City of Woodcreek Special City Council Meeting
October 17, 2018; 6:30 p.m.
Woodcreek, Texas

NOTICE/AGENDA AS AMENDED

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 Special Council Meeting on October 17, 2018, 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:** Members of the Public may sign up at the City Council meeting to address the City Council. Comments will be limited to three (3) minutes per speaker.

6. **Citizen Communications:**

7. **Report Items:**
   - A. Director of Public Work's Monthly Report (Director of Public Works Frank Wood)
   - B. Financial Report for September 2018 (City Manager Brenton Lewis)
   - C. City Manager's Monthly Public Report (City Manager Brenton Lewis)
   - D. Report on National Night Out held October 2, 2018 (Councilmember Brizendine)

8. **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 Council meeting of September 12, 2018
   - B. Approval of Financial Statements for September, 2018

9. **Regular Agenda**
   - A. Discussion and Take Appropriate Action on Finalizing the Brookhollow Drive Improvements J/C Job No.: 14950-0003-00.
   - B. Discussion and Take Appropriate Action on an Ordinance Amending the Code of Ordinances of the City of Woodcreek, Title V, by the Addition of New Chapter 51, Establishing a Minimum Standard of Water Flow and Pressure to Fire Hydrants; Requiring a Utility Within the City's Jurisdictional Boundaries and Extraterritorial Jurisdiction to Maintain a Sufficient Water Flow and Pressure to Fire Hydrants

Located in the City or the City's Extraterritorial Jurisdiction for Purposes of Emergency Fire Suppression.

C. Discussion and Take Appropriate Action an Ordinance Amending the Code of Ordinances of the City of Woodcreek, Title V by the Addition of New Section 60 - Minimum Standards for Water Service, Establishing Minimum Standards to be met by All Providers of Water Service Within the City.

D. Discussion and Take Appropriate Action on Amending Title IX. General Provisions of the City of Woodcreek Code of Ordinances as it Relates to Chapter 90: Animals, Chapter 91: Trees, Chapter 92: Streets and Sidewalks, Chapter 93: Fire Prevention and Protection, Chapter 95: Health and Sanitation, and Chapter 96: Use of Weapons.

E. Discussion and Take Appropriate Action on Direction to the City of Woodcreek Planning and Zoning Commission to Begin the Public Hearing Process on Possible Amendments to Chapter 156: Zoning of the Code of Ordinances of the City of Woodcreek.

F. Consider and Take Appropriate Action on a Cyber Security and Social Media Policy for the City of Woodcreek.

10. 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 13th day of October, 2018 at 5:00 p.m.

By: _____

Brenton B. Lewis, City Man

Treasurer's Report *(July interest earned BW 4573 inferred from beg balance Aug statement)*

For the Period: October 2017 - September 2018

Percent Complete: 100%

	2017-2018			2016-2017			Y/Y Monthly Comparison		
	YTD	Budget	%	YTD	Budget	%	July '18	July '17	Difference
Revenue									
3000 Ad Valorem Tax Revenue	288,879	280,000	103%	233,418	233,500	100%	731	2,356	(1,625)
3005 State Sales Tax Revenue	51,745	50,000	103%	45,793	45,790	100%	4,261	3,624	637
3010 Mixed Beverage Tax & Fees Rev	978	1,000	98%	1,414	1,500	94%	-	-	-
3020 Electric Franchise Fee Revenue	33,385	34,000	98%	21,172	31,000	68%	-	-	-
3030 Cable Services Franchise Rev	38,962	39,000	100%	33,211	34,570	96%	-	-	-
3040 Water Service Franchise Revenue	94,977	95,000	100%	26,659	92,100	29%	-	-	-
3050 Disposal Service Franchise Rev	16,759	16,800	100%	7,341	14,000	52%	-	-	-
3060 Telephone Franchise Revenue	1,414	2,000	71%	615	1,500	41%	-	-	-
3070 Golf Course Franchise Revenue	500	500	100%		500	0%	-	-	-
3080 Reimbursements	-	-	#DIV/0!	12,286	13,000	95%	-	7,228	(7,226)
3090 Development Revenue	-	-	n/a	-	-	n/a	-	-	-
3090.01 Residential	24,029		n/a	14,135	14,000	101%	1,289	480	809
3090.02 Commercial	9,631	-	n/a	160	200	80%	-	-	-
3090.03 Other	5,000	38,000	13%	2,288	2,300	99%	-	-	
Total 3090 Development Revenue	38,660	38,000	102%	16,583	16,500	101%	1,289	480	809
3095 Sign Fees	985	940	105%	1,220	1,100	111%	45	155	(110)
4000 Interest Income	9,310	8,000	116%	4,157	4,000	104%	1,974	368	1,606
4010 Other Revenue	2,370	3,000	79%	6,266	6,250	100%	-	22	(22)
4015 Oak Wilt Containment	-		n/a		-	n/a			-
4020 Municipal Court Revenue	3,233	3,000	108%	1,935	2,000	97%	493	701	(208)
4040 Donations Received	-	5,000	0%	5,000	5,000	100%	-		
4050 General Fund Transfer		-	n/a		-	n/a	-		
Uncategorized Revenue		-	n/a		-	n/a	-	-	-
Total Revenue	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Expenditures									
5000 Personnel Services	-		n/a	-	-	n/a			
5000.01 Salaries and Wages	139,392	143,900	97%	124,360	131,760	94%	12,597	11,999	598
5000.02 Ins Expense Reimbursement	3,617	-	n/a	1,200	1,200	100%	663	100	563
5000.03 City Manager Vehicle Reimbursem	8,350	8,350	100%	8,350	8,350	100%	696	696	-
5000.05 Elected Official Pay	880	840	105%	850	840	101%	70	80	(10)
5000.20 Payroll Tax Expense	11,870	11,500	103%	11,091	11,500	96%	1,024	978	45
5000.40 Retirement	10,243	9,370	109%	4,185	5,100	82%	1,090	371	719
5000.50 Direct Deposit Expense	-		n/a	-	130	0%	-	-	
5000.51 Health Insurance Stipend	-	3,600	0%		-	n/a	-		
Total 5000 Personnel Services	174,352	177,960	98%	150,036	158,880	94%	16,139	14,223	1,916
5500 Office Expenses	-	-	n/a	-	-	n/a	-		
5500.05 Bank Fees & Charges	304		n/a	-	-	n/a	216		216
5500.10 City Hall Maintenance / Repairs	1,501	2,000	75%	2,671	2,700	99%	79	55	24
5500.20 Cleaning Costs	1,375	1,500	92%	520	770	68%	125	125	-
5500.30 IT & Radio Expenses	727	700	104%	(664)	630	-105%	479		479
5500.40 Newsletter	-	-	n/a	-	-	n/a		-	-
5500.50 Office Supplies	2,257	2,000	113%	2,524	2,800	90%	393	477	(84)
5500.60 Postage & Shipping	1,444	1,800	80%	1,423	1,620	88%	-	292	(292)
5500.61 Printing & Reproduction	6,243	6,000	104%	5,098	4,750	107%	866	1,343	(477)
5500.70 Storage Rental	1,291	1,250	103%	1,013	1,050	96%	226	216	10
5500.80 Software & Subscriptions	6,263	8,300	75%	4,319	4,500	96%	619	104	515
Total 5500 Office Expenses	21,404	23,550	91%	16,904	18,820	90%	3,003	2,613	391
6000 Professional Services	-	-	n/a	-	-	n/a	-	-	-
6000.01 Audit Expense	9,100	9,100	100%	10,905	10,910	100%	-	-	-
6000.10 Codification	2,743	3,000	91%	1,134	1,000	113%	375	375	-
6000.11 Contract Labor	-	500	0%	2,315	500	463%	-	1,898	(1,898)
6000.15 Engineering	13,206	10,000	132%	14,404	14,150	102%	5,375	2,265	3,110
6000.20 Legal Expenses	17,661	20,000	88%	16,205	18,000	90%	2,139	1,765	375
6000.30 IT Services	8,540	8,500	100%	9,468	9,000	105%	712	1,016	(305)
6000.40 Accounting	10,500	10,000	105%	8,729	9,000	97%	1,235	9	1,226
Total 6000 Professional Services	61,751	61,100	101%	63,159	62,560	101%	9,836	7,328	2,508
6500 Area Care/Maintenance	-	-	n/a	-	-	n/a	-	-	-
6500.01 Deer Removal	900	1,000	90%	600	1,000	60%	150	75	75
6500.15 Mowing	1,080	1,200	90%	2,565	4,000	64%	120	400	(280)

	2017-2018			2016-2017			Y/Y Monthly Comparison		
	YTD	Budget	%	YTD	Budget	%	July '18	July '17	Difference
6500.20 Oak Wilt Containment	-	-	n/a	-	-	n/a	-	-	-
6500.21 Outdoor Beautification	12,726	15,000	85%	21,664	25,000	87%	80	400	(320)
6500.25 ROW Tree Trimming	11,100	12,000	93%	-	-	n/a	-	-	-
6500.30 Street Maintainence	1,255	1,300	97%	43,057	43,100	100%	-	-	-
6500.31 Street Signs	501	750	67%	1,253	2,000	63%	-	-	-
6500.35 Storm Damage Reserve	-	7,000	0%	-	-	n/a	-	-	-
6500.40 Tree Limb Pick-Up	-		n/a	5,200	5,200	100%	-	-	-
6500.50 Equipment Maintenance	549	-	n/a	-	-	n/a	264	-	264
Total 6500 Area Care/Maintenance	28,111	38,250	73%	74,339	80,300	93%	614	875	(261)
7000 Other Operating Expenses	-	-	n/a	-	-	n/a	-	-	-
7000.01 Ad Valorem Tax Expense	3,061	3,100	99%	1,839	2,000	92%	-	430	(430)
7000.02 Building Inspections	6,935	6,500	107%	8,695	10,000	87%	600	440	160
7000.03 Code Compliance	1,898	2,000	95%	-	-	n/a	-	-	-
7000.04 Dues & Membership	2,683	3,000	89%	2,580	2,550	101%	-	60	(60)
7000.05 Election Expense	-	-	n/a	3,113	3,200	97%	-	-	-
7000.10 Depreciation Expense	-	-	n/a	-	-	n/a	-	-	-
7000.15 Meeting Expense	1,487	1,600	93%	2,439	1,600	152%	28	1,170	(1,142)
7000.20 Public Notices	1,317	2,000	66%	1,089	1,500	73%	99	99	-
7000.30 Travel & Vehicle Exp Reimb.	4,047	4,000	101%	3,095	3,000	103%	581	644	(63)
7000.40 Training & Prof Development	3,847	5,000	77%	3,329	3,350	99%	(245)	-	(245)
Total 7000 Other Operating Expenses	25,275	27,200	93%	26,179	27,200	96%	1,064	2,843	(1,779)
7500 Utilities	-	-	n/a	-	-	n/a	-	-	-
7500.10 City Hall Utilities	2,923	3,200	91%	2,825	3,000	94%	273	261	12
7500.20 Outdoor Utilities	3,488	4,000	87%	3,795	4,000	95%	357	377	(20)
7500.30 Telephone & Internet	3,935	4,000	98%	2,069	3,200	65%	278	262	16
Total 7500 Utilities	10,347	11,200	92%	8,690	10,200	85%	908	900	8
7600 Insurance	3,288	3,500	94%	2,908	2,910	100%	-	-	-
8020 Municipal Court Costs	-		n/a	-		n/a	-	-	
8020.20 MC Judge	3,000	3,500	86%	3,500	3,500	100%	250	250	-
8020.25 Misc. Court Costs	4,395	5,000	88%	1,287	1,500	85%		177	(177)
8020.30 Prosecutor	5,125	6,000	85%	620	1,500	41%	660	620	40
8020.40 State Comptroller Costs	572	700	82%		500	0%	-	-	-
8020.41 Supplies	47	200	24%	77	300	26%		-	-
8020.60 Traffic Enforcements	35,425	30,000	118%	21,255	28,000	76%	7,085	-	7,085
Total 8020 Municipal Court Costs	48,564	45,400	107%	26,734	35,300	76%	7,995	1,047	6,948
9077 General Fund Accrual	-		n/a		-	n/a		-	-
Unapplied Cash Bill Payment Expenditure		-	n/a	-	-	n/a	-	-	-
Total Expenditures	477,140	387,160	86%	368,947	196,140	93%	19,259	29,828	9,841
Net Operating Revenue	209,020	188,080	111%	48,122	186,140	45%	(30,766)	(14,896)	(15,980)
Other Revenue									
4019 Proceeds from Capital Leases		-	n/a			n/a	-	-	
8500 Capital Improvement Income	4,357		n/a			n/a	212		212
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	9,164		n/a	-		n/a	-		
9500.01 Capital Expenditures - CY	16,866	20,000	84%	3,278	90,000	10%	-	-	-
9500.01 Capital Project Expenditures - FY	-		n/a	-	-	n/a	-		-
9500.11 2017 Street Improvements	1,142,916	-	n/a	107,756	-	n/a	1,289	44,459	(43,170)
9500.12 2017 Street Improvements Legal	20,969	-	n/a	-	-	n/a	-	-	-
9810.01 Sinking Fund Revenue	(150,985)	-	n/a			n/a	(462)		(462)
9810.02 Sinking Fund Interest	7,529	-	n/a			n/a	-		-
9810.03 Sinking Fund Principal	143,000	-	n/a			n/a			
9800.02 Other Miscellaneous Expenditure	(1,323,749)		n/a	(116,536)	-	n/a	(1,289)	(44,459)	
9888 Reconciliation Discrepancies	-	-	n/a	(0)	-	n/a	-	-	-
Net Other Revenue	138,649	(20,000)	-693%	0	(90,000)	0%	674	-	43,843
Net Total	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

The City of Woodcreek

STATEMENT OF FINANCIAL POSITION

As of September 30, 2018

	TOTAL
ASSETS	
Current Assets	
Bank Accounts	
1000 Operating - Broadway 9628	114,442.91
1003 Municipal - Reg Acct#7223	0.00
1003.1 Municipal Court Petty Cash	100.00
1006 PEG - #5467	0.00
1007 TX Regional 061, Operating	199,827.43
1008 TX Regional 053, Investment	0.00
1008.1 Municipal Court Funds	17,860.13
1008.2 PEG Funds	35,890.99
1008.3 Reserve Funds	481,368.52
Total 1008 TX Regional 053, Investment	**535,119.64**
1009 TX Regional 095, Bond Proceeds	144,119.32
1010 Petty Cash	-41.00
1020 Investment Account - Class 0001	459,884.71
1021 Reserved Funds - Broadway 4573	0.00
1022 Crockett National Bank	0.00
1023 Pioneer Bank #6151	0.00
1024 MM Construction Project 6332	0.00
Total Bank Accounts	**$1,453,253.01**
Accounts Receivable	
1120 Delinquent Taxes Receivable	10,574.84
Total Accounts Receivable	**$10,574.84**
Other Current Assets	
1121 Allowance for Uncollectible	-2,266.76
1122 Due to/from HOT Account	0.00
1123 Employee Cash Advance	0.00
1124 Sales Tax Receivable	3,201.75
1125 Franchise Fees Receivable	0.00
1126 Other Current Receivables	0.00
1150 Due From Capital Project Funds To Operating	103,360.95
Total Other Current Assets	**$104,295.94**
Total Current Assets	**$1,568,123.79**
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	1,271,641.58
1231 Storage Buildling	9,055.00
1235.1 Kawasaki Mule 2016	7,840.64

	TOTAL
1240 Accumulated Depreciation - All	-195,372.00
Total Fixed Assets	**$1,441,447.68**
Other Assets	
1250 Deferred Revenue	-8,308.49
1300.10 Committed for Streets Repair	0.00
Total Other Assets	**$ -8,308.49**
TOTAL ASSETS	**$3,001,262.98**
LIABILITIES AND EQUITY	
Liabilities	
Current Liabilities	
Accounts Payable	
1900 Accounts Payable	0.00
Total Accounts Payable	**$0.00**
Other Current Liabilities	
2000 Payroll Tax Payable	3,051.08
2001 Federal Withholding Payable	0.00
2020 State Unemployment Liability	12.90
2021 Accrued Wages Payable	0.00
2030 TMRS Payable	0.00
2100 WVWA / LCRA Grant Expenditures	424.21
2105 Capital Development Grant	3,066.00
2105.1 Augusta Park Proj Expenditures	0.00
2110 Direct Deposit Liabilities	0.00
2200 Security Deposits	0.00
2300 Sales Tax Revenue Overpayment	533.38
2350 Bond Principal Maturity February	0.00
2400 Due To Operating From Capital Project Funds	103,360.95
2701 Bond Principal Maturity 2/15/2019	172,000.00
Total Other Current Liabilities	**$282,448.52**
Total Current Liabilities	**$282,448.52**
Long-Term Liabilities	
Bonds Payable Construction Project Funds	
2702 Bond Principal Maturity 2/15/2020	183,000.00
2703 Bond Principal Maturity 2/15/2021	195,000.00
2704 Bond Principal Maturity 2/15/2022	207,000.00
2705 Bond Principal Maturity 2/15/2023	219,000.00
2706 Bond Principal Maturity 2/15/2024	233,000.00
Total Bonds Payable Construction Project Funds	**1,037,000.00**
Total Long-Term Liabilities	**$1,037,000.00**
Total Liabilities	**$1,319,448.52**
Equity	
9997 Net Investment In Capital Assets	144,132.96
9998 Opening Balance Equity	329,816.47
9999 Retained Earnings	860,196.27
Net Revenue	347,668.76

	TOTAL
Total Equity	$1,681,814.46
TOTAL LIABILITIES AND EQUITY	$3,001,262.98

CITY OF WOODCREEK, TEXAS
Quarterly Inventory Report
As of 09/30/18

Purchase Date	Security	Coupon or Avg Rate	Maturity Date	Yield	Par	Days to Maturity	Beginning Book	Beginning Market	Ending Book	Ending Market	Period Earnings
Bank Checking Accounts											
07/01/18	Broadway Checking 9628 *	0.00%	10/01/18	0.00%	n/a	1	360,702.49	360,702.49	114,442.91	114,442.91	0.00
07/01/18	BW Savings 5467 *(Closed)*	0.15%	08/01/18	0.15%	n/a		17,803.24	17,803.24	0.00	0.00	2.19
07/01/18	BW Funds DDA 7223 *(Closed)*	0.00%	07/31/18	0.00%	n/a		34,480.07	34,480.07	0.00	0.00	0.00
07/31/18	TX Regional Bank 061 Oper	1.92%	10/01/18	*n/a this period*	n/a	1	0.00	0.00	221,378.04	221,378.04	734.99
	Subtotal Bank Accounts						412,985.80	412,985.80	335,820.95	335,820.95	737.18
Bank CD											
					0						
	Subtotal CDs						0.00	0.00	0.00	0.00	0.00
Investments											
07/01/18	Texas Class	2.25%	10/01/18	2.27%	n/a	1	457,090.26	457,090.26	459,684.71	459,684.71	2,594.45
06/17/18	Broadway MM 4573 *(Closed)*	0.27%	07/31/18	0.25%	n/a		479,739.40	479,739.40	0.00	0.00	152.47
06/17/18	BW Construction 6332 *(Closed)*	0.27%	08/03/18	0.25%	n/a		292,238.20	292,238.20	0.00	0.00	92.88
07/31/18	TX Regional Bank 053 Reserv	1.92%	10/01/18	*n/a this period*	n/a	1	0.00	0.00	535,119.64	535,119.64	1,638.53
07/31/18	TX Regional Bank 095 Constr	1.90%	10/01/18	*n/a this period*	n/a	1	0.00	0.00	144,119.32	144,119.32	589.21
	TOTALS				0		1,642,053.66	1,642,053.66	1,474,744.62	1,474,744.62	5,804.72

Average Weighted Maturity	1 days
Average Weighted Yield	0.64 %

This quarterly report has been prepared in compliance with the Public Funds Investment Act and the City's Investment Policy.

Brenton Lewis, City Manager

**Note: Funds are being left in the bank to pay for banking fees. The Earning Credit Rate at which the City earns to pay for banking services is .25 % but no interest is paid directly to the City but the City is earning at that rate to pay our banking services.*

City Manager Monthly Public Report from September 8, 2018 to September 28, 2018 for the October 17, 2018 Special City Council Meeting

Meetings were held for the 2030 Plan Committee, Planning & Zoning Commission, and the Parks and Recreation Board.

Municipal Court was held on September 20th with 14 cases on the Docket.

The City issued the following permits, stop work orders, and code violations to date –

Permits Issued or In Progress:	Tree Trimming – 10
	Right of Way Signs – 1
	Shed – 1
Amending Plat:	3 in progress
Replat/Revision:	1 in progress
Public Information Requests:	2 in progress
Ordinance Violations:	Construction – 1
	Dead Trees – 3
Stop Work Orders –	4 – In Progress
	1 - Resolved

Ray Helm
Constable Precinct 3 Hays County, Texas

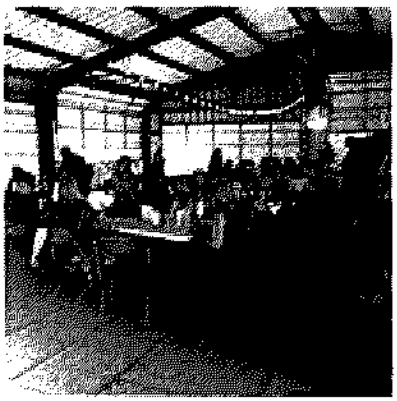
Woodcreek Patrol
September 2018

	Total
Hours:	129
Mileage:	874
Traffic Citation/warning(s):	0
Code Enforcement:	3
Close Patrol:	14
Criminal:	0
Civil:	0
Other:	0
Agency/Public Assist:	3
Warrants:	0
Jailing:	0

- Please note undocumented civil questions, concerns and other instances will not be included in this report.

Constable Helm_____ Deputy Shellhorn_____

P.O. Box 1316 / 14306 Ranch Road 12, # 10, Wimberley, Texas 78676



City of Woodcreek City Council Meeting
September 12, 2018; 6:30 p.m.
Woodcreek, Texas

Minutes

1. **Call to Order**: Mayor Scheel called the meeting to order at 6:30 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**

4. **Roll Call. Present:** Mayor William P. Scheel, Mayor Pro Tem Nancye Britner, Councilmember Jerry Moore, Councilmember Judy Brizendine, Councilmember Aurora LeBrun, Councilmember Ray Don Tilley, City Manager Brenton B. Lewis, Director of Public Works Frank Wood, City Attorney Roger Gordon, Assistant Administrator Linda L. Land, City Clerk Barbara J. Grant. Absent: None

5. **Proclamation**:
   A. Proclaiming Tuesday, October 2, 2018 as National Night Out
   B. Proclaiming September 17-23, 2018 as Constitution Week

6. **Public Comments**: Brent Pulley said the City's plan to have a traffic study on Woodcreek Drive and Brookhollow Drive is a good idea and a good first-step to dealing with traffic problems and he is hopeful that Law enforcement and community involvement, to the extent that they can, will be considered in the plans. Christina Weaver said she is hopeful that the LaRocca Gate will be closed and is against the repeal of the ordinance. Layton Rasco said he is fearful that more traffic will bring crime to the area and said there is no benefit to anyone to keep the gate open.

7. **Citizen Communications:** There were no citizen communications.

8. **Report Items:**
   A. **Director of Public Work's Monthly Report (Director of Public Works Frank Wood)**
   B. **Financial Report for August 2018 (City Manager Brenton Lewis)**
   C. **City Manager's Monthly Public Report (City Manager Brenton Lewis)**
   D. **Report on the Parks and Recreation Board Activities (Council Ex-Officio Members)**

9. **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 August 2, 2018
   B. Approval of the Minutes of the City Council Meeting of August 8, 2018
   C. Approval of the Minutes of the Special City Council Meeting of August 23, 2018
   D. Approval of the Minutes of the Special City Council Meeting of September 5, 2018
   E. Approval of the Financial Statements for August 2018

Mayor Pro Tem Britner moved to accept the Consent Agenda as presented. The motion was seconded by Councilmember Moore, which passed with a vote of 5-0-0

10. Regular Agenda

A. **Appointment of a Representative to Capital Area Council of Government (CAPCOG)** After discussion, Mayor Pro Tem Britner moved to appoint Mayor William P. Scheel as the City's representative to Capital Area Council of Government (CAPCOG). The motion was seconded by Councilmember Moore, which passed with a vote of 5-0-0.

B. **Discuss and Take Appropriate Action on an Ordinance Repealing Ordinance No. 06-98 as it Relates to the Closure of LaRocca Lane.** After discussion, Mayor Pro Tem Britner moved to adopt an ordinance repealing Ordinance No. 06-98 as it relates to the closure of LaRocca Lane. The motion was seconded by Councilmember Brizendine, which passed with a vote of 5-0-0.

C. **Consider Ratifying the Decision of the City Manager on a Revision of a Site Development Permit Application from Camp Young Judaea, 5410 Bellaire Blvd., Suite 207, Bellaire, Texas 77401 to Change the Location of the Sports Pavilion at Camp Young Judaea in Woodcreek, Texas. Recommendation from Planning and Zoning Commission.** After discussion, Councilmember Moore moved to approve ratifying the decision of the City Manager on a revision of a Site Development Permit Application from Camp Young Judaea, 5410 Bellaire Blvd., Suite 207, Bellaire, Texas 77401 to change the location of the Sports Pavilion at Camp Young Judaea in Woodcreek, Texas. The motion was seconded by Councilmember Brizendine, which passed with a vote of 5-0-0.

D. **Discuss and Take Appropriate Action on the Texas Local Government Code Chapter 43 Section 43.002 and the Effect on the City of Woodcreek Code Chapter 156 Section 156.081 Recreational District Requirements and Limitations.** Michael Whellan, Attorney for Camp Young Judaea responded to Council questions regarding clarification of Camp uses. City Attorney Gordon said that rezoning would be a matter for Planning and Zoning Commission and would require a public hearing. After discussion, Councilmember Brizendine moved to authorize City Staff to facilitate negotiations and report back to Council in sixty (60) days and to be resolved and concluded by year-end. The motion was seconded by Councilmember Moore, which passed with a vote of 5-0-0.

E. **Discuss and Consider Providing Direction to the Parks & Recreation Board to Provide Recommendations on the Rehabilitation of the Triangle.** After discussion, no action was taken.

F. **Discuss and Consider Appropriate Action on a Request to Operate a Business in a Neighborhood Commercial Zone.** After discussion, Councilmember Brizendine, moved to accept the proposal of Michael and Sara Aragon to operate a business in a Neighborhood Commercial Zone, with the addition of parking as a component of the plan review. The motion was seconded by Councilmember LeBrun, which passed with a vote of 5-0-0.

G. **Consider and Take Appropriate Action on Authorizing Staff to Contract with Jones Carter Engineers for a Traffic Study on Brookhollow Drive and Woodcreek Drive.** After discussion, Councilmember Brizendine moved to hand the issue to the existing roads committee to study the county traffic data now being gathered and let them determine whether to engage Jones Carter. The motion was seconded by Councilmember Moore, which passed with a vote of 5-0-0.

H. **Discuss and Take Appropriate Action on Possible Appointments to the Parks and Recreation Board.** After discussion, Councilmember Tilley moved to accept the Mayor's

appointments of Jane Little and Joe Branco to the Parks and Recreation Board. The motion was seconded by Councilmember LeBrun, which passed with a vote of 5-0-0.

I. **Discuss and Take Appropriate Action on Possible Appointment to the Planning and Zoning Commission.** After discussion, Mayor Pro Tem Britner moved to accept the Mayor's appointment of Carl Weldon as an alternate member of the Planning and Zoning Commission. The motion was seconded by Councilmember Brizendine, which passed with a vote of 5-0-0.

J. **Discussion and Appropriate Action on Approval of a Court Security Plan.** After discussion, Mayor Pro Tem Britner moved to approve the Court Security Plan, as presented. The motion was seconded by Councilmember Brizendine, which passed with a vote of 5-0-0.

K. **Consider and Take Appropriate Action on an Ordinance to Amend the 2017-2018 Budget.** After discussion, Councilmember Brizendine moved to approve an Ordinance to amend the 2017-2018 Budget. The motion was seconded by Councilmember LeBrun, which passed with a vote of 5-0-0.

L. **Discussion and Take Appropriate Action to Consider an Ordinance of the City of Woodcreek, Texas Making Appropriations for the Support of City Services and Debt Service for the Fiscal Year Beginning October 1, 2018 and Ending September 30, 2019 and Adopting the Annual Budget of the City of Woodcreek for the 2018-2019 Fiscal Year.** After discussion, Mayor Pro Tem Britner moved to adopt an ordinance of the City of Woodcreek, Texas making appropriations for the support of the City services and debt service for the Fiscal Year beginning October 1, 2018 and ending September 30, 2019 and adopting the annual budget of the City of Woodcreek for the 2018-2019 Fiscal Year. The motion was seconded by Councilmember LeBrun, which passed with a vote of 5-0-0.

M. **Discussion and Take Appropriate Action to Consider an Ordinance of the City of Woodcreek, Texas, Levying Ad Valorem Taxes for Use and Support of the Municipal Government for the City of Woodcreek, Texas, as may be Necessary to Promote the General Health, Safety and Welfare for the 2018-2019 Fiscal Year, Providing for Apportioning Each Levy for Specific Purposes; and Providing When Taxes Shall Become Delinquent if Not Paid**. After discussion, Councilmember LeBrun moved to adopt an ordinance of the City of Woodcreek, Texas, levying ad valorem taxes for use and support of the municipal government for the City of Woodcreek, Texas, as may be necessary to promote the General Health, Safety and Welfare for the 2018-2019 Fiscal Year, providing for apportioning each levy for specific purposes, and same shall become delinquent if not paid. The motion was seconded by Councilmember Brizendine, which passed with a vote of 5-0-0, recorded as follows: Mayor Pro Tem Britner (Aye), Councilmember Moore (Aye), Councilmember Brizendine (Aye), Councilmember LeBrun (Aye), Councilmember Tilley (Aye).

N. **Discussion and Appropriate Action to Consider A Resolution Ratifying the Recently Adopted Budget that Contains a Property Tax Rate that Raises More Total Property Taxes than the Previous Year.** After discussion, Mayor Pro Tem Britner moved to approve a resolution ratifying the recently adopted budget that contains a property tax rate that raises more total property taxes than the previous year. The motion was seconded by Councilmember LeBrun, which passed with a vote of 5-0-0.

11. **Adjourn:** There being no further business, Mayor Scheel adjourned the meeting at 8:09 p.m.

William P. Scheel, Mayor

Brenton B. Lewis, City Manager

Council Meeting Date: 10/17/2018

AGENDA ITEM COVER SHEET

Subject/Title:

9. A. Discussion and Take Appropriate Action on Finalizing the Brookhollow Drive Improvements J/C Job No.: 14950-0003-00

Item Summary:

This item is to discuss and take action, if necessary on finalizing the Brookhollow Project. Grant Lischka will be in attendance to field any questions regarding the project. Also, a final project cost including construction, engineering, legal, and other expenses will be provided.

Recommendation:

None

Attachments:

Cost break down and final documentation on project

Submitted By:

Brenton B. Lewis, City Manager

City of Woodcreek

September 19, 2018

Mr. Scott Hanson
Vice President
Curran Contracting Company
11230 I-10 East
Converse, Texas 78109

Re: CERTIFICATE OF ACCEPTANCE
City of Woodcreek
Brookhollow Drive Improvements
J|C No. 14950-0003-00

Dear Mr. Hanson:

This is to certify that the City of Woodcreek accepts the subject project on the basis of the Certificate of Substantial Completion issued by our engineers, Jones|Carter, and understands that a guarantee shall cover a period of one year beginning on June 14, 2018 (date of final inspection).

Very truly yours,

William P. Scheel

Mayor

41 Champions Circle • Woodcreek, Texas 78676 • Office: (512) 847-9390 • Fax: (512) 847-6661

JONES | CARTER

150 Venture Drive, Suite 100
College Station, Texas 77845
Tel: 979.731.0000
Fax: 979.846.2893
www.jonescarter.com

CHANGE ORDER NO. 3 (RECONCILIATION)
DATE: SEPTEMBER 17, 2018

Project: Brookhollow Drive Improvements	**J|C Job No.:** 14950-0003-00
Owner: City of Woodcreek 41 Champions Circle Woodcreek, TX 78676	**Contractor:** Curran Contracting Company 11230 I-10 East Converse, TX 78109

Description of Changes: Potholing, location, and mapping of utilities throughout the project site; and modifying design of the guardrail fence to allow access to parking area for adjoining land owner.

Reason for Changes: To reconcile to final contract quantities and time.

Change in Contract price and time summary:

	COST	TIME
Original Contract:	$1,143,007.36	90 Calendar Days
Net previous change(s):	$73,224.44	0 Calendar Days
Contract prior to this change order:	$1,216,231.80	90 Calendar Days
Net increase from this change order:	$35,206.94	10 Calendar Days
Revised Contract Amount:	$1,251,438.74	100 Calendar Days[1]
Cumulative % Change in Contract:	9.49%	11.11 %
Project Completion Date:		6/14/2018

[1]Revised notice to proceed was issued on 2/22/2018 with a start date on 3/6/2018 for 90 calendar days and a completion date on 6/4/2018.

RECOMMENDED BY:
Jones|Carter

Grant L. Lischka, PE, Department Manager
9/17/2018
Date

STATE OF TEXAS
GRANT L. LISCHKA
111545
LICENSED
PROFESSIONAL ENGINEER

ACCEPTED BY:
Contractor: Curran Contracting Company

Scott Hanson, Vice President
9/27/18
Date

APPROVED BY:
Owner: City of Woodcreek

William P. Scheel, Mayor

Date

CHANGE ORDER NO. 3
ATTACHMENT NO. 1

CONSTRUCTION OF THE CITY OF WOODCREEK
BROOKHOLLOW DRIVE IMPROVEMENTS
J|C NO. 14950-0003-00

To implement payment for this work, the following revisions are made to the Item/Quantity Sheets:

Item No.	Description	Unit	Unit Price	Revised Unit Price	Bid Quantity	Revised Quantity	Previous Amount	Revised Amount	Net Change
18	Furnish and install labor and material to place 6" reinforced concrete driveway between ribbon curb and existing concrete driveway.	S.F.	$ 8.20	$ 8.20	1,312	2,832	$10,758.40	$23,222.40	$12,464.00
A3.5.	Furnish and install labor and material to place metal beam guard fence in accordance with TxDOT standards and specifications.	L.S	$ 60.75	$ 60.75	192	175	$11,664.00	$10,631.25	($1,032.75)
CO3.1.	Potholing, location, and mapping of utilities throughout the project site for the City of Woodcreek.	L.S.	$ -	$ 19,364.01	0	1	$0.00	$19,364.01	$19,364.01
CO3.2.	Modified design of guardrail fence to allow access to parking area for adjoining land owner.	L.S.	$ -	$ 4,411.68	0	1	$0.00	$4,411.68	$4,411.68
NET INCREASE IN CONTRACT PRICE									$35,206.94

AFFIDAVIT
OF
BILLS PAID

STATE OF TEXAS §

COUNTY OF BEXAR §

Before me, a Notary Public in and for the State of Texas, on this day personally appeared Scott Hanson, Vice President, of Curran Contracting Company, well known to me to be the person making this affidavit, who, being by me first duly sworn and deposed did say:

I am Scott Hanson, Vice President, of Curran Contracting Company and have personal knowledge of the matter stated in this affidavit. Curran Contracting Company has paid all of the labor and material costs in connection with construction for the City of Woodcreek, Texas known as the Brookhollow Drive Improvements, J|C No. 14950-0003-00, and as of this date, there are no unpaid bills for labor performed upon or materials or supplies delivered to or used in connection with such job.

This affidavit is made in connection with Progress Payment No. 6 (Final) under the contract between the City of Woodcreek, Texas and Curran Contracting Company and with the knowledge that it will be relied upon in making such payment and that such payment would not be made except upon the truth of the matter contained in this affidavit.

DATE: 9-27-18

By: _____
Scott Hanson, Vice President
Curran Contracting Company

STATE OF TEXAS §

COUNTY OF BEXAR §

BEFORE ME, the undersigned, a Notary Public, in and for the State of Texas, on this day personally appeared Scott Hanson known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 27th day of September, 2018.

DAWN HANSON
NOTARY PUBLIC STATE OF TEXAS
ID # 12109374-3
APRIL 17, 2021

_____
Notary Public Signature

(Notary Seal)

K:\14950\14950-0003-00 Brookhollow Drive Improvements\3 Construction Phase\Closing Documents\AFFIDAVIT OF BILLS PAID Woodcreek Brookhollow Drive Imp 20180912.doc

CERTIFICATE OF SUBSTANTIAL COMPLETION FOR
CONSTRUCTION OF THE
CITY OF WOODCREEK
BROOKHOLLOW DRIVE IMPROVEMENTS

September 17, 2018

OWNER: The Honorable William P. Scheel
Mayor
City of Woodcreek
41 Champions Circle
Woodcreek, Texas 78676

CONTRACTOR: Mr. Scott Hanson
Vice President
Curran Contracting Company
11230 I-10 East
Converse, Texas 78109

CONTRACT: City of Woodcreek
Brookhollow Drive Improvements
J|C No. 14950-0003-00

Dear Mayor Scheel and Mr. Hanson:

Jones|Carter (J|C) has observed the subject project constructed by the **CONTRACTOR** and finds it to be substantially complete in accordance with the approved plans and specifications.

J|C recommends that the **OWNER** issue the **CONTRACTOR** a Certificate of Acceptance of the Work, and that final payment be made to the **CONTRACTOR**. J|C also recommends that the Contractor's guarantee period of one year begin on June 14, 2018 (date of final inspection).

Sincerely,

Grant L. Lischka, PE
Department Manager
Municipal and District Services

STATE OF TEXAS
GRANT L. LISCHKA
111545
LICENSED
PROFESSIONAL ENGINEER

GLL/ebr

K:\14950\14950-0003-00 Brookhollow Drive Improvements\3 Construction Phase\Closing Documents\CERTIFICATE OF SUBSTANTIAL COMPLETION Woodcreek Brookhollow Drive Imp 20180917.doc

JONES|CARTER

Texas Board of Professional Engineers Registration No. F-439
Texas Board of Professional Land Surveying Registration No. 10046107

150 Venture Drive, Suite 100, College Station, Texas 77845-4514
Telephone 979.731.8000 Fax 979.846.2893

PROGRESS PAYMENT NO. 6 (FINAL)

OWNER: City of Woodcreek, 41 Champions Circle, Woodcreek, TX 78676
CONTRACTOR: Curran Contracting Company, 11230 I-10 East, Converse, TX 78109
ENGINEER: Jones|Carter, 150 Venture Drive, Suite 100, College Station, TX 77845
PROJECT: Brookhollow Drive Improvements
JOB NO.: J|C No. 14950-0003-00

CONTRACT TIME - 100 CALENDAR DAYS (REVISED IN CHANGE ORDER NO. 3)

	FROM	TO	USED
ORIGINAL	10/09/17	01/07/18	
REVISED	03/06/18	06/14/18	100 Calendar Days
THIS EST.	06/01/18	06/14/18	14 Calendar Days

ITEM NO	DESCRIPTION	UNIT	ESTIMATED QUANTITY	UNIT PRICE	THIS ESTIMATE QUANTITY	THIS ESTIMATE AMOUNT	PREVIOUS ESTIMATE QUANTITY	PREVIOUS ESTIMATE AMOUNT	TOTAL TO DATE QUANTITY	TOTAL TO DATE AMOUNT	REMARKS
	BASE BID										
2.	Storm Water Pollution Prevention Plan including, but not limited to, preparation of the SWPPP, acting as the owner/operator of the site, issuing all required notices; paying all applicable fees and fines; conducting periodic inspections and maintaining all required records.	L.S.	1	$2.00	0%	$0.00	100%	$2.00	100%	$2.00	100.0%
3.	Perform all site preparation, including erection, maintenance and removal of barricades, signs and traffic control devices; perform all required clearing and demolition; paving headers; and all required miscellaneous items of work not specified in any other bid item. ***Change Order No. 1	Mo.	5	$12,018.00	0.00	$0.00	5.00	$60,090.00	5.00	$60,090.00	100.0%
4.	Perform all specified excavation and embankment work, including drainage ditches, moisture adjustment, and compaction.	Sta.	46.00	$131.95	0.00	$0.00	46.00	$6,069.70	46.00	$6,069.70	100.0%
5.	Perform saw cut and demolition of concrete/exposed aggregate driveway.	S.Y.	347	$11.43	0	$0.00	347	$3,966.21	347	$3,966.21	100.0%
6.	Perform saw cut and demolition of tile driveway.	S.Y.	11	$14.40	0	$0.00	11	$158.40	11	$158.40	100.0%
8.	Perform demolition and removal of concrete curb.	L.F.	70	$2.36	0	$0.00	70	$165.20	70	$165.20	100.0%
9.	Furnish all labor and equipment to salvage and relocate steel mailbox and replace post and anchor.	Ea.	23	$175.20	3	$525.60	20	$3,504.00	23	$4,029.60	100.0%

PROGRESS PAYMENT NO. 6 (FINAL)

OWNER: City of Woodcreek, 41 Champions Circle, Woodcreek, TX 78676
CONTRACTOR: Curran Contracting Company, 11230 I-10 East, Converse, TX 78109
ENGINEER: Jones|Carter, 150 Venture Drive, Suite 100, College Station, TX 77845
PROJECT: Brookhollow Drive Improvements
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10	Furnish all labor and equipment as required to lime stabilize the existing soil to a minimum depth of 8", adjust the moisture content, compact the stabilized material to the specified density and finish the subgrade course according to plan lines and grades ***Change Order No. 1	S.Y.	0	$1.85	0	$0.00	0	$0.00	0	$0.00	0.0%
11.	Furnish lime (6% by weight) for subgrade stabilization purposes. ***Change Order No. 1	Ton	0	$170.25	0	$0.00	0	$0.00	0	$0.00	0.0%
16.	Furnish and install labor for 24" thermoplastic stop bar striping.	L.F.	113	$9.55	113	$1,079.15	0	$0.00	113	$1,079.15	100.0%
17.	Relocate existing sign assembly.	Ea.	4	$408.80	4	$1,635.20	0	$0.00	4	$1,635.20	100.0%
18.	Furnish and install labor and material to place 6" reinforced concrete driveway between ribbon curb and existing concrete driveway. ***Change Order No. 3	S.F.	2,832	$8.20	1,520.0	$12,464.00	1,312.0	$10,758.40	2,832.00	$23,222.40	100.0%
	ALTERNATE BID NO. 2										
A2.1	Replace Base Bid Item No. 1. Mobilization, including bonds, insurance, move-in, move-out and related work.	L.S	1	$122,344.00	10%	$12,234.40	90%	$110,109.60	100%	$122,344.00	100.0%
A2.2.	Demolish and remove 6" of existing HMAC, base, and subgrade material, including haul off and legally disposing of material	C.Y	1,849	$18.00	0	$0.00	1,849	$33,282.00	1,849	$33,282.00	100.0%
A2.3	Furnish and install labor and material for placement of 7" reinforced concrete pavement section ***Change Order No. 1	S.Y	0	$59.45	0	$0.00	0	$0.00	0	$0.00	0.0%

PROGRESS PAYMENT NO. 6 (FINAL)

OWNER: City of Woodcreek, 41 Champions Circle, Woodcreek, TX 78676
CONTRACTOR: Curran Contracting Company, 11230 I-10 East, Converse, TX 78109
ENGINEER: Jones|Carter, 150 Venture Drive, Suite 100, College Station, TX 77845
PROJECT: Brookhollow Drive Improvements
JOB NO.: JJC No. 14950-0003-00

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					QUANTITY	AMOUNT	QUANTITY	AMOUNT	QUANTITY	AMOUNT	
	ALTERNATE BID NO. 3										
A3.1.	Additional mobilization, including bonds, insurance, move-in, move-out and related work.	L.S.	1	$5,324.00	10%	$532.40	90%	$4,791.60	100%	$5,324.00	100.0%
A3.2	Perform demolition and removal of existing culvert crossing, including all existing concrete located underneath the existing HMAC pavement near culvert crossing.	L.S.	1	$9,135.00	0%	$0.00	100%	$9,135.00	100%	$9,135.00	100.0%
A3.3.	Furnish and install labor and material to place 5" minimum thickness of reinforced concrete rip rap.	S.Y.	252	$58.30	252	$14,691.60	0	$0.00	252	$14,691.60	100.0%
A3.4.	Furnish and install labor and material to place 12'x4' pre-cast concrete box culvert.	L.F.	62	$1,449.70	0	$0.00	62	$89,881.40	62	$89,881.40	100.0%
A3.5.	Furnish and install labor and material to place metal beam guard fence in accordance with TxDOT standards and specifications. ***Change Order No. 3	L.F	175	$60.75	175	$10,631.25	0	$0.00	175	$10,631.25	100.0%
A3.6.	Furnish and install labor and material for concrete headwall according to plans and TxDOT specifications.	Ea.	2	$10,163.20	0	$0.00	2	$20,326.40	2	$20,326.40	100.0%
CO1.1.	Furnish and install labor and material for placement of 7" reinforced concrete pavement section with 9" rebar spacing. ***Change Order No. 1	S.Y.	12,070	$67.50	1,000	$67,500.00	11,070	$747,225.00	12,070	$814,725.00	100.0%
CO1.2.	Removal of 20" diameter live oak tree at the corner of "Y" of Brookhollow Drive. ***Change Order No. 1	L.S.	1	$2,090.70	0%	$0.00	100%	$2,090.70	100%	$2,090.70	100.0%
CO2.1.	40 LF of 2-4" Schedule 40 PVC pipes with end caps and surface markers 3' minimum cover required. ***Change Order No. 2	L.S.	1	$4,813.84	100%	$4,813.84	0%	$0.00	100%	$4,813.84	100.0%

PROGRESS PAYMENT NO. 6 (FINAL)

OWNER. City of Woodcreek, 41 Champions Circle, Woodcreek, TX 78676
CONTRACTOR: Curran Contracting Company, 11230 I-10 East, Converse, TX 78109
ENGINEER: Jones|Carter, 150 Venture Drive, Suite 100, College Station, TX 77845
PROJECT: Brookhollow Drive Improvements
JOB NO.: J|C No. 14950-0003-00

CONTRACT TIME - 100 CALENDAR DAYS (REVISED IN CHANGE ORDER NO. 3)

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					QUANTITY	AMOUNT	QUANTITY	AMOUNT	QUANTITY	AMOUNT	
CO3.1.	Potholing, location and mapping of utilities throughout the project for the City of Woodcreek. ***Change Order No. 3	L.S.	1	$19,364.01	100%	$19,364.01	0%	$0.00	100%	$19,364.01	100.0%
CO3.2.	Modified design of guardrail fence to allow access to parking area for adjoining land owner. ***Change Order No 3	L.S	1	$4,411.68	100%	$4,411.68	0%	$0.00	100%	$4,411.68	100.0%

PROGRESS PAYMENT NO. 6 (FINAL)

OWNER: City of Woodcreek, 41 Champions Circle, Woodcreek, TX 78676
CONTRACTOR: Curran Contracting Company, 11230 I-10 East, Converse, TX 78109
ENGINEER: Jones|Carter, 150 Venture Drive, Suite 100, College Station, TX 77845
PROJECT: Brookhollow Drive Improvements
JOB NO.: J|C No. 14950-0003-00

CONTRACT TIME - 100 CALENDAR DAYS (REVISED IN CHANGE ORDER NO 3)

	FROM	TO	USED
ORIGINAL	10/09/17	01/07/18	
REVISED	03/06/18	06/14/18	100 Calendar Days
THIS EST.	06/01/18	06/14/18	14 Calendar Days

ITEM NO.	DESCRIPTION	UNIT	ESTIMATED QUANTITY	UNIT PRICE	THIS ESTIMATE QUANTITY	THIS ESTIMATE AMOUNT	PREVIOUS ESTIMATE QUANTITY	PREVIOUS ESTIMATE AMOUNT	TOTAL TO DATE QUANTITY	TOTAL TO DATE AMOUNT	REMARKS
	CHANGE ORDER PLUS/MINUS										
	Change Order No. 1									$68,410.60	
	Change Order No. 2									$4,813.84	
	Change Order No. 3									$35,206.94	
	TOTAL CONTRACT MODIFICATIONS									$108,431.38	
	Subtotal (Line Items)					$149,883.13		$1,101,555.61		$1,251,438.74	
	Materials on Hand					$0.00		$0.00		$0.00	
	Subtotal (Materials on Hand/Line Items)					$149,883.13		$1,101,555.61		$1,251,438.74	
	Less Retainage (0%)					($55,077.78)		$55,077.78		$0.00	
	Total					$204,960.91		$1,046,477.83		$1,251,438.74	
	Less Previous Estimates									$1,046,477.83	
	Due this Estimate									$204,960.91	

100% Complete by Time	Orig. Contract Amount	$1,143,007.36
100% Complete by Value	Contract Modifications	$108,431.38
	Total Contract Amount	$1,251,438.74
	Construction Remaining	$0.00
	Amount Approved	$204,960.91

CERTIFIED AS CORRECT PAYMENT DUE CONTRACTOR

Jones|Carter

Grant L. Lischka, PE
Department Manager
Date: September 17, 2018

APPROVED BY CONTRACTOR

Curran Contracting Company

Name Printed: Tim Murphey
Title Printed: Project Manager
Date: 9/27/2018

APPROVED BY OWNER

City of Woodcreek

Name Printed:
Title Printed:
Date:

AFFIDAVIT
OF
GUARANTEE

STATE OF TEXAS §

COUNTY OF BEXAR §

Before me, a Notary Public in and for the State of Texas, on this day personally appeared Scott Hanson, Vice President of Curran Contracting Company, well known to me to be the person making this affidavit, who, being by me first duly sworn and deposed did say:

I am Scott Hanson, Vice President of Curran Contracting Company and have personal knowledge of the matter stated in this affidavit. Curran Contracting Company does hereby give notice to the Owner, the City of Woodcreek, that work for the Owner, known as the Brookhollow Drive Improvements, JIC No. 14950-0003-00 has been substantially completed. In accordance with the provisions of General Condition 5.07, Guarantee, of the General Conditions, Curran Contracting Company, does hereby guarantee all of the work under the contract for a period of one (1) year to be free from faulty materials and improper workmanship in every particular, and against injury from proper and usual wear; and agrees to replace or re-execute without cost to the Owner such work as may be found to be improper or imperfect, and to make good all damage caused to other work or materials due to such required replacement or recompletion of all work under this contract, as evidenced by the Engineer's Certificate of Substantial Completion.

This affidavit is made in connection with the final payment under the contract between the City of Woodcreek and Curran Contracting Company and with the knowledge that it will be relied upon in making such payment and that such payment would not be made except upon the truth of the matter contained in this affidavit.

DATE: 9/27/18

By: _____
Scott Hanson, Vice President
Curran Contracting Company

STATE OF TEXAS §

COUNTY OF BEXAR §

BEFORE ME, the undersigned, a Notary Public, in and for the State of Texas, on this day personally appeared, Scott Hanson known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 27th day of September, A.D., 2018

DAWN HANSON
NOTARY PUBLIC STATE OF TEXAS
ID # 131093743
APRIL 17, 2021

_____
Notary Public Signature

(Notary Seal)

K:\14950\14950-0003-00 Brookhollow Drive Improvements\3 Construction Phase\Closing Documents\AFFIDAVIT OF GUARANTEE Woodcreek Brookhollow Drive Imp 20180912.doc

Council Meeting Date: 10/17/2018

AGENDA ITEM COVER SHEET

Subject/Title:

9. B. Discussion and Take Appropriate Action on Discussion and Appropriate Action on an Ordinance Amending the Code of Ordinances of the City of Woodcreek, Title V, by the Addition of New Chapter 51, Establishing a Minimum Standard of Water Flow and Pressure to Fire Hydrants; Requiring a Utility Within the City's Jurisdictional Boundaries and Extraterritorial Jurisdiction to Maintain a Sufficient Water Flow and Pressure to Fire Hydrants Located in the City or the City's Extraterritorial Jurisdiction for Purposes of Emergency Fire Suppression.

Item Summary:

This item is to consider an Ordinance that establishes a minimum standard water flow and pressure to fire hydrants, and to maintain a sufficient water flow. The proposed ordinance adopts the minimums set forth by the Texas Commission on Environmental Quality, however it specifically addresses and utility within the City. AQUA Texas will fall under:

Public utility" means any person, corporation, cooperative corporation, affected county, or any combination of these persons or entities, other than a municipal corporation, water supply or sewer service corporation, or a political subdivision of the state, except an affected county, or their lessees, trustees, and receivers, owning or operating for compensation in this state equipment or facilities for the transmission, storage, distribution, sale, or provision of potable water to the public or for the resale of potable water to the public for any use or for the collection, transportation, treatment, or disposal of sewage or other operation of a sewage disposal service for the public, other than equipment or facilities owned and operated for either purpose by a municipality or other political subdivision of this state or a water supply or sewer service corporation, but does not include any person or corporation not otherwise a public utility that furnishes the services or commodity only to itself or its employees or tenants as an incident of that employee service or tenancy when that service or commodity is not resold to or used by others.

Recommendation:

Staff recommends the adoption of the proposed Ordinance

Attachments:

Proposed Ordinance

Submitted By:

Brenton B. Lewis, City Manager

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF WOODCREEK, TITLE V, CHAPTER 51 BY THE ADDITION OF NEW SECTION ____, ESTABLISHING A MINIMUM STANDARD OF WATER FLOW AND PRESSURE TO FIRE HYDRANTS; REQUIRING A UTILITY WITHIN THE CITY'S JURISDICTIONAL BOUNDARIES AND EXTRATERRITORIAL JURISDICTION TO MAINTAIN A SUFFICIENT WATER FLOW AND PRESSURE TO FIRE HYDRANTS LOCATED IN THE CITY OR THE CITY'S EXTRATERRITORIAL JURISDICTION FOR PURPOSES OF EMERGENCY FIRE SUPPRESSION.

WHEREAS, it is the intent of the City Council to protect the public health, safety and welfare of residents of the City; and

WHEREAS, the Texas Health and Safety Code (THSC), §§ 341.0358 and 341.0359 authorize municipalities to establish standards for water flow and pressure to fire hydrants; and

WHEREAS, the THSC provisions establish a minimum standard, determined by the Texas Commission on Environmental Quality (TCEQ) that municipalities may adopt; and

WHEREAS, the THSC provisions authorize the City to require a utility within its jurisdictional boundary to maintain a minimum sufficient water flow and pressure to fire hydrants in residential areas; and

WHEREAS, the City of Woodcreek recognizes that sufficient water flow and pressure to fire hydrants is critical to fighting fires in an emergency situation;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WOODCREEK, TEXAS, that:

SECTION 1. The Code of Ordinances of the City of Woodcreek, Chapter ____, _____, is hereby amended by the adoption of the following new Section 51, Minimum Standards for Fire Hydrants, which shall read as follows:

Sec. _____. Minimum Standards for Fire Hydrants.

(a) Purpose. The purpose of this section is to establish minimum standards for fire hydrants in residential areas that apply to all water systems in the City and in its extraterritorial jurisdiction. The minimum standards set forth herein are the minimum standards of water flow and pressure adopted by the Texas Commission on Environmental Quality, and are adopted in accordance with Texas Health & Safety Code, Sections 341.0357 and 341.0359.

(b) Definitions. The following terms shall have the following meanings for purposes of this Section:

(1) Public utility" means any person, corporation, cooperative corporation, affected county, or any combination of these persons or entities, other than a municipal corporation, water supply or sewer service corporation, or a political subdivision of the state, except an affected county, or their lessees, trustees, and receivers, owning or operating for compensation in this state equipment or facilities for the transmission, storage, distribution, sale, or provision of potable water to the public or for the resale of potable water to the public for any use or for the collection, transportation, treatment, or disposal of sewage or other operation of a sewage disposal service for the public, other than equipment or facilities owned and operated for either purpose by a municipality or other political subdivision of this state or a water supply or sewer service corporation, but does not include any person or corporation not otherwise a public utility that furnishes the services or commodity only to itself or its employees or tenants as an incident of that employee service or tenancy when that service or commodity is not resold to or used by others.

(2) "Residential area" means an area used principally for private residences that is improved with at least 100 single-family homes and has an average density of one home per half acre.

(3) "Utility" includes a "public utility" and "water supply or sewer service corporation."

(4) "Water supply or sewer service corporation" means a nonprofit corporation organized and operating under Chapter 67 of the Texas Water Code that provides potable water service or sewer service for compensation and that has adopted and is operating in accordance with by-laws or articles of incorporation which ensure that it is member-owned and member-controlled. The term does not include a corporation that provides retail water or sewer service to a person who is not a member, except that the corporation may provide retail water or sewer service to a person who is not a member if the person only builds on or develops property to sell to another and the service is provided on an interim basis before the property is sold.

(c) Minimum Requirements. A utility providing service in a residential area located in the City of Woodcreek or the City's ETJ must maintain a minimum sufficient water flow and pressure to fire hydrants. In addition to a utility's maximum daily demand, the utility must provide, for purposes of emergency fire suppression:

(1) A minimum sufficient water flow of at least 250 gallons per minute for at least two hours; and
(2) A minimum sufficient water pressure of at least 20 psi.

(d) Memorandum of Understanding. The City will enter into a written memorandum of understanding with the utilities affected by this Section to provide for the necessary testing of fire hydrants and other relevant issues pertaining to the use of water and maintenance of the fire hydrants to ensure compliance with the standards established in accordance with this Section.

(e) Penalty. In accordance with law, the City will notify the Executive Director of the Texas Commission on Environmental Quality of a utility's failure to comply with the standards set forth herein, and the TCEQ shall be charged with enforcing the violation of the standard.

SECTION 2. In the event any section of this Ordinance conflicts in effect or application with any other section of the Code of Ordinances of the City of Woodcreek, this Ordinance shall prevail.

SECTION 3. If, for any reason, any one or more sections, sentences, clauses, or part of this Ordinance are held legally invalid, such holding shall not effect, impair, or invalidate the remaining sections, sentences, clauses or parts of this Ordinance.

PASSED, APPROVED AND ADOPTED this the _____ day of _____, 20__.

_____
Mayor

ATTEST:

_____
City Secretary

APPROVED AS TO FORM:

_____
City Attorney's Office

Council Meeting Date: 10/17/2018

AGENDA ITEM COVER SHEET

Subject/Title:

9. C. Discussion and Take Appropriate Action an Ordinance Amending the Code of Ordinances of the City of Woodcreek, Title V by the Addition of New Section 60 - Minimum Standards for Water Service, Establishing Minimum Standards to be met by All Providers of Water Service Within the City.

Item Summary:

This item is to consider an Ordinance that establishes a minimum standards for water service, and minimum standards met by all providers within the City of Woodcreek.

Within Section 02 (16) a requirement is established for the water provider to provide potable water to customers on a registry, at no charge to the customer, and within a defined time frame. Please provide input to the number of hours, and is so desired Council can a time frame for all customers. During discussions with a representative of the water utility, staff was informed the water utility had contracted for potable water to be delivered to all customers.

Also, within the ordinance back-up power must be available at all times in order to instantaneously, or as close to instantaneously as possible, restore service in the event of power outage or interruption, isolation valves shall be used throughout the system in order to isolate line breaks and minimize outages, a Supervisory Control and Data Acquisition (SCADA) system shall be installed and operational, a licensed operator shall be employed or under contract, design documents or as-built drawings of the systems shall be provided to the City, and copies of correspondence between the utility and the Texas Commission on Environmental Quality regarding compliance issues shall be provided to the City.

Recommendation:

Staff recommends the adoption of the proposed Ordinance

Attachments:

Proposed Ordinance

Submitted By:

Brenton B. Lewis, City Manager

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF WOODCREEK, TITLE V, BY THE ADDITION OF NEW SECTION 60 – MINIMUM STANDARDS FOR WATER SERVICE, ESTABLISHING MINIMUM STANDARDS TO BE MET BY ALL PROVIDERS OF WATER SERVICE WITHIN THE CITY.

WHEREAS, the City of Woodcreek exercises original jurisdiction over all water and sewer utility rates, operations, and services provided by a water and sewer utility within its jurisdiction to ensure that the rates are fair, just and reasonable, and the services adequate and efficient, pursuant to Texas Water Code § 13.042; and

WHEREAS, the City has a continuing obligation and responsibility to its citizens to protect their public health, safety, and welfare, with regard to the provision of safe and adequate water utility service; and

WHEREAS, the City has determined that it is necessary and appropriate to adopt and implement minimum standards to be met by all utilities providing water utility services within the City; and

WHEREAS, the minimum standards adopted hereby are for the purpose of protecting the public health, safety, and welfare, and are consistent with the standards imposed on non-municipally-owned water utilities by the State of Texas;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF WOODCREEK, TEXAS:

SECTION 1. That the Code of Ordinances of the City of Woodcreek, Texas, is hereby amended by the adoption of the following provisions to be codified in Chapter __, _____. Water Regulations:

Section 60 – MINIMUM STANDARDS FOR WATER SERVICE

Sec. 60-01. – Purpose.

The purpose of this Division is to establish minimum standards of service and operation of all water utilities providing retail service within the City, in order that all residents of the City have access to adequate and efficient water utility service. These minimum standards are consistent with, and in addition to, the standards and requirements imposed on water utilities by the State of Texas and other governmental entities or agencies.

Sec. 60-02. – Minimum Standards for Water Service.

(a) All entities providing retail water utility services to connections within the City shall comply with the following minimum standards of operations and services:

(1) The utility shall furnish service consistent with the requirements of its service regulations and tariff without unreasonable discrimination, to all of its certificated service area, and shall not deny service or otherwise discriminate against applicants for service on the basis of race, color, religion, national origin, disability, sex, or sexual orientation.

(2) The utility shall maintain its property and equipment in good order and condition, consistent with the needs of the service to be rendered therefrom.

(3) The utility shall comply with state law, and the rules and regulations of the Public Utility Commission of Texas and the Texas Commission on Environmental Quality, and the terms, conditions and requirements of all state and federal permits held by the utility.

(4) The utility's rates, rules, and regulations shall be subject to the original jurisdiction of the City or other regulatory authorities having jurisdiction from time to time.

In addition to the rates, fees, and charges for utility service, the utility's rules and regulations for service shall be subject to City approval.

(5) Back-up power must be available at all times in order to instantaneously, or as close to instantaneously as possible, restore service in the event of power outage or interruption.

(6) Isolation valves shall be used throughout the system in order to isolate line breaks and minimize outages.

(7) A SCADA system shall be installed and operational.

(8) A licensed operator shall be employed or under contract.

(9) Design documents or as-built drawings of the systems shall be provided to the City.

(10) Copies of correspondence between the utility and the Texas Commission on Environmental Quality regarding compliance issues shall be provided to the City.

(11) The utility shall provide to the City copies of its tariffs and service regulations, and its annual reports.

(12) All plumbers and other contractors performing work on the utility system shall be licensed and registered with the City.

(13) The utility shall develop and maintain an up-to-date Public Water Supply Emergency Preparedness Plan containing the components described in 30 Texas Administrative Code § 290.47, Appendix G. The Plan shall be developed in partnership with the City's emergency management team, and will address how the City and the utility will respond to various potential emergencies, including but not limited to flooding, fire, and water system failures.

(14) Whenever the utility issues a Boil Water Notice to its customers, the utility shall at the same time also provide notice to the City of such Boil Water Notice by contacting the City's emergency dispatch number, the City's Emergency Manager, and the Chief Fire Inspector. Notice to the City shall not be a substitute for the utility's notice to its customers, but shall be in addition to the notice from the utility required by 30 Tex. Admin. Code § 290.46(q) and § 290.122(a)(2). The utility shall also provide notice to the City when the Boil Water Notice has been rescinded.

(15) Whenever the utility experiences a service outage affecting more than one customer, it will promptly provide notice of such outage to the City by contacting the City's emergency dispatch number, the City's Emergency Manager, and the Chief Fire Inspector. The utility should provide as much information regarding the outage as is available, including but not limited to cause, extent, and expected duration, in order that the City may be able to respond to citizen inquiries.

(16) In conjunction and cooperation with the City, the utility shall maintain a registry of names and addresses of customers whose circumstances prevent them from having access to bottled water during times of outages or during the effective time period of a Boil Water Notice. Utility shall promptly, but no later than ___ hours after an outage or issuance of a Boil Water Notice, deliver bottled water suitable for human consumption to each customer on the registry, at no charge to the customer. Utility shall continue to ensure that its customers on the registry continue to receive sufficient quantities of potable water until the outage has been remedied, or until the Boil Water Notice has been rescinded, whichever occurs later.

(17) The utility shall regularly test the flow of fire hydrants connected to the utility's system in order to ensure compliance with the flow requirements of Section _____. All test data shall be promptly provided to the City. All testing shall be performed by certified inspectors.

(18) The utility shall keep and maintain a business office and system that shall provide service to the public. The business office and system shall, at minimum, provide and maintain the following services:

(a) Accept and give receipt for deposits and payments from applicants for service and customers;

(b) Respond to customer questions and issues about billings, accounts, deposits, and services;

(c) Coordinate with the City with respect to private sector and public works projects and issues related to or affecting the utility's system and services;

(d) Provide immediate response, upon request, to police, fire, and other emergency situations in which the public health and safety requires action with respect to or assistance regarding the utility's system; and

(e) Fulfill any other obligation imposed by the Public Utility Commission of Texas, the Texas Commission on Environmental Quality, or other state or federal agency having jurisdiction.

(19) The utility shall from time to time inform the City concerning the utility's compliance and conservation programs and, upon request, shall deliver to the City a copy of the utility's communications with the Public Utility Commission of Texas and the Texas

Commission on Environmental Quality, and conservation materials distributed by the utility.

(20) The utility shall bill its customers based on monthly readings of service meters. Estimated bills may be provided only in instances in which utility's access to meters is hindered, as described in the rules of the Public Utility Commission of Texas, as 16 Tex. Admin. Code § 24.89(c). Estimated bills are not allowed in any other circumstances.

Council Meeting Date: 10/17/2018

AGENDA ITEM COVER SHEET

Subject/Title:

9. D. Discussion and Take Appropriate Action on Amending Title IX. General Provisions of the City of Woodcreek Code of Ordinances as it Relates to Chapter 90: Animals, Chapter 91: Trees, Chapter 92: Streets and Sidewalks, Chapter 93: Fire Prevention and Protection, Chapter 95: Health and Sanitation, and Chapter 96: Use of Weapons.

Item Summary:

The Ordinance Review Committee, consisting of Mayor Pro-Tem Britner, Councilperson Brizendine, and Kathy Malanado has diligently been reviewing the Code of Ordinances of the City of Woodcreek. The Committee is recommending several areas to be amended. The proposed amendments are printed in red for the council consideration.

Recommendation:

Staff recommendation is for the council to consider the proposed amendments, determine if changes need to be made, and to direct the City Attorney to present a draft copy for consideration at the next City Council meeting.

Attachments:

Title IX of the Code of Ordinances with proposed amendments.

Submitted By:

Brenton B. Lewis, City Manager

CHAPTER 90: ANIMALS

Section

GENERAL PROVISIONS

§ 90.01 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

EXOTIC ANIMALS, FOWLS AND REPTILES. Animals, fowls and reptiles normally not considered household pets, to include lions, tigers, jaguars, javelinas, bobcats, coyotes, wolves, llamas, pea fowl, falcons, snakes and alligators.

HANDLER. Any person(s) with whom an animal has been placed by the owner of such animal for the purpose of that person(s) having control of such animal on behalf of the owner.

OWNER. Any person, persons, firms, corporations or associations keeping, having custody or harboring an animal, fowl or reptile.

RUNNING AT LARGE. Not under the direct physical control of the owner or handler by leash, cord, chain or similar direct physical control and not being kept physically restrained from leaving the premises of the owner.

TYPICAL FARM ANIMALS AND FOWLS. Hogs, cattle, horses, jacks, jennets, sheep, goats, chickens, geese, ducks, turkeys or like animals and fowls.

(Ord. 85-19C, passed 4-10-1996)

§ 90.02 TYPICAL FARM ANIMALS.

(A) Typical farm animals will not be permitted within the city, except in the areas defined as "open agricultural" on the official zoning map and the area commonly known as the stable. A specific boundary description is as follows: beginning at the Low Water Bridge on Woodcreek Drive following northwesterly along Cypress Creek to Jacob's Well Road, proceeding northeasterly along the south right-of-way of that road to the Woodcreek Resort property line at Lot 63, Section 6-C, proceeding southeasterly along the Woodcreek Resort property line to Cypress Point, proceeding southwesterly along the Cypress Point property line to Woodcreek Drive, and along Woodcreek Drive to the original starting point at the Low Water Bridge on Woodcreek Drive. This area is zoned either FP - Flood Plain, OA - Open Agricultural or P - Recreation District.

(B) The pen(s) or fenced area(s) where any typical farm animals are confined shall be kept in a clean and sanitary manner, and will be subject to inspection by the Health Authority at all times between sunrise and sunset.

(Ord. 85-19C, passed 4-10-1996) Penalty, see § 90.99

§ 90.03 EXOTIC ANIMALS, FOWL AND REPTILES.

Exotic animals, fowl and reptiles will not be permitted within the city.

(Ord. 85-19C, passed 4-10-1996) Penalty, see § 90.99

§ 90.04 UNREASONABLY LOUD BARKING OR HOWLING BY DOGS.

It shall be unlawful for a dog to make unreasonable loud barking or howling noise. For purposes of this section, ***UNREASONABLE LOUD BARKING OR HOWLING NOISE*** is defined as barking or howling of such a degree of loudness and duration that it is then and there disturbing to a person or persons in the vicinity of the dog. Any such person or persons so disturbed must file a sworn, written complaint with the appropriate authorities to initiate prosecution under this section. The owner or handler of the dog shall be deemed responsible for training or hiring someone to train the dog to be reasonably quiet.

(Ord. 85-19C, passed 4-10-1996) Penalty, see § 90.99

§ 90.05 DOGS UNDER DIRECT PHYSICAL CONTROL OF OWNER, HANDLER.

(A) Every dog shall be kept under the direct physical control of an owner or handler or shall be physically restrained from leaving the premises of the owner of handler of such dog.

(B) It shall be unlawful for any owner or handler of a dog(s) to allow the dog(s) to defecate on any portion of the Woodcreek Golf Course, recreation areas, green belts, esplanades and privately-owned lots upon which a dwelling exists unless all feces are immediately removed and discarded in a sanitary manner. This restriction applies to both a dog(s) running at large or a dog(s) under direct physical control of owner or handler.

(Ord. 85-19C, passed 4-10-1996) Penalty, see § 90.99

§ 90.06 COMPLAINTS.

Any complaint alleging violation of any portion of this subchapter must be a sworn, written complaint filed with the appropriate authorities to initiate prosecution under this section.

(Ord. 85-19C, passed 4-10-1996)

GEESE

90.16 FEEDING GEESE PROHIBITED

It shall be unlawful for any person to intentionally or knowingly feed any egyptian goose or any other member of the geese family, within the city limits. ***INTENTIONALLY OR KNOWINGLY FEEDING*** shall consist of, but not be limited to, having an established receptacle within which corn, maize, oats, commercial mixes of any kind or any other vegetable matter that is not a live and growing plant, is maintained for the feeding of geese in the city; physically handing any food product to a goose; intentionally or knowingly leaving geese food in an area where geese commonly feed; and any other activity wherein a food commonly eaten by geese is placed or left with the intent to feed geese.

Penalty, see § 90.99

DEER

§ 90.20 FEEDING DEER PROHIBITED.

It shall be unlawful for any person to intentionally or knowingly feed any whitetail deer, or any other member of the deer family, within the city limits. ***INTENTIONALLY OR KNOWINGLY FEEDING*** shall consist of, but not be limited to, having an established receptacle within which corn, maize, oats, commercial mixes of any kind or any other vegetable matter that is not a live and growing plant, is maintained for the feeding of deer in the city; physically handing any food product to a deer; intentionally or knowingly leaving deer food in an area where deer commonly feed; and any other activity wherein a food commonly eaten by deer is placed or left with the intent to feed deer.

(Ord. 01-72B, passed 4-10-2002) Penalty, see § 90.99

§ 90.21 INTERFERENCE WITH DEER TRAPPING PROHIBITED.

It shall be unlawful for any person to intentionally or knowingly interfere with the city-authorized deer trapping efforts. ***INTENTIONAL OR KNOWING INTERFERENCE*** shall consist of, but not be limited to, tampering with any trapping equipment or nets, deterring deer from a trapping area physically or with the use of noise, removing deer feed left by city personnel or other authorized persons to attract deer to a trapping area or permitting dogs to enter the trapping area.

(Ord. 01-72B, passed 4-10-2002) Penalty, see § 90.99

§ 90.22 ENFORCEMENT.

The Mayor, City Staff ~~or his or her designee~~, and members of the Precinct 3 Constables Office~~County Sheriff's Office~~, both regular and reserve officers, are empowered to enforce this subchapter.

(Ord. 01-72B, passed 4-10-2002)

§ 90.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) The penalty for any violation of §§ 90.01 through 90.06 of this chapter shall not exceed $500. Each day any violation of §§ 90.01 through 90.06 of this chapter shall continue shall constitute a separate offense.

(C) The fine for the first conviction or violation of § 90.04 of this chapter shall not exceed $200 or the maximum amount permissible under state law.

(D) The fine for the first conviction or violation of § 90.05 of this chapter shall not exceed $200 or the maximum amount permissible under state law.

(E) Any person convicted of violating any provision of §§ 90.20 through 90.22 of this chapter shall be guilty of a misdemeanor and shall be subject to a fine in an amount not to exceed $500 per occurrence.

(Ord. 85-19C, passed 4-10-1996; Ord. 01-72B, passed 4-10-2002)

CHAPTER 91: TREES

Section

§ 91.01 TITLE.

This chapter shall be known and may be cited as the Tree Ordinance.

(Ord. 15-206, passed 2-11-2015)

§ 91.02 OAK WILT REPORTING.

Any person who discovers or suspects the presence of oak wilt infestation or an oak wilt infected tree shall report that information to the City Manager/Administrator by the next business day.

(Ord. 15-206, passed 2-11-2015)

§ 91.03 PURPOSE.

The provisions of this chapter are deemed to be necessary to promote the health, safety, property and general welfare of the residents of the city.

(Ord. 15-206, passed 2-11-2015)

§ 91.04 DEFINITIONS.

For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words used in this chapter and not defined herein shall have their ordinarily accepted meaning.

DISEASED TREES. Oaks infected by the fungus Ceratocystis fagacearum.

FIREWOOD. Branches and limbs larger than two inches in diameter cut from diseased oaks; also, such branches and limbs from an unknown source that may potentially harbor the oak wilt fungus.

FUNGICIDE. A chemical treatment used on non-symptomatic or slightly symptomatic trees within the trench line that could be vulnerable to infection.

LIVE OAKS. Members of a distinct group of the genus Quercus characterized by leathery oval leaves that includes two Texas species: plateau live oak (Quercus fusiformis) and coastal live oak (Quercus virginiana).

OAK WILT. A vascular wilt disease of oaks. The fungus responsible, Ceratocystis fagacearum, invades the water-conducting tissues of oak roots, trunks and limbs. Ceratocystis fagacearum does not actively grow anywhere in nature except in oak trees. Spores of this fungus can be moved around by certain insects and by humans.

OAK WILT CENTER. A site where the oak wilt fungus is spreading through the roots of diseased trees to infect healthy oaks, creating an area of sick, dead and dying oaks.

PREVENTIVE MEASURES. Actions that prevent the spread of oak wilt from diseased to healthy oaks, including but not limited to oak wilt suppression trench installation and the removal and destruction of diseased red oaks and firewood from any diseased oak.

RED OAKS. Members of a distinct group of the genus Quercus characterized by lobed leaves tipped by small soft spines, including but not limited to Texas red oak (Quercus texana, also called Quercus buckleyi), Shumard oak (Quercus shumardii), Southern red oak (Quercus falcata), and blackjack oak (Quercus marilandica).

SUBSTANTIALLY DEAD TREE. Trees in which more than ~~70%~~ 90%of the previously healthy branches have died due to any cause.

SUSCEPTIBLE SPECIES. All varieties of the genus Quercus that may be infected and killed by Ceratocystis fagacearum, including live oaks and all species of red oaks.

TRENCHING. Short for ***OAK WILT SUPPRESSION TRENCH INSTALLATION*** , a method used to isolate the infected area between healthy and diseased trees. ***TRENCHING*** equipment is used to cut connecting roots so that the fungus cannot spread between trees.

WOODY DEBRIS. Branches and limbs smaller than two inches in diameter cut from diseased trees; also, such branches and limbs from an unknown source that may potentially harbor the oak wilt fungus.

(Ord. 15-206, passed 2-11-2015)

§ 91.05 CERTAIN TREES DECLARED A PUBLIC NUISANCE.

(A) All red oak diseased trees, alive, dead or substantially dead, and all wood from diseased red oak trees to which any bark is still attached, are hereby declared to be public nuisances, as is any tree of any species that is dead or substantially dead.

(B) All species and varieties of trees that are dead or substantially dead, and all dead diseased oak wood to which the bark is still attached, which, because of its condition, may serve as a breeding place for any carrier of oak wilt disease, are hereby declared to be public nuisances.

(Ord. 15-206, passed 2-11-2015)

§ 91.06 INSPECTIONS.

(A) The city and the Texas A&M Forest Service, and their agents are authorized and empowered to enter upon any lot or parcel of land in the city at any reasonable hour for the purpose of inspecting any oak tree(s) or dead oak wood situated thereon.

(B) If such premises are occupied, the above personnel shall first present credentials and request entry.

(C) If such premises are unoccupied, the city shall first make a reasonable effort to locate the owner or other persons who have charge or control of the premises and request cooperation for entry.

(D) Permission of the owner, occupant or person in control of the premises is necessary for entry. If such entry is refused and the city has probable cause to believe that there exists on the premises a public nuisance as defined herein, the city shall go before the Municipal Court Judge and seek to obtain a search warrant. The purpose of the warrant is to determine the presence of a public nuisance and to obtain such specimens of trees as are required for the purposes of analysis to determine whether the same are infected.

(Ord. 15-206, passed 2-11-2015)

§ 91.07 NOTICE TO OWNER.

(A) If, on laboratory analysis of specimens removed from any red oak tree, it is determined that such tree is a public nuisance, as provided in this chapter, or if it is determined that any dead or substantially dead tree, is a public nuisance, as provided herein, and if it is determined that any such tree should be removed, the city may serve or cause to be served a written notice upon the owner of record and upon all lienholders of the lot or parcel of land on which the tree or dead oak wood is located, requiring such owner to comply with the provisions of this chapter. Diagnosis may be obtained via laboratory verification by the Texas A&M Forest Service or through a field survey by trained personnel.

(B) Service of notice provided for in this chapter shall be by certified mail to the owner's address as listed on the Hays County Appraisal District's tax roll. Notice to a lienholder or its agent may be made by personal service or by certified mail. Certified mail returned as "unclaimed" or "refused" shall be deemed delivered.

(Ord. 15-206, passed 2-11-2015)

§ 91.08 ABATEMENT REQUIRED; PREVENTIVE MEASURES; CITY MAY ABATE.

(A) Upon receipt of written notice by the city as described in § 91.07 it shall be unlawful for any owner of any lot or parcel of land within the city to permit or maintain on any such lot or parcel any dead oak wood or oak tree which is a public nuisance as defined in this chapter, and it

shall be the duty of the owner of such to promptly remove and destroy such oak tree by cutting the tree off at ground level and removing all dead oak wood and woody debris as directed by the city.

(B) Should the property owner fail to abate the public nuisance within 14 days following the receipt of notification, the city shall have the right to cause the removal and destruction of the diseased trees. The full cost of such removal and destruction shall be assessed to the property owner. Should the property owner fail to pay the city within 30 days from the date of invoicing the city may, at its discretion, file a lien against the property in the amount of all costs incurred by the city, plus interest. The assessment of expenses and lien shall follow the procedures established in Tex. Health and Safety Code Ch. 342.

(C) Red oaks known or suspected to have died of oak wilt may not be retained for firewood under any circumstances due to the high risk of fungal mat formation and insect transmission.

(D) Red oaks that are dead or dying of oak wilt as determined by the city staff or the Texas A&M Forest Service shall be cut at ground level, with all firewood and woody debris covered and hauled away or disposed of by burying, burning or chipping within three working days.

(E) It shall be unlawful to stack firewood taken from live oaks known to be infected or suspected of being infected by the oak wilt fungus. ~~around or near healthy oaks unless the entire stack is completely wrapped in clear plastic with the ends buried, tucked under, or completely secured with weights.~~

(F) It shall be unlawful for any person to transport or sell firewood within the city that was taken from trees known or suspected to be infected by the oak wilt fungus.

(G) Pruning or cutting of oak trees shall be prohibited in the spring months of February through June when fungal spore formation and beetle activity are highest unless such activities are completely unavoidable in order to protect the safety of people and property or the health of the tree.

(H) Pruning or cutting of oaks is permitted from July through January.

(I) Regardless of the time of year that the wound occurs, black tree wound dressing must be applied immediately to all wounds of any size on susceptible oaks, including the cut surface of healthy oak stumps, pruning cuts, construction damage, or any spot where the bark has been removed to expose the wood beneath, in order to discourage potential insect/disease contamination. Failure to seal any wound immediately upon creation of the wound is an unlawful violation of this chapter.

(Ord. 15-206, passed 2-11-2015) Penalty, see § 91.99

§ 91.09 ENFORCEMENT.

The City Manager or designee is charged with the enforcement of the provisions of this chapter.

(Ord. 15-206, passed 2-11-2015)

§ 91.10 COSTS OF PREVENTIVE MEASURES, TREATMENT OR REMOVAL AND REPLACEMENT.

(A) The city shall appropriate funds as deemed appropriate by the City Council for oak wilt suppression.

(B) The city has no obligation to pay for preventive measures on any private property. ~~However, in order to encourage participation by property owners, the city may enter into written agreements with certain property owners to pay for all or part of the costs of preventive measures.~~

~~(C) The city may enter into an agreement with the property owner(s) for cost-sharing of trenching or removal of dead red oaks.~~

~~(D) The city may enter into an agreement with the property owner(s) for cost-sharing of replacement trees.~~

(E) Fungicide treatment for non-symptomatic or slightly symptomatic trees or removal of infected or dead trees shall be the responsibility of the landowner.

(Ord. 15-206, passed 2-11-2015)

§ 91.11 TREE-TRIMMING PERMIT REQUIRED.

No property owner, person, individual, firm, corporation, contractor, landscape contractor, tree trimmer, builder, utility service or any other type of business entity shall trim, prune or remove any tree within the city without having first obtained a permit from the city. Permits shall be issued without charge. Permits shall be effective for 30 days from the date of issuance and shall apply only to the lot or parcel of land for which it is issued. The permit shall be posted in a place where it can be seen from the nearest street while the work is in process.

(Ord. 15-206, passed 2-11-2015) Penalty, see § 91.99

§ 91.99 PENALTY.

It shall be unlawful for any person, firm or corporation to violate the provisions of this chapter. Any person violating any provision hereof shall be deemed guilty of a misdemeanor, and each such person shall be deemed guilty of a separate offense for each and every such violation and for each and every day or portion thereof during which any such violation continues or occurs. Upon the conviction of such violation, such offense shall be punishable by fine which shall not exceed $1,000 for each separate offense.

(Ord. 15-206, passed 2-11-2015)

CHAPTER 92: STREETS AND SIDEWALKS

Section

Excavations and Cuttings

EXCAVATIONS AND CUTTINGS

§ 92.01 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDON (and its derivatives). The facilities installed in the rights-of-way (including by way of example but not limited to: poles, wires, conduit, manholes, handholes, cuts, network nodes and node support poles, or portion thereof) that have been left by user in an unused or nonfunctioning condition for more than 120 consecutive calendar days unless, after notice, user has established to the reasonable satisfaction of the city that the applicable facilities, or portion thereof, is still in active use.

APPLICABLE CODES.

(1) All applicable Woodcreek Code of Ordinance provisions, policies and guidelines;

(2) All applicable engineering and safety standards governing the installation, maintenance and operation of facilities and the performance of work in or around rights-of-way and includes the most current version of the National Electric Safety Code, the National Electrical Code, the Texas Health and Safety Code and regulations of the Occupational Safety and Health Act; and

(3) Any applicable lawful rules, requirements or orders now in effect or hereafter issued by the city or authority with jurisdiction.

CONSTRUCTION ACTIVITY or ***WORK.*** Includes, but is not limited to, the causing or carrying out of any man-made change in any property or facility through building, erecting, installing, bulkheading, filling, mining, dredging, clearing, paving, grading, excavating, boring, drilling, or the addition, removal or alteration of any facility or any improvement to property, including altering of the size of any facilities, or other similar work or activity in, over, under, through, along or across the rights-of-ways or streets within the city limits.

CONTRACTOR and ***SUBCONTRACTOR.*** Includes, but is not limited to, the person possessing a permit, franchise or license agreement as required under this subchapter and all persons actually performing, directing, monitoring, managing or overseeing any construction activity, work or other such similar activity in, over, under, through, along or across any streets or rights-of-ways within the city limits.

DIRECTOR OF PUBLIC WORKS or ***INSPECTOR.*** The person, his or her staff or employees, or entity designated by the city to perform the duties and responsibilities set forth herein to be performed by the city, or, if none has been designated, the City Manager of the city.

EASEMENT. Includes any public easement or other compatible use created by dedication, or by other means, to the city for public roadway, access or utility purposes, or any other purpose whatsoever. ***EASEMENT*** shall include a private easement used for the provision of utilities.

EMERGENCY. A reasonably unforeseen situation presenting an imminent hazard to personal or public health, safety or property, and the work necessary to address a service interruption. Upgrading of facilities, new service installation and neighborhood improvement projects are not emergencies under this subchapter.

EXCAVATION. Any man-made formation of a cavity, hole or hollow by way of any means of digging, plowing, quarrying, uncovering, blasting, scooping, drilling, dredging, bulldozing, relocating or making cuts, openings, borings or other action or processes to form a cavity, hole or hollow.

FACILITY or ***FACILITIES.*** Any plant, equipment and property, including, but not limited to, duct spaces, manholes, poles, towers, utility pipes, pipes, conduits, lines, wires, transmission media, underground and overhead passageways or other equipment, structures and appurtenances which are located in, over, under, through, along or across the rights-of-ways or streets.

FRANCHISEE. Any company, business, or service provider holding a franchise approved and issued by the City of Woodcreek.

INSTALLATION. The addition, removal, repair or alteration of any facility located in, over, under, through, along or across the rights-of-ways or streets.

OWNER. Any person having financial interests in property or facilities located in, over, under, through, along or across streets and rights-of-ways in the city, including the person directing the actions of any contractor, paying a contractor, or for whose benefit the actions of the contractor are undertaken.

PERMANENT STRUCTURE. Any facility located in, over, under, through, along or across the rights-of-ways or streets within the city limits that occupies, affixes or otherwise is to remain in the same location for a period of time of more than 30 days.

PERSON. An individual human, partnership, firm, company, limited liability partnership or other partnership or other such company, joint venture, joint stock company, association, legal entity, or corporation of any kind, including but not limited to any provider of any utility service or public service, as those terms are defined below.

PUBLIC SERVICE. Any business or commercial activity which is not included in the definition of ***UTILITY SERVICE*** that requires the use of the public streets or rights-of-ways for the location of any facility or equipment to provide services to persons or property situated within the city, including but not limited to cable television service and services using a transmission media, but excluding taxi service and solid waste collection.

RIGHTS-OF-WAYS. The surface of, and the space above and below any and all present and future public thoroughfares, public utility easements, public ways, public grounds, public waterways and, without limitation by the foregoing, any other public property within the corporate limits of the city.

STREETS. The surface of, and the space above and below, any and all present and future public streets, avenues, highways, boulevards, drives, roads, bridges, alleys, lanes, viaducts and all other public roadways within the city limits and any highways, county roads or other public roadways for which the city has an agreement or contract to control, regulate or maintain.

TRANSMISSION MEDIA. All cables, fibers, wires, tubes, pipes or other physical devices used to transmit and/or receive communication signals, whether analog, digital or of other characteristics, and whether for voice, video or data, or other purposes, which are physically located in the rights-of-ways or streets.

UTILITY SERVICE. Shall have its common meaning and shall specifically include, but not be limited to, electric, water, wastewater, gas, telephone service, internet and cable tv.

(Ord. 17-241, passed 12-20-2017)

§ 92.02 UNDERGROUND UTILITY SERVICE.

(A) In all residential areas of the city, all cable television lines, telephone lines, and electric distribution lines and individual service lines shall be installed underground. If overhead lines existed prior to underground installation, all such poles, guy wires, and related structures shall be removed following construction of the underground infrastructure.

(B) For non-residential and multi-family developments where no existing overhead infrastructure exists, underground cable television, telephone, and electric utility lines shall be required along the street and within the site. Where existing overhead infrastructure is to be located, it shall be re-installed underground and the existing facilities shall be removed at the discretion of the city.

(C) Transformers and all related equipment supporting cable television, telephone, and electric service shall be mounted on pads at ground level. For non-residential development, such equipment shall be located outside of the street yard where practical and preferable located

behind the front facade of the primary building structure. Such equipment shall reasonably be separated from pedestrian or vehicular access ways, shall have approved driveway or all weather vehicular accessibility, shall not conflict with roadway sight visibility, and shall be located outside of future rights of way.

(D) Screening of pad-mounted above-ground equipment for non-residential development shall consist of barrier fencing or shrub plantings located no closer than three feet from the equipment, except for the entry side of the equipment, which shall have a minimum of ten feet of unobstructed clearance. The entry side of the equipment shall not face a public street unless located behind the front facade of the primary building structure. The equipment pad shall be located with adequate room for the required landscape screening to be installed consistent with these provisions.

(E) Once utility service lines have been installed underground, the installation of new above-ground lines in that location is prohibited.

(F) The installation of public street lights, and connection of electric service thereto, shall be the responsibility of the developer.

(G) Exceptions or alternatives to the requirements of this section may be considered by the City Manager or designee. An appeal of the decision made by the City Manager in this regard shall be heard by the City Council.

(Ord. 17-241, passed 12-20-2017)

§ 92.03 STREETS AND RIGHTS-OF-WAY.

(A) The city shall have exclusive dominion, control and jurisdiction in, over, under, through, along and across the streets and rights-of-ways, and may provide for the improvement thereof by paving, re-paving, raising, draining, realigning, closing, or otherwise the use thereof. Such exclusive dominion, control and jurisdiction in, over, under, through, along and across the streets and rights-of-way of the city shall also include, but not be limited to, the power to regulate, locate, remove or prohibit the location, installation, alteration or removal of any type of facility or other property in, over, under, through, along or across any streets or rights-of-way. The location, alteration or removal, including the route, of all facilities within the rights-of-way or streets shall be subject to the reasonable direction of the city.

(B) It shall be unlawful for any owner or contractor, including his or her agents, servants, independent contractors, or employees to occupy or obstruct any portion of the right-of-way or streets or to perform any construction activity, or to cause another to do the same, for any purpose in, over, under, through, along or across any street or right-of-way without first having made all applications for permits and, when required, obtained all permits therefore, together with a bond approved by the City Manager or designee in an amount determined as herein provided, conditioned that the principal therein will discharge all claims of every character arising from or occasioned by such occupancy or construction activity or by reason of damages or injuries sustained by persons or property because of such occupancy, construction activity, excavation or other such activity thereon and discharge all judgments obtained, together with all costs attached thereto against the city by reason of any such claim, injury or damage sustained. Contractor and owner carrying on any construction activity or excavation shall keep all streets and rights-of-way adjacent to such construction activity or excavation carried on by such

contractor or owner, in a clean, safe and orderly condition, and unobstructed, except as provided in this subchapter, during all such activities, and shall restore all such streets, rights-of-way, facilities and other structures damaged, altered or injured, in any way, to as good condition as they were before the beginning of such activities.

(C) It shall be unlawful for any person to use or occupy any street or right-of-way for the purpose of providing abutting, adjoining or other property with any utility service, public service, data, voice or video transmission service, cable television, taxi or solid waste collection service, without having first obtained a franchise or license issued and approved by the City Council; except as specifically provided otherwise by state law.

(D) Construction activity, excavation, obstruction or other work shall cease immediately upon the issuance of a stop work order from the City Manager or designee or from any authorized law enforcement agent of the city. It shall be unlawful to remove a stop work order placed upon a construction or work site until compliance with this subchapter has been accomplished. No work so ordered to stop shall commence after issuance of the stop work order until the violation has been corrected and the City Manager or designee issues written authorization for the contractor or individual to begin again.

(E) It shall be unlawful and a violation of this subchapter for any person, contractor or owner to maintain an existing excavation within the city or to work upon or assist in any way in the execution or operation of any such excavation, without a permit having been issued by the city in accordance with this subchapter.

(F) It shall be unlawful for the owner of any building or property abutting on any street or right-of-way in the city, or any tenant occupying such building or property, or any other person, to construct, build, operate or maintain any building, facility, or part thereof, including a show window, which extends over any part of any street or right-of-way.

(Ord. 17-241, passed 12-20-2017) Penalty, see § 92.99

§ 92.04 PERMITS.

Application for a permit required by § 92.02 of this subchapter shall be addressed to the City Manager and made on a form furnished for that purpose, detailing the extent, character and purpose of any construction activity or other work to be performed.

(A) *Permits required.* The owner or contractor for all construction activity, installations, and similar activities must have applied for and have been issued all of the permits required for the work. The approved application and supporting documentation shall serve as the permit. A copy of the approved application and supporting documentation shall be maintained for inspection at the site of construction activity. The types of activities which must have a permit issued pursuant to this subchapter are:

(1) *Excavation of rights-of-way.* Any person considering major excavation, cutting, boring, digging or demolition activity in, over, under, through, or along the rights-of-way within five feet of the utility easement or property line shall, in advance of same, submit a design plan to the city for review and comment and shall secure a proper permit and/or approval and pay the fees as required.

(2) *Construction activity in rights-of-way or street.* Any person considering adding, repairing, removing or altering any facility or landscaping owned by the City of Woodcreek, in, over, under, through, along or across the streets or rights-of-way within the city limits shall in advance of same, submit a design plan to the city for review and comment and shall secure proper permits and/or approvals and pay the fees as required.

(B) *Permit fees.* In the event an application is made for a permit to perform any construction activity in any of the streets or rights-of-way, such permit shall be subject to the following permit fees to cover the costs and expenses of the city. Acceptance of any such permit shall constitute an acceptance by the permittee of the conditions of the permit and any of the obligations and duties to repair any cut, damage, injury or excavation in full compliance with the requirements set forth in § 92.06. Payment for each such permit shall be made with the application for the permit. No permit shall be issued for less than the required permit fee.

(1) *Boring permit minimum fee.* The fee for each permit required pursuant to this subchapter for any construction activities including but not limited to, excavation, installation, removal, repair, addition or other alteration of any facilities or landscaping owned by the City of Woodcreek in the rights-of-way or streets shall be $75, plus the amount of any other permit fees and any engineering or other professional fees reasonably incurred by the city for and with respect to such permit.

(2) *Professional fees.* In addition to the above permit fees, the city shall be fully reimbursed for all reasonable costs associated with activities in the streets or rights-of-way pursuant to this subchapter that require inspection, plan review or any other reasonable overview or action by an engineer or other professional. All engineer and other professional fees shall be paid prior to issuance of a permit. Permits shall not be issued to, and may not be maintained by, any person owing engineer or other professional fees to the city.

(C) *Duration.* All activities or construction authorized by a permit issued under this subchapter shall be commenced within five business days after the effective date of the permit and thereafter be continuously prosecuted to completion, or such permit shall be void and the person to whom the permit was issued must make a new application before commencing or continuing any further activities or construction. Each permit issued shall be issued for a specific time period with a maximum period of 30 calendar days, after which period the permit shall be void and the person to whom the permit was issued must make a new application for a new permit for each succeeding 30 calendar days or portion thereof. If the permit is allowed to expire, the person shall apply for and procure a new permit, paying the fee therefore as before, prior to proceeding with any such work.

(D) *Applications.* Applications for permits required by this subchapter shall be submitted to the city at least 30 calendar days prior to the commencement of construction and must be made in writing by the person to do the work, the subcontractor, the franchisee, the contractor, or his authorized agent, that will be submitted upon forms provided by the city for that purpose. An application for such permit shall be deposited at the office of the City Administrator for delivery to and action by the City Manager or designee, or his/her designated representative. Such application shall contain:

(1) Date application is submitted; name, address, phone, fax, e-mail and other pertinent information of owner(s) and the name of all contractor(s), including subcontractors, employed,

or that will be employed, to perform any portion of any construction activity or excavation; name, address, phone, fax, e-mail and other pertinent information of the person(s) designated to be the 24 hour contact or emergency contact at all times while the permit is active [if such emergency contact changes during the term of the permit, the City Manager or designee shall be notified no later than 24 hours after such change, to maintain an active permit]; exact location of any property, streets or rights-of-way where the construction activities or excavation is proposed to occur; a certification by the contractor, subcontractor, franchisee, owner, or the person employed to do the work, that existing underground utilities have been located and marked prior to commencement of construction and a copy of the one call confirmation order attached with the application. Applicant will provide City Hall with each two week refresh of locate documentation.

(2) A fee, appropriate to the number and kinds of installations, alterations, removals or construction activities to be made or activities to be performed.

(3) Proof of liability insurance or bond (certificate of insurance) in the amount of not less than $1,000,000 personal injury and property damage:

(a) The coverage must be on an "occurrence" basis and must include coverage for personal injury, contractual liability, premises liability, medical damages, underground, explosion and collapse hazards as applicable to the size and type of project;

(b) Each policy must be posted at City Hall throughout the project;

(c) Each policy must include a cancellation provision in which the insurance company is required to notify the city in writing not fewer than 30 days before canceling, failing to renew, or reducing policy limits;

(d) The City of Woodcreek shall be named as additional insured on the policy; and

(4) A description of the work to be performed, including duration of the work. Applications shall be accompanied by two copies of a complete layout drawing to showing the location and the work to be performed. The plan or diagram shall show the manner in which the installations or construction activities are to be made or the character of any of the repairs to existing installations or construction activities.

(5) *Excavations.* If any site is to be excavated the application must include:

(a) The location where the soil will be moved or deposited;

(b) A positive statement that the proposed excavation shall not block, encumber or close any street or disturb the lateral support thereof;

(c) The proposed slopes and lateral supports to be used in any excavation greater than four feet in depth shall be set forth;

(d) The proposed arrangements made for surface water drainage and siltation control;

(e) The safety precautions to be installed and maintained at the site, such as fences around the excavation, traffic control devices and drainage systems to keep the excavation from collecting water within or creating a hazard to workers, travelers and citizens; and

(f) Such other pertinent data as the City Manager or designee may require.

(E) *Review of application.* The city shall have the power and reserves the authority to refuse to issue a permit under this subchapter to any person, contractor, subcontractor or owner who has not complied with this subchapter, has previously failed to comply with the terms, requirements or standards of any prior permit issued for a similar project, or who has failed to provide insurance and bond as required. Additionally, the city shall have the power and reserves the authority to refuse any permit, or to modify or amend any application for permit, where the particular location, by reason of the nature of such particular location, the character and value of the permanent improvements already erected on or approximately adjacent to the particular location, and the use of which the land and surroundings, when in the City Manager or designee's opinion, or on appeal, the excavating, operation of an excavation or addition or alteration of any such proposed facility on such particular location or construction activity would constitute a nuisance, be injurious to public health, be a public hazard to the inhabitants as a whole, or to a substantial number of its inhabitants or travelers, or be a disadvantage to the city in its planned growth, or otherwise have a negative impact on the property values of property within the city. Review by the city shall be completed within 30 calendar days from the date the complete application is received by the city.

(F) *Factors to be considered.*

(1) In considering and reviewing all plans submitted and applications for permits the City Manager or designee shall be guided by the general purpose of orderly municipal planning, avoiding conditions or the doing of any act constituting or creating a nuisance, health hazard or endangering the public safety. As aids in accomplishing these purposes, the following points shall be considered by the city in reviewing applications for permits; however, such aids shall not be exclusive in the City Manager or designee's consideration and ultimate recommendation:

(a) The plan's compliance with all provisions of this subchapter and other ordinances of the city;

(b) The environmental impact of the development relating to the preservation of existing natural resources on the site and the impact on the natural resources of the surrounding properties and neighborhood;

(c) The relationship of the development to adjacent uses in terms of harmonious use and design, maintenance of property values, and negative impacts;

(d) The provision of a safe and efficient vehicular and pedestrian circulation system;

(e) Surface water drainage and water drainage facilities of the excavation or installation, including soil and earth erosion by water and wind;

(f) Lateral supports of the excavation, including protections for existing buildings, facilities, streets and other property to be affected thereby;

(g) Conditions in which the excavation, construction activities or installation are to be maintained and safeguards to be taken to prohibit creating a nuisance, health or safety hazard, attractiveness to children, and features provided to dispense with the endangering of the lives and property of the public;

(h) Proposed use or condition of land upon completion of excavation process, construction activity or installation;

(i) Protection, access and encumbrance such installation, construction activity or excavation will have upon existing facilities and the location of the facilities in reference to the proposed excavation or installation, including the size, quantity, location and permanent nature of the all facilities currently located or proposed to be located therein; and

(j) Such other facts as may bear or relate to the coordinated, adjusted and harmonious physical development of the city.

(2) In arriving at the ultimate recommendation, the City Manager or designee may attach such special conditions thereto as may be reasonably necessary to attain the overall purpose of this subchapter.

(G) *Appeals.* Appeals from the denial or granting of a permit, shall be made to City Council.

(1) If an application for a permit is refused, the applicant may, not later than ten days from the date of receiving notice of such refusal, appeal to City Council by directing a letter to City Council setting forth therein the date of denial of the permit and the reasons the permit should be granted.

(2) Upon the filing of such appeal, the right to operate under any such permit shall be suspended until final determination by the City Council.

(H) *Conditions of permit.* All permits shall be issued based upon the representations made within the application for the permit, information provided from the applicant, information known to the City Manager or designee and/or city, and all plans submitted with the application. Violations of any conditions of the permit or the general conditions listed herein shall constitute a forfeiture of all rights and privileges granted by the permit(s). The following general conditions of permit are in addition to the specific conditions identified in the specific permit:

(1) Permit holders may not deviate from the plans approved with the permit without prior written permission from the City Manager or designee and amendment of such permit.

(2) Permit holders must comply at all times with the requirements of this subchapter and other applicable city ordinances as well as state and federal laws.

(3) No permit issued under the terms of this subchapter shall ever be transferred, sold, assigned, or otherwise disposed of in any manner to any other person or property owner without the written consent of the City Manager or designee.

(4) No permit shall be issued for less than the required permit fees.

(5) Bonds and/or insurance must be maintained at all times applicable to the permitted project.

(6) All applications for permit must contain complete and accurate information and plans for the project.

(7) No work shall be done under any permit issued under this subchapter except as stated in the permit and in compliance with State and Federal laws. The permittee shall ensure compliance at all times therewith.

(8) The City Manager or designee shall at all times have authority to inspect the project site and stop all work not in conformity with the permit, ordinances of the city, or state or federal law. A copy of the permit shall be maintained at the construction site and made available for inspection at all times when construction or installation work is occurring.

(9) Approval of a permit does not constitute an agreement to undertake construction activities contrary to state, federal or city requirements.

(10) No permanent structure shall remain in the rights-of-way or street without all proper permits.

(I) *Revocation of permit.* Any permit issued under this subchapter may be cancelled if a notice to stop all work or activities thereunder is issued, and such notice is not immediately complied with. Any such non-compliance shall constitute grounds for immediate revocation of any and all permits, or portions thereof, for the project, when the following conditions exist:

(1) A violation of any condition of the permit;

(2) A violation of any provisions of this subchapter or any other applicable ordinance or law relating to the requirements of the permit, excavations, construction or installation of the type of facility being installed, repaired, altered or removed;

(3) Failure to cease construction activities or correct such violations as directed by the City Manager or designee; or

(4) The existence of any condition or the doing of any act constituting or creating a nuisance or endangering the lives or property of others.

(J) *Appeals from permit revocation or other action.* A permit holder pursuant to this subchapter, who is aggrieved by a revocation or any other action by the City Manager or designee regarding such permit, may appeal to City Council. The appeal shall be made by filing with the City Manager/Administrator a written notice thereof within ten calendar days from the date of the revocation of the permit, or other action appealed from, including, but not limited to, notices to repair and stop work orders. A fee of $500 shall be collected for processing the appeal. The aggrieved person shall be given a hearing before City Council, in due order of business, after which the City Council may affirm, modify or overrule the City Manager or designee's decision. Written notice of the time and place of such hearing shall be served upon the permit holder. Notice of the hearing may be given by personal delivery thereof to the permit holder or by deposit in the United States mail in a sealed envelope with postage prepaid, addressed to such person at the address appearing in the application or notice of appeal. All work shall be stopped at the construction site while the appeal is pending with the exception of work required to safely secure the site and to protect the health, safety and well-being of the public. The request for variance will be approved or denied within 60 from the date the request was received by the City.

(K) *Franchise holders and transmission media.* Utility service providers and public service providers having a current franchise or license agreement with the city shall be governed by the terms of the franchise or license agreement and shall not be required to post additional bond or

insurance; and shall be exempt from paying any permit fees when required hereby to obtain a permit; but shall otherwise be subject to, bound and governed by each and every term and provision of this subchapter except as explicitly exempted in the franchise or license agreement. Where the terms and conditions of the franchise or license agreement conflict with the provisions of this subchapter, the terms and conditions of the franchise or license agreement shall govern. Unless otherwise exempted by a current franchise, license agreement or state law, the utility service provider or public service provider shall:

(1) Complete all applications for permits required herein but shall not be required to pay the fees;

(2) Provide the city the information required in the application and a certification by the contractor, subcontractor, franchisee, owner, or the person employed to do the work, that existing underground utilities have been located and marked prior to commencement of construction and a copy of the Dig-Tess confirmation order attached with the application;

(3) Coordinate with the city as directed by the City Manager or designee based upon the size of the project and construction activities;

(4) Apply for all permits at least 30 calendar days prior to commencing any activity for which a permit must be issued as required by this subchapter; and provide an estimation of time for completion of each project.

(L) *Exception to certain fees.* Telecommunication entities that are certified telecommunications providers, certified by the State of Texas to service the city, and that pay the city compensation as required by Tex. Loc. Gov't. Code Ch. 283, shall be exempt from such fees as are set forth therein upon verification from the Public Utilities Commission that the telecommunications entity seeking a permit is, at the time of application, a certificated provider holding a current certificate of convenience and necessity to service the city, and is paying the city compensation as required by Tex. Loc. Gov't. Code Ch. 283. The telecommunications entity shall be subject to all other provisions of this subchapter for which the entity is not exempt.

(Ord. 17-241, passed 12-20-2017)

§ 92.05 BOND AND LIABILITY.

A person considering any construction activity, installation of facilities, excavation, cutting, boring, digging or demolition activity in, over, under, through, along or across the streets or rights-of-way within the city, and who is not under a written contract, franchise, license or other express written agreement with the city, shall post a bond, make a cash deposit with the city, or provide other suitable forms of financial security as determined by the City Manager or designee in an amount that approximates the projected costs of inspection, observation, labor, equipment, materials, and overhead associated with the permit work, and the restoration, reconstruction and repair of the cut, work or excavation in compliance with the standards and requirements set forth in § 92.06. Such security shall be posted prior to the issuance of a permit and the start of construction.

(A) *Bond required.* A good and sufficient bond shall be filed with the application for the permit required by this subchapter, executed by a bonding company, which bond shall be approved by the City Manager or designee as to form and sufficiency and shall be in the sum of

not less than $5,000. The bond shall be conditioned, among other things, that the contractor shall faithfully, at his or her own expense, furnish all proper materials, tools and appliances, and perform, execute, construct and complete all such work undertaken by such contractor, and observe and comply with the specifications, requirements and provisions of this subchapter. The bond shall be and remain in effect at all times in which the excavation or construction activities are commenced or in progress.

(B) *Maintenance provisions in bond.*

(1) Every permittee issued a permit under this subchapter shall be bound and obligated to construct all work, and use such materials in the construction thereof, so that the same shall be in as good or better condition than prior to the work, and will remain in such as good or better condition for and during a period of not less than one year from and after the date of completion of the work, free from all cracks, breaks, disintegration, undue wear, scaling or departures from true line or grade, or other defects which might impair the permanence or usefulness of the work or construction activity or surrounding facilities, streets or rights-of-way; however, such cracks as may appear in expansion joints, or cuts between blocks, shall not be deemed to be defects unless in the opinion of the City Manager or designee such cracks are excessive in opening or deflecting of surface.

(2) Each such bond issued pursuant to this subchapter shall continue in effect for and during the maintenance period of one year following the completion of the work, construction activity or repair.

(3) Each bond issuer shall promptly adjust, pay and settle all legitimate claims for damages or injuries that may result by reason of carelessness or negligence in the manner of performing the work, construction activity or excavation, or by reason of any defects therein caused or arising from careless, negligent or imperfect construction or repair thereof.

(4) Each permittee and bond issuer shall hold the city free and harmless from liability on all claims for damages that are based upon, that arise from, or that are related to, the work or construction, or the condition thereof during the maintenance period, or that arise by reason of carelessness or negligence of the permittee, owner, or contractor, in the manner of performing such work, construction activity or excavation, or by reason of any defects therein caused or arising from careless, negligent or imperfect construction or repair thereof, or otherwise by reason of the work or construction.

(C) *Withdrawal of surety on bond.* On written notice to the City Manager or designee and the contractor, any surety on a bond issued pursuant to this subchapter may withdraw from all liability thereon on account of any and all future work undertaken by the contractor and for which excavation or construction activity was not begun before the delivery of the notice. After receipt of such, the contractor shall not begin any new work unless and until the contractor shall provide and procure the approval of a new bond in the same manner as required for the first bond. No bond or surety may be withdrawn after the permitted work is commenced.

(D) *Emergency conditions.* In the event emergency conditions warrant immediate response by an affected person, the City Manager or designee may waive and/or modify normal standard procedures outlined herein to promulgate standards or requirements to expeditiously address the resolution of the emergency conditions; provided that, in any such event, the contractor shall

submit an application for a permit for such work on the first business day of the city following performance of the work. Before work commences, contractors shall also notify all emergency services and public agencies of any effect on usual traffic patterns.

(E) *Decision binding on contractor and sureties.* The decision of the City Manager or designee shall be binding and conclusive on the contractor, subcontractor and the sureties on all such bonds as to when any work or construction was actually commenced.

(F) *Liability of the contractor and sureties for defective work.* A contractor or subcontractor whose work, construction activities or excavations are completed, or caused to be completed, by the city shall, on completion of such work and receipt of a certified bill of the cost thereof approved by the City Administrator, pay to the city, on its order, the cost of the work. The sureties on the contractor's or subcontractor bond shall be liable for all items and amounts listed in the certified bill of costs submitted to the contractor or subcontractor by the city. In the event the contractor or subcontractor, or the surety on any bond, shall fail and refuse to timely pay any such certified bill to the city, the contractor or subcontractor and such surety shall be and become liable to the city for its attorney fees and costs of collection.

(G) *Liability of the contractor and sureties for maintenance and repair work.* If any defect in the work or construction develops during the one year guaranty period established by this subchapter, which, in the opinion of the City Manager or designee, is due in any measure to defects of workmanship or material, the contractor or subcontractor shall remedy, repair and reconstruct such work, and /or any part thereof, as may be required by the City Manager or designee, and such work shall be known as maintenance and repair work, and the surety on the contractor's or subcontractor's bond shall be fully liable for any default of such contractor or subcontractor under this section.

(Ord. 17-241, passed 12-20-2017)

§ 92.06 CITY FACILITIES AND LANDS.

City facilities and lands shall not be altered, obstructed or occupied without the express written permission of the city. Additionally, no facilities may be located in, over, under, through, along or across any parks, recreational land or other similar city owned property, which is not a street or street right-of-way, without the express written permission of the city.

(Ord. 17-241, passed 12-20-2017) Penalty, see § 92.99

§ 92.07 DUTIES AND RESPONSIBILITIES.

The contractor, subcontractor and the owner, and any other person to whom a permit is issued, shall, during the period for which the permit is issued, and as provided in § 92.03, have all of the duties and responsibilities identified in this subchapter, other applicable ordinances of the city, and as provided for in state and federal law. The owner, its agents, assigns, contractors and subcontractors installing the facilities, shall continually have the duties identified in this subchapter for so long as facilities or property, under the control of any such owners, and any subsequent owners thereof, are located in the rights-of-way or streets, to perform pursuant to the terms of this subchapter.

(A) *Duty to barricade and protect.* The owner, the contractor, the subcontractor, and every person to whom a permit is issued under this subchapter, shall have a duty to ensure that each contractor, subcontractor, employee, agent or assignee:

(1) Prosecutes such work diligently and in a good and workmanlike manner; and

(2) Safeguards and protects the public upon or using the street, right-of-way, or other place where the work is being performed, from accidents, injury or damage by placing barriers, lights and other sufficient safeguards, including a watchman, if necessary, around all cuts, openings, excavations, installation site and materials, implements and tools used in connection with the construction activity, and shall conform to the provisions of this subchapter and all requirements of the City Manager or designee during the prosecution and completion of such work. All barricades and barriers shall be erected and maintained in compliance with accepted industry practices and applicable safety standards. The owner, the contractor and the subcontractor shall be responsible for the costs and expenses of all such barricades, barriers and watchmen.

(B) *Supervision of work.* It shall be the duty of the owner, the contractor, the subcontractor, and the supervisor of the work site, who shall cause to be made any hole, cut, trench, excavation, mound, embankment, installation or other obstruction in any street or right-of-way, to carefully guard or cause to be guarded such hole, trench, excavation, mound, embankment, installation or other obstruction while the same may exist and not to suffer the same to remain beyond a time reasonably sufficient for the completion of the construction or removal of the obstruction, and to repair the portion of such street or right-of-way or any facility or property affected thereby so as to restore the same to as good or better condition than existed just previous to such activity.

(C) *Duty to promptly repair.* It shall be the duty of the owner, the contractor, the subcontractor, and the supervisor of the work site, on whose behalf the hole, trench, mound, excavation, construction activity, installation or other obstruction or intrusion shall be made, or has been made, in the streets or rights-of-way of the city, to protect the same while such condition exists and to promptly repair the same so as to leave the street or right-of-way in as good or better condition than as before the work. All facilities, streets, sidewalks or other structures or property damaged, altered or injured, in any fashion, shall be restored with similar material and workmanship to that existing before the same was damaged, altered or injured through any actions of the owner, contractor, subcontractor or person employed in any fashion thereby. All work shall be done to the satisfaction of the City Manager or designee whose duty it shall be to inspect the same after it has been done.

(D) *Removal and reconstruction when work defective.* All construction activities undertaken in the streets and rights-of-way of the city are declared to be wholly subject to the exclusive control of the city, and whenever, in the opinion of the City Manager or designee, any such work shall not have been duly completed within a reasonable time or shall have been executed in a defective manner, whether because of bad workmanship or material or because not true to lines or grades or specifications, then upon written demand or notice from the City Manager or designee, such contractor, subcontractor or the owner shall promptly remedy, complete or remove and reconstruct such incomplete or defective construction all as the City Manager or designee may require, and these provisions shall also be understood to apply to all repairs, installations and maintenance activities. If the contractor, subcontractor or owner shall fail or refuse so to do within a reasonable time as specified in writing by the City Manager or designee, then, if the City Manager or designee shall so order, such work may, at the expense of

the owner, contractor and subcontractor, be completed, corrected or removed and wholly or partially reconstructed by the city, or its instance, in such manner as in the opinion of the City Manager or designee may be necessary to make such work as good as originally required, and such work may be done by contract or otherwise, under the provision of this subchapter and the direction of the City Manager or designee.

(E) *Excavation.*

(1) All excavations in the streets and rights-of-way are declared to be wholly subject to the rules, regulations, directions and control of the city, and whenever, in the opinion of the City Manager or designee, any such work shall not be in compliance herewith, the permit, and § 92.06, then upon written demand or notice from the City Manager or designee, such owner, contractor, and subcontractor shall promptly remedy, complete or fill the excavation all as the City Manager or designee may require.

(2) All excavations made into any street or right-of-way shall be repaired to as good or better condition than such street, right-of-way or other property was in prior to such excavation. Any excavation located in or over the rights-of-way or streets within the City shall and does constitute a nuisance when maintained or permitted to exist by any person in an unwholesome or nauseous condition, or in a manner by which stagnant water accumulates, or in a manner in which water collects where it is possible and probable stagnant water accumulates, or in a manner in which water collects where it is possible and probable mosquitoes will breed, or in a condition where rats could harbor, or in a manner and condition constituting a breeding place for flies, or in a manner and condition where filth, garbage, trash, debris or other discarded material accumulates and is deposited, or is maintained or permitted to exist in an unfenced, open condition, accessible to children or other members of the public, or is maintained and worked in such a manner as to disturb, effect or destroy the lateral support of or block or otherwise impede traffic on any street, alley, road or rights-of-way, or that is maintained or permitted to exist in any condition which constitutes a possible and probable medium of transmission of disease to or between human beings, or to be maintained or permitted to exist in any one or more of the above-enumerated conditions.

(F) *Relocation of facilities.* All persons placing facilities in the right-of-way or streets or owning, operating or maintaining facilities in, over, under, through, along and across the rights-of-way or streets of the city shall be responsible for the relocation and costs of relocation of such facilities and shall be liable for any construction delays with the city contractor when the public health, safety or a public purpose, including street or drainage reconstruction or localized full depth repair or improvements, requires relocation, in accordance with § 92.06 .

(1) *Permanent relocation.* Upon 30 days written notice by the city, the owner of a facility shall, at the owner's expense, begin relocation of its facilities that are within a right-of-way or street, when deemed necessary by the city for the public health or safety, or for any public purpose, or to permit the widening, straightening or improvement of a street, drainage, water or sewer project, or any other public works project. The notice by the city may specify the new location for the owner's facilities along the rights-of-way or streets. The city shall have the right to move any facilities within the rights-of-way or streets to cure or otherwise address a public health or safety concern, to accomplish a public purpose, or to widen, straighten or improve a street, water or sewer projects or other public works projects and the owner refuses to move the

facilities. The city shall assess the reasonable costs and expenses of moving the facilities against the owner. The owner shall pay the costs and expenses of moving the facilities.

(2) *Temporary relocation.* Upon 30 days written notice by the city, the owner of a facility shall temporarily relocate any portion of its facilities within the rights-of-way or streets at the owner's own expense when deemed essential by the city for the public's health and safety or to permit construction activities of the city, or water or sewer projects or any other public works project. The notice by the city shall specify the affected areas where the facilities are located and the area for temporary relocation of the owner's facilities along the rights-of-way or streets to cure or otherwise address a public health or safety concern, to widen or straighten streets, water or sewer projects or other public works projects or construction activities and where the owner refuses to move the facilities. The city shall assess the reasonable costs and expenses of moving the facilities against the owner. The owner shall pay the costs and expenses of moving the facilities.

(3) *Temporary removal of aerial wires.* The owner of aerial wires, on the request of any person, shall remove or raise or lower aerial wires within the city temporarily to permit the moving of houses or other bulky structures. The expense of such temporary removal, raising or lowering of wires shall be paid by the benefited party or parties, and the owner of the wires may require such payment in advance. The owner shall be given not less than five business days advance notice to arrange for such temporary wire changes.

(G) *Traffic interference.* The owner, contractor, and subcontractor shall endeavor to minimize disruptions to the efficient use of the rights-of-way and streets by pedestrians and vehicular traffic, and the rights-of-way and streets shall not be blocked for a longer period than shall be reasonably necessary to execute all construction, maintenance and/or repair work. Access for emergency vehicles shall be required at all times.

(H) *Maintenance of facilities.* The owner of any facility and person holding a license or franchise shall be responsible for ensuring the continued maintenance, repair, removal of any nuisances and other such upgrades or repairs to maintain such facility in a safe and good workman like condition. Any vegetative growth interfering with such facilities that is determined by the City Manager or designee to be a nuisance shall be removed, cut or cleared at the sole cost and expense of the owner of the facility or holder of the license or franchise. Circumstances and conditions that impose a threat to the public health, safety or welfare shall be promptly remedied by the owner, and a known emergency condition that exists and is determined to require immediate attention so as not to reasonably allow for notice under this section may be immediately abated by the city, and notice of the abatement and costs for the expenses incurred will be forwarded to the owner or holder of the franchise or license for reimbursement to the city as required in § 92.07.

(I) *Abandonment of facilities.*

(1) Whenever a user intends to abandon any of its facilities within the rights-of-way, it shall submit to the City Manager or designee written notification of such intent, describing the facility to be abandoned and the date of the proposed abandonment. Such notification shall include a statement of waiver of claims against the city for subsequent damages to abandoned facilities. City may require the user, within 30 days of notice from the city, at the user's expense:

(a) To remove the facility from the rights-of-way; or

(b) To modify the facility in order to protect the public health and safety or otherwise serve the public interest.

(2) A user shall remove all abandoned facilities and equipment simultaneously during construction of new facilities. In removing its facilities structures and equipment a user shall refill, at its own expense, any excavation necessarily made by it and shall leave all rights-of-way in as good condition as existed prior to removal without materially interfering with any electrical or telephone cable or other utility wires, poles or attachments. The city shall have the right to inspect and approve the condition of the rights-of-way, cables, wires, attachments and poles prior to and after removal. The liability, indemnity and insurance provisions of this subchapter shall continue in full force and effect during the period of removal and until full compliance by a user with the terms and conditions of this section. If user does not remove its facilities within 30 days simultaneously with new installation, the city shall have the option of removing the facilities on behalf of the user and to charge user for the reasonable and actual costs incurred by the city. User shall reimburse the city for the costs within 30 days of receiving the invoice from the city.

(J) *Tree trimming.* The owner of facilities located within the rights-of-way or streets shall not trim any trees upon or overhanging the rights-of-way without first obtaining a permit as provided herein. All activities and costs necessary to protect and preserve the facilities from damage due to trees shall be the responsibility of the owner of such facilities.

(K) *Violations, notice, failure to abate.*

(1) In the event the City Manager or designee shall determine that a situation exists which is an immediate threat to the health, safety and well-being of the general public and that immediate action is necessary, said City Manager or designee may take such action as shall be necessary for violations of the terms and provisions hereof to the owner, contractor or subcontractor committing such violation.

(2) In the event the City Manager or designee determines a situation constitutes an immediate threat to the public health, safety and welfare, and the owner, contractor, or subcontractor is absent or fails to immediately remedy the situation, the City Administrator may, upon evidence heard, determine that an emergency exists and order such action as may be required to protect the public health, safety and welfare, including ordering repair or abatement of the nuisance. In such event, the city may also prosecute an action in any court of competent jurisdiction to recover its costs.

(3) In the event any owner, contractor, or subcontractor shall fail or refuse to remedy any of the conditions or violations indicated by the City Manager or designee within ten days after notice is sent, or immediately if determined by the city to be an emergency and the owner, contractor, or subcontractor is absent or fails to immediately respond, the city may do such work or cause the same to be done, and pay therefore, and charge the expenses in doing or having such work done or improvements made, to the owners of the facility, or the contractor, or subcontractor performing construction activities, whereupon such charge shall be a personal liability of the owner, the contractor, and. Or the subcontractor to the city.

(4) Notices served upon an owner, contractor, or subcontractor may be verbal, or may be served on such owner, contractor, or subcontractor by an officer or employee of the city

delivering a written notice to an employee or officer of such owner, contractor, or subcontractor at their respective place of business, or may be by letter addressed to such owner, contractor, or subcontractor at their post office address, or if personal service may not be had, or the owner, contractor or subcontractor's address is not known, then notice may be given by publishing a brief summary of such order at least once in the official newspaper of the city, by posting a notice on or near the site or location of each facility or property upon which the violation relates, or by posting notice on a placard attached to a stake driven into the ground on the property or facility to which the violation relates and addressed "Facility Improvements" "To Whom It May Concern," and such publication shall be deemed sufficient notice.

(5) In the event any owner, contractor, or subcontractor is mailed a notice in accordance with division (K)(4) of this section and the United States Postal Service returns the notice as "refused" or "unclaimed" the validity of the notice is not affected, and the notice is considered as delivered.

(6) Notices provided by mail or by posting as set forth above may provide for year-round abatement of the nuisance and inform the owner that should the owner commit any other violation of the same kind that pose a danger to the public health and safety on or before the first anniversary of the date of the notice, the city without further notice may abate the violation at the owner's expense and assess the costs against the property.

(7) Appeals from a decision of the City Manager or designee identifying a violation or nuisance shall be filed in writing with the City Administrator within five days after the notice to abate a nuisance or notice of a violation of this subchapter is given. The procedures for appeal shall otherwise be the same as required in § 92.04(G)hercin.

(L) *Emergencies.* In the case of fire, disaster, or other emergency threatening life or property, as determined by the city, the city may remove or repair only the part of the facility required to be removed or repaired to remove such threat; provided, however, the city shall first use its reasonable efforts to immediately notify the owner of such threat and allow the owner to remove or repair the part of the facility required to be removed or repaired to remove such threat. In such event, neither the city, nor any agent, contractor or employee thereof shall be liable to the owner or its customers or third parties for any damages caused them or the facility, such as for, or in connection with, protecting, breaking through, moving, removal, altering, tearing down, or relocating any part of the facility or equipment.

(Ord. 17-241, passed 12-20-2017)

§ 92.08 STANDARDS FOR INSTALLATIONS IN PAVEMENT CROSSINGS AND IN RIGHTS-OF-WAY.

The following standards for excavation, and backfilling shall apply to all streets and rights-of-way.

(A) *Depth and requirements of installation:* all installations, except electric utilities, are required to have a minimum cover of 36 inches and at locations where it passes beneath any pavement to be within Schedule 40 PVC conduit extending within five feet of right-of-way or property boundary. Electrical system utilities shall comply with the National Electric Code and be within Schedule 40 PVC conduit extending within five feet of right-of-way or property boundary.

(B) *Method of placement:* all utilities must be installed within five feet of right-of-way or property line. Boring is required for all pavement crossings.

(C) *Safety.*

(1) warning, protective devices and flagmen must be provided in accordance with the current Federal Highway Administration's *Manual on Uniform Traffic Control Devices*, Part 5, Chapter 5G and Part 6 to ensure the safety of the public and workmen.

(2) Parking of the owners, contractors, subcontractor and worker trucks and cars on both sides of the pavement shall be prohibited. All such vehicles shall be parked on one side of the road off the pavement and as far as prudent from the roadway to prevent accidents.

(3) All construction equipment, vehicles, and materials are restricted to the right-of-way and shall be limited within that area necessary for the work in progress and stored in such a manner and at such locations that they do not interfere with the safe passage of traffic.

(4) Any trench that needs to remain open in the absence of workmen, either during the day or at night, must be covered with steel plating of sufficient thickness and strength to allow safe passage of any vehicles. Advance warning signs shall be placed advising of the road condition. Boring pits left open in the absence of workmen must be adequately protected with sufficient barrier to surround the pit and be illuminated at night with automatic light systems.

(D) *Method of construction:* boring is required for all street crossings.

(1) *Excavation:* trench width shall be held to a minimum.

(2) *Backfill:* backfill within the earthen portions of the right-of-way may be with rock free earthen material excavated from the site or any clean rock free imported material stabilized to 95% density. Puddling is not permitted.

(E) *Access:* ingress and egress at all public and private roads will be provided at all times. Residents shall be notified of the work in advance of the interruption. Access for emergency vehicles shall be required at all times.

(F) *Rights-of-way restorations:* all excess excavation, materials, supplies, rock, and earthen materials shall be removed from the rights-of-way after the installation is complete. The rights-of-way shall be contoured.

(G) *Inspection and approval of completed work:* the city will conduct inspection at two stages of the work as follows:

(1) *Depth of placement:* the City Manager or designee shall be notified when all excavation and placement of conduit is complete prior to backfilling the trench to verify that the required cover has been achieved. Notification by the owner, contractor or subcontractor must be made to the City Manager or designee at least 24 hours prior to placement.

(H) *Construction hours of operation:* construction-related activities in the city are limited to Monday through Saturday during the hours from 7:00 a.m. to 6:00 p.m. Construction work on Sunday and city holidays is not allowed without prior approval from the city. Emergency work required to be undertaken during weekends and city holidays and outside the allowed hours shall be undertaken and completed in compliance with City of Woodcreek ordinances and this section,

and the contractor shall obtain a permit for the work no later than the first business day following the commencement of such work.

(I) *Utilities:* the city assumes no responsibility for conflict with existing utility lines, appurtenances or natural obstacles.

(Ord. 17-241, passed 12-20-2017)

§ 92.09 RIGHT TO INSPECT.

For the purposes of administering and enforcing this subchapter, the City Manager or designee and authorized law enforcement entities (herein "inspecting official") shall have the right to enter into and upon any lands within the city limits, in or upon which excavation, installation, repairs or any other construction activities exist or on any lands on which operations are being conducted in creating an excavation, repair or installation, to examine and inspect such lands and excavations, repairs or installations, to determine whether such operations are in violation of this subchapter and to further determine whether all permits have been secured as required.

(A) *Cessation of operations / stop-work order.* If the inspection provided for above reveals that the excavation, installation, repair or construction activity is being operated or maintained in violation of the permit issued the inspecting official may immediately give notice in writing to the person in charge at the site, or the owner thereof, to stop all work or construction activities, setting forth therein the reason for the issuance of the stop work order. If no such person is available, the leaving of such a written notice on the equipment located at the site or upon a stake at the entry of the site where the excavation, installation, repair or construction activity is occurring, shall be deemed compliance with this section.

(B) *Time limitations for correction.* After issuance of the notice as provided for above, there shall be no further operation of the excavation, installation, repair or any other construction activity until the violations complained of by the inspecting official have been remedied. Except that the violation shall constitute an immediate threat to the public health or safety, the owner, contractor, and/or subcontractor shall have three days from the date of receipt of the complaint notice from the inspecting official to remedy the violations complained of and to request a reinspection by the inspector to verify that the violations complained of have been remedied and that the construction activity is ready for additional inspection.

(C) *Failure to remedy violation.* In the event a contractor, subcontractor, or owner fails to remedy the violation complained of, the City Manager or designee shall consider revocation of the contractor's, subcontractor's and owner's permit as provided in this subchapter. A continuation of work or operation of the construction activity, other than to remedy the violation complained of, after written notice has been received by the contractor, subcontractor or owner to cease the construction activity shall constitute a violation of this subchapter.

(D) *Right to repair or correct.* The city may immediately repair any site or location within the streets or rights-of-way at the contractor's, subcontractor's and owner's expense where there exists: a known condition which constitutes a nuisance; a dangerous or hazardous condition; an eminent threat to the public health, safety or welfare; or when the contractor, subcontractor or owner is performing construction activities, excavations, installations or repairs without the appropriate permit; or when the contractor, subcontractor or owner is performing construction activities, excavations, installations or repairs contrary to the terms of this subchapter, other

applicable ordinances, state or federal law and refuses to correct such situation immediately upon direction from the City Manager or designee.

(Ord. 17-241, passed 12-20-2017)

§ 92.10 COSTS.

The reasonable costs and expenses for repairing, re-constructing or correction of any construction activity, excavation, addition, removal or alteration of a facility or any other alteration thereof to any street, right-of-way, or facilities located thereon, within the city, without a permit or express written contract or written agreement with the city, shall be charged against the persons, the corporation, company, or entity actually responsible for the actions; the owner(s) responsible for the work or for whose benefit such activity was undertaken which caused the damage to the street or right-of-way; and/or the permittee in whose name the permit to perform such activities was issued.

(Ord. 17-241, passed 12-20-2017)

§ 92.11 CITY RIGHTS RESERVED.

Nothing is this subchapter grants permission for the occupation, obstruction, excavation, repair or alteration of any street or right-of-way of the city, and any such use shall be subject to consent of the city at its sole discretion. Additionally, nothing in this subchapter shall be construed as an assumption by the city, its officers and employees, of any responsibility to supervise construction activities, ensure adequate safety precautions by contractors or subcontractors or to protect any owners or customers of any facilities located in, over, under, through, along or across the rights-of-way or streets, or the owners of any property abutting, adjacent or within the rights-of-way or streets from any damages caused to the facilities located therein or as the result of the construction activities thereto. Further the city reserves the right to vacate any street or right-of-way at its sole discretion. If the city vacates or otherwise abandons a right-of-way or street or any portion thereof, the city, with or without notice to any permittee, may cancel any permits for such portion of a right-of-way or street without compensation or reimbursement to the permittee for any expenses associated with moving any facilities located therein, unless otherwise agreed in writing. The owner and, as applicable, the contractor and subcontractor shall be solely liable and responsible for any and all injuries and/or damages arising or resulting from any excavation, boring, trench, work or occupation of any street or right-of-way by or on behalf of such owner, contractor, or subcontractor.

(Ord. 17-241, passed 12-20-2017)

§ 92.12 ENFORCEMENT.

(A) The civil and criminal provisions of this subchapter shall be enforced by those persons or agencies designated by municipal authority and may be enforced by any law enforcement agent of the city.

(B) If applicable, default and revocation of any and all permits granted to allow construction activities in the streets or rights-of-way subject to the procedural guidelines herein and any agreement which applies to the right-of-way user, may be permanently enforced subject to any limitations imposed by federal or state law.

(C) In imposing the penalties and the amount, the city may weigh all applicable factors, such as damages caused by the violation, reasons for the violation, the seriousness of the violation, and all other factors. The minimum fee and penalty that shall be payable by any utility service, public service provider, owner, contractor, subcontractor or person that shall be found to have been occupying a street or right-of-way, in violation of this subchapter, shall be double the amount of $1 per lineal foot of such occupancy for each year of such prior unauthorized occupancy.

(D) Monetary civil penalties and injunctive relief may be imposed in the manner prescribed by either local or state law.

(E) The City Council may order specific performance of any actions required by this subchapter or required by a franchise, license or permit or any other agreement or authorization.

(Ord. 17-241, passed 12-20-2017)

§ 92.99 PENALTY.

(A) Any person who shall violate any provision of §§ 92.01 through 92.12, or shall fail to comply therewith, or with any of the requirements thereof, shall be deemed guilty of a misdemeanor and shall be liable for a fine not to exceed the sum of $500. Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein.

(B) *Court proceedings.* Upon the request of the City Council, the City Attorney or other authorized attorney shall file an action in the district courts to enjoin the violation or threatened violation of §§ 92.01 through 92.12 , to obtain declaratory judgment, and to seek and recover court costs, attorney fees, and/or damages, including but not limited to, damages or costs incurred by the city to undertake any construction, repair, alteration or other activity necessary to bring about compliance with a requirement regarding the streets or rights-of-way and established pursuant to this subchapter and other applicable ordinances of the city.

(C) *Indemnity.* Owners, contractors, and subcontractors shall indemnify, defend, and hold the city and its officers, employees and agents harmless from and against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees (including reasonable attorney's fees and costs of defense), proceedings, actions, demands, causes of action, liability, and suits of any kind and nature, including personal or bodily injury (including death), property damage, or other harm for which recovery of damages is sought that is found by a court of competent jurisdiction to be caused by the negligent act, error, or omission of any agent, officer, director, representative, employee, affiliate, or subcontractor of the owner, contractor, subcontractor or permittee installing, repairing, or maintaining facilities in the rights-of-way or streets.

(D) *Governmental immunity.* Nothing in §§ 92.01 through 92.12 shall be deemed to waive, modify or amend any legal defense available at law or in equity to either the city or its officers, employees and agents, nor to create any legal rights or claims on behalf of any third party. Sections 92.01 through 92.12 are solely for the benefit of the city, and the city in its representative capacity of the general public, and does not create or grant rights, contractual or otherwise, to any other person, entity or member of the general public. Neither the city, nor its officers, employees and agents waives, modifies or alters to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas.

(Ord. 17-241, passed 12-20-2017)

CHAPTER 93: FIRE PREVENTION AND PROTECTION

Section

Cross-reference:

Fireworks, see Ch. 94

Health and Sanitation, see Ch. 95

GENERAL PROVISIONS

§ 93.01 ARSON REWARD.

(A) The city hereby offers a reward of $250 to anyone who secures and furnishes information necessary to and which results in arrest and conviction of any person or persons who commit the crime of arson within the corporate limits of said city.

(B) This reward is a standing offer and shall be paid out of the General Fund of the city.

~~(C) A placard eight inches by 12 inches in size showing that the reward is offered will be placed in all public buildings within the city.~~

(Ord. 85-11, passed 5-1-1985)

OPEN BURNING

§ 93.15 TITLE.

This subchapter shall be known as the "Open Burning Ordinance of the City of Woodcreek".

(Ord. 85-18C, passed 5-26-1998)

§ 93.16 PURPOSE.

The purpose of this subchapter is to protect public safety and property within the city.

(Ord. 85-18C, passed 5-26-1998)

§ 93.17 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

OPEN BURNING. Any burning of brush, trash, wood, plastics, leaves, waste products or similar materials outdoors, other than in an incinerator designed and constructed for such purpose and having a written permit issued by the Fire Marshal.

TRASH. Any thing worthless and useless, building materials, twigs, trees, limbs, rubbish, garbage, rags and brush.

(Ord. 85-18C, passed 5-26-1998)

§ 93.18 OPEN BURNING PROHIBITED; RESTRICTIONS.

(A) It shall be unlawful for any person to burn any garbage, trash, brush or other waste, wood, plastic or organic material outdoors within the city, unless such burning is performed in a device or structure designed and constructed for such purpose and used in accordance with the manufacturer's instructions and provisions of this chapter.

(B) The Fire Marshal, City Marshal and all city officials are granted the authority and responsibility of enforcing the following provisions of this subchapter.

(1) Open burning within the city is declared to be a public nuisance and hazard to adjoining property.

(2) Open burning is prohibited at all times when a burn ban has been declared by Hays County.

(3) Absent a burn ban, small fires are permitted in residential fire pits or chimineas provided:

(a) The fire pit or chiminea is not located within five feet of the residence or structure;

(b) The fire pit has large metal sides, built up concrete blocks, or is constructed of cement, rock, or similar non-flammable/non-conductive materials;

(c) The chiminea is placed on a non-flammable stand or is elevated to not be placed directly on the ground and/or structure.

(d) The fire pit or chiminea must be completely covered by a spark arrestor or similar fine metal grate to prevent flying sparks and embers;

(e) All fire pits must be based on a solid, non-flammable surface (rock, brick);

(f) The fire must be attended at all times; and

(g) The property owner has means to extinguish the fire when necessary.

(4) Any governmental entity, with permission from the city, may conduct open burning in the city limits to correct an obvious hazardous condition or to conduct fire training.

(5) It shall be unlawful for any person or persons to violate any verbal or written directive of the Fire Marshal, City Marshal or any city official when the directive prohibits, restricts, limits or sets guidelines for open burning.

(6) The Fire Marshal, City Marshal and all other officers of the city are granted the authority to enforce the provisions of this subchapter and impose temporary restrictions upon the use of outdoor fire pits or chimineas as conditions warrant.

(Ord. 85-18C, passed 5-26-1998; Ord. 18-242, passed 1-17-2018) Penalty, see § 93.99

§ 93.19 LIABILITY.

In addition to penalties provided in § 93.99 of this chapter, any person or persons conducting open burning shall be liable for property damage or injury, if any, caused as a result of his, her or their open burning.

(Ord. 85-18C, passed 5-26-1998)

§ 93.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any person, firm or corporation who violates any provisions of §§ 93.15 through 93.19 of this chapter, or any order made under authority of §§ 93.15 through 93.19 of this chapter, or who causes or permits any such violation of §§ 93.15 through 93.19 of this chapter, shall be guilty of a misdemeanor and, upon conviction, shall be fined an amount not to exceed $2,000. Each and every day on which any violation is committed or permitted to continue shall constitute a separate offense and shall be punished as such.

(Ord. 85-18C, passed 5-26-1998)

CHAPTER 94: FIREWORKS

Section

§ 94.01 TITLE.

This chapter shall be known as the "Fireworks Ordinance of the City of Woodcreek".

(Ord. 88-30A, passed 4-12-1995)

§ 94.02 PURPOSE.

The purpose is to protect the general welfare and safety of the citizens of the city.

(Ord. 88-30A, passed 4-12-1995)

§ 94.03 DEFINITIONS.

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

FIREWORKS. Any firecrackers, cannon crackers, sky rockets, torpedoes, Roman candles, sparklers, squibs, fire balloons, star shells, gerbs or any other substance in whatever combination by an designated name intended for use in obtaining visible or audible pyrotechnic display, and such term shall include all articles or substances within the commonly accepted meaning of fireworks, whether herein specially designated and defined or not.

PERSON. Any natural person, association of persons, partnership, corporation, agent or officer of a corporation.

(Ord. 88-30A, passed 4-12-1995)

§ 94.04 RESTRICTIONS AND RULES; AUTHORITY.

~~The City Marshal~~ Law Enforcement, City Personnel, and Fire Marshal are granted the authority and are responsible to enforce the following provisions of this chapter.

(A) The sale and/or distribution of fireworks within the corporate limits of the city is prohibited.

(B) It shall be unlawful for any person to ignite, detonate, discharge or fire any fireworks of any description within the city.

(C) A sworn complaint may be filed in the Municipal Court of the city charging that sale, distribution, igniting, detonating, discharging or firing of fireworks has taken place; specifying the time, date, location and persons charged; provided, however, that, this division (C) shall not be construed as requiring such a complaint in order to enforce this chapter.

(D) A public display of fireworks may be authorized by the Fire Marshal when any adult person, firm, corporation or association has made a written application at least 48 hours in advance of the date of the proposed display, it shall be the duty of the Fire Marshal to make an investigation as to whether the proposed display may be hazardous to property or dangerous to any persons and shall grant or deny the application based upon his or her findings.

(Ord. 88-30A, passed 4-12-1995) Penalty, see § 94.99

§ 94.99 PENALTY.

Any person, firm or corporation who violates any provisions of this chapter, or any order made under authority of this chapter, or who causes or permits any such violation of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be fined an amount not to exceed $2,000. Each day any violation of this chapter shall continue shall constitute a separate offense.

(Ord. 88-30A, passed 4-12-1995)

CHAPTER 95: HEALTH AND SANITATION

Section

§ 95.01 POPULAR NAME.

This chapter shall be commonly referred to as the city's "Health and Sanitation Ordinance".

(Ord. 09-122, passed 6-10-2009)

§ 95.02 PURPOSE.

This chapter is adopted so the City Council may promote the public health, safety and general welfare within the city through the regulation of private sewage treatment facilities, stagnant filth, carrion, weeds, dangerous weeds and other unhealthy, unsanitary and unwholesome conditions in the city. By prohibiting the creation and maintenance of such nuisances, the City Council seeks to protect property values and prevent bodily injury, death and property damage within the city.

(Ord. 09-122, passed 6-10-2009)

§ 95.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. The words "shall" and "will" are always mandatory.

ANIMAL-PROOF CONTAINER. A container with a secured lid constructed of material sufficiently strong to prevent domestic pets or other animals from tearing, opening or breaking.

BUILDING. Any structure of any kind or any part thereof, erected for the support, shelter or enclosure of persons, animals, chattel or property of any kind.

CITY. The City of Woodcreek, Texas.

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

CODE OFFICER. The person or persons officially designated by the city to assist the City Council in implementing and enforcing this chapter. Such person may be a volunteer, member of the City Council, an employee of the city, a person contracted by the city or a person otherwise

designated to serve in this capacity, and such assistance shall include, but is not limited to, investigating alleged violations of this chapter.

DANGEROUS VEGETATION. Tall grass, leaves, stems, plants or some other natural material, living or dead, harbor rodents, that creates little to no visibility for drivers, is unsightly or poses an immediate danger to the health, life or safety to any person or property.

DECORATIVE/ORNAMENTAL VEGETATION. Any plant, bush, shrub, grass or other type of vegetation, not defined as dangerous vegetation, which serves the function of providing aesthetic qualities to a landscaped area.

FIRE SAFETY BUFFER ZONE. A green strip consisting of shrubs, plants or other type of vegetation that are low-lying, moist and drought resistant placed for the purpose of resisting fire ignition; may also include paved roadways, golf cart paths, maintenance roads and similar areas of non-combustible material.

JUNK. Worn out, worthless and discarded material, including odds and ends, old iron or other metal, glass, paper, bottle or cans.

LITTER. Refuse, rubbish, garbage, trash, objectionable, unsightly or unsanitary matter.

LONG TERM. In excess of time normally required to complete intended construction or utilization. In the absence of intended construction or utilization, a period in excess of 90 days.

MATTER. That of which any physical object is composed.

NUISANCE. Filth, carrion, stagnant water, rubbish, impure or unwholesome matter of any kind, unsightly or unsanitary matter of whatever nature.

OBJECTIONABLE, UNSIGHTLY OR UNSANITARY MATTER. Any matter, condition or object which is or should be objectionable, unsightly or unsanitary to a person of ordinary sensitivities.

OPEN STORAGE. Storing, accumulating, keeping or displaying any unsightly item(s) or material(s) that is open to the public view, regardless of sheltering or covering, on public or private property for more than 24 hours. This includes, but is not limited to, junk, litter, objectionable, unsightly or unsanitary matter, refuse or rubbish.

PERSON. An individual, corporation, organization, government agency, business, trust, partnership, association or any other legal entity.

PRIVATE SEWAGE TREATMENT FACILITY. Include, but are not limited to, sewers, privies, septic tanks and on-site sewage facilities.

PRIVY. A facility for the disposal of human excreta.

REFUSE. Accumulation of worn out, used, broken, rejected or worthless materials.

RUBBISH. Trash, garbage, debris, rubble, rocks, wrappings, unused fragments of building materials, tree trimmings, brush, used furniture and other miscellaneous waste or rejected matter.

SEPTIC TANK. A covered water-tight tank designed for sewage treatment.

(Ord. 09-122, passed 6-10-2009)

§ 95.04 SANITATION REQUIREMENTS.

A person who is an owner, tenant, resident, occupant or has supervision or control over any lot, tract or parcel of land, or a portion thereof, occupied or unoccupied, or is the owner, tenant, resident, occupant or has supervision or control over a building, establishment or structure, occupied or unoccupied, within the municipal boundaries of the city must:

(A) Fill, drain or regulate any hole or place which contains stagnant water, an unwholesome condition or any other condition that may produce disease;

(B) Keep the same free of filth, carrion, refuse, rubbish or other impure or unwholesome matter; and

(C) Build, make, fill, alter, repair, clean, disinfect, maintain and regulate on-site sewage facilities, sewers, private sewage systems and privies in accordance with the laws, regulations and requirements of the county and the state.

(Ord. 09-122, passed 6-10-2009) Penalty, see § 95.99

§ 95.05 SANITATION RESTRICTIONS.

(A) It shall be unlawful for any person owning, claiming, occupying or having supervision or control of any real property within the municipal boundaries of the city to permit the following:

(1) Long-term storage of construction material, fill material, excavated material, building supplies and construction equipment;

(2) An accumulation or piling of rocks or debris in an unnatural and/or unsightly manner, unrelated to landscaping or beautification of residential and commercial buildings or development;

(3) Open storage or accumulation of junk, inoperable appliances, broken furniture, useless waste or rejected matter;

(4) Allowing the growth of, or accumulation of, dangerous vegetation; and

(5) Storage or accumulation of any material or rubbish which the City Fire Marshal determines to be a fire hazard.

(B) Persons, when building on site, shall be responsible to ensure that:

(1) The site and surrounding areas are kept free from junk, refuse, rubbish and litter with no significant accumulation outside of a trash enclosure for more than four days;

(2) Any matter which may blow is secured at all times to prevent a nuisance to adjoining property owners or residents;

(3) Animal-proof containers are provided for discarded food, drink cans, unsightly or unsanitary matter of whatever nature; and

(4) A portable toilet is provided for the on-site workers.

(C) All exterior-stored household garbage must be stored in an animal-proof container.

(D) Containers used for exterior stored household garbage for weekly pickup shall not remain at curbside for longer than one day before and one day after the date of scheduled pickup.

(E) It shall be unlawful for any person to throw, dump, leave or deposit junk, rubbish, refuse, trash or garbage on any road, right-of-way, green belt, common area, park or other public or private property.

(F) It shall be unlawful for any person owning, claiming or having supervision or control of any occupied or unoccupied residential lot to permit dangerous vegetation to grow to a height greater than six inches upon such property. It is an exception to this division (F) if the vegetation is classified as decorative grasses. In the event such dangerous vegetation reaches a height in excess of six inches, the city shall remove said vegetation at the owner's expense.

(G) All occupied or unoccupied businesses or facilities shall maintain a 35-foot fire safety buffer zone along the perimeter of said business or facility property. Any person, organization, business or non-profit corporation owning, claiming or having supervision or control of any occupied or unoccupied residential or commercial lot or combination of contiguous lots totaling more than one acre shall submit a plan, to the City Council for approval, for the creation and maintenance of a fire buffer zone on the property. Should there be any conflict between the submitted plan and any provision of a city ordinance, the more restrictive document shall govern.

(H) In addition to the provisions and restrictions set for above, it shall be unlawful for any person owning, claiming or having supervision or control of any occupied or unoccupied property, as provided above, to permit dangerous vegetation to grow to a height that is determined by the city's Fire Marshal to be hazardous to the safety and welfare of the community.

(Ord. 09-122, passed 6-10-2009) Penalty, see § 95.99

§ 95.06 INVESTIGATIONS AND NOTICE OF VIOLATIONS.

(A) The Code Officer, on his or her own knowledge or on the basis of a complaint by a resident or property owner of the city, shall investigate alleged violations of this chapter.

(B) The Code Officer may enter upon any lot where a violation of this chapter is alleged to have occurred, at any reasonable time, in order to examine the alleged violation outside a private residence.

(C) The Code Officer may enter and inspect a private residence where a violation of this chapter is alleged to have occurred, at any reasonable time, in order to examine the alleged violation and to remove or direct removal of the same, if necessary, pursuant to Tex. Health and Safety Code § 161.011, upon receiving:

(1) Permission obtained from a lawful adult occupant of the residence; or

(2) An authorization to inspect the residence for a specific public health purpose by a magistrate or by an order of a court of competent jurisdiction on a showing of a probable violation of this chapter.

(D) If the Code Officer determines there is a violation of this chapter, the Officer shall give notice in writing to such persons violating the provisions of the chapter. The notice will inform

the person that he or she has seven days from receipt of the notice to remedy the violation and, if this action is not taken, the city may, but is not obligated to:

(1) Authorize that the necessary work be done or improvements made; and/or

(2) Pay for the expenses incurred in having the work done or improvements made and bill the expenses to the property owner.

(E) The notice of a violation must be given to the owner personally in writing, either at the time of inspection by personal delivery, by posting the notice on or near the front door of each building, or by certified mail, addressed to the owner of the property at the owner's address as recorded in the County Central Appraisal District, as may be appropriate. If notice by personal service cannot be obtained, the Officer may give notice by:

(1) Publication of the notice, at least once, in a newspaper of general circulation;

(2) Posting the notice on or near the front door of each building on the property to which the violation relates; or

(3) Posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates.

(F) If such person fails or refuses to comply with the provisions of this chapter within seven days after the receipt of notice, the city may go upon such property and do or cause to be done the work necessary to obtain compliance with this chapter.

(G) The city, in the notice of violation, may inform the owner that if the owner commits another violation of the same kind or nature that poses a danger to the public health and safety on or before the first anniversary of the date of the notice, the city without further notice may correct the violation at the owner's expense and assess the expense against the property. If a violation occurs within the one-year period, and the city has not been informed in writing by the owner of an ownership change, the city without notice may take action to remedy the violation.

(H) The city may abate, without notice, dangerous vegetation.

(I) If the city incurs expenses for the work done or improvements made, the City Council or its designee shall assess the expenses and create a lien, including possible foreclosure, against the property as follows.

(1) The Code Officer shall send a statement of expenses to the owner, requesting that payment be made to the city within 60 days after receipt of the statement of charges. The expenses to be charged shall include: the amount paid by the city for the work done or improvements made; the costs of inspection; the costs of providing notice; the costs of identifying and notifying the owner of the property; and any incidental expenses.

(2) If the person does not pay the expenses within 60 days after receiving a statement of charges, the Mayor, or his or her designee, shall file with the County Clerk a statement of expenses, stating the owner's name, if known, and the legal description of the property. When such statement is filed, the city shall have a privileged lien on such property, second only to tax liens and liens for street improvements, to secure the payment of the amount so expended. For such expenditures and interest, suit may be in instituted and recovery and foreclosure had by the city. The statement of expense filed with the County Clerk or a certified copy thereof shall be

prima facie proof of the amount expended in such work, improvement or correction of the property. The lien is security for the expenses incurred by the city and interest accruing at the rate of 10% per year on the amount due from the date of payment by the city.

(Ord. 09-122, passed 6-10-2009)

§ 95.99 PENALTY.

(A) 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 provisions of this chapter is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of this chapter is hereby declared to be a nuisance.

(B) Any person violating any provision of this chapter shall be subject to a fine upon conviction in Municipal Court or another court of competent jurisdiction, of not more than $2,000, and each day of violation of this chapter shall constitute a separate offense. An offense under this chapter is a misdemeanor.

(C) (1) A person does not commit an offense under this chapter unless he or she intentionally, knowingly, recklessly or with criminal negligence engages in conduct as the definition of the offense requires.

(2) Culpable mental states are classified according to relative degrees, from highest to lowest and as described as follows.

(a) *Intentional.* A person acts intentionally, or with intent, with respect to the nature of his or her conduct or to a result of his or her conduct when it is his or her conscious objective or desire to engage in the conduct or cause the result.

(b) *Knowing.* A person acts knowingly, or with knowledge, with respect to the nature of his or her conduct or to circumstances surrounding his or her conduct when he or she is aware of the nature of his or her conduct or that the circumstances exist. A person acts knowingly, or with knowledge, with respect to a result of his or her conduct, when he or she is aware that his or her conduct is reasonably certain to cause the result.

(c) *Reckless.* A person acts recklessly, or is reckless, with respect to circumstances surrounding his or her conduct or the result of his or her conduct when he or she is aware of, but consciously disregards a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor's standpoint.

(d) *Criminal negligence.* A person acts with criminal negligence, or is criminally negligent, with respect to circumstances surrounding his or her conduct or the result of his or her conduct when he or she ought to be aware of a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor's standpoint.

(D) 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;

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

(2) A civil penalty up to $1,000 per day, with each day constituting a separate offense 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

(3) Other available relief.

(Ord. 09-122, passed 6-10-2009)

CHAPTER 96: USE OF WEAPONS

Section

§ 96.01 POPULAR NAME.

This chapter shall be commonly referred to as the city's "Use of Weapons Ordinance".

(Ord. 17-228, passed 5-10-2017; Ord. 17-231, passed 6-14-2017)

§ 96.02 PURPOSE.

This chapter is adopted so the City Council may promote the public health, safety and general welfare within the city through the regulation of use of firearms, air guns, air pistols, bows and arrows, crossbows, and similar equipment within the city. By establishing certain guidelines and limitations while respecting the Texas Constitution's permissible hunting and fishing regulations, the City Council seeks to protect property values and prevent bodily injury, death and property damage within the city.

(Ord. 17-228, passed 5-10-2017; Ord. 17-231, passed 6-14-2017)

§ 96.03 AIR RIFLES/AIR GUNS - DISCHARGE.

(A) A person commits an offense if he or she knowingly, intentionally, or recklessly shoots off, fires or discharges any air rifle, air gun, air pistol or other air or gas propelled weapon of any description onto or over the property of another who has not given permission to the person to do so within the city.

(B) This section does not apply if the air rifle, air gun, air pistol or other gas propelled weapon was discharged by a peace officer in the course of his or her official duties or by a properly-designated city official as part of a comprehensive Wildlife Hazard Management Plan (WHMP).

(C) This section does not apply if the air rifle, air gun, air pistol or other gas propelled weapon was discharged:

(1) In a manner not reasonably expected to cause a projectile to cross the boundary of the tract on a tract of land ten acres or more and more than 150 feet from a residence or occupied building located on another property; or

(2) At a sport shooting range, as defined by Tex. Local Gov't Code § 250.001, as amended, or Tex. Local Gov't Code § 229.001, as amended.

(Ord. 17-228, passed 5-10-2017; Ord. 17-231, passed 6-14-2017) Penalty, see § 96.99

§ 96.04 ARCHERY.

A person commits an offense if he or she knowingly, intentionally or recklessly propels an arrow or any other projective used in the sport of archery onto or over the property of another who has not given permission to the person to do so.

(Ord. 17-228, passed 5-10-2017; Ord. 17-231, passed 6-14-2017) Penalty, see § 96.99

§ 96.05 FIREARMS - DISCHARGE.

(A) A person commits an offense if he or she intentionally, knowingly, or recklessly discharges a firearm within the city limits.

(B) This section does not apply if:

(1) The firearm was discharged in violation of Texas law in which case the discharge is chargeable under Texas law;

(2) The firearm was discharged by a peace officer in the course of his or her official duties;

(3) The firearm was discharged in a gun club, skeet or target range, or other facility or area for the sport of shooting at targets to test accuracy in rifle and pistol practice at a sport shooting range, as defined by Tex. Local Gov't Code § 250.001 or Tex. Local Gov't Code § 229.001, as amended;

(4) The firearm was discharged by city staff or their designee as part of a comprehensive Wildlife Hazard Management Plan (WHMP);

(5) The firearm was a shotgun which was discharged in a manner not reasonably expected to cause a projectile to cross the boundary of the tract on a tract of land ten acres or more and more than 150 feet from a residence or occupied building located on another property;

(6) The firearm was a center fire or rim fire rifle or pistol of any caliber which was discharged on a tract of land of 50 acres or more and more than 300 feet from a residence or occupied building located on another property in a manner not reasonably expected to cause a projectile to cross the boundary of the tract.

(C) It is a defense to an offense under this section that the firearm was discharged as authorized by the Texas Penal Code.

(Ord. 17-228, passed 5-10-2017; Ord. 17-231, passed 6-14-2017) Penalty, see § 96.99

§ 96.99 PENALTY.

(A) 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 provisions of this chapter is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of this chapter is hereby declared to be a nuisance.

(B) Any person violating any provision of this chapter shall be subject to a fine upon conviction in Municipal Court or another court of competent jurisdiction, of not more than $2,000, and each day of violation of this chapter shall constitute a separate offense. An offense under this chapter is a misdemeanor.

(C) A person does not commit an offense under this chapter unless he or she intentionally, knowingly, recklessly or with criminal negligence engages in conduct as the definition of the offense requires. Culpable mental states are classified according to relative degrees, from highest to lowest and as described as follows.

(1) *Intentional.* A person acts intentionally, or with intent, with respect to the nature of his or her conduct or to a result of his or her conduct when it is his or her conscious objective or desire to engage in the conduct or cause the result.

(2) *Knowing.* A person acts knowingly, or with knowledge, with respect to the nature of his or her conduct or to circumstances surrounding his or her conduct when he or she is aware of the nature of his or her conduct or that the circumstances exist. A person acts knowingly, or with knowledge, with respect to a result of his or her conduct, when he or she is aware that his or her conduct is reasonably certain to cause the result.

(3) *Reckless.* A person acts recklessly, or is reckless, with respect to circumstances surrounding his or her conduct or the result of his or her conduct when he or she is aware of, but consciously disregards a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor's standpoint.

(4) *Criminal negligence.* A person acts with criminal negligence, or is criminally negligent, with respect to circumstances surrounding his or her conduct or the result of his or her conduct when he or she ought to be aware of a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor's standpoint.

(D) 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;

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

(2) A civil penalty up to $1,000 per day, with each day constituting a separate offense 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

(3) Other available relief.

(Ord. 17-228, passed 5-10-2017; Ord. 17-231, passed 6-14-2017)

Council Meeting Date: 10/17/2018

AGENDA ITEM COVER SHEET

Subject/Title:

9. E. Discussion and Take Appropriate Action on Direction to the City of Woodcreek Planning and Zoning Commission to Begin the Public Hearing Process on Possible Amendments to Chapter 156: Zoning of the Code of Ordinances of the City of Woodcreek.

Item Summary:

The ordinance review committee has been reviewing the recommended amendments to the zoning ordinance from the Planning & Zoning Commission and wanted to update the Council as a whole as to the progress and what steps need to be taken to make any desired amendments to the Code. The recommended changes require two public hearings one before the P&Z and one before the Council. State law states "The governing body may not adopt the proposed change until after the 30th day after the date the notice required by this subsection is given." The City process is to issue Notice of the Public Hearing 14 days in advance of the hearing, the Notice will be published in the Wimberley View and also through the regular postings of the City, P&Z will provide a recommendation to the Council, and a Public Hearing will be held before the Council with the same 14 day notice time and publication and postings. After the Public Hearing, the Council may direct the City Attorney to draft an Ordinance with the desired amendments to be considered at the next Council meeting for adoption.

Recommendation:

Staff recommendation is for the council, if so desired, to direct P&Z to finalize the possible amendments and begin the process of notice of the proposed amendments.

Attachments:

Chapter 156 with high-lighted possible amendments

Submitted By:

Brenton B. Lewis, City Manager

CHAPTER 156: ZONING

Section

General Provisions

General Requirements and Limitations

Residential Requirements and Limitations

General District Limitations

Non-Conforming Uses

Planned Unit Development District

Administration and Enforcement

Amendments

GENERAL PROVISIONS

§ 156.001 AUTHORITY.

This chapter is adopted pursuant to the police powers of the city and under the authority of the Constitution and general laws of the state, including particularly Tex. Local Gov't Code Ch. 211.
(Ord. 00-65N, passed 6-1-2005)

§ 156.002 TITLE.

This chapter shall be known, and may be cited, as the "Zoning Ordinance of the City of Woodcreek, Texas".
(Ord. 00-65N, passed 6-1-2005)

§ 156.003 GENERAL PURPOSE AND INTENT.

(A) The primary purposes of this chapter are to promote the public health, safety, morals and the general welfare of the city and its present and future residents; provide reasonable regulations and requirements to protect, preserve, improve and provide for the public health, safety, morals and general welfare of the present and future citizens of the city; and to establish a framework of zoning guidelines and criteria which will provide for and support the development of a quality living and work environment by incorporating provisions requiring all future development and redevelopment to provide a compatible plan for residential, commercial and industrial uses, while providing reasonable protections for both the public and persons having an ownership interest in property affected by these regulations.

(B) This chapter should be administered and applied to result in development superior to that otherwise achievable and to promote the following purposes:

(1) Assist the safe, orderly, healthful and coordinated development of the city;

(2) Conserve existing and future neighborhoods;

(3) Protect and conserve the value of real property throughout the community;

(4) Conserve, develop, protect, and utilize natural resources, as appropriate and consistent with the public interest, to enhance the preservation of the environment;

(5) Protect and preserve places and areas of historical and cultural importance and significance to the community;

(6) Prevent the overcrowding of land and avoid undue concentration of population or land uses, thereby encouraging high quality development and innovative design;

(7) Lessen congestion in the streets and provide convenient, safe and efficient circulation of vehicular and pedestrian traffic;

(8) Facilitate the adequate and efficient provision of transportation, water and wastewater service, schools, parks, emergency and recreational facilities, and other public requirements;

(9) Promote economic development through an efficient and practical means by which development will promote a prosperous economic environment;

(10) Promote compatible residential, commercial and recreational uses to harmoniously relate future development and redevelopment to the existing community and facilitate the development of adjoining properties;

(11) Standardize the procedure and requirements for zoning, building permits and certificates of occupancy to provide administrative efficiency and property owner rights; and

(12) Provide the context for the appropriate reconciliation of any differences of interest among property owners, developers, neighborhoods and the city.
(Ord. 00-65N, passed 6-1-2005)

§ 156.004 JURISDICTION.

(A) The requirements of this chapter shall apply to all property within the city; provide a voluntary guide for the development of property within the extraterritorial jurisdiction in order that such property may be developed in a manner consistent with neighboring areas and existing or planned infrastructure; and be construed and

applied in a manner to give effect to the City Master Plan. This chapter has been made with reasonable consideration among other findings, for the character of the district and its peculiar suitability for the particular uses specified and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city consistent with the city's Master Plan. Nothing herein shall be construed to grant a permanent zoning.

(B) The intent of this chapter is to supplement the minimum standards for the development of land within the city as contained in §§ 151.01 through 151.13 and Ch. 155 of this code of ordinances. If only the minimum standards are followed, as expressed by the various ordinances regulating land development, a standardization of development will occur. Such will produce a monotonous urban setting and is not encouraged.

(Ord. 00-65N, passed 6-1-2005)

§ 156.005 APPLICATION.

The provisions of this chapter shall, except as specifically provided otherwise in this chapter, apply to all land within the jurisdiction of the city.

(Ord. 00-65N, passed 6-1-2005)

§ 156.006 EXEMPTIONS.

The provisions of this chapter shall not:

(A) Prohibit the continuation of plans, construction or designed use of a building for which a building permit was lawfully issued; provided that:

(1) The building and construction are completed in their entirety within one year from the effective date of this chapter; and

(2) The construction shall have been started within 90 days after the effective date of this chapter. Such building, construction or use that is not in compliance with this chapter shall be a non-conforming use.

(B) Apply to permits or commitments given by the city with reference to construction of public utility buildings prior to the passage of this chapter; provided, the buildings and construction are completed within one year from the effective date of this chapter.

(Ord. 00-65N, passed 6-1-2005)

§ 156.007 ENFORCEMENT.

(A) No building permit or certificate of occupancy shall be issued by the city for or with respect to any lot, tract or parcel of land within the city limits that is developed, or proposed to be developed, after the effective date of this chapter, until all of the applicable requirements of this chapter have been satisfied and accepted by the city.

(B) This chapter may be further enforced by injunction and other judicial proceedings, either at law or in equity; and, in lieu of or in addition to any other authorized enforcement or action taken, any violation of any term or provision of this chapter, with respect to any land or development within the city, is subject to fines and penalties set forth by the City Council.

(Ord. 00-65N, passed 6-1-2005)

§ 156.008 SITE PLAN REVIEW.

(A) *Purpose.*

(1) The site plan review is designed to enable the Planning and Zoning Commission and City Council to determine that the proposed development meets the intent and requirements of the Master Plan and this chapter. Site plans are required for all zoning districts with the exceptions of SF-1, SF-2, SF-3, SF-4, SF-5 and SF-6.

(2) The proposed site plan review does not affect the requirement that the applicant submit full building plans to the city to enable the Building Inspector to determine that the proposed development complies with all applicable ordinances and regulations.

(B) *Fees.* The applicant shall pay a fee, based on the Master Rate Schedule as adopted by resolution of the City of Woodcreek. ~~the amount thereof to be determined by the City Council,~~ said fee to pay the costs incurred by the city in review of all plans required to be submitted by the applicant.

(C) *Materials to be submitted.* All maps shall be drawn to scale and of a size sufficient to clearly show the required information:

(1) A map showing the location of the property, the use of adjacent property and the location and names of adjacent streets;

(2) Photographs of the property and adjacent land uses and structures;

(3) A plot plan showing the dimensions and boundaries of the property;

(4) A detailed plan showing the proposed development of the property including location and use of all buildings, parking areas, recreational areas, access roads, driveways, lighting fixtures and other development;

(5) A copy of the above identified detailed plan showing the dimensions of structures, parking spaces (with specific identification of handicapped accessible parking spaces), access roads, setbacks, recreational facilities, curb cuts, any off-site work or facilities that will be necessary, driveways, erosion control proposed during and after construction, and all other physical development;

(6) A copy of the above identified detailed plan showing proposed drainage patterns and facilities including surface drainage, storm sewers, detention ponds, channel or paving sections and any other aspects of drainage;

(7) A copy of the above identified detailed plan showing the proposed system for disposal of waste products;

(8) A letter from all utility companies which will supply services to the complex specifically stating that they are capable of providing, and will provide, required utilities to the development. The letters must specifically identify the development and the number of proposed units;

(9) Elevations of all structures including materials to be used;

(10) Floor plans of all buildings within the proposed development showing the uses of floor space within each building;

(11) Floor plans, including dimensions, of all sizes and types of dwelling units to be offered within the development (one floor plan for each type or size of unit);

(12) Detailed drawings of recreational facilities, including required provision of shelters between said recreational facilities and adjacent property;

(13) A landscape plan showing landscaping proposed to be developed;

(14) A summary page specifically relating development requirements of this chapter to the proposed development in a tabular form sufficient to enable the Commission and Council to determine that the proposed development meets all requirements of this chapter; and

(15) Any additional material or information determined by the Commission or Council to be required after review of the above documentation and identification of matters of concern.

(D) *Schedule of review.* The following schedule shall be effective upon submission by the applicant of all required information as described above.

(1) All site plans should be submitted to the ~~Director of Public Works and the Architectural Control Committee.~~ City Manager or their designated representative. by the Commission and their recommendations should be submitted verbatim to Council with the Commission recommendations.

(2) The Commission should submit a recommendation to Council not more than 60 days from the date of the first regular Commission meeting following submission of all documentation by the applicant.

(3) Council should review and act upon the request not more than 60 days from the date of the first regular Council meeting following receipt of the recommendation of the Commission.

(E) *"Site plan specific" action.* Approval of a site plan applies only to the specific site plan approved by the city. Any change to said site plan requires that the city be notified prior to implementation of the change and provided with information deemed by the city to be sufficient to enable the city to evaluate and approve, disapprove or require modification of, the proposed change, deviation of the development from the approved site plan without the specific approval of the city is a violation of approval of the site plan and said action shall result in immediate referral of the violation to the City Attorney for appropriate legal action.

(Ord. 00-65N, passed 6-1-2005)

§ 156.009 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or

requires a different meaning. Words used in the present tense include the future tense. Words used in the plural number include the singular, and words in the singular include the plural. The word "shall" is always mandatory. The word "herein" means in this chapter. The word "regulations" means the provisions of any applicable ordinance, rule, regulation or policy. The word "person" means any human being or legal entity and includes a corporation, a partnership and an incorporated or unincorporated association. The words "used or occupied", as applied to any land or building, shall be construed to include the words intended, arranged or designed to be used or occupied. Any definition not expressly prescribed herein shall, until such time as defined by ordinance, be construed in accordance with customary usage in municipal planning and engineering practices.

ABOVE-GROUND POOL. A swimming pool more than the depth allowed by the most current copy of the International Residential Code on file in the office of the City Secretary which is designed or constructed in a manner where the major part of the primary water basin extends above the ground level of the land and soil abutting the swimming pool; is portable versus permanent in design, fails to meet the test of being operated in a manner which would not be hazardous or obnoxious to adjacent property owners; would be distinguishable by any reasonably prudent person to be something other than an "in-ground" swimming pool; and is clearly not a hot tub, spa or kiddy pool which are not designed to be swimming pools.

ACCESS. A way of approaching or entering a property.

ACCESSORY USE. A use that is customarily a part of the principal use, a use which is clearly incidental, subordinate and secondary to the permitted use, and which does not change the character thereof, including, but not limited to, garages, bathhouses, greenhouses or a storage or tool shed. See ***ACCESSORY STRUCTURE*** .

ACCESSORY STRUCTURE. In a residential district, a subordinate building detached and used for a purpose customarily incidental to the main structure such as a private garage for automobile storage, golf cart storage, toolhouse, bath or greenhouse as a hobby (no business), home workshop, children's playhouse, storage house or garden shelter, but not involving the conduct of a business or occupancy by any long-term or paying guests.

ADJACENT. Abutting and directly connected to or bordering.

AMORTIZATION. A method of eliminating non-conforming uses by requiring the termination of the non-conforming use after a specified period of time.

ANNEXATION. The incorporation of land area into the city with a resulting change in the boundaries of the city.

APPLICANT. A person applying for zoning approval under this chapter.

APPROVAL. The final approval in a series of required actions. For instance, the ***APPROVAL*** date of a planned unit development zoning application is the date of Council approval of the final site plan.

BILLBOARD. A sign advertising products not made, sold, used or served on the premises displaying such sign, or a sign having a height greater than 12 feet or a width greater than 18 feet, including supports.

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

BOARD OF ADJUSTMENT. A committee appointed by the Council to consider appeals from certain administrative actions pursuant to Tex. Local Gov't Code § 211.008 and that is given the authority set forth in this chapter and in Tex. Local Gov't Code § 211.009.

BUFFER. An area within a property or site, generally adjacent to and parallel with the property line, either consisting of existing natural vegetation or created by the use of trees, shrubs, berms and/or fences, and designed to limit views and sound from the site to adjacent properties and vice versa.

BUILDING. Any structure designed or built for the support, enclosure, shelter or protection of persons, animals, chattels or property of any kind. When subdivided in a manner sufficient to prevent the spread of fire, each portion so subdivided may be deemed a separate ***BUILDING*** .

BUILDING AREA. The gross area covered by a structure when placed on the lot.

BUILDING ORDINANCE. The city's Building Ordinance (§§ 151.01 through 151.13 of this code of ordinances) and related ordinances of the city providing standards, requirements and regulations for site development and the construction and erection of buildings and structures within the city, including those published by the International Code Council on file in the Office of the City Secretary. ~~but not limited to, the~~

~~Electrical Code, Plumbing Code, Building Code and Minimum Housing Code, adopted by the City Council from time to time.~~

BUILDING PERMIT. A permit issued by the city which is required prior to commencing construction or reconstruction of any structure.

BUILDING PLOT. The land, lot, lots or tract of land upon which a building or buildings are located, or upon which they are to be constructed, including yards.

BUILDING SETBACK LINE. A line or lines designating the interior limit of the area of a lot within which structures may be erected. The building lines generally provide the boundaries of the buildable area of any given lot and no structure or building may be erected between a building and the corresponding lot line.

BULB. A light-emitting device or structure containing a light source. This includes but is not limited to a lamp.

CARPORT. A structure with one or more open sides, covered with a roof. (See ***GARAGE*** definition.)

CHURCH or ***RECTORY.*** A place of worship and religious training of recognized religions including on site housing of ministers, rabbis, priests, nuns and similar staff personnel.

CITY. The City of Woodcreek, Texas.

CITY COUNCIL or ***COUNCIL.*** The City Council of the city.

CITY LIMITS or ***WITHIN THE CITY.*** The, or within the, incorporated boundaries of the city.

CITY MANAGER/ADMINISTRATOR. The chief administrative officer designated by ordinance, or his or her designated representative.

CITY STAFF. The officers, employees and agents of the city assigned and designated from time to time by the City Manager/Administrator and/or Council, including, but not limited to, the Director of Public Works, to review, comment and/or report on zoning applications.

CITY STANDARD DETAILS AND SPECIFICATIONS. A library of city-approved drawings and technical data representing typical drainage, transportation, erosion and sedimentation control, and utility appurtenances to be constructed for city acceptance.

COMMISSION. The Planning and Zoning Commission of the city.

CONDITIONAL USE. An additional use which may be permitted in a district, subject to meeting certain conditions or procedures established by the City Council. No ***CONDITIONAL USE*** shall be permitted in any location where it will be inconsistent with the existing adjacent and nearby uses.

CONTIGUOUS. Property that is immediately adjacent to another property and property whose lines are separated by only a street, alley, easement, right-of-way or buffer.

CORNER LOT. A lot located at the intersection of and abutting on two or more streets.

CORRELATED COLOR TEMPERATURE. The specification of the color appearance of light emitting by a lamp, relating its color to the color of light from a reference blackbody source when heated to a particular temperature, measure in degrees Kelvin (K).

COUNTRY CLUB. An area of 20 acres or more containing a golf course and clubhouse and available by private or semi-private membership, Such a ***CLUB*** may contain adjunct facilities such as private club, dining room, swimming pool, tennis courts and similar recreational or service facilities.

COUNTY. Hays County, Texas.

COUNTY APPRAISAL DISTRICT. The Hays County Appraisal District.

DAY CAMP. A facility arranged and conducted for the organized recreation and instruction of children including outdoor activities on a daytime basis.

DEVELOPED AREA. The portion of a lot, easement or parcel upon which a building, structure, pavement or other improvements have been placed.

DEVELOPER. The legal owner of land to be improved and/or subdivided or his or her authorized representative.

DIFFUSING LENS. A translucent enclosure which surrounds a light source and through which there can be seen no semblance of an image of the light source. To provide a sufficiently wide distribution of light, a lens meeting this definition shall have a minimum cross-section, as seen from any angle, of not less than 0.125

square inch per lumen of enclosed light source emission.

DIRECTOR OF PUBLIC WORKS. The Director of Public Works or his or her designated representative.

DISTRICT. A zoned section or sections of the city for which regulations governing the use of buildings and premises, the height of buildings, the size of yards and the intensity of use are uniform.

DOUBLE FRONTAGE LOT. See ***REVERSE FRONTAGE LOT*** .

DRIVE APPROACH. A paved surface connecting the street to a lot line.

DRIVEWAY. A hard, impervious surface such as hot-mix asphalt or concrete surface connecting a drive approach with a parking space, parking lot, loading dock or garage.

DWELLING. Any building or portion thereof built on-site which is designed for or used exclusively for residential purposes.

DWELLING (SINGLE-FAMILY). A detached building having accommodations for occupancy by not more than one family.

DWELLING UNIT. A building or portion of a building arranged, occupied or intended to be occupied as residential unit designed to accommodate one household for living, sleeping, eating, cooking and sanitation.

EASEMENT. A grant by the property owner of the use of a strip of land for staled purposes.

EFFICACY. As an engineering term, the emission of light by a light source expressed in lumens per watt. In the absence of manufacturers' ratings, or at the discretion of the city, the ***EFFICACY*** and light emission of lamps shall be calculated as follows:

(1) Common tungsten incandescent: 12 lumens per watt;
(2) Halogen incandescent: 18 lumens per watt;
(3) Metal halide: 82 lumens per watt;
(4) High pressure sodium: 82 lumens per watt;
(5) Fluorescent tubes: 75 lumens per watt; and
(6) LED: 50-150 lumens per watt.

ENVIRONMENT. The aggregate of social and physical conditions that influence the life of the individual and/or community.

EXTERIOR SIDE YARD. A yard which faces and is parallel to a side street.

EXTRATERRITORIAL JURISDICTION or ***ETJ.*** The geographic area outside the corporate boundaries of the city as established pursuant to Tex. Local Gov't Code §§ 42.021 and 42.022.

FAMILY. Any number of individuals living together as a single housekeeping unit, in which not more than three individuals are unrelated by blood, marriage, adoption or guardianship, and occupying a dwelling unit.

FENCE. A structure serving as an enclosure, a barrier or a boundary, usually made of posts or stakes joined together.

FENCING, SMALL-ANIMAL. Metal fencing with the open area between the wires measuring no less than six inches. Wire thickness shall not exceed 0.1 inch.

FILING DATE. With respect to zoning applications, the date of the first public hearing before the Commission regarding such zoning application.

FIXTURE. An outdoor lighting assembly containing 1 or more lamps and including any lenses, reflectors, and shields designed to direct the light in a defined manner.

FLOOR AREA. The total square feel of floor space within the outside dimensions of a building, including each floor level, but excluding cellars, carports or garages.

FLOOR AREA RATIO (FAR). The maximum square footage of total floor area permitted for each square foot of land area. The ratio between the total square feet of floor area in all buildings located on a lot and the total square feet of land in the lot or tract on which the buildings are located.

FLOODPLAIN. The land lying within a stream channel or adjacent to a stream channel within which flooding frequently occurs, the elevation above sea level of which shall be as established by the city and made of record. It is land which is required to be kept open and non-urbanized in order to maintain upstream ***FLOODPLAIN*** characteristics and ensure continued adequate drainage of adjacent land.

FOOT CANDLE. As an engineering term, a unit of light intensity equal to 1 lumen per square foot, which

applies to the brightness of light on a surface or at a point in space.

FRONTAGE BLOCK. All the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.

FRONT YARD. A space extending the full width of the lot between any building set back line and the front lot line, and measured perpendicular to the building at the closest point to the front lot line.

FRONTAGE. The side of a lot, parcel or tract of land abutting a street right-of-way and ordinarily regarded as the frontal orientation of the lot.

FULL HORIZONTAL CUT-OFF FIXTURE. A fixture that confines the light entirely below a horizontal plane running through the lowest of: the lowest point from which light is emitted, or the lowest part of any lens, or the lowest point of any specular reflector.

GARAGE. A four-sided structure, fully enclosed on three sides, with a door on the fourth side, with a roof and concrete floor, accessible by a hard-surface driveway. See § 156.064 of this chapter for ***GARAGE*** requirements by zoning district. A two car garage shall be a minimum square footage of 400 square feet (20x20) and a single car garage shall be a minimum square footage of 200 square feet (10x20).

GLARE. The effect of light shining directly in the eyes such as occurs when there is a line of sight to the light source.

GOLF COURSE (COMMERCIAL). A golf course or driving range privately owned, but open to the public for a fee and operated as a commercial venture.

GOVERNING BODY. The City Council of the City of Woodcreek.

GREENBELT. Any area that has been platted or otherwise dedicated to the public as a greenbelt or otherwise with the intent to establish and preserve peaceful, attractive, natural or undisturbed areas adjacent to residential districts. Permitted uses include hiking, jogging and non-motorized biking and nature trails, accessory structures and uses incidental to the foregoing uses. A ***GREENBELT*** is also any land area that is owned by the public or the property owners' association and generally maintained with substantial vegetation in place, with or without enhancement by landscaping and planting and without improvements other than trails and similar low-impact recreational and public uses to enhance the aesthetic quality of the community, screen or partially screen and separate properties, uses or facilities. A ***GREENBELT*** is a part of the community landscaping and is generally adjacent to and parallel with a property line, right-of-way, creek or other drainage, consisting of existing natural vegetation or created by the use of trees, shrubs and/or berms, and designed to limit views and sound from the site to adjacent properties and vice versa, aid or benefit drainage or water quality and any other compatible public purpose authorized by the City Council.

HEIGHT. The vertical distance from the highest point on a structure to the average ground elevation where the foundation meets ground.

HOME OCCUPATION. A traditional home office occupation having the owner as the only employee, with no outward appearance of the existing occupation and not being commercial in nature.

IMPERVIOUS COVER. Roads, parking areas, buildings, swimming pools, rooftop landscapes and other construction limiting the absorption of water by covering the natural land surface; this shall include, but not be limited to, all streets and pavement within the development.

IMPROVEMENTS. Any street, alley, roadway, barricade, sidewalk, bikeway, pedestrian way, water line system, wastewater system, storm drainage network, public park land, landscaping or other facility or portion thereof for which the local government may ultimately assume responsibility for maintenance and operation or which may affect an improvement for which local government responsibility is established.

INITIAL LUMENS. The manufacturer-specified number of lumens of light generated by a lamp at the beginning of its service lifetime, not accounting for losses associated with lamp age.

INTERIOR LOT. A lot other than a corner lot and bounded by a street on only one side.

LAMP. A light-emitting device or a structure containing a light source. This includes but is not limited to a bulb.

LEGAL LOT. A lot recorded in the official county records pursuant to and in compliance with the subdivision

regulations and/or state law in effect at the time of the creation of the tot.

LIGHT SOURCE. Any device or element which emits light.

LIGHT STRING. The number of bulbs connected with wire in a linear or two-dimensional array, not contained in the structure of a fixture, used either for illumination or decoration, and supported in any manner.

LIGHT TRESPASS. Any horizontal or vertical illumination on a property from light sources on another property that exceeds 0.1 footcandles on a residential or unzoned district or 0.5 footcandles on a non-residential district. The measurement shall be made four feet above the ground at a point four feet inside the property line.

LIGHTING INSTALLATION. All outdoor lighting fixtures and light sources on a property.

LINE OF SIGHT. As it applies to the visibility of a light source, a straight unobstructed line from any point on a property four feet or more above the ground to a light source on another property.

LOT. A separate parcel of land, created by the division or subdivision of a block or other parcel, intended as a unit for transfer of ownership, or for development, or for occupancy and/or use, platted in compliance with state law. See also ***LEGAL LOT***.

LOT DEPTH. The average horizontal distance between the front and rear lot lines.

LOT LINES. The lines bounding a lot, as defined herein.

LOT WIDTH. The average horizontal distance at the front building setback line of a lot.

LUMEN. As an engineering term, a unit of light flux, which applies to the amount of light emitted by a lamp.

LUMENS PER ACRE. The total number of initial lumens produced by all lamps utilized in outdoor lighting on a property divided by the number of acres, or part of an acre, with outdoor illumination on the property.

MASTER PLAN. The overall development plan for the community which has been officially adopted to provide long-range development policies including all specified individual elements thereof among which are the plans for land intensities; land subdivision; circulation; and community facilities, utilities and services.

NEIGHBORHOOD. The area of the city characterized by residential land uses which is bounded by physical (such as river, major street, lack of access, buffer) and/or political features (such as voting districts, subdivision boundaries).

NEIGHBORHOOD PARK. A publicly-owned parcel of land, within a subdivision, dedicated solely for recreational uses and maintained by the city or under authority granted by the city.

NON-CONFORMING LOT. A lot, the area, dimensions or location of which was lawful prior to the adoption, revision or amendment of this chapter, but which fails, by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district.

NON-CONFORMING STRUCTURE OR BUILDING. A structure or building the size dimensions or location of which was lawful prior to the adoption, revision or amendment of the zoning ordinance, but which fails by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district.

NON-CONFORMING USE. Any building, structure or land lawfully occupied by a use or lawfully existing at the time of passage of this chapter or amendments thereto, which does not, by reason of design or use, conform after the passage of this chapter or amendments with the regulations of the chapter or amendment.

OCCUPANCY. The use or intended use of land or a building by any person.

OCCUPANT CAR RATIO (OCR). The minimum number of parking spaces without parking time limits required for each living unit, establishment or use.

OFFICIAL COUNTY RECORDS. The official records of Hays County, Texas.

OFF-SITE IMPROVEMENTS. Any required improvement which lies outside of the property being developed.

OFF-STREET PARKING SPACE. An area of privately owned land not less than ten feet by 20 feet not on a public street or alley, with an all-weather surface. A public street shall not be classified as such, nor shall head-in parking adjacent to a public street and dependent upon such street for maneuvering space; provided that, not more than 25% of any required off-street parking spaces may be compact parking spaces of not less than 128 square feet exclusive of the driveways connecting said space with the street or alley.

ONE-HUNDRED (100-) YEAR FLOODPLAIN. See ***REGULATORY 100-YEAR FLOODPLAIN.***

OPEN SPACE. An area included in any side, rear or front yard or any unoccupied space on the lot that is open and unobstructed to the sky, except for the ordinary projections of cornices, eaves, porches and plant material.

OPEN OR OUTDOOR STORAGE. The keeping, in an unroofed area, of any goods, junk, material, merchandise, in the same place for more than 24 hours.

PARK or ***PLAYGROUND.*** An open recreation facility or park owned and operated by a public agency such as the city or the school district and available to the general public for neighborhood use, but not involving lighted athletic fields for nighttime play.

PARKING SPACE. An area that is not a street, alley or public right-of-way that is used or designed to be used for motor vehicle parking, that is not less than ten feet by 20 feet, exclusive of the driveways connecting said space with a street or alley. Said ***PARKING SPACE*** and connecting driveway shall be durably surfaced and so arranged to permit satisfactory ingress and egress of an automobile. Compact ***PARKING SPACES*** shall be 128 square feet exclusive of the driveways connecting said space with the street or alley.

PAVED AREA. An area surfaced with asphalt, concrete or similar pavement, providing an all-weather surface. Gravel is not an acceptable ***PAVED SURFACE.***

PERFORMANCE STANDARD. A set of criteria or limits relating to nuisance elements which a particular use or process may not exceed.

PERMIT ISSUING AUTHORITY. The city officer, employee or agent designated by lawful authority to issue the applicable permit.

PERMITTED USE. A use specifically allowed in the applicable zoning districts without the necessity of obtaining a conditional use permit.

PERSON. Any human being or legal entity and includes a corporation, a partnership and an incorporated or unincorporated association.

PRIMARY STRUCTURE. A structure in which the principal use of the lot is conducted. For example, for single-family residential lots, the house is the ***PRIMARY STRUCTURE.***

PRIVACY FENCE. An opaque fence or screen no more than six feet in height. A fence shall be considered opaque if it is made of opaque materials and constructed so that gaps in the fence do not exceed one-half inch. Fences using boards placed on alternating sides of fence runners shall be considered opaque if the boards overlap at least one-half inch.

PUBLIC. With respect to land and interests in land within the city limits, the city; with respect to land and interests in land within the ETJ limits, the general public; and, with respect to the provision of any services or products by a business establishment, the general public.

PUBLIC GROUNDS OR BUILDING. A facility such as office buildings, and maintenance yards and shops required by branches of local, state or federal government for service to an area such as highway department yard or a city, county or school service center.

PUBLIC USE. Places of non-commercial public assembly or administrative functions where the primary activity is contained within a building(s), including, but not limited to, churches, schools and government buildings.

REAR YARD. A space extending across the full width of the lot between the principal building and the rear lot line, and measured perpendicular to the building to the closest point of the rear lot line.

REGULATORY 100-YEAR FLOODPLAIN. The 100-year floodplain, as defined by the Federal Emergency Management Act (FEMA).

REQUIRED YARD. The open space between a lot line and the buildable area within which no structure shall be located, except as provided for herein.

RESERVE STRIP. A narrow strip of property usually separating a parcel of land from a roadway or utility line easement, that is characterized by limited depth which will not support development and which is intended to prevent access to the roadway or utility easement from adjacent property and which are prohibited by these regulations unless their control is given to the city.

REVERSE FRONTAGE LOT. A double frontage lot which is to be developed with the rear yard abutting a major street and with the primary means of ingress and egress provided on a minor street.

RIGHT-OF-WAY. A strip of land occupied or intended to be occupied by street, crosswalk, railroad, road, electric transmission line or oil or gas pipe line, water main, sanitary or storm sewer main, or for other similar purpose or use. The usage of the term ***RIGHT-OF-WAY***, for land platting purposes, shall mean that every ***RIGHT-OF-WAY*** hereinafter established and shown on the final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. ***RIGHT-OF-WAY*** intended for streets, crosswalks, water mains, wastewater lines, storm drains or any other use involving maintenance by a public agency shall be dedicated to the public by the maker of the plat where such right-of-way is established.

SAFETY SERVICES. A facility to conduct public safety and emergency services, including police and fire protection services and emergency medical and ambulance services.

SAME OWNERSHIP. Ownership by the same person, corporation, firm, entity, partnership or unincorporated association; or ownership by different corporations, firms, partnerships, entities or unincorporated associations in which a stock holder, partner or associate or a member of his or her family owns an interest in each corporation, firm, partnership, entity or unincorporated association.

SCHOOL (PUBLIC OR DENOMINATIONAL). A school under the sponsorship of a public or religious agency having a curriculum generally equivalent to public elementary or secondary schools, but not including trade or commercial schools.

SETBACK LINE or ***BUILDING SETBACK LINE.*** A line which marks the setback distance from the property line, and establishes the minimum required front, side or rear yard space of a building plot.

SHORT TERM RENTAL. A rental of a residential structure or part of a residential structure for less than 30 consecutive days.

SHRUB. Any self-supporting woody evergreen and/or deciduous species.

SIDE YARD. A space extending from the front yard to the rear yard between the setback line and the side lot line measured perpendicular from the side lot line to the closest point of the setback line.

SIGN. Any device or surface on which letters, illustrations, designs, figures or symbols are painted, printed, stamped, raised, projected, illuminated or in any manner outlined or attached and used for advertising purposes.

SINGLE-FAMILY, ATTACHED. The use of a series of sites for two or more dwelling units, constructed with common or abutting walls and each located on a separate lot within the total development site.

SINGLE-FAMILY, DETACHED. The use of a lot for only one dwelling unit.

SINGLE-FAMILY DWELLING. A building designed for or occupied exclusively by one household. See ***SINGLE-FAMILY, DETACHED***.

SITE PLAN. A plan showing the use of the land, to include locations of buildings, drives, sidewalks, parking facilities to be constructed and drainage, erosion control and utilities.

SLOPE. The vertical change in grade divided by the horizontal distance over which that vertical change occurred. The ***SLOPE*** is usually given as a percentage.

SPECULAR REFLECTOR. A reflector which has a mirror-like surface that reflects an image (no matter how imperfect or distorted) of a light source.

SQUARE FOOT or ***SQUARE FEET.*** The square footage computed from the outside dimensions of the dwelling or structure, excluding attached garages, attics, basements, open or screened porches.

STORY. The portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it, then the space between the floor and the ceiling next above it.

STREET. Any public or private right-of-way which affords the primary means of vehicular access to abutting property.

STREET LINE. The line limiting the right-of-way of the street and being identical with the property line of persons owning property fronting on the streets.

STREET-SIDE YARD. An area between any required building setback line and the side property line

abutting a public right-of-way, and measured perpendicular to the building to the closest point of the side property line abutting the right-of-way.

STRUCTURAL ALTERATIONS. Any change in the supporting members of a building, such as load bearing walls or partitions, columns, beams or girders or any complete rebuilding of the roof or the exterior walls.

STRUCTURAL INTEGRITY. The ability of a structure to maintain stability against normal forces experienced by said structure.

STRUCTURE. Any building or anything constructed or erected on the ground or which is attached to something located on the ground. ***STRUCTURES*** include buildings, telecommunications towers, sheds, parking lots that are the primary use of a parcel and permanent signs. Sidewalks and paving shall not be considered ***STRUCTURES*** unless located within a public utility or drainage easement.

STRUCTURE, PRINCIPAL. The principal structure which fulfills the purpose for which the building plot is intended.

STUCCO. Masonry on blocks or lath.

SUBDIVISION. The division or redivision of land into two or more lots, tracts, sites or parcels for the purpose of development, laying out any addition to the city, or for laying out any subdivision or building lots, or any lot, street, alley, access easement, public utility easement, park or other portion intended for use by the public, or for the use of any owner, purchaser, occupant, person or entity.

SWIMMING POOL (PRIVATE). A swimming pool constructed for the exclusive use of the residents of a single-family or other residential dwelling, located and fenced in accordance with city regulations and not operated as a business or maintained in a manner to be hazardous or obnoxious to adjacent property owners. See ***ABOVE-GROUND POOL.***

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

WATERSHED. Area from which storm water drains into a given basin, river or creek.

WORKING DAYS. Monday through Friday, exclusive of city-recognized holidays.

YARD. An open space at grade between the principal and accessory buildings and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein.

YARD DEPTH. The shortest distance between a lot line and a yard line.

YARD, FRONT. A yard extending across the front of a lot between the side lot lines, and being the minimum horizontal distance between the street easement line and the main building or any projections thereof other than the projections of the usual steps, balconies or bays, or un-air-conditioned porch. On corner lots, the ***FRONT YARD*** shall be considered as parallel to the street upon which the yard has its least dimension.

YARD LINE. A line drawn parallel to a lot line at a distance therefrom equal to the depth of the required yard.

YARD, REAR. A yard extending across the rear of a lot and being the required minimum horizontal distance between the rear lot line and the rear of the main building or any projections thereof other than the projections of steps, balconies or bays, or un-air-conditioned porches, accessory dwellings or detached garages.

YARD, SIDE. A yard between the main building and the side line of the lot, and extending from the required front yard to the required rear yard, and being the minimum horizontal distance between a side lot line and the side of any building on the lot, or any projections thereof.

ZERO-LOT-LINE LOT. A single-family lot that has a side wall along or near one of the lot lines so that a usable yard of a minimum of ten feet from the side lot line to the building line is created on the other side of the lot.

ZONING. The division of a municipality into districts in an effort to achieve compatible land use relationships, and the associated establishment of regulations governing the use, placement, spacing and size of land and buildings in order to achieve that compatibility.

ZONING MAP. The official map showing the division of the city into districts, which is a part of this chapter.

ZONING (SPOT). The zoning or rezoning of a lot or parcel of land to benefit an owner for a use incompatible with surrounding uses.

(Ord. 00-65N, passed 6-1-2005; Ord. 17-230, passed 6-14-2017)

§ 156.010 ESTABLISHMENT OF ZONING DISTRICTS.

(A) *General.* The city is hereby divided into 28 zoning districts, each such district having the authorized use, height and area regulations as set out in the Zoning Districts Charts. (See §§ 156.063 and 156.083 of this chapter).

(B) *Zoning map.* The location and boundaries of the districts herein established are shown upon the zoning map, which is hereby incorporated and made a part of this chapter; provided that, such uses as listed but not shown on the zoning map are provided for future growth and use upon expansion of the corporate boundaries of the city and amendment of the Comprehensive Master Plan. It shall be the duty of the City Secretary (whose function is assigned to the City Manager/Administrator) to maintain the zoning map together with all notations, references and other information shown thereon and all amendments thereto.

(C) *District boundaries.* Where uncertainty exists with respect to the boundaries of the established districts as shown on the zoning map, the following rules shall apply.

(1) Where district boundaries are indicated as approximately following the centerlines of streets or highways, street lines or highway right-of-way lines shall be construed to be said boundaries.

(2) Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.

(3) Where district boundaries are so indicated that they are approximately parallel to the centerlines or street lines of streets, or the centerlines of right-of-way lines of highways such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the zoning map. If no distance is given, such dimension shall be determined by the use of the scale on said zoning map.

(4) In subdivided property, the district boundary lines on the zoning map shall be determined by use of the scale appearing on the map.

(5) If a district boundary line divides a property into two parts, the district boundary line shall be construed to be the property line nearest the district line as shown.

(6) Whenever any street, alley or other public way is vacated by the City Council, the zoning district shall be automatically extended to the center of such vacation and all area included in the vacation shall then and henceforth be subject to all regulations of the districts as extended.

(7) Where the streets on the ground differ from the streets shown on the zoning map, those on the ground shall control.

(Ord. 00-65N, passed 6-1-2005)

GENERAL REQUIREMENTS AND LIMITATIONS

§ 156.025 ZONING DISTRICT CONFORMITY.

No building shall be erected and no existing buildings shall be moved, structurally altered, added to or enlarged, nor shall any land, building or premises be used, or designated for use, for any purpose or in any manner other than provided for hereinafter in the district in which the building, land or premises is located; provided, however, that, necessary structural repairs may be made where health and safety are endangered. (See § 156.082 of this chapter.)

(Ord. 00-65N, passed 6-1-2005) Penalty, see § 156.999

§ 156.026 RESERVED.

§ 156.027 OUTDOOR TANKS.

All o~~O~~utdoor tanks, excluding rain water commercially designed and sold as a rainwater collection tanks ~~that are manufactured~~ for the purpose of rain water harvesting and storage and that are of 100-gallons or less, shall be shielded from view by landscaping or fencing. Privacy fencing may be used if in compliance with other sections of the Woodcreek Code of Ordinances. **Building permits are required for fencing.**

(Ord. 00-65N, passed 6-1-2005) Penalty, see § 156.999

§ 156.028 HARD-SURFACE DRIVEWAYS.

All buildings shall have a hard-surface driveway. Accessory structures not accessed by road vehicles are excepted.

(Ord. 00-65N, passed 6-1-2005) Penalty, see § 156.999

§ 156.029 RIGHTS OF WAY PARKING.

Parking of automobiles, trucks, buses, trailers, mobile homes, recreational or commercial vehicles on publicly-owned rights-of-way, park or greenbelt is prohibited except under the following conditions:

(A) Parallel parking of personal automobiles and trucks will be allowed along the street right-of-way in front of a residential property if the vehicles are pulled off the street pavement (all tires must be off the pavement), no part of the vehicle projects out over the pavement, and the grass has been mowed to a height of less than four inches.

(B) Residential property owners may elect to surface the parallel parking space in the right-of-way with a pervious cover, such as gravel or crushed granite upon written approval of proposed surfacing plan by the city.

(C) Parking of personal vehicles shall be allowed on publicly-owned rights-of-way, parks and greenbelts with paved or pervious parking spaces provided by the city, subject to the restrictions of any posted signs.

(D) *Penalty.* Any person violating any provision of this section shall be subject to the penalties and provisions in § 10.99 of this code of ordinances.

(Ord. 00-65N, passed 6-1-2005; Ord. 15-217, passed 10-14-2015; Ord. 16-219, passed 2-10-2016; Ord. 18-243, passed 1-17-2018)

§ 156.030 FENCES.

(A) All fences shall be constructed and maintained to ensure structural integrity against natural forces such as wind, rain and temperature variations.

(B) All fences shall be maintained in safe and good workmanship condition.

(C) The finished side of all fences built to comply with these regulations shall face away from the screened object.

(Ord. 00-65N, passed 6-1-2005) Penalty, see § 156.999

§ 156.031 WOOD ROOFS.

To reduce fire hazards, wood roof surfaces are not permitted in any zoning district. Fire-resistant materials such as metal, tile, fiberglass, composite shingles and the like shall be used on all roof surfaces.

(Ord. 00-65N, passed 6-1-2005) Penalty, see § 156.999

~~**§ 156.032 MOBILE HOMES.**~~

~~Mobile homes are not permitted in any zoning district.~~

~~(Ord. 00-65N, passed 6-1-2005) Penalty, see § 156.999~~

§ 156.033 SIGNS AND BILLBOARDS.

(A) No sign or billboard shall be erected, moved, altered, added to, enlarged, painted or modified unless it shall conform to the provisions of this chapter and all applicable city ordinances governing the placement, location, permitting, construction and maintenance of signs.

(B) Except as otherwise expressly authorized by ordinance, all off-premises signs and billboards are expressly prohibited.

(Ord. 00-65N, passed 6-1-2005) Penalty, see § 156.999

§ 156.034 STRUCTURES AND BUILDINGS.

No building, structure or accessory structure shall be erected, converted or enlarged, nor shall any such existing building or structure be structurally altered or rebuilt, nor shall any open space surrounding any building be encroached upon or reduced in any manner, unless the same shall be done and completed in a manner to comply with all applicable city codes and ordinances, and such work and structure shall:

(A) Conform to the setback, building site area, building location and land use regulations hereinafter designated for the district in which such building or open space is located; and/or

(B) Not exceed the height limit herein established for the district in which such building is located.

(Ord. 00-65N, passed 6-1-2005) Penalty, see § 156.999

§ 156.035 ACCESSORY STRUCTURES AND USES.

Accessory structures, designed, constructed and located for a use permitted in the district, in compliance with this chapter and all other applicable city ordinances, are permitted in each zoning district.
(Ord. 00-65N, passed 6-1-2005)

§ 156.036 CONFORMITY TO OTHER CITY ORDINANCES.

No structure or building shall be erected, converted, enlarged, reconstructed or structurally altered unless plans meet the requirements of other city ordinances, including §§ 151.01 through 151.13, Ch. 153 and Ch. 155 of this code of ordinances.
(Ord. 00-65N, passed 6-1-2005) Penalty, see § 156.999

§ 156.037 PARKING AND LOAD REQUIREMENTS.

No structure or building shall be erected, converted, enlarged, reconstructed or structurally altered unless it shall conform to the off-street parking and loading requirements of this chapter.
(Ord. 00-65N, passed 6-1-2005) Penalty, see § 156.999

§ 156.038 BUILDING SETBACK REQUIREMENTS.

Required building setback lines shall be calculated within the existing property lines and nNo yard or other open space provided around any structure or building for the purpose of complying with provisions of this section shall be considered as providing a yard or open space for a building on any other lot.
(Ord. 00-65N, passed 6-1-2005) Penalty, see § 156.999

§ 156.039 HEIGHT AND PLACEMENT REQUIREMENTS.

Except as otherwise specifically provided in this chapter, no building shall be erected or maintained within the required building setbacks set forth herein, or which exceeds the height limits specified in the zoning districts charts herein.
(Ord. 00-65N, passed 6-1-2005) Penalty, see § 156.999

§ 156.040 USES NON-CUMULATIVE.

Uses within each district are restricted solely to those uses expressly permitted in each district, and are not cumulative unless so stated.
(Ord. 00-65N, passed 6-1-2005)

§ 156.041 EXCEPTIONS.

Nothing in this section shall prohibit the approval of a comprehensive zero lot line residential development or other innovative housing development in compliance with the other terms and provisions of this chapter.
(Ord. 00-65N, passed 6-1-2005)

§ 156.042 OUTDOOR LIGHTING REGULATIONS.

(A) *Dark skies compliance required.* All new outdoor lighting fixtures and installations in the city shall conform to the following provisions.

(B) *Definitions.* For the purpose of this section, the definitions of § 156.009 shall apply unless the context clearly indicates or requires a different meaning.

(C) *Shielding, spectrum and curfews.*

(1) Any fixture installed in the city, including municipally-owned street lights, having a total light emission in excess of 1,500 lumens shall be shielded in a manner that:

(a) Confines the light so that it falls entirely on a wall or sign, or confines the light entirely below a horizontal plane at the level of the lowest of: the lowest point of the fixture at which light is emitted, the lowest part of any lens, or the lowest point of any specular reflector; and

(b) Prevents a line of sight from any point off the property on which the fixture is situated to a light source, its surrounding non-diffusing lens, or a specular reflector within or incidental to the fixture.

(2) No property in the city shall have fixtures that are not included in, or do not conform to division (C)(1) of this section, which collectively have total light emission exceeding 7,200 initial lumens.

(3) No fixture may be installed employing a lamp whose correlated color temperature exceeds 3,000 Kelvins.

(4) New street lighting installed after the effective date, other than fixtures at the intersection of roadways, shall utilize half-night photocells or timers to turn off the lights halfway between dusk and dawn.

(D) *Site lumen limits/zoning categories.*

(1) The total outdoor light output (excluding municipally-owned streetlights used for illumination of public rights-of-way and outdoor recreation facilities) in both shielded and unshielded fixtures on any nonresidential property in districts SF-1 through SF-6, TH/C, DU-1, 4PLX, MF-1, MF-1A, MF-2, RR, PUD, MH-1, and unzoned tracts where a residence exists shall not exceed 20,000 initial lumens per net acre, or 40,000 initial lumens per net acre in other districts and unzoned tracts, in any contiguous illuminated area. These lumen per net acre values are upper limits and not design goals; design goals should be the lowest levels that meet the requirements of the task.

(2) Total outdoor light output (excluding municipally-owned streetlights used for illumination of public rights-of-way and outdoor recreation facilities) in unshielded fixtures on any nonresidential property in districts SF-1 through SF-6, TH/C, DU-1, 4PLX, MF-1, MF-1 A, MF-2, RR, PUD, MH-1, and unzoned tracts where a residence exists shall not exceed 6,000 initial lumens per net acre, or initial 15,000 lumens per net acre in other districts and unzoned tracts, in any contiguous illuminated areas.

(E) *Redirection and removal of adjustable fixtures and bulbs.*

(1) *Redirection.* Any fixture existing on the effective date of this subchapter which does not conform to division (C) of this section and which can be re-directed or re-aimed shall be re-directed or re-aimed in a manner that reduces the degree of non-compliance so it fully conforms with division (C) of this section.

(2) *Removal.* A light string that does not conform to division (C) of this section shall be removed, or the number of bulbs reduced sufficiently to comply with division (C) of this section.

(F) *Illumination.*

(1) *Limitation per fixture.* 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, MH-1, 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;

(2) *Measurement.*

(a) On any surface, except signs, the maximum illumination shall be measured at the point of highest illumination but no closer than six feet from the center of the nearest fixture.

(b) On any surface of an externally illuminated sign, the maximum illumination shall be measured at the center of the sign.

(c) On any surface of an internally illuminated sign, the maximum illumination shall be measured at the point of highest illumination.

(d) On any surface illuminated by an internally illuminated sign, the maximum illumination shall be measured at the point of highest illumination, but no closer than six feet from the center of the sign.

(3) *Re-lamping.* Any fixtures existing on the effective date of this subchapter which do not conform to this section, which require lamp replacement and which will support lamps of lower emission, shall be re-lamped with lower-emission lamps in order to:

(a) Achieve compliance with this section; or

(b) Approach compliance with this section to the greatest possible degree.

(G) *Prohibited lighting forms.* The installation or replacement of a mercury arc or mercury discharge lamp of any size or kind is strictly prohibited.

(H) *Removal of non-conforming fixtures.* Any change of use of a property, or renovations or additions to the structures on a property constituting more than 20% of the previous calendar year's appraised value shall result in the removal or replacement of any non-conforming fixtures on those structures.

(I) *Replacement of fixtures; conformance required.* Any fixture that is replaced, whether or not it conforms to this subchapter, shall be replaced only with a fixture that conforms to all provisions of this section.

(J) *Public safety and public nuisance.*

(I) The city may install new public outdoor lighting, including street lighting and lighting on other public property and rights-of-way, after the effective date only upon the determination of the City Manager that a clear public safety threat exists in the space to be lit, and that the hazard can only be effectively mitigated through the use of outdoor lighting.

(2) Not withstanding the provisions of division (I) of this section, the city may require the modification or removal or limited operation of lighting fixtures found to be a public hazard or public nuisance according to the following criteria:

(a) Criteria for finding illumination to be a public hazard:

1. Light trespass or glare which is sufficiently intense or contrasts excessively with surrounding illumination, regardless of the intensity of surrounding illumination, in a manner to cause impairment of visual performance or to distract from or impair the safe operation of a vehicle; or

2. Light trespass or glare that impairs a person's visual performance or ability to avoid obstacles in his or her path; or

(b) Criteria for finding illumination to be a public nuisance:

1. Light trespass or glare that deprives an owner or occupant of usual and reasonable use and enjoyment of a property; or

2. A high frequency or duration of periods when light trespass or glare is sufficient to interrupt or interfere with usual and reasonable use and enjoyment of a property; or

3. Light trespass or glare that causes visual discomfort or impairment of visual performance in a manner that deprives any citizen of the city from the usual and reasonable enjoyment of a property.

(3) Benefit to the general public welfare may be found to mitigate a finding of a public nuisance but may not be found to mitigate a finding of a public hazard.

(K) *Exceptions.* The city may grant an exception to some of the provisions of this section for certain fixtures if the city finds the exception to be in the interest of public health, safety, and welfare and under the following conditions.

(1) For the illumination of city streets, parking lots, areas of public activity, and yard security, a non-conforming fixture which is granted an exception may be installed and the fixture and its light shall be exempts from the provisions of divisions (C), (F)(1)(c), and (H) of this section except as set forth below it:

(a) No alternate lighting design or location using fully conforming fixtures is reasonable applicable to the physical conditions of the site, and the asserted need for a non-conforming fixture is not solely for the purpose of achieving an illumination level in excess of the provisions of division (F)(1)(c) of this section;

(b) A fully conforming fixture with or without auxiliary shielding is unavailable from manufacturers of fixtures or is unavailable for mounting on a pole of the public electric utility;

(c) The fixture has a full horizontal cut-off design, and has total light emission not exceeding 8,500 initial lumens;

(d) A fixture is mounted no higher than:

1. Sixteen feet above the ground when mounted on a privately owned pole;

2. The lowest point consistent with public electric utility requirements when mounted on a pole which is the property of the public electric utility.

(e) No excepted fixture is located closer to another such fixture on one or separate properties than a distance equal to three times the average mounting height of the fixtures, nor closer to property lines of adjoining or facing residential property than a distance equal to two times the height of the fixture above the ground;

(f) No more than one excepted fixture is located on a residential property;

(g) No more than two excepted fixtures are located on a non-residential property for security purposes where there is no night-time public activity;

(h) The maximum illumination due to all fixtures on the ground or any other surface does not exceed six footcandles; and

(i) The light from all excepted fixtures conforms to the provisions of division (C)(1)(b) and (C)(3) of this

section so far as it affects any adjoining residential property.

(j) The lighting illuminates the State of Texas flag and/or United States flag, provided that:

1. Flagpoles illuminated from below are limited to a height of 30 feet above ground level, and are illuminated with a single spot-type fixture whose maximum initial output is 75 lumens per foot of height, measured from the light fixture to the top of the flagpole. The fixture must be mounted so that the lens is perpendicular to the flagpole.

2. Flags posted on flagpoles are raised and lowered in a manner consistent with customary etiquette calling fir display only between sunrise and sunset.

3. Flagpoles illuminated from above utilize a single light fixture, not to exceed 800 initial lumens, attached to the top of the flagpole or a fixture mounted above the top of the flagpole on a structure within 15 feet of the flagpole.

(k) Decorative light strings displayed during seasonal holiday period from November 1 to January 15 of the following calendar year are exempt from the provisions of this section.

(L) *Applicability; administration and enforcement.*

(1) All lighting installations or additions to lighting installations made after the original effective date of this section shall conform to this subchapter and shall be subject to inspection by the Woodcreek City Manager or his or her designee.

(2) An outdoor lighting plan shall be included as part of the documentation for a permit application. The outdoor lighting plan shall show the bulb type and electric power of all proposed and existing outdoor bulbs and fixtures in the lighting installation, and provide sufficient detail with respect to location, height, and aiming and shielding of the fixtures to demonstrate that the proposed lighting installation complies with this section.

(3) If the City Manager or his or her designee finds that an outdoor lighting fixture does not comply with this section, the owner shall be notified and shall be allowed 30 days from the date of receipt of notification to remedy the non-compliance or to demonstrate that a violation does not exist.

(Ord. 17-230, passed 6-14-2017)

RESIDENTIAL REQUIREMENTS AND LIMITATIONS

§ 156.055 PERMITTED SINGLE-FAMILY RESIDENTIAL ZONING.

Permitted uses allowed in all single-family residential zoning districts:

(A) Single-family, built on lot, dwellings;

(B) Home occupation;

(C) Temporary buildings for uses incidental to construction work on the premises which shall be removed upon the completion or abandonment of construction work;

(D) Water supply reservoirs, pumping plants and towers;

(E) Accessory structures and uses customarily incidental to the above uses and located on the same lot therewith, not involving any conduct of any business or commercial enterprise; and

(F) Churches.

(Ord. 00-65N, passed 6-1-2005)

§ 156.056 MASONRY REQUIREMENTS.

(A) Exterior walls of all structures shall have a minimum of 55% stone, brick or stucco, exclusive of openings. For the purpose of calculating the 55% requirement, area of the exterior walls shall be the determinant. Calculation shall be based upon height multiplied by the linear length of the exterior walls minus the area of all openings (i.e., windows, doors and vents). ***STUCCO*** shall be deemed to mean multiple applications of wet portland cement stucco or like material applied over stone, brick, concrete, concrete block, tile block or steel mesh that has been affixed to the exterior structure.

(B) Exterior walls of accessory structures shall have a minimum of 55% stone, brick, stucco, or cement board siding, exclusive of openings. Calculations shall be based upon height multiplied by the linear length of exterior walls minus the area of all openings (i.e., windows, doors and vents.)

(C) With regard to structures built before 8-12-1985, any new additions to the original structure or any new accessory buildings to be located on the same and original lot shall be required to have as a minimum the same

percentage of masonry originally authorized and utilized for the initial structure. Products that are classified as cement board ~~such as Hardiplank, Hardiboard or Hardipanel~~ are not to be used to meeting masonry requirements on additions to original structures.
(Ord. 00-65N, passed 6-1-2005) Penalty, see § 156.999

§ 156.057 CARPORTS AND GARAGES.

Carports are not permitted in any zoning district. A fully-enclosed garage is required. See § 156.064 of this chapter for garage requirements by zoning district.
(Ord. 00-65N, passed 6-1-2005) Penalty, see § 156.999

§ 156.058 FENCES.

(A) No wall, fence, planter or hedge in excess of two feet high shall be erected or maintained nearer to the front lot line than the front building setback line, nor on corner lots nearer to the street side lot line than the building setback line parallel to the side street. No rear fence, wall or hedge and no side fence, wall or hedge located between the side building line and the interior lot line (or located on the interior lot line) shall be more than six feet high. For multifamily districts (MF-1, MF-1A, and MF-2) adjacent and contiguous to single-family districts (SF-1 through SF-6), perimeter fences along shared district boundaries may not exceed eight feet height from grade.

(B) No object or thing which obstructs sight lines at elevations between two and six feet above the roadways and within the triangular area formed by intersecting street property lines and a line connecting them at points 25 feet from the intersection of the street lines (or extensions thereof) shall be placed, planted or permitted to remain on corner lots. ~~No wall, fence, planter, hedge or other improvement or object shall be constructed or permitted nearer than five feet to an exterior lot line bordering the golf course.~~ Retainer walls are excepted. Wood fences are prohibited on lot lines contiguous or abutting a golf course where the wood fence would be visible from the golf course. All fences ~~along lot lines~~ contiguous or abutting a golf course shall not obstruct sight lines of the golf course and shall be constructed of panels of a metal product manufactured for the purpose of residential fencing ~~ornamental~~ metal and shall be a minimum of four feet and a maximum of six feet in height.

(C) Fencing materials not allowed are chain link, hog wire, barbed wire, vinyl, rebar, rolled wire, cable, mesh netting, rolled picket or similar materials; except that, Small-Animal Fencing, as that term is defined herein, may be used if its principal fencing support structure consists of ~~ornamental~~ metal. ***SMALL-ANIMAL FENCING*** means metal fencing with opening spacing between the wires no more than ~~measuring approximately~~ two inches by three inches that matches the color and architecture of the principal fencing to which it is attached. ~~Wire thickness shall not exceed 0.1 inch.~~ Approved small-animal fencing may not exceed 50% of the height of the approved or existing principal fencing.

(D) Should a non-conforming fence or non-conforming portion of a fence be damaged by any means to an extent of more than 50% of its replacement cost at the time of destruction, it shall not be reconstructed, except in conformity with this chapter.

(E) A fence permit will be issued by the city upon completion of a Type II Residential Permit Application and submittal of required fees in accordance with the Master Rate Schedule as adopted by resolution of the City of Woodcreek. ~~this chapter~~. A copy of an approved Type II Residential Fence Permit must be visibly displayed during active construction and until completion of any fence permitted by the city. This permit will expire 60 days from date of issuance.

(F) *Penalty.* Any person violating any provision of this section shall be subject to the penalties and provisions set forth in § 10.99 of this Code of Ordinances.
(Ord. 00-65N, passed 6-1-2005; Ord. 16-218, passed 1-13-2016; Ord. 16-227, passed 9-22-2016)

§ 156.059 ABOVE-GROUND POOLS.

Above-ground pools are not permitted in any zoning district.
(Ord. 00-65N, passed 6-1-2005) Penalty, see § 156.999

§ 156.060 PARKING.

(A) All owners, tenants or occupants of any residence used for residential purposes shall be required to park

their vehicles in garages, carports or driveways. No such vehicle, trailer or recreational vehicle shall be parked on a street or within any property unless same is not visible. Covering said vehicle with a tarp shall not be construed as being out of sight. Parking of buses, commercial vehicles, trailers, boats, motor homes, RVs, campers, jet skis and the like is prohibited, except on a temporary basis with a permit issued by the City of Woodcreek. ***TEMPORARY*** shall be defined as not to exceed seven ~~five~~ days in any 30-day period. Cost of the permit shall be based on the Master Rate Schedule as adopted by resolution of the City of Woodcreek.

(B) It shall be unlawful for anyone to store vehicles not in operating condition in open view for more than seven days. Such vehicles must be stored in completely enclosed buildings or removed to an authorized storage area. Since streets are narrow and provide limited parking area, residential off-street parking requirements are essential. Each dwelling unit shall have a hard surface driveway, providing a minimum of three off-street parking areas, each area measuring ten feet by 20 feet.

(Ord. 00-65N, passed 6-1-2005) Penalty, see § 156.999

§ 156.061 GARAGE AND YARD SALES.

(A) Garage and yard sales shall be limited to the personal belongings of the occupants of the residence, specifically those of the owners or renters living at the residence. For purposes of this chapter, ***OCCUPANTS*** shall be deemed to mean full-time, permanent residents of the dwelling and shall not include renters with rental agreements of less than six months.

(B) Such sales shall be limited to city residents and to duration no longer than three days. Sales at any location must be separated by a minimum of six months.

~~(C) Occupants, other persons or agents may not bring additional items to the premises for such sales.~~

~~(D) Auctions are prohibited.~~

(C) Occupants, other persons or agents may not bring additional items to the premises for such sales.

(D) Auctions and Estate Sales are prohibited, except with a permit issued by the City of Woodcreek. Cost of the permit shall be based on the Master Rate Schedule as adopted by resolution of the City of Woodcreek.

(Ord. 00-65N, passed 6-1-2005) Penalty, see § 156.999

§ 156.062 HOME OCCUPATION CRITERIA.

Home occupation must comply with all the following criteria.

(A) The occupation shall produce no alteration or change in the character or exterior appearance of the principle building from that of a dwelling unit for human habitation.

(B) Such use shall be incidental and secondary to the use of the premises for residential purposes and shall not utilize an area exceeding 20% of the gross floor area of the dwelling unit.

(C) The occupation use shall be carried on solely by a member(s) of the family residing on the premises.

(D) The occupation shall not create additional vehicular traffic.

(E) There shall be no storage of merchandise on the property (~~within or~~ on the outside of buildings) connected with the business, except one vehicle used in the business. ~~Merchandise may be stored within the vehicle~~. Such vehicle shall be no larger than a passenger van or pickup truck. If the vehicle is used for storage purposes, such storage shall be contained within the vehicle and the merchandise shall not be visible.

(F) The occupation shall be conducted entirely within a dwelling unit which is the bona fide residence of the practitioner.

(G) No equipment or materials associated with the occupation shall be displayed or stored outside of buildings.

(H) The occupation shall not produce wastewater runoff outside the dwelling unit or on property surrounding the dwelling unit.

~~(I) The occupation shall not cause a substantial increase in any utilities.~~

(J) The occupation shall not interfere with permitted uses in the neighborhood, nor make the adjoining premises unsuitable for such permitted uses.

(K) The occupation shall not consist of the following uses: industrial, utility, manufacturing, repairing, maintaining, fabrication, laboratory or other similar uses.

(L) No occupational use shall be allowed which creates any ultra-hazardous risk or condition on the premises

or to surrounding neighbors or their property, or any other health or fire hazard, whether regulated by statute or rule promulgated by any administrative body of the state, by the federal government, by the city or which would constitute a common-law nuisance.

(M) The occupation shall not produce, nor result in, any external noise or vibration.

(Ord. 00-65N, passed 6-1-2005) Penalty, see § 156.999

§ 156.063 CHART 1: RESIDENTIAL ZONING DISTRICTS.

(A) *General.*

(1) All floor space is calculated exclusive of garage, porches, patios, driveways, terraces and other similar additions. Maximum building height for all structures is 30 feet.

(2) Bi-level buildings shall have a minimum living area as calculated at the midpoint between the requirements of one and two stories.

(3) Lots bordering the golf course which are more than 25 feet from the area of play (as defined by the golf course out-of-bounds markers as of 2-15-2005 and per the map adopted herein CREATE MAP) may have a 15-foot building setback line.

(B) *Districts.*

(1) *SF-1, Single-Family Residence.* One-family dwelling with no more than one residence per lot occupied by no more than one family:

(a) Minimum square feet living area:

1. One story: 1,500 square feet; and
2. ~~Two~~ ~~Second~~ Two story: ~~2,000 500~~ ~~square feet~~ 2000 square feet with the second story not to exceed the foot print of the first story.

(b) Minimum setbacks:

1. Front and back: 25 feet
2. Interior sides: seven and one-half feet; and
3. Street side: ten feet.

(c) Two-car garage. not less than 400 square feet (20x20).

~~(d) Short term rentals not allowed.~~

(2) *SF-2, Single-Family Residence.* One-family dwelling with no more than one residence per lot occupied by no more than one family:

(a) Minimum square feet living area:

1. One story: 1,000 square feet;
2. ~~Second~~ Two story. ~~500 square feet~~ 2000 square feet with the second story not to exceed the foot print of the first story.

(b) Minimum setbacks:

1. Front: 25 feet;
2. Interior sides: seven and one-half feet; and
3. Street side: ten feet.

(c) Two-car garage. not less than 400 square feet (20x20)

~~(d) Short term rentals not allowed.~~

(3) *SF-3, Single-Family Residence.* One-family dwelling with no more than one residence per lot occupied by no more than one family:

(a) Minimum square feet living area:

1. One story: 1,000; and
3. 2. ~~Two Second~~ Two story: 1,200 square feet. with the second story not to exceed the foot print of the first story.

(b) Minimum setbacks:

1. Front: ten feet;
2. Rear: 15 feet;
3. Interior lot lines: zero;

4. Street side: five feet.

(c) Two-car garage. not less than 400 square feet (20x20)

~~(d) Short term rentals not allowed.~~

(4) *SF-4, Single-Family Residence.* One-family dwelling with no more than one residence per lot occupied by no more than one family:

(a) Minimum square feet living area: 900;

(b) Minimum setbacks: zero lot lines;

(c) No garage required; and

(d) Short-term rentals allowed.

(5) *SF-5, Single-Family Residence.* One-family dwelling with no more than one residence per lot occupied by no more than one family:

(a) Minimum square feet living area: 1,000;

(b) Minimum setbacks:

1. Front: 20 feet;
2. Rear: 15 feet;
3. Side: seven and one-half; and
4. Street side: ten feet.

(c) One-car garage not less than 200 square feet (10x20).

(6) *SF-6, Single-Family Residence.* One-family dwelling with no more than one residence per lot occupied by no more than one family:

(a) Minimum square feet living area: 1,000;

(b) Minimum setbacks:

1. Front: 25 feet;
2. Rear: 25 feet;
3. Side: five feet; and
4. Street side: ten feet.

(c) Two-car garage not less than 400 square feet (20x20).

(7) *TH/C, Townhouse and Condominium Residence.* Multiple-dwelling units with one family per dwelling unit. Zoning can include single-family dwelling, duplex, townhouses, condominiums:

(a) Minimum square feet living area:

1. One story: 1,000 feet; and
2. Two story: 1,200 feet.

(b) Minimum setbacks:

1. Front and back: 25 feet;
2. Interior lot lines: seven and one-half feet; and
3. Street side: 15 feet.

(c) Two-car garage not less than 400 square feet (20x20).

(8) *DU-1, Two-Family Duplex.* Two single-family dwelling units limited to no more than one building per lot occupied by no more than two families. Zoning can include single-family dwelling or two-family duplex:

(a) Minimum square feet living area per individual unit:

1. One story: 1,000 feet; and
2. Two story: 1,200 feet.

(b) Minimum setbacks:

1. Front and back: 25 feet;
2. Interior: seven and one-half feet; and
1. Street side: 15 feet.

(b) One car garage not less than 200 square feet (10x20) per individual unit

(9) *4PLX, Four-Plex.* Four single-family dwelling units limited to no more than one building per lot occupied by no more than four families. Zoning can include single-family dwelling, two-family dwelling or

four-family four-plex:

(a) Minimum square feet living area per individual unit: 800;

(b) Minimum setbacks:

1. Front and back: 25 feet;
2. Interior lot lines: seven and one-half feet; and
3. Street side: 15 feet.

(c) One-car garage per individual unit not less than 200 square feet (10x20).

(10) *Multi-Family Residences.* (See §§ 156.065 and 156.066 of this chapter for additional information on multi-family residences.)

(11) *MF-1, Multi-Family Residence.* Maximum units per acre: 14.

~~(12) *MF-1.1.* Maximum units per acre: not to exceed 1-1 units per acre.~~

(13) *MF-2, Multi-Family Residence.* Maximum units per acre: 16.

(14) *RR, Rural Residence District.* One-family dwelling with no more than one residence per lot occupied by no more than one family:

(a) Minimum lot: one acre;

(b) Minimum square feet living area:

1. One story: 1,500; and
2. Two story: 2,000.

(c) Minimum setbacks:

1. Front and back: 25 feet;
2. Interior sides: seven and one-half; and
3. Street sides: 15 feet.

(d) Two-car garage not less than 400 square feet (20x20)

(15) *PUD, Planned Unit Development.* Planned unit development with planned diverse land uses, such as housing, recreation and shopping in one contained development, and allowing for cluster development and alternative design standards. Minimum site areas: inside city, ten acres recommended.

(16) *MH-1, Manufactured Housing Subdivision.*

(a) Minimum lot: 7,200 feet;

(c) Minimum square feet living area: ~~1000~~ 600;

(d) Minimum setbacks:

1. Front and back: 25 feet;
2. Interior lot lines: seven and one-half feet; and
3. Street side: 15 feet.

(e) Property and areas of the city zoned MH-1 may be planned, used, approved, platted and occupied as a manufactured housing subdivision with lots sold and conveyed to individual lot owners. Land and areas of the city zoned MH-1 and having an approved subdivision plan may be used for manufactured housing.

(17) *Personal care facility.* See § 156.067 of this chapter.

(Ord. 00-65N, passed 6-1-2005)

§ 156.064 CHART 2: RESIDENTIAL ZONING REQUIREMENTS.

***** SEE NEW CHART 2 AT END OF ZONING ORDINANCE*****

RESIDENTIAL ZONING REQUIREMENTS BY DISTRICT

Note: This table is available in a printer-friendly, PDF version. Click HERE

	SF-1	SF-2	SF-3	SF-4	SF-5	SF-6	TH/C	DU-1	4PLX	MF	RR	PUD	MH-1
% masonry required	55	55	55	55	55	55	55	55	55	see § 156.064 for MF-1, MF-2	55		55

Garage required	2-Car	2-Car	2-Car	No	1-Car	2-Car	2-Car	1-Car	1-Car[1]	requirements and § 156.065 for MF-1A requirements	2-Car	-	1-Car
Maximum dwelling units per lot	1	1	1	1	1	1	1	2	4		1	-	1
Maximum dwelling heig.5ht	30'	30'	30'	30'	30'	30'	30'	30'	30'		30'	-	30'
Maximum impervious cover	35[2]	35[2]	35[2]	35[2]	35[2]	35[2]	45[2]	45[2]	55[2]		25[2]	-	35[2]
Minimum setbacks													
Front	25'	25'	10'	20'	20'	25'	25'	25'	25'		25'		25'
Interior side	7-1/2'	7-1/2'	0'	0'	7-1/2	5'	7-1/2'	7-1/2'	7-1/2'		7-1/2'	-	7-1/2'
Rear	25'	25'	15'	15'	15'	25'	25'	25'	25'		25'		15'
Street side	10'	10'	5'	5'	10'	10'	15'	15'	15'		10'	-	10'
Minimum square footage													
One-story	1,500	1,000	1,000	900	1,000	1,000	1,000*	900*	800*		1,500	-	1,000
Two-story	2,000	1,000	1,200	900	1,000	1,000	1,200*	1,800*	800*		2,000	-	NA

NOTES TO TABLE:

1 per unit
2 Maximum impervious cover is capped at 30% for construction for which a site development plan was not filed prior to October 20, 2006.

(Ord. 00-65N, passed 6-1-2005; Ord. 06-103, passed 10-20-2006; Ord. 06-103A, passed 1-10-2007; Ord. 10-135, passed 1-13-2010; Ord. 10-139, passed 2-10-2010; Ord. 14-194, passed 6-11-2014)

§ 156.065 CHART 3: MULTI-FAMILY REQUIREMENTS, MF-1 AND M-2 ZONES.

(A) *Purpose.*

(1) To provide a buffer use between the high traffic of RR12, which makes development of land abutting RR12 unattractive for single-family housing, and the single-family development of interior land; and

(2) To permit higher density development of property not suitable for single-family development, but to protect adjacent single-family development from any negative impact of the higher density use.

(B) *Permitted uses.*

(1) Single-family homes, duplex units, four-plex units or apartment complexes meeting the minimum requirements of this zone. All uses within this zone shall require approval of a site plan by the Planning and Zoning Commission and City Council prior to the issuance of a building permit; and

(2) Use of the land for purposes secondary to the primary residential use, such as swimming pools, basketball courts or similar uses, shall require that adjacent property be sheltered from noise and light resulting from said uses. Review of said shelter shall be a part of the site review required before a building permit is

granted.

(C) *Requirements.* The intent of the following requirements is to require yard setbacks which are directly related to the height of the buildings developed on the property and thereby to mitigate the effect of higher buildings upon adjacent single-family properties.

% masonry required	55%
Front yard (on primary access street)	25' or the height of the closest building on the property, whichever is greater
Maximum density	
MF-1	14 units per acre
MF-2	16 units per acre
Maximum height	2 stories or 30', whichever is less
Maximum impermeable coverage	55%
Minimum floor area per unit	
1 BR	500 sq. ft.
2BR	850 sq. ft.
3 BR	1,000 sq. ft.
Parking spaces required/units	
1 BR	1.5
2 BR	2.5
Rear yard (abutting single-family residential property)	25' or the height of the closest building on the property, whichever is greater
Rear yard (not abutting single-family residential property)	25' or 1/2 the height of the closest building on the property, whichever is greater
Side yard (abutting single-family residential property)	15' or the height of the closest building on the property, whichever is greater
Side yard (abutting street)	15' or the height of the closest building on the property, whichever is greater
Side yard (not abutting single-family residential property)	7.5' or 1/2 the height of the closest building on the property, whichever is greater

(Ord. 00-65N, passed 6-1-2005)

~~§ 156.066 CHART 4: MULTI-FAMILY REQUIREMENTS, MF-1A.~~

~~(A) *Purpose.*~~

~~(1) To provide a buffer use between the high traffic of RR12, which makes development of land abutting RR12 unattractive for single-family housing, and the single family development of interior lands; and~~

~~(2) To permit higher density development of property not suitable for single-family development or for more dense M-F development in order to protect adjacent single-family development from any negative impact of the higher density use.~~

~~(B) *Permitted uses.*~~

~~(1) Duplex units, four-plex units or apartment complexes having the number of units, but no more than 14 units per acre as determined herein, zoning this property. This zone shall require approval of a site plan by the Planning and Zoning Commission and City Council prior to the issuance of a building permit; and~~

~~(2) Use of the land for purposes secondary to the primary residential use, such as swimming pools,~~

~~basketball courts or similar uses shall require that adjacent property be sheltered from noise and light resulting from said uses. Review of said shelter shall be a part of the site review required before a building permit is granted.~~

~~(C) *Requirements.* The intent of the following requirements is to require yard setbacks which are directly related to the height of the buildings developed on the property, and thereby to mitigate the effect of higher buildings upon adjacent single-family properties.~~

~~% masonry required~~	~~55%~~
~~Front yard (on primary access street)~~	~~25' or the height of the closest building on the property, whichever is greater~~
~~Maximum density* (1)~~	~~14 units/acre~~
~~Maximum height~~	~~2 stories or 30', whichever is less~~
~~Maximum impermeable coverage~~	~~55%~~
~~Minimum floor area per unit~~	
~~1 BR~~	~~500 sq. ft.~~
~~2 BR~~	~~850 sq. ft.~~
~~3 BR~~	~~1,000 sq. ft.~~
~~Parking spaces required units~~	
~~1 BR~~	~~1.5~~
~~2 BR~~	~~2.5~~
~~3 BR~~	~~3~~
~~Rear yard (abutting single-family residential property)~~	~~25' or the height of the closest building on the property, whichever is greater~~
~~Rear yard (not abutting single-family residential property)~~	~~25' or 1-2 the height of the closest building on the property, whichever is greater~~
~~Side yard (abutting single-family residential property)~~	~~15' or the height of the closest building on the property, whichever is greater~~
~~Side yard (abutting street)~~	~~15' or the height of the closest building on the property, whichever is greater~~
~~Side yard (not abutting single-family residential property)~~	~~7.5' or 1-2 the height of the closest building on the property, whichever is greater~~
~~**NOTES TO TABLE:**~~ ~~(1) Maximum density shall be determined in the ordinance zoning this property, not to exceed 14 units per acre.~~	

(Ord. 00-65N, passed 6-1-2005)

§ 156.067 PERSONAL CARE FACILITIES.

(A) *General.* As the city's zoning regulations must comply with the Federal Fair Housing Act, being 42 U.S.C. §§ 3601 et seq., and state laws prohibiting discrimination of the handicapped and elderly, this section clarifies what the city, by law, must allow and addresses the federal and state restrictions in place.

(B) *Definition.* ***PERSONAL CARE FACILITY*** means a facility that provides supervised living arrangements for persons with physical or mental disability, which by reason of federal or state law, is not subject to limitations set forth in deed restrictions or single-family zoning districts.

(1) This definition includes a community-based residential home operated by:

(a) The ~~State Department of Mental Health and Mental Retardation~~; Texas Health and Human Services Commission

(b) A community center operated under Tex. Health and Safety Code Ch. 534, which provides services to disabled persons;

(c) A non-profit corporation; or

(d) Any entity certified by the ~~State Department of Human Resources~~ ; Texas Health and Human Services Commission

as a provider under the intermediate care facilities for the mentally retarded program.

(2) This definition includes homes for the handicapped as defined in 42 U.S.C. § 3602(h).

(C) *Mandated exceptions.* To the extent required by state or federal law, a personal care facility is an additional permitted use in any zoning district; provided that:

(1) Homes and residential units not designated and constructed in compliance with the ordinance and code requirements applicable to multiple occupancy residential buildings and nursing homes, shall meet the following requirements.

(a) The structure shall comply with provisions of the Fire Code, Electrical Code and Building Code that are applicable to nursing homes.

(b) There shall be two parking spaces, plus one additional space for each three residents.

(c) There shall be not less than 50 square feet of living space within a sleeping room for each occupant assigned to such room.

(d) There shall be not less than 175 square feet of living area in the structure for each occupant/resident of the structure, and attendant on duty.

(e) The structure and operations shall comply with the standards established by the ~~State Department of Human Services~~ ; Texas Health and Human Services Commission

as licensing standards for personal care facilities for a Type B facility.

(2) The home must meet all applicable state licensing requirements;

(3) A personal care facility must have at least one paid staff member on duty 24 hours per day, and one supervisor for each six residents during waking hours; and

(4) A personal care facility may not have more than 15 residents.

(Ord. 00-65N, passed 6-1-2005)

GENERAL DISTRICT LIMITATIONS

§ 156.080 BUSINESS USE REQUIREMENTS AND LIMITATIONS.

(A) ~~The city is divided into six business districts. All~~ Ddistricts permitting any business or commercial use require one-acre lots and must meet requirements for parking, light and height restrictions as set forth in this chapter. The city's business districts allow low-rise garden-type buildings to a maximum of two stories for use in providing professional offices and retail services.

(B) Permitted Neighborhood Office (NO) zoning includes:

(1) Office of an accountant, architect, attorney, engineer, physician, dentist, medical clinic, broker, consultant, insurance agent, real estate agent, travel agent, administrative offices for building contractors and the like or similar professional offices; and

(2) Accessory structures and uses to any of the foregoing permitted uses.

(C) Permitted Neighborhood Commercial (NC) zoning includes:

(1) Antique stores, art studio or gallery, book and stationary store, electrical appliance or repair; financial institution, retail florist shop, professional or service offices, pet shop, photographer's studio, radio, television or electronics sales and service, shoe sales and repair or tailor and dressmaking and other retail stores; and

(2) Specifically prohibited are on-site vehicle repair or services, sales or rental of pornographic or adult items, sales of fireworks, on-site manufacturing and fabrication, on-site dispensing of fuel and on-site dispensing of items that might pose a fire hazard or which might pose a safety hazard of any kind.

(D) Special events: those uses permitted by City Council pursuant to § 156.082 of this chapter.

(E) Commercial lots bordering a residential zoning district shall be required to have a six-foot high privacy

fence on all sides adjoining the residential zoning district.

(F) Parking: one hard-surface (asphalt, ~~or~~ concrete, pervious concrete or pavers) parking space is required for each 300 ~~250~~ square feet of gross floor space.

(Ord. 00-65N, passed 6-1-2005)

§ 156.081 RECREATIONAL DISTRICT REQUIREMENTS AND LIMITATIONS.

(A) *Purpose.* This district is intended to establish and preserve attractive recreational facilities and to protect the integrity of such areas by prohibiting uses that are incompatible with permitted recreational uses. The site should also contain adequate space for required off-street parking and for buffering from residential districts.

(B) *Permitted uses.*

(1) The following are permitted:

(a) Golf courses including natural or artificial hazards for the game of golf, tee boxes, fairways and golf greens, golf cart storage, servicing facilities and golf course maintenance facilities. Club houses, tennis courts, swimming pools, pavilions and similar recreational facilities may be permitted by a conditional use permit;

(b) Tennis courts and swimming pools;

(c) Youth camps;

(d) Similar use recreational facilities may be approved by the City Council granting a conditional use permit; and

(e) Accessory structures and uses incidental to the foregoing uses.

(2) No structure may be erected or converted to any use other than for recreational purposes or uses related directly to recreation as such exists on the date of this chapter.

(3) The area of property used for an existing use may not be increased nor the use changed without a permit being obtained. The use or size of any structure may not be changed, modified or increased unless the plans and site plan therefor are approved by the City Council. A permit and application fee in the amount ~~of~~ based on the Master Rate Schedule as adopted by resolution of the City of Woodcreek. ~~$100 shall be paid for each permit application.~~

(4) Implicit in the above are such things as hours of operation, lighting, sounds, noise, music and the like, which may be viewed as intrusive by property owners whose property is located in the immediate area of the property zoned as recreational.

(C) *Special event permit.* Those uses permitted by the City Council pursuant to § 156.082 of this chapter.

(Ord. 00-65N, passed 6-1-2005)

§ 156.082 SPECIAL EVENT PERMITS.

A special event permit is required for all events which are outside of normal and customary zoning district activities. Such activities must also comply with all other city ordinances and be harmonious with the zoning district in which it is to take place.

(A) *Permit required.*

(1) No special event shall be established, operated or maintained, except as authorized by a special event permit issued in accordance with the requirements of this section.

(2) A special event permit may be issued by City Council only for the special event meeting the criteria in division (C) below and only for the location where it is authorized.

(3) Permit fee shall be based on the Master Rate Schedule as adopted by resolution of the City of Woodcreek. is ~~$25~~ 50 and the permit shall specify the allowed days and times of the special event.

(B) *Application.* An application for a special event permit shall be made in writing. Application will be approved or denied within 30 days from date all necessary information is received.

(C) *Compliance.* A special event permit must comply with all the following criteria:

(1) The appearance, size, density and operating characteristics for the special event are compatible with the surrounding neighborhood and uses;

(2) The special event will not have an adverse effect on the value of the surrounding properties nor impede their proper development;

(3) The special event will not create a nuisance, nor otherwise interfere with a neighbor's enjoyment of

property or operation of business;

(4) The traffic that the special event can be reasonably expected to generate on existing streets will not create nor add significantly to congestion, safety hazards or parking problems in the area, nor will it disturb the peace and quiet of the neighborhood; and

(5) The special event complies with all other applicable ordinances.

(D) *Zoning change.*

(1) A special event permit is not a zoning change.

(2) The notice and procedures required for a zoning change shall not be applicable to the issuance of a special use permit.

(3) Upon an administratively complete application being made for a special event permit, the City Council may decide to grant or deny the same at any meeting of the Council for which notice is given. The City Council may further, in its discretion, require the giving of notice by publication that the application for the special event permit will be considered at a public hearing to be held not less than ten days after the publication of such notice of hearing.

(Ord. 00-65N, passed 6-1-2005)

§ 156.083 CHART 5: OTHER NON-RESIDENTIAL ZONING DISTRICTS.

Maximum building height is 30 feet. All sites shall contain adequate space for required off-street parking and for buffering from residential districts. Prohibited uses include any activity which produces nuisances as described herein.

(A) *Commercial.* (See § 156.080 of this chapter for additional information and requirements.)

(1) *NO, Neighborhood Office.* This district is intended to provide sites for businesses and professional office uses. (See § 156.080 of this chapter.)

(2) *NC, Neighborhood Commercial.* This district is intended to provide sites for retail and service businesses or other such businesses as may be approved by City Council. (See § 156.080 of this chapter.)

(3) *CRR12, Commercial RR 12.* This district is intended for major mixed-use developments of a service nature which typically have operating characteristics requiring location at the intersection of state-maintained highway, excluding scenic arterial.

(4) *HCC, Hotel/conference Center.* This district is intended to provide appropriate districts for hotels, conference centers, motels, lodges, inns and bed-and-breakfast establishments

(5) *CR, Commercial Recreational.* This district is intended to provide sites for commercial recreational activities.

(B) *Other non-residential districts.*

(1) *R, Recreational.* This district is intended to establish and preserve attractive recreational facilities including golf courses and youth camp facilities. Permitted uses also include tennis courts, facilities or clubhouses and other recreational facilities approved by City Council. Special events may be permitted by City Council pursuant to § 156.082 of this chapter.

(2) *G, Governmental Services.* This district is intended to provide appropriate areas for uses that provide important community services. Permitted uses include facilities owned or leased by the federal, state, city or city government. Also permitted are churches, schools, either public or private non-profit, and libraries.

(3) *U, Utility Services.* This district is intended for uses required for both public and private utilities and commercial wireless communications systems

(4) *P-1, Public Park.* This district is intended to establish and preserve peaceful and attractive parcels of land as a place for public recreation. Permitted uses include public open and natural areas surrounded or partly surrounded by woodland or grassland, public areas developed for recreation. Accessory structures, parking and uses incidental to the foregoing permitted uses.

(5) *NWP, Nature Wildlife Preserve.* This district is privately owned land established to preserve open space and wildlife.

(6) *GB, Greenbelt District.* This district is intended to establish and preserve peaceful, attractive, natural or undisturbed areas adjacent to residential districts. Permitted uses include hiking, jogging and non-motorized

biking and nature trails, accessory structures and uses incidental to the foregoing uses.

(7) *PUD, Planned Unit Development.* Planned unit development with planned diverse land uses, such as housing, recreation and shopping in one consolidated development, and allowing for cluster development and alternative design standards. Minimum site areas: inside city, ten acres recommended.

(Ord. 00-65N, passed 6-1-2005)

§ 156.084 SPECIAL USE PERMITS.

(A) *Purpose.* The City Council may by ordinance, adopted by four affirmative votes after receiving the recommendation of the Commission, grant a special use permit in compliance with this section for the special uses as listed in division (B) below. The City Council may impose appropriate conditions and safeguards, including a specified period of time for the permit, to protect the Comprehensive Plan and to conserve and protect property and property values in the neighborhood.

(B) *Authorized special uses.* Special uses and those indicated in a specific zoning district as permitted with a special use permit, and none other, may be authorized subject to the terms of this division (B) and compliance with all special terms, regulations and requirements established by the City Council, as identified in the specific district or definition of the use.

(C) *Procedure.* Before authorization of any of the above special uses, public notice shall be given and public hearings shall be held as provided in Tex. Local Gov't Code Ch. 211; provided that, a special use permit for a period not to exceed seven calendar days may be given for a use set forth herein after a public hearing is held by the City Council after having received a report and recommendation from the Commission concerning the effect of the proposed use on the adjacent and neighboring properties and neighborhoods.

(1) *Permit required.* No special use shall be established, operated or maintained, except as authorized by a special use permit issued in accordance with the requirements of this section.

(2) *Special use permit issued by City Council.* A special use permit may be issued only for the special uses specified in this section, and only for the district where it is authorized.

(3) *Compliance.* The City Council shall determine whether the proposed special use complies with each of the general criteria in division (D) below and with each of the criteria for the district applicable to the proposed use and shall make separate findings thereon or adopt the findings made by the Commission.

(4) *Conditions.* The City Council may condition its approval of an application on the applicant's adoption of specified changes, additions, limitations, safeguards or effective time periods designed to assure compliance with the criteria.

(5) *Application.* An application for a special use permit shall be made in writing in a form prescribed by the City Secretary and shall be accompanied by such information as may be requested (including a site plan, if required) in order to properly review the proposed use. Such information may include, but is not limited to, site and building plans, drawings and elevations, and operational data.

(D) *General criteria applicable to all special uses.* A proposed special use permit must comply with all the following criteria:

(1) The appearance, size, density and operating characteristics of the proposed special use are compatible with the surrounding neighborhood and uses;

(2) The proposed use will not have an adverse effect on the value of surrounding properties nor impede their proper development;

(3) The proposed use will not create a nuisance factor nor otherwise interfere with a neighbor's enjoyment of his or her property or operation of his or her business;

(4) The traffic that the proposed use can reasonably be expected to generate on existing streets will not create nor add significantly to congestion, a safety hazard or a parking problem in the area, nor will it disturb the peace and quiet of the neighborhood; and

(5) The proposed use complies with all other applicable ordinances and regulations.

(E) *Specific permits.*

(1) The subject property is located at two cabins in Camp Young Judaea, per the map attached to the ordinance codified herein, is and shall remain in zoning district Recreational. This chapter allows for additional

or conditional uses to be permitted that are in addition to the current zoning, through a special use permit. The property is accordingly hereby granted a special use permit to allow for the following additional and conditional uses, in addition to the uses permitted in the current zoning district in which property is located.

(2) The subject property is two manufactured office buildings in Camp Young Judaea, per the map attached to the ordinance codified herein, Exhibit A (Camp Young Judaea map dated 11-22-2006), is and shall remain in zoning district Recreational. This chapter allows for additional or conditional uses to be permitted that are in addition to the current zoning, through a special use permit. The property is accordingly hereby granted a special use permit to allow for the following additional and conditional uses, in addition to the uses permitted in the current zoning district in which property is located.

(3) The subject property is located in the close vicinity of QuickSand Golf Course's Pro Shop, as more particularly described as the QuickSand Golf Course Cart Barn, per the map attached to the ordinance codified herein, is and shall remain in zoning district Recreational. This chapter allows for additional or conditional uses to be permitted that are in addition to the current zoning, through a special use permit. The property is accordingly hereby granted a special use permit to allow for the following additional and conditional uses, in addition to the uses permitted in the current zoning district in which property is located.

(Ord. 00-65F, passed 11-12-2003; Ord. 00-65N, passed 6-1-2005; Ord. 00-65O, passed 11-22-2006)

§ 156.085 ANTENNA REGULATIONS.

(A) *Wireless telecommunications facilities.*

(1) The purpose of this section is to establish guidelines regulating the location of telecommunication towers and antennas with the objective of minimizing their number, to protect and promote public safety and to mitigate adverse visual impacts on the community while promoting the provision of telecommunications service to the public.

(2) The regulations contained in this section are developed under the general guidelines as provided in the Federal Telecommunications Act of 1996.

(3) Notwithstanding any other provision of this section, telecommunications towers and antennas, when permitted by federal law and the laws of the state, shall be regulated and governed by the following use regulations and requirements.

(B) *General provisions.*

(1) *Application.* This section's site plan requirements and fees apply to towers and antennas.

(2) *Technical assistance.* When the technical information provided by the applicant is beyond the technical capacity of city staff to review, the applicant, in addition to the usual fees, shall reimburse the city for the actual cost to the city for the services, plus ten percent (10%), of a technical expert to review the plans and/or supplemental information, up to a maximum of $5,000.

(C) *Telecommunications tower standards.*

(1) *Applicable federal and state standards.* All telecommunications towers and antennas shall be erected and operated in compliance with current Federal Communication Commission (FCC) and Federal Aviation Administration (FAA) rules and regulations and other applicable federal, state and local standards.

(2) *Structural standards.* Telecommunications tower structures must conform to the most current revision of EIA 222 standards. Guyed telecommunications towers shall be designed and located such that if the structure should fall, it will avoid habitable structures and public streets.

(3) *Co-location.* Towers over 75 feet in height shall be designed and built to accommodate a minimum of two cellular or PCS providers. The owner of the tower must certify to the city that the tower is available for use by other telecommunications-service providers on a reasonable and non-discriminatory basis.

(4) *Fencing.* Security fencing, if installed, shall be by a wrought iron fence or a masonry wall, each not less than six feet in height. The exterior of equipment buildings and/or metal equipment cabinets visible from residential areas or public rights-of-way must have a neutral aggregate finish or be painted to reflect the color and character of adjoining structures or blend with adjacent landscaping and other surroundings.

(5) *Setbacks.* All telecommunications towers shall be set back from the nearest property line a minimum distance not less than the height of the tower.

(6) *Signage.* Except as otherwise permitted in this section, no signage, lettering, symbols, images or trademarks in excess of 200 square inches shall be placed or affixed to any part of a telecommunications tower, antenna, antenna array, equipment building or security fencing other than as required by FCC regulations or other applicable law.

(7) *Lighting.* Except as otherwise permitted in this section, no signals, lights or illumination of any kind shall be permitted on or directed toward any tower unless required by the FCC, the FAA or other appropriate public authority.

(D) *Antenna mounting standards.* The purpose of this section is to promote public safety and maintain order and harmony within the city's commercial, recreational and residential districts by restricting the size and location of telecommunications antennas. The objective is to avoid the creation of visual distractions, prevent obstructions to the view of pedestrians and motorists on public thoroughfares and to insure the structural integrity of supporting structures.

(1) *Whip-and-panel antenna mounting standards.*

(a) Building-mounted panel antennas are permitted on non-residential buildings and multi-family dwellings in all zoning districts; provided that, they are mounted flush with the exterior of the building and that they do not project above the roof line nor more than 30 inches from the surface of the building to which they are attached. The antenna's appearance shall be such that its color and texture blend with the surrounding surface of the building.

(b) Whip antennas are permitted on non-residential buildings and multi-family dwellings in all zoning districts; provided that, the total length of the whip antennas, regardless of mounting method or location, does not exceed 15% of the height of the building.

(c) Only one building/roof-mounted antenna support structure, less than 100 square feet in area, is permitted per 500 square feet of building floor area.

(2) *Dish antenna mounting standards.*

(a) Dish antennas shall not be permitted in any front setback area or side setback adjacent to any roadway.

(b) Ground-mounted dish antennas in excess of five feet in height shall be screened from roadways and adjacent property by a minimum six-foot high screening fence, evergreen hedge or masonry wall.

(c) Dish antennas in excess of ten feet in height or more than three meters in diameter shall not be permitted in any residential zoning district.

(d) Building/roof-mounted dish antennas one meter or less in diameter are permitted in any zoning district.

(e) Building/roof-mounted dish antennas two meters or less in diameter are permitted on all buildings in excess of 5,000 square feet of building floor area in non-residential zoning districts.

(f) Only one building/roof-mounted dish antenna two meters or less in diameter is permitted per 5,000 square feet of building-floor area on non-residential buildings and on multi-family dwellings in residential zoning districts.

(g) Building/roof-mounted dish antennas in excess of two meters in diameter may be permitted on buildings in excess of 100,000 square feet of building-floor area in non-residential zoning districts.

(h) Building/roof-mounted dish antennas in excess of two meters in diameter in non-residential zoning districts shall be painted or screened with enclosures so as to have an appearance that blends with the building on which they are located or be located so that they are not visible from any adjacent roadway.

(3) *Structural certification.* Prior to the installation of any building/roof-mounted telecommunications antenna, antenna array, or support structure, the city shall be provided with an engineer's certification that the structure will support and not be adversely affected by the proposed antenna and associated equipment.

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

ANTENNA. A structure or device used to collect or radiate electromagnetic waves, including directional antennas, such as panels, wireless cable and satellite dishes and omni-directional antennas, such as whips, but

not including satellite-earth stations.

ANTENNA, DISH. A parabolic or bowl-shaped device that receives and/or transmits signals in a specific directional pattern.

ANTENNA, PANEL. An antenna which receives and/or transmits signals in a directional pattern.

ANTENNA, TELECOMMUNICATIONS. An antenna used to provide a telecommunications service. This excludes lightning roads, private mobile radio systems, amateur radio antennas less than 50 feet (15 meters) in height and whip antennas less than four inches (ten cm) in diameter and less than ten feet in height.

ANTENNA, WHIP. An omnidirectional dipole antenna of cylindrical shape which is no more than six inches (915 cm) in diameter.

CO-LOCATION. A single telecommunications tower and/or site used by more than one telecommunications service provider.

EIA 222. Electronics Industries Association Standard 222, Structural Standards for Steel Antenna Towers and Antenna Support Structures.

TELECOMMUNICATIONS. The transmission, between or among points specified by the user, of audio and/or visual information of the user's choosing without change in the form or content of information as sent or received.

TELECOMMUNICATIONS SERVICE. The offering of telecommunications for a fee directly to the public, or to such classes as to be effectively available to the public, regardless of the facilities used.

TOWER. A swell-supporting or cable-anchored structure designed to support telecommunication antennas.

TOWER, GUYED. Any telecommunications tower supported in whole or in part by cable anchored to the ground.

TOWER, HEIGHT. The distance measured from grade to the highest point of any and all components of the structure, including antennas, hazard lighting and other appurtenances, if any.

(F) *Appeal.* If a site plan application is denied, the applicant may submit to City Council an appeal within ten days of the denial. If City Council finds that strict application of the regulations of this chapter would prohibit or have the effect of prohibiting personal wireless service, as defined by federal law. City Council may modify the subject regulations to the extent necessary to prevent prohibition.

(G) *Violation deemed nuisance.* In addition to the penalties provided in the Zoning Ordinance, any violation of this section is hereby declared to be a nuisance. In addition to any other relief provided by this section, the city may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this section and other available relief.

(Ord. passed 3-13-2002; Ord. 00-65N, passed 6-1-2005)

NON-CONFORMING USES

§ 156.100 GENERAL POLICY.

The general public, the City Council and the Commission are directed to take note that non-conformities in the use and development of land and buildings are to be avoided, or eliminated where now existing, whenever and wherever possible, except:

(A) When necessary to preserve property rights established prior to the date these regulations become effective as to the property in question; and

(B) When necessary to promote the general welfare and to protect the character of the surrounding property.

(Ord. 00-65N, passed 6-1-2005)

§ 156.101 NON-CONFORMING STRUCTURES.

Where a lawful structure exists on the effective date of the adoption or amendment of this chapter, that could not be built under the terms of this chapter by reason of restrictions on permitted use, area, lot coverage, height, years, its locations on the lot, or other requirements concerning the structure, such structure may be continued provided it remains otherwise lawful, subject to the following provisions.

(A) No such non-conforming structure may be enlarged or altered in a way which increases its structural non-conformity, but any structure or portion thereof may be altered to decrease its structural non-conformity.

(B) Should such non-conforming structure or non-conforming portions of a structure be damaged by any means to an extent of more than 50% of its replacement cost at the time of destruction, it shall not be reconstructed, except in conformity with this chapter.

(C) Should such structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations of the district in which it is located after it is moved.

(D) Should any existing non-conforming structure expire under the terms of this Chapter, or should any real property or parcel be sold, transferred, or otherwise conveyed, any existing non-conforming structure thereon shall be removed or reconstructed by the record owner no more than 30 days from the date of notification by the city. Upon written request by a record owner demonstrating sufficient hardship, this period may be extended for no more than an additional 60 days by the City Manager (90 days cumulative after notice).

(E) Nuisances attending any use lawfully existing at the time the property is annexed into the city shall be eliminated or mitigated to the maximum extent feasible within 90 days of date of annexation.

(Ord. 00-65N, passed 6-1-2005; Ord. 16-221, passed 6-8-2016)

§ 156.102 NON-CONFORMING USES.

A non-conforming use may be continued as long as it remains otherwise lawful, subject to the following provisions.

(A) No existing structure devoted to a non-conforming use shall be enlarged, extended, constructed or reconstructed.

(B) The use of the structure shall only be changed to a use permitted in the district in which it is located.

(C) A non-conforming use that has been discontinued may be resumed only if there has been no other use of the premises or structure since the non-conforming use was discontinued, and such use was not discontinued for a period of six months or more.

(D) Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this chapter, but no such use shall be extended to any land outside such building.

(E) Removal or destruction of a structure containing a non-conforming use shall eliminate the non-conforming use status. Destruction for the purpose of this division (E) is defined as damage equal to more than 50% of the replacement cost of the structure or the physical structure.

(F) A certificate of non-compliance shall be required for each non-conforming uses of any land or buildings created by adoption of this chapter. Application for such certificate of noncompliance for a non-conforming use shall be filed with the city by the owner of the building or land with such non-conforming use within one year of the effective date of this chapter. It shall be the duty of the city to issue a certificate of non-compliance for a non-conforming use and the refusal of the city to issue a certificate of non-compliance for such non-conforming use shall be evidence that said non-conforming use was either illegal or did not lawfully exist as of the effective date of this chapter.

(1) If lawful non-conforming use exists on the effective date of passage of this chapter, the following structures will have their use amortized, with the non-conforming use being eliminated over 15 years from the date of passage of this chapter:

(a) Fences erected and existing in compliance with the city's regulations and ordinances prior to the effective date of this chapter and composed of materials not allowed upon the passage of this chapter or which do not meet the city's current setback requirements;

(b) Accessory buildings which do not meet the masonry requirements;

(c) Wood roofs;

(d) Above-ground pools; and

(2) The City Council shall have the power to bring about the discontinuance of non-conforming uses after notices and hearing. The termination date of any non-conforming use shall be set so as to provide the owner with a reasonable opportunity to recoup or recover the owner's investment in the non-conforming use.

(3) Notwithstanding the foregoing, the non-conforming use of a building, roof, above-ground pool, structure, accessory building, fence or driveway (collectively or individually hereafter, the "non-conforming

asset") that was lawfully constructed and erected prior to 2000, shall not terminate or expire until such time as the non-conforming asset is reconstructed or replaced. For the purpose of this section, a non-conforming asset shall be deemed to be reconstructed or replaced if 50% or more of such non-conforming asset is reconstructed or replaced, of if modifications or repairs are made to such non-conforming asset within any 12 calendar months that is equal to one half or more of the value of the non-conforming asset prior to the modification or repair.
(Ord. 00-65N, passed 6-1-2005; Ord. 17-232, passed 6-14-2017)

§ 156.103 REPAIRS AND MAINTENANCE.

On any non-conforming structure, or non-conforming portion of a structure, containing a non-conforming use, repairs and maintenance shall be performed to maintain the structure in compliance with the Electrical, Plumbing and Building Codes; provided that, such repairs and maintenance shall be subject to the following conditions and limitations.

(A) No work may be done in any period of six consecutive months on ordinary repairs, or on repair or replacement of non-load-bearing walls, fixtures, wiring or plumbing, to an extent exceeding 25% of the current replacement cost of such structure or non-conforming portion of such structure.

(B) If 50% or more of the non-conforming structure containing a non-conforming use becomes physically unsafe or unlawful due to lack of repairs or maintenance, and is declared by a duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired or rebuilt, except in conformity with the regulations of the district in which it is located.
(Ord. 00-65N, passed 6-1-2005)

§ 156.104 GENERAL.

No structure, use or non-conforming asset in existence on the effective date of this chapter shall be or constitute a non-conforming structure or use unless such structure or use was constructed, converted, or the use thereof started, in compliance with the ordinances and laws then in effect, included, but not limited to, having received any permit then required by law.
(Ord. 00-65N, passed 6-1-2005)

PLANNED UNIT DEVELOPMENT DISTRICT

§ 156.115 POPULAR NAME.

This subchapter shall be commonly cited as the "PUDD #09-1 Ordinance".
(Ord. 09-125, passed 7-8-2009)

§ 156.116 PURPOSE.

The enactment of this subchapter memorializes the City Council's legislative approval of the Planned Unit Development District agreement. This subchapter also creates the zoning classification "Planned Unit Development District Number Nine-One (PUDD #09-1)".
(Ord. 09-125, passed 7-8-2009)

§ 156.117 SCOPE.

This subchapter applies to all property within the incorporated municipal boundaries (i.e., "city limits").
(Ord. 09-125, passed 7-8-2009)

§ 156.118 DEFINITIONS.

(A) Terms that are not defined below, but are defined elsewhere in the code of ordinances, shall be given the meanings set forth in the code. Words and phrases not defined in the code of ordinance 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.

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

AGREEMENT. The contract between the City of Woodcreek, Texas and Ten Robles, Inc. ("TRI"), and Harry E. Gumbert, Jr. and Dorothy M. Gumbert, Owner, dated 7-8-2009, including all Exhibits, which are

incorporated herein for all intents and purposes.

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

PROPERTY. Approximately 10.48 acres of land located within the municipal boundaries of the City of Woodcreek, in Hays County, Texas, more fully described in § 156.123 of this chapter.

(Ord. 09-125, passed 7-8-2009)

§ 156.119 APPROVAL.

(A) *Agreement approved.* The planned unit development district agreement, that being the contract dated 7-8-2009, entitled "Development Agreement Oak Orchard Enclave" is hereby approved by the City Council.

(B) *Execution of agreement.* The Mayor is instructed to execute the agreement on behalf of the city.

(C) *Recordation.* The City Administrator is instructed to publish the agreement in and among the official records of the city, and cause the agreement to be filed in and among the land records of the county.

(Ord. 09-125, passed 7-8-2009)

§ 156.120 REGULATIONS.

(A) *Boundary.* The boundary of PUDD #09-1 shall be as delineated in § 156.122 of this chapter.

(B) *Zoning.* The property will be a planned unit development under the city rules and the residential area will be entitled to general land uses consistent with the SF-1 zoning classification (as described in the city rules) with such modifications as described herein and in the exhibits hereto. The commercial area will be entitled to general land uses consistent with the NC (Neighborhood Commercial) zoning classification (as described in city rules) with such modifications as described herein and in the exhibits hereto. The open space areas will be entitled to general land uses consistent with open space/parkland classification.

(C) *Density of development.* Owners will have the right to develop the residential area of the land at a density not to exceed 19 single-family residential units within the residential area noted on the site plan, plus the right to develop the commercial area in accordance with applicable NC density limitations.

(D) *Impervious cover.* There shall be no more than 35% impervious cover on the residential area of the property, and no more than 55% impervious cover on the commercial area of the property.

(E) *Landscaped buffer areas.* The following landscaped buffer areas shall be established for the property (with all such buffers measured from the boundary lines of the property or, as applicable, existing right-of-way boundaries): as provided by the concept and site plans for the Oak Orchard Enclave Development.

(Ord. 09-125, passed 7-8-2009)

§ 156.121 ENFORCEMENT.

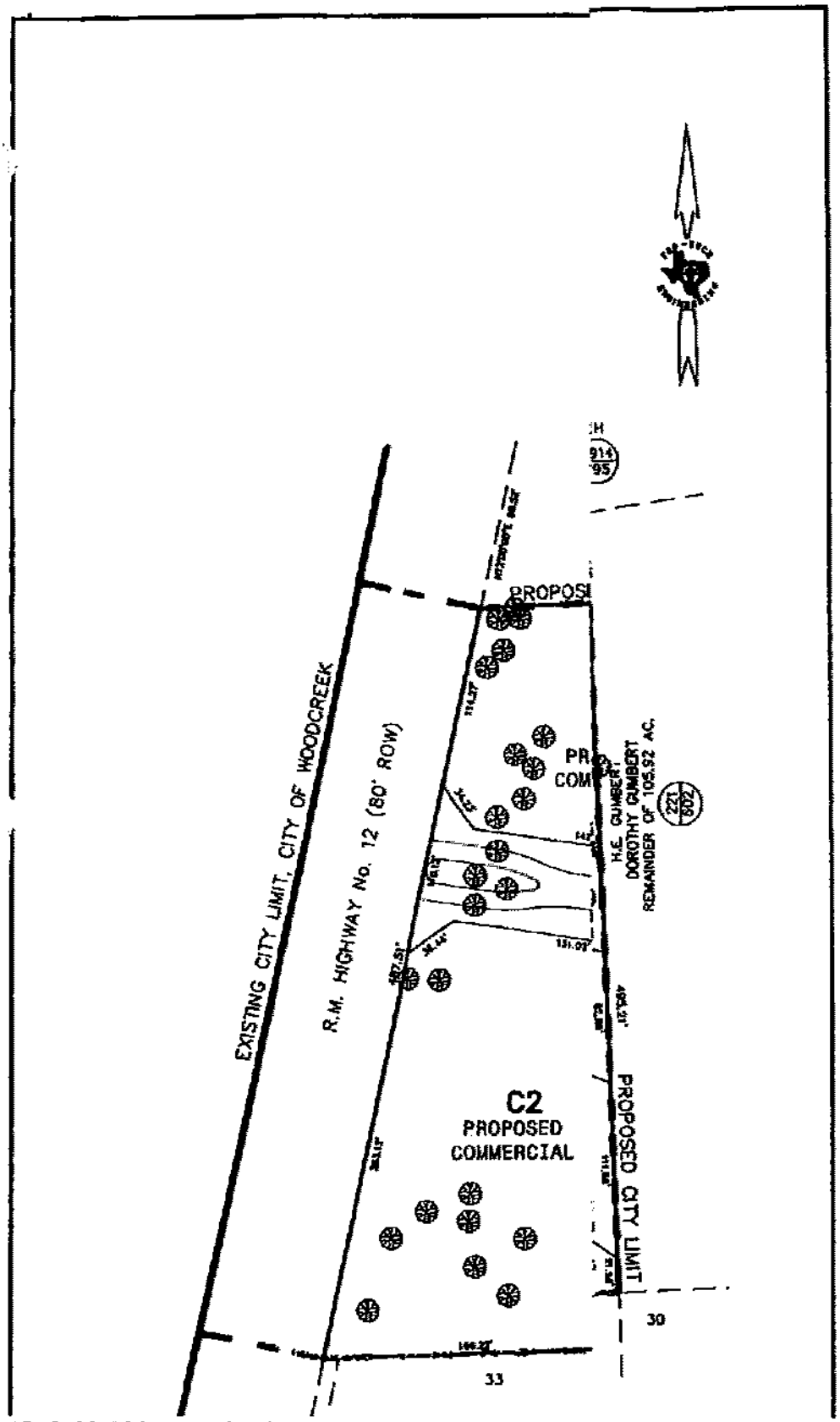
(A) The PUDD agreement provides enforcement mechanisms to ensure compliance.

(B) Among other civil remedies, the city may withhold development approvals in accordance with the PUDD agreement in order to ensure compliance.

(C) Among other remedies, the city is authorized to issue stop work orders to halt construction in violation of this chapter or the PUDD agreement.

(Ord. 09-125, passed 7-8-2009)

§ 156.122 BOUNDARIES.

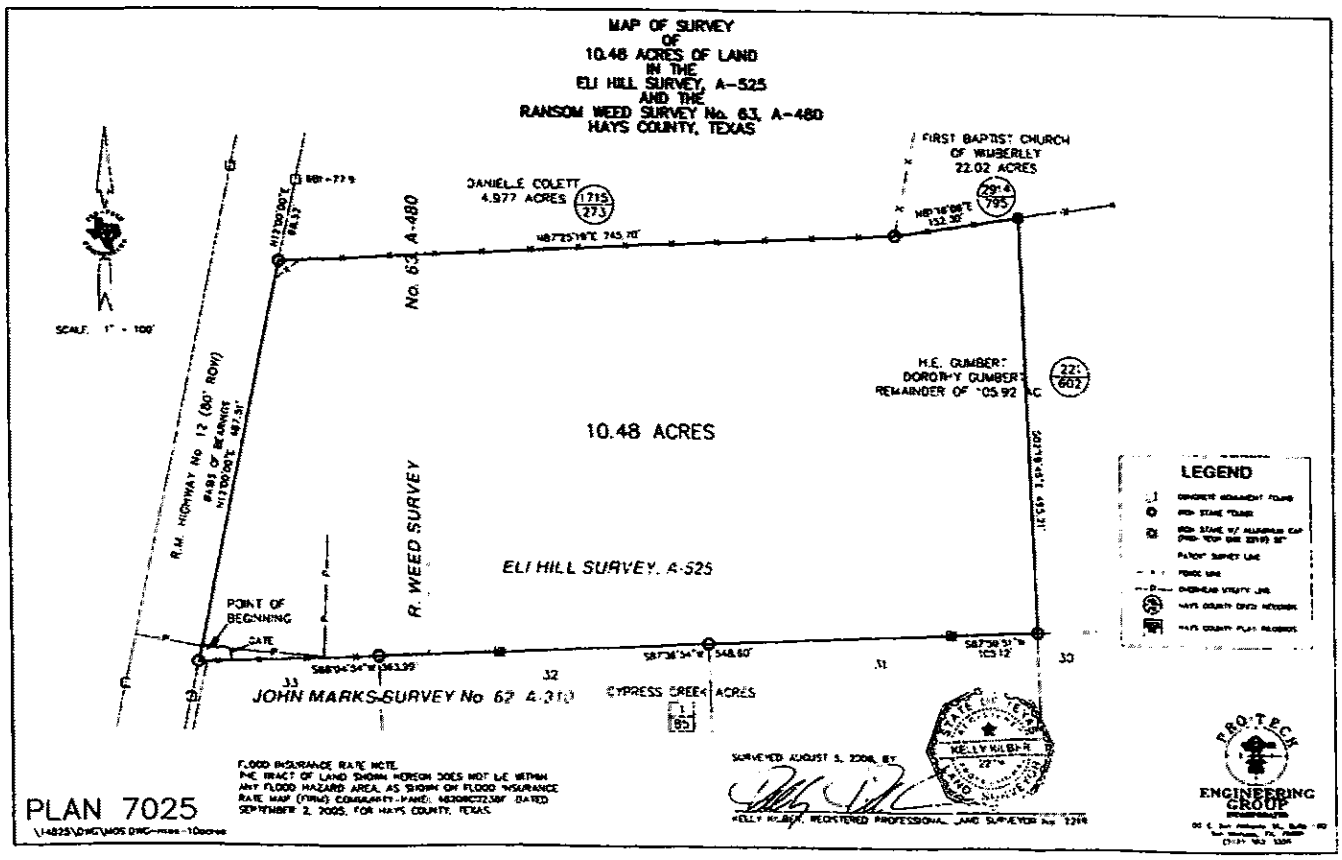


(Ord. 09-125, passed 7-8-2009)

§ 156.123 FIELD NOTE DESCRIPTION AND MAP.

The field note description of 10.48 acres of land in the Eli Hill Survey, A-525, and the Ransom Weed Survey

No. 63, A-480, is incorporated herein as if set out in full.



(Ord. 09-125, passed 7-8-2009)

ADMINISTRATION AND ENFORCEMENT

§ 156.135 GENERAL.

The city shall administer the provisions of this chapter and, in furtherance of such authority, the city shall:

(A) *Records.* Maintain permanent and current records with respect to this chapter, including amendments thereto;

(B) *Applications.* Receive, file and review all zoning applications to determine whether such plats comply with this chapter;

(C) *Commission.* Receive, hear and act upon zoning applications to the Commission as required by this chapter, and forward its recommendations thereon to the City Council;

(D) *Council.* Receive the recommendation of the Commission, together with the recommendations of city staff, cause notice to be given, hold a public hearing, hear from interested persons and act in its legislative discretion on the zoning change or issue; and

(E) *Implementation.* Make such other determinations and decisions as may be required of the city by this chapter, the Commission or the Council; and enforce and implement this chapter and the final decisions by the City Council.

(Ord. 00-65N, passed 6-1-2005)

§ 156.136 ORDINANCE INTERPRETATION.

In the interpretation and application of the terms and provisions of this chapter, the following regulations shall govern.

(A) *Liberally construed.* In the city's interpretation and application, the provisions of this chapter shall be regarded as minimum requirements for the protection of the public health, safety, comfort, convenience,

prosperity and welfare. This chapter shall be regarded as remedial and shall be liberally construed to further its underlying purposes.

(B) *Highest standards govern.* Whenever a provision of this chapter and any other provision or this chapter, or any provision in any other law, ordinance, resolution, rule or regulation of any kind contains any restrictions covering the same subject matter, whichever restrictions are more restrictive or impose higher standards or requirements shall govern.

(C) *Resolution of conflicting interpretations.* Where there arises a question concerning the meaning or intent of a provision of this chapter, a written decision setting forth the manner in which said provision shall be interpreted and administered is encouraged. In the event exception is taken by any interested party to such a decision, the matter may be appealed to the Commission and, as appropriate, to the Council whose decision shall be final.

(D) *Written decisions binding.* Any final written decision made as provided in division (C) above shall be archived and shall govern interpretation of this chapter until such time as an amendment of this chapter shall nullify such decision, or the decision is overruled or rescinded by the City Council.

(E) *State law.* The terms, provisions and conditions of this chapter shall be interpreted and applied in a manner consistent with state law and Tex. Local Gov't Code Ch. 211, in particular.

(F) *Master Plan.* All zoning applications shall conform to the master plan for the community and be consistent with all of the elements thereof.

(1) Where the proposed zoning application is inconsistent with one or more of the elements of the Master Plan, the developer may petition the city for amendment to the particular element or elements of the Master Plan either prior to, or concurrent with, submitting a request for subdivision plat or development plan approval. Inconsistency with the provisions of the Master Plan shall be grounds for disapproval of the zoning application by the city.

(2) Where the proposed zoning is for a zoning district or category provided for in this chapter, but that is not included on the Master Plan existing on the date of this chapter, or not existing on the date of such application, the applicant shall propose an amendment to the Master Plan and provide information and documentation in support of such amendment.

(G) *Consistency with the Subdivision Ordinance.* All development projects within the corporate limits of the city shall be in conformance with Ch. 155 of this code of ordinances. Where the proposed development requires a zoning classification or approval other than that currently applying to the property to be developed, the developer shall make appropriate application to secure the necessary zoning classification or approval required for the proposed development to comply with this chapter.

(Ord. 00-65N, passed 6-1-2005)

§ 156.137 BOARD OF ADJUSTMENT.

(A) *Established.* A Board of Adjustment (hereafter in this section, the "Board") is established in accordance with the provisions of Tex. Local Gov't Code § 211.008, regarding the zoning of cities and with the powers and duties as provided in said code.

(B) *Rules and regulations.* The Board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and such minutes shall be immediately filed in the office of the Board and shall be a public record. The Board of Adjustment shall act by resolution in which four members must concur. The Board may adopt rules in accordance and consistent with this chapter as necessary and required. A copy of any such rules shall be furnished to any person requesting same. All rules and regulations shall operate uniformly in all cases and all resolutions and orders shall be in accordance therewith.

(C) *Powers and duties of the Board.*

(1) *Appeals based on error.* The Board shall have the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of Tex. Local Gov't Code Ch. 211 or this chapter.

(2) *Special exceptions.* The Board shall have the power to hear and decide special exceptions to the terms

of this chapter when this chapter requires the Board to do so. Such special exception shall be as follows: authorize a variance from the parking and loading requirements in any of the districts whenever the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities, and where the topography or unusual shape of the lot and regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or a convenience.

(D) *Variances.* The Board shall have the power to authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship, and so that the spirit of this chapter shall be observed and substantial justice done, including the following:

(1) *Yard and fence setbacks.* Permit a variance in the setback requirements of any district where there are unusual and practical difficulties or unnecessary hardship in the carrying out of these provisions due to an irregular shape of the lot, topography or other conditions; provided that, such variance will not significantly affect any adjoining property or the general welfare; and

(2) *Structures.* Authorize upon appeal, whenever a property owner can show that a strict application of the terms of this chapter 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, such variances from the strict application of the terms of this chapter as are in harmony with its general purpose and intent, but only when the Board is satisfied that a granting of such variance will not merely serve as a convenience to the applicant, but will alleviate some demonstrable and unusual hardship or difficulty so great as to warrant a variance as established by this chapter, and at the same time, the surrounding property will be properly protected; provided that, 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.

(E) *Procedures for requesting a variance.*

(1) A request for a variance shall be made in writing and include information to support the request for a variance. Such information may include, but is not limited to, plat plans, site and building plans, contour maps and location of existing flora. The request shall clearly state the unusual conditions or circumstances which, in the applicant's opinion, justifies a variance.

(2) The request for a variance, and a variance request fee in accordance with the Master Rate Schedule as adopted by resolution of the City of Woodcreek, and ~~Chapter 35,~~ will be mailed to the City of Woodcreek, 41 Champions Circle, Woodcreek, Texas 78676.

(3) The city will be responsible for notifying all property owners within 200 feet of the property for which the variance is requested of variance request and the time and location of the Board of Adjustment meeting at which time the request for variance will be acted upon. The notification will include a complete description of requested variance.

(4) The request for variance will be approved or denied within 45 days from the date the request is received.

(F) *Appeals.*

(1) *Procedure.*

(a) In the event that any person has been detrimentally aggrieved by a decision of an administrative officer, relative to the enforcement of Tex. Local Gov't Code Ch. 211 and or this chapter, such person may submit an appeal in accordance with the rules of the Board within ten days of the decision. Additionally, any officer, department, board or bureau of the city may appeal a decision relative to the enforcement of Tex. Local Gov't Code Ch. 211 and or this chapter.

(b) The appellant must file a written appeal certifying the grounds for the appeal, and it shall be filed with the Board and with the administrative officer. The administrative officer shall forthwith transmit to the Board all documents which are pertinent to the appeal.

(2) *Stay of proceedings.* Such appeal shall stay all further action relative to the appealed decision by the administrative officer. If the administrative officer deems that continuing the stay would cause imminent peril to life or property, he or she must certify the facts relating to his or her opinion in a written certificate to the Board.

In the event that due cause is shown and after notice to the administrative official, the stay may be continued only by a restraining order granted by the Board or by a court of record on application.

(3) *Hearing of the appeal.* The Board shall set a reasonable time for the hearing of the appeal and shall provide notice to the parties of interest, who may appear at the hearing in person or by representation of an attorney or agent.

(4) *Decision by Board.* The Board shall decide appeals within a reasonable time. Any party to the appeal may appear in person or by agent or attorney at any hearing. The Board may, upon the concurring vote of four members, reverse or affirm, in whole or in part, or modify the administrative official's order, requirement or decision, and make the correct order, requirement, decision or determination on the matter appealed from and shall make such order, requirement, decision or determination as, in its opinion, ought to be made, and to that end, shall have all powers of the officer or department from whom the appeal is taken.

(G) *Changes.* The Board shall have no authority to change any provision of this chapter and its jurisdiction is limited to hardship and borderline cases which may arise from time to time.

(Ord. 00-65N, passed 6-1-2005; Ord. 14-198, passed 7-9-2014)

§ 156.138 CONDITIONS FOR ISSUING A BUILDING PERMIT.

No building permit will be issued for any new structure or change, improvement or alteration of any existing structure, on any lot or tract of land and no municipal utility service will be furnished to such lot or tract which does not comply with the provisions of this chapter, all other applicable city ordinances and all applicable elements of the master plan, except as herein exempted, or upon the written application and approval of a variance.

(Ord. 00-65N, passed 6-1-2005)

§ 156.139 CERTIFICATES OF OCCUPANCY.

(A) *Policy and application.* Certificates of occupancy will be required for any of the following:

(1) Occupancy of any structure or building hereafter erected or structurally altered;

(2) Change in occupancy of an existing building to an occupancy of a different zoning district; and

(3) No change of occupancy of any new, or altered portion of any, structure or building, or any such building or structure will take place until a certificate of occupancy therefor shall have been issued by the city.

(B) *Procedure.*

(1) *New structures.* No structure shall be occupied until a final inspection is made by the appropriate city official.

(2) *Altered structures.* Written application for a certificate of occupancy for an existing building which is to issued within seven days after a written request for it has been made to the city. The erection or alteration of such building or part thereof shall be completed in conformity with the provisions of this chapter and all applicable city codes and ordinances.

(3) *Change in use.* Written application for a certificate of occupancy for the use of vacant land, or for a change in the use of land or a building, or for a change in a non-conforming use, as herein provided, shall be made to the city. If the proposed use is in conformity with the provisions of this chapter, a certificate of occupancy shall be issued within seven days after the application for same has been made.

(C) *Approval.* Every certificate of occupancy shall state that the building or the proposed occupancy of a building or land complies with all provisions of law. A record of all certificates of occupancy shall be kept on file in the city offices and copies shall be furnished on request to any person having proprietary or tenancy interests in the building or land affected.

(D) *Temporary certificate of occupancy.* Pending the issuance of a regular certificate of occupancy, a temporary certificate may be issued by the city for a period not exceeding six months, during the completion of alterations or during partial occupancy of a building pending its completion. Such temporary certificates shall not be construed as, in any way, altering the respective rights, duties or obligations of the owners, or of the city, relating to the use or occupancy of the premises or any other matter covered by this chapter.

(Ord. 00-65N, passed 6-1-2005)

AMENDMENTS

§ 156.150 STATEMENT OF INTENT.

For the purpose of establishing and maintaining sound, stable and desirable development within the territorial limits of the city, this chapter shall not be amended except to correct error in the ordinance, or because of changed or changing conditions in a particular area or in the city generally, or to rezone an area, extend the boundary of an existing zoning district or to change the regulations and restrictions thereof, all in accordance with the Comprehensive Plan. The Council may, from time to time, adopt, amend and make public rules and regulations for the administration of this chapter. This chapter may be enlarged or amended by the Council after public hearing, due notice of which shall be given as required by law.

(Ord. 00-65N, passed 6-1-2005)

§ 156.151 AMENDMENT LIMITATION; REZONING.

Subject to the limitations of the foregoing statement of intent, an amendment of this chapter may be requested by any person; provided that, an amendment to rezone any property may be initiated only by:

(A) The City Council on its own motion;

(B) The Planning and Zoning Commission; or

(C) Petition by the landowner or his or her authorized agent.

(Ord. 00-65N, passed 6-1-2005)

§ 156.152 RESPONSIBILITY FOR CHANGE.

The City Council has sole responsibility for changes in the zoning map and changes in the zoning ordinance. The zoning and rezoning of land is in the legislative discretion of the City Council. Zoning and rezoning shall be by ordinance only.

(Ord. 00-65N, passed 6-1-2005)

§ 156.153 REFERRAL OF AMENDMENT TO COMMISSION.

Any request for rezoning as prescribed in § 156.151 of this chapter, or the receipt of an administratively complete petition and application to zone or rezone, a lot, tract or parcel of land, which petition and application have been examined and approved as to form by the City Secretary, shall be referred to the Commission for consideration, public hearing and recommendation to the Council. The Council may not enact a rezoning amendment until the Commission has held a public hearing and made its recommendation to the Council, or has made a final vote on the matter without obtaining a majority, on the zoning or rezoning of the property.

(Ord. 00-65N, passed 6-1-2005)

§ 156.154 ACTION BY THE COMMISSION.

The Commission shall cause such study and review to be made as advisable and required, shall give public notice and hold a public hearing as provided by state law, and shall recommend to the Council such action as the Commission deems proper. Written notice of the proposed zoning change shall be mailed, by the U.S. Postal Service, to the owner of each tract or parcel of land that is within 200 feet of the property for which zoning is requested, not less than 15 days prior to the date of the public hearing to be held by the Commission.

(Ord. 00-65N, passed 6-1-2005)

§ 156.155 ACTION BY THE COUNCIL.

The Council shall give public notice and hold a public hearing before taking final action to zone or rezone any land.

(Ord. 00-65N, passed 6-1-2005)

§ 156.156 PUBLIC HEARING AND NOTICE OF THE PROPOSED ZONING CHANGE.

(A) Not less than 15 days prior to the date of the public hearing to be held by the Commission on each zoning or rezoning, written notice of the public hearing and the zoning proposed shall be mailed by the U.S. Postal Service to the owner of each lot, tractor parcel of land within 200 feet of the lot, tract or parcel being considered for zoning. Such notice shall be mailed by first class mail addressed to the persons or firms to whom the properties are assessed on the city tax rolls.

(B) Notice of the public hearing to be held by the Council shall be given by publishing such notice at least once in a newspaper of general circulation in the city, at least 15 days prior to the date set for public hearing.

(C) If the zoning or rezoning is proposed by the Council or the Commission, notice of the proposed zoning

change shall be made by the City Secretary, mailing notification by first class mail to the person or firm to whom the property is assessed on the city tax rolls, and to all persons or firms to whom the property within 200 feet of the proposed zoning change is assessed on the city tax rolls.

(D) The required notice for public hearing having been given for the zoning or rezoning of a tract of land, the Commission or the Council may, as applicable, continue such matter to subsequent public meetings for consideration and may, in the same zoning process or proceeding, recommend zoning/rezoning or, as applicable, zone or rezone the property for which notice was given for a use or zoning district that is a less intensive use than the use for which the notices were given, without additional or further notices being given; provided that, the less intensive district is within the same general-use category (e.g., duplex requested and single-family zoning granted, multiple-family zoning requested) and the granted rezoning is a less intensive multiple-family zoning duplex or single-family.

(Ord. 00-65N, passed 6-1-2005)

§ 156.157 PROTEST OF PROPOSED AMENDMENT.

If a protests) against any proposed rezoning or zoning change for any land is presented in writing to the City Secretary prior to the public hearing thereon, duly signed by the owners of 20% or more either of the area of lots included in the proposed change or of the lots or land immediately adjoining the same and extending 200 feet therefrom, such amendment shall not become effective, except by the favorable vote of three-fourths of all members of the Council.

(Ord. 00-65N, passed 6-1-2005)

§ 156.158 PROCEDURE FOR AMENDMENT PETITION.

(A) *Filing of application.* All petitions to change zoning or rezone property shall contain at least the following:

(1) The petitioner's name, address and interest in the petition, as well as the name, address and interest of every person having a legal or an equitable interest in the land covered by the petition;

(2) The nature and effect of the proposed amendment and zoning or permit requested;

(3) A fully scaled map showing:

(a) The land affected by the proposed amendment;

(b) A legal description of the land;

(c) The present zoning classification of the land;

(d) The zoning classification of all abutting land; and

(e) All public and private rights-of-way and easements bounding and intersecting the land.

(4) If applicable, the alleged error in this chapter, which would be corrected by the proposed amendment, together with a detailed explanation of such error and how the proposed amendment will correct same;

(5) The changed or unchanging conditions, if any, in the area or in the municipality generally, which make the proposed amendment reasonably necessary; and

(6) A statement of all other circumstances, factors and reasons the applicant offers in support of the proposed amendment.

(B) *Time limitation.* If a petition for rezoning is denied by the City Council, another petition for reclassification of the same property or any portion thereof shall not be filed with a period of 12 months from the date of final denial, except with the permission of the City Council.

(Ord. 00-65N, passed 6-1-2005)

§ 156.159 FEES.

If the application is submitted by other than the City Council or by the Planning and Zoning Commission, the applicant seeking rezoning approval shall pay to the city at the time of submittal a fee based on the Master Rate Schedule as adopted by resolution of the City of Woodcreek. ~~to be determined by City Council.~~

(Ord. 00-65N, passed 6-1-2005)

§ 156.999 PENALTY.

(A) Except as otherwise provided for in this chapter, it shall be unlawful for any person (see definition of "person" in § 156.009 of this chapter) to develop, improve or sell any lot, parcel, tract or block of land within

the city's extraterritorial jurisdiction, regardless of the size or shape of said lot, parcel, tract or block, unless such lot, parcel, tract or block of land conforms with this chapter.

(B) (1) *Administrative action.* The city shall enforce this chapter by appropriate administrative action, including, but not limited to, the rejection of plans, maps, plats and specifications not found to be in compliance with this chapter and good engineering practices, and the issuance of stop work orders.

(2) *Court proceedings.* Upon the request of the City Council the City Attorney shall file an action in District Court to enjoin the violation or threatened violation of this chapter, or to obtain declaratory judgment, and to seek and recover court costs and attorney fees, and/or to recover damages in an amount sufficient for the city to undertake any construction or other activity necessary to bring about compliance with a requirement regarding the property established pursuant to this chapter.

(C) In any prosecution charging a violation of this chapter governing the zoning regulations, proof that the property described in the complaint was in violation of any section above, together with proof that the defendant named in the complaint was, at the time of the zoning violation, either the occupant or the registered owner of such property, shall constitute in evidence a prima facie presumption that the owner of such property was the person who knowingly and intentionally committed or permitted the violation for the time during which such violation occurred.

(D) Any person who shall violate any of the provisions of this chapter, or shall fail to comply therewith, or with any of the requirements thereof, within the city limits shall be deemed guilty of an offense and shall be liable for a fine not to exceed the sum of $2,000. Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein.

(Ord. 00-65N, passed 6-1-2005)

CHART 2 - RESIDENTIAL ZONING REQUIREMENTS BY DISTRICT – for 10-17-2018 P and Z Consideration

	SF-1	*SF-2*	*SF-3*	*SF-4*	*SF-5*	*SF-6*	*TH/C*	*DU-1*	*4PLX*	*MF*	*RR*	*PUD*	*MH-1*
% masonry required	55	55	55	55	55	55	55	55	55	see § 156.064 for MF-1, MF-2 requirements ~~and § 156.065 for MF-1A requirements~~	55		55
Garage required	2-Car	2-Car	2-Car	No	1-Car	2-Car	2-Car	1-Car[1]	1-Car[1]		2-Car	-	1-Car
Off-street parking required	3	3	3	?	?	3	3	?	?		3	?	?
Maximum dwelling units per lot	1	1	1	1	1	1	1	2	4		1	-	1
Maximum dwelling height	30'	30'	30'	30'	30'	30'	30'	30'	30'		30'	-	30'
Maximum impervious cover	30[2]	30[2]	30[2]	30[2]	30[2]	30[2]	30[2]	30[2]	30[2]		30[2]	-	30[2]
Minimum setbacks													
Front	25'	25'	10'	20'	20'	25'	25'	25'	25'		25'		25'
Interior side	7-1/2'	7-1/2'	0'	0'	7-1/2	5'	7-1/2'	7-1/2'	7-1/2'		7-1/2'	-	7-1/2'
Rear	25'	25'	15'	15'	15'	25'	25'	25'	25'		25'		25' ?
Street side	10'	10'	5'	5'	10'	10'	15'	15'	15'		10'	-	10'
Minimum square footage													
One-story	1,500	1,000	1,000	900	1,000	1,000	1,000[1]	91000[1]	800[1]		1,500	-	1,000
Second-story	~~2,0~~500	~~1,0~~500	~~1,~~200	900	~~1,000~~	~~1,000~~	~~1,~~200[1]	~~1,8~~200[1]	~~800~~[1]		~~2,0~~500	-	NA

NOTES TO TABLE:

[1] per unit

[2] Maximum impervious cover is capped at 30% for construction for which a site development plan was not filed prior to October 20, 2006.

Council Meeting Date: 10/17/2018

AGENDA ITEM COVER SHEET

Subject/Title:

9. F. Consider and Take Appropriate Action on a Cyber Security and Social Media Policy for the City of Woodcreek.

Item Summary:

This item is to consider the development of a cyber security and social media policy for the City of Woodcreek to govern corporate and departmental use of third-party social networking resources and cyber security.

Recommendation:

Staff recommends Mayor Scheel appoint a Council sub-committee to develop a policy for the City of Woodcreek.

Attachments:

City of Austin Social Media Policy
Sample Cyber Security Template

Submitted By:

Brenton B. Lewis, City Manager

Company cyber security policy template

This Company cyber security policy template is ready to be tailored to your company's needs and should be considered a starting point for setting up your employment policies.

Policy brief & purpose

Our company cyber security policy outlines our guidelines and provisions for preserving the security of our data and technology infrastructure.

The more we rely on technology to collect, store and manage information, the more vulnerable we become to severe security breaches. Human errors, hacker attacks and system malfunctions could cause great financial damage and may jeopardize our company's reputation.

For this reason, we have implemented a number of security measures. We have also prepared instructions that may help mitigate security risks. We have outlined both provisions in this policy.

Scope

This policy applies to all our employees, contractors, volunteers and anyone who has permanent or temporary access to our systems and hardware.

Policy elements

Confidential data

Confidential data is secret and valuable. Common examples are:

- Unpublished financial information
- Data of customers/partners/vendors
- Patents, formulas or new technologies
- Customer lists (existing and prospective)

All employees are obliged to protect this data. In this policy, we will give our employees instructions on how to avoid security breaches.

Protect personal and company devices

When employees use their digital devices to access company emails or accounts, they introduce security risk to our data. We advise our employees to keep both their personal and company-issued computer, tablet and cell phone secure. They can do this if they:

- Keep all devices password protected.
- Choose and upgrade a complete antivirus software.
- Ensure they do not leave their devices exposed or unattended.
- Install security updates of browsers and systems monthly or as soon as updates are available.
- Log into company accounts and systems through secure and private networks only.

We also advise our employees to avoid accessing internal systems and accounts from other people's devices or lending their own devices to others.

When new hires receive company-issued equipment they will receive instructions for:

- [*Disk encryption setup*]
- [*Password management tool setup*]
- [*Installation of antivirus/ anti-malware software*]

They should follow instructions to protect their devices and refer to our [*Security Specialists/ Network Engineers*] if they have any questions.

Keep emails safe

Emails often host scams and malicious software (e.g. worms.) To avoid virus infection or data theft, we instruct employees to:

- Avoid opening attachments and clicking on links when the content is not adequately explained (e.g. "watch this video, it's amazing.")
- Be suspicious of clickbait titles (e.g. offering prizes, advice.)
- Check email and names of people they received a message from to ensure they are legitimate.

- Look for inconsistencies or give-aways (e.g. grammar mistakes, capital letters, excessive number of exclamation marks.)

If an employee isn't sure that an email they received is safe, they can refer to our [*IT Specialist*.]

Manage passwords properly

Password leaks are dangerous since they can compromise our entire infrastructure. Not only should passwords be secure so they won't be easily hacked, but they should also remain secret. For this reason, we advice our employees to:

- Choose passwords with at least eight characters (including capital and lower-case letters, numbers and symbols) and avoid information that can be easily guessed (e.g. birthdays.)

- Remember passwords instead of writing them down. If employees need to write their passwords, they are obliged to keep the paper or digital document confidential and destroy it when their work is done.

- Exchange credentials only when absolutely necessary. When exchanging them in-person isn't possible, employees should prefer the phone instead of email, and only if they personally recognize the person they are talking to.

- Change their passwords every two months.

Remembering a large number of passwords can be daunting. We will purchase the services of a password management tool which generates and stores passwords. Employees are obliged to create a secure password for the tool itself, following the abovementioned advice.

Transfer data securely

Transferring data introduces security risk. Employees must:

- Avoid transferring sensitive data (e.g. customer information, employee records) to other devices or accounts unless absolutely necessary. When mass transfer of such data is needed, we request employees to ask our [*Security Specialists*] for help.

- Share confidential data over the company network/ system and not over public Wi-Fi or private connection.

- Ensure that the recipients of the data are properly authorized people or organizations and have adequate security policies.

- Report scams, privacy breaches and hacking attempts

Our [*IT Specialists/ Network Engineers*] need to know about scams, breaches and malware so they can better protect our infrastructure. For this reason, we advise our employees to report perceived attacks, suspicious emails or phishing attempts as soon as possible to our specialists. Our [*IT Specialists/ Network Engineers*] must investigate promptly, resolve the issue and send a companywide alert when necessary.

Our Security Specialists are responsible for advising employees on how to detect scam emails. We encourage our employees to reach out to them with any questions or concerns.

Additional measures

To reduce the likelihood of security breaches, we also instruct our employees to:

- Turn off their screens and lock their devices when leaving their desks.
- Report stolen or damaged equipment as soon as possible to [*HR/ IT Department*].
- Change all account passwords at once when a device is stolen.
- Report a perceived threat or possible security weakness in company systems.
- Refrain from downloading suspicious, unauthorized or illegal software on their company equipment.
- Avoid accessing suspicious websites.

We also expect our employees to comply with our social media and internet usage policy.

Our [*Security Specialists/ Network Administrators*] should:

- Install firewalls, anti malware software and access authentication systems.
- Arrange for security training to all employees.
- Inform employees regularly about new scam emails or viruses and ways to combat them.
- Investigate security breaches thoroughly.
- Follow this policies provisions as other employees do.

Our company will have all physical and digital shields to protect information.

Remote employees

Remote employees must follow this policy's instructions too. Since they will be accessing our company's accounts and systems from a distance, they are obliged to follow all data encryption, protection standards and settings, and ensure their private network is secure.

We encourage them to seek advice from our [*Security Specialists/ IT Administrators.*]

Disciplinary Action

We expect all our employees to always follow this policy and those who cause security breaches may face disciplinary action:

- First-time, unintentional, small-scale security breach: We may issue a verbal warning and train the employee on security.
- Intentional, repeated or large scale breaches (which cause severe financial or other damage): We will invoke more severe disciplinary action up to and including termination. We will examine each incident on a case-by-case basis.

Additionally, employees who are observed to disregard our security instructions will face progressive discipline, even if their behavior hasn't resulted in a security breach.

Take security seriously

Everyone, from our customers and partners to our employees and contractors, should feel that their data is safe. The only way to gain their trust is to proactively protect our systems and databases. We can all contribute to this by being vigilant and keeping cyber security top of mind.

Disclaimer: This policy template is meant to provide general guidelines and should be used as a reference. It may not take into account all relevant local, state or federal laws and is not a legal document. Neither the author nor Workable will assume any legal liability that may arise from the use of this policy.

Further reading:

- Cybersecurity for Small Business
- 10 practices for cybersecurity
- The Biggest cyber security threats are inside your company

CITY of AUSTIN Administrative Bulletin

Title	**City of Austin Social Media Guidelines**
Administrative Bulletin Number	08-05
Effective Date	March 24, 2011
Revised	____ Annually xx As Needed
Prepared by	City Manager's Office Communications & Public Information
Original Date	3/24/2011 **Revised** NA
Manager's Approval	

PURPOSE

Third-party social media sites have become a valuable resource for sharing of information with the community and as such should be a component of the City of Austin's overall communications strategy. This administrative bulletin is designed to provide reasonable and flexible guidelines for the use of social media as a communications tool.

POLICY

It is the policy of the City of Austin that any use of social media shall be coordinated through the Communications and Public Information Office and shall conform to specific standards in terms of content and administration in order to ensure that sites meet appropriate legal and professional standards.

This policy applies to all City of Austin departments, offices and their subdivisions.

DEFINITIONS

Social Media are third-party websites which allow for the creation of content and dialogue around a specific issue or area of interest.

City Social Media Sites are those pages, sections or posting locations in Social Media websites that are established or maintained by an employee of the City who is authorized to do so as part of the employee's job, and that are used to conduct City business, communicate with officeholders or City staff, and/or communicate with or gather feedback from residents and other interested parties.

City Social Media Content is information posted or provided to a City Social Media Site by a City employee (or authorized representative) when such activity is a part of the employee's job duties.

ROLES AND RESPONSIBILITIES

It is the responsibility of the Department Director to ensure that employees are aware of these guidelines for creating and maintaining social media resources. Carrying out the procedures outlined may be the responsibility of departmental public information staff, Web SPOCS, or another member of staff designated by departmental management.

The Department Records Administrator is responsible for ensuring that all City records created or maintained on City Social Media Sites are retained according to the Department Records Control Schedule and are properly preserved or disposed of.

The executive liaison to each Boards and Commission is responsible for notifying his/her manager of any Board and Commission request for Social Media resources, and to coordinate the activity with the Communication and Public Information Office.

City Employees are responsible for ensuring all contributions to social media sites adhere to the standards of conduct as outlined in this policy.

The Communications and Public Information Office will be the coordinating authority for review, approval, monitoring and governance of any approved City social media sites.

CORRESPONDING PROCEDURES AND POLICIES

All applicable City of Austin policies and administrative bulletins governing employee conduct and communications apply in the administration of this policy. In addition, requirements of the Texas Public Information Act must be met in the administration of City social media sites, as referenced in the policy.

PROCEDURE

I. General Governance of City Social Media Sites:

A. City Social Media Sites may contain information that represents the City's position on policy issues and/or the positions of its leadership, or may create the appearance of representing such positions. For this reason, all City Social Media Sites will be approved by the Chief Communications Director and the Web Content Manager in advance of creating the site. Those wishing to launch new City Social Media sites and/or pages should make their business case to CPIO using the online "Social Media Resource Request" form available on the CPIO Intranet page.

B. All City Social Media Site login and password information will be shared with the CPIO Web Content Manager and the CPIO Media Relations Manager.

C. No City Social Media Site will be approved without the designation of a specific departmental representative assigned responsibility for maintenance of the resource.

D. Employees creating or posting information to a City Social Media Site must conduct themselves at all times as representatives of the City and in accord with all relevant Human Resources policies and administrative bulletins.

E. Employees found in violation of any part of this policy may be subject to disciplinary action, up to and including termination.

F. The Chief Communications Director may disable a City Social Media site or prohibit posting of City Social Media Content to a site at any time or for any reason, including without limitation any violation of any part of this policy, unprofessional use of the resource, lack of use or disinterest by the public or a department's failure to maintain the site.

G. Any employee using Social Media Sites, whether as an administrator or as a responder to a posting, will follow these guiding principles

1. Unless posting or responding as the site administrator, employees should maintain transparency by using his/her given name and job title, and by being clear about his/her role in regards to the subject.
2. Write and post about his/her area of expertise, especially as related to the City and daily assignment(s). When writing about a topic for which an employee is not the City's expert, make this clear to readers.
3. Keep postings factual and accurate. If a mistake is made, admit to it and post a correction as soon as possible.
4. Reply to comments in a timely manner, when a response is appropriate. When disagreeing with others' opinions or providing comments, be sure that the comments are meaningful, respectful and relevant to the topic.
5. Understand that postings are widely accessible, not retractable, and retained or referenced for a long period of time, so consider content carefully.
6. Ensure comments do not violate the city's privacy, confidentiality and applicable legal guidelines for external communication. Never comment on anything related to legal matters, litigation or any parties with whom the City may be in litigation without the appropriate approval.
7. Refrain from the expression of personal opinions or positions regarding policies, programs or practices of other public agencies, political organizations, private companies or non-profit groups.

II. Design and Content of City Social Media Sites:

A. City Social Media Sites should be should be focused and limited in scope and topic and should complement rather than replace the City's existing web resources. General "departmental" pages and associated content should be managed within the current City websites.

B. Information that is proprietary, copyrighted, attorney-client privileged, subject to state or federal privacy laws, and information not subject to disclosure under the Texas Public Information Act should NOT be posted on a City Social Media Site. Any questions concerning this standard should be directed to the Chief Communications Director.

C. A clear statement of the intent, purpose and subject matter of the site, as well as a statement clearly articulating that all content and comments posted to the site are subject to public disclosure laws, should be clearly posted on any City Social Media Site.

D. All City Social Media Sites shall clearly indicate the portion of the Social Media site that is maintained by the City and shall have appropriate City contact information prominently displayed.

E. Links placed to a City Social Media Site should link to a resource on www.austintexas.gov, a City-owned Web site, a state, federal or local government site, an educational Web site (.edu) or an organization with an official partnership or supportive business relationship with a City department or program. Exceptions to this rule will be at the discretion of the CPIO, based on the relevance and appropriateness of the request.

F. Design elements (logos, background, images) should be appropriate to the subject matter and consistent with the City's design guidelines, which are available on the CPIO Intranet site.

III. Public Comments and Interactive Features:

A. City Social Media Site accounts must be set up in a way that either maximizes public comments or limits the resource to organizational postings only.

B. Membership to a City Social Media Site should not be required in order for the public to post comments. If this is not possible, then a City e-mail contact must be posted as an alternative for providing comments.

C. Interactivity and commenting on sites fall within three distinct categories:

1. "Push" sites which do not allow public comments.
2. "Limited forum" sites that clearly define a specific topic for discussion.
3. "Open forum" sites that do not limit the topic of discussion.

D. A City department that creates a City Social Media Site that permits interactivity and comments should provide a disclaimer on the site that posted comments do not necessarily reflect the views or position of the City. Editing of public comments posted on an "open forum" by the Department that maintains the site is permitted if the comments:

1. Clearly violate the site's terms of service;
2. Contain information about City business or operations that is confidential and non-public;
3. Would reasonably be considered pornographic, obscene, or defamatory in nature;
4. Directly promote or advocate violence or the threat of violence;
5. Are solicitations of commerce or promotion of private business enterprises;
6. Contain or link to inappropriate sexual content;
7. Encourage or promote illegal activity;
8. Include information that may compromise the safety or security of the public or public systems; or
9. Appear to violate the legal ownership interest of any other party.

E. In addition to the above, editing of comments in a "limited forum" is permitted if comments are clearly off-subject, based on the posted scope and topic.

F. If photos, video, or other media are solicited through a site, all must be accepted and posted unless they fail to meet the guidelines stated above.

G. All public comments and posted media files inclusive of any edited content must be archived and stored in accord with requirements of Texas and federal laws and City records retention policies.

IV. Centralized Social Media Resources for Twitter and YouTube:

A. Unless a business case is made and approved for a separate account City Social Media Content posted on Twitter or YouTube should be coordinated through the City's central resource for these tools.

B. The City's official Twitter site is *@austintexasgov* (www.twitter.com/austintexasgov). Use of this resource is governed by the following guidelines:

1. Departments or programs should contact the Corporate Media Relations Manager or Corporate Web Content Manager in the Communications and Public Information Office to coordinate posts to the resource.

2. To allow for after-hours use, login and password information for *@austintexasgov* will be shared with the City's public safety PIOs, Austin Energy and Austin Water Utility. Other requests for login access will be considered on a case by case basis.

3. A separate account may be approved if there is a limited, defined interest group for the targeted information. If approved, these accounts must be set up to "follow" all other City Twitter resources

4. City of Austin Twitter accounts should only "follow" official governmental or educational Twitter accounts, or accounts owned by an organization with an official partnership or supportive business relationship with a City department or program.

C. The City is maintaining an official City YouTube channel that will serve as a central repository for City-related videos programs and Public Service Announcements (PSAs) Use of this resource is governed by the following guidelines.

1. Departments and programs may request a "playlist" be created to feature their videos Approval of playlists will be made by CPIO in collaboration with the requesting department.

2. The Channel 6 Manager will determine if submitted content is suitable for posting to the channel Copies of all video content shall be stored and maintained separately by Channel 6 staff for the purposes of records retention

V. Use of Social Media by permanent Boards and Commissions, and other temporary task forces and advisory bodies created by City Council (collectively, Boards) including committees created by such Boards:

A. The City of Austin recognizes the value that Social Media may offer to the City's Boards and has developed guidelines for use of these tools in the conduct of work that supports their advisory role to the City Council.

B. Due to open meetings requirements, individual members of a Board are prohibited from participating in postings or discussion threads on Social Media sites created and maintained by the group that they are a member of

C. Any use of Social Media Sites shall not serve as a replacement for postings and notifications required to be posted to City Clerk and/or City of Austin websites

D. Boards wishing to initiate Social Media Sites should do so by formal action of the Board, and follow requirements for approval and governance outlined in Section I of this policy.

E. Committees of Boards are required to use the main resource established and approved by the 'parent' Board.

F. Boards may utilize Social Media for gathering of public input and fostering of public discussion related to the advisory role they have been assigned by City Council provided that the use conforms to policies described in Sections I-IV of this policy and that they meet the following additional requirements

1. The request for input or posting of discussion items is approved in a formal action of the Board at a posted meeting

2. The request for input or posting of discussion items does not relate to any solicitation that is identified as being in the "No Contact Period" by the City Purchasing Office or Contract and Land Management Department

G. 'Regular business' is defined as the standard and routine activity of any Board, and generally includes agendas, minutes, presentations documents and backup items created during the course of regular Board proceedings. This may also include responses or clarifications of items of fact related to the Board (dates, times, published data, etc.). Regular business of the Board may be posted to approved Social Media Sites by the appropriate staff liaison without formal action of the Board, provided that posted documents are also available on the City's website. In general, it is preferred that a Board Social Media Site simply provide a link back to information and documents posted on the City website.

H. Under no circumstance should a Board direct staff to post statements of personal opinion held by individual members

FORMS

City of Austin Social Media Resource Request Form (online only):
http://[illegible]/departments/policy-of-austin-social-media-[illegible]-request-form

Texas Public Information Act
http://www.statutes.legis.state.tx.us/[illegible]/htm/gv.552.htm