

City of Woodcreek Regular City Council Meeting

September 11, 2019; 6:30 p.m.

Woodcreek, Texas

Notice of Agenda

This notice, as amended, is posted pursuant to the Texas Open Meetings Act (Vernon's Texas Codes Ann. Gov. Code Chapter 551). The Woodcreek City Council will hold a Regular City Council Meeting on September 11, 2019, at 6:30 p.m. at Woodcreek City Hall, 41 Champions Circle, Woodcreek, Texas at which time the following items will be considered:

1. Call to Order

2. Invocation

3. Pledge of Allegiance:

A. To the Flag of the United States of America

B. To the Flag of the Great State of Texas

4. Roll Call

5. Public Comments:

Interested persons are required to sign up with the presiding officer or designee before the meeting begins and shall indicate the topic about which they wish to speak and whether they wish to speak on the item at the beginning of the meeting or during the meeting when the agenda item is being considered by the City Council. Speakers shall refrain from comments regarding the City's staff, elected officials, or council appointed committee membership which are prohibited by law. Delegations of more than five persons shall appoint one person to present their views before the City Council. The City Council may not discuss or comment about an item not included on the agenda, except that the Council may (1) make a statement of fact regarding the item; (2) make a statement concerning the policy regarding the item; or (3) propose that the item be placed on a future agenda. Comments will be limited to three (3) minutes per speaker.

6. Proclamation Designating September 17th – 23rd, 2019 as Constitution Week

7. Consent Agenda: All of the following items are considered self-explanatory by the Council and may be acted upon with one motion. There will be no separate discussion of these items unless a Councilmember or Citizen so requests. For a Citizen to request removal of an item from the Consent Agenda, a written request must be completed and submitted to the City Manager.

A. Approval of the Minutes of the Special City Council Meeting of August 7, 2019 Regular City Council Meeting of August 14, 2019, and the Special City Council Meeting of August 22, 2019

B. Approval of Financial Statements for August 2019

8. Regular Agenda:

A. Executive Session – Pursuant to the Texas Local Government Code Section 551.074 – to Discuss a Possible Communication Work Plan for City Manager Lewis, Tabled from August 14th, 2019 Regular Meeting

B. Discussion and Possible Action Regarding a Possible Communication Work Plan for City Manager Lewis, Tabled from August 14th, 2019 Regular Meeting

C. Discussion and Possible Adoption of Woodcreek Film Guidelines (Mayor Pro-Tem Britner)

D. Discussion and Take Appropriate Action on an Ordinance Establishing an Amendment for the City of Woodcreek Code of Ordinances Amending Chapter 152 – Signs; Defining Terms, Providing Penalties, and Providing for Enactment,

Repealer, Severability, Codification, and Effective Date, and Finding Proper Notice and Meeting (Councilmember LeBrun, Councilmember Jackson, Citizen Advisory Workgroup)

- E. Discuss and Take Appropriate Action on the Second Consideration of Chapter 30 of the Woodcreek Code of Ordinances as it Relates to First Reading of Revised Board of Adjustment Ordinance (Councilmember LeBrun, Councilmember Jackson, Citizen Advisory Workgroup)**
- F. Discussion and Take Appropriate Action on an Ordinance of the City Council of the City of Woodcreek, Texas Amending Chapter 151: Building Regulations; Construction as it Relates to Section 156(A) Compliance with other Ordinances and Regulations – Building Codes, Providing for Severability, Providing an Effective Date, and Providing for Proper Notice and an Open Meeting (City Manager Lewis)**
- G. Discussion on Hays Trinity Groundwater Conservation District Groundwater Management Zones and potential impact on Aqua Texas users (Councilmember Jackson)**
- H. Discussion and Take Appropriate Action on a Modification to Professional Engineering Services Proposal for Roads Advisory Work Group Support with Jones| Carter (City Manager Lewis)**

9. Adjourn

Executive sessions held during this meeting will generally take place in the City Manager's office, at the discretion of the City Council.

The City Council may retire to executive session any time between the meeting's opening and adjournment for the purpose of consultation with legal counsel pursuant to Chapter 551.071 of the Texas Government Code; discussion of personnel matters pursuant to Chapter 551.074 of the Texas Government Code; deliberation regarding real property pursuant to Chapter 551.072 of the Texas Government Code; deliberation regarding economic development negotiations pursuant to Chapter 551.087 of the Texas Government Code; and/or deliberation regarding the deployment, or specific occasions for implementation of security personnel or devices pursuant to Chapter 551.076 of the Texas Government Code. Action, if any, will be taken in open session.

This agenda has been reviewed and approved by the City's legal counsel and the presence of any subject in any Executive Session portion of the agenda constitutes a written interpretation of Texas Government Code Chapter 551 by legal counsel for the governmental body and constitutes an opinion by the attorney that the items discussed therein may be legally discussed in the closed portion of the meeting considering available opinions of a court of record and opinions of the Texas Attorney General known to the attorney. This provision has been added to this agenda with the intent to meet all elements necessary to satisfy Texas Government Code Chapter 551.144(c) and the meeting is conducted by all participants in reliance on this opinion.

Attendance by Other Elected or Appointed Officials:

It is anticipated that members of other city board, commissions and/or committees may attend the meeting in numbers that may constitute a quorum of the other city boards, commissions and/or committees. Notice is hereby given that the meeting, to the extent required by law, is also noticed as a meeting of the other boards, commissions and/or committees of the City, whose members may be in attendance. The members of the boards, commissions and/or committees may participate in discussions on the same items listed on the agenda, which occur at the meeting, but no action will be taken by such in attendance unless such item and action is specifically provided for on an agenda for that board, commission or committee subject to the Texas Open Meetings Act.

The City of Woodcreek is committed to compliance with the Americans with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request. Please call the City Secretary's Office at 512-847-9390 for information. Hearing-impaired or speech disabled persons equipped with telecommunications devices for the deaf may call 7-1-1 or may utilize the statewide Relay Texas program at 1-800735-2988.

Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly.

I certify that the above notice was posted on the 6th day of September 2019 at 1:30 p.m.

By: 
Brenton B. Lewis, City Manager

Proclamation

September 17 – September 23, 2019 is Constitution Week

WHEREAS; It is the privilege and duty of the American people including the citizens of Woodcreek to commemorate the two hundred and thirty-second anniversary of the drafting of the Constitution of the United States of America with appropriate ceremonies and activities; and

WHEREAS; Public Law 915 guarantees the issuing of a proclamation each year by the President of the United States of America designating September 17 through 23 as Constitution Week,

NOW, THEREFORE I, William P. Scheel, by virtue of the authority vested in me as Mayor of the City of Woodcreek in the County of Hays, do hereby proclaim the week of September 17 through 23 as,

CONSTITUTION WEEK

and urge all citizens to study the Constitution and reflect on the privilege of being an American with all the rights and responsibilities which that privilege involves.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Woodcreek to be affixed this 11th day of September of the year of our Lord two thousand nineteen.



William P. Scheel, Mayor - City of Woodcreek

September 11, 2019

Date

**City of Woodcreek Special City Council Meeting
August 7, 2019; 6:30 p.m.
Woodcreek, Texas**

Minutes

1. **Call to Order:** Mayor Scheel called the meeting to order at 6:31 p.m.
2. **Roll Call: Present:** Mayor William P. Scheel, Councilmember Aurora E. LeBrun, Councilmember Ray Don Tilley, Councilmember Cyndi Jackson, Councilmember Eric Eskelund, City Manager Lewis, Director of Public Works Frank Wood, City Secretary Linda Land
Absent: Mayor Pro Tem Nancye Britner, Woodcreek Attorney Cassandra Ortiz
3. **Public Comments:** None
4. **Agenda:**
 - A. **Budget Workshop**
 - B. **Discussion and Possible Action on Setting Public Hearing Dates for Proposed Budget and Tax Rates for Fiscal Year 2019-2020.** City Manager Lewis submitted the following dates/times for consideration – August 22, 2019 at 6:30 p.m. for a Public Hearing; September 4, 2019 at 6:30 p.m. for a Public Hearing; September 11, 2019 at 6:30 p.m. to adopt a tax rate. Councilmember Eskelund moved to accept the calendar presented with an option of an additional budget workshop as needed. The motion was seconded by Councilmember Tilley and passed with a vote of 4-0-0.
 - C. **Discussion and Take Appropriate Action to Set the Proposed Tax Rate for Fiscal Year 2019-2020.** Councilmember Tilley moved to adopt \$0.2245 as the proposed tax rate. The motion was seconded by Councilmember Jackson and passed with a vote of 4-0-0.
5. **Adjourn.** There being no further business, the meeting was adjourned at 8:11 p.m.

William P. Scheel, Mayor

Linda Land, City Secretary

City of Woodcreek Regular City Council Meeting

August 14, 2019; 6:30 p.m.

Woodcreek, Texas

Minutes

1. **Call to Order:** Mayor Scheel called the meeting to order at 6:31 p.m.
2. **Invocation**
3. **Pledge of Allegiance:**
 - A. To the Flag of the United States of America
 - B. To the Flag of the Great State of Texas

Mayor Scheel announced that Items 8A, B, C, F, G and H have been removed from the agenda because City Council did not receive a recommendation from the Planning and Zoning Commission.

4. **Roll Call: Present:** Mayor William P. Scheel, Mayor Pro Tem Andrew Britner, Councilmember Aurora LeBrun, Councilmember Ray Don Tilley, Councilmember Cyndi Jackson, Councilmember Eric Eskelund, City Manager Brenton B. Lewis, Woodcreek Attorney Casandra Cascos Ortiz, Director of Public Works Frank Wood, City Secretary Linda Land
Absent: None

5. **Public Comments:**

Shawn Stoever chose not to speak.

Gail Voigtlander spoke against sections of the proposed tree ordinance and in support of the oak wilt sections.

Jim Meehan spoke against proposed tree ordinance changes.

Carol Scheel spoke against short-term rentals.

Linda Harrington spoke in favor of allowing the short-term rental at 155 Champions Circle.

Bob Harbrick spoke against short-term rentals and against fees for cutting down trees. He also expressed concern about low voter participation.

Lizanne Gordon expressed concern about the readability of the draft tree ordinance and requested that council delay passing it. She also spoke against sections of the proposed tree ordinance.

Jeff Beredge expressed concerns about the proposed tree ordinance and noted that Quicksand Partners should have liked to be included in discussions as a stakeholder. He suggested more time and a better process before enactment.

Peter Parches requested that City Council move forward with public hearings for his property.

Jon Thompson chose not to speak.

Andy Davenport provided information about their family and explained why they were trying to address the issue of the short-term rental at 155 Champions Circle.

Meredith Davenport spoke against allowing the short-term rental at 155 Champions Circle.

Matt Lowry requested that ordinances not treat builders differently and expressed concern about unintended consequences.

6. **Citizen Communications:** The following written communications were received and noted:

Pamela LeCompte in favor of terminating the Special Use Permit for a short-term rental, in favor of revoking Tree City designation and the new tree ordinance. She also requested that the City Council change priorities in the proposed budget.

Patrick Mele against allowing short-term rentals.

Jane Little requesting that (A)(3) and (B)(1-5) be deleted from the proposed tree ordinance and expressing concern that it presents an undue financial burden.

T.K. Harrington requesting that evidence gathered against the short-term rental at 155 Champions Circle not be used while making a decision.

- 7. Consent Agenda: All the following items are considered self-explanatory by the Council and may be acted upon with one motion. There will be no separate discussion of these items unless a Councilmember or Citizen so requests. For a Citizen to request removal of an item from the Consent Agenda, a written request must be completed and submitted to the City Manager.**

A. Approval of the Minutes of the Special City Council Meeting of July 17th, 2019 and the Special City Council Meeting of July 26th, 2019

B. Approval of Financial Statements for July 2019

Mayor Pro Tem Britner moved to approve the Consent Agenda in its entirety. Councilmember LeBrun seconded the motion, which passed with a vote of 5-0-0.

- 8. Regular Agenda:**

A. Public Hearing on the Proposal to Re-Zone Lot 18, Woodcreek, Section 4-A, 155 Champions Circle, Woodcreek, Texas from SF-1(Single Family Residential) with a Special Use Permit (Commercial Use for Day Rental and Overnight Lodging) to SF-1 (Single Family Residential) and Revoke the Special Use Permit (Commercial Use for Day Rental and Overnight Lodging). This Property is Further Identified by Hays Central Appraisal District Property ID R48940

B. Consider Recommendation from Planning and Zoning on the Proposal to Re-Zone Lot 18, Woodcreek, Section 4-A, 155 Champions Circle, Woodcreek, Texas from SF-1(Single Family Residential) with a Special Use Permit (Commercial Use for Day Rental and Overnight Lodging) to SF-1 (Single Family Residential) and Revoke the Special Use Permit (Commercial Use for Day Rental and Overnight Lodging). This Property is Further Identified by Hays Central Appraisal District Property ID R48940

C. Discussion and Possible Action Regarding the Proposal to Re-Zone Lot 18, Woodcreek, Section 4-A, 155 Champions Circle, Woodcreek, Texas from SF-1(Single Family Residential) with a Special Use Permit (Commercial Use for Day Rental and Overnight Lodging) to SF-1 (Single Family Residential) and Revoke the Special Use Permit (Commercial Use for Day Rental and Overnight Lodging). This Property is Further Identified by Hays Central Appraisal District Property ID R48940

D. Executive Session – Pursuant to the Texas Local Government Code Section 551.074 – to Discuss a Possible Communication Work Plan for

City Manager Lewis. City Manager Lewis requested an Open Session. The Executive Session was cancelled.

- E. Discussion and Possible Action Regarding a Possible Communication Work Plan for City Manager Lewis.** Mayor Pro Tem Britner distributed a plan and Councilmember Jackson distributed an alternate plan. After discussion, Councilmember Eskelund moved to table the subject until the next regular meeting in September. The motion was seconded by Councilmember Tilley which passed with a vote of 5-0-0.
- F. Public Hearing on an Application from Peter & Coleen Parchesky, 207 East Meadow Lane, Wimberley TX 78676 to Replat Lot 49, Cypress Creek Acres, Establishing Lots 49-A and 49-B within the City of Woodcreek's Extra Territorial Jurisdiction. This Property is Further Identified by the Hays County Central Appraisal District by Identification Number R25613**
- G. Consider Recommendation from Planning and Zoning on the Application from Peter & Coleen Parchesky, 207 East Meadow Lane, Wimberley TX 78676 to Replat Lot 49, Cypress Creek Acres, Establishing Lots 49-A and 49-B within the City of Woodcreek's Extra Territorial Jurisdiction. This Property is Further Identified by the Hays County Central Appraisal District by Identification Number R25613**
- H. Discussion and Take Appropriate Action on an Application from Peter & Coleen Parchesky, 207 East Meadow Lane, Wimberley TX 78676 to Replat Lot 49, Cypress Creek Acres, Establishing Lots 49-A and 49-B within the City of Woodcreek's Extra Territorial Jurisdiction. This Property is Further Identified by the Hays County Central Appraisal District by Identification Number R25613**
- I. Consider and Take Appropriate Action on Revocation of Authority and Dissolution of "Ordinance Review Committee".** Councilmember Jackson moved to terminate the ordinance review committee. The motion was seconded by Councilmember Tilley. After discussion, the motion carried with a vote of 3-2-0. The following voted Aye: Councilmember LeBrun, Councilmember Tilley, Councilmember Jackson. The following voted Nay: Mayor Pro Tem Britner, Councilmember Eskelund. The following Abstained: None.
- J. Discussion and Take Appropriate Action on an Ordinance Establishing an Amendment for the City of Woodcreek Code of Ordinances Amending Chapter 152 – Signs; Defining Terms, Providing Penalties, and Providing for Enactment, Repealer, Severability, Codification, and Effective Date, and Finding Proper Notice and Meeting.** Councilmember LeBrun moved to adopt the sign ordinance as presented. Councilmember Tilley seconded the motion. Possible changes were discussed, including a correction to page 1 referring to Chapter 90, Animals and researching rights of way sign locations. Councilmember LeBrun withdrew the motion and Councilmember Tilley withdrew the second. Councilmember LeBrun moved to table the ordinance to the September meeting to make necessary corrections. The motion was seconded by Councilmember Tilley and passed with a vote of 5-0-0.

- K. Discussion and Take Appropriate Action on Recommended Amendments to Chapter 91: Trees of the Woodcreek Texas Code of Ordinances.** Councilmember Jackson moved to adopt the ordinance as presented. Councilmember Tilley seconded the motion. Council discussed several changes to the ordinance as presented. Councilmember Tilley moved to make the following amendments to the draft: strike criminal offense and renumber page 13; limit fines to \$500; add 10 days to oak wilt notification; change the language in the title to add that restrictions apply in the ETJ; renumber page 8 to start with 1. Councilmember Jackson seconded the motion, which passed with a vote of 3-2-0. The following voted Aye: Councilmember LeBrun, Councilmember Tilley, Councilmember Jackson. The following voted Nay: Mayor Pro Tem Britner, Councilmember Eskelund. The following Abstained: None. Councilmember Jackson moved to adopt the main motion as amended. The motion was seconded by Councilmember Tilley which passed with a vote of 3-2-0. The following voted Aye: Councilmember LeBrun, Councilmember Tilley, Councilmember Jackson. The following voted Nay: Mayor Pro Tem Britner, Councilmember Eskelund. The following Abstained: None.
- L. Consider and Take Appropriate Action on Appointment of the City of Woodcreek Representative to the 2019 Texas Municipal League Business Meeting.** Councilmember Tilley moved to appoint Mayor Pro Tem Britner to represent the City at the Texas Municipal League Business Meeting. The motion was seconded by Councilmember Jackson and which passed with a vote of 5-0-0.
- M. Consider and Take Appropriate Action on Authorizing the Submission of a Resolution on Pipelines Affecting Texas Cities to the Texas Municipal League.** Council discussed adding "WHEREAS, the State of Texas has failed its own municipalities", and making capitalization changes. Councilmember Tilley moved that council approve the submission of the resolution as edited. The motion was seconded by Mayor Pro Tem Britner, which passed with a vote of 5-0-0.
- N. Discuss and Take Appropriate Action on the First Consideration of Chapter 30 of the Woodcreek Code of Ordinances as it Relates to the Board of Adjustment.** Councilmember LeBrun explained inconsistencies in the appeal and variance process for several Chapters. After discussion, Councilmember LeBrun moved to approve for first consideration changes to Chapter 30 of the Woodcreek Code of Ordinances for review by council and for comments and changes to be submitted to the City Manager and for it to return for adoption in September. The motion was seconded by Councilmember Tilley and passed with a vote of 3-2-0. The following voted Aye: Councilmember LeBrun, Councilmember Tilley, Councilmember Jackson. The following voted Nay: Mayor Pro Tem Britner, Councilmember Eskelund. The following Abstained: None.
- O. Discussion and Take Appropriate Action on Repealing Resolution No. 14-051401 as it Relates to Establishing Employee Status and Authorizing Pay for Elected Officials.** Mayor Pro Tem Britner moved to repeal the resolution.

The motion was seconded by Councilmember Eskelund, which passed with a vote of 5-0-0.

- P. Consider and Take Appropriate Action on Trimming of Trees on all Streets Within the City of Woodcreek.** City Manager Lewis explained the 4 quotes received. After discussion, Councilmember Eskelund moved to approve Bartlett for the trimming of the trees. The motion was seconded by Councilmember Jackson, which passed with a vote of 5-0-0.
- 9. Adjourn.** There being no further business, the meeting was adjourned at 8:48 p.m.

William P. Scheel, Mayor

Linda Land, City Secretary

DRAFT

City of Woodcreek Special City Council Meeting

August 22, 2019; 6:30 p.m.

Woodcreek, Texas

Minutes

1. **Call to Order:** Mayor Scheel called the meeting to order at 6:31 p.m.
2. **Roll Call: Present:** Mayor William P. Scheel, Mayor Pro Tem Nancy Britner, Councilmember Aurora LeBrun, Councilmember Ray Don Tilley, Councilmember Cyndi Jackson, Councilmember Eric Eskelund, City Manager Brenton Lewis, Woodcreek Deputy Attorney Leslie Kassahn, Administrative Assistant Maureen Cole. Absent City Secretary Linda Land.
3. **Public Comments:**

Kathy Maldonado spoke: 1) against the financial penalties of the tree ordinance, 2) in favor of the Constable, and 3) expressed concern about Citizen Advisory Committee appointments.

Sybil Patterson spoke against the tree ordinance.

Candy Farris spoke against the tree ordinance.

Whitney Miller spoke: 1) against the tree ordinance, 2) that City Council should follow the recommendations of Planning & Zoning regarding the SR 38) in support of constables, and 4) against any funding of a playground.

Regular Agenda:

4A. Public Hearing on an Application from Peter & Coleen Parchesky, 207 East Meadow Lane, Wimberley TX 78676 to Replat Lot 49, Cypress Creek Acres, Establishing Lots 49-A and 49-B.

No comments were presented. Public hearing was opened at 6:40pm and closed at 6:41pm.

4B. and 4C. Consider Recommendation from Planning and Zoning on the Application from Peter & Coleen Parchesky, 207 East Meadow Lane, Wimberley TX 78676 to Replat Lot 49, Cypress Creek Acres, Establishing Lots 49-A and 49-B.

Councilmember LeBrun motioned to accept the Planning & Zoning Board's recommendation to approve this application, once the proper steps are taken to fulfill the County requirements. Councilmember Britner seconded this motion and it passed with a vote of 5-0-0.

4D. Discussion and/or Take Appropriate Action on Chapter 91: Trees of the City of Woodcreek, Texas Code of Ordinances, passed and approved on August 14, 2019 per Mayor Scheel's request for reconsideration. (Mayor Scheel)

At 6:42pm, Mayor Scheel announced that the City Council would go into Executive Session to consult with City Deputy Attorney Kassahn to discuss Ordinance 19-265. At 7:28pm, the City Council meeting resumed. Councilmember Tilley asked that the "Tree" Ordinance 19-265 as written and passed by the City Council on Aug. 14th, be reconsidered.

Public Comments:

Jeff Ethridge spoke against the Tree Ordinance.

Jason Donaldson echoed Jeff Ethridge's comments.

Jim Meehan spoke against the Tree Ordinance.

Bob Hembrick spoke against the Tree Ordinance.

Written Communications:

Randy Renter wrote in favor of the Tree Ordinance.

Cap and Barb Horning wrote in favor of the Tree Ordinance.
Monica and Jeff Rasco wrote in favor of the Tree Ordinance.
Chrys Grummert wrote in favor of the Tree Ordinance.
Karen Poe spoke against the Tree Ordinance.

After discussion, Councilmember Tilley motioned that the Tree Ordinance #19-265, be passed as adopted at the City Council Meeting on Aug. 14th, 2019. Councilmember Jackson seconded that motion and it passed with a vote of 3-2-0. The following voted Aye: Councilmember LeBrun, Councilmember Tilley, Councilmember Jackson. The following voted Nay: Mayor Pro Tem Britner, Councilmember Eskelund.

Ordinance 19-265 was adopted on Aug. 14, 2019 and will be enacted after publication on Aug. 29th, 2019.

4E. Discussion and Take Appropriate Action on Recommended Amendments to Chapter 91: Trees of the City of Woodcreek, Texas Code of Ordinances (Councilmember Jackson)

Councilmember Tilley motioned to recommend a Public Hearing to further amend Ordinance 19-265 at the October 2019 City Council Meeting at a later venue. Councilmember LeBrun seconded this motion and it was passed with a 5-0-0 vote.

4F. Discussion and Take Appropriate Action on the Joint Election Agreement Between Hays County and the City of Woodcreek (City Manager Lewis)

Councilmember Jackson motioned that the Mayor execute the Joint Election Agreement Between Hays County and the City of Woodcreek on behalf of the City. Councilmember LeBrun seconded the motion and it passed with a vote of 5-0-0.

4G and 4H and 4I. Discussion and Take Appropriate Action on Rescinding the Motion on Setting the Proposed Tax Rate at \$.2235 per \$100 valuation for Fiscal Year 2019-2020.

Discussion and Take Appropriate Action to Set the Proposed Tax Rate for Fiscal Year 2019-2020. Public Hearing. (City Manager Lewis)

There were no Public Comments and no discussion there was no motion and no action on these 3 items and the Proposed Tax Rate for Fiscal Year 2019-2020 will remain at \$.2235 per \$100 valuation.

4J. Public Hearing on the 2019-2020 Budget: Proposed Budget for the City of Woodcreek for Fiscal Year Beginning October 1, 2019 and Ending September 30, 2020

Public Comments

Public Hearing opened at 8:17pm.

Suzanne Gordon spoke against the \$35,000 budgeted for playground facilities.

Jake Jacobsen spoke about the City Council moving forward.

Written Communications:

Jack Boze wrote in favor of the Constables.

Kathy Simandl wrote in favor of: 1) the Tree Ordinance, 2) the Constables.

Public Hearing closed at 8:24pm.

4K. Budget Workshop

There was discussion regarding budget items.

5. Adjourn – the meeting was adjourned at 8:55pm.

William P. Scheel, Mayor

Linda Land, City Secretary

DRAFT

Treasurer's Report

For the Period: October 2018 - August 2019

Percent Complete: 91.67%

	2018-2019			2017-2018			Y/Y Monthly Comparison		
	YTD	Budget	%	YTD	Budget	%	Aug-19	Aug-18	Difference
3000 Ad Valorem Tax Revenue	272,035	280,000	97%	288,148	280,000	103%	3,772	5,991	(2,219)
3005 State Sales Tax Revenue	52,678	50,000	105%	45,717	50,000	91%	5,114	5,260	(146)
3010 Mixed Beverage Tax & Fees Rev	501	1,000	50%	978	1,000	98%	-	342	(342)
3020 Electric Franchise Fee Revenue	32,887	34,000	97%	23,900	34,000	70%	-	-	-
3030 Cable Services Franchise Rev	40,287	30,000	134%	29,849	39,000	77%	10,309	10,316	(7)
3040 Water Service Franchise Revenue	91,567	96,000	95%	27,688	95,000	29%	-	-	-
3050 Disposal Service Franchise Rev	16,935	14,500	117%	16,759	16,800	100%	-	-	-
3060 Telephone Franchise Revenue	1,003	1,500	67%	959	2,000	48%	59	73	(14)
3070 Golf Course Franchise Revenue	650	500	130%	500	500	100%	-	-	-
3080 Reimbursements	866	-	n/a	-	-	n/a	-	-	-
3090 Development Revenue	-	15,000	0%	-	-	n/a	-	-	-
3090.01 Residential	17,306	-	n/a	22,740	-	n/a	1,494	1,039	455
3090.02 Commercial	612	-	n/a	9,631	-	n/a	-	-	-
3090.03 Other	804	-	n/a	5,000	38,000	13%	-	-	-
Total 3000 Development Revenue	18,721	15,000	125%	37,371	38,000	98%	1,494	1,039	455
3093 Liquor License Revenue	1,310	-	n/a	-	-	n/a	-	-	-
3095 Sign Fees	490	500	98%	940	940	100%	225	170	55
4000 Interest Income	30,712	29,500	104%	7,336	8,000	92%	2,686	2,123	564
4010 Other Revenue	841	2,500	34%	2,370	3,000	79%	50	-	50
4015 Oak Wilt Containment	-	-	n/a	-	-	n/a	-	-	-
4020 Municipal Court Revenue	1,120	3,000	37%	2,740	3,000	91%	211	-	211
4040 Donations Received	7,000	6,000	117%	-	5,000	0%	1,000	-	1,000
4050 General Fund Transfer	-	113,550	0%	-	-	n/a	-	-	-
Uncategorized Revenue	-	-	n/a	-	-	n/a	-	-	-
5000 Personnel Services	-	-	n/a	-	-	n/a	-	-	-
5000.01 Salaries and Wages	135,971	166,180	82%	120,230	143,900	84%	12,048	13,558	(1,510)
5000.02 Ins Expense Reimbursement	7,295	7,200	101%	2,954	-	n/a	663	1,954	(1,291)
5000.03 City Manager Vehicle Reimburse	7,654	8,350	92%	7,654	8,350	92%	696	696	-
5000.05 Elected Official Pay	630	840	75%	810	840	96%	-	70	(70)
5000.20 Payroll Tax Expense	11,151	11,500	97%	12,542	11,900	105%	977	1,097	(120)
5000.40 Retirement	11,923	13,600	88%	9,153	9,370	98%	1,063	1,169	(106)
5000.50 Direct Deposit Expense	-	-	n/a	-	-	n/a	-	-	-
5000.51 Health Insurance Stipend	-	-	n/a	-	3,600	0%	-	-	-
Total 5000 Personnel Services	174,623	208,890	84%	153,344	177,960	86%	15,446	18,544	(3,098)
5500 Office Expenses	-	-	n/a	-	-	n/a	-	-	-
5500.05 Bank Fees & Charges	(216)	-	n/a	88	-	n/a	-	(1)	1
5500.10 City Hall Maintenance / Repairs	2,502	5,000	50%	1,812	2,000	91%	488	345	143
5500.20 Cleaning Costs	1,375	1,500	92%	1,250	1,500	83%	125	125	-
5500.30 IT & Radio Expenses	1,792	650	276%	162	700	23%	167	93	73
5500.40 Newsletter	-	-	n/a	-	-	n/a	-	-	-
5500.50 Office Supplies	4,390	2,500	176%	1,764	2,000	88%	716	52	664
5500.60 Postage & Shipping	1,042	1,800	58%	1,444	1,800	80%	352	185	167
5500.61 Printing & Reproduction	4,687	5,000	94%	5,342	6,000	89%	911	863	47
5500.70 Storage Rental	108	110	98%	1,089	1,250	87%	-	118	(118)
5500.80 Software & Subscriptions	6,772	7,000	97%	5,134	8,300	62%	1,553	219	1,334
Total 5500 Office Expenses	22,452	23,560	95%	18,086	23,550	77%	4,312	2,000	2,312
6000 Professional Services	-	-	n/a	-	-	n/a	-	-	-
6000.01 Audit Expense	9,860	9,860	100%	9,100	9,100	100%	-	-	-
6000.10 Codification	3,883	4,000	97%	1,782	3,000	59%	2,499	-	2,499
6000.11 Contract Labor	-	3,000	0%	-	500	0%	-	-	-
6000.15 Engineering	17,965	20,000	90%	7,831	10,000	78%	1,240	-	1,240
6000.20 Legal Expenses	33,439	18,000	186%	15,522	20,000	78%	33	-	33
6000.30 IT Services	7,563	8,000	95%	7,546	8,500	89%	979	712	267
6000.40 Accounting	9,896	10,000	99%	7,977	10,000	80%	980	640	340
Total 6000 Professional Services	82,606	72,860	113%	49,757	61,100	81%	5,730	1,352	4,378
6500 Area Care/Maintenance	-	-	n/a	-	-	n/a	-	-	-
6500.01 Deer Removal	900	1,000	90%	675	1,000	68%	-	-	-
6500.15 Mowing	1,358	4,000	34%	960	1,200	80%	130	-	130
6500.20 Oak Wilt Containment	-	-	n/a	-	-	n/a	-	-	-
6500.21 Outdoor Beautification	7,830	30,000	26%	12,246	15,000	82%	100	6,406	(6,306)

	2018-2019			2017-2018			Y/Y Monthly Comparison		
	YTD	Budget	%	YTD	Budget	%	Aug-19	Aug-18	Difference
6500.25 ROW Tree Trimming	-	10,000	0%	11,100	12,000	93%	-	4,885	(4,885)
6500.30 Street Maintenance	45,453	150,000	30%	1,255	1,300	97%	-	-	-
6500.31 Street Signs	2,926	6,000	49%	63	750	8%	169	33	136
6500.35 Storm Damage Reserve	-	1,000	0%	-	7,000	0%	-	-	-
6500.40 Tree Limb Pick-Up	-	-	n/a	-	-	n/a	-	-	-
6500.50 Equipment Maintenance	1,497	2,500	60%	285	-	n/a	12	-	12
Total 6500 Area Care/Maintenance	59,963	204,500	29%	26,584	38,250	70%	411	11,325	(10,913)
7000 Other Operating Expenses	-	-	n/a	-	-	n/a	-	-	-
7000.01 Ad Valorem Tax Expense	3,103	2,500	124%	3,061	3,100	99%	833	744	89
7000.02 Building Inspections	8,615	6,500	133%	5,710	6,500	88%	350	580	(230)
7000.03 Code Compliance	-	1,500	0%	1,898	2,000	95%	-	-	-
7000.04 Dues & Membership	2,572	3,000	86%	2,683	3,000	89%	100	-	100
7000.05 Election Expense	3,552	3,560	100%	-	-	n/a	-	-	-
7000.10 Depreciation Expense	-	-	n/a	-	-	n/a	-	-	-
7000.15 Meeting Expense	1,203	500	241%	1,458	1,600	91%	62	411	(349)
7000.20 Public Notices	3,593	1,500	240%	1,218	2,000	61%	99	228	(129)
7000.30 Travel & Vehicle Exp Reimb.	1,255	1,500	84%	3,466	4,000	87%	-	65	(65)
7000.31 Elected Official Travel	931	3,000	31%	-	-	n/a	-	-	-
7000.40 Training & Prof Development	-	-	n/a	4,092	5,000	82%	-	895	(895)
7000.41 Elected Body	2,150	3,500	61%	-	-	n/a	475	-	475
7000.42 Staff	2,362	3,000	79%	-	-	n/a	-	-	-
7000.50 Community Relations	2,220	3,000	74%	-	-	n/a	230	-	230
Total 7000 Other Operating Expenses	31,557	33,060	95%	23,586	27,200	87%	2,149	2,922	(1,479)
7500 Utilities	-	-	n/a	-	-	n/a	-	-	-
7500.10 City Hall Utilities	2,879	3,000	96%	2,650	3,200	83%	313	283	30
7500.20 Outdoor Utilities	2,945	4,000	74%	3,132	4,000	78%	250	239	11
7500.30 Telephone & Internet	2,805	4,000	70%	3,658	4,000	91%	217	278	(61)
Total 7500 Utilities	8,629	11,000	78%	9,439	11,200	84%	780	799	(20)
8000 Insurance	3,514	3,500	100%	3,288	3,500	94%	-	-	-
8020 Municipal Court Costs	-	-	n/a	-	-	n/a	-	-	-
8020.20 MC Judge	3,300	3,600	92%	2,750	3,500	79%	300	250	50
8020.25 Misc. Court Costs	8,271	8,000	103%	4,395	5,000	88%	1,958	-	1,958
8020.30 Prosecutor	6,352	1,000	635%	4,465	6,000	74%	-	-	-
8020.40 State Comptroller Costs	616	700	88%	572	700	82%	49	270	(221)
8020.41 Supplies	-	200	0%	47	200	24%	-	-	-
8020.50 Public Safety	31,826	56,680	56%	21,255	30,000	71%	-	-	-
Total 8020 Municipal Court Costs	50,365	70,180	72%	33,484	45,400	74%	2,307	520	1,787
8900 Miscellaneous	-	-	n/a	47	-	n/a	-	-	-
8900.10 Reconciliation Discrepancies	-	-	n/a	-	-	n/a	-	-	-
8900.20 Contingency Reserve	-	50,000	0%	-	-	n/a	-	-	-
Total 8900 Miscellaneous	-	50,000	0%	47	-	n/a	-	-	-
9077 General Fund Accrual	-	-	n/a	-	-	n/a	-	-	-
Unapplied Cash Bill Payment Expenditure	-	-	n/a	-	-	n/a	-	-	-
Net Operating Revenue	135,890	-	n/a	167,640	188,080	89%	(6,214)	(12,148)	5,933
Other Revenue									
4018 Proceeds from Capital Leases	-	-	n/a	-	-	n/a	-	-	-
8500 Capital Improvement Income	144	-	n/a	4,145	-	n/a	0	375	(375)
Other Expenditures									
8500.25 Capital Improvement Expense	-	-	n/a	-	-	n/a	-	-	-
9001 Capital Lease Principal	-	-	n/a	-	-	n/a	-	-	-
9002 Interest on Capital Lease	-	-	n/a	-	-	n/a	-	-	-
9005 Bond Interest Paid	-	-	n/a	9,164	-	n/a	-	9,164	(9,164)
9010.01 Bonding Fund Revenues	(194,755)	-	n/a	(150,523)	-	n/a	(2,559)	(2,413)	(246)
9010.02 Bonding Fund Interest	17,678	-	n/a	7,529	-	n/a	-	-	-
9010.03 Bonding Fund Principal	172,000	-	n/a	143,099	-	n/a	-	-	-
9000.02 Other Miscellaneous Expenditure	(211,816)	-	n/a	(1,322,459)	-	n/a	-	(133,865)	-
9000 Reconciliation Discrepancies	-	-	n/a	-	-	n/a	-	-	-
Net Other Revenue	5,221	-	n/a	137,976	(20,000)	-690%	2,659	(6,376)	142,900

The City of Woodcreek

STATEMENT OF FINANCIAL POSITION

As of August 31, 2019

	TOTAL
ASSETS	
Current Assets	
Bank Accounts	
1003.1 Municipal Court Petty Cash	100.00
1007 TX Regional 061, Operating	320,463.79
1007.5 Municipal Court Funds In Operating Account	-18,933.27
1007.51 MC General Fund	18,887.94
1007.52 MC Security Fund	19.45
1007.53 MC Tech Fund	25.88
Total 1007.5 Municipal Court Funds In Operating Account	0.00
Total 1007 TX Regional 061, Operating	320,463.79
1008 TX Regional 053, Investment	0.00
1008.2 PEG Funds	36,652.34
1008.3 Reserve Funds	545,874.38
Total 1008 TX Regional 053, Investment	582,526.72
1009 TX Regional 095, Bond Proceeds	144.53
1010 Petty Cash	-41.00
1011 TX Regional 819, Payroll Account	10,000.00
1020 Investment Account - Class 0001	470,339.91
Total Bank Accounts	\$1,383,533.95
Accounts Receivable	
1120 Delinquent Taxes Receivable	7,987.61
Total Accounts Receivable	\$7,987.61
Other Current Assets	
1121 Allowance for Uncollectible	-3,676.26
1121.01 1121.01-CPA Debt Service	-716.93
Total 1121 Allowance for Uncollectible	-4,393.19
1124 Sales Tax Receivable	9,124.68
1125 Franchise Fees Receivable	85,302.58
1150 Due From Capital Project Funds To Operating	167,425.08
Total Other Current Assets	\$257,459.15
Total Current Assets	\$1,648,980.71
Fixed Assets	
1200 Office Furniture / Equipment	35,704.46
1225 Land	37,850.00
1226 Building & Improvements	130,602.00
1227 Street Pavement	144,126.00
1228 Street Improvements 2017	1,479,824.71
1231 Storage Building	9,055.00
1233 Radar Sign	3,633.00

	TOTAL
1235.1 Kawasaki Mule 2016	7,840.64
1240 Accumulated Depreciation - All	-195,372.00
Total Fixed Assets	\$1,653,263.81
Other Assets	
1250 Deferred Revenue	-3,008.25
1250.01 1250.01-CPA Debt Service	-586.58
Total 1250 Deferred Revenue	-3,594.83
1599 1599-CPA Due From General Fund	9,017.86
Total Other Assets	\$5,423.03
TOTAL ASSETS	\$3,307,667.55
LIABILITIES AND EQUITY	
Liabilities	
Current Liabilities	
Other Current Liabilities	
1901 Accts Payable At Year-End	211,712.66
1902 Municipal Court Funds Payable To State	146.40
2000 Payroll Tax Payable	3,569.66
2020 State Unemployment Liability	12.21
2021 Accrued Wages Payable	6,430.99
2400 Due To Operating From Capital Project Funds	167,425.08
2599 2599-CPA Due To Debt Service Fund	9,017.86
Total Other Current Liabilities	\$398,314.86
Total Current Liabilities	\$398,314.86
Total Liabilities	\$398,314.86
Equity	
9997 Net Investment In Capital Assets	144,132.96
9998 Opening Balance Equity	333,537.47
9999 Retained Earnings	2,290,571.18
Net Revenue	141,111.08
Total Equity	\$2,909,352.69
TOTAL LIABILITIES AND EQUITY	\$3,307,667.55

Council Meeting Date: 9/11/2019

AGENDA ITEM COVER SHEET

Subject/Title:

Discussion and Possible Adoption of Woodcreek Film Guidelines

Item Summary:

Intended to protect the personal and property rights of the City of Woodcreek, TX

Financial Impact:

None

Recommendation:

Adoption of these Guidelines

Attachments:

Guidelines for Filming in Woodcreek, TX

Submitted By:

Mayor Pro Tem Britner

AGENDA ITEM 8 C

The following Filming Guidelines & Application are intended solely as a potential starting point for use by your legal counsel in crafting an appropriate final set of Filming Guidelines and Application for your municipal program. They may not be suitable for all situations and may even include guidelines which are unsuitable for your particular municipality. The Texas Film Commission does not endorse, guarantee, or warrant, either expressly or impliedly, the accuracy, completeness or timeliness of the following Filming Guidelines & Application Sample and it is provided "as is," without warranty of any kind. You are urged to consult legal counsel in the development, adoption and implementation of your Filming Guidelines and Application.

Guidelines for Filming in Woodcreek, TX

Revised 12-30-10

- I. Purpose
- II. City Control/City Manager Authority
- III. Permit Requirements and Fees
- IV. Application Fee
- V. Use of City Equipment and Personnel
- VI. Use of City-Owned Real Estate
- VII. Vehicles and Equipment
- VIII. Hours of Filming
- IX. Notification of Neighbors
- X. Certificate of Insurance
- XI. Damage to Public or Private Property
- XII. Hold Harmless Agreement

Guidelines for Filming in Woodcreek, Texas

I. PURPOSE

The Guidelines contained in this policy are intended to create a program for promoting economic development activity within **Woodcreek** and the vicinity of the City. The following Guidelines are also intended to protect the personal and property rights of **Woodcreek**, Texas residents and businesses, and to promote the public health, safety and welfare. The City Manager reserves the right to impose additional regulations in the interest of public health, safety and welfare, or if otherwise deemed appropriate by the City Manager.

These Guidelines cover requests for commercial use of City-owned property (including but not limited to streets, rights-of-way, parks, and/or public buildings), commercial use of private property which may affect adjacent public or private property, and the use of City equipment and personnel in all types of motion picture production, including, but not limited to, feature films, television programs, commercials, music videos and corporate films.

II. CITY CONTROL/CITY MANAGER AUTHORITY

The City Manager may authorize the use of any street, right-of-way, park, or public building, equipment or personnel for commercial uses in the filming or taping of movies, television programs, commercials, or training films and related activities. In conjunction with these uses, the City Manager may require that any or all of the conditions and/or remuneration herein and as specified on the application be met as a prerequisite to that use.

The Applicant agrees that the City of **Woodcreek** shall have exclusive authority to grant the Applicant the use of public streets, rights-of-way, parks and public buildings of the City, as well as authority to regulate the hours of production and the general location of the production. The City reserves the full and absolute right to prohibit all filming or to order cessation of filming in order to promote the public health, safety or welfare.

The Applicant shall allow City departments (e.g., Police, Fire, Building) to inspect all structures, property, devices and equipment to be used in connection with the filming and taping, as deemed appropriate by the City Manager.

III. PERMIT REQUIREMENTS

Before filing an application for filming in **Woodcreek**, the Office of the City Manager must be contacted to discuss the production's specific filming requirements and the feasibility of filming in **Woodcreek, TX**.

Any commercial producer who desires to undertake a commercial production in **Woodcreek** is required to complete and return the attached application for filming to the Office of the City Manager, within the time frames below:

- **Commercials or episodic television:** a minimum of two (2) business days prior to the commencement of filming or any substantial activity related to the project.
- **Feature films:** a minimum of five (5) business days prior to the commencement of filming or any substantial activity related to the project.

IV. APPLICATION FEE

An application processing fee of \$25.00 should accompany each application for filming in **Woodcreek**.

The City Manager may waive this fee upon proof of an organization's non-profit status or for any other reason deemed appropriate by the City Manager.

V. USE OF CITY EQUIPMENT AND PERSONNEL

The Applicant shall pay for all costs of any Police, Fire, Public Works, or other City personnel assigned to the project (whether or not specifically requested by the production). Remuneration rates for the use of any City equipment, including police cars and fire equipment, will be established on a case-by-case basis as determined by the City Manager. The Applicant shall pay all costs in full within ten (10) days after

receipt of an invoice for said costs. The City Manager may, at his/her discretion, require an advance deposit for all costs related City personnel and/or the use of City equipment.

The City Manager, in consultation with the Chief of Police and/or Fire Chief, shall have the authority to stipulate additional fire or police requirements and level of staffing for same, at any time during a film project if it is determined to be in the best interest of public health, safety and welfare, which cost shall be borne entirely by the Applicant.

Off-duty police officers and firefighters shall be paid by the production company at a rate no less than one and one-half times their hourly rate.

VI. USE OF CITY-OWNED REAL ESTATE

The City Manager may authorize the use of any street, right-of-way, park or public building, use of Woodcreek, Texas name, trademark or logo and/or use of City equipment and/or personnel for commercial uses in motion picture production. In conjunction with these uses, the City Manager may require that any or all of the conditions and/or remuneration as specified herein and on the application be met as a prerequisite to that use. A security or damage deposit may be required within the discretion of the City Manager.

The Applicant shall reimburse the City for inconveniences when using public property. Following is the rate schedule:

<u>Activity</u>	<u>Cost per calendar day</u> maximum of ___ hours/day
Total or disruptive use (regular operating hours) of a public building, park, right-of-way, or public area	\$500 per day
Partial, non-disruptive use of a public building, park, right-of-way, or public area	\$250 per day
Total closure or obstruction of public street or right-of-way, including parking lots and on-street parking	\$50 per block, per day
Partial closure or obstruction of public street or right-of-way, including parking lots and on-street parking	\$25 per block, per day
Use of City parking lots, parking areas, and City streets (for the purpose of parking film trailers, buses, catering trucks, and other large vehicles)	\$50 per block or lot, per day

The Applicant acknowledges and agrees that the City of Woodcreek, Texas, possesses and retains exclusive authority to grant the Applicant a revocable license for the use of its name, trademark, and logo, public streets, rights-of-way, parks and buildings of the City as well as control over the hours of production and the general location of the production. The City reserves the full and absolute right to prohibit all filming or to order cessation of filming activity in order to promote the public health, safety and/or welfare.

VII. VEHICLES AND EQUIPMENT

The Applicant shall provide a report listing the number of vehicles and types of equipment to be used during the filming, including proposed hours of use and proposed parking locations. Such locations will need to be specifically approved by the City Manager. On-street parking or use of public parking lots is subject to City approval.

The use of exterior lighting, power generators, or any other noise- or light-producing equipment requires on-site approval of the City Manager.

VIII. HOURS OF FILMING

Unless express written permission has been obtained from the City Manager in advance, and affected property owners, tenants and residents have been notified, filming will be limited to the following hours:

Monday through Friday: 7:00 a.m. to 9:00 p.m.

Saturday, Sunday and holidays: 8:00 a.m. to 8:00 p.m.

IX. NOTIFICATION OF NEIGHBORS

The Applicant shall provide a short written description, approved by the City Manager, of the schedule for the proposed production to the owners, tenants and residents of each property in the affected neighborhood(s). The Applicant, or his or her designee, shall make a good faith effort to notify each owner, tenant and resident of all such property, and shall submit, as part of this application, a report noting owners, tenants and/or residents' comments, along with their signatures, addresses and phone numbers. Based upon this community feedback, and other appropriate factors considered by the City Manager, the City Manager may grant or deny the filming application.

X. CERTIFICATE OF INSURANCE

The Applicant shall attach a valid certificate of insurance, issued by a company authorized to conduct business in the state of Texas, naming the City of **Woodcreek** and its agents, officers, elected officials, employees and assigns, as additional insured, in an amount not less than \$1,000,000 general liability, including bodily injury and property damage with a \$5,000,000 umbrella; and automobile liability (if applicable) in an amount not less than \$1,000,000 including bodily injury and property damage.

XI. DAMAGE TO PUBLIC OR PRIVATE PROPERTY

The Applicant shall pay in full, within ten (10) days of receipt of an invoice, the costs of repair for any and all damage to public or private property, resulting from or in connection with, the production, and restore the property to its original condition prior to the production, or to better than original condition.

XII. HOLD HARMLESS AGREEMENT

The Applicant shall sign the following Hold Harmless Agreement holding the City harmless from any claim that may arise from their use of designated public property, right-of-way, or equipment in conjunction with the permitted use:

I certify that I represent the firm which will be performing the filming/taping at the locations specified on the attached permit application. I further certify that I and my firm will perform in accordance with the directions and specifications of The City of Woodcreek, Texas, and that I and my firm will indemnify and hold harmless the City of Woodcreek, Texas and its elected officials, officers, servants, employees, successors, agents, departments and assigns from any and all losses, damages, expenses, costs and/or claims of every nature and kind arising out of or in connection with the filming/taping and other related activities engaged in pursuant to this Application.

I further certify that the information provided on this Application is true and correct to the best of my knowledge, and that I possess the authority to sign this and other contracts and agreements with the City of Woodcreek, Texas on behalf of the firm.

Signed: _____

Title: _____

Date: _____

THE CITY OF WOODCREEK, TX

Application for Commercial Filming

Title of project

Type of production (feature film, television production, commercial, corporate, music video, etc.)

Proposed Filming Locations (attach additional pages if necessary)

Date(s) of prep/filming

Primary Contact

Name

Cell phone

Email

Location Manager (if different from Primary Contact)

Name

Cell phone

Email

Production Company Information

Name of Production Company

Address

City/State/Zip

Web Site

Primary Contact's Name
Primary Contact's Phone
Primary Contact's Email

Is this production already in contact with the Texas Film Commission? _____

If yes, who is your contact at the Texas Film Commission?

Name

Phone

Email

PRODUCTION (*Attach additional sheets if necessary.*)

1. Production schedule and activities, including stunts, pyrotechnics, special effects, aerial photography, amplified sound or use of animals: (Give dates and times and rain dates. Hours should include set-up, holding of sets and restoration.)

2. Approximate number of persons involved with the production, including cast and crew:

3. Anticipated need of City personnel, equipment or property:

4. Public areas in which public access will be restricted during production:

5. Describe alterations to public property:

6. Number and type of production vehicles to be used and location(s) where vehicles will be parked:

7. Location where crew will be fed, if not at filming location:

8. Location where extras will be held, if not at filming location:

9. Please attach map of anticipated street closure(s) or other public area use.

Applicant (production company representative):

_____, Date: _____

Name

Title

Application approved by **Woodcreek** representative:

_____ Date: _____

*The "Guidelines for Filming in **Woodcreek, Texas**" apply to all motion picture production in **Woodcreek**.*

The Office of the City Manager may require the applicant to acknowledge receipt of the Guidelines prior to approving this application.

Council Meeting Date: 9/11/2019

Item No. _____

AGENDA ITEM COVER SHEET

Subject/Title

Final Adoption of Sign Ordinance, Chapter 152.

Item/Summary

Approved in May. Tabled at August 14, 2019 to seek a location for placing a sign in the Cypress Point Location. Rather than delay waiting for this location, recommend approval as is. If the location is negotiated at a later date, the Ordinance may be amended.

Financial Impact

Cost of recodifying

Recommendation

Adopt Ordinance

Attachment

Amended Ordinance

Submitted by

Councilmember LeBrun, Council Member Jackson, Citizen Advisory Workgroup

AGENDA ITEM 8 D

ORDINANCE NO. _____

CITY OF WOODCREEK, TEXAS

REVISIONS OF CHAPTER 152 - SIGNS OF THE CODE OF ORDINANCES

AN ORDINANCE ESTABLISHING REVISIONS TO THE CITY OF WOODCREEK CODE OF ORDINANCES CHAPTER 152 – SIGNS. SUCH REVISIONS AS: TO ESTABLISH THE PURPOSE OF SIGNS AND THEIR REGULATIONS, TO MANAGE THE DIRECTION AND STRENGTH OF THE ILLUMINATION OF SIGNS TO COMPLY WITH WOODCREEK’S DARK SKY INITIATIVE, TO MODIFY DEFINITIONS, AND TO EXPAND THE PLACEMENT OF RIGHT-OF-WAY SIGNS; DEFINING TERMS, PROVIDING PENALTIES, AND PROVIDING FOR ENACTMENT, REPEALER, SEVERABILITY, CODIFICATION, AND EFFECTIVE DATE, AND FINDING PROPER NOTICE AND MEETING.

WHEREAS, the City Council of the City of Woodcreek (“City Council”) desires to keep the City an aesthetically pleasing community;

WHEREAS, the City Council has general authority to adopt the regulations herein relating to the display of signs within the City limits and the Extraterritorial Jurisdiction (ETJ),

WHEREAS, the City Council being a general-law municipality, the City has exclusive control to regulate the signs and their display within the City limits,

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Woodcreek:

1. FINDINGS OF FACTS

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

2. ENACTMENT

Chapter 152: Signs of the Code of Ordinances of the City of Woodcreek is amended as to read as Attachment A, which is attached hereto and incorporated into this Ordinance for all intents and purposes.

3. REPEALER

All ordinances, resolutions, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

4. SEVERABILITY

Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

5. CODIFICATION

The City Secretary is hereby authorized and directed to record and publish the language of Chapter 152, as amended by this Ordinance, in the City's Code of Ordinances.

6. EFFECTIVE DATE

This Ordinance shall be effective immediately upon its passage and the publication of caption of this ordinance.

7. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed and attended by a quorum of the City Council, was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551.

PASSED & APPROVED this, the ____ day of _____, 2019, by a vote of

___ Nays

___ Ayes

___ Absent and Not Voting

CITY OF WOODCREEK

ATTEST:

William Scheel, Mayor

Linda Land, City Secretary

Ordinance No.

Revising Chapter 152: Signs

City of Woodcreek - Code of Ordinances

CHAPTER 152: SIGNS

Section

General Provisions

- 152.01 Popular name
- 152.02 Jurisdiction
- 152.03 Purpose
- 152.04 Compliance required
- 152.05 Definitions
- 152.06 Sign maintenance
- 152.07 Legal non-conforming signs
- 152.08 Waivers

Design Guidelines

- 152.20 Policy
- 152.21 Location
- 152.22 Configuration
- 152.23 Placement
- 152.24 Materials
- 152.25 Lighting
- 152.26 Right-of-way signs

Prohibitions and Restrictions

- 152.40 Exemptions for certain signs
- 152.41 Prohibited signs generally
- 152.42 Prohibited signs in residential districts
- 152.43 Restrictions on certain signs
- 152.44 Uniform sign restrictions

Permits

- 152.55 Permit and fee required
- 152.56 Permit application
- 152.57 Permit exemptions
- 152.58 Actions exempt from permit
- 152.59 Expiration of permits
- 152.60 Modifications

- 152.99 Penalty

GENERAL PROVISIONS

§ 152.01 POPULAR NAME.

This chapter shall be commonly cited as the "Sign Ordinance".
(Ord. 08-118, passed 11-12-2008)

§ 152.02 JURISDICTION.

The provisions of this chapter shall apply within the city limits and extraterritorial jurisdiction (ETJ) of the city as defined by state law.

(Ord. 08-118, passed 11-12-2008)

§ 152.03 PURPOSE.

Signs are an important medium of political, religious, or personal messages for which there are no exact alternatives. A sign, unlike handbills or newspapers, readily identifies the "speaker." Signs may be subject to a regulation by a municipality, such as the City of Woodcreek, but such regulation must be consistent and not outweigh the rights to free speech. This Ordinance follows this principle and the mandates of the U. S. Supreme Court as it relates to free speech while providing for an orderly process and uniform standards.

(A) *General.* This chapter is adopted to provide for the orderly construction, erection, repair, demolition, maintenance, removal and relocation of signs within the corporate boundaries and extraterritorial jurisdiction of the city. These rules and regulations are designed to provide uniform sign standards and to promote a positive city image reflecting order, harmony and pride. More specific objectives include the following.

(B) *Safety.* To promote the safety of persons and property by providing signs that:

- (1) Do not create a hazard due to collapse, fire, collision, decay or abandonment;
- (2) Do not obstruct services by first responders or law enforcement
- (3) Do not create a traffic hazard by impairing the driver's ability to see other vehicles, pedestrians, street signage, or obstacles on the road.

(C) *Communications efficiency.* To promote the efficient transfer of information by providing for signs that:

- (1) Give priority to messages and information most needed and sought by the public;
- (2) Allow businesses and services to identify themselves;
- (3) Allow customers and other persons to locate a business or service;
- (4) Do not arbitrarily deny any person or group the use of the lines of vision from the public right-of-way; and
- (5) Do not overwhelm persons by the number of messages presented or do not inhibit the observer's freedom of choice to observe or ignore said messages, according to the observer's purpose.

(D) *Landscape quality and preservation.* To protect the public welfare and to enhance the appearance and economic value of the city, by providing those signs that:

- (1) Do not interfere with scenic views;
- (2) If illuminated and containing 1 or more lamps and include any lenses, reflectors, and shields designed to direct the light in a defined manner comply with the City's Dark Skies Ordinance Chapter 156.041;
- (3) Do not create a nuisance or present a hazard to persons using the public rights-of-way;
- (4) Do not create a nuisance to occupants of any property by their brightness, size, height or movement; and
- (5) Do not diminish or are not detrimental to land or property values.

(Ord. 08-118, passed 11-12-2008)

§ 152.04 COMPLIANCE REQUIRED.

No person may construct, place, erect, repair, maintain or use a sign after the effective date of this chapter unless such erection, construction, reconstruction, repairs, maintenance or use meets all the provisions of this chapter, and all other applicable ordinances adopted by the City Council.

(Ord. 08-118, passed 11-12-2008) Penalty, see § 152.99

§ 152.05 DEFINITIONS.

(A) *Interpretation.* Words and phrases not defined in this chapter shall be given their common, ordinary meaning unless the context clearly requires otherwise. When not inconsistent with the context, words used in the present tense shall include the future tense; words in the plural number shall include the singular number (and vice versa); and words in the masculine gender shall include the feminine gender (and vice versa). The word "shall" is always mandatory, while the word "may" is merely directory. Headings and captions are for reference purposes only. Unless otherwise expressly indicated, references to state and federal laws, final regulations and formal guidance shall refer to the then current enactment of such laws, final regulations and formal guidance, as they are amended from time to time.

(B) *General definitions.* For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AREA. As applied to any sign, means the square foot area enclosed by the perimeter of the sign face with each face contributing to the aggregate area. The area to be measured encompasses the extreme limits of the writing, representation, emblem or other display together with any material or color forming an integral part of the background of the display or used to differentiate the sign material from the backdrop or structure against which the sign is placed, but excludes any sign supports or supporting framework. In cases where a sign, or a portion of a sign, is composed only of letters, figures or other characters standing against no sign face background, then the sign face **AREA** is the area of the smallest simple imaginary figure (circle, triangle, rectangle or other) which fully contains the sign content. The **AREA** of a sign with more than one face is the sum of the areas of all sign faces visible from any one point. However, a sign structure with two faces back-to-back, oriented in opposite directions and separated by not more than three feet, with the same copy on both sides, shall be counted only as the **AREA** of one face.

ATTACHED SIGN. All wall signs, awning signs, canopy signs and projecting signs.

AUXILIARY SIGN. A sign of any construction, not exceeding one square foot in area, which is not part of another sign and which is customarily secondary and incidental to the principal use of any non-residential premises, such as one indicating hours of operation, credit cards accepted or restrictions of sale to minors, or which is customarily secondary and incidental to a residence, such as "no soliciting" or "beware of the dog".

AVERAGE ILLUMINATION. As applied to any sign means the calculated average value using the maximum illumination and the minimum illumination (maximum illumination + minimum illumination / 2).

AWNING SIGN. A sign painted on or attached to the outside of an awning, canopy or any similar structure such as is typically extended in front of a window or door or over a patio, deck or walkway as a protection from the sun or rain, regardless of whether the structure is retractable. A sign which is suspended from or projects into the space

beneath an awning, canopy or similar structure, or which is painted on, attached to or suspended from interior surface, so as to be read from within the area enclosed by the structure, is a canopy sign.

BALLOON. A flexible bag, cylinder, or other device regardless of material, designed to be inflated with hot air or with gas, such as helium, that is lighter than the surrounding air, causing it to rise and float in the atmosphere.

BANNER. A sign intended to be hung either with or without frames, made of paper, plastic, fabric or any other flexible material, and which is used by its colors, characters, lettering, illustration or ornamentation to call attention to an establishment, product or event on the site thereof or which is a community service sign. Flags are distinguished from **BANNERS** for the purposes of this chapter.

BEACON. Any light with a beam directed into the atmosphere or directed at a point which is not on the same lot or tract of land as the light source or a light with one or more beams that rotate or move.

BILLBOARD. Any sign which is used or designed to be used to advertise, inform or call attention to any product, commodity, real estate or service which is to be obtained or is located at a place other than on the premises on which the sign is located, or to advertise or call attention to any establishment, business or activity which is not located on the same premises as the sign. The term includes what is commonly referred to as an **OFF-PREMISES SIGN**.

BULLETIN BOARD. A sign that is principally devoted to posting announcements of interest to the members or clientele of an organization concerning the activities of the organization, such as is customarily erected by a governmental entity, church, social club, society, school or charitable organization.

CANOPY SIGN. A sign that is suspended from the underside of an awning or canopy structure or which projects into the space enclosed within or beneath an awning or canopy structure. A sign which is painted on or attached to the outside of an awning or canopy structure is an awning sign.

CHANGEABLE COPY SIGN. A sign or part of a sign on which characters, letters or illustrations can be changed or rearranged without altering the face or surface of the sign, such as a theater marquee, a gasoline price sign or a sign identifying the occupants of a shopping center. A sign on which the only copy that changes is a matter of general public information, such as the current time and temperature or an index of stock market averages, and which contains no other commercial message, is a public service sign. Any sign other than a public service sign on which the message changes more than once per day is a flashing sign.

CITY. The City of Woodcreek, a duly incorporated municipality located in Hays County, Texas.

CITY COUNCIL. The governing body of the City of Woodcreek.

CITY LIMITS. The corporate municipal boundaries. The term does not include the city's extraterritorial jurisdiction (ETJ), as that term is defined by state law.

CITY MANAGER. The administrative officer appointed by the City Council, or a city official designated by Council.

COMMERCIAL COMPLEX. Any development such as a shopping center, office park or industrial park, that consists of two or more establishments on a single platted lot, or that is designed, developed and managed as a unit.

COMMERCIAL SIGN. Any sign, regardless of its location or construction, whose wording or other contents, directly or indirectly, names, advertises or calls attention to any business, product, service, institution, organization, event, purpose or other activity.

COMMUNITY SERVICE SIGN. A sign which solicits support for or participation in a non-profit, non-political, community, public or social purpose, cause, event or activity, such as one marking a holiday or holiday season, or one supporting school activities, charitable programs, religious activities or events of community interest.

CONSTRUCTION SIGN. A sign placed on a construction site identifying or announcing the character of the project and/or the names of the owners, developers, financiers, architects, engineers, contractors, leasing agents and others associated with the project.

DIGITAL SIGNS. An illuminated sign that displays digital images or wording that are changed by a computer every few minutes. A digital sign may be permanent, integrated to the building, or portable.

DIRECT ILLUMINATION. As applied to any sign means that illumination arriving directly from a light source without reflection from other objects.

DIRECTIONAL SIGN. A sign which is separate from other signs, incidental and secondary to the principal use of the land on which it is located, and whose primary purpose is to give directions such as to parking lots, exits, entrances or drive-through windows, or directives such as "no parking" or "loading only".

DRIVE-THROUGH WINDOW SIGN. A sign which is secondary to the principal use on the premises of an establishment having a drive-through window for customer service, devoted to informing customers approaching the drive-through window of information such as the menu, services available or prices at the establishment.

ESTABLISHMENT. A building on any land used for any purpose regardless of the commercial, non-profit or public nature of the activity, but excluding a building used solely as a residence.

EVENT SIGN, OFF-SITE. A sign giving directions to an occasional event at another location, other than a business event at an establishment, such as directions to a civic or other non-commercial ceremony, to an event for the members of an organization, or to an event at a residence such as a garage sale, home for sale, real estate open house or private party.

EVENT SIGN, ON-SITE. A sign which is placed to advertise or mark the location of an occasional event on the same site, other than a business event at an establishment, such as a civic or other non-commercial ceremony, an event for the members of an organization, or an event at a residence such as a garage sale, home for sale, real estate open house or private party.

FACILITIES LOCATION SIGN. A sign which is placed to provide directions to either the entrance of a facility within the city, such as Quicksand Golf Course and Camp Young Judaea, each constituting a major facility within the city limits.

FIXTURE. An assembly of one or more light sources and related components.

FLAG. A piece of fabric of distinctive design of any governmental jurisdiction or a piece of fabric of distinctive design adopted by a business, institution or other organization and containing only the name, logo or other symbolic emblem of that business, institution or organization.

Flags include "feather flags" or "banners" use in advertising which are traditionally large,

flexible flags designed to attract attention of drivers and passersby.

FLASHING SIGN. A sign with flashing, blinking, moving, rotating or traveling lights, or with lights that change in color or intensity, whether the sign is an illuminated sign or not, or a sign which uses lights to form traveling messages or messages which change more than once per day. This term does not include a public service sign. A flashing sign must meet the requirements of Chapter 156.041, Outdoor Lighting Regulations.

FOOT CANDLE. A standard unit of illumination (engineering term) defined as one lumen per square foot.

FREESTANDING SIGN. A sign that is attached to a self-supporting structure. A freestanding sign may be a pole or monument sign. Any sign, other than a freestanding pole sign, placed upon or supported by the ground independently of any other structure.

GARAGE or YARD SALE SIGN. A sign that advertises the location, time and/or date of a garage sale (sale of individual items) at a residence within the city limits or ETJ.

HEIGHT. As applied to any sign, the vertical distance between the highest attached component(s) of the sign or of its supporting structure, whichever is higher, and the average established ground level beneath the sign. The established ground level beneath the sign is the lower of the existing grade prior to construction of the sign or the newly established grade after construction, exclusive of any filling, berming, mounding or excavating solely for the purpose of locating the sign, unless the curb elevation at the street in front of the sign is higher than the established ground level, in which case the **HEIGHT** shall be measured from curb level.

ILLUMINATED SIGN. A sign illuminated in any manner by an artificial light source of any kind, either detached from the sign or a part thereof. Signs that are only incidentally and indirectly illuminated as a result of a lighting plan primarily designed as security lighting or landscape lighting are not **ILLUMINATED SIGNS**. Illuminated Signs must meet the requirements of Chapter 156.041, Outdoor Lighting Regulations as to size, intensity, design, and must not constitute a public nuisance or public safety issue.

ILLUMINATION. As applied to any sign, the intensity or brightness of light expressed in foot candles that are in compliance with the City's Outdoor Lighting Regulations at Chapter 156.041, as follows: "The maximum illumination on any outdoor surface or object, including signs, from all fixtures or light sources, whether installed before or after the effective date of this section, including lighting of externally illuminated and internally illuminated signs, shall not exceed:

(a) Six footcandles in districts SF-1 through SF-6, TH/C, DU-1, 4PLX, MF-1, MF-1 A, MF-2, RR, PUD, and unzoned tracts where a residence exists;

(b) Eighteen footcandles in other districts and unzoned tracts where a business exists and is open; or

(c) Three footcandles in other districts and unzoned tracts where a business is closed or does not exist;"

INTEGRAL SIGN. A sign indicating the name of a building, as distinct and clearly distinguished from the name of a business, institution or other entity occupying the

building, or indicating the date or other information of historical interest about the building's construction, when such sign is cut or molded into a masonry surface which forms part of a wall of the building or when it is constructed as a plaque or tablet of bronze or other noncombustible material and permanently mounted on the face of the building.

LEGAL NON-CONFORMING SIGN. A sign that lawfully existed as of 4-11-2007 (the original adoption date of this chapter), but does not conform to all of the regulations contained in this chapter upon the effective date of the amendments to this chapter. This term does not include signs that existed as of 4-11-2007, on trees, utility poles or pedestals or on public land or public rights-of-way without the express consent of the owner of such property.

LENS. As applied to any sign, a transparent or translucent material enclosing, surrounding or placed between a light source and the area it illuminates.

LIGHT SOURCE. As applied to any sign, any construction, including a primary transparent or translucent envelope, that emits light; such as but not limited to an incandescent lamp, an arc lamp, a fluorescent tube or a neon tube.

LINE OF SIGHT. As applied to a light source used to illuminate any sign, a straight line from the eye of an observer three feet or more above the ground to the light source and/or its lens and/or an intended or incidental specular reflecting surface.

LUMEN. A standard unit (engineering term) of light flux defined as the flux emitted by a light source of one candle.

MAXIMUM ILLUMINATION. As applied to any sign, the illumination at the point on the sign having the greatest illumination.

MINIMUM ILLUMINATION. As applied to any sign, the illumination at the point on the sign having the least illumination.

MODEL HOME SIGN. A sign that is located on the same lot as a model home in a residential subdivision and which calls the attention of prospective buyers to the model home.

MONUMENT SIGN. A sign that is built as a monument directly on the ground. This term does not include a self-supported sign.

MONUMENT SIGN, CHANGEABLE COPY. A monument sign that incorporates a changeable copy feature into the sign.

MOVING SIGN. A sign or any part of a sign which rotates, moves or uses lighting to simulate motion or animation.

NAME PLATE. A sign, mounted flat against the wall of a building and not projecting more than one inch from the face of the wall, indicating the name and/or address of the building, and/or the name of an occupant thereof, and/or the practice of a permitted home occupation therein.

NON-RESIDENTIAL SIGN DISTRICT. Any lot or tract of land located inside the city limits or in the city's extraterritorial jurisdiction, and which is not within a Residential Sign District.

PERSON. Any human individual or corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association and any other legal entity; this term includes a responsible party.

PET SIGN (LOST/FOUND). A sign that provides notice that a pet (e.g., dog or cat)

has been lost or found. Such signs provide information regarding the pet's name and description, as well as relevant contact data.

POLITICAL SIGN. A sign that supports or opposes any candidate for public office or any proposition to be voted upon at an election, or which makes a political or ideological statement in the nature of constitutionally protected non-commercial free speech.

PORTABLE SIGN. Any sign that is not permanently attached to the ground or to a permanent structure, or a sign designed to be transported, whether on attached wheels or otherwise. This term does not include construction signs, on-site event signs, off-site event signs, realty signs, sidewalk signs and political signs.

PROJECTING SIGN. Any sign whose outside edge extends more than 12 inches from the face of a wall to which it is attached, or which extends at any point above or beyond the end of a wall to which it is attached. This term does not include an awning sign or canopy sign.

PROMOTIONAL SIGN. Any generic sign promoting a product or service by brand name and that is not specific to the establishment displaying the sign. Such signs are typically provided to vendors by distributors or manufacturers and can be used by any vendor of such products or services.

PUBLIC RIGHT-OF-WAY. The area on, below, above or bordering a public roadway, highway, street, sidewalk, alley, water way or easement, in which the city, any other governmental entity or any public utility has an interest.

PUBLIC SERVICE SIGN. A sign or part of a sign that is devoted to messages of general public information without other commercial content, such as the current time and temperature, the location or an event, services being provided by the City or other public entity within the City and its ETJ, such as a school, Church, or community center.

REALTY SIGN. A sign which advertises the property on which it is located for sale, lease or rent.

REFLECTED ILLUMINATION. As applied to any sign, the light from a light source used to illuminate the sign reflected from any surface.

RESIDENTIAL DEVELOPMENT SIGN. A sign at the entrance to a residential development within the City, such as a series of townhouses, an apartment complex or a residential subdivision, that identifies the name and/or the address of the residential development.

RESIDENTIAL SIGN DISTRICT. Any lot or tract of land which is located inside the city limits or in the city's extraterritorial jurisdiction, and which:

- (a) Is vacant;
- (b) Is in any form of agricultural use;
- (c) Has a residence as the principal use; or
- (d) Is zoned for residential use, including multi-family residential of any form.

RESPONSIBLE PARTY or PARTY RESPONSIBLE. The person, firm, organization or other entity whose establishment, product, service, activity or enterprise of any character is announced or advertised by the sign, or whose message is carried by the sign, and the owner of the land upon which the sign is located and the owner of the sign. The term expressly includes a tenant/lessee who exercises control or authority over a sign.

ROOF SIGN. Any sign that is mounted on or above the roof of a building or is supported by or painted on or applied to the roof of a building. This term does not

include a projecting sign whose principal support fixtures are attached to a wall.

SELF-SUPPORTED SIGN. A permanent sign above the ground that is erected on supports placed on or anchored in the ground, and which is independent of any other structure for its support. This term does not include a monument sign.

SIDEWALK SIGN. A sign, regardless of its construction, that is designed to be placed temporarily on the ground or sidewalk adjacent to or in the immediate vicinity of an establishment in order to advertise or call attention to the goods or services offered at that establishment.

SIGN. Any structure, display, light device, figure, painting, drawing, message, plaque, poster, billboard, letter or series of letters, symbol, trademark, logo or device designed, intended or used to advertise, inform, convey or attract the attention of people to the subject matter thereof, including an individual, firm, profession, business, organization, institution, commodity, product, service, activity, cause or purpose. This term includes signs that, as part of a Holiday Display, are designed to attract the attention of people to a specific subject matter, including a cause or purpose. This term does not include a traffic-control device erected or maintained by a governmental entity.

SINGLE-FAMILY ADDRESS SIGN. A sign that identifies the name of the occupants and/or the address of a single-family or duplex residence. This term does not include any commercial sign or a name plate.

SPECULAR REFLECTING SURFACE. Any mirror-like surface, whether part of a fixture or not, that reflects an image (no matter how imperfect or distorted) of a light source.

VEHICULAR SIGN. A vehicle, whether motorized on a trailer, that is mounted above the ground as a sign or part of a sign, or any sign attached to or painted on such a vehicle, including a digital or changeable sign, which is mounted above the ground or which is parked so as to be visible from a street when such vehicle is not actually used for transportation in the day-to-day affairs of its owner, as evidenced by current license plates and a current state inspection sticker. This term also includes signs in a vehicle advertising the vehicle itself for sale.

WAIVER. A deviation or departure from a strict standard, or application of one or more specific provisions in this chapter.

(C) *Types of signs.* Particular types of signs are defined by their purpose or use, by their location, and by the nature of their construction, and therefore any one actual sign may be encompassed by multiple definitions and subject to the regulations in multiple sections of this chapter. Types of signs that are regulated by this chapter are defined as follows.

WALL SIGN. A sign painted on or mounted parallel to a wall of any building; provided that, the sign does not project over any public land or street right-of-way, or extend more than 12 inches from the face of the wall to which the sign is mounted, or extend at any point above or beyond the end of such wall. This term does not include a name plate or an integral sign. This term includes any sign which is painted on or placed inside or upon a door or window, or another opening in such wall or which is placed inside a building and oriented so as to be read from any such opening.

WALL SIGN, CHANGEABLE COPY. A wall sign, which incorporates a changeable copy feature into the sign. This term includes any sign which is painted on or placed inside or upon a door or window, or another opening in such wall, or which is placed

inside a building and oriented so as to be read from any such opening.
(Ord. 08-118, passed 11-12-2008)

§ 152.06 SIGN MAINTENANCE.

(A) *Maintenance required.* All signs must be maintained in a structurally safe condition, freshly painted and/or in good repair. The City Manager shall notify, by certified mail, the responsible party for any sign not so maintained, and the responsible party shall be required to perform the necessary maintenance or repairs within 30 days of the postmark on the notice. Any sign not repaired within the allotted time may be removed by the city and the actual cost of such removal shall be charged to the responsible party for the sign. If a sign is removed by the city and remains unclaimed for a period of more than 30 days, the city may destroy, sell or otherwise dispose of the sign.

(B) *Removal of hazardous signs.* Any sign which, in the judgment of the City Manager or their authorized representative, has become an imminent hazard to public safety, either because it causes a traffic hazard or because of neglect that makes it creates an unsafe condition, shall be repaired or removed by the responsible party within 72 hours of notice. Notice of the existence of the hazard shall specify the maximum time which may be allowed for repairs or removal in order to ensure public safety, and the notice may be served upon the responsible party by any means available. A hazardous sign which is not repaired or removed within the time specified in the notice shall be removed by the City and the cost of such removal shall be charged to the responsible party.

If, in the judgment of the City Engineer, the sign presents an immediate risk, the sign may be removed by the City without notification to the sign owner. If a sign has been removed by the city as a hazardous sign and the sign remains unclaimed for a period of more than 30 days, the city may destroy, sell or otherwise dispose of the sign.

(Ord. 08-118, passed 11-12-2008) Penalty, see § 152.99

§ 152.07 LEGAL NON-CONFORMING SIGNS.

(A) *Continuation in use.*

(1) Legal non-conforming signs may be continued in use. However, if the use of a legal non-conforming sign is discontinued because it does not contain any message for a continuous period of 90 days or more, then the sign must be removed or brought into full compliance with this chapter by the responsible party. Any future use of the sign must be in full compliance with this chapter.

(2) A legal non-conforming sign must be removed or brought into full compliance with this chapter if the sign names, advertises or calls attention to a business, service, institution, purpose, organization, cause or activity that was in existence on or before the original adoption of this chapter on 4-11-2007, but subsequently ceased existence or has been discontinued for a continuous period of 90 days or more. The owner of a legal non-conforming sign in existence on or before the original adoption of this chapter must provide proof of prior acceptance or approval by the city for the legal non-conforming sign. Proof of prior acceptance or approval must be provided to the City Manager/Administrator. Acceptable forms of proof include, but are not limited to permits, receipts, letter from the city and the like. An owner of a legal non-conforming sign that is unable to provide proof of prior acceptance or approval by the city for the legal non-

conforming sign must apply for a waiver from the city, according to § 152.08 of this chapter.

(3) The lighting installation for a legal non-conforming illuminated sign shall be brought into conformity with this Chapter and the City's Dark Skies Ordinance (Chapter 156.041) within a period of three years from the effective date of the ordinance.

(B) *Limitations on modification.* No legal non-conforming sign may be enlarged in area, increased in height, expanded, moved, altered or remodeled in any respect unless and until a responsible party applies for and receives a sign permit and is in all respects brought into conformity with this chapter. However, subject to division (C) below, a legal non-conforming sign may be repainted or repaired, provided that no other change is made in the construction of the sign. Legal non-conforming signs that are prohibited by §§ 152.41 and 152.42 of this chapter may not be enlarged in area, increased in height, expanded, moved, altered or remodeled in any respect. Legal non-conforming signs enlarged in area, increased in height, expanded, moved, altered or remodeled without a sign permit shall lose its legal non-conforming status and be subject to enforcement pursuant to this chapter.

(C) *Removal of destroyed signs.* A legal non-conforming sign shall be considered destroyed if the cost of repairing the sign is more than 60% of the cost of erecting a new sign of the same type at the same location. A destroyed sign must be removed by the responsible party without compensation by the city and within 30 days of the damage. A legal non-conforming sign that has been destroyed may not be replaced or rebuilt, except by a sign which is constructed and located in full conformity with this chapter. (Ord. 08-118, passed 11-12-2008) Penalty, see § 152.99

§ 152.08 WAIVERS.

(A) *Presumption.* There is a presumption against the granting of waivers to this chapter.

(B) *Timing.* A waiver request will be reviewed more favorably when submitted concurrently with one of the following applications:

- (1) Plat;
- (2) Building permit;
- (3) Rezoning; or
- (4) Site development.

(C) *Application and fee required.* A waiver is a written approval to depart from the strict application of one or more specific provisions of this chapter. Any person, business or other organization desiring to continue a use, construction or placement of any sign which does not conform to the provisions of this chapter may make an application to the City Council for a waiver allowing the continued use, construction or placement of such a sign. The application shall be filed with the City designated City Staff accompanied by the appropriate fee established by the Master Fee Schedule and include a drawing or sketch with sufficient detail to determine the location and type of construction for the proposed sign.

(D) *Standards for waivers.* The City Council may approve a waiver only if it makes affirmative findings, reflected in the minutes of the City Council's proceedings, as to all of the following:

- (1) The waiver will not authorize a type of sign which is specifically prohibited by § 152.41 of this chapter;

(2) The waiver will not authorize a type of sign which is prohibited by § 152.42 of this chapter;

(3) The waiver is not contrary to the public interest;

(4) Due to special conditions, a literal enforcement of this chapter would result in unnecessary hardship. Ordinarily, hardship that is self-induced or that is common to other similarly classified properties will not satisfy this requirement. Financial or economic hardship alone will not ordinarily satisfy this requirement.

(5) The spirit and purpose of this chapter will be observed and the design guidelines set forth in §§ 152.20 through 152.25 of this chapter are substantially met and substantial justice will be done.

(E) *Conditions of waivers.* The City Council may impose such conditions or requirements in a waiver as are necessary, in the City Council's judgment, to protect the overall character of the community and to achieve the fundamental purposes of this chapter. A violation of such conditions or requirements shall constitute a violation of this chapter. A waiver if granted, shall be for a specific event, use or other application of a business and shall not continue with the property. If a waiver is granted and the sign so authorized is not substantially under construction within six months of the date of approval of the waiver, the waiver shall lapse and have no force or effect.

(F) *Master sign plan.* Any project seeking city approval of more than three signs that require waivers must submit to the city a master sign plan.
(Ord. 08-118, passed 11-12-2008)

DESIGN GUIDELINES

§ 152.20 POLICY.

It is the policy of the city to encourage signage which is appropriate to the hill country setting and the rural scale of the city and the county, and to discourage signs which are in conflict with the established character of the community. To this end, all sign owners are required to conform to the following guidelines for sign location, configuration, placement, materials and lighting.

(Ord. 08-118, passed 11-12-2008)

§ 152.21 LOCATION.

Signs shall be located with sensitivity to preserving the natural landscape, and scenic setting, or environment. Signs shall be incidental complements to the principal use of a site, and should never be allowed to visually dominate a site.

(Ord. 08-118, passed 11-12-2008) Penalty, see § 152.99

§ 152.22 CONFIGURATION.

The height, width and area of a sign must all be in proportion to the dimensions of a building to which the sign is attached and in architectural harmony with surrounding structures. Sign dimensions should respect the size, scale and mass of a building facade, the height of the building and the rhythms and sizes of window and door openings.

(Ord. 08-118, passed 11-12-2008) Penalty, see § 152.99

§ 152.23 PLACEMENT.

No sign should be placed upon a building or structure in any manner that would disfigure, damage or conceal any significant architectural feature or detail of the building.

(Ord. 08-118, passed 11-12-2008) Penalty, see § 152.99

§ 152.24 MATERIALS.

Sign materials shall be predominantly natural, such as native stone, rough cedar, pine or other types of wood, metal or materials that simulate natural materials and sign colors should be in harmony with the natural surroundings.

(Ord. 08-118, passed 11-12-2008) Penalty, see § 152.99

§ 152.25 LIGHTING.

Lighting shall be no brighter than is necessary to permit the sign to be read from a reasonable distance and shall be compliant with the City Dark Skies Ordinances (cite here).

(Ord. 08-118, passed 11-12-2008) Penalty, see § 152.99

§ 152.26 RIGHTS-OF-WAY SIGNS.

(A) *Ratification and confirmation.* The installation, placement and erection of signs within the city rights-of-way as set forth hereto in division (C) below are hereby confirmed and ratified by the City Council.

(B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

RIGHTS-OF-WAY. The **rights-of-way** (ROW) is the area owned and/or controlled by the **City** and typically includes the street surface, sidewalks, and grassy areas between pavement and property lines.

SIGN. Any structure, display, light device, figure, painting, drawing, message, plaque, poster, billboard, letter or series of letters, symbol, trademark, logo or device designed, intended or used to advertise, inform, convey or attract the attention of people to the subject matter thereof, including an individual, firm, profession, business, organization, institution, commodity, product, service, activity, cause or purpose. This term does not include a traffic-control device erected or maintained by a governmental entity.

WAIVER. A departure or deviation from a strict standard, or application of one or more specific provisions of this section.

(C) *Rights-of-way signs.* For the purpose of advertising or messaging, including but not limited to, public service messages, garage, yard, open house and estate sales within the city, public events, the City Council hereby orders and directs that the City Manager authorize and implement the following provisions governing the placement of signs in the city's rights-of-way at the locations designated, and that such signs and devices be hereafter maintained and enforced by the city.

(1) The City Manager is hereby instructed to implement the construction and placement of removable weather-proof sign holders at each of the following locations,

- (a) Northwest corner of Ranch Road 12 and Brookmeadow Drive;
- (b) Northeast corner of Deerfield Drive and Woodcreek Drive;
- (c) Northeast corner of Triangle Park;
- (d) Northwest corner of Triangle Park;
- (e) Southwest corner of Woodcreek Drive and Ranch Road 12;
- (f) Intersection of Brookmeadow Drive and Augusta Drive;
- (g) Intersection of Champions Circle and Woodcreek Drive.

(2) The sign holders shall be constructed in a manner to allow the placement of a sign no larger than 24 inches wide by 30 inches high.

(3) In no instance shall the maximum height of any sign or sign holder exceed 36

inches above ground level.

(4) Written applications to place signs at the designated locations shall be submitted to the City Manager no earlier than 30 days in advance of the date for which the sign placement is requested.

(5) Applicants must submit a permit application, along with a \$25 application fee for the first sign, to the City Manager in a timely fashion as described above. Signs at each additional location require an additional \$10 fee per location.

(6) Signs shall be considered on a first-come, first-serve basis,

(7) No more than three signs are permitted at any one location at any one time.

(8) Signs shall be limited to 72 hours total placement time before removal. The City Manager may authorize an extension of up to 48 additional hours.

(9) In no instance shall streamers, balloons, strobe lights, or any other attachment to the signs be permitted.

(10) In the event the signs are not removed by the applicant or applicant's agent by the date and time set forth on the approved application and permit, the city may remove and dispose of the sign.

(Ord. 12-164, passed 7-11-2012; Ord. 13-177, passed 2-13-2013; Ord. 14-204, passed 9-10-2014; Ord. 16-222, passed 7-13-2016) Penalty, see § 152.99

PROHIBITIONS AND RESTRICTIONS

§ 152.40 EXEMPTIONS FOR CERTAIN SIGNS.

The following types of signs are exempt from regulation under this chapter:

(A) Any sign inside a building, not attached to a window or door and not oriented so as to be read from outside the building;

(B) Commemorative plaques and historical markers mounted on the face of a building or erected on a site as a freestanding monument, when placed by a governmental entity, historical society or religious organization to commemorate a person, event or other matter of historical interest; and

(C) Any sign erected or required to be erected by any governmental entity or public utility to give information, directions or warnings to the general public, regardless of the sign's location on public or private property.

(Ord. 08-118, passed 11-12-2008)

§ 152.41 PROHIBITED SIGNS GENERALLY.

No person shall construct, place, erect or use signs of the following nature on any property within the city limits or extraterritorial jurisdiction of the city:

(A) Balloons; No balloons (as we described them) are allowed with the exception of latex balloons, not to exceed 9" or mylar balloons of a width no greater than 24" in a cluster of no more than 10 total, which are physically attached to a sign or permanent object and not released into the environment.

(B) Beacons;

(C) Billboards;

(D) Flashing signs;

(E) Moving signs;

(F) Portable signs;

(G) Promotional signs, except those located on or inside of a window of an establishment;

(H) Roof signs;

(I) Sidewalk signs;

(J) Vehicular signs, other than one sign advertising the vehicle itself for sale not to exceed one and one-half square feet in area in the window of the vehicle;

(K) Posters, pennants, ribbons, streamers, strings of light bulbs, spinners or other similar devices. Flags and banners, as regulated elsewhere in this chapter, are not included in this prohibition. This provision does not apply to temporary strings of light bulbs used solely in celebration of religious or cultural holidays, or to strings of "miniature Christmas tree type" white lights attached to an establishment for a period not to exceed 60 days;

(L) Signs that contain statements, words or pictures of an obscene, indecent or immoral character or which offend public morals or decency;

(M) Signs that the City Engineer identifies as constituting a hazard to vehicular or pedestrian traffic either because their location interferes with or obstructs the view of a traffic sign, signal or device or because their design or content may be confused with or construed as a traffic sign, signal or device;

(N) Commercial signs of any character, in any form of construction, and at any location except as permitted by this chapter;

(O) Signs whose wording or other contents, directly or indirectly, names, advertises or calls attention to any business, product, service, institution, organization, event, cause, purpose or activity that has ceased to be in operation for more than 30 days; and

(P) Directional signs that direct motorists to park or not park on public property or public right-of-way. This provision does not apply to the particular governmental entity that is the owner, custodian, trustee or manager of the public land or public rights-of-way. An exception to this requirement shall be made for community events, such as the Annual Home Tour and other events benefitting the community.

(Ord. 08-118, passed 11-12-2008) Penalty, see § 152.99

§ 152.42 PROHIBITED SIGNS IN RESIDENTIAL DISTRICTS.

In addition to the types of signs enumerated in § 152.41 of this chapter, no person shall construct, place, erect or use any of the following types of signs in a Residential Sign District within the city limits or the city's extraterritorial jurisdiction.

(A) Attached sign;

(B) Auxiliary sign;

(C) Awning sign;

(D) Banner;

(E) Canopy sign;

(F) Changeable copy sign;

(G) Commercial sign;

(H) Drive-through window sign;

(I) Monument sign, changeable copy;

(J) Moving sign;

(K) Projecting sign;

(L) Promotional sign;

(M) Roof sign;

(N) Sidewalk sign;

(O) Wall sign.

(Ord. 08-118, passed 11-12-2008) Penalty, see § 152.99

§ 152.43 RESTRICTIONS ON CERTAIN SIGNS.

No person shall construct, place or erect the following signs, except as provided in this chapter.

(A) *Attached signs.* In aggregate, the area of attached signs in a Non-Residential Sign District cannot exceed the lesser of 10% of the area of the wall to which they relate, including windows and doors, or 30 square feet.

(B) *Auxiliary signs.* The aggregate area of all auxiliary signs on any establishment shall not exceed two square feet.

(C) *Awning signs.* Awning signs may not exceed 16 square feet in area.

(D) *Banners.* Banners must be securely attached to a building or other permanent structure and must be kept in good repair throughout the time of their display. No establishment may display more than two banners at any one time. Banners, including community service signs, shall not exceed 12 square feet in area and they shall not be erected for more than 30 days in succession. They shall be removed by the responsible party within no more than three days following any event to which they relate and they shall not be placed on any site more than three times within a 12-month period.

(E) *Bulletin boards.* A bulletin board may be located only on the premises of the institution or organization to whose activities it pertains. A bulletin board may not exceed 16 square feet in area.

(F) *Canopy signs.* Only one canopy sign may be permitted per establishment. No canopy sign may extend beyond an edge of the canopy structure to which it is attached. Except at a corner, no canopy sign may be closer than five feet from the end of the longer side of the canopy structure. A canopy sign which is perpendicular to a building face may not exceed two-thirds of the width of the canopy structure or exceed eight square feet in area. A minimum spacing of ten feet must be provided between such canopy signs. A canopy sign which is parallel to a building face may not exceed two-thirds of the length of the canopy structure or exceed 16 square feet in area. No canopy sign may extend more than two feet either above or below the horizontal underside of the canopy structure. No canopy sign shall be less than seven feet from ground clearance.

(G) *Community service signs.* A community service sign may be erected only by a unit of government, school, chamber of commerce, religious organization or other non-profit agency. The area of a community service sign may not exceed six square feet in area in a Residential Sign District or 14 square feet in a Non-Residential Sign District. A community service sign that promotes any particular event may not be erected more than 30 days in succession or for more than 14 days prior to the event, and all such signs must be removed by the responsible party not more than three days after the event. Community service signs that are banners are further controlled by the provisions herein relating to banners.

(H) *Construction signs.* The area of a construction sign may not exceed eight square feet and the height may not exceed four feet. Only one construction sign may be permitted per street fronting a building or other project under construction, reconstruction or repair; except that, one additional sign, not exceeding three square feet in area, may be placed on the site by any individual contractor or subcontractor working on the project and not acknowledged on the principal sign. No part of a construction sign may exceed a height of six feet. Construction signs which are larger

than three square feet in area and not securely mounted on a wall shall be set back at least ten feet from the property line or edge of the right-of-way. Within the city limits, a construction sign may not be erected before the city has issued a building permit for the project to which the sign refers, and all such signs must be removed within 15 days after the city issues a certificate of occupancy for the project. In the city's extraterritorial jurisdiction, a construction sign may not be erected before the start of actual construction of the project to which the sign refers, and all such signs must be removed within 15 days after the completion of the project post-approval of site plan (if required).

(I) *Directional signs.* A directional sign may not contain any commercial message, except the name, logo or other symbolic identification of the establishment to which the sign is secondary. The area of a directional sign may not exceed six square feet. Directional signs must be located solely on the premises of the establishment to which they relate.

(J) *Drive-through window signs.* The area of a drive-through window sign may not exceed ten square feet.

(K) *Event signs, off-site.* Off-site event signs may not exceed an area of three square feet and may not be illuminated signs. Such signs may be placed only on private property and only with the consent of the owner of the property. No more than three such signs may be used to give directions to the same event. Such signs may not be placed more than 14 days prior to the event, and all such signs must be removed by the responsible party within one day after the conclusion of the event.

(L) *Event signs, on-site.* An on-site event sign may not exceed an area of three square feet at a residence or 16 square feet at any other location. Such sign may not be placed more than 14 days prior to the event, and it must be removed by the responsible party within one day after the conclusion of the event. There shall be no more than three on-site event signs for any event.

(M) *Flags.* Except for flags that are located on public land, no flagpole may be higher than 20 feet. At any establishment, the entire area of all flags (other than governmental flags) shall be counted toward the limit on the area of a self-supported sign on the premises. Except for governmental flags, no flags may be illuminated.

(N) *Freestanding signs.* Only one freestanding sign may be permitted per individual freestanding establishment. Only one freestanding sign may be permitted for a commercial complex; except that, a commercial complex with a land area of two acres or more may have one such free standing sign along each street which borders the complex for a distance of 200 feet or more. Such sign or signs may only identify the name and/or address of the complex and the individual tenants in the complex. If the structure of a freestanding sign contains or supports more than one sign, then each such sign must be of the same construction, coloring, design and style. A separate free standing sign for an individual establishment located within a commercial complex may be permitted only if the establishment meets both of the following conditions:

- (1) The establishment is located along a street bordering the complex and in a separate building from the principal building of the complex; and
- (2) The establishment has a separate driveway from the principal driveway entrance of the complex, and a separate parking area from the principal parking area of the complex, which may connect with the principal parking area, but is visually set off from that area by fencing or landscaping. If a landscaped area is installed at the base of

a freestanding sign, this landscaped area shall be protected from damage by pedestrian and vehicular traffic by a retaining wall or other barrier or method of separation acceptable to the City Manager/Administrator. The plants in such landscaped area shall be maintained in a healthy condition, and the area shall be kept free of weeds, trash and debris by the responsible party.

(O) *Facilities location signs.* Facilities location signs designed to provide directions to the golf course (e.g., the Quicksand at Woodcreek Golf Club Pro Shop) and to the entrance to Camp Young Judea, are subject to the following requirements.

(1) *Location and number of signs.* There shall be a maximum of four facility direction signs for the golf course facility. Two of the signs shall be permitted on the property owned by the city at the RR 12 entrance to the city. One sign shall be permitted on the city right-of-way at the Woodcreek Drive west entrance to the city. One sign shall be permitted on the city-owned right-of-way at the intersection of Woodcreek Drive and Pro Lane. There shall be a maximum of two facilities directions signs for Camp Young Judea. One sign shall be permitted on city-owned property at the intersection of Brookhollow Drive and Woodcreek Drive, and one sign shall be permitted on city-owned right-of-way at the intersection of Brookhollow Drive and Jack Miller Drive.

(2) *Construction and materials.* Sign materials shall be predominately natural, such as stone, cedar or other types of wood or materials that simulate natural materials. The RR 12 signs may have directional copy on both sides, as they will be perpendicular to the street. All signs shall be a maximum of three feet in height and five feet in width. The maximum distance between the bottom of the sign and the ground shall be two feet.

(3) *Approval and removal.* The City Council shall have right of approval of the design of such signs and shall require a permit for them, prior to installation. It shall be the responsibility of the owners/management of the facilities to install and maintain the signs in good condition. In the event that the signs are no longer needed or not maintained in good condition, the City may require removal of the signs, at the expense of their owners.

(P) *Garage sale signs.* Garage sale signs shall not be posted on any property within the city limits or the ETJ, other than the posting locations designated by the City and the property that is the site of the garage sale. A permit is required to post in any or all of the locations designated by the City. The application for the permit may be found on the City's website. A garage sale sign may not exceed four square feet and may be erected no more than two days prior and one day after the garage sale.

(Q) *Illuminated signs.* Illuminated signs that are internally illuminated, other than residential development signs and single-family address signs, may only be illuminated during the related establishment's hours of operation and for a period of no more than one hour afterward. Such internally illuminated signs may be illuminated on days that the establishment is not open for business for no longer than they are illuminated during a normal business day. The area of an illuminated sign which is internally illuminated may not exceed 18 square feet. The illumination from an illuminated sign which is internally illuminated may not exceed four foot candles at a distance of eight feet. The area of an illuminated sign, other than freestanding signs permitted in commercial complexes, may not exceed 24 square feet. Neon signs are prohibited except for signs no greater than four and one-half square feet in area located on or inside of a window of

an establishment. No illuminated sign shall be illuminated to such intensity or in such a manner as to cause glare or brightness to a degree that it constitutes a hazard or nuisance. Illuminated signs that are illuminated by mercury arc or mercury vapor light sources are prohibited. The maximum illumination of any illuminated sign shall not exceed 40 foot candles in a Non-Residential Sign District or 20 foot candles in Residential Sign Districts. The average illumination of an illuminated sign shall not exceed 20 foot candles in a Non-Residential Sign District or ten foot candles in a Residential Sign District. All light sources used with illuminated signs shall be shielded so that light is confined below the horizontal plane of the light source; except that, upward directed light may be used to illuminate governmental flags; provided, said illumination is confined to the area of the flag. There shall be no line of sight of any length from any point off the property on which a light source used to illuminate an illuminated sign is situated. Trespass illumination from all light sources on a property on which an illuminated sign is situated shall not exceed 0.1 foot candle. The measurement of trespass illumination shall be made at a point three feet above finished grade and four feet inside the boundary of the property on which the trespass illumination occurs. The measurements of the illumination of an illuminated sign shall be made at the surface of the sign. Illuminated signs not conforming to the illumination standards set forth above shall constitute a hazard and a nuisance.

(R) *Integrated signs.* The area of an integrated sign shall not be counted toward the limit on the area of wall signs on the same wall; provided that, the integrated sign contains no commercial message substantially duplicating another sign.

(S) *Model home signs.* A model home sign may be erected only on the actual site of a model home, and only one such sign may be erected on the site. The area of a model home sign may not exceed eight square feet, and the height of a model home sign may not exceed six feet. A model home sign may not be an internally illuminated sign, but may be externally lighted until 10:00 p.m. All model home signs must be removed within 30 days after 90% of the homes in the subdivision are sold.

(T) *Monument signs.* The area of a monument sign for an individual establishment may not exceed 24 square feet in any Non-Residential Sign District. The area of a monument sign for a commercial complex may not exceed 12 square feet. The height of a monument sign may not exceed eight feet.

(U) *Monument sign, changeable copy.* The changeable copy portion of the sign shall not exceed six square feet in area.

(V) *Name plates.* The area of a name plate may not exceed one square foot in a Residential Sign District or two square feet in a Non-Residential Sign District. Only one name plate may be permitted per residence or establishment.

(W) *Pet signs (lost/found).* ~~Pet signs may be placed only at the public bulletin board located at the Triangle Park at the intersection of Woodcreek Drive and Brookhollow Drive. Persons wishing to post a pet sign must contact the city Administrator during normal business hours for approval. The person posting the signs should remove pet signs from the public bulletin board 15 days after posting.~~

(X) *Political signs.* Political signs may be placed only on the premises of a person or entity upon receipt of that person's or entity's express authorization. No political sign may be placed in, on or over any public right-of-way or publicly-owned land. Political signs may not have an effective area greater than 36 feet, be more than eight feet high,

be illuminated or have any moving parts. Political signs must be taken down within 10 days after the election.

(Y) *Projecting signs.* Only one projecting sign may be permitted per establishment; except that, in an establishment which is located on the corner of a street intersection or at the end of a building in a commercial complex, the establishment may have one projecting sign on the front wall and one projecting sign on the side wall of the building. The area of a projecting sign may not exceed 12 square feet. No projecting sign may exceed a height of 12 feet. No projecting sign may extend above any roof line of the wall of the building to which it is attached, nor beyond the end of the wall to which it is attached. A projecting sign attached to a building on private property may not extend over any public land, except a sidewalk adjacent to a building which is lawfully built up to the public right-of-way.

(Z) *Public service signs.* A public service sign may be placed only in a Non-Residential Sign District and only on the same lot or tract of land as the establishment sponsoring the sign. The area of a public service sign may not exceed 12 square feet, regardless of whether the public service sign is a separate sign or integrated as a component of another sign. Residents are allowed to post public service signs, including signs supporting political candidate, charities, or political organizations on their private property.

(AA) *Realty signs.* Realty signs may be placed only upon the premises to which they refer, and only one such sign may be permitted per street fronting the lot or tract. The area of a realty sign may not exceed eight square feet and the height may not exceed four feet. For properties on the golf course, an additional sign may be placed on the area of the property fronting the golf course.

(BB) *Residential development signs.* In addition to the name and/or the address of the residential development, a residential development sign may incorporate incidental leasing information and/or the contents of a directional sign. A residential development may have no more than one residential development sign for each street fronting such development. For a residential development with six or fewer residential units, the area of a residential development sign may not exceed eight square feet. For a residential development with more than six residential units, the area of a residential development sign may not exceed the smaller of either two square feet per residential unit or 16 square feet in total. For a residential development sign in a condominium development or in a subdivision in which the sign is common property of the subdivision homeowners, the condominium regime or restrictive covenants must provide adequate assurance, in the judgment of the City Manager/Administrator, that the landscaped area, if present, at the base of the sign will be properly maintained by the condominium owners' association or homeowners' association.

(CC) *Self-supported signs.* The area of a self-supported sign for a single establishment may not exceed three square feet in a Residential Sign District or 24 square feet in a Non-Residential Sign District. The area of a self-supported sign for a commercial complex may not exceed 12 square feet in a Residential Sign District or 64 square feet in a Non-Residential Sign District. For a commercial complex in a Non-Residential Sign District with a land area of two acres or more and frontage of 200 feet or more on each of two or more streets and more than one self-supported sign, the total area of all self-supported signs may not exceed 100 square feet. The height of a self-

supported sign may not exceed ten feet for a single establishment or 12 feet for a commercial complex in a Non-Residential Sign District or four feet in a Residential Sign District.

(DD) *Single-family address signs.* In addition to the name of the occupants and/or the address of the residence, a single-family address sign may contain an incidental personal message from the occupants, but it may not contain any commercial sign. The area of a single-family address sign may not exceed three square feet.

(EE) *Wall signs.* A wall sign which is not painted directly on the surface of a wall must be securely mounted to and supported by the wall throughout the length and width of the sign. Only one wall sign may be permitted per establishment. The area of a wall sign on any single wall may not exceed an area greater than 3% of the area of that wall, including windows and doors, or 30 square feet, whichever is less. The changeable copy portion of any wall sign shall not exceed eight square feet in area.

(Ord. 08-118, passed 11-12-2008) Penalty, see § 152.99

§ 152.44 UNIFORM SIGN RESTRICTIONS.

(A) No person shall construct, place, erect or use a sign anywhere in the city limits or the city's extraterritorial jurisdiction, except in accordance with city ordinances.

(B) No sign may be placed on or attached to any tree.

(C) No sign may be placed on or attached to any utility pole or pedestal, except by a utility company owning the pole or pedestal or operating facilities mounted on the pole or in the pedestal.

(D) Signs no longer in use must be removed if the sign's name advertises or calls attention to a business, service, product, institution, purpose, organization, cause or activity that has been discontinued, ceased operation, has not been offered on the site or is out of existence for a continuous period of 30 days or more.

(E) No sign or part of a sign, including mounting fixtures and supporting structures, may be located on or above any public land or public rights-of-way, except in areas designated by the City and with the proper permit or permission of this chapter. This provision does not apply to the particular governmental entity that is owner, custodian, trustee or manager of the public land or public rights-of-way.

(F) No sign or part of a sign, including mounting fixtures and supporting structures, which is mounted above or projects over any sidewalk, street, drive or parking area, whether on public or private land, may be hung with less than seven feet of vertical clearance above the sidewalk or less than 15 feet of vertical clearance above the street, drive or parking area.

(G) No sign may be located on any sidewalk or in any unpaved walkway intended for public use.

(H) No sign or part of a sign frame may be located between two feet and ten feet above the established ground level within the area of a clear sight triangle for traffic extending 25 feet in each direction from the point of a street intersection.

(I) No sign may be located closer than six feet laterally to a secondary power line or closer than ten feet laterally to a primary power line.

(J) No illuminated sign, and no permanent sign, except a directional sign, may be mounted or placed on or extend above the side wall or rear wall of any building, or be located in the side yard or rear yard of any lot or tract of land, when such sign faces upon and is visible from a contiguous Residential Sign District.

(K) No part of a sign attached to a building shall extend beyond any roof line of the portion of the building to which it is attached.

(L) A person may not place, maintain or display on or in view of a public street a sign, signal, marking or device that:

(1) Imitates or resembles an official traffic-control device or railroad sign or signal;

(2) Attempts to direct the movement of traffic; or

(3) Hides from view or hinders the effectiveness of an official traffic-control device or railroad sign or signal.

(Ord. 08-118, passed 11-12-2008) Penalty, see § 152.99

PERMITS

§ 152.55 PERMIT AND FEE REQUIRED.

Except as provided in § 152.57 of this chapter, no person may construct, place, erect, install, alter, repair or relocate any sign without first obtaining a sign permit from the designated City Staff. Applications for a sign permit shall be submitted in conjunction with any required building permit or prior to the construction, placement, erection, installation, alteration, reparation or relocation of any sign, except as provided in § 152.57 of this chapter. Each application for a sign permit must be accompanied by the appropriate fee established in the City's Master Rate Schedule ([link here](#)).

(Ord. 08-118, passed 11-12-2008) Penalty, see § 152.99

§ 152.56 PERMIT APPLICATION.

The application for a sign permit shall include a completed sign application form; complete information on all aspects of the proposed sign, including type, dimensions, design, content, purpose, placement; a sample set of the proposed materials and/or paint colors; construction plans; and such drawings, descriptions and specifications as are reasonably determined by the City Manager/Administrator to be necessary for proper review of the application. Any other documentation, including photographs and catalogs, which may further support the application, is encouraged to be included. For temporary signs, such as estate or garage sales, the applicant may present a the sign(s) for posting at the time of application.

(Ord. 08-118, passed 11-12-2008)

§ 152.57 PERMIT EXEMPTIONS.

The following types of signs are exempt from the requirement to obtain a sign permit; provided, the signs are not illuminated signs, either internally or externally, and provided the signs comply with all other provisions of this chapter and other applicable codes:

(A) Auxiliary signs, such as signs providing general information such as pricing, official notices or services required by law, or signs giving directions to offices, restrooms, exits and like facilities;

(B) Flags of governments, churches or schools;

(C) Name plates;

(D) Political signs;

(E) Pet signs (lost/found);

(F) Realty signs;

(G) Single-family address signs;

(H) Religious signs or signs expressing support for a religious or political cause.

(Ord. 08-118, passed 11-12-2008)

§ 152.58 ACTIONS EXEMPT FROM PERMIT.

The following actions are also exempt from the requirement of a sign permit:

(A) Repainting, rearranging or replacing letters or characters on an existing sign; provided that, the area of the sign is not enlarged, the height of the sign is not increased, the location of the sign is not changed and/or no other change is made to the sign;

(B) Changing the copy on a bulletin board or changeable copy sign; or

(C) Replacing the fabric or other material of an awning sign when no other change is made to the sign.

(Ord. 08-118, passed 11-12-2008)

§ 152.59 EXPIRATION OF PERMITS.

All sign permits shall be for a specified term. A sign permit for any sign which use is limited to a time period specified by this chapter, or which removal is required at a certain time by this chapter, must be for a specified term that does not exceed the time limit established by this chapter. The specified time limit for the construction of a sign under a sign permit shall not exceed three months. If substantial progress has not been achieved within three months, the permit shall automatically expire. Substantial progress shall include good faith initiation of construction of the sign or significant expenditures of funds toward sign construction.

(Ord. 08-118, passed 11-12-2008)

§ 152.60 MODIFICATIONS.

After a sign permit has been issued by the City it shall be unlawful to change, modify, alter or otherwise deviate from the terms and conditions of the permit without prior approval by the City

(Ord. 08-118, passed 11-12-2008) Penalty, see § 152.99

§ 152.99 PENALTY.

(1) *Provisions.* The city shall have the power to administer and enforce the provisions of this chapter as may be required by governing law. Any person violating any provision of this chapter is subject to suit for injunctive relief as well as civil action to enforce the provisions of this Chapter and seek remedies.

(2) *Civil remedies.* Nothing in this chapter shall be construed as a waiver of the city's right to bring a civil action to enforce the provisions of this chapter and to seek remedies as allowed by law, including, but not limited to, the following:

(a) Injunctive relief to prevent specific conduct that violates the chapter or to require specific conduct that is necessary for compliance with the chapter; and

(b) A civil penalty up to \$500 a day when it is shown that the defendant was actually notified of the provisions of the chapter and after receiving notice committed acts in violation of the chapter or failed to take action necessary for compliance with the chapter; and other available relief.

(3) *Notice and removal.* In addition to remedies otherwise provided in this chapter, whenever the City has evidence of a sign which after the effective date of this chapter was erected, constructed, altered, repaired, relocated or changed in violation hereof, or is otherwise in violation hereof, the City shall require the party responsible for such sign to remove it. If the responsible party fails to remove the sign within 72 hours after being notified to do so, or if the sign poses an immediate danger to the public, then such sign may be removed by the city and the city's actual cost of removal shall be charged to the responsible party. Any sign so removed shall be impounded and shall not be returned to

the party responsible until all applicable charges are paid. If any sign remains unclaimed for a period of more than 30 days, the city may destroy, sell or otherwise dispose of the sign.

(4) *Immediate removal.* The city shall have the authority to immediately remove and dispose of signs deemed in violation of this chapter if such signs are placed on or attached to trees, utility poles or pedestals, or located on any public land or public rights-of-way. The city may enforce this section without notice and without returning the removed signs to the responsible party.

(5) *Rights-of-Way Signs.* It is a violation of § 152.26 of this chapter to place or otherwise locate a sign upon the city's rights-of-way without express written authorization as set forth herein. Any person who violates § 152.26 of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$1 and not to exceed \$200. Each incident of violation of § 152.26 of this chapter shall constitute a separate offense.

(Ord. 08-118, passed 11-12-2008; Ord. 12-164, passed 7-11-2012; Ord. 13-177, passed 2-13-2013)

ORDINANCE NO. _____

CITY OF WOODCREEK, TEXAS

REVISIONS OF CHAPTER 152 - SIGNS OF THE CODE OF ORDINANCES

AN ORDINANCE ESTABLISHING REVISIONS TO THE CITY OF WOODCREEK CODE OF ORDINANCES CHAPTER 152 – SIGNS. SUCH REVISIONS AS: TO ESTABLISH THE PURPOSE OF SIGNS AND THEIR REGULATIONS, TO MANAGE THE DIRECTION AND STRENGTH OF THE ILLUMINATION OF SIGNS TO COMPLY WITH WOODCREEK’S DARK SKY INITIATIVE, TO MODIFY DEFINITIONS, AND TO EXPAND THE PLACEMENT OF RIGHT-OF-WAY SIGNS; DEFINING TERMS, PROVIDING PENALTIES, AND PROVIDING FOR ENACTMENT, REPEALER, SEVERABILITY, CODIFICATION, AND EFFECTIVE DATE, AND FINDING PROPER NOTICE AND MEETING.

WHEREAS, the City Council of the City of Woodcreek (“City Council”) desires to keep the City an aesthetically pleasing community;

WHEREAS, the City Council has general authority to adopt the regulations herein relating to the display of signs within the City limits and the Extraterritorial Jurisdiction (ETJ),

WHEREAS, the City Council being a general-law municipality, the City has exclusive control to regulate the signs and their display within the City limits,

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Woodcreek:

1. FINDINGS OF FACTS

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

2. ENACTMENT

Chapter 152: Signs of the Code of Ordinances of the City of Woodcreek is amended as to read as Attachment A, which is attached hereto and incorporated into this Ordinance for all intents and purposes.

3. REPEALER

All ordinances, resolutions, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

4. SEVERABILITY

Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

5. CODIFICATION

The City Secretary is hereby authorized and directed to record and publish the language of Chapter 152, as amended by this Ordinance, in the City's Code of Ordinances.

6. EFFECTIVE DATE

This Ordinance shall be effective immediately upon its passage and the publication of caption of this ordinance.

7. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed and attended by a quorum of the City Council, was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551.

PASSED & APPROVED this, the _____ day of _____, 2019, by a vote of

___ Nays ___ Ayes ___ Absent and Not Voting

CITY OF WOODCREEK

ATTEST:

William Scheel, Mayor

Linda Land, City Secretary

City of Woodcreek

City of Woodcreek – Code of Ordinances

CHAPTER 152: SIGNS

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GENERAL PROVISIONS

§ 152.01 POPULAR NAME.

This chapter shall be commonly cited as the "Sign Ordinance".
(Ord. 08-118, passed 11-12-2008)

§ 152.02 JURISDICTION.

The provisions of this chapter shall apply within the city limits and extraterritorial jurisdiction (ETJ) of the city as defined by state law.

(Ord. 08-118, passed 11-12-2008)

§ 152.03 PURPOSE.

Signs are an important medium of political, religious, or personal messages for which there are no exact alternatives. A sign, unlike handbills or newspapers, readily identifies the "speaker." Signs may be subject to a regulation by a municipality, such as the City of Woodcreek, but such regulation must be consistent and not outweigh the rights to free speech. This Ordinance follows this principle and the mandates of the U. S. Supreme Court as it relates to free speech while providing for an orderly process and uniform standards.

(A) *General.* This chapter is adopted to provide for the orderly construction, erection, repair, demolition, maintenance, removal and relocation of signs within the corporate boundaries and extraterritorial jurisdiction of the city. These rules and regulations are designed to provide uniform sign standards and to promote a positive city image reflecting order, harmony and pride. More specific objectives include the following.

(B) *Safety.* To promote the safety of persons and property by providing signs that:

- (1) Do not create a hazard due to collapse, fire, collision, decay or abandonment;
- (2) Do not obstruct services by first responders or law enforcement
- (3) Do not create a traffic hazard by impairing the driver's ability to see other vehicles, pedestrians, street signage, or obstacles on the road.

(C) *Communications efficiency.* To promote the efficient transfer of information by providing for signs that:

- (1) Give priority to messages and information most needed and sought by the public;
- (2) Allow businesses and services to identify themselves;
- (3) Allow customers and other persons to locate a business or service;
- (4) Do not arbitrarily deny any person or group the use of the lines of vision from the public right-of-way; and
- (5) Do not overwhelm persons by the number of messages presented or do not inhibit the observer's freedom of choice to observe or ignore said messages, according to the observer's purpose.

(D) *Landscape quality and preservation.* To protect the public welfare and to enhance the appearance and economic value of the city, by providing those signs that:

- (1) Do not interfere with scenic views;
- (2) If illuminated and containing 1 or more lamps and include any lenses, reflectors, and shields designed to direct the light in a defined manner comply with the City's Dark Skies Ordinance Chapter 156.041;
- (3) Do not create a nuisance or present a hazard to persons using the public rights-of-way;
- (4) Do not create a nuisance to occupants of any property by their brightness, size, height or movement; and
- (5) Do not diminish or are not detrimental to land or property values.

(Ord. 08-118, passed 11-12-2008)

§ 152.04 COMPLIANCE REQUIRED.

No person may construct, place, erect, repair, maintain or use a sign after the effective date of this chapter unless such erection, construction, reconstruction, repairs, maintenance or use meets all the provisions of this chapter, and all other applicable ordinances adopted by the City Council.

(Ord. 08-118, passed 11-12-2008) Penalty, see § 152.99

§ 152.05 DEFINITIONS.

(A) *Interpretation.* Words and phrases not defined in this chapter shall be given their common, ordinary meaning unless the context clearly requires otherwise. When not inconsistent with the context, words used in the present tense shall include the future tense; words in the plural number shall include the singular number (and vice versa); and words in the masculine gender shall include the feminine gender (and vice versa). The word "shall" is always mandatory, while the word "may" is merely directory. Headings and captions are for reference purposes only. Unless otherwise expressly indicated, references to state and federal laws, final regulations and formal guidance shall refer to the then current enactment of such laws, final regulations and formal guidance, as they are amended from time to time.

(B) *General definitions.* For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AREA. As applied to any sign, means the square foot area enclosed by the perimeter of the sign face with each face contributing to the aggregate area. The area to be measured encompasses the extreme limits of the writing, representation, emblem or other display together with any material or color forming an integral part of the background of the display or used to differentiate the sign material from the backdrop or structure against which the sign is placed, but excludes any sign supports or supporting framework. In cases where a sign, or a portion of a sign, is composed only of letters, figures or other characters standing against no sign face background, then the sign face **AREA** is the area of the smallest simple imaginary figure (circle, triangle, rectangle or other) which fully contains the sign content. The **AREA** of a sign with more than one face is the sum of the areas of all sign faces visible from any one point. However, a sign structure with two faces back-to-back, oriented in opposite directions and separated by not more than three feet, with the same copy on both sides, shall be counted only as the **AREA** of one face.

ATTACHED SIGN. All wall signs, awning signs, canopy signs and projecting signs.

AUXILIARY SIGN. A sign of any construction, not exceeding one square foot in area, which is not part of another sign and which is customarily secondary and incidental to the principal use of any non-residential premises, such as one indicating hours of operation, credit cards accepted or restrictions of sale to minors, or which is customarily secondary and incidental to a residence, such as "no soliciting" or "beware of the dog".

AVERAGE ILLUMINATION. As applied to any sign means the calculated average value using the maximum illumination and the minimum illumination (maximum illumination + minimum illumination / 2).

AWNING SIGN. A sign painted on or attached to the outside of an awning, canopy or any similar structure such as is typically extended in front of a window or door or over a patio, deck or walkway as a protection from the sun or rain, regardless of whether the structure is retractable. A sign which is suspended from or projects into the space

beneath an awning, canopy or similar structure, or which is painted on, attached to or suspended from interior surface, so as to be read from within the area enclosed by the structure, is a canopy sign.

BALLOON. A flexible bag, cylinder, or other device regardless of material, designed to be inflated with hot air or with gas, such as helium, that is lighter than the surrounding air, causing it to rise and float in the atmosphere.

BANNER. A sign intended to be hung either with or without frames, made of paper, plastic, fabric or any other flexible material, and which is used by its colors, characters, lettering, illustration or ornamentation to call attention to an establishment, product or event on the site thereof or which is a community service sign. Flags are distinguished from **BANNERS** for the purposes of this chapter.

BEACON. Any light with a beam directed into the atmosphere or directed at a point which is not on the same lot or tract of land as the light source or a light with one or more beams that rotate or move.

BILLBOARD. Any sign which is used or designed to be used to advertise, inform or call attention to any product, commodity, real estate or service which is to be obtained or is located at a place other than on the premises on which the sign is located, or to advertise or call attention to any establishment, business or activity which is not located on the same premises as the sign. The term includes what is commonly referred to as an **OFF-PREMISES SIGN**.

BULLETIN BOARD. A sign that is principally devoted to posting announcements of interest to the members or clientele of an organization concerning the activities of the organization, such as is customarily erected by a governmental entity, church, social club, society, school or charitable organization.

CANOPY SIGN. A sign that is suspended from the underside of an awning or canopy structure or which projects into the space enclosed within or beneath an awning or canopy structure. A sign which is painted on or attached to the outside of an awning or canopy structure is an awning sign.

CHANGEABLE COPY SIGN. A sign or part of a sign on which characters, letters or illustrations can be changed or rearranged without altering the face or surface of the sign, such as a theater marquee, a gasoline price sign or a sign identifying the occupants of a shopping center. A sign on which the only copy that changes is a matter of general public information, such as the current time and temperature or an index of stock market averages, and which contains no other commercial message, is a public service sign. Any sign other than a public service sign on which the message changes more than once per day is a flashing sign.

CITY. The City of Woodcreek, a duly incorporated municipality located in Hays County, Texas.

CITY COUNCIL. The governing body of the City of Woodcreek.

CITY LIMITS. The corporate municipal boundaries. The term does not include the city's extraterritorial jurisdiction (ETJ), as that term is defined by state law.

CITY MANAGER. The administrative officer appointed by the City Council, or a city official designated by Council.

COMMERCIAL COMPLEX. Any development such as a shopping center, office park or industrial park, that consists of two or more establishments on a single platted lot, or that is designed, developed and managed as a unit.

COMMERCIAL SIGN. Any sign, regardless of its location or construction, whose wording or other contents, directly or indirectly, names, advertises or calls attention to any business, product, service, institution, organization, event, purpose or other activity.

COMMUNITY SERVICE SIGN. A sign which solicits support for or participation in a non-profit, non-political, community, public or social purpose, cause, event or activity, such as one marking a holiday or holiday season, or one supporting school activities, charitable programs, religious activities or events of community interest.

CONSTRUCTION SIGN. A sign placed on a construction site identifying or announcing the character of the project and/or the names of the owners, developers, financiers, architects, engineers, contractors, leasing agents and others associated with the project.

DIGITAL SIGNS. An illuminated sign that displays digital images or wording that are changed by a computer every few minutes. A digital sign may be permanent, integrated to the building, or portable.

DIRECT ILLUMINATION. As applied to any sign means that illumination arriving directly from a light source without reflection from other objects.

DIRECTIONAL SIGN. A sign which is separate from other signs, incidental and secondary to the principal use of the land on which it is located, and whose primary purpose is to give directions such as to parking lots, exits, entrances or drive-through windows, or directives such as "no parking" or "loading only".

DRIVE-THROUGH WINDOW SIGN. A sign which is secondary to the principal use on the premises of an establishment having a drive-through window for customer service, devoted to informing customers approaching the drive-through window of information such as the menu, services available or prices at the establishment.

ESTABLISHMENT. A building on any land used for any purpose regardless of the commercial, non-profit or public nature of the activity, but excluding a building used solely as a residence.

EVENT SIGN, OFF-SITE. A sign giving directions to an occasional event at another location, other than a business event at an establishment, such as directions to a civic or other non-commercial ceremony, to an event for the members of an organization, or to an event at a residence such as a garage sale, home for sale, real estate open house or private party.

EVENT SIGN, ON-SITE. A sign which is placed to advertise or mark the location of an occasional event on the same site, other than a business event at an establishment, such as a civic or other non-commercial ceremony, an event for the members of an organization, or an event at a residence such as a garage sale, home for sale, real estate open house or private party.

FACILITIES LOCATION SIGN. A sign which is placed to provide directions to either the entrance of a facility within the city, such as Quicksand Golf Course and Camp Young Judaea, each constituting a major facility within the city limits.

FIXTURE. An assembly of one or more light sources and related components.

FLAG. A piece of fabric of distinctive design of any governmental jurisdiction or a piece of fabric of distinctive design adopted by a business, institution or other organization and containing only the name, logo or other symbolic emblem of that business, institution or organization.

Flags include "feather flags" or "banners" use in advertising which are traditionally large,

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flexible flags designed to attract attention of drivers and passersby.

FLASHING SIGN. A sign with flashing, blinking, moving, rotating or traveling lights, or with lights that change in color or intensity, whether the sign is an illuminated sign or not, or a sign which uses lights to form traveling messages or messages which change more than once per day. This term does not include a public service sign. A flashing sign must meet the requirements of Chapter 156.041, Outdoor Lighting Regulations.

FOOT CANDLE. A standard unit of illumination (engineering term) defined as one lumen per square foot.

FREESTANDING SIGN. A sign that is attached to a self-supporting structure.

A freestanding sign may be a pole or monument sign. Any sign, other than a freestanding pole sign, placed upon or supported by the ground independently of any other structure.

GARAGE or YARD SALE SIGN. A sign that advertises the location, time and/or date of a garage sale (sale of individual items) at a residence within the city limits or ETJ.

HEIGHT. As applied to any sign, the vertical distance between the highest attached component(s) of the sign or of its supporting structure, whichever is higher, and the average established ground level beneath the sign. The established ground level beneath the sign is the lower of the existing grade prior to construction of the sign or the newly established grade after construction, exclusive of any filling, berming, mounding or excavating solely for the purpose of locating the sign, unless the curb elevation at the street in front of the sign is higher than the established ground level, in which case the **HEIGHT** shall be measured from curb level.

ILLUMINATED SIGN. A sign illuminated in any manner by an artificial light source of any kind, either detached from the sign or a part thereof. Signs that are only incidentally and indirectly illuminated as a result of a lighting plan primarily designed as security lighting or landscape lighting are not **ILLUMINATED SIGNS**. Illuminated Signs must meet the requirements of Chapter 156.041, Outdoor Lighting Regulations as to size, intensity, design, and must not constitute a public nuisance or public safety issue.

ILLUMINATION. As applied to any sign, the intensity or brightness of light expressed in foot candles that are in compliance with the City's Outdoor Lighting Regulations at Chapter 156.041, as follows: "The maximum illumination on any outdoor surface or object, including signs, from all fixtures or light sources, whether installed before or after the effective date of this section, including lighting of externally illuminated and internally illuminated signs, shall not exceed:

- (a) Six footcandles in districts SF-1 through SF-6, TH/C, DU-1, 4PLX, MF-1, MF-1 A, MF-2, RR, PUD, and unzoned tracts where a residence exists;
- (b) Eighteen footcandles in other districts and unzoned tracts where a business exists and is open; or
- (c) Three footcandles in other districts and unzoned tracts where a business is closed or does not exist;"

INTEGRAL SIGN. A sign indicating the name of a building, as distinct and clearly distinguished from the name of a business, institution or other entity occupying the

Commented [A2]: I could not find a better definition for "feather flag," but I believe it is necessary to include. It has been an issue with the Woodcreek Apartments

building, or indicating the date or other information of historical interest about the building's construction, when such sign is cut or molded into a masonry surface which forms part of a wall of the building or when it is constructed as a plaque or tablet of bronze or other noncombustible material and permanently mounted on the face of the building.

LEGAL NON-CONFORMING SIGN. A sign that lawfully existed as of 4-11-2007 (the original adoption date of this chapter), but does not conform to all of the regulations contained in this chapter upon the effective date of the amendments to this chapter. This term does not include signs that existed as of 4-11-2007, on trees, utility poles or pedestals or on public land or public rights-of-way without the express consent of the owner of such property.

LENS. As applied to any sign, a transparent or translucent material enclosing, surrounding or placed between a light source and the area it illuminates.

LIGHT SOURCE. As applied to any sign, any construction, including a primary transparent or translucent envelope, that emits light; such as but not limited to an incandescent lamp, an arc lamp, a fluorescent tube or a neon tube.

LINE OF SIGHT. As applied to a light source used to illuminate any sign, a straight line from the eye of an observer three feet or more above the ground to the light source and/or its lens and/or an intended or incidental specular reflecting surface.

LUMEN. A standard unit (engineering term) of light flux defined as the flux emitted by a light source of one candle.

MAXIMUM ILLUMINATION. As applied to any sign, the illumination at the point on the sign having the greatest illumination.

MINIMUM ILLUMINATION. As applied to any sign, the illumination at the point on the sign having the least illumination.

MODEL HOME SIGN. A sign that is located on the same lot as a model home in a residential subdivision and which calls the attention of prospective buyers to the model home.

MONUMENT SIGN. A sign that is built as a monument directly on the ground. This term does not include a self-supported sign.

MONUMENT SIGN, CHANGEABLE COPY. A monument sign that incorporates a changeable copy feature into the sign.

MOVING SIGN. A sign or any part of a sign which rotates, moves or uses lighting to simulate motion or animation.

NAME PLATE. A sign, mounted flat against the wall of a building and not projecting more than one inch from the face of the wall, indicating the name and/or address of the building, and/or the name of an occupant thereof, and/or the practice of a permitted home occupation therein.

NON-RESIDENTIAL SIGN DISTRICT. Any lot or tract of land located inside the city limits or in the city's extraterritorial jurisdiction, and which is not within a Residential Sign District.

PERSON. Any human individual or corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association and any other legal entity; this term includes a responsible party.

PET SIGN (LOST/FOUND). A sign that provides notice that a pet (e.g., dog or cat)

has been lost or found. Such signs provide information regarding the pet's name and description, as well as relevant contact data.

POLITICAL SIGN. A sign that supports or opposes any candidate for public office or any proposition to be voted upon at an election, or which makes a political or ideological statement in the nature of constitutionally protected non-commercial free speech.

PORTABLE SIGN. Any sign that is not permanently attached to the ground or to a permanent structure, or a sign designed to be transported, whether on attached wheels or otherwise. This term does not include construction signs, on-site event signs, off-site event signs, realty signs, sidewalk signs and political signs.

PROJECTING SIGN. Any sign whose outside edge extends more than 12 inches from the face of a wall to which it is attached, or which extends at any point above or beyond the end of a wall to which it is attached. This term does not include an awning sign or canopy sign.

PROMOTIONAL SIGN. Any generic sign promoting a product or service by brand name and that is not specific to the establishment displaying the sign. Such signs are typically provided to vendors by distributors or manufacturers and can be used by any vendor of such products or services.

PUBLIC RIGHT-OF-WAY. The area on, below, above or bordering a public roadway, highway, street, sidewalk, alley, water way or easement, in which the city, any other governmental entity or any public utility has an interest.

PUBLIC SERVICE SIGN. A sign or part of a sign that is devoted to messages of general public information without other commercial content, such as the current time and temperature, the location or an event, services being provided by the City or other public entity within the City and its ETJ, such as a school, Church, or community center.

REALTY SIGN. A sign which advertises the property on which it is located for sale, lease or rent.

REFLECTED ILLUMINATION. As applied to any sign, the light from a light source used to illuminate the sign reflected from any surface.

RESIDENTIAL DEVELOPMENT SIGN. A sign at the entrance to a residential development within the City, such as a series of townhouses, an apartment complex or a residential subdivision, that identifies the name and/or the address of the residential development.

RESIDENTIAL SIGN DISTRICT. Any lot or tract of land which is located inside the city limits or in the city's extraterritorial jurisdiction, and which:

- (a) Is vacant;
- (b) Is in any form of agricultural use;
- (c) Has a residence as the principal use; or
- (d) Is zoned for residential use, including multi-family residential of any form.

RESPONSIBLE PARTY or PARTY RESPONSIBLE. The person, firm, organization or other entity whose establishment, product, service, activity or enterprise of any character is announced or advertised by the sign, or whose message is carried by the sign, and the owner of the land upon which the sign is located and the owner of the sign. The term expressly includes a tenant/lessee who exercises control or authority over a sign.

ROOF SIGN. Any sign that is mounted on or above the roof of a building or is supported by or painted on or applied to the roof of a building. This term does not

include a projecting sign whose principal support fixtures are attached to a wall.

SELF-SUPPORTED SIGN. A permanent sign above the ground that is erected on supports placed on or anchored in the ground, and which is independent of any other structure for its support. This term does not include a monument sign.

SIDEWALK SIGN. A sign, regardless of its construction, that is designed to be placed temporarily on the ground or sidewalk adjacent to or in the immediate vicinity of an establishment in order to advertise or call attention to the goods or services offered at that establishment.

SIGN. Any structure, display, light device, figure, painting, drawing, message, plaque, poster, billboard, letter or series of letters, symbol, trademark, logo or device designed, intended or used to advertise, inform, convey or attract the attention of people to the subject matter thereof, including an individual, firm, profession, business, organization, institution, commodity, product, service, activity, cause or purpose. This term includes signs that, as part of a Holiday Display, are designed to attract the attention of people to a specific subject matter, including a cause or purpose. This term does not include a traffic-control device erected or maintained by a governmental entity.

Commented [A3]: See my comment 1 – this definition would cover a sign as part of a Holiday display.

SINGLE-FAMILY ADDRESS SIGN. A sign that identifies the name of the occupants and/or the address of a single-family or duplex residence. This term does not include any commercial sign or a name plate.

SPECULAR REFLECTING SURFACE. Any mirror-like surface, whether part of a fixture or not, that reflects an image (no matter how imperfect or distorted) of a light source.

VEHICULAR SIGN. A vehicle, whether motorized on a trailer, that is mounted above the ground as a sign or part of a sign, or any sign attached to or painted on such a vehicle, including a digital or changeable sign, which is mounted above the ground or which is parked so as to be visible from a street when such vehicle is not actually used for transportation in the day-to-day affairs of its owner, as evidenced by current license plates and a current state inspection sticker. This term also includes signs in a vehicle advertising the vehicle itself for sale.

WAIVER. A deviation or departure from a strict standard, or application of one or more specific provisions in this chapter.

(C) *Types of signs.* Particular types of signs are defined by their purpose or use, by their location, and by the nature of their construction, and therefore any one actual sign may be encompassed by multiple definitions and subject to the regulations in multiple sections of this chapter. Types of signs that are regulated by this chapter are defined as follows.

WALL SIGN. A sign painted on or mounted parallel to a wall of any building; provided that, the sign does not project over any public land or street right-of-way, or extend more than 12 inches from the face of the wall to which the sign is mounted, or extend at any point above or beyond the end of such wall. This term does not include a name plate or an integral sign. This term includes any sign which is painted on or placed inside or upon a door or window, or another opening in such wall or which is placed inside a building and oriented so as to be read from any such opening.

WALL SIGN, CHANGEABLE COPY. A wall sign, which incorporates a changeable copy feature into the sign. This term includes any sign which is painted on or placed inside or upon a door or window, or another opening in such wall, or which is placed

inside a building and oriented so as to be read from any such opening.
(Ord. 08-118, passed 11-12-2008)

§ 152.06 SIGN MAINTENANCE.

(A) *Maintenance required.* All signs must be maintained in a structurally safe condition, freshly painted and/or in good repair. The City Manager shall notify, by certified mail, the responsible party for any sign not so maintained, and the responsible party shall be required to perform the necessary maintenance or repairs within 30 days of the postmark on the notice. Any sign not repaired within the allotted time may be removed by the city and the actual cost of such removal shall be charged to the responsible party for the sign. If a sign is removed by the city and remains unclaimed for a period of more than 30 days, the city may destroy, sell or otherwise dispose of the sign.

(B) *Removal of hazardous signs.* Any sign which, in the judgment of the City Manager or their authorized representative, has become an imminent hazard to public safety, either because it causes a traffic hazard or because of neglect that makes it creates an unsafe condition, shall be repaired or removed by the responsible party within 72 hours of notice. Notice of the existence of the hazard shall specify the maximum time which may be allowed for repairs or removal in order to ensure public safety, and the notice may be served upon the responsible party by any means available. A hazardous sign which is not repaired or removed within the time specified in the notice shall be removed by the City and the cost of such removal shall be charged to the responsible party.

If, in the judgment of the City Engineer, the sign presents an immediate risk, the sign may be removed by the City without notification to the sign owner. If a sign has been removed by the city as a hazardous sign and the sign remains unclaimed for a period of more than 30 days, the city may destroy, sell or otherwise dispose of the sign.

(Ord. 08-118, passed 11-12-2008) Penalty, see § 152.99

§ 152.07 LEGAL NON-CONFORMING SIGNS.

(A) *Continuation in use.*

(1) Legal non-conforming signs may be continued in use. However, if the use of a legal non-conforming sign is discontinued because it does not contain any message for a continuous period of 90 days or more, then the sign must be removed or brought into full compliance with this chapter by the responsible party. Any future use of the sign must be in full compliance with this chapter.

(2) A legal non-conforming sign must be removed or brought into full compliance with this chapter if the sign names, advertises or calls attention to a business, service, institution, purpose, organization, cause or activity that was in existence on or before the original adoption of this chapter on 4-11-2007, but subsequently ceased existence or has been discontinued for a continuous period of 90 days or more. The owner of a legal non-conforming sign in existence on or before the original adoption of this chapter must provide proof of prior acceptance or approval by the city for the legal non-conforming sign. Proof of prior acceptance or approval must be provided to the City Manager/Administrator. Acceptable forms of proof include, but are not limited to permits, receipts, letter from the city and the like. An owner of a legal non-conforming sign that is unable to provide proof of prior acceptance or approval by the city for the legal non-

Commented [R4]: Changed City Engineer to City Manager since sign issue

Commented [AS]: Change made here was to remove Director of Public Works and leave City Engineer as the one responsible official

conforming sign must apply for a waiver from the city, according to § 152.08 of this chapter.

(3) The lighting installation for a legal non-conforming illuminated sign shall be brought into conformity with this Chapter and the City's Dark Skies Ordinance (Chapter 156.041) within a period of three years from the effective date of the ordinance.

Commented [R6]: Conflicts with Dark Sky Ordinance

(B) *Limitations on modification.* No legal non-conforming sign may be enlarged in area, increased in height, expanded, moved, altered or remodeled in any respect unless and until a responsible party applies for and receives a sign permit and is in all respects brought into conformity with this chapter. However, subject to division (C) below, a legal non-conforming sign may be repainted or repaired, provided that no other change is made in the construction of the sign. Legal non-conforming signs that are prohibited by §§ 152.41 and 152.42 of this chapter may not be enlarged in area, increased in height, expanded, moved, altered or remodeled in any respect. Legal non-conforming signs enlarged in area, increased in height, expanded, moved, altered or remodeled without a sign permit shall lose its legal non-conforming status and be subject to enforcement pursuant to this chapter.

(C) *Removal of destroyed signs.* A legal non-conforming sign shall be considered destroyed if the cost of repairing the sign is more than 60% of the cost of erecting a new sign of the same type at the same location. A destroyed sign must be removed by the responsible party without compensation by the city and within 30 days of the damage. A legal non-conforming sign that has been destroyed may not be replaced or rebuilt, except by a sign which is constructed and located in full conformity with this chapter. (Ord. 08-118, passed 11-12-2008) Penalty, see § 152.99

§ 152.08 WAIVERS.

(A) *Presumption.* There is a presumption against the granting of waivers to this chapter.

(B) *Timing.* A waiver request will be reviewed more favorably when submitted concurrently with one of the following applications:

- (1) Plat;
- (2) Building permit;
- (3) Rezoning; or
- (4) Site development.

(C) *Application and fee required.* A waiver is a written approval to depart from the strict application of one or more specific provisions of this chapter. Any person, business or other organization desiring to continue a use, construction or placement of any sign which does not conform to the provisions of this chapter may make an application to the City Council for a waiver allowing the continued use, construction or placement of such a sign. The application shall be filed with the City designated City Staff, accompanied by the appropriate fee established by the Master Fee Schedule and include a drawing or sketch with sufficient detail to determine the location and type of construction for the proposed sign.

Commented [R7]: Redundant

(D) *Standards for waivers.* The City Council may approve a waiver only if it makes affirmative findings, reflected in the minutes of the City Council's proceedings, as to all of the following:

- (1) The waiver will not authorize a type of sign which is specifically prohibited by § 152.41 of this chapter;

(2) The waiver will not authorize a type of sign which is prohibited by § 152.42 of this chapter;

(3) The waiver is not contrary to the public interest;

(4) Due to special conditions, a literal enforcement of this chapter would result in unnecessary hardship. Ordinarily, hardship that is self-induced or that is common to other similarly classified properties will not satisfy this requirement. Financial or economic hardship alone will not ordinarily satisfy this requirement.

(5) The spirit and purpose of this chapter will be observed and the design guidelines set forth in §§ 152.20 through 152.25 of this chapter are substantially met and substantial justice will be done.

(E) *Conditions of waivers.* The City Council may impose such conditions or requirements in a waiver as are necessary, in the City Council's judgment, to protect the overall character of the community and to achieve the fundamental purposes of this chapter. A violation of such conditions or requirements shall constitute a violation of this chapter. A waiver if granted, shall be for a specific event, use or other application of a business and shall not continue with the property. If a waiver is granted and the sign so authorized is not substantially under construction within six months of the date of approval of the waiver, the waiver shall lapse and have no force or effect.

(F) *Master sign plan.* Any project seeking city approval of more than three signs that require waivers must submit to the city a master sign plan.
(Ord. 08-118, passed 11-12-2008)

DESIGN GUIDELINES

§ 152.20 POLICY.

It is the policy of the city to encourage signage which is appropriate to the hill country setting and the rural scale of the city and the county, and to discourage signs which are in conflict with the established character of the community. To this end, all sign owners are required to conform to the following guidelines for sign location, configuration, placement, materials and lighting.

(Ord. 08-118, passed 11-12-2008)

§ 152.21 LOCATION.

Signs shall be located with sensitivity to preserving the natural landscape, and scenic setting, or environment. Signs shall be incidental complements to the principal use of a site, and should never be allowed to visually dominate a site.

(Ord. 08-118, passed 11-12-2008) Penalty, see § 152.99

§ 152.22 CONFIGURATION.

The height, width and area of a sign must all be in proportion to the dimensions of a building to which the sign is attached and in architectural harmony with surrounding structures. Sign dimensions should respect the size, scale and mass of a building facade, the height of the building and the rhythms and sizes of window and door openings.

(Ord. 08-118, passed 11-12-2008) Penalty, see § 152.99

§ 152.23 PLACEMENT.

No sign should be placed upon a building or structure in any manner that would disfigure, damage or conceal any significant architectural feature or detail of the building.

(Ord. 08-118, passed 11-12-2008) Penalty, see § 152.99

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§ 152.24 MATERIALS.

Sign materials shall be predominantly natural, such as native stone, rough cedar, pine or other types of wood, metal or materials that simulate natural materials and sign colors should be in harmony with the natural surroundings.

(Ord. 08-118, passed 11-12-2008) Penalty, see § 152.99

§ 152.25 LIGHTING.

Lighting shall be no brighter than is necessary to permit the sign to be read from a reasonable distance and shall be compliant with the City Dark Skies Ordinances (cite here).

(Ord. 08-118, passed 11-12-2008) Penalty, see § 152.99

§ 152.26 RIGHTS-OF-WAY SIGNS.

(A) *Ratification and confirmation.* The installation, placement and erection of signs within the city rights-of-way as set forth hereto in division (C) below are hereby confirmed and ratified by the City Council.

(B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

RIGHTS-OF-WAY. The rights-of-way (ROW) is the area owned and/or controlled by the City and typically includes the street surface, sidewalks, and grassy areas between pavement and property lines.

SIGN. Any structure, display, light device, figure, painting, drawing, message, plaque, poster, billboard, letter or series of letters, symbol, trademark, logo or device designed, intended or used to advertise, inform, convey or attract the attention of people to the subject matter thereof, including an individual, firm, profession, business, organization, institution, commodity, product, service, activity, cause or purpose. This term does not include a traffic-control device erected or maintained by a governmental entity.

WAIVER. A departure or deviation from a strict standard, or application of one or more specific provisions of this section.

(C) *Rights-of-way signs.* For the purpose of advertising or messaging, including but not limited to, public service messages, garage, yard, open house and estate sales within the city, public events, the City Council hereby orders and directs that the City Manager authorize and implement the following provisions governing the placement of signs in the city's rights-of-way at the locations designated, and that such signs and devices be hereafter maintained and enforced by the city.

(1) The City Manager is hereby instructed to implement the construction and placement of removable weather-proof sign holders at each of the following locations,

- (a) Northwest corner of Ranch Road 12 and Brookmeadow Drive;
- (b) Northeast corner of Deerfield Drive and Woodcreek Drive;
- (c) Northeast corner of Triangle Park;
- (d) Northwest corner of Triangle Park;
- (e) Southwest corner of Woodcreek Drive and Ranch Road 12;
- (f) Intersection of Brookmeadow Drive and Augusta Drive;
- (g) Intersection of Champions Circle and Woodcreek Drive.

(2) The sign holders shall be constructed in a manner to allow the placement of a sign no larger than 24 inches wide by 30 inches high.

(3) In no instance shall the maximum height of any sign or sign holder exceed 36

inches above ground level.

(4) Written applications to place signs at the designated locations shall be submitted to the City Manager no earlier than 30 days in advance of the date for which the sign placement is requested.

(5) Applicants must submit a permit application, along with a \$25 application fee for the first sign, to the City Manager in a timely fashion as described above. Signs at each additional location require an additional \$10 fee per location.

(6) Signs shall be considered on a first-come, first-serve basis,

(7) No more than three signs are permitted at any one location at any one time.

(8) Signs shall be limited to 72 hours total placement time before removal. The City Manager may authorize an extension of up to 48 additional hours.

(9) In no instance shall streamers, balloons, strobe lights, or any other attachment to the signs be permitted.

(10) In the event the signs are not removed by the applicant or applicant's agent by the date and time set forth on the approved application and permit, the city may remove and dispose of the sign.

(Ord. 12-164, passed 7-11-2012; Ord. 13-177, passed 2-13-2013; Ord. 14-204, passed 9-10-2014; Ord. 16-222, passed 7-13-2016) Penalty, see § 152.99

PROHIBITIONS AND RESTRICTIONS

§ 152.40 EXEMPTIONS FOR CERTAIN SIGNS.

The following types of signs are exempt from regulation under this chapter:

(A) Any sign inside a building, not attached to a window or door and not oriented so as to be read from outside the building;

(B) Commemorative plaques and historical markers mounted on the face of a building or erected on a site as a freestanding monument, when placed by a governmental entity, historical society or religious organization to commemorate a person, event or other matter of historical interest; and

(C) Any sign erected or required to be erected by any governmental entity or public utility to give information, directions or warnings to the general public, regardless of the sign's location on public or private property.

(Ord. 08-118, passed 11-12-2008)

§ 152.41 PROHIBITED SIGNS GENERALLY.

No person shall construct, place, erect or use signs of the following nature on any property within the city limits or extraterritorial jurisdiction of the city:

(A) Balloons; No balloons (as we described them) are allowed with the exception of latex balloons, not to exceed 9" or mylar balloons of a width no greater than 24" in a cluster of no more than 10 total, which are physically attached to a sign or permanent object and not released into the environment.

(B) Beacons;

(C) Billboards;

(D) Flashing signs;

(E) Moving signs;

(F) Portable signs;

(G) Promotional signs, except those located on or inside of a window of an establishment;

(H) Roof signs;

(I) Sidewalk signs;

(J) Vehicular signs, other than one sign advertising the vehicle itself for sale not to exceed one and one-half square feet in area in the window of the vehicle;

(K) Posters, pennants, ribbons, streamers, strings of light bulbs, spinners or other similar devices. Flags and banners, as regulated elsewhere in this chapter, are not included in this prohibition. This provision does not apply to temporary strings of light bulbs used solely in celebration of religious or cultural holidays, or to strings of "miniature Christmas tree type" white lights attached to an establishment for a period not to exceed 60 days;

Commented [R8]: Remove word "white"

(L) Signs that contain statements, words or pictures of an obscene, indecent or immoral character or which offend public morals or decency;

(M) Signs that the City Engineer identifies as constituting a hazard to vehicular or pedestrian traffic either because their location interferes with or obstructs the view of a traffic sign, signal or device or because their design or content may be confused with or construed as a traffic sign, signal or device;

(N) Commercial signs of any character, in any form of construction, and at any location except as permitted by this chapter;

(O) Signs whose wording or other contents, directly or indirectly, names, advertises or calls attention to any business, product, service, institution, organization, event, cause, purpose or activity that has ceased to be in operation for more than 30 days; and

(P) Directional signs that direct motorists to park or not park on public property or public right-of-way. This provision does not apply to the particular governmental entity that is the owner, custodian, trustee or manager of the public land or public rights-of-way. An exception to this requirement shall be made for community events, such as the Annual Home Tour and other events benefitting the community.

(Ord. 08-118, passed 11-12-2008) Penalty, see § 152.99

§ 152.42 PROHIBITED SIGNS IN RESIDENTIAL DISTRICTS.

In addition to the types of signs enumerated in § 152.41 of this chapter, no person shall construct, place, erect or use any of the following types of signs in a Residential Sign District within the city limits or the city's extraterritorial jurisdiction.

(A) Attached sign;

(B) Auxiliary sign;

(C) Awning sign;

(D) Banner;

(E) Canopy sign;

(F) Changeable copy sign;

(G) Commercial sign;

(H) Drive-through window sign;

(I) Monument sign, changeable copy;

(J) Moving sign;

(K) Projecting sign;

(L) Promotional sign;

(M) Roof sign;

(N) Sidewalk sign;

(O) Wall sign.

(Ord. 08-118, passed 11-12-2008) Penalty, see § 152.99

Commented [A9]: Suggest we delete to allow school and church to have digital signs within certain parameters.

Commented [A10]: Same as for (f)

Commented [A11]: We can discuss recommended deletions at meeting(s).

§ 152.43 RESTRICTIONS ON CERTAIN SIGNS.

No person shall construct, place or erect the following signs, except as provided in this chapter.

(A) *Attached signs.* In aggregate, the area of attached signs in a Non-Residential Sign District cannot exceed the lesser of 10% of the area of the wall to which they relate, including windows and doors, or 30 square feet.

(B) *Auxiliary signs.* The aggregate area of all auxiliary signs on any establishment shall not exceed two square feet.

(C) *Awning signs.* Awning signs may not exceed 16 square feet in area.

(D) *Banners.* Banners must be securely attached to a building or other permanent structure and must be kept in good repair throughout the time of their display. No establishment may display more than two banners at any one time. Banners, including community service signs, shall not exceed 12 square feet in area and they shall not be erected for more than 30 days in succession. They shall be removed by the responsible party within no more than three days following any event to which they relate and they shall not be placed on any site more than three times within a 12-month period.

Commented [R12]: Wimb View biz of the year?

(E) *Bulletin boards.* A bulletin board may be located only on the premises of the institution or organization to whose activities it pertains. A bulletin board may not exceed 16 square feet in area.

(F) *Canopy signs.* Only one canopy sign may be permitted per establishment. No canopy sign may extend beyond an edge of the canopy structure to which it is attached. Except at a corner, no canopy sign may be closer than five feet from the end of the longer side of the canopy structure. A canopy sign which is perpendicular to a building face may not exceed two-thirds of the width of the canopy structure or exceed eight square feet in area. A minimum spacing of ten feet must be provided between such canopy signs. A canopy sign which is parallel to a building face may not exceed two-thirds of the length of the canopy structure or exceed 16 square feet in area. No canopy sign may extend more than two feet either above or below the horizontal underside of the canopy structure. No canopy sign shall be less than seven feet from ground clearance.

(G) *Community service signs.* A community service sign may be erected only by a unit of government, school, chamber of commerce, religious organization or other non-profit agency. The area of a community service sign may not exceed six square feet in area in a Residential Sign District or 14 square feet in a Non-Residential Sign District. A community service sign that promotes any particular event may not be erected more than 30 days in succession or for more than 14 days prior to the event, and all such signs must be removed by the responsible party not more than three days after the event. Community service signs that are banners are further controlled by the provisions herein relating to banners.

(H) *Construction signs.* The area of a construction sign may not exceed eight square feet and the height may not exceed four feet. Only one construction sign may be permitted per street fronting a building or other project under construction, reconstruction or repair; except that, one additional sign, not exceeding three square feet in area, may be placed on the site by any individual contractor or subcontractor working on the project and not acknowledged on the principal sign. No part of a construction sign may exceed a height of six feet. Construction signs which are larger

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than three square feet in area and not securely mounted on a wall shall be set back at least ten feet from the property line or edge of the right-of-way. Within the city limits, a construction sign may not be erected before the city has issued a building permit for the project to which the sign refers, and all such signs must be removed within 15 days after the city issues a certificate of occupancy for the project. In the city's extraterritorial jurisdiction, a construction sign may not be erected before the start of actual construction of the project to which the sign refers, and all such signs must be removed within 15 days after the completion of the project post-approval of site plan (if required).

(I) *Directional signs.* A directional sign may not contain any commercial message, except the name, logo or other symbolic identification of the establishment to which the sign is secondary. The area of a directional sign may not exceed six square feet. Directional signs must be located solely on the premises of the establishment to which they relate.

(J) *Drive-through window signs.* The area of a drive-through window sign may not exceed ten square feet.

(K) *Event signs, off-site.* Off-site event signs may not exceed an area of three square feet and may not be illuminated signs. Such signs may be placed only on private property and only with the consent of the owner of the property. No more than three such signs may be used to give directions to the same event. Such signs may not be placed more than 14 days prior to the event, and all such signs must be removed by the responsible party within one day after the conclusion of the event.

(L) *Event signs, on-site.* An on-site event sign may not exceed an area of three square feet at a residence or 16 square feet at any other location. Such sign may not be placed more than 14 days prior to the event, and it must be removed by the responsible party within one day after the conclusion of the event. There shall be no more than three on-site event signs for any event.

(M) *Flags.* Except for flags that are located on public land, no flagpole may be higher than 20 feet. At any establishment, the entire area of all flags (other than governmental flags) shall be counted toward the limit on the area of a self-supported sign on the premises. Except for governmental flags, no flags may be illuminated.

(N) *Freestanding signs.* Only one freestanding sign may be permitted per individual freestanding establishment. Only one freestanding sign may be permitted for a commercial complex; except that, a commercial complex with a land area of two acres or more may have one such free standing sign along each street which borders the complex for a distance of 200 feet or more. Such sign or signs may only identify the name and/or address of the complex and the individual tenants in the complex. If the structure of a freestanding sign contains or supports more than one sign, then each such sign must be of the same construction, coloring, design and style. A separate free standing sign for an individual establishment located within a commercial complex may be permitted only if the establishment meets both of the following conditions:

(1) The establishment is located along a street bordering the complex and in a separate building from the principal building of the complex; and

(2) The establishment has a separate driveway from the principal driveway entrance of the complex, and a separate parking area from the principal parking area of the complex, which may connect with the principal parking area, but is visually set off from that area by fencing or landscaping. If a landscaped area is installed at the base of

a freestanding sign, this landscaped area shall be protected from damage by pedestrian and vehicular traffic by a retaining wall or other barrier or method of separation acceptable to the City Manager/Administrator. The plants in such landscaped area shall be maintained in a healthy condition, and the area shall be kept free of weeds, trash and debris by the responsible party.

(O) *Facilities location signs.* Facilities location signs designed to provide directions to the golf course (e.g., the Quicksand at Woodcreek Golf Club Pro Shop) and to the entrance to Camp Young Judea, are subject to the following requirements.

(1) *Location and number of signs.* There shall be a maximum of four facility direction signs for the golf course facility. Two of the signs shall be permitted on the property owned by the city at the RR 12 entrance to the city. One sign shall be permitted on the city right-of-way at the Woodcreek Drive west entrance to the city. One sign shall be permitted on the city-owned right-of-way at the intersection of Woodcreek Drive and Pro Lane. There shall be a maximum of two facilities directions signs for Camp Young Judea. One sign shall be permitted on city-owned property at the intersection of Brookhollow Drive and Woodcreek Drive, and one sign shall be permitted on city-owned right-of-way at the intersection of Brookhollow Drive and Jack Miller Drive.

(2) *Construction and materials.* Sign materials shall be predominately natural, such as stone, cedar or other types of wood or materials that simulate natural materials. The RR 12 signs may have directional copy on both sides, as they will be perpendicular to the street. All signs shall be a maximum of three feet in height and five feet in width. The maximum distance between the bottom of the sign and the ground shall be two feet.

(3) *Approval and removal.* The City Council shall have right of approval of the design of such signs and shall require a permit for them, prior to installation. It shall be the responsibility of the owners/management of the facilities to install and maintain the signs in good condition. In the event that the signs are no longer needed or not maintained in good condition, the City may require removal of the signs, at the expense of their owners.

(P) *Garage sale signs.* Garage sale signs shall not be posted on any property within the city limits or the ETJ, other than the posting locations designated by the City and the property that is the site of the garage sale. A permit is required to post in any or all of the locations designated by the City. The application for the permit may be found on the City's website. A garage sale sign may not exceed four square feet and may be erected no more than two days prior and one day after the garage sale.

(Q) *Illuminated signs.* Illuminated signs that are internally illuminated, other than residential development signs and single-family address signs, may only be illuminated during the related establishment's hours of operation and for a period of no more than one hour afterward. Such internally illuminated signs may be illuminated on days that the establishment is not open for business for no longer than they are illuminated during a normal business day. The area of an illuminated sign which is internally illuminated may not exceed 18 square feet. The illumination from an illuminated sign which is internally illuminated may not exceed four foot candles at a distance of eight feet. The area of an illuminated sign, other than freestanding signs permitted in commercial complexes, may not exceed 24 square feet. Neon signs are prohibited except for signs no greater than four and one-half square feet in area located on or inside of a window of

Commented [R13]: Capitalize City

an establishment. No illuminated sign shall be illuminated to such intensity or in such a manner as to cause glare or brightness to a degree that it constitutes a hazard or nuisance. Illuminated signs that are illuminated by mercury arc or mercury vapor light sources are prohibited. The maximum illumination of any illuminated sign shall not exceed 40 foot candles in a Non-Residential Sign District or 20 foot candles in Residential Sign Districts. The average illumination of an illuminated sign shall not exceed 20 foot candles in a Non-Residential Sign District or ten foot candles in a Residential Sign District. All light sources used with illuminated signs shall be shielded so that light is confined below the horizontal plane of the light source; except that, upward directed light may be used to illuminate governmental flags; provided, said illumination is confined to the area of the flag. There shall be no line of sight of any length from any point off the property on which a light source used to illuminate an illuminated sign is situated. Trespass illumination from all light sources on a property on which an illuminated sign is situated shall not exceed 0.1 foot candle. The measurement of trespass illumination shall be made at a point three feet above finished grade and four feet inside the boundary of the property on which the trespass illumination occurs. The measurements of the illumination of an illuminated sign shall be made at the surface of the sign. Illuminated signs not conforming to the illumination standards set forth above shall constitute a hazard and a nuisance.

(R) *Integrated signs.* The area of an integrated sign shall not be counted toward the limit on the area of wall signs on the same wall; provided that, the integrated sign contains no commercial message substantially duplicating another sign.

(S) *Model home signs.* A model home sign may be erected only on the actual site of a model home, and only one such sign may be erected on the site. The area of a model home sign may not exceed eight square feet, and the height of a model home sign may not exceed six feet. A model home sign may not be an internally illuminated sign, but may be externally lighted until 10:00 p.m. All model home signs must be removed within 30 days after 90% of the homes in the subdivision are sold.

(T) *Monument signs.* The area of a monument sign for an individual establishment may not exceed 24 square feet in any Non-Residential Sign District. The area of a monument sign for a commercial complex may not exceed 12 square feet. The height of a monument sign may not exceed eight feet.

(U) *Monument sign, changeable copy.* The changeable copy portion of the sign shall not exceed six square feet in area.

(V) *Name plates.* The area of a name plate may not exceed one square foot in a Residential Sign District or two square feet in a Non-Residential Sign District. Only one name plate may be permitted per residence or establishment.

(W) *Pet signs (lost/found).* Pet signs may be placed only at the public bulletin board located at the Triangle Park at the intersection of Woodsreek Drive and Brookhollow Drive. Persons wishing to post a pet sign must contact the city Administrator during normal business hours for approval. The person posting the signs should remove pet signs from the public bulletin board 15 days after posting.

(X) *Political signs.* Political signs may be placed only on the premises of a person or entity upon receipt of that person's or entity's express authorization. No political sign may be placed in, on or over any public right-of-way or publicly-owned land. Political signs may not have an effective area greater than 36 feet, be more than eight feet high,

Commented [R14]: Should be removed, no bb

Commented [A15]: There is no such bulletin board at the Triangle. I do believe one is needed - it can be done in a tasteful manner.

Commented [R16]: Remove

be illuminated or have any moving parts. Political signs must be taken down within 10 days after the election.

Commented [R17]: Added

(Y) *Projecting signs.* Only one projecting sign may be permitted per establishment; except that, in an establishment which is located on the corner of a street intersection or at the end of a building in a commercial complex, the establishment may have one projecting sign on the front wall and one projecting sign on the side wall of the building. The area of a projecting sign may not exceed 12 square feet. No projecting sign may exceed a height of 12 feet. No projecting sign may extend above any roof line of the wall of the building to which it is attached, nor beyond the end of the wall to which it is attached. A projecting sign attached to a building on private property may not extend over any public land, except a sidewalk adjacent to a building which is lawfully built up to the public right-of-way.

(Z) *Public service signs.* A public service sign may be placed only in a Non-Residential Sign District and only on the same lot or tract of land as the establishment sponsoring the sign. The area of a public service sign may not exceed 12 square feet, regardless of whether the public service sign is a separate sign or integrated as a component of another sign. Residents are allowed to post public service signs, including signs supporting political candidate, charities, or political organizations on their private property.

(AA) *Realty signs.* Realty signs may be placed only upon the premises to which they refer, and only one such sign may be permitted per street fronting the lot or tract. The area of a realty sign may not exceed eight square feet and the height may not exceed four feet. For properties on the golf course, an additional sign may be placed on the area of the property fronting the golf course.

(BB) *Residential development signs.* In addition to the name and/or the address of the residential development, a residential development sign may incorporate incidental leasing information and/or the contents of a directional sign. A residential development may have no more than one residential development sign for each street fronting such development. For a residential development with six or fewer residential units, the area of a residential development sign may not exceed eight square feet. For a residential development with more than six residential units, the area of a residential development sign may not exceed the smaller of either two square feet per residential unit or 16 square feet in total. For a residential development sign in a condominium development or in a subdivision in which the sign is common property of the subdivision homeowners, the condominium regime or restrictive covenants must provide adequate assurance, in the judgment of the City Manager/Administrator, that the landscaped area, if present, at the base of the sign will be properly maintained by the condominium owners' association or homeowners' association.

(CC) *Self-supported signs.* The area of a self-supported sign for a single establishment may not exceed three square feet in a Residential Sign District or 24 square feet in a Non-Residential Sign District. The area of a self-supported sign for a commercial complex may not exceed 12 square feet in a Residential Sign District or 64 square feet in a Non-Residential Sign District. For a commercial complex in a Non-Residential Sign District with a land area of two acres or more and frontage of 200 feet or more on each of two or more streets and more than one self-supported sign, the total area of all self-supported signs may not exceed 100 square feet. The height of a self-

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supported sign may not exceed ten feet for a single establishment or 12 feet for a commercial complex in a Non-Residential Sign District or four feet in a Residential Sign District.

(DD) *Single-family address signs.* In addition to the name of the occupants and/or the address of the residence, a single-family address sign may contain an incidental personal message from the occupants, but it may not contain any commercial sign. The area of a single-family address sign may not exceed three square feet.

(EE) *Wall signs.* A wall sign which is not painted directly on the surface of a wall must be securely mounted to and supported by the wall throughout the length and width of the sign. Only one wall sign may be permitted per establishment. The area of a wall sign on any single wall may not exceed an area greater than 3% of the area of that wall, including windows and doors, or 30 square feet, whichever is less. The changeable copy portion of any wall sign shall not exceed eight square feet in area.

(Ord. 08-118, passed 11-12-2008) Penalty, see § 152.99

§ 152.44 UNIFORM SIGN RESTRICTIONS.

(A) No person shall construct, place, erect or use a sign anywhere in the city limits or the city's extraterritorial jurisdiction, except in accordance with city ordinances.

(B) No sign may be placed on or attached to any tree.

(C) No sign may be placed on or attached to any utility pole or pedestal, except by a utility company owning the pole or pedestal or operating facilities mounted on the pole or in the pedestal.

(D) Signs no longer in use must be removed if the sign's name advertises or calls attention to a business, service, product, institution, purpose, organization, cause or activity that has been discontinued, ceased operation, has not been offered on the site or is out of existence for a continuous period of 30 days or more.

(E) No sign or part of a sign, including mounting fixtures and supporting structures, may be located on or above any public land or public rights-of-way, except in areas designated by the City and with the proper permit or permission of this chapter. This provision does not apply to the particular governmental entity that is owner, custodian, trustee or manager of the public land or public rights-of-way.

(F) No sign or part of a sign, including mounting fixtures and supporting structures, which is mounted above or projects over any sidewalk, street, drive or parking area, whether on public or private land, may be hung with less than seven feet of vertical clearance above the sidewalk or less than 15 feet of vertical clearance above the street, drive or parking area.

(G) No sign may be located on any sidewalk or in any unpaved walkway intended for public use.

(H) No sign or part of a sign frame may be located between two feet and ten feet above the established ground level within the area of a clear sight triangle for traffic extending 25 feet in each direction from the point of a street intersection.

(I) No sign may be located closer than six feet laterally to a secondary power line or closer than ten feet laterally to a primary power line.

(J) No illuminated sign, and no permanent sign, except a directional sign, may be mounted or placed on or extend above the side wall or rear wall of any building, or be located in the side yard or rear yard of any lot or tract of land, when such sign faces upon and is visible from a contiguous Residential Sign District.

Commented [R18]: Fee?

(K) No part of a sign attached to a building shall extend beyond any roof line of the portion of the building to which it is attached.

(L) A person may not place, maintain or display on or in view of a public street a sign, signal, marking or device that:

- (1) Imitates or resembles an official traffic-control device or railroad sign or signal;
- (2) Attempts to direct the movement of traffic; or
- (3) Hides from view or hinders the effectiveness of an official traffic-control device or railroad sign or signal.

(Ord. 08-118, passed 11-12-2008) Penalty, see § 152.99

PERMITS

§ 152.55 PERMIT AND FEE REQUIRED.

Except as provided in § 152.57 of this chapter, no person may construct, place, erect, install, alter, repair or relocate any sign without first obtaining a sign permit from the designated City Staff. Applications for a sign permit shall be submitted in conjunction with any required building permit or prior to the construction, placement, erection, installation, alteration, reparation or relocation of any sign, except as provided in § 152.57 of this chapter. Each application for a sign permit must be accompanied by the appropriate fee established in the City's Master Rate Schedule ([link here](#)).

(Ord. 08-118, passed 11-12-2008) Penalty, see § 152.99

§ 152.56 PERMIT APPLICATION.

The application for a sign permit shall include a completed sign application form; complete information on all aspects of the proposed sign, including type, dimensions, design, content, purpose, placement; a sample set of the proposed materials and/or paint colors; construction plans; and such drawings, descriptions and specifications as are reasonably determined by the City Manager/Administrator to be necessary for proper review of the application. Any other documentation, including photographs and catalogs, which may further support the application, is encouraged to be included. For temporary signs, such as estate or garage sales, the applicant may present a the sign(s) for posting at the time of application.

(Ord. 08-118, passed 11-12-2008)

§ 152.57 PERMIT EXEMPTIONS.

The following types of signs are exempt from the requirement to obtain a sign permit; provided, the signs are not illuminated signs, either internally or externally, and provided the signs comply with all other provisions of this chapter and other applicable codes:

(A) Auxiliary signs, such as signs providing general information such as pricing, official notices or services required by law, or signs giving directions to offices, restrooms, exits and like facilities;

(B) Flags of governments, churches or schools;

(C) Name plates;

(D) Political signs;

(E) Pet signs (lost/found);

(F) Realty signs;

(G) Single-family address signs;

(H) Religious signs or signs expressing support for a religious or political cause.

(Ord. 08-118, passed 11-12-2008)

§ 152.58 ACTIONS EXEMPT FROM PERMIT.

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The following actions are also exempt from the requirement of a sign permit:

(A) Repainting, rearranging or replacing letters or characters on an existing sign; provided that, the area of the sign is not enlarged, the height of the sign is not increased, the location of the sign is not changed and/or no other change is made to the sign;

(B) Changing the copy on a bulletin board or changeable copy sign; or

(C) Replacing the fabric or other material of an awning sign when no other change is made to the sign.

(Ord. 08-118, passed 11-12-2008)

§ 152.59 EXPIRATION OF PERMITS.

All sign permits shall be for a specified term. A sign permit for any sign which use is limited to a time period specified by this chapter, or which removal is required at a certain time by this chapter, must be for a specified term that does not exceed the time limit established by this chapter. The specified time limit for the construction of a sign under a sign permit shall not exceed three months. If substantial progress has not been achieved within three months, the permit shall automatically expire. Substantial progress shall include good faith initiation of construction of the sign or significant expenditures of funds toward sign construction.

(Ord. 08-118, passed 11-12-2008)

§ 152.60 MODIFICATIONS.

After a sign permit has been issued by the City it shall be unlawful to change, modify, alter or otherwise deviate from the terms and conditions of the permit without prior approval by the City

(Ord. 08-118, passed 11-12-2008) Penalty, see § 152.99

§ 152.99 PENALTY.

(1) *Provisions.* The city shall have the power to administer and enforce the provisions of this chapter as may be required by governing law. Any person violating any provision of this chapter is subject to suit for injunctive relief as well as civil action to enforce the provisions of this Chapter and seek remedies.

(2) *Civil remedies.* Nothing in this chapter shall be construed as a waiver of the city's right to bring a civil action to enforce the provisions of this chapter and to seek remedies as allowed by law, including, but not limited to, the following:

(a) Injunctive relief to prevent specific conduct that violates the chapter or to require specific conduct that is necessary for compliance with the chapter; and

(b) A civil penalty up to \$500 a day when it is shown that the defendant was actually notified of the provisions of the chapter and after receiving notice committed acts in violation of the chapter or failed to take action necessary for compliance with the chapter; and other available relief.

(3) *Notice and removal.* In addition to remedies otherwise provided in this chapter, whenever the City has evidence of a sign which after the effective date of this chapter was erected, constructed, altered, repaired, relocated or changed in violation hereof, or is otherwise in violation hereof, the City shall require the party responsible for such sign to remove it. If the responsible party fails to remove the sign within 72 hours after being notified to do so, or if the sign poses an immediate danger to the public, then such sign may be removed by the city and the city's actual cost of removal shall be charged to the responsible party. Any sign so removed shall be impounded and shall not be returned to

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the party responsible until all applicable charges are paid. If any sign remains unclaimed for a period of more than 30 days, the city may destroy, sell or otherwise dispose of the sign.

(4) *Immediate removal.* The city shall have the authority to immediately remove and dispose of signs deemed in violation of this chapter if such signs are placed on or attached to trees, utility poles or pedestals, or located on any public land or public rights-of-way. The city may enforce this section without notice and without returning the removed signs to the responsible party.

(5) *Rights-of-Way Signs.* It is a violation of § 152.26 of this chapter to place or otherwise locate a sign upon the city's rights-of-way without express written authorization as set forth herein. Any person who violates § 152.26 of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$1 and not to exceed \$200. Each incident of violation of § 152.26 of this chapter shall constitute a separate offense.

(Ord. 08-118, passed 11-12-2008; Ord. 12-164, passed 7-11-2012; Ord. 13-177, passed 2-13-2013)

Council Meeting Date 9/11/2019

Item No. _____

AGENDA ITEM COVER SHEET

Subject/Title

Second reading of Chapter 30 of the Woodcreek Code of Ordinances as it relates to the Board of Adjustment.

Item/Summary

Amendments to Chapter 30 of the Woodcreek Code of Ordinances, specific to the Board of Adjustment and processes for citizens to request and receive variances and appeal decisions of administrative staff were presented at the August 14, 2019 Regular Council Meeting. It was the decision of Council to provide a reasonable timeframe for all Council Members to submit comments and also submit the Ordinance to the City Attorney to review and vet. These actions took place with a deadline of August 30, 2019. The deadline was met with the following actions:

- Comments were received from City Attorney Ortiz, all of which were incorporated.
- No comments were received from Mayor Pro Tem Britner or Council Member Tilley. Mayor Pro Tem Britner suggested the ordinance be left alone and a response to the reasons for needing to make updates was provided by Council Member LeBrun.
- Questions and comments were received from Mayor Scheel. Council Member LeBrun provided responses to his questions and comments, including assuring the Mayor that City Staff and City Attorney had fully participated in the process of developing the amended Ordinance.
- Comments were received from Council Member Eskelund. His comments were incorporated, except for one: Council Member Eskelund suggested adding a paragraph requiring the Board Chairman advise Council of its decision in writing stating reasons and facts that led to the decision. The amended Ordinance at Section 30.59(C) requires the Board Chair to keep minutes of all meetings, as well as keep records of its actions. Such minutes and records are available to Council. In some cases, Council Member Eskelund's comments were very similar to those of the City Attorney and, in those circumstances; the language of the City Attorney was used.

Financial Impact

Cost of recodifying.

Recommendation

Move for adoption of Ordinance as amended.

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Attachment

Amended Ordinance

Submitted by

Councilmember LeBrun, Council Member Jackson, Citizen Advisory Workgroup

BOARD OF ADJUSTMENT

§ 30.55 POPULAR NAME.

This subchapter shall be commonly cited as the "Board of Adjustment Ordinance."

(Ord. 12-171, passed 10-10-2012)

§ 30.56 PURPOSE AND CREATION OF BOARD OF ADJUSTMENT.

This subchapter creates a Board of Adjustment, also referred to as the Board, for the purpose, in appropriate cases and subject to appropriate conditions and safeguards, to grant variances for certain specific cases and hear appeals of decisions by City administrative staff that allege errors in the decisions. The Board in appropriate conditions and safeguards, is authorized to grant variances from the requirements of Ch. 50, 151, 152, 153, and 156 of this code of ordinances. This subchapter also defines the functions and authority of the Board. The Board shall be composed of members who are resident citizens and qualified voters of the City of Woodcreek.

(Ord. 12-171, passed 10-10-2012)

§ 30.57 DEFINITIONS.

(A) *Rules of interpretation.* Words and phrases used in this subchapter shall have the meanings set forth in this section. Words and phrases not defined in this subchapter shall be given their common, ordinary meaning unless the context clearly requires otherwise. When not inconsistent with the context, words used in the present tense shall include the future tense; words in the plural number shall include the singular number (and vice versa); and words in the masculine gender shall include the feminine gender (and vice versa). The word "shall" is always mandatory, while the word "may" is merely discretionary. Headings and captions are for reference purposes only.

(B) *Specific terminology.* For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADMINISTRATIVE OFFICIAL. A person with the authority in the administration or enforcement of this subchapter and the City's Land Use Ordinances.

BOARD. The Board of Adjustment of the City of Woodcreek.

BUILDING REGULATIONS. Ch. 151 of this Code of Ordinances, as may be amended.

CITY. The City of Woodcreek, an incorporated municipality located in Hays County, Texas.

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FLOOD DAMAGE PREVENTION. Ch. 153 of this Code of Ordinances, as may be amended.

LAND USAGE ORDINANCES. Title XV of this Code of Ordinances, as may be amended, and specifically Ch. 151, Building Regulations; Ch.152, Signs; Ch. 153, Flood Damage Prevention;; and Ch. 156, Planning and Zoning.

PLANNING AND ZONING COMMISSION. The Planning and Zoning Commission for the City. The Planning and Zoning Commission shall be an advisory body and adjunct to the City Council, and shall make recommendations regarding amendments to the municipal Comprehensive Plan, changes of zoning, zoning ordinance amendments and zoning to be given to newly annexed areas, and shall consider approval of plats of subdivisions as may be submitted to it for review and other planning related matters

SIGNS. Ch. 152 of this Code of Ordinances, as may be amended

SITE DEVELOPMENT ORDINANCE. Ch. 154 of this Code of Ordinances, as may be amended.

STREETS AND SIDEWALKS. Ch. 92 of this Code of Ordinances, as may be amended.

SUBDIVISIONS. Ch. 155 of this Code of Ordinances, as may be amended.

VARIANCE. A variance is the relief from strict application of any term of provision of the specific regulations of Ch. 50, 151, 152,153, and 156 of this Code of Ordinances or other applicable ordinances under the purview of the City and applicable to a particular parcel of property which, because of special conditions or circumstances peculiar to the particular parcel, is necessary to prevent the property owner from being deprived rights and privileges enjoyed by other owners of similarly situated parcels in the same vicinity and district. The hardship must be due to the nature of the land or tract of land and cannot be solely economic in nature. Under no circumstances can a variance be issued to allow any use other than those set forth in the zoning district in question.

WATER QUALITY PROTECTION ORDINANCE. Ch. 50 of this Code of Ordinances, as may be amended.

ZONING ORDINANCE. Ch. 156 of this Code of Ordinances, as may be amended.

§ 30.58 MEMBERS.

(A) *Members of the Board.* There is hereby created a Board of Adjustment as consisting of five (5) regular members and two (2) alternates who are resident citizens and qualified voters of the City of Woodcreek and are appointed by members of the City of Woodcreek Council. Each Council Member shall provide one name for regular appointment. The Mayor will provide two names for appointment as alternates.

(1) Board members shall be formally appointed by a majority vote of the City Council, in accordance with Texas Local Government Code Sections

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211.008-211.011, as amended. At each case heard by the Board, the Board shall state who are the regular members and the two (2) alternates.

(2) Each of the five regular members shall be entitled to one vote in all deliberations of the Board. Alternates shall have a right to vote only when they are designated by the Mayor or City Manager to replace a regular board member for specific reasons. When required, the alternate to replace a regular board member shall be selected based on tenure with the Board, unless there is a conflict of interest or other valid reason to prevent the assignment or if the alternate declines the assignment. Alternates may attend all meetings of the Board but their presence shall not be counted to establish quorum except when designated to replace a regular member.

(B) *Terms.* Appointments to the Board shall be linked to the term of office of the Council Member, including the Mayor, making the appointment. Each member will serve until the expiration of the Council Member or Mayor.

If a vacancy occurs on the Board, at the first regular meeting of the City Council after notification of the vacancy, the Council Member who originally appointed that membershall appoint a person, with approval of the Council, to fill the unexpired term.

(C) *No compensation.* The members of the Board shall regularly attend meetings and public hearings of the Board and shall serve without compensation.

(D) *Removal of member.* The City Council may, by majority vote, remove a Board member for lack of confidence, corruption, misconduct or malfeasance. In addition, the City Council, upon recommendation from the Board, by super majority vote, may remove any regular member of the Board who misses three (3) consecutive meetings within a twelve (12) month period or four (4) nonconsecutive meetings within a twelve (12) month time period. For the purpose of meeting attendance, it shall be considered a missed meeting for any regular member of the Board who leaves a meeting prior to the completion of all action items on the posted agenda for any reason other than to avoid a potential conflict of interest. Any Board member who is so removed shall not be considered for appointment to a City Board or Committee for a period of twelve (12) months from the date of removal.

(E) *Cases before the Board.* Each case before the Board of Adjustment must be heard by a minimum of four (4) members.

(F) *Chair of the Board of Adjustments.* Members of the Board of Adjustment shall select a Chair and a Vice Chair from its membership. Both positions shall serve for one year or until replaced by a vote of 4 members of the Board. Elections will be held annually at the first meeting held after the first day of October. The Chair shall preside over all meetings and appeals and shall affix his/her signature to all matters of the Board. The Chair or acting chair may administer oaths and compel the attendance of witnesses.

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§ 30.59 MEETINGS.

(A) *Calling a meeting.* Meetings of the Board shall be held at the call of the Chair and at other times as the Board may determine necessary to hear appeals or requests for variances. Four (4) members of the Board shall constitute a quorum for the Board to conduct business. All cases to be heard by the Board will be heard by, at least, 75% of the members, which constitutes four (4) members

(B) *Public meetings.* All meetings of the Board shall be open to the public and meeting notices shall be posted in advance in accordance with the Texas Open Meetings Act. Refer to Tex. Gov't Code, Title 5, Ch. 551. All meetings will be electronically recorded and such recordings will be available for public review.

(C) *Minutes.*

(1) The Chair of the Board shall keep minutes, or designate a member of the Board to keep minutes, of the Board's proceedings. The minutes shall record the vote of each member on each question of fact, including whether a member is absent or abstains from voting. The Board shall keep records of its examinations and official actions. The minutes, electronic recordings, and records shall be signed and attested to by the Board Chair and Vice Chair and shall be filed immediately with the City Secretary and considered public records.

(2) Findings of the Board together with any recommendations it receives, and the specific facts upon which its findings are based, shall be incorporated into the official minutes of the Board of Adjustment meeting and are considered public records.

(D) *Rules of the Board.* The Board by majority vote shall adopt rules in accordance with any City ordinance adopted under subchapter A of Chapter 211 of the Local Government Code and with the approval of the City Council.

§ 30.60 AUTHORITY OF THE BOARD.

(A) The Board shall have the authority, subject to the standards established in Tex. Local Gov't Code §§ 211.008 to 211.011, as amended, and those established herein, to exercise the following powers and perform the following duties:

(1) Hear and decide an appeal that alleges error in an order, requirement, decision or determination made by an administrative official of the City in the enforcement of City ordinances adopted under Subchapter A of Chapter 211 of the Local Government Code granting appellate jurisdiction to the Board. Appeals of decisions or determinations made by an administrative official of the City in the enforcement of Chapters 154 and 155 of the Code of Ordinances shall be heard by City Council.

(2) Hear and decide requests for variances from the requirements of Ch. 50, 151, 152, 152, 153, and 156 of this code of ordinances; provided that, the variance is not contrary to public interest and, due to special conditions, a

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literal enforcement of the articles would result in unnecessary hardship, and so that the spirit of these articles is observed and substantial justice is done.

(B) In exercising its authority under section (A)(1) above, the Board may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision or determination from which an appeal is taken and make the correct order, requirement, decision or determination, and for those purposes, the Board has the same authority as the administrative official.

(C) The concurring vote of four (4) members of the Board is necessary to:

- (1) Reverse an order, requirement, decision or determination of an administrative official; or
- (2) Authorize a variance from the terms of Ch. 50, 151, 152, 153, and 156 of this Code of Ordinances.
- (3) Decide in favor of an applicant on a matter on which the Board is required to review by ordinance.

(D) Limitations on Authority of Board

- (1) The Board may not grant a variance authorizing a use other than those permitted in the zoning area for which the variance is sought.
- (2) The Board shall have no power to grant or modify conditional use permits authorized under this Code of Ordinances.
- (3) The Board shall have no power to grant a zoning amendment. In the event that a request for a zoning amendment is pending before the Planning and Zoning Commission or City Council, the Board shall neither hear nor grant any variances with respect to the subject property until final disposition of the zoning amendment.
- (4) The Board shall not grant a variance for a parcel of property or portion thereof upon which a site plan, preliminary plat, or final plat where required, is pending on the agenda of the Planning and Zoning Commission or the City Council.
- (5) All administrative remedies available to the applicant shall have been exhausted prior to hearing by the Board of Adjustment.

§ 30.61 APPEALS ALLEGING ERROR AND PROCEDURE FOR REQUESTING AN APPEAL

(A) *General.* The Board shall have the power to hear and decide an appeal that alleges an error in an order, requirement, decision or determination made by an administrative official in the enforcement of Tex. Local Gov't Code Ch. 211 and Ch. 50, 92, 151, 152, 153, and 156 of this Code of Ordinances and other city ordinances granting appellate jurisdiction to the Board. Appeals alleging an error in a decision or determination made by an administrative official in the enforcement Chapters 154 and 155 of the Code of Ordinances shall be heard by City Council.

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(B) *Procedure.* The procedure for asserting is detailed in § 30.63 of this chapter. §
30.62 VARIANCES AND PROCEDURES FOR REQUESTING A VARIANCE

(A) *General.* The Board shall have the power to authorize in specific cases a variance from the terms of Ch. 50, 151, 152, 153, and 156 of this Code of Ordinances, if the variance is not contrary to the public interest and requiring strict compliance of the provisions within the aforementioned ordinances would result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done. *In all instances, the applicant shall bear the burden of proof in establishing the facts justifying a variance.*

(B) *Procedure.* The Procedure for requesting a variance is detailed in § 30.64 of this chapter.

(C) *Zoning variances.*

(1) *General.* Zoning variances that may be brought before the Board may include, but are not limited to:

(a) *Structures permit.* A variance whenever a property owner can show that a strict application of the terms of Ch. 151 and/or 156 of this Code of Ordinances relating to the construction or alteration of a building or structure or the use of land will impose unusual and practical difficulties or particular hardship.

(2) *Requirements for zoning variances.*

(a) The Board shall ensure that any surrounding property pertaining to a variance request is properly protected.

(b) The Board shall not, in any event, permit a use on any property that is not permitted within the zoning category for which such property is zoned.

(C) *Requirements for water quality variance.* No variance of the requirements of Ch. 50 and shall be granted unless the Board finds that all of the following provisions are met:

(1) Special circumstances or conditions affecting the land involved such that the strict application of the provisions of Ch. 50 of this Code of Ordinances would deprive the applicant of the reasonable use of the involved land.

(2) The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant.

(3) Granting of the variance will neither be detrimental to the public health, safety or welfare, nor injurious to other property in the area.

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(4) Granting of the variance will not have the effect of preventing the orderly development of other land in the area in accordance with the provisions of Ch. 154 of this Code of Ordinances.

(D) *Minimum departure.* When the Board determines that a variance is warranted, the variance permitted shall be the minimum departure from the terms of the relevant ordinance of this Code of Ordinances.

(E) *Recommendation.* The Board may seek the recommendation of the City Engineer and/or City Attorney prior to taking any action on a proposed variance.

(F) *Pecuniary hardship.* Pecuniary hardship of the applicant, property owner or developer, by itself, shall not be deemed sufficient to constitute undue hardship.

(G) *Granting variance for more favorable outcome for general public.* It shall be an adequate basis for granting a variance if doing so will enable the applicant to create additional open space, reduce impervious cover, preserve trees, maintain critical environmental features, ensure more wildlife preservation or bring non-conforming structures (including signs) into compliance with current regulations. This section is designed to achieve a more favorable outcome for the general public than would be possible complying with Ch. 50, 151, 152, 153, 154, and 156 of this code of ordinances.

(H) *Necessary percentage of vote.* The concurring vote of at least four (4) Board members in attendance is necessary to:

- (1) Grant a variance or reverse an order, requirement, decision or determination of an administrative official;
- (2) Decide in favor of an applicant on a matter on which the Board is required to pass under Ch. 50, 151, 152, 153, and 156 of this Code of Ordinances; and/or
- (3) Authorize a variance from the terms of Ch. 50, 151, 152, 153, 154, 155 and 156 of this Code of Ordinances.

§ 30.63 PROCEDURE FOR REQUESTING AN APPEAL ALLEGING ERROR

(A) *Appellants.*

(1) Any of the following persons may appeal to the Board a decision of an administrative official that is not related to a specific application, address, or project, pertaining to Tex. Local Gov't Code Ch. 211 and Ch. 50, 92, 151, 152, 153, and 156 of this Code of Ordinances: (a) a person aggrieved by the decision; or (b) any officer, department, board, or bureau of the City affected by the decision.

(2) Any of the following person may appeal to the Board a decision made by an administrative official that is related to a specific application, address, or project: (a) a person who (i) filed the application that is the subject of the decision; (ii) is the owner or representative of the owner of the property that is the subject of the

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decision; or (iii) is aggrieved by the decision and is the owner of real property within 200 feet of the property that is the subject of the decision; or (b) any officer, department, board, or bureau of the City affected by the decision.

(B) *Written request.* A request for an appeal alleging error (as provided in § 30.61 of this chapter) shall be made in writing and include information to support the request for the appeal. Such information may include, but is not limited to, documentation previously provided to the City official, plat plans, site and building plans, contour maps and locations of existing flora.

The request for an appeal alleging an error shall clearly state the grounds for the appeal.

(C) *Stay of proceedings after appeal is filed.* An appeal stays all proceedings in furtherance of the action that is appealed unless the City Engineer certifies in writing to the Board of Adjustment that a stay would cause imminent peril to life or property. If, after reviewing facts in the City Engineer's certification, the Board agrees with such facts, the action will not be stayed.

(D) *Fee.* There shall be no fee for an appeal.

(E) *Address.* The request for appeal shall be addressed to the Board and the administrative official from whom the appeal is taken and mailed or hand-delivered to the City of Woodcreek, 41 Champions Circle, Woodcreek, Texas, 78676. The City Secretary shall date stamp the appeal upon receipt and provide a receipt to the applicant.

(F) *Notice/request and deadline for appeal alleging error.* The notice of appeal must be filed no more than twenty (20) days from the date of the decision by the City official. On receiving notice of appeal from the Board, the designated City official shall immediately notify the Chair of the Board of the appeal and begin assembling and copying all documents constituting the record of the action that is appealed.

(G) *Deadline for decision on an appeal.* The Board shall set a reasonable time for the appeal hearing and shall give public notice of the hearing and due notice to the parties in interest. The Board shall decide the appeal at the next meeting for which notice can be provided following the hearing and not later than the 60th day after the date the appeal is filed. Failure to take action on a request for appeal within sixty (60) calendar days results in an automatic approval of the appeal.

(H) *Necessary percentage of vote.* The concurring vote of at least four (4) Board members in attendance is necessary to reverse an order, requirement, decision, or determination of an administrative official.

(I) Section 30.63 of this Code applies only to an appeal based on a decision made by an administrative official on or after September 1, 2019. An appeal based on a decision made by an administrative official before September 1, 2019 is governed by the law in effect on the date the decision was made, and the former law is continued in effect for that purpose.

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(Ord 12-171, passed 10-10-2012)

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§ 30.64 PROCEDURE FOR REQUESTING A VARIANCE

(A) An applicant for a variance shall submit a request for a variance from the terms of Ch. 50, 151, 152, 153, and 156 of this Code of Ordinances when the applicant believes strict application of the terms of this Code of Ordinances would result in unnecessary hardship.

(B) *Address.* The applicant shall submit the request for variance in writing and, if so required by the City, in the appropriate form. The request may be mailed or hand-delivered to the City of Woodcreek, 41 Champions Circle, Woodcreek, Texas 78676. The City Secretary shall date stamp the request upon receipt and provide a receipt to the applicant.

(C) *Variance Request Format.* The request for a variance shall comply with Section 30.62 of this Chapter and clearly state the grounds for requesting the variance, such as the unusual conditions or circumstances which, in the applicant's opinion, justify the variance. The request for variance shall include documentation detailing the specific variance and may include drawings, plat plans, site and building plans, or other documentation the applicant believes to be relevant to the request.

(D) The City shall be responsible for notifying all property owners within 200 feet of the property for which a variance is requested of the variance requested and the date, time, and location of the Board of Adjustment meeting where the request for variance will be heard. The notification will include a complete description of the variance requested.

(E) *Deadline for decision on variance request.* The Board shall decide the request for variance at the next meeting for which notice can be provided following the hearing and not later than the 60th day after the date a procedurally correct variance is received.

Fee. There shall be no fee for requesting a variance, but a deposit of \$100 will be required at the time of filing to cover City expenses for processing, reproduction, or required publication. In cases where expenses are projected to exceed the deposit, City staff will notify applicant of estimated costs before incurring such costs. In cases where expenses do not reach \$100, the balance will be refunded to the applicant. No deposit shall be required for those cases where the variance is requested to provide reasonable accommodation to a person with a disability or to remove a barrier to accessibility by persons with disabilities. The City shall not disallow an accommodation to a person with a disability or one necessary to remove a barrier to accessibility by persons with disabilities.

§ 30.65 HEARINGS AND DECISIONS

(A) *Setting a hearing.* After receiving a procedurally complete request for an appeal of an administrative decision or a variance request, the Board shall set a date and time

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for a hearing. This date shall be within a reasonable time from receipt of the request.. Once a date is set, the Board shall provide due notice to the parties in interest and post a public notice of the hearing.

(B) *Public hearings.* All hearings relating to an appeal alleging error or a request for a variance shall be public and posted in advance in accordance with the Texas Open Meetings Act. Refer to Tex. Gov't Code, Title 5, Ch. 551. All meetings will be electronically recorded and such recordings will be available for public review. At any hearing, any party may appear in person, by agent or by attorney.

(C) *Decisions by Board.*

(1) The Board shall decide appeals alleging error within sixty (60) calendar days from receipt of the appeal. The Board, upon a vote of 4 members may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision or determination from which an appeal is taken and make the correct order, requirement, decision or determination, and for that purpose the Board has the same authority as the administrative official.

(2) The Board shall decide requests for variances within sixty (60) calendar days from receipt of the request for variance. The Board, upon a vote of 4 members, may grant or deny, in whole or in part, a request for variance. For that purpose, the Board has the same authority as an administrative official for the City.

(D) *Denials by the Board.* Any person or persons jointly or severally, aggrieved by any decision of the Board of Adjustment, or any taxpayer, or any officer, department, board or bureau of the City, may present to a district court, county court, or county court at law a verified petition for a *writ of certiorari*, as provided by V.T.C.A., Local Government Code § 211.011 setting forth that such decision is illegal in whole or in part and specifying the grounds of the illegality. Such petition shall be presented to the court within ten days after the filing of the decision of the Board of Adjustment with the City Secretary.

BOARD OF ADJUSTMENT

§ 30.55 POPULAR NAME.

This subchapter shall be commonly cited as the "Board of Adjustment Ordinance."

(Ord. 12-171, passed 10-10-2012)

§ 30.56 PURPOSE AND CREATION OF BOARD OF ADJUSTMENT.

This subchapter creates a Board of Adjustment, also referred to as the Board, for the purpose, in appropriate cases and subject to appropriate conditions and safeguards, to grant variances for certain specific cases and hear appeals of decisions by City administrative staff that allege errors in the decisions. The Board in appropriate conditions and safeguards, is authorized to grant variances from the requirements of Ch. 50, 151, 152, 152, 153, and 156 of this code of ordinances. This subchapter also defines the functions and authority of the Board. The Board shall be composed of members who are resident citizens and qualified voters of the City of Woodcreek.

(Ord. 12-171, passed 10-10-2012)

§ 30.57 DEFINITIONS.

(A) *Rules of interpretation.* Words and phrases used in this subchapter shall have the meanings set forth in this section. Words and phrases not defined in this subchapter shall be given their common, ordinary meaning unless the context clearly requires otherwise. When not inconsistent with the context, words used in the present tense shall include the future tense; words in the plural number shall include the singular number (and vice versa); and words in the masculine gender shall include the feminine gender (and vice versa). The word "shall" is always mandatory, while the word "may" is merely discretionary. Headings and captions are for reference purposes only.

(B) *Specific terminology.* For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADMINISTRATIVE OFFICIAL. A person with the authority in the administration or enforcement of this subchapter and the City's Land Use Ordinances.

BOARD. The Board of Adjustment of the City of Woodcreek.

BUILDING REGULATIONS. Ch. 151 of this Code of Ordinances, as may be amended.

CITY. The City of Woodcreek, an incorporated municipality located in Hays County, Texas.

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AGENDA ITEM 8 E

FLOOD DAMAGE PREVENTION. Ch. 153 of this Code of Ordinances, as may be amended.

LAND USAGE ORDINANCES. Title XV of this Code of Ordinances, as may be amended, and specifically Ch. 151, Building Regulations; Ch.152, Signs; Ch. 153, Flood Damage Prevention; and Ch. 156, Planning and Zoning.

Deleted: Ch.154, Site Development; Ch. 155, Subdivisions

PLANNING AND ZONING COMMISSION. The Planning and Zoning Commission for the City. The Planning and Zoning Commission shall be an advisory body and adjunct to the City Council, and shall make recommendations regarding amendments to the municipal Comprehensive Plan, changes of zoning, zoning ordinance amendments and zoning to be given to newly annexed areas, and shall consider approval of plats of subdivisions as may be submitted to it for review and other planning related matters

SIGNS. Ch. 152 of this Code of Ordinances, as may be amended

SITE DEVELOPMENT ORDINANCE. Ch. 154 of this Code of Ordinances, as may be amended.

STREETS AND SIDEWALKS. Ch. 92 of this Code of Ordinances, as may be amended.

SUBDIVISIONS. Ch. 155 of this Code of Ordinances, as may be amended.

VARIANCE. A variance is the relief from strict application of any term of provision of the specific regulations of Ch. 50, 151, 152,153, and 156 of this Code of Ordinances or other applicable ordinances under the purview of the City and applicable to a particular parcel of property which, because of special conditions or circumstances peculiar to the particular parcel, is necessary to prevent the property owner from being deprived rights and privileges enjoyed by other owners of similarly situated parcels in the same vicinity and district. The hardship must be due to the nature of the land or tract of land and cannot be solely economic in nature. Under no circumstances can a variance be issued to allow any use other than those set forth in the zoning district in question.

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WATER QUALITY PROTECTION ORDINANCE. Ch. 50 of this Code of Ordinances, as may be amended.

ZONING ORDINANCE. Ch. 156 of this Code of Ordinances, as may be amended.

§ 30.58 MEMBERS.

(A) *Members of the Board.* There is hereby created a Board of Adjustment as consisting of five (5) regular members and two (2) alternates who are resident citizens and qualified voters of the City of Woodcreek and are appointed by members of the City of Woodcreek Council. Each Council Member shall provide one name for regular appointment. The Mayor will provide two names for appointment as alternates.

(1) Board members shall be formally appointed by a majority vote of the City Council, in accordance with Texas Local Government Code Sections

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211.008-211.011, as amended. At each case heard by the Board, the Board shall state who are the regular members and the two (2) alternates.

- (2) Each of the five regular members shall be entitled to one vote in all deliberations of the Board. Alternates shall have a right to vote only when they are designated by the Mayor or City Manager to replace a regular board member for specific reasons. When required, the alternate to replace a regular board member shall be selected based on tenure with the Board, unless there is a conflict of interest or other valid reason to prevent the assignment or if the alternate declines the assignment. Alternates may attend all meetings of the Board but their presence shall not be counted to establish quorum except when designated to replace a regular member.

(B) *Terms.* Appointments to the Board shall be linked to the term of office of the Council Member, including the Mayor, making the appointment. Each member will serve until the expiration of the Council Member or Mayor.

If a vacancy occurs on the Board, at the first regular meeting of the City Council after notification of the vacancy, the Council Member who originally appointed that member shall appoint a person, with approval of the Council, to fill the unexpired term.

(C) *No compensation.* The members of the Board shall regularly attend meetings and public hearings of the Board and shall serve without compensation.

(D) *Removal of member.* The City Council may, by majority vote, remove a Board member for lack of confidence, corruption, misconduct or malfeasance. In addition, the City Council, upon recommendation from the Board, by super majority vote, may remove any regular member of the Board who misses three (3) consecutive meetings within a twelve (12) month period or four (4) nonconsecutive meetings within a twelve (12) month time period. For the purpose of meeting attendance, it shall be considered a missed meeting for any regular member of the Board who leaves a meeting prior to the completion of all action items on the posted agenda for any reason other than to avoid a potential conflict of interest. Any Board member who is so removed shall not be considered for appointment to a City Board or Committee for a period of twelve (12) months from the date of removal.

(E) *Cases before the Board.* Each case before the Board of Adjustment must be heard by a minimum of four (4) members.

(F) *Chair of the Board of Adjustments.* Members of the Board of Adjustment shall select a Chair and a Vice Chair from its membership. Both positions shall serve for one year or until replaced by a vote of 4 members of the Board. Elections will be held annually at the first meeting held after the first day of October. The Chair shall preside over all meetings and appeals and shall affix his/her signature to all matters of the Board. The Chair or acting chair may administer oaths and compel the attendance of witnesses.

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§ 30.59 MEETINGS.

(A) *Calling a meeting.* Meetings of the Board shall be held at the call of the Chair and at other times as the Board may determine necessary to hear appeals or requests for variances. Four (4) members of the Board shall constitute a quorum for the Board to conduct business. All cases to be heard by the Board will be heard by, at least, 75% of the members, which constitutes four (4) members

(B) *Public meetings.* All meetings of the Board shall be open to the public and meeting notices shall be posted in advance in accordance with the Texas Open Meetings Act. Refer to Tex. Gov't Code, Title 5, Ch. 551. All meetings will be electronically recorded and such recordings will be available for public review.

(C) *Minutes.*

(1) The Chair of the Board shall keep minutes, or designate a member of the Board to keep minutes, of the Board's proceedings. The minutes shall record the vote of each member on each question of fact, including whether a member is absent or abstains from voting. The Board shall keep records of its examinations and official actions. The minutes, electronic recordings, and records shall be signed and attested to by the Board Chair and Vice Chair and shall be filed immediately with the City Secretary and considered public records.

(2) Findings of the Board together with any recommendations it receives, and the specific facts upon which its findings are based, shall be incorporated into the official minutes of the Board of Adjustment meeting and are considered public records.

(D) *Rules of the Board.* The Board by majority vote shall adopt rules in accordance with any City ordinance adopted under subchapter A of Chapter 211 of the Local Government Code and with the approval of the City Council.

§ 30.60 AUTHORITY OF THE BOARD.

(A) The Board shall have the authority, subject to the standards established in Tex. Local Gov't Code §§ 211.008 to 211.011, as amended, and those established herein, to exercise the following powers and perform the following duties:

(1) Hear and decide an appeal that alleges error in an order, requirement, decision or determination made by an administrative official of the City in the enforcement of City ordinances adopted under Subchapter A of Chapter 211 of the Local Government Code granting appellate jurisdiction to the Board. Appeals of decisions or determinations made by an administrative official of the City in the enforcement of Chapters 154 and 155 of the Code of Ordinances shall be heard by City Council.

(2) Hear and decide requests for variances from the requirements of Ch. 50, 151, 152, 152, 153, and 156 of this code of ordinances; provided that, the variance is not contrary to public interest and, due to special conditions, a

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AGENDA ITEM 8 E

literal enforcement of the articles would result in unnecessary hardship, and so that the spirit of these articles is observed and substantial justice is done.

(B) In exercising its authority under section (A)(1) above, the Board may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision or determination from which an appeal is taken and make the correct order, requirement, decision or determination, and for those purposes, the Board has the same authority as the administrative official.

(C) The concurring vote of four (4) members of the Board is necessary to:

- (1) Reverse an order, requirement, decision or determination of an administrative official; or
- (2) Authorize a variance from the terms of Ch. 50, 151, 152, 153, and 156 of this Code of Ordinances.
- (3) Decide in favor of an applicant on a matter on which the Board is required to review by ordinance.

(D) Limitations on Authority of Board

- (1) The Board may not grant a variance authorizing a use other than those permitted in the zoning area for which the variance is sought.
- (2) The Board shall have no power to grant or modify conditional use permits authorized under this Code of Ordinances.
- (3) The Board shall have no power to grant a zoning amendment. In the event that a request for a zoning amendment is pending before the Planning and Zoning Commission or City Council, the Board shall neither hear nor grant any variances with respect to the subject property until final disposition of the zoning amendment.
- (4) The Board shall not grant a variance for a parcel of property or portion thereof upon which a site plan, preliminary plat, or final plat where required, is pending on the agenda of the Planning and Zoning Commission or the City Council.
- (5) All administrative remedies available to the applicant shall have been exhausted prior to hearing by the Board of Adjustment.

§ 30.61 APPEALS ALLEGING ERROR AND PROCEDURE FOR REQUESTING AN APPEAL

(A) *General.* The Board shall have the power to hear and decide an appeal that alleges an error in an order, requirement, decision or determination made by an administrative official in the enforcement of Tex. Local Gov't Code Ch. 211 and Ch. 50, 92, 151, 152, 153, and 156 of this Code of Ordinances and other city ordinances granting appellate jurisdiction to the Board. Appeals alleging an error in a decision or determination made by an administrative official in the enforcement Chapters 154 and 155 of the Code of Ordinances shall be heard by City Council.

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AGENDA ITEM 8 E

(B) *Procedure.* The procedure for asserting is detailed in § 30.63 of this chapter. § 30.62 VARIANCES AND PROCEDURES FOR REQUESTING A VARIANCE

(A) *General.* The Board shall have the power to authorize in specific cases a variance from the terms of Ch. 50, 151, 152, 153, and 156 of this Code of Ordinances, if the variance is not contrary to the public interest and requiring strict compliance of the provisions within the aforementioned ordinances would result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done. *In all instances, the applicant shall bear the burden of proof in establishing the facts justifying a variance.*

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(B) *Procedure.* The Procedure for requesting a variance is detailed in § 30.64 of this chapter.

(C) *Zoning variances.*

(1) *General.* Zoning variances that may be brought before the Board may include, but are not limited to:

(a) *Structures permit.* A variance whenever a property owner can show that a strict application of the terms of Ch. 151 and/or 156 of this Code of Ordinances relating to the construction or alteration of a building or structure or the use of land will impose unusual and practical difficulties or particular hardship.

(2) *Requirements for zoning variances.*

(a) The Board shall ensure that any surrounding property pertaining to a variance request is properly protected.

(b) The Board shall not, in any event, permit a use on any property that is not permitted within the zoning category for which such property is zoned.

Deleted: Site development plan variances. ¶ A variance whenever a property owner can show that a strict application of the terms of Ch. 154 of this Code of Ordinances relating to the development of a building site or the use... of land will impose unusual and practical difficulties or particular hardship. In considering... such a variance, the Board shall take into account:¶ (a) The nature of the proposed use of the land involved¶ (b) The existing uses of land in the vicinity¶ (c) The number of persons who will reside or work in the prosed development¶ (d) The probable effect of such variance upon traffic conditions and upon the public health, safety, convenience, and welfare in the vicinity¶

(C) *Requirements for water quality variance.* No variance of the requirements of Ch. 50 and, shall be granted unless the Board finds that all of the following provisions are met:

Deleted: of land will impose unusual and practical difficulties particular hardship. In considering... such a variance, the Board shall take into account:¶ (a) The nature of the proposed use of the land involved¶ (b) The existing uses of land in the vicinity¶ (c) The number of persons who will reside or work in the prosed development¶ (d) The probable effect of such variance upon traffic conditions and upon the public health, safety, convenience, and welfare in the vicinity¶

(1) Special circumstances or conditions affecting the land involved such that the strict application of the provisions of Ch. 50, of this Code of Ordinances would deprive the applicant of the reasonable use of the involved land.

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(2) The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant.

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(3) Granting of the variance will neither be detrimental to the public health, safety or welfare, nor injurious to other property in the area.

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AGENDA ITEM 8 E

(4) Granting of the variance will not have the effect of preventing the orderly development of other land in the area in accordance with the provisions of Ch. 154 of this Code of Ordinances.

(D) *Minimum departure.* When the Board determines that a variance is warranted, the variance permitted shall be the minimum departure from the terms of the relevant ordinance of this Code of Ordinances.

(E) *Recommendation.* The Board may seek the recommendation of the City Engineer and/or City Attorney prior to taking any action on a proposed variance.

(F) *Pecuniary hardship.* Pecuniary hardship of the applicant, property owner or developer, by itself, shall not be deemed sufficient to constitute undue hardship.

(G) *Granting variance for more favorable outcome for general public.* It shall be an adequate basis for granting a variance if doing so will enable the applicant to create additional open space, reduce impervious cover, preserve trees, maintain critical environmental features, ensure more wildlife preservation or bring non-conforming structures (including signs) into compliance with current regulations. This section is designed to achieve a more favorable outcome for the general public than would be possible complying with Ch. 50, 151, 152, 153, and 156 of this code of ordinances.

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(H) *Necessary percentage of vote.* The concurring vote of at least four (4) Board members in attendance is necessary to:

(1) Grant a variance or reverse an order, requirement, decision or determination of an administrative official;

(2) Decide in favor of an applicant on a matter on which the Board is required to pass under Ch. 50, 151, 152, 153, and 156 of this Code of Ordinances; and/or

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(3) Authorize a variance from the terms of Ch. 50, 151, 152, 153, 154, 155 and 156 of this Code of Ordinances.

§ 30.63 PROCEDURE FOR REQUESTING AN APPEAL ALLEGING ERROR

(A) *Appellants.*

(1) Any of the following persons may appeal to the Board a decision of an administrative official that is not related to a specific application, address, or project, pertaining to Tex. Local Gov't Code Ch. 211 and Ch. 50, 92, 151, 152, 153, and 156 of this Code of Ordinances: (a) a person aggrieved by the decision; or (b) any officer, department, board, or bureau of the City affected by the decision.

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(2) Any of the following person may appeal to the Board a decision made by an administrative official that is related to a specific application, address, or project: (a) a person who (i) filed the application that is the subject of the decision; (ii) is the owner or representative of the owner of the property that is the subject of the

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AGENDA ITEM 8 E

decision; or (iii) is aggrieved by the decision and is the owner of real property within 200 feet of the property that is the subject of the decision; or (b) any officer, department, board, or bureau of the City affected by the decision.

(B) *Written request.* A request for an appeal alleging error (as provided in § 30.61 of this chapter) shall be made in writing and include information to support the request for the appeal. Such information may include, but is not limited to, documentation previously provided to the City official, plat plans, site and building plans, contour maps and locations of existing flora.

The request for an appeal alleging an error shall clearly state the grounds for the appeal.

(C) *Stay of proceedings after appeal is filed.* An appeal stays all proceedings in furtherance of the action that is appealed unless the City Engineer certifies in writing to the Board of Adjustment that a stay would cause imminent peril to life or property. If, after reviewing facts in the City Engineer's certification, the Board agrees with such facts, the action will not be stayed.

(D) *Fee.* There shall be no fee for an appeal.

(E) *Address.* The request for appeal shall be addressed to the Board and the administrative official from whom the appeal is taken and mailed or hand-delivered to the City of Woodcreek, 41 Champions Circle, Woodcreek, Texas, 78676. The City Secretary shall date stamp the appeal upon receipt and provide a receipt to the applicant.

(F) *Notice/request and deadline for appeal alleging error.* The notice of appeal must be filed no more than twenty (20) days from the date of the decision by the City official. On receiving notice of appeal from the Board, the designated City official shall immediately notify the Chair of the Board of the appeal and begin assembling and copying all documents constituting the record of the action that is appealed.

(G) *Deadline for decision on an appeal.* The Board shall set a reasonable time for the appeal hearing and shall give public notice of the hearing and due notice to the parties in interest. The Board shall decide the appeal at the next meeting for which notice can be provided following the hearing and not later than the 60th day after the date the appeal is filed. Failure to take action on a request for appeal within sixty (60) calendar days results in an automatic approval of the appeal.

(H) *Necessary percentage of vote.* The concurring vote of at least four (4) Board members in attendance is necessary to reverse an order, requirement, decision, or determination of an administrative official.

(I) Section 30.63 of this Code applies only to an appeal based on a decision made by an administrative official on or after September 1, 2019. An appeal based on a decision made by an administrative official before September 1, 2019 is governed by the law in effect on the date the decision was made, and the former law is continued in effect for that purpose.

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AGENDA ITEM 8 E

(Ord 12-171, passed 10-10-2012)

AGENDA ITEM 8 E

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§ 30.64 PROCEDURE FOR REQUESTING A VARIANCE

(A) An applicant for a variance shall submit a request for a variance from the terms of Ch. 50, 151, 152, 153, and 156 of this Code of Ordinances when the applicant believes strict application of the terms of this Code of Ordinances would result in unnecessary hardship.

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(B) *Address.* The applicant shall submit the request for variance in writing and, if so required by the City, in the appropriate form. The request may be mailed or hand-delivered to the City of Woodcreek, 41 Champions Circle, Woodcreek, Texas 78676. The City Secretary shall date stamp the request upon receipt and provide a receipt to the applicant.

(C) *Variance Request Format.* The request for a variance shall comply with Section 30.62 of this Chapter and clearly state the grounds for requesting the variance, such as the unusual conditions or circumstances which, in the applicant's opinion, justify the variance. The request for variance shall include documentation detailing the specific variance and may include drawings, plat plans, site and building plans, or other documentation the applicant believes to be relevant to the request.

(D) The City shall be responsible for notifying all property owners within 200 feet of the property for which a variance is requested of the variance requested and the date, time, and location of the Board of Adjustment meeting where the request for variance will be heard. The notification will include a complete description of the variance requested.

(E) Deadline for decision on variance request. The Board shall decide the request for variance at the next meeting for which notice can be provided following the hearing and not later than the 60th day after the date a procedurally correct variance is received.

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Fee. There shall be no fee for requesting a variance, but a deposit of \$100 will be required at the time of filing to cover City expenses for processing, reproduction, or required publication. In cases where expenses are projected to exceed the deposit, City staff will notify applicant of estimated costs before incurring such costs. In cases where expenses do not reach \$100, the balance will be refunded to the applicant. No deposit shall be required for those cases where the variance is requested to provide reasonable accommodation to a person with a disability or to remove a barrier to accessibility by persons with disabilities. The City shall not disallow an accommodation to a person with a disability or one necessary to remove a barrier to accessibility by persons with disabilities.

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§ 30.65 HEARINGS AND DECISIONS

(A) *Setting a hearing.* After receiving a procedurally complete request for an appeal of an administrative decision or a variance request, the Board shall set a date and time

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AGENDA ITEM 8 E

for a hearing. This date shall be within a reasonable time from receipt of the request. Once a date is set, the Board shall provide due notice to the parties in interest and post a public notice of the hearing.

(B) *Public hearings.* All hearings relating to an appeal alleging error or a request for a variance shall be public and posted in advance in accordance with the Texas Open Meetings Act. Refer to Tex. Gov't Code, Title 5, Ch. 551. All meetings will be electronically recorded and such recordings will be available for public review. At any hearing, any party may appear in person, by agent or by attorney.

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AGENDA ITEM 8 E

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(C) *Decisions by Board.*

(1) The Board shall decide appeals alleging error within sixty (60) calendar days from receipt of the appeal. The Board, upon a vote of 4 members may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision or determination from which an appeal is taken and make the correct order, requirement, decision or determination, and for that purpose the Board has the same authority as the administrative official.

(2) The Board shall decide requests for variances within ~~sixty (60)~~ calendar days from receipt of the request for variance. The Board, upon a vote of 4 members, may grant or deny, in whole or in part, a request for variance. For that purpose, the Board has the same authority as an administrative official for the City.

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(D) *Denials by the Board.* Any person or persons jointly or severally, aggrieved by any decision of the Board of Adjustment, or any taxpayer, or any officer, department, board or bureau of the City, may present to a district court, county court, or county court at law a verified petition for a *writ of certiorari*, as provided by V.T.C.A., Local Government Code § 211.011 setting forth that such decision is illegal in whole or in part and specifying the grounds of the illegality. Such petition shall be presented to the court within ten days after the filing of the decision of the Board of Adjustment with the City Secretary.

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AGENDA ITEM 8 E

Council Meeting Date: 9/11/2019

AGENDA ITEM COVER SHEET

Subject/Title:

Discussion and Take Appropriate Action on an Ordinance of the City Council; of the City of Woodcreek, Texas Amending Chapter 151: Building Regulations; Construction as it Relates to Section 156(A) Compliance with other Ordinances and Regulations – Building Codes, Providing for Severability, Providing an Effective Date, and Providing for Proper Notice and an Open Meeting (City Manager Lewis)

Item Summary:

This agenda item was originally presented to the City Council at the May 8th Meeting. ATS Engineering, Inspectors and Surveyors have recommended that we adopt more recent codes, some of which are required to comply with state law. The codes listed in Attachment A of the proposed ordinance are now used by most of the municipalities in the area. Staff is also recommending amending the current ordinance to state the most current copy on file in the Office of the City Secretary. This enables to codes to be kept current while not requiring the City Code to be amended each time.

Financial Impact:

Cost of Purchasing Hard Copies of the Codes to be on file at City Hall

Recommendation:

Adoption of the Ordinance

Attachments:

Amending Ordinance

Submitted By:

City Manager Lewis

AGENDA ITEM 8 F

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WOODCREEK, TEXAS AMENDING CHAPTER 151: BUILDING REGULATIONS; CONSTRUCTION AS IT RELATES TO SECTION 151.06 (A) COMPLIANCE WITH OTHER ORDINANCES AND REGULATIONS – BUILDING CODES, PROVIDING FOR SEVERABILITY, PROVIDING AN EFFECTIVE DATE, AND PROVIDING FOR PROPER NOTICE AND AN OPEN MEETING.

WHEREAS, the City Council for the City of Woodcreek has adopted the 2009 International Building Code: 2009 International Plumbing Code: 2009 International Fuel Gas Code, 2009 International Mechanical Code: 2009 International Residential Code for One- and Two- Family Dwellings: 2012 International Fire Code: 2009 International Existing Building Code: 2009 International Energy Conservation Code: and 2014 National Electric Code (NFPA 70), as amended and with appendices; and

WHEREAS, International Code Congress provides for Updates to the Various Codes on a Regular Basis; and

WHEREAS, the City Council for the City of Woodcreek realizes it is in the best interest of the citizens of Woodcreek to have on file newer versions of the various codes adopted by the International Code Congress; and

WHEREAS, the City Council for the City of Woodcreek realizes it is cumbersome and costly to update the Woodcreek Code of Ordinances each time and update is needed.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WOODCREEK, TEXAS THAT:

SECTION 1. PREAMBLES. All of the above and foregoing recitals are found to be true and correct and made a part of this ordinance for all purposes.

SECTION 2. AMENDMENT TO CODE. The City Council of the City of Woodcreek hereby amends, specifically Chapter 151, as shown in Exhibit A.

SECTION 3. REPEAL OF CONFLICTING ORDINANCES. All City ordinances or parts of ordinances inconsistent or in conflict herewith, to the extent of such inconsistency or conflict, are hereby repealed.

SECTION 4 SEVERABILITY. If any section, subsection, phrase, sentence or portion of this ordinance is for any reason held invalid, overturned, or unconstitutional, such portion shall be deemed a separate, distinct and independent provision and such holdings shall not affect the validity of the remaining portions thereof.

SECTION 5. EFFECTIVE DATE. This ordinance shall become effective immediately upon its approval and passage.

AGENDA ITEM 8 F

SECTION 6. PROPER NOTICE AND MEETING. It is hereby found and determined that the public hearing and meeting at which this ordinance was passed was attended by a quorum of the City Council, was open to the public, and that public notice of the time, place and purpose of said public hearing and meeting was given as required by the Chapter 211 of the Local Government Code and the Open Meetings Act, Texas Government Code, Chapter 551.

PASSED AND APPROVED this the 11th day of September, 2019 by a vote of

____ **NAYS**

____ **AYES**

____ **Absent and Not Voting**

CITY OF WOODCREEK

William P. Scheel, Mayor

ATTEST:

Linda Land, City Secretary

EXHIBIT A

§ 151.06 COMPLIANCE WITH OTHER ORDINANCES AND REGULATIONS.

No building permit shall be issued for any building, accessory building or structure which would be in violation of Ch. 153, 155 and 156 of this code of ordinances or any other ordinance of the city.

(A) *Building Codes.* Owner or builder shall be responsible for compliance with the ~~2009 International Building Code, 2009 International Plumbing Code, 2009 International Fuel Gas Code, 2009 International Mechanical Code, 2009 International Residential Code for One- and Two-Family Dwellings, 2012 International Fire Code, 2009 International Existing Building Code, 2009 International Energy Conservation Code and 2014 National Electric Code (NFPA 70), as amended and with appendices:~~ International Building Code Edition, including Appendices C, E, F, I; International Property Maintenance Code 2015 Edition, including Appendix A; International Mechanical Code 2015 Edition; International Plumbing Code 2015 Edition; International Fuel Gas Code 2015 Edition; International Residential Code for One- and Two- Family Dwellings 2015 Edition; National Electrical Code 2014 Edition; International Energy Conservation Code 2015 Edition; International Fire Code 2015 Edition, including Appendices B, D, E, F, G, I, J; International Swimming Pool and Spa Code 2015 Edition; International Existing Building Code 2015 Chapter 4; or the most current edition on file in the Office of the City Secretary.

Council Meeting Date: 09/11/2019

AGENDA ITEM COVER SHEET

Subject/Title:

Discussion on HTGCD Groundwater Management Zones and potential impact on Aqua Texas users

Item Summary:

Under the proposed groundwater management rules, users could be penalized for excessive water use. AT's current "flat rate" billing practices neither reward for conservation or exert heavy penalties for heavy water usage. Woodcreek should ask Aqua for clarification on their billing intentions should these penalties arise during drought periods.

Financial Impact:

Recommendation:

Clarify a strategy for handling this potential financial issue for our citizens.

Attachments:

Rule 15 Final Draft

Board Hearing Agenda

Submitted By:

Councilmember Jackson

AGENDA ITEM 8 G

**Notice of Open Meeting/Public Hearing of the
Hays Trinity Groundwater Conservation District Board of Directors**



Notice is given that the Board of Directors meets at 6:00 pm on Wednesday, September 25, 2019: Wimberley Precinct 3 Office Meeting Room, 200 Stillwater, Wimberley, TX 78620. Agenda items may be taken in any order at the discretion of the Board. HTGCD agendas, approved meeting minutes and any available Backup Materials have been posted on the District website, www.haysgroundwater.com under Quick Links/Agendas/Meeting Year/ Meeting Date

6:00 PM

Executive Session

The Board of Directors of the Hays Trinity Conservation District reserves the right to adjourn into Executive Session at any time during the course of this meeting to discuss any of the posted matters listed on this agenda, as authorized by the Texas Government Code Chapter 551 including Section 551.071 (Consultation with Attorney) and Section 551.074 (Personnel Matters). No final action or decision will be made in Executive Session.

Public Hearing Items Public Comments will be heard prior to Board review, 3 minutes each

1. Public hearing on proposed amendments to the HTGCD Rules **Linda Kaye Rogers**
 - o Rule 15: Jacobs Well Groundwater Management Zone
 - o 20-Day public comment expiration deadline date, September 23, 2019, 5:00 PM

2. The HTGCD Board may meet immediately following the public meeting to consider adoption of the proposed rule amendments.

The Hays Trinity Groundwater Conservation District is committed to compliance with the Americans with Disabilities Act (ADA). Reasonable accommodations and equal opportunity for effective communications will be provided upon request. Please contact the District office at 512-858-9253 at least 24 hours in advance if accommodation is needed.

The District will accept written comments two (2) days prior to the scheduled Board meeting. Hearing item proposals may be reviewed or copied at the District office.

This notice shall be provided to the Hays County Clerk when concerning Rulemaking, Joint Planning and application for a Permit or Permit Amendment. The notice shall also be posted at a place convenient to the public at the HTGCD administrative office and on the HTGCD website not less than three (3) days prior to the scheduled meeting in accordance with the provisions of the Texas Open Meetings Act, Chapter 551, Government Code.

Posted by: Rick Braun

Center Lane Business Park, 14101 Hwy 290 W Bldg 100, Ste. #212, Austin, Texas 78737

Mail: P. O. Box 1648 Dripping Springs, TX 78620

E-mail: manager2@haysgroundwater.com Phone: 512-858-9253 Fax: 512-858-2384 website: www.haysgroundwater.com

CERTIFICATE OF POSTING: HB 3357, Section 551.054.... Effective September 1, 2015

The above Notice of Meeting was posted on Wednesday, September 4, 2019 at a place convenient to the public at the HTGCD administrative office. A copy of the notice can also be reviewed on the HTGCD website under Agendas.

Chapter 36 Texas water Code: Groundwater Conservation Districts

The District shall provide notice to the county clerk concerning Rulemaking 36.101(d)(2), Joint Planning 36.108(e)(2), and application for a Permit or Permit Amendment 36.404(c)(2)

The District Rules are amended by adding Rule 15 to read as follows:

RULE 15. Management Zone

Section 15.1 Jacob's Well Groundwater Management Zone (JWGMZ)

(15.1.1) The Jacob's Well Groundwater Management Zone (JWGMZ) is hereby created to encompass a specific geographic area overlying the Trinity Aquifer surrounding Jacob's Well and located wholly within the boundaries of the District. A map regarding the JWGMZ can be reviewed at <http://haysgroundwater.com/management-zones>

(15.1.2) Any existing non-exempt use well within the JWGMZ drilled prior to September 30, 2019 must comply with all standard operating permit requirements plus the following additional requirements:

- 1) Each existing non-exempt use well owner must record and report the amount of groundwater produced each calendar month. Groundwater production reports must be submitted to the District within 5 business days of after the end of the month being reported.
- 2) Each operating permit must include a Monthly Baseline Production Amount for groundwater production within the JWGMZ.
- 3) A well located within the JWGMZ may not be aggregated under a single permit with any other well or well field located outside the JWGMZ. The Board may allocate a Monthly Baseline Production Amount based on aggregate pumping amounts reported for any well located inside JWGMZ that was operated in aggregate with one or more wells outside JWGMZ during 2017.
- 4) An operating permit to produce groundwater from the Upper Trinity aquifer or the Middle Trinity aquifer may not be amended to increase the annual production total.

(15.1.3) Any new non-exempt use well within the JWGMZ drilled on or after September 30, 2019 must comply with all standard operating permit requirements plus the following additional requirements:

- 1) A new well may not be drilled or completed to produce groundwater from the Middle Trinity Aquifer (Lower Glen Rose, Hensel, and Cow Creek formations). New non-exempt wells may be drilled and completed into the Lower Trinity Aquifer (Sligo and Hosston formations). The Board may grant a waiver to this provision if enforcement of this rule on a specific property will result in an arbitrary taking of property or in the practical closing and elimination of a lawful business, occupation, or activity without sufficient corresponding benefit or advantage to the public.

- 2) Any non-exempt use well shall be constructed with casing and grouting installed from the surface to the top of the production zone and its water bearing strata.

(15.1.4) Any exempt use well within the JWGMZ must remain an exempt use well and may not be converted to a non-exempt use.

(15.1.5) Replacement Wells. A current operating permit holder or a well owner required to plug an abandoned or deteriorated well within JWGMZ may drill a replacement well within 50 feet of the plugged well. The replacement well must be completed into the same production zone and may only use the groundwater withdrawn for the same purpose of use and the same maximum annual production limit. This replacement well must be completed with casing and grouting the annular space from the surface to the top of the production zone and its water bearing strata.

Section 15.2 Drought Curtailments

(15.2.1) Drought curtailments are mandatory for all permit holders within the JWGMZ. The District will post the then current drought curtailment percentage applicable to that month on the first business day each month that a drought curtailment applies. The amount of groundwater authorized to be withdrawn during that month may not exceed the baseline amount as adjusted by the applicable drought curtailment amount.

(15.2.2) Monthly Baseline Production Amount. Each permit shall include a Monthly Baseline Production Amount based on the actual amount of groundwater produced and put to a beneficial use each month of 2017. A permittee may amend the Monthly Baseline Production Amount by filing an amendment application with the District. The Monthly Baseline Production Amount may be amended if the Board determines any of the following:

- 1) The total groundwater demand has increased through the addition of New Water Utility Service Connections;
- 2) The total groundwater demand has increased through expansion or growth;
or
- 3) The permittee implemented water conservation measures during calendar year 2017 that resulted in 10% or greater demand reduction.

(15.2.3) Drought curtailment shall be based on a 10-Day running average of the USGS flow meter at Jacob's Well. Groundwater production may not exceed the Monthly Baseline Production Amount adjusted by the following reduction percentages:

- 6 CFS or less 10 Percent
- 5 CFS or less 20 Percent
- 3 CFS or less 30 Percent
- 2 CFS or less 40 Percent

(15.2.4) Exceeding the adjusted Monthly Baseline Production Amount will result in a penalty fee of \$5.00 per 1,000 gallons produced over the production limit. The total amount of groundwater produced each day is presumed to equal the total monthly production amount divided by the number of calendar days in that month. Failure to pay the penalty fee will result in a civil penalty for each day the well continued to produce groundwater once the production limit was reached.

END OF RULE 15

Council Meeting Date: 9/11/2019

AGENDA ITEM COVER SHEET

Subject/Title:

Discussion and Take Appropriate Action on a Modification to Professional Engineering Services Proposal for Roads Advisory Work Group Support with Jones Carter

Item Summary:

This agenda item is to consider modification to the accepted proposal for the work that Jones Carter representatives have been performing in conjunction with the Roads Advisory Work Group. The original proposal was presented at the June 12th, 2019 meeting in the amount of \$4,925. The Scope of Services was as follows:

Scope of Services

1. Services to be provided by JC include: Prepare for and attend meetings at the City of Woodcreek with the Road Advisory Committee at various locations within the City and in the Council Chambers.
2. Upon request by the City of Woodcreek Advisory Group or staff: JC will synthesize pavement assessments, research maintenance alternatives, develop preliminary restoration and alternative planning costs, and report to City Manager and Advisory Group on findings and deliverables.

Proposed Fee \$4,925

Excerpt from email from Jason Baze:

The total billing and expense as of August 30th is \$7696.10.

That is \$2,771.10 over the estimated \$4,925.

You should have an outstanding invoice of \$2,997.35 and will receive the August invoice of \$1,811.10. I'll get that invoice out to you soon.

Let me know if you have any other questions.

Thanks,

Jason

Financial Impact:

Additional Engineering Costs of \$2,771.10

AGENDA ITEM 8 H



JONES | CARTER

6330 West Loop South, Suite 150
Bellaire, Texas 77401

Invoice Total \$3,033.75

July 19, 2019

Project No:

14950-0005-00

Invoice No:

00288390

Mr. Brenton Lewis
City Manager
City of Woodcreek, Texas
41 Champions Circle
Woodcreek, TX 78676

PLEASE NOTE OUR REMIT INFO

REMIT ADDRESS: Jones & Carter, Inc.
P.O. Box 95562
Grapevine, TX 76099-9708

ACH INFORMATION: 88&T
Account #: 1440002564231
Routing #: 111017694

Please send remittance advice to:
AccountsReceivable@jonescarter.com

Payment Terms: Due upon Receipt

Project 14950-0005-00 City of Woodcreek - Roads Advisory Work Group Support
Services include Attending Road Advisory committee meetings, developing and accessing assessment forms for quadrant observations

Professional Services from June 1, 2019 to June 28, 2019

Task 100 Pavement assessments and Meetings

	Hours	Rate	Amount
Professional Engineer III	12.75	185.00	2,358.75
Professional Engineer II	.50	160.00	80.00
Design Engineer II	4.75	120.00	570.00
Admin III	.25	100.00	25.00
Totals	18.25		3,033.75
Total Labor			3,033.75

Billing Limits	Current	Prior	To-Date
Total Billings	3,033.75	0.00	3,033.75
Limit			4,925.00
Remaining			1,891.25

TOTAL THIS INVOICE \$3,033.75

6000.15



JONES | CARTER

6330 West Loop South, Suite 150
Bellaire, Texas 77401

Invoice Total \$2,997.35

August 14, 2019
Project No: 14950-0005-00
Invoice No: 00289779

Mr. Brenton Lewis
City Manager
City of Woodcreek, Texas
41 Champions Circle
Woodcreek, TX 78676

PLEASE NOTE OUR REMIT INFO
REMIT ADDRESS: Jones & Carter, Inc.
P.O. Box 95562
Grapevine, TX 76099-9708
ACH INFORMATION: BB&T
Account #: 1440002564231
Routing #: 111017694
Please send remittance advice to:
AccountsReivable@jonescarter.com
Payment Terms: Due upon Receipt

Project 14950-0005-00 City of Woodcreek - Roads Advisory Work Group Support

Services include providing table of road repair alternatives and associated preliminary costs, preparing detailed cost for drainage modifications, coordination with Hays County road maintenance supervisor and inspections of 5 priority City streets, preparing and presenting memo of findings to advisory committee.

Professional Services from June 29, 2019 to July 26, 2019

Task 100 Pavement assessments and Meetings

	Hours	Rate	Amount	
Professional Engineer III	15.25	185.00	2,821.25	
Design Engineer II	.25	120.00	30.00	
Totals	15.50		2,851.25	
Total Labor				2,851.25
Mileage				
4/23/2019 Road Maintenance Woodcreek			63.16	
6/3/2019 Woodcreek Road Planning Proposal Discuss			41.47	
7/2/2019 City Road Committee Meeting			41.47	
Total Reimbursables				146.10
TOTAL THIS INVOICE				\$2,997.35

6000.15



3100 Alvin Devane Boulevard, Suite 150
Austin, Texas 78741-7425
Tel: 512.441.9493
Fax: 512.445.2288
www.jonescarter.com

May 15, 2019

Mr. Brenton Lewis
City Manager
City of Woodcreek City Council
41 Champions Circle
Woodcreek, TX 78676-3327

Re: Professional Engineering Services Proposal for
Roads Advisory Work Group Support

Mr. Lewis:

Per your request, Jones & Carter, Inc. (JC) appreciates the opportunity to present this proposal for professional engineering services in connection with the Roads Advisory Work Group. This proposal is submitted pursuant to and in accordance with that certain Professional Services Agreement dated *September 29, 2016*, by and between Jones & Carter, Inc. and the City of Woodcreek. Based on our understanding of the project and the review and approval process, we prepared the following scope of services and associated fee.

Scope of Services

1. Services to be provided by JC include: Prepare for and attend meetings at the City of Woodcreek with the Road Advisory Committee at various locations within the City and in the Council Chambers.
2. Upon request by the City of Woodcreek Advisory Group or staff: JC will synthesize pavement assessments, research maintenance alternatives, develop preliminary restoration and alternative planning costs, and report to City Manager and Advisory Group on findings and deliverables.

Proposed Fee

\$4,925

Compensation for services described above will be on an hourly basis. For purposes of preparing the proposal approximately four onsite meetings are anticipated, in addition to JC team efforts to prepare for meetings and follow up on requested task work. This fee will not be exceeded without written notification by the Client.

Special Considerations

This proposal is based on the following special considerations:

1. Services requested by the District will be performed on an hourly rate basis in accordance with the enclosed Schedule of Hourly Rates. This schedule is subject to revision January 1st of each year.
2. Charges for reimbursable expenses such as document reproduction and deliveries will be reimbursed in accordance with the enclosed Schedule of Reimbursable Expenses. This schedule is subject to revision January 1st of each year.



City of Woodcreek
Page 2
May 15, 2019

3. This proposal shall be valid for sixty days from this date and may be extended upon approval by this office.
4. No other services other than those noted above are included in this proposal.

Project Schedule

JC will complete the scope of services as directed by the Road Advisory Group, the City of Woodcreek Council, and City Manager, beginning upon execution of this proposal and ending upon written termination of the need for the supporting effort.

We thank you for the opportunity to submit this proposal and look forward to working with you on this project. An executed copy of this proposal will serve as our notice to proceed. Please return one (1) original copy to our office. Should you have any questions, please call 512.441.9493.

Sincerely,

A handwritten signature in cursive script that reads 'Jason Baze'.

Jason Baze
Municipal and District Services Department Manager

JWB/rmc
Attachments

\\jonescarter.corp\cfs\Projects\14950\Client Management\PROPOSAL for Woodcreek 20190509.docx

APPROVED BY:
City of Woodcreek
By:

Signature

Name and Title

Date



SCHEDULE OF HOURLY RATES

Effective January 2019 - Subject to Annual Revision in January 2020

ENGINEERING PERSONNEL

Design Engineer I	\$100
Design Engineer II	\$120
Professional Engineer I	\$140
Professional Engineer II	\$160
Professional Engineer III	\$185
Professional Engineer IV	\$215
Professional Engineer V	\$230
Practice Leader	\$250

ELECTRICAL ENGINEERING PERSONNEL

Electrical Design Engineer I	\$110
Electrical Design Engineer II	\$130
Electrical Professional Engineer I	\$155
Electrical Professional Engineer II	\$170
Electrical Professional Engineer III	\$190
Electrical Professional Engineer IV	\$225
Electrical Professional Engineer V	\$240

CONSTRUCTION PERSONNEL (Includes Mileage)

Project Representative I	\$ 60
Project Representative II	\$ 85
Project Representative III	\$105
Project Representative I - Treatment Facilities	\$ 85
Project Representative II - Treatment Facilities	\$110
Project Representative III - Treatment Facilities	\$135
Construction Manager I	\$100
Construction Manager II	\$120
Construction Manager III	\$140
Construction Manager IV	\$160
Construction Manager V	\$185

SOFTWARE ENGINEER

Software Engineer I	\$120
Software Engineer II	\$185
Software Engineer III	\$230

PLANNING PERSONNEL

Planner I	\$ 90
Planner II	\$120
Planner III	\$150

DESIGNERS/DRAFTING PERSONNEL

CAD Operator I	\$ 55
CAD Operator II	\$ 75
CAD Operator III	\$ 95
Designer I	\$ 95
Designer II	\$115
Designer III	\$135
GIS Operator I	\$ 80
GIS Operator II	\$105
GIS Operator III	\$140

SURVEYING PERSONNEL

1-Person Field Crew	\$125
2-Person Field Crew	\$170
3-Person Field Crew	\$205
4-Person Field Crew	\$235
Scanner Equipment	\$100
Survey Technician I	\$ 65
Survey Technician II	\$ 80
Survey Technician III	\$100
Project Surveyor I	\$ 75
Project Surveyor II	\$ 85
Project Surveyor III	\$100
Project Surveyor IV	\$115
Chief of Survey Crews	\$100
Registered Professional Land Surveyor	\$160
Survey Manager	\$185

OFFICE PERSONNEL

Engineer's Assistant I	\$ 60
Engineer's Assistant II	\$ 75
Engineer's Assistant III	\$ 85
Admin I	\$ 55
Admin II	\$ 75
Admin III	\$100
Assistant Controller/ Chief Accountant	\$110
Corporate/Project Acct. I	\$ 75
Corporate/Project Acct. II	\$ 90



SCHEDULE OF REIMBURSABLE EXPENSES
 Effective January 2019
 Subject to Annual Revision in January 2020

1. **Reproduction performed in office**

<u>Size</u>	<u>Black & White</u>	<u>Color</u>
8½ x 11 (single-sided)	\$0.05/page	\$.50/page
8½ x 11 (double-sided)	\$0.15/page	\$ 1.00/page
8½ x 14	\$0.15/page	\$.75/page
11 x 17	\$0.20/page	\$ 1.00/page
 <u>Large Document Prints/Plots</u>		
Bond	\$0.20/sq ft	\$ 1.00/sq ft
Photographic Bond	\$4.00/sq ft	\$ 5.00/sq ft
Mylar (4 mil)	\$2.00/sq ft	N/A

Aerial Backgrounds

All sizes \$5.00/sheet (plus above sq. ft. cost)

- 2. **Transportation (mileage):** Standard IRS mileage rate in effect
- 3. **Subcontracts and all other outside expenses and fees:** Cost, plus 10% service charge
- 4. **Surveying Expenses**
 - a. **Crew Rates:** Includes time charged portal to portal and the first 120 miles of transportation and standard survey equipment
 - b. **Special Rental Equipment:** Cost, plus 10%
 - c. **Stakes:** Cost, plus 10% service charge when an excessive number of wooden stakes or any special stakes are required
 - d. **Iron Rods and Pipes:** Cost, plus 10%
 - e. **All-Terrain Vehicle (ATV):** \$150/day
 - f. **Overnight Stays:** \$190/night
 - g. **Overtime Rates:** Jobs requiring work on weekends or holidays billed at 1.5 times the standard rate
 - h. **Sales Tax:** To be paid on boundary-related services.
 - i. **Deliveries, abstracting services, outside reproduction costs, and other reimbursable expenses** charged at cost, plus 10%

Final 2019
Standard