5) If the land area represented by the subdivision is located outside the corporate limits of the City on the date of its filing for recordation with the official County records, then it must be approved by the Commissioners Court of the County prior to recordation. It shall be the responsibility of the developer to be familiar with the process, procedures, and requirements necessary to secure County approval. Such approval shall be evidenced by the signature of the statement of certification by the County judge.

- (6) City staff shall, after the photographic Mylar copies and the original final plat have been duly recorded in the official County records, return the original final plat to the developer within five working days by notifying the developer that the original final plat is available for pick-up at the office of the City Engineer.
 - (7) The City shall keep one photographic Mylar copy of the original approved final plat on file as public record.
 - (i) *Responsibility.* Notwithstanding the approval of any final plat by the Council, Commission, or the City Engineer, the developer and the engineer that prepare and submit such plats shall be and will remain responsible for the adequacy of the design and nothing in this Article shall be deemed or construed to relieve or waive the responsibility of the developer or his/her engineer for or with respect to any plat submitted.
- (Ord. No. 14-28, § V-6, 3-15-11)

Sec. 10.02.067. Short form final plats.

- (a) *Purpose.* The provision of adequate data concerning land use, utility requirements, traffic impact, streets, easements and dedications is vital to ensure the continued health, safety, and welfare of the City's residents. Recognizing that the significance of this data is reduced for the small scale projects that are most heavily impacted by the burden of producing this data, the City allows alternate procedures for simple resubdivisions, lot splits, and the platting of existing development and of land proposed for site development where public improvements are not required.
 - (1) Applicants for subdivisions or resubdivisions creating no more than four new lots may follow the procedure set forth below, provided that the subdivision meets all of the following criteria:
 - a. The City shall certify that the proposed subdivision meets all the requirements of the short form final plat.
 - b. No new public street shall be necessary for each lot to access a public street.
 - c. Each of the lots is contiguous with at least one of the other lots in the subdivision for a distance of at least 50 feet.
 - d. No off-site improvements to the City's infrastructure are determined to be necessary by the City Engineer.
 - e. No off-site drainage improvements are determined to be necessary by the City Engineer.
 - (2) The Commission may require the standard final plat procedures outlined in this Article, if the City determines that the plat is inconsistent with any element of the master plan, or any established City ordinances, codes or policies.
- (b) *Format.* The format of the short form final plat shall correspond with the format for final plats as required by this Article.
- (c) *Content.* The content of the short form final plat shall correspond with the content for final plats as required by this Article, except that:
 - (1) The City may permit omission of any informational requirements that are determined by the City to place an excessive burden on the applicant, including, but not limited to contours, centerlines of existing watercourses, etc.
 - (2) The City shall require the following note on the short form final plat: This subdivision is subject to all general notes and restrictions appearing on the plat of _____, Lot(s) _____, recorded at Cabinet ____, Slide ____ of Plat Records of Bell County, Texas.

- (d) *Procedure.* The procedure for review and approval of a short form final plat shall follow the procedure for final plats, except that:
- (1) The short form final plat may be submitted without approval of a preliminary plat. The plat, prepared by a surveyor and engineer, if required, and bearing their seals shall be submitted to the Commission for approval before recordation of the plat.
 - (2) Legible prints, as indicated on the application form, shall be submitted at least 30 days prior to the regular meeting of the Commission at which the short form final plat is to be reviewed along with the following:
 - a. Completed application forms and the payment of all required fees.
 - b. Two copies of the deed restrictions or covenants, if such documents are to be used. These shall be filed for record in conjunction with the filing of the plat.
 - c. Certification from all applicable taxing authorities that all taxes due on the property have been paid.
 - d. Notification materials as required herein.
 - e. A petition requesting annexation, if applicable.
 - f. Any attendant documents needed to supplement the information provided on the plat.
 - (3) For projects located within the City's extraterritorial jurisdiction, one extra copy of the above-referenced items must be provided to the County for review and approval. The applicant shall be responsible for any additional information required by the County for short form final plat approval.
- (e) *Notification.* Notification procedures for a short form final plat shall be the same as those identified for a preliminary plat.
- (f) *Approval.* The approval process of a short form final plat shall be the same as the approval of a final plat.
- (g) *Revision.* The revision process of a short form final plat shall be the same as the revision process described for a final plat.
- (h) *Recordation.* The recordation procedures of a short form final plat shall be the same as the procedures for a final plat.
- (i) *Responsibility.* Notwithstanding the approval of any short form final plat by the Commission, Council, or City Engineer, the developer and the engineer that prepare and submit such plats shall be and will remain responsible for the adequacy of the design and nothing in this Article shall be deemed or construed to relieve or waive the responsibility of the developer or his/her engineer for or with respect to any plat submitted.
- (Ord. No. 14-28, § V-7, 3-15-11)

Sec. 10.02.068. Amended plats.

- (a) *Purpose.* An amended plat that meets all of the informational requirements set forth in this Article may be approved and recorded by the City without vacation of the preceding plat, without a public hearing, and without approval of other lot owners within the platted subdivision provided that any persons with a vested interest affected by the plat amendment signs the plat and application; and that the purpose of the amended plat is:
- (1) To correct an error in any course or distance shown on the preceding plat;
 - (2) To add any course or distance that was omitted on the preceding plat;

- (3) To correct an error in the description of the real property shown on the preceding plat;
 - (4) To indicate monuments set after death, disability, or retirement from practice of the engineer or surveyor charged with responsibilities for setting monuments;
 - (5) To show the proper location or character of any monument which has been changed in location, character, or shown incorrectly on the preceding plat;
 - (6) To correct any other type of scrivener or clerical error or omission as previously approved by the Commission and Council: such errors and omissions may include, but are not limited to: lot numbers, acreage, street names, and identification of adjacent recorded plats;
 - (7) To correct an error in courses and distances of lot lines between two adjacent lots where lot owners join in the application for an amended plat and neither lot is abolished, provided that such amendment does not attempt to remove recorded covenants or restrictions and does not have a material adverse effect on the property rights of the other owners in the plat;
 - (8) To relocate a lot line in order to cure an inadvertent encroachment of a building or improvement on a lot line or on an easement; or
 - (9) To relocate or remove one or more lot lines between one or more adjacent lots where the owner or owners of all such lots join in the application for the amended plat, provided that such amendment does not attempt to remove recorded covenants or restrictions, or increase the number of lots.
- (b) *Format.* The format of an amended plat shall be the same as the format for a final plat. In cases where only lot line(s) removal is being requested, a metes and bounds description and drawing of the new lot is required. The metes and bounds description shall be prepared by a State registered land surveyor or a registered engineer. The metes and bounds description will be accompanied by a new lot and block number that is consistent with the most recent plat of the area.
- (c) *Content.* The content of an amended plat shall be the same as the content requirements for a short form final plat.
- (d) *Procedure.*
- (1) The amended plat may be submitted without reapproval of a preliminary plat or construction plans. The amended plat, prepared by a surveyor and engineer, if required, and bearing their seals shall be submitted to the City for approval before recordation of the plat.
 - (2) Legible prints, as indicated on the application form, shall be submitted to the City along with the following:
 - a. Completed application forms and the payment of all applicable fees.
 - b. Certification from all applicable taxing authorities that all taxes due on the property have been paid.
 - c. Any attendant documents needed to supplement the information provided on the plat.
 - d. The City shall require the following note on the amended plat. This subdivision [is subject] to all general notes and restrictions appearing on the plat of _____, Lot(s) _____, recorded at Cabinet _____, Slide _____ of the Plat Records of Bell County, Texas.
- (e) *Notification.* Public notification and public hearings shall not be required for an amended plat.
- (f) *Approval.* The City staff, as designated by City Manager, shall approve any amended plat meeting the requirements of this Article within 30 days of receipt of a complete submittal. However, if in the City staffs' determination, the amended plat does not satisfy this Article, the City staff may require the plat to be processed in accordance with the final plat procedures of this Article.

- (g) *Expiration.* Approval of an amended plat shall expire if said plat is not recorded in the plat records of the County within six months of City approval.
- (h) *Recordation.* Recordation of an amended plat shall follow the same recordation provisions of a final plat.
- (i) *Responsibility.* Notwithstanding the approval of any amended plat by the City staff, the developer and the engineer that prepares and submits such plats shall be and remain responsible for the adequacy of the design and nothing in this Article shall be deemed or construed to relieve or waive the responsibility of the developer or his/her engineer for or with respect to any plat submitted.

(Ord. No. 2017-08, att. C, 11-14-17; Ord. No. 2018-08, 11-13-18)

Sec. 10.02.069. Notification requirement for certain replats.

Where any of the area to be resubdivided or replatted was, within the immediate preceding five years, limited by an interim or permanent zoning classification to residential use for not more than two dwelling units per lot, or if any lot in the preceding plat was limited by deed restrictions to residential use for not more than two residential units per lot, then the following additional procedures shall apply:

- (1) Notice of the public hearing shall be published at least 15 days prior to the hearing, in a newspaper of general circulation in the County.
- (2) Written notice of the public hearing shall be mailed to the owners (according to the most recently approved ad valorem tax roll) of all lots that are within the original subdivision and that are within 200 feet of the lots to be replatted, together with a copy of V.T.C.A., Local Government Code § 212.015(c).
- (3) If the proposed replat is protested in accordance with this subsection, the proposed replat must receive, in order to be approved, the affirmative vote of at least three-fourths of the members present of the planning Commission and/or City Council, as applicable. For a legal protest, written instruments signed by the owners of at least 20 percent of the area of the lots or land immediately adjoining the area covered by the proposed replat and extending 200 feet from that area, but within the original subdivision, must be filed with the municipal authority responsible for approving the replat, prior to the close of the public hearing. In computing this percentage of land area, the area of streets and alleys shall be included within the adjacent lots.
- (4) Compliance with subsection (3) above is not required for approval of a replat of part of a preceding plat, if the area to be replatted was designated or reserved for other than single or two-family residential use, by notation on the last legally recorded plat or in the legally recorded restrictions applicable to the plat.

Secs. 10.02.070—10.02.090. Reserved.

DIVISION 4. IMPROVEMENTS

Sec. 10.02.091. Purpose.

The provisions of this Article, as set forth in this Division, are designed and intended to ensure that, for all subdivisions of land within the jurisdiction of the City, all improvements as required herein are installed in a timely manner in order that:

- (1) The City can provide for the orderly and economical extension of public facilities and services.
- (2) All purchasers of property within the subdivision shall have a usable, buildable parcel of land.

- (3) All required improvements are constructed in accordance with the City standard details and specifications.

Sec. 10.02.092. General policy.

- (a) Upon approval of a final plat, amended plat, or short form plat by the Commission, and prior to it being signed by the chairperson of the Commission and the Mayor of the City, and before said final plat, amended plat, or short form plat shall be allowed to be recorded in the plat records of the County, the applicant requesting plat approval shall, within the time period for which the plat has been conditionally approved by the City:
- (1) Construct all improvements as required by this Article, and provide a surety instrument guaranteeing their maintenance as required herein; or
 - (2) Provide a surety instrument guaranteeing construction of all improvements required by this Article and as provided for herein.
- (b) In all instances, the original copy of the final plat, amended plat, or short form plat, without benefit of required signatures of City officials, shall be held in escrow by the City and shall not be released for any purpose until such time as the conditions of this Division are complied with.
- (c) Upon the requirements of this Division being satisfied, the final plat, amended plat, or short form plat shall be considered fully approved, except as otherwise provided for in this Article, and the original copy of the plat shall be signed by the appropriate City officials and City staff shall file said plat in the plat records of the County.
- (d) All improvements shall be designed and installed so as to provide for a logical system of utilities, drainage and streets and to create continuity of improvements for the development of adjacent properties. Water, wastewater, transportation, and drainage improvements shall be extended to the perimeter of the development, except that the Commission is authorized to vary or modify the requirement for extending water, wastewater, transportation and drainage improvements to the perimeter of a subdivision in accordance with the procedural requirements contained in this Article.

Sec. 10.02.093. Completion of improvements.

Prior to the signing of the approved final plat, amended plat, or short form plat by the chairman of the Commission and Mayor of the City of Morgan's Point Resort, the developer shall:

- (1) Complete all improvements required by this Article in accordance with the approved construction plans and subject to the approval of the City Engineer and acceptance by the City, except as otherwise provided for in this Article.
- (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.

Sec. 10.02.094. Alternative to completing improvements.

The City may waive the requirement that the developer complete all improvements required by this Division prior to the signing of the approved plat, contingent upon securing from the developer a guarantee, as provided for by this Article, for completion of all required improvements, including the City's cost for collecting the guaranteed funds and administering the completion of improvements, in the event the developer defaults. The Commission and Council must be notified that this waiver was granted at the time of preliminary plat approval or

in the case of amended plats or short form plats upon notice and approval. Such guarantee shall take one of the following forms:

- (1) *Performance bond.* The developer shall post a performance bond with the City, as set forth herein, in an amount equal to 110 percent of the estimated construction costs for all remaining required improvements, using the standard City form.
- (2) *Escrow account.* The developer shall deposit cash, or other instrument readily convertible into cash at face value, either with the City, or in escrow with a bank or savings and loan institution. Such escrow account agreement shall be prepared using the standard City form. The use of any instrument other than cash shall be subject to the approval of the City. The amount of the deposit shall equal 110 percent of the estimated construction costs for all remaining required improvements. In the case of any escrow account, the developer shall file with the City an agreement between the financial institution and the developer guaranteeing the following:
 - a. That the funds of said escrow account shall be held in trust until released by the City and may not be used or pledged by the developer as security for any other matter during that period.
 - b. That in the case of a failure on the part of the developer to complete said improvements, the financial institution shall immediately make the funds in said account available to the City for use in the completion of those improvements.
- (3) *Letter of credit.* The developer shall provide a letter of credit from a bank or other reputable institution or individual. This letter shall be submitted to the City using the standard City form and shall certify the following:
 - a. That the creditor does guarantee funds equal to 110 percent of the estimated construction costs for all remaining required improvements.
 - b. That, in the case of failure on the part of the developer to complete the specified improvements within the required time period, the creditor shall pay to the City immediately, and without further action, such funds as are necessary to finance the completion of those improvements, up to the limit of credit stated in the letter.
 - c. That this letter of credit may not be withdrawn, or reduced in amount, until approved by the City according to provisions of this Article.
- (4) *Cost estimates.* A registered professional engineer licensed to practice in the State of Texas shall furnish estimates of the costs of all required improvements to the City Engineer who shall review the estimates in order to determine the adequacy of the guarantee instrument for insuring the construction of the required facilities.
- (5) *Surety acceptance.* The bank, financial institution, insurer, person or entity providing any letter of credit, bond or holding any escrow account, pursuant to this Article, shall meet or exceed the minimum requirements established by City ordinance and shall be subject to approval by the City as provided in the ordinances of the City.
- (6) *Sufficiency.* Such surety shall comply with all statutory requirements and shall be satisfactory to the City Attorney as to form, sufficiency, and manner of execution as set forth in this Article. All such surety instruments shall be both a payment and performance guarantee.
- (7) If the project is located in the extraterritorial jurisdiction of the City, and is subject to the bonding requirements of the County for the construction of roadways, then that amount of money shall be reduced from the amount required to be posted with the City, provided that the instrument is transferable from the County to the City upon annexation.

Sec. 10.02.095. Time limit for completing improvements.

The period within which required improvements must be completed shall be incorporated in the surety instrument and shall not in any event, without prior approval of the City, exceed one year from date of final, amended, or short form plat approval.

- (1) The Commission may, upon application of the developer and upon proof of hardship, recommend to the Council extension of the completion date set forth in such bond or other instrument for a maximum period of one additional year. Such hardship may include delays imposed due to City projects. An application for extension shall be accompanied by an updated estimate of construction costs prepared by a registered professional engineer, licensed to practice in the State of Texas. A surety instrument for guaranteeing completion of remaining required improvements must be filed in an amount equal to 110 percent of the updated estimate of construction costs as approved by the City Engineer.
- (2) The Council may at any time during the period of such surety instrument accept a substitution of principal sureties upon recommendation of the Commission.

Sec. 10.02.096. Failure to complete improvements.

Approval of all plats shall be deemed to have expired in subdivisions for which no assurances for completion have been posted or the improvements have not been completed within one year of plat approval, unless otherwise approved by the City. In those cases where a surety instrument has been required and improvements have not been completed within the terms of said surety instrument, the City may declare the developer and/or surety to be in default and require that all the improvements be installed.

Sec. 10.02.097. Inspection and acceptance of improvements.

The City Engineer shall inspect all required improvements, to ensure compliance with City requirements and approved construction plans.

- (1) When all required improvements have been satisfactorily completed, the City Engineer shall either:
 - a. Accept, in writing, the improvements as having been satisfactorily completed, or
 - b. Issue a punch list to the developer denoting items remaining to be completed.
- (2) The City Engineer shall have ten working days to complete this inspection upon notification by the developer.
- (3) The City Engineer shall issue the report within ten working days of the date of inspection.
- (4) The City shall not accept dedications of required improvements nor release or reduce a performance bond or other assurance, until such time as it determines that:
 - a. All improvements have been satisfactorily completed.
 - b. Two copies of as-built plans have been submitted to and approved by the City Engineer, along with a statement prepared by a licensed professional engineer that all improvements have been installed and constructed in accordance with the submitted as-built plans.
 - c. Copies of all inspection reports, shop drawings, and certified test results of construction materials have been submitted to and approved by the City Engineer.
 - d. Diskette(s) containing computed generated drawings of all public improvements shown on the construction plans have been submitted to the City Engineer to update City record drawings.

- e. The required maintenance guarantee has been provided.
- f. Any and all other requirements identified in the platting process have been satisfied.

Sec. 10.02.098. Reduction or release of improvement surety instrument.

- (a) A surety instrument may be reduced with the approval of the City Engineer, and the Treasurer/Director of Finance, upon actual construction of required improvements by a ratio that the improvement bears to the total public improvements required for the subdivision, as determined by the City Engineer.
- (b) Before the City shall reduce said surety instrument, the developer shall provide a new surety instrument in an amount equal to 110 percent of the estimated cost of the remaining required improvements, and such new surety instrument shall comply with this Article.
- (c) The substitution of a new surety instrument shall in no way change or modify the terms and conditions of the performance surety instrument or the obligation of the developer as specified in the performance surety instrument.
- (d) In no event shall a surety instrument be reduced below ten percent of the principal amount of the original estimated total costs of improvements for which surety was given, prior to completion of all required improvements.
- (e) The City shall not release a surety instrument unless and until all the conditions of this Article have been met.

Sec. 10.02.099. Maintenance bond required.

- (a) Before the release of any surety instrument guaranteeing the construction of required subdivision improvements or the signing of the final, amended, or short form plat where subdivision improvements were made prior to the filing of the plat for recordation, the developer shall furnish the City with a maintenance bond or other surety to assure the quality of materials and workmanship, and maintenance of all required improvements including the City's costs for collecting the guaranteed funds and administering the correction and/or replacement of covered improvements in the event the developer defaults.
- (b) The maintenance bond or other surety instrument shall be satisfactory to the City Attorney as to form, sufficiency, and manner of execution.
- (c) Said bond or other instrument shall be in an amount equal to ten percent of the cost of improvements verified by the City Engineer and shall run for a period of one calendar year measured from the date of release of the performance surety instrument, or signing and recording of the final plat, whichever is later.
- (d) In an instance where a maintenance bond or other surety instrument has been posted and a defect or failure of any required improvement occurs within the period of coverage, the City may declare said bond or surety instrument to be in default and require that the improvements be repaired or replaced.
- (e) Whenever a defect or failure of any required improvement occurs within the period of coverage, the City shall require that a new maintenance bond or surety instrument be posted for a period of one full calendar year sufficient to cover the corrected defect or failure.

Sec. 10.02.100. Plans for improvements.

Plans for the improvements required by this Article shall be prepared, reviewed and approved in accordance with the provisions set forth in this Article.

Sec. 10.02.101. Acceptance of improvements.

- (a) During the course of installation and construction of the required improvements, the City Engineer or his/her designated representative shall make periodic inspections of the work to ensure that all improvements comply with City requirements.
- (b) Upon completion of all required improvements, the developer may seek acceptance of all public improvements by the City by following the procedures set forth in the applicable Sections of this Article.

Sec. 10.02.102. Maintenance of improvements.

Where subdivision contains drainage, transportation, water or wastewater improvements, parks and grounds held in common, or other physical facilities necessary or desirable for the welfare of the area, or that are of common use or benefit which will not be, or cannot be, satisfactorily maintained by an existing public agency, provision shall be made which is acceptable to the City Council for the proper and continuous operation, maintenance, and supervision of such facilities. A copy of the agreements providing for the proper and continuous operation, maintenance and supervision of such facilities shall be presented to and approved by the Council, and approved as to form by the City Attorney, at the time of final platting and shall be filed on record with the plat thereof.

(Ord. No. 14-28, § VI-1, 3-15-11)

Secs. 10.02.103—10.02.120. Reserved.***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, **Texas Accessibility 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.
- (b) *Standards in general.* The minimum design standards as contained herein shall provide the basic criteria for evaluating proposed concept plans, preliminary plats, construction plans, final plats, amended plats, short form final plats, and other development or improvements subject to this Article. The City may, however, establish reasonable design requirements in excess of these established minimum standards, or grant variances from those established minimum standards, where by reason of exceptional topographic, cultural, historic, archaeological, hydrologic, or other physical conditions of the property to be developed or of an adjacent tract, the strict adherence to these standards will result in an inappropriate subdivision design or cause unnecessary hardship.
- (c) *Coordinated design.* The quality of life and the community in the Morgan's Point Resort urban area is dependent on the quality of design of the individual developments in which people live and work. Good community design requires the coordination of the efforts of each developer of land within the urban area. It is intended that the urban area shall be designed as a group of integrated residential neighborhoods and appropriate commercial, industrial, and public facilities. Therefore, the design of each development shall be

prepared in accordance with the applicable principles established by the master plan for land use, circulation, community facilities, and public utility services and in accordance with the following general principles:

- (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.
- (2) The components of the street system should in different degrees serve the separate purposes of access to property and safe, efficient movement of traffic. Land use types should be served by roadways whose capacity increases in proportion to the traffic generation of the land use. Design and location of points of access to property should be appropriate to the volume and speed characteristics of traffic utilizing the intersection.
- (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.
- (4) Land use arrangement and design should minimize the difference in intensity between adjacent uses in order to allow for the provision of water, wastewater, and roadways sufficient to serve the proposed densities and provide for compatible neighboring developments. Step-down patterns of use surrounding major activity centers, combined with buffering techniques, should ensure that residential densities are compatible with each other, and that residential development is not adversely impacted by higher intensity uses.
- (5) Public utilities and infrastructure should be provided within all subdivisions in order to ensure the health, safety, and well-being of the public. Utility capacity should be sufficient to meet accepted standards of service to reasonably anticipated development. Where excess capacity in utility lines or facilities within a subdivision will further the efficient and desirable extension of utilities to adjacent property, equitable provision of such capacity is essential to the orderly growth of the urban area.
- (6) Construction of water, wastewater, drainage, gas, electric, telephone, and cable television utilities that require utility cuts of a public street shall be repaired pursuant to applicable City ordinances.

(Ord. No. 14-28, § VII-1, 3-15-11)

Sec. 10.02.122. Blocks and lots.

Except as provided otherwise in this Article, the terms and provisions of the zoning ordinance establishing the minimum lot area, width, setback line, side yard, and rear yard requirements for each zoning or use category are incorporated herein by reference. Such regulations and standards shall be applied to property within the City limits based upon the zoning of the property and to property within the extraterritorial jurisdiction based on agreement of, and the land use proposed by, the developer.

- (1) *Blocks.*
 - a. The length, width, and shape of blocks shall meet the following standards:

1. Provide adequate building sites (lots) suitable to the special needs of the type of use designated on the plat;
 2. Accommodate lots of the size and dimensions required by this Section;
 3. Provide for convenient access, circulation, control, and safety of street traffic;
 4. Minimize reductions in the capacity of adjacent streets insofar as possible by reducing the number of turning movement conflicts;
 5. Provide an appropriate response to the limitations and opportunities of topography; and,
 6. Increase the ability of building sites (lots) to receive or to be protected from solar gain as the season requires in order to improve utility efficiency and increase the livability of each lot.
- b. Residential blocks shall not exceed 1,300 feet nor be less than 500 feet in length, except as otherwise provided for herein.
 - c. Blocks along arterial streets shall not be less than 1,600 feet.
 - d. The width of blocks shall be sufficient to accommodate two tiers of lots with minimum depth as required by this Section; exceptions to this width shall be permitted in blocks adjacent to major streets, railroads, waterways, or another topographical features prohibiting a second lot tier.
 - e. The Commission may, at the preliminary plat phase, require the dedication of an easement or right-of-way not less than ten feet wide bisecting the center of any block in excess of 800 feet in length to accommodate utilities, drainage facilities, and/or pedestrian access to greenbelts or park areas.
 - f. Blocks shall be identified on each plat by consecutive adjacent numbers within each subdivision and portion thereof. Blocks forming a continuation of a previous subdivision block shall continue the block number.
- (2) *Lots.* All land area within the boundaries of the subdivision or resubdivision except that area specifically dedicated as public right-of-way for any purpose shall be designated as a lot.
- a. The required lot area, width, building setback line, front, side, street side, and rear yard requirements for each lot as established in the zoning ordinance are incorporated herein by reference.
 1. Within the City limits such requirements and standards shall be based on the zoning of the property; and
 2. Within the extraterritorial jurisdiction, such requirements and standards shall be based on the agreement of, and land use proposed by, the developer.
 - b. The minimum lot size for all lots shall be 22,000 square feet.
 - c. Each lot shown on a plat shall be clearly designated by a number located within the boundaries of the lot. The boundaries of each lot shall be shown by bearing and distance in relation to the monuments found or established on the ground in conformance with this Article.
 - d. For developments within the corporate limits of the City, the proposed use for each lot shall be indicated on the plat, and in accordance with the City's zoning ordinance, as currently amended.
 - e. For developments outside the corporate limits of the City, but within the City's extraterritorial jurisdiction, the proposed use for each lot shall be indicated on the plat, and shall [be] consistent with similar uses as defined in [the] City's zoning ordinance, as currently amended.

- f. All lots shall have four sides and conform to the depth-to-width ratio specified in subsection h below, except when the street alignment is curved, in order to conform with other provisions of this Article.
- g. No lot shall have a corner intersection of less than 45 degrees.
- h. The ratio of average depth to average width shall not exceed three to one (3:1) or have a frontage of less than 85 feet nor be less than one to one (1:1) unless the lot is at least one and one-half times the required lot size, unless both the depth and width of the lot exceed the minimums required in this Article, and the City finds that the proposed lot dimensions are consistent with surrounding development and the master plan.
- i. All lots shall face and have contiguous frontage on a usable, dedicated public road right-of-way except lots within a PUD which may have similar frontage on a private street under common ownership. The extent of this frontage (front line) shall conform to the minimum lot width requirements set forth in the City's zoning ordinance.
- j. Except as otherwise approved through the granting of a variance, all lots shall face a similar lot across the street.
- k. Lot lines common to the street right-of-way line shall be the front line. Side lot lines shall project away from the front line at approximately right angles to street lines and radial to curved street lines. The rear line shall be opposite and approximately parallel to the front line.
 - 1. The length and bearing of all lot lines shall be indicated on the plat; and
 - 2. Wherever feasible, lots arranged such that the rear line of a lot or lots is also the side line of an adjacent lot shall be avoided. When this occurs, ten feet shall be added to the minimum lot width and the side building line adjacent to the rear yard of another lot.
- l. Lot area, width, and depth shall conform to the requirements as established in the zoning ordinance. For developments outside the corporate limits of the City, but within the City's extraterritorial jurisdiction, lot size shall be consistent with similar uses as defined in the zoning ordinance.
- m. Double frontage lots.
 - 1. Residential lots shall not take access on two nonintersecting local and/or collector streets; and
 - 2. Residential lots adjacent to an arterial street shall also have frontage on a local street. Vehicular access to these lots shall be from the local street only. Nonresidential lots with double frontage shall have offset access points to inhibit cut-through traffic.
- n. Reverse frontage lots. Residential lots with rear yards facing highways, access roads, and major or minor arterial streets should be at least 130 feet in depth so as to provide adequate rear yard area for screening and buffering of the rear of the structure, as required by this Article.
- o. Corner lots.
 - 1. Lots having frontage on two or more intersecting streets shall be classified as corner lots;
 - 2. Corner lots adjacent to streets of equal classification shall have only one access driveway on either of the intersecting streets, except as otherwise approved by the Commission;
 - 3. Corner lots adjacent to streets of unequal classification shall access the lower classification street only, and only one drive approach shall be allowed, except as otherwise approved by the Commission;

4. Corner lots shall contain at least one street side building setback line; and
 5. Corner residential lots shall be ten feet wider than the average interior lot on the same block.
- p. Building setback lines.
1. Each lot shall have a building setback line, which runs parallel to the property line.
 2. The front and rear building setback lines shall run between the side lot lines.
 3. The side building setback lines, and street side building setback lines for corner lots, shall extend from the front building setback line to the rear building setback line.
 4. The building setback line for each designated lot shall conform to the City's zoning ordinance, as currently amended. For developments outside the corporate limits of the City, but within the City's extraterritorial jurisdiction, building setback lines shall be consistent with similar uses as defined in the zoning ordinance.
 5. All building setback lines shall be indicated on the subdivision plat. For nonresidential developments, a note stating that "all building setback lines shall be in accordance with the City's current zoning ordinance" shall be placed on the subdivision plat.
- q. Yard areas. The area between the property line and the front, side or rear building setback line shall be the required front, side and rear yard areas, respectively.
1. No structure or impervious construction shall be allowed in the front yard area except for fences, driveways, sidewalks, utility distribution lines and appurtenances within dedicated easements and rights-of-way, and/or drainage structures; and
 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.
- r. Lot access.
1. A minimum of one all-weather access area (either individually, or common to more than one lot) or driveway shall be provided for connecting the lot to an existing or proposed dedicated public street. An exception may be made for lots within a planned unit development which may have similar access to a private street. Each lot shall front upon a public street or, in the case of a planned unit development, have access by way of access easement sufficient to meet the requirements of the standard fire prevention code.
 2. All driveway approaches shall be constructed to conform to the provisions of this Article.
- s. Lot numbering.

1. All lots are to be numbered consecutively within each block. Lot numbering may be cumulative throughout the subdivision if the numbering continues from block to block in a uniform manner that has been approved on an overall preliminary plat.
 2. Any lot(s) being resubdivided shall be renumbered utilizing the original lot number, followed by a letter designation starting with A.
- t. Lot easements. Public utility easements on side and rear lot lines shall be required as needed to accommodate public utility and drainage appurtenances and as specified in this Article.
 - u. Lot drainage. Lot drainage shall be in conformance with the requirements of this Article.

(Ord. No. 14-28, § VII-2, 3-15-11)

Sec. 10.02.123. Water utility improvements.

- (a) *Policy.* Developers shall be responsible for providing an approved public water supply system consistent with the master plan, this Article, and the rules and regulations of the entity providing or to provide water to the development.
 - (1) Where an approved public water supply or distribution main is within reasonable distance of the subdivision as determined by the Commission, but in no case more than one-half mile away and connection to the system is both possible and permissible, the developer shall be required to connect to the system and to bear the cost of connecting the development to such existing water supply. In some instances, the City may request that the main water connection be oversized or rerouted to suit future water system improvements in that area.
 - (2) The developer shall, consistent with all existing ordinances, make a pro-rata contribution to funding of needed storage facilities, treatment facilities, and specific distribution lines as determined necessary by the City. Under extraordinary circumstances, these provisions may be varied with the approval of the Council and Commission.
- (b) *Public water system design.* The design and construction of a public water system shall:
 - (1) Comply with regulations covering extension of public water systems adopted by the Texas Commission on Environmental Quality;
 - (2) Be of sufficient size to furnish adequate domestic water supply and fire protection services to all lots and to conform with the requirements of the Morgan's Point Resort water supply system;
 - (3) Be located where maintenance can be accomplished with the least interference with traffic, structures and other utilities;
 - (4) Be designed in an effort to eliminate the need for booster pumps or other similar devices;
 - (5) Not propose water mains less than eight inches in diameter, with consideration for four and six-inch pipe in cul-de-sacs and looped streets;
 - (6) Be acceptable, without penalty, to the State Fire Insurance Commission. To that end, the following fire flows shall be required, subject to the resources of the Morgan's Point Resort water supply system:

(i)	Principal mercantile and industrial areas	3,000 gpm
(ii)	Light mercantile areas	1,500 gpm
(iii)	Congested residential areas	750 gpm
(iv)	Scattered residential areas	500 gpm

- (7) Include fire hydrants:
 - a. At a minimum spacing of 600 feet for residential developments;
 - b. Within 300 feet of all sides of a nonresidential development;
 - c. At the end of all cul-de-sac streets, or similar dead-end water distribution lines; and
 - d. For fire flows calculated with 20 pound residual pressure.
 - (8) Include valves on each fire hydrant lead, at each intersection of two or more mains, and valve spacing so that no more than 30 customers will be without water during a shutoff;
 - (9) Be designed and constructed to comply with all applicable rules, regulations and policies of the entity that will provide water service to the development.
 - (c) *Private water systems design.* The design of private water systems, if authorized, shall include backflow prevention assemblies for domestic and fire protection systems that are directly or indirectly connected to the City's potable water distribution system.
- (Ord. No. 14-28, § VII-3, 3-15-11)

Sec. 10.02.124. Wastewater utility improvements.

- (a) *Policy.* Developers shall be responsible for providing an approved wastewater system, consistent with the master plan, this Article, and the rules and regulations of the entity providing or to provide wastewater service to the development, throughout the development, such that all lots, parcels, or tracts of land will be capable of connecting to the wastewater system except as otherwise provided herein.
 - (1) Where an approved public wastewater collection main is within reasonable distance of the subdivision as determined by the Commission, but in no case more than one-half mile away and connection to the system is both possible and permissible, the developer shall be required to connect to the system and to bear the cost of connecting his development to such existing wastewater system. In some instances, the City may request that the main wastewater connection be oversized or rerouted to suit future wastewater system improvements in that area.
 - (2) The developer shall, consistent with all existing ordinances, make a pro-rata contribution to funding of needed lift station facilities, treatment facilities, and specific collection lines as determined necessary by the City. Under extraordinary circumstances, these provisions may be varied with the approval of the Council and Commission.
- (b) *Design.* The design and construction of wastewater collection systems, lift stations, inverted siphons and septic systems shall comply with regulations covering extension of public wastewater systems, and other applicable regulations, adopted by the Texas Commission on Environmental Quality and the Texas Department of Health. Under extraordinary circumstances, these provisions may be varied with the approval of the Council and Commission.
 - (1) All new public wastewater systems shall be designed and constructed to operate on a gravity flow basis by taking advantage of natural topographic conditions and thereby reducing the need for lift stations and force mains.
 - (2) Flow determinations should include generally accepted criteria for average daily flow, inflow and infiltration, peaking factors, minimum slopes and minimum flow velocities.
 - (3) The minimum size of any public wastewater line will be six inches in diameter.
 - (4) Public wastewater lines shall be located where maintenance can be accomplished with the least interference with traffic, structures and other utilities. Minimum separation distance from water

utilities shall be in accordance with the rules adopted by the Texas Commission on Environmental Quality.

- (5) Manholes shall be located so as to facilitate inspection and maintenance, including intersections, horizontal alignment changes, vertical grade changes, change in pipe size or material, and force main discharge points.
- (6) All wastewater systems shall be designed and constructed to comply with all applicable rules, regulations and policies of the entity that will provide wastewater service to the development.

(Ord. No. 14-28, § VII-4, 3-15-11)

Sec. 10.02.125. Streets and drainage.

- (a) *Design of improvements.* All improvements shall be designed according to generally accepted engineering standards subject to the approval of the Commission upon the recommendation of the City Engineer. All roads and streets shall be designed in accordance with the latest edition of AASHTO's "A Policy on Geometric Design of Highways and Street."
- (b) *Iron markers.* All lot corners, street right-of-way lines, and utility easement boundaries shall be marked with iron pins or iron pipes driven into the ground and shall be protected during construction.
- (c) *Interior streets.* Streets within the subdivision shall be constructed by the developer.
- (d) *Perimeter streets.* Where the subdivision fronts on a City street, the Commission shall determine the minimum right-of-way width which shall be necessary. This right-of-way requirement may be as wide as 120 feet, if the City street is a potential major artery. Where the development fronts on both sides of an existing City street, right-of-way for the total prescribed width shall be provided. Any improvements proposed by the developer for existing City streets shall be:
 - (1) Made according to the minimum regulations for streets or roads.
 - (2) Approved by the Commission prior to the construction of improvements.
 - (3) Equal to, or better than, the existing road, in the sole judgment of the City.
- (e) The City shall require an internal street system that minimizes road cuts to existing City or other public roadways.

(Ord. No. 14-28, § VII-5, 3-15-11)

Sec. 10.02.126. Minimum requirements—Local and collector streets.

Minimum road design standards are dependent upon the character or nature of the subdivision as evidenced by lot area and lot density.

- (1) *Urban or rural.* To determine whether a subdivision of land is "rural" or "urban" in character, the following criteria will be evaluated:

Characteristics	Urban	Rural
Lot area	1.0 acre or less	> 1.0 acre
Average gross density	< 1.0 acre/lot	> 1.0 acre/lot

NOTE: Average gross density is determined by dividing the developed acreage (including streets and common areas) by the number of lots.

(2) *Local road/street.*

Characteristics	Urban	Rural
Pavement	22 ft. width, 1-1/2 in. HMAC	20 ft. width, 1-1/2 in. HMAC 2-crs surf trt
Right-of-way	50 ft. (minimum)	50 ft. (minimum)
Shoulder/edge	4 ft. compacted base or 12 in. x 8 in. concrete edge beam*	4 ft. compacted base
Curb and gutter** required	No (optional)	No (optional)
Minimum design speed	30 mph	30 mph
Minimum compacted depth of base	6 in.	6 in.
Maximum allowable grade	12%	12%
Minimum intersection curve radii	15 ft. with curb and gutter 20 ft. without curb and gutter	15 ft. with curb and gutter 20 ft. without curb and gutter
Maximum number of lots served by street	100	25
Maximum ditch foreslope	3:1	3:1

* Whether a road is classified as local or collector will depend not only on the number of lots served by the subdivision under consideration, but will also depend on the potential for development of land adjacent to the subdivision.

** NOTE: If curb and gutter is installed, the minimum width, back of curb to back of curb, is 31 feet.

(3) *Collector road/street.*

Characteristics	Urban	Rural
Pavement	24' width, 1-1/2" HMAC	24' width, 1-1/2" HMAC or 2-crs surf trt
Right-of-way	50 ft. (minimum)*	50 ft. (minimum)*
Shoulder/edge	6 ft. compacted base or 12" x 8" concrete edge beam**	6 ft compacted base
Curb and gutter*** required	No (optional)	No (optional)
Minimum design speed	40 mph	40 mph
Minimum compacted depth of base	6"	6"
Maximum allowable grade	9%	9%
Minimum intersection curve radii	20 ft.	20 ft.
Maximum ditch foreslope	4:1	4:1

* If adequate drainage can be accommodated within the 50 feet right-of-way.

** NOTE: Concrete edge beam shall be built with two and three-eighths-inch diameter rebar and with one-half-inch by 24-inch smooth dowels at construction joints, 40 feet maximum spacing. All curb and gutter and edge beams shall be constructed with a minimum of four inches compacted base beneath, extending one foot back of the curb or beam. The concrete edge beams are included in the pavement width.

*** NOTE: If curb and gutter is installed, the minimum width, back of curb to back of curb, is 36 feet.

- (4) *Arterial streets.* The design parameters for arterial roads and streets shall be determined on a case-by-case basis, taking into account all relevant factors. The ultimate design will be that which is approved by the City of Morgan's Point Resort.
- a. Residential lots shall not be platted fronting proposed arterials.
 - b. The platting of residential lots fronting existing roads that are maintained by TxDOT is discouraged and will not be approved unless extenuating circumstances preclude the construction of an interior street in the development. Where it can be shown that no alternative exists, lots may be platted so as to maintain a minimum 150 feet between driveway openings. The minimum building setback shall be established at 50 feet. (Final approval of all driveway locations rests with TxDOT. Because of sight distance, some locations may not be approved for construction of a driveway.)
- (5) *Cross streets and dead-end streets.* Cross streets shall be provided at a maximum spacing of 1,500 feet to facilitate the movement of emergency vehicles except when such streets are impractical because of unusual terrain, streams, cliffs, or barriers (such as railroads). Dead-end streets, that may subsequently be developed, may remain as dead-end streets but the right-of-way shall be extended to the subdivision property line. Dead-end streets that will remain as dead-end streets shall end on a cul-de-sac with a minimum right-of-way of 50-foot radius, and a pavement width of 45-foot radius or an approved alternative design.

(Ord. No. 14-28, § VII-6, 3-15-11)

Sec. 10.02.127. Soils testing.

The construction standards established for roads in Morgan's Point Resort by the previous Section of these regulations are minimums, and will only be applicable to construction of roads for certain subgrade and drainage conditions. The subdivider or his engineer shall contract with a recognized soils laboratory to conduct sufficient testing of the natural, in place soils to determine the minimum street/pavement design for a particular set of roads in a proposed subdivision. One copy of the report from the soils laboratory shall be furnished to the City, said report to be signed and sealed by a licensed professional engineer, registered in the State of Texas. This recommended street/pavement design will take into account the existing soil conditions as well as expected traffic conditions for a 20-year design life. For design considerations, minimum loading for roads is: 20,000 18 Kip Axle Repetitions for a local road; 100,000 18 Kip Axle Repetitions for a collector street; and 400,000 18 Kip Axle Repetitions for an arterial.

(Ord. No. 14-28, § VII-7, 3-15-11)

Sec. 10.02.128. Signs and traffic-control devices.

In addition to construction of all roads in accordance with established standards, any and all traffic-control and street name signs will be paid for by the subdivider prior to final acceptance of the roads. Also, requirements for guardrail, reflective markers, or delineators will be installed and paid for by the developer.

(Ord. No. 14-28, § VII-8, 3-15-11)

Sec. 10.02.129. Right-of-way.

The minimum right-of-way indicated by these regulations shall be considered adequate for streets with curb and gutter (most conditions) and streets without curb and gutter under ideal conditions. The minimum acceptable

right-of-way on all streets and roads will be dependent upon the width of pavement, shoulders, drainage ditches, and the amounts of cut or fill involved in the design.

(Ord. No. 14-28, § VII-9, 3-15-11)

Sec. 10.02.130. Drainage.

- (a) All drains, drainage structures, and appurtenances shall be designed by a person authorized to practice the profession of engineering under the provisions of the Texas Engineering Registration Act, and amendments thereto.
- (b) Drainage calculations shall be made using the rational method for determining stormwater runoff and Manning's Equation for ditch and pipe capacities or by other accepted methods approved by the City Engineer. (Note: Unit hydro graph or regional curve methods may be required for larger drainage areas.)
 - (1) Drainage for arterial streets or roads shall be designed for a minimum of 25-year storm return frequency.
 - (2) Drainage for collector streets or roads shall be designed for a minimum of ten-year storm return frequency unless there is a cross road drainage structure conveying runoff from a drainage area greater than or equal to 64 acres, in which case the cross road drainage structure will be designed to convey a 25-year design storm with no more than 12 inches over topping of the road during a 100-year frequency storm.
 - (3) Drainage for minor (residential) streets or roads shall be designed for a minimum of ten-year storm return frequency.
 - (4) Driveway pipe culverts shall be designed for a minimum of five-year storm return frequency.
- (c) All data and calculations shall be presented to the City Engineer and shall assume fully developed upstream conditions.
- (d) All roads and streets shall have ditches that are a minimum depth of 12 inches below the shoulder of the subgrade and a minimum grade of one-half percent. Greater depths shall be provided as required to accommodate the design flows. (Note: Exceptions to ditch depth and/or elimination of the ditch will be considered on a case-by-case basis after analyzing all relevant factors.) Roadside ditches may be eliminated within a subdivision provided that the road has 12-inch ribbon curbs, the street has a minimum of two percent cross slope, and that the drainage patterns in the subdivision remain as in an undeveloped state.
- (e) All drains, drainage structures, and appurtenances shall be inspected and approved in writing by the City Engineer or other person designated by the City, prior to acceptance of the subgrade and prior to the placement of any base material on the subgrade.
- (f) The City will assume no responsibility for the maintenance of drainage ways or easements, other than those running on or along the streets and roads in subdivisions. Maintenance of drainage facilities (other than those running on or along streets or roads) shall be the responsibility of the property owner or property owners association. The subdivider may be required to furnish drainage easements for the conveyance of drainage through the proposed development and downstream to provide future flood control.
- (g) Warning devices. The City of Morgan's Point Resort may require gates and/or warning devices at all road crossings where the 100-year frequency flow (or lesser flow) is anticipated to flow over the road surface. Such devices, if required, will be installed by the developer and maintained by the City.

(Ord. No. 14-28, § VII-10, 3-15-11)

Sec. 10.02.131. Subgrade.

- (a) Roads and streets shall be constructed in conformance with the requirements of the Texas Department of Transportation Standard Specification for Construction of Highways, Streets, and Bridges.
- (b) Subgrades shall be constructed and finished with a minimum density of 95 percent of Standard Proctor (ASTM D698) for in place materials or as specified in the pavement report prepared by a soils lab. Moisture shall be maintained within \pm two percent of optimum for materials with a liquid limit (LL) = 50 or below. If LL > 50, moisture shall be at or above optimum.
- (c) Test reports showing density compliance, from a certified testing laboratory, shall be submitted to City Engineer. Minimum number of tests made and submitted shall be one for each 500 linear feet of roadway crown surface with a minimum of one report per project, street, or road. Such tests shall be conducted by and at the expense of the owner.
- (d) The subgrade shall be inspected and approved in writing by the City Engineer or his designated representative prior to the placement of any base on subject grade.

(Ord. No. 14-28, § VII-11, 3-15-11)

Sec. 10.02.132. Base material.

- (a) All roads and streets shall receive base material in the minimum amounts shown in these regulations or as specified in the pavement report prepared by a soils lab.
- (b) Subgrade must be approved in writing before the placement of any base material.
- (c) Roadway base material shall conform to the requirements of the Texas Department of Transportation Department, Item 248, Type A, Grade 2 Flexible Base.

Retained on Square Sieve (%)	Sieve
0-10	1-3/4"
45-75	# 4
60-85	# 40
Max. Liquid Limit (L.L.) = 40	
Max. Plasticity Index (P.I.) = 2	
Triaxial Class: 1 to 2.3	

(NOTE: Tests certifying that the base material meets these specifications shall be submitted prior to application of the material to the subgrade.)

- (d) Construction methods. Crushed stone flexible base material shall be placed in uniform courses with the compacted thickness of a course to be no more than six inches or less than three inches. The material shall be dumped, spread, mixed, windrowed, watered, and other operations necessary to produce a uniformly blended mixture of the desired course thickness, moisture condition, and gradation. Shaping of the blended mixture to the required grade and line shall follow the mixing procedure and precede the compaction. Compaction of each course of crushed stone flexible base material shall be accomplished by suitable equipment to obtain a minimum density of 95 percent of ASTM D1557 (Modified Proctor). Moisture content shall be maintained near \pm two percent optimum during compaction. Soft spots that develop during compaction will be removed and replaced to the required density. Areas that show evidence of segregation

shall be replaced before the compaction of the course is completed. The same procedures shall be used in the construction of each course.

- (e) Test reports from a certified testing laboratory, showing base material compliance, shall be submitted to the City Engineer. Minimum tests made and submitted shall be one for each 500 linear feet of base material placed, with a minimum of one per project, street or road. Such tests shall be made by and at the expense of the owner.
- (f) Compliance test reports shall be submitted prior to request for inspection of completed base.
- (g) Completed base shall be inspected and approved in writing by the City Engineer or his/her designated representative, prior to placement of any pavement.

(Ord. No. 14-28, § VII-12, 3-15-11)

Sec. 10.02.133. Pavement.

All roads and streets shall be paved with one of the following three types of pavement and shall conform to the requirements for the respective type used:

- (1) *Concrete pavement.* Concrete pavement shall have a minimum thickness of six inches and a minimum compressive strength of 3,000 pounds at 29 days. When concrete pavement is to be used, a complete design of the pavement, including, but not limited to, all materials, joints, reinforcing, and construction methods, procedures, and designs, shall be submitted to the City Engineer for approval. Approval shall be in writing before construction commences.
- (2) *Hot mix asphaltic concrete pavement.* Compacted depth of hot mix asphaltic pavement shall be a minimum of one and one-half inches. Asphaltic concrete shall conform to the requirements of the TxDOT, item 340, hot mix asphaltic concrete pavement, class A, type D. Hot mix asphaltic concrete pavement shall not be placed when general weather conditions, in the opinion of the City Engineer, are not suitable. Test reports from a certified testing laboratory, showing material compliance, shall be submitted to the City Engineer. Minimum tests made and submitted shall be one for each day production, or one per 1,000 tons placed, whichever is least, with a minimum of one per project. Such tests shall be made by and at the expense of the owner. Additional tests may be required. Construction methods shall conform to item 340.6 to include installation of a prime coat.
- (3) *Surface treatment pavement.*
 - a. Surface treatment pavement (when approved) shall consist of a minimum of a prime coat and two-course surface treatment. Surface treatment type pavement shall not be applied when the air temperature is below 60 degrees F and falling, but it may be applied when the air temperature is 50 degrees F and rising. Surface treatment will not be applied when the temperature of the roadway surface is below 60 degrees F.
 - b. All work shall conform to requirements of the TxDOT, item 310 for prime coats, item 302 for aggregate, and item 322 for surface treatments. The type and grade of all asphaltic material and aggregate shall be approved by the City Engineer prior to application. Variations in asphaltic materials may be required due to various conditions. Certified reports showing the type, grade, and quantities of asphaltic material and aggregates used must be furnished to the City Engineer.
 - 1. *Prime coat.* Prime coat asphaltic material shall be applied at a minimum rate of one-quarter gallons per square yard.

2. *Surface treatment.* Surface treatment asphaltic material shall be applied at a minimum rate of one-third gallons per square yard. The total asphaltic material for both the prime and surface course shall be not less than one-sixth gallons per square yard.
3. *Cover aggregates.* Approved aggregate, complying with the TxDOT, item 302, types A or B: grade 4 for cover material shall be applied at a rate of not less than one cubic yard per 110 square yards, per course.

(Ord. No. 14-28, § VII-13, 3-15-11)

Sec. 10.02.134. Mailboxes.

- (a) For purposes of public safety, the City encourages the use of clustered or community mail facilities whenever possible to reduce collision hazards.
- (b) Mailboxes shall be set at least one foot back from the curb on curb and gutter streets.
- (c) Mailboxes shall be set at least two feet, but no further than three feet back from the edge of pavement on all other subdivision streets.

(Ord. No. 14-28, § VII-14, 3-15-11)

Secs. 10.02.135—10.02.150. Reserved.

DIVISION 6. PARKLAND DEDICATION

Sec. 10.02.151. Required.

It shall be required that a developer of any residential subdivision within the City make a financial contribution for the acquisition of public parkland and/or other recreational improvements and amenities that contribute to and enhance the quality of life in the City in accordance with the provisions of this Article.

Sec. 10.02.152. Park fund established.

A separate fund to be entitled "park fund" shall be and is hereby created and the money paid by developers at final plat approval in-lieu of the dedication of land and interest thereon, shall be held in said fund in trust to be used solely and exclusively for the purpose of purchasing and/or equipping public park and recreational land. Such fund shall be invested or held in an interest-bearing account and all earnings and interest shall accrue to the park fund.

- (1) At such time as the City Council, based upon the recommendations of the Commission and/or City staff determines that there are sufficient funds derived from a certain area in the park fund to purchase usable parkland, the Council shall cause negotiations to be undertaken to purchase the site by mutual agreement or by condemnation proceedings. In making such determination for the purchase of said site, the conditions of this Article shall be taken into consideration.
- (2) The principal and interest deposited and kept in the park fund shall be used solely for the purpose of purchasing and/or equipping or improving land for public park and recreation uses, and for maintaining or operating public park facilities, or for any other purpose.
- (3) The identification, clearing and maintenance of green belt areas, for increased public use and access, is an allowable use of funds generated.

(Ord. No. 14-28, § VIII-1, 3-15-11)

Secs. 10.02.153—10.02.180. Reserved.

DIVISION 7. MULTIFAMILY, TOWNHOUSE OR GARDEN HOME SUBDIVISIONS

Sec. 10.02.181. General.

For multifamily, townhouse, or garden home subdivisions, adequate provision shall be made by the subdivider for common ownership and maintenance of community facilities such as recreation and open spaces, parking, access and similar common use areas. The subdivider shall also furnish deed restrictions limiting the property to multifamily, townhouse or garden home use and provide disposition and maintenance covenants for all open space or other common ownership areas. Such restrictions shall be recorded at the time of plat recordation.

(Ord. No. 14-28, § IX-1, 3-15-11)

Secs. 10.02.182—10.02.220. Reserved.

DIVISION 8. MANUFACTURED HOMES

Sec. 10.02.221. Purpose.

The purpose of this Division is to achieve orderly development of manufactured home communities and subdivisions, to promote and develop the use of land to assure the best possible community environment, and to protect and promote the health, safety, and general welfare.

(Ord. No. 14-28, § X-1, 3-15-11)

Sec. 10.02.222. Manufactured home subdivision.

The terms manufactured home, manufactured home community, manufactured home rental community, and manufactured home subdivision are defined in Section 10.02.006 Definitions. Unless exempted by some provision of State law, manufactured home community, manufactured home rental community, and manufactured home subdivision each are "subdivisions" within the meaning of this Article. Manufactured home subdivisions must comply with all requirements and provisions on the same basis as subdivisions that do not include manufactured homes except as specified in Section 10.02.224.

(Ord. No. 14-28, § X-2, 3-15-11)

Sec. 10.02.223. Definitions.

Sale, as used in this Division, means any and all transactions in which legal, beneficial, or equitable ownership of the space or lot is transferred to another. It is immaterial whether such transfer occurs by deed, contract of sale, option contract, lease-purchase, long-term ground lease, or any other method. Without limitation to the

foregoing, "sale" includes both (1) any rental or lease agreement for a term of 60 months or more and (2) any rental or lease agreement with a purchase option.

(Ord. No. 14-28, § X-3, 3-15-11)

Sec. 10.02.224. Requirements and standards unique to manufactured home communities and subdivisions.

(a) *Assumption of business enterprise.*

- (1) By their nature, all manufactured home communities and subdivisions are hereby assumed to be created, developed, and operated as business enterprises. The construction and maintenance of all improvements is a normal function of conducting such a business enterprise.
- (2) This assumption is vacated if and when all platted lots in a manufactured home subdivision are sold to individual lot owners with no residual business ties to the original developer/subdivider, i.e., no buy back provisions in the terms of the sale, no financing by the original developer/subdivider whereby the lots might revert by foreclosure or other default, or any other provision(s) whereby the original developer/subdivider retains or may exercise ownership privileges over any or all of the lots. Additionally, all common user areas to include streets and recreational areas must be deeded to all lot owners equally. An "owners association" composed exclusively of individual owners each independent of the original developer/subdivider and each having one vote shall be construed as a significant indicator that the subdivision is no longer operated as a business enterprise. An individual lot owner with no residual business ties to the original developer/subdivider may own more than one lot which may be rented for residential occupancy without reestablishing the business enterprise assumption, provided that that individual lot owner is bound by the one vote provision.

(b) *Streets.* The streets in these communities shall be built to the same standards as required for subdivisions. The street specification must include adequate provision for roadway maintenance to guarantee future ingress and egress by fire and emergency vehicles. It may meet this requirement by either:

- (1) Dedicating the roadways to the public. The City will not accept dedicated rights-of-way for public maintenance if the manufactured home community or subdivision is operated as a business enterprise. Every future lease or rental agreement will inform the tenants that the City will never maintain any road or street as long as the community or subdivision is operated as a business enterprise.
- (2) Provided that a manufactured home subdivision is no longer operated as a business enterprise, the City will accept dedicated rights-of-way for public maintenance only if their current condition complies with all applicable current standards, and only upon the earlier of two years from issuance of the certificates of completion or posting of an adequate two-year maintenance bond (or) providing an adequate financing mechanism for private maintenance. The private maintenance plan must contain a covenant that every future lease or rental agreement will inform the tenants that the City will never maintain any road or street in the community under any circumstances.

(c) *Lots.*

- (1) To ensure placement and removal of manufactured homes, lots in a manufactured home community shall front on a street of not less than 60 feet width right-of-way.
- (2) The minimum size for lots served with individual sewage disposal system shall be as prescribed by the TCEQ.
- (3) Each lot shall be identified in accordance with 911 addressing procedures.

(d) *Anchorage.* All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to the following (refer to FEMA Manual #85, Manufactured Home Installation in Flood Hazard Areas):

- (1) Over-the-top ties at each of the four corners of the manufactured home with two additional ties per side at intermediate locations. Manufactured homes more than 50 feet long require one additional tie per side.
- (2) Frame ties at each corner of the home with five additional ties per side at intermediate points. Manufactured homes more than 50 feet long require four additional ties per side.
- (3) All components of the anchoring system shall be capable of carrying a force of 4,800 pounds.

(Ord. No. 14-28, § X-4, 3-15-11)

Sec. 10.02.225. Other regulatory agencies.

Other agencies with regulatory authority that may apply to a manufactured home community or subdivision may include, but are not limited to, Emergency Services Districts, the Texas Commission on Environmental Quality, Public Utilities Commission, the United States Parks and Wildlife Service and Environmental Protection Agency, and the U.S. Army Corps of Engineers.

(Ord. No. 14-28, § X-5, 3-15-11)

MORGAN'S POINT RESORT, TEXAS APPLICATION FOR REVIEW OF PLATS

TYPE OF PLAT

Preliminary Plat _____ Final Plat _____

PLAT INFORMATION

Proposed Name of Subdivision: _____

Name/Address/Phone of Owner: _____

Name/Address/Phone of Subdivider/Developer: _____

Name/Address/Phone of Engineer/Surveyor: _____

Date Submitted to City: _____

Number of Lots: ____ Total Acreage: ____ Land Use Type: _____

Fees Paid: YES _____ NO _____ Amount: _____

PLEASE SIGN AND DATE

SIGNED _____ DATE _____

CHAPTER 11 TAXATION

ARTICLE 11.02. SALES AND USE TAX⁹

Sec. 11.02.001. Sales and use tax elections.

Ordinances calling elections as well as those certifying election results for the imposition of sales and use taxes are on file in the office of the City Secretary.

Sec. 11.02.002. Tax on sale of gas and electricity for residential use.

- (a) The tax heretofore imposed by the City pursuant to the provisions of the Local Sales and Use Tax Act is hereby continued on the sale, production, distribution, lease or rental of and the use, storage or other consumption of gas and electricity for residential use.
- (b) The sale, production, distribution, lease or rental of and the use, storage or other consumption of gas and electricity for residential use shall not be exempt from the tax imposed by the City under the Local Sales and Use Tax Act.

(Ord. No. 23-2, 9-7-78)

State law reference(s)—Authority of municipality to impose tax on sales of gas and electricity, V.T.C.A., Tax Code § 321.105.

Sec. 11.02.003. Telecommunication services tax.

- (a) *Authorization of tax.* A tax is hereby authorized pursuant to V.T.C.A., Tax Code § 321.203(g) (Consummation of sale) on all telecommunications services sold within the City. For purposes of this Section, the sale of telecommunications services is consummated at the location of the telephone or other telecommunications device from which the call or other communication originates. If the point of origin cannot be determined, the sale is consummated at the address to which the call or other communication is billed.
- (b) *Repeal of exemption.* The application of the exemption provided for by V.T.C.A., Tax Code § 321.210 (Telecommunications exception) is hereby repealed by the City, effective on the date permitted by law.
- (c) *Rate of tax.* The rate of tax imposed by this Section is the same as the rate imposed by the City for all other local sales and use taxes as authorized by State law.
- (d) *Notice of comptroller.* The City Secretary shall forward to the State Comptroller by United States registered or certified mail a copy of the ordinance from which this Section derives along with a copy of the minutes of the City Council's vote and discussion on the ordinance.

⁹State law reference(s)—Authority of municipality to impose local sales and use tax, V.T.C.A., Tax Code ch. 321.

(Ord. No. 23-44, 9-20-11)

State law reference(s)—Authority of municipality to impose tax on the sale of telecommunications services,
V.T.C.A., Tax Code § 321.210.

ARTICLE 11.03. HOTEL OCCUPANCY TAX

Sec. 11.03.001. Definitions.

The following words, terms and phrases are, for the purposes of this Article, except where the context clearly indicates a different meaning, defined as follows:

Consideration means the cost of the room in such hotel only if the room is one ordinarily used for sleeping, and shall not include the cost of any food served or personal services rendered to the occupant of such room not related to the cleaning and readying of such room for occupancy.

Hotel means any building or buildings in which the public may, for a consideration, obtain sleeping accommodations. The term shall include hotels, motels, tourist homes, houses, or courts, lodging houses, inns, rooming houses, or other buildings where rooms are furnished for a consideration, but "hotel" shall not be defined so as to include hospitals, sanitariums, or nursing homes.

Occupancy means the use or possession, or the right to the use or possession, of any room in a hotel if the room is one ordinarily used for sleeping and if the occupant's use, possession, or right to use or possession extends for a period of less than 30 days.

Occupant means anyone who, for a consideration, uses, possesses, or has a right to use or possess any room in a hotel if the room is one ordinarily used for sleeping.

(Ord. No. 23-3, § 1, 9-7-78)

Sec. 11.03.002. Levy; rate; exceptions.

- (a) There is hereby levied a tax upon the cost of occupancy of any room or space furnished by any hotel where such cost of occupancy is at the rate of \$2.00 or more per day, such tax to be equal to three percent of the consideration paid by the occupant of such room, space or facility to such hotel, exclusive of other occupancy taxes imposed by other governmental agencies.
- (b) No tax shall be imposed hereunder upon a permanent resident of a hotel.
- (c) No tax shall be imposed hereunder upon a corporation or association organized and operated exclusively for religious, charitable or education purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(Ord. No. 23-3, § 2, 9-7-78)

Sec. 11.03.003. Collection.

Every person owning, operating, managing or controlling any hotel shall collect the tax imposed in Section 11.03.002 hereof for the City.

(Ord. No. 23-3, § 3, 9-7-78)

Sec. 11.03.004. Reports.

By the last day of the month following each calendar quarter, every person required in Section 11.03.003 hereof to collect the tax imposed herein shall file a report with the City Manager showing the consideration paid for all room and sleeping space occupancies, and any other information as the City Manager may reasonably require. Additionally, such person shall file a copy of the quarterly report filed with the State Comptroller in connection with the State hotel occupancy tax. Such persons shall pay the tax due to the City on such occupancies at the time of filing such report.

(Ord. No. 23-3, § 4, 9-7-78)

Sec. 11.03.005. Authority to make additional rules and regulations; access to records.

The City Manager or his designee shall have the power to make such rules and regulations as are necessary to effectively collect the tax levied herein, and shall upon reasonable notice have access to books and records necessary to enable him to determine the correctness of any report filed as required by this Article and the amount of taxes due under the provisions of this Article.

(Ord. No. 23-3, § 5, 9-7-78)

Sec. 11.03.006. Disposition of revenue.

- (a) The proceeds of the hotel tax, in keeping with V.T.C.A., Tax Code § 351.101 et seq., may be used for:
- (1) The acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities, including, but not limited to, civic center convention buildings, auditoriums, coliseums, civic theaters, museums, and parking areas or facilities for the parking or storage of motor vehicles or other conveyances located at or in the immediate vicinity of the convention center facilities;
 - (2) The furnishing of facilities, personnel and materials for the registration of convention delegates or registrants;
 - (3) Advertising for general promotional and tourist advertising of the City and its vicinity and conducting a solicitation and operating program to attract conventions and visitors either by the City or through contracts with persons or organizations selected by the City;
 - (4) The encouragement, promotion, improvement, and application of the arts, including music (instrumental and vocal), dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion picture, television, radio, tape and sound recording, and the arts related to the presentation, performance, execution, and exhibition of these major art forms;
 - (5) Historical preservation and restoration.
- (b) A portion of the occupancy tax which is collected under this Article may be pledged to the payment of bonds which the City may issue, if such bonds are issued solely for one or more of the purposes set out herein; provided that one-sixth of the tax collected shall be reserved for the purpose of advertising and conducting solicitation programs to acquaint potential users with public meeting and convention facilities and for promotion of tourism and advertising of the City and its vicinity either by the City or through contracts with persons or organizations selected by the City.

(Ord. No. 23-3, § 6, 9-7-78)

Sec. 11.03.007. Penalties.

- (a) If any person required by the provisions of this Article to collect the tax imposed herein, or make reports as required herein, shall fail to collect such tax, file such report, or pay such tax, or if any such person shall file a false report, such person shall be deemed guilty of a misdemeanor and upon conviction be punished by fine not to exceed \$200.00, and shall pay to the City the tax due for each 30 days that the same is not timely filed.
- (b) If any person shall fail to file a report as required herein or shall fail to pay the City Manager the tax as imposed herein when said report or payment is due, he shall forfeit five percent of the amount due as a penalty, and after the first 30 days he shall forfeit an additional five percent of such tax. Provided, however, that the penalty shall never be less than \$1.00. Delinquent taxes shall draw interest at the rate of six percent per annum beginning 60 days from the date due.

(Ord. No. 23-3, § 7, 9-7-78)

CHAPTER 12

TRAFFIC AND VEHICLES

ARTICLE 12.01. GENERAL PROVISIONS¹⁰

Sec. 12.01.001. Obstructing traffic.

No vehicle shall be operated or allowed to remain upon any street in such a manner as to form an unreasonable obstruction to the traffic thereon. Nor shall any person allow a vehicle to remain in an unauthorized parking space, so parked in an unlawful and hazardous manner so as to impede the normal and usual flow of traffic, and [such person] shall upon conviction be held guilty of a misdemeanor and fined not less than \$1.00 and not more than \$200.00.

(Ord. No. 10-4, 8-26-70)

ARTICLE 12.02. TRAFFIC-CONTROL DEVICES

Sec. 12.02.001. Traffic-control devices.

All traffic-control devices including signs, signals and markings (pavement and/or curb) installed or used for the purpose of directing and controlling traffic within the City shall conform with the manual and specifications adopted by the State Transportation Commission as provided in V.T.C.A., Transportation Code § 544.001. All signs, signals and markings erected or used by the City must conform to the manual and specifications adopted under V.T.C.A., Transportation Code § 544.001. All existing traffic-control devices and those erected in the future by the

¹⁰State law reference(s)—Rules of the road, V.T.C.A., Transportation Code title 7, subtitle C, ch. 541 et seq.; powers of local authorities regarding traffic and vehicles, V.T.C.A., Transportation Code § 542.202; limitation on local authorities regarding traffic and vehicles, V.T.C.A., Transportation Code § 542.203.

City being consistent with the manual and specifications, State law and this Section shall be official traffic-control devices.

Sec. 12.02.002. Designation of locations; installation and maintenance.

The City Council shall, by resolution, designate the location of traffic-control signs, signals and devices within the City, and the Chief of Police shall place and maintain, or cause to be maintained, all such traffic signs, signals and devices so designated.

(Ord. No. 10-2, 8-26-70)

Sec. 12.02.003. Obedience.

It shall be unlawful for the operator of any vehicle to disobey the instruction of any official traffic sign or signal placed in accordance with the provisions of this Chapter, unless otherwise directed by the Chief of Police or his deputies. Upon conviction of violation of this Section, [such person] shall be held guilty of a misdemeanor and shall be fined not less than \$1.00 and not more than \$200.00.

(Ord. No. 10-3, 8-26-70)

State law reference(s)—Compliance with traffic-control device, V.T.C.A., Transportation Code § 544.004.

ARTICLE 12.03. OPERATION OF VEHICLES

Sec. 12.03.001. Reckless driving.

It shall be unlawful for any person to drive any vehicle upon a roadway carelessly and heedlessly in willful or wanton disregard of the rights or safety of others, or without due caution or circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property, and [such person] shall, upon conviction, be held guilty of a misdemeanor and fined not less than \$1.00 and not more than \$200.00.

(Ord. No. 10-5, 8-26-70)

State law reference(s)—Reckless driving, V.T.C.A., Transportation Code § 545.401.

Sec. 12.03.002. Improper start or acceleration.

- (a) The methods described in subsection (b) of starting or accelerating a motor vehicle are prohibited and shall hereafter be unlawful.
- (b) Any person who shall start a motor vehicle from a stopped position or accelerate a motor vehicle, whether originally stopped or moving, in such a fashion as to cause the driving wheels to spin, or to cause the driving wheels to spin and create a loud noise calculated to disturb the residents living in the vicinity or other motorists and/or pedestrians in the vicinity whether motorists and/or pedestrians are actually present or not, or to cause the rear portion of the motor vehicle to sway or swing from side to side, shall, upon conviction, be held guilty of a misdemeanor and shall be fined not less than \$1.00 and not more than \$200.00.

(Ord. No. 10-6, 8-26-70)

ARTICLE 12.04. PARKING

Sec. 12.04.001. Parking in right-of-way; obstructions in right-of-way.

(a) *Restrictions.*

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

- (b) *Penalty.* Any person violating any provisions of this Section will be guilty of a misdemeanor and subject to a fine not to exceed \$200.00 upon conviction. Each day during or upon which said person shall violate or continue violation of any provisions 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 [or failure] to comply with any requirement of this Section shall each constitute a distinct and separate offense.

(Ord. No. 14-13, 6-13-02)

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

- (a) *Parking large vehicles.* A person commits an offense if he stops, parks, or stands a truck-tractor, road tractor, semi-trailer, bus, trailer or a truck with more than two axles, rated capacity in excess of one and one-half tons or with a height of more than nine feet, according to the manufacturer's classification, in front of or forward of any building setback line (as shown by the property's plat or the zoning ordinance) and not upon an improved surface which has been inspected and approved by the City, upon property within a residential area.
- (b) *Parking vehicle with motor or equipment running.* It shall be unlawful for any person owning or having control of any motor vehicle or trailer to park or leave standing said motor vehicle or trailer in a residential area with the motor or accessory equipment (such as a refrigeration unit) running.
- (c) *Exceptions.* The parking provisions of this Section shall not apply to the following.
- (1) Motor vehicles and trailers parked or left standing at a construction site while construction is in progress.
 - (2) Motor vehicles and trailers parked or left standing by public service utility companies at a location where public service utilities are being repaired, installed, maintained, relocated or extended.
 - (3) Vehicles, motor vehicles and trailers in the process of loading or unloading passengers or freight, provided that the vehicle, motor vehicle, or trailer is accompanied by its driver and provided further that "loading" and "unloading" is accomplished expeditiously in a time frame considered reasonable to load/unload the vehicle. This provision does not include waiting time to acquire material for loading.

- (d) *Applicability.* In this Section, "residential area" means any block face zoned residential.
- (e) *Definitions.* For the purpose of this Section, the following words and terms shall have the meanings ascribed to them:

Motor vehicle means every vehicle which is self-propelled.

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

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

- (f) *Penalty.* Any person or persons, firm or corporation which violates any of the provisions of this Section shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than \$50.00 nor more than \$500.00 for each offense, and each violation hereof shall be deemed a separate and distinct offense for each of said days and shall be punishable as such.

(Ord. No. 10-24, 1-9-98)

ARTICLE 12.05. GOLF CART REGULATIONS

Sec. 12.05.001. Definitions.

A golf cart has the meaning assigned by V.T.C.A., Transportation Code § 551.401 which states a "golf cart means a motor vehicle designed by the manufacturer primarily for use on a golf course." Golf carts specifically exclude go-carts, neighborhood electric vehicles, off road vehicles, utility vehicles, and all-terrain vehicles, as defined by the Texas Transportation Code.

(Ord. No. 2021-07 , 10-12-21)

Sec. 12.05.002. Golf cart use within the corporate boundaries of Morgan's Point Resort.

Golf carts may be operated during daylight hours within the corporate City limits of Morgan's Point Resort on streets with a posted speed limit of not more than 35 miles per hour.

(Ord. No. 2021-07 , 10-12-21)

Sec. 12.05.003. Use prohibited on any State highway within corporate boundaries of Morgan's Point Resort.

Golf carts are prohibited on any State highway located within the corporate boundaries of the City to include: FM 2483 and FM 2271 (Morgan's Point Road).

(Ord. No. 2021-07 , 10-12-21)

Sec. 12.05.004. Equipment required.

A golf cart must have the following equipment to operate within the corporate City limits:

- (1) Headlamps

- (2) Tail lamps
- (3) Reflectors
- (4) Parking brake
- (5) Mirrors
- (6) Horn
- (7) Slow moving vehicle placard

(Ord. No. 2021-07 , 10-12-21)

Sec. 12.05.005. Exclusions and limitations.

The following exclusions and limitations apply to the operation of any golf cart in the City of Morgan's Point Resort:

- (1) Golf carts may only be operated by persons with a valid operator's permit and/or driver's license.
- (2) Golf carts may only be operated upon a public street or highway with a speed limit of not more than 35 mph unless otherwise restricted.
- (3) Golf carts must have a license plate as required by State law.
- (4) A golf cart may cross street or highway with a speed limit of more than 35 mph if said crossing occurs at an intersection and said crossing is perpendicular to the street or highway with a posted speed limit of more than 35 mph. Golf carts may only cross a street or highway with a speed limit of 45 mph or greater at an intersection with a traffic signal or sign.
- (5) Golf carts must move to the right and yield the right-of-way to faster moving vehicles.
- (6) The driver and every occupant of a golf cart must remain seated in a seat designed to hold passengers, while the golf cart is in motion.
- (7) No person may ride in the lap of the driver or any other occupant.
- (8) Golf carts must comply with applicable Texas and City of Morgan's Point Resort traffic laws.
- (9) The driver of a golf cart may not operate in such a manner as to endanger any person or property; or to obstruct, hinder or impede the lawful court of travel of any motor vehicle or the lawful use of any pedestrian or public streets, sidewalks, paths, trails, walkway, or parks.

(Ord. No. 2021-07 , 10-12-21)

Sec. 12.05.006. Penalty.

Any person, firm, entity or corporation who violates any provision of this Article, as it exists or may be amended, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined a sum not exceeding \$500.00. Each continuing day's violation under this Article shall constitute a separate offense. The penal provisions imposed under this Article shall not preclude the City from filing suit to enjoin the violation. Morgan's Point Resort retains all legal rights and remedies available to it pursuant to local, State, and Federal law.

To the extent of any conflict between the terms of this Article and any prior ordinance, this Article shall govern and control.

If any part or provision of this Article or application thereof, to any person or circumstance is held invalid, the remainder of this Article, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of the ordinance are severable.

(Ord. No. 2021-07 , 10-12-21)

CHAPTER 13 UTILITIES

ARTICLE 13.01. GENERAL PROVISIONS¹¹

Sec. 13.01.001. Jurisdiction over electric utility.

- (a) The City does hereby elect to have the Public Utility Commission of the State exercise exclusive original jurisdiction over electric utility rates, operations, and services within the existing and future incorporated limits of the City.
- (b) The City hereby expressly retains the exclusive original jurisdiction over the rates, operations, and services of water and sewer utilities within the existing and future incorporated limits of the City.
- (c) This Section shall become effective and the Public Utility Commission of the State shall exercise the exclusive original jurisdiction over said electric utility rates, operations, and services on and after October 7, 1982.

(Ord. No. 6-11, 10-7-82)

State law reference(s)—Municipal jurisdiction over electric utility, V.T.C.A., Utilities Code ch. 33.

ARTICLE 13.02. MONTHLY RATES

Sec. 13.02.001. Water service.

The monthly minimum water charge shall be \$45.00 for the first 1,000 gallons of water used; 1,001 gallons and up, at a rate of \$5.10 per thousand gallons. Bulk water customers will be charged at the same monthly rate.

(Ord. No. 2019-09, 8-13-19)

Sec. 13.02.002. Sewer service.

- (a) The City sewer rate for residential customers will be a flat rate of \$83.04 per month. The effective date of the new rate shall be October 1, 2008.

¹¹State law reference(s)—Municipal utilities generally, V.T.C.A., Local Government Code ch. 552; miscellaneous powers and duties of utilities, V.T.C.A., Utilities Code ch. 181.

- (b) The City sewer rate for commercial customers will be a flat rate of \$61.00 per month. The effective date of the new rate shall be October 1, 2000.

(Ord. No. 22-1D(a), 9-28-00; Ord. No. 22-1F, 9-24-08)

Sec. 13.02.003. Garbage collection.

The monthly garbage rate charged to customers for residential garbage pickup will be \$14.31 plus sales tax of \$1.18 per household for a total of \$15.49 per household per month. The new rate shall be effective with the July 2020 billing.

(Ord. No. 2020-08, 6-30-20)

ARTICLE 13.03. SOLID WASTE

Sec. 13.03.001. Definitions.

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

Brush means all trees and shrubbery under seven feet in height which are not cultivated or cared for by a person owning or controlling the premises. For the purposes of this Article, brush shall not be classified as that growing flora which is pristine in nature and/or situated in an area deemed as natural by the property owner, unless such constitutes a health and risk hazard to the citizens of the City.

Bundled brush means tree trimmings, weeds, large hedge trimmings, and shrubs and trees not to exceed three inches in diameter and cut into lengths not to exceed four feet.

City means the City of Morgan's Point Resort or its authorized representative.

Customer means any person, firm or business receiving or to receive garbage pickup.

Family means one or more persons occupying a single premises and living as a single housekeeping unit, whether or not related to each other by birth, adoption, or marriage.

Garbage means waste matter: trash; rubbish; kitchen, household, market, or store wastes; ashes; paper; paper food containers; or small hedge, shrub, and lawn trimmings. Does not include recycled materials.

Garbage container means a can of galvanized iron, noncorrosive metal, or plastic, durable and leak-proof, of the type commonly sold as garbage cans, of suitable weight, gauge, and construction to ensure durability and of not less than ten nor more than 30-gallon capacity, or other specially designed containers approved by the waste collector and the City.

Industrial waste means all solid waste or residue resulting from manufacturing, business, or industrial operations or processes.

Person shall include the singular and plural and shall also mean any individual, firm, business, association, family, persons, group, governmental agency, municipal corporation, occupant, owner's agent, lessee, or tenant.

Premises shall include the singular and/or plural when reference is made to a house, yard, or building.

(Ord. No. 16-8, § 1, 3-8-01; Ord. No. 2018-01, 3-13-18)

Sec. 13.03.002. Penalty.

- (a) A person, property owner, or occupant commits an offense if the person violates any provision of this Article and is subject to criminal prosecution.
- (b) Violation of any portion of this Article is a class C misdemeanor which will be prosecuted in municipal court and shall be punishable by a fine of not less than \$200.00 and not more than \$1,000.00 per occurrence and can be levied per day for each day that the violation exists after notice.

(Ord. No. 16-8, § 8, 3-8-01)

Sec. 13.03.003. Accumulations of waste; unlawful deposit of waste.

- (a) Except as may be provided in other Sections of this Article, no person, firm or business shall be permitted to accumulate on its premises garbage, brush, trash or solid industrial waste, whether such waste is contained in covered containers or by other methods.
- (b) It shall unlawful for any person, firm or business to place, deposit, or throw, or permit or cause to be deposited, placed or thrown, any garbage, brush, trash, waste matter, or refuse of any kind on public or private property within the City limits.
- (c) It shall be unlawful for any person, firm or business to throw, place, dump, or deposit any brush, leaves, garbage, trash, waste matter or refuse of any kind on any street or in any gutter, sidewalk, parkway, driveway, alley, or other public or private property located within the City limits.
- (d) It shall be unlawful for any person to cause or permit to be or remain in or upon any premises, public or private, any animal, vegetable, or mineral matter, or any compositions or resident [residue] thereof which is in an unsanitary condition or injurious to public health.

(Ord. No. 16-8, § 2, 3-8-01)

Sec. 13.03.004. Containers required; standards.

It shall be the duty of every owner, agent, lessee, tenant, or occupant of any premises in the City where persons reside, board, or lodge, or where animal or vegetable food is prepared or served, or where products are held for sale or consumption, or any private residence, or where any retail or wholesale or other commercial activity is carried out, to provide that premises at all times and maintain in good order and repair a garbage container or containers as defined herein in sufficient numbers for deposit of garbage for collection, as provided by this Article. The lids or covers of all containers shall at all times be kept secure and fastened. Said lids or covers shall only be removed while containers are being filled or emptied as the case may be. No receptacles other than those mentioned in this Article with regard to specifications or size shall be used by residents or concerns for the accumulation or accommodation of garbage, trash, or other waste material.

(Ord. No. 2018-01, 3-13-18)

Sec. 13.03.005. Inspection of containers.

All containers shall be subject to inspection, approval, or condemnation by the City.

(Ord. No. 16-8, § 4, 3-8-01)

Sec. 13.03.006. Authorized collectors.

- (a) All garbage and refuse as defined in this Article shall be collected and disposed of by private contractors approved by the City, and it shall be unlawful for any person, firm or business to engage in the removal of garbage and refuse unless written authority has been first obtained from the City.
- (b) Exception to this Section is granted to businesses who are equipped and desire to make their own disposition of garbage and refuse. Firms or businesses desiring to furnish garbage, refuse, brush, and/or trash pickups will be required to show compliance with all stated applicable City rules and regulations approved by the County Health Department and legislation enacted by the State and Federal legislature relating to pollution control and threshold standards.
- (c) Recyclables are not considered garbage.

(Ord. No. 16-8, § 7(a), 3-8-01)

Sec. 13.03.007. Tree and shrub trimmings.

All tree trimmings, large hedge trimmings, shrubs, and trees not exceeding three inches in diameter shall be cut into lengths not exceeding four feet and shall be securely bundled in sizes not exceeding 50 pounds and shall be placed in designated pickup areas on the days designated for such collection.

(Ord. No. 16-8, § 7(b), 3-8-01)

Sec. 13.03.008. Building and construction waste.

All rock, waste, scrap building material or other trash resulting from construction or major remodeling and all trees, brush, rock, and debris cleared from the property in preparation for building or construction shall not be classified as garbage or brush under the terms of this Article. Removal of such material shall be the responsibility of the owner and/or contractor. Such materials will not be disposed of by dumping, burning, or burying within the City limits.

(Ord. No. 16-8, § 5, 3-8-01)

Sec. 13.03.009. Burning, dumping or burying waste.

It shall be unlawful to burn, dump litter or dispose of garbage, waste, brush, or trash of any kind within a lot or private or public area in the City limits.

(Ord. No. 16-8, § 6(a), 3-8-01)

ARTICLE 13.04. WATER SERVICE***DIVISION 1. GENERALLY*****Sec. 13.04.001. Water control and improvement district abolished.**

- (a) V.T.C.A., Local Government Code § 43.074, as amended, is hereby made applicable to the City.

- (b) Morgan's Point Water Control and Improvement District is hereby abolished and dissolved as provided in V.T.C.A., Local Government Code § 43.074, as amended.
- (c) All properties and assets of such district shall vest immediately in the City, and the City shall assume and become liable for all bonds and other obligations for which such district is liable.
- (d) The City shall perform all services and functions heretofore performed or rendered by said district.
- (e) The City hereby orders to be levied and hereby levies upon all taxable property within the City ad valorem taxes sufficient to pay principal of and interest on the bonds, warrants or other obligations of such district assumed herein, payable in whole or in part from ad valorem taxes.

(Ord. No. 16-6, 11-5-81)

Secs. 13.04.002—13.04.030. Reserved.

DIVISION 2. OPERATION OF WATER SUPPLY SYSTEM

Sec. 13.04.031. Definitions.

For the purposes of this Division, the following definitions shall apply unless the context clearly indicates or requires a different meaning. If a word or term used in this Division is not contained in the following list, its definition or other technical term used shall have the meaning or definitions listed in the most recent edition of the Manual of Cross Connection Control published by the Foundation for Cross Connection Control and Hydraulic Research, University of Southern California.

Auxiliary supply means any water source or system other than the public water system, which may be available in the building or on the property, including groundwater or surface water used for industrial, irrigation or any other purpose.

Backflow means the undesirable reversal of flow of water or mixtures of water and other liquid, gaseous, or other substances into the distribution pipes of the potable supply of water from any source or sources.

Cross connection means any physical arrangement where a potable water supply is connected, directly or indirectly (actual or potential), with any other non-drinkable water system, used water system, or auxiliary water supply, sewer, drain conduit, swimming pool, storage reservoir, plumbing fixture, swamp coolers, air-conditioning units, fire protection system, or any other assembly which contains, or may contain, contaminated water, sewage, or other liquid of unknown or unsafe quality which may be capable of importing contamination into the public water system as a result of backflow. Bypass arrangements, jumper connections, removable sections, swivel or changeover assemblies, or other temporary or permanent assemblies through which, or because of which, backflow may occur are considered to be cross connections.

Customer means the person, company or entity contracting with the City through the Utility Department to receive potable water service.

Customer potable water system means that portion of the privately owned potable water system lying between the point of delivery and the point of use. This system will include all pipe, conduits, tanks, receptacles, fixtures, equipment, and appurtenances used to produce, convey, store or utilize the potable water.

Customer service inspection means an examination of the private water distribution facility for the purpose of providing or denying water service. The inspection is limited to the identification and prevention of cross-connections, potential contaminant hazards, and illegal lead materials. Customer service inspections are completed before providing continuous water service to new construction, on any existing service where there is

reason to believe that cross-connections or other potential contaminant hazards exist, or after any material improvement, correction, or addition to private water distribution facilities.

Director means the City's Public Works Director who is vested with the authority and responsibility for the implementation of an effective cross-connection control program for the City and for the enforcement of the provisions of this Division.

Good payment history means for the previous 18 consecutive months, service has been maintained in the customer's name (including transfers, new meters and address changes) without having service disconnected for non-payment and without having more than two penalties assessed for late payment.

Non-potable water means water that does not comply with the Commission's rules and regulations governing drinking water.

Nonresidential uses include all users not specifically included in residential uses defined under residential use.

Potable water supply means any water supply intended or used for human consumption or other domestic use.

Premises means any piece of property to which water is provided, including all improvements, mobile structures, and structures located on it.

Public water system or *system* means any public or privately owned water system, which supplies water for public domestic use. The system must meet all the health requirements set forth by the TCEQ. The system will include all services, reservoirs, facilities, and any equipment used in the process of producing, treating, storing or conveying water for public consumption.

Residential use includes single-family dwellings, duplexes, multiplex, housing and apartments where the individual units are each on a separate meter or the units are full-time dwellings in cases where two or more units are served by one meter.

Service connection means the terminal end of a service line from the public potable water system, i.e., where the water purveyor loses jurisdiction and sanitary control over the water at its point of delivery to the consumer's potable water system. If a meter is installed at the end of the service connection, then the service connection shall mean the downstream end of the meter.

TCEQ means the Texas Commission on Environmental Quality.

Thermal expansion means heated water that does not have the space to expand.

Used water means water supplied by a public water system to a water user's system after it has passed through the service connection.

Utility means the City Utilities Department.

Water supply protection specialist means any person who holds a license endorsement issued by the State Board of Plumbing Examiners to engage in the inspection, in connection with health and safety laws and ordinances, of the plumbing work or installation of a public water system distribution facility or of customer-owned plumbing connected to that system's water distribution lines.

(Ord. No. 16-5K, § I, 8-16-11; Ord. No. 2020-14, ex. A, 12-15-20)

Sec. 13.04.032. Responsibilities.

It is the responsibility of all property owners and their tenants and occupants to abide by the conditions of this Division. In the event of any changes to the plumbing system, it is the responsibility of the property owners to

notify the City. All costs associated with this Division and the purchase, installation, testing and repair of devices are the responsibility of the property owner and their tenants.

(Ord. No. 16-5K, § VII(a), 8-16-11)

Sec. 13.04.033. Enforcement and penalties.

It shall be unlawful to tamper with, or connect to, a City-owned water meter, water main or truck line, or any equipment used for supplying water service in the City. Any damage caused to the City-owned water distribution system due to negligence, willful conduct, or failure to notify the City for determining line location, will be billed to the negligent party. Billing for damages will be assessed on a cost plus basis, including all materials, equipment, labor (actually incurred and billed during standard business hours at the employee's hourly rate and after standard business hours at the prevailing overtime rate), and water loss. Any person, who violates, disobeys, omits, neglects, or refuses to comply with, or who resists the enforcement of any of the provisions of this Division and this Code shall be fined not less than \$200.00 for each offense. In addition to the penalties provided herein, the City may recover reasonable attorney's fees, court costs, and other expenses of litigation by appropriate suit against the person found to have violated this Division or the orders, rules, regulations, and permits issued hereunder. Each day that a violation is permitted to exist shall constitute a separate offense. The City may at its discretion pursue additional charges related to theft of water, damage to City property and other charges as deemed necessary.

(Ord. No. 16-5K, § VII(b), 8-16-11)

Sec. 13.04.034. Requirements and restrictions.

- (a) *Obstructions.* No plants, shrubs, or obstructions of any kind shall be allowed which hinders access to any water service.
- (b) *Well permitting.* It shall be unlawful for any person to drill or commence to drill water wells in the City limits without prior permitting through Clearwater Underground Water Conservation District and the City.
- (c) *Well maintenance.* Each person owning a water well in the City shall maintain such well to meet the most current rules and regulations as set by the Clear Water Underground Conservation District and the Texas Commission on Environmental Quality.
- (d) *Not to be connected with public water system.* It shall be unlawful for any person to connect any private water well, or any other auxiliary water supply with any pipe, water main or any other portion of the public water system of the City. The City shall have the right to disconnect any connection in violation of this Section.
- (e) *Ownership of utility lines and equipment in easements.* Ownership of any water lines and equipment installed in a City easement and/or right-of-way rests with the City.
- (f) *Customer service lines.* The City is not responsible for any service lines from the meter to the customer's residence.
- (g) *Connections to City systems.* All connections with water mains in the City shall be done installed by employees of the City, or contractors approved by and under the supervision of the Director of Utilities, or his designated agent. It shall be unlawful for any other person to make any connection with any water main in the City.
- (h) *Report of leaks of water.* It shall be the duty of all employees of the City to report to the Utilities Department any leaks or unnecessary waste of water that may come to their attention.

- (i) *Taps and meters required.* All water furnished by the City shall be metered by meters that are maintained and owned by the City. The meter and connection is for the sole use of the customer and shall be used to provide service to only one dwelling or one business authorized to receive such service by the City. Any attempt to tamper with or to by-pass a meter, divert water utility service from one property to another, share, resell, or sub meter water to any other person, dwelling, business, or property is prohibited. The City shall have the right to disconnect any connection in violation of this Section.
- (j) *Applicants and work order for connections with City system.* Any person who desires a connection with the water mains of the City shall make application therefor to the City, on forms prescribed by it, at least two days in advance of the time such connection is desired to be in effect; whereupon the work order shall be issued and all laying of pipes from such main or lateral to the property line shall be done by the City.
- (k) *Interfering with or injuring water equipment or apparatus.* It shall be unlawful for any person to interfere with or injure in any manner any reservoir, tank, fountain, pipe, stopcock, valve or other apparatus pertaining to any water system in the City, or to turn on or off, without authority, the water in any street hydrant or other water fixture.
- (l) *Service initiated.* Service will not be turned on unless the customer, or their agent, is on the premises when service is initiated.
- (m) *Unacceptable plumbing (TAC, Section 290.460).* Unacceptable plumbing practices shall be promptly eliminated to prevent possible contamination of water supplied by the City water system. The existence of a serious threat to the integrity of the City public water supply shall be considered sufficient grounds for immediate termination of water service. Service can be restored only when the source of potential contamination no longer exists, or until sufficient additional safeguards have been taken and approved by the Utility Director, City Manager or Code Enforcement Official.

(Ord. No. 2021-01, ex. A, 1-12-21)

Sec. 13.04.035. Customer service.

- (a) *Office hours.* The City's utility business operations are available as posted at City Hall.
- (b) *Service deposit.* A service deposit shall be required if the customer has not established a good payment history with the City. Good payment history means that for the previous 18 consecutive months, service has been maintained in the customers' name (including transfers, new meters and address changes) without having service disconnected for nonpayment and without having more than two penalties assessed for late payment. A service deposit is \$100.00.
- (c) *Service deposit not required.* A service deposit shall not be required under the following circumstances:
 - (1) If the customer has an existing account with the City, has good payment history, and requests a change within the City.
 - (2) Any property owner who has a utility account that is not overdue and requests a one-hour house inspection.
 - (3) The City Manager is authorized to waive utility deposits for service in the event of a State or Federal emergency declaration, when he determines it is in the best interest of the City to do so.
- (d) *Deposits refunded.* Deposits for service accounts shall be refunded whenever the customer establishes 18 consecutive months for which service was not disconnected. Checks will be mailed to the account holder.
- (e) *Delinquencies.* A utility service account becomes delinquent if the City does not receive payment before 8:00 a.m. on the penalty date shown on the customer's invoice. A check or bank draft that is dishonored by the

customer's bank does not constitute payment of a utility service account. A late fee of \$20.00 shall be added to a customer's utility account that is not paid by the due date shown on the invoice.

(f) *Delinquency reminder notices; disconnection.*

- (1) Prior to disconnection of service for non-payment of any customer charges shown on the invoice, the City will send a reminder notice to customers whose accounts have become delinquent. Utility service shall be disconnected when delinquent charges equaling or exceeding the minimum utility services billing rate are not received by the City before the disconnect date shown on the customer's invoice. Failure to receive a reminder notice shall not excuse non-payment or prevent disconnection.
- (2) Service will not be disconnected for failure to pay the current penalty. Failure to pay penalties assessed in prior months will result in disconnection.
- (3) Service not restored within seven days following disconnection will result in the utility account being closed.

(g) *Application of deposit to unpaid charges.* Deposits shall be applied to unpaid charges when an account is closed for any reason. When the deposit is insufficient to satisfy the unpaid charges, the City will bill the customer for any deficiency greater than \$2.00.

(h) *Returned check policy.*

- (1) A \$25.00 fee shall be charged for processing each check or bank draft given in payment for utility services, which is dishonored by the customer's bank for any reason. Upon notification to the City that payment has been dishonored, the customer will be contacted. The City will allow three days for the customer to honor payment. Utility service is subject to disconnection at the expiration of that three-day period. Payment for dishonored checks may only be paid by cash, money order, or credit card.
- (2) The City will not accept payments made by check or bank draft for charges owed on any utility accounts of a customer who has had two or more checks dishonored within a period of one year. Payments must be made by cash, cashier's check or money order until the customer has maintained service in their name (including transfers, new meters and address changes) for at least 12 consecutive months, without having service disconnected for non-payment or two or more penalties assessed for late payment.

(i) *Reconnection after disconnection for nonpayment.*

- (1) Utility customers whose service has been disconnected for non-payment are entitled to have service reconnected upon payment of the following charges:
 - a. Utility charges which are due or delinquent, including the late fee of \$20.00;
 - b. Disconnect fee of \$30.00;
 - c. From 7:00 a.m. to 6:00 p.m. there will be no reconnection fee. If reconnection is requested after 6:00 p.m. and before 8:00 p.m. an additional \$60.00 fee will be charged; and
 - d. Deposit in the amount that would be required to institute new service.
- (2) If service is reconnected after standard business hours, all charges listed above are to be paid in full to the City no later than 9:00 a.m. the next business day. Any payment not received by that time will result in immediate disconnection and an additional disconnection fee will be charged to the customer.

(j) *Limited hours for after-hours reconnection.* There will be no reconnection of utility service between the hours of 8:00 p.m. and 7:00 a.m.

(k) *Hardship extension.* Upon request by the customer a hardship extension may be granted to the customer for extreme emergency situations, such as a family member's death or medical emergency. Customers are

allowed one extension per year. Hardship extensions may not exceed payment in full by the sixth of the following month.

- (l) *Voluntary service suspension.* A service suspension fee of \$30.00 is charged for requested service suspension. The City shall suspend water utility service on the request of a customer when the customer can provide proper account information for purposes of identification. The requirement for identification is intended to prevent unauthorized requests for suspension of service.
- (m) *Water charge when meter fails or becomes defective.*
 - (1) A fee of \$30.00 will be charged for meter testing requested by a customer. Whenever a water meter installed by the City fails or becomes defective, the meter shall be replaced and such customer shall be charged a monthly fee equal to the average of the last four normal months' consumption. This average fee shall be assessed for each month the meter was defective.
 - (2) If testing shows that the meter is correct, the cost of the testing will be added to the customer's next utility invoice. Testing cost will be the actual cost incurred by the City for the testing. If the meter is defective, the testing charge is waived.
- (n) *Re-reading of water meters.* A fee of \$30.00 shall be charged for re-reading a water meter at the customer's request. If the re-read shows the meter reading is incorrect, then there will be no charge.
- (o) *Fire hydrant meter.*
 - (1) A fire hydrant meter will be installed and relocated only by service personnel of the City. Requests for installation of a fire hydrant meter shall be made by written application to the City. Payment of the required security deposit of \$100.00 and a connect fee of \$30.00 for installation of a fire hydrant meter must be made in advance of installation. The service charge of \$30.00 for relocation of a fire hydrant meter assigned to a customer will be billed to the customer's account. Customers requesting use of a fire hydrant meter agree to be financially responsible for any damage to the locking device or gate valve on the meter that occurs while the meter is assigned to them.
 - (2) The City shall be responsible for reading fire hydrant meters, billing for consumption obtained through fire hydrant meters, recalibrating meters prior to reassignment, and notifying the City Fire Department of all installations and relocations of fire hydrant meters. Meters that have not been used for a period of one month may be removed by service personnel to lessen risks of damage or misappropriation and to make the meter available to other customers.

(Ord. No. 16-5K, § III, 8-16-11; Ord. No. 2022.14 , § 1(Exh. A), 12-13-22)

Sec. 13.04.036. Rates and charges.

- (a) *Water tap rates.*
 - (1) Upon a request for a service tap, an application shall be filed with the City. The following charges shall be made and collected by the City for each water tap connection furnished and made by it:

Meter Size	Main Distribution Line Size	Under 30' Cost to Customer	Additional Cost to Customer
Up to 1"	Up to 6"	\$2,000.00	See subsection (c) below
Up to 1"	Over 6"	\$2,500.00	See subsection (c) below
Up to 2"	Up to 6"	\$3,000.00	Plus cost of meter and subsection (c) below
Up to 2"	Over 6"	\$3,500.00	Plus cost of meter and subsection (c) below

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(Supp. No. 1)

- (2) For all service taps over two inches in diameter and, all service taps requiring a road bore, the customer shall pay the City \$2,000.00 plus the cost of the meter (see subsection (d)). The service tap shall be installed by a licensed contractor at the customer's sole cost and expense. Prior to installation, the customer shall provide engineered plans that meet current TCEQ standards and specifications and the approval of the Director of Utilities and City Manager. A City's Utilities Department operator shall inspect the complete project and be present at the time of the tap installation.
- (b) When a service line exceeds 30 feet in distance from a compatible main distribution line, the City will charge a fee based on all materials, equipment and labor expended by the City for the total distance that exceeds 30 feet, as determined by the Utilities Director.
- (c) When a requested service line crosses a City street or road from a compatible main distribution line, the City will charge a minimum \$1,000.00 fee plus any additional materials, equipment, and labor expended by the City to repair the street or road as determined by the Utilities Director.
- (d) Service installation crossing a City street or road, for a meter over one inch or for service lines extending beyond 30 feet, customers will be billed in two parts:
- (1) Part one will include the tap fee set out in subsection (a) above, and which shall be paid in advance.
- (2) Part two will include the actual costs expended by the City as set out in subsections (b) and (c) above.
- (e) Only the City Council has the right and privilege to waive any subsection of this Section.
- (f) For any part or portion of fittings broken or damaged during construction, the customer will be billed and responsible for payment.
- (g) Property owners requesting a house inspection will have one hour of water utility service upon payment of the \$30.00 service fee.
- (h) Customers requesting to upload a meter data log will be charged a \$30.00 service fee.

Sec. 13.04.037. Water service outside the City limits.

- (a) *City authorized to sell water outside the City limits.* The City may sell water, may participate in the construction and maintenance of water mains, and may permit connections to be made to such water mains outside the City limits; provided that the terms and conditions hereinafter set out are met.
- (b) *Service at will of City Council.* Water service outside the City limits is at the will of the City Council. If granted, residential or commercial water service shall be provided at two times as the prevailing rate within the City limits, or as otherwise determined by special circumstances.
- (c) *All costs payable by customer.*
- (1) The cost, all of which shall be paid by the customer, of a connection will be based on all materials, equipment and labor expended as determined by the Utilities Director and approved by the City Manager for the total distance from the nearest compatible water line to the furthest property line adjacent to the water main to be installed or a designated point in compliance with Texas Commission on Environmental Quality (TCEQ) regulations.
- (2) When a service tap is requested, the customer shall be charged in advance for all materials, equipment and labor expended as determined by the Utilities Director and City Manager from the nearest property line to final destination.
- (d) *All conditions apply.* All other conditions identified within this Division apply.

(Ord. No. 2021-01, ex. B, 1-12-21)

Sec. 13.04.038. Customer service inspection program.

- (a) *Inspection requirements.* A customer service inspection certification form shall be completed prior to providing continuous water service to new construction, on any existing service where, there is reason to believe that cross connections or other potential contaminant hazards exist, or after any material improvement, correction, or addition to the private plumbing facilities.
- (b) *Inspector qualifications.* Individuals with the following credentials shall be recognized as capable of conducting a customer service inspection certification:
 - (1) Plumbing inspectors and water supply protection specialists licensed by the Texas State Board of Plumbing Examiners.
 - (2) Customer service inspectors, who have completed a Texas Commission on Environmental Quality approved course, passed an examination administered by the Executive Director, and hold current professional license as a customer service inspector.
 - (3) Employed by or an agent of the City's and approved by the City Manager or Director of Utilities.
- (c) *Inspection certification report.* Copies of properly completed water service inspection certifications will be kept on file by the City and made available, upon request, for Commission review. The certifications shall be retained for a minimum of ten years. Any customer service inspection certificate form which varies from the format found in Commission form 20699 must be approved by the Executive Director prior to being placed in use. It must also certify that:
 - (1) No direct or indirect connection between the public drinking water supply and a potential source of contamination exists. Potential sources of contamination are isolated from the public water system by an air gap or an appropriate backflow prevention assembly in accordance with Commission regulations. Additionally, all pressure relief valves and thermal expansion devices are in compliance with State plumbing codes.
 - (2) No cross connection between the public drinking water supply and private water source exists. Where an actual air gap is not maintained between the public water supply and private water supply, an approved reduced pressure principle backflow prevention assembly is properly installed, and a service agreement exists for annual inspection and testing by a licensed backflow prevention assembly tester.
 - (3) No connection exists which would allow the return of water used for condensing, cooling, or industrial processes back to the public water supply.
 - (4) No pipe or pipe fitting which contains more than eight percent lead exists in private plumbing facilities installed on or after July 1, 1988 and prior to January 4, 2014.
 - (5) No solder or flux which contains more than 0.2 percent lead exists in private plumbing facilities installed on or after July 1, 1988.
 - (6) Plumbing installed on or after January 4, 2014 bears the expected labeling indicating less than 0.25 percent lead content.

(Ord. No. 2020-14, ex. A, 12-15-20)

ARTICLE 13.05. DROUGHT CONTINGENCY PLAN

Sec. 13.05.001. Policy, purpose and intent.

- (a) In order to conserve the available water supply and protect the integrity of water supply facilities, with particular regard for domestic water use, sanitation, and fire protection, and to protect and preserve public health, welfare, and safety and minimize the adverse impacts of water supply shortage or other water supply emergency conditions, the City hereby adopts the following regulations and restrictions on the delivery and consumption of water.
- (b) Water uses regulated or prohibited under this drought contingency plan are considered to be non-essential. Continuation of such uses during times of water shortage or other emergency water supply conditions are deemed to constitute a waste of water which subjects the offender(s) to penalties as defined in Section 13.05.011 (enforcement) of this plan.

(Ord. No. 13-1, ex. A, § I, 11-14-02)

Sec. 13.05.002. Public involvement.

Opportunity for the public to provide input into the preparation of the plan was provided by the City by means of a public notice in the Belton Journal and Temple Telegram. A public meeting was held on August 10, 2000, to accept input on the plan. Public comment was accepted from customers and reviewed by the City Manager, Mayor, and City Council.

(Ord. No. 13-1, ex. A, § II, 11-14-02)

Sec. 13.05.003. Public education.

The City will periodically provide the public with information about the plan, including information about the conditions under which each stage of the plan is to be initiated or terminated and the drought response measures to be implemented in each stage. This information will be provided by means of public meetings, press releases, and notices included on the customer bills. Not all means will be used at the same time. However, the City Manager will have the final say on when and what means to use to inform the customer.

(Ord. No. 13-1, ex. A, § III, 11-14-02)

Sec. 13.05.004. Coordination with regional water planning group.

The service area of the City is located within the jurisdiction of the Brazos River Authority. The City has provided a copy of this plan to the Brazos River Authority and to the Brazos G Regional Water Planning Group.

(Ord. No. 13-1, ex. A, § IV, 11-14-02)

Sec. 13.05.005. Authority to implement plan.

The City Manager, or his/her designee, is hereby authorized and directed to implement the applicable provisions of this plan upon determination that such implementation is necessary to protect public health, safety, and welfare. The City Manager, or his/her designee, shall have the authority to initiate or terminate drought or other water supply emergency response measures as described in this plan.

(Ord. No. 13-1, ex. A, § V, 11-14-02)

Sec. 13.05.006. Applicability.

The provisions of this plan shall apply to all persons, customers, and property utilizing water provided by the City. The terms "person" and "customer" as used in this plan include individuals, corporations, partnerships, associations, and all other legal entities.

(Ord. No. 13-1, ex. A, § VI, 11-14-02)

Sec. 13.05.007. Definitions.

For the purposes of this plan, the following definitions shall apply:

Aesthetic water use means water use for ornamental or decorative purposes such as fountains, reflecting pools, and water gardens.

Commercial and institutional water use means water use which is integral to the operations of commercial and nonprofit establishments and governmental entities such as retail establishments, hotels and motels, restaurants, and office buildings.

Conservation means those practices, techniques, and technologies that reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water or increase the recycling and reuse of water so that a supply is conserved and made available for future or alternative uses.

Customer means any person, company, or organization using water supplied by the City.

Domestic water use means water use for personal needs or for household or sanitary purposes such as drinking, bathing, heating, cooking, or sanitation, or for cleaning a residence, business, industry, or institution.

Even-numbered address means street addresses, box numbers, or rural postal route numbers ending in 0, 2, 4, 6, or 8, and locations without addresses.

Industrial water use means the use of water in processes designed to convert materials of lower value into forms having greater usability and value.

Landscape irrigation use means water use for the irrigation and maintenance of landscaped areas, whether publicly or privately owned, including residential and commercial lawns, gardens, golf courses, parks, and rights-of-way and medians.

Non-essential water use means water uses that are not essential nor required for the protection of public, health, safety, and welfare, including:

- (1) Irrigation of landscape areas, including parks, athletic fields, and golf courses, except as otherwise provided under this plan;
- (2) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle;
- (3) Use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
- (4) Use of water to wash down buildings or structures for purposes other than immediate fire protection;
- (5) Flushing gutters or permitting water to run or accumulate in any gutter or street;
- (6) Use of water to fill, refill, or add to any indoor or outdoor swimming pools or jacuzzi-type pools;
- (7) Use of water in a fountain or pond for aesthetic or scenic purposes except where necessary to support aquatic life;

- (8) Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s); and
- (9) Use of water from hydrants for construction purposes or any other purposes other than firefighting.

Odd-numbered address means street addresses, box numbers, or rural postal route numbers ending in 1, 3, 5, 7, or 9.

(Ord. No. 13-1, ex. A, § VII, 11-14-02)

Sec. 13.05.008. Criteria for initiation and termination of drought response stages.

- (a) The City Manager, or his/her designee, shall monitor water supply and/or demand conditions on a regular basis and shall determine when conditions warrant initiation or termination of each stage of the plan, that is, when the specified "triggers" are reached. Public notification of the initiation or termination of drought response stages shall be by means of public notice in the Belton Journal and Temple Telegram and public service announcements on local radio and TV stations. Should the City Manager require it, additional notification may be made through mailings, door hangers, telephone, or other appropriate means.
- (b) The triggering criteria described below are based on water production and distribution system limitations and emergency conditions (e.g., supply source contamination and system outage due to the failure or damage of major water system components). Analysis of the City's water supply availability under drought of record conditions indicates there is essentially no risk of water supply shortage at this time. Ample amounts of raw water are available from the City of Temple's holdings in Lake Belton. The only restrictions are those resulting from production and pumping limitations of the existing water plant as well as limitations in the water purchase contract with the City of Temple.

(1) Stage 1 triggers—Mild water shortage conditions.

- a. *Requirements for initiation.* Customers shall be requested to voluntarily conserve water and adhere to the prescribed restrictions on certain water uses defined in Section 13.05.009 when one of the following criteria is met:
 - 1. When total daily water demand equals or exceeds 967,680 gallons for three consecutive days or 1,105,920 gallons on a single day (based on 70 percent and 80 percent of the current purchase contract with a 1.25 peaking factor, respectively);
 - 2. When total treated water elevated storage does not refill to 80 percent of capacity overnight; or
 - 3. When, pursuant to requirements specified in the City's wholesale water purchase contract with the City of Temple, notification is received requesting initiation of Stage 1 of the drought contingency plan.
- b. *Requirements for termination.* Stage 1 of the plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of seven consecutive days or when the City Manager or his/her designee declares termination.

(2) Stage 2—Moderate water shortage conditions.

- a. *Requirements for initiation.* Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses for Stage 2 as provided in Section 13.05.009 when one of the following criteria is met:
 - 1. When total daily water demand equals or exceeds 1,105,920 gallons for three consecutive days or 1,244,160 gallons on a single day (based on 80 percent and 90 percent of the current purchase contract with a 1.25 peaking factor, respectively);

2. When total treated water elevated storage does not refill to 70 percent of capacity overnight; or
 3. When, pursuant to requirements specified in the City's wholesale water purchase contract with the City of Temple, notification is received requesting initiation of Stage 2 of the drought contingency plan.
 - b. *Requirements for termination.* Stage 2 of the plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of seven consecutive days or when the City Manager or his/her designee declares termination. Upon termination of Stage 2, Stage 1 becomes operative unless otherwise determined by the City Manager.
- (3) *Stage 3—Severe water shortage conditions.*
- a. *Requirements for initiation.* Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses for Stage 3 as provided in Section 13.05.009 when one of the following criteria is met:
 1. When total daily water demand equals or exceeds 1,244,160 gallons for three consecutive days or 1,313,280 gallons on a single day (based on 90 percent and 95 percent of the current purchase contract with a 1.25 peaking factor, respectively);
 2. When total treated water elevated storage does not refill to 60 percent of capacity overnight; or
 3. When, pursuant to requirements specified in the City's wholesale water purchase contract with the City of Temple, notification is received requesting initiation of Stage 3 of the drought contingency plan.
 - b. *Requirements for termination.* Stage 3 of the plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of seven consecutive days or when the City Manager or his/her designee declares termination. Upon termination of Stage 3, Stage 2 becomes operative unless otherwise determined by the City Manager.
- (4) *Stage 4—Critical water shortage conditions.*
- a. *Requirements for initiation.* Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses for Stage 4 as provided in Section 13.05.009 when one of the following criteria is met:
 1. When total treated water elevated storage does not refill to 50 percent of capacity overnight;
 2. When total daily water demand equals or exceeds 80 percent of the allocated water from the City of Temple for three consecutive days or 90 percent of the allocated amount on a single day;
 3. When the City Manager declares a critical water shortage; or
 4. When, pursuant to requirements specified in the City's wholesale water purchase contract with the City of Temple, notification is received requesting initiation of Stage 4 of the drought contingency plan.
 - b. *Requirements for termination.* Stage 4 of the plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of seven consecutive days or when the City Manager or his/her designee declares termination. Upon termination of Stage 4, Stage 3 becomes operative unless otherwise determined by the City Manager.
- (5) *Stage 5—Emergency water shortage conditions.*

- a. *Requirements for initiation.* Customers shall be required to comply with the requirements and restrictions for Stage 5 as provided in Section 13.05.009 when the City Manager or his/her designee determines that a water supply emergency exists based on:
 1. Major water line breaks, or pump or system failures occur, which cause unprecedented loss of capability to provide water service;
 2. Natural or man-made contamination of the water supply source(s);
 3. When total daily water demand equals or exceeds 90 percent of the allocated water from the City of Temple for three consecutive days or 95 percent of the allocated amount on a single day; or
 4. When, pursuant to requirements specified in the City's wholesale water purchase contract with the City of Temple, notification is received requesting initiation of Stage 5 of the drought contingency plan.
- b. *Requirements for termination.* Stage 5 of the plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of three consecutive days or when the City Manager or his/her designee declares termination. Upon termination of Stage 5, Stage 4 becomes operative unless otherwise determined by the City Manager.

(Ord. No. 13-1, ex. A, § VIII, 11-14-02)

Sec. 13.05.009. Water use restrictions during drought response stages.

- (a) *Monitoring and notifications.* The City Manager or his/her designee shall monitor water supply and/or demand conditions on a regular basis and, in accordance with the triggering criteria set forth in Section 13.05.008 of the plan, shall determine that a mild, moderate, severe, critical, or emergency condition exists and shall implement the following actions:
 - (1) *Notification.* The City Manager or his/her designee shall notify the public by means of publication in the Belton Journal and the Temple Telegram, direct mail to each customer, public service announcements, and/or signs posted in public places.
 - (2) *Additional notification.* The City Manager or his/her designee shall notify directly, or cause to be notified directly, the Mayor, members of the City Council, TNRCC, major water users, and City staff.
- (b) *Use restrictions.*
 - (1) *Stage 1 response—Mild water shortage conditions.*
 - a. *Goal.* Achieve a voluntary reduction in total water use and/or daily water demand.
 - b. *Supply management measures.* Discontinue flushing of water mains and flow testing of fire hydrants.
 - c. *Voluntary water use restrictions.*
 1. Water customers are requested to voluntarily limit the irrigation of landscaped areas to Sundays and Thursdays for customers with a street address ending in an even number (0, 2, 4, 6 or 8), and Saturdays and Wednesdays for water customers with a street address ending in an odd number (1, 3, 5, 7 or 9), and to irrigate landscapes only between the hours of midnight and 10:00 a.m. in the morning and 8:00 p.m. in the evening to midnight on designated watering days.
 2. All operations of the City shall adhere to water use restrictions prescribed for Stage 2 of the plan.

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3. Water customers are requested to practice water conservation and to minimize or discontinue water use for non-essential purposes.

(2) *Stage 2 response—Moderate water shortage conditions.*

- a. *Goal.* Achieve a ten percent reduction in total water use and/or daily water demand.
- b. *Supply management measures.* Discontinue flushing of water mains and flow testing of fire hydrants.
- c. *Water use restrictions.* Under threat of penalty for violation, the following water use restrictions shall apply to all persons:
 1. Irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems shall be limited to Sundays and Thursdays for customers with a street address ending in an even number (0, 2, 4, 6 or 8), and Saturdays and Wednesdays for water customers with a street address ending in an odd number (1, 3, 5, 7 or 9), and irrigation of landscaped areas is further limited to the hours of 12:00 midnight until 10:00 a.m. in the morning and between 8:00 p.m. in the evening until 12:00 midnight on designated watering days.
 2. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is prohibited except on designated watering days between the hours of 12:00 midnight and 10:00 a.m. in the morning and between 8:00 p.m. in the evening until 12:00 midnight of the same date. Such washing, when allowed, shall be done with a hand-held bucket or a hand-held hose equipped with a positive shut-off nozzle for quick rinses. Vehicle washing may be done at any time on the immediate premises of a commercial carwash or commercial service station. Further, such washing may be exempted from these regulations if the health, safety, and welfare of the public is contingent upon frequent vehicle cleansing, such as garbage trucks and vehicles used to transport food and perishables.
 3. Use of water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, or jacuzzi-type pools is prohibited except on designated watering days between the hours of 12:00 midnight and 10:00 a.m. in the morning and between 8:00 p.m. in the evening and 12:00 midnight of the same date.
 4. Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life.
 5. Use of water from hydrants shall be limited to firefighting, related activities, or other activities necessary to maintain public health, safety, and welfare, except that use of water from designated fire hydrants for construction purposes may be allowed under special permit from the City.
 6. Use of water for the irrigation of golf course greens, tees, and fairways is prohibited except on designated watering days between the hours of 12:00 midnight and 10:00 a.m. in the morning and between 8:00 p.m. in the evening until 12:00 midnight of the same date. However, if the golf course utilizes a water source other than treated water provided by the City, the facility shall not be subject to these regulations.
 7. All restaurants are prohibited from serving water to patrons except when requested.
 8. The following uses of water are defined as non-essential and are prohibited:
 - i. Wash-down of any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;

- ii. Use of water to wash down buildings or structures for purposes other than immediate fire protection;
- iii. Use of water for dust control;
- iv. Flushing of gutters or permitting water to run or accumulate in any gutter or street; and
- v. Failure to repair a controllable leak(s) within a reasonable period after having been given notice by the City directing the repair of such leak(s).

(3) *Stage 3 response—Severe water shortage conditions.*

- a. *Goal.* Achieve a 20 percent reduction in total water use and/or daily water demand.
- b. *Supply management measures.* Discontinue flushing of water mains and flow testing of fire hydrants.
- c. *Water use restrictions.* All requirements of Stage 2 shall remain in effect during Stage 3 except:
 - 1. Irrigation of landscaped areas shall be limited to designated watering days between the hours of 12:00 midnight and 10:00 a.m. in the morning and between 8:00 p.m. in the evening and 12:00 midnight and shall be by means of hand-held hoses, hand-held buckets, drip irrigation, or permanently installed automatic sprinkler system only. The use of hose-end sprinklers is prohibited at all times.
 - 2. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is prohibited except on designated watering days between the hours of 12:00 midnight and 10:00 a.m. in the morning and between 8:00 p.m. in the evening until 12:00 midnight of the same date. Such washing, when allowed, shall be done with a hand-held bucket or a hand-held hose equipped with a positive shut-off nozzle for quick rinses. Vehicle washing may be done at any time on the immediate premises of a commercial carwash or commercial service station.
 - 3. The watering of golf course tees is prohibited unless the golf course utilizes a water source other than treated water provided by the City.
 - 4. The use of water for construction purposes from designated fire hydrants is prohibited, even where previously allowed.

(4) *Stage 4 Response—Critical water shortage conditions.*

- a. *Goal.* Achieve a 30 percent reduction in total water use and/or daily water demand.
- b. *Supply management measures.* Discontinue flushing of water mains and flow testing of fire hydrants.
- c. *Water use restrictions.* All requirements of Stage 2 and 3 shall remain in effect during Stage 4, and:
 - 1. Irrigation of landscaped areas shall be limited to designated watering days between the hours of 6:00 a.m. and 10:00 a.m. in the morning and between 8:00 p.m. in the evening and 12:00 midnight and shall be by means of hand-held hoses, hand-held buckets, or drip irrigation only. The use of hose-end sprinklers or permanently installed automatic sprinkler systems is prohibited at all times.
 - 2. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle not occurring on the premises of a commercial carwash and commercial service stations and not in the immediate interest of public health, safety, and welfare is prohibited.

Further, such vehicle washing at commercial carwashes and commercial service stations shall occur only between the hours of 6:00 a.m. and 10:00 a.m. and between 6:00 p.m. and 10:00 p.m.

3. The filling, refilling, or adding of water to swimming pools, wading pools, and jacuzzi-type pools is prohibited.
4. Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life.
5. No applications for new, additional, expanded, or increased-in-size water service connections, meters, service lines, pipeline extensions, mains, or water service facilities of any kind shall be allowed or approved.

(5) *Stage 5 response—Emergency water shortage conditions.*

- a. *Goal.* Achieve a 40 percent reduction in total water use and/or daily water demand.
- b. *Supply management measures.* Discontinue flushing of water mains and flow testing of fire hydrants.
- c. *Water use restrictions.* All requirements of Stage 2, 3, and 4 shall remain in effect during Stage 5, and:
 1. Irrigation of landscaped areas is absolutely prohibited.
 2. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is prohibited.

(6) *Water allocation.*

- a. In the event that the water shortage condition threatens public health, safety, and welfare, the City Manager is hereby authorized to allocate water according to the following water allocation plan. Water use restrictions as indicated under Stage 5 (emergency water shortage conditions) above are to be in effect. All outside water uses are prohibited, except for fighting fires and for animals.
 1. *Single-family residential customers.* The potable water allocation to residential water customers residing in a single-family dwelling under water rationing conditions shall be 8,000 gallons per customer (household) per month. Residential water customers shall pay the following surcharges for all water usage above the allocated amount. The surcharge becomes effective upon initiation of water rationing and will be charged to the customer when allocated usage is exceeded. Current water rates shall apply up to and including monthly allocations.
 - i. Residential inside City limits:
 - (A) Allocation is 8,000 gallons per customer (household).
 - (B) Surcharge of: \$4.00 for the first 2,000 gallons over allocation; \$3.50 for each 1,000 gallons thereafter.
 - ii. Residential outside City limits:
 - (A) Allocation is 6,000 gallons per customer (household).
 - (B) Surcharge of: \$6.00 for first 2,000 gallons over allocation; \$5.00 per 1,000 gallons thereafter.
 - iii. Surcharges shall be cumulative.

2. *Master-metered multifamily residential customers.* The allocation to a customer billed from a master meter which jointly measures water to multiple permanent residential dwelling units (e.g., apartments, mobile homes) shall be allocated 6,000 gallons per month for each dwelling unit. Customers billed from a master meter under this provision shall pay the following monthly charges:
- i. Monthly allocation is 6,000 gallons per unit.
 - ii. Surcharge of: \$3.50 for each 1,000 gallons over total allocation based on the number of rented apartments or mobile homes at the beginning of the billing period.
 - iii. Current water rates shall apply up to and including monthly allocations.
 - iv. Current sewer rates shall apply as appropriate, but will not be surcharged.
 - v. Surcharges shall be cumulative.
3. *Commercial/industrial customers.*
- i. A monthly water usage allocation is established for each nonresidential commercial/industrial customer according to meter size. These customers shall pay the following monthly surcharges for each meter in the event water rationing (Stage 5) is placed into effect:

Meter Size	Monthly Allocation	Surcharge(s) Over Allocation
3/4 to 1 inch	10,000 gallons	\$3.50 per 1,000 gallons
1-1/2 to 2 inch	25,000 gallons	\$3.50 per 1,000 gallons

- ii. Current water rates shall apply up to and including monthly allocations.
- iii. Current sewer rates shall apply as appropriate, but will not be surcharged.
- iv. Surcharges shall be cumulative.

(Ord. No. 13-1, ex. A, § IX, 11-14-02)

Sec. 13.05.010. Variances.

- (a) The City Manager, or his/her designee, may, in writing, grant a temporary variance to the pro rata water allocation policies provided by this plan if it is determined that failure to grant such variance would cause an emergency condition adversely affecting the public health, welfare, or safety and if one or more of the following conditions are met:
 - (1) Compliance with this plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which the plan is in effect; and
 - (2) Alternative methods can be implemented which will achieve the same level of reduction in water use.
- (b) Persons requesting an exemption from the provisions of this plan shall file a petition for variance with the City Manager within five days after pro rata allocation has been invoked. All petitions for variances shall be reviewed by the City Council and shall include the following:
 - (1) Name and address of the petitioner(s).

- (2) Detailed statement with supporting data and information as to how the pro rata allocation of water under the policies and procedures established in the plan adversely affects the petitioner or what damage or harm will occur to the petitioner or others if the petitioner complies with this Article.
 - (3) Description of the relief requested.
 - (4) Period of time for which the variance is sought.
 - (5) Alternative measures the petitioner is taking or proposes to take to meet the intent of this plan and the compliance date.
 - (6) Other pertinent information.
 - (c) Variances granted by the City Manager shall be subject to the following conditions, unless waived or modified by the City Council:
 - (1) Variances granted shall include a timetable for compliance.
 - (2) Variances granted shall expire when the plan is no longer in effect, unless the petitioner has failed to meet specified requirements.
 - (d) No variance shall be retroactive or otherwise justify any violation of this plan occurring prior to the issuance of the variance.
- (Ord. No. 13-1, ex. A, § X, 11-14-02)

Sec. 13.05.011. Enforcement; penalty.

- (a) No person shall knowingly or intentionally allow the use of water from the City for residential, commercial, industrial, agricultural, governmental, or any other purpose in a manner contrary to any provision of this plan, or in an amount in excess of that permitted by the drought response stage in effect at the time pursuant to action taken by City Manager, or his/her designee, in accordance with provisions of this plan.
- (b) Any person who violates this plan is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than \$100.00 and not more than \$500.00. Each day that one or more of the provisions in this plan is violated shall constitute a separate offense. If a person is convicted of three or more distinct violations of this plan, the City Manager shall, upon due notice to the customer, be authorized to discontinue water service to the premises where such violations occur. Services discontinued under such circumstances shall be restored only upon payment of a reconnection charge in accordance with current policies and ordinances and any other cost incurred by the City in discontinuing service. In addition, suitable assurance must be given to the City Manager that the same action shall not be repeated while the plan is in effect. Compliance with this plan may also be sought through injunctive relief in the district court.
- (c) Any person, including a person classified as a water customer of the City, in apparent control of the property where a violation occurs or originates shall be presumed to be the violator, and proof that the violation occurred on the person's property shall constitute a rebuttable presumption that the person in apparent control of the property committed the violation, but any such person shall have the right to show that he/she did not commit the violation. Parents shall be presumed to be responsible for violations of their minor children, and proof that a violation committed by a child occurred on property within the parent's control shall constitute a rebuttable presumption that the parent committed the violation, but any such parent may be excused if he/she proves that he/she had previously directed the child not to use the water as it was used in violation of this plan and that the parent could not have reasonably known of the violation.
- (d) Any employee of the City, or police officer, designated by the City Manager, may issue a citation to a person he/she reasonably believes to be in violation of this Article. The citation shall be prepared in duplicate and shall contain the name and address of the alleged violator, if known, and the offense charged, and shall

direct him/her to appear in the municipal court on the date shown on the citation for which the date shall not be less than three days nor more than five days from the date the citation was issued. The alleged violator shall be served a copy of the citation. Service of the citation shall be complete upon delivery of the citation to the alleged violator, to an agent or employee of a violator, or to a person over 14 years of age who is member of the violator's immediate family or is a resident of the violator's residence. The alleged violator shall appear in municipal court to enter a plea of guilty or not guilty for the violation of this plan. If the alleged violator fails to appear in municipal court, a warrant for his/her arrest may be issued. A summons to appear may be issued in lieu of an arrest warrant. These cases shall be expedited and given preferential setting in municipal court before all other cases.

(Ord. No. 13-1, ex. A, § XI, 11-14-02)

ARTICLE 13.06. BACKFLOW PREVENTION AND CROSS-CONNECTION CONTROL

DIVISION 1. GENERAL PROVISIONS

Sec. 13.06.001. Declaration of policy, purpose and intent.

Pursuant to title 30, Texas Administrative Code, Sections 290.44, 290.46 and the 2018 International Plumbing Code (IPC), as amended, it is the responsibility of the City to protect its drinking water supply by instituting and enforcing a cross-connection control program. The purpose of this Article, therefore, is to comply with the above-cited regulatory requirements, and to protect the water supply of the City from contamination or pollution due to any cross connections or potential cross connections.

Sec. 13.06.002. Administration.

This Article shall apply to residents of the City and to persons outside the City who by permit, contract, agreement with the City or otherwise are users of the public water system or who conduct business in the City. Except as otherwise provided herein, the authority shall administer, implement and enforce the provisions of this Article.

Sec. 13.06.003. Definitions.

- (a) Unless a provision of this Article explicitly states otherwise, the following terms and phrases, as used in this Article, shall have the meaning hereinafter designated.

Air gap means a physical separation between the free-flowing discharge end of a potable water supply piping and/or appurtenance and an open or non-pressure receiving vessel, plumbing fixture or another device. An approved air gap separation shall be at least twice the diameter of the supply pipe measured vertically above the overflow rim of the vessel, plumbing fixture or other device, in no case less than one inch, and shall comply with the plumbing code.

Appeal officer means the City Manager or designee that presides over appeals of the Director, authority or regulatory authority's actions or decisions.

Approved backflow prevention assembly or backflow assembly or assembly means a backflow prevention assembly that has been listed approved, manufactured, tested and installed for specific uses in accordance with the standards adopted by the AWWA (manual M14, latest version) or approved and listed by the University of Southern California Foundation Manual for Cross-Connection Control (latest version) and is otherwise in compliance with this Article and the plumbing code.

Atmospheric vacuum breaker backflow prevention device or atmospheric vacuum breaker or AVB means a device used to prevent back siphonage in non-health hazard conditions. This device cannot be tested and cannot prevent backpressure backflow.

Authority means the Director of Utilities for the City or his/her designees charged with the administration and enforcement of this Article.

Auxiliary water supply means any water supply on or available to a customer's premises from a source other than directly through the City water system. auxiliary water supplies include all of the following:

- (1) Water from another public water system.
- (2) Water from a natural source, such as a well, spring, pond, lake, river or creek.
- (3) Reclaimed water.
- (4) Any water supplied by a public water system, including the City water system, that has passed through a point of delivery and is no longer controlled by the City water system.

Backflow means the flow in the direction opposite to the normal flow or the introduction of any foreign liquids, gases, or substances into the City's water system.

Backpressure means any elevation of pressure in the downstream piping system (by any means) above the supply pressure at the point of consideration which would cause, or tend to cause, a reversal of the normal direction of flow and the introduction of fluids, mixtures, or substances from any source other than the intended source.

Back siphonage means the flow of water or other liquids, mixtures or substances into the distribution pipes of a potable water supply system from any source other than its intended source caused by a sudden reduction of pressure in the potable water supply system.

City means the City of Morgan's Point Resort and the City's officers and employees.

City Manager means the City Manager of the City of Morgan's Point Resort or his/her designee.

City water system means the entire potable water distribution system of the City, including, without limitation, all pipes, facilities, valves, pumps, conduits, tanks, receptacles and fixtures and appurtenances between the water supply source and the point of delivery, used by the City to produce, convey, deliver, measure, treat or store potable water for public consumption or use.

Commission means the Texas Commission on Environmental Quality.

Contaminants means any foreign material, solid or liquid, not common to the potable water supply, which makes or may make the water unfit or undesirable for human or animal consumption.

Contamination means the admission of contaminants into the potable water supply system.

Cross connection means any connection, physical or otherwise, between a potable water supply system and any plumbing fixture, or any tank, receptacle, equipment or device, through which it may be possible for any non-potable, used, unclean, polluted and contaminated water, or other substances, to enter into any part of such potable water system under any condition or set of conditions. Bypass arrangements, jumper connections, removable Sections swivel or change over assemblies, or other temporary or permanent assemblies through which, or because of which, backflow may occur are considered cross connections.

Cross-connection control assembly means any assembly placed upon any connection, physical or otherwise, between a potable water supply system and any plumbing fixture, tank, receptacle, equipment or device, which is designed to prevent non-potable, used, unclean, polluted, and contaminated water, or other substances, from entering into any part of such potable water system under any condition or set of conditions.

Customer means any person or entity that is supplied potable water by or through the City water system and includes an owner, tenant or lessee.

Customer service inspection means an inspection designed to inspect and detect any actual or potential point of contamination of the potable water system, cross connection hazards and/or exceeding of the lead action level in solder or flux, pipe or pipefittings.

Customer service inspector or *CSI* means an individual who has fulfilled the requirements set out in TCEQ Rules and Regulations for Public Water Systems, title 30, Texas Administrative Code, Section 290.46(j)(1).

Degree of hazard means the low or high hazard classification that shall be attached to all actual or potential cross connections.

- (1) *Health hazard* means the classification assigned to an actual or potential threat of contamination of a physical or toxic nature to the public potable water system or the consumer's potable water system that would be a danger to health.
- (2) *High hazard* means the classification assigned to an actual or potential cross connection that potentially could allow a substance that may cause illness or death to backflow into the potable water supply.
- (3) *Low hazard* means the classification assigned to an actual or potential cross connection that potentially could allow a substance that may be objectionable but not hazardous to one's health to backflow into the potable water supply.
- (4) *Plumbing hazard* means a plumbing-type cross connection in a consumer's potable water system that may be either a pollution or a contamination-type hazard.
- (5) *Pollution hazard* means an actual or potential threat to the physical properties of the water system or the potability of the public or the consumer's potable water system but which would not constitute a health or system hazard, as defined. The maximum degree of pollution which the potable water system could be degraded under this definition would cause a nuisance or be aesthetically objectionable or could cause damage to the system or its appurtenances.
- (6) *System hazard* means an actual or potential threat of severe danger to the physical properties of the public or consumer's potable water supply or of a pollution or contamination that would have a detrimental effect on the quality of the potable water in the system.

Director means the Director of Utilities for the City or his/her designees charged with the administration and enforcement of this Article.

Double check detector backflow prevention assembly or *double check detector* or *DCDA* means an assembly composed of a line-size approved double check assembly with a bypass containing a specific water meter and an approved double check valve assembly. The meter shall register accurately for very low rates of flow.

Double check valve backflow prevention assembly or *double check assembly* or *double check* or *DC* means an assembly which consists of two independently acting, approved check valves, including tightly closing resilient seated shutoff valves attached at each end of the assembly and fitted with properly located resilient seated test cocks.

Fire line tester means a tester, employed by a State-approved fire line contractor, approved by the Director and qualified to test backflow prevention assemblies on fire lines.

General tester means an individual who has fulfilled the requirements set out in TCEQ Rules and Regulations for Public Water Systems, title 30, Texas Administrative Code, Section 290.46(j)(1). Except fire line.

Mobile unit means any operation, which may have the potential to introduce contaminants into a potable water system from a mobile source. These include, but are not limited to, carpet-cleaning vehicles, water-hauling vehicles, street-cleaning vehicles, liquid-waste vehicles, power-wash operations and pest-control vehicles.

Nonresidential use means water used by any person other than a residential customer of the water supply and includes all uses not specifically included in residential uses.

Person means any individual, firm, partnership, joint adventure, association, club, fraternal organization, joint stock company, corporation, cooperative, estate, trust, receiver, trustee, syndicate or any other group or combination acting as a unit.

Plumbing code means the City ordinance governing plumbing in the City, as amended.

Point-of-use isolation means the appropriate backflow prevention within the consumer's water system at the point at which the actual or potential cross connection exists.

Potable water supply means any water that has been tested as required by the State regulations for drinking water supplies and is considered safe for human consumption.

Premises means any piece of property to which water is provided, including all improvements, mobile structures and structures located on it.

Premises isolation means the appropriate backflow prevention at the service connection between the public water system and the water user.

Pressure vacuum breaker backflow prevention assembly or pressure vacuum breaker or PVB means an assembly which provides protection against back siphonage, but does not provide adequate protection against backpressure backflow. The assembly is a combination of a single check valve with an AVB and can be used with downstream resilient seated shutoff valves. In addition, the assembly has suction and discharge gate valves and resilient seated test cocks which allow the full testing of the assembly.

Public water system or system means any public or privately owned water system which supplies water for public domestic use. The system will include all services, reservoirs, facilities, and any equipment use in the process of producing, treating, storing, or conveying water for public consumption.

Reclaimed water means wastewater collected and treated at a wastewater treatment plant, which is treated to a quality that meets or exceeds the requirements of the Texas Commission on Environmental Quality's Chapter 210 authorization to the City.

Reduced pressure principle backflow prevention assembly or reduced pressure principle assembly or RPBA assembly or RP means an assembly containing two independently acting approved check valves together with a hydraulically operated, mechanically independent pressure differential relief valve located between the check valves and at the same time below the first check valve. The assembly shall include properly located resilient seated test cocks and a tightly closing resilient seated shutoff valve at the end of the assembly.

Reduced pressure principle detector backflow prevention assembly or reduced pressure detector or RPZDA means an assembly composed of a line-size approved reduced pressure principle assembly with a bypass containing a specific water meter and an approved reduced pressure principle backflow prevention assembly. The meter shall register accurately for very low rates of flow.

Regulatory authority means the Director of Utilities or designated representative, the City Building Inspector or designated representative, the Chief of the Fire Department or designated representative and/or the City Manager appointed Department Ordinance Administrator or their designees charged with the administration and enforcement of this Article.

Representative of the water system means a person designated by the City to perform cross-connection control duties that shall include, but are not limited to, cross-connection inspections and water use surveys.

Residential use means water used by any residential customer of the water supply and include single-family dwellings, duplexes, multiplexes, housing and apartments where the individual units are each on a separate meter or, in cases where two or more units are served by one meter, the units are full-time dwellings.

Service connection means the terminal end of a service connection from the City water system. If a meter is installed at the point of delivery, the service connection means the point at which the terminal end on the discharge side of the water meter connects to the customer's system.

TCEQ means the Texas Commission on Environmental Quality or successor entity.

Tester means a person that is a licensed backflow prevention assembly tester approved by and registered with the TCEQ.

Thermal expansion means heated water that does not have the space to expand.

Water use survey means a survey conducted or caused to be conducted by the local authority designed to identify any possible sources of contamination to the potable water supply.

- (b) If a word or term is not defined in this Article, unless the context clearly indicates otherwise, it shall have the definition provided for such word or term as set out in the tenth or current edition of the Manual of Cross-Connection Control published by the Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California.

Sec. 13.06.004. Conflicts between this Article and other ordinances or codes.

The provisions in this Article are cumulative of all City ordinances. If any other ordinances or codes conflict with this Article, the more restrictive provision shall apply.

Sec. 13.06.005. Enforcement.

- (a) The regulatory authority shall have the authority and responsibility to enforce the provisions of this Article and the State statutes regarding cross connections, when applicable.
- (b) The regulatory authority shall inspect or cause to be inspected all backflow prevention assemblies installed pursuant to the requirements of this Article.
- (c) For new facilities or buildings, permanent water service shall not be provided until all backflow prevention assemblies have been tested and are operational.
- (d) Except in cases where the testing of backflow prevention assemblies must be delayed until the installation of internal production or auxiliary equipment, the regulatory authority shall not approve a certificate of occupancy until all backflow prevention assemblies have been tested and are operational.
- (e) The regulatory authority may, without prior notice, suspend water service to any premises when the regulatory authority finds such suspension is necessary to prevent or stop an actual or threatened backflow, which presents, or may present, imminent and substantial danger to the environment, the public water supply or the health and welfare of any person. As soon, as practicable after the suspension of service, the regulatory authority shall notify the owner or person in charge of the premises of the suspension. When time permits, the regulatory authority may notify the owner or person in charge prior to suspending water service. Notice shall provide the date that service will be or was discontinued without further notice, the reason for discontinuance and the ability to request an administrative review regarding the reasons for discontinuance within 15 days from the date of notice. Services are not reinstated upon request for an administrative review. The regulatory authority may not reinstate suspended services until:
 - (1) The person presents proof, satisfactory to the regulatory authority, that the actual or threatened backflow has been eliminated and its cause determined and corrected;

- (2) The person pays the City for all costs the City incurred in responding to the actual or threatened backflow; and
- (3) The person pays the City for all cost the City will incur in reinstating service.
- (f) A person commits an offense if the person reinstates water service to any premises for which the regulatory authority has suspended water service in order to prevent or stop an actual or threatened backflow which presents, or may present, imminent and substantial danger to the environment, the public water supply or the health and welfare of any person, except as directed by the regulatory authority.

Sec. 13.06.006. Penalty for violations and other remedies.

- (a) A person who violates any provision of this Article by performing a prohibited act or by failing to perform a required act is guilty of a misdemeanor; each day the violation continues shall be a separate offense.
 - (1) If the definition of an offense under this Article does not prescribe a culpable mental state, then a culpable mental state is not required and the offense is one of strict liability. A strict liability offense shall be punishable by a fine not to exceed \$500.00. Although not required, if a culpable mental state is in fact alleged in the charge of the offense, such offense shall be punishable by a fine not to exceed \$2,000.00.
 - (2) If the definition of an offense under this Article prescribes a culpable mental state, then a culpable mental state is required and the offense shall be punishable by a fine not to exceed \$2,000.00.
- (b) The penal provisions imposed under this Article shall not preclude the City from filing suit to enjoin the violation. The City retains all legal rights and remedies available to it pursuant to local, State and Federal law.

Sec. 13.06.007. Appeal.

A person may appeal the decision of the Director or regulatory authority by making a written request for appeal to the Appeals Officer within seven business days of the adverse decision or action. The appeal hearing shall be conducted no later than 14 business days following receipt of the notice of appeal unless the parties agree to a later date. The decision of the Appeal Officer shall be final.

Secs. 13.06.008—13.06.030. Reserved.

DIVISION 2. BACKFLOW PREVENTION ASSEMBLY REQUIREMENTS

Sec. 13.06.031. General regulations.

- (a) The regulatory authority shall determine the type and location of the backflow prevention assembly to be installed within the area served by the City.
- (b) The use of a backflow prevention assembly at the service connection shall be considered as additional backflow protection and shall not negate the use of backflow protection on internal hazards as outlined and enforced by the plumbing code.
- (c) At a minimum, but not limited to, a backflow prevention assembly shall be required in the following circumstances:
 - (1) When the nature and extent of any activity at a premises, or the materials used in connection with any activity at a premises, or materials stored at the premises could contaminate or pollute the potable water supply.

- (2) When a premises has any one or more cross connections.
 - (3) When internal cross connections are present that are not correctable.
 - (4) When intricate plumbing arrangements are present that make it impractical to ascertain whether cross connections exist.
 - (5) When a premises has a repeated history of cross connections being established or reestablished.
 - (6) When entry to a premises is unduly restricted so that inspections for cross connections cannot be made with sufficient frequency to assure that cross connections do not exist.
 - (7) When materials are being used such that if a backflow should occur, a health hazard could result.
 - (8) When installation of an approved backflow prevention assembly is deemed by the regulatory authority to be necessary to protect the water supply of the City from contamination or pollution.
 - (9) When an appropriate cross-connection survey report form has not been filed with the regulatory authority.
 - (10) When a fire sprinkler system is connected to the City's water system.
 - (11) In all new nonresidential construction there shall be installed an approved backflow prevention assembly at the service connection. The type of backflow prevention assembly required will be commensurate with the degree of hazard as determined by the regulatory authority in order to protect the water supply of the City from contamination or pollution.
 - (12) When a building is constructed on commercial premises, and the end use of such building is not determined or could change, a reduced pressure principle backflow prevention assembly shall be installed at the service connection to provide protection of the public water supply in the event of the most hazardous use of the building.
 - (13) When a premises is required to have backflow prevention assemblies, but water cannot be turned off during the testing of such assemblies, the premises shall be equipped with dual backflow prevention assemblies of the same type so that testing, repair and maintenance can be performed.
 - (14) Any used water return system.
 - (15) When a point-of-use assembly has not been tested or repaired as required by this Article, a premises isolation assembly shall be required.
 - (16) When the regulatory authority determines that additions or alterations have been made to the plumbing system without the proper permits as required by the plumbing code, premises isolation shall be required.
 - (17) All multistory buildings or any building with a booster pump or elevated storage tank.
 - (18) Retrofitting shall be required on all high hazard connections and on all other connections where the regulatory authority deems it necessary to retrofit in order to protect the water supply of the City from contamination or pollution.
 - (19) When reclaimed water is supplied to the site, an RPZ shall be installed on the potable water supply just inside the property line and before any branch connections and a double check backflow device shall be installed on the reclaimed water supply just inside the property line and before any branch connections.
- (d) A person commits an offense if the person owns or is in control of any premises and fails to install and maintain backflow prevention assemblies on said premises as required by this Section.

- (e) A person commits an offense if the person owns, operates or manages any premises and backflow from the premises enters the public water supply system.

Sec. 13.06.032. Installation requirements.

- (a) Backflow prevention assemblies shall be installed in accordance with the following requirements:
- (1) Backflow prevention assemblies shall be installed in accordance with the plumbing code, Commission rules, this Article and other relevant law. The assembly installer shall obtain the required permits prior to installation and shall have the assembly inspected by the regulatory authority.
 - (2) Interconnections of the potable water supply with an auxiliary water source are prohibited.
 - (3) The assembly shall be protected from freezing and other severe weather conditions.
 - (4) All backflow prevention assemblies shall be of a type and model approved by the regulatory authority.
 - (5) Vertical installations of backflow prevention assemblies shall be approved in writing by the regulatory authority prior to installation.
 - (6) Backflow prevention assemblies that are larger than four inches and are installed more than five feet or higher above floor level shall be equipped with a rigidly and permanently installed scaffolding acceptable to the regulatory authority.
 - (7) Bypass lines are prohibited. Pipefittings which could be used for connecting a bypass line shall not be installed.
 - (8) Premises that require backflow prevention assemblies, where an uninterrupted, continuous water supply is critical shall be provided with two assemblies installed in parallel for testing, maintenance, or repair. They should be sized in such a manner that either assembly will provide the maximum flow required or desired.
 - (9) Lines shall be thoroughly flushed prior to installation. A strainer with blowout tapping may be required ahead of the backflow prevention assembly.
 - (10) Upon completion of installation, the regulatory authority shall be notified and all backflow prevention assemblies shall be inspected and tested. The original test report shall be signed and dated by the tester; contain test gauge make, model, serial number, and calibration date; name of tester; State certification number of tester; facility name, address and telephone number; and, submitted to the regulatory authority.
- (b) A person commits an offense if the person installs a backflow prevention assembly in violation of this Section.
- (c) A person commits an offense if the person fails to notify the regulatory authority of installation, to inspect and test, or to report the test report in compliance with this Article.

Sec. 13.06.033. Right-of-way encroachment.

- (a) No person shall install or maintain a backflow prevention assembly upon or within any City right-of-way except as provided in this Section.
- (b) A backflow prevention assembly required by the Article may be installed on City right-of-way only when the City determines that there is no other feasible location for installing the assembly, installing it in the right-of-way will not interfere with traffic or utilities, and there is application for and approval by the City of a license and encroachment agreement provided by the City. The City retains the right to approve the location, height,

depth, enclosure, installation and other requisites of the assembly prior to its installation and the City shall not be liable for any damage done to or caused by an assembly installed in a right-of-way.

- (c) All permits, approvals and inspections required by applicable City Code of Ordinances and other law to perform work in the right-of-way shall be obtained.
- (d) Double check valve assemblies installed in the right-of-way shall be installed below or flush with the surrounding grade except when the City determines that it is not practicable to install it in this manner.
- (e) Any assembly or portion of an assembly which extends above ground shall be located no closer than 18 inches to the face of the curb.
- (f) A property owner shall, at the request of the City and at the owner's sole expense, relocate a backflow prevention assembly which encroaches upon any City right-of-way when such relocation is necessary for the City's reconstruction, widening or straightening of streets; placement or installation of traffic signals, traffic signs and streetlights, or construction of any other City public improvement project.
- (g) A person commits a violation if the person fails to relocate a backflow prevention assembly located in or upon any City right-of-way within the time required by the City after receiving a written order from the City to do so.
- (h) A person commits an offense if the person installs or maintains a backflow prevention assembly in violation of this Section.
- (i) A backflow prevention assembly installed or maintained in City right-of-way in violation of this Section or an order issued pursuant to this Section is declared to be a nuisance.

Sec. 13.06.034. Multiple connections.

Any premises requiring multiple service connections for adequacy of supply and/or fire protection shall have a backflow prevention assembly on each service connection. The type of backflow prevention assembly required will be commensurate with the degree of potential hazard as determined by the regulatory authority in order to protect the water supply of the City from contamination or pollution.

Sec. 13.06.035. Residential service connections.

When the regulatory authority determines that residential premises have a cross connection, said premises shall be required to eliminate the actual or potential cross connection or shall be equipped with an approved backflow prevention assembly installed in accordance with this Article.

Sec. 13.06.036. Connection of mobile units.

- (a) The connection of a mobile unit to any potable water system is prohibited unless:
 - (1) Such connection is protected by an air gap or an approved backflow prevention assembly;
 - (2) There is annual device testing of any backflow prevention assembly; and
 - (3) The regulatory authority has given approval prior to connection to any potable water system.
- (b) A person commits an offense if the person operates or causes to be operated a mobile unit in violation of this Section.

Sec. 13.06.037. Fire protection systems.

- (a) A reduced pressure principle assembly (RPBA) approved by the regulatory authority shall be required for fire sprinkler systems using piping material that is not approved for potable water use and/or that do not provide for periodic flow through during each 24-hour period, unless a variance has been issued in writing from the regulatory authority. A reduced pressure principle assembly (RPBA) shall be installed when any solution other than potable water can be introduced into the sprinkler system, unless an air gap is used to protect a tank supplying the system.
- (b) Vaults are required to be used for installation of backflow valves on fire suppression systems. All backflow valves/vaults used on fire suppression systems shall be located as close to the right-of-way as possible, but shall be located no further than 100 feet from the property line. If the backflow valve can be installed inside the building, and remain within 100 feet of the property line, the valves may be installed inside the building. Only the regulatory authority shall by written approval grant a variance to the distance requirement.
- (c) Upon the approved installation of the DCVA, RPBA or approved backflow prevention assembly, a licensed fire line tester shall complete a cross-connection test report and submit the completed report to the regulatory authority as required by this Article.
- (d) All fire line equipment, including piping and valves shall be installed by a State licensed fire sprinkler system contractor. Backflow prevention assembly testers may test and repair assemblies on fire lines only if they are permanently employed by an approved fire line contractor. The State Fire Marshal's office requires that any person performing maintenance on fire lines shall be employed by an approved fire line contractor.

Sec. 13.06.038. Fire hydrant protection.

- (a) An approved double check valve assembly (DCVA), reduced pressure principle assembly (RPBA), or air gap that has been approved by the regulatory authority shall be required protection for fire hydrant water meters that are being used for a temporary water supply during any construction or other uses that would pose a potential hazard to the public water supply. A RPBA is required if any solution other than the potable water can be introduced into the system.
- (b) It is the responsibility of all persons engaging in the use and rental of a fire hydrant water meter to abide by the conditions of this Article. All fire hydrant meter rentals shall meet the current requirements, as provided by the City.
- (c) Only City fire hydrant meters with approved backflow prevention assemblies will be permitted within the City limits.

Sec. 13.06.039. Lawn irrigation system.

- (a) All lawn irrigation systems shall obtain a permit issued by the building inspection and/or Public Utilities Department for installation and repairs. Lawn irrigation systems shall be installed in compliance with the plumbing code, City irrigation regulations and this Article.
- (b) Interconnections of the potable water supply with any auxiliary water source are prohibited.
- (c) A reduced pressure principal assembly (RPBA) shall be the minimum protection on all commercial and residential lawn or landscape irrigation systems.

Sec. 13.06.040. Thermal expansion.

It is the responsibility of any person who owns or controls property to eliminate the possibility of thermal expansion if a closed system has been created by the installation of a backflow assembly.

Sec. 13.06.041. Pressure loss.

Any reduction in water pressure caused by the installation of a backflow assembly shall not be the responsibility of the City.

Sec. 13.06.042. Testing of assemblies.

- (a) The regulatory authority shall inspect and/or test, or cause to be inspected and tested, all backflow prevention assemblies in each of the following circumstances:
 - (1) Immediately after installations;
 - (2) Whenever the assembly is moved;
 - (3) A minimum of once a year for all assemblies providing protection against health hazards as required by 30 Texas Administrative Code 290.47(f) and this Article.
 - (4) A minimum of once every four years for all assemblies providing protection against nonhealth hazards as required by 30 Texas Administrative Code 290.47(f) and this Article;
 - (5) Premises that have been vacated and unoccupied for one year, prior to reoccupancy; and
 - (6) Immediately after repairs or replacement.
- (b) Backflow prevention assemblies may be required to be tested more frequently if the regulatory authority deems it necessary to protect the water supply of the City from contamination or pollution.
- (c) All backflow prevention assembly testing shall be performed by a licensed backflow prevention assembly tester.
- (d) It is the responsibility of the property owner and the person in control of the premises to have all backflow prevention assemblies tested in accordance with this Article.
- (e) All results from backflow prevention assembly testing by a licensed backflow prevention assembly tester shall be placed on a form that shall be obtained by the tester from the City.
- (f) It is the responsibility of any person who owns or who controls any premises to have all backflow prevention assemblies tested in accordance with this Article.
- (g) A person commits an offense if the person owns or is in control of any premises and fails or refuses to have the backflow prevention assemblies installed on said premises, inspected or tested as required by this Section.
- (h) The City shall not be liable for damage to a backflow prevention assembly that occurs during testing.

Sec. 13.06.043. Maintenance of assemblies.

- (a) A person who owns, operates or manages premises in which required backflow prevention assemblies are installed shall maintain such assemblies in proper working order at all times, including repair as required. All maintenance and repair of assemblies shall be done in accordance with all applicable regulations of the Commission and this Article.

- (b) Backflow prevention assemblies shall be maintained in a manner that allows them to be tested by a method that has been approved by the regulatory authority.
- (c) All records related to backflow prevention assembly installation, testing, and repair shall be maintained on the premises for a minimum of three years.
- (d) A person commits an offense if the person allows an unlicensed tester to perform testing work at their establishment.
- (e) A person commits an offense if a person fails to maintain backflow prevention assemblies in compliance with this Section.
- (f) A person commits an offense if the person fails to comply with a repair order issued by the regulatory authority.

Sec. 13.06.044. Installation standards and specifications.

- (a) *Reduced pressure principle backflow prevention assemblies (RPBA).* RPBA's may be utilized at premises where a substance is handled that would be hazardous to health if introduced into the potable water system. The RPBA is normally used in locations where an air gap is impractical. The RPBA is effective against both back siphonage and backpressure.
 - (1) RPBA's shall be sized to provide an adequate supply of water and pressure for the premises being served. Flow characteristics are not standard. Consult manufacturer's specifications for specific performance data.
 - (2) The assembly shall be readily accessible for testing and maintenance and shall be located in an area where water damage to building or furnishing would not occur from relief valve discharge. The property owner assumes all responsibility for any damage caused by water discharge from a RPBA assembly. An approved air gap shall be located at the relief valve orifice of RPBA assemblies. This air gap shall be at least twice the inside diameter of the incoming supply line as measured vertically above the top rim of the drain, and in no case less than one inch. An approved air gap funnel assembly may be used to direct minor discharges away from the assembly; this assembly will not control flow in a continuous relief situation. Drain lines to accommodate full relief valve discharge flow should be considered.
 - (3) No part of a reduced pressure principle backflow prevention assembly shall be submerged in water or installed in a location subject to flooding. RPBA's are typically installed above grade in well-drained areas. The drain shall be of adequate capacity to carry the full rated flow of the assembly and shall be screened on both ends.
 - (4) Enclosures shall be designed for ready access and sized to allow for the minimum clearances established below. Removable protective enclosures are typically installed on the smaller assemblies. Daylight drain ports shall be provided to accommodate full pressure discharge from the assembly.
 - (5) Assemblies two inches and smaller shall have at least six inches clearance on both sides and on top of the assembly, and 12 inches below and behind the assembly. All assemblies larger than two inches shall have a minimum of 12 inches on the back side, 24 inches on the test cock side, and the relief valve opening shall be at least 12 inches plus nominal size of assembly above the floor or highest possible water level. Headroom of six feet zero inches is required in vaults without a fully removable top. A minimum access opening of 36 inches is required on all vault lids.
 - (6) Vertical installation is prohibited.

- (7) All RPBA assemblies shall be tested in accordance with this Article. Tests are the responsibility of the assembly owner. The owner shall notify the regulatory authority upon installation of any backflow prevention assembly.
 - (8) Variances from these specifications will be evaluated on a case-by-case basis. Any deviation shall be prohibited without prior written approval of the regulatory authority.
- (b) *Double check valve backflow prevention assemblies (DCVAs)*. DCVAs may be utilized at premises where a substance is handled that would be objectionable but not hazardous to health if introduced into the potable water system.
- (1) DCVAs shall be sized to provide an adequate supply of water and pressure for the premises being served. Consult manufacturer's specifications for specific performance data.
 - (2) Premises where an uninterrupted water supply is critical should be provided with two assemblies installed in parallel. Assemblies shall be sized in such a manner that either assembly will provide the minimum water requirements while the two together will provide the maximum flow required.
 - (3) The assembly shall be readily accessible with adequate room for testing and maintenance. DCVAs may be installed below grade, providing all test cocks are fitted with brass pipe plugs. All vaults shall be well-drained, constructed of suitable materials, and sized to allow for the minimum clearances established below.
 - (4) Assemblies two inches and smaller shall have at least six inches of clearance below and on both sides of the assembly and, if located in a vault, the bottom of the assembly shall be not more than 24 inches below grade. All assemblies larger than two inches shall have a minimum clearance of 12 inches on the back side, 24 inches on the test cock side, and 12 inches below the assembly. Headroom of six feet zero inches is required in vaults without a fully removable top. A minimum access opening of 36 inches is required on all vault lids. "Y" pattern double check valve assemblies shall be installed so that the checks are horizontal and the test cocks face upward. These clearance standards apply to all assemblies installed in vaults, enclosures, and meter boxes.
 - (5) Vertical installations of DCVAs are only allowed on sizes up to and including four inches that meet the following requirements:
 - a. Internally spring-loaded check valves;
 - b. Flow is upward through assembly;
 - c. Manufacturer and University of Southern California's Foundation for Cross-Connection Control and Hydraulic Research states the assembly can be used in a vertical position;
 - d. Approved by the regulatory authority.
 - (6) All DCVAs shall be tested in accordance with this Article. Tests are the responsibility of the assembly owner. The owner shall notify the regulatory authority upon installation of any backflow prevention assembly.
 - (7) Variances from these specifications will be evaluated on a case-by-case basis. Any deviation shall be prohibited without prior written approval of the regulatory authority.
- (c) *Pressure vacuum breaker backflow prevention assemblies (PVBs)*. PVBs may be utilized at point-of-use protection only and where a substance is handled that would be objectionable but not hazardous to health if introduced into the potable water system. PVBs protect against back siphonage only and shall not be installed where there is potential for backpressure.
- (1) The assembly shall be installed a minimum of 12 inches above the highest downstream piping.

- (2) PVBs shall not be installed in an area subject to flooding or where damage would occur from water discharge.
- (3) The assembly shall be readily accessible for testing and maintenance, with a minimum clearance of 12 inches all around the assembly.
- (4) All PVBs shall be tested in compliance with this Article. Tests are the responsibility of the assembly owner. The owner shall notify the regulatory authority of installation of any backflow prevention assembly.
- (5) Variances from these specifications will be evaluated on a case-by-case basis. Any deviation shall be prohibited without prior written approval of the regulatory authority.
- (d) *Spill-resistant pressure vacuum breaker backflow prevention assemblies (SVBs).* SVBs may be utilized in all installations requiring a pressure vacuum breaker. SVBs shall comply with the installation requirements applicable for pressure vacuum breaker backflow prevention assemblies.
- (e) *Air gap separation.* Air gap separations provide maximum protection from backflow hazards and may be utilized at premises where a substance is handled that would be hazardous to health if introduced into the potable water system.
 - (1) An air gap separation shall be at least twice the diameter of the supply pipeline measured vertically above the top rim of the receiving vessel, and in no case less than one inch. If splashing is a problem, tubular screens may be attached or the supply line may be cut at a 45-degree angle. The air gap distance is measured from the bottom of the angle. Hoses are not allowed.
 - (2) Air gap separations shall not be altered in any way without prior approval from the regulatory authority and shall be available for inspection at all reasonable times.

Sec. 13.06.046. Licensed backflow prevention assembly tester responsibilities.

A licensed backflow prevention assembly tester shall:

- (1) Annually have each test kit tested for accuracy and calibrated to maintain a two percent accuracy factor;
- (2) Maintain testing equipment in proper working condition/calibration;
- (3) Perform competent and accurate certifications on each backflow prevention assembly tested and shall submit complete original, signed and dated reports on the City approved forms;
- (4) Report test results to the regulatory authority within ten days of testing;
- (5) Provide a copy of the completed test report to the property owners and/or persons in charge of any premises;
- (6) Maintain testing and/or repair records for a minimum of three years;
- (7) Shall not change the design or operation characteristics of a backflow prevention assembly; and
- (8) Shall not commingle backflow test gauges used on the reclaimed or auxiliary water system with the potable water system.

Sec. 13.06.047. Nuisance.

Backflow entering or threatening to enter the public water supply from any premises is hereby declared to be a nuisance. The City may abate the nuisance in accordance with the nuisance provisions of the Code of Ordinances, or in any other manner authorized by law.

Sec. 13.06.048. Access to premises.

- (a) Each person provided water service by the City directly or indirectly shall permit the regulatory authority to enter such person's premises and buildings for the purpose of inspecting pipes and fixtures and the manner in which water is used to determine compliance with this Article. The regulatory authority's right of entry is a condition of the person's water service or connection to the City's public water system.
- (b) The person shall promptly remove, at the person's sole expense, a security barrier or other obstacle to access by the regulatory authority to the person's premises.
- (c) In connection with action by the regulatory authority under this Article, a person with water service provided by the City commits an offense if the person:
 - (1) Fails to remove a barrier or obstacle to access by the regulatory authority; or
 - (2) Unreasonably delays access by the regulatory authority.
- (d) The regulatory authority may apply to the municipal court or other court of competent jurisdiction for a search warrant if:
 - (1) A person denies the regulatory authority access to a building, structure, property or a public or private potable system connected to the City's public water system.
 - (2) The regulatory authority has probable cause to believe there is:
 - a. A violation of this Article or other enforcement order;
 - b. A need to conduct a cross-connection inspection or cross-connection survey; or
 - c. A threat to public health or safety.

(Ord. No. 2020-14, ex. B, 12-15-20)

CHAPTER 14

ZONING

ARTICLE 14.02. ZONING ORDINANCE

Sec. 14.02.001. Adopted.

The comprehensive zoning ordinance, Ordinance 4-32, adopted by the City on October 9, 2003, as amended, is included at the end of this Code as Appendix B. Due to the nature of the zoning ordinance and the technicalities involved in adopting or amending it, such ordinance is printed therein as enacted, with only nonsubstantive formatting and style changes. Capitalization, punctuation and numbering of articles, sections and subsections have been retained as enacted. Subsequent amendments will be inserted in their proper place and denoted by a history note following the amended provisions. The absence of a history note indicates the material is unchanged from the original. Obvious misspelled words have been corrected without notation. Any other material added for purposes of clarification is enclosed in brackets.

APPENDIX B. ZONING ORDINANCE

ORDINANCE NO. 4-32

AN ORDINANCE REPEALING THE ZONING ORDINANCES OF THE CITY OF MORGAN'S POINT RESORT, TEXAS, EXISTING ON THIS DATE, AND ENACTING AN ORDINANCE ESTABLISHING AND PROVIDING FOR ZONING REGULATIONS; CREATING USE DISTRICTS IN ACCORDANCE WITH A COMPREHENSIVE PLAN; REGULATING THE USE OF BUILDINGS AND LAND FOR TRADE, RESIDENCE AND OTHER PURPOSES; PROVIDING FOR SPECIFIC USE PERMITS; SPECIFYING MINIMUM REQUIREMENTS FOR OFF-STREET PARKING OF MOTOR VEHICLES; PROVIDING FENCE AND WALL REGULATIONS; PROVIDING SPECIAL ACCESS STANDARDS; ADOPTING A ZONING DISTRICT MAP AND MAKING IT A PART OF THIS ORDINANCE, TOGETHER WITH ALL SYMBOLS, MARKINGS AND TABLES APPEARING ON SAID MAP AND IN THE ORDINANCE; CREATING A ZONING COMMISSION; PROVIDING A PENALTY FOR VIOLATION; PROVIDING FOR NONCONFORMING USES AND A METHOD OF DISCONTINUANCE THEREOF; DEFINING CERTAIN ITEMS; PROVIDING FOR A CERTIFICATE OF OCCUPANCY AND COMPLIANCE; AUTHORIZING PUBLICATION OF THE DESCRIPTIVE CAPTION AND PENALTY CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED ONE THOUSAND DOLLARS (\$1,000.00) FOR EACH OFFENSE; PROVIDING A SAVINGS CLAUSE AND PRESERVING RIGHTS IN PENDING LITIGATION AND VIOLATIONS UNDER THE EXISTING ORDINANCES.

WHEREAS, under the laws of the State of Texas, authority is conferred upon the City of Morgan's Point Resort to establish zoning districts within the City for the purpose of regulating the use of land and controlling the density of population to the end that congestion may be lessened in the public streets and that the public health, safety, and general welfare be promoted in accordance with Municipal Zoning Authority, V.T.C.A., Local Government Code ch. 211, and

WHEREAS Ordinances known as the Zoning Ordinances of the City of Morgan's Point Resort, together with all amendments and maps thereto, being one and the same, are to be hereby repealed, and enacted in lieu thereof the following Comprehensive Zoning Ordinance of the City of Morgan's Point Resort, together with a map creating and delineating specific Zoning Districts, in which the official zoning map defines the boundaries of each Use District; and

WHEREAS, the City Council and the Zoning Commission of the City of Morgan's Point Resort studied and evaluated the Zoning Ordinance of the City of Morgan's Point Resort to ensure that it remains current and effective; and

WHEREAS, said City Council and Zoning Commission thoroughly studied and evaluated planning and zoning recommendations submitted by City staff, members of the development community, real estate community, citizens, and other interested segments of the private sector; and

WHEREAS, the approved Comprehensive Plan for the City of Morgan's Point Resort makes recommendations for certain land uses and it is the City's desire to adopt a Comprehensive Zoning Ordinance to comply with and be consistent with the Comprehensive Plan; and

WHEREAS, the City Council supports periodic review of the Zoning Ordinance herein in order to ensure that it will continue to accomplish the desired objectives and still remain a viable planning document in future years; and

WHEREAS, the City Council believes that the following Ordinance will serve to protect and preserve the health, safety, welfare and morals of the community, as well as promote the orderly development and growth of the City of Morgan's Point Resort; and

WHEREAS, the City Council thoroughly studied and did recommend that a public hearing be held by the City Council concerning the adoption of the Comprehensive Zoning Ordinance; and

WHEREAS, pursuant to such recommendation, a joint public hearing was held by the City Council and Zoning Commission on [sic] after written notice was mailed to all owners of real property as their names appeared upon the last approved tax roll, at least ten days before the date set for hearing in accordance with Subchapter A of V.T.C.A., Local Government Code § 211.007 and notice was published in a paper of general circulation in the City of Morgan's Point Resort; and

WHEREAS, after public hearing and review of all testimony and requests, the Zoning Commission and the City Council recommends the Zoning Ordinance in its final form for *adoption*.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MORGAN'S POINT RESORT, TEXAS:

Section 1. Enacting Clause.

THAT ZONING ORDINANCES 4-1(a)(1), 4-2, 4-4, 4-5, 4-6, 4-7, 4-8, 4-9, 4-13, 4-14, 4-15, 4-16, 4-17, 4-18, 4-19, 4-21, 4-22, and 14-13, OF THE CITY OF MORGAN'S POINT RESORT, TEXAS, TOGETHER WITH ALL AMENDMENTS THERETO BE HEREBY REPEALED AND THAT THERE BE ENACTED IN LIEU THEREOF ORDINANCE NUMBER 4-32, A COMPREHENSIVE ZONING ORDINANCE, TOGETHER WITH A MAP CREATING AND DELINEATING SPECIFIC ZONING DISTRICTS, IN WHICH THE OFFICIAL ZONING MAP DEFINES THE BOUNDARIES OF EACH USE DISTRICT.

Section 2. Purpose.

The zoning regulations and Districts as herein established have been made in accordance with an adopted comprehensive plan for the purpose of promoting the health, safety, morals and general welfare of the City. They have been designed to lessen the congestion in the streets; to secure safety from fire, panic and other dangers; to insure adequate light and air; to prevent the overcrowding of land, to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, parks, and other public requirements. They have been made with reasonable consideration, among other things, for the character of the district, and its peculiar suitability for the particular uses specified; and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the City.

(Ord. No. 4-32, 10-9-03)

Section 3. Definitions.

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

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

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

Apartment House: See Multiple-Family Dwelling.

Approved Fence Materials: materials normally manufactured for, used as, and recognized as, fencing materials such as: wrought iron or other decorative metals suitable for the construction of fences, fired masonry, concrete, stone, metal tubing, wood planks, chainlink and vinyl composite manufactured specifically as fencing materials. Fence materials must also be materials approved for exterior use that are weather and decay-resistant.

The provisions of this Ordinance are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this Code, provided that any such alternative has been approved by the Building Official, or his designee. An alternative material, design or method of construction shall be approved where the Building Official finds that the proposed design is satisfactory and complies with the intent of the provisions of this Code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this Ordinance in quality, strength, effectiveness, fire resistance, durability, and safety.

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

Automobile: See Motor Vehicle.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Garage Sale: As used in this Chapter, "garage sale" shall mean the sale or trade, or offering for sale or trade, of unwanted or surplus goods, wares, merchandise or personal property of a household nature to the general

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 4. Zoning District Map.

The boundaries of zoning districts set out herein are delineated upon a zoning map of the City, adopted as part of this ordinance as fully as if the same were set forth herein.

4.1 One original of the Zoning District Map shall be filed in the office of the City Hall and labeled as Ordinance number 4-32. This copy shall be the official Zoning District Map and shall bear the signature of the Mayor and attestation of the City Secretary. This copy shall not be changed in any manner, except by subsequent amendment by the City Council of Morgan's Point Resort. In case of any question, this copy, together with amending ordinances, shall be controlling.

4.2 An additional copy of the original Zoning District Map shall be placed in the office of the City Building Official. The copy shall be used for reference and shall be maintained up-to-date by posting thereon all subsequent amendments and shall be identified as the official zoning map. Reproductions for informational purposes may be made of the official Zoning District Map.

Section 5. Zoning District Boundaries.

5.1 The district boundary lines shown on the Zoning District Map are usually along streets, alleys, property lines, or extensions thereof. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

- A. Boundaries indicated as approximately following the centerline of streets, highways or alleys shall be construed to follow such centerline.
- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as approximately following City limits shall be construed as following City limits.
- D. Boundaries indicated as parallel to or extensions of features indicated in Subsections A through C above shall be so construed. Distances not specifically indicated on the original zoning maps shall be determined by the scale of the map.
- E. Whenever any street, alley, or other public way is vacated by official action of the City Council or whenever such area is franchised for building purposes, the zoning district line adjoining each side of such street, alley, or other public way shall be automatically extended to the centerline of such vacated street, alley, or way and all areas so involved shall then and henceforth be subject to all regulations of the extended districts.
- F. The zoning classification applied to a tract of land adjacent to a street shall extend to the centerline of the street, unless as a condition of zoning approval, it is stated that the zoning classification shall not apply to the street.
- G. Where physical features on the ground are at variance with information shown on the official zoning district map or when there arises a question as to how or whether a parcel of property is zoned and such question cannot be resolved by the application of Subsections A through F, the property shall be considered as classified, A, Agricultural District, in the same manner as provided for newly annexed territory.

Section 6. Compliance Required.

All land, buildings, structures or appurtenances thereon located within the City of Morgan's Point Resort, Texas, which are hereafter occupied, used, erected, altered, removed, placed, demolished, or converted shall be occupied, used, erected, altered, removed, placed, demolished or converted in conformance with the zoning regulations prescribed for the zoning district in which such land or building is located as hereinafter provided or subject to penalties as per Section 27 of this ordinance.

Section 7. Zoning Upon Annexation.

The zoning of all territory hereafter annexed to the City of Morgan's Point Resort shall be classified as "A", Agricultural District, until permanent zoning is established by the City Council of the City of Morgan's Point Resort. The procedure for establishing permanent zoning on annexed territory shall conform to the procedure set forth in Section 24 of this Ordinance.

7.1 Placement of Amateur Radio Antennas. Antennas for amateur radio stations licensed by the Federal Communications Commission will not be prohibited by declaration of covenants, conditions and restrictions, or Homeowners' Associations and the installation of such antennas must be reasonable [reasonably] accommodated.

(Ord. No. 4-32, 10-9-03; Ord. No. 4-32A, 1-18-05)

Section 8. Zoning Districts Established and Definitions.

8.1 General. The City of Morgan's Point Resort, Texas, is hereby divided into the following zoning Sections. The regulations as set out herein apply to each district. The districts established herein shall be known as:

Abbreviated Designation	Zoning District Name
AG	Agricultural District
SFR	Single-Family Residential
MF	Multiple-Family Residential
MH	Manufactured Home Residential
RV/C	Recreational Vehicle/Camper
C/R	Commercial/Retail

8.2 Definitions and Purpose of Zoning Districts.

AG—Agricultural District: The AG, Agricultural District, is intended to provide a location for principally undeveloped or vacant land situated on the fringe of an urban area and used for agricultural purposes, but may become an urban area in the future. Generally, the "A", Agricultural District, should not be detrimental to urban land uses. The types of uses and the area and intensity of uses permitted in this District shall encourage and protect agricultural uses until urbanization is warranted and the appropriate change in District classification is made.

SFR—Single-Family Residential: The SFR, Single-Family Residential District, is intended to provide for development of single-family detached dwelling units.

MF—Multiple-Family Residential: The MF, Multiple-Family Residential District, is intended to provide for development of multiple-family residential dwelling units.

MH—Manufactured Homes: The MH, Manufactured Home District, is a detached residential district establishing standards for the placement of manufactured homes.

RV/C—Recreational Vehicle Camper: The RV, Recreational Vehicle/Camper District, is designed to provide a suitable camping environment for recreational vehicles on small parcels of land.

C/R—Commercial/Retail: The C/R, Commercial/Retail District, is established to accommodate a variety of commercial and retail uses including general retail uses, business, and service uses.

Section 9. Agricultural District.

9.1 General Purpose and Description. This District is intended to provide a location for principally undeveloped or vacant land situated on the fringe of an urban area and used for agricultural purposes, but may become an urban area in the future. Generally, the "A", Agricultural District, should not be detrimental to urban land uses. The types of uses and the area and intensity of uses permitted in this District shall encourage and protect agricultural uses until urbanization is warranted and the appropriate change in District classification is made. The "A", Agricultural District is also intended to protect areas that may be unsuitable for development because of physical problems, lack of infrastructure, constraints, or potential health or safety hazards such as flooding, as well as providing for preservation of natural open space areas.

9.2 Permitted Uses.

1. Single-Family dwellings.

2. Farm, Ranch, and agricultural operations, including field crops, orchards, horticulture, animal husbandry, subject to the rules and regulations of the State of [sic] Health Department, but not including field [feed] lots, poultry farms, and commercial kennels.
3. Private or common open space areas as part of an approved subdivision.
4. Recreational areas operated by public, charitable, or religious organizations.
5. All municipally owned or controlled facilities, utilities and uses, including park and recreation areas.
6. Accessory buildings and uses.
7. Telephone exchange.
8. Utilities (Public or Private).
9. Such uses as may be permitted under the provisions of Specific Use Permits, Section 14 [15].

(Ord. No. 4-32, 10-9-03)

Section 10. Single-family Residential.

10.1 General Purpose and Description. The single-family residential district is intended to provide for development of single-family detached dwelling units. Other uses, such as religious and educational facilities, and open spaces, will also be allowed to maintain a balanced, orderly, convenient and attractive residential area.

10.2 Permitted Uses.

1. Single-family detached dwellings
2. Greenhouses and gardens, limited to the propagation and cultivation of plants, provided no retail or wholesale business is conducted on the premises except as allowed as a home occupation
3. The keeping of dogs, cats, and other normal household pets, according to Ordinance 14-7 [chapter 2 of the Code of Ordinances].
4. Real estate sales offices during the development of residential subdivisions in which the office is located
5. Temporary buildings for uses incidental to construction work on the premises, which said building shall be removed upon completion or abandonment of construction work, by order of the Building Official
6. Accessory buildings as established in Section 18 of this Ordinance
7. Telephone exchange, provided no public business and no repair or outside storage facilities are maintained
8. Swimming pool (private)
9. A temporary bulletin board or sign appertaining to the lease, hire or sale of a building premise or acreage
10. Utilities (public or private)
11. Family Home
12. Community Home
13. Three (3) "garage sales" per twelve-month period. New or used property acquired or consigned solely for the purpose of resale shall not be displayed or offered for sale or trade. Garage sales shall be conducted only during daylight hours and shall be limited to the hours of 7:00 a.m. and 7:00 p.m.

14. Such uses as may be permitted under the provision of Specific Use Permits, [section 15].

10.3 Height Regulations.

A. Maximum Height—Two and one-half (2-½) stories

10.4 Area Regulations.

A. Setbacks:

Table 10.1. Area Regulations

Section	Minimum Square Feet Excluding Porches, Garages, Carports, etc.	Front Setback	Side Setback	Rear Setback
LWR I	1,500	25	5	8
LWR II	800	15	5	8
1	1,200	20	5	8
2	Manufactured Housing	25	10	10
3	1,200	20	5	8
4	1,200	25	5	8
5	1,200	25	5	8
6	1,200	25	5	8
7	800	15	5	8
8A	800	15	5	8
8B	800	15	5	8
9	800	15	5	8
10	800	20	5	8
10A	800	20	5	8
10B	Manufactured Housing	25	10	10
14	Camper, Trailer (Temporary)	None	None	None
15	Manufactured Housing	25	10	10
16	1,000	15	5	8
17	1,200	15	5	10
18	Manufactured Housing	25	10	10
19	1,000	15	5	8
20	1,000	15	5	10
21	800	25	5	8
22	1,000	15	5	8
23	Manufactured Housing	25	10	10
24	1,000	10	5	8

B. Size of Building Site:

1. Lots must be platted with sufficient size to accommodate the minimum housing square footage with an approved on-site building plan.
2. In all subdivision plats filed after January 1, 1988 where on-site septic system sewerage disposal is utilized, the minimum lot size must be at least one-half acre.

10.5 Special Requirements.

- A. Dwelling must be built on-site in all Sections except Sections 2, 10B, 14, 15, 18, 23, and the area adjacent to Section 10A.
- B. Sewerage must be approved prior to installation in all Sections.
- C. No building materials may be stored on-site, except during actual construction activities.
- D. Only one residence per building site. Accessory buildings are permitted according to Section 17 [18] of this Ordinance.
- E. Fencing is permitted according to the provisions of Section 20 of this Ordinance.
- F. In Lakewood Ranch I there is a minimum 1 acre requirement and all access must be obtained from Cedar Trails.
- G. Storage of any kind is prohibited on any vacant lot which is not adjacent to a main dwelling owned by the same owner.

(Ord. No. 4-32, 10-9-03; Ord. No. 2014-16, 12-9-14; Ord. No. 2022.13 , § 1, 12-13-22)

Section 11. Multiple-family Residential.

11.1 General Purpose and Description. The Multiple-Family Residential District is an attached residential district intended to provide the highest residential densities. The principal permitted uses will include mid- and low-rise multiple-family dwellings, garden apartments, condominiums and townhouses.

11.2 Permitted Uses.

1. Multiple-family dwelling (apartment building), greater than two (2) units per building
2. Two-family residence (duplex)
3. Single-family detached dwellings
4. Greenhouses and gardens, limited to the propagation and cultivation of plants, provided no retail or wholesale business is conducted on the premises
5. The keeping of dogs, cats, and other normal household pets, conforming to Ordinance 14-7 [chapter 2 of the Code of Ordinances].
6. Municipally owned facilities and uses (no open storage or repair)
7. Leasing offices for apartment complex
8. Temporary buildings for uses incidental to construction work on premises, which said buildings shall be removed upon the completion or abandonment of construction work, by order of the Building Official
9. Accessory building as established in Section 18 of this Ordinance
10. Telephone exchange, provided no public business and no repair or outside storage facilities are maintained
11. Swimming Pool (private)

12. Family Home
13. Community Home
14. Child care center
15. Common open space, community center, recreational building, and other facilities or amenities, provided they are intended for use by the residents of the multifamily apartment complex.
16. Three (3) "garage sales" per twelve-month period. New or used property acquired or consigned solely for the purpose of resale shall not be displayed or offered for sale or trade. Garage sales shall be conducted only during daylight hours and shall be limited to the hours of 7:00 a.m. and 7:00 p.m.
17. Such uses as permitted under the provisions of the Specific Use Permits, Section 15.

11.3 Height Regulations.

- A. Maximum Height - Two and one-half (2½) stories.

11.4 Area Regulations.

- A. Size of Yards:
 1. Minimum Front Yard - Twenty-five feet (25').
 2. Minimum Size [Side] Yard - Eight feet (8'), ten feet (10') between buildings without opening (windows); fifteen feet (15') between buildings with openings and when adjacent to side street; sixty feet (60') when building is in excess of [one] story in height and adjacent to Single-Family Residential District.
 3. Minimum Rear Yard - Twenty feet (20'); sixty feet (60') when the building is in excess of one story and adjacent to a Single-Family Residential District.

11.5 Refuse Facilities.

- A. Every dwelling unit shall be located within two hundred fifty feet (250') of a refuse facility, measured along the designated pedestrian and vehicular travel way. A refuse facility shall be a dumpster or other similar receptacle designed for receiving garbage in bulk or for more than one dwelling.
- B. Each refuse facility shall be screened from view on three (3) sides from persons standing at ground level on the site or immediately adjoining property, by an opaque fence or wall of wood or masonry not less than six (6) feet, nor more than eight (8) feet in height or by an enclosure within a building. Refuse containers shall be provided and maintained in a manner to satisfy local public health and sanitary regulations. Each refuse facility shall be located on [sic] as to provide safe and convenient pickup by refuse collection agencies.

11.6 Special District Requirements.

1. Multiple-family dwelling units are permitted only in Section 4 (block 33) and Section 21 (blocks 4 and 5).
2. Fencing is permitted according to the provisions of Section x [20] of this Ordinance.

(Ord. No. 4-32, 10-9-03; Ord. No. 2014-16, 12-9-14)

Section 12. Manufactured Housing.

12.1 General Purpose and Description. The MH, Manufactured Home District, is a detached residential district establishing certain standards for the placement of manufactured homes. Ordinance 4-12C [article 3.05 of the Code of Ordinances] describes additional standards.

12.2 Permitted Uses.

1. Individually owned HUD-code manufactured homes, according to Ordinance 4-12C [article 3.05 of the Code of Ordinances].
2. Modular or industrialized housing units.
3. Single-family dwellings which conform to the standards as set forth in the SFR Single-Family District.
4. Farms, nurseries, greenhouses or gardens, limited to the propagation and cultivation of plants, provided no retail or wholesale business is conducted on the premises.
5. Municipally owned facilities and uses.
6. Temporary buildings for uses incidental to construction work on the premises, which said buildings shall be removed upon the completion or abandonment of the construction work by order of the Building Official.
7. Accessory buildings and uses which conform to the standards set forth by Section 18 and which are customarily incidental to the above uses and located on the same building site therewith, but not involving the conduct of a home occupation except as provided herein.
8. Telephone exchange, provided no public business and no repair or outside storage facilities are maintained.
9. Swimming Pool (private), including recreation or community areas.
10. Community Home.
11. Three (3) "garage sales" per twelve-month period. New or used property acquired or consigned solely for the purpose of resale shall not be displayed or offered for sale or trade. Garage sales shall be conducted only during daylight hours and shall be limited to the hours of 7:00 a.m. and 7:00 p.m.
12. Such uses as may be permitted under the provisions of Specific Use Permits, Section 15.

12.3 Area Regulations.

A. Size of Yards

1. Minimum Front Setback: Fifteen feet (15') from the front property line
2. Minimum Side Setback: Five feet (5') from the side property lines
3. Minimum Rear Setback: Five feet (5') from the rear property line

B. Minimum Dwelling Size: Four hundred eighty (480) square feet

C. Maximum Lot Coverage: N/A

D. Parking Regulations: Two (2) spaces per residence on an all-weather, off-the-street surface

12.4 Structural Protection. Anchorage of manufactured homes: To insure against natural hazards such as tornados, high winds, and electrical storms, anchorage at each manufactured home shall be provided according to State and Federal guidelines:

- A. All dwellings not attached to a permanent foundation shall provide weather-resistant skirting from the top of the unit's frame to grade. Skirting shall totally enclose and secure from view the unit's axles and all required anchors, footings, and piers.
- B. All required skirting shall be of a texture and color similar to the materials used in the construction of the manufactured home unit.

12.5 Other Regulations.

- A. Every dwelling unit shall be located within two hundred fifty feet (250') of a refuse facility, measured along the designated pedestrian and vehicular travel way. A refuse facility shall be a dumpster or other similar receptacle designed for receiving garbage in bulk or for more than one dwelling.
- B. Each refuse facility shall be screened from view on three (3) sides from persons standing at ground level on the site or immediately adjoining property, by an opaque fence or wall of wood or masonry not less than six (6) feet, nor more than eight (8) feet in height or by an enclosure within a building. Refuse containers shall be provided and maintained in a manner to satisfy local public health and sanitary regulations. Each refuse facility shall be located on [sic] as to provide safe and convenient pickup by refuse collection agencies.

12.6 Special Requirements.

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

(Ord. No. 2014-16, 12-9-14; Ord. No. 2022.13 , § 2, 12-13-22)

Section 13. Recreational Vehicle/Camper.

13.1 General Purpose and Description. The RV, Recreational Vehicle/Camper District, is designed to provide a suitable camping environment for recreational vehicles on small parcels of land.

13.2 Permitted Uses.

- A. Recreational vehicles, travel trailers, residential campers and motor homes which are kept mobile at all times.
- B. Lot 1, Block 2 may be used as above or as a common utility service area.
- C. The keeping of dogs, cats, and other normal household pets conforming to Ordinance 14-7, the City's animal ordinance [chapter 2 of the Code of Ordinances].
- D. Utilities, with the consent of the U.S. Corps of Engineers prior to installation.

13.3 Special Requirements.

- A. Open storage is prohibited
- B. No outside toilets will be permitted, and no installation of any kind for disposal of sewerage shall be allowed which would result in raw or untreated sewerage being carried into water bodies or otherwise being dumped on any public or private properties. The disposal of sewerage onto any road, street, alley, public ditches or private land is strictly prohibited.
- C. Open fires are prohibited.

Section 14. Commercial/Retail.

14.1 General Purpose and Description. This District is established to accommodate a variety of commercial and retail uses including general retail uses, business, and service uses.

14.2 Permitted Uses.

- 1. Church
- 2. Convenience store with gasoline sales

3. Generally recognized retail businesses which supply commodities on the premises, such as groceries, meats, dairy products, baked goods, clothing and notions, or hardware and similar uses
4. Municipally owned or controlled facilities, utilities, and uses
5. Office buildings for professional occupations including: executive, administrative, legal, accounting, writing, clerical, stenographic, drafting, and real estate, and related accessory uses
6. Restaurant or cafeteria, including drive-through service (no service for consumption of food in the vehicle on premises)
7. Shopping center and related retail uses
8. Such uses as permitted under the provisions of the Specific Use Permits, Section 15.

14.3 Height Regulations.

- A. Maximum Height—Two (2) story or forty feet (40'); except roof gables, chimneys, etc., not to exceed twelve feet (12') beyond maximum building height.

14.4 Special Requirements.

- A. All requirements set forth in City Ordinance 14-17 [chapter 10, exhibit A of the Code of Ordinances] shall apply to this District.
- B. Open storage prohibited.

Section 15. Specific Use Permit.

15.1 Specific Uses. The City Council by an affirmative vote may, after public hearing and proper notice to all parties affected, and after recommendations from the Zoning Commission that the uses are in general conformance with the Comprehensive Plan and general objectives of the City and containing such requirements and safeguards as are necessary to protect adjoining property, authorize application [sic] and shall be accompanied by a site plan drawn to scale and showing the general arrangement of the project, together with essential requirements such as off-street parking facilities; size, height, construction materials, and locations of buildings and the uses to be permitted; location and instruction [construction] of signs; means of ingress and egress to public streets; the type of visual screening such as walls, plantings and fences; and the relationship of the intended use to all existing properties and land uses in all directions to a minimum distance of two hundred feet (200'). The Planning Commission 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.

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. The Zoning Commission and City Council shall consider the following criteria in determining the validity of the Specific Use Permit request:
 1. Is the use harmonious and compatible with its surrounding existing uses or proposed uses?
 2. Are the activities requested by the applicant normally associated with the requested use?
 3. Is the nature of the use reasonable?

4. Has any impact on the surrounding area been mitigated?
- B. In granting a Specific Use Permit, the City Council may impose conditions which shall be complied with by the owner or grantee before a certificate of occupancy may be issued by the building official for use of the building on such property pursuant to such Specific Use Permit and such conditions precedent to the granting of the certificate of occupancy. Any special conditions shall be set forth in writing by the City Council prior to issuance of the Certificate of Occupancy.
- 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 and City Council.
- D. If required, a building permit shall be applied for and secured within six (6) months from the time of granting the Specific Use Permit, provided however, that the City Council, may authorize an extension of this time upon recommendation by the Zoning Commission. After six (6) months from the date of approval has elapsed, the Zoning Commission and City Council may review the site plan for continued validity. If the site plan is determined invalid, the property owner(s) must submit a new or revised site plan for approval prior to any construction or application for building permit for the area designated for the Specific Use Permit.
- E. No building, premises, or land used under a Specific Use Permit may be enlarged, modified, structurally altered, or otherwise significantly changed unless a separate Specific Use Permit is granted for such enlargement, modification, structural alteration, or change.
- F. The City Council authorizes granting of a Specific Use Permit, the Zoning Map shall be amended according to its legend to indicate that the affected area has conditioned and limited uses, and said amendment is to indicate the appropriate zoning district for the approved use and prefixed by an "S" designation.

15.3 Use Regulations. A building permit or premises used for any of the following purposes shall be permitted by Specific Use Permit only unless already allowed by right in a District's Permitted Uses.

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

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

Fee Schedule

Annexation Petition	No. of Acres* 10 + 250
Final Plat	No. of Lots* 75.0 + 400
General Plan Amendment	\$350.00
Home Occupation-Standard Fee	\$ 25.00
With P&Z Council Review	\$250.00
Master Plan	\$500.00
Master Plan Revision	\$250.00
Minor Subdivision	No. of Lots * 100 + 600
Minor Subdivision (Subsequent Review)	No. of Lots * 75 + 200
Preliminary Plat	No. of Lots * 75 + 400
Rezoning	No. of Lots * 10 + 200
Site Plan Review	No. of Lots * 75 + 400
Sketch Plat (Other projects)	No. of Units * 15

Sketch Plat (Single Family)	No. of Lots * 35 + 150
Specific Use Permit	\$500.00
Vacation Plat	\$500.00
Inspection Fee	\$250.00

SF—Single-Family Residential and MF—Multifamily Residential

1. Bed and Breakfast Inn or facility, Tourist Home or Short-Term Rental.
 - a. A maximum of 8 adults and 3 motor vehicles for a structure with 3 or more bedrooms.
 - b. A maximum of 6 adults and 2 motor vehicles for a structure with 2 Bedrooms.
 - c. A maximum of 4 Adults and 2 motor vehicles for a structure with only one bedroom.
 - d. A maximum of 2 household pets for each structure. Dogs, cats and domestic ferrets must be currently vaccinated (annually) for the rabies virus.
2. Charitable organization other than church or rectory
3. Child Care in Place or Residence (less than 10 children)
4. Church or ancillary buildings
5. Country Club or golf course and related uses such as driving ranges, but not including similar forms of commercial amusement such as miniature golf
6. Hospital
7. Modular or industrialized housing unit (excluding manufactured housing)
8. Post office
9. Public utilities such as electric substation and transmission line (installations such as electric substations, gas reg. stations, etc., and office, repair, storage, or production facilities must be located more than 10 feet from residential units)
10. Home occupations

C/R—Commercial/Retail

1. Bed and breakfast facility
2. Broadcasting facilities, radio, television, microwave tower, or commercial antenna
3. Commercial Carnival (by resolution of City Council for specific time period)
4. Electric substation, transmission line or other public use utilities
5. Heliport or helistop
6. Hospital
7. Military service clubs, lodges, etc.
8. Office showroom
9. Reprographic services
10. Restaurant with private clubs with alcoholic beverage sales
11. Seasonal fruit and vegetable sales or mobile concession trailers
12. Telegraph office

13. University or parochial school or related uses
14. Petting zoo
15. Audiovisual stores and other appliances
16. Bus terminal
17. Cafeteria or restaurant
18. Convenience food store
19. Drugstore or pharmacy
20. Laundromat
21. Personal services shop
22. Shoe repair
23. Theater
24. Broadcasting facilities, radio, television or microwave tower
25. Drapery or furniture upholstery
26. Gasoline sales, associated food with convenience store
27. Indoor amusement (video games)
28. Auto parts sales, no wrecking yard operations
29. Auto sales
30. Bowling sales
31. Carwash
32. Dance studio
33. Garden center
34. Home improvement center, lumber yard
35. New boat sales, RV sales
36. Private clubs
37. Tool and equipment rental
38. Drive-in theater
39. Flea market (indoor or outdoor)
40. Limited warehousing and wholesale distribution
41. Mini-warehouse or self-storage
42. Portable building sales
43. Boat storage
44. Nursing home or home for the aged
45. Kennel, Veterinarian clinic
46. Indoor, sports, recreation and entertainment

(Ord. No. 2021.08 , § 1(Exh. A), 12-14-21)

Section 16. Off-street Parking and Loading Requirements.

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

16.2 General Requirements.

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

16.3 Special Off-Street Parking Provisions—Residential Districts.

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

16.4 Off-Street Parking and Loading—Nonresidential.

- A. For safety and firefighting purposes, unimpeded access through parking areas shall be provided.
- B. Handicapped parking space(s) shall be provided according to the International Building Code, the Americans with Disabilities Act Design Guide, and the Texas Accessibility Code.
- C. Each commercial property must dedicate adequate off-street space to allow for the maneuvering and off-loading of delivery and maintenance trucks.
- D. Application for a building permit on commercial property shall include a drawing showing adequate parking to accommodate the anticipated patronage of the commercial activity. The City Building

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Official shall be guided by "Standard Engineering Practices" in verifying the adequacy of parking and loading spaces planned.

- E. In the event of a dispute regarding the adequacy of the parking and loading space planned, the applicant for a permit may request the City Council to consider whether or not an appeal of the decision of the Building Official shall be heard.

Section 17. Special and Additional Supplementary Regulations.

17.1 No radio, television or microwave tower for a commercial use shall be located within a distance equal to or less than the height of such tower from any residential structure or from any area zoned residential, or shown as residential on the current Comprehensive Plan. Such distance shall be measured as the shortest possible distance in a straight line from the closest point of the tower to the closest point of such area or residence.

(Ord. No. 4-32, 10-9-03)

Section 18. Accessory Building and Use Requirements.

18.1 General.

- A. An accessory building shall not be used for commercial purposes and shall not be rented in districts zoned Single-Family Residential (SFR), Multifamily Residential (MFR), or Manufactured Housing (MH).
- B. An accessory building may be constructed or placed on the building site only after a Building Permit has been issued by the City and the main building has been issued a Certificate of Occupancy or the accessory building is built concurrently with the main building.
- C. A maximum of two accessory buildings per building site will be permitted.
- D. Lots contained within a building site shall not be sold separately.
- E. Lot(s) on which accessory building is located may be sold separately if all accessory buildings are removed from lots other than the lot containing the main building prior to sale.
- F. No accessory building shall be sublet.
- G. One additional accessory building used exclusively as a pumphouse is permitted on each building site.
- H. The placement and use of a construction trailer shall be allowed on any building site. Construction trailers shall be removed within 10 days of the issuance of a Certificate of Occupancy for the main building.

18.2 Size, Height and Placement Regulations for Accessory Buildings.

- A. An accessory building must be built or placed to the rear of the minimum required front setback line or at the front face of the main building, whichever is farthest from the front property line.
- B. An accessory building must not be built or placed closer than three feet (3') from the side and rear property lines. An accessory building may not be built or placed in a utility easement.
- C. The maximum height of an accessory building shall not exceed twenty feet (20').
- D. The permitted accessory building(s) must comply with all City, County, and State codes and regulations.
- E. One private parking garage erected on the building site, either attached or detached from the existing dwelling, shall be exempt from the restrictions set forth in this Section, if the garage meets or exceeds the officially adopted residential building code in effect at the time of the building permit.

- F. One carport may be erected on the driveway of the main building's building site. The carport may be erected beyond the front face of the main building and must comply with the area regulation setbacks.
- G. Temporary storage containers will be allowed, if properly permitted through the City Building Official. Storage "PODS" and "Conex" Shipping Containers, or any other similar container shall only be allowed on a building site for no more than ninety (90) days. Incremental time extensions may be granted by the City Building Official, if extenuating circumstances can be substantiated, but no longer than six (6) months.
- H. The total floor space of all permitted accessory buildings may not exceed 5% of the total square footage of the building site or 1,500 square feet, whichever is less. All building sites shall be allowed to construct accessory building(s) up to a total of 250 square feet regardless of the size of the building site.

18.3 Nonresidential Accessory Buildings.

- A. The size and height of nonresidential accessory buildings shall be commensurate with the use of the main building.
- B. An accessory building must be built or placed to the rear of the minimum required front setback line or at the front face of the main building, whichever is farthest from the front property line, and must not be built or placed closer than three feet (3') from the side and rear property lines. An accessory building may not be built or placed in a utility easement.

(Ord. No. 2012-05, 9-11-12; Ord. No. 2019-10, §§ 2—4, 8-20-19; Ord. No. 2020-11, 10-13-20)

Section 19. Landscape Requirements—Residential.

19.1 Purpose. Landscaping is accepted as adding value to property and is in the general welfare of the City. Residential property owners are generally not required to provide extensive landscaping at the time of development.

19.2 Landscape Requirements

- 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. Planting of trees, shrubs or other plants or placement of obstacles which interfere with access to the right-of-way for such authorized parking or other public use of street areas is not permitted. The City will not be responsible for the repair or replacement of any landscaping that is disturbed or damaged as a result of any City response in any easement or right-of-way adjacent to any property.
- B. The following exceptions are allowed:
 1. United States Postal Service mailboxes and enclosures may be placed in the street right-of-way in a manner approved specifically in each instance by the Belton, Texas, Postmaster.
 2. Softscaping such as the placement and maintenance of plants, grass, mulch, etc. that will not interfere with services including but not limited to deliveries, emergency response and utility services will be allowed between the paved roadway and the property line of adjacent property.
 3. Hardscaping such as the placement of stone, gravel, brick and other hard landscaping material that will not interfere with services including but not limited to deliveries, emergency response and utility services will be allowed between the paved roadway and the property line of adjacent property.

(Ord. No. 4-32, 10-9-03; Ord. No. 2022-03 , § 1, 2-8-22)

Section 20. Screening Fence and Wall Standards.

20.1 Purpose. This Chapter provides uniform standards for the erection and maintenance of fences. All fences in this Chapter shall be erected and maintained in accordance with these standards. The general objectives of these standards are to promote health, safety, welfare, convenience and enjoyment of the public, and in part to achieve the following:

To promote the safety of persons and property by providing that fences do not:

- A. Create a hazard due to collapse, fire, decay or abandonment;
- B. Obstruct firefighting or police observation ability;
- C. Create traffic hazards by confusing or distracting pedestrians or motorists; or
- D. Become obstacles that hinder the ability of pedestrians, bicyclists or motorists to read traffic Signs.

20.2 Encroachment on Public Property. No person shall construct a fence, guy wire, brace or any fence post upon, or into public right-of-way or property that the City or the general public has dominion and control over, owns, or has an easement over, under, around or through.

20.3 Fence Not to Create a Traffic Hazard. It is unlawful to erect, maintain, suffer or permit any fence on any corner lot in such a manner as to create a traffic hazard or restrict visibility. Failure of the owner, agent or occupant to remove such obstruction within the specified time limit required on the receipt of notice to do so is a violation of this Ordinance.

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.
- B. Fence Sections essentially parallel with a public street shall have their back side (the side with the exposed posts and rails) oriented to the interior of the residential lot to minimize their exposure to the public. Exception: Posts and rails may be oriented to the exterior of the residence when concealed within construction that is consistent with and complementary to the construction of the fence. Visual depictions of construction shall be required for review of appearance prior to issuance of a permit.
- C. No private fence shall be erected on public right-of-way, within any drainage easement, or green easement unless otherwise authorized by the City Council.

20.5 Residential Zoning District Regulations. These Sections shall apply in all residential zoning districts within the City.

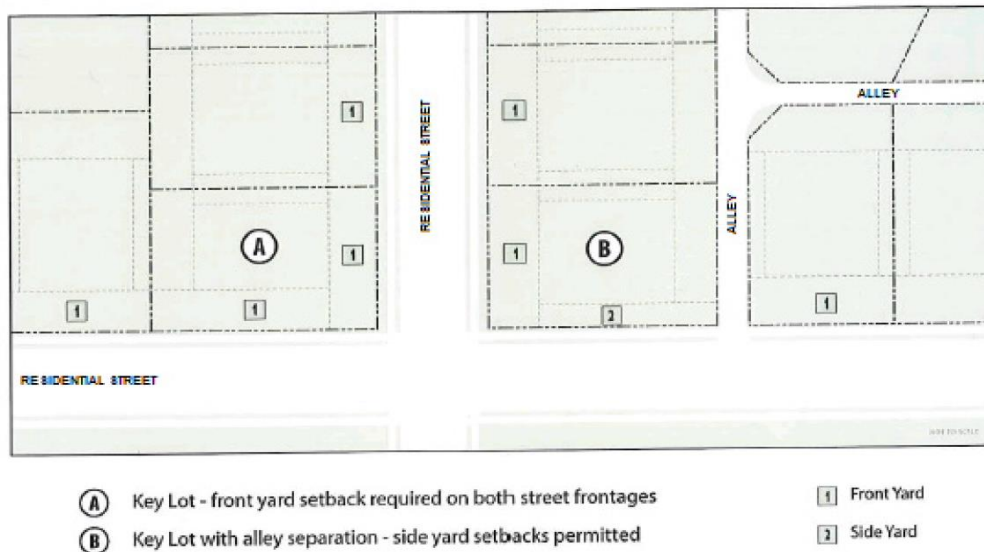
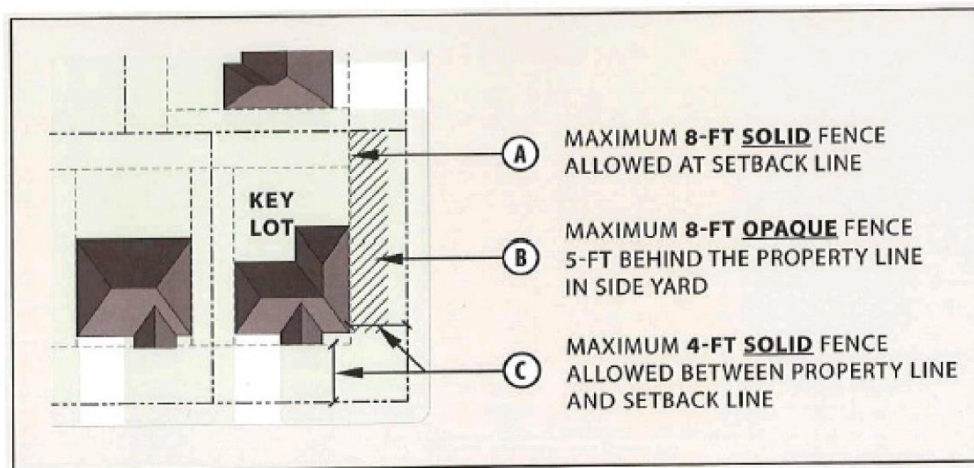
A. *Height Limitation.*

- 1. *Rear yard.* It is unlawful for any person to construct, erect, maintain, suffer, or permit a fence in any rear yard or along any rear yard lot line which fence exceeds eight (8') feet in height as defined in Section 20.05, G. Decorative gate embellishments are allowed. They shall not exceed the height of the fence by more than two (2') feet.
- 2. *Side yard.* It is unlawful for any person to construct, erect, maintain, suffer, or permit a fence in any side yard or along any side yard lot line which fence exceeds eight (8') feet in height as defined in Section 20.03.

B. *Construction in front yards.*

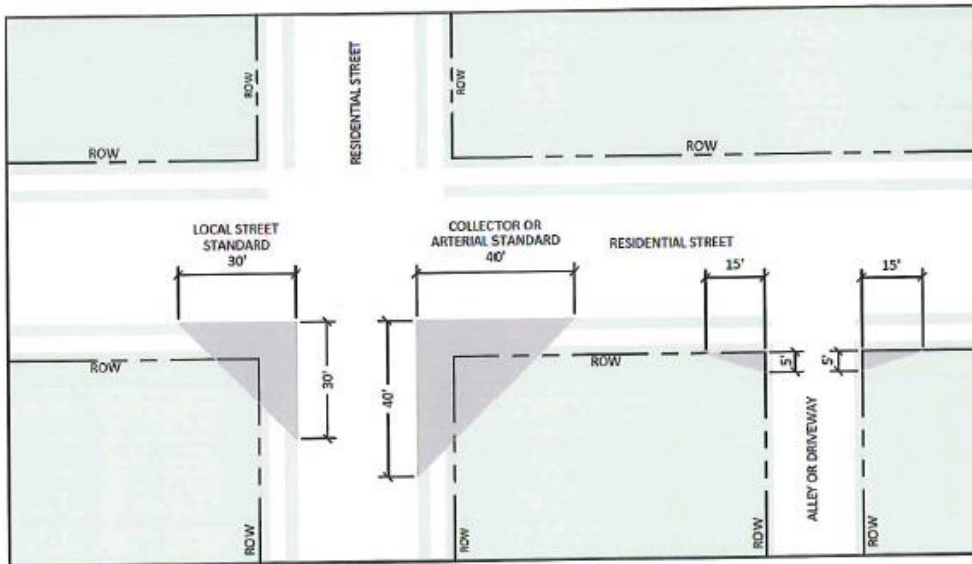
- 1. All fences constructed in the front yard of a residential property shall:

- 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.
 - e) Not allow vertical support posts and gates to extend more than six (6") inches above the top of the fence intersection.
2. *Decorative Gates.* A decorative gate over five (5') feet in height in the front yard requires the approval of the Building Officials or designee.
 3. *Combination Lots.*
 - a) On single frontage lots, the entire property line of the lots that abut the public right-of-way shall be considered the front yard;
 - b) Double frontage lots shall use the property lines that either abuts the public right-of-way from which the entire front entrance of the residence is visible or the property lines that abut the legal street address to determine the front yard. In the case where both hold true the Building Official shall determine the area to be considered the front yard.
 4. *Irregular Shaped Lots.*
 - a) On single frontage lots, the entire property line of the lots that abut the public right-of-way shall be considered the front yard;
 - b) Double frontage lots shall use the property lines that either abuts the public right-of-way from which the entire front entrance of the residence is visible or the property lines that abut the legal street address to determine the front yard. In the case where both hold true the Building Official shall determine the area to be considered the front yard.
 5. *Key Lots.* There are special restrictions for fences on key lots.
 - a) Refer to Figure 1 along with the definition in the definitions Section for an explanation of a key lot.
 - b) A fence, that is more than 50% opaque and constructed of tubular steel or wrought iron and not exceeding eight (8) feet in height, may be located up to five (5) feet from the property line of the side of the house on a key lot.
 - c) A solid fence, not exceeding eight (8) feet in height, may be located at the setback line (front yard setback shall be used for key lots) as defined by Zoning Ordinance as it is currently written or may be amended. It is the property owner's responsibility to ensure proper setbacks are maintained.
 - d) Figure 2 illustrates the difference between property lines and setback lines for determining fence locations for key lots.

Figure 1. Determining if a lot is a key lot**Figure 2. Locating fences on key lots**

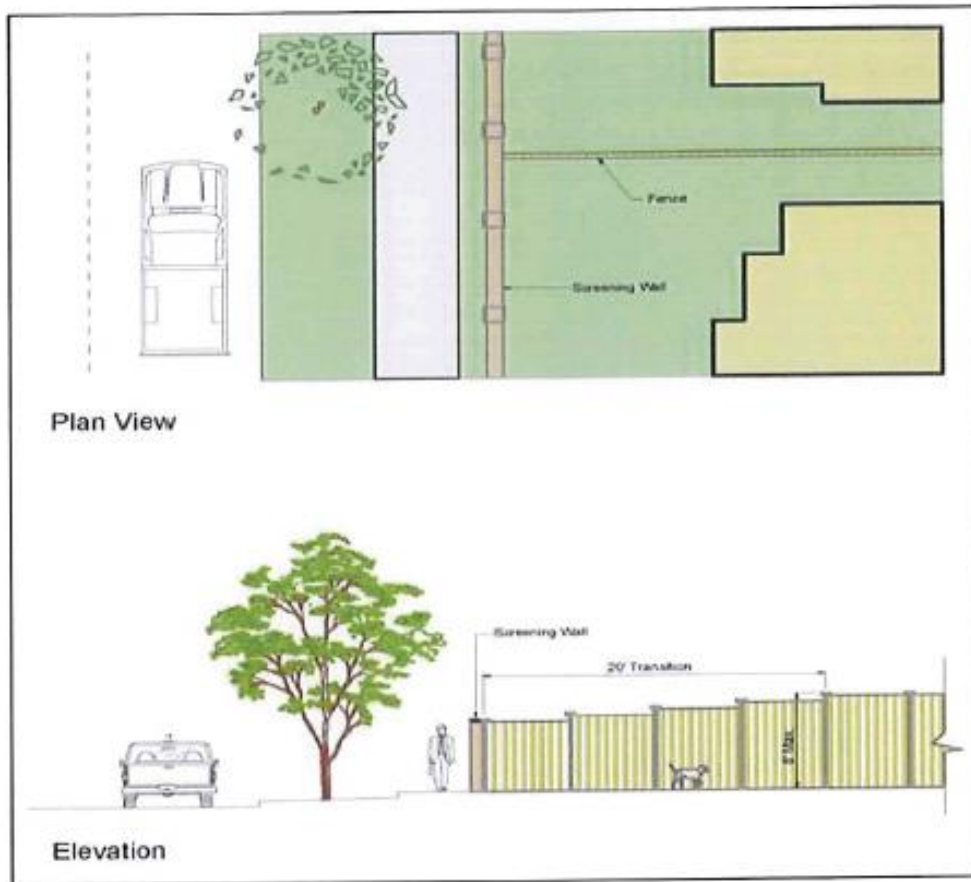
- C. *Temporary fences.* Temporary fences are prohibited in residential districts, except where required by Code for construction, excavation, festival or community events, or life safety issues.
- D. *Sight Visibility Triangle.* The corner visibility triangle is defined at an intersection by extending the two ROW lines from their point of intersection to a distance as shown. These two points are then connected with an imaginary line to form the corner visibility triangle. If there are curbs existing, then the triangular area shall be formed by extending the curblines for a distance of thirty feet (30') from their point of intersection. A fence on the corner of a collector or arterial street must have a 40 ft x 40 ft sight visibility triangle. No fence or wall of any style, size, or material shall be constructed in the sight visibility triangle.

Figure 3. Visibility Triangles



- E. The following types of fences are prohibited in a residential zoned district. It is unlawful for any person to erect, maintain, or permit a fence that:
1. Is electrically charged in any manner, except single-strand wires designed to conduct electricity through an approved low-voltage regulator shall be allowed along the fence's interior for the purposes of securing pets within a fenced yard.
 2. Has barbed wire in or on it.
 3. Has concertina wire in or on it.
 4. Has razor wire in or on it. Has in it or on it barbs, projections, broken glass, or anything reasonably capable of causing harm to persons or animals.
- F. *Perimeter Walls.* Where a fence intersects a screening wall and the height of the fence exceeds the height of the screening wall, the height of the fence shall transition to the height of the screening wall over a distance of twenty (20') feet. Exception: The Building Official may make exceptions to the twenty (20') feet transition where terrain and lot orientation does not allow for an orderly transition. Visual depictions of construction shall be required for review prior to issuance of a permit.

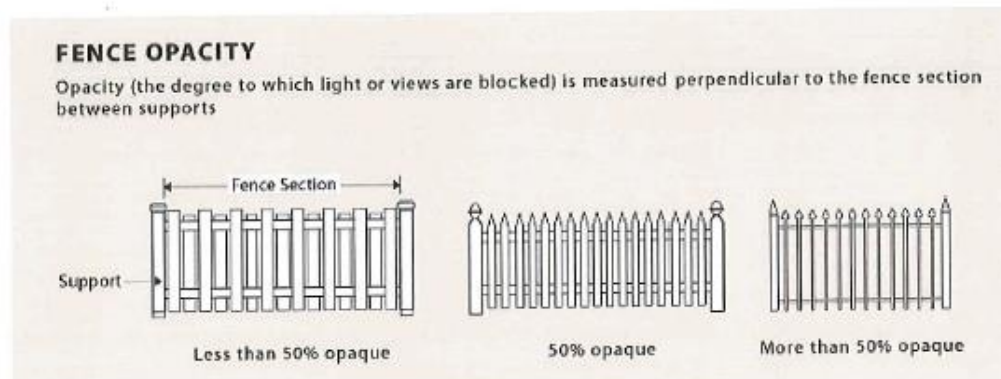
Figure 4. Connecting to perimeter walls



G. *Determining fence height and opacity.*

1. *Measurement.* Fence height is measured to include the body of the fence, plus allowing a maximum of six (6") inches (on average between posts) above the natural grade (i.e., for drainage purposes). Fence posts are permitted to extend a maximum of four (4") inches above the body of the fence. Columns are permitted to extend a maximum of twelve (12") inches above the body of the fence.
 2. *Elevations.* In the event that the fence height has been elevated through the use of a retaining wall, the fence height is measured from the ground level at the highest point. The creation of a berm or other method for the primary purpose of increasing the elevation of the fence is not allowed.
 3. *Opacity.* Opacity is the degree of openness which light or view is blocked measured perpendicular to the fence for each fence Section between supports.
- H. *Arbors and trellises.* These Ordinances shall apply to arbors and trellises used in lieu of a fence or in combination with a fence, except that arbors and trellises used in lieu of a fence may rise to a maximum height of nine (9') feet for a distance of six (6') feet.

Figure 5. Opacity of fences



20.6 Nonresidential Zoning Districts.

- A. Fences constructed in nonresidential zoning districts must meet requirements found in the zoning ordinance.
- B. *Height Restrictions.* A fence in a nonresidential zoning district may not exceed eight (8') feet in height nor be less than six (6') feet in height and meet the requirements of the Zoning Ordinance as it currently exists or may be amended.
- C. Fences in districts zoned Agricultural or Industrial may also contain the following material:
 1. Fence arms
 2. Barbed wire as accessory to other fencing material
 3. Razor wire with special applications
 4. Chainlink
 5. Other material that may be approved for use in that district by the Building Official or his/her designee.
 6. Fences on parcels used for Agricultural purpose may contain barbed wire or other material approved by the Building Official or his/her designee.

20.7 Fire Hydrant and Utility Clear Zone.

- A. Any area three (3') feet in radius around any fire hydrants and fire hose connections must be kept free of any fencing that could impede access to or use of the hydrant or fire hose connection.
- B. A fence must not impede access to public utilities or metering devices.

20.8 Fences in Floodways. Fences are not permitted in floodway areas as designated on FEMA's flood boundary and floodway map.

20.9 Drainage. A fence must not adversely affect drainage or create debris build-up.

(Ord. No. 2014-01, 1-14-14)

Section 21. Classification of New and Unlisted Uses.

21.1 It is recognized that new types of land use will develop and forms of land use not presently anticipated may seek to locate in the City of Morgan's Point Resort. In order to provide for such changes and contingencies, a determination as to the appropriate classification of any new or unlisted form of land use shall be made as follows:

- A. The City Building Official shall refer the application for any new or unlisted use to the Zoning Commission, requesting an interpretation as to the zoning classification into which such use should be placed.
- B. The Zoning Commission shall consider the application and determine whether the intended use fits the zoning of the area of intended use and approve or recommend disapproval by the City Council or initiate action for authorizing the use under the appropriate Section of this ordinance.

Section 22. Nonconforming Uses and Structures.

22.1 A nonconforming status shall exist under the following provisions of this Ordinance:

- A. When a use or structure, which does not conform to the regulations prescribed in the district in which such use or structure is located, was in existence and lawfully operating prior to the adoption of a previous lawful zoning ordinance, and has been operating since, without discontinuance.
- B. When on the effective dates of this Ordinance, the use or structure was in existence and lawfully constructed, located and operating in accordance with the provisions of the previous Zoning Ordinance or which was a nonconforming use thereunder, and which use or structure does not conform to the regulations.

22.2 No nonconforming use or structure may be expanded or increased beyond the lot or tract upon which such nonconforming use is located as of the effective date of this Ordinance except to provide off-street parking space upon approval of the City Council.

22.3 Repairs and normal maintenance may be made to a nonconforming building provided that no structural alterations, expansions, or extensions shall be made except those required by law or ordinance, unless the building is changed to a conforming use.

22.4 Any nonconforming use may be changed to a conforming use, and once such change is made, the use shall not thereafter be changed back to a nonconforming use.

22.5 Where a conforming use is located in a nonconforming structure, the use may be changed to another conforming use by securing a Certificate of Occupancy from the City Building Official.

22.6 Whenever a nonconforming use is abandoned, all nonconforming rights shall cease and the use of the premises shall henceforth be in conformity with this Ordinance. Abandonment shall involve the intent of the user or owner to discontinue a nonconforming use for a period of six (6) months and shall be construed as conclusive proof of intent to abandon the nonconforming use. Any nonconforming use which, not involving a permanent type of structure, is moved from the premises shall be considered to have been abandoned.

22.7 If a structure occupied by a nonconforming use is destroyed by fire, the elements, or other cause, it may not be rebuilt except to conform to the provision[s] of this Ordinance. In the case of partial destruction of a nonconforming use not exceeding sixty [percent] (60%) of its reasonable value, reconstruction will be permitted, but the size or function of the nonconforming use cannot be expanded.

(Ord. No. 4-32, 10-9-03)

Section 23. Zoning Commission.

23.1 Created; Membership. There is hereby created a Zoning Commission in accordance with V.T.C.A., Local Government Code § 211.007, the Zoning Commission shall consist of five (5) members, each of whom shall be a resident of the City, who are at least eighteen years old and shall be selected for their unselfish interest in the City's affairs. Members shall be appointed by the City Council. Of the five (5) members, three (3) shall serve a period of one (1) year from the date of initial appointment and two (2) shall serve for a period of two (2) years from the date of initial appointment. Thereafter, all five (5) members shall serve for a period of two (2) years from the date of appointment. Vacancies shall be filled by appointments for unexpired terms only. For potential members to be considered for appointment, each must complete the City's application for employment as it exists at the time, and may attach a cover letter and resume, which shall be filed with the City Secretary for processing. Members may be removed from office at any time by a majority vote of the City Council for neglect of duty, malfeasance in office or for any action the City Council deems detrimental to the best interest of the City. All members shall serve without pay. Members shall be present for seventy-five percent (75%) of the scheduled meetings of their current, appointed term or shall be subject to removal from the Commission. In the event a Commission member fails to attend the required percentage of meetings, the Zoning Commission Chairman shall notify the City Council of the failure to meet attendance requirements. The city-provided Secretary shall keep minutes of all meetings held by the Commission and full record of all recommendations to be made by the Zoning Commission to the City Council. A Chairman and Vice-chairman shall be elected by the Zoning Commission from its membership.

23.2 Quorum; Voting. Three members of the Zoning Commission shall constitute a quorum, and all members, including the presiding chairman, shall have the right of one vote each, a quorum being present. All actions by the Zoning Commission shall be by a majority vote of those members present. If any member has a conflict of interest in review of any item on the Commission's agenda, he or she shall remove themselves from the room and refrain from voting only on the item for which a conflict exists.

23.3 Meetings. The Zoning Commission shall meet at such times in the City Hall as may be designated by the Chairman or Vice-Chairman in the absence of the Chairman, and at such intervals as may be necessary to orderly and properly transact the business of the Commission.

23.4 Duties and Zoning Responsibilities. As a minimum, the functions and responsibilities of the Zoning Commission should be as follows:

1. Responsible for updating of zoning ordinances in coordination with the Planning Commission. Where such updates impact the Master Plan, as determined by the Planning Commission, approval of the Planning Commission must be obtained before submitting changes to the City Council for approval.
2. Responsible for updating the subdivision regulations as needed.
3. Verify all property owners and residents within 200 feet of the property for which change in zoning is proposed have been notified by City Staff.
4. Every five years, review all zoning regulations and propose in coordination with the Planning Commission to the City Council any needed changes resulting from the review.
5. Receive all requests for changes in zoning or variances from zoning regulations and make appropriate recommendations to the City Council.
6. Provide advice to City Staff and the public as needed to assist then in administration of the zoning or subdivision of property.
7. Be guided by the Master Plan in deliberation on proposals for change in zoning or subdivision regulations.

8. Review and propose action of City Council all proposals for subdividing property in the City and in the ETJ of the City.

23.5 Procedure on Zoning Hearings. The procedure and process for zoning changes and/or amendments shall be in accordance with Section 24.

(Ord. No. 2019-10, § 5, 8-20-19)

State law reference(s)—Authority of municipality to establish planning and zoning Commission, V.T.C.A., Local Government Code § 211.007.

Section 24. Changes and Amendments to All Zoning Ordinances and Districts and Administrative Procedures.

24.1 Declaration of Policy. The City declares the enactment of these regulations governing the use and development of land, buildings, and structures as a measure to the orderly development of the community. Therefore, no change shall be made in these regulations or in the boundaries of the zoning districts except:

1. To correct any error in the regulation or map
2. To recognize changed or changing conditions or circumstances in a particular locality
3. To recognize changes in technology, the style of living, or manner of conducting business

24.2 Authority to Amend Ordinance.

- A. The City Council may from time to time, after receiving a final report thereon by the Zoning Commission and after public hearings required by law, amend, supplement, or change the regulations herein provided or the boundaries of the zoning districts specified on the Zoning Map. Any ordinances, regulations or Zoning District boundary amendment may be considered for consideration by the City Council, be initiated by the Zoning Commission, or be requested by the owner of real property, or the authorized representative of an owner of real property. In no case shall the City Council act upon any zoning request prior to action by the Zoning Commission.
- B. Consideration for a change in any district boundary line or special zoning regulation may be initiated only with written consent of the property owner, or by the Zoning Commission or City Council on its own motion when it finds that public benefit will be derived from consideration of such matter. In the event the ownership stated on an application and that shown on the City records are different, the applicant shall submit proof of [of] ownership.
- C. Each application for zoning or for an amendment or change to the existing provisions of this Zoning Ordinance shall be made in writing on a form suitable to the Zoning Commission and shall be filed with the City and shall be accompanied by payment of the appropriate fees as established by the City of Morgan's Point Resort, Texas, and on file with the City Secretary.

24.3 Public Hearing and Notice. Prior to making its report to the City Council, the Zoning Commission shall hold at least one public hearing on each application. Written notice of all public hearings on proposed changes in district boundaries or other changes to district zoning regulations shall be sent to all owners of property or to the person rendering the same for the City taxes, affected by the application and within two hundred feet (200') of any property affected thereby, within not less than ten (10) days before such hearing is held. Such notice may be served by using the last known address as listed in the latest approved tax roll and depositing the notice, postage paid, in the United States mail. Notices for the public hearing for changes to the ordinance before the City Council will also be sent to affected property owners at the same time notice of the Zoning Commission hearing is sent.

24.4 Failure to Appear. Failure of the applicant or his representative to appear before the Zoning Commission or City Council for more than one hearing within an approved delay shall constitute sufficient grounds for the Zoning Commission to terminate or deny the application.

24.5 Commission Consideration and Report. The Zoning Commission, after the public hearing is closed, shall prepare its report and recommendations on the proposed change stating its findings, its evaluation of the request and of the relationship of the request to the Comprehensive Plan. The Zoning Commission may defer its report for not more than ninety (90) days from the time it is posted on the agenda until it has had the opportunity to consider other proposed changes which may have a direct bearing thereon. In making its determination, the Zoning Commission shall consider the following factors:

- A. Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned and their relationship to the general area and the City as a whole.
- B. Whether the proposed change is in accord with any existing or proposed plans for providing streets, water supply, sanitary sewers, and other utilities to the area, and shall note the findings.
- C. The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the City, and any special circumstances which may make a substantial part of such vacant land unavailable for development.
- D. The recent rate at which land is being developed in the same zoning classification as the request, particularly in the vicinity of the proposed change.
- E. How other areas designated for similar development will be, or are unlikely to be, affected if the proposed amendment is approved, and whether such designation for other areas should be modified also.
- F. Any other factors which will substantially affect the health, safety, morals, or general welfare.

24.6 City Council Consideration.

- A. Proposed [Proposal] Recommended for Approval by the Commission: Every proposal which is recommended favorable by the Zoning Commission shall be automatically forwarded to the City Council for setting and holding of public hearing thereon. No change, however, shall become effective until after the adoption of an ordinance for same and its publication as required by law.
- B. Proposal Recommended for Denial by the Commission: When the Zoning Commission determines that a proposal should be denied, it shall so report and recommend to the City Council and notify the applicant. If the proposal is denied by the Commission, the request shall not be forwarded to the City Council unless the applicant requests an appeal to the City Council or the request is sent for review by the Commission by simple majority vote. When a proposed zoning request is heard by the City Council that has been denied by the Zoning Commission, a three-fourths ($\frac{3}{4}$) majority vote by the City Council shall be required for approval. A request which has been denied by the Zoning Commission and/or City Council may be resubmitted at any time for reconsideration by the City, accompanied by a new filing fee. The City Council may deny any request with prejudice. If a request has been denied with prejudice, the same or similar request may not be resubmitted to the City for six (6) months from the original date of denial.
- C. City Council Hearing and Notice: Notice of City Council hearing shall be given by publication at the same time notice is given for the Zoning Commission public hearing in the official newspaper of the City, stating the time and place of such hearing, which shall be at least fifteen (15) days after the date of publication.
- D. Three-fourths Vote: A favorable vote of three-fourths ($\frac{3}{4}$) of all members of the City Council shall be required to approve any change in zoning when written objections are received from twenty percent (20%) of the area of the adjacent landowners which comply with the provisions of the State laws

commonly referred to as the "twenty percent (20%) rule." If a protest against such proposed amendments, supplement or change has been filed with the City Secretary, duly signed and acknowledged by the owners of twenty percent (20%) or more, either of the area of the lots included in such a proposed change or those immediately adjacent to the area thereof extending two hundred feet (200') therefrom or of those directly opposite thereto extending two hundred feet (200') from the street frontage of such opposite lots, such amendments shall not become effective except by a three-fourths ($\frac{3}{4}$) vote of the City Council.

- E. Final Approval and Ordinance Adoption: Upon submittal of the zoning request to the City Council, the applicant shall submit a metes and bounds description to the City for the preparation of the amending ordinance. The amending ordinance shall be approved at the time the City Council makes a decision to approve the request as submitted or with certain conditions. The amending ordinance will not be approved until a correct description has been prepared for the amending ordinance.

Section 25. Certificates of Occupancy and Compliance.

Certificates of Occupancy shall be required for any of the following:

1. Occupancy and use of a building hereafter erected or structurally altered, or a manufactured home placed.
2. Change in use of an existing building to a use of a different classification.
3. Change in the use of land to a use of a different classification.
4. Change in the use of a nonconforming use.
5. No such use, or change of use, shall take place until a Certificate of Occupancy thereof shall have been issued by the City Building Official in accord with Ordinance 4-1 of the City of Morgan's Point Resort [article 3.02 of the Code of Ordinances].

Section 26. Preserving Rights in Pending Litigation and Violations Under Existing Ordinances.

By the passage of this Ordinance, no presently illegal use shall be deemed to have been legalized unless specifically such use fails [falls] within a use district where the actual use is a conforming use. Otherwise, such uses shall remain nonconforming uses where recognized, or an illegal use, as the case may be. It is further the intent and declared purpose of this Ordinance that no offense committed, and no liability, penalty, or forfeiture, either civil or criminal, incurred prior to the time the existing zoning ordinances were repealed and this Zoning Ordinance adopted, shall be discharged or affected by such repeal; but prosecutions and suits for such offenses, liabilities, penalties, or forfeitures may be instituted or causes presently pending proceeded with in all respects as if such prior ordinance had not been repealed.

Section 27. Penalty for Violations.

Any person or corporation violating any of the provisions of this Ordinance shall, upon conviction, be fined any sum not exceeding one thousand dollars (\$1,000) and each and every day that the provisions of this Ordinance are violated shall constitute a separate and distinct offense. In addition to the said penalty provided for, the right is hereby conferred and extended upon any property owner owning property in any district, where such property owner may be affected or invaded, by a violation of the terms of the Ordinance, to bring suit in such court or courts having jurisdiction thereof and obtain such remedies as may be available at law and equity in the protection of the rights of such property owners.

Section 28. Validity.

If any Section, paragraph, subdivisions, clause, phrase, or provision of this Ordinance shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this Ordinance as a whole or any part or provision thereof other than the part so decided to be invalid or unconstitutional.

It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act.

(Ord. No. 4-32, 10-9-03)



PLANNING & ZONING COMMISSION

Morgans Point Resort Item Summary Sheet

Agenda Item: Adjustments to Section 23 and 24 of Appendix B.

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

Agenda Item Summary:

The MPR P&Z Commission discussed and recommended revisions to City of Morgan's Point Resort Code of Ordinances Chapter 14, Section 23 and 24. The following changes had been recommended and presented to the City Council:

- "Zoning Commission" to be revised to "Commission" only.
- Commission shall consist of "seven (7)" members instead of the previous "five (5)"
- "four (4)" shall serve a period of one (1) year from the date of initial appointment instead of "three (3)", and "three (3)" shall serve for a period of two (2) years from the date of initial appointment instead of the previous "two (2)".
- "Chairman" to be replaced with "Chairperson".
- Change "Zoning regulations" to "Zoning Ordinances" and include "Ordinances" with "Zoning" wherever mentioned in the sections.
- Change "Master Plan" to "Comprehensive Plan".

The City Council approved and recommended three more revisions at the City Council Meeting 03/11/2025:

- Section 23 main heading to include next to "Commission" the full description "Planning and Zoning Commission" and then leave Commission as is in the rest of the document.
- Include a statement of "as directed by City Council" to the sentence in Section 23.4 (1).
- Increase the notification range to 400 ft as opposed to 200ft in Section 24.3.

Agenda Item Action:

P&Z Commission discuss and approve changes/edits made and finalize document.

References:

1. *Edited version of Section 23 and 24 of Appendix B with track changes shared with P&Z Commission for review.*
2. *Edited clean version of Section 23 and 24 of Appendix B shared with P&Z Commission for review.*

Section 23. Commission (Planning and Zoning).

23.1 Created; Membership. There is hereby created a Commission in accordance with V.T.C.A., Local Government Code § 211.007, the Commission shall consist of Seven (7) members, each of whom shall be a resident of the City, who are at least eighteen years old and shall be selected for their unselfish interest in the City's affairs. Members shall be appointed by the City Council. Of the seven (7) members, four (4) shall serve a period of one (1) year from the date of initial appointment and three (3) shall serve for a period of two (2) years from the date of initial appointment. Thereafter, all seven (7) members shall serve for a period of two (2) years from the date of appointment. Vacancies shall be filled by appointments for unexpired terms only. For potential members to be considered for appointment, each must complete the City's application for employment as it exists at the time, and may attach a cover letter and resume, which shall be filed with the City Secretary for processing. Members may be removed from office at any time by a majority vote of the City Council for neglect of duty, malfeasance in office or for any action the City Council deems detrimental to the best interest of the City. All members shall serve without pay. Members shall be present for seventy-five percent (75%) of the scheduled meetings of their current, appointed term or shall be subject to removal from the Commission. In the event a Commission member fails to attend the required percentage of meetings, the Commission Chairperson shall notify the City Council of the failure to meet attendance requirements. The city-provided Secretary shall keep minutes of all meetings held by the Commission and full record of all recommendations to be made by the Commission to the City Council. A Chairperson and Vice-Chairperson shall be elected by the Commission from its membership.

23.2 Quorum; Voting. Four members of the Commission shall constitute a quorum, and all members, including the presiding Chairperson, shall have the right of one vote each, a quorum being present. All actions by the Commission shall be by a majority vote of those members present. If any member has a conflict of interest in review of any item on the Commission's agenda, he or she shall remove themselves from the room and refrain from voting only on the item for which a conflict exists.

23.3 Meetings. The Commission shall meet at such times in the Event Center as may be designated by the Chairperson or Vice-Chairperson in the absence of the Chairperson, and at such intervals as may be necessary to orderly and properly transact the business of the Commission.

23.4 Duties and Zoning Responsibilities. As a minimum, the functions and responsibilities of the Commission should be as follows:

1. Responsible for updating ordinances. where such updates impact the Comprehensive Plan, as determined by the Commission and as directed by the City Council. Approval of the Commission must be obtained before submitting changes to the City Council for approval.
2. Responsible for updating the subdivision regulations as needed.
3. Verify all property owners and residents within 400 feet of the property for which change in zoning is proposed have been notified by City Staff.
4. Every five years, review all zoning ordinances and propose in coordination with the Commission to the City Council any needed changes resulting from the review.
5. Receive all requests for changes in zoning ordinances or variances from zoning regulations and make appropriate recommendations to the City Council.
6. Provide advice to City Staff and the public as needed to assist them in administration of the zoning ordinances or subdivision of property.
7. Be guided by the Comprehensive Plan in deliberation on proposals for change in zoning ordinances or subdivision regulations.

8. Review and propose action of City Council all proposals for subdividing property in the City and in the ETJ of the City.

23.5 Procedure on Zoning Hearings. The procedure and process for zoning ordinances changes and/or amendments shall be in accordance with Section 24.

(Ord. No. 2019-10, § 5, 8-20-19)

State law reference(s)—Authority of municipality to establish Commission, V.T.C.A., Local Government Code § 211.007.

Section 24. Changes and Amendments to All Zoning Ordinances and Districts and Administrative Procedures.

24.1 Declaration of Policy. The City declares the enactment of these regulations governing the use and development of land, buildings, and structures as a measure to the orderly development of the community. Therefore, no change shall be made in these regulations or in the boundaries of the zoning districts except:

1. To correct any error in the regulation or map
2. To recognize changed or changing conditions or circumstances in a particular locality
3. To recognize changes in technology, the style of living, or manner of conducting business

24.2 Authority to Amend Ordinance.

- A. The City Council may from time to time, after receiving a final report thereon by the Commission and after public hearings required by law, amend, supplement, or change the regulations herein provided or the boundaries of the zoning districts specified on the Zoning Map. Any ordinances, regulations or Zoning District boundary amendment may be considered for consideration by the City Council, be initiated by the Commission, or be requested by the owner of real property, or the authorized representative of an owner of real property. In no case shall the City Council act upon any zoning request prior to action by the Commission.
- B. Consideration for a change in any district boundary line or special zoning regulation may be initiated only with written consent of the property owner, or by the Commission or City Council on its own motion when it finds that public benefit will be derived from consideration of such matter. In the event the ownership stated on an application and that shown on the City records are different, the applicant shall submit proof or [of] ownership.
- C. Each application for zoning or for an amendment or change to the existing provisions of this Zoning Ordinance shall be made in writing on a form suitable to the Commission and shall be filed with the City and shall be accompanied by payment of the appropriate fees as established by the City of Morgan's Point Resort, Texas, and on file with the City Secretary.

24.3 Public Hearing and Notice. Prior to making its report to the City Council, the Commission shall hold at least one public hearing on each application. Written notice of all public hearings on proposed changes in district boundaries or other changes to district zoning regulations shall be sent to all owners of property or to the person rendering the same for the City taxes, affected by the application and within two hundred feet (200') of any property affected thereby, within not less than ten (10) days before such hearing is held. Such notice may be served by using the last known address as listed in the latest approved tax roll and depositing the notice, postage paid, in the United States mail. Notices for the public hearing for changes to the ordinance before the City Council will also be sent to affected property owners at the same time notice of the Commission hearing is sent.

24.4 Failure to Appear. Failure of the applicant or his representative to appear before the Commission or City Council for more than one hearing within an approved delay may constitute sufficient grounds for the Commission to terminate or deny the application.

24.5 Commission Consideration and Report. The Commission, after the public hearing is closed, shall prepare its report and recommendations on the proposed change stating its findings, its evaluation of the request and of the relationship of the request to the Comprehensive Plan. The Commission may defer its report for not more than ninety (90) days from the time it is posted on the agenda until it has had the opportunity to consider other proposed changes which may have a direct bearing thereon. In making its determination, the Commission shall consider the following factors:

- A. Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned and their relationship to the general area and the City as a whole.
- B. Whether the proposed change is in accord with any existing or proposed plans for providing streets, water supply, sanitary sewers, and other utilities to the area, and shall note the findings.
- C. The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the City, and any special circumstances which may make a substantial part of such vacant land unavailable for development.
- D. The recent rate at which land is being developed in the same zoning classification as the request, particularly in the vicinity of the proposed change.
- E. How other areas designated for similar development will be, or are unlikely to be, affected if the proposed amendment is approved, and whether such designation for other areas should be modified also.
- F. Any other factors which will substantially affect the health, safety, morals, or general welfare.

24.6 City Council Consideration.

- A. Proposed [Proposal] Recommended for Approval by the Commission: Every proposal which is recommended favorable by the Commission shall be automatically forwarded to the City Council for setting and holding of public hearing thereon. No change, however, shall become effective until after the adoption of an ordinance for same and its publication as required by law.
- B. Proposal Recommended for Denial by the Commission: When the Commission determines that a proposal should be denied, it shall so report and recommend to the City Council and notify the applicant. If the proposal is denied by the Commission, the request shall not be forwarded to the City Council unless the applicant requests an appeal to the City Council or the request is sent for review by the Commission by simple majority vote. When a proposed zoning request is heard by the City Council that has been denied by the Commission, a three-fourths ($\frac{3}{4}$) majority vote by the City Council shall be required for approval. A request which has been denied by the Commission and/or City Council may be resubmitted at any time for reconsideration by the City, accompanied by a new filing fee. The City Council may deny any request with prejudice. If a request has been denied with prejudice, the same or similar request may not be resubmitted to the City for six (6) months from the original date of denial.
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- D. Three-fourths Vote: A favorable vote of three-fourths ($\frac{3}{4}$) of all members of the City Council shall be required to approve any change in zoning when written objections are received from twenty percent (20%) of the area of the adjacent landowners which comply with the provisions of the State laws commonly referred to as the "twenty percent (20%) rule." If a protest against such proposed amendments, supplement or change has been filed with the City Secretary, duly signed and

acknowledged by the owners of twenty percent (20%) or more, either of the area of the lots included in such a proposed change or those immediately adjacent to the area thereof extending two hundred feet (200') therefrom or of those directly opposite thereto extending two hundred feet (200') from the street frontage of such opposite lots, such amendments shall not become effective except by a three-fourths ($\frac{3}{4}$) vote of the City Council.

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- B. Consideration for a change in any district boundary line or special zoning regulation may be initiated only with written consent of the property owner, or by the Commission or City Council on its own motion when it finds that public benefit will be derived from consideration of such matter. In the event the ownership stated on an application and that shown on the City records are different, the applicant shall submit proof or [of] ownership.
- C. Each application for zoning or for an amendment or change to the existing provisions of this Zoning Ordinance shall be made in writing on a form suitable to the Commission and shall be filed with the City and shall be accompanied by payment of the appropriate fees as established by the City of Morgan's Point Resort, Texas, and on file with the City Secretary.

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- B. Whether the proposed change is in accord with any existing or proposed plans for providing streets, water supply, sanitary sewers, and other utilities to the area, and shall note the findings.
- C. The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the City, and any special circumstances which may make a substantial part of such vacant land unavailable for development.
- D. The recent rate at which land is being developed in the same zoning classification as the request, particularly in the vicinity of the proposed change.
- E. How other areas designated for similar development will be, or are unlikely to be, affected if the proposed amendment is approved, and whether such designation for other areas should be modified also.
- F. Any other factors which will substantially affect the health, safety, morals, or general welfare.

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acknowledged by the owners of twenty percent (20%) or more, either of the area of the lots included in such a proposed change or those immediately adjacent to the area thereof extending two hundred feet (200') therefrom or of those directly opposite thereto extending two hundred feet (200') from the street frontage of such opposite lots, such amendments shall not become effective except by a three-fourths ($\frac{3}{4}$) vote of the City Council.

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PLANNING & ZONING COMMISSION

Morgans Point Resort Item Summary Sheet

Agenda Item: Donated land to MPR as specified by Donor

Discuss and take appropriate action on Donated land to the City of MPR as specified by Donor.

Agenda Item Summary:

Donor Steve Nash would like to donate the park, parcel 470209 (3.72 acres). The 3.7 acres must remain a park and named after Steve's great grandfather, George C. Pendleton, a US congressman for Bell County as well as Lt Governor, the town of Pendleton is named for him as well. Steve would also like to deed the road, tract 419344, to the city. He has allowed the city to annex it for the development of the Girl Scout camp. Currently the City of MPR owners' association pays taxes on it but Steve has ownership.

Donors Donnie and John Henderson would like to donate parcel 419343 which is 3.93 acres. The 3.93 acres will be donated as a park but no restrictions as to future use as the city sees fit.

Annexation Request:

- Annexation with water for three lakefront lots for parcels 419336, 419337, 419338.
- Plan to replat the north portion of each of those three tracts/ approximately one acre each/ into two lots total with water for each. Thus, a total of 5 taps for 5 city lots.

Agenda Item Action:

The P&Z Commission to consider and discuss appropriate action on Donated land to the City of MPR as specified by Donor.

References:

1. *General law cities are, without question, expressly authorized to receive donations in some circumstances. For example, a city may accept a gift of land, money, or personal property to use in support of public recreation facilities and programs. TEX. LOC. GOV'T CODE § 332.006. Cities may also acquire by gift any object or collection of historic significance to the city. Id. § 331.002. (Texas Municipal League Website)*
2. *A city is a "qualified entity" to which tax-deductible charitable donations may be made. 26 U.S.C. § 170(c); DEP'T OF THE TREASURY INTERNAL REVENUE SERVICE, CHARITABLE CONTRIBUTIONS: PUBLICATION 526 at 3 (2014), available at <http://www.irs.gov/uac/Publication-526,-Charitable-Contributions-1>. However, a donation is only deductible if the gift is made exclusively for public purposes. Moreover, the full value of the deduction may not be deductible. Donors should consult with their own tax professionals prior to making donations. (Texas Municipal League Website)*

3. Section 7. - Zoning Upon Annexation.

The zoning of all territory hereafter annexed to the City of Morgan's Point Resort shall be classified as "A", Agricultural District, until permanent zoning is established by the City Council of the City of Morgan's Point Resort. The procedure for establishing permanent zoning on annexed territory shall conform to the procedure set forth in [Section 24](#) of this Ordinance.

7.1 Placement of Amateur Radio Antennas. Antennas for amateur radio stations licensed by the Federal Communications Commission will not be prohibited by declaration of covenants, conditions and restrictions, or Homeowners' Associations and the installation of such antennas must be reasonable [reasonably] accommodated.

(Ord. No. 4-32, 10-9-03; Ord. No. 4-32A, 1-18-05)

4. 8.2 Definitions and Purpose of Zoning Districts.

AG—Agricultural District: The AG, Agricultural District, is intended to provide a location for principally undeveloped or vacant land situated on the fringe of an urban area and used for agricultural purposes, but may become an urban area in the future. Generally, the "A", Agricultural District, should not be detrimental to urban land uses. The types of uses and the area and intensity of uses permitted in this District shall encourage and protect agricultural uses until urbanization is warranted and the appropriate change in District classification is made.

SFR—Single-Family Residential: The SFR, Single-Family Residential District, is intended to provide for development of single-family detached dwelling units.

5. Section 9. - Agricultural District.

9.1 General Purpose and Description. This District is intended to provide a location for principally undeveloped or vacant land situated on the fringe of an urban area and used for agricultural purposes, but may become an urban area in the future. Generally, the "A", Agricultural District, should not be detrimental to urban land uses. The types of uses and the area and intensity of uses permitted in this District shall encourage and protect agricultural uses until urbanization is warranted and the appropriate change in District classification is made. The "A", Agricultural District is also intended to protect areas that may be unsuitable for development because of physical problems, lack of infrastructure, constraints, or potential health or safety hazards such as flooding, as well as providing for preservation of natural open space areas.

9.2 Permitted Uses.

- 1. Single-Family dwellings.*
 - 2. Farm, Ranch, and agricultural operations, including field crops, orchards, horticulture, animal husbandry, subject to the rules and regulations of the State of [sic] Health Department, but not including field [feed] lots, poultry farms, and commercial kennels.*
 - 3. Private or common open space areas as part of an approved subdivision.*
 - 4. Recreational areas operated by public, charitable, or religious organizations.*
 - 5. All municipally owned or controlled facilities, utilities and uses, including park and recreation areas.*
 - 6. Accessory buildings and uses.*
 - 7. Telephone exchange.*
 - 8. Utilities (Public or Private).*
 - 9. Such uses as may be permitted under the provisions of Specific Use Permits, [Section 14](#) [15].*
- (Ord. No. 4-32, 10-9-03)*

6. Section 10. - Single-family Residential.

10.1 General Purpose and Description. The single-family residential district is intended to provide for development of single-family detached dwelling units. Other uses, such as religious and educational facilities, and open spaces, will also be allowed to maintain a balanced, orderly, convenient and attractive residential area.

10.2 Permitted Uses.

- 1. Single-family detached dwellings*
- 2. Greenhouses and gardens, limited to the propagation and cultivation of plants, provided no retail or wholesale business is conducted on the premises except as allowed as a home occupation*
- 3. The keeping of dogs, cats, and other normal household pets, according to Ordinance 14-7 [chapter 2 of the Code of Ordinances].*
- 4. Real estate sales offices during the development of residential subdivisions in which the office is located*
- 5. Temporary buildings for uses incidental to construction work on the premises, which said building shall be removed upon completion or abandonment of construction work, by order of the Building Official*
- 6. Accessory buildings as established in [Section 18](#) of this Ordinance*
- 7. Telephone exchange, provided no public business and no repair or outside storage facilities are maintained*
- 8. Swimming pool (private)*
- 9. A temporary bulletin board or sign appertaining to the lease, hire or sale of a building premise or acreage*
- 10. Utilities (public or private)*
- 11. Family Home*
- 12. Community Home*
- 13. Three (3) "garage sales" per twelve-month period. New or used property acquired or consigned solely for the purpose of resale shall not be displayed or offered for sale or trade. Garage sales shall be conducted only during daylight hours and shall be limited to the hours of 7:00 a.m. and 7:00 p.m.*
- 14. Such uses as may be permitted under the provision of Specific Use Permits, [section 15].*

10.3 Height Regulations.

- A. Maximum Height—Two and one-half (2-½) stories*

10.4 Area Regulations.

A. Setbacks:

B. Size of Building Site:

- 1. Lots must be platted with sufficient size to accommodate the minimum housing square footage with an approved on-site building plan.*
- 2. In all subdivision plats filed after January 1, 1988 where on-site septic system sewerage disposal is utilized, the minimum lot size must be at least one-half acre.*

10.5 Special Requirements.

- A. Dwelling must be built on-site in all Sections except Sections 2, 10B, 14, 15, 18, [23](#), and the area adjacent to Section 10A.*
- B. Sewerage must be approved prior to installation in all Sections.*
- C. No building materials may be stored on-site, except during actual construction activities.*
- D. Only one residence per building site. Accessory buildings are permitted according to [Section 17](#) [18] of this Ordinance.*
- E. Fencing is permitted according to the provisions of [Section 20](#) of this Ordinance.*

F. In Lakewood Ranch I there is a minimum 1-acre requirement, and all access must be obtained from Cedar Trails.

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

(Ord. No. 4-32, 10-9-03; Ord. No. 2014-16, 12-9-14; [Ord. No. 2022.13](#), § 1, 12-13-22)

7. APPENDIX B. - ZONING ORDINANCE; Section 10. - Single-family Residential.

10.1 General Purpose and Description. The single-family residential district is intended to provide for development of single-family detached dwelling units. Other uses, such as religious and educational facilities, and open spaces, will also be allowed to maintain a balanced, orderly, convenient and attractive residential area. B.Size of Building Site:

1.Lots must be platted with sufficient size to accommodate the minimum housing square footage with an approved on-site building plan.

2.In all subdivision plats filed after January 1, 1988 where on-site septic system sewerage disposal is utilized, the minimum lot size must be at least one-half acre.

8. CHAPTER 10 - SUBDIVISION REGULATION; ARTICLE 10.02. - SUBDIVISION

ORDINANCE; DIVISION 1. – GENERALLY; Sec. 10.02.005. - Applicability. The provisions of this Article, including design standards and improvement requirements, shall, except as specifically provided otherwise in this Article, apply to all subdivisions of land within the jurisdiction of the City, including, but not limited to, the following forms of land subdivision and development activity: (4) The combining of two or more contiguous tracts, lots, sites or parcels for the purpose of creating one or more legal lots in order to achieve a more developable site, except as otherwise provided herein;

9. DIVISION 3. - **PLATTING PROCEDURE; Sec. 10.02.061. - Plat requirement.**

The owner of any tract of land divided into two or more parts to lay out a subdivision of the tract, including an addition, lots, streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts must have a plat of the subdivision prepared. A division of a tract includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method. (Ord. No. 14-28, § V-1, 3-15-11)

Sec. 10.02.062. - Exemptions.

- (a) *The provisions of this Article shall not apply to: (5)The combination of two platted lots for the creation of a more developable site and where the Planning and Zoning Commission finds that:*
- (a).The proposed use is the same as that for which the subdivision was platted by the subdivider;*
 - (b) No increase is anticipated in the estimated traffic generation or utility demands; and (c)Off-site stormwater runoff is neither increased nor concentrated.*

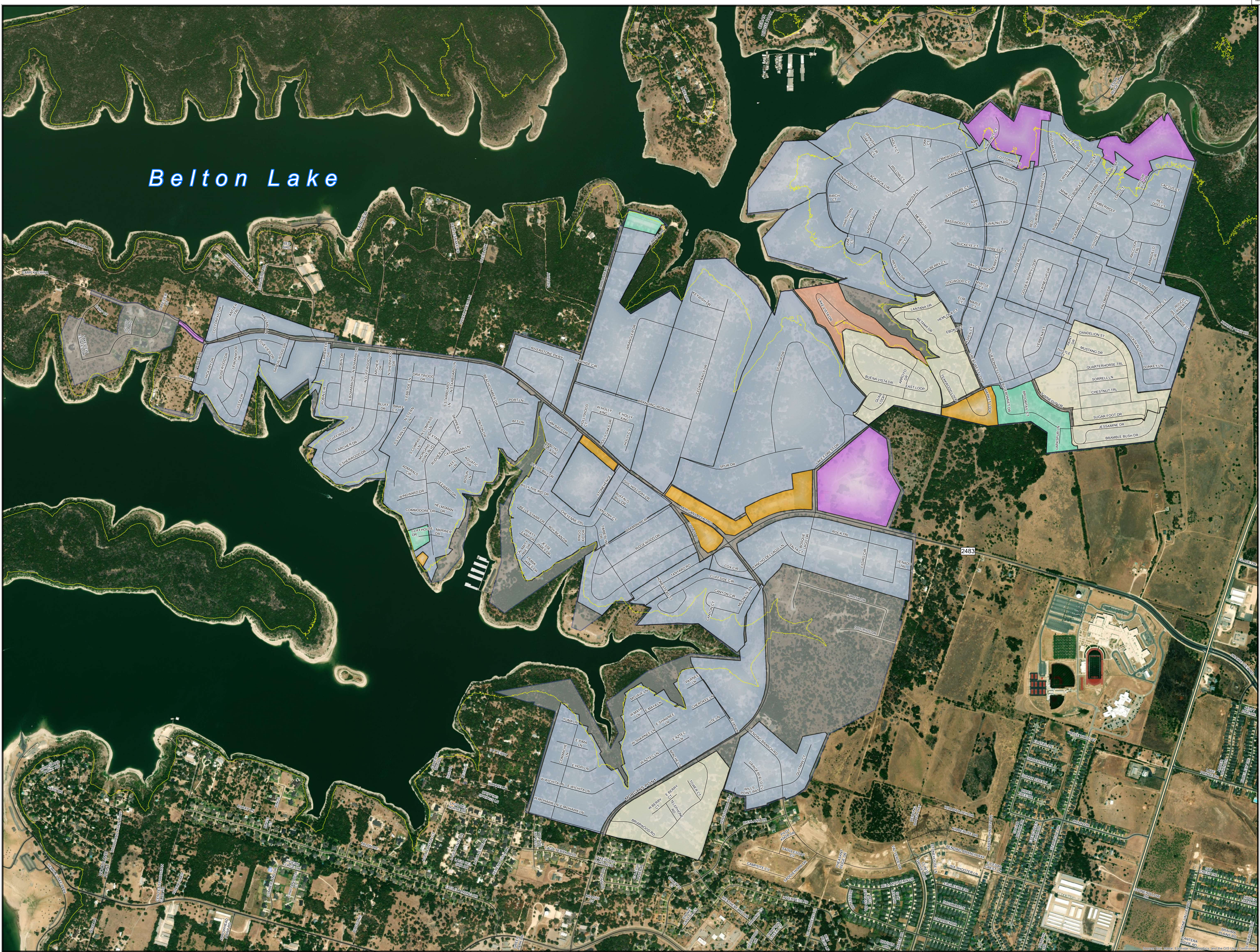
10. Sec. 10.02.068. - Amended plats.

- (a) *Purpose. An amended plat that meets all of the informational requirements set forth in this Article may be approved and recorded by the City without vacation of the preceding plat, without a public hearing, and without approval of other lot owners within the platted subdivision provided that any persons with a vested interest affected by the plat amendment signs the plat and application; and that the purpose of the amended plat is:*

- (9) To relocate or remove one or more lot lines between one or more adjacent lots where the owner or owners of all such lots join in the application for the amended plat, provided that such amendment does not attempt to remove recorded covenants or restrictions, or increase the number of lots.*

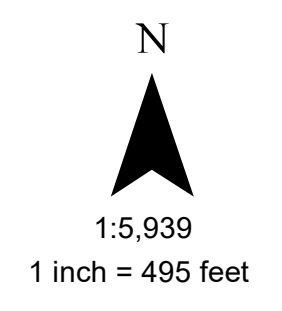
Item d.






- Roads**
- Interstate Highway
 - US Highway
 - State Highway
 - Farm to Market
 - County Road
 - City Street
- Land Use**
- AG
 - C/R
 - MF
 - MH
 - RV/C
 - SFR
- City Limits / Unzoned
- Contour Line (642ft)

Morgans Point Resort, TX: Zoning



2 Miles

03/13/2024



central texas council of governments

planning & regional services division

2180 N. Main St. Belton, TX 76513

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PLANNING & ZONING COMMISSION

Morgans Point Resort Item Summary Sheet

Agenda Item: City of Morgan's Point Resort Final Draft of Comprehensive Plan

Discuss and recommend revisions to the City of Morgan's Point Resort Final Draft of Comprehensive Plan Sections.

Agenda Item Summary:

The MPR P&Z Commission discussed and recommended all comments and edits to be collected and sent to P&Z for review. This has been a P&Z project and should be reviewed before going to the City Council for their input and request for a final plan. The document is very large and covers all background work, workshops, community input and steering committee adjustments. It may need to be broken down into two documents. One with all the information, background and methods used to solicit community input and the other with the Comprehensive Plan for MPR's future.

After receiving input from the City Council 03/11/2025, P&Z Commission to go through the Comprehensive Plan section by section and recommend changes for City Council Approval in increments rather than revising the whole document.

Agenda Item Action:

P&Z Commission to outline a plan for revising the different sections of the City of MPR Comprehensive Plan and present at subsequent City Council meetings for consideration and approval.

References:

1. N/A