AGENDA
REGULAR CITY COUNCIL
CITY OF LEANDER, TEXAS

Pat Bryson Municipal Hall
201 North Brushy Street ~ Leander, Texas

Thursday ~ July 21, 2016 at 7:00 PM

Mayor – Christopher Fielder
Place 1 – Andrea Navarrette
Place 2 – Michelle Stephenson
Place 3 – Shanan Shepherd
Place 4 – Ron Abruzzese (Mayor Pro Tem)
Place 5 – Jeff Seiler
Place 6 – Troy Hill
City Manager – Kent Cagle

1. Open meeting, Invocation, Pledges of Allegiance

2. Roll Call

3. Staff Comments:

4. Citizen Comments: Three (3) minutes allowed per speaker
   Please turn in speaker request form before the meeting begins

CONSENT AGENDA: ACTION

5. Approval of the minutes: July 7, 2016

6. License Agreement Case 16-LA-007: License Agreement between the City of Leander and K.L. Enterprises, Inc. a California corporation for 13.718 acres, more or less, generally located to the west of the intersection of Bagdad Road and Marsala Circle, Leander, Williamson County, Texas

7. Dedication and Acceptance of Subdivision Infrastructure Improvements for Stewart Crossing, Section 1

PUBLIC HEARING: ACTION

8. Public Hearing on Zoning Case 16-Z-006: Consider a zoning change for 50.615 acres, more or less, generally located to the west of the intersection of Crystal Falls Parkway and Lakeline Blvd., more specifically to the west of the Fairways at Crystal Falls, Section 5 from SFS-2-B, Single Family Suburban to PUD, Planned Unit Development with a base zoning district of MF-2-A, Multi Family, Leander, Travis County, Texas
   Applicant: Mike Siefert on behalf of Lookout Partners, LP

   Action on Zoning Case 16-Z-006: a zoning change for 50.615 acres, more or less, generally located to the west of the intersection of Crystal Falls Parkway and Lakeline Blvd., more specifically to the west of the Fairways at Crystal Falls, Section 5 from SFS-2-B, Single Family Suburban to PUD, Planned Unit Development with a base zoning district of MF-2-A, Multi Family, Leander, Travis County, Texas

REGULAR AGENDA

9. Consider an Ordinance adopting amendments to the City's animal control regulations and amending licensing and permit fees

10. Second Reading of an Ordinance on Ordinance Case 16-OR-001: amending sections of the Composite Zoning Ordinance, to add definitions, update the use components, to modify setbacks for commercial fueling, to update requirements for screening, to update the parking requirements table, to modify residential setbacks, to clarify requirements for drainage and detention facilities, to modify outdoor lighting requirements, to update the architectural standards, to update the site development standards

11. Consider Development Case 16-DA-002: approval of a development agreement between the City of Leander and K.L. Enterprises, Inc. a California corporation for 13.718 acres, more or less, generally located to the west of the intersection of Bagdad Road and Marsala Circle, Leander, Williamson County, Texas

12. Consider approval of construction activities between 9:00 pm and 7:00 am for Cash Construction Company, Inc. for the Old 2243 Roadway Improvements Project on July 29 and 30 and August 5 and 6 of 2016

13. Consider Amendment One to Task Order KFA-30 in the amount of $99,134.00 for the Kauffman Loop Elevated Storage Tank Project"

14. Consider award of Employee Health Benefit Contracts for the 2016-2017 Plan Year

15. Consider increase in City contribution and cost spread for Employee Health Benefits

16. Consider a Resolution authorizing an Amendment to the City of Leander Personnel Policy

17. Water Use and Supply update

18. Council Member Closing Statements

19. Adjournment

CERTIFICATION

This meeting will be conducted pursuant to the Texas Government Code Section 551.001 et seq. At any time during the meeting the Council reserves The right to adjourn into executive session on any of the above posted agenda items in accordance with the sections 551.071 [litigation and certain Consultation with attorney]. 551.072 [acquisition of interest in real property], 551.073 [contract for gift to city], 551.074 [certain personnel deliberations Or 551.076 [deployment/implementation of security personnel or devices]. The City of Leander is committed to compliance with the American with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request. Please call the City Secretary at (512) 528-2743 for information. Hearing impaired or speech disabled persons equipped with telecommunication devices for the deaf may call (512) 528-2800. I certify that the above agenda for this meeting of the City Council of the City of Leander, Texas, was posted on the bulletin board at City Hall in Leander, Texas on the 18th day of July, 2016 by 5:00 pm pursuant to Chapter 551 of the Texas Government Code

Debbie Haile

Debbie Haile, TRMC, City Secretary

MINUTES
REGULAR CITY COUNCIL
CITY OF LEANDER, TEXAS

Pat Bryson Municipal Hall
201 North Brushy Street ~ Leander, Texas

Thursday ~ July 7, 2016 at 7:00 PM

Mayor – Christopher Fielder	**Place 4 – Ron Abruzzese (Mayor Pro Tem)**
Place 1 – Andrea Navarrette	**Place 5 – Jeff Seiler**
Place 2 – Michelle Stephenson	**Place 6 – Troy Hill**
Place 3 – Shanan Shepherd	**City Manager – Kent Cagle**

1. Open meeting, Invocation, Pledges of Allegiance
   Mayor Fielder opened the meeting at 7:00 pm and welcomed those in attendance
   Council Member Shepherd delivered the invocation
   Ethan Grinstead with Cedar Park Boy Scout Troop 158 led the Pledges of Allegiance

2. Roll Call
   All present except Council Member Navarrette

3. Staff Comments
   No staff comments

4. Citizen Comments: Three (3) minutes allowed per speaker
   Please turn in speaker request form before the meeting begins
   No citizen comments

CONSENT AGENDA: ACTION

5. Approval of the minutes: June 16, 2016

6. Dedication and Acceptance of Subdivision Infrastructure Improvements for Borho Phase 8

7. Dedication and Acceptance of Circle Diamond – Offsite Waterline Extension

8. Dedication and Acceptance of Subdivision Infrastructure Improvements for Mason Ranch, Phase 2 Section 2B
   Motion made by Council Member Shepherd to approve the consent agenda Second by Council Member Stephenson. Motion passes, all voting "aye"

PUBLIC HEARING: ACTION

Mayor Fielder announced that item #9 has been postponed by the applicant

9. **Public Hearing** on Zoning Case 15-TOD-Z-030 and Subdivision Case 15-TOD-CP-009: Consider rezoning and approval of the Tylerville Commercial Concept Plan and PUD Zoning of 11.221 acres, more or less, for a tract of land generally located to the southwest of the intersection of San Gabriel Parkway & US Hwy 183 from PUD, Planned Unit Development to an amended PUD to include the base zoning districts of GC-3-A, General Commercial, GC-2-A, General Commercial and LC-2-A, Local Commercial, Leander, Williamson County, Texas
   Applicant/Agent: Bill Pohl on behalf of Waterstone Tylerville, LP

Action on Zoning Case 15-TOD-Z-030 and Subdivision Case 15-TOD-CP-009: Rezoning and approval of the Tylerville Commercial Concept Plan and PUD Zoning of 11.221 acres, more or less, for a tract of land generally located to the southwest of the intersection of San Gabriel Parkway & US Hwy 183 from PUD, Planned Unit Development to an amended PUD to include the base zoning districts of GC-3-A, General Commercial, GC-2-A, General Commercial and LC-2-A, Local Commercial, Leander, Williamson County, Texas

10. **Public Hearing** on Ordinance Case 16-OR-001: Consider amending sections of the Composite Zoning Ordinance, to add definitions, update the use components, to modify setbacks for commercial fueling, to update requirements for screening, to update the parking requirements table, to modify residential setbacks, to clarify requirements for drainage and detention facilities, to modify outdoor lighting requirements, to update the architectural standards, to update the site development standards
Tom Yantis, Asst. City Manager explained

Geoffrey Tahuahua 8140 Exchange Drive, Austin – spoke against retention and drainage amendment & stucco amendment
Nancy Shader 2607 Salemo Pl., Austin –spoke against the stucco amendment
Brandon Cooper 3821 Venezia View, Leander – spoke against the stucco amendment
Paul Couduro 8620 Burnet Road, Austin – spoke against the retention and drainage amendment
Gerry Poe 10800 Pecan Park Blvd., Austin – spoke against the stucco amendment and retention and drainage amendment

Action on Ordinance Case 16-OR-001: amending sections of the Composite Zoning Ordinance, to add definitions, update the use components, to modify setbacks for commercial fueling, to update requirements for screening, to update the parking requirements table, to modify residential setbacks, to clarify requirements for drainage and detention facilities, to modify outdoor lighting requirements, to update the architectural standards, to update the site development standards

The section on stucco on the exterior walls has been tabled to a future meeting

Motion made by Council Member Seiler to approve with P & Z recommendations and with the recommendation from the HBA for the verbiage on stamped concrete and to table the section on stucco on the exterior walls until a future meeting and to remove stucco from Section 14. Second by Council Member Stephenson. Motion passes, all voting "aye"

11. **Public Hearing** on Ordinance Case 16-OR-002: consider amending sections of the Subdivision Ordinance, to add definitions, to modify provisions for the protection of riparian corridors, to modify requirements associated with construction plans; to update tree preservation plan requirements, to modify private street standards, and to clarify the park land dedication requirements
Tom Yantis, Asst. City Manager explained

No speakers

Action on Ordinance Case 16-OR-002: amending sections of the Subdivision Ordinance, to add definitions, to modify provisions for the protection of riparian corridors, to modify requirements associated with construction plans; to update tree preservation plan requirements, to modify private street standards, and to clarify the park land dedication requirements

Motion made by Council Member Seiler to approve. Second by Council Member Shepherd. Motion passes, 5 to 1 with Council Member Hill voting against

REGULAR AGENDA

12. Consider an Ordinance regarding Donation Drop Boxes
Bill Gardner, Fire Chief explained

Motion made by Council Member Seiler to approve. Second by Council Member Stephenson. Motion passes, all voting "aye"

13. Consider Task Order WAL-1 with Walker Partners Engineering, Inc. for Design, Bidding, and Construction Phase Professional Services for Raider Way and E. Woodview Drive
Wayne Watts, City Engineer explained

Motion made by Council Member Shepherd to approve. Second by Council Member Seiler. Motion passes, all voting "aye"

14. Consider amendment to Task Order HWL-1 with H. W. Lochner, Inc. for professional services for Bagdad Road North Improvements
Wayne Watts, City Engineer explained

Motion made by Council Member Seiler to approve. Second by Council Member Stephenson. Motion passes, all voting "aye"

15. Consider a variance to allow for construction activities outside of the normal hours of 7am and 9pm for Suddenlink Communications on the Old 2243 Project
Wayne Watts, City Engineer explained

Motion made by Mayor Pro Tem Abruzzese to approve. Second by Council Member Hill. Motion passes, all voting "aye"

16. Consider approval of an amendment to the Sales Tax Rebate Agreement for the Gateway Shopping Center between the City of Leander and Hayden Asset I, LLC, a Delaware limited liability company
Tom Yantis, Asst. City Manager explained

Motion made by Mayor Fielder to approve. Second by Council Member Shepherd. Motion passes, 5 to 1 with Council Member Hill voting against.

17. Consider Acceptance of a Community Development Block Grant for the construction of a sidewalk on the east side of Bagdad Road
Tom Yantis, Asst. City Manager explained

Motion made by Council Member Shepherd to deny. Second by Council Member Stephenson. Motion passes, all voting "aye" to deny.

18. Consider Development Agreement Case 15-DA-006: Consider approval of a development agreement between the City of Leander, Sixth Street Capital, LLC, a Texas limited liability company, and Devine Land Investments, LLC, a Nevada limited liability company for 208 acres more or less, generally located at southwest of the intersection of Bagdad Road and the future extension San Gabriel Parkway; City of Leander, Williamson County, Texas
Tom Yantis, Asst. City Manager explained

Motion made by Council Member Shepherd to approve. Second by Council Member Stephenson. Motion passes, all voting "aye"

19. Council Member Closing Statements
Council Members gave their closing statements

EXECUTIVE SESSION

20. Convene into executive session pursuant to Section 551.072 Texas Government Code, related to proposed settlement of eminent domain litigation regarding the purchase and/or value of real property. to wit: a 5.217 acre tract owned by Gary and Cathy Gross

    Council convened into executive session at 8:24 pm
    Council reconvened into open session at 8:32 pm

21. Reconvene into open session to take action as deemed appropriate in the City Council's discretion related to proposed settlement of eminent domain litigation regarding the purchase and/or value of real property, to wit: a 5.217 acre tract owned by Gary and Cathy Gross

    No action taken

22. Consider a resolution authorizing the City Manager to release funds totaling $840,380 to effectuate final settlement of pending eminent domain litigation to acquire a 5.217 acre tract owned by Gary and Cathy Gross ("Gross") and also to execute a Declaration of Covenants, Conditions and Restrictions concerning the 5.217 acre tract for a deep water intake maintenance site, on terms subject to review and approval by the City Attorney and Special Counsel

    Motion made by Mayor Pro Tem Abruzzese to approve. Second by Council Member Seiler. Motion passes, all voting "aye"

23. Adjournment
    With there being no further business, the meeting adjourned at 8:34 pm

Attest:

_____ _____

Christopher Fielder, Mayor Debbie Haile, TRMC, City Secretary

AGENDA ITEM # 6

Executive Summary

July 21, 2016

Agenda Subject: License Agreement Case 16-LA-007: Discussion and possible action to approve a license agreement between the City of Leander and K. L. Enterprises, Inc, a California corporation for 13.718 acres more or less, generally located to the west of the intersection of Bagdad Road and Marsala Circle; City of Leander, Williamson County, Texas.

Background: The License Agreement includes the following key provisions:

- the installation of an irrigation system;
- the installation of three appropriately sized utility sleeves for the utility crossing needed for water, wastewater, and control wiring; and
- the repair, maintenance and replacement of the irrigation system, and private utility systems within the right-of-way of Marsala Circle

Origination: Applicant: CSF Civil Group on behalf of Emmet J Hawkes and K.L. Enterprises, Inc

Financial Consideration: None.

Recommendation: Staff recommends approval of the license agreement.

Attachments:

1. License Agreement & Exhibits
2. Location Map

Prepared By: Tom Yantis, AICP
Assistant City Manager 07/11//2016

LICENSE AGREEMENT

The City of Leander, Texas a municipal corporation and political subdivision of the State of Texas situated in Williamson County, Texas ("the City" or "Licensor"), and the K.L. Enterprises, Inc., a California Corporation ("Licensee") enter into this License Agreement ("Agreement") on this the___ day of _____, 2016, upon the terms and conditions set forth below.

I. PURPOSE OF LICENSE AGREEMENT. The City grants to Licensee permission to use the licensed property for the following purposes only:

(1) the installation of an irrigation system; (2) the installation of three appropriately sized utility sleeves for the utility crossing needed for water, wastewater, and control wiring; and (3) the repair, maintenance and replacement of the irrigation system, and private utility systems within the right-of-way of Marsala Circle shown in Exhibit "A"; hereinafter referred to as the "Improvements". The locations of the rights-of-way containing the Improvements are more particularly shown in Exhibit "A" attached hereto and incorporated herein for all purposes.

The above-described properties, hereinafter referred to as the "licensed property", are further shown in Exhibit "A" attached to this Agreement and incorporated by reference for all purposes.

The City makes this grant solely to the extent of its right, title and interest in the licensed property, without any express or implied warranties.

Licensee agrees that: (A) the construction of the Improvements permitted by this Agreement shall be done in compliance with all applicable City, County, State and/or Federal laws, ordinances, regulations and policies now existing or later adopted; (B) that all construction and installation of the Improvements will be completed in a timely manner without delay; (C) the Licensee will construct the Improvements according to plans filed with the City. Any changes in construction plans must be approved by the City; and (D) any Improvements located in the City's right-of-way shall be subject to City approval prior to placement and installation. Any provision herein to the contrary notwithstanding, Licensee shall be liable for, and shall indemnify and hold the City harmless from all damages, causes of action, and claims arising out of or in connection with Licensee's installation, operation, maintenance or removal of the improvements permitted under this Agreement.

II. FEE. No annual fee shall be due in connection with this Agreement.

III. THE CITY'S RIGHTS TO LICENSED PROPERTY. This Agreement is expressly subject and subordinate to the present and future right of the City, its successors, assigns, lessees, grantees, and Licensees, to construct, install, establish, maintain, use, operate, and renew any public utilities facilities, franchised public utilities, rights-of-way, roadways, or streets on, beneath, or above the surface of the licensed property.

Said uses of the licensed property by the City are permitted even though such use may substantially

interfere with or destroy Licensee's use of the licensed property, or the Improvements. In case of a declared emergency, damage to or destruction of Licensee's property shall be at no charge, cost, claim, or liability to the City, its agents, contractors, officers, or employees.

Notwithstanding any provisions in this Agreement to the contrary, the City retains the right to enter upon the licensed property, at any time without notice, assuming no obligation to Licensee, to remove any of the licensed Improvements or alterations thereof whenever such removal is deemed necessary for: (a) exercising the City's rights or duties with respect to the licensed property; (b) protecting persons or property; or (c) the public health or safety with respect to the licensed property.

IV. INSURANCE. Licensee shall, at its sole expense, provide a commercial general liability insurance policy, written by a company acceptable to the City and licensed to do business in Texas, with a combined single limit of not less than $600,000.00, which coverage may be provided in the form of a rider and/or endorsement to a previously existing insurance policy. Such insurance coverage shall include the City as an additional-insured. This insurance coverage shall cover all perils arising from the activities of Licensee, its officers, employees, agents, or contractors, relative to this Agreement, or otherwise within the public right-of-way and property within the licensed property. Licensee shall be responsible for any deductibles stated in the policy. A certificate of insurance evidencing such coverage shall be delivered to the City Secretary of the City within thirty (30) days of the effective date of this Agreement.

Licensee shall not cause any insurance to be canceled nor permit any insurance to lapse. All insurance certificates shall include a clause to the effect that the policy shall not be canceled, reduced, restricted or otherwise limited until forty-five (45) days after the City has received written notice as evidenced by a return receipt of registered or certified mail.

V. INDEMNIFICATION. Licensee shall indemnify, defend, and hold harmless the City and its officers, agents and employees against all claims, suits, demands, judgments, expenses, including attorney's fees, or other liability for personal injury, death, or damage to any person or property which arises from or is in any manner caused by the Licensee's construction or maintenance of the Improvements or use of the licensed property. This indemnification provision, however shall not apply to any claims, suits, damage, costs, losses, or expenses arising solely from the negligent or willful acts of the City; provided that for the purposes of the foregoing, the City's act of entering into this Agreement shall not be deemed to be a "negligent or willful act."

VI. CONDITIONS.

A. Licensee's Responsibilities. Licensee will be responsible for any damage to or repair of the Improvements. Further, Licensee shall reimburse the City for all costs of replacing or repairing any property of the City or of others which was damaged or destroyed as a result of activities under this Agreement by, or on behalf of, Licensee.

B. Maintenance. Licensee shall maintain the licensed property and the Improvements in good condition and making any necessary repairs to the Improvements at its expense.

C. Modification of Improvements. Licensee agrees that modification of the Improvements shall be at Licensee's expense. Licensee shall obtain the proper permits prior to any modification of the Improvements. Any such modification shall be at Licensee's sole discretion, except where otherwise provided by this Agreement. This Agreement, until its expiration or revocation, shall run as a covenant with the land, and the terms and conditions of this Agreement shall be binding on the grantees, successors and assigns of Licensee. Licensee shall cause any immediate successors-in-interest to have actual notice of this Agreement.

D. Default. In the event that Licensee fails to maintain the licensed property or otherwise comply with the terms or conditions as set forth herein, then the City shall give Licensee written notice thereof, by registered or certified mail, return receipt requested, to the address set forth below. Licensee shall have thirty (30) days from the date of receipt of such notice to take action to remedy the failure complained of, and, if Licensee does not satisfactorily remedy the same within the thirty (30) day period, the City may terminate this Agreement.

Licensee Address	**Licensor Address**
K. L. Enterprises, Inc. Attn: Ken Liem, President 26741 Portola Pkwy, IE-696 Foothill Ranch, CA 92610	City of Leander Attention: City Manager P.O. Box 319 Leander, Texas 78641

VII. COMMENCEMENT AND TERMINATION. This Agreement shall begin with the effective date and continue thereafter for so long as Licensee is constructing or maintaining the Improvements as set forth herein. If Licensee abandons construction or maintenance of all or any part of the Improvements or licensed property as set forth in this Agreement, then this Agreement, shall expire and terminate following thirty (30) days written notice to the Licensee if such abandonment has not been remedied by the Licensee within such period. The City shall thereafter have the same complete title to the licensed property so abandoned as though this Agreement had never been made and shall have the right to enter the licensed property and terminate the rights of Licensee, its successors and assigns hereunder. All installations of Licensee not removed shall be deemed property of the City as of the time abandoned.

VIII. TERMINATION.

A. Termination by Licensee. This Agreement may be terminated by Licensee by delivering written notice of termination to the City not later than thirty (30) days before the effective date of termination. If Licensee so terminates, then it shall remove all installations, other than the Improvements, that it made from the licensed property within the thirty day notice period at its sole cost and expense. Failure to do so shall constitute a breach of this Agreement.

B. Termination by City. Subject to prior written notification to Licensee or its successor-in-interest, this Agreement is revocable by the City if:

1. The licensed Improvements, or a portion of them, interfere with the City's right-of-way;

2. Use of the right-of-way area becomes necessary for a public purpose;

3. The licensed Improvements, or a portion of them, constitute a danger to the public which the City deems not to be remediable by alteration or maintenance of such Improvements;

4. Despite thirty (30) days written notice to Licensee, maintenance or alteration necessary to alleviate a danger to the public has not been made; or

5. Licensee fails to comply with the terms and conditions of this Agreement including, but not limited to any insurance or license fee requirements specified herein.

IX. EMINENT DOMAIN. If eminent domain is exerted on the licensed property by paramount authority, then the City will, to the extent permitted by law, cooperate with Licensee to effect the removal of Licensee's affected installations and Improvements thereon, at Licensee's sole expense. Licensee shall be entitled to retain all monies paid by the condemning authority to Licensee for Licensee's installations taken, if any.

X. INTERPRETATION. Although drawn by the City, this Agreement shall, in the event of any dispute over its meaning or application, be interpreted fairly and reasonably, and neither more strongly for or against either party.

XI. APPLICATION OF LAW. This Agreement shall be governed by the laws of the State of Texas. If the final judgment of a court of competent jurisdiction invalidates any part of this Agreement, then the remaining parts shall be enforced, to the extent possible, consistent with the intent of the parties as evidenced by this Agreement.

XII. VENUE. Venue for all lawsuits concerning this Agreement will be in the Williamson County, Texas.

XIII. COVENANT RUNNING WITH LAND; WAIVER OF DEFAULT. This Agreement and all of the covenants herein shall run with the land; therefore, the conditions set forth herein shall inure to and bind each party's successors and assigns. Either party may waive any default of the other at any time, without affecting or impairing any right arising from any subsequent or other default.

XIV. ASSIGNMENT. Licensee shall not assign, sublet or transfer its interest in this Agreement without the written consent of the City, which consent shall not be unreasonably withheld. Subject to the assignee's compliance with the insurance requirements set forth herein, if any, Licensee shall furnish to the City a copy of any such assignment or transfer of any of Licensee's rights in this Agreement, including the name, address, and contact person of the assignee, along with the date of assignment or transfer.

ACCEPTED, this the ____ day of _____, 2016.

LICENSOR: CITY OF LEANDER, TEXAS

By: _____
Name: Kent Cagle
Title: City Manager

LICENSEE: K.L. Enterprises, Inc.

By:_____
Name: Ken Liem
Title: President

THE STATE OF TEXAS §
COUNTY OF WILLIAMSON §

This instrument was acknowledged before me on this the _____ day of _____, 2016, by Kent Cagle, City Manager for the City of Leander, Texas, on behalf of the City.

_____
Notary Public - State of Texas

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
COUNTY OF_____)

On _____before me, _____
(insert name and title of the officer)

personally appeared Ken Liem _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____**(Seal)**

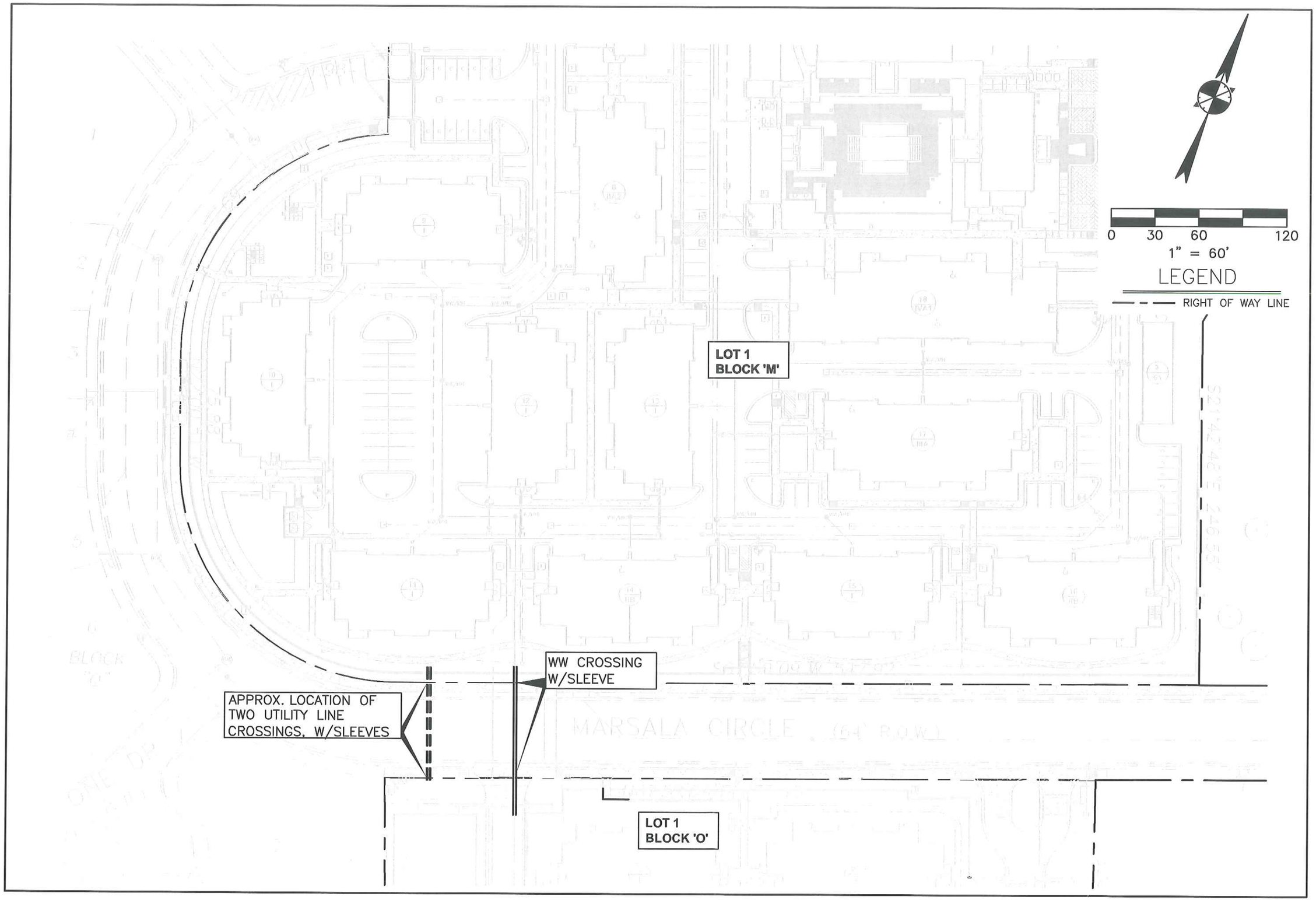


EXHIBIT A– LICENSE AGREEMENT

Project No.: 12901.01

CARNEROS VILLAGE APARTMENT HOMES

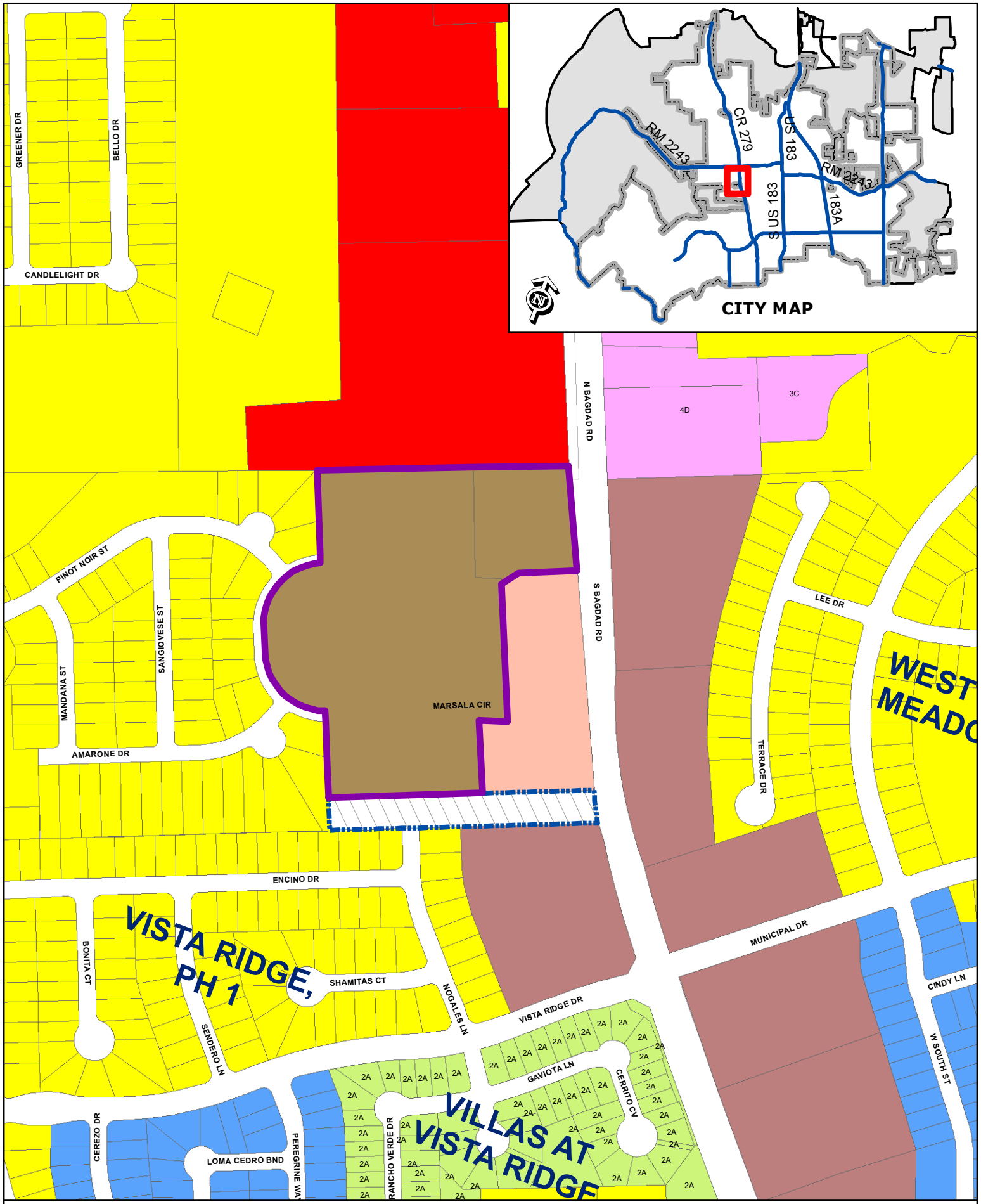
FILE NAME: LA EXHIBIT.DWG

Drawn by: CAP

Scale: 1" = 60'

Date: APRIL 28, 2016

Cook • Steinmans • Fleming
Civil Group
PLANNING, ENGINEERING & CONSTRUCTION SERVICES
Austin, Texas
Tel (512) 614-4466
www.csfcivilgroup.com
Texas Registered Firm No. F-12377



16-LA-007
License Agreement

Attachment #2
Location Exhibit
Carneros Village

Subject Property
City Limits

N

0 200
Feet

AGENDA ITEM # 7

Executive Summary

July 21, 2016

Council Agenda Subject: Consider Dedication and Acceptance of Subdivision Infrastructure Improvements for Stewart Crossing, Section 1

Background: The subdivision infrastructure improvements required for Stewart Crossing, Section 1 have been installed, inspected, and found to be satisfactorily completed. All documentation required for acceptance of the subdivision has been received, including record drawings, statement of substantial completion prepared by a Professional Engineer licensed in the State of Texas, copies of all inspection reports and certified test results, electronic files of the improvements and final plat, affidavit of all bills paid, and a two-year term Maintenance Bond. The Maintenance Bond will commence its two year term upon City Council acceptance, as anticipated, on **July 21, 2016**, which will provide warranty and maintenance coverage for the infrastructure improvements through **July 21, 2018**. The Engineering Department will perform a formal inspection of the improvements approximately 30 days prior to the expiration of the Maintenance Bond to assure that any defects in materials, workmanship, or maintenance are corrected prior to expiration of the bond.

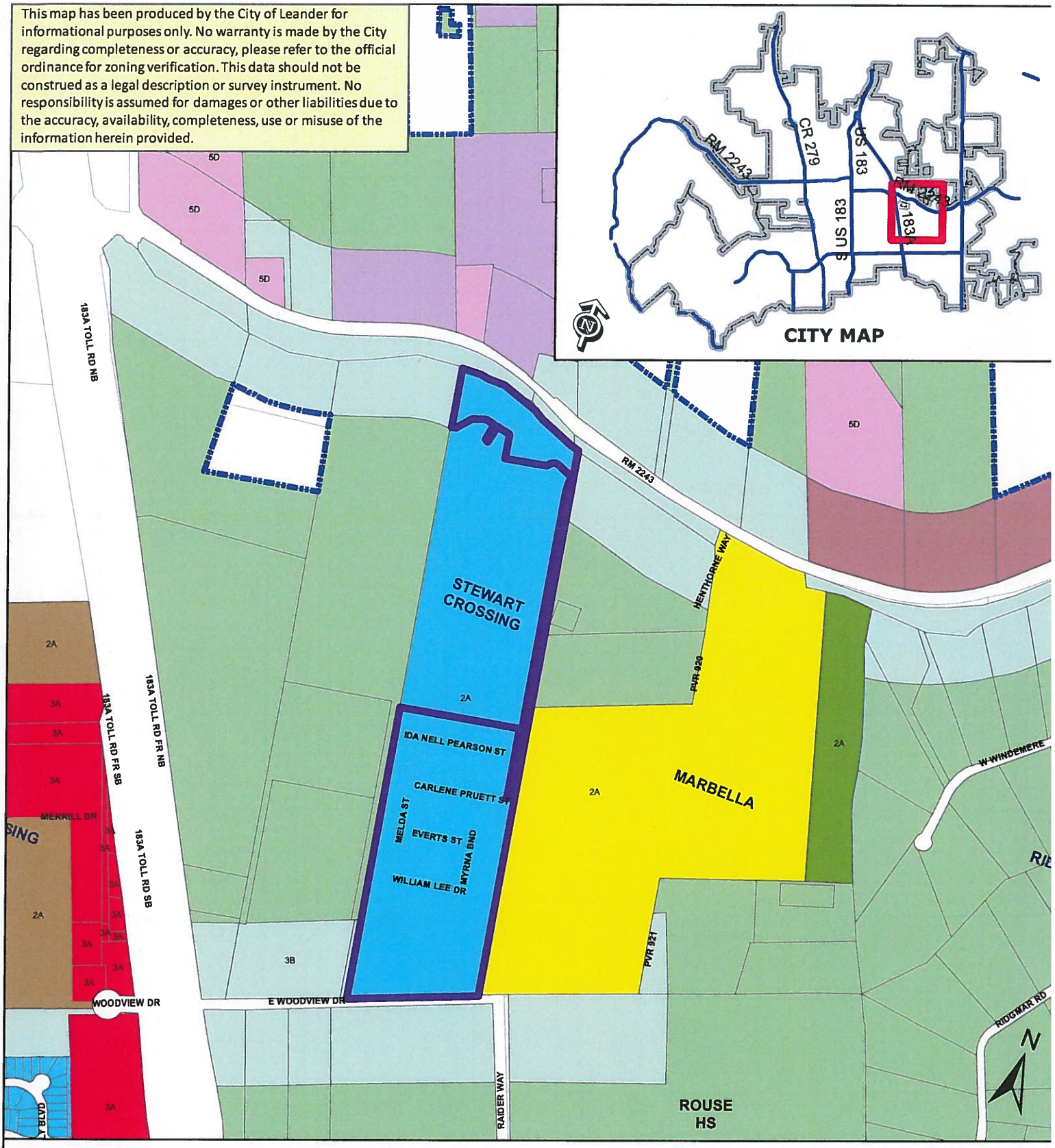
Origination: Wayne S. Watts, P.E., CFM, City Engineer

Financial Consideration: N/A

Recommendation: Staff recommends City Council's formal acceptance of the subdivision infrastructure improvements for Stewart Crossing, Section 1.

Attachments: Location Map, Engineer's Concurrence Letter, ADA Inspection, Maintenance Bond, and Affidavits of All Bills Paid

Prepared by: Wayne S. Watts, P.E., CFM, City Engineer



SUBDIVISION ACCEPTANCE

Location Map - Stewart Crossing: 1

Area for Acceptance
City Limits

PUD Commercial
PUD Mixed Use
PUD Multi-Family
PUD Single-Family
PUD Townhome

SFR
SFE
SFS
SFU
SFC
SFL
SFT
SFU/MH
TF
MF
LO
LC
GC
HC
HI
PUD

0 800
Feet

JONES|CARTER

May 20, 2016

6509 Windcrest Drive, Suite 600
Plano, Texas 75024-3074
Tel: 972.488.3880
Fax: 972.488.3882
www.jonescarter.com

Ms. Robin Griffin
City of Leander
Planning Department
104 N. Brushy Street
Leander, TX 78641

RE: Engineer's Concurrence Letter – Subdivision Acceptance
Stewart Crossing Subdivision Phase 1
Case No. 15-PICP-007

Dear Robin:

We have observed the subject project constructed by DNT Construction, LLC and find it to be substantially complete in accordance with the approved plans and specifications. The project was periodically observed during construction by our field project representative.

We recommend that City of Leander issue DNT Construction, LLC a Certificate of Acceptance of the Work.

Sincerely,

Shawn C. Graham, P.E.

STATE OF TEXAS
SHAWN C. GRAHAM
111432
LICENSED
PROFESSIONAL ENGINEER

SCG/nz
J:\Projects\A738\0001-00\General\Letters\Engineer's Concurrence Letter to COL 2016-05-20

eileen merritt, inc's
ATS

Engineers Inspectors & Surveyors
FIRM REG. #2487

4910 W Hwy 290
Austin, Texas 78735
512.328.6995
512.328.6996. Fax

Commercial and Residential Engineering

- Structural
- Civil
- Mechanical
- Electrical
- Plumbing

Rehabilitation Designs

Property Condition Inspections

Surveying

Texas Accessibility Standards Compliance Reviews & Inspections

Certified Code Compliance Inspectors & Plan Reviewers

Construction Consulting

Feb. 17, 2016

Chance Wheeless
DNT Construction
2300 Picadilly Drive
Round Rock, Texas 78664-8642

Re: Stewart Crossing, Phase 1 TAS Inspection

INSPECTION – NO VIOLATIONS

Dear Mr. Wheeless,

On Feb. 16, 2016 I inspected the common area sidewalks and curb ramps of the Stewart Crossing, Phase 1, Leander, Texas, for compliance with the Texas Accessibility Standards. We are pleased to inform you that the referenced facility has been inspected and found to be in substantial compliance with provisions of the Texas Government Code, Chapter 469.

Due to this project not subject to TDLR review, the inspection results will not be forwarded to the Texas Department of Licensing and Regulation for issuance of the final approval letter. This is the Final Approval Letter for this phase of the project for the common pedestrian elements only. Future development of this project dictates inspection for TAS compliance after the remaining sidewalks and driveway approaches have been installed.

Please note, this determination does not address the requirements of the Americans with Disabilities Act (ADA), (P.L. 101-336), or any other state, local, or federal requirement. For information on the ADA, please contact the United States Department of Justice, Civil Rights Division at (202) 514-0301.

Sincerely,

Richard Emerson

Richard Emerson
Registered Accessibility Specialist TDLR # 245

MAINTENANCE BOND
Subdivision Improvements

Bond No. 1048926

THE STATE OF TEXAS §

COUNTY OF WILLIAMSON §

KNOW ALL BY THESE PRESENTS, that DNT Construction, LLC as Principal, whose address is 2300 Picadilly Dr, Round Rock, TX 78664, and The Hanover Insurance Company, a Corporation organized under the laws of the State of New Hampshire, and duly authorized to do business in the State of Texas, as Surety, are held and firmly bound unto the **City of Leander, Texas** as Obligee, in the penal sum of Three Hundred Thirty Five Thousand Five Hundred Ninety Three & 63/100's Dollars ($335,593.63) to which payment will and truly to be made we do bind ourselves, our and each of our heirs, executors, administrators, successors and assigns jointly and severally, firmly by these presents.

WHEREAS, the said Principal has constructed Stewart Crossing Phase I (the "improvements") pursuant to the ordinances of the Obligee, which ordinances are hereby expressly made a part hereof as though the same were written and embodied herein;

WHEREAS, said Obligee requires that the Principal furnish a bond conditioned to guarantee for the period of two (2) years after acceptance by the Obligee, against all defects in workmanship and materials which may become apparent during said period;

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH that, if the Principal keeps and perform the requirement of the Obligee's ordinances and this Maintenance Bond to maintain the improvements and keep the same in good repair and shall indemnify the Obligee for all loss that the Obligee may sustain by reason of any defective materials or workmanship which become apparent during the period of two (2) years from and after the date of acceptance by the Owner, then this obligation shall be void, otherwise to remain in full force and effect, and Owner shall have and cover from said Principal and Surety damages in the premises, as provided, and it is further agreed that this obligation shall be a continuing one against the Principal and Surety hereon, and that successive recoveries may be had thereon for successive breaches until the full amount shall have been exhausted; and it is further understood that the obligation herein to maintain said improvements shall continue throughout the maintenance period, and the same shall not be diminished in any manner from any cause during said time..

Principal agrees to repair or reconstruct the improvements in whole or in part at any time within the two year period to such extent as the Obligee deems necessary to properly correct all defects except for normal wear and tear. If the Principal fails to make the necessary corrections within ten days after being notified, the Obligee may do so or have done all said corrective work and shall have recovery hereon for all expenses thereby incurred. Principal will maintain and keep in good repair the improvements for a period of two years from the date of acceptance; it being understood that the purpose of this Maintenance Bond is to cover all defective conditions arising by reason of defective material, work, or labor performed by said Principal or its subcontractors, and in the case the said Principal shall fail to do so within ten days after being notified, it is agreed that the Obligee may do said work and supply such materials, and charge the

same against Principal and Surety on this obligation.

The Surety shall notify the Obligee at least fifteen (15) days prior to the end of the first full calendar year and prior to the lapse of this Maintenance Bond at the end of the second full calendar year.

Surety and Principal agree that whenever a defect or failure of the improvement occurs within the period of coverage under this Bond, the Surety and Principal shall provide a new maintenance bond or other surety instrument in a form acceptable to the Obligee and compliant with the Obligee's ordinances conditioned to guarantee for the period of one (1) year after the Obligee's acceptance of the corrected defect or failure, against all defects in workmanship and materials associated with the corrected defect or failure which may become apparent during said period, which shall be in addition to this Maintenance Bond.

The Surety agrees to pay the Obligee upon demand all loss and expense, including attorneys' fees, incurred by the Obligee by reason of or on account of any breach of this obligation by the Surety. Provided further, that in any legal action be filed upon this bond, venue shall lie in the county where the improvements are constructed.

This Bond is a continuing obligation and shall remain in full force and effect until cancelled as provided for herein.

Surety, for value received, stipulates and agrees that no change, extension of time, alteration or addition to the improvements, or the work to the performed thereon, or the plans, specifications or drawings accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the improvements, or the work to be performed thereon.

IN WITNESS WHEREOF, the said Principal and Surety have signed and sealed this instrument this 8th day of March, 2016 .

DNT Construction, LLC
Principal

By: _____

Title: DEAN TOMME PRESIDENT

Address: _____

2300 Picadilly Dr.
Round Rock, TX 78664

The Hanover Insurance Company
Surety

By: _____

Title: John W. Schuler, Attorney-in-Fact

Address: _____

10375 Richmond Ave, Ste. 1050
Houston, TX 77042

The name and address of the Resident Agent of Surety is:

Time Insurance Agency, Inc.

1405 E. Riverside Drive, Austin, TX 78741

(Seal)

Texas Complaint Notice

IMPORTANT NOTICE

To obtain information or make a complaint:

You may call The Hanover Insurance Company/Citizens Insurance Company of America's toll-free telephone number for information or to make a complaint at:

1-800-608-8141

You may also write to The Hanover Insurance Company/ Citizens Insurance Company of America at:

440 Lincoln Street
Worcester, MA 01615

You may contact the Texas Department of Insurance to obtain information on companies, coverages, rights or complaints at:

1-800-252-3439

You may write the Texas Department of Insurance:

P. O. Box 149104
Austin, TX 78714-9104
Fax: (512) 475-1771
Web: http://www.tdi.state.tx.us
E-mail: ConsumerProtection@tdi.state.tx.us

PREMIUM OR CLAIM DISPUTES:

Should you have a dispute concerning your premium or about a claim you should contact the agent or the company first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

ATTACH THIS NOTICE TO YOUR POLICY: This notice is for information only and does not become a part or condition of the attached document.

AVISO IMPORTANTE

Para obtener informacion o para someter una queja:

Usted puede llamar al numero de telefono gratis de The Hanover Insurance Company/Citizens Insurance Company of America's para informacion o para someter una queja al:

1-800-608-8141

Usted tambien puede escribir a The Hanover Insurance Company/Citizens Insurance Company of America al:

440 Lincoln Street
Worcester, MA 01615

Puede comunicarse con el Departamento de Seguros de Texas para obtener informacion acerca de companias, coberturas, derechos o quejas al:

1-800-252-3439

Puede escribir al Departamento de Seguros de Texas:

P. O. Box 149104
Austin, TX 78714-9104
Fax: (512) 475-1771
Web: http://www.tdi.state.tx.us
E-mail: ConsumerProtection@tdi.state.tx.us

DISPUTAS SOBRE PRIMAS O RECLAMOS:

Si tiene una disputa concerniente a su prima o a un reclamo, debe comunicarse con el agente o la compania primero. Si no se resuelve la disputa, puede entonces comunicarse con el departamento (TDI).

UNA ESTE AVISO A SU POLIZA: Este aviso es solo para proposito de informacion y no se convierte en parte o condicion del documento adjunto.

Bond Number: 1048926

THE HANOVER INSURANCE COMPANY
MASSACHUSETTS BAY INSURANCE COMPANY
CITIZENS INSURANCE COMPANY OF AMERICA

POWERS OF ATTORNEY
CERTIFIED COPY

KNOW ALL MEN BY THESE PRESENTS: That THE HANOVER INSURANCE COMPANY and MASSACHUSETTS BAY INSURANCE COMPANY, both being corporations organized and existing under the laws of the State of New Hampshire, and CITIZENS INSURANCE COMPANY OF AMERICA, a corporation organized and existing under the laws of the State of Michigan, do hereby constitute and appoint

John W. Schuler, Steve Dobson and/or Walter E. Benson, Jr.

of **Austin, TX** and each is a true and lawful Attorney(s)-in-fact to sign, execute, seal, acknowledge and deliver for, and on its behalf, and as its act and deed any place within the United States, or, if the following line be filled in, only within the area therein designated any and all bonds, recognizances, undertakings, contracts of indemnity or other writings obligatory in the nature thereof, as follows:

Any such obligations in the United States, not to exceed Ten Million and No/100 ($10,000,000) in any single instance

and said companies hereby ratify and confirm all and whatsoever said Attorney(s)-in-fact may lawfully do in the premises by virtue of these presents. These appointments are made under and by authority of the following Resolution passed by the Board of Directors of said Companies which resolutions are still in effect:

"RESOLVED, That the President or any Vice President, in conjunction with any Vice President, be and they are hereby authorized and empowered to appoint Attorneys-in-fact of the Company, in its name and as its acts, to execute and acknowledge for and on its behalf as Surety any and all bonds, recognizances, contracts of indemnity, waivers of citation and all other writings obligatory in the nature thereof, with power to attach thereto the seal of the Company. Any such writings so executed by such Attorneys-in-fact shall be as binding upon the Company as if they had been duly executed and acknowledged by the regularly elected officers of the Company in their own proper persons." (Adopted October 7, 1981 - The Hanover Insurance Company; Adopted April 14, 1982 - Massachusetts Bay Insurance Company; Adopted September 7, 2001 - Citizens Insurance Company of America)

IN WITNESS WHEREOF, THE HANOVER INSURANCE COMPANY, MASSACHUSETTS BAY INSURANCE COMPANY and CITIZENS INSURANCE COMPANY OF AMERICA have caused these presents to be sealed with their respective corporate seals, duly attested by two Vice Presidents, this **6th** day of **May 2014**.

THE HANOVER INSURANCE COMPANY
MASSACHUSETTS BAY INSURANCE COMPANY
CITIZENS INSURANCE COMPANY OF AMERICA

Robert Thomas, Vice President

Joe Brenstrom, Vice President

THE COMMONWEALTH OF MASSACHUSETTS)
COUNTY OF WORCESTER) ss.

On this **6th** day of **May 2014** before me came the above named Vice Presidents of The Hanover Insurance Company, Massachusetts Bay Insurance Company and Citizens Insurance Company of America, to me personally known to be the individuals and officers described herein, and acknowledged that the seals affixed to the preceding instrument are the corporate seals of The Hanover Insurance Company, Massachusetts Bay Insurance Company and Citizens Insurance Company of America, respectively, and that the said corporate seals and their signatures as officers were duly affixed and subscribed to said instrument by the authority and direction of said Corporations.

BARBARA A. GARLICK
Notary Public
Commonwealth of Massachusetts
My Commission Expires Sept. 21, 2018

Barbara A. Garlick, Notary Public
My Commission Expires September 21, 2018

I, the undersigned Vice President of The Hanover Insurance Company, Massachusetts Bay Insurance Company and Citizens Insurance Company of America, hereby certify that the above and foregoing is a full, true and correct copy of the Original Power of Attorney issued by said Companies, and do hereby further certify that the said Powers of Attorney are still in force and effect.

This Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of The Hanover Insurance Company, Massachusetts Bay Insurance Company and Citizens Insurance Company of America.

"RESOLVED, That any and all Powers of Attorney and Certified Copies of such Powers of Attorney and certification in respect thereto, granted and executed by the President or any Vice President in conjunction with any Vice President of the Company, shall be binding on the Company to the same extent as if all signatures therein were manually affixed, even though one or more of any such signatures thereon may be facsimile." (Adopted October 7, 1981 - The Hanover Insurance Company; Adopted April 14, 1982 - Massachusetts Bay Insurance Company; Adopted September 7, 2001 - Citizens Insurance Company of America)

GIVEN under my hand and the seals of said Companies, at Worcester, Massachusetts, this 8th day of March 2016.

THE HANOVER INSURANCE COMPANY
MASSACHUSETTS BAY INSURANCE COMPANY
CITIZENS INSURANCE COMPANY OF AMERICA

Glenn Margosian, Vice President

STEWART CROSSING SUBDIVISION PHASE ONE
MERITAGE HOMES OF TEXAS, LLC
Cost Calculation for Maintenance Bond
March 10, 2016

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	AMOUNT
STREETS					
1	GENERAL CONDITIONS	1	LS	$ 63,000.00	$63,000.00
2	MOBILIZATIONS	1	LS	$ 22,000.00	$22,000.00
3	STAKING	1	LS	$ 5,000.00	$5,000.00
4	CLEAR/GRUB WITHIN LIMITS OF CONSTRUCTION	1	LS	$ 153,000.00	$153,000.00
5	6" STD SUBGRADE PREP (1' BOC)	18,982	SY	$ 1.75	$33,218.50
6	8" BASE (1' BOC)	18,982	SY	$ 7.00	$132,874.00
7	1.5" TY D HMAC	15,824	SY	$ 8.50	$134,504.00
8	TIE TO EXIST (INCL DEMO)	1	LS	$ 2,900.00	$2,900.00
9	6" STD SUBGRADE PREP (1' BOC)	7,303	SY	$ 3.50	$25,560.50
10	0 2" HMAC	6,508	SY	$ 11.75	$76,469.00
11	15-INCH LIMESTONE BASE	7,303	SY	$ 16.50	$120,499.50
12	TIE TO EXIST (INCL DEMO)	1	LS	$ 9,200.00	$9,200.00
13	6' X 4" CONCRETE SIDEWALK	1,216	LF	$ 29.00	$35,264.00
14	8' X 4" CONCRETE SIDEWALK	1,420	LF	$ 34.00	$48,280.00
15	ADA RAMP (TYPE 1)	5	EA	$ 1,000.00	$5,000.00
16	ADA RAMP (TYPE 1B)	2	EA	$ 1,000.00	$2,000.00
17	STREET STOP SIGNS WITH STREET NAMES AND STOP BAR	1	EA	$ 550.00	$550.00
18	STREET/SPEED/CAUTION SIGNS	1	EA	$ 250.00	$250.00
19	TYPE III BARRICADE	1	EA	$ 1,150.00	$1,150.00
20	6" CURB & GUTTER	2,374	LF	$ 13.75	$32,642.50
21	TAS INSPECTION	1	LS	$ 850.00	$850.00
22	EXCAVATION	7,232	SY	$ 3.50	$25,312.00
23	EMBANKMENT	5,836	SY	$ 1.25	$7,295.00
24	RETAINING WALLS (ROW OF RAIDER WAY- PKA Design)	2,467	SF	$ 19.00	$46,873.00
25	EXCAVATION (ALL ROW EXCEPT RAIDER WAY)	23,746	SY	$ 2.75	$65,301.50
26	EMBANKMENT (ALL ROW EXCEPT RAIDER WAY)	4,132	SY	$ 0.75	$3,099.00
27	TRAFFIC CONTROL PLAN ALLOWANCE	1	LS	$ 1,200.00	$1,200.00
28	TRAFFIC CONTROL ALLOWANCE	1	LS	$ 1,800.00	$1,800.00
29	TYPE III BARRICADE	1.00	EA	$ 1,150.00	$1,150.00
30	STOP/STREET SIGN & BAR	11	EA	$ 550.00	$6,050.00
31	SPEED LIMIT/CAUTION SIGNS	5	EA	$ 250.00	$1,250.00
32	6" CURB & GUTTER	9,445	LF	$ 13.75	$129,868.75
33	ADA RAMP	32	EA	$ 1,000.00	$32,000.00
34	4' X 4" CONCRETE SIDEWALK	1,762	LF	$ 22.00	$38,764.00
35	8' X 4" CONCRETE SIDEWALK ALONG WOODVIEW	682	LF	$ 34.00	$23,188.00
36	TAS INSPECTION REPORT	1	LS	$ 850.00	$850.00
37	CONSTRUCTION ENTRANCE	2	EA	$ 950.00	$1,900.00
38	SILT FENCE (PRE-CONSTRUCTION)	9,776	LF	$ 2.50	$24,440.00
39	SILT FENCE (POST-CONSTRUCTION)	7,133	LF	$ 2.50	$17,832.50
40	INLET PROTECTION	25	EA	$ 80.00	$2,000.00
41	REVEGETATION	29,294	SY	$ 2.00	$58,588.00
42	TREE PROTECTION	283	LF	$ 3.75	$1,061.25
43	TEMPORARY SEDIMENT TRAP AND SKIMMER	1	EA	$ 4,500.00	$4,500.00
44	CHANGE ORDER # 1 - CLEAR & GRUB (10' CONCRETE TRAIL)	0.3	AC	$ 3,000.00	$900.00
45	CHANGE ORDER # 1 10' CONCRETE TRAIL	860	LF	$ 46.00	$39,560.00
46	CHANGE ORDER # 1 LAYDOWN CURB	417	LF	$ 13.75	$5,733.75
47	CHANGE ORDER # 1 - REVEGETATION (ADDITIONAL AREA AT DETENTION POND DISCHARGE)	1,201	SY	$ 2.00	$2,402.00

STEWART CROSSING SUBDIVISION PHASE ONE
MERITAGE HOMES OF TEXAS, LLC
Cost Calculation for Maintenance Bond
March 10, 2016

ITEM	DESCRIPTION	QUANTITY	UNIT		UNIT PRICE	AMOUNT
48	CHANGE ORDER # 2 - TRENCH EXCAVATION (STREET LIGHT)	1,160	LF	$	8.25	$9,570.00
49	CHANGE ORDER # 2 - 2" SCH 40 CONDUIT (STREET LIGHT)	6,771	LF	$	2.00	$13,542.00
50	CHANGE ORDER # 2 - STREET LIGHTS - STANDARD	30	LF	$	2,700.00	$81,000.00
51	CHANGE ORDER # 2 - STREET LIGHTS - FOUR SQUARE	9	EA	$	3,100.00	$27,900.00
52	CHANGE ORDER # 2 - 12X12 JUNCTION BOX (STREET LIGHT)	15	EA	$	350.00	$5,250.00
53	CHANGE ORDER # 2 - FURNISH AND INSTALL WIRE (STREET LIGHT)	1	EA	$	18,500.00	$18,500.00
54	CHANGE ORDER # 2 - SERVICE METER (STREET LIGHT)	2	SY	$	1,900.00	$3,800.00
	STREETS IMPROVEMENTS				**SUBTOTAL=**	**$1,606,692.75**
DRAINAGE						
1	DETENTION AND WATER QUALITY POND	1	LS	$	206,000.00	$206,000.00
2	INTERIM NATURAL VEGETATIVE FILTER STRIPS	2,647	SY	$	2.75	$7,279.25
3	18" RCP CL III	1,150	LF	$	46.00	$52,900.00
4	24" RCP CL III	880	LF	$	59.00	$51,920.00
5	30" RCP CL III	538	LF	$	71.00	$38,198.00
6	36" RCP CL III	146	LF	$	116.00	$16,936.00
7	42" RCP CL III	506	LF	$	134.00	$67,804.00
8	48" RCP CL 3, ALL DEPTH	404	LF	$	150.00	$60,600.00
9	36" HEADWALL W/ ENERGY DISSIPATERS	1	EA	$	2,600.00	$2,600.00
10	48" HEADWALL W/ ENERGY DISSIPATERS	1	EA	$	8,800.00	$8,800.00
11	ROCK RIP-RAP, 14"-16" ROCK SIZE	1,413	SF	$	12.00	$16,956.00
12	ROCK BERM LEVEL SPREADER	100	LF	$	21.00	$2,100.00
13	VEGETATED LIP LEVEL SPREADERS	550	LF	$	13.50	$7,425.00
14	10' CURB INLET	19	EA	$	4,500.00	$85,500.00
15	15' CURB INLET	6	EA	$	6,500.00	$39,000.00
16	4' STORM MANHOLE, ALL DEPTHS	6	EA	$	3,100.00	$18,600.00
17	5' STORM MANHOLE, ALL DEPTHS	3	EA	$	3,900.00	$11,700.00
18	6' STORM MANHOLE, ALL DEPTHS	2	EA	$	4,600.00	$9,200.00
19	7' STORM MANHOLE, ALL DEPTHS	1	EA	$	6,100.00	$6,100.00
20	DIVERSION BERM	510	LF	$	27.00	$13,770.00
21	DRAINAGE SWALES AT DETENTION POND DISCHARGE & STOR	155	LF	$	45.00	$6,975.00
22	TRENCH SAFETY	3,624	LF	$	1.00	$3,624.00
23	CHANGE ORDER # 1 - 18" RCP	49	LF	$	46.00	$2,254.00
24	CHANGE ORDER # 1 - 30" RCP (10' CONCRETE TRAIL)	36	LF	$	71.00	$2,556.00
25	CHANGE ORDER # 1 - 36" RCP	161	LF	$	116.00	$18,676.00
26	CHANGE ORDER # 1 - 36" HEADWALL	1	EA	$	2,600.00	$2,600.00
27	CHANGE ORDER # 1 - ROCK RIP-RAP	110	SF	$	12.00	$1,320.00
28	CHANGE ORDER # 1 - 4' MANHOLE	1	EA	$	3,100.00	$3,100.00
29	CHANGE ORDER # 1 - 2-30" HEADWALL (10' CONCRETE TRAIL)	2	EA	$	2,350.00	$4,700.00
30	CHANGE ORDER # 1 - 5' MANHOLE W/ 4X4 AREA INLET	1	EA	$	4,950.00	$4,950.00
31	CHANGE ORDER # 1 - ADDITIONAL EMBANKMENT AT DETENTION POND DISCHARGE	1,391	CY	$	1.25	$1,738.75
32	TRENCHING (UTILITY NOT SPECIFIED)	9,850	LF	$	14.00	$137,900.00
	DRAINAGE IMPROVEMENTS				**SUBTOTAL=**	**$913,782.00**

STEWART CROSSING SUBDIVISION PHASE ONE
MERITAGE HOMES OF TEXAS, LLC
Cost Calculation for Maintenance Bond
March 10, 2016

ITEM	DESCRIPTION	QUANTITY	UNIT		UNIT PRICE	AMOUNT
WATER IMPROV						
1	8" PVC C900, INCLUDING ALL FITTINGS	5,010	LF	$	32.00	$160,320.00
2	8" X 8" TEE ON EXISTING 8" WATERLINE	1	EA	$	6,400.00	$6,400.00
3	FIRE HYDRANT ASSEMBLY W/ GV & 6" DI PIPE	12	EA	$	3,800.00	$45,600.00
4	8" GATE VALVE & BOX	20	EA	$	1,400.00	$28,000.00
5	NEAR SIDE SINGLE WATER SERVICE LEAD	4	EA	$	750.00	$3,000.00
6	FAR SIDE SINGLE WATER SERVICE LEAD	5	EA	$	1,550.00	$7,750.00
7	NEAR SIDE DOUBLE WATER SERVICE LEAD	24	EA	$	1,150.00	$27,600.00
8	FAR SIDE DOUBLE WATER SERVICE LEAD	27	EA	$	1,850.00	$49,950.00
9	2" BLOW OFF VALVE	1	EA	$	3,100.00	$3,100.00
10	8" PLUG & CLAMP	2	EA	$	100.00	$200.00
11	TRENCH SAFETY	5,010	LF	$	0.50	$2,505.00
12	12" PVC C900, INCLUDING ALL FITTINGS	1,039	LF	$	48.00	$49,872.00
13	12" PLUG & CLAMP	1	EA	$	200.00	$200.00
14	12" X 8" TEE INSTALLED ON EXISTING 8" WATERLINE	1	EA	$	10,000.00	$10,000.00
15	FIRE HYDRANT ASSEMBLY W/ GV & 6" DI PIPE	2	EA	$	3,900.00	$7,800.00
16	8" GATE VALVE & BOX	1	EA	$	1,350.00	$1,350.00
17	12" GATE VALVE & BOX	2	EA	$	2,200.00	$4,400.00
18	2" COMBINATION AIR RELEASE VALVE	2	EA	$	2,900.00	$5,800.00
19	TRENCH SAFETY	1,039	EA	$	0.50	$519.50
20	CHANGE ORDER # 1 - 8" PVC C900	50	LF	$	32.00	$1,600.00
21	CHANGE ORDER # 1 - 8" GATE VALVE & BOX	1	EA	$	1,400.00	$1,400.00
22	CHANGE ORDER # 1 - 4" SCH 40 IRRIGATION SLEEVES	130	LF	$	19.00	$2,470.00
23	CHANGE ORDER # 1 - 8" GATE VALVE & BOX	1	EA	$	1,400.00	$1,400.00
	WATER IMPROVEMENTS				**SUBTOTAL=**	**$421,236.50**
WASTEWATER						
1	8" PVC SDR 26, 0'-8'	4,586	LF	$	32.00	$146,752.00
2	8" PVC SDR 26, 8'-10'	1,186	LF	$	36.00	$42,696.00
3	8" PVC SDR 26, 10'-12'	350	LF	$	42.00	$14,700.00
4	8" PVC SDR 26, 12'-14'	80	LF	$	48.00	$3,840.00
5	8" PVC SDR 26, 14'-16'	-	LF	$	-	$0.00
6	NEAR SIDE WASTEWATER SINGLE SERVICE LEADS	4	EA	$	925.00	$3,700.00
7	FAR SIDE WASTEWATER SINGLE SERVICE LEADS	4	EA	$	1,275.00	$5,100.00
8	NEAR SIDE WASTEWATER DOUBLE SERVICE LEADS	23	EA	$	1,450.00	$33,350.00
9	FAR SIDE WASTEWATER DOUBLE SERVICE LEADS	29	EA	$	1,850.00	$53,650.00
10	4' MANHOLE, STANDARD DEPTH	24	EA	$	3,750.00	$90,000.00
11	EXTRA DEPTH MANHOLE GREATER THAN 8' DEPTH	8	VF	$	250.00	$2,000.00
12	8" PLUG	1	EA	$	25.00	$25.00
13	TRENCH SAFETY	6,202	LF	$	1.00	$6,202.00
14	CHANGE ORDER # 1 - 8" PVC SDR 26 0-8' DEPTH (ADDED WWL ON SHEET 20)	115	LF	$	32.00	$3,680.00
15	CHANGE ORDER # 1 -8" PVC SDR 26 0-8' DEPTH (CHANGES IN OFFSITE WWL)	(145)	LF	$	32.00	($4,640.00)

STEWART CROSSING SUBDIVISION PHASE ONE
MERITAGE HOMES OF TEXAS, LLC
Cost Calculation for Maintenance Bond
March 10, 2016

ITEM	DESCRIPTION	QUANTITY	UNIT		UNIT PRICE	AMOUNT
16	CHANGE ORDER # 1 - 8" PVC SDR 26 8-10' DEPTH (CHANGES IN OFFSITE WWL)	145	LF	$	36.00	$5,220.00
17	CHANGE ORDER # 1 - NEAR SIDE WASTEWATER SINGLE SERVICE	2	EA	$	925.00	$1,850.00
18	CHANGE ORDER # 1 - FAR SIDE WASTEWATER DOUBLE SERVICE	(1)	EA	$	1,850.00	($1,850.00)
19	CHANGE ORDER # 1 - 4' MANHOLE, STANDARD DEPTH	2	EA	$	3,750.00	$7,500.00
20	CHANGE ORDER # 1 - EXTRA DEPTH MANHOLE GREATER THAN 8' DEPTH	1	EA	$	250.00	$250.00
21	CHANGE ORDER # 1 - 8" CLEANOUT	1	EA	$	200.00	$200.00
	WASTEWATER IMPROVEMENTS				**SUBTOTAL=**	**$414,225.00**

TOTAL PUBLIC IMPROVEMENTS CONSTRUCTION COST = $3,355,936.25

MAINTENANCE BOND (10% OF COST)= $335,593.63

STATE OF TEXAS
SHAWN C. GRAHAM
111432
LICENSED
PROFESSIONAL ENGINEER

Shawn Graham
3/10/2016

Updated 10.20.14

FINAL BILLS PAID AFFIDAVIT
AND WAIVER OF LIEN

STATE OF TEXAS '
COUNTY OF TRAVIS '

Date: 6/28/2016

Developer: Meritage Homes of Texas, LLC

Contractor/Material
Provider ("Affiant"): DNT Construction, LLC

Project : Stewart Crossing

This is to acknowledge and certify that Affiant has completed the construction of all improvements for the project noted above and that Affiant has been paid in full for all labor and material provided to the above-noted construction project, except for retainage, and acknowledges and certifies that Affiant, and all of his or its agents, employees, successors, assigns, subsidiaries, and legal representatives will and do release and waive all Mechanic's liens, or similar lien rights, which have or might arise as a result of the Affiant's or Affiant's agents' or employees' providing labor and materials to the above-noted project. Affiant understands that a portion or all of the property upon which the project is located has been or will be accepted by the City of Leander, Texas, for ownership, maintenance, and operation. Affiant further agrees that it shall look solely to the Developer for payment of the retainage and shall have no cause of action whatsoever, against the City in the event that the retainage is not paid to the Affiant, and that Affiant shall not file a lien of any kind which has or may arise related to the release of the retainage for the project. Affiant acknowledges and understands that the City is relying on the representations made in this document to accept the phase or portion of the subdivision in which the project is located.

In addition to the foregoing, Affiant acknowledges and certifies that Affiant has paid all laborers, subcontractors, materialmen, and all other persons or parties who have provided labor or materials through, for, or on behalf of the Affiant to the above-noted construction project.

Affiant indemnifies and holds Owner harmless from any liens, debts or obligations which arise as a result of labor or materials provided by or through Affiant to the project through the date set out above. Affiant further indemnifies and holds harmless all real property on which the improvements were constructed and all interests in such property, including leasehold interests, from any liens, debts, or obligations arising from any labor or materials provided by or through Affiant to the project through the date set out above.

SUBSCRIBED AND SWORN TO BY Affiant on this 28 day of June, 2016.

Initialed: _____

Updated 10.20.14

AFFIANT:

Signature: _____

Typed Name: Dean Tomme

Title: President

STATE OF TEXAS '
'
COUNTY OF TRAVIS '

BEFORE ME the undersigned authority on this day personally appeared Dean Tomme, known to me to be the person noted above, and acknowledged to me the following: that he/she executed the foregoing for the purpose and consideration therein expressed, in the capacity therein stated, and as the duly authorized act and deed of the party releasing and waiving the lien therein; and that every statement therein is within his/her knowledge and is true and correct.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 28 day of June 2016

[S E A L]

ASHLEY JONES
NOTARY PUBLIC
STATE OF TEXAS
ID 11390666
EXP. 06-16-2018

_____
Notary in and for the State of Texas

Name: Ashley Jones

My commission expires: June 16, 2018

Initialed: _____

AGENDA ITEM # 8

Executive Summary

July 21, 2016

Agenda Subject: Zoning Case 16-Z-006: Consider action on the rezoning of 50.615 acres more or less out of the C. Ybarbo Survey, No. 420 and the C.C. Chafin Survey No. 78, generally located to the west of the intersection of Crystal Falls Pkwy and Lakeline Blvd, more specifically to the west of the Fairways at Crystal Falls, Section 5 Subdivision; TCAD ID 796313. Currently, the property is zoned SFS-2-B (Single-Family Suburban). The applicant is proposing to zone the property to PUD (Planned Unit Development) with a base zoning district of MF-2-A (Multi-Family), Leander, Travis County, Texas.

Background: This request is the second step in the rezoning process.

Origination: Applicant: Mike Siefert on behalf of Lookout Partners, LP.

Financial Consideration: None

Recommendation: See Planning Analysis. The Planning & Zoning Commission unanimously recommended to deny the request at the June 9, 2016 meeting. The Commission requested that the applicant works with staff to address the following issues. The applicant wishes to delay the second reading of the ordinance for 90 days.

1. Prohibit lighting from the interior of the project
2. Increase the minimum building size to 1,800 square feet
3. Propose an alternative to the masonry wall along Crystal Falls Pkwy such as berms, landscaping, and wrought iron.

Attachments:

1. Planning Analysis
2. Current Zoning Map
3. Future Land Use Map
4. Notification Map
5. Proposed Zoning Map
6. Aerial Map
7. PUD Notes and Conceptual Site Layout & Land Use Plan

8. Letter of Intent
9. Approved Preliminary Plat
10. Proposed Changes from Applicant
11. Ordinance
12. Minutes-Planning & Zoning Commission June 09, 2016

Prepared By: Tom Yantis, AICP
Assistant City Manager 07/11/2016

PLANNING ANALYSIS

ZONING CASE 16-Z-006

FAIRWAYS, SECTION 6 PUD

GENERAL INFORMATION

Owner: Lookout Partners, LP.

Current Zoning: SFS-2-B (Single-Family Suburban)

Proposed Zoning: PUD (Planned Unit Development) with a base zoning district of MF-2-A (Multi-Family)

Size and Location: The property is generally located to the west of the intersection of Crystal Falls Pkwy and Lakeline Blvd, more specifically to the west of the Fairways at Crystal Falls, Section 5 Subdivision and is approximately 50.615 acres in size.

Staff Contact: Robin M. Griffin, AICP
Senior Planner

ABUTTING ZONING AND LAND USE:

The table below lists the abutting zoning and land uses.

	ZONING	LAND USE
NORTH	SFR-2-B	Established Single-Family Neighborhood (Grand Mesa)
EAST	SFR-2-B SFS-2-B	Golf Course Established Single-Family Neighborhood (Fairways)
SOUTH	SFR-2-B	Golf Course
WEST	SFR-2-B	Established Single-Family Neighborhood (Grand Mesa)

COMPOSITE ZONING ORDINANCE INTENT STATEMENTS

USE COMPONENTS:

PUD – PLANNED UNIT DEVELOPMENT:

The purpose and intent of the Planned Unit Development (PUD) district is to design unified standards for development in order to facilitate flexible, customized zoning and subdivision standards which encourage imaginative and innovative designs for the development of property within the City. The intent of this zoning request is to provide for the design of a development which permits condo regime single-family development. The intent of this zoning district is to cohesively regulate the development to assure compatibility with adjacent single-family residences, neighborhoods, and commercial properties within the region.

COMPREHENSIVE PLAN STATEMENTS:

The following Comprehensive Plan statements may be relevant to this case:

- Create strong neighborhoods with a variety of housing choices.
- Encourage a range of housing types at a variety of price points.
- The Neighborhood Residential land use category is intended to accommodate a variety of housing types. The density and mix of housing types is dependent on a number of suitability factors including environmental constraints (such as steep topography and floodplain), the availability of sewer infrastructure, proximity to neighborhood and community centers, existing and planned parks and recreation sites, schools, and the road network.

ANALYSIS:

The applicant is requesting the PUD (Planned Unit Development) district in order to allow for the development of a condominium regime single-family project. The surrounding properties include established single-family neighborhoods and the Crystal Falls golf course.

A PUD district can be an appropriate district in this situation because it offers the applicant the opportunity to design a zoning district that will provide for a condominium regime single-family project while limiting the overall density and providing higher design standards.

The applicant is proposing the MF-2-B (Multi-Family) base zoning district to accommodate the proposed development. The proposal includes a total of 98 detached single-family units. The current zoning district would permit single-family lots with a minimum lot width of 70 feet for interior lots and 80 feet for corner lots. There is an approved preliminary plat on file with the City that includes 98 lots for this project. The change in zoning would not increase the density of the units at this location.

This application includes the following higher standards and waivers.

HIGHER STANDARDS	WAIVERS
COMPOSITE ZONING ORDINANCE	
85% Masonry for all structures	-
High Quality Roofing Materials	-
Density Limitation	Condominium/Cluster Style Development

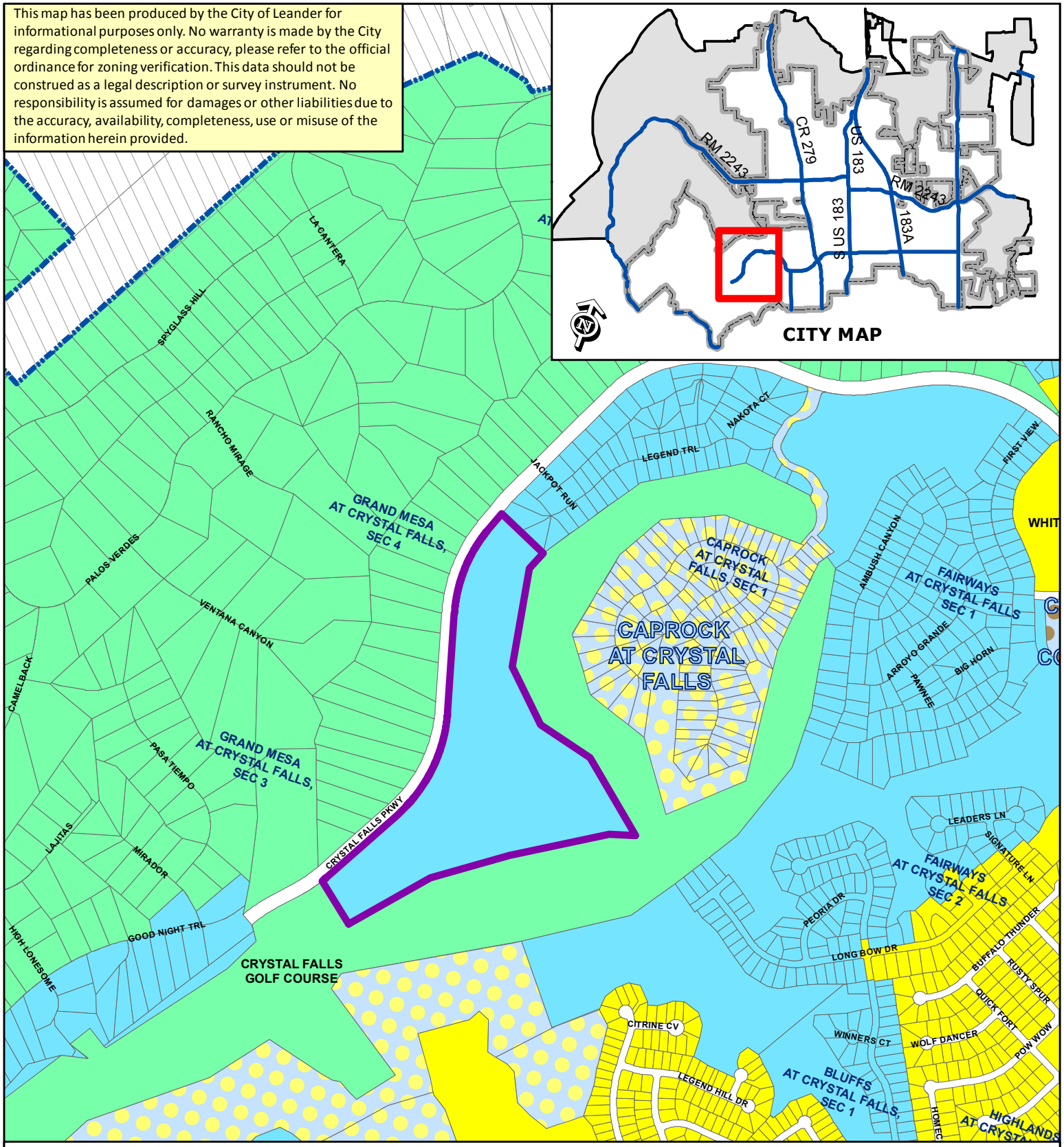
The current concept plan includes a variance to the sidewalk and street lighting requirements. If they developed under the current zoning district, these items would not be required.

This property is located in the Neighborhood Residential land use category as identified in the Comprehensive Plan. The Neighborhood Residential category seeks to accommodate a variety of housing types based on several suitability factors including availability and future availability of water and wastewater infrastructure, topography, floodplain, the proximity of the property to Neighborhood and Community Centers, and existing or planned parks and schools.

STAFF RECOMMENDATION:

Staff recommends approval of the proposed Fairways, Section 6 PUD as requested. This change in zoning will allow for more flexibility in the location of the homes and aid in the preservation of the trees on the property. The density of the project will remain the same and the architectural component will increase from Type B to Type A.

The requested zoning district meets the intent statements of the Composite Zoning Ordinance and the goals of the Comprehensive Plan.



ZONING CASE 16-Z-006 Attachment #2

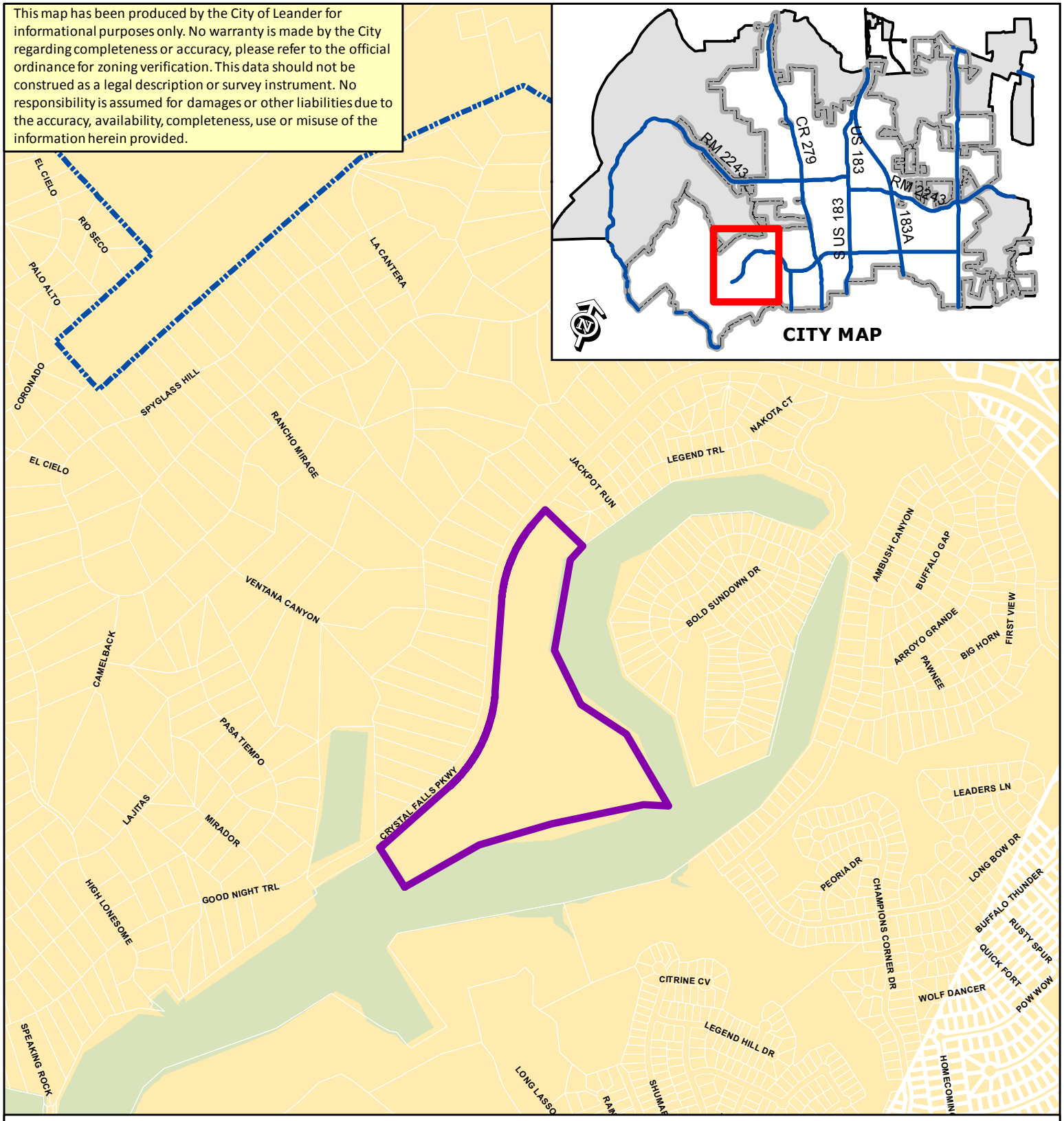
Current Zoning Map - Fairways PUD

Subject Property	SFR	SFL	LO	PUD - Commercial
City Limits	SFE	SFT	LC	PUD - Mixed Use
	SFS	SFU/MH	GC	PUD - Multi-Family
	SFU	TF	HC	PUD - Townhomes
	SFC	MF	HI	PUD - Single-Family

N

0 200

Feet



ZONING CASE 16-Z-006 Attachment #3

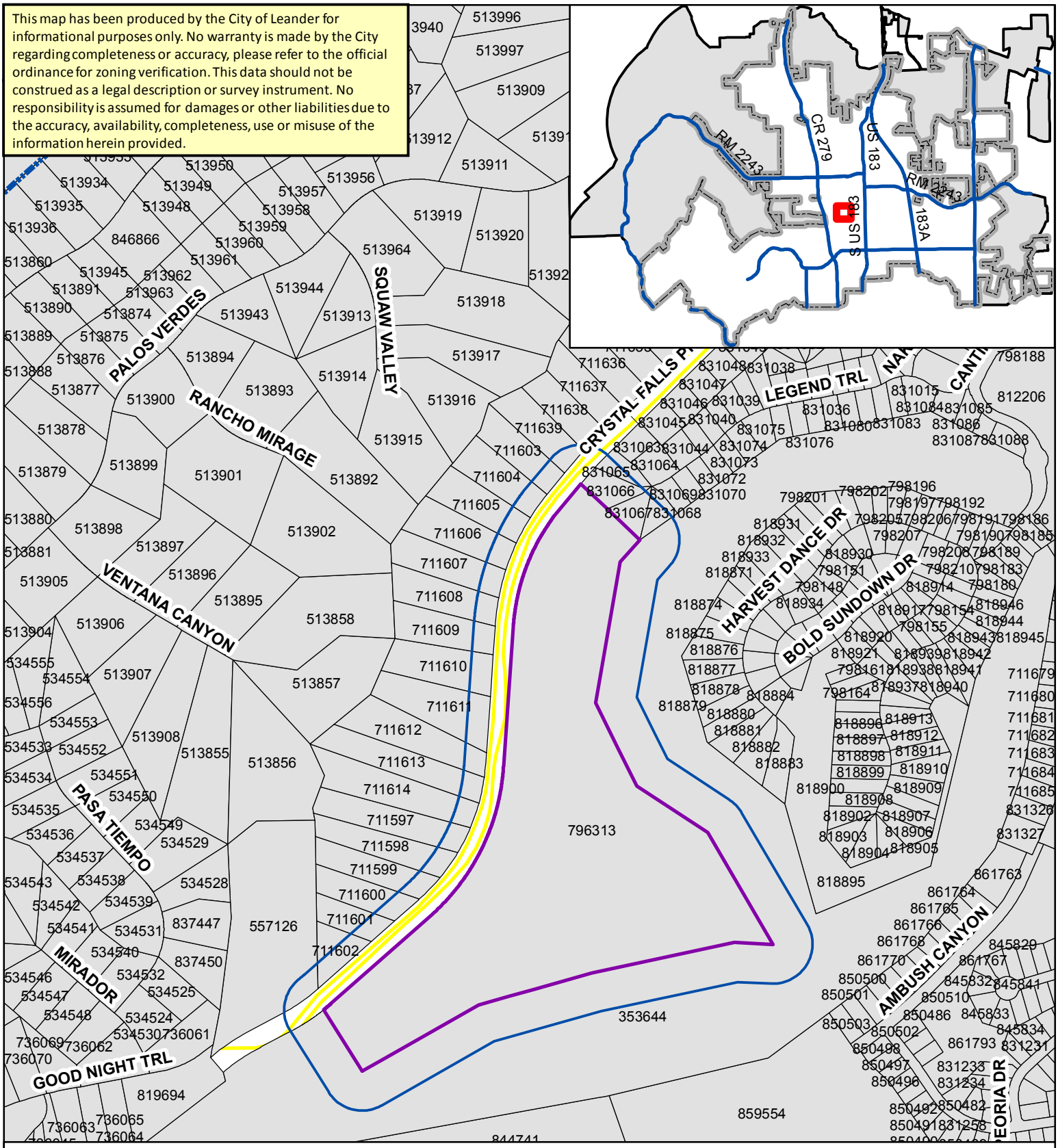
Future Land Use Map - Fairways PUD

- Subject Property
- City Limits
- Open Space
- Mixed Use Corridor
- Commercial Corridor
- Neighborhood Center
- Community Center
- Activity Center
- Transit Supportive Mixed Use
- Station Area Mixed Use
- Old Town Mixed Use
- Employment Mixed Use
- Industrial District
- Neighborhood Residential

N

0 200

Feet



ZONING CASE 16-Z-006

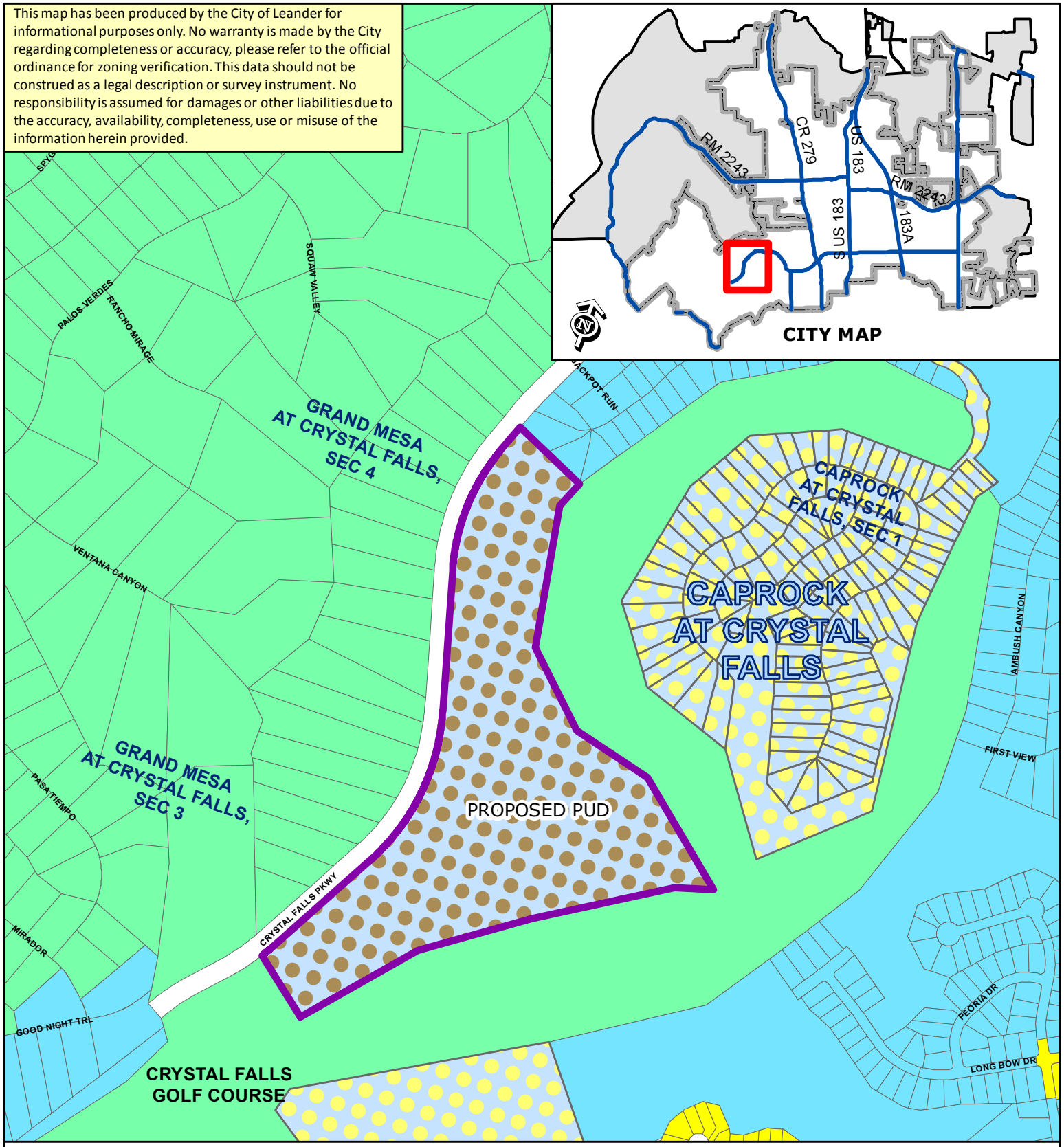
Attachment #4

Notification Map
Fairways Sec 6 Zoning Change

Subject_Prop_Buffer
Subject Property
City Limits
TCAD Parcels

N

0 250 500 Feet



ZONING CASE 16-Z-006 Attachment #5

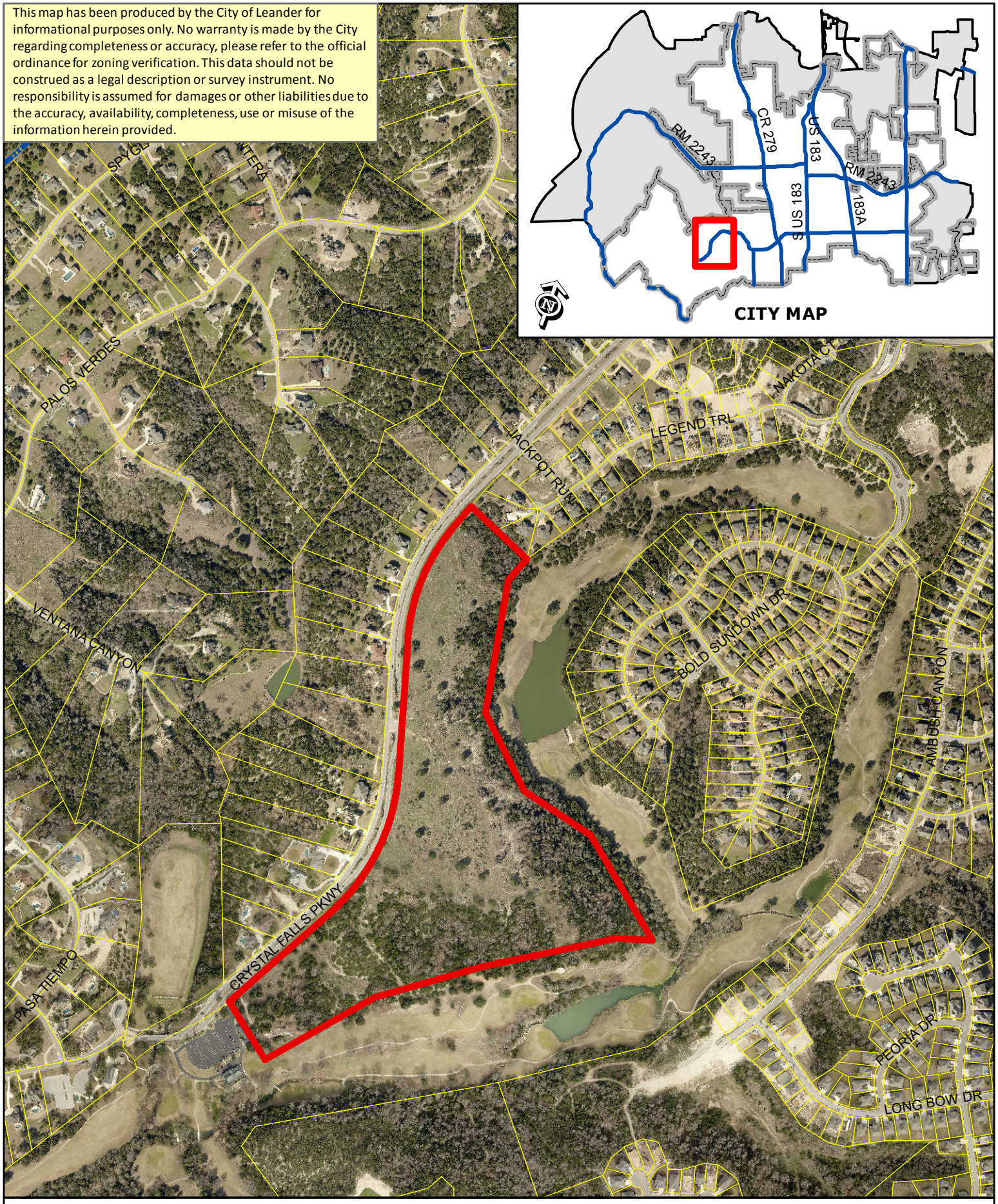
Proposed Zoning Map - Fairways PUD

Subject Property	SFR	SFL	LO	PUD - Commercial
City Limits	SFE	SFT	LC	PUD - Mixed Use
	SFS	SFU/MH	GC	PUD - Multi-Family
	SFU	TF	HC	PUD - Townhomes
	SFC	MF	HI	PUD - Single-Family

N

0 200

Feet



ZONING CASE 16-Z-006 Attachment #6

Aerial Exhibit - Approximate Boundaries
Fairways PUD

0 200
Feet

Subject Property

City Limits

EXHIBIT A
FAIRWAYS SECTION 6- PUD

A. **Purpose and Intent**
   1. The Fairways Section 6 PUD is composed of approximately 50.615 acres, as shown in Exhibit C. The development of this property is a detached condominium regime single-family community.

B. **Applicability and Base Zoning**
   1. All aspects regarding the development of this PUD shall comply with the City of Leander Composite Zoning Ordinance, except as established in this exhibit, titled Exhibit A.
   2. For the purpose of establishing development standards for the PUD, base zoning of MF-2-B (Multi-Family) has been selected from the Leander Composite Zoning Ordinance.

C. **Conceptual Site Layout & Land Use Plan**
   1. A Conceptual Site Layout and Land Use Plan has been attached to this PUD, Exhibit B, to illustrate the design intent for the property. The Conceptual Site Layout and Land Use Plan is intended to serve as a guide to illustrate the general community vision and design concepts and is not intended to serve as a final document.

D. **Allowable Use**
   1. The use will be detached single-family dwellings. The maximum dwelling count shall be 98.

E. **Development Design Standards**
   1. Building envelopes shall comply with the following. These dimensions do not include patios (covered or uncovered) or decks.
      a. Maximum – 100’ wide X 90’ deep
      b. Minimum – 50’ wide X 50’ deep
   2. Development Standards:

	MF-2-A
	DETACHED DWELLINGS
Front Setback (minimum from back of curb)	18 ft. Min
Side Setback (minimum between dwelling units)	10 ft. Min **
Street Side Setback (minimum from back of curb)	10 ft. Min
Rear Setback (minimum)	20 ft. Min*
Perimeter Setback	15 ft. Min
Building Separation (minimum)	10 ft. Min **
Building Setback from Golf Course	35 ft. Min
Building Height	35 ft Max

**This setback is defined as the condition when the rears of two units are immediately adjacent.*
***Eave overhang is not included in calculations for minimum building separation. A minimum of seven feet clear zone between building roof lines will be provided. Patios, decks and similar improvements shall have a minimum separate of 10 feet from all adjacent buildings.*

F. **Drive Design**

1. Refer to Exhibit B for detailed cross section of vehicular access easement.
2. The minimum centerline radius for private drives is 100-feet. Minimum cul-de-sac drive surface radius is 50-feet.
3. The access drive alignment, building pads and island locations may vary to minimize disturbance to significant trees and natural topographic features. Private drives will have a 23-foot wide pavement width with 18-inch ribbon curbs or a 23-foot wide pavement width with 24-inch curb and gutter (which includes mountable curb or stand up curb).
4. This project will be gated.
5. A path for a golf cart connection shall be provided from this development to the Golf Course clubhouse. This path is required to be a minimum of 10-feet and constructed of concrete.

G. **Architectural & Parking Requirements**

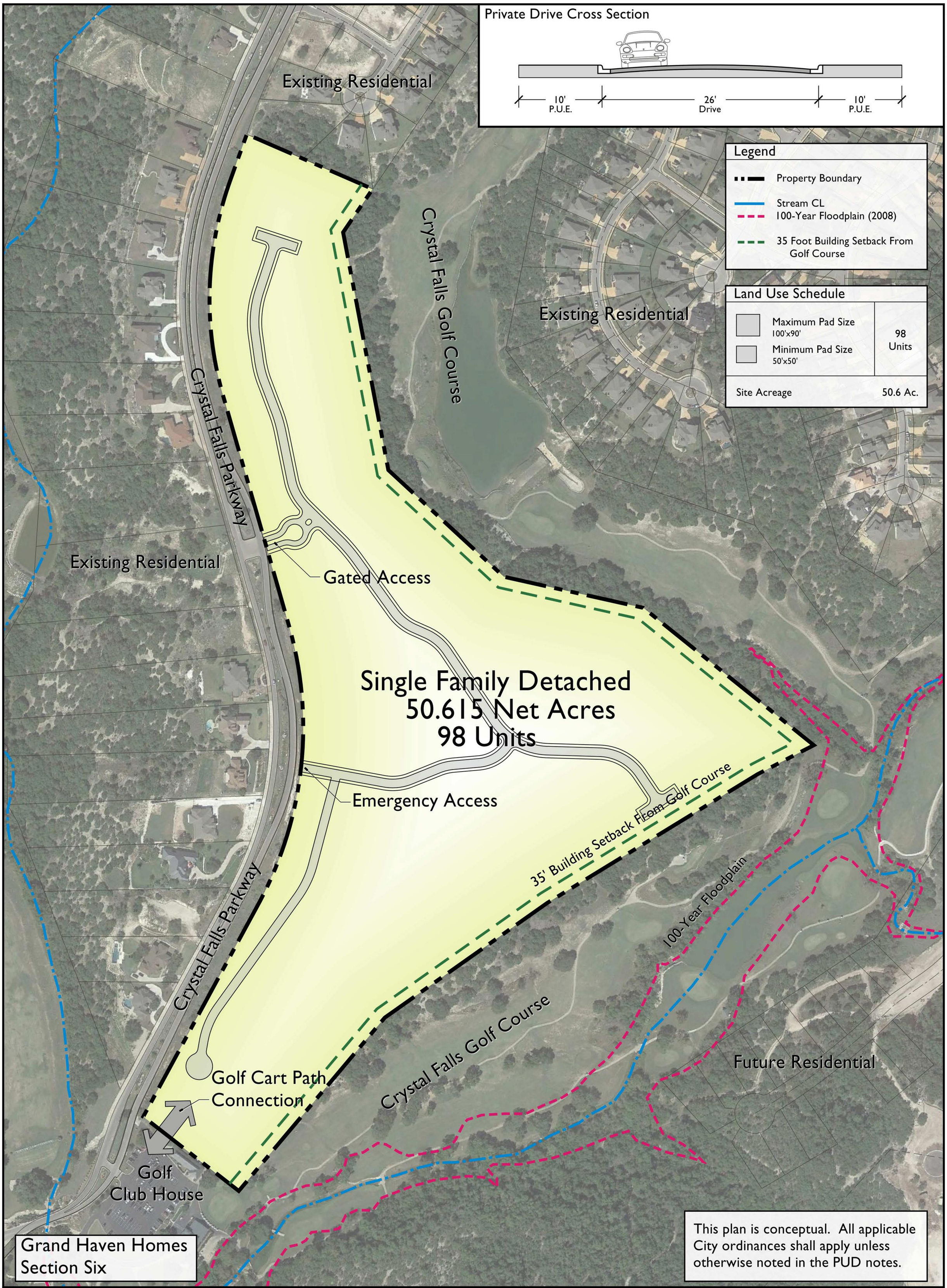
1. All residential homes within this project shall comply with the applicable standards of the Type B Architectural Component and the Architectural Standards for single-family districts as listed in Article VII and Article VIII of the Composite Zoning Ordinance unless modified herein. Drives shall constitute streets with regard to this application of the ordinance.
   a. Each dwelling shall have a minimum of 1,500 square feet of living area and a maximum of 6,000 square feet.
   b. All dwellings shall be detached.
   c. Garage Standard: This project shall comply with Article VIII, Section 5, (j) of the Composite Zoning Ordinance.
   d. All roofing materials shall be tile, standing seam metal, or slate. Laminated, dimensional shingles are prohibited.
   e. All structures shall be comprised of eighty-five (85%) percent masonry.
   f. The renderings and elevations provided as Exhibit D are conceptual in nature. Once building plans are developed for this product the homes built shall substantially conform to the overall architectural style of Exhibit D.
2. Parking
   a. A minimum of two garage-enclosed parking spaces and two additional off-street parking spaces (the garage driveway may be counted toward the provision of off-street parking if it is a minimum of 18' long) shall be provided per unit.

H. **Fencing, Sidewalks, & Lighting**

1. If fencing is proposed, it shall be comprised of wrought iron, decorative tubular metal, or masonry.
2. Sidewalks are required to be installed on one side of internal drives.
3. Lighting is not required in the interior of this project, but is permitted. A street light shall be provided at the intersection of the drive and the street.

I. **Landscaping**

1. This project shall comply with Article VI of the Composite Zoning Ordinance.
   a. The tree preservation/protection requirements associated with commercial and/or multi-family projects shall apply.
   b. The landscape requirements associated with single-family projects shall apply.



Crystal Falls

Leander, Texas

Exhibit B Conceptual Site Layout And Land Use Plan

SCALE : 1" = 100'
0 50 100 200
DATE : 06-01-2016

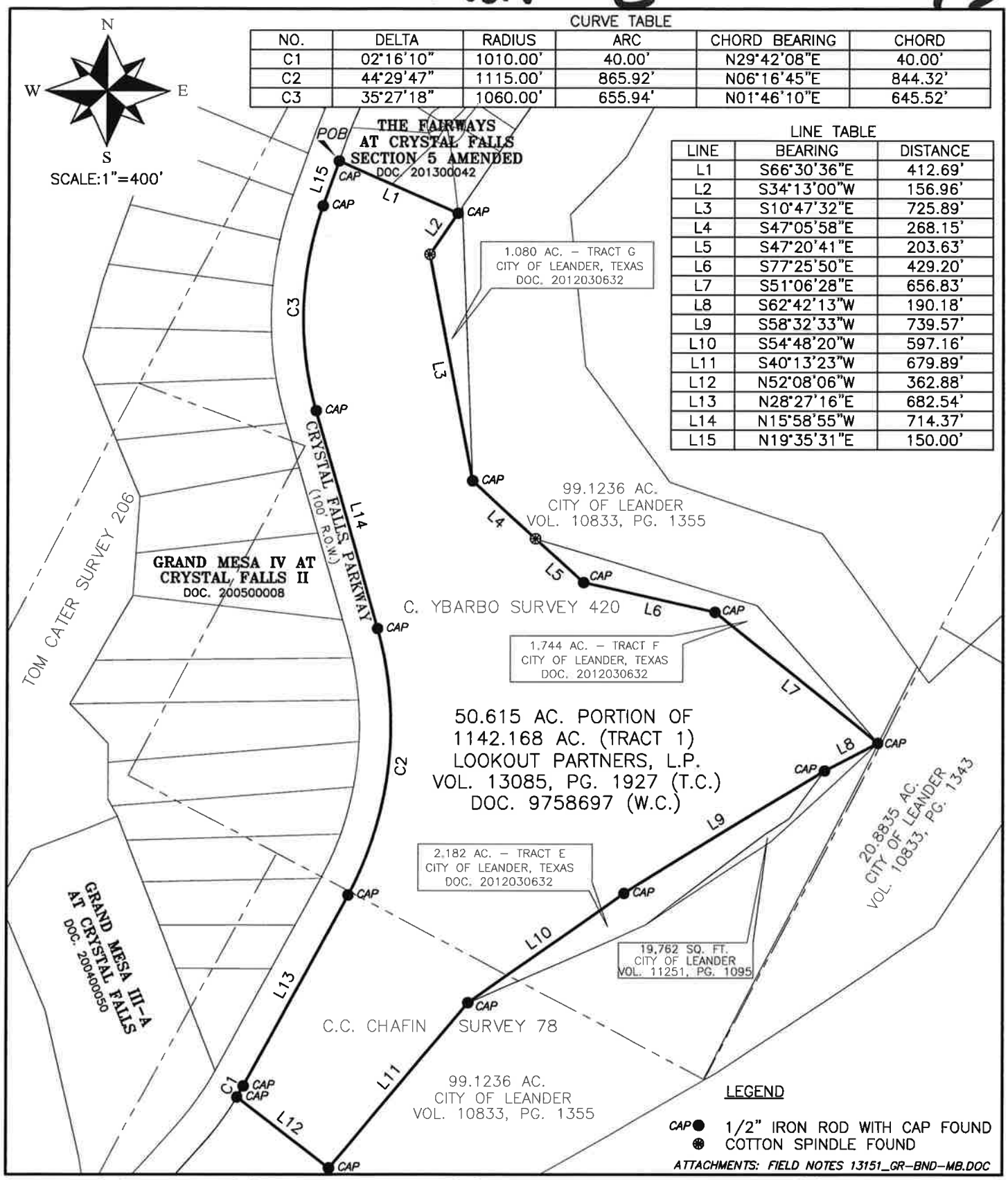
NORTH

712 Congress Avenue, Suite 300
Austin, TX 78701
Tel: (512) 480-0032 Fax: (512) 480-0617
www.rviplanning.com
rvi planning + landscape architecture

All information furnished regarding this property is from sources deemed reliable. However, RVi has not made an independent investigation of these sources and no warranty or representation is made by RVi as to the accuracy thereof and same is submitted subject to errors, omissions, land plan changes, or other conditions. This land plan is conceptual in nature and does not represent any regulatory approval. Land plan is subject to change. The developer has reserved the right, without notice, to make changes to this map and other aspects of the development to comply with governmental requirements and to fulfill its marketing objective.

File: L:\2015\C-Falls Grand Haven\PUD\Exhibit update.Dwg

Exhibit "C" 1/3



CURVE TABLE

NO.	DELTA	RADIUS	ARC	CHORD BEARING	CHORD
C1	02°16'10"	1010.00'	40.00'	N29°42'08"E	40.00'
C2	44°29'47"	1115.00'	865.92'	N06°16'45"E	844.32'
C3	35°27'18"	1060.00'	655.94'	N01°46'10"E	645.52'

LINE TABLE

LINE	BEARING	DISTANCE
L1	S66°30'36"E	412.69'
L2	S34°13'00"W	156.96'
L3	S10°47'32"E	725.89'
L4	S47°05'58"E	268.15'
L5	S47°20'41"E	203.63'
L6	S77°25'50"E	429.20'
L7	S51°06'28"E	656.83'
L8	S62°42'13"W	190.18'
L9	S58°32'33"W	739.57'
L10	S54°48'20"W	597.16'
L11	S40°13'23"W	679.89'
L12	N52°08'06"W	362.88'
L13	N28°27'16"E	682.54'
L14	N15°58'55"W	714.37'
L15	N19°35'31"E	150.00'

SHEET	EXHIBIT	
1 / 1		BEARING BASIS: NAD 83 CENTRAL ZONE PLOTTING SCALE: 1" = 400' DRAWN BY: PMC REVIEWED BY: DRS PROJECT NO: 13151 FILE: L:\13151\DWG\13151_GR-BND-EX DATE: MARCH 20, 2013

50.615 ACRES OF LAND SITUATED IN TRAVIS COUNTY, TEXAS, OUT OF THE C. YARBO SURVEY NO. 420 AND THE C.C. CHAFIN SURVEY NO. 78, BEING A PORTION OF A 1,142.168 ACRE TRACT DESCRIBED IN A DEED OF RECORD TO LOOKOUT PARTNERS, L.P., IN VOLUME 13085, PAGE 1927 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS, AND IN DOCUMENT NUMBER 9758697, OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS

G&R SURVEYING, LLC
1805 OUIDA DR.
AUSTIN, TEXAS 78728
PHONE: (512) 267-7430
FAX: (512) 836-8385

ATTACHMENT 8

THE LOOKOUT GROUP

2370 Rice Blvd., Suite 200
Houston, Texas 77005
Tel: 713.524.5263
Fax: 713.524.2807
mycrystalfalls.com

May 26th, 2016

Ms. Robin Griffin
Senior Planner, City of Leander
104 North Brushy Street
PO Box 319
Leander, Texas 78646-0319
Fax (512) 528-2729

Re: Letter of Intent for PUD –Fairways Section 6

Dear Ms. Griffin:

I respectfully request for the City of Leander to consider the attached PUD application for the tract located along Crystal Falls Parkway, near the Crystal Falls Golf Clubhouse. The 50 acre tract (more or less) described in this package is proposed to change from the current zoning of SFS to a PUD with a base zoning district of MF-2-A. The PUD will allow for the development of a 98 unit detached single family condominium project. The condominium regime is necessary to sell the "lock and leave" lifestyle we are targeting with this section. The proposed PUD increases the architectural standards (and overall quality) from the current zoning by: 1) requiring 100% masonry and 2) prohibiting composite roof shingles. This unique condominium product will give the homebuilder the flexibility to save existing trees, keep more of the land adjacent to the golf course as untouched open space and deliver a custom street scene while targeting a specific age demographic.

You can reach me at (512)260-2066 or mike@mycrystalfalls.com if you have any questions.

Regards,

Michael Siefert, P.E.
Vice President of Construction
The Lookout Development Group, Inc.

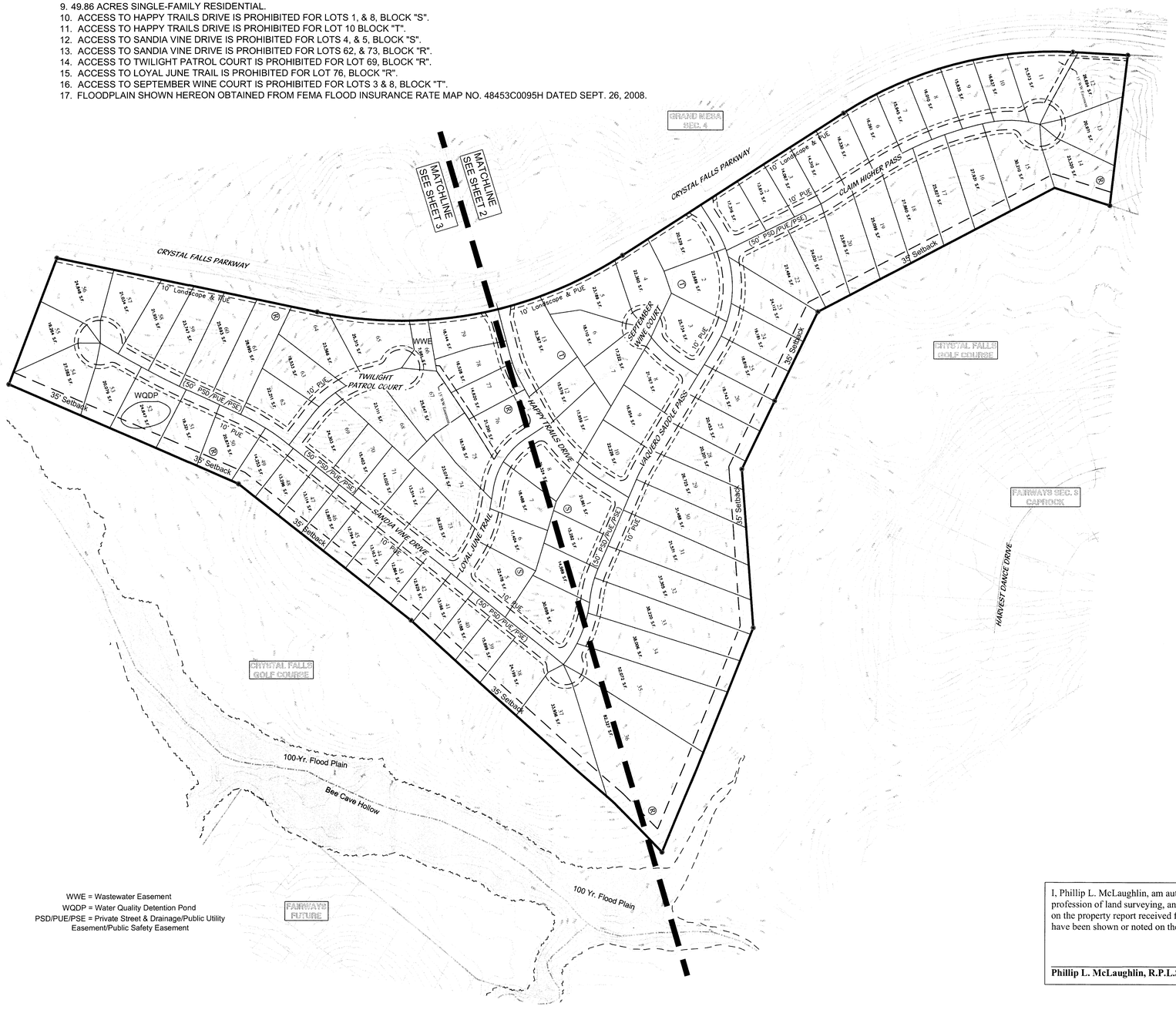
THE FAIRWAYS @ CRYSTAL FALLS

SECTION 6 PRELIMINARY PLAT REVISION 2

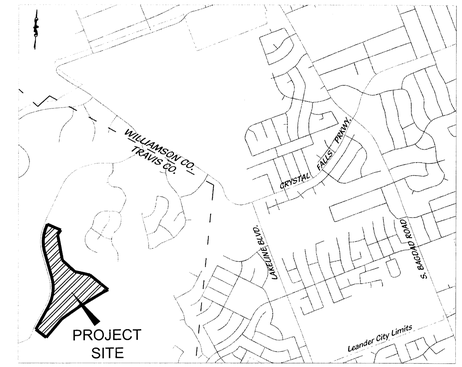
IN THE CITY OF LEANDER, TRAVIS COUNTY & WILLIAMSON COUNTY, TEXAS

NOTES:

1. A THIRTY-FIVE (35) FOOT BUILDING SETBACK FROM THE CRYSTAL FALLS GOLF COURSE SHALL BE DEDICATED WITH FINAL PLAT.
2. ALL 100-YEAR FLOODPLAIN WITHIN THE SUBDIVISION SHALL BE CONTAINED WITHIN THE DRAINAGE EASEMENT.
3. ALL WATER QUALITY/DETENTION BASINS WITHIN THE SUBDIVISION SHALL BE MAINTAINED BY THE CRYSTAL FALLS HOMEOWNERS ASSOCIATION.
4. OBSTRUCTION OF DRAINAGE EASEMENT IS PROHIBITED.
5. ALL STREETS ARE PRIVATE, UNLESS AMENDED.
6. PARKLAND DEDICATION SATISFIED THROUGH DEVELOPMENT AGREEMENT DATED NOV. 17, 2003.
7. DRIVEWAY ACCESS TO CRYSTAL FALLS PARKWAY IS PROHIBITED.
8. PROPERTY ZONED SFS-2-B.
9. 49.86 ACRES SINGLE-FAMILY RESIDENTIAL.
10. ACCESS TO HAPPY TRAILS DRIVE IS PROHIBITED FOR LOTS 1, & 8, BLOCK "S".
11. ACCESS TO HAPPY TRAILS DRIVE IS PROHIBITED FOR LOT 10 BLOCK "T".
12. ACCESS TO SANDIA VINE DRIVE IS PROHIBITED FOR LOTS 4, & 5, BLOCK "S".
13. ACCESS TO SANDIA VINE DRIVE IS PROHIBITED FOR LOTS 62, & 73, BLOCK "R".
14. ACCESS TO TWILIGHT PATROL COURT IS PROHIBITED FOR LOT 69, BLOCK "R".
15. ACCESS TO LOYAL JUNE TRAIL IS PROHIBITED FOR LOT 76, BLOCK "R".
16. ACCESS TO SEPTEMBER WINE COURT IS PROHIBITED FOR LOTS 3 & 8, BLOCK "T".
17. FLOODPLAIN SHOWN HEREON OBTAINED FROM FEMA FLOOD INSURANCE RATE MAP NO. 48453C0095H DATED SEPT. 26, 2008.



WWE = Wastewater Easement
WQDP = Water Quality Detention Pond
PSD/PUE/PSE = Private Street & Drainage/Public Utility Easement/Public Safety Easement



LOCATION MAP
SCALE: 1"=2,000'

	FAIRWAYS Sec.6
RESIDENTIAL LOTS	98
ACREAGE	49.86 Ac.
WWE/WQDP LOTS	2
WWE/WQDP ACREAGE	0.75 Ac.
	50.61

Total Acreage = 50.61 Ac.

OWNER:
The Lookout Development Group, L.P.
2370 Rice Blvd., Suite 200
Houston, Texas 77005
Phone: (713) 524-5263
Fax: (713) 524-2807

ENGINEER:
Jay Engineering Co., Inc.
Texas Registered Engineering Firm F-4780
P.O. Box 1220
Leander, Texas 78646-1220
Phone: (512) 259-3882
Fax: (512) 259-8016

SURVEYOR:
Phillip L. McLaughlin RPLS
G & R Surveying, LLC
1805 Ouida Drive
Austin, Texas 78728
Phone: (512) 267-7430
Fax: (512) 836-8385

THE LOOKOUT GROUP

CRYSTAL FALLS ™
The Natural Alternative To Subdivisions

Approved on 3/13/14 by [illegible]

TABLE OF CONTENTS

1__Overall Layout
2__Layout (100' Scale)
3__Layout (100' Scale)
4__Water Distribution System
5__Wastewater Collection System
6__Overall Drainage Plan
7__Tree Plan

I, Phillip L. McLaughlin, am authorized under the laws of the state of Texas to practice the profession of land surveying, and hereby state that all existing easements of record as found on the property report received from Independence Title Company on November 18, 2013, have been shown or noted on the Preliminary Plat.

Phillip L. McLaughlin, R.P.L.S. #5300

SCALE: 1"=150'
1 FOOT CONTOURS

Date: 02-05-14

STATE OF TEXAS
SAMUEL D. KIGER
89553
PROFESSIONAL ENGINEER
1-13-14

Jay Engineering Company, Inc.
P.O. Box 1220
Leander, Texas 78646-1220
Tel: (512) 259-3882 Fax: (512) 259-8016
Texas Registered Engineering Firm F-4780

Section 6 Preliminary Plat Revision 2
FAIRWAYS
SECTION 6 LAYOUT

THE LOOKOUT GROUP

SCALE: AS NOTED DWN: VDI DESIGN: SDK DATE: Feb 2014
DWG. NO. AS NOTED JOB NO. 157-053-20

no.	date	Revisions	appv.

PSD/PUE/PSE = Private Street & Drainage/Public Utility Easement/Public Safety Easement

STREET INFORMATION

STREET NAME	LENGTH	EASEMENT WIDTH	ROAD WIDTH	DESIGN SPEED	HMAC	BASE
CLAIM HIGHER PASS	939 L.F.	50'	27' F-F	30 MPH	1-1/2"	8"
SEPTEMBER WINE COURT	198 L.F.	50'	27' F-F	30 MPH	1-1/2"	8"
VAQUERO SADDLE PASS	1,374 L.F.	50'	27' F-F	30 MPH	1-1/2"	8"
HAPPY TRAILS DRIVE	662 L.F.	50'	27' F-F	30 MPH	1-1/2"	8"
LOYAL JUNE TRAIL	493 L.F.	50'	27' F-F	25 MPH	1-1/2"	8"
TWILIGHT PATROL COURT	384 L.F.	50'	27' F-F	25 MPH	1-1/2"	8"
SANDIA VINE DRIVE	1,536 L.F.	50'	27' F-F	30 MPH	1-1/2"	8"

Line Table

Line #	Length	Direction
L1	363.13'	S52°08'35"E
L2	723.41'	S28°26'25"W
L3	714.49'	S15°58'56"E
L4	149.61'	S19°44'14"W
L5	411.94'	N66°29'39"W
L6	157.40'	N34°17'07"E
L7	726.23'	N10°46'39"W
L8	268.33'	N47°16'32"W
L9	203.71'	N47°15'59"W
L10	429.17'	N77°26'01"W
L12	739.76'	N58°32'11"E
L13	597.09'	N54°47'15"E
L14	680.18'	N40°07'14"E

Curve Table

Curve #	Length	Radius	Delta	Chord Direction	Chord
C1	866.083	1115.000	044.5048	S06°16'49"W	844.47'
C2	656.146	1060.000	035.4664	S01°47'07"W	645.72'

MATCHLINE

SEE SHEET 3

SCALE: 1"=100'
1 FOOT CONTOURS

Date: 02-05-14

Jay Engineering Company, Inc.
P.O. Box 1220
Leander, Texas 78646-1220
Tel. (512) 259-3882 Fax. (512) 259-8016
Texas Registered Engineering Firm F-4780

SAMUEL D. KIGER
89353
LICENSED
PROFESSIONAL ENGINEER
1-13-14

Section 6 Preliminary Plat Revision 2
LAYOUT (100' Scale)

THE LOOKOUT GROUP

SCALE: AS NOTED DWN: VDI DESIGN: SDK DATE: Feb 2014
DWG. NO. AS NOTED JOB NO. 157-053-20

no.	date	Revisions	appv.

Sheet No. 2 of 7

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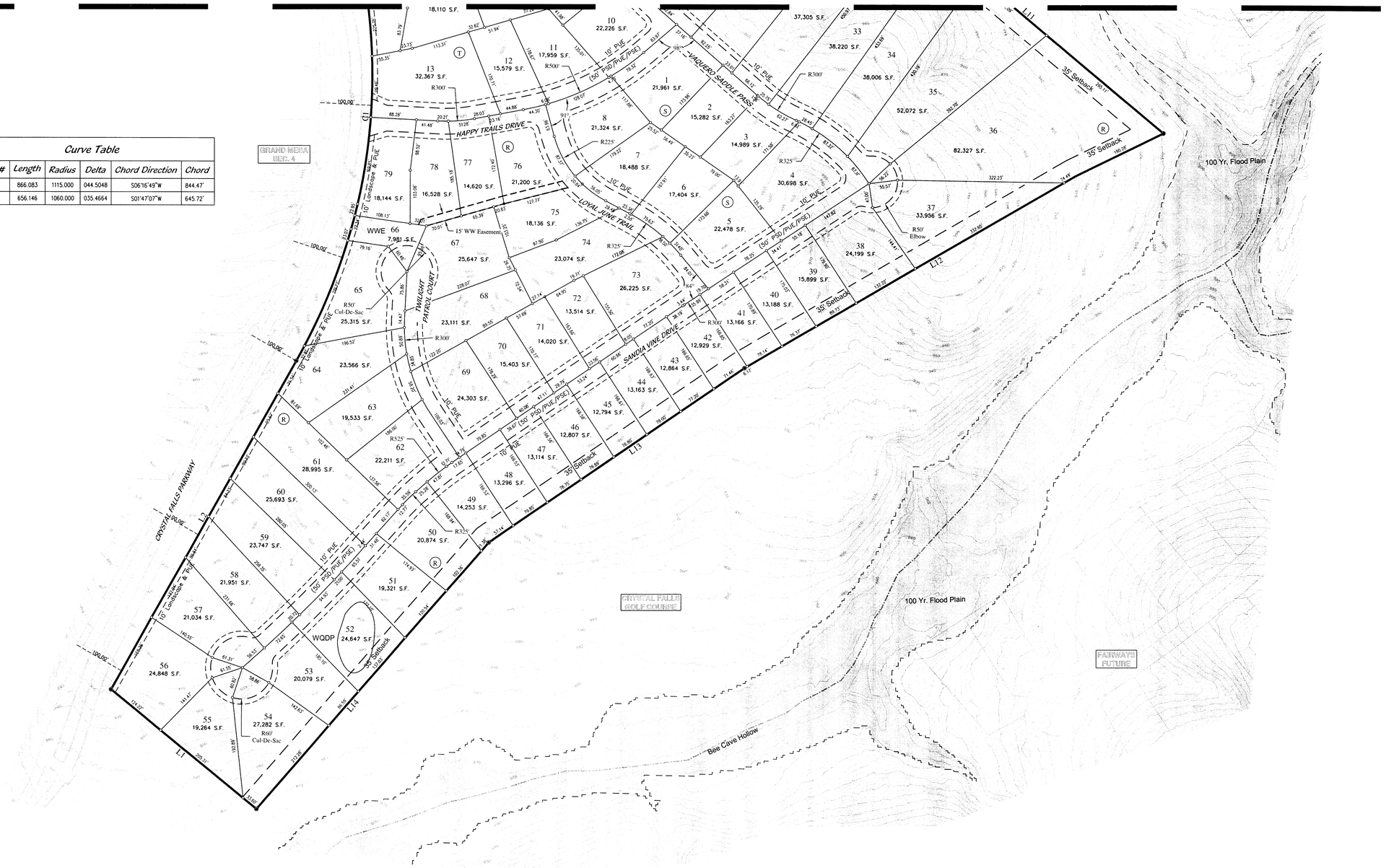
MATCHLINE SEE SHEET 2



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WWE = Wastewater Easement
WQDP = Water Quality Detention Pond
PSD/PUE/PSE = Private Street & Drainage/Public Utility Easement/Public Safety Easement

STREET INFORMATION						
STREET NAME	LENGTH	EASEMENT WIDTH	ROAD WIDTH	DESIGN SPEED	HMAC	BASE
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SCALE: 1"=100'
1 FOOT CONTOURS
Date: 02-05-14

STATE OF TEXAS
SAMUEL D. KIGER
86653
PROFESSIONAL ENGINEER
1-13-14

Jay Engineering Company, Inc.
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Texas Registered Engineering Firm F-4780

Section 6 Preliminary Plat Revision 2
LAYOUT (100' Scale)

THE LOOKOUT GROUP

SCALE: AS NOTED DWN: VDI DESIGN: SDK DATE: Feb 2014
DWG. NO. AS NOTED JOB NO. 157-053-20

no.	date	Revisions	appv.

Sheet No. 3 of 7

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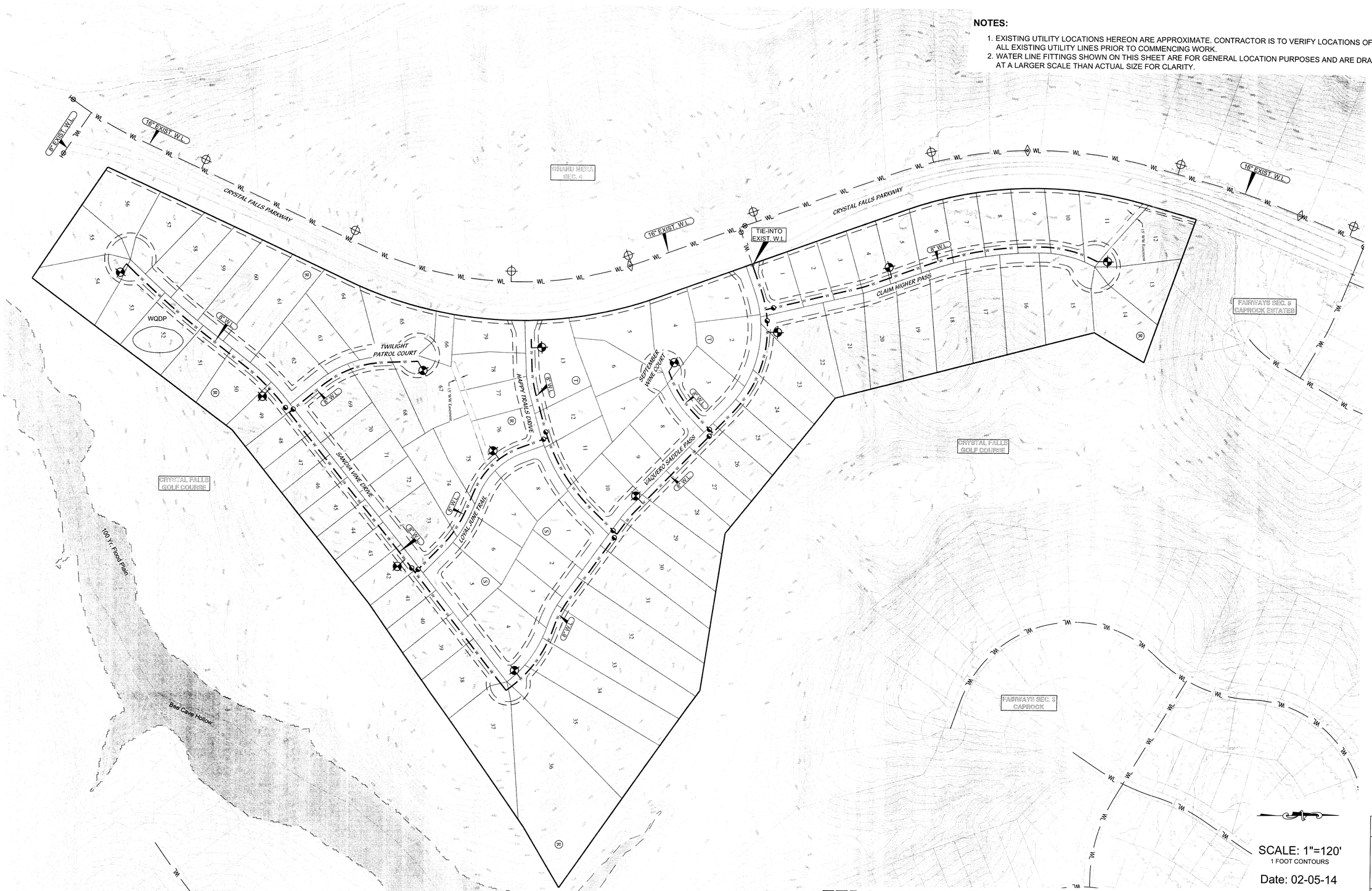
THE FAIRWAYS @ CRYSTAL FALLS

SECTION 6 PRELIMINARY PLAT REVISION 2

IN THE CITY OF LEANDER, TRAVIS COUNTY & WILLIAMSON COUNTY, TEXAS

NOTES:

1. EXISTING UTILITY LOCATIONS HEREON ARE APPROXIMATE. CONTRACTOR IS TO VERIFY LOCATIONS OF ALL EXISTING UTILITY LINES PRIOR TO COMMENCING WORK.
2. WATER LINE FITTINGS SHOWN ON THIS SHEET ARE FOR GENERAL LOCATION PURPOSES AND ARE DRAWN AT A LARGER SCALE THAN ACTUAL SIZE FOR CLARITY.



WATER DISTRIBUTION PLAN

Jay Engineering Company, Inc.
P.O. Box 1220
Leander, Texas 78646-1220
Tel. (512) 259-3882 Fax. (512) 259-8016
Texas Registered Engineering Firm F-4780

Section 6 Preliminary Plat Revision 2
WATER DISTRIBUTION PLAN

THE LOOKOUT GROUP

SCALE: AS NOTED DWN: VDI DESIGN: SDK DATE: Feb 2014
DWG. NO. AS NOTED JOB NO. 157-053-20

no.	date	Revisions	appv.

Sheet No. 4 of 7

THE FAIRWAYS @ CRYSTAL FALLS

SECTION 6 PRELIMINARY PLAT REVISION 2

IN THE CITY OF LEANDER, TRAVIS COUNTY & WILLIAMSON COUNTY, TEXAS

NOTES:

1. EXISTING UTILITY LOCATIONS HEREON ARE APPROXIMATE. CONTRACTOR IS TO VERIFY LOCATIONS OF ALL EXISTING UTILITY LINES PRIOR TO COMMENCING WORK.

WASTEWATER COLLECTION SYSTEM

STATE OF TEXAS
SAMUEL D. KIGER
89353
LICENSED PROFESSIONAL ENGINEER
1-13-14

Jay Engineering Company, Inc.
P.O. Box 1220
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Texas Registered Engineering Firm F-4780

Section 6 Preliminary Plat Revision 2
WASTEWATER COLLECTION SYSTEM

THE LOOKOUT GROUP

SCALE: AS NOTED DWN: VDI DESIGN: SDK DATE: Feb 2014
DWG. NO. AS NOTED JOB NO. 157-053-20

No.	date	Revisions	appv.

Sheet No. 5 of 7

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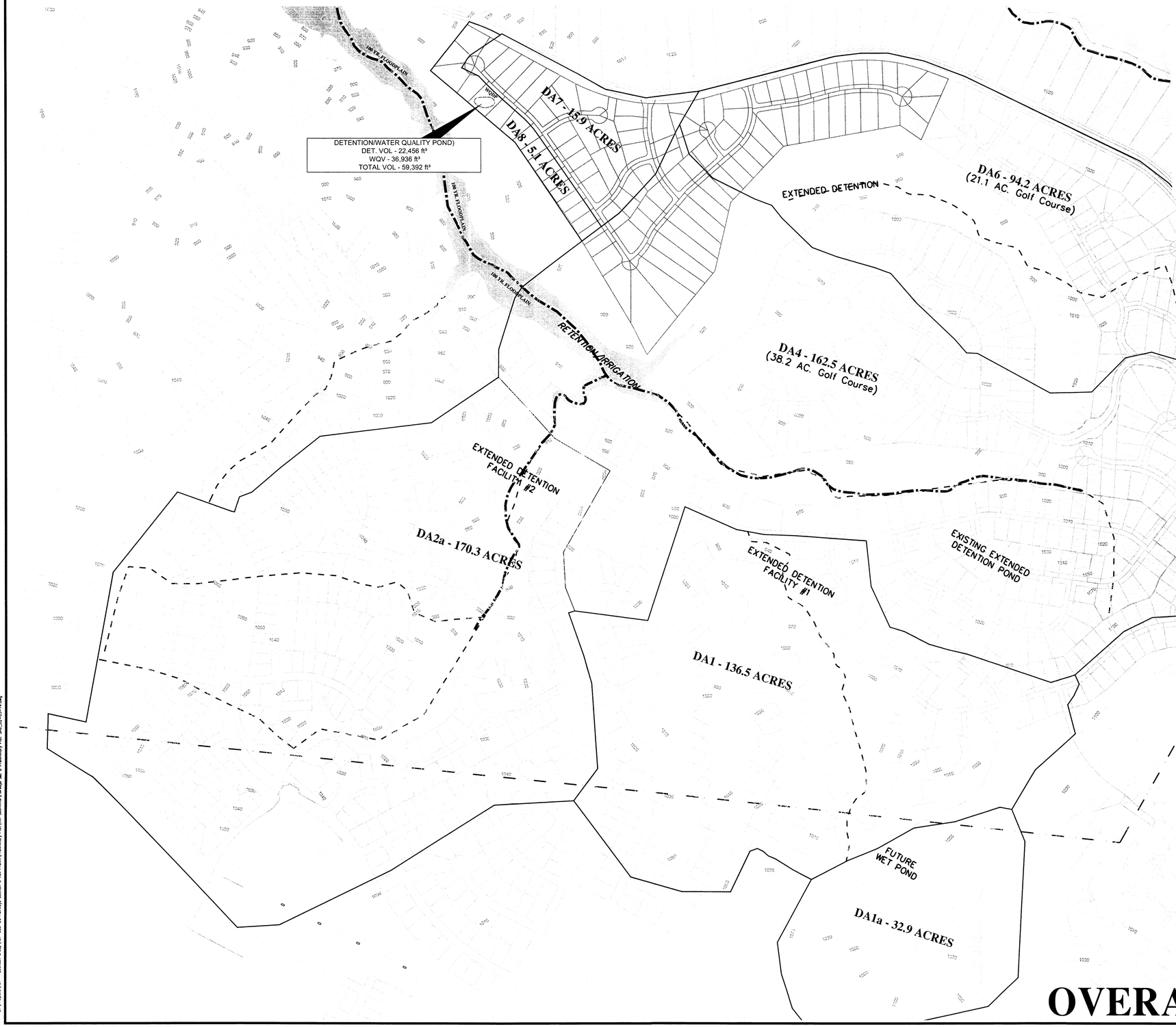
THE FAIRWAYS @ CRYSTAL FALLS

SECTION 6 PRELIMINARY PLAT REVISION 2

IN THE CITY OF LEANDER, TRAVIS COUNTY & WILLIAMSON COUNTY, TEXAS



NOTES:

1. PROPOSED DETENTION POND WILL MAINTAIN FLOWS AT OR BELOW EXISTING LEVELS FOR THE 2, 10, 25 AND 100 YEAR STORMS.

BLUFFS/FAIRWAYS (DA1)		**DETENTION DESIGN FOR**		100	**YEAR FREQUENCY STORM**					
Cp	0.68		proposed runoff coefficient		2 year storm:			25 year storm:		
Ap	15.9	acres	drainage area		a =	54.767		a =	82.936	
Qa	78	cfs	Q allowable is Q existing		b =	11.051		b =	10.746	
Tcp	19.9	minutes	proposed time of concentration		c =	0.8116		c =	0.7634	
					5 year storm:			100 year storm:		
storm frequency	**a**	**b**	**c**		a =	62.981		a =	118.3	
100	118.3	13.185	0.7736		b =	10.477		b =	13.185	
EQUATION USED:[(td+b)^c+1]/[a(td+b-c*td)] = 2Cp*Ap/Qallowable					c =	0.782		c =	0.7736	
					10 year storm:					
Initial Td	**New Td**	**LHS**	**RHS**	**C.F.**	a =	70.82				
30		0.336443	0.277230769	0.824005	b =	10.396				
	24.72015702	0.2839625	0.277230769	0.976294	c =	0.7725				
	24.13413228	0.2781879	0.277230769	0.996559	**CRITICAL STORM DURATION BY THE**					
	24.05109657	0.2773706	0.277230769	0.999496	**MODIFIED RATIONAL METHOD Td =**				24.05	**min**
Pond Storage Volume:										
EQUATION USED: 60*Cp*{a/[(Td+b)^c]}*Ap*Td]-{30*Qa*(Td+Tcp)}										
Sd	9583.615611 ft³									
			Precipitation Values in Austin, inches							
P180	6.87	**Duration (min)**	**2 yr**	**5 yr**	**10 yr**	**25 yr**	**100 yr**			
Ptd	2.93	**5**	0.54	0.64	0.72	0.82	0.99			
		10	0.9	1.08	1.21	1.4	1.7			
		15	1.15	1.4	1.58	1.84	2.25			
		30	1.62	2.03	2.31	2.73	3.38			
		60	2.07	2.69	3.1	3.72	4.66			
		120	2.45	3.32	3.9	4.74	6.03			
		180	2.64	3.68	4.37	5.36	6.87			
REQUIRED VOLUME										
Sr = Sd*P180/Ptd		CALC VALUES	1.43	1.78	2.02	2.38	2.93			
Sr =	**22456.62 ft³**									
		***EXISTING FLOW WAS DECREASED BY 7.7 cfs TO**								
		COMPENSATE FOR INCREASED FLOWS FROM								
		FULL BUILD-OUT IN DA8								

RATIONAL METHOD DRAINAGE SUMMARY
FAIRWAYS AT CRYSTAL FALLS SECTION 6 PRELIM REVISION 2
Time of Concentration

Drainage Area ID	Area (ac)	(min)	C1	C25	C100	Q1 (cfs)	Q25 (cfs)	Q100 (cfs)
7-Existing	15.9	20.1	0.29	0.50	0.57	15.2	47.9	71.2
7-Developed	15.9	20.7	0.37	0.61	0.69	19.2	58.3	85.4
8-Existing	5.1	5.0	0.26	0.47	0.54	7.3	24.1	34.4
8-Developed	5.1	5.0	0.34	0.58	0.66	9.4	30.0	42.1

SCALE: 1"=300'
1 FOOT CONTOURS

Date: 02-05-14

OVERALL DRAINAGE PLAN

Jay Engineering Company, Inc.
P.O. Box 1220
Leander, Texas 78646-1220
Tel. (512) 259-3992 Fax. (512) 259-8016
Texas Registered Engineering Firm F-4780

Section 6 Preliminary Plat Revision 2
OVERALL DRAINAGE PLAN

THE LOOKOUT GROUP

SCALE: AS NOTED DWN: VDI DESIGN: SDK DATE: Feb 2014
DWG. NO. AS NOTED JOB NO. 157-053-20

no.	date	Revisions	app'v

Sheet No. 6 of 7

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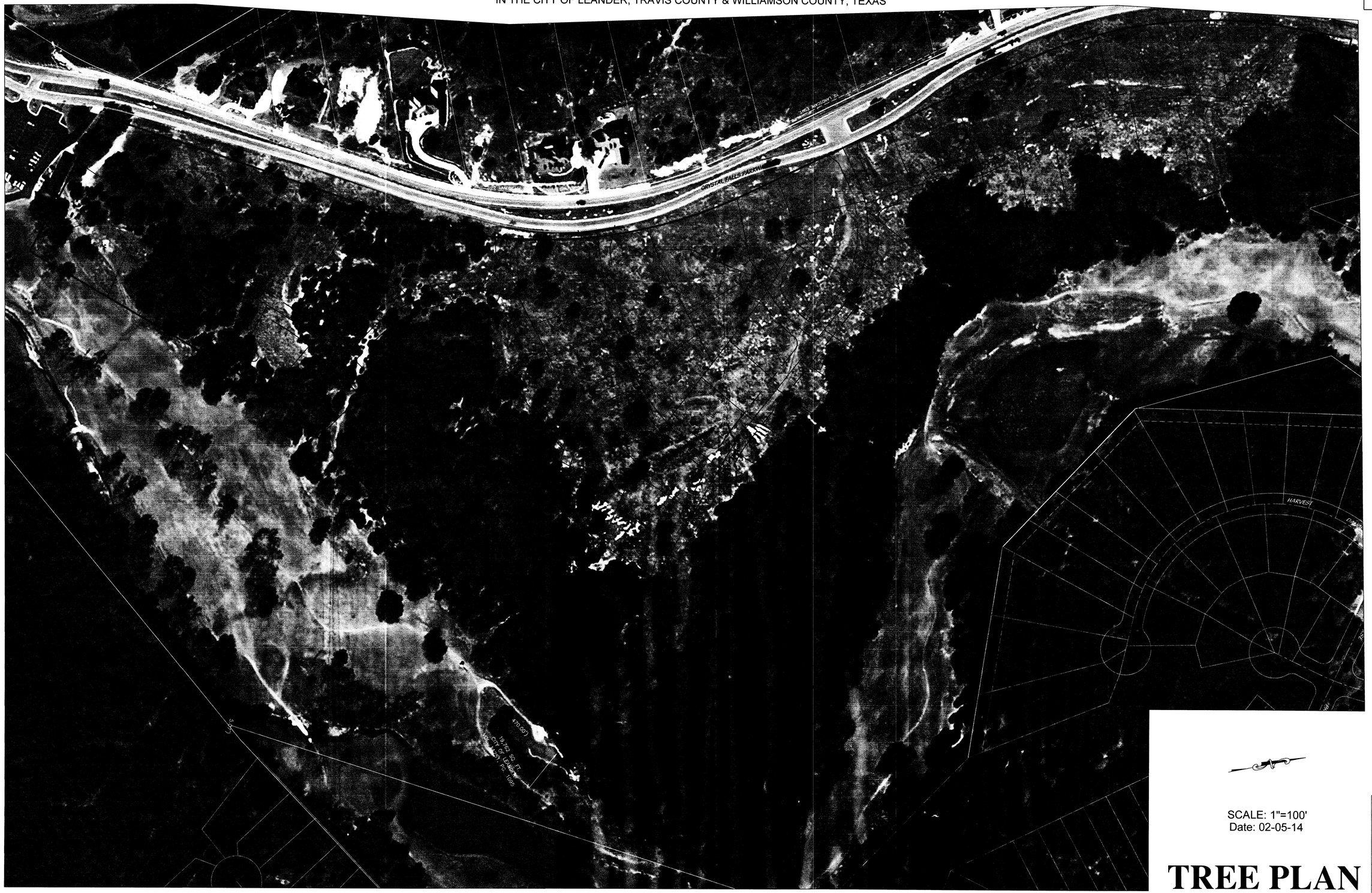
THE FAIRWAYS @ CRYSTAL FALLS

SECTION 6 PRELIMINARY PLAT REVISION 2

IN THE CITY OF LEANDER, TRAVIS COUNTY & WILLIAMSON COUNTY, TEXAS



SCALE: 1"=100'
Date: 02-05-14

TREE PLAN

STATE OF TEXAS
SAMUEL D. KIGER
89853
REGISTERED PROFESSIONAL ENGINEER
1-13-14

Jay Engineering Company, Inc.
P.O. Box 1220
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Texas Registered Engineering Firm F-4780

Section 6 Preliminary Plat Revision 2

TREE PLAN

THE LOOKOUT GROUP

SCALE: AS NOTED DWN: VDI DESIGN: SDK DATE: Feb 2014
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Sheet No. 7 of 7

no.	date	Revisions	appv.

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EXHIBIT A
FAIRWAYS SECTION 6- PUD

A. **Purpose and Intent**
   1. The Fairways Section 6 PUD is composed of approximately 50.615 acres, as shown in Exhibit C. The development of this property is a detached condominium regime single-family community.

B. **Applicability and Base Zoning**
   1. All aspects regarding the development of this PUD shall comply with the City of Leander Composite Zoning Ordinance, except as established in this exhibit, titled Exhibit A.
   2. For the purpose of establishing development standards for the PUD, base zoning of MF-2-B (Multi-Family) has been selected from the Leander Composite Zoning Ordinance.

C. **Conceptual Site Layout & Land Use Plan**
   1. A Conceptual Site Layout and Land Use Plan has been attached to this PUD, Exhibit B, to illustrate the design intent for the property. The Conceptual Site Layout and Land Use Plan is intended to serve as a guide to illustrate the general community vision and design concepts and is not intended to serve as a final document.

D. **Allowable Use**
   1. The use will be detached single-family dwellings. The maximum dwelling count shall be 85.

E. **Development Design Standards**
   1. Building envelopes shall comply with the following. These dimensions do not include patios (covered or uncovered) or decks.
      a. Maximum – 100’ wide X 90’ deep
      b. Minimum – 50’ wide X 50’ deep
   2. Development Standards:

	MF-2-A
	DETACHED DWELLINGS
Front Setback (minimum from back of curb)	18 ft. Min
Side Setback (minimum between dwelling units)	10 ft. Min **
Street Side Setback (minimum from back of curb)	10 ft. Min
Rear Setback (minimum)	20 ft. Min*
Perimeter Setback	15 ft. Min
Building Separation (minimum)	10 ft. Min **
Building Setback from Golf Course	35 ft. Min
Building Height	35 ft Max

**This setback is defined as the condition when the rears of two units are immediately adjacent.*
***Eave overhang is not included in calculations for minimum building separation. A minimum of seven feet clear zone between building roof lines will be provided. Patios, decks and similar improvements shall have a minimum separate of 10 feet from all adjacent buildings.*

F. **Drive Design**

1. Refer to Exhibit B for detailed cross section of vehicular access easement.
2. The minimum centerline radius for private drives is 100-feet. Minimum cul-de-sac drive surface radius is 50-feet.
3. The access drive alignment, building pads and island locations may vary to minimize disturbance to significant trees and natural topographic features. Private drives will have a 23-foot wide pavement width with 18-inch ribbon curbs or a 23-foot wide pavement width with 24-inch curb and gutter (which includes mountable curb or stand up curb).
4. This project will be gated.
5. A path for a golf cart connection shall be provided from this development to the Golf Course clubhouse. This path is required to be a minimum of 10-feet and constructed of concrete.

G. **Architectural & Parking Requirements**

1. All residential homes within this project shall comply with the applicable standards of the Type B Architectural Component and the Architectural Standards for single-family districts as listed in Article VII and Article VIII of the Composite Zoning Ordinance unless modified herein. Drives shall constitute streets with regard to this application of the ordinance.
   a. Each dwelling shall have a minimum of 1,750 square feet of living area and a maximum of 6,000 square feet.
   b. All dwellings shall be detached.
   c. Garage Standard: This project shall comply with Article VIII, Section 5, (j) of the Composite Zoning Ordinance.
   d. All roofing materials shall be tile, standing seam metal, or slate. Laminated, dimensional shingles are prohibited.
   e. All structures shall be comprised of eighty-five (85%) percent masonry.
   f. The renderings and elevations provided as Exhibit D are conceptual in nature. Once building plans are developed for this product the homes built shall substantially conform to the overall architectural style of Exhibit D.
2. Parking
   a. A minimum of two garage-enclosed parking spaces and two additional off-street parking spaces (the garage driveway may be counted toward the provision of off-street parking if it is a minimum of 18' long) shall be provided per unit.

H. **Fencing, Sidewalks, & Lighting**

1. If fencing is proposed, it shall be comprised of wrought iron, decorative tubular metal, or masonry.
2. Sidewalks are required to be installed on one side of internal drives.
3. Lighting is not permitted in the interior of this project. A street light shall be provided at the intersection of the drive and the street. The street light design shall match the street light design used throughout the Highlands at Crystal Falls.

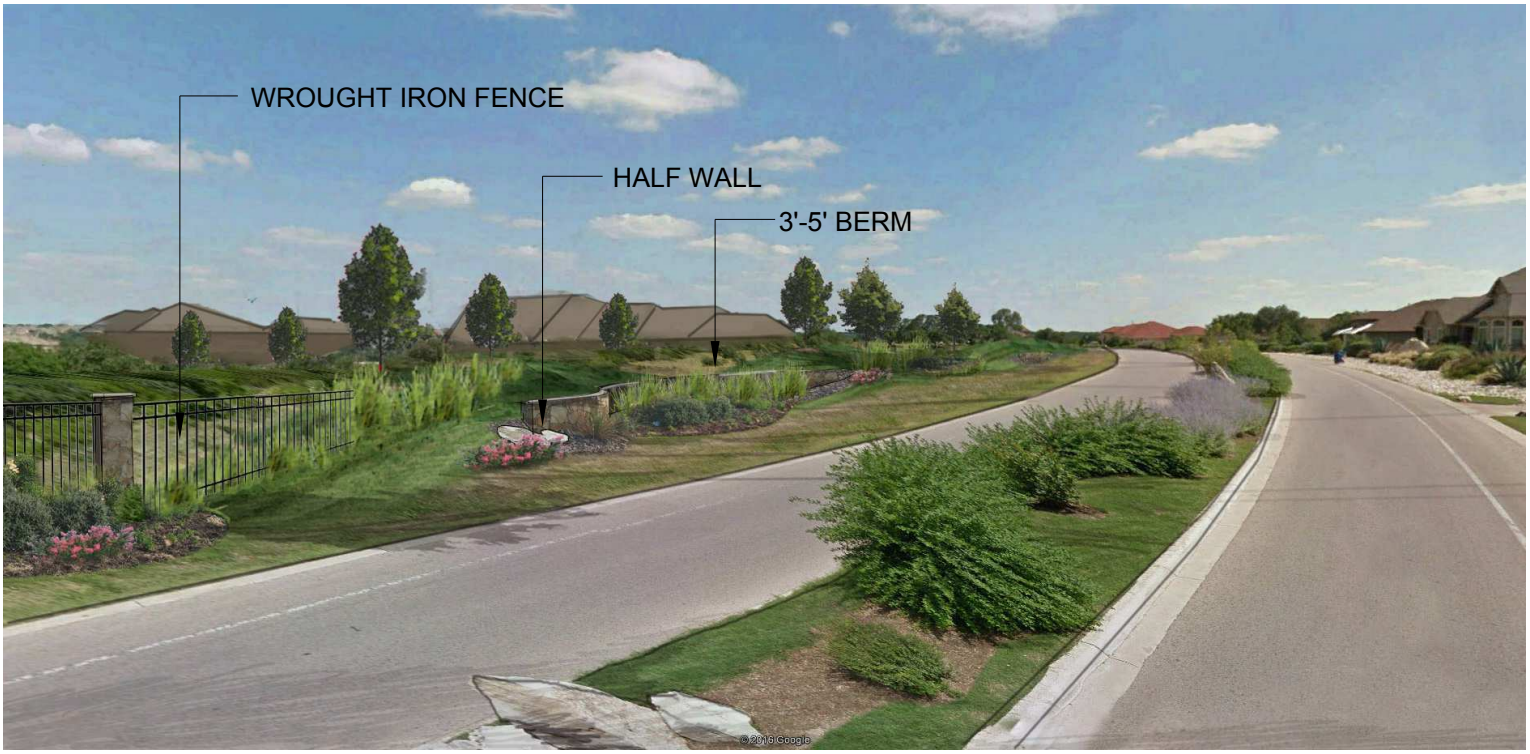
I. **Landscaping**

1. The landscaping and wall plan provided as Exhibit E are conceptual in nature. Once final landscape plans are developed for this section walls and landscape shall substantially conform to the overall intent and style shown in Exhibit E. No other walls or landscaping shall be required along Crystal Falls Parkway other than those shown in Exhibit E. The landscaping/wall/berm is shown in the Crystal Falls Parkway right of way. Prior to acceptance of the subdivision improvements there shall be a license agreement between the

City of Leander and Crystal Falls HOA to address the maintenance of these proposed improvements in the Crystal Falls Parkway ROW.

2. This project shall comply with Article VI of the Composite Zoning Ordinance.
   a. The tree preservation/protection requirements associated with commercial and/or multi-family projects shall apply.
   b. The landscape requirements associated with single-family projects shall apply.

CRYSTAL FALLS PARKWAY LOOKING SOUTH EAST - EXISTING CONDITION



PROPOSED CRYSTAL FALLS PARKWAY LANDSCAPE TREATMENT

COMBINATION BERMS, HALF WALLS, WROUGHT IRON, LANDSCAPING AND 6' STONE WALL

SEC Planning, LLC
Land Planning + Landscape Architecture + Community Branding
AUSTIN, TEXAS
t 512.246.7003
www.secplanning.com + info@secplanning.com

CRYSTAL FALLS PARKWAY
LANDSCAPE

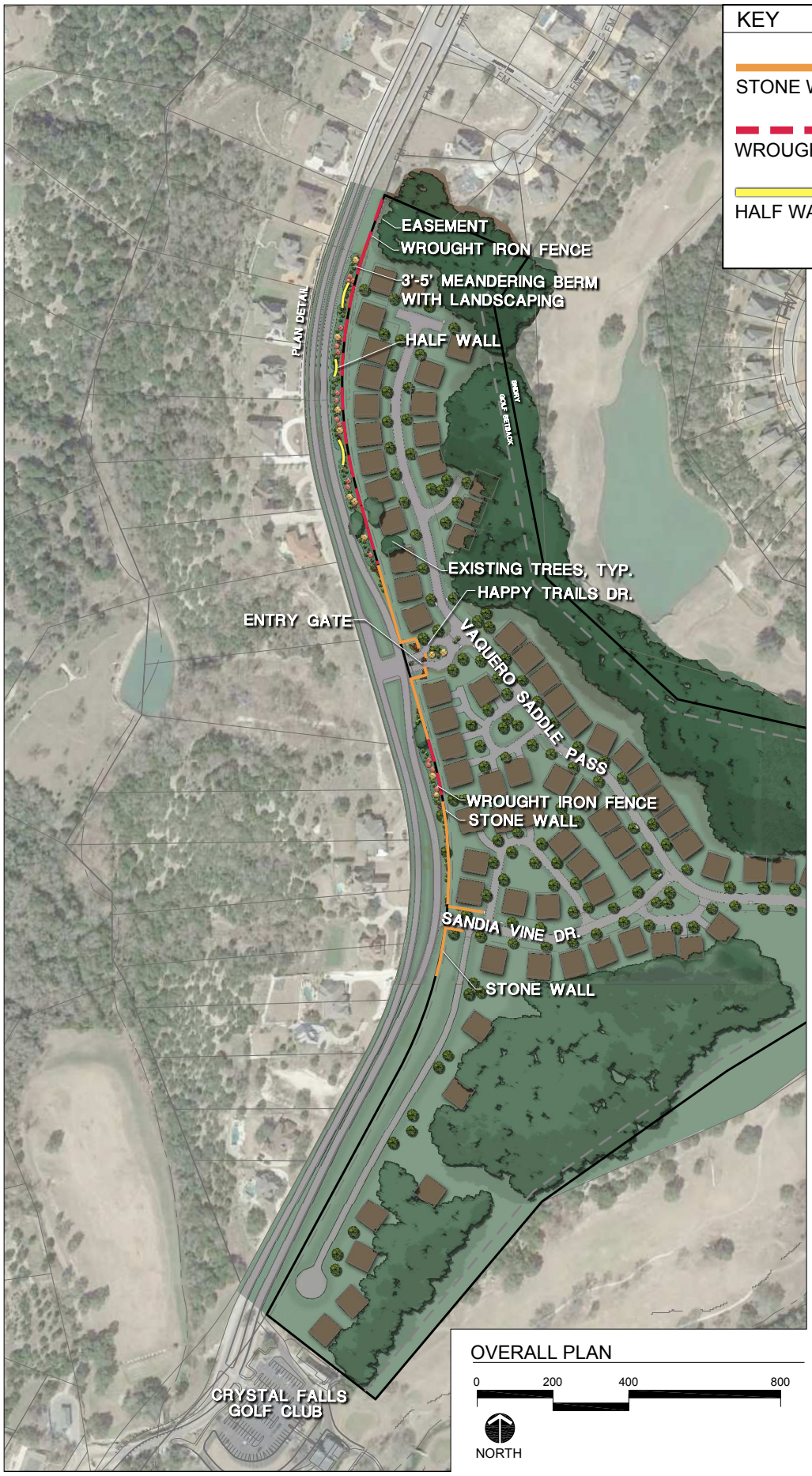
THE FAIRWAYS AT CRYSTAL FALLS

LEANDER, TEXAS

Scale: 1" = 200'
Date: June 27, 2016

SHEET FILE: B:\160067-GRHA\Cadfiles\PLANNING\Crystal Falls Pkwy Landscape.dwg

Base mapping compiled from best available information. All map data should be considered as preliminary, in need of verification, and subject to change. This land plan is conceptual in nature and does not represent any regulatory approval. Plan is subject to change.

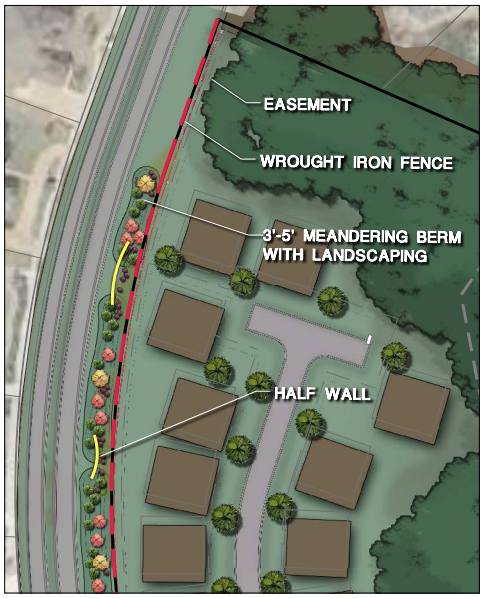


KEY

STONE WALL

WROUGHT IRON FENCE

HALF WALL



OVERALL PLAN

0 200 400 800

NORTH

PLAN DETAIL

NORTH

SEC Planning, LLC

Land Planning + Landscape Architecture + Community Branding

AUSTIN, TEXAS
t 512.246.7003
www.secplanning.com + info@secplanning.com

CRYSTAL FALLS PARKWAY LANDSCAPE

THE FAIRWAYS AT CRYSTAL FALLS

LEANDER, TEXAS

Scale: 1" = 200'
Date: June 27, 2016

SHEET FILE: B:\160067-GRHA\Cadfiles\PLANNING\Crystal Falls Pkwy Landscape.dwg

Base mapping compiled from best available information. All map data should be considered as preliminary, in need of verification, and subject to change. This land plan is conceptual in nature and does not represent any regulatory approval. Plan is subject to change.

ORDINANCE NO #

ORDINANCE OF THE CITY OF LEANDER, TEXAS, AMENDING THE ZONING ORDINANCE BY REZONING A PARCEL OF LAND FROM SFS-2-B (SINGLE-FAMILY SUBURBAN) TO PUD (PLANNED UNIT DEVELOPMENT); MAKING FINDINGS OF FACT; AND PROVIDING FOR RELATED MATTERS.

Whereas, the owner of the property described herein after (the "Property") has requested that the Property be rezoned;

Whereas, after giving at least ten days written notice to the owners of land within two hundred feet of the Property, the Planning & Zoning Commission held a public hearing on the proposed rezoning and forwarded its recommendation on the rezoning to the City Council;

Whereas, after publishing notice of the public hearing at least fifteen days prior to the date of such hearing, the City Council at a public hearing has reviewed the request and the circumstances of the Property and finds that a substantial change in circumstances of the Property, sufficient to warrant a change in the zoning of the Property, has transpired;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LEANDER, TEXAS, THAT:

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

Section 2. Amendment of Zoning Ordinance. Ordinance No. 05-018, as amended, the City of Leander Composite Zoning Ordinance (the "Zoning Ordinance" or "Code"), is hereby modified and amended by rezoning the Property as set forth in Section 3.

Section 3. Applicability. This ordinance applies to the following parcel of land, which is herein referred to as the "Property:" That certain parcel of land being 50.615 acres, more or less, located in Leander, Travis County, Texas, being more particularly described in Exhibit "C", generally located to the west of the intersection of Crystal Falls Pkwy and Lakeline Blvd; legally described as 50.615 acres more or less out of the C. Ybarbo Survey, No. 420 and the C. C. Chafin Survey No. , more particularly described in Instrument Number 5874404 Official Public Records of Travis County, Texas, and identified by tax identification number 796313.

Section 4. Property Rezoned. The Zoning Ordinance is hereby amended by changing the zoning district for the Property from SFS-2-B (Single-Family Suburban) to PUD (Planned Unit Development) known as the Fairways Section 6 PUD. The PUD shall be developed and occupied in accordance with this Ordinance, the PUD plan attached as Exhibits "A", "B", "C", and "D" which are hereby adopted and incorporated herein for all purposes, and the Composite Zoning Ordinance to the extent not amended by this Ordinance. In the event of a conflict between the Composite Zoning Ordinance and the requirements for the Property set forth in this Ordinance, this Ordinance shall control.

Section 5. Recording Zoning Change. The City Council directs the City Secretary to record this zoning classification on the City's official zoning map with the official notation as prescribed by the City's zoning ordinance.

Section 6. Severability. Should any section or part of this ordinance be held unconstitutional, illegal, or invalid, or the application to any person or circumstance for any reasons thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this ordinance are declared to be severable.

Section 7. Open Meetings. That it is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapt. 551, Loc. Gov't. Code.

PASSED AND APPROVED on First Reading this the 16th day of June, 2016.
FINALLY PASSED AND APPROVED on this the 7th day of July, 2016.

THE CITY OF LEANDER, TEXAS	**ATTEST:**
_____	_____
Christopher Fielder, Mayor	Debbie Haile, City Secretary

EXHIBIT A
FAIRWAYS SECTION 6- PUD

A. **Purpose and Intent**
   1. The Fairways Section 6 PUD is composed of approximately 50.615 acres, as shown in Exhibit C. The development of this property is a detached condominium regime single-family community.

B. **Applicability and Base Zoning**
   1. All aspects regarding the development of this PUD shall comply with the City of Leander Composite Zoning Ordinance, except as established in this exhibit, titled Exhibit A.
   2. For the purpose of establishing development standards for the PUD, base zoning of MF-2-B (Multi-Family) has been selected from the Leander Composite Zoning Ordinance.

C. **Conceptual Site Layout & Land Use Plan**
   1. A Conceptual Site Layout and Land Use Plan has been attached to this PUD, Exhibit B, to illustrate the design intent for the property. The Conceptual Site Layout and Land Use Plan is intended to serve as a guide to illustrate the general community vision and design concepts and is not intended to serve as a final document.

D. **Allowable Use**
   1. The use will be detached single-family dwellings. The maximum dwelling count shall be 98.

E. **Development Design Standards**
   1. Building envelopes shall comply with the following. These dimensions do not include patios (covered or uncovered) or decks.
      a. Maximum – 100’ wide X 90’ deep
      b. Minimum – 50’ wide X 50’ deep
   2. Development Standards:

	MF-2-A
	DETACHED DWELLINGS
Front Setback (minimum from back of curb)	18 ft. Min
Side Setback (minimum between dwelling units)	10 ft. Min **
Street Side Setback (minimum from back of curb)	10 ft. Min
Rear Setback (minimum)	20 ft. Min*
Perimeter Setback	15 ft. Min
Building Separation (minimum)	10 ft. Min **
Building Setback from Golf Course	35 ft. Min
Building Height	35 ft Max

**This setback is defined as the condition when the rears of two units are immediately adjacent.*
***Eave overhang is not included in calculations for minimum building separation. A minimum of seven feet clear zone between building roof lines will be provided. Patios, decks and similar improvements shall have a minimum separate of 10 feet from all adjacent buildings.*

F. **Drive Design**

1. Refer to Exhibit B for detailed cross section of vehicular access easement.
2. The minimum centerline radius for private drives is 100-feet. Minimum cul-de-sac drive surface radius is 50-feet.
3. The access drive alignment, building pads and island locations may vary to minimize disturbance to significant trees and natural topographic features. Private drives will have a 23-foot wide pavement width with 18-inch ribbon curbs or a 23-foot wide pavement width with 24-inch curb and gutter (which includes mountable curb or stand up curb).
4. This project will be gated.
5. A path for a golf cart connection shall be provided from this development to the Golf Course clubhouse. This path is required to be a minimum of 10-feet and constructed of concrete.

G. **Architectural & Parking Requirements**

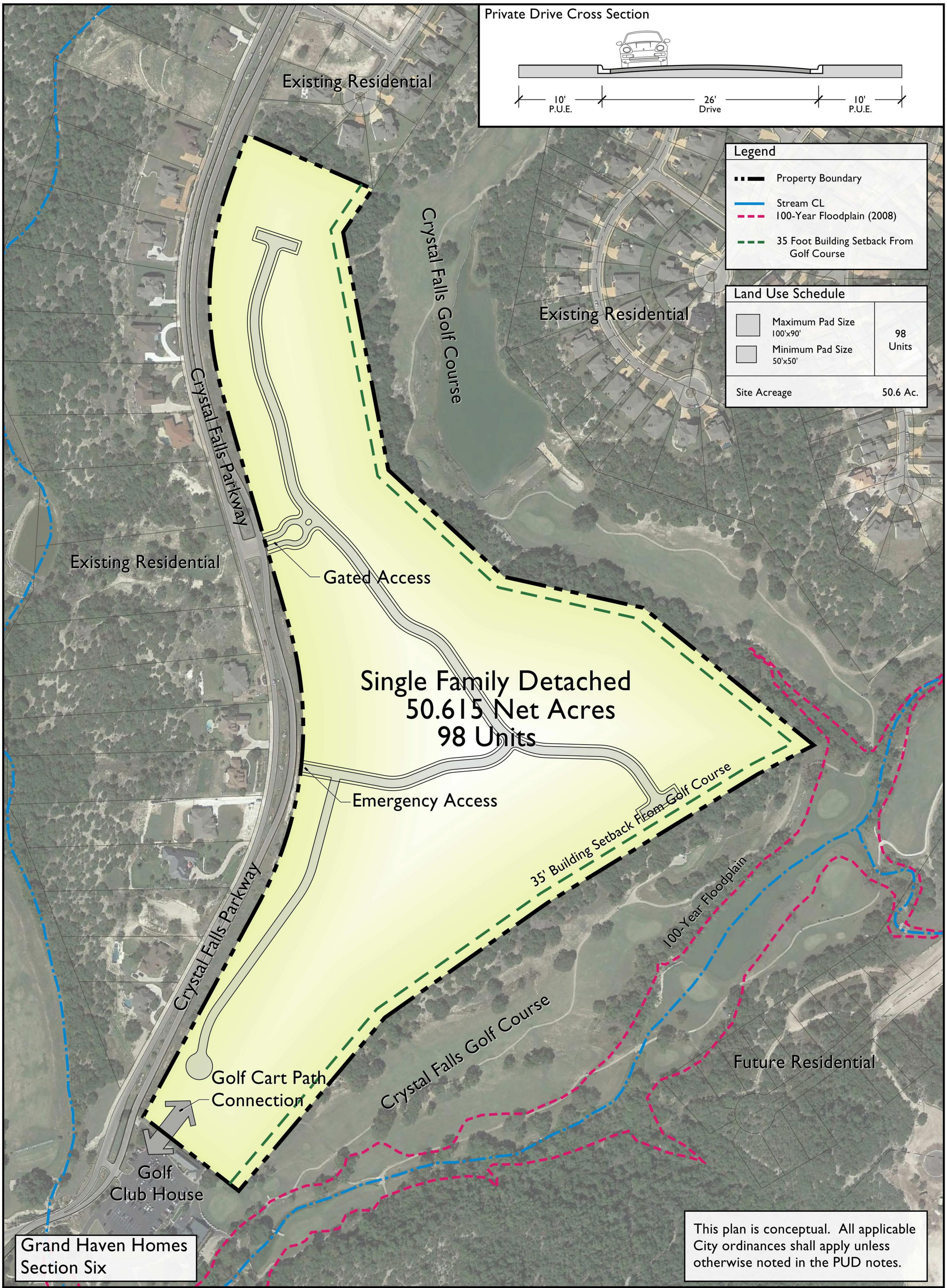
1. All residential homes within this project shall comply with the applicable standards of the Type B Architectural Component and the Architectural Standards for single-family districts as listed in Article VII and Article VIII of the Composite Zoning Ordinance unless modified herein. Drives shall constitute streets with regard to this application of the ordinance.
   a. Each dwelling shall have a minimum of 1,500 square feet of living area and a maximum of 6,000 square feet.
   b. All dwellings shall be detached.
   c. Garage Standard: This project shall comply with Article VIII, Section 5, (j) of the Composite Zoning Ordinance.
   d. All roofing materials shall be tile, standing seam metal, or slate. Laminated, dimensional shingles are prohibited.
   e. All structures shall be comprised of eighty-five (85%) percent masonry.
   f. The renderings and elevations provided as Exhibit D are conceptual in nature. Once building plans are developed for this product the homes built shall substantially conform to the overall architectural style of Exhibit D.
2. Parking
   a. A minimum of two garage-enclosed parking spaces and two additional off-street parking spaces (the garage driveway may be counted toward the provision of off-street parking if it is a minimum of 18' long) shall be provided per unit.

H. **Fencing, Sidewalks, & Lighting**

1. If fencing is proposed, it shall be comprised of wrought iron, decorative tubular metal, or masonry.
2. Sidewalks are required to be installed on one side of internal drives.
3. Lighting is not required in the interior of this project, but is permitted. A street light shall be provided at the intersection of the drive and the street.

I. **Landscaping**

1. This project shall comply with Article VI of the Composite Zoning Ordinance.
   a. The tree preservation/protection requirements associated with commercial and/or multi-family projects shall apply.
   b. The landscape requirements associated with single-family projects shall apply.



Crystal Falls

Leander, Texas

Exhibit B Conceptual Site Layout And Land Use Plan

SCALE : 1" = 100'
0 50 100 200
DATE : 06-01-2016

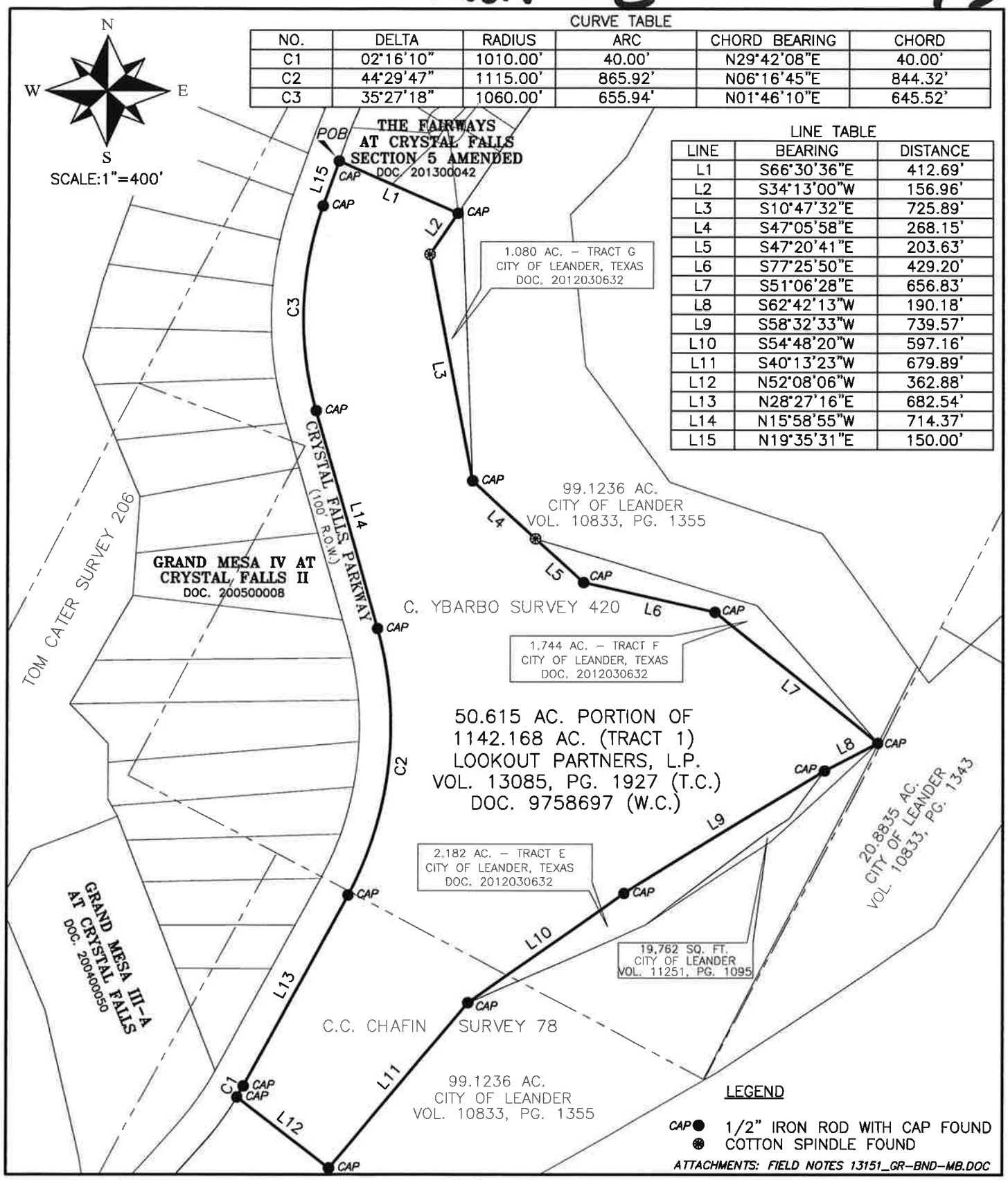
NORTH

712 Congress Avenue, Suite 300
Austin, TX 78701
Tel: (512) 480-0032 Fax: (512) 480-0617
www.rviplanning.com
rvi planning + landscape architecture

All information furnished regarding this property is from sources deemed reliable. However, RVi has not made an independent investigation of these sources and no warranty or representation is made by RVi as to the accuracy thereof and same is submitted subject to errors, omissions, land plan changes, or other conditions. This land plan is conceptual in nature and does not represent any regulatory approval. Land plan is subject to change. The developer has reserved the right, without notice, to make changes to this map and other aspects of the development to comply with governmental requirements and to fulfill its marketing objective.

File: L:\2015\C-Falls Grand Haven\PUD\Exhibit update.Dwg

Exhibit "C" 1/3



CURVE TABLE

NO.	DELTA	RADIUS	ARC	CHORD BEARING	CHORD
C1	02°16'10"	1010.00'	40.00'	N29°42'08"E	40.00'
C2	44°29'47"	1115.00'	865.92'	N06°16'45"E	844.32'
C3	35°27'18"	1060.00'	655.94'	N01°46'10"E	645.52'

LINE TABLE

LINE	BEARING	DISTANCE
L1	S66°30'36"E	412.69'
L2	S34°13'00"W	156.96'
L3	S10°47'32"E	725.89'
L4	S47°05'58"E	268.15'
L5	S47°20'41"E	203.63'
L6	S77°25'50"E	429.20'
L7	S51°06'28"E	656.83'
L8	S62°42'13"W	190.18'
L9	S58°32'33"W	739.57'
L10	S54°48'20"W	597.16'
L11	S40°13'23"W	679.89'
L12	N52°08'06"W	362.88'
L13	N28°27'16"E	682.54'
L14	N15°58'55"W	714.37'
L15	N19°35'31"E	150.00'

SHEET	EXHIBIT	
1 / 1		BEARING BASIS: NAD 83 CENTRAL ZONE PLOTTING SCALE: 1" = 400' DRAWN BY: PMC REVIEWED BY: DRS PROJECT NO: 13151 FILE: L:\13151\DWG\13151_GR-BND-EX DATE: MARCH 20, 2013

50.615 ACRES OF LAND SITUATED IN TRAVIS COUNTY, TEXAS, OUT OF THE C. YARBO SURVEY NO. 420 AND THE C.C. CHAFIN SURVEY NO. 78, BEING A PORTION OF A 1,142.168 ACRE TRACT DESCRIBED IN A DEED OF RECORD TO LOOKOUT PARTNERS, L.P., IN VOLUME 13085, PAGE 1927 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS, AND IN DOCUMENT NUMBER 9758697, OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS

G&R SURVEYING, LLC
1805 OUIDA DR.
AUSTIN, TEXAS 78728
PHONE: (512) 267-7430
FAX: (512) 836-8385

Commissioner Schwendenmann made an alternate motion to approve the zoning request with the current landscape ordinance requirements and the Multi-Family use component. The motion failed due to the lack of a second.

10. Zoning Case 16-Z-006: Hold a public hearing and consider action on the rezoning of 50.615 acres more or less out of the C. Ybarbo Survey, No. 420 and the C.C. Chafin Survey No. 78, generally located to the west of the intersection of Crystal Falls Pkwy and Lakeline Blvd, more specifically to the west of the Fairways at Crystal Falls, Section 5 Subdivision; TCAD ID 796313. Currently, the property is zoned SFS-2-B (Single-Family Suburban). The applicant is proposing to zone the property to PUD (Planned Unit Development) with a base zoning district of MF-2-A (Multi-Family), Leander, Travis County, Texas. Applicant: Mike Siefert on behalf of Lookout Partners, LP.

a) Staff Presentation

Martin Siwek, Planner, discussed the purpose for the zoning request.

b) Applicant Presentation

Mike Siefert, explained the zoning request.

c) Open Public Hearing

Chair Sokol opened the public hearing.

Todd Madden – Spoke for
Brian McCurtis – Spoke against
Mike Meadows – Spoke against
Michael Dube – Spoke against
Suzy Pessia - Spoke against
Bob Kanade -Spoke against
Jim Wiggers – Spoke against
Steve Wiesenthal - spoke against
Dave Abrons - Spoke against
Andy Pitts - Spoke against
Irene Cosley – Spoke against
Christine Turner – Spoke against
Philip Turner – Spoke against
Kenneth Ahrens – Spoke against
Phil Wright – Spoke against
Karen Hutton – Spoke against
Kurt Strauss – Spoke for
Kathryn Parker – Spoke for

d) Close Public Hearing

Chair Sokol closed the public hearing.

e) Discussion

Discussion took place.

f) Consider Action

Commissioner Hines moved to deny the zoning request of PUD (Planned Unit Development) with base zoning district of MF-2-A (Multi-Family). The Commission requested that the applicant works with staff to address the following issues:

1. **Prohibit lighting from the interior of the project**
2. **Increase the minimum building size to 1,800 square feet**

3. **Propose an alternative to the masonry wall along Crystal Falls Pkwy such as berms, landscaping, and wrought iron.**

Commissioner Hines seconded the motion. Motion passed unanimously.

Meeting Adjourned at **9:50 pm**

_____
Chairman Sokol

ATTEST:

_____
Ellen Pizalate, Secretary

AGENDA ITEM # 9

Executive Summary

July 21, 2016

Agenda Subject: An ordinance adopting amendments to the City's animal control regulations and amending licensing and permit fees

Background: The City's animal control regulations were reviewed and the proposed amendments: (1) clarify the regulations; (2) add definitions; (3) amend certain provisions to refer to state law so that the ordinance does not have to be amended when state law changes; (4) address who may enforce the ordinance and how it may be enforced; (5) add references to the Williamson County Regional Animal Shelter where appropriate; and (6) amend licensing and permitting fees. Specific regulations that were amended include: (a) vaccination and licensing requirements; (b) regulation of animals running at large; (c) regulation of nuisance animals; (d) beekeeping; (e) keeping of chickens; (f) keeping of livestock; (g) trapping restrictions and requirements; (h) requirements for pens, coops, hutches, and other enclosures; (i) cruel treatment of animals; (j) dangerous dog regulations; (k) impoundment rules; (l) quarantine and rabies requirements; and (m) regulations for multi-pet owners.

Origination: Greg Minton, Chief of Police

Recommendation: Staff recommends approval of the proposed ordinances.

Attachments: Proposed Ordinance adopting Amended Control Regulations

Prepared by: Animal Services Supervisor Edna Stambaugh

Section	Current Ordinance	Recommended ordinance revision	Reason
2.01.001	Sec. 2.01.001 Definitions	Sec. 2.01.001 Definitions	
2.01.001	The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:	The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:	No change recommended
2.01.001	Abuse. To mistreat through intent to abuse or reckless neglect of any animal in a manner that causes or is likely to cause stress or physical injury or as otherwise stated in this chapter.	Abuse. To mistreat through intent to abuse or reckless neglect of any animal in a manner that causes or is likely to cause stress or physical injury or as otherwise stated in this chapter.	No change recommended
2.01.001	Animal. Any living creature other than hominids. Unless indicated otherwise, the term shall include livestock, fowl, reptiles, amphibians, and wildlife, as well as dogs, cats and other creatures commonly owned as pets. The term shall exclude a fish and other small aquarium-maintained creatures, not herein prohibited or restricted, where the owner only maintains no more than three aquariums having a total capacity of ninety gallons.	Animal. Any living creature, both domestic and wild, except humans. The term "animal' includes fowl, livestock, and reptiles.	simplified.
2.01.001	Animal control division, animal control authority, or animal control officer. The animal control division of the city's police department, its animal control officers and/or peace officers.	Animal services division, animal services authority, or animal services officer. The animal services division of the city's police department, its animal services officers and/or peace officers.	Name change of division to reflect modified mission
2.01.001	Animal shelter or city kennel. A facility designated by the city council to be used for the impoundment of animals taken up by the animal control officers, or other similar facility that may be temporarily contracted or designated by the chief of police for animal impoundment under the provisions of this chapter.	Animal Shelter. A facility that may be temporarily contracted or designated by the chief of police for animal impoundment under the provisions of this chapter.	Removing city kennel information from definition.

Section	Current Ordinance	Recommended ordinance revision	Reason
2.01.001	Animal welfare group. An association or nonprofit corporation who has as one of its purposes the providing for the welfare and/or protection of animals of any kind.	Animal welfare group. An association or nonprofit corporation who has as one of its purposes the providing for the welfare and/or protection of animals of any kind.	no change recommended
2.01.001	Authority. The local rabies control authority as defined in this section.	Authority. The local rabies control authority as defined in this section.	no change recommended
2.01.001	Brand. A mark made on the skin of any animal which indicates the ownership of the animal, typically used with livestock.	Brand. A mark made on the skin of any animal which indicates the ownership of the animal, typically used with livestock.	no change recommended
2.01.001	Cat. The male and the female of any domesticated member of the feline species of animals.	Cat. The male and the female of any domesticated or feral member of the feline species of animals.	Feral cats were included
2.01.001	Chief of police. The chief of police or the chief of police's designee responsible for the administration of this act.	Chief of police. The chief of police or the chief of police's designee responsible for the administration of this act.	no change recommended
2.01.001	Circus. A commercial variety show featuring animal acts for the public at a fee or a part of a charity.	Circus. A commercial variety show featuring animal acts for the public at a fee or a part of a charity.	no change recommended
2.01.001	Commercial animal enterprise. Shall include but not be limited to enterprises such as kennels, pet shops, riding stables, animal auctions, performing animal exhibitions, animal training services, grooming shops, petting zoos, aviaries or any similar entrepreneurial relationship regarding animals.	Commercial animal enterprise. Shall include but not be limited to enterprises such as kennels, pet shops, riding stables, animal auctions, performing animal exhibitions, animal training services, grooming shops, petting zoos, aviaries or any similar entrepreneurial relationship regarding animals.	no change recommended
		Confinement period: as defined in Texas Administrative Code, Title 25, section 169.30.	new definition
		Cruelly treated. Includes tortured, seriously overworked, unreasonably abandoned, unreasonably deprived of necessary food, care, or shelter, cruelly confined, or caused to fight with another animal.	Added Cruelly treated.

Section	Current Ordinance	Recommended ordinance revision	Reason
2.01.001	Dangerous wild animal. Shall have the same meaning as defined in chapter 822, Texas Health and Safety Code, subchapter E.	Dangerous wild animal. Shall have the same meaning as defined in chapter 822, Texas Health and Safety Code, subchapter E.	No change recommended.
2.01.001	Day. A workday, including Saturday, and excluding Sunday and city holidays.		Recommend removal - not needed
2.01.001	Distance between structures. Where a minimum setback or distance between any enclosure for an animal from a residence is required, shall mean the most direct line distance between the two structures, unless otherwise provided.	Distance between structures. Where a minimum setback or distance between any enclosure for an animal from a residence is required, shall mean the most direct line distance between the two structures, unless otherwise provided.	No change recommended.
2.01.001	Dog. The male and the female of any domesticated member of the canine species of animal.	Dog. The male and the female of any domesticated member of the canine species of animal.	No change recommended.
2.01.001	Domestic animal. Any animal whose physiology has been determined or manipulated through selective breeding and does not occur naturally in the wild, any animal which can be vaccinated against rabies with an approved rabies vaccine, and any animal which has an established rabies quarantine observation period.	Domestic animal. Any non-livestock animal as defined in the Penal Code.	Use state law terminology
2.01.001	Estray. Has the same meaning as defined in chapter 142, Texas Agriculture Code, defining estray as stray livestock, stray exotic livestock, and stray exotic fowl.	Estray. Has the same meaning as defined in chapter 142, Texas Agriculture Code, defining estray as stray livestock, stray exotic livestock, and stray exotic fowl.	No change recommended. See section 2.01.01 line 20
2.01.001	Exotic species. Any animal or reptile, fish, or bird, born or whose natural habitat is considered to be outside the continental United States, including nonvenomous reptiles and fish.	Exotic species. Any animal or reptile, fish, or bird, born or whose natural habitat is considered to be outside the continental United States, including nonvenomous reptiles and fish.	No change recommended. See section 2.01.01 Line 21
2.01.001	Feral cat colony. A feral domestic cat population in an area under the oversight of a feral cat "not for profit" title 501(c)3 organization dedicated to a program of feral cat population control.		Recommend removing.

Section	Current Ordinance	Recommended ordinance revision	Reason
2.01.001	Fish. Any of the cold-blooded animals that extract oxygen from water through the use of gills.	Fish. Any of the cold-blooded animals that extract oxygen from water through the use of gills.	No change recommended. See section 2.01.001 line 24
2.01.001	Fowl. Includes all birds, e.g., chickens, turkeys, pheasants, quail, guineas, geese, ducks, peafowl and other domestic feathered creatures and nondomestic feathered creatures, regardless of age or sex.	Fowl. Includes all birds, e.g., chickens, turkeys, pheasants, quail, guineas, geese, ducks, peafowl and other domestic feathered creatures and nondomestic feathered creatures, regardless of age or sex.	No change recommended. See section 2.01.01 Line 25
2.01.001	Governmental entity. An agency or political subdivision of the state or an agency or department of the federal government.	Governmental entity. An agency or political subdivision of the state or an agency or department of the federal government.	No change recommended. See section 2.01.01 Line 26
2.01.001	Habitual offender or habitually. An owner who has received two or more final convictions of this chapter or the owner of an animal who has been the subject of impoundment in the animal shelter three or more times during a 12-month period or any combination of convictions and impoundment totaling three incidents.	Habitual offender. An owner who has received two or more final convictions of this chapter or the owner of an animal who has been the subject of impoundment in the animal shelter three or more times during a 12-month period or any combination of convictions and impoundment totaling three incidents.	Removed habitually - not used in ordinance
2.01.001	Harbor. To possess while in the act of keeping and caring for an animal, or of providing a premises to which the animal returns for food, shelter or care for a period of three days or longer.	Harbor. To possess while in the act of keeping and caring for an animal, or of providing a premises to which the animal returns for food, shelter or care for a period of three days or longer.	By changing the animal definition, feral cats are included. No change recommended. See section 2.01.001 line 29
2.01.001		Household: home, residence, apartment or dwelling including yard around where animals could be kept	Added for new 2.08.005
2.01.001	Kennel. An establishment designed or used for the selling, breeding, or overnight boarding of animals where more than three dogs and two cats or three cats and two dogs or a combination of five other animals are to be boarded, sold, or bred.	Kennel Facility. An establishment designed or used for the selling, breeding, or overnight boarding of animals where more than three dogs and two cats or three cats and two dogs or a combination of five other animals are to be boarded, sold, or bred.	No change recommended. See section 2.01.001 line 30

Section	Current Ordinance	Recommended ordinance revision	Reason
		Kennel. Enclosure that provides sufficient space to allow each animal to make normal postural adjustments without touching the top of the enclosure, including turning freely, standing easily, sitting, stretching, moving its head, lying in a comfortable position with limbs extended, and moving and assuming a comfortable posture for feeding, drinking, urinating, and defecating	From Texas administrative law, Title 25, Part 1, section 169.26 (12)(F)
2.01.001	Livestock. Includes, regardless of age, sex or breed, horses and all equine species, including mules, donkeys and jackasses; cows and all bovine species; sheep and all ovine species; llamas; goats and all caprine species; and pigs and all swine species.	Livestock. Includes, regardless of age, sex or breed, horses and all equine species, including mules, donkeys and jackasses; cows and all bovine species; sheep and all ovine species; llamas; goats and all caprine species; and pigs and all swine species.	No change recommended. See section 2.01.001 line 31
2.01.001	Local rabies control authority. The senior animal control officer (animal control officer II, field supervisor), or an officer he designates to act in his place when he is temporarily unable to act for any reason.	Local rabies control authority. The animal services supervisor or designee	Name change of division to reflect modified mission. Group now has a supervisor, not a field supervisor
2.01.001	Marine animal. Any animal, other than a mammal or bird, that lives in a marine environment.		Recommend removal, not used anywhere in ordinance
2.01.001	Microchip. A device designed to store data or information relating to animals and is carried subcutaneously by that animal and such data or information is collectable by electronic means.	Microchip. A device designed to store data or information relating to animals and is carried subcutaneously by that animal and such data or information is collectable by electronic means.	No change recommended. See section 2.01.001 line 34
2.01.001	Multi-pet owner. A person who keeps or harbors more than five cats or dogs or any combination of five cats and dogs. Puppies and kittens under four months of age shall not be counted for purposes of this definition.	Multi-pet owner. A person who keeps or harbors five or more cats or dogs, including feral cats, or dogs or any combination of five cats and dogs. Puppies and kittens under four months of age shall not be counted for purposes of this definition.	Non-profit does not manage a colony. They assist in TNR. The citizen assisting in the identification of animals becomes the owner or harborer

Section	Current Ordinance	Recommended ordinance revision	Reason
2.01.001	Neutered. Any animal, male or female, rendered incapable of breeding or being bred, i.e., castration in the male and spaying or ovariectomy in the female.	Neutered. Any animal, male or female, rendered incapable of breeding or being bred, i.e., castration in the male and spaying or ovariectomy in the female.	No change recommended. See section 2.01.001 line 36
2.01.001	Nonregisterable dangerous dog. Any dog which:		As H&S822.042 dangerous dogs shall be registered with the animal control authority in which the animal is kept.
2.01.001	(1) When unprovoked, severely attacked or inflicted serious injury or death to a person, whether on public or private property; or		As H&S822.042 dangerous dogs shall be registered with the animal control authority in which the animal is kept.
2.01.001	(2) Has been deemed nonregisterable by the animal control officer and upheld or unchallenged by any court of jurisdiction.		As H&S822.042 dangerous dogs shall be registered with the animal control authority in which the animal is kept.
2.01.001	Owner or presumed owner. Any person who has purchased or who owns, keeps, maintains, harbors or has care, custody or control of one or more animals. Ownership may be determined by identifying an adult resident of the premises upon which the animal is kept, maintained, harbored or otherwise resides and such adult shall constitute the owner of the animal upon such premises. Each actual resident of the premises shall be the owner or presumed owner and charged with responsibility for the animals thereon maintained or harbored.	Owner. Any person or persons, association, or entity, including any member of owner's immediate family, employee, or agent, having the right of property, care, custody, or control of an animal, who possesses, harbors, or maintains an animal, or who knowingly permits an animal to remain on or about any premises occupied by such person or persons, firm, association, or corporation for a period of three (3) days or more.	simplified and adds the three day rule.
2.01.001	Performing animals. Any spectacle, display, act or event in which animals perform.	Performing animal. Any spectacle, display, act or event in which animals perform.	Modifying term to match exactly with ordinance reference

Section	Current Ordinance	Recommended ordinance revision	Reason
2.01.001	Person. An individual human, partnership, copartnership, firm, company, limited liability partnership or other partnership or other such company, joint venture, joint stock company, trust, estate, governmental entity, association or corporation or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine; the singular shall include the plural where indicated by the context.	Person. An individual human, partnership, copartnership, firm, company, limited liability partnership or other partnership or other such company, joint venture, joint stock company, trust, estate, governmental entity, association or corporation or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine; the singular shall include the plural where indicated by the context.	No change recommended. See section 2.01.001 line 43
2.01.001	Poison. A substance having an inherent harmful property which renders it, when taken into the system, capable of destroying animal life.	Poison. A substance having an inherent harmful property which renders it, when taken into the system, capable of destroying animal life.	No change recommended. See section 2.01.001 line 44
2.01.001	Policy or policies. The policies and procedures adopted consistent with this chapter and applicable to the animal control division of the city's police department.	Policy or policies. The policies and procedures adopted consistent with this chapter and applicable to the animal services division of the city's police department.	Name change of division to reflect modified mission.
2.01.001	Premises. A definite portion of a legal lot of real estate or land, together with any appurtenances or buildings.	Premises. A definite portion of a legal lot of real estate or land, together with any appurtenances or buildings.	No change recommended.See section 2.01.001 line 46
2.01.001	Prohibited animal. Any animal prohibited by state or federal law and including any individual species and/or subspecies of the following animals: antelope, lions, tigers, ocelots, bobcats, lynx, cougars, leopards, cheetahs, jaguars, hyenas, bears, lesser pandas, ferrets born in natural habitats, binturong, ostriches, emus, elephants, Vietnamese potbelly pigs, miniature pigs, apes or such other nondomestic species of animal not common to this area.	Prohibited animal. Any animal prohibited by state or federal law and including any individual species and/or subspecies of the following animals: antelope, lions, tigers, ocelots, bobcats, lynx, cougars, leopards, cheetahs, jaguars, hyenas, bears, lesser pandas, ferrets born in natural habitats, binturong, ostriches, emus, elephants, apes or such other nondomestic species of animal not common to this area.	Removed vietnamese potbelly and miniature pigs. These types of pigs are considered domestic animals.

Section	Current Ordinance	Recommended ordinance revision	Reason
2.01.001	Proper enclosure. A house or a building, or, in the case of a fence or structure/pen, the fence or structure/pen must be at least four feet in height. The structure/pen must also have minimum dimensions of five feet by ten feet. The fence or structure/pen must form an enclosure suitable to prevent entry of young children and must be locked and secured such that an animal cannot climb, dig, jump or otherwise escape of its own volition. The enclosure shall be securely locked at all times and have secured sides to prevent a dangerous animal or registered dangerous dog from escaping from the enclosure. The structure/pen shall provide protection from the elements for the animal. The animal control officer may require a fence higher than four feet or require a secure top and/or a secure bottom to the structure/pen if the need is demonstrated. Invisible fences or similar technology shall not constitute "proper enclosure."	Proper enclosure. A house or a building, or, in the case of a fence or structure/pen, the fence or structure/pen must be at least four feet in height. The structure/pen must also have minimum dimensions of five feet by ten feet. The fence or structure/pen must form an enclosure suitable to prevent entry of young children and must be locked and secured such that an animal cannot climb, dig, jump or otherwise escape of its own volition. The enclosure shall be securely locked at all times and have secured sides to prevent a dangerous animal or registered dangerous dog from escaping from the enclosure. The structure/pen shall provide protection from the elements for the animal. The animal services officer may require a fence higher than four feet or require a secure top and/or a secure bottom to the structure/pen if the need is demonstrated. Invisible fences or similar technology shall not constitute "proper enclosure."	Name change of division to reflect modified mission.
2.01.001	Quarantine. A period of ten days used for observation of a domestic or pet animal to determine the health status of that animal in relation to the rabies virus.	Quarantine. As defined in HSC 826.002.	Change of definition as per state code.
		Quarantine period. Time as described in Texas Administrative Code, Title 25, Rule 169.27.	Definition per state law

Section	Current Ordinance	Recommended ordinance revision	Reason
2.01.001	Rabies vaccination. The vaccination of a dog, cat or other domestic animal with an antirabies vaccine approved by the department of state health services and administered by a veterinarian licensed by the state.	Rabies vaccination. Means currently vaccinated. Vaccinated and satisfying all the following criteria. (A) The animal must have been vaccinated against rabies with a vaccine licensed by the United States Department of Agriculture (USDA) for that species at or after the minimum age requirement and using the recommended route of administration for the vaccine. (B) At least 30 days have elapsed since the initial vaccination. (C) The time elapsed since the most recent vaccination has not exceeded the recommended interval for booster vaccination as	No state definition for "Rabies vaccination" see currently vaccinated admin law, title 25, part 1, chap 169
2.01.001	Registered dangerous dog. Any dog registered with the city in compliance with chapter 822, Texas Health and Safety Code, subchapter D, and with the sections of this chapter addressing registered dangerous dogs.	Registered dangerous dog. Any dog registered with the city in compliance with chapter 822, Texas Health and Safety Code, 822.043, and with the sections of this chapter addressing dangerous dogs.	Added correct code where registration is found. Removed registered from the last sentence.
2.01.001	Residence. Any place of human habitation at any time, day or night, including, but not limited to, any single- or multi-family dwelling, church, school, convalescent center or nursing home.	Residence. Any place of human habitation at any time, day or night, including, but not limited to, any single- or multi-family dwelling, church, school, convalescent center or nursing home.	No change recommended. See section 2.01.001 line 63
2.01.001	Restrained. Any animal secured by a leash, rope or chain of some sort or confined through fencing or otherwise within the property limits of its owner.	Restrained. Any animal secured by a leash, rope or chain of some sort or confined through fencing or otherwise enclosed within the property limits of its owner, meaning there must be a physical barrier. Substitution of an electronic device is not permitted.	Added enclosed to assure the pet will not be left unrestrained.
2.01.001	Restricted animal. Any individual species and/or subspecies defined herein as "prohibited" animals that have been registered and permitted in compliance with the procedures set out in section 2.05.008 herein.		Recommend removal, section with term removed and not referenced anywhere else.
2.01.001	Running at large (animals at large).	Running at large (non-livestock at large).	Changed to comply with Penal Code terminology

Section	Current Ordinance	Recommended ordinance revision	Reason
2.01.001	(1) Off-premises:		
2.01.001	(A) Any animal, except pet cats, which is not restrained by means of a leash, chain, or other physical apparatus of sufficient strength and length to control the actions of such animal while off-premises;	(A) Any dog, which is not restrained by means of a leash, chain, other physical apparatus of sufficient strength and length to control the actions of such animal while off- premises.	Removed cats and made it all about dogs.
2.01.001	(B) Any cat which is creating a nuisance off the owner's property.	(B) Any cat which is creating a nuisance off the owner's property.	No change recommended. Comment: feral cats now included in cat definition
2.01.001	(2) On-premises:	*At large* means that either livestock and non-livestock is:	
2.01.001	(A) Any animal, except pet cats, not confined to the premises of the owner by a substantial fence of sufficient strength and height to prevent the animal from escaping therefrom, or secured on the premises by a chain or leash sufficient in strength to prevent the animal from escaping from the premises and so arranged that the animal will remain upon the premises when the leash is stretched to full length;	(1) On the premises of the owner and is not tied, staked, or restrained securely within an enclosure or fence capable of fully and totally securing the animal; or	Changed definition so that it includes livestock and non-livestock.
2.01.001	(B) An animal intruding upon the property of another person other than the owner's shall be termed "at large";	(2) Off the premises of the owner, and is not on a leash under the immediate control of a person physically capable of restraining the animal or is not restrained securely within an enclosure or fence capable of fully and totally securing the animal.	Better description
2.01.001	(C) Any animal within a vehicle in a manner that would prevent that animal's escape or contact with other persons or animals shall not be deemed "at large."	(3) Exception, any animal within a vehicle in a manner that would prevent that animal's escape or contact with other persons or animals shall not be deemed "at large."	Clarification of this section as an exception

Section	Current Ordinance	Recommended ordinance revision	Reason
2.01.001	Serious injury. Bodily injury resulting from severe attack or severe bite from an animal which produces severe pain, trauma, or loss of blood or tissue, and which requires medical treatment of wounds inflicted by the animal.	"Serious bodily injury" means an injury characterized by severe bite wounds or severe ripping and tearing of muscle that would cause a reasonably prudent person to seek treatment from a medical professional and would require hospitalization without regard to whether the person actually sought medical treatment. Per HSC 822.	Changed to the state definition.
2.01.001	Severe attack. An attack in which the animal repeatedly bites or vigorously shakes its victim, and the victim, or a person intervening, has extreme difficulty terminating the attack.		recommend to follow state law. See Serious injury.
2.01.001	Severe bite. A puncture or laceration made by an animal's teeth which breaks the skin, resulting in a degree of trauma which would cause most prudent and reasonable people to seek medical care for treatment to the wound, without considerations of rabies prevention alone.		recommend to follow state law. See Serious injury.
2.01.001	Stray animal (including estray). Any animal, of which there is no identifiable owner or harborer, which is found to be at large within the corporate limits of the city.	Stray animal (including estray). Any animal, of which there is no identifiable owner or harborer, which is found to be at large within the corporate limits of the city.	Feral cats were included into the animal defintion. No change recommended.
2.01.001	Tag. A vaccination tag attached to a collar as required by this chapter, or some other permanent identifying device attached to a collar or to an animal.	Tag. A vaccination tag attached to a collar as required by this chapter, or some other permanent identifying device attached to a collar or to an animal.	No change recommended.
2.01.001	Tattoo. A permanent mark which is made on the skin of an animal by puncturing the skin and inserting indelible color, and which is used to show ownership.	Tattoo. A permanent mark which is made on the skin of an animal by puncturing the skin and inserting indelible color, and which is used to show ownership.	No change recommended.

Section	Current Ordinance	Recommended ordinance revision	Reason
2.01.001	Unprovoked attack. Means that the animal was not hit, kicked, teased, molested or struck by a person with an object or part of a person's body, nor was any part of the animal's body pulled, pinched or squeezed by a person.		Recommend removal - language removed from ordinance
2.01.001	Vaccination. An injection of a rabies vaccine which is approved by the U.S. Department of Agriculture, Veterinary Biologics Division, state veterinarian, and administered by a licensed veterinarian or at an approved antirabies clinic.		Replaced as currently vaccinated instead of rabies vaccination.
2.01.001	Veterinarian. Any person duly licensed to practice veterinary medicine by the state board of veterinary examiners, or who is exempt from such licensing.	Veterinarian. Any person duly licensed to practice veterinary medicine by the state board of veterinary examiners, or who is exempt from such licensing.	No change recommended. See 2.01.001 line 82
2.01.001	Wild animal or wildlife. Any nondomestic creature (mammal, amphibian, reptile or fowl) which is of a species which is wild by nature, which can normally be found in a wild state, and which is not naturally tame or gentle, or which, because of its size, vicious nature and other characteristics, constitutes a danger to human life or property, including all animals identified herein as prohibited.	Wild animal or wildlife. Any nondomestic creature (mammal, amphibian, reptile or fowl) which is of a species which is wild by nature, which can normally be found in a wild state, and which is not naturally tame or gentle, or which, because of its size, vicious nature and other characteristics, constitutes a danger to human life or property, including all animals identified herein as prohibited.	No change recommended. See section 2.01.001 line 83
2.01.001	Workday. A day from Monday through Saturday, excluding city holidays, with each respective day's work hours beginning at 8:00 a.m. and continuously operating until 8:00 p.m., defining the public's routine access to administrative fee(s) and impound release transactions authorized by this chapter.		Part of shelter definitions.

Section	Current Ordinance	Recommended ordinance revision	Reason
2.01.001	Zoological park or zoo. Any facility, other than a pet shop or kennel, displaying or exhibiting one or more species of animals, operated by a person or under the auspices of a governmental entity.	Zoological park or zoo. Any facility, other than a pet shop or kennel, displaying or exhibiting one or more species of animals, operated by a person or under the auspices of a governmental entity.	No change. See section 2.02.001 line 85
2.01.002	Sec. 2.01.002 Purpose	Sec. 2.01.002 Purpose	
2.01.002	It is the intent and purpose of this chapter to provide a safe and healthy environment within the city for both animals and people. While a person may own and keep animals within the city, the conduct of those animals and the conditions that the animals are kept in should be safe and healthy and should not infringe on the surrounding homes and their inhabitants. (2003 Code, sec. 2.102)	It is the intent and purpose of this chapter to provide a safe and healthy environment within the city for both animals and people. While a person may own and keep animals within the city, the conduct of those animals and the conditions that the animals are kept in should be safe and healthy and should not infringe on the surrounding homes and their inhabitants.	No Change
2.01.003	Sec. 2.01.003 Enforcement	Sec. 2.01.003 Enforcement	
2.01.003	(a) Enforcement officers. The provisions of this chapter may be enforced by animal control officers, police officers, and such other persons as are designated by the city. Nothing herein is intended to or shall preempt any statutory duty or authority of any federal, state, or local entity or official charged with animal control, estray control or impoundment, or other animal-related matters.	(a) Enforcement officers. The provisions of this chapter may be enforced by animal services officers, police officers, and such other persons as are designated by the city. Nothing herein is intended to or shall preempt any statutory duty or authority of any federal, state, or local entity or official charged with animal control, estray control or impoundment, or other animal-related matters.	Name change of division to reflect modified mission.

Section	Current Ordinance	Recommended ordinance revision	Reason
2.01.003	(b) Interference with enforcement. It shall be unlawful for any person to interfere with, obstruct, resist or oppose any animal control officer or other person authorized to enforce the provisions of this chapter while such person is apprehending an animal or performing any other duties or investigation. It shall be unlawful to take or attempt to take any animal from any animal control officer or from any vehicle used by the officer to transport any animal or to take or attempt to take any animal from the animal shelter or other kennel or confinement area used to impound an animal.	(b) Interference with enforcement. It shall be unlawful for any person to interfere with, obstruct, resist or oppose any animal services officer or other person authorized to enforce the provisions of this chapter while such person is apprehending an animal or performing any other duties or investigation. It shall be unlawful to take or attempt to take any animal from any animal services officer or from any vehicle used by the officer to transport any animal or to take or attempt to take any animal from the animal shelter or other kennel or confinement area used to impound an animal.	Name change of division to reflect modified mission.
2.01.003	(c) Citations and warnings. In all instances of a violation of any provision of this chapter, whether the animal is impounded or not, the owner or keeper of such animal may be cited by an officer who has the authority to enforce this chapter for any violation of this chapter. The animal control division may also by policy establish a conditional written warning procedure relating to registrations, displaying of tags, and general "at large" violations. The receipt of such written warnings does not preclude the animal control division from citing the recipient if the conditions of the written warning are not met in a timely fashion.	(c) Citations and warnings. In all instances of a violation of any provision of this chapter, whether the animal is impounded or not, the owner or keeper of such animal may be cited by an officer who has the authority to enforce this chapter for any violation of this chapter. The animal services division may also by policy establish a conditional written warning procedure relating to registrations, displaying of tags, and general "at large" violations. The receipt of such written warnings does not preclude the animal services division from citing the recipient if the conditions of the written warning are not met in a timely fashion.	Name change of division to reflect modified mission.

Section	Current Ordinance	Recommended ordinance revision	Reason
2.01.003	(d) Authority to kill, disable, tranquilize or trap animals. In the enforcement of this chapter, animal control officers and police officers shall have the authority to utilize firearms to kill or otherwise disable any animal to protect themselves, to protect a third person or to protect another animal from attack or threat of imminent injury or to prevent such animal from enduring further pain or suffering as a result of disease or injury. They shall also have the authority to tranquilize or trap any animal, fowl, livestock or wildlife consistent with humane policies adopted by the animal control division.	(d) In the enforcement of this chapter, any person authorized to enforce the provisions of this chapter shall have the authority to immediately tranquilize, capture, restrain, and/or destroy any animal to protect themselves, a third person, or another animal from attack or threat of imminent injury, to prevent an animal from enduring further unreasonable pain or suffering as a result of disease or injury, or when the animal services officer deems such animal a threat to the public health, safety, or welfare. Any person authorized to enforce the provisions of this chapter shall have the right to pursue onto private property and apprehend an at-large animal considered a nuisance without first requesting permission from the owner of the private property or without obtaining a	Wording change and authority to go onto private property. This could be split into another section.
2.01.003	(e) Culpability. Unless specifically provided in this chapter, an offense under this chapter shall not require a culpable mental state. It is the intent of this section to impose strict liability for violation of the requirements of this chapter.	(e) Culpability. Unless specifically provided in this chapter, an offense under this chapter shall not require a culpable mental state. It is the intent of this section to impose strict liability for violation of the requirements of this chapter.	No change
2.01.003	(f) Administrative policies and operational procedures. To aid in the administration of this chapter, the animal control division shall, by policy-making authority of the chief of police, adopt administrative policies and operational procedures consistent with the purpose and intent of this chapter.	(f) Administrative policies and operational procedures. To aid in the administration of this chapter, the animal services division shall, by policy-making authority of the chief of police, adopt administrative policies and operational procedures consistent with the purpose and intent of this chapter.	Name change of division to reflect modified mission.

Section	Current Ordinance	Recommended ordinance revision	Reason
2.01.003	(g) Investigation of feral cat colonies. Animal control officers, or police officers as deemed necessary, may investigate complaints, nuisance allegations, or unsanitary conditions and/or perform general inspections regarding the treatment of animals where feral cat colonies are known or suspected to be operating.	(g) Investigation of feral cats. Animal services officers, or police officers as deemed necessary, may investigate complaints, nuisance allegations, or unsanitary conditions and/or perform general inspections regarding the treatment of animals where feral cat are being kept in excess the multi-animal level allowed by this ordinance.	Name change of division to reflect modified mission. Feral cats are not being kept as colonies by ShadowCats. They are being released where they are found.
2.01.003	(h) Duties of feral cat organizations. It shall be the policy of the city that feral cat organizations intending to establish and maintain feral cat colonies within the city furnish in writing to the animal control unit of the police department the exact colony location(s), population numbers and the person responsible for a particular colony, and further, at least on a semi-annual basis, the organization shall provide to the unit a detailed written report that provides changes noted in those established population(s) as well as information on new colonies being established. Likewise, organizations shall immediately report to the animal control unit any evidence of communicable disease outbreak that may affect the non-feral cat or other animal populations within the city.	(h) Duties of feral cat organizations. It shall be the policy of the city that feral cat organizations intending to release feral cats within the city furnish in writing to the animal services unit of the police department the number of feral cats released after processing. Likewise, organizations shall immediately report to the animal services unit any evidence of communicable disease outbreak that may affect the non-feral cat or other animal populations within the city.	Name change of division to reflect modified mission. Updated feral cat organization reporting responsibility and management strategy for feral cat population. Colonies are not managed by organization.
2.01.004	Sec. 2.01.004 Powers and duties of citizens	Sec. 2.01.004 Powers and duties of citizens	

Section	Current Ordinance	Recommended ordinance revision	Reason
2.01.004	Any person who finds an animal which he does not own on property that he owns or exercises control over or on public property may take control of said animal if it is running at large (as provided in section 2.03.002) and may deliver the animal to an animal control officer, the animal shelter, or an animal emergency medical facility. If the animal is not delivered to an animal control officer, the animal shelter, or an animal emergency medical facility, the person must report that he had taken control of the animal to an animal control officer or the animal shelter within seventy-two (72) hours. If animal is wearing a tag of any kind or has a tattoo, brand, or other identifying mark, that information shall be included in the report to the animal control officer or animal shelter. (2003 Code, sec. 2.104)	Any person who finds an animal which he does not own on property that he owns or exercises control over or on public property may take control of said animal if it is running at large (as provided in section 2.03.002) and may deliver the animal to an animal services officer, the animal shelter, or an animal emergency medical facility. If the animal is not delivered to an animal services officer, the animal shelter, or an animal emergency medical facility, the person must report that he had taken control of the animal to an animal services officer or the animal shelter within seventy-two (72) hours. If animal is wearing a tag of any kind or has a tattoo, brand, or other identifying mark, that information shall be included in the report to the animal services officer or animal shelter.	Remove animal emergency medical facility or place responsibility to medical facility for transport to shelter if pet is accepted by them. Name change of division to reflect modified mission.
2.01.005	Sec. 2.01.005 Penalties; false reports or statements	Sec. 2.01.005 Penalties; false reports or statements	

Section	Current Ordinance	Recommended ordinance revision	Reason
2.01.005	(a) 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 five hundred dollars ($500.00). A person who is deemed guilty of violating section 2.05.002(d) of this chapter shall be liable for a fine no less than two hundred dollars ($200.00) or more than five hundred dollars ($500.00). A person who is deemed guilty of violating section 2.05.003(e) of this chapter shall be liable for a fine no less than one hundred dollars ($100.00) or more than five hundred dollars ($500.00). Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein.	(a) 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 five hundred dollars ($500.00). A person who is deemed guilty of violating section 2.05.002(d) of this chapter shall be liable for a fine no less than two hundred dollars ($200.00) or more than five hundred dollars ($500.00). A person who is deemed guilty of violating section 2.05.003(e) of this chapter shall be liable for a fine no less than one hundred dollars ($100.00) or more than five hundred dollars ($500.00). Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein.	No changes recommended
2.01.005	(b) A person commits an offense if, with intent to deceive, he knowingly makes a false report or statement, either verbal or written, that is material to an investigation of an alleged violation of this chapter to an animal control officer or other person authorized to enforce the provisions of this chapter.	(b) A person commits an offense if, with intent to deceive, he knowingly makes a false report or statement, either verbal or written, that is material to an investigation of an alleged violation of this chapter to an animal services officer or other person authorized to enforce the provisions of this chapter.	Name change of division to reflect modified mission.
2.01.005	(c) A person commits an offense if he reports to a person authorized to enforce the provisions of this chapter an offense or incident within that person's concern knowing that the offense or incident did not occur.	(c) A person commits an offense if he reports to a person authorized to enforce the provisions of this chapter an offense or incident within that person's concern knowing that the offense or incident did not occur.	No changes recommended
2.01.006	Sec. 2.01.006 Prima facie evidence of responsibility for violation	Sec. 2.01.006 Prima facie evidence of responsibility for violation	

Section	Current Ordinance	Recommended ordinance revision	Reason
2.01.006	In any prosecution charging a violation of this chapter governing the abuse, neglect or ownership of an animal or failure to license an animal as herein required, proof that the particular property described in the complaint was the premises upon which the animal resided, was harbored or maintained and a violation of any section of this chapter occurred involving said animal, together with proof that the defendant named in the complaint was, at the time of such complaint or at the time when the animal was in violation of this chapter, the registered owner of such animal or the person with legal rights to reside on said property, shall constitute in evidence a prima facie presumption that the registered owner of such animal or the person with legal rights to reside on said property was the owner of the animal and the person who failed to comply with this chapter. (2003 Code, sec. 2.106)	In any prosecution charging a violation of this chapter governing the abuse, neglect or ownership of an animal or failure to license an animal as herein required, proof that the particular property described in the complaint was the premises upon which the animal resided, was harbored or maintained and a violation of any section of this chapter occurred involving said animal, together with proof that the defendant named in the complaint was, at the time of such complaint or at the time when the animal was in violation of this chapter, the registered owner of such animal or the person with legal rights to reside on said property, shall constitute in evidence a prima facie presumption that the registered owner of such animal or the person with legal rights to reside on said property was the owner of the animal and the person who failed to comply with this chapter.	No Change.
2.01.007	Sec. 2.01.007 Abatement of nuisances or other prohibited conditions	Sec. 2.01.007 Abatement of nuisances or other prohibited conditions, Enforcement; penalty	

Section	Current Ordinance	Recommended ordinance revision	Reason
2.01.007	Whenever any premises where animals are kept [are] in an unsanitary condition, or the facilities are not in keeping with provisions of this chapter or any other regulations herein, the animal control division, by written notice on a form provided by police department policy clearly stating the intent of this chapter, to the person responsible for the condition of the premises, may order the abatement of the conditions which are not in accordance with this chapter or other regulations, or conditions which constitute a nuisance. Failure to comply with such order shall, in addition to any criminal or administrative proceedings, be grounds for and entitle the city to obtain relief by injunction. Nothing herein precludes the city's use of any public health ordinance or law in lieu of nuisance abatement or injunctive relief herein provided. (2003 Code, sec. 2.107)	(a) Primary enforcement of the provisions of this chapter are vested in the animal services officers; however, these provisions may also be enforced by peace officers, code enforcement officers, and such other persons as are designated by the city. Any and all references to animal services and/or animal services officer herein shall contemplate and include each of the aforementioned individuals.	Allows Nuisance along with other ordinances to be enforceable.
2.01.007		[illegible] of this chapter are enforceable against an owner and/or their animal as set forth herein. Owner(s) of animal(s) alleged to be in violation of this chapter are responsible for such violations and subject to the penalty provisions of this chapter and this code, as amended.	Allows Nuisance along with other ordinances to be enforceable.
2.01.007		with, obstruct, resist or oppose any enforcement of the provisions of this chapter by an animal services officer.	Allows Nuisance along with other ordinances to be enforceable.

Section	Current Ordinance	Recommended ordinance revision	Reason
2.01.007		(d) In the enforcement of this chapter, any person authorized to enforce the provisions of this chapter shall have the authority to immediately tranquilize, capture, restrain, and/or destroy any animal to protect themselves, a third person, or another animal from attack or threat of imminent injury, to prevent an animal from enduring further unreasonable pain or suffering as a result of disease or injury, or when the animal services officer deems such animal a threat to the public health, safety, or welfare.	Allows Nuisance along with other ordinances to be enforceable.
2.01.007		(e) Any person authorized to enforce the provisions of this chapter shall have the right to pursue onto private property and apprehend an at-large animal considered a nuisance without first requesting permission from the owner of the private property or without obtaining a search warrant.	Allows Nuisance along with other ordinances to be enforceable.
2.01.007		(f) Unless otherwise provided by state law, any violation of this chapter may be charged as a class C misdemeanor; and upon conviction, an owner shall be fined as provided for in the general penalty provision in section 1.01.009 of this code, as amended. For those violations that are of a continuous nature, a separate offense shall be deemed committed upon each day during or on which a violation occurs or continues and such fine may be levied for each day that a violation exists.	Allows Nuisance along with other ordinances to be enforceable.
2.01.007		(g) If an owner has been previously convicted of an offense under this chapter and the owner is subsequently convicted of an offense under the same provision of this chapter, the owner may be subject to an enhanced fine as set by the municipal court.	Allows Nuisance along with other ordinances to be enforceable.

Section	Current Ordinance	Recommended ordinance revision	Reason
2.01.008	Sec. 2.01.008 Compliance with other ordinances	Sec. 2.01.008 Compliance with other ordinances	
2.01.008	The keeping of any animal in accordance with the provisions of this chapter shall not be construed to authorize the keeping of the same in violation of the zoning ordinance or any other ordinance of the city. (2003 Code, sec. 2.108)	The keeping of any animal in accordance with the provisions of this chapter shall not be construed to authorize the keeping of the same in violation of the zoning ordinance or any other ordinance of the city.	No Change.
2.01.009	Sec. 2.01.009 Fees	Sec. 2.01.009 Fees	
2.01.009	The fee schedule as provided for in appendix A of this code shall apply to all animals within the city limits. It shall not be construed that the city be required to bear the costs of any animal that has an owner. The owner shall reimburse the city for any actual expenses and shall be responsible for all fees set forth in appendix A of this code. The city may recover all fees, costs and damages incurred as a result of the animal as restitution in a criminal proceeding under the provisions of this chapter or the state statutes in addition to a fine being charged. In extraordinary circumstances, certain fees related to redemption of impounded animals may be administratively waived for owners with supervisory approval, or pay agreements reached between owners and the animal control supervisor(s). Such administrative actions shall be guided by animal control's adopted policies and procedures. (2003 Code, sec. 2.109)	The fee schedule as provided for in appendix A of this code shall apply to all animals within the city limits. It shall not be construed that the city be required to bear the costs of any animal that has an owner. The owner shall reimburse the city for any actual expenses and shall be responsible for all fees set forth in appendix A of this code. The city may recover all fees, costs and damages incurred as a result of the animal as restitution in a criminal proceeding under the provisions of this chapter or the state statutes in addition to a fine being charged. In extraordinary circumstances, certain fees related to redemption of impounded animals may be administratively waived for owners with supervisory approval, or pay agreements reached between owners and the animal services supervisor(s). Such administrative actions shall be guided by animal service's adopted policies and procedures.	Name change of division to reflect modified mission.
2.01.010	Sec. 2.01.010 Animals held on complaint	Sec. 2.01.010 Animals held on complaint	

Section	Current Ordinance	Recommended ordinance revision	Reason
2.01.010	If a complaint has been filed in municipal court of the city against the owner of an impounded animal for a violation of this article, the animal may be held on the order of the municipal judge, who may also direct the owner to pay any penalties for violation of this article in addition to all impoundment fees. Surrender of an animal by the owner thereof to the animal control officer does not relieve or render the owner immune from the decision of the court nor from the fees and fines which may result from a violation of this article. (2003 Code, sec. 2.212)	If a complaint has been filed in municipal court of the city against the owner of an impounded animal for a violation of this article, the animal may be held on the order of the municipal judge, who may also direct the owner to pay any penalties for violation of this article in addition to all impoundment fees. Surrender of an animal by the owner thereof to the animal services officer does not relieve or render the owner immune from the decision of the court nor from the fees and fines which may result from a violation of this article.	No change, name change of division to reflect modified mission.
2.01.011	Sec. 2.01.011 Removing animal from confinement; interference with impoundment	Sec. 2.01.011 Removing animal from confinement; interference with impoundment	
2.01.011	(a) It shall be unlawful for any person to remove or allow to escape from any place of confinement any dog or cat which has been confined or ordered to be confined by the city, without the consent of the animal control division.	(a) It shall be unlawful for any person to remove or allow to escape from any place of confinement, any dog or cat which has been confined or ordered to be confined by the city, without the consent of the animal services division.	Name change of division to reflect modified mission.
2.01.011	(b) It shall be unlawful for any person to knowingly or intentionally enter upon the property of another person for which the person is not given specific permission to enter for the purpose of releasing a confined, chained or tethered animal.	(b) It shall be unlawful for any person to knowingly or intentionally enter upon the property of another person for which the person is not given specific permission to enter for the purpose of releasing a confined, chained or tethered animal.	no change recommended
2.01.011	(c) It shall be unlawful for any person to interfere or attempt to interfere with the animal control officer or to interfere or attempt to interfere with any person acting for the city in the taking up and impounding of animals in the city.	(c) It shall be unlawful for any person to interfere or attempt to interfere with the animal services officer or to interfere or attempt to interfere with any person acting for the city in the taking up and impounding of animals in the city.	Name change of division to reflect modified mission.
2.01.012	Sec. 2.01.012 Tampering with traps or equipment set out by animal control officer	Sec. 2.01.012 Tampering with traps or equipment set out by animal services officer	Name change of division to reflect modified mission.

Section	Current Ordinance	Recommended ordinance revision	Reason
2.01.012	No person shall remove, alter, damage or otherwise tamper with a trap or equipment belonging to or set out by the animal control officer. (2003 Code, sec. 2.318)	No person shall remove, alter, damage or otherwise tamper with a trap or equipment belonging to or set out by the animal services officer.	Name change of division to reflect modified mission.
	ARTICLE 2.02 ANIMAL SHELTER ADVISORY COMMITTEE	ARTICLE 2.02 ANIMAL SHELTER ADVISORY COMMITTEE	
2.02.001	Sec. 2.02.001 Established; appointment and qualifications of members	Sec. 2.02.001 State law requirement for animal shelter advisory committee	Either remove section entirely or replace with this statement as a reminder if a city shelter is created: City no longer maintains a city shelter, committee not needed.
2.02.001	(a) There is hereby established the animal shelter advisory committee of the city, hereinafter called the advisory committee, consisting of five members.	At any future date if the city creates a city run animal shelter within the city limits, in compliance with chapter 823 of the Health and Safety Code an animal shelter advisory committee will be created in compliance to the law.	Either remove section entirely or replace with this statement as a reminder if a city shelter is created: City no longer maintains a city shelter, committee not needed.
2.02.001	(b) The advisory committee shall be composed of at least one licensed veterinarian, one municipal officer, one person whose duties include the daily operation of an animal shelter, and one representative from an animal welfare organization. The same person shall not be appointed to fulfill more than one of these requirements.		Remove section: City no longer maintains a city shelter, committee not needed.
2.02.001	(c) The members of the advisory committee shall be appointed by the city council.		Remove section: City no longer maintains a city shelter, committee not needed.

Section	Current Ordinance	Recommended ordinance revision	Reason
2.02.002	Sec. 2.02.002 Terms of members		Remove section: City no longer maintains a city shelter, committee not needed.
2.02.002	The terms of the first two members appointed to the advisory committee shall expire on October 1, 2007. The terms of the remaining three members appointed shall expire on October 1, 2008. Thereafter, all members shall be appointed for terms of two years. (2003 Code, sec. 2.802)		Remove section: City no longer maintains a city shelter, committee not needed.
2.02.003	Sec. 2.02.003 Vacancies; removal of members		Remove section: City no longer maintains a city shelter, committee not needed.
2.02.003	(a) Vacancies shall be filled for an unexpired term in the manner in which original appointments are required to be made.		Remove section: City no longer maintains a city shelter, committee not needed.
2.02.003	(b) Advisory committee members may be removed at any time upon the affirmative vote of a majority of the city council. Continued absence of any member from regular meetings of the advisory committee shall, at the discretion of the city council, render any such member liable for immediate removal from office.		Remove section: City no longer maintains a city shelter, committee not needed.
2.02.004	Sec. 2.02.004 Functions		Remove section: City no longer maintains a city shelter, committee not needed.

Section	Current Ordinance	Recommended ordinance revision	Reason
2.02.004	The advisory committee shall act in an advisory capacity only and shall have no power to bind the city by contract or otherwise. It shall be the function of the advisory committee to assist animal shelters located in the city with compliance with chapters 823 and 826, Texas Health & Safety Code, and Texas Administrative Code, title 25, rule 169.26, as they are amended from time to time (the "regulations"). The advisory committee may also provide recommendations to the chief of police and the city council concerning compliance of animal shelters located in the city with the regulations and may carry out and perform such other functions assigned by the city council. (2003 Code, sec. 2.804)		Remove section: City no longer maintains a city shelter, committee not needed.
2.02.005	Sec. 2.02.005 Meetings		Remove section: City no longer maintains a city shelter, committee not needed.
2.02.005	The advisory committee shall meet at least three times per year with advance notice posted in accordance with the Texas Open Meetings Act. Meetings will be open to the public except where closed sessions are authorized by state statutes. A majority of the members of the advisory committee, excluding any vacancies, shall constitute a quorum. Approval of all items before the advisory committee shall require a majority vote of those in attendance. (2003 Code, sec. 2.805)		Remove section: City no longer maintains a city shelter, committee not needed.

Section	Current Ordinance	Recommended ordinance revision	Reason
	ARTICLE 2.03 GENERAL REQUIREMENTS FOR KEEPING ANIMALS		
2.03.001	Sec. 2.03.001 Animal identification	Sec. 2.03.001 Animal identification	
2.03.001	(a) Required; exemptions. Except as provided herein, all animals within the city shall be marked by some type of identifying license, tag, band, tattoo or brand by which the animal's owner can be identified. Animals exempted from this requirement are mice, rats, rabbits, guineas, hamsters, gerbils, ferrets, fowl and snakes.	(a) Required; exemptions. Except as provided herein, all animals within the city shall be marked by some type of identifying license, tag, band, tattoo or brand by which the animal's owner can be identified. Animals exempted from this requirement are mice, rats, rabbits, guineas, hamsters, gerbils, ferrets, fowl and snakes.	no change recommended
2.03.001	(b) Feral cat colonies. It is an affirmative defense to prosecution for identification and registration requirements herein for cats if it is shown that the cat is feral and properly microchipped indicating its relationship to a feral cat colony, defined herein, and its having been vaccinated against rabies in accordance with law. Feral cat organizations shall implement procedures to coordinate and ensure that microchip identifiers correlate to the requirements of Texas Health and Safety Code section 826.021 and attendant administrative law relating to rabies vaccination recordkeeping requirements. The city's animal control unit shall have access to microchip and vaccination certificates when deemed necessary by the unit.	(b) Feral cats. It is an affirmative defense to prosecution for identification requirements herein for cats if it is shown that the cat is feral and properly ear tipped to indicate participation in a trap, neuter and release program, and its having been vaccinated against rabies in accordance with law. The city's animal services unit shall have access to vaccination certificates when deemed necessary by the unit.	Name change of division to reflect modified mission. Ear tipping is common practice and safer than attempting to read a microchip in a feral.
2.03.002	Sec. 2.03.002 Running at large	Sec. 2.03.002 Running at large	
2.03.002	(a) Responsible party. It shall be unlawful for any person who owns, keeps, harbors or otherwise has control over any animal within the city to allow or permit such animal to run or be at large within the city.	(a) Responsible party. It shall be unlawful for any person who owns, keeps, harbors or otherwise has control over any animal within the city to allow or permit such animal to run or be at large within the city.	no change recommended

Section	Current Ordinance	Recommended ordinance revision	Reason
2.03.002	(b) Cats. The prohibition against an animal running at large shall not apply to a domestic cat which has been vaccinated as required by this chapter and which is wearing the required vaccination tags. The prohibition shall apply to all other cats.	(b) Cats. The prohibition against an animal running at large shall not apply to a domestic cat which has been vaccinated as required by this chapter and which is wearing the required vaccination tags or feral cat that has been ear tipped by a feral cat organization. The prohibition shall apply to all other cats.	Addition to reflect feral cat identification method
2.03.002	(c) Restraint required. An animal shall be considered to be at large if it is not under the control of its owner by either a leash, chain, cord or other suitable material attached to a collar or harness, or not restrained on the property of the owner by a leash, chain, cord or fence. An animal shall be considered not restrained if the property owner is utilizing solely an invisible fence or similar technology. An animal inside a vehicle parked in a public place or in the open bed of a moving or parked vehicle in a public place shall be considered to be at large unless it is restrained in such a manner that it cannot exit the vehicle of its own volition.	(c) Restraint required. An animal shall be considered to be at large if it is not under the control of its owner by either a leash, chain, cord or other suitable material attached to a collar or harness, or not restrained on the property of the owner by a leash, chain, cord or fence. An animal shall be considered not restrained if the property owner is utilizing solely an invisible fence or similar technology. An animal inside a vehicle parked in a public place or in the open bed of a moving or parked vehicle in a public place shall be considered to be at large unless it is restrained in such a manner that it cannot exit the vehicle of its own volition.	no change recommended
2.03.002	(d) Snakes. It shall be unlawful for any person to have a snake in any park or other public place unless it is within some type of cage, pen or enclosure.	(d) Snakes. It shall be unlawful for any person to have a snake in any park or other public place unless it is within some type of cage, pen or enclosure.	no change recommended

Section	Current Ordinance	Recommended ordinance revision	Reason
2.03.002	(e) Impoundment. The animal control officer for the city may impound any animal observed to be at large, whether the animal is on public or private property, subject to the applicable provisions of the law. If the animal control officer observes an animal on property which is owned by a person other than the owner of the animal, and observes the animal return to property of its owner, the animal control officer may impound the animal or issue a citation for the animal running at large. In the event the animal is on private property or property of the animal's owner, the animal control officer, his/her agent, or a peace officer may enter the property, other than a private dwelling, for the purpose of impoundment or issuance of a citation, or both, subject to the applicable provisions of this chapter and law.	(e) Impoundment, citation. The animal services officer for the city may impound any animal observed to be at large, whether the animal is on public or private property, subject to the applicable provisions of the law. If the animal services officer observes an animal on property which is owned by a person other than the owner of the animal, and observes the animal return to property of its owner, the animal services officer may impound the animal or issue a citation for the animal running at large. In the event the animal is on private property or property of the animal's owner, the animal services officer, his/her agent, or a peace officer may enter the property, other than a private dwelling, for the purpose of impoundment or issuance of a citation, or both, subject to the applicable provisions of this chapter and law.	Name change of division to reflect modified mission.
2.03.002	(f) Prima facie evidence of responsibility for violation. Proof that an animal was found at large in violation of this section, together with proof that the defendant was the owner of such animal at the time, shall constitute prima facie evidence that the defendant allowed or permitted the animal to be at large.	(f) Prima facie evidence of responsibility for violation. Proof that an animal was found at large in violation of this section, together with proof that the defendant was the owner of such animal at the time, shall constitute prima facie evidence that the defendant allowed or permitted the animal to be at large.	no change recommended
2.03.002	(g) Feral cat colonies. It is an affirmative defense to prosecution for animals running at large if the animal is a feral cat and it is shown by microchip identification that the animal is a part of a feral cat colony as defined herein.		Remove section: covered in section (b)

Section	Current Ordinance	Recommended ordinance revision	Reason
2.03.002	State law references–Restraint, impoundment and disposition of dogs and cats, V.T.C.A., Health and Safety Code, sec. 826.033; estrays, V.T.C.A., Agriculture Code, ch. 142.	State law references–Restraint, impoundment and disposition of dogs and cats, Health and Safety Code, sec. 826; estrays, Agriculture Code, Ch. 142.	Remove unnecessary V.T.C.A in reference
2.03.003	Sec. 2.03.003 Confinement of unspayed female dogs and cats during estrus	Sec. 2.03.003 Confinement of unspayed female dogs and cats during estrus	
2.03.003	(a) Secured enclosure required. Any unspayed female dog or cat in the state of estrus (heat) shall be confined during such period of time in a house, building or secure enclosure, and the area of enclosure shall be so constructed that no other dog or cat may gain access to the confined animals except for controlled breeding permitted by the owner of the female.	(a) Secured enclosure required. Any unspayed female dog or cat in the state of estrus (heat) shall be confined during such period of time in a house, building or secure enclosure, and the area of enclosure shall be so constructed that no other dog or cat may gain access to the confined animals or to allow the enclosed animal to escape, except for controlled breeding permitted by the owner of the female.	Minor clarification on containing animal
2.03.003	(b) Chaining or tethering. Additionally, the female dog or cat shall not be chained or tethered, except in a secured enclosure, and if chained or tethered within a secured enclosure, the female dog or cat may not be chained or tethered in a manner that prevents her from defending herself or from avoiding a male.	(b) Chaining or tethering. Additionally, the female dog or cat shall not be chained or tethered, except in a secured enclosure, and if chained or tethered within a secured enclosure, the female dog or cat may not be chained or tethered in a manner that prevents her from defending herself or from avoiding a male.	no change recommended
2.03.003	(c) Removal order. Owners who do not comply shall be ordered to immediately remove the animal in heat to a veterinary hospital or the animal shelter. Failure to comply with the removal order of the animal control officer shall be a violation of this chapter and the dog or cat will then be impounded as prescribed herein. All expenses incurred as a result of this confinement shall be paid by the owner.	(c) Removal order. Owners who do not comply shall be ordered to immediately remove the animal in heat to a veterinary hospital. Failure to comply with the removal order of the animal services officer shall be a violation of this chapter and the dog or cat will then be impounded as prescribed herein. All expenses incurred as a result of this confinement shall be paid by the owner.	Name change of division to reflect modified mission. Removed animal shelter, no room

Section	Current Ordinance	Recommended ordinance revision	Reason
2.03.004	Sec. 2.03.004 Animal defecation on public property or property of another	Sec. 2.03.004 Animal defecation on public property or property of another	
2.03.004	(a) Prohibited. It is unlawful for the owner or person in control of an animal to intentionally, knowingly, recklessly or with criminal negligence allow or permit such animal to defecate on any public property or improved private property other than that of the owner of the animal. That the animal was at large at the time it defecated on any property shall constitute prima facie evidence that the owner or person in control of the animal allowed or permitted the animal to so act.	(a) Prohibited. It is unlawful for the owner or person in control of an animal to intentionally, knowingly, recklessly or with criminal negligence allow or permit such animal to defecate on any public property or improved private property other than that of the owner of the animal. That the animal was at large at the time it defecated on any property shall constitute prima facie evidence that the owner or person in control of the animal allowed or permitted the animal to so act.	no change recommended
2.03.004	(b) Exception. It is an exception to the application of this section that the owner or person in control of the animal immediately removed and cleaned up such animal's feces from public or private property.	(b) Exception. It is an exception to the application of this section that the owner or person in control of the animal immediately removed and cleaned up such animal's feces from public or private property.	no change recommended
2.03.005	Sec. 2.03.005 Keeping prohibited animal or wild animal	Sec. 2.03.005 Keeping prohibited animal or wild animal	
2.03.005	(a) No person shall possess, keep or have care, custody or control of a prohibited animal, wild animal or wildlife within the city except as provided herein.	(a) No person shall possess, keep or have care, custody or control of a prohibited animal, wild animal or wildlife within the city except as provided herein.	no change recommended
2.03.005	(b) All persons shall be prohibited from selling, giving, transferring or importing into the city any wild animal.	(b) All persons shall be prohibited from selling, giving, transferring or importing into the city any wild animal.	no change recommended

Section	Current Ordinance	Recommended ordinance revision	Reason
2.03.005	(c) This section shall not apply to approved zoological parks or circuses. Nor shall this section apply to primary and secondary schools, colleges and universities, zoological parks owned or operated by a governmental entity or any animal assisting physically handicapped persons.	(c) This section shall not apply to approved zoological parks or circuses. Nor shall this section apply to primary and secondary schools, colleges and universities, zoological parks owned or operated by a governmental entity or any animal assisting physically handicapped persons.	no change recommended
2.03.005	(d) It shall be a defense to prosecution under this section that the animal being kept was an infant or injured animal which was not capable of surviving on its own and that such animal was kept for three days or less, or for such reasonable time as was necessary before giving the animal to a licensed wildlife rehabilitator.	(d) It shall be a defense to prosecution under this section that the animal being kept was an infant or injured animal which was not capable of surviving on its own and that such animal was kept for three days or less, or for such reasonable time as was necessary before giving the animal to a licensed wildlife rehabilitator.	no change recommended
2.03.006	Sec. 2.03.006 Nuisance animals	Sec. 2.03.006 Nuisance animals	
2.03.006	(a) As used in this section, a nuisance animal shall be defined as any animal that commits any of the acts listed herein:	disturbs, annoys, or alarms persons of ordinary sensibility, endangers the public health, safety, or welfare, or substantially interferes with the rights of citizens to quiet enjoyment of life or property, including but not limited to:	Nuisance ordinance has been redone. Allows easier enforcement for separate nuisances including ASO dealing with barking.
2.03.006	(1) Molests or chases pedestrians, passersby or passing vehicles, including bicycles, or molests, attacks or interferes with other animals or persons on public property or private property other than the owner's;	(1) Any animal that chases motor vehicles in a public right-of-way;	New nuisance ordinance

Section	Current Ordinance	Recommended ordinance revision	Reason
2.03.006	(2) Makes unprovoked attacks on other animals of any kind or engages in conduct which establishes such animal as a "dangerous animal";	(2) Any animal, whether or not on the property of its owner and without reasonable provocation, that approaches and hisses, barks, or growls at a person in an angry, threatening, and ill-tempered manner and causes that person to have an immediate reasonable fear of bodily injury, that bites, snaps at, or attacks a person or otherwise interferes with the freedom of movement of persons in a public right-of-way, or that attacks and seriously injures or kills another animal that was properly confined, restrained, or under the physical control of its owner as required by this	New nuisance ordinance
2.03.006	(3) Is repeatedly at large, specifically, three or more times per 12-month period (excluding domestic cats);	(3) Any animal that is found at-large three (3) or more times; or any dog in a park or public recreation area, unless the dog is controlled by a leash or similar physical restraint or within a designated off-leash area within a city park facility, in compliance with posted rules at such city park facility and/or off-leash area;	New nuisance ordinance
2.03.006	(4) Damages, soils or defiles public property or private property, other than property belonging to or under the control of the owner;	(4) Any animal that damages any property other than that of its owner;	New nuisance ordinance
2.03.006	(5) Repeatedly defecates on property not belonging to or under the control of its owner, unless such waste is immediately removed and properly disposed of by the owner of the animal (including domestic cats);	(5) Any animal that defecates on any common thoroughfare, street, sidewalk, passageway, road bypass, play area, park or any place where people congregate or walk upon any public property whatsoever, or upon any private property without the permission of the private property owner, if the owner of such an animal that soils, defiles, or defecates on any of the above areas fails to immediately remove the pet feces and droppings and place them in a designated waste receptacle or other suitable waste container;	New nuisance ordinance

Section	Current Ordinance	Recommended ordinance revision	Reason
2.03.006	(6) Barks, whines, howls, crows, cackles or makes any noise excessively and continuously, and such noise disturbs a person of ordinary sensibilities;	(6) An animal that makes disturbing noises, including but not limited to, continued and repeated howling, barking, whining, meowing, crowing, or other utterances in an excessive, continuous or unreasonable fashion or at unreasonable hours, causing annoyance, disturbance, or discomfort to, or disrupting the quiet enjoyment of neighbors or others in close proximity to the premises where the animal is kept or harbored;	New nuisance ordinance
2.03.006	(7) Produces odors or unclean conditions sufficient to annoy persons living in the vicinity; or	(7) Any animal that causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored, or that causes noxious or offensive odors which would be unreasonably annoying or discomforting to neighbors or others in close proximity to the premises where the animal is kept or harbored;	New nuisance ordinance
2.03.006	(8) Is unconfined when in heat.	(8) Any female animal in heat (estrus) that is not confined so as to prevent attraction or contact with animals other than the owner's, unless for the purpose of planned breeding in compliance with all local, state, and federal laws;	New nuisance ordinance
2.03.006		(9) Any dog in violation of posted rules governing a city park facility and/or off-leash area; (10) Any dangerous wild animal, as defined by section 822, Texas Health & Safety Code or (11) Any animal that is a threat to public health safety or welfare by virtue of the number of animals. It shall be unlawful for an animal to be or create a public nuisance within the city.	New nuisance ordinance

Section	Current Ordinance	Recommended ordinance revision	Reason
2.03.006	(b) If the animal control officer determines that any animal is a nuisance as defined in this section, the animal control officer shall issue an order clearly stating the nuisance animal behavior or condition(s) and requiring that the owner take effective measures to abate such nuisance animal behavior or condition(s).	(b) The owner of a public nuisance animal shall be culpable for any violations of this section. (c) Complaints of public nuisance animals (1) Whenever any person shall complain to the animal services officer of an alleged public nuisance animal, an animal services officer shall promptly investigate the complaint and notify the owner of the animal that a complaint has been received.	New nuisance ordinance
2.03.006	The order, the form of which shall be provided for by policy, shall be given to the owner by personal service or by certified mail, return receipt requested. The owner may file a written appeal to this order, clearly stating the reasons for the appeal, to the chief of police within 10 days of service. If no written appeal is received by the chief of police within the prescribed appeal period, the nuisance determination of the animal control officer is presumed to be valid. If the animal control officer's determination is appealed, the chief of police or designee shall conduct a hearing to determine the validity of the animal being determined a nuisance and/or abatement issues stated in the written appeal. At the hearing, the formal rules of evidence do not apply. The chief shall make his/her decision on the basis of a preponderance of the evidence presented. The chief may:	(2) If the animal services officer does not observe a violation of this article, then the animal services officer shall promptly provide to the complaining person a nuisance animal complaint form.	New nuisance ordinance

Section	Current Ordinance	Recommended ordinance revision	Reason
2.03.006		(3) If the animal services officer observes a violation of this article, or receives from the complaining person a signed and completed nuisance animal complaint form, then a citation shall be issued to the owner of the alleged public nuisance animal, and, if deemed by the animal services officer to be necessary in order to abate an imminent risk to public health, safety, or welfare, the animal services officer may impound the alleged public nuisance animal pursuant to sections regarding impoundment of this chapter without regard to whether the animal is at-	New nuisance ordinance
2.03.006		(d) Completion and submission of nuisance animal complaint form (1) The nuisance animal complaint form is to be completed voluntarily, truthfully, and accurately by the complaining person, signed, and then submitted to the animal services officer, police department, or municipal court. (2) By submitting a nuisance animal complaint form, the complaining person agrees to testify as the complaining witness if the matter should proceed to trial in municipal court.	New nuisance ordinance
2.03.006	(1) Sustain the determination of a nuisance animal and abatement order as originally written;		Covered in Nuisance ordinance if nuisance form is approved..
2.03.006	(2) Quash the determination of a nuisance animal and abatement order; or		Covered in Nuisance ordinance if nuisance form is approved..
2.03.006	(3) Sustain the determination of a nuisance animal but modify the abatement order.		Covered in Nuisance ordinance if nuisance form is approved..

Section	Current Ordinance	Recommended ordinance revision	Reason
2.03.006	The decision of the chief shall be rendered within 30 days from receipt of the appeal and the decision of the chief shall be final.		Appeals will be handled per state law procedure
2.03.006	(c) It shall be unlawful for the owner or harborer of an animal determined a nuisance under this section to permit continued or future nuisance behavior or condition(s). Nothing herein precludes the city from seeking other remedies if owners fail to comply with the remedial requirements stated or the decision(s) rendered in the appeal process.	(e) It shall be unlawful for the owner or harborer of an animal determined a nuisance under this section to permit continued or future nuisance behavior or condition(s). Nothing herein precludes the city from seeking other remedies if owners fail to comply with the remedial requirements stated.	Remove reference to appeal process
2.03.006	(d) Persons residing within 600 feet of a person who harbors or keeps an animal that they believe to be a nuisance may initiate a written, signed complaint, the form of which shall be provided for by policy, with the animal control division. The animal control division shall investigate the merits of such complaints to determine if the stated animal is a nuisance as defined in this section. If the animal is determined to be a nuisance animal, the procedure set forth in subsection (b) above shall apply.		Covered in Nuisance ordinance if nuisance form is approved..
2.03.006	(e) Feral cats associated with feral cat colonies as defined herein that have been trapped and deemed a nuisance animal pursuant to the provisions of this section shall not be returned to a feral cat colony in the city.		Recommend removal - feral cats not kept as colony
2.03.007	Sec. 2.03.007 Keeping bees	Sec. 2.03.007 Keeping bees	

Section	Current Ordinance	Recommended ordinance revision	Reason
2.03.007	No person shall construct, place or maintain any beehive within 300 feet of any residence other than that of the owner except with the consent of the occupants of all such residences. (2003 Code, sec. 2.207)	No person shall construct, place or maintain any beehive within 500 feet of any residence other than that of the owner except with the consent of the occupants of all such residences. A tract or parcel of land where the bees are kept or enclosed must be three acres or more in size.	no change recommended
2.03.008	Sec. 2.03.008 Pens or coops for animals other than livestock	Sec. 2.03.008 Pens or coops for animals other than livestock	
2.03.008	(a) All fowl and rabbits shall be kept within a pen, coop or hutch. A fenced yard shall not qualify as a pen or coop.	(a) All chickens and rabbits shall be kept within a coop or hutch. A fenced yard shall not qualify as a pen or coop.	Recommend changes to limit backyard fowl to chickens
2.03.008		limited to no more than 10. A rooster is prohibited from a backyard coop on a property of less than 3 acres.	Recommend limits due to noise and smell considerations
2.03.008	(b) Any person keeping or harboring any animal, other than livestock, shall locate any pen, coop, hutch or other housing at least 50 feet from any residence, excluding the residence of the person keeping or harboring the animals.	other than livestock, shall locate any pen, coop, hutch or other housing at least 50 feet from any residence, excluding the residence of the person keeping or harboring the animals. Other ordinances covering nuisances shall still apply	
2.03.009	Sec. 2.03.009 Staking or pasturing livestock; livestock pens	Sec. 2.03.009 Staking or pasturing livestock on public land or property of another person	Recommend title change, describing section
2.03.009	(a) It shall be unlawful for any person owning or having care, custody or control over any livestock, except the horses used by the city police department, to:	(a) It shall be unlawful for any person owning or having care, custody or control over any livestock, except the horses used by the city police department, to:	no change recommended
2.03.009	(1) Cause or permit any livestock to be pastured, herded, staked or tied in any street, lane, alley, park or other public place;	(1) Cause or permit any livestock to be pastured, herded, staked or tied in any street, lane, alley, park or other public place;	no change recommended

Section	Current Ordinance	Recommended ordinance revision	Reason
2.03.009	(2) Tie, stake or pasture or permit the tying, staking or pasturing of any animal upon any private property within the city without the consent of the owner or occupant of such property, or in such a way as to permit any livestock to trespass upon any street or other public place or upon any private property; or	(2) Tie, stake or pasture or permit the tying, staking or pasturing of any animal upon any private property within the city without the consent of the owner or occupant of such property, or in such a way as to permit any livestock to trespass upon any street or other public place or upon any private property.	no change recommended
2.03.009	(3) Permit any livestock to be or remain during the nighttime secured by a stake, or secured in any manner other than by enclosing such animal in a pen, corral or barn sufficient and adequate to restrain such livestock.		Recommend removal, now covered in another section
2.03.009	(b) It shall be unlawful for any person to keep or harbor any livestock within the city in a pen or other enclosure situated at any point closer than 200 feet to any residence, excluding the residence of the person keeping or harboring the livestock.		Recommend removal, now covered in another section
2.03.009	(c) It shall be unlawful for any person to keep or harbor any livestock within the city in a pen or other enclosure which has less than 600 square feet of area for each livestock.		Recommend removal, now covered in another section
2.03.010	Sec. 2.03.010 Storage of feed	Sec. 2.03.010 Storage of feed	
2.03.010	All feed provided for animals, other than hay, shall be kept in an enclosed building or container except when being used to feed an animal. (2003 Code, sec. 2.210)	All feed provided for animals, other than hay, shall be kept in an enclosed building or container except when being used to feed an animal.	no change recommended
2.03.011	Sec. 2.03.011 Keeping livestock or fowl; keeping hogs prohibited	Sec. 2.03.011 Keeping livestock or fowl; keeping hogs prohibited	
2.03.011	(a) Keeping hogs prohibited. The keeping of hogs is prohibited.	(a) Keeping hogs prohibited. The keeping of hogs is prohibited if lot size is not 3 acres or more.	no change recommended

Section	Current Ordinance	Recommended ordinance revision	Reason
2.03.011	(b) Keeping near city water supply well.	(b) Keeping near city water supply well.	no change recommended
2.03.011	(1) It is unlawful and constitutes an offense for any person, whether for himself or as the agent or servant of another or others, to keep or to participate in keeping any horse, cattle, sheep, goat, other livestock and/or fowl in any pen or lot used to confine any such multiple animal operation within 500 feet of any water supply wells from which the city obtains its principal water supply as specified in the official Texas Administrative Code published under authority of the secretary of state, title 31, Natural Resources and Conservation [title 30, Environmental Quality], section 290.41(c)(1)(C), (D), (F).	(1) It is unlawful and constitutes an offense for any person, whether for himself or as the agent or servant of another or others, to keep or to participate in keeping any horse, cattle, sheep, goat, other livestock and/or fowl in any pen or lot used to confine any such multiple animal operation within 500 feet of any water supply wells from which the city obtains its principal water supply as specified in the official Texas Administrative Code published under authority of the secretary of state, title 31, Natural Resources and Conservation [title 30, Environmental Quality], section 290.41(c)(1)(C), (D), (F).	no change recommended
2.03.011	(2) "Keeping" means the care and control of the livestock or fowl in question for a period of longer than five days.	(2) "Keeping" means the care and control of the livestock or fowl in question for a period of longer than five days.	no change recommended

Section	Current Ordinance	Recommended ordinance revision	Reason
2.03.011	(c) Distance from residence or building open to the public. It is unlawful and constitutes a nuisance to keep any horse, cattle, sheep, goat, rabbit or other livestock, including fowl, at any place within the city, when the place where the same are kept is within 200 feet of any private residence or dwelling place or within 500 feet of any building or establishment open to the public, with the exception of park land, or if the animal or fowl in question is kept in a manner and under conditions wherein, by reason of the odors emanating therefrom, the noise made by it or from any other cause pertaining to it or pertaining to the manner or to the place at which it is kept is reasonably calculated to annoy, offend or disturb the reasonable sensibilities of inhabitants of a private residence, or person(s) occupying or visiting an establishment open to the public. The distance provisions do not apply to park land; however, other requirements of this section relating to the manner in which animals are kept shall apply to such park land.	(c) It shall be unlawful for any person to keep livestock within the corporate limits of the city unless the livestock is being kept in accordance with the following restrictions:	Removed rabbit from list
2.03.011		(1) The overall lot must be three or more acres in size and the livestock shall be kept on a parcel of land that is at least one acre in size.	Mirrors Round Rock ordinance and Texas agrilife recommendations

Section	Current Ordinance	Recommended ordinance revision	Reason
2.03.011		(2) There shall be no more than one unit (as defined below) of livestock for the first acre of land. There shall be no more than one additional unit of livestock for each additional one-half acre of land in the same parcel. For the purpose of this section, units of livestock shall be defined as follows:	Mirrors Round Rock ordinance and Texas agrilife recommendations
2.03.011		(i) The following types of livestock shall be counted as one head equals one unit: horse, stallion, mare, gelding, filly, colt, mule, hinny, jack, jenny, llama, and all species of cattle;	Mirrors Round Rock ordinance and Texas agrilife recommendations
2.03.011		(ii) The following types of livestock shall be counted as one head equals one-half of a unit: all species of swine; and	Mirrors Round Rock ordinance and Texas agrilife recommendations
2.03.011		(iii) The following types of livestock shall be counted as one head equals one-fifth of a unit: sheep, goat, and fowl.	Mirrors Round Rock ordinance and Texas agrilife recommendations

Section	Current Ordinance	Recommended ordinance revision	Reason
2.03.011		(3) No livestock shall be permitted to graze, forage, or otherwise roam within 50 feet of any business or commercial establishment, dwelling, residence, or structure used for human occupancy (other than the livestock owner's dwelling or residence). Hogs or any type of swine are further restricted to 200 feet of any business or commercial establishment, dwelling, residence, or structure used for human occupancy (other than the livestock owner's dwelling or residence). Roosters must be kept in a coop and are further restricted to 200 feet of any business or commercial establishment, dwelling, residence, or structure used for human occupancy (other than the livestock owner's dwelling or residence).	Mirrors Round Rock ordinance and Texas agrilife recommendations
2.03.011		(4) Barns, stables, corrals, sheds, pens or other similar structure where livestock may be housed, fed, or confined, or where food for livestock is stored shall not be located within 200 feet of any residence, business or commercial establishment or office (other than the livestock owner's residence, business or commercial establishment or office), grocery store, school building, church, hospital, nursing home, or restaurant or other food service establishment.	Mirrors Round Rock ordinance and Texas agrilife recommendations
2.03.011		(5) Livestock shall be enclosed with adequate fences or barriers that will prevent such livestock from damaging shrubbery or other property situated on adjacent property. Such fences or barriers shall be sufficient to prevent the livestock from escaping the enclosure.	Mirrors Round Rock ordinance and Texas agrilife recommendations

Section	Current Ordinance	Recommended ordinance revision	Reason
2.03.011		(6) The owner keeping any livestock shall keep all yards, barns, pens, stables, sheds or other enclosures in which such animals are confined in such a manner so as not to give off odors offensive to persons of ordinary sensibilities in the immediate vicinity, or to breed or attract flies, mosquitoes or other noxious insects or rodents, or in any manner to endanger the public health, safety, or welfare, or to create a public nuisance. All yards, barns, pens, stables, sheds or other enclosures in which livestock is confined shall be of a size to allow said animals sufficient space to move freely and not endanger the health, safety, or welfare of the animal or animals.	Mirrors Round Rock ordinance and Texas agrilife recommendations
2.03.011		(7) Subsections (1) through (4) of this section shall not apply to a licensed veterinarian at the veterinarian's place of business, a riding stable/school or academy, or a sanctioned 4-H or FFA livestock project.	Mirrors Round Rock ordinance and Texas agrilife recommendations
2.03.011	(d) Prima facie evidence of violation of distance restrictions. Proof that one dozen or more of such fowl or animals as described in subsection (c) above, or any combination thereof, are being kept at any one time at a place within the city that is within 200 feet of the private residence of another, or within 500 feet of any building or establishment open to the public, shall be sufficient to make out a prima facie case, and unless such prima facie case is overcome by sufficient evidence, it shall warrant a conviction under the provisions of this section.		Recommend removing, doesn't match revisions

Section	Current Ordinance	Recommended ordinance revision	Reason
2.03.011	(e) Exceptions to distance restrictions. The following properties are exempt from the distance restrictions and livestock prohibitions of this article. Any distance restrictions or livestock prohibitions set forth in other ordinances of the city shall continue to apply.	(d) Exceptions to distance restrictions. The following properties are exempt from the distance restrictions and livestock prohibitions of this article. Any distance restrictions or livestock prohibitions set forth in other ordinances of the city shall continue to apply.	no change recommended
2.03.011	(1) A tract or parcel of land that is three acres or more in size;		recommend removal, covered above
2.03.011	(2) Property zoned as Rural/Agricultural District (R/A-1) according to the zoning ordinance of the city; or	(1) Property zoned as Rural/Agricultural District (R/A-1) according to the zoning ordinance of the city; or	Renumbering
2.03.011	(3) Property properly zoned and used for veterinary hospitals, permitted kennels that are used solely for the care and boarding animals, or existing shipping pens utilized for temporary holding before shipment or sale of animals.	(2) Property properly zoned and used for veterinary hospitals, permitted kennels that are used solely for the care and boarding animals, or existing shipping pens utilized for temporary holding before shipment or sale of animals.	Renumbering
2.03.012	Sec. 2.03.012 Disposal of dead animals and fowl	Sec. 2.03.012 Disposal of dead animals and fowl	
2.03.012	It is unlawful for any person in the city to cause to be placed or place or allow to remain in or near his premises or the premises of any other person, or in any of the streets or other public roadways, any dead animal, either wild or domesticated, or any dead fowl, either wild or domesticated. (2003 Code, sec. 2.211(f))	In compliance with Texas Administrative Code, Title 4, Part2, Chapter 59; It is unlawful for any person in the city to cause to be placed or place or allow to remain in or near his premises or the premises of any other person, or in any of the streets or other public roadways, any dead animal, either wild or domesticated, or any dead fowl, either wild or domesticated.	Added state law reference
	ARTICLE 2.04 ANIMAL PROTECTION*	ARTICLE 2.04 ANIMAL PROTECTION*	
2.04.001	Sec. 2.04.001 Animals in motor vehicles	Sec. 2.04.001 Animals in motor vehicles	

Section	Current Ordinance	Recommended ordinance revision	Reason
2.04.001	(a) Leaving animal in standing or parking vehicle. It shall be unlawful for any person to leave any animal in any standing or parked vehicle in such a way as to intentionally, knowingly, recklessly, or with criminal negligence endanger the animal's health, safety or welfare. An animal control officer or police officer is authorized to use reasonable force to remove the animal from the vehicle whenever it appears that the animal's health, safety or welfare is or will be endangered if the owner of the vehicle cannot be located after reasonable attempts. The animal shall be taken to the animal shelter or to a veterinarian if the animal is in distress. A written notice bearing the name of the officer removing the animal, a telephone number where he can be contacted and the location where the animal may be claimed by the owner shall be attached to the vehicle. Any person violating this section shall bear the full cost and expense incurred by the city in the care, medical treatment, impoundment cost and disposal of the animal, including the removal from a vehicle, in addition to any criminal penalty that may be imposed under this section.	(a) Leaving animal in standing or parking vehicle. It shall be unlawful for any person to leave any animal in any standing or parked vehicle in such a way as to intentionally, knowingly, recklessly, or with criminal negligence endanger the animal's health, safety or welfare. An animal services officer or police officer is authorized to use reasonable force to remove the animal from the vehicle whenever it appears that the animal's health, safety or welfare is or will be endangered if the owner of the vehicle cannot be located after reasonable attempts. The animal shall be taken to the animal shelter or to a veterinarian if the animal is in distress. A written notice bearing the name of the officer removing the animal, a telephone number where he can be contacted and the location where the animal may be claimed by the owner shall be attached to the vehicle. Any person violating this section shall bear the full cost and expense incurred by the city in the care, medical treatment, impoundment cost and disposal of the animal, including the removal from a vehicle, in addition to any criminal penalty that may be imposed under this section.	Name change of division to reflect modified mission.

Section	Current Ordinance	Recommended ordinance revision	Reason
2.04.001	(b) Vehicle involved in accident or other incident. Instances where occupants of motor vehicles are involved in a traffic accident or other vehicle-related incidents which result in animals being left uncontrolled or unattended, animal control or police officers of the city are authorized to take welfare custody of such unattended animals. In the interest of the health, safety or welfare of such animals, officers are authorized to transport such animals to the city's kennel facility, a veterinarian, a humane shelter, or an animal emergency clinic. Information shall be provided to the animal's owner as to the animal's disposition. Animal owners shall bear the full cost and expense incurred by the city in the care, medical treatment, impoundment costs or other associated costs.	(b) Vehicle involved in accident or other incident. Instances where occupants of motor vehicles are involved in a traffic accident or other vehicle-related incidents which result in animals being left uncontrolled or unattended, animal services or police officers of the city are authorized to take welfare custody of such unattended animals. In the interest of the health, safety or welfare of such animals, officers are authorized to transport such animals to the regional shelter, a veterinarian, a humane shelter, or an animal emergency clinic. Information shall be provided to the animal's owner as to the animal's disposition. Animal owners shall bear the full cost and expense incurred by the city in the care, medical treatment, impoundment costs or other associated costs.	Name change of division to reflect modified mission. Changed to regional shelter, city no longer maintains a shelter
2.04.002	Sec. 2.04.002 Duties of person striking animal with motor vehicle	Sec. 2.04.002 Duties of person striking animal with motor vehicle	
2.04.002	(a) Any person who, as the operator of a motor vehicle within the city, strikes any animal shall report the accident to the police department within a reasonable time if the animal stricken is on or near the roadway so that it constitutes a potential traffic hazard. It shall be an affirmative defense to any violation under this section that the incident occurred while the operator was responding to an emergency and that the incident was reported as soon as possible.	(a) Any person who, as the operator of a motor vehicle within the city, strikes any animal shall report the accident to the police department within a reasonable time if the animal stricken is on or near the roadway so that it constitutes a potential traffic hazard. It shall be an affirmative defense to any violation under this section that the incident occurred while the operator was responding to an emergency and that the incident was reported as soon as possible.	no change recommended

Section	Current Ordinance	Recommended ordinance revision	Reason
2.04.002	(b) Any person who, as the operator of a motor vehicle, strikes a domestic animal shall immediately report such injury or death to the animal's owner; in the event the owner cannot be ascertained and located, such operator shall at once report the accident to the appropriate law enforcement agency or the local humane society.	(b) Any person who, as the operator of a motor vehicle, strikes a domestic animal shall immediately report such injury or death to the animal's owner; in the event the owner cannot be ascertained and located, such operator shall at once report the accident to the appropriate law enforcement agency or the local humane society.	no change recommended
2.04.003	Sec. 2.04.003 Tethered animals	Sec. 2.04.003 Unlawful restraint of Dog.	
2.04.003	It shall be unlawful for any person to tether, chain or fasten any animal in such a manner as to permit it to be upon any public sidewalk or street or to leave it unattended while tethered, chained or fastened on public property. It shall be unlawful to tether, chain or fasten an animal in such a manner as to cause it injury or pain or not permit it to reach shelter, food and water. (2003 Code, sec. 2.303)	Restrictions on unlawful restraint found in HSC Sec. 821.	Change as per H&S 821.076
2.04.003	State law reference–Unlawful restraint of dog, V.T.C.A., Health and Safety Code, sec. 821.076 et seq.		Recommend removal, covered in revision above
2.04.004	Sec. 2.04.004 Selling dyed animals	Sec. 2.04.004 Selling dyed animals	
2.04.004	It shall be unlawful for any person to sell or offer for sale, raffle, offer or give as a prize, premium or an advertising device or cause to be displayed in any store, shop, carnival or other public place an animal or fowl of any kind that has been dyed or otherwise colored artificially. (2003 Code, sec. 2.304)	It shall be unlawful for any person to sell or offer for sale, raffle, offer or give as a prize, premium or an advertising device or cause to be displayed in any store, shop, carnival or other public place an animal or fowl of any kind that has been dyed or otherwise colored artificially.	no change recommended
2.04.005	Sec. 2.04.005 Giving animal as prize or inducement	Sec. 2.04.005 Giving animal as prize or inducement	

Section	Current Ordinance	Recommended ordinance revision	Reason
2.04.005	(a) No person shall give away any live animal, reptile, fowl, livestock or wildlife as a prize for or as an inducement to enter any contest, game or other competition; or as an inducement to enter a place of amusement; or as an incentive to enter into any business agreement whereby the offer is for the purpose of attracting trade. This prohibition shall apply to carnivals, fairs and circuses.	(a) No person shall give away any live animal, reptile, fowl, livestock or wildlife as a prize for or as an inducement to enter any contest, game or other competition; or as an inducement to enter a place of amusement; or as an incentive to enter into any business agreement whereby the offer is for the purpose of attracting trade. This prohibition shall apply to carnivals, fairs and circuses.	no change recommended
2.04.005	(b) The prohibition contained in this section shall not apply to fish or to animals given as prizes at a rodeo contest or livestock show or as part of an FFA, 4-H or similar project.	(b) The prohibition contained in this section shall not apply to fish or to animals given as prizes at a rodeo contest or livestock show or as part of an FFA, 4-H or similar project.	no change recommended
2.04.006	Sec. 2.04.006 Trapping, hunting, shooting or killing animals	Sec. 2.04.006 Trapping, hunting, shooting or killing animals	
2.04.006	(a) Trapping prohibited. It shall be unlawful to set, trigger, activate or otherwise use, or cause to be set, triggered, activated or used, any steel-jawed leg-hold trap, or for any person, other than animal control officers, to set or otherwise use other trapping devices, including "live traps," used for the capture of any animal. Consistent with the provisions herein, the animal control division is authorized to utilize humane "live traps" and may conduct trapping operations or provide or authorize such devices' use to property owners as may be needed throughout the city. This subsection is not intended to prohibit the prudent use of traps on one's own property to control rodents.	(a) Trapping restrictions and requirements. It shall be unlawful to set, trigger, activate or otherwise use, or cause to be set, triggered, activated or used, any steel-jawed leg-hold trap. Except for authorized licensed trappers, trapping of animals at high risk for rabies is prohibited. These animals include raccoon, fox, coyote and skunk. Traps classified as "live traps," used by citizens for the capture of feral cats must be done in conjunction with animal services, a feral cat organization for spay/neuter and vaccination or an authorized humane shelter. Citizen's setting such traps are responsible for taking the animal in to the organization providing the feral cat service.	Name change of division to reflect modified mission. Trapping restrictions clarified to include authorized feral cat traps

Section	Current Ordinance	Recommended ordinance revision	Reason
		Consistent with the provisions herein, animal services is authorized to utilize humane "live traps" and may conduct trapping operations or provide or authorize such devices' use to property owners as may be needed throughout the city for rabies control and investigation. Citizens should not remove or tamper with any trap set by animal services for this purpose. This subsection is not intended to prohibit the prudent use of traps on one's own property to control rodents.	Name change of division to reflect modified mission. Trapping restrictions clarified to include authorized feral cat traps
2.04.006	(b) Hunting or killing prohibited. It shall be unlawful for any person to hunt, shoot, intentionally injure or kill any wild bird, animal, mammal or reptile within the corporate limits of the city. It shall be unlawful for any person to hunt, shoot or kill, within the city, any domestic bird, animal, mammal, reptile or pet that is not owned by such person. Except this subsection shall not be construed or interpreted to prohibit the destruction of poisonous snakes or to prohibit the animal control division from utilizing certain firearms in emergency field conditions where such actions are provided for by law or policy.	(b) Hunting or killing prohibited. It shall be unlawful for any person to hunt, shoot, intentionally injure or kill any wild bird, animal, mammal or reptile within the corporate limits of the city. It shall be unlawful for any person to hunt, shoot or kill, within the city, any domestic bird, animal, mammal, reptile or pet that is not owned by such person. Except this subsection shall not be construed or interpreted to prohibit the destruction of venomous snakes or to prohibit the police officers from utilizing certain firearms in emergency field conditions where such actions are provided for by law or policy.	Terminology corrected for snakes. Correction on staff responsible for use of firearms.

Section	Current Ordinance	Recommended ordinance revision	Reason
2.04.006	(c) Shooting domestic animal. It shall be unlawful for any person to shoot a domestic animal within the corporate limits of the city. It shall be a defense to prosecution that the domestic animal shot was a vicious animal and presenting an immediate threat to personal or public safety. Except this subsection shall not be construed or interpreted to prohibit the animal control division from utilizing certain firearms in emergency field conditions where such actions are provided for by law or policy.	(c) Shooting domestic animal. It shall be unlawful for any person to shoot a domestic animal within the corporate limits of the city. It shall be a defense to prosecution that the domestic animal shot was a vicious animal and presenting an immediate threat to personal or public safety. Except this subsection shall not be construed or interpreted to prohibit police officers from utilizing certain firearms in emergency field conditions where such actions are provided for by law or policy.	Correction on staff responsible for use of firearms.
2.04.006	(d) Feral cats. It is an affirmative defense to prosecution for the trapping of animals if it is shown that the object of trapping is the capture of feral cats and such operations are being conducted in connection with a feral cat colony as defined herein and further that [there is] affixed to the top of animal-activated live traps a yellow 6" x 6" metal tag bearing in contrasting color the name of the corporation, address and telephone number. Live traps that require human monitoring and activation shall have no tag requirements.		Remove section: Recommend removal due to change in section a, which covers feral cats
2.04.007	Sec. 2.04.007 Molesting animals	Sec. 2.04.007 Molesting animals	
2.04.007	It shall be unlawful for any person to in any manner tease, annoy, disturb, molest or irritate an animal that is confined to the owner's premises. (2003 Code, sec. 2.307)	It shall be unlawful for any person to in any manner tease, annoy, disturb, molest or irritate an animal that is confined to the owner's premises.	no change recommended
2.04.008	Sec. 2.04.008 Pens and enclosures; sanitary requirements	Sec. 2.04.008 Pens, coops, hutches, and enclosures; requirements	Title change

Section	Current Ordinance	Recommended ordinance revision	Reason
2.04.008	(a) The owners of any animal shall maintain and keep all pens, coops, kennels, fenced areas and enclosures of any kind in a sanitary condition. This shall include the following:	(a) The owners of any animal shall maintain and keep all pens, coops, kennels, fenced areas and enclosures of any kind in a sanitary condition. This shall include the following:	No change recommended.
2.04.008	(1) All animal wastes shall be disposed of promptly and all pens and enclosures shall be cleaned as needed to prevent odors and not draw insects or other vermin or create a nuisance.	(1) All animal wastes shall be disposed of promptly and all pens and enclosures shall be cleaned as needed to prevent odors and not draw insects or other vermin or create a nuisance.	No change recommended.
2.04.008	(2) The premises upon which animals are kept shall be clean and free from noxious and unpleasant odors.	(2) The premises upon which animals are kept shall be clean and free from noxious and unpleasant odors.	No change recommended.
2.04.008	(3) Some standard spray or other chemicals shall be used at reasonable intervals to keep the premises free of flies, mosquitoes, ticks, fleas and other vectors.	(3) Some standard spray or other chemicals shall be used at reasonable intervals to keep the premises free of flies, mosquitoes, ticks, fleas and other vectors.	No change recommended.
2.04.008	(b) Cages, pens or enclosures used to confine animals shall be of sufficient size to maintain all of the animals within such pen or enclosure comfortably and in good health.	(b) Cages, coops, hutches, pens or enclosures used to confine animals shall be of sufficient size and material to securely contain and maintain all of the animals within such pen, coop, hutch, or enclosure comfortably and in good health.	More specific requirements
		(c) Coops and hutches must be enclosed to prevent the animal or fowl from escaping.	Clarification on coops and hutches for fowl and other animals
2.04.009	Sec. 2.04.009 Negligent care	Sec. 2.04.009 Negligent care	
2.04.009	(a) It is unlawful for any person to fail, refuse or neglect to provide any animal in his charge or custody, as owner or otherwise, with proper food, water, shade, adequate shelter, veterinary care when needed to prevent suffering, grooming when lack thereof would adversely affect the health of the animal, and with humane care and treatment.	(a) It is unlawful for any person to fail, refuse or neglect to provide any animal in his charge or custody, as owner or otherwise, with proper food, water, shade, adequate shelter, veterinary care when needed to prevent suffering, grooming when lack thereof would adversely affect the health of the animal, and with humane care and treatment.	No change recommended.

Section	Current Ordinance	Recommended ordinance revision	Reason
2.04.009	(b) To provide "adequate shelter" for a dog or cat kept outdoors, a person must provide a shelter accessible to the dog or cat meeting the following standards:	(b) To provide "adequate shelter" for a dog or cat kept outdoors, a person must provide a shelter accessible to the dog or cat meeting the following standards:	No change recommended.
2.04.009	(1) The shelter must provide protection from the weather, i.e., sun, wind, precipitation (in whatever form), or other inclement weather conditions.	(1) The shelter must provide protection from the weather, i.e., sun, wind, precipitation (in whatever form), or other inclement weather conditions.	No change recommended.
2.04.009	(2) If there are no artificial heat sources, the structure shall be small enough to allow the dog or cat to warm the interior of the structure and maintain its body heat, but large enough to permit normal postural adjustments, or standing.	(2) If there are no artificial heat sources, the structure shall be small enough to allow the dog or cat to warm the interior of the structure and maintain its body heat, but large enough to permit normal postural adjustments, or standing.	No change recommended.
2.04.009	(3) Plastic air shipping containers and/or pet carriers shall not be used as outdoor shelters.	(3) Plastic air shipping containers and/or pet carriers shall not be used as outdoor shelters.	No change recommended.
2.04.009	(c) A written warning of violation requiring that the condition be corrected within a specified time period shall be issued to a person before any notice to appear at the municipal court may be issued or before a complaint may be filed with the municipal court.	(c) A written warning of violation requiring that the condition be corrected within a specified time period shall be issued to a person before any notice to appear at the municipal court may be issued or before a complaint may be filed with the municipal court.	No change recommended.
2.04.010	Sec. 2.04.010 Animal in state of pain or suffering	Sec. 2.04.010 Animal in state of pain or suffering	
2.04.010	(a) If any animal without a license tag or other identifying marker is found in a state of pain and suffering or becomes so during confinement, the animal control division may dispose of the animal in any humane manner without complying with the three-day (72-hour) waiting period as set out herein.	(a) If any animal without a license tag or other identifying marker is found in a state of pain and suffering or becomes so during confinement, the animal services unit may dispose of the animal in any humane manner without complying with the three-day (72-hour) waiting period as set out herein.	Name change of division to reflect modified mission.

Section	Current Ordinance	Recommended ordinance revision	Reason
2.04.010	(b) If the owner or keeper of an animal found in a state of pain or suffering refuses to assume responsibility to care for the animal, the animal control officer may dispose of the animal in a humane manner.	(b) If the owner or keeper of an animal found in a state of pain or suffering refuses to assume responsibility to care for the animal, the animal services officer may dispose of the animal in a humane manner.	Name change of division to reflect modified mission.
2.04.011	Sec. 2.04.011 Sale of animals in public place	Sec. 2.04.011 Sale of animals in public place	
2.04.011	(a) Not in lieu of or withstanding any permit requirements imposed herein, if an animal is offered for sale in a public place within the city, the person offering the animal for sale, the owner of the animal, the manager of the property which is the public place on which the offer is being made, and the owner of the property which is the public place on which the offer is being made shall be responsible for ensuring that the animal protections of this article are complied with in regard to the animal offered for sale in a public place during the time the animal is in the public place.	(a) Not in lieu of or withstanding any permit requirements imposed herein, if an animal is offered for sale in a public place within the city, the person offering the animal for sale, the owner of the animal, the manager of the property which is the public place on which the offer is being made, and the owner of the property which is the public place on which the offer is being made shall be responsible for ensuring that the animal protections of this article are complied with in regard to the animal offered for sale in a public place during the time the animal is in the public place.	no change recommended
2.04.011	(b) The term "public place" as used herein shall mean any place to which the public or a substantial group of the public has access. It shall include, but is not limited to, shops, stores and flea markets.	(b) The term "public place" as used herein shall mean any place to which the public or a substantial group of the public has access. It shall include, but is not limited to, shops, stores and flea markets.	no change recommended
2.04.011	(c) If an animal offered for sale in a public place is kept within a cage or pen of any type, such cage or pen shall comply with the following requirements:	(c) If an animal offered for sale in a public place is kept within a cage or pen of any type, such cage or pen shall comply with the following requirements:	no change recommended

Section	Current Ordinance	Recommended ordinance revision	Reason
2.04.011	(1) The cage or pen must be large enough for the animal to stand on all of its legs and hold its head in a natural position and not be in a crouched position. The cage or pen must also have enough room for the animal to turn around or move without stepping on another animal, animal feces or food or water provided for the animal.	(1) The cage or pen must be large enough for the animal to stand on all of its legs and hold its head in a natural position and not be in a crouched position. The cage or pen must also have enough room for the animal to turn around or move without stepping on another animal, animal feces or food or water provided for the animal.	no change recommended
2.04.011	(2) The cage or pen must either have room for water and food or have water and food situated so that the animal has access to it through the cage.	(2) The cage or pen must either have room for water and food or have water and food situated so that the animal has access to it through the cage.	no change recommended
2.04.011	(3) The cage or pen must be situated so that air may circulate through it, so that any animal kept within the cage or pen is not exposed to extreme heat. During cold or inclement weather, cages or pens should be situated so that animals contained therein may stay warm and stay dry.	(3) The cage or pen must be situated so that air may circulate through it, so that any animal kept within the cage or pen is not exposed to extreme heat. During cold or inclement weather, cages or pens should be situated so that animals contained therein may stay warm and stay dry.	no change recommended
2.04.012	Sec. 2.04.012 Using property for purpose of conducting animal fights; possession of fighting equipment	Sec. 2.04.012 Using property for purpose of conducting animal fights;	
2.04.012	(a) It shall be unlawful for any person to intentionally, knowingly, recklessly, or with criminal negligence use, or allow or permit to be used, property that he owns or has control over for the purpose of conducting animal fights. For purposes of this section, "animal" shall mean a domesticated living creature and wild living creature previously captured, other than a dog.	Possession of fighting equipment with intent that the equipment be used to train a dog for dog fighting or in furtherance of dog fighting or intentionally or knowingly acting in violation of the State law reference, Dog fighting, Penal Code, sec. 42.10.	Remove and leave a ref. to state law.

Section	Current Ordinance	Recommended ordinance revision	Reason
2.04.012	(b) It shall be unlawful for any person to possess animal fighting equipment within the city. As used herein, the term "animal fighting equipment" means any equipment used for training, handling, housing, feeding or transporting fighting animals. The term also includes animals being used, trained or bred for fighting or intended to be used, trained, or bred for fighting.		Remove and leave a ref. to state law.
2.04.013	Sec. 2.04.013 Cruel treatment; instigating or permitting fighting	Sec. 2.04.013 Cruelly treated animals.	
2.04.013	No person shall beat, cruelly ill treat, torment, mentally abuse, overload, overwork or otherwise abuse an animal or cause, instigate or permit any dogfight, cockfight, bullfight or other combat between animals or between animals and humans. (2003 Code, sec. 2.315)	No person shall abandon, beat, cruelly treat, torment, torture, mentally abuse, overload, overwork, poison, trip, use as a lure, fail to unreasonably provide necessary food, water, care, or shelter, or otherwise abuse an animal or cause, instigate or permit any dogfight, cockfight, bullfight or other combat between animals or between animals and humans.	Added a few more descriptive words so that this is all inclusive.
2.04.013	State law references–Cruelty by causing livestock animals to fight, V.T.C.A., Penal Code, sec. 4209(a)(6); cruelty by causing nonlivestock animals to fight, V.T.C.A., Penal Code, sec. 42.092(b)(7); dog fighting, V.T.C.A., Penal Code, sec. 42.10.	State law references–Cruelty to Livestock Animals, Penal Code, sec. 42.09; Cruelty to Non-Livestock, Penal Code, sec. 42.092; dog fighting, Penal Code, sec. 42.10.	Changed codes to be all inclusive.
2.04.014	Sec. 2.04.014 Slaughtering of animals	Sec. 2.04.014 Slaughtering of animals	

Section	Current Ordinance	Recommended ordinance revision	Reason
2.04.014	Animals may be slaughtered for human or animal consumption within the city, provided it is done at a location that is shielded from sensory perception of the general public, and provided it is done in a manner designed to cause the animal's death as quickly as possible without needless suffering. (2003 Code, sec. 2.313)	Animals may be slaughtered for human or animal consumption within the city, provided it is done at a location that is shielded from sensory perception of the general public, and provided it is done in a manner designed to cause the animal's death as quickly as possible without needless suffering.	no change recommended
2.04.015	Sec. 2.04.015 Use of poisonous substances		
2.04.015	(a) It shall be unlawful for any person to administer poison to an animal belonging to another without legal authority or the owner's effective consent. No person shall expose any known poisonous substance, whether mixed with food or not, so that the same shall be liable to be eaten by any domestic animal or person.		Recommend removal, has been added to Cruelty to animals .
2.04.015	(b) It shall be unlawful for any person to recklessly or with criminal negligence injure another's animal by leaving a poisonous substance of any kind in any place within the city.		Recommend removal, has been added to Cruelty to animals .
2.04.015	(c) The provisions of subsections (a) and (b) shall not apply to an exterminator using poisons as part of a pest control program, nor shall it apply to persons using commercial insecticides and rodent baits used to control insects and wild rodents. For purposes of this section, the term "exterminator" shall mean an individual licensed by the state structural pest control board, unless he or she is exempt from such licensing.		Recommend removal, has been added to Cruelty to animals .

Section	Current Ordinance	Recommended ordinance revision	Reason
2.04.015	State law references–Cruelty by poisoning livestock animals, V.T.C.A., Penal Code, sec. 42.09(a)(5); cruelty by poisoning nonlivestock animals, V.T.C.A., Penal Code, sec. 42.092(b)(2).		Recommend removal, has been added to Cruelty to animals .
2.04.016	Sec. 2.04.016 Abandonment		
2.04.016	No person shall abandon an animal in his/her custody. (2003 Code, sec. 2.316)		Recommend removing and adding to Cruelty to animals.
2.04.016	State law references–Cruelty by abandoning livestock animal, V.T.C.A., Penal Code, sec. 42.09(a)(3); cruelty by abandoning nonlivestock animal, V.T.C.A., Penal Code, sec. 42.092(b)(4).		Recommend removing and adding to Cruelty to animals.
2.04.017	Sec. 2.04.017 Health hazards or offensive odors	Sec. 2.04.017 Health hazards or offensive odors	
2.04.017	Any person who shall harbor or keep animals on his/her premises, or in or about premises under his/her control, and who allows such premises to become a hazard to the general health and welfare of the community, or who shall allow such premises to give off obnoxious or offensive odors due to the activity or presence of such animals, shall be guilty of a class C misdemeanor. (2003 Code, sec. 2.317)	Any person who shall harbor or keep animals on his/her premises, or in or about premises under his/her control, and who allows such premises to become a hazard to the general health and welfare of the community, or who shall allow such premises to give off obnoxious or offensive odors due to the activity or presence of such animals, shall be guilty of a class C misdemeanor.	No change recommended.
2.05	ARTICLE 2.05 DANGEROUS ANIMALS*		
	Division 1. Generally		
2.05.001	Sec. 2.05.001 Purpose and intent	Sec. 2.05.001 Purpose and intent	

Section	Current Ordinance	Recommended ordinance revision	Reason
2.05.001	It is the intention of this article to provide a means of dealing with an animal that is dangerous or, by its conduct, has indicated that it may represent a danger in the future. In interpreting the definitions contained in this article and in implementing its provisions, the animal control officer shall recognize the right of a person to use an animal as a protector or as a guard; however, the animal control officer shall also take into consideration the right of a neighborhood to be free from fear that an animal may leave the premises of its owner or keeper and attack and injure a person or other domestic animal. It is also the intention of this article to provide public safety regarding dangerous wild animals and other potentially dangerous nondomestic animals, as well as providing avenues for permitting the safe exhibition of certain animals for public entertainment. (2003 Code, sec. 2.401)	Follow Health and Safety Code, chapter 822 regarding dangerous dogs.	Follow state law
2.05.002	Sec. 2.05.002 Dangerous animals generally	Sec. 2.05.002 Dangerous dogs	Only part covered in state law
2.05.002	(a) A dangerous animal shall be defined as an animal which:	(a) See sections Health and Safety code section 822.001 for definitions of animal control authority, serious bodily injury, dangerous dog and secure.	Follow state law
2.05.002	(1) Has inflicted injury on a human being without provocation on public or private property;		Recommend removal to simplify by following state law
2.05.002	(2) Has killed or severely injured a domestic animal without provocation while off the owner's property;		Recommend removal to simplify by following state law

Section	Current Ordinance	Recommended ordinance revision	Reason
2.05.002	(3) Is trained or harbored for fighting, which may be determined based on whether the animal exhibits behavior and/or bears physical scars or injuries which indicate that the animal has been trained or used for the purpose of fighting;		Recommend removal to simplify by following state law
2.05.002	(4) Is a warm-blooded mammal which is known to carry or be susceptible to the rabies virus and which cannot be effectively vaccinated against that virus with any vaccine approved by the department of state health services (prohibited under section 2.05.006 of this chapter);		Recommend removal to simplify by following state law
2.05.002	(5) Is a hybrid animal or any pet wildlife which has attacked a human or which is apprehended or observed unrestrained; or		Recommend removal to simplify by following state law
2.05.002	(6) Is a venomous or carnivorous fish or reptile or any fish or reptile that grows over six feet in length (prohibited under section 2.05.006 of this chapter).		Recommend removal to simplify by following state law
2.05.002	(b) If an animal acts or is defined as stated in subsection (a) above, the animal control officer shall impound the animal immediately if it is at large, or, if it is in the possession of some person, the animal control officer may issue a notice requiring immediate remedial or safeguard measures be taken or if necessary for public safety that the animal be taken to a designated location for impoundment. The form of such notice shall be provided for by policy. An animal which is impounded shall not be released until a final determination is made on the disposition of the animal.	(b) See Health and Safety Code sections 822.002 regarding seizure of a dog causing death or serious bodily injury to a person.	Follow state law

Section	Current Ordinance	Recommended ordinance revision	Reason
2.05.002	(c) If the animal control officer determines that any animal acts as or is defined in this section, the animal control officer shall issue a notice to the owner clearly stating the animal's actions or that by definition the animal is determined to be a dangerous animal; such notice may require remedial measures to be taken if appropriate. The notice, the form of which shall be provided for by policy, shall be given to the owner by personal service or by certified mail, return receipt requested. If the dangerous animal is of the types defined in subsection (a)(4) or (a)(6) of this section, the possession of which is subject to an offense under section 2.05.006 (prohibited animals), enforcement shall be under that section.	(c) See Health and Safety Code sections 822.003 regarding a hearing	Follow state law

Section	Current Ordinance	Recommended ordinance revision	Reason
	The owner may file a written appeal to this notice clearly stating the reason(s) for disputing the remedial action(s) or the determination of the animal being deemed a dangerous animal. Such appeals shall be directed to the chief of police within 10 days of service. If no written appeal is received by the chief of police within the prescribed appeal period, the dangerous animal determination of the animal control officer is presumed to be valid. If the animal control officer's determination is appealed, the chief of police or designee shall conduct a hearing to determine the validity of the animal being determined a dangerous animal. At the hearing, the formal rules of evidence do not apply. The chief shall make his/her decision on the basis of a preponderance of the evidence presented. The chief may:		Recommend removal to simplify by following state law
2.05.002	(1) Sustain the determination of dangerous animal and/or sustain or modify remedial requirements; or		Recommend removal to simplify by following state law
2.05.002	(2) Unfound the determination and declare the animal as nondangerous.		Recommend removal to simplify by following state law

Section	Current Ordinance	Recommended ordinance revision	Reason
2.05.002	The decision of the chief shall be rendered within 30 days from receipt of the appeal and the decision of the chief shall be final. If after the appeal hearing the animal is deemed nondangerous, the owner shall only pay the minimum at-large impound fee and the animal released. If not impounded at large, the owner shall pay no impound fee(s).		Recommend removal to simplify by following state law
2.05.002	(d) It shall be unlawful for the owner or harborer of an animal determined a dangerous animal under this section to permit continued or future at-large behavior or to disregard valid remedial requirements imposed or safeguard requirements imposed under the process described in this section. Any person who shall violate this provision shall be deemed guilty of an offense.		Recommend removal to simplify by following state law
2.05.002	(e) If the owner of a dangerous animal cannot be determined after reasonable efforts to do so and after holding the animal for 72 hours, the animal may be disposed of in a humane manner. If the owner of a dangerous animal which has been impounded cannot be located for the delivery service of the notice required herein either in person or by mail, the animal may be disposed of in a humane manner after all reasonable effort has been made to locate such owner.		Recommend removal to simplify by following state law
2.05.003	Sec. 2.05.003 Potentially dangerous animals	Sec. 2.05.003 Potentially dangerous animals	

Section	Current Ordinance	Recommended ordinance revision	Reason
2.05.003	(a) If the animal control officer believes that an animal has exhibited behavior indicating that it represents a potential danger, the animal control officer may initiate an investigation to determine whether or not the animal is potentially dangerous.	Any prohibitions against potentially dangerous animals are found in Health and Safety code section 822.	Recommend removal to simplify by following state law
2.05.003	(b) An animal may be defined as "potentially dangerous" if it has engaged in the following conduct:		Recommend removal to simplify by following state law
2.05.003	(1) When unprovoked, chases or approaches a person upon the streets, sidewalks or any public or private property in a menacing fashion or apparent attitude of attack; or		Recommend removal to simplify by following state law
2.05.003	(2) Has a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise threaten the safety of human beings or domestic animals.		Recommend removal to simplify by following state law
2.05.003	(c) If an animal acts or is defined as stated in subsection (b) above, the animal control officer shall impound the animal immediately if it is at large, or, if it is in the possession of some person, the animal control authority shall determine the ownership and owner's address of such animal.		Recommend removal to simplify by following state law

Section	Current Ordinance	Recommended ordinance revision	Reason
2.05.003	(d) Written notice and appeal of this determination of potentially dangerous animal and any remedial provisions prescribed shall follow the same process set out in section 2.05.002(c) for dangerous animals. Only at-large potentially dangerous animals shall be impounded, with the appropriate fee paid for the animal's release; no extended impound period awaiting final disposition shall be required.		Recommend removal to simplify by following state law
2.05.003	(e) It shall be unlawful for the owner or harborer of an animal determined a potentially dangerous animal under this section to permit continued or future at-large behavior. Any person who shall violate this provision shall be deemed guilty of an offense.		Recommend removal to simplify by following state law
2.05.004	Sec. 2.05.004 Exceptions		Recommend removal to simplify by following state law
2.05.004	(a) No animal may be declared dangerous or potentially dangerous if the threat, injury or damage was sustained by a person who at the time:		Recommend removal to simplify by following state law
2.05.004	(1) Was committing a willful trespass or other tort upon the premises occupied by the owner of the animal;		Recommend removal to simplify by following state law
2.05.004	(2) Was tormenting, abusing or assaulting the animal or has in the past been observed or reported to have tormented, abused or assaulted the animal and the animal was not at large at the time of the offense;		Recommend removal to simplify by following state law

Section	Current Ordinance	Recommended ordinance revision	Reason
2.05.004	(3) Was committing or attempting to commit a crime;		Recommend removal to simplify by following state law
2.05.004	(4) If the dog was protecting or defending a person while in that person's control from an unjustified attack or assault; or		Recommend removal to simplify by following state law
2.05.004	(5) If the dog was injured and responding to pain.		Recommend removal to simplify by following state law
2.05.004	(b) The provisions of this article shall not apply to animals under the control of a governmental law enforcement, correctional, or military agency.		Recommend removal to simplify by following state law
2.05.004	(c) The provisions of this article shall not apply to a dog whose conduct has brought it within the coverage of the V.T.C.A., Health and Safety Code chapter 822, to the extent that said chapter preempts local regulation of the dog's conduct.		Recommend removal to simplify by following state law
2.05.005	Sec. 2.05.005 Exhibitions of certain animals prohibited	Sec. 2.05.005 Exhibitions of certain animals prohibited	
2.05.005	No person shall keep or permit to be kept on his premises any wild or dangerous animal for display or for exhibition purposes, whether gratuitously or for a fee. This section shall not be construed so as to apply to a zoo or circus, as defined in section 2.01.001. (2003 Code, sec. 2.422)	Any prohibitions on exhibitions of certain animals are found in Health and Safety code section 822.	Recommend removal to simplify by following state law
2.05.006	Sec. 2.05.006 Prohibited animals generally	Sec. 2.05.006 Prohibited animals generally	

Section	Current Ordinance	Recommended ordinance revision	Reason
2.05.006	No person may possess a prohibited animal within the city limits. Such prohibited animals shall include, but are not limited to, all animals prohibited by the state or federal law and shall include, but are not limited to, the following animals or any hybrid of these animals or such other class of animals as may be determined to be dangerous by animal control officer, or any other dangerous animal which may be added in the future to the list as a high risk animal in the Texas Rabies Control Act, as amended:	Any prohibitions on possession of certain animals are found in Health and Safety code section 822.	Recommend removal to simplify by following state law
2.05.006	(1) Class Mammalia: Family Canidae (such as wolves, coyotes and foxes) except domesticated dogs and hybrids involving same; Family Mustelidae (such as weasels, martins, fishers, skunks, wolverines, mink and badgers) except ferrets; Family Procyonidae (such as raccoons); Family Ursidae (such as bears); and Order Chiroptera (such as bats).		Recommend removal to simplify by following state law
2.05.006	(2) Poisonous reptiles, cobras and their allies (Elapidae, Hydrophiidae); vipers and their allies (Crotiladae, Viperidae); Boonslang and Kirtland's tree snakes; Gila monsters (Helodermatidae); and crocodiles, alligators and their allies (order Loricata) and nonvenomous reptiles over six feet in length.		Recommend removal to simplify by following state law
2.05.006	(3) Brown recluse (Loxosceles) and black widow (Lactrodectus) spiders.		Recommend removal to simplify by following state law
2.05.007	Sec. 2.05.007 Prohibited dangerous wild animals and other nondomestic animals		already covered by previous section

Section	Current Ordinance	Recommended ordinance revision	Reason
2.05.007	The animals specified in this article as dangerous wild animals shall be deemed as contraband, and no person may possess any individual species and/or subspecies of the following dangerous wild animals: Order Carnivora, Family Felidae (such as lions, tigers, jaguars, leopards and cougars, ocelots, lynx, bobcats, cheetahs, and jaguars), hyenas, bears, lesser pandas, ferrets from natural habitats, or Order Primata (such as monkeys, chimpanzees, and apes). No person may possess any individual species of the following animals: antelope, binturong, miniature pigs, elephants, Vietnamese potbelly pigs, or such other nondomestic species of animal not common to this area. (2003 Code, sec. 2.424)		Recommend removal to simplify by following state law
2.05.008	Sec. 2.05.008 Permit and certificates of registration for circus and zoo operations	Sec. 2.05.008 Permit and certificates of registration for circus and zoo operations	

Section	Current Ordinance	Recommended ordinance revision	Reason
2.05.008	(a) (1) Notwithstanding the provisions of sections 2.05.005, 2.05.006, and 2.05.007, special certificates of registration of dangerous wild animals and other nondomestic animals noted in such sections may be issued in conjunction with the issuance process of permitting circus or non-accredited zoo operations within the city. The issuance of such permits shall provide an exception to said sections and classify such animals as "restricted" and subject to the terms set out in the application and agreement processes provided herein. The application for certificate and permit shall be made to the animal control authority on a form provided for by department policy.	Regulation of circus and zoo operation will be compliance with Texas Administrative Code 169, subchapter B.	Recommend removal to simplify by following state law
	Such form shall contain a formal "agreement" between the city and the applicant relating to routine permitting criteria, and, specifically, general business practices as these relate to the type of permit required (circus or zoo), hours of operation, and covenants to observe approved safety and escape prevention procedures. Approved permits and related certificates of registration shall be issued under the authority of the chief of police. Applications shall be investigated for reputation for historical compliance with such or similar laws in this jurisdiction and others, and the applicant shall provide the following information and documentation:		Recommend removal to simplify by following state law

Section	Current Ordinance	Recommended ordinance revision	Reason
2.05.008	(A) A health certificate from a licensed veterinarian stating that the animal is free from symptoms of infectious disease or is under treatment. A new health certificate is required each time the permit is renewed. A copy will remain with the animal control officer;		Recommend removal to simplify by following state law
2.05.008	(B) Copies of applicable state or federal permits or licenses as required by either of those entities for the keeping of the particular animal in question. These copies will be retained by the animal control officer;		Recommend removal to simplify by following state law
2.05.008	(C) Information relating to the owner, including emergency telephone numbers and telephone numbers for their veterinarian in case of emergencies;		Recommend removal to simplify by following state law
2.05.008	(D) Present proof of liability insurance or financial responsibility in the amount of $100,000.00 to cover the damages resulting from an escape and/or attack by any one individual animal listed in sections 2.05.006 and 2.05.007 to be registered and permitted;		Recommend removal to simplify by following state law
2.05.008	(E) Agreement to allow reasonable access for inspection by the animal control officer; and		Recommend removal to simplify by following state law
2.05.008	(F) Enter into an agreement with the city that safety and escape prevention be maintained on a 24-hour basis, the failure of which shall be grounds for permit revocation and documentation of compliance with all other applicable city ordinances, including but not limited to building and planning and zoning.		Recommend removal to simplify by following state law

Section	Current Ordinance	Recommended ordinance revision	Reason
2.05.008	(2) The negligent escape of any animal subject to permitting under this article shall be prima facie evidence of a breach of the safety and escape prevention covenants required herein.		Recommend removal to simplify by following state law
2.05.008	(3) Failure to provide required information or documentation, or an unsatisfactory investigative finding, shall be grounds for denial of permit. An appeal of denial of permit shall be made in writing within 10 days of the notice of denial to the city manager. The city manager may review the issues leading to the denial or conduct an administrative hearing, and decide the issue; in either [case], the decision of the city manager is final.		Recommend removal to simplify by following state law
2.05.008	(b) Before a certificate and permit is issued the animal control officer shall inspect the facility where the animals are to be kept, which must meet the following criteria:		Recommend removal to simplify by following state law
2.05.008	(1) Each enclosure must provide adequate exercise area and sleeping quarters;		Recommend removal to simplify by following state law
2.05.008	(2) Proper temperature control and ventilation for the particular species must be provided in both areas;		Recommend removal to simplify by following state law
2.05.008	(3) Each enclosure must be kept locked and designed so that no one can enter or place appendages in the enclosure;		Recommend removal to simplify by following state law
2.05.008	(4) Each enclosure must be constructed so as to prevent the animal from escaping;		Recommend removal to simplify by following state law

Section	Current Ordinance	Recommended ordinance revision	Reason
2.05.008	(5) Each enclosure must be kept in good repair to prevent both escape and injury to the animal;		Recommend removal to simplify by following state law
2.05.008	(6) Each enclosure must have a water container which is secured so as to prevent its being overturned; and		Recommend removal to simplify by following state law
2.05.008	(7) Each enclosure must be cleaned daily.		Recommend removal to simplify by following state law
2.05.008	(c) The animal control officer may, when deemed necessary, employ the services of a licensed veterinarian to assist in this application process and the applicant shall be responsible for the reasonable costs associated with such service in addition to any permit fees required under this article.		Recommend removal to simplify by following state law
2.05.008	(d) Each animal must be provided with continuous clean water and must be fed a diet approved by a licensed veterinarian.		Recommend removal to simplify by following state law
2.05.008	(e) Any animal which has bitten or scratched someone must be immediately surrendered to the animal control officer for euthanasia and testing by the department of state health services. A live test approved by the department of state health services may be substituted for euthanasia.		Recommend removal to simplify by following state law

Section	Current Ordinance	Recommended ordinance revision	Reason
2.05.008	(f) The fee for a circus/zoo registration and permit shall be according to the fee schedule as provided for in appendix A of this code, and the permit shall expire one year from the date of issuance and shall not be transferable. Major modifications or additions to such facilities' animal containment areas shall require a reinspection and/or re-permitting of the circus or zoo. In such instances, the original application fee shall be collected.		Recommend removal to simplify by following state law
2.05.008	State law reference–Regulation of circuses, carnivals and zoos, V.T.C.A., Occupations Code, ch. 2152.		Recommend removal to simplify by following state law
2.05.009	Sec. 2.05.009 Violations; civil penalty	Sec. 2.05.009 Violations; civil penalty	
2.05.009	(a) It shall be a violation of section 2.05.005 of this article if a person keeps or permits to be kept on his premises any wild or dangerous animal for display or exhibition purposes, and each day of noncompliance shall constitute a separate offense.	Violations and handling of violations will be compliance with Texas Administrative Code 169, subchapter B.	Recommend to simplify by following state law
2.05.009	(b) It shall be a violation of this article if a person possesses an animal prohibited under section 2.05.006, and each day of violation shall constitute a separate offense.		Recommend removal to simplify by following state law

Section	Current Ordinance	Recommended ordinance revision	Reason
2.05.009 -	(c) It shall be a violation of this article if a person possesses an animal prohibited under section 2.05.007, and each day of violation shall constitute a separate offense. In addition to any criminal penalty, if a person possesses an animal classified in section 2.05.007 as a "dangerous wild animal" in violation of this article, that person is liable for a civil penalty of not less than $200.00 and not more than $2,000.00 for each dangerous wild animal in violation and for each day the violation continues. The city attorney may bring suit to collect said penalty and costs allowed by statute and such penalty shall be retained by the city.		Recommend removal to simplify by following state law
2.05.009	(d) It shall be a violation of this article to operate a circus or zoo without a valid permit issued pursuant to this article, and each day of operation shall constitute a separate offense. In addition to any criminal penalty, if the circus or zoo at the time of the violation is in possession of any "dangerous wild animal," the liability for the civil penalty detailed in subsection (c) herein may be imposed for each dangerous wild animal possessed.		Recommend removal to simplify by following state law
2.05.010	Sec. 2.05.010 Exceptions		Recommend removal to simplify by following state law
2.05.010	(a) This article does not apply to:		Recommend removal to simplify by following state law

Section	Current Ordinance	Recommended ordinance revision	Reason
2.05.010	(1) Zoological parks accredited by the American Association of Zoological Parks and Aquariums;		Recommend removal to simplify by following state law
2.05.010	(2) Federally licensed research institutions;		Recommend removal to simplify by following state law
2.05.010	(3) Any government agency or its employee who uses the animals for an agency related education, propagation, or behavior program;		Recommend removal to simplify by following state law
2.05.010	(4) Anyone holding a valid rehabilitation permit from the state parks and wildlife department, but only for animals which are in rehabilitation and scheduled to be released to the wild;		Recommend removal to simplify by following state law
2.05.010	(5) A research facility as defined by Animal Welfare Act (7 U.S.C. section 2132) and licensed by the U.S. Secretary of Agriculture;		Recommend removal to simplify by following state law
2.05.010	(6) A dangerous wild animal in the custody and control of a circus company or other similar entity not based in this city and the animal is "in transit";		Recommend removal to simplify by following state law
2.05.010	(7) An animal subject to this article in the temporary custody and control of a television or motion picture production company during production activities;		Recommend removal to simplify by following state law
2.05.010	(8) Any federal, state, or local governmental entity acting in official capacity and engaging in zoological activities.		Recommend removal to simplify by following state law

Section	Current Ordinance	Recommended ordinance revision	Reason
2.05.010	(b) Other than the provisions of sections 2.05.002 and 2.05.003 and the prohibited provisions of sections 2.05.006 and 2.05.007, this chapter does not apply to an animal that is an FFA or 4-H project and that is and remains in good standing and on an official list of such authorized projects filed with the city by the authorized sponsor of such FFA or 4-H program; provided that such exemption shall be withdrawn upon the sponsor of the applicable FFA or 4-H program notifying the mayor that such animal is not being maintained and cared for in compliance with the standards of such FFA or 4-H program, or is otherwise no longer an authorized FFA or 4-H project.		Recommend removal to simplify by following state law
2.05.011	Sec. 2.05.011 Guard dogs	Sec. 2.05.011 Guard dogs	
2.05.011	(a) All dogs which are trained and kept solely for the protection of persons and property, residential, commercial or personal, shall be registered with the animal control authority in the same manner and fee as domestic dogs kept for pets; however, a statement of the dog's intended use as a guard dog must be declared. The utilization of a guard dog shall require that the area or premises in which such dog is confined be conspicuously posted with warning signs at all entrances bearing letters not less than two inches high, stating "Guard Dog on Premises."		All dogs registered in same manner as in other sections. For example if deemed dangerous by court - must comply with those laws. No other state requirement for guard dogs specifically.

Section	Current Ordinance	Recommended ordinance revision	Reason
2.05.011	(b) The area of the premises may be subject to inspection by the animal control officer to determine that the animal in question is maintained and secured at all times in such a manner so as to prevent its coming in contact with the public and that the proper public notice signs are posted.		All dogs registered in same manner as in other sections. For example if deemed dangerous by court - must comply with those laws. No other state requirement for guard dogs specifically.
2.05.011	(c) This section does not apply to dogs used by federal, state, county, or municipal law enforcement agencies or correctional institutions.		All dogs registered in same manner as in other sections. For example if deemed dangerous by court - must comply with those laws. No other state requirement for guard dogs specifically.
2.05.011	State law references–Private Security Act, V.T.C.A., Occupations Code, ch. 1702; licensing and duties of guard dog companies, V.T.C.A., Occupations Code, sec. 1702.109 et seq.		All dogs registered in same manner as in other sections. For example if deemed dangerous by court - must comply with those laws. No other state requirement for guard dogs specifically.
	Secs. 2.05.012–2.05.040 Reserved		All dogs registered in same manner as in other sections. For example if deemed dangerous by court - must comply with those laws. No other state requirement for guard dogs specifically.
	Division 2. Nonregisterable Dangerous Dogs		Recommend removal to simplify by following state law

Section	Current Ordinance	Recommended ordinance revision	Reason
2.05.041	Sec. 2.05.041 Prohibited; impoundment		
2.05.041	No person shall own or harbor a nonregisterable dangerous dog within the city. Such an animal may be impounded as a public nuisance. If impoundment of such nonregisterable dangerous dog is being attempted away from the premises of the owner and the impoundment cannot be made with safety, the animal may be destroyed without notice to the owner or harborer. If an attempt is made to impound a nonregisterable dangerous dog from the premises of the owner or harborer and the impoundment cannot be made with safety, the owner or harborer will be given 24 hours' notice that, if the animal is not surrendered to the animal control officer for within said 24-hour period, then the animal will be destroyed wherever it is found. After this notice, the nonregisterable dangerous dog may be destroyed during an attempt to impound, if impoundment cannot be made with safety, wherever the impoundment is attempted. Notice under this section may be verbal or in writing on a form provided for by policy. A written notice left at the entrance to the premises where the nonregisterable dangerous dog is harbored will be considered valid notice under this section. (2003 Code, sec. 2.405)		Recommend removal - not in compliance with state law
2.05.042	Sec. 2.05.042 Determination of nonregisterable dangerous dog		Recommend removal - not in compliance with state law

Section	Current Ordinance	Recommended ordinance revision	Reason
2.05.042	A dog is determined to be a nonregisterable dangerous dog if:		Recommend removal - not in compliance with state law
2.05.042	(1) A dog is automatically determined to be nonregisterable if it commits acts as set forth under the definition of "nonregisterable dangerous dog" in section 2.01.001; or		Recommend removal - not in compliance with state law
2.05.042	(2) The animal control officer may find and determine a dog to be nonregisterable if:		Recommend removal - not in compliance with state law
2.05.042	(A) Upon receipt of an affidavit of complaint signed by one or more individuals, made under oath before an individual authorized by law to take sworn statements or made at the animal shelter before the animal control officer, setting forth an act described in section 2.01.001 and referenced above in subsection (1), and setting forth:		Recommend removal - not in compliance with state law
2.05.042	(i) The nature and the date of the act described in section 2.01.001;		Recommend removal - not in compliance with state law
2.05.042	(ii) The location of the event;		Recommend removal - not in compliance with state law
2.05.042	(iii) The name and address of the owner of the animal in question; and		Recommend removal - not in compliance with state law
2.05.042	(iv) The description of the animal in question;		Recommend removal - not in compliance with state law

Section	Current Ordinance	Recommended ordinance revision	Reason
2.05.042	(B) The animal control officer investigates the complaint and may determine that an animal is nonregisterable under this chapter and/or state law;		Recommend removal - not in compliance with state law
2.05.042	(3) The dog has been registered as, or finally determined or declared to be, a dangerous dog, either in Leander or in another city or county in Texas, or has made an unprovoked attack on another person outside the dog's enclosure, or causes injury to such person or a person assisting or intervening on behalf of such person; or		Recommend removal - not in compliance with state law
2.05.042	(4) The owner of a dog determined to be a registerable dangerous dog under this article, or any previous or other ordinance of this city or any other city or state law, cannot or will not comply with the requirements set out in this article for the keeping of a registerable dangerous dog.		Recommend removal - not in compliance with state law
2.05.043	Sec. 2.05.043 Notice of determination		Recommend removal - not in compliance with state law

Section	Current Ordinance	Recommended ordinance revision	Reason
2.05.043	(a) Within five working days of determining an animal nonregisterable, the animal control officer will notify, by certified mail, return receipt requested, the person owning the animal of its designation as a nonregisterable animal. In the event that certified mail, return receipt requested, cannot be delivered, the animal control officer may then give notice by ordinary mail to the last known address of the owner. For the purposes of this section, written notice may be delivered by the animal control officer in person to the owner/harborer of the dog in question.		Recommend removal - not in compliance with state law
2.05.043	(b) If the animal is determined to be nonregisterable under this article, the owner may appeal to the municipal court within 15 days of notification. Failure to appeal the determination of a nonregisterable dangerous dog shall result in the animal control officer's determination as becoming final.		Recommend removal - not in compliance with state law
2.05.044	Sec. 2.05.044 Status of dog pending appeal		Recommend removal - not in compliance with state law

Section	Current Ordinance	Recommended ordinance revision	Reason
2.05.044	Pending any appeal to municipal court, the animal must be confined at the animal shelter or licensed veterinary facility, and the cost of such confinement shall be borne by the owner. If the dog in question is not in the possession of the animal shelter at the time of the declaration, the owner must surrender the dog to the animal control officer when ordered to do so. If the owner fails to immediately surrender the dog, the animal control officer shall take the dog into his possession from the premises of the owner or elsewhere, wherever the dog may be found within the city limits. If the dog cannot be taken into custody by the animal control officer, it may be taken into custody under a search warrant pursuant to article 18.01, Texas Code of Criminal Procedure; the grounds for issuance shall conform to subsection (8) of article 18.02 of the same code and issued by the municipal judge. (2003 Code, sec. 2.408)		Recommend removal - not in compliance with state law
2.05.045	Sec. 2.05.045 Defenses to determination		Recommend removal - not in compliance with state law
2.05.045	It is a defense to the determination that a dog is a nonregisterable dangerous dog, dangerous dog or should be destroyed and to the prosecution of the owner of that dog:		Recommend removal - not in compliance with state law

Section	Current Ordinance	Recommended ordinance revision	Reason
2.05.045	(1) If the threat, injury or damage was sustained by a person who at the time was committing a willful trespass or other tort upon the premises occupied by the owner of the animal and was older than eight years of age at the time of the attack;		Recommend removal - not in compliance with state law
2.05.045	(2) If the person was teasing, tormenting, abusing or assaulting the animal or has, in the past, been reported to have teased, tormented, abused or assaulted the animal and is older than eight years of age at the time of the attack;		Recommend removal - not in compliance with state law
2.05.045	(3) If the person was committing or attempting to commit a crime;		Recommend removal - not in compliance with state law
2.05.045	(4) If the dog was protecting or defending a person while in that person's control from an unjustified attack or assault; or		Recommend removal - not in compliance with state law
2.05.045	(5) If the dog was injured and responding to pain.		Recommend removal - not in compliance with state law
2.05.046	Sec. 2.05.046 Disposition		Recommend removal - not in compliance with state law
2.05.046	(a) If the municipal court upholds the determination by the animal control officer, the court shall, subject to any rights of appeal, order the dog to be euthanized in a safe and humane manner.		Recommend removal - not in compliance with state law

Section	Current Ordinance	Recommended ordinance revision	Reason
2.05.046	(b) In the event the municipal court reverses that determination, the dog in question shall be returned to or released to its owner provided the owner reimburses the city for any veterinary medical treatment administered to the dog while in the custody of the animal control officer.		Recommend removal - not in compliance with state law
	Secs. 2.05.047–2.05.070 Reserved		Recommend removal - not in compliance with state law
	Division 3. Registerable Dangerous Dogs*		Recommend removal to simplify by following state law
2.05.071	Sec. 2.05.071 Generally		Recommend removal to simplify by following state law
2.05.071	This designation shall refer to a dog determined dangerous under this article and in compliance with state law and that meets any of the following criteria:		Recommend removal to simplify by following state law
2.05.071	(1) Any dog which, when unprovoked, chases or approaches a person upon the streets, sidewalks or any public or private property in an apparent attitude of attack such that the person reasonably believes that the animal will cause physical injury to the person;		Recommend removal to simplify by following state law

Section	Current Ordinance	Recommended ordinance revision	Reason
2.05.071	(2) Any dog that commits an unprovoked act in a place other than an enclosure in which the dog was being kept and which enclosure was reasonably certain to prevent the dog from leaving the enclosure on its own and the act causes a person to reasonably believe that the dog will attack and cause bodily injury to any person; or		Recommend removal to simplify by following state law
2.05.071	(3) Any animal that has killed or seriously injured a domestic animal without provocation while off the owner's property.		Recommend removal to simplify by following state law
2.05.072	Sec. 2.05.072 Determination of registerable dangerous dog		Recommend removal to simplify by following state law
2.05.072	A dog is determined to be a registerable dangerous dog if it meets the requirements set out in the foregoing section and:		Recommend removal to simplify by following state law
2.05.072	(1) The owner of the dog in question knows of such an attack as defined in this article; or		Recommend removal to simplify by following state law
2.05.072	(2) The owner is notified by the animal control officer that the dog in question is a registerable dangerous dog. The animal control officer may find and determine a dog to be a registerable dangerous dog if:		Recommend removal to simplify by following state law
2.05.072	(A) Upon receipt of an affidavit of complaint signed by one or more individuals made under oath before an individual authorized by law to take sworn statements, setting forth an act described in foregoing section of this article and setting forth as follows:		Recommend removal to simplify by following state law

Section	Current Ordinance	Recommended ordinance revision	Reason
2.05.072	(i) The nature and the date of the act described in foregoing section;		Recommend removal to simplify by following state law
2.05.072	(ii) The location of the event;		Recommend removal to simplify by following state law
2.05.072	(iii) The name and address of the owner of the animal in question; and		Recommend removal to simplify by following state law
2.05.072	(iv) The description of the animal in question.		Recommend removal to simplify by following state law
2.05.072	(B) The animal control officer has been notified by another agency that the dog has been determined to be dangerous under the state law.		Recommend removal to simplify by following state law
2.05.073	Sec. 2.05.073 Notice of declaration		Recommend removal to simplify by following state law
2.05.073	(a) Within five working days of determining a dog to be a registered dangerous dog, if written notification cannot be given personally to the owner of the dog, the animal control officer will notify, by certified mail, return receipt requested, the person owning the animal of its designation as a registerable dangerous dog. In the event that certified mail, return receipt requested, cannot be delivered, the animal control officer may then give notice by ordinary mail.		Recommend removal to simplify by following state law

Section	Current Ordinance	Recommended ordinance revision	Reason
2.05.073	(b) If the dog is determined to be registerable under this article, the notice shall inform the owner of the dog that he/she may appeal the determination to municipal court no later than 15 days after the date the owner is notified of the determination. Failure to appeal the determination of registerable dangerous dog within the 15-day period shall result in the animal control officer's determination becoming final.		Recommend removal to simplify by following state law
2.05.073	(c) Upon determination by the animal control officer that the dog is dangerous, the owners shall be required to secure the animal immediately within an enclosure that meets the requirements of this article. If the owner fails to do so, the animal control officer shall impound the dog until such enclosure is provided.		Recommend removal to simplify by following state law
2.05.073	(d) The animal control officer shall immediately notify, in writing, adjacent and contiguous property owners of such determination.		Recommend removal to simplify by following state law
2.05.074	Sec. 2.05.074 Status of dog pending appeal; impoundment		Recommend removal to simplify by following state law

Section	Current Ordinance	Recommended ordinance revision	Reason
2.05.074	Pending the outcome of the appeal, the animal must be confined at a licensed veterinary clinic or at the animal shelter, the cost of which shall be borne by the owner of the dog in question. If the dog in question is not in the possession of the animal shelter or a veterinary clinic at the time of the determination, the owner must surrender the dog to the animal control officer when ordered to do so. If the owner fails to immediately surrender the dog, the animal control officer shall have the right to take the dog into its possession from the premises of the owner or elsewhere, wherever the dog may be found within the city limits. If the dog cannot be taken into custody by the animal control officer, it may be taken into custody under a search warrant for contraband issued by the municipal judge. (2003 Code, sec. 2.414)		Recommend removal to simplify by following state law
2.05.075	Sec. 2.05.075 Defenses to determination		Recommend removal to simplify by following state law
2.05.075	The defenses identified in section 2.05.045 shall serve as a defenses to the determination of a dog as a registerable dangerous dog and to the prosecution of the owner of that dog. (2003 Code, sec. 2.415)		Recommend removal to simplify by following state law
2.05.076	Sec. 2.05.076 Disposition		Recommend removal to simplify by following state law

Section	Current Ordinance	Recommended ordinance revision	Reason
2.05.076	(a) If the municipal court upholds the determination by the animal control officer, the owner shall, no later than ten days after the hearing, comply with the provisions of this article for the keeping of a registered dangerous dog in the city and the dog shall be returned to the owner provided all costs involved in the impoundment, holding and medical treatment of the dog are paid.		Recommend removal to simplify by following state law
2.05.076	(b) In the event the municipal court reverses that determination, the dog in question shall be returned to or released to its owner provided the owner has paid all veterinary medical costs administered to such dog while in the custody of the animal control officer.		Recommend removal to simplify by following state law
2.05.076	(c) The municipal court may order make any reasonable orders for the dog consistent with this article and chapter 822 of the Health and Safety Code.		Recommend removal to simplify by following state law

Section	Current Ordinance	Recommended ordinance revision	Reason
2.05.076	(d) If the animal control officer has information or belief or has determined that a court of competent jurisdiction has ever made or upheld a determination or declaration that a dog is dangerous, or if the animal control officer has determined that a declaration or determination of dangerous dog became final for failure to appeal or any other reason, under previous or other ordinances of this city or other cities or state law, the animal control officer shall notify the person owning or keeping such dog in writing that the owner shall no later than ten days after the date of the notice comply with the provisions of this article for the keeping of a registered dangerous dog in the city.		
2.05.077	Sec. 2.05.077 Registration; requirements for owner	Sec. 2.05.077 Registration; requirements for owner	
2.05.077	(a) The owner must register the dog with the animal control officer and pay the fees as required by state law not later than 30 days after the owner is notified that the dog is dangerous. The registration shall not be transferable and shall expire one year from date of issuance. The animal control officer shall provide to the owner of the registered dangerous dog a tag, which must be placed on the dog's collar and worn at all times. The owner must comply with the following to register the dog:	In compliance with HSC 822, dangerous dog owners must comply with all requirements and the dangerous dog must be registered. The owner must register the dog with animal services and pay the fees as required by state law not later than 30 days after the owner is notified that the dog is dangerous. The registration shall not be transferable and shall expire one year from date of issuance. The animal services officer shall provide to the owner of the registered dangerous dog a tag, which must be placed on the dog's collar and worn at all times. The owner must also comply with the following to register the dog:	Changed name from control to service

Section	Current Ordinance	Recommended ordinance revision	Reason
2.05.077	(1) Present proof of liability insurance or financial responsibility in the amount of at least $100,000.00 to cover damages resulting from an attack by the dangerous dog;		Use state law reference
2.05.077	(2) Present proof of current rabies vaccination of the registerable dangerous dog;		Use state law reference
2.05.077	(3) Present proof that the dog has been altered so as to prevent reproduction;		Use state law reference
2.05.077	(4) Provide a proper enclosure as defined in this article, and that proper enclosure must be inspected and approved by the animal control officer;		Use state law reference
2.05.077	(5) Post a sign on his/her premises warning that there is a dangerous dog on the property. This sign shall be visible and capable of being read from the public street or highway. In addition, the owner shall conspicuously display a sign with a symbol warning, understandable by small children, of the presence of a dangerous dog; and	(a) Post a sign on his/her premises warning that there is a dangerous dog on the property. This sign shall be visible and capable of being read from the public street or highway. In addition, the owner shall conspicuously display a sign with a symbol warning, understandable by small children, of the presence of a dangerous dog; and the enclosure shall be locked with a key or combination type lock to ensure small children can not enter the enclosure. and	section modified, clarifying enclosure requirements
2.05.077	(6) Further identification may be required and designated by the order of the city.	(b) Further identification may be required and designated by the order of the city.	section modified, no content change

Section	Current Ordinance	Recommended ordinance revision	Reason
2.05.077	(b) When the registered dangerous dog is taken outside the approved proper enclosure, the animal must be securely muzzled in a manner that will not cause injury to the dog nor interfere with its vision or respiration but shall prevent it from biting a person or other animal, and the dog must be restrained by a substantial chain or cable leash having a minimum tensile strength of 1,000 pounds and not to exceed six feet in length.		Recommend removing and replacing with state law.
2.05.077	(c) Prior to selling or moving the registered dangerous dog either inside or outside the city limits, the owner must notify the animal control officer of his/her intentions. In the event the dog is moved permanently outside the city limits, the owner must comply with the state law in notifying the animal control division in control of the area into which the dog has been moved.	(c) Prior to selling or moving the registered dangerous dog either inside or outside the city limits, the owner must notify the animal services officer of his/her intentions. In the event the dog is moved permanently outside the city limits, the owner must comply with the state law in notifying the animal services unit in control of the area into which the dog has been moved.	Change of name to animal services
2.05.077	(d) Anyone bringing a dog into the city limits that has been declared dangerous by another animal control authority must notify the animal control officer of the new address where the dog will be kept, and upon presentation of the dog's prior region tag that has not expired shall pay a fee set by the city council, and the animal control officer shall issue a new tag to be placed on the dog's collar. This owner must also comply with all requirements set out in this article.	(d) Dogs that have been previously declared dangerous by another city, county, state, or entity will not be allowed to reside within the city limits of Leander.	Changed to not allow dangerous dogs from another city or state into Leander.
2.05.078	Sec. 2.05.078 Attack by registered dangerous dog		Recommend removal to simplify by following state law

Section	Current Ordinance	Recommended ordinance revision	Reason
2.05.078	The owner of a dangerous dog shall notify the animal control officer of any attacks the dog makes on people or animals. (2003 Code, sec. 2.418)		Recommend removal to simplify by following state law
2.05.079	Sec. 2.05.079 Appeal of court order		Recommend removal to simplify by following state law
2.05.079	Any appeal of the decision or order of the municipal court of the city shall be made within ten days in the same manner as appeal from civil cases originating in the justice of the peace courts of this state. The municipal court shall order the appellant to post a supersedeas bond payable to the city in an amount not less than $10,000.00. The form of the bond shall be as prescribed in the laws pertaining to civil appeals originating in the justice of the peace courts in this state. The appellant shall be responsible for the cost of appeal. (2003 Code, sec. 2.419)		Recommend removal to simplify by following state law
2.05.080	Sec. 2.05.080 Defenses to prosecution		Recommend removal to simplify by following state law
2.05.080	It is a defense to prosecution that the person possessing a dangerous dog is:		Recommend removal to simplify by following state law
2.05.080	(1) A veterinarian, peace officer, or employee of the city, and the harboring of the dog was in the performance of his/her duties;		Recommend removal to simplify by following state law

Section	Current Ordinance	Recommended ordinance revision	Reason
2.05.080	(2) An employee of the institutional division of the state department of criminal justice or a law enforcement agency and trains or uses dogs for law enforcement or corrections purposes; or		Recommend removal to simplify by following state law
2.05.080	(3) A dog trainer or an employee of a guard dog company, while in the performance of his/her duties under the Private Investigators and Private Security Agencies Act.		Recommend removal to simplify by following state law
2.05.081	Sec. 2.05.081 Violations; civil penalty		Recommend removal to simplify by following state law
2.05.081	(a) It shall be a violation of this article if the person is the owner of a registered dangerous dog and the dog makes an unprovoked attack on another person outside the dog's proper enclosure and causes bodily injury to the other person, whether or not the dog was on a leash and securely muzzled or whether or not the dog escaped without fault of the owner.		Recommend removal to simplify by following state law
2.05.081	(b) It shall be a violation of this article if the person is the owner of a registered dangerous dog and that dog kills or wounds a domestic animal while outside the dog's proper enclosure, whether or not the dog was on a leash and securely muzzled or whether or not the dog escaped without fault of the owner.		Recommend removal to simplify by following state law

Section	Current Ordinance	Recommended ordinance revision	Reason
2.05.081	(c) It shall be a violation of this article if the person is the owner of a registered dangerous dog and that dog attacks a person who gains access to the proper enclosure due to negligence on the part of the owner or the owner's agent. This negligence shall include a failure to comply with the notification of ownership of dangerous dog through posting of warning signs in accordance with this article.		Recommend removal to simplify by following state law
2.05.081	(d) In addition to criminal prosecution, a person who commits an offense under this article is liable for a civil penalty not to exceed $10,000.00. The city attorney may file suit in a court of competent jurisdiction to collect the penalty. Penalties collected under this subsection shall be retained by the city.		Recommend removal to simplify by following state law
2.06	ARTICLE 2.06 IMPOUNDMENT*	ARTICLE 2.06 IMPOUNDMENT*	
	Division 1. Generally	Division 1. Generally	
2.06.001	Sec. 2.06.001 Authorized; fees	Sec. 2.06.001 Authorized; fees	
2.06.001	(a) Animals owned or harbored in violation of this chapter or laws of the state or those safekeeping or humane situations provided in this chapter shall be taken into custody by an animal control officer or other designated official and impounded under this article.	(a) Animals owned or harbored in violation of this chapter or laws of the state or those safekeeping or humane situations provided in this chapter shall be taken into custody by an animal services officer or other designated official and may be impounded under this article.	Name change of division to reflect modified mission. Goal is to minimize impounds where possible.
2.06.001	(b) Owners of impounded pets are required to pay all fees related to the impoundment as set in the fee schedule found in appendix A of this code.	(b) Owners of impounded pets are required to pay all fees related to the impoundment as set by the Williamson County Regional Animal Shelter.	City no longer maintains a shelter, all fees are set by regional shelter and board.
2.06.002	Sec. 2.06.002 Tampering with animal shelter or impoundment vehicle	Sec. 2.06.002 Tampering with animal shelter or impoundment vehicle	

Section	Current Ordinance	Recommended ordinance revision	Reason
2.06.002	It shall be unlawful for any person in the city without proper authority to break into, open, pull down the enclosure of or make any opening into the animal shelter or any enclosure belonging to or used by the city to impound or keep animals. It shall also be unlawful for any person to turn out or release, or cause to be turned out or released, or aid or abet the turning out or release of any animal from the animal shelter, from an impoundment vehicle or from any enclosure used by the city for the impoundment of animals. (2003 Code, sec. 2.502)	It shall be unlawful for any person in the city without proper authority to break into, open, pull down any enclosure belonging to or used by the city to impound or temporarily keep animals. It shall also be unlawful for any person to turn out or release, or cause to be turned out or released, or aid or abet the turning out or release of any animal from an impoundment vehicle or from any enclosure used by the city for the impoundment of animals.	Removed reference to removal from shelter since city no longer maintains one.
2.06.003	Sec. 2.06.003 Redemption of impounded animal	Sec. 2.06.003 Redemption of impounded animal	
2.06.003	(a) Generally. Except as may be provided elsewhere in this article, the owner of any animal impounded in accordance with this article may reclaim, on any workday, such animal upon showing satisfactory proof of ownership and paying all impoundment fees and any other expenses incurred by the city or its agent in keeping the animal or attempting to locate the owner of the animal. If the owner does not pay such fees, or some alternate fee satisfaction as provided for in section 2.01.009 of this chapter, the animal may be sold or otherwise disposed of by the city or its agent.	(a) Generally. Except as may be provided elsewhere in this article, the owner of any animal impounded in accordance with this article may reclaim, during shelter hours open to the public, such animal upon showing satisfactory proof of ownership and paying all impoundment fees and any other expenses incurred by the city or its agent in keeping the animal or attempting to locate the owner of the animal. If the owner does not pay such fees, or some alternate fee satisfaction as provided for in section 2.01.009 of this chapter, the animal may be sold or otherwise disposed of by the city or its agent.	Change in language to reflect regional shelter.

Section	Current Ordinance	Recommended ordinance revision	Reason
2.06.003	(b) Spaying or neutering of dogs and cats. If a dog or cat has been impounded on two prior occasions, the dog or cat must be spayed or neutered before being released to the owner if impounded on a third occasion. The owner of the dog or cat will be responsible for arranging for the spay or neuter surgery. The dog or cat will be transported to the veterinarian by an animal control officer or an employee or agent of the animal shelter. The cost to spay or neuter the dog or cat shall be paid by the owner, along with the impoundment fees, either to the animal shelter or to the veterinarian, in advance of transporting the animal for the surgery. After the surgery is performed, the veterinarian may release the dog or cat to the owner.	(b) Spaying or neutering of dogs and cats. If a dog or cat has been impounded at the regional shelter, a fee will be imposed per Williamson County Regional Shelter rules. The cost to spay or neuter the dog or cat shall be paid by the owner, along with the impoundment fees, to the animal shelter.	Shelter rules are set by the shelter board.
2.06.004	Sec. 2.06.004 Disposition of impounded animals	Sec. 2.06.004 Disposition of impounded animals	
2.06.004	(a) Dogs and cats with no identification. All dogs and cats impounded by the animal control officer, or brought to the animal shelter by a person other than the harborer or owner of that animal, shall be held for a minimum of 72 hours, during which time period the owner may present proof of ownership at the shelter. After paying all applicable fees, that owner may reclaim the dog/cat. In the event that the dog/cat is not claimed after 72 hours in the shelter, the dog/cat shall become the property of the city.	(a) Dogs and cats with no identification. All dogs and cats impounded by the animal services officer, or brought to the animal shelter by a person other than the harborer or owner of that animal, shall be held for a minimum of 72 hours, during which time period the owner may present proof of ownership at the shelter. After paying all applicable fees, that owner may reclaim the dog/cat. In the event that the dog/cat is not claimed after 72 hours in the shelter, the dog/cat shall become the property of the shelter.	Name change of division to reflect modified mission. Impoundment time is set by shelter board in compliance with state laws.

Section	Current Ordinance	Recommended ordinance revision	Reason
2.06.004	(b) Dogs and cats with identification. Unless earlier claimed by the owner, all dogs and cats impounded by the animal control officer, or brought to the animal shelter by a person other than the harborer or owner of that animal, that are wearing traceable identification, or where an owner is known, shall be held in the shelter for a minimum of seven complete days from the time the animal enters the facility, during which time the animal control officer will notify the owner, when known, of the impoundment. Unless the owner has notified the animal control officer in writing of his/her intentions to claim the dog/cat after that date, listing a date by which time that owner will reclaim the dog/cat and satisfy all applicable fees, and this arrangement has been approved by the animal control supervisor, the animal shall become the property of the city on the eighth day.	(b) Dogs and cats with identification. Unless earlier claimed by the owner, all dogs and cats impounded by the animal services officer, or brought to the animal shelter by a person other than the harborer or owner of that animal, that are wearing traceable identification, or where an owner is known, shall be held in the shelter for a minimum time period set by the Williamson County Regional Animal Shelter from the time the animal enters the facility, during which time the animal services officer will notify the owner, when known, of the impoundment. Unless the owner has notified the Williamson County Regional Animal Shelter in compliance with shelter policy of his/her intentions to claim the dog/cat after that date, listing a date by which time that owner will reclaim the dog/cat and satisfy all applicable fees, and this arrangement has been approved by the shelter staff, the animal shall become their property after the minimum amount of time.	Name change of division to reflect modified mission. Impoundment time is set by shelter board in compliance with state laws.
2.06.004	(c) Animals surrendered by owner/harborer. All animals surrendered by the owner/harborer to the animal control officer shall become the property of the city immediately upon completion of the owner/harborer surrender form.	(c) Animals surrendered by owner/harborer. All animals surrendered by the owner/harborer to the Williamson County Regional Animal Shelter in compliance with shelter policy and fees shall become the property of the shelter immediately upon completion of the owner/harborer surrender form.	Fees are set by shelter board in compliance with state laws. Rules and hours are set by the shelter.

Section	Current Ordinance	Recommended ordinance revision	Reason
2.06.004	(d) Animals other than dogs, cats, estrays, or animals holding restricted animal permit. All animals other than dogs, cats, estrays or animals holding current restricted animal permits that are impounded by the animal control officer, or brought to the animal shelter by a person other than the owner/harborer, shall become the property of the city unless such ownership is prohibited by state or federal law.	(d) Animals other than dogs, cats, or estrays. All animals other than dogs, cats, or estrays that are impounded by the animal services officer, or brought to the animal shelter by a person other than the owner/harborer, shall become the property of the shelter unless such ownership is prohibited by state or federal law.	Name change of division to reflect modified mission. City no longer maintains a shelter in the city. There are no restricted animal permits.
2.06.004	(e) Unclaimed animals. Any animal that cannot be adopted or transferred to a proper and appropriate agency shall be euthanized by an injection of substances approved for euthanasia by the American Veterinary Medical Association and/or the Texas Veterinary Medical Association, to be administered in compliance with policy and the laws of the state. All animals listed as endangered or protected shall be transferred to the proper authority at the earliest possible date.	(e) Unclaimed animals. Any animal that cannot be adopted or transferred to a proper and appropriate agency shall be euthanized in compliance with Williamson County Regional Animal Shelter policy and administered in compliance with policy and the laws of the state. All animals listed as endangered or protected shall be transferred to the proper authority at the earliest possible date.	City no longer maintains a shelter in the city. Euthanization done in compliance with shelter policy and state law.
2.06.005	Sec. 2.06.005 Adoption of impounded animals	Sec. 2.06.005 Adoption of impounded animals	
2.06.005	(a) All animals which are adopted from the animal shelter shall be surgically altered to prevent reproduction in that animal. If the animal has not been altered before it leaves the animal shelter, the person adopting the animal shall sign an adoption contract stating that he/she will have the animal surgically altered and the date by which the surgery must be performed (generally dogs and cats should be altered after reaching 6 months of age).	(a) All animals which are adopted from the Williamson County Regional Animal Shelter shall be surgically altered to prevent reproduction in that animal, in compliance with shelter policy.	City no longer maintains a shelter in the city. Altering done in compliance with shelter policy and state law.

Section	Current Ordinance	Recommended ordinance revision	Reason
2.06.005	(b) It shall be the responsibility of the person adopting to provide proof of altering to the animal control officer.		Recommend removal - done by shelter
2.06.005	(c) Failure to comply with this section or failure to comply with the terms of the adoption contract shall give the animal control officer the right to recover the adopted animal in question and revoke the owner's adoption contract. Such failure shall also constitute a violation of this article.		Recommend removal - done by shelter
2.06.005	(d) The adoption fee shall be set herein at seventy-five dollars ($75.00) and may be increased or decreased as needed by policy, to render and keep neutral the cost of surgically altering, medicating, vaccinating and preparing the animal for adoption. In lieu of such adoption fees, an agreement may be reached with approved veterinarians for direct payments of surgery and associated costs. The person adopting the animal shall be provided a list of fees related to the adoption prior to the agreement being signed.		Recommend removal - fees set by shelter
2.06.005	(e) This section's requirements of altering and adoption fee shall not apply where cooperative agreements between the animal control division and an animal welfare group are made for the placement with such groups of animals subject to adoption. Likewise, this section's requirements shall not apply to animal transfers made under cooperative agreements between the animal control division and other governmental entities.		Recommend removal - done by shelter

Section	Current Ordinance	Recommended ordinance revision	Reason
2.06.005	State law reference–Sterilization of dog or cat released for adoption, V.T.C.A., Health and Safety Code, ch. 828.		Recommend removal - done by shelter
	Secs. 2.06.006–2.06.030 Reserved	Secs. 2.06.006–2.06.030 Reserved	
	Division 2. Livestock and Fowl*	Division 2. Livestock and Fowl*	
2.06.031	Sec. 2.06.031 Allowing livestock, fowl or pigeons to be at large	Sec. 2.06.031 Allowing livestock, fowl or pigeons to be at large	
2.06.031	(a) Livestock. It is unlawful for any owner or person in control of any horse, mule, jack, jennet, cattle, hog, goat or sheep (estray) to permit any such animal to run at large on land not his own or under his control, or on any street, alley or other public place in the city.	Owners of livestock and fowl must be in compliance with Agriculture Code section 142 regarding estrays.	Follow state law
2.06.031	(b) Fowl. It is unlawful for the owner or person in control of any chicken or other fowl to permit the same to run at large on any land not his own or under his control, or on any street, alley or other public place in the city.		Recommend removal to simplify by following state law
2.06.031	(c) Pigeons. It is unlawful and constitutes a nuisance for the owner or any person in charge or control of any pigeons in the city, or the owner or any person in charge or control of any outbuilding or barn in the city upon which pigeons nest, to allow such pigeons to run or fly at large in the city.		Recommend removal to simplify by following state law
2.06.032	Sec. 2.06.032 Impoundment procedure; records		Recommend removal to simplify by following state law

Section	Current Ordinance	Recommended ordinance revision	Reason
2.06.032	The animal control authority, upon receipt of a report or upon discovery of an estray within the city, shall as soon as possible notify the sheriff of the county and report the presence of the animal and the location where the animal can be found. If circumstance permits, the animal control officer shall refer the matter in its entirety to the sheriff. If circumstance does not permit or the sheriff seeks the assistance of the animal control authority, the animal control officer may cause the impoundment of any and all estray and other livestock that may be found in and upon any street, alley or upon any unenclosed lot in the city, or otherwise to be found at large, and to confine such estray or other livestock for safekeeping. Upon impounding, the animal control officer shall prepare a file to be located in the animal control division offices. Each entry shall include the following:		Recommend removal to simplify by following state law
2.06.032	(1) The name and address of the person who notified the animal control officer of the estray or other livestock;		Recommend removal to simplify by following state law
2.06.032	(2) The date, time and location of the estray or other livestock when found;		Recommend removal to simplify by following state law
2.06.032	(3) The location of the estray or other livestock until disposition; and		Recommend removal to simplify by following state law
2.06.032	(4) A description of the animal including its breed, color, sex, age, size, all markings of any kind and other identifying characteristics.		Recommend removal to simplify by following state law

Section	Current Ordinance	Recommended ordinance revision	Reason
2.06.033	Sec. 2.06.033 Advertisement of impounded animal		Recommend removal to simplify by following state law
2.06.033	When an estray or other livestock has been impounded by the animal control authority, the animal control officer shall make a diligent search of the register of recorded brands in the county for the owner of the estray or other livestock. If the search does not reveal the owner, the animal control officer shall advertise the impoundment of the estray in a newspaper of general circulation in the county at least twice during the next 15 days following impoundment and post a notice of the impoundment of the estray or other livestock on the public notice board of city hall. (2003 Code, sec. 2.508)		Recommend removal to simplify by following state law
2.06.034	Sec. 2.06.034 Recovery of animal by owner		Recommend removal to simplify by following state law
2.06.034	The owner of an estray or other livestock may recover possession of the animal at any time before the animal is sold under the terms of this article if:		Recommend removal to simplify by following state law
2.06.034	(1) The owner has provided the animal control officer with an affidavit of ownership of the estray or other livestock containing at least the following information:		Recommend removal to simplify by following state law
2.06.034	(A) The name and address of the owner;		Recommend removal to simplify by following state law

Section	Current Ordinance	Recommended ordinance revision	Reason
2.06.034	(B) The date the owner discovered that the animal was missing;		Recommend removal to simplify by following state law
2.06.034	(C) The property from which the animal strayed;		Recommend removal to simplify by following state law
2.06.034	(D) A description of the animal including its breed, color, sex, size, all markings of any kind and any other identifying characteristics;		Recommend removal to simplify by following state law
2.06.034	(2) The animal control officer has approved the affidavit; and		Recommend removal to simplify by following state law
2.06.034	(3) The owner has paid all handling fees to those entitled to receive them.		Recommend removal to simplify by following state law
2.06.035	Sec. 2.06.035 Sale of animal		Recommend removal to simplify by following state law
2.06.035	If the ownership of an estray or other livestock is not determined within 14 days following the final advertisement required by this article, ownership of the estray or other livestock rests with the city and the animal control officer shall then cause the estray or other livestock to be sold at a public auction. If there are not any bidders, ownership is forfeited to the city.		Recommend removal to simplify by following state law
2.06.035	(1) Title shall be deemed vested in the animal control officer for purposes of passing a good title, free and clear of all claims, to the purchaser at the sale.		Recommend removal to simplify by following state law

Section	Current Ordinance	Recommended ordinance revision	Reason
2.06.035	(2) The disposition of the proceeds derived from the sale at public auction will be as follows:		Recommend removal to simplify by following state law
2.06.035	(A) Pay all handling fees to those entitled to receive them;		Recommend removal to simplify by following state law
2.06.035	(B) Execute a report of sale of impounded stock;		Recommend removal to simplify by following state law
2.06.035	(C) The net proceeds remaining from the sale of the estray or other livestock after the handling fees have been paid shall be delivered by the animal control officer to the city secretary. Such net proceeds shall be subject to claim by the original owner of the estray or other livestock as provided herein;		Recommend removal to simplify by following state law
2.06.035	(D) If the bids are too low, the animal control officer shall have the right to refuse all bids and arrange for another public auction or sealed bidding procedure.		Recommend removal to simplify by following state law
2.06.036	Sec. 2.06.036 Recovery of proceeds of sale by owner		Recommend removal to simplify by following state law
2.06.036	(a) Within 12 months after the sale of an estray or other livestock under the provisions of this article, the original owner of the estray may recover the net proceeds of the sale that were delivered to the city secretary if:		Recommend removal to simplify by following state law
2.06.036	(1) The owner has provided the animal control officer with an affidavit of ownership; and		Recommend removal to simplify by following state law

Section	Current Ordinance	Recommended ordinance revision	Reason
2.06.036	(2) The animal control officer has accepted the affidavit of ownership.		Recommend removal to simplify by following state law
2.06.036	(b) After the expiration of 12 months from the sale of an estray or other livestock as provided by this article, the sale proceeds shall escheat to the city. If an animal was forfeited to the city due to no bidders at auction, then city is not to be liable to owner for any proceeds of sale, since no proceeds were received.		Recommend removal to simplify by following state law
2.06.037	Sec. 2.06.037 Use of impounded animal		Recommend removal to simplify by following state law
2.06.037	During the period of time an estray or other livestock is held by one who impounded the estray or other livestock, it may not be used by any person for any purpose. (2003 Code, sec. 2.512)		Recommend removal to simplify by following state law
2.06.038	Sec. 2.06.038 Death or escape of impounded animal		Recommend removal to simplify by following state law
2.06.038	If the estray or other livestock dies or escapes while held by the person who impounded it, the person shall report the death or escape to the animal control officer. The report shall be filed in the record regarding the impoundment. (2003 Code, sec. 2.513)		Recommend removal to simplify by following state law
	ARTICLE 2.07 LICENSING AND RABIES CONTROL	ARTICLE 2.07 LICENSING AND RABIES CONTROL	
	Division 1. Generally	Division 1. Generally	
2.07.001	Sec. 2.07.001 Enforcement	Sec. 2.07.001 Enforcement	

Section	Current Ordinance	Recommended ordinance revision	Reason
2.07.001	For the purposes of discharging the duties imposed by this article and to enforce its provisions, any peace officer or animal control officer is empowered to enter upon any premises upon which an animal is kept or harbored and to demand the exhibition by the owner of such animal of the license for such animal in accordance with the provisions of this article, to include random city-wide canvassing and checks for compliance with this article. The owner of any animal is required to produce the license and vaccination information for each animal in his ownership upon demand by an animal control officer or peace officer. (2003 Code, sec. 2.613)	For the purposes of discharging the duties imposed by this article and to enforce its provisions, any peace officer or animal services officer is empowered to enter upon any premises upon which an animal is kept or harbored and to demand the exhibition by the owner of such animal of the license for such animal in accordance with the provisions of this article, to include random city-wide canvassing and checks for compliance with this article. The owner of any animal is required to produce the license and vaccination information for each animal in his ownership upon demand by an animal services officer or peace officer.	Name change of division to reflect modified mission.
2.07.002	Sec. 2.07.002 Counterfeiting or destroying vaccination tag, certificate or license	Sec. 2.07.002 Counterfeiting or destroying vaccination tag, certificate or license	
2.07.002	(a) It shall be unlawful for any person to intentionally or knowingly counterfeit a rabies vaccination tag or certificate or a license.	(a) It shall be unlawful for any person to intentionally or knowingly counterfeit a rabies vaccination tag or certificate or a license.	No change recommended
2.07.002	(b) It shall be unlawful for any person to intentionally or knowingly destroy a rabies vaccination tag or certificate.	(b) It shall be unlawful for any person to intentionally or knowingly destroy a rabies vaccination tag or certificate.	No change recommended
	Secs. 2.07.003–2.07.030 Reserved	Secs. 2.07.003–2.07.030 Reserved	
	Division 2. Licensing*	Division 2. Licensing*	
2.07.031	Sec. 2.07.031 License required; issuance; tag or other identification	Sec. 2.07.031 License required; issuance; tag or other identification	

Section	Current Ordinance	Recommended ordinance revision	Reason
2.07.031	(a) License required; issuance. All animals four months of age or older which are kept, harbored or maintained within the corporate limits of the city shall be licensed. Licenses shall be provided by the animal control officer or his agent upon payment of the required fee for each animal. Before a city license will be issued for a cat or dog, the owner must present a certificate from a licensed veterinarian showing that such cat or dog has been vaccinated for rabies within the preceding 12 months. The owner shall state his/her name and address, and the breed, color and sex of the animal to be licensed. Such license shall be valid for one year from date of issuance. Any owner previously found to be a habitual offender and having previously had their licenses revoked under section 2.07.032 may be deemed not eligible for current licensure. Appeals of such ineligibility shall be those procedures set out under section 2.07.032 for revocations.	(a) Modified registration. Registration with city is not required for animals that are microchipped and spayed or neutered. All animals four months of age or older which are kept, harbored or maintained within the corporate limits of the city shall be microchipped. To be eligible for this modified registration, the owner's name, current address and current phone number must be on file with the microchip manufacturer. The manufacturer will maintain information about the pet including the breed, color, name, and sex of the animal. Dangerous dogs are not eligible for modified registration.	Microchip is preferred and less likely to be lost, so long as the microchip has the current owner information and is in our system. State law allows for longer vaccinations. Remove section on not allowing registration if habitual offender as this would require owner to owner surrender or to rehome the pet.

Section	Current Ordinance	Recommended ordinance revision	Reason
2.07.031	(b) Tags. Upon payment of the license fee, where applicable, the city shall issue to the owner a license certificate and metal tag having stamped thereon the number corresponding with the number of the certificate. Such tag shall at all times be securely attached to a collar or harness around the neck of the animal. In case a tag is lost, a duplicate will be issued by the animal control officer or his agent upon presentation of the receipt showing the payment of license fee for the calendar year. Tags shall not be transferable from one animal to another, and no refunds shall be made.	(b) Tags. No tag and no registration fee are required for a neutered animal with a microchip. Owners desiring a registration tag instead of a microchip, must present current rabies vaccination documentation and must renew the registration every year. Owners of dangerous dogs requiring registration, must apply for a tag. Upon payment of the license fee, where applicable, the city shall issue to the owner a license certificate and metal tag having stamped thereon the number corresponding with the number of the certificate. Such tag shall at all times be securely attached to a collar or harness around the neck of the animal. In case a tag is lost, a duplicate will be issued by the animal services officer or his agent upon presentation of the receipt showing the payment of license fee for the current 12 month registration. Tags shall not be transferable from one animal to another, and no refunds shall be made.	Preferred to switch to microchip over tags. Incentive for owners of microchipped animals who are neutered, as it reduces wandering and increases chance of getting animal home to owner
2.07.031	(c) Livestock. All livestock shall be tagged or tattooed and the tag or tattoo will be the identification tag required to be worn and will be shown on the license.	(c) Livestock. All livestock shall be tagged or tattooed and the tag or tattoo will be the identification tag required to be worn and will be shown on the license.	no change recommended
2.07.032	Sec. 2.07.032 Revocation of license	Sec. 2.07.032 Revocation of registration	
2.07.032	(a) The chief of police may revoke any license after a hearing where an affirmative finding on any one or more of the following facts issues:	(a) The chief of police may revoke any registration after a hearing where an affirmative finding on any one or more of the following facts issues:	change in language from license to registration
2.07.032	(1) That impoundment of the animal by the city more than two times during a 12 month period has occurred;	(1) That impoundment of the animal by the city more than two times during a 12 month period has occurred;	no change recommended

Section	Current Ordinance	Recommended ordinance revision	Reason
2.07.032	(2) That more than two final convictions of a person for violating this article when such convictions relate to the animal being considered for revocation of its license certificate have been entered into the official court docket; or	(2) That more than two final convictions of a person for violating this article when such convictions relate to the animal being considered for revocation of its license certificate have been entered into the official court docket; or	no change recommended
2.07.032	(3) Any combination of subsections (a)(1) and (a)(2) of this section totaling three incidents; or	(3) Any combination of subsections (a)(1) and (a)(2) of this section totaling three incidents.	no change recommended
2.07.032	(4) Upon a determination that the animal is a nonregisterable dangerous animal, as defined herein.		Recommend removal - not compliant with state law
2.07.032	(b) Notice of revocation hearing setting the hearing date no sooner than 10 days from the service or certified mailing shall be served in person to the owner or such notice deemed served when made by certified letter, return receipt requested and addressed to the last known mailing address of the animal's owner and deposited in the U.S. mail.	(b) Notice of revocation hearing setting the hearing date no sooner than 10 days from the service or certified mailing shall be served in person to the owner or such notice deemed served when made by certified letter, return receipt requested and addressed to the last known mailing address of the animal's owner and deposited in the U.S. mail.	no change recommended
2.07.032	(c) Upon revoking the license of any animal, the animal control officer shall notify the owner of the animal of such action in writing. Written notification shall be deemed made when [made by] a certified letter, return receipt requested, addressed to the last known mailing address of the animal's owner and deposited in the U.S. mail.	(c) Upon revoking the registration of any animal, the animal services officer shall notify the owner of the animal of such action in writing. Written notification shall be deemed made when [made by] a certified letter, return receipt requested, addressed to the last known mailing address of the animal's owner and deposited in the U.S. mail.	Change in language and title

Section	Current Ordinance	Recommended ordinance revision	Reason
2.07.032	(d) Upon the expiration of ten days after written notification of revocation is deposited in the U.S. mail, as provided above, no animal which has had its license revoked shall be kept, maintained or harbored within the city limits, and each 24-hour period shall constitute a separate violation.	(d) Upon the expiration of ten days after written notification of revocation is deposited in the U.S. mail, as provided above, no animal which has had its registration revoked shall be kept, maintained or harbored within the city limits, and each 24-hour period shall constitute a separate violation.	Change in language
2.07.032	(e) Upon revocation of a license, the owner of the animal with the revoked license shall notify the animal control officer of the location to which the animal is being removed.	(e) Upon revocation of a registration, the owner of the animal with the revoked registration shall notify the animal services officer of the location to which the animal is being removed.	Change in language and title
2.07.032	(f) Appeals of revocation hearing findings must be filed with the city manager within ten days of receiving notice of the action. Such notices shall be written without want of form but must include the statement "Notice of Appeal of Decision of the Chief of Police in Revocation Hearing," containing a statement of the reason(s) for the appeal, and signed by the animal owner making the appeal. The city manager or designee shall hear the appeal. At the hearing, the formal rules of evidence do not apply. The hearing officer shall make his/her decision on the basis of a preponderance of the evidence presented. The hearing officer may affirm, reverse, or modify the action of the chief; however, a decision must be rendered within 60 days after the appeal. The decision of the hearing officer is final.	(f) Appeals of revocation hearing findings must be filed with the city manager within ten days of receiving notice of the action. Such notices shall be written without want of form but must include the statement "Notice of Appeal of Decision of the Chief of Police in Revocation Hearing," containing a statement of the reason(s) for the appeal, and signed by the animal owner making the appeal. The city manager or designee shall hear the appeal. At the hearing, the formal rules of evidence do not apply. The hearing officer shall make his/her decision on the basis of a preponderance of the evidence presented. The hearing officer may affirm, reverse, or modify the action of the chief; however, a decision must be rendered within 60 days after the appeal. The decision of the hearing officer is final.	no change recommended
	Secs. 2.07.033–2.07.060 Reserved	Secs. 2.07.033–2.07.060 Reserved	
	Division 3. Rabies Control*	Division 3. Rabies Control*	
2.07.061	Sec. 2.07.061 Vaccination required	Sec. 2.07.061 Vaccination required	

Section	Current Ordinance	Recommended ordinance revision	Reason
2.07.061	(a) All dogs or cats four months of age or older within the city shall be vaccinated against rabies. Such vaccinations shall be repeated at the intervals prescribed by rule of the department of state health services or its successor.	Vaccination of dogs and cats required per HSC section 826, subchapter C.	Simplify language to follow state law
2.07.061	(b) A veterinarian who vaccinates a dog or cat against rabies shall issue to the owner of such dog or cat a vaccination certificate on a form approved by the department of state health services. The veterinarian shall also issue a metal tag with the veterinarian's address and the year of the vaccination stamped thereon. Upon vaccination, the veterinarian shall execute and furnish to the owner of the dog or cat, as evidence thereof, a certificate of vaccination. The veterinarian shall retain a duplicate copy of the certificate and one copy shall be filed with the owner. Such certificate shall contain the following information:		Simplify language to follow state law
2.07.061	(1) The name, address and telephone number of the owner of the vaccinated dog or cat;		Simplify language to follow state law
2.07.061	(2) The date of vaccination;		Simplify language to follow state law
2.07.061	(3) The type of rabies vaccine used;		Simplify language to follow state law
2.07.061	(4) The year and number of the rabies tag; and		Simplify language to follow state law
2.07.061	(5) The breed, age, color and sex of the vaccinated dog or cat.		Simplify language to follow state law

Section	Current Ordinance	Recommended ordinance revision	Reason
2.07.061	(c) Concurrent with the issuance and delivery of the certificate of vaccination, the owner of the dog or cat shall cause to be attached to the collar or harness of the vaccinated animal a metal tag, serially numbered to correspond with the vaccination certificate number and bearing the year of issuance.		Simplify language to follow state law
2.07.061	(d) It shall be unlawful for any person within the city to own, keep, possess, harbor or allow to remain upon premises under his control any dog or cat which has not been vaccinated as required herein. Any person establishing residence within the city shall comply with this article within ten days of establishing such residency.		Simplify language to follow state law
2.07.062	Sec. 2.07.062 Vaccination of impounded animals		
2.07.062	(a) After impoundment, all animals which are required to be vaccinated by this article which are redeemed by an owner from the animal shelter must be vaccinated against rabies in accordance with the requirements of this article, or the owner thereof must present a veterinarian's certificate showing a current vaccination.		Recommend removal, no longer have a shelter

Section	Current Ordinance	Recommended ordinance revision	Reason
2.07.062	(b) In order for an animal not vaccinated in accordance with the requirements of this article to be released, such owner must sign a statement giving the name of the owner and the address where the animal is to be immediately taken and confined and stating that the owner will have the animal vaccinated in accordance with the requirements of this article. Within seven days of the release of the animal, a certificate of vaccination shall be presented to the animal shelter. Failure to present the vaccination certificate to the animal shelter within the stated time shall be grounds for the immediate return of the animal to the animal shelter, and such animal may be destroyed immediately or otherwise disposed of. Such failure shall also constitute a misdemeanor punishable as set out in section 2.01.005, except that the minimum fine shall be as set forth in the general penalty provision in section 1.01.009 of this code.		Recommend removal, no longer have a shelter
2.07.063	Sec. 2.07.063 Failure to vaccinate animal; dismissal of offense upon proof of vaccination	Sec. 2.07.063 Failure to vaccinate animal; dismissal of offense upon proof of vaccination	No change recommended

Section	Current Ordinance	Recommended ordinance revision	Reason
2.07.063	The failure of a dog or cat to wear a vaccination tag on a collar shall be prima facie evidence of the failure to vaccinate the animal as required by this article. To prove that a dog or cat was vaccinated at the time of the offense, the owner of the dog or cat must present a copy of the vaccination certificate issued by the veterinarian that shows the date the vaccination was administered. The offense shall be dismissed upon verification that the animal alleged in the offense was vaccinated on the date of the offense with the payment of an administrative fee as set forth in the fee schedule in appendix A of this code. (2003 Code, sec. 2.603)	The failure of a dog or cat to wear a vaccination tag on a collar shall be prima facie evidence of the failure to vaccinate the animal as required by this article. To prove that a dog or cat was vaccinated at the time of the offense, the owner of the dog or cat must present a copy of the vaccination certificate issued by the veterinarian that shows the date the vaccination was administered. The offense shall be dismissed upon verification that the animal alleged in the offense was vaccinated on the date of the offense with the payment of an administrative fee as set forth in the fee schedule in appendix A of this code.	No change recommended
2.07.064	Sec. 2.07.064 Reporting requirements	Sec. 2.07.064 Reporting requirements	
2.07.064	(a) It shall be the duty of all animal owners, veterinarians, physicians or any other person to report to the animal control officer all cases of rabies with which he comes in contact or to which his attention has been directed. This report shall be made immediately upon diagnosis or suspicion of a case of rabies.	(a) It shall be the duty of all animal owners, veterinarians, physicians or any other person to report to the animal services officer all cases of rabies with which he comes in contact or to which his attention has been directed. This report shall be made immediately upon diagnosis or suspicion of a case of rabies.	Name change of division to reflect modified mission.
2.07.064	(b) Any person having knowledge of an animal bite or scratch to an individual or to another animal by an animal which the person suspects is rabid shall report that incident to the animal control officer within 24 hours.	(b) Any person having knowledge of an animal bite or scratch to an individual or to another animal by an animal which the person suspects is rabid shall report that incident to the animal services officer within 24 hours.	Name change of division to reflect modified mission.

Section	Current Ordinance	Recommended ordinance revision	Reason
2.07.064	(c) Every physician or other medical practitioner who treats a person or persons for any animal bite/scratch that occurred within the city shall within 12 hours report such treatment to the animal control officer giving the name, age, sex and precise location of the bitten/scratched person or persons and such other information as the officer or agency may require.	(c) Every physician or other medical practitioner who treats a person or persons for any animal bite/scratch that occurred within the city shall within 12 hours report such treatment to the animal services officer giving the name, age, sex and precise location of the bitten/scratched person or persons and such other information as the officer or agency may require.	Name change of division to reflect modified mission.
2.07.064	(d) Any veterinarian who clinically diagnoses rabies or any person who suspects rabies in a dog, cat or other domestic or wild animal shall immediately report the incident to the animal control officer stating precisely where such animal may be found.	(d) Any veterinarian who clinically diagnoses rabies or any person who suspects rabies in a dog, cat or other domestic or wild animal shall immediately report the incident to the animal services officer stating precisely where such animal may be found.	Name change of division to reflect modified mission.
2.07.064	(e) If a known suspected rabid animal bites or scratches a domestic animal, such incident shall also be reported immediately to the animal control officer.	(e) If a known suspected rabid animal bites or scratches a domestic animal, such incident shall also be reported immediately to the animal services officer.	Name change of division to reflect modified mission.
2.07.065	Sec. 2.07.065 Contents of reports	Sec. 2.07.065 Contents of reports	
2.07.065	When an individual is placed under a duty to report an incident in which an animal has bitten or scratched some person or some animal or to report an animal known or suspected to be rabid, that report to the animal control officer shall include, if the person making the report knows, the following information:	When an individual is placed under a duty to report an incident in which an animal has bitten or scratched some person or some animal or to report an animal known or suspected to be rabid, that report to the animal services officer shall include, if the person making the report knows, the following information:	Title change
2.07.065	(1) The location where the bite or scratch occurred.	(1) The location where the bite or scratch occurred.	no change recommended

Section	Current Ordinance	Recommended ordinance revision	Reason
2.07.065	(2) The location where the animal which committed the act or which is known or suspected to have rabies or have been exposed to rabies can be located.	(2) The location where the animal which committed the act or which is known or suspected to have rabies or have been exposed to rabies can be located.	no change recommended
2.07.065	(3) The name and address of any person who was bitten or scratched.	(3) The name and address of any person who was bitten or scratched.	no change recommended
2.07.065	(4) The name and address of the person who owns, keeps, harbors or has control over the premises where the animal committing the act normally can be found.	(4) The name and address of the person who owns, keeps, harbors or has control over the premises where the animal committing the act normally can be found.	no change recommended
2.07.065	(5) The names and addresses of the persons who own, keep or harbor [or have control over the premises where] any other animal exposed to rabies can be found.	(5) The names and addresses of the persons who own, keep or harbor [or have control over the premises where] any other animal exposed to rabies can be found.	no change recommended
2.07.066	Sec. 2.07.066 Animal bites and scratches; quarantine of animal	Sec. 2.07.066 Animal bites and scratches; quarantine of animal	
2.07.066	(a) Report of victim. Any person who is bitten or scratched by an animal shall report that fact to the animal control officer within 24 hours. If the person bitten or scratched is a minor under the age of 17, the parent or guardian of such minor, if he has knowledge of the incident, shall report that fact to the animal control officer within 24 hours.	(a) Report of victim. Any person who is bitten or scratched by an animal shall report that fact to the animal services officer within 24 hours. If the person bitten or scratched is a minor under the age of 17, the parent or guardian of such minor, if he has knowledge of the incident, shall report that fact to the animal services officer within 24 hours.	Name change of division to reflect modified mission.
2.07.066	(b) Report of animal owner. A person who owns, keeps, harbors or allows an animal to remain on premises under his control and who has knowledge of a bite shall report to the animal control officer within 24 hours any incident where such animal bit or scratched any person.	(b) Report of animal owner. A person who owns, keeps, harbors or allows an animal to remain on premises under his control and who has knowledge of a bite shall report to the animal services officer within 24 hours any incident where such animal bit or scratched any person.	Name change of division to reflect modified mission.

Section	Current Ordinance	Recommended ordinance revision	Reason
2.07.066	(c) Quarantine. The animal committing the act shall be submitted to the animal control officer for quarantine. When the local rabies control authority goes to the premises where the animal that bit or scratched any person is being kept, the animal control officer may take immediate custody of the animal. Where suitable arrangements are made, the local rabies control authority may permit the animal to be transferred to another location for the remainder of the quarantine period. This duty to submit the animal to quarantine shall apply to any person who owns, keeps, harbors, has possession of or allows an animal to remain on premises under his control. If convicted of violating this section, a minimum fine as set forth in the general penalty provision in section 1.01.009 of this code shall be imposed by the municipal court.	(c) Quarantine. The animal committing the act shall be submitted into quarantine by the owner of the animal. If the owner can not be located, animal services may impound and submit the animal into quarantine at the contracted shelter or humanely euthanize and submit the animal for rabies testing. When the local rabies control authority goes to the premises where the animal that bit or scratched any person is being kept, the animal services officer may take immediate custody of the animal. Where suitable arrangements are made, the local rabies control authority may permit the animal to be transferred from the location of the incident to approved quarantine facility for the remainder of the quarantine period. This duty to submit the animal to quarantine shall apply to any person who owns, keeps, harbors, has possession of or allows an animal to remain on premises under his control. If convicted of violating this section, a minimum fine as set forth in the general penalty provision in section 1.01.009 of this code shall be imposed by the municipal court.	Change of some wording to make owner responsible for submitting pet into quarantine. Name change of division to reflect modified mission.

Section	Current Ordinance	Recommended ordinance revision	Reason
2.07.066	(d) Observation of animal. Any owned dog or cat having bitten or scratched a person shall be observed for a period of ten days from the date of the bite. The procedure and place of observation shall be designated by the investigating officer or responsible agency in compliance with state law. If the dog or cat is not confined on the owner's premises for owner's quarantine, confinement shall be by impoundment in the animal shelter, or at a veterinary hospital of the owner's choice. Such confinement shall be at the owner's expense.	(d) Observation of animal. Any owned dog or cat having bitten or scratched a person shall be observed for a period of ten days (240 hours) from the date and time of the bite. The procedure and place of observation shall be designated by the investigating officer or responsible agency in compliance with state law. If the dog or cat is not confined on the owner's premises for owner's quarantine, confinement shall be by impoundment in the animal shelter, or at a veterinary hospital of the owner's choice. Such confinement shall be at the owner's expense.	Added time to observation of animal
2.07.066	(e) Strays. Stray dogs and cats, or those animals whose owners cannot be located, shall be confined in the animal shelter for a period of 96 hours and if unclaimed may be destroyed and the brain of such animal immediately submitted to a qualified laboratory for rabies examination at the victim's expense.	(e) Strays. Stray dogs and cats, or those animals whose owners cannot be located, may be confined in the animal shelter or may be destroyed and the brain of such animal immediately submitted to a qualified laboratory for rabies examination at the victim's expense.	Modified to match current practice and shelter policy
2.07.066	(f) Surrender of animal. The owner of any dog or cat that has been reported to have inflicted a bite on any person shall on demand produce the dog or cat for impoundment, as prescribed in this article.	(f) Temporary surrender of animal. The owner of any dog or cat that has been reported to have inflicted a bite or broke skin on any person shall on demand produce the dog or cat for quarantine, as prescribed in this article.	Clarified that surrender is temporary for quarantine.

Section	Current Ordinance	Recommended ordinance revision	Reason
2.07.066	(h) Wild, exotic or dangerous animals. Any wild, exotic or dangerous animal that is considered high risk by state law or regulation and which has bitten or scratched a person shall be caught and humanely killed and the brain submitted for rabies examination. Those wild animals which are classified as low risk animals shall be handled as dictated by state law.	(h) Wild, exotic or dangerous animals. Any wild, exotic or dangerous animal that is considered high risk by state law or regulation and which has bitten or scratched a person shall be caught and humanely killed and the brain submitted for rabies examination. Those wild animals which are classified as low risk animals shall be handled as dictated by state law.	No change recommended
2.07.066	[Was in 2.01.001] Quarantine by owner. An animal owner who quarantines with the animal control officer's permission under the following conditions:	(i) Quarantine at residence. An animal owner who quarantines the animal at their residence with the animal services officer's permission under the following conditions:	Name change of division to reflect modified mission. Entire section moved from definitions
2.07.066	(1) The animal must have a current rabies vaccination and be registered with animal control;	(1) The animal must have a current rabies vaccination, must not have been running at large at the time of the scratch or bite, and be registered with animal services;	Name change of division to reflect modified mission.
2.07.066	(2) The animal must be inside an enclosed structure, i.e., a house or garage, and must remain there for ten days;	(2) The animal must be inside an enclosed structure, i.e., a house or garage, and must remain there for ten days (240 hours);	Added 240 hours to confirm the quarantine time.
2.07.066	(3) If maintained outside, the animal must be behind a fence from which it cannot escape and on a chain from which it cannot break loose or inside a covered pen or kennel from which it cannot escape. The length of the chain must prevent the animal from making contact with the fence in which it is kept;		Recommend removing, only allowing home quarantine within the residence. If the pet is kept outside it is not completely removed from all animals(high risk wildlife). Unless pet is monitored 24 hours a day while outside potential added exposure can occur.

Section	Current Ordinance	Recommended ordinance revision	Reason
2.07.066	(4) The animal must be kept away from other animals and people except those in the immediate household;	(3) The animal must be kept away from other animals and people inclulding those in the immediate household; only minimal contact with caretaker allowed during home quarantine.	Minimal contact with cartaker for food, water and being walked to relieve itself is allowed. Pet will be confined and seperated from other pets and househould otherwise.
2.01.001	(5) The animal may not be removed from the corporate city limits while under quarantine;	(4) The animal may not be removed from the corporate city limits while under quarantine;unless approved by animal services.	Depending on the medical care needed for pet if it begins to show signs of illness.
2.07.066	(6) The owner shall notify the animal control officer immediately if the animal becomes sick or displays any behavioral changes;	(5) The owner shall notify the animal services officer immediately if the animal becomes sick or displays any behavioral changes;	Name change of division to reflect modified vision.
2.07.066	(7) The owner shall not subject the animal to any medical procedure without first notifying the animal control officer. This includes any vaccination;	(6) The owner shall not subject the animal to any medical procedure without first notifying the animal services officer. This includes any vaccinations;	Name change of division to reflect modified vision.
2.07.066	(8) The animal must be examined by the local rabies control authority or designee by the first day of home quarantine and again on the final day of quarantine. Upon final examination, the authority may declare the animal to be free of the rabies virus or under questionable circumstance defer such examinations to a licensed veterinarian. In such instances, the owner shall be responsible for all associated costs and when required produce proof of such veterinarian examinations;	(7) The animal must be examined by the local rabies control authority or designee by the first day of home quarantine and released by a final examination by a licensed veterinarian. Upon final examination, the veterinarian may declare the animal to be free of the rabies virus. The owner shall be responsible for all associated costs and when required produce proof of such veterinarian examinations;	Quarantine release by veterinarian removes liability from ASO for releasing a pet from quarantine.

Section	Current Ordinance	Recommended ordinance revision	Reason
2.07.066	(9) Owners who are deemed habitual offenders, as defined herein, shall not be allowed home quarantine;	(8) Owners who are deemed habitual offenders, as defined herein, shall not be allowed home quarantine;	No change recommended. See section 2.01.001 line 59
2.07.066	(10) The owner must allow animal control, with reasonable notice, to view and confirm the health of the animal during the rabies quarantine period.	(9) The owner must allow animal services, with reasonable notice, to view and confirm the health of the animal during the rabies quarantine period.	Name change of division to reflect modified vision.
2.07.067	Sec. 2.07.067 Release of quarantined animal	Sec. 2.07.067 Release of quarantined animal	No change recommended
2.07.067	(a) When an animal is required to be placed in quarantine, the animal shall be submitted for quarantine at the animal shelter. Only with the prior approval of the local rabies control authority may the animal be held in quarantine at any other location.	(a) When an animal is required to be placed in quarantine, the animal shall be submitted for quarantine at an approved facility. The owner will be responsible for all fees and cost associated with quarantine. Only with the prior approval of the local rabies control authority may the animal be held in quarantine at any other location.	Facilty information added with owner responsible for cost
2.07.067	(b) Any animal quarantined shall be held for a period of ten days from the date of the bite. The animal shall not be released from quarantine until such release has been approved by the local rabies control authority.	(b) Any animal quarantined shall be held for a period of ten days (240 hours) from the date and time of the exposure. The animal shall not be released from quarantine until such release has been approved by the local rabies control authority.	Date and time for quarantine added. Clarified it is exposure not just bite
2.07.067	(c) Upon release of an animal from quarantine, if the ownership of the animal is known, such owner has 48 hours to claim the animal. If the ownership of the animal is unknown, the animal may be disposed of as provided in this article without waiting for an additional 72 hours.	(c) Upon release of an animal from quarantine, if the ownership of the animal is known, such owner shall be responsible for all associated fees and costs of quarantine and contact the quarantine facility for release of said animal. If the ownership of the animal is unknown, the animal may be disposed of as provided in this article without waiting for an additional 72 hours.	Change wording to show owner contact quarantine facility for release
	(2003 Code, sec. 2.610)		

Section	Current Ordinance	Recommended ordinance revision	Reason
2.07.068	Sec. 2.07.068 Submission of head for rabies diagnosis	Sec. 2.07.068 Submission of head for rabies diagnosis	no change recommended
2.07.068	(a) If the animal biting or scratching a person is a wild animal, the animal shall be humanely destroyed in such a manner that the brain is not mutilated. The head shall then be submitted to a laboratory certified by the department of state health services for rabies diagnosis.	(a) If the animal biting or scratching a person is a wild animal, the animal shall be humanely destroyed in such a manner that the brain is not mutilated. The head shall then be submitted to a laboratory certified by the department of state health services for rabies diagnosis.	no change recommended
2.07.068	(b) If an animal being quarantined becomes ill, it may be humanely destroyed in such a manner that the head is not mutilated. The head shall then be submitted to a laboratory certified by the department of state health services for rabies diagnosis. The head of each animal dying while in quarantine shall also be submitted for rabies diagnosis.	(b) If an animal being quarantined becomes ill, it may be humanely destroyed in such a manner that the head is not mutilated. The head shall then be submitted to a laboratory certified by the department of state health services for rabies diagnosis. The head of each animal dying while in quarantine shall also be submitted for rabies diagnosis.	no change recommended
2.07.069	Sec. 2.07.069 Payment of impoundment fees and other costs		City no longer maintains shelter, remove
2.07.069	(a) If, at the end of the required quarantine period, a quarantined animal is found to be free of rabies, the local rabies control authority shall order the release of the animal to the owner if the rabies vaccination provisions of this article have been complied with and any impoundment fees have been paid by such owner.		City no longer maintains shelter, remove
2.07.069	(b) If a head is submitted to the department of state health service for rabies diagnosis, the cost of removing the head and shipping it shall be paid by the owner of the animal.		City no longer maintains shelter, remove

Section	Current Ordinance	Recommended ordinance revision	Reason
2.07.069	(c) The local rabies control authority may order that all impoundment fees for the quarantine be paid by the person bitten or scratched if:		City no longer maintains shelter, remove
2.07.069	(1) The animal has a rabies vaccination certificate;		City no longer maintains shelter, remove
2.07.069	(2) The animal was on property under the control of the animal's owner when the bite or scratch occurred; and		City no longer maintains shelter, remove
2.07.069	(3) The bite or scratch occurred when the animal was acting to defend its owner or the property, or after provocation.		City no longer maintains shelter, remove
2.07.069	(d) If the animal is a wild animal, the local rabies control authority may order that all fees be paid by the person who was bitten or scratched.		Recommend removal
	ARTICLE 2.08 COMMERCIAL ANIMAL ENTERPRISES AND MULTIPLE ANIMAL OWNERSHIP	ARTICLE 2.08 COMMERCIAL ANIMAL ENTERPRISES AND MULTIPLE ANIMAL OWNERSHIP	
2.08.001	Sec. 2.08.001 Permit required	Sec. 2.08.001 Permit required	

Section	Current Ordinance	Recommended ordinance revision	Reason
2.08.001	(a) Permits shall be required for all commercial animal enterprises and multi-animal owners. Commercial animal enterprises shall include but not be limited to enterprises such as kennels, pet shops, riding stables, animal auctions, performing animal exhibitions, animal training services, grooming shops, petting zoos, aviaries or any similar entrepreneurial relationships regarding animals. Five or more animals maintained on any one lot shall be considered a multi-animal owner. No person shall maintain, harbor or care for more than five animals of any species without having obtained a multi-animal owner permit, excluding fish.	Commercial activity: (a) Permits shall be required for all commercial animal enterprises. Commercial animal enterprises shall include but not be limited to enterprises such as kennel facility, pet shops, riding stables, animal auctions, performing animal exhibitions, animal training services, grooming shops, petting zoos, aviaries or any similar entrepreneurial relationships regarding animals.	Seperating commerial and multi animal. Defnition change from kennel to kennel facility
2.08.001	(b) All such permits shall be considered commercial except multi-animal owner. Multi-animal owner permits shall be considered as relative only to private multiple animal ownership, with no relationship to any commercial animal enterprise. Multiple animal ownership permits shall not be required for residences with common household pets having litters which remain at such residences for a period of time not exceeding three months.		New section for multi-pet owner
2.08.001	(c) It is an affirmative defense to prosecution for multi-animal permit requirements of this section if it is shown that the animals being harbored are a part of a feral cat colony as defined herein.		Add to multi animal section
2.08.002	Sec. 2.08.002 Term of permit; fee; denial; correction of conditions; appeals	Sec. 2.08.002 Term of permit; fee; denial; correction of conditions; appeals	

Section	Current Ordinance	Recommended ordinance revision	Reason
2.08.002	(a) Term of permit; fee. Permits shall be valid for one year from date of issuance. The permit fee shall be as provided for in the fee schedule found in appendix A of this code.	(a) Term of permit; fee. Permits shall be valid for one year from date of issuance. The permit fee shall be as provided for in the fee schedule found in appendix A of this code.	no change recommended
2.08.002	(b) Denial of permit. The animal control officer, upon an inspection finding inconsistent with the permit inspection requirements of this article, may deny the issuance of such permit and prescribe corrections for the applicant to meet the requirements of this article. Applicants shall be given a reasonable amount of time to make such corrections and submit to a reinspection for compliance. Applicants contesting original denial or subsequent reinspection denial shall have a right to appeal. Appeal of such denial of permit shall be in writing to the chief of police within 10 days from the receipt of the denial notification. If no written appeal is received within the prescribed period, the denial is final. In instances of a timely appeal, the chief of police shall conduct a hearing to determine the validity of the denial. At such hearings, the formal rules of evidence do not apply, and the chief shall make determinations based on a preponderance of evidence presented. The chief shall render a decision within 30 days from receipt of the appeal and the decision of the chief shall be subject to appeal to the city manager, in writing, within 5 days of the ruling being delivered. The city manager may elect to hear the appeal by review or a de novo informal preponderance of evidence hearing. The city manager's decision is final.	(b) Denial of permit. The animal services officer, upon an inspection finding inconsistent with the permit inspection requirements of this article, may deny the issuance of such permit and prescribe corrections for the applicant to meet the requirements of this article. Applicants shall be given a reasonable amount of time to make such corrections and submit to a reinspection for compliance. Applicants contesting original denial or subsequent reinspection denial shall have a right to appeal. Appeal of such denial of permit shall be in writing to the chief of police within 10 days from the receipt of the denial notification. If no written appeal is received within the prescribed period, the denial is final. In instances of a timely appeal, the chief of police shall conduct a hearing to determine the validity of the denial. At such hearings, the formal rules of evidence do not apply, and the chief shall make determinations based on a preponderance of evidence presented. The chief shall render a decision within 30 days from receipt of the appeal and the decision of the chief shall be subject to appeal to the city manager, in writing, within 5 days of the ruling being delivered. The city manager may elect to hear the appeal by review or a de novo informal preponderance of evidence hearing. The city manager's decision is final.	No change recommended

Section	Current Ordinance	Recommended ordinance revision	Reason
2.08.002	(c) Inspections; correction of conditions. [If] The animal control officer, as a part of random inspections of permitted facilities or upon complaint of noncompliance, finds inconsistencies in permitted facilities adequately maintaining the requirements set out in section 2.08.003 of this article, the officer may prescribe corrections for compliance. Such corrections shall be made in a reasonable time by the permit holder followed by a reinspection for compliance. Any permitted facility refusing corrections or failing after reinspection shall be temporarily suspended, pending a hearing to consider revocation of permit. Such a hearing shall be conducted by the chief of police within 10 days of the suspension. Proper notice of such a hearing shall be sent, in person or via certified mail (return receipt requested), to the permit holder. The formal rules of evidence do not apply to such hearings and the chief shall make decisions based on a preponderance of evidence presented. The chief may order an inspection/reinspection by a different officer, [or] make a personal inspection/reinspection of the permitted premises in addition to other evidence that may be heard. The chief's decision will be rendered within 10 days of the hearing and the chief may:	(c) Inspections; correction of conditions. [If] The animal services officer, as a part of random inspections of permitted facilities or upon complaint of noncompliance, finds inconsistencies in permitted facilities adequately maintaining the requirements set out in section 2.08.003 of this article, the officer may prescribe corrections for compliance. Such corrections shall be made in a reasonable time by the permit holder followed by a reinspection for compliance. Any permitted facility refusing corrections or failing after reinspection shall be temporarily suspended, pending a hearing to consider revocation of permit. Such a hearing shall be conducted by the chief of police within 10 days of the suspension. Proper notice of such a hearing shall be sent, in person or via certified mail (return receipt requested), to the permit holder. The formal rules of evidence do not apply to such hearings and the chief shall make decisions based on a preponderance of evidence presented. The chief may order an inspection/reinspection by a different officer, [or] make a personal inspection/reinspection of the permitted premises in addition to other evidence that may be heard. The chief's decision will be rendered within 10 days of the hearing and the chief may:	Name change of division to reflect modified mission.
2.08.002	(1) Uphold the suspension and formally revoke the permit; or	(1) Uphold the suspension and formally revoke the permit; or	No change recommended
2.08.002	(2) Vacate the suspension and reinstate the permit to valid status.	(2) Vacate the suspension and reinstate the permit to valid status.	No change recommended

Section	Current Ordinance	Recommended ordinance revision	Reason
2.08.002	A default judgment may be entered if the permit holder fails to appear for the hearing after receiving proper notice. A permit holder subject to permit revocation may appeal the chief's ruling to the city manager, in writing, within 5 days of the ruling being delivered. The city manager may elect to hear the appeal by review or a de novo informal preponderance of evidence hearing. The city manager's decision is final.	A default judgment may be entered if the permit holder fails to appear for the hearing after receiving proper notice. A permit holder subject to permit revocation may appeal the chief's ruling to the city manager, in writing, within 5 days of the ruling being delivered. The city manager may elect to hear the appeal by review or a de novo informal preponderance of evidence hearing. The city manager's decision is final.	No change recommended
2.08.003	Sec. 2.08.003 Facility requirements	Sec. 2.08.003 Facility requirements	No change recommended
2.08.003	Upon inspection of the premises by the animal control officer, the permit shall be issued if the following conditions are met:	Upon inspection of the premises by the animal services officer, the permit shall be issued if the following conditions are met:	Changed name to animal services
2.08.003	(1) The facility must be adequate for the number and type of animals to be kept:	(1) The facility must be adequate for the number and type of animals to be kept:	No change recommended
2.08.003	(A) The facility must be of sufficient size as to allow animals to move about freely. This shall apply to each animal kept. The size of facility shall be in proportion to the size of the individual animal's height and weight.	(A) The facility must be of sufficient size as to allow animals to move about freely. This shall apply to each animal kept. The size of facility shall be in proportion to the size of the individual animal's height and weight.	No change recommended
2.08.003	(B) Adequate food and water must be provided so that each and all animals kept shall be maintained in good health and free of malnutrition and/or dehydration.	(B) Adequate food and water must be provided so that each and all animals kept shall be maintained in good health and free of malnutrition and/or dehydration.	No change recommended
2.08.003	(C) The premises shall be kept in a sanitary condition and reasonably free of animal waste, parasites, insects and flies that could be harmful to the animal's health and/or to the health of the general public.	(C) The premises shall be kept in a sanitary condition and reasonably free of animal waste, parasites, insects and flies that could be harmful to the animal's health and/or to the health of the general public.	No change recommended

Section	Current Ordinance	Recommended ordinance revision	Reason
2.08.003	(2) The animals and the facility must be kept free of odor or stench which is offensive to a person of ordinary sensibilities.	(2) The animals and the facility must be kept free of odor or stench which is offensive to a person of ordinary sensibilities.	No change recommended
2.08.003	(3) The animals must be maintained in a manner which does not pose a danger to the health of the animals themselves or to adjacent animals.	(3) The animals must be maintained in a manner which does not pose a danger to the health of the animals themselves or to adjacent animals.	No change recommended
2.08.003	(4) The animals must not cause noise which is offensive or disturbing to a person of ordinary sensibilities on adjoining, adjacent or neighboring premises.	(4) The animals must not cause noise which is offensive or disturbing to a person of ordinary sensibilities on adjoining, adjacent or neighboring premises.	No change recommended
2.08.003	(5) The applicant or holder of the permit shall not have been issued citations for violation of this article on two separate occasions, or animals covered by or to be covered by the permit have not been impounded on two separate occasions.	(5) The applicant or holder of the permit shall not have been issued citations for violation of this article on two separate occasions, or animals covered by or to be covered by the permit have not been impounded on two separate occasions.	No change recommended
2.08.003	(6) The chief of police shall adopt standard operational procedures for the animal control division consistent with this article in providing guidelines and standards for the inspection of such facilities for permitting and for the periodic monitoring of such facilities. Such permitted facilities may be randomly inspected for compliance with the basic requirements stated herein at any reasonable time for a multiple animal owner permitted residence or during regular business hours for a commercial animal enterprise permitted facility. Refusal to allow such inspections shall be grounds for permit revocation.	(6) The chief of police shall adopt standard operational procedures for the animal services unit consistent with this article in providing guidelines and standards for the inspection of such facilities for permitting and for the periodic monitoring of such facilities. Such permitted facilities may be randomly inspected for compliance with the basic requirements stated herein at any reasonable time for a commercial animal enterprise permitted facility. Refusal to allow such inspections shall be grounds for permit revocation.	Name change of division to reflect modified mission.
2.08.004	Sec. 2.08.004 Revocation of permit	Sec. 2.08.004 Revocation of permit	

Section	Current Ordinance	Recommended ordinance revision	Reason
2.08.004	Any commercial animal enterprise or multi-pet owner permit may be revoked if the owner's facility is found to be in violation of this article, any zoning law, health law or any other applicable ordinance of the city or of the state, or the facility is maintained in such a manner as to be detrimental to the health, safety or peace of mind of persons residing in the immediate vicinity. (2003 Code, sec. 2.704)	Any commercial animal enterprise permit may be revoked if the owner's facility is found to be in violation of this article, any zoning law, health law or any other applicable ordinance of the city or of the state, or the facility is maintained in such a manner as to be detrimental to the health, safety or peace of mind of persons residing in the immediate vicinity.	removed multi animal, seperated multi animal/ commercial animal permit
		Sec. 2.08.005 Multi-pet Owner	
2.08.005	(a) [2.08.001] ... No person shall maintain, harbor or care for more than five animals of any species without having obtained a multi-animal owner permit, excluding fish.	(a) No household shall maintain, harbor or care for more than five total dogs and cats.	Simplify process
2.08.005	(b) All such permits shall be considered commercial except multi-animal owner. Multi-animal owner permits shall be considered as relative only to private multiple animal ownership, with no relationship to any commercial animal enterprise. Multiple animal ownership permits shall not be required for residences with common household pets having litters which remain at such residences for a period of time not exceeding three months.	(b) Exceptions; a household may have seven total dogs and cats if all are registered with the city, spayed or neutered and kept in separate kennels. A household assisting in fostering animals for the Williamson County Regional Shelter or similar problem may have more animals if the household has a letter on official letterhead or other official documention from the shelter stating that they are fostering animals. If it is on an ongoing basis, the approximately number of animals at any given time they would foster; if it is on an individual basis, the approprixmate time and number of animals fostered. Such a household should produce this to animal services upon request.	New exception to allow those household meeting best practices to have 2 more animals.

Section	Current Ordinance	Recommended ordinance revision	Reason
2.08.005	(c) It is an affirmative defense to prosecution for multi-animal permit requirements of this section if it is shown that the animals being harbored are a part of a feral cat colony as defined herein.		Colonies are not maintained - ferral cats cared for by individual people

Section	Current Ordinance				State law reference	Recommended language	Reason
	Sec. A2.001 General provisions					**Sec. A2.001 General provisions**	
	There are hereby fixed and assessed the following fees to defray the cost of managing an animal control program and for the protection of the public health, against the owner or keeper of every animal kept in the city; at such time that fee adjustments may be required to maintain a neutral "at cost" relationship, fees may be amended by resolution of the city council. (2003 Code, app. A, art. 2.000)					There are hereby fixed and assessed the following fees to defray the cost of managing an animal control program and for the protection of the public health, against the owner or keeper of every animal kept in the city; at such time that fee adjustments may be required to maintain a neutral "at cost" relationship, fees may be amended by resolution of the city council. (2003 Code, app. A, art. 2.000)	no change recommended
	Sec. A2.002 Standard licensing fee					**Sec. A2.002 Standard licensing fee - only when tag issued**	
	(a) Unneutered dog or cat, per annum fee: $5.00.					(a) Dog or cat, per annum fee: $15.00.	New fee structure recommended
	(b) Neutered dog or cat, per annum fee: $3.00.					(b) Dangerous dogs, per annum fee: $50.00.	recommend removal
	(c) Other animals, per annum fee: $3.00.						recommend removal
	(2003 Code, app. A, art. 2.000(1))						
	Sec. A2.003 Permits					**Sec. A2.003 Permits**	
	A permit shall be issued after payment of the applicable fee:					A permit shall be issued after payment of the applicable fee:	no change recommended
	(1) Circus/zoo: $500.00.					(1) Circus/zoo: $500.00.	no change recommended
	(2) Commercial animal enterprise: $100.00.					(2) Commercial animal enterprise: $100.00.	no change recommended
	(3) Multiple animal owner: $5.00.						recommend removal
	(4) Renewal, per annum fee:					(4) Renewal, per annum fee $50.00.	
	(A) All except multiple animal owner: $50.00.						recommend removal
	(B) Multiple animal owner: $5.00.						recommend removal
	(2003 Code, app. A, art. 2.000(2))						
	Sec. A2.004 Impoundment fee						recommend removal - set by shelter
	(a) An impoundment fee must be paid for each animal captured:	1st Time	2nd Time	3rd Time			recommend removal - set by shelter
	Unneutered dog or cat	$15.00	$25.00	$50.00			recommend removal - set by shelter
	Neutered dog or cat	$15.00	$25.00	$50.00			recommend removal - set by shelter
	Fowl or other small animal	$15.00	$25.00	$50.00			recommend removal - set by shelter

	Livestock	$50.00	$200.00	$350.00			recommend removal - set by shelter
	Zoological and/or circus animal	$100.00	$200.00	$500.00			recommend removal - set by shelter
	(b) More than four violations by any pet or combination thereof owned by the same person in three years or less shall be $500.00 for each impoundment thereafter.						recommend removal - set by shelter
	(2003 Code, app. A, art. 2.000(3))						recommend removal - set by shelter
	Sec. A2.005 Boarding and quarantine fees						recommend removal - set by shelter
	In addition to the impoundment fee, a boarding fee must be paid for each animal confined by the animal shelter. Such fees will be charged for daily costs of boarding, excluding the first day of impoundment. Owners must pay daily boarding fees, the amount established by policy, for the housing and care of the animals before their animals are released to them. Quarantine fees covering the 10-day boarding and observation period shall also be set by policy and paid before release of the animal. No initial impound fee shall be added to quarantine fees. In addition to impound fee(s), the boarding of estrays shall include the first day of boarding and such daily fee shall be set by policy if the estray is held by the animal control authority, or if held by a third-person contracting party fees shall be set in the contract between the city and that party at the current fair and reasonable rate. (2003 Code, app. A, art. 2.000(4))						recommend removal - set by shelter
	Sec. A2.006 Expenses of animal while in custody						recommend removal - set by shelter
	In addition to other fees, the owner shall also pay for any veterinarian or drug fees incurred for the animal(s) while in the custody of the animal control officer or animal shelter. (2003 Code, app. A, art. 2.000(5))						recommend removal - set by shelter
	Sec. A2.007 Owner/harbored animal surrender fees						recommend removal - set by shelter
	(a) Cats: $25.00.						recommend removal - set by shelter
	(b) Dogs: $25.00.						recommend removal - set by shelter
	(c) Litters - dogs or cats: $45.00.						recommend removal - set by shelter
	(d) Other small animals: $10.00.						recommend removal - set by shelter
	(e) Large animals: N/A.						recommend removal - set by shelter

	(2003 Code, app. A, art. 2.000(6))						
	ec. A2.008 Dismissal of offense upon proof of vaccination					**ec. A2.008 Dismissal of offense upon proof of vaccination**	
	The failure of a dog or cat to wear a vaccination tag on a collar shall be prima facie evidence of the failure to vaccinate the animal as required by chapter 3 of the Code of Ordinances. To prove that a dog or cat was vaccinated at the time of the offense, the owner of the dog or cat must present a copy of the vaccination certificate issued by the veterinarian that shows the date the vaccination was administered. The offense shall be dismissed upon verification that the animal alleged in the offense was vaccinated on the date of the offense with the payment of a $20.00 administrative fee. (2003 Code, app. A, art. 2.000(7))					The failure of a dog or cat to wear a vaccination tag on a collar shall be prima facie evidence of the failure to vaccinate the animal as required by chapter 3 of the Code of Ordinances. To prove that a dog or cat was vaccinated at the time of the offense, the owner of the dog or cat must present a copy of the vaccination certificate issued by the veterinarian that shows the date the vaccination was administered. The offense shall be dismissed upon verification that the animal alleged in the offense was vaccinated on the date of the offense with the payment of a $20.00 administrative fee. (2003 Code, app. A, art. 2.000(7))	No change recommended

Exhibit A

Sec. 2.01.001 Definitions

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

Abuse. To mistreat through intent to abuse or reckless neglect of any animal in a manner that causes or is likely to cause stress or physical injury or as otherwise stated in this chapter.

Animal. Any living creature, both domestic and wild, except humans. The term "animal' includes fowl, livestock, and reptiles.

Animal services division, animal services authority, or animal services officer. The animal services division of the city's police department, its animal services officers and/or peace officers.

Animal Shelter. A facility that may be temporarily contracted or designated by the chief of police for animal impoundment under the provisions of this chapter.

Animal welfare group. An association or nonprofit corporation who has as one of its purposes the providing for the welfare and/or protection of animals of any kind.

Authority. The local rabies control authority as defined in this section.

Brand. A mark made on the skin of any animal which indicates the ownership of the animal, typically used with livestock.

Cat. The male and the female of any domesticated or feral member of the feline species of animals.

Chief of police. The chief of police or the chief of police's designee responsible for the administration of this act.

Circus. A commercial variety show featuring animal acts for the public at a fee or a part of a charity.

Commercial animal enterprise. Shall include but not be limited to enterprises such as kennels, pet shops, riding stables, animal auctions, performing animal exhibitions, animal training services, grooming shops, petting zoos, aviaries or any similar entrepreneurial relationship regarding animals.

Confinement period: as defined in Texas Administrative Code, Title 25, section 169.30.

Cruelly treated. Includes tortured, seriously overworked, unreasonably abandoned, unreasonably deprived of necessary food, care, or shelter, cruelly confined, or caused to fight with another animal.

Dangerous wild animal. Shall have the same meaning as defined in chapter 822, Texas Health and Safety Code, subchapter E.

Distance between structures. Where a minimum setback or distance between any enclosure for an animal from a residence is required, shall mean the most direct line distance between the two structures, unless otherwise provided.

Dog. The male and the female of any domesticated member of the canine species of animal.

Domestic animal. Any non-livestock animal as defined in the Penal Code.

Estray. Has the same meaning as defined in chapter 142, Texas Agriculture Code, defining estray as stray livestock, stray exotic livestock, and stray exotic fowl.

Exotic species. Any animal or reptile, fish, or bird, born or whose natural habitat is considered to be outside the continental United States, including nonvenomous reptiles and fish.

Fish. Any of the cold-blooded animals that extract oxygen from water through the use of gills.

Fowl. Includes all birds, e.g., chickens, turkeys, pheasants, quail, guineas, geese, ducks, peafowl and other domestic feathered creatures and nondomestic feathered creatures, regardless of age or sex.

Governmental entity. An agency or political subdivision of the state or an agency or department of the federal government.

Habitual offender. An owner who has received two or more final convictions of this chapter or the owner of an animal who has been the subject of impoundment in the animal shelter three or more times during a 12-month period or any combination of convictions and impoundment totaling three incidents.

Harbor. To possess while in the act of keeping and caring for an animal, or of providing a premises to which the animal returns for food, shelter or care for a period of three days or longer.

Household: home, residence, apartment or dwelling including yard around where animals could be kept

Kennel Facility. An establishment designed or used for the selling, breeding, or overnight boarding of animals where more than three dogs and two cats or three cats and two dogs or a combination of five other animals are to be boarded, sold, or bred.

Kennel. Enclosure that provides sufficient space to allow each animal to make normal postural adjustments without touching the top of the enclosure, including turning freely, standing easily, sitting, stretching, moving its head, lying in a comfortable position with limbs extended, and moving and assuming a comfortable posture for feeding, drinking, urinating, and defecating

Livestock. Includes, regardless of age, sex or breed, horses and all equine species, including mules, donkeys and jackasses; cows and all bovine species; sheep and all ovine species; llamas; goats and all caprine species; and pigs and all swine species.

Local rabies control authority. The animal services supervisor or designee

Microchip. A device designed to store data or information relating to animals and is carried subcutaneously by that animal and such data or information is collectable by electronic means.

Multi-pet owner. A person who keeps or harbors five or more cats or dogs, including feral cats, or dogs or any combination of five cats and dogs. Puppies and kittens under four months of age shall not be counted for purposes of this definition.

Neutered. Any animal, male or female, rendered incapable of breeding or being bred, i.e., castration in the male and spaying or ovariectomy in the female.

Owner. Any person or persons, association, or entity, including any member of owner's immediate family, employee, or agent, having the right of property, care, custody, or control of an animal, who possesses, harbors, or maintains an animal, or who knowingly permits an animal to remain on or about any premises occupied by such person or persons, firm, association, or corporation for a period of three (3) days or more.

Performing animal. Any spectacle, display, act or event in which animals perform.

Person. An individual human, partnership, copartnership, firm, company, limited liability partnership or other partnership or other such company, joint venture, joint stock company, trust, estate, governmental entity, association or corporation or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine; the singular shall include the plural where indicated by the context.

Poison. A substance having an inherent harmful property which renders it, when taken into the system, capable of destroying animal life.

Policy or policies. The policies and procedures adopted consistent with this chapter and applicable to the animal services division of the city's police department.

Premises. A definite portion of a legal lot of real estate or land, together with any appurtenances or buildings.

Prohibited animal. Any animal prohibited by state or federal law and including any individual species and/or subspecies of the following animals: antelope, lions, tigers, ocelots, bobcats, lynx,

cougars, leopards, cheetahs, jaguars, hyenas, bears, lesser pandas, ferrets born in natural habitats, binturong, ostriches, emus, elephants, apes or such other nondomestic species of animal not common to this area.

Proper enclosure. A house or a building, or, in the case of a fence or structure/pen, the fence or structure/pen must be at least four feet in height. The structure/pen must also have minimum dimensions of five feet by ten feet. The fence or structure/pen must form an enclosure suitable to prevent entry of young children and must be locked and secured such that an animal cannot climb, dig, jump or otherwise escape of its own volition. The enclosure shall be securely locked at all times and have secured sides to prevent a dangerous animal or registered dangerous dog from escaping from the enclosure. The structure/pen shall provide protection from the elements for the animal. The animal services officer may require a fence higher than four feet or require a secure top and/or a secure bottom to the structure/pen if the need is demonstrated. Invisible fences or similar technology shall not constitute "proper enclosure."

Quarantine. As defined in HSC 826.002.

Quarantine period. Time as described in Texas Administrative Code, Title 25, Rule 169.27.

Rabies vaccination. Means currently vaccinated. Vaccinated and satisfying all the following criteria. (A) The animal must have been vaccinated against rabies with a vaccine licensed by the United States Department of Agriculture (USDA) for that species at or after the minimum age requirement and using the recommended route of administration for the vaccine. (B) At least 30 days have elapsed since the initial vaccination. (C) The time elapsed since the most recent vaccination has not exceeded the recommended interval for booster vaccination as established by the manufacturer.

Registered dangerous dog. Any dog registered with the city in compliance with chapter 822, Texas Health and Safety Code, 822.043, and with the sections of this chapter addressing dangerous dogs.

Residence. Any place of human habitation at any time, day or night, including, but not limited to, any single- or multi-family dwelling, church, school, convalescent center or nursing home.

Restrained. Any animal secured by a leash, rope or chain of some sort or confined through fencing or otherwise enclosed within the property limits of its owner, meaning there must be a physical barrier. Substitution of an electronic device is not permitted.

Running at large (non-livestock at large).

(A) Any dog, which is not restrained by means of a leash, chain, other physical apparatus of sufficient strength and length to control the actions of such animal while off- premises.

(B) Any cat which is creating a nuisance off the owner's property.

At large means that either livestock and non-livestock is:

(1) On the premises of the owner and is not tied, staked, or restrained securely within an enclosure or fence capable of fully and totally securing the animal; or

(2) Off the premises of the owner, and is not on a leash under the immediate control of a person physically capable of restraining the animal or is not restrained securely within an enclosure or fence capable of fully and totally securing the animal.

(3) Exception, any animal within a vehicle in a manner that would prevent that animal's escape or contact with other persons or animals shall not be deemed "at large."

"Serious bodily injury" means an injury characterized by severe bite wounds or severe ripping and tearing of muscle that would cause a reasonably prudent person to seek treatment from a medical professional and would require hospitalization without regard to whether the person actually sought medical treatment. Per HSC 822.

Stray animal (including estray). Any animal, of which there is no identifiable owner or harborer, which is found to be at large within the corporate limits of the city.

Tag. A vaccination tag attached to a collar as required by this chapter, or some other permanent identifying device attached to a collar or to an animal.

Tattoo. A permanent mark which is made on the skin of an animal by puncturing the skin and inserting indelible color, and which is used to show ownership.

Veterinarian. Any person duly licensed to practice veterinary medicine by the state board of veterinary examiners, or who is exempt from such licensing.

Wild animal or wildlife. Any nondomestic creature (mammal, amphibian, reptile or fowl) which is of a species which is wild by nature, which can normally be found in a wild state, and which is not naturally tame or gentle, or which, because of its size, vicious nature and other characteristics, constitutes a danger to human life or property, including all animals identified herein as prohibited.

Zoological park or zoo. Any facility, other than a pet shop or kennel, displaying or exhibiting one or more species of animals, operated by a person or under the auspices of a governmental entity.

Sec. 2.01.002 Purpose

It is the intent and purpose of this chapter to provide a safe and healthy environment within the city for both animals and people. While a person may own and keep animals within the city, the conduct of those animals and the conditions that the animals are kept in should be safe and healthy and should not infringe on the surrounding homes and their inhabitants.

Sec. 2.01.003 Enforcement

(a) Enforcement officers. The provisions of this chapter may be enforced by animal services officers, police officers, and such other persons as are designated by the city. Nothing herein is intended to or shall preempt any statutory duty or authority of any federal, state, or local entity or official charged with animal control, estray control or impoundment, or other animal-related matters.

(b) Interference with enforcement. It shall be unlawful for any person to interfere with, obstruct, resist or oppose any animal services officer or other person authorized to enforce the provisions of this chapter while such person is apprehending an animal or performing any other duties or investigation. It shall be unlawful to take or attempt to take any animal from any animal services officer or from any vehicle used by the officer to transport any animal or to take or attempt to take any animal from the animal shelter or other kennel or confinement area used to impound an animal.

(c) Citations and warnings. In all instances of a violation of any provision of this chapter, whether the animal is impounded or not, the owner or keeper of such animal may be cited by an officer who has the authority to enforce this chapter for any violation of this chapter. The animal services division may also by policy establish a conditional written warning procedure relating to registrations, displaying of tags, and general “at large” violations. The receipt of such written warnings does not preclude the animal services division from citing the recipient if the conditions of the written warning are not met in a timely fashion.

(d) In the enforcement of this chapter, any person authorized to enforce the provisions of this chapter shall have the authority to immediately tranquilize, capture, restrain, and/or destroy any animal to protect themselves, a third person, or another animal from attack or threat of imminent injury, to prevent an animal from enduring further unreasonable pain or suffering as a result of disease or injury, or when the animal services officer deems such animal a threat to the public health, safety, or welfare. Any person authorized to enforce the provisions of this chapter shall have the right to pursue onto private property and apprehend an at-large animal considered a nuisance without first requesting permission from the owner of the private property or without obtaining a search warrant.

(e) Culpability. Unless specifically provided in this chapter, an offense under this chapter shall not require a culpable mental state. It is the intent of this section to impose strict liability for violation of the requirements of this chapter.

(f) Administrative policies and operational procedures. To aid in the administration of this chapter, the animal services division shall, by policy-making authority of the chief of police, adopt administrative policies and operational procedures consistent with the purpose and intent of this chapter.

(g) Investigation of feral cats. Animal services officers, or police officers as deemed necessary, may investigate complaints, nuisance allegations, or unsanitary conditions and/or perform general inspections regarding the treatment of animals where feral cat are being kept in excess the multi-animal level allowed by this ordinance.

(h) Duties of feral cat organizations. It shall be the policy of the city that feral cat organizations intending to release feral cats within the city furnish in writing to the animal services unit of the police department the number of feral cats released after processing. Likewise, organizations shall immediately report to the animal services unit any evidence of communicable disease outbreak that may affect the non-feral cat or other animal populations within the city.

Sec. 2.01.004 Powers and duties of citizens

Any person who finds an animal which he does not own on property that he owns or exercises control over or on public property may take control of said animal if it is running at large (as provided in section 2.03.002) and may deliver the animal to an animal services officer, the animal shelter, or an animal emergency medical facility. If the animal is not delivered to an animal services officer, the animal shelter, or an animal emergency medical facility, the person must report that he had taken control of the animal to an animal services officer or the animal shelter within seventy-two (72) hours. If animal is wearing a tag of any kind or has a tattoo, brand, or other identifying mark, that information shall be included in the report to the animal services officer or animal shelter.

Sec. 2.01.005 Penalties; false reports or statements

(a) 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 five hundred dollars ($500.00). A person who is deemed guilty of violating section 2.05.002(d) of this chapter shall be liable for a fine no less than two hundred dollars ($200.00) or more than five hundred dollars ($500.00). A person who is deemed guilty of violating section 2.05.003(e) of this chapter shall be liable for a fine no less than one hundred dollars ($100.00) or more than five hundred dollars ($500.00). Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein.

(b) A person commits an offense if, with intent to deceive, he knowingly makes a false report or statement, either verbal or written, that is material to an investigation of an alleged violation of this chapter to an animal services officer or other person authorized to enforce the provisions of this chapter.

(c) A person commits an offense if he reports to a person authorized to enforce the provisions of this chapter an offense or incident within that person's concern knowing that the offense or incident did not occur.

Sec. 2.01.006 Prima facie evidence of responsibility for violation

In any prosecution charging a violation of this chapter governing the abuse, neglect or ownership of an animal or failure to license an animal as herein required, proof that the particular property described in the complaint was the premises upon which the animal resided, was harbored or maintained and a violation of any section of this chapter occurred involving said animal, together with proof that the defendant named in the complaint was, at the time of such complaint or at the time when the animal was in violation of this chapter, the registered owner of such animal or the person with legal rights to reside on said property, shall constitute in evidence a prima facie presumption that the registered owner of such animal or the person with legal rights to reside on said property was the owner of the animal and the person who failed to comply with this chapter.

Sec. 2.01.007 Abatement of nuisances or other prohibited conditions, Enforcement; penalty

(a) Primary enforcement of the provisions of this chapter are vested in the animal services officers; however, these provisions may also be enforced by peace officers, code enforcement officers, and such other persons as are designated by the city. Any and all references to animal services and/or animal services officer herein shall contemplate and include each of the aforementioned individuals.

(b) Unless otherwise stated herein, the provisions of this chapter are enforceable against an owner and/or their animal as set forth herein. Owner(s) of animal(s) alleged to be in violation of this chapter are responsible for such violations and subject to the penalty provisions of this chapter and this code, as amended.

(c) It shall be unlawful for any person to interfere with, obstruct, resist or oppose any enforcement of the provisions of this chapter by an animal services officer.

(d) In the enforcement of this chapter, any person authorized to enforce the provisions of this chapter shall have the authority to immediately tranquilize, capture, restrain, and/or destroy any animal to protect themselves, a third person, or another animal from attack or threat of imminent injury, to prevent an animal from enduring further unreasonable pain or suffering as a result of disease or injury, or when the animal services officer deems such animal a threat to the public health, safety, or welfare.

(e) Any person authorized to enforce the provisions of this chapter shall have the right to pursue onto private property and apprehend an at-large animal considered a nuisance without

first requesting permission from the owner of the private property or without obtaining a search warrant.

(f) Unless otherwise provided by state law, any violation of this chapter may be charged as a class C misdemeanor; and upon conviction, an owner shall be fined as provided for in the general penalty provision in section 1.01.009 of this code, as amended. For those violations that are of a continuous nature, a separate offense shall be deemed committed upon each day during or on which a violation occurs or continues and such fine may be levied for each day that a violation exists.

(g) If an owner has been previously convicted of an offense under this chapter and the owner is subsequently convicted of an offense under the same provision of this chapter, the owner may be subject to an enhanced fine as set by the municipal court.

Sec. 2.01.008 Compliance with other ordinances

The keeping of any animal in accordance with the provisions of this chapter shall not be construed to authorize the keeping of the same in violation of the zoning ordinance or any other ordinance of the city.

Sec. 2.01.009 Fees

The fee schedule as provided for in appendix A of this code shall apply to all animals within the city limits. It shall not be construed that the city be required to bear the costs of any animal that has an owner. The owner shall reimburse the city for any actual expenses and shall be responsible for all fees set forth in appendix A of this code. The city may recover all fees, costs and damages incurred as a result of the animal as restitution in a criminal proceeding under the provisions of this chapter or the state statutes in addition to a fine being charged. In extraordinary circumstances, certain fees related to redemption of impounded animals may be administratively waived for owners with supervisory approval, or pay agreements reached between owners and the animal services supervisor(s). Such administrative actions shall be guided by animal service's adopted policies and procedures.

Sec. 2.01.010 Animals held on complaint

If a complaint has been filed in municipal court of the city against the owner of an impounded animal for a violation of this article, the animal may be held on the order of the municipal judge, who may also direct the owner to pay any penalties for violation of this article in addition to all impoundment fees. Surrender of an animal by the owner thereof to the animal services officer

does not relieve or render the owner immune from the decision of the court nor from the fees and fines which may result from a violation of this article.

Sec. 2.01.011 Removing animal from confinement; interference with impoundment

(a) It shall be unlawful for any person to remove or allow to escape from any place of confinement, any dog or cat which has been confined or ordered to be confined by the city, without the consent of the animal services division.

(b) It shall be unlawful for any person to knowingly or intentionally enter upon the property of another person for which the person is not given specific permission to enter for the purpose of releasing a confined, chained or tethered animal.

(c) It shall be unlawful for any person to interfere or attempt to interfere with the animal services officer or to interfere or attempt to interfere with any person acting for the city in the taking up and impounding of animals in the city.

Sec. 2.01.012 Tampering with traps or equipment set out by animal services officer

No person shall remove, alter, damage or otherwise tamper with a trap or equipment belonging to or set out by the animal services officer.

ARTICLE 2.02 ANIMAL SHELTER ADVISORY COMMITTEE

Sec. 2.02.001 State law requirement for animal shelter advisory committee

At any future date if the city creates a city run animal shelter within the city limits, in compliance with chapter 823 of the Health and Safety Code an animal shelter advisory committee will be created in compliance to the law.

Sec. 2.03.001 Animal identification

(a) Required; exemptions. Except as provided herein, all animals within the city shall be marked by some type of identifying license, tag, band, tattoo or brand by which the animal's owner can be identified. Animals exempted from this requirement are mice, rats, rabbits, guineas, hamsters, gerbils, ferrets, fowl and snakes.

(b) Feral cats. It is an affirmative defense to prosecution for identification requirements herein for cats if it is shown that the cat is feral and properly ear tipped to indicate participation in a trap, neuter and release program, and its having been vaccinated against rabies in accordance with law. The city's animal services unit shall have access to vaccination certificates when deemed necessary by the unit.

Sec. 2.03.002 Running at large

(a) Responsible party. It shall be unlawful for any person who owns, keeps, harbors or otherwise has control over any animal within the city to allow or permit such animal to run or be at large within the city.

(b) Cats. The prohibition against an animal running at large shall not apply to a domestic cat which has been vaccinated as required by this chapter and which is wearing the required vaccination tags or feral cat that has been ear tipped by a feral cat organization. The prohibition shall apply to all other cats.

(c) Restraint required. An animal shall be considered to be at large if it is not under the control of its owner by either a leash, chain, cord or other suitable material attached to a collar or harness, or not restrained on the property of the owner by a leash, chain, cord or fence. An animal shall be considered not restrained if the property owner is utilizing solely an invisible fence or similar technology. An animal inside a vehicle parked in a public place or in the open bed of a moving or parked vehicle in a public place shall be considered to be at large unless it is restrained in such a manner that it cannot exit the vehicle of its own volition.

(d) Snakes. It shall be unlawful for any person to have a snake in any park or other public place unless it is within some type of cage, pen or enclosure.

(e) Impoundment, citation. The animal services officer for the city may impound any animal observed to be at large, whether the animal is on public or private property, subject to the applicable provisions of the law. If the animal services officer observes an animal on property which is owned by a person other than the owner of the animal, and observes the animal return to property of its owner, the animal services officer may impound the animal or issue a citation for the animal running at large. In the event the animal is on private property or property of the animal's owner, the animal services officer, his/her agent, or a peace officer may enter the property, other than a private dwelling, for the purpose of impoundment or issuance of a citation, or both, subject to the applicable provisions of this chapter and law.

(f) Prima facie evidence of responsibility for violation. Proof that an animal was found at large in violation of this section, together with proof that the defendant was the owner of such animal at the time, shall constitute prima facie evidence that the defendant allowed or permitted the animal to be at large.

State law references–Restraint, impoundment and disposition of dogs and cats, Health and Safety Code, sec. 826; estrays, Agriculture Code, Ch. 142.

Sec. 2.03.003 Confinement of unspayed female dogs and cats during estrus

(a) Secured enclosure required. Any unspayed female dog or cat in the state of estrus (heat) shall be confined during such period of time in a house, building or secure enclosure, and the area of enclosure shall be so constructed that no other dog or cat may gain access to the confined animals or to allow the enclosed animal to escape, except for controlled breeding permitted by the owner of the female.

(b) Chaining or tethering. Additionally, the female dog or cat shall not be chained or tethered, except in a secured enclosure, and if chained or tethered within a secured enclosure, the female dog or cat may not be chained or tethered in a manner that prevents her from defending herself or from avoiding a male.

(c) Removal order. Owners who do not comply shall be ordered to immediately remove the animal in heat to a veterinary hospital. Failure to comply with the removal order of the animal services officer shall be a violation of this chapter and the dog or cat will then be impounded as prescribed herein. All expenses incurred as a result of this confinement shall be paid by the owner.

Sec. 2.03.004 Animal defecation on public property or property of another

(a) Prohibited. It is unlawful for the owner or person in control of an animal to intentionally, knowingly, recklessly or with criminal negligence allow or permit such animal to defecate on any public property or improved private property other than that of the owner of the animal. That the animal was at large at the time it defecated on any property shall constitute prima facie evidence that the owner or person in control of the animal allowed or permitted the animal to so act.

(b) Exception. It is an exception to the application of this section that the owner or person in control of the animal immediately removed and cleaned up such animal's feces from public or private property.

Sec. 2.03.005 Keeping prohibited animal or wild animal

(a) No person shall possess, keep or have care, custody or control of a prohibited animal, wild animal or wildlife within the city except as provided herein.

(b) All persons shall be prohibited from selling, giving, transferring or importing into the city any wild animal.

(c) This section shall not apply to approved zoological parks or circuses. Nor shall this section apply to primary and secondary schools, colleges and universities, zoological parks owned or operated by a governmental entity or any animal assisting physically handicapped persons.

(d) It shall be a defense to prosecution under this section that the animal being kept was an infant or injured animal which was not capable of surviving on its own and that such animal was kept for three days or less, or for such reasonable time as was necessary before giving the animal to a licensed wildlife rehabilitator.

Sec. 2.03.006 Nuisance animals

(a) Any animal within the city that unreasonably disturbs, annoys, or alarms persons of ordinary sensibility, endangers the public health, safety, or welfare, or substantially interferes with the rights of citizens to quiet enjoyment of life or property, including but not limited to:

(1) Any animal that chases motor vehicles in a public right-of-way;

(2) Any animal, whether or not on the property of its owner and without reasonable provocation, that approaches and hisses, barks, or growls at a person in an angry, threatening, and ill-tempered manner and causes that person to have an immediate reasonable fear of bodily injury, that bites, snaps at, or attacks a person or otherwise interferes with the freedom of movement of persons in a public right-of-way, or that attacks and seriously injures or kills another animal that was properly confined, restrained, or under the physical control of its owner as required by this chapter;

(3) Any animal that is found at-large three (3) or more times; or any dog in a park or public recreation area, unless the dog is controlled by a leash or similar physical restraint or within a designated off-leash area within a city park facility, in compliance with posted rules at such city park facility and/or off-leash area;

(4) Any animal that damages any property other than that of its owner;

(5) Any animal that defecates on any common thoroughfare, street, sidewalk, passageway, road bypass, play area, park or any place where people congregate or walk upon any public property whatsoever, or upon any private property without the permission of the private property owner, if the owner of such an animal that soils, defiles, or defecates on any of the above areas fails to immediately remove the pet feces and droppings and place them in a designated waste receptacle or other suitable waste container;

(6) An animal that makes disturbing noises, including but not limited to, continued and repeated howling, barking, whining, meowing, crowing, or other utterances in an excessive, continuous or unreasonable fashion or at unreasonable hours, causing annoyance, disturbance, or discomfort to, or disrupting the quiet enjoyment of neighbors or others in close proximity to the premises where the animal is kept or harbored;

(7) Any animal that causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored, or that causes noxious or offensive odors which would be unreasonably annoying or discomforting to neighbors or others in close proximity to the premises where the animal is kept or harbored;

(8) Any female animal in heat (estrus) that is not confined so as to prevent attraction or contact with animals other than the owner's, unless for the purpose of planned breeding in compliance with all local, state, and federal laws;

(9) Any dog in violation of posted rules governing a city park facility and/or off-leash area;

(10) Any dangerous wild animal, as defined by section 822, Texas Health & Safety Code or

(11) Any animal that is a threat to public health safety or welfare by virtue of the number of animals. It shall be unlawful for an animal to be or create a public nuisance within the city.

(b) The owner of a public nuisance animal shall be culpable for any violations of this section.

(c) Complaints of public nuisance animals

(1) Whenever any person shall complain to the animal services officer of an alleged public nuisance animal, an animal services officer shall promptly investigate the complaint and notify the owner of the animal that a complaint has been received."

(2) If the animal services officer does not observe a violation of this article, then the animal services officer shall promptly provide to the complaining person a nuisance animal complaint form.

(3) If the animal services officer observes a violation of this article, or receives from the complaining person a signed and completed nuisance animal complaint form, then a citation shall be issued to the owner of the alleged public nuisance animal, and, if deemed by the animal services officer to be necessary in order to abate an imminent risk to public health, safety, or welfare, the animal services officer may impound the alleged public nuisance animal pursuant to sections regarding impoundment of this chapter without regard to whether the animal is at-large.

(d) Completion and submission of nuisance animal complaint form

(1) The nuisance animal complaint form is to be completed voluntarily, truthfully, and accurately by the complaining person, signed, and then submitted to the animal services officer, police department, or municipal court.

(2) By submitting a nuisance animal complaint form, the complaining person agrees to testify as the complaining witness if the matter should proceed to trial in municipal court."

(e) It shall be unlawful for the owner or harborer of an animal determined a nuisance under this section to permit continued or future nuisance behavior or condition(s). Nothing herein

precludes the city from seeking other remedies if owners fail to comply with the remedial requirements stated.

Sec. 2.03.007 Keeping bees

No person shall construct, place or maintain any beehive within 500 feet of any residence other than that of the owner except with the consent of the occupants of all such residences. A tract or parcel of land where the bees are kept or enclosed must be three acres or more in size.

Sec. 2.03.008 Pens or coops for animals other than livestock

(a) All chickens and rabbits shall be kept within a coop or hutch. A fenced yard shall not qualify as a pen or coop.

(i) If the animals kept are chickens they must be limited to no more than 10. A rooster is prohibited from a backyard coop on a property of less than 3 acres.

(b) Any person keeping or harboring any animal, other than livestock, shall locate any pen, coop, hutch or other housing at least 50 feet from any residence, excluding the residence of the person keeping or harboring the animals. Other ordinances covering nuisances shall still apply

Sec. 2.03.009 Staking or pasturing livestock on public land or property of another person

(a) It shall be unlawful for any person owning or having care, custody or control over any livestock, except the horses used by the city police department, to:

(1) Cause or permit any livestock to be pastured, herded, staked or tied in any street, lane, alley, park or other public place;

(2) Tie, stake or pasture or permit the tying, staking or pasturing of any animal upon any private property within the city without the consent of the owner or occupant of such property, or in such a way as to permit any livestock to trespass upon any street or other public place or upon any private property.

Sec. 2.03.010 Storage of feed

All feed provided for animals, other than hay, shall be kept in an enclosed building or container except when being used to feed an animal.

Sec. 2.03.011 Keeping livestock or fowl; keeping hogs prohibited

(a) Keeping hogs prohibited. The keeping of hogs is prohibited if lot size is not 3 acres or more.

(b) Keeping near city water supply well.

(1) It is unlawful and constitutes an offense for any person, whether for himself or as the agent or servant of another or others, to keep or to participate in keeping any horse, cattle, sheep, goat, other livestock and/or fowl in any pen or lot used to confine any such multiple animal operation within 500 feet of any water supply wells from which the city obtains its principal water supply as specified in the official Texas Administrative Code published under authority of the secretary of state, title 31, Natural Resources and Conservation [title 30, Environmental Quality], section 290.41(c)(1)(C), (D), (F).

(2) "Keeping" means the care and control of the livestock or fowl in question for a period of longer than five days.

(c) It shall be unlawful for any person to keep livestock within the corporate limits of the city unless the livestock is being kept in accordance with the following restrictions:

(1) The overall lot must be three or more acres in size and the livestock shall be kept on a parcel of land that is at least one acre in size.

(2) There shall be no more than one unit (as defined below) of livestock for the first acre of land. There shall be no more than one additional unit of livestock for each additional one-half acre of land in the same parcel. For the purpose of this section, units of livestock shall be defined as follows:

(i) The following types of livestock shall be counted as one head equals one unit: horse, stallion, mare, gelding, filly, colt, mule, hinny, jack, jenny, llama, and all species of cattle;

(ii) The following types of livestock shall be counted as one head equals one-half of a unit: all species of swine; and

(iii) The following types of livestock shall be counted as one head equals one-fifth of a unit: sheep, goat, and fowl.

(3) No livestock shall be permitted to graze, forage, or otherwise roam within 50 feet of any business or commercial establishment, dwelling, residence, or structure used for human occupancy (other than the livestock owner's dwelling or residence). Hogs or any type of swine

are further restricted to 200 feet of any business or commercial establishment, dwelling, residence, or structure used for human occupancy (other than the livestock owner's dwelling or residence). Roosters must be kept in a coop and are further restricted to 200 feet of any business or commercial establishment, dwelling, residence, or structure used for human occupancy (other than the livestock owner's dwelling or residence).

(4) Barns, stables, corrals, sheds, pens or other similar structure where livestock may be housed, fed, or confined, or where food for livestock is stored shall not be located within 200 feet of any residence, business or commercial establishment or office (other than the livestock owner's residence, business or commercial establishment or office), grocery store, school building, church, hospital, nursing home, or restaurant or other food service establishment.

(5) Livestock shall be enclosed with adequate fences or barriers that will prevent such livestock from damaging shrubbery or other property situated on adjacent property. Such fences or barriers shall be sufficient to prevent the livestock from escaping the enclosure.

(6) The owner keeping any livestock shall keep all yards, barns, pens, stables, sheds or other enclosures in which such animals are confined in such a manner so as not to give off odors offensive to persons of ordinary sensibilities in the immediate vicinity, or to breed or attract flies, mosquitoes or other noxious insects or rodents, or in any manner to endanger the public health, safety, or welfare, or to create a public nuisance. All yards, barns, pens, stables, sheds or other enclosures in which livestock is confined shall be of a size to allow said animals sufficient space to move freely and not endanger the health, safety, or welfare of the animal or animals.

(7) Subsections (1) through (4) of this section shall not apply to a licensed veterinarian at the veterinarian's place of business, a riding stable/school or academy, or a sanctioned 4-H or FFA livestock project.

(d) Exceptions to distance restrictions. The following properties are exempt from the distance restrictions and livestock prohibitions of this article. Any distance restrictions or livestock prohibitions set forth in other ordinances of the city shall continue to apply.

(1) Property zoned as Rural/Agricultural District (R/A-1) according to the zoning ordinance of the city; or

(2) Property properly zoned and used for veterinary hospitals, permitted kennels that are used solely for the care and boarding animals, or existing shipping pens utilized for temporary holding before shipment or sale of animals.

Sec. 2.03.012 Disposal of dead animals and fowl

In compliance with Texas Administrative Code, Title 4, Part2, Chapter 59; It is unlawful for any person in the city to cause to be placed or place or allow to remain in or near his premises or the

premises of any other person, or in any of the streets or other public roadways, any dead animal, either wild or domesticated, or any dead fowl, either wild or domesticated.

ARTICLE 2.04 ANIMAL PROTECTION*

Sec. 2.04.001 Animals in motor vehicles

(a) Leaving animal in standing or parking vehicle. It shall be unlawful for any person to leave any animal in any standing or parked vehicle in such a way as to intentionally, knowingly, recklessly, or with criminal negligence endanger the animal's health, safety or welfare. An animal services officer or police officer is authorized to use reasonable force to remove the animal from the vehicle whenever it appears that the animal's health, safety or welfare is or will be endangered if the owner of the vehicle cannot be located after reasonable attempts. The animal shall be taken to the animal shelter or to a veterinarian if the animal is in distress. A written notice bearing the name of the officer removing the animal, a telephone number where he can be contacted and the location where the animal may be claimed by the owner shall be attached to the vehicle. Any person violating this section shall bear the full cost and expense incurred by the city in the care, medical treatment, impoundment cost and disposal of the animal, including the removal from a vehicle, in addition to any criminal penalty that may be imposed under this section.

(b) Vehicle involved in accident or other incident. Instances where occupants of motor vehicles are involved in a traffic accident or other vehicle-related incidents which result in animals being left uncontrolled or unattended, animal services or police officers of the city are authorized to take welfare custody of such unattended animals. In the interest of the health, safety or welfare of such animals, officers are authorized to transport such animals to the regional shelter, a veterinarian, a humane shelter, or an animal emergency clinic. Information shall be provided to the animal's owner as to the animal's disposition. Animal owners shall bear the full cost and expense incurred by the city in the care, medical treatment, impoundment costs or other associated costs.

Sec. 2.04.002 Duties of person striking animal with motor vehicle

(a) Any person who, as the operator of a motor vehicle within the city, strikes any animal shall report the accident to the police department within a reasonable time if the animal stricken is on or near the roadway so that it constitutes a potential traffic hazard. It shall be an affirmative defense to any violation under this section that the incident occurred while the operator was responding to an emergency and that the incident was reported as soon as possible.

(b) Any person who, as the operator of a motor vehicle, strikes a domestic animal shall immediately report such injury or death to the animal's owner; in the event the owner cannot be

ascertained and located, such operator shall at once report the accident to the appropriate law enforcement agency or the local humane society.

Sec. 2.04.003 Unlawful restraint of Dog.

Restrictions on unlawful restraint found in HSC Sec. 821.

Sec. 2.04.004 Selling dyed animals

It shall be unlawful for any person to sell or offer for sale, raffle, offer or give as a prize, premium or an advertising device or cause to be displayed in any store, shop, carnival or other public place an animal or fowl of any kind that has been dyed or otherwise colored artificially.

Sec. 2.04.005 Giving animal as prize or inducement

(a) No person shall give away any live animal, reptile, fowl, livestock or wildlife as a prize for or as an inducement to enter any contest, game or other competition; or as an inducement to enter a place of amusement; or as an incentive to enter into any business agreement whereby the offer is for the purpose of attracting trade. This prohibition shall apply to carnivals, fairs and circuses.

(b) The prohibition contained in this section shall not apply to fish or to animals given as prizes at a rodeo contest or livestock show or as part of an FFA, 4-H or similar project.

Sec. 2.04.006 Trapping, hunting, shooting or killing animals

(a) Trapping restrictions and requirements. It shall be unlawful to set, trigger, activate or otherwise use, or cause to be set, triggered, activated or used, any steel-jawed leg-hold trap. Except for authorized licensed trappers, trapping of animals at high risk for rabies is prohibited. These animals include raccoon, fox, coyote and skunk. Traps classified as “live traps,” used by citizens for the capture of feral cats must be done in conjunction with animal services, a feral cat organization for spay/neuter and vaccination or an authorized humane shelter. Citizen's setting such traps are responsible for taking the animal in to the organization providing the feral cat service.

Consistent with the provisions herein, animal services is authorized to utilize humane “live traps” and may conduct trapping operations or provide or authorize such devices’ use to property

owners as may be needed throughout the city for rabies control and investigation. Citizens should not remove or tamper with any trap set by animal services for this purpose. This subsection is not intended to prohibit the prudent use of traps on one's own property to control rodents.

(b) Hunting or killing prohibited. It shall be unlawful for any person to hunt, shoot, intentionally injure or kill any wild bird, animal, mammal or reptile within the corporate limits of the city. It shall be unlawful for any person to hunt, shoot or kill, within the city, any domestic bird, animal, mammal, reptile or pet that is not owned by such person. Except this subsection shall not be construed or interpreted to prohibit the destruction of venomous snakes or to prohibit the police officers from utilizing certain firearms in emergency field conditions where such actions are provided for by law or policy.

(c) Shooting domestic animal. It shall be unlawful for any person to shoot a domestic animal within the corporate limits of the city. It shall be a defense to prosecution that the domestic animal shot was a vicious animal and presenting an immediate threat to personal or public safety. Except this subsection shall not be construed or interpreted to prohibit police officers from utilizing certain firearms in emergency field conditions where such actions are provided for by law or policy.

Sec. 2.04.007 Molesting animals

It shall be unlawful for any person to in any manner tease, annoy, disturb, molest or irritate an animal that is confined to the owner's premises.

Sec. 2.04.008 Pens, coops, hutches, and enclosures; requirements

(a) The owners of any animal shall maintain and keep all pens, coops, kennels, fenced areas and enclosures of any kind in a sanitary condition. This shall include the following:

(1) All animal wastes shall be disposed of promptly and all pens and enclosures shall be cleaned as needed to prevent odors and not draw insects or other vermin or create a nuisance.

(2) The premises upon which animals are kept shall be clean and free from noxious and unpleasant odors.

(3) Some standard spray or other chemicals shall be used at reasonable intervals to keep the premises free of flies, mosquitoes, ticks, fleas and other vectors.

(b) Cages, coops, hutches, pens or enclosures used to confine animals shall be of sufficient size and material to securely contain and maintain all of the animals within such pen, coop, hutch, or enclosure comfortably and in good health.

(c) Coops and hutches must be enclosed to prevent the animal or fowl from escaping.

Sec. 2.04.009 Negligent care

(a) It is unlawful for any person to fail, refuse or neglect to provide any animal in his charge or custody, as owner or otherwise, with proper food, water, shade, adequate shelter, veterinary care when needed to prevent suffering, grooming when lack thereof would adversely affect the health of the animal, and with humane care and treatment.

(b) To provide "adequate shelter" for a dog or cat kept outdoors, a person must provide a shelter accessible to the dog or cat meeting the following standards:

(1) The shelter must provide protection from the weather, i.e., sun, wind, precipitation (in whatever form), or other inclement weather conditions.

(2) If there are no artificial heat sources, the structure shall be small enough to allow the dog or cat to warm the interior of the structure and maintain its body heat, but large enough to permit normal postural adjustments, or standing.

(3) Plastic air shipping containers and/or pet carriers shall not be used as outdoor shelters.

(c) A written warning of violation requiring that the condition be corrected within a specified time period shall be issued to a person before any notice to appear at the municipal court may be issued or before a complaint may be filed with the municipal court.

Sec. 2.04.010 Animal in state of pain or suffering

(a) If any animal without a license tag or other identifying marker is found in a state of pain and suffering or becomes so during confinement, the animal services unit may dispose of the animal in any humane manner without complying with the three-day (72-hour) waiting period as set out herein.

(b) If the owner or keeper of an animal found in a state of pain or suffering refuses to assume responsibility to care for the animal, the animal services officer may dispose of the animal in a humane manner.

Sec. 2.04.011 Sale of animals in public place

(a) Not in lieu of or withstanding any permit requirements imposed herein, if an animal is offered for sale in a public place within the city, the person offering the animal for sale, the

owner of the animal, the manager of the property which is the public place on which the offer is being made, and the owner of the property which is the public place on which the offer is being made shall be responsible for ensuring that the animal protections of this article are complied with in regard to the animal offered for sale in a public place during the time the animal is in the public place.

(b) The term "public place" as used herein shall mean any place to which the public or a substantial group of the public has access. It shall include, but is not limited to, shops, stores and flea markets.

(c) If an animal offered for sale in a public place is kept within a cage or pen of any type, such cage or pen shall comply with the following requirements:

(1) The cage or pen must be large enough for the animal to stand on all of its legs and hold its head in a natural position and not be in a crouched position. The cage or pen must also have enough room for the animal to turn around or move without stepping on another animal, animal feces or food or water provided for the animal.

(2) The cage or pen must either have room for water and food or have water and food situated so that the animal has access to it through the cage.

(3) The cage or pen must be situated so that air may circulate through it, so that any animal kept within the cage or pen is not exposed to extreme heat. During cold or inclement weather, cages or pens should be situated so that animals contained therein may stay warm and stay dry.

Sec. 2.04.012 Using property for purpose of conducting animal fights;

Possession of fighting equipment with intent that the equipment be used to train a dog for dog fighting or in furtherance of dog fighting or intentionally or knowingly acting in violation of the State law reference, Dog fighting, Penal Code, sec. 42.10.

Sec. 2.04.013 Cruelly treated animals.

No person shall abandon, beat, cruelly treat, torment, torture, mentally abuse, overload, overwork, poison, trip, use as a lure, fail to unreasonably provide necessary food, water, care, or shelter, or otherwise abuse an animal or cause, instigate or permit any dogfight, cockfight, bullfight or other combat between animals or between animals and humans.

State law references–Cruelty to Livestock Animals, Penal Code, sec. 42.09; Cruelty to Non-Livestock, Penal Code, sec. 42.092; dog fighting, Penal Code, sec. 42.10.

Sec. 2.04.014 Slaughtering of animals

Animals may be slaughtered for human or animal consumption within the city, provided it is done at a location that is shielded from sensory perception of the general public, and provided it is done in a manner designed to cause the animal's death as quickly as possible without needless suffering.

Sec. 2.04.017 Health hazards or offensive odors

Any person who shall harbor or keep animals on his/her premises, or in or about premises under his/her control, and who allows such premises to become a hazard to the general health and welfare of the community, or who shall allow such premises to give off obnoxious or offensive odors due to the activity or presence of such animals, shall be guilty of a class C misdemeanor.

Sec. 2.05.001 Purpose and intent

Follow Health and Safety Code, chapter 822 regarding dangerous dogs.

Sec. 2.05.002 Dangerous dogs

(a) See sections Health and Safety code section 822.001 for definitions of animal control authority, serious bodily injury, dangerous dog and secure.

(b) See Health and Safety Code sections 822.002 regarding seizure of a dog causing death or serious bodily injury to a person.

(c) See Health and Safety Code sections 822.003 regarding a hearing

Sec. 2.05.003 Potentially dangerous animals

Any prohibitions against potentially dangerous animals are found in Health and Safety code section 822.

Sec. 2.05.005 Exhibitions of certain animals prohibited

Any prohibitions on exhibitions of certain animals are found in Health and Safety code section 822.

Sec. 2.05.006 Prohibited animals generally

Any prohibitions on possession of certain animals are found in Health and Safety code section 822.

Sec. 2.05.008 Permit and certificates of registration for circus and zoo operations

Regulation of circus and zoo operation will be compliance with Texas Administrative Code 169, subchapter B.

Sec. 2.05.009 Violations; civil penalty

Violations and handling of violations will be compliance with Texas Administrative Code 169, subchapter B.

Sec. 2.05.077 Registration; requirements for owner

In compliance with HSC 822, dangerous dog owners must comply with all requirements and the dangerous dog must be registered. The owner must register the dog with animal services and pay the fees as required by state law not later than 30 days after the owner is notified that the dog is dangerous. The registration shall not be transferable and shall expire one year from date of issuance. The animal services officer shall provide to the owner of the registered dangerous dog a tag, which must be placed on the dog's collar and worn at all times. The owner must also comply with the following to register the dog:

(a) Post a sign on his/her premises warning that there is a dangerous dog on the property. This sign shall be visible and capable of being read from the public street or highway. In addition, the owner shall conspicuously display a sign with a symbol warning, understandable by small children, of the presence of a dangerous dog; and the enclosure shall be locked with a key or combination type lock to ensure small children cannot enter the enclosure.

(b) Further identification may be required and designated by the order of the city.

(c) Prior to selling or moving the registered dangerous dog either inside or outside the city limits, the owner must notify the animal services officer of his/her intentions. In the event the

dog is moved permanently outside the city limits, the owner must comply with the state law in notifying the animal services unit in control of the area into which the dog has been moved.

(d) Dogs that have been previously declared dangerous by another city, county, state, or entity will not be allowed to reside within the city limits of Leander.

ARTICLE 2.06 IMPOUNDMENT*

Division 1. Generally

Sec. 2.06.001 Authorized; fees

(a) Animals owned or harbored in violation of this chapter or laws of the state or those safekeeping or humane situations provided in this chapter shall be taken into custody by an animal services officer or other designated official and may be impounded under this article.

(b) Owners of impounded pets are required to pay all fees related to the impoundment as set by the Williamson County Regional Animal Shelter.

Sec. 2.06.002 Tampering with animal shelter or impoundment vehicle

It shall be unlawful for any person in the city without proper authority to break into, open, pull down any enclosure belonging to or used by the city to impound or temporarily keep animals. It shall also be unlawful for any person to turn out or release, or cause to be turned out or released, or aid or abet the turning out or release of any animal from an impoundment vehicle or from any enclosure used by the city for the impoundment of animals.

Sec. 2.06.003 Redemption of impounded animal

(a) Generally. Except as may be provided elsewhere in this article, the owner of any animal impounded in accordance with this article may reclaim, during shelter hours open to the public, such animal upon showing satisfactory proof of ownership and paying all impoundment fees and any other expenses incurred by the city or its agent in keeping the animal or attempting to locate the owner of the animal. If the owner does not pay such fees, or some alternate fee satisfaction as provided for in section 2.01.009 of this chapter, the animal may be sold or otherwise disposed of by the city or its agent.

(b) Spaying or neutering of dogs and cats. If a dog or cat has been impounded at the regional shelter, a fee will be imposed per Williamson County Regional Shelter rules. The cost to spay or

neuter the dog or cat shall be paid by the owner, along with the impoundment fees, to the animal shelter.

Sec. 2.06.004 Disposition of impounded animals

(a) Dogs and cats with no identification. All dogs and cats impounded by the animal services officer, or brought to the animal shelter by a person other than the harborer or owner of that animal, shall be held for a minimum of 72 hours, during which time period the owner may present proof of ownership at the shelter. After paying all applicable fees, that owner may reclaim the dog/cat. In the event that the dog/cat is not claimed after 72 hours in the shelter, the dog/cat shall become the property of the shelter.

(b) Dogs and cats with identification. Unless earlier claimed by the owner, all dogs and cats impounded by the animal services officer, or brought to the animal shelter by a person other than the harborer or owner of that animal, that are wearing traceable identification, or where an owner is known, shall be held in the shelter for a minimum time period set by the Williamson County Regional Animal Shelter from the time the animal enters the facility, during which time the animal services officer will notify the owner, when known, of the impoundment. Unless the owner has notified the Williamson County Regional Animal Shelter in compliance with shelter policy of his/her intentions to claim the dog/cat after that date, listing a date by which time that owner will reclaim the dog/cat and satisfy all applicable fees, and this arrangement has been approved by the shelter staff, the animal shall become the shelter's property after the minimum amount of time.

(c) Animals surrendered by owner/harborer. All animals surrendered by the owner/harborer to the Williamson County Regional Animal Shelter in compliance with shelter policy and fees shall become the property of the shelter immediately upon completion of the owner/harborer surrender form.

(d) Animals other than dogs, cats, or estrays. All animals other than dogs, cats, or estrays that are impounded by the animal services officer, or brought to the animal shelter by a person other than the owner/harborer, shall become the property of the shelter unless such ownership is prohibited by state or federal law.

(e) Unclaimed animals. Any animal that cannot be adopted or transferred to a proper and appropriate agency shall be euthanized in compliance with Williamson County Regional Animal Shelter policy and administered in compliance with policy and the laws of the state after expiration of any period for the owner to claim the animal. All animals listed as endangered or protected shall be transferred to the proper authority at the earliest possible date.

Sec. 2.06.005 Adoption of impounded animals

(a) All animals which are adopted from the Williamson County Regional Animal Shelter shall be surgically altered to prevent reproduction in that animal, in compliance with shelter policy.

Secs. 2.06.006–2.06.030 Reserved

Division 2. Livestock and Fowl*

Sec. 2.06.031 Allowing livestock, fowl or pigeons to be at large

Owners of livestock and fowl must be in compliance with Agriculture Code section 142 regarding estrays.

ARTICLE 2.07 LICENSING AND RABIES CONTROL

Division 1. Generally

Sec. 2.07.001 Enforcement

For the purposes of discharging the duties imposed by this article and to enforce its provisions, any peace officer or animal services officer is empowered to enter upon any premises upon which an animal is kept or harbored and to demand the exhibition by the owner of such animal of the license for such animal in accordance with the provisions of this article, to include random city-wide canvassing and checks for compliance with this article. The owner of any animal is required to produce the license and vaccination information for each animal in his ownership upon demand by an animal services officer or peace officer.

Sec. 2.07.002 Counterfeiting or destroying vaccination tag, certificate or license

(a) It shall be unlawful for any person to intentionally or knowingly counterfeit a rabies vaccination tag or certificate or a license.

(b) It shall be unlawful for any person to intentionally or knowingly destroy a rabies vaccination tag or certificate.

Secs. 2.07.003–2.07.030 Reserved

Division 2. Licensing*

Sec. 2.07.031 License required; issuance; tag or other identification

(a) Modified registration. Registration with city is not required for animals that are microchipped and spayed or neutered. All animals four months of age or older which are kept, harbored or maintained within the corporate limits of the city shall be microchipped. To be eligible for this modified registration, the owner's name, current address and current phone number must be on file with the microchip manufacturer. The manufacturer will maintain information about the pet including the breed, color, name, and sex of the animal. Dangerous dogs are not eligible for modified registration.

(b) Tags. No tag and no registration fee are required for a neutered or spayed animal with a microchip. Owners desiring a registration tag instead of a microchip, must present current rabies vaccination documentation and must renew the registration every year. Owners of dangerous dogs requiring registration, must apply for a tag. Upon payment of the license fee, where applicable, the city shall issue to the owner a license certificate and metal tag having stamped thereon the number corresponding with the number of the certificate. Such tag shall at all times be securely attached to a collar or harness around the neck of the animal. In case a tag is lost, a duplicate will be issued by the animal services officer or his agent upon presentation of the receipt showing the payment of license fee for the current 12 month registration. Tags shall not be transferable from one animal to another, and no refunds shall be made.

(c) Livestock. All livestock shall be tagged or tattooed and the tag or tattoo will be the identification tag required to be worn and will be shown on the license.

Sec. 2.07.032 Revocation of registration

(a) The chief of police may revoke any registration after a hearing where an affirmative finding on any one or more of the following facts issues:

(1) That impoundment of the animal by the city more than two times during a 12 month period has occurred;

(2) That more than two final convictions of a person for violating this article when such convictions relate to the animal being considered for revocation of its license certificate have been entered into the official court docket; or

(3) Any combination of subsections (a)(1) and (a)(2) of this section totaling three incidents.

(b) Notice of revocation hearing setting the hearing date no sooner than 10 days from the service or certified mailing shall be served in person to the owner or such notice deemed served when made by certified letter, return receipt requested and addressed to the last known mailing address of the animal's owner and deposited in the U.S. mail.

(c) Upon revoking the registration of any animal, the animal services officer shall notify the owner of the animal of such action in writing. Written notification shall be deemed made when [made by] a certified letter, return receipt requested, addressed to the last known mailing address of the animal's owner and deposited in the U.S. mail.

(d) Upon the expiration of ten days after written notification of revocation is deposited in the U.S. mail, as provided above, no animal which has had its registration revoked shall be kept, maintained or harbored within the city limits, and each 24-hour period shall constitute a separate violation.

(e) Upon revocation of a registration, the owner of the animal with the revoked registration shall notify the animal services officer of the location to which the animal is being removed.

(f) Appeals of revocation hearing findings must be filed with the city manager within ten days of receiving notice of the action. Such notices shall be written without want of form but must include the statement "Notice of Appeal of Decision of the Chief of Police in Revocation Hearing," containing a statement of the reason(s) for the appeal, and signed by the animal owner making the appeal. The city manager or designee shall hear the appeal. At the hearing, the formal rules of evidence do not apply. The hearing officer shall make his/her decision on the basis of a preponderance of the evidence presented. The hearing officer may affirm, reverse, or modify the action of the chief; however, a decision must be rendered within 60 days after the appeal. The decision of the hearing officer is final.

Secs. 2.07.033–2.07.060 Reserved

Division 3. Rabies Control*

Sec. 2.07.061 Vaccination required

Vaccination of dogs and cats required per HSC section 826, subchapter C.

Sec. 2.07.063 Failure to vaccinate animal; dismissal of offense upon proof of vaccination

The failure of a dog or cat to wear a vaccination tag on a collar shall be prima facie evidence of the failure to vaccinate the animal as required by this article. To prove that a dog or cat was vaccinated at the time of the offense, the owner of the dog or cat must present a copy of the vaccination certificate issued by the veterinarian that shows the date the vaccination was administered. The offense shall be dismissed upon verification that the animal alleged in the offense was vaccinated on the date of the offense with the payment of an administrative fee as set forth in the fee schedule in appendix A of this code.

Sec. 2.07.064 Reporting requirements

(a) It shall be the duty of all animal owners, veterinarians, physicians or any other person to report to the animal services officer all cases of rabies with which he comes in contact or to which his attention has been directed. This report shall be made immediately upon diagnosis or suspicion of a case of rabies.

(b) Any person having knowledge of an animal bite or scratch to an individual or to another animal by an animal which the person suspects is rabid shall report that incident to the animal services officer within 24 hours.

(c) Every physician or other medical practitioner who treats a person or persons for any animal bite/scratch that occurred within the city shall within 12 hours report such treatment to the animal services officer giving the name, age, sex and precise location of the bitten/scratched person or persons and such other information as the officer or agency may require.

(d) Any veterinarian who clinically diagnoses rabies or any person who suspects rabies in a dog, cat or other domestic or wild animal shall immediately report the incident to the animal services officer stating precisely where such animal may be found.

(e) If a known suspected rabid animal bites or scratches a domestic animal, such incident shall also be reported immediately to the animal services officer.

Sec. 2.07.065 Contents of reports

When an individual is placed under a duty to report an incident in which an animal has bitten or scratched some person or some animal or to report an animal known or suspected to be rabid, that report to the animal services officer shall include, if the person making the report knows, the following information:

(1) The location where the bite or scratch occurred.

(2) The location where the animal which committed the act or which is known or suspected to have rabies or have been exposed to rabies can be located.

(3) The name and address of any person who was bitten or scratched.

(4) The name and address of the person who owns, keeps, harbors or has control over the premises where the animal committing the act normally can be found.

(5) The names and addresses of the persons who own, keep or harbor [or have control over the premises where] any other animal exposed to rabies can be found.

Sec. 2.07.066 Animal bites and scratches; quarantine of animal

(a) Report of victim. Any person who is bitten or scratched by an animal shall report that fact to the animal services officer within 24 hours. If the person bitten or scratched is a minor under the age of 17, the parent or guardian of such minor, if he has knowledge of the incident, shall report that fact to the animal services officer within 24 hours.

(b) Report of animal owner. A person who owns, keeps, harbors or allows an animal to remain on premises under his control and who has knowledge of a bite shall report to the animal services officer within 24 hours any incident where such animal bit or scratched any person.

(c) Quarantine. The animal committing the act shall be submitted into quarantine by the owner of the animal. If the owner cannot be located, animal services may impound and submit the animal into quarantine at the contracted shelter or humanely euthanize and submit the animal for rabies testing. When the local rabies control authority goes to the premises where the animal that bit or scratched any person is being kept, the animal services officer may take immediate custody of the animal. Where suitable arrangements are made, the local rabies control authority may permit the animal to be transferred from the location of the incident to approved quarantine facility for the remainder of the quarantine period. This duty to submit the animal to quarantine shall apply to any person who owns, keeps, harbors, has possession of or allows an animal to remain on premises under his control. If convicted of violating this section, a minimum fine as set forth in the general penalty provision in section 1.01.009 of this code shall be imposed by the municipal court.

(d) Observation of animal. Any owned dog or cat having bitten or scratched a person shall be observed for a period of ten days (240 hours) from the date and time of the bite. The procedure and place of observation shall be designated by the investigating officer or responsible agency in compliance with state law. If the dog or cat is not confined on the owner's premises for owner's quarantine, confinement shall be by impoundment in the animal shelter, or at a veterinary hospital of the owner's choice. Such confinement shall be at the owner's expense.

(e) Strays. Stray dogs and cats, or those animals whose owners cannot be located, may be confined in the animal shelter or may be destroyed and the brain of such animal immediately submitted to a qualified laboratory for rabies examination at the victim's expense.

(f) Temporary surrender of animal. The owner of any dog or cat that has been reported to have inflicted a bite or broken skin on any person shall on demand produce the dog or cat for quarantine, as prescribed in this article.

(h) Wild, exotic or dangerous animals. Any wild, exotic or dangerous animal that is considered high risk by state law or regulation and which has bitten or scratched a person shall be caught and humanely killed and the brain submitted for rabies examination. Those wild animals which are classified as low risk animals shall be handled as dictated by state law.

(i) Quarantine at residence. An animal owner who quarantines the animal at their residence with the animal services officer's permission under the following conditions:

(1) The animal must have a current rabies vaccination, must not have been running at large at the time of the scratch or bite, and be registered with animal services;

(2) The animal must be inside an enclosed structure, i.e., a house or garage, and must remain there for ten days (240 hours);

(3) The animal must be kept away from other animals and people including those in the immediate household; only minimal contact with caretaker allowed during home quarantine.

(4) The animal may not be removed from the corporate city limits while under quarantine unless approved by animal services.

(5) The owner shall notify the animal services officer immediately if the animal becomes sick or displays any behavioral changes;

(6) The owner shall not subject the animal to any medical procedure without first notifying the animal services officer. This includes any vaccinations;

(7) The animal must be examined by the local rabies control authority or designee by the first day of home quarantine and released by a final examination by a licensed veterinarian. Upon final examination, the veterinarian may declare the animal to be free of the rabies virus. The owner shall be responsible for all associated costs and when required produce proof of such veterinarian examinations;

(8) Owners who are deemed habitual offenders, as defined herein, shall not be allowed home quarantine;

(9) The owner must allow animal services, with reasonable notice, to view and confirm the health of the animal during the rabies quarantine period.

Sec. 2.07.067 Release of quarantined animal

(a) When an animal is required to be placed in quarantine, the animal shall be submitted for quarantine at an approved facility. The owner will be responsible for all fees and cost associated with quarantine. Only with the prior approval of the local rabies control authority may the animal be held in quarantine at any other location.

(b) Any animal quarantined shall be held for a period of ten days (240 hours) from the date and time of the exposure. The animal shall not be released from quarantine until such release has been approved by the local rabies control authority.

(c) Upon release of an animal from quarantine, if the ownership of the animal is known, such owner shall be responsible for all associated fees and costs of quarantine and contact the quarantine facility for release of said animal. If the ownership of the animal is unknown, the animal may be disposed of as provided in this article without waiting for an additional 72 hours.

Sec. 2.07.068 Submission of head for rabies diagnosis

(a) If the animal biting or scratching a person is a wild animal, the animal shall be humanely destroyed in such a manner that the brain is not mutilated. The head shall then be submitted to a laboratory certified by the department of state health services for rabies diagnosis.

(b) If an animal being quarantined becomes ill, it may be humanely destroyed in such a manner that the head is not mutilated. The head shall then be submitted to a laboratory certified by the department of state health services for rabies diagnosis. The head of each animal dying while in quarantine shall also be submitted for rabies diagnosis.

ARTICLE 2.08 COMMERCIAL ANIMAL ENTERPRISES AND MULTIPLE ANIMAL OWNERSHIP

Sec. 2.08.001 Permit required

Commercial activity: (a) Permits shall be required for all commercial animal enterprises. Commercial animal enterprises shall include but not be limited to enterprises such as kennel facility, pet shops, riding stables, animal auctions, performing animal exhibitions, animal training services, grooming shops, petting zoos, aviaries or any similar entrepreneurial relationships regarding animals.

Sec. 2.08.002 Term of permit; fee; denial; correction of conditions; appeals

(a) Term of permit; fee. Permits shall be valid for one year from date of issuance. The permit fee shall be as provided for in the fee schedule found in appendix A of this code.

(b) Denial of permit. The animal services officer, upon an inspection finding inconsistent with the permit inspection requirements of this article, may deny the issuance of such permit and prescribe corrections for the applicant to meet the requirements of this article. Applicants shall be given a reasonable amount of time to make such corrections and submit to a reinspection for compliance. Applicants contesting original denial or subsequent reinspection denial shall have a right to appeal. Appeal of such denial of permit shall be in writing to the chief of police within 10 days from the receipt of the denial notification. If no written appeal is received within the prescribed period, the denial is final. In instances of a timely appeal, the chief of police shall conduct a hearing to determine the validity of the denial. At such hearings, the formal rules of evidence do not apply, and the chief shall make determinations based on a preponderance of evidence presented. The chief shall render a decision within 30 days from receipt of the appeal and the decision of the chief shall be subject to appeal to the city manager, in writing, within 5 days of the ruling being delivered. The city manager may elect to hear the appeal by review or a de novo informal preponderance of evidence hearing. The city manager's decision is final.

(c) Inspections; correction of conditions. [If] The animal services officer, as a part of random inspections of permitted facilities or upon complaint of noncompliance, finds inconsistencies in permitted facilities adequately maintaining the requirements set out in section 2.08.003 of this article, the officer may prescribe corrections for compliance. Such corrections shall be made in a reasonable time by the permit holder followed by a reinspection for compliance. Any permitted facility refusing corrections or failing after reinspection shall be temporarily suspended, pending a hearing to consider revocation of permit. Such a hearing shall be conducted by the chief of police within 10 days of the suspension. Proper notice of such a hearing shall be sent, in person or via certified mail (return receipt requested), to the permit holder. The formal rules of evidence do not apply to such hearings and the chief shall make decisions based on a preponderance of evidence presented. The chief may order an inspection/reinspection by a different officer, [or] make a personal inspection/reinspection of the permitted premises in addition to other evidence that may be heard. The chief's decision will be rendered within 10 days of the hearing and the chief may:

(1) Uphold the suspension and formally revoke the permit; or

(2) Vacate the suspension and reinstate the permit to valid status.

A default judgment may be entered if the permit holder fails to appear for the hearing after receiving proper notice. A permit holder subject to permit revocation may appeal the chief's ruling to the city manager, in writing, within 5 days of the ruling being delivered. The city manager may elect to hear the appeal by review or a de novo informal preponderance of evidence hearing. The city manager's decision is final.

Sec. 2.08.003 Facility requirements

Upon inspection of the premises by the animal services officer, the permit shall be issued if the following conditions are met:

(1) The facility must be adequate for the number and type of animals to be kept:

(A) The facility must be of sufficient size as to allow animals to move about freely. This shall apply to each animal kept. The size of facility shall be in proportion to the size of the individual animal's height and weight.

(B) Adequate food and water must be provided so that each and all animals kept shall be maintained in good health and free of malnutrition and/or dehydration.

(C) The premises shall be kept in a sanitary condition and reasonably free of animal waste, parasites, insects and flies that could be harmful to the animal's health and/or to the health of the general public.

(2) The animals and the facility must be kept free of odor or stench which is offensive to a person of ordinary sensibilities.

(3) The animals must be maintained in a manner which does not pose a danger to the health of the animals themselves or to adjacent animals.

(4) The animals must not cause noise which is offensive or disturbing to a person of ordinary sensibilities on adjoining, adjacent or neighboring premises.

(5) The applicant or holder of the permit shall not have been issued citations for violation of this article on two separate occasions, or animals covered by or to be covered by the permit have not been impounded on two separate occasions.

(6) The chief of police shall adopt standard operational procedures for the animal services unit consistent with this article in providing guidelines and standards for the inspection of such facilities for permitting and for the periodic monitoring of such facilities. Such permitted facilities may be randomly inspected for compliance with the basic requirements stated herein at any reasonable time for a commercial animal enterprise permitted facility. Refusal to allow such inspections shall be grounds for permit revocation.

Sec. 2.08.004 Revocation of permit

Any commercial animal enterprise permit may be revoked if the owner's facility is found to be in violation of this article, any zoning law, health law or any other applicable ordinance of the city or of the state, or the facility is maintained in such a manner as to be detrimental to the health, safety or peace of mind of persons residing in the immediate vicinity.

Sec. 2.08.005 Multi-pet Owner

(a) No household shall maintain, harbor or care for more than five total dogs and cats.

(b) Exceptions; a household may have seven total dogs and cats if all are registered with the city, spayed or neutered and kept in separate kennels. A household assisting in fostering animals for the Williamson County Regional Shelter or similar problem may have more animals if the household has a letter on official letterhead or other official documentation from the shelter stating that they are fostering animals. If it is on an ongoing basis, the approximately number of animals at any given time they would foster; if it is on an individual basis, the approximate time and number of animals fostered. Such a household should produce this to animal services upon request.

Recommended ordinance revision

Sec. 2.01.001 Definitions

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

Abuse. To mistreat through intent to abuse or reckless neglect of any animal in a manner that causes or is likely to cause stress or physical injury or as otherwise stated in this chapter.

Animal. Any living creature, both domestic and wild, except humans. The term "animal' includes fowl, livestock, and reptiles.

Animal services division, animal services authority, or animal services officer. The animal services division of the city's police department, its animal services officers and/or peace officers.

Animal Shelter. A facility that may be temporarily contracted or designated by the chief of police for animal impoundment under the provisions of this chapter.

Animal welfare group. An association or nonprofit corporation who has as one of its purposes the providing for the welfare and/or protection of animals of any kind.

Authority. The local rabies control authority as defined in this section.

Brand. A mark made on the skin of any animal which indicates the ownership of the animal, typically used with livestock.

Cat. The male and the female of any domesticated or feral member of the feline species of animals.

Chief of police. The chief of police or the chief of police's designee responsible for the administration of this act.

Circus. A commercial variety show featuring animal acts for the public at a fee or a part of a charity.

Commercial animal enterprise. Shall include but not be limited to enterprises such as kennels, pet shops, riding stables, animal auctions, performing animal exhibitions, animal training services, grooming shops, petting zoos, aviaries or any similar entrepreneurial relationship regarding animals.

Confinement period: as defined in Texas Administrative Code, Title 25, section 169.30.

Cruelly treated. Includes tortured, seriously overworked, unreasonably abandoned, unreasonably deprived of necessary food, care, or shelter, cruelly confined, or caused to fight with another animal.

Dangerous wild animal. Shall have the same meaning as defined in chapter 822, Texas Health and Safety Code, subchapter E.

Distance between structures. Where a minimum setback or distance between any enclosure for an animal from a residence is required, shall mean the most direct line distance between the two structures, unless otherwise provided.

Dog. The male and the female of any domesticated member of the canine species of animal.

Domestic animal. Any non-livestock animal as defined in the Penal Code.

Estray. Has the same meaning as defined in chapter 142, Texas Agriculture Code, defining estray as stray livestock, stray exotic livestock, and stray exotic fowl.

Exotic species. Any animal or reptile, fish, or bird, born or whose natural habitat is considered to be outside the continental United States, including nonvenomous reptiles and fish.

Fish. Any of the cold-blooded animals that extract oxygen from water through the use of gills.

Fowl. Includes all birds, e.g., chickens, turkeys, pheasants, quail, guineas, geese, ducks, peafowl and other domestic feathered creatures and nondomestic feathered creatures, regardless of age or sex.

Governmental entity. An agency or political subdivision of the state or an agency or department of the federal government.

Habitual offender. An owner who has received two or more final convictions of this chapter or the owner of an animal who has been the subject of impoundment in the animal shelter three or more times during a 12-month period or any combination of convictions and impoundment totaling three incidents.

Harbor. To possess while in the act of keeping and caring for an animal, or of providing a premises to which the animal returns for food, shelter or care for a period of three days or longer.

Household: home, residence, apartment or dwelling including yard around where animals could be kept

Kennel Facility. An establishment designed or used for the selling, breeding, or overnight boarding of animals where more than three dogs and two cats or three cats and two dogs or a combination of five other animals are to be boarded, sold, or bred.

Kennel. Enclosure that provides sufficient space to allow each animal to make normal postural adjustments without touching the top of the enclosure, including turning freely, standing easily, sitting, stretching, moving its head, lying in a comfortable position with limbs extended, and moving and assuming a comfortable posture for feeding, drinking, urinating, and defecating

Livestock. Includes, regardless of age, sex or breed, horses and all equine species, including mules, donkeys and jackasses; cows and all bovine species; sheep and all ovine species; llamas; goats and all caprine species; and pigs and all swine species.

Local rabies control authority. The animal services supervisor or designee

Microchip. A device designed to store data or information relating to animals and is carried subcutaneously by that animal and such data or information is collectable by electronic means.

Multi-pet owner. A person who keeps or harbors five or more cats or dogs, including feral cats, or dogs or any combination of five cats and dogs. Puppies and kittens under four months of age shall not be counted for purposes of this definition.

Neutered. Any animal, male or female, rendered incapable of breeding or being bred, i.e., castration in the male and spaying or ovariectomy in the female.

Owner. Any person or persons, association, or entity, including any member of owner's immediate family, employee, or agent, having the right of property, care, custody, or control of an animal, who possesses, harbors, or maintains an animal, or who knowingly permits an animal to remain on or about any premises occupied by such person or persons, firm, association, or corporation for a period of three (3) days or more.

Performing animal. Any spectacle, display, act or event in which animals perform.

Person. An individual human, partnership, copartnership, firm, company, limited liability partnership or other partnership or other such company, joint venture, joint stock company, trust, estate, governmental entity, association or corporation or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine; the singular shall include the plural where indicated by the context.

Poison. A substance having an inherent harmful property which renders it, when taken into the system, capable of destroying animal life.

Policy or policies. The policies and procedures adopted consistent with this chapter and applicable to the animal services division of the city's police department.

Premises. A definite portion of a legal lot of real estate or land, together with any appurtenances or buildings.

Prohibited animal. Any animal prohibited by state or federal law and including any individual species and/or subspecies of the following animals: antelope, lions, tigers, ocelots, bobcats, lynx, cougars, leopards, cheetahs, jaguars, hyenas, bears, lesser pandas, ferrets born in natural habitats, binturong, ostriches, emus, elephants, apes or such other nondomestic species of animal not common to this area.

Proper enclosure. A house or a building, or, in the case of a fence or structure/pen, the fence or structure/pen must be at least four feet in height. The structure/pen must also have minimum dimensions of five feet by ten feet. The fence or structure/pen must form an enclosure suitable to prevent entry of young children and must be locked and secured such that an animal cannot climb, dig, jump or otherwise escape of its own volition. The enclosure shall be securely locked at all times and have secured sides to prevent a dangerous animal or registered dangerous dog from escaping from the enclosure. The structure/pen shall provide protection from the elements for the animal. The animal services officer may require a fence higher than four feet or require a secure top and/or a secure bottom to the structure/pen if the need is demonstrated. Invisible fences or similar technology shall not constitute "proper enclosure."

Quarantine. As defined in HSC 826.002.

Quarantine period. Time as described in Texas Administrative Code, Title 25, Rule 169.27.

Rabies vaccination. Means currently vaccinated. Vaccinated and satisfying all the following criteria. (A) The animal must have been vaccinated against rabies with a vaccine licensed by the United States Department of Agriculture (USDA) for that species at or after the minimum age requirement and using the recommended route of administration for the vaccine. (B) At least 30 days have elapsed since the initial vaccination. (C) The time elapsed since the most recent vaccination has not exceeded the recommended interval for booster vaccination as established by the manufacturer.

Registered dangerous dog. Any dog registered with the city in compliance with chapter 822, Texas Health and Safety Code, 822.043, and with the sections of this chapter addressing dangerous dogs.

Residence. Any place of human habitation at any time, day or night, including, but not limited to, any single- or multi-family dwelling, church, school, convalescent center or nursing home.

Restrained. Any animal secured by a leash, rope or chain of some sort or confined through fencing or otherwise enclosed within the property limits of its owner, meaning there must be a physical barrier. Substitution of an electronic device is not permitted.

Running at large (non-livestock at large).

(A) Any dog, which is not restrained by means of a leash, chain, other physical apparatus of sufficient strength and length to control the actions of such animal while off- premises.

(B) Any cat which is creating a nuisance off the owner's property.

At large means that either livestock and non-livestock is:

(1) On the premises of the owner and is not tied, staked, or restrained securely within an enclosure or fence capable of fully and totally securing the animal; or

(2) Off the premises of the owner, and is not on a leash under the immediate control of a person physically capable of restraining the animal or is not restrained securely within an enclosure or fence capable of fully and totally securing the animal.

(3) Exception, any animal within a vehicle in a manner that would prevent that animal's escape or contact with other persons or animals shall not be deemed "at large."

"Serious bodily injury" means an injury characterized by severe bite wounds or severe ripping and tearing of muscle that would cause a reasonably prudent person to seek treatment from a medical professional and would require hospitalization without regard to whether the person actually sought medical treatment. Per HSC 822.

Stray animal (including estray). Any animal, of which there is no identifiable owner or harborer, which is found to be at large within the corporate limits of the city.

Tag. A vaccination tag attached to a collar as required by this chapter, or some other permanent identifying device attached to a collar or to an animal.

Tattoo. A permanent mark which is made on the skin of an animal by puncturing the skin and inserting indelible color, and which is used to show ownership.

Veterinarian. Any person duly licensed to practice veterinary medicine by the state board of veterinary examiners, or who is exempt from such licensing.

Wild animal or wildlife. Any nondomestic creature (mammal, amphibian, reptile or fowl) which is of a species which is wild by nature, which can normally be found in a wild state, and which is not naturally tame or gentle, or which, because of its size, vicious nature and other characteristics, constitutes a danger to human life or property, including all animals identified herein as prohibited.

Zoological park or zoo. Any facility, other than a pet shop or kennel, displaying or exhibiting one or more species of animals, operated by a person or under the auspices of a governmental entity.

Sec. 2.01.002 Purpose

It is the intent and purpose of this chapter to provide a safe and healthy environment within the city for both animals and people. While a person may own and keep animals within the city, the conduct of those animals and the conditions that the animals are kept in should be safe and healthy and should not infringe on the surrounding homes and their inhabitants.

Sec. 2.01.003 Enforcement

(a) Enforcement officers. The provisions of this chapter may be enforced by animal services officers, police officers, and such other persons as are designated by the city. Nothing herein is intended to or shall preempt any statutory duty or authority of any federal, state, or local entity or official charged with animal control, estray control or impoundment, or other animal-related matters.

(b) Interference with enforcement. It shall be unlawful for any person to interfere with, obstruct, resist or oppose any animal services officer or other person authorized to enforce the provisions of this chapter while such person is apprehending an animal or performing any other duties or investigation. It shall be unlawful to take or attempt to take any animal from any animal services officer or from any vehicle used by the officer to transport any animal or to take or attempt to take any animal from the animal shelter or other kennel or confinement area used to impound an animal.

(c) Citations and warnings. In all instances of a violation of any provision of this chapter, whether the animal is impounded or not, the owner or keeper of such animal may be cited by an officer who has the authority to enforce this chapter for any violation of this chapter. The animal services division may also by policy establish a conditional written warning procedure relating to registrations, displaying of tags, and general "at large" violations. The receipt of such written warnings does not preclude the animal services division from citing the recipient if the conditions of the written warning are not met in a timely fashion.

(d) In the enforcement of this chapter, any person authorized to enforce the provisions of this chapter shall have the authority to immediately tranquilize, capture, restrain, and/or destroy any animal to protect themselves, a third person, or another animal from attack or threat of imminent injury, to prevent an animal from enduring further unreasonable pain or suffering as a result of disease or injury, or when the animal services officer deems such animal a threat to the public health, safety, or welfare. Any person authorized to enforce the provisions of this chapter shall have the right to pursue onto private property and apprehend an at-large animal considered a nuisance without first requesting permission from the owner of the private property or without obtaining a search warrant.

(e) Culpability. Unless specifically provided in this chapter, an offense under this chapter shall not require a culpable mental state. It is the intent of this section to impose strict liability for violation of the requirements of this chapter.

(f) Administrative policies and operational procedures. To aid in the administration of this chapter, the animal services division shall, by policy-making authority of the chief of police, adopt administrative policies and operational procedures consistent with the purpose and intent of this chapter.

(g) Investigation of feral cats. Animal services officers, or police officers as deemed necessary, may investigate complaints, nuisance allegations, or unsanitary conditions and/or perform general inspections regarding the treatment of animals where feral cat are being kept in excess the multi-animal level allowed by this ordinance.

(h) Duties of feral cat organizations. It shall be the policy of the city that feral cat organizations intending to release feral cats within the city furnish in writing to the animal services unit of the police department the number of feral cats released after processing. Likewise, organizations shall immediately report to the animal services unit any evidence of communicable disease outbreak that may affect the non-feral cat or other animal populations within the city.

Sec. 2.01.004 Powers and duties of citizens

Any person who finds an animal which he does not own on property that he owns or exercises control over or on public property may take control of said animal if it is running at large (as provided in section 2.03.002) and may deliver the animal to an animal services officer, the animal shelter, or an animal emergency medical facility. If the animal is not delivered to an animal services officer, the animal shelter, or an animal emergency medical facility, the person must report that he had taken control of the animal to an animal services officer or the animal shelter within seventy-two (72) hours. If animal is wearing a tag of any kind or has a tattoo, brand, or other identifying mark, that information shall be included in the report to the animal services officer or animal shelter.

Sec. 2.01.005 Penalties; false reports or statements

(a) 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 five hundred dollars ($500.00). A person who is deemed guilty of violating section 2.05.002(d) of this chapter shall be liable for a fine no less than two hundred dollars ($200.00) or more than five hundred dollars ($500.00). A person who is deemed guilty of violating section 2.05.003(e) of this chapter shall be liable for a fine no less than one hundred dollars ($100.00) or more than five hundred dollars ($500.00). Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein.

(b) A person commits an offense if, with intent to deceive, he knowingly makes a false report or statement, either verbal or written, that is material to an investigation of an alleged violation of this chapter to an animal services officer or other person authorized to enforce the provisions of this chapter.

(c) A person commits an offense if he reports to a person authorized to enforce the provisions of this chapter an offense or incident within that person’s concern knowing that the offense or incident did not occur.

Sec. 2.01.006 Prima facie evidence of responsibility for violation

In any prosecution charging a violation of this chapter governing the abuse, neglect or ownership of an animal or failure to license an animal as herein required, proof that the particular property described in the complaint was the premises upon which the animal resided, was harbored or maintained and a violation of any section of this chapter occurred involving said animal, together with proof that the defendant named in the complaint was, at the time of such complaint or at the time when the animal was in violation of this chapter, the registered owner of such animal or the person with legal rights to reside on said property, shall constitute in evidence a prima facie presumption that the registered owner of such animal or the person with legal rights to reside on said property was the owner of the animal and the person who failed to comply with this chapter.

Sec. 2.01.007 Abatement of nuisances or other prohibited conditions, Enforcement; penalty

(a) Primary enforcement of the provisions of this chapter are vested in the animal services officers; however, these provisions may also be enforced by peace officers, code enforcement officers, and such other persons as are designated by the city. Any and all references to animal services and/or animal services officer herein shall contemplate and include each of the aforementioned individuals.

(b) Unless otherwise stated herein, the provisions of this chapter are enforceable against an owner and/or their animal as set forth herein. Owner(s) of animal(s) alleged to be in violation of this chapter are responsible for such violations and subject to the penalty provisions of this chapter and this code, as amended.

(c) It shall be unlawful for any person to interfere with, obstruct, resist or oppose any enforcement of the provisions of this chapter by an animal services officer.

(d) In the enforcement of this chapter, any person authorized to enforce the provisions of this chapter shall have the authority to immediately tranquilize, capture, restrain, and/or destroy any animal to protect themselves, a third person, or another animal from attack or threat of imminent injury, to prevent an animal from enduring further unreasonable pain or suffering as a result of disease or injury, or when the animal services officer deems such animal a threat to the public health, safety, or welfare.

(e) Any person authorized to enforce the provisions of this chapter shall have the right to pursue onto private property and apprehend an at-large animal considered a nuisance without first requesting permission from the owner of the private property or without obtaining a search warrant.

(f) Unless otherwise provided by state law, any violation of this chapter may be charged as a class C misdemeanor; and upon conviction, an owner shall be fined as provided for in the general penalty provision in section 1.01.009 of this code, as amended. For those violations that are of a continuous nature, a separate offense shall be deemed committed upon each day during or on which a violation occurs or continues and such fine may be levied for each day that a violation exists.

(g) If an owner has been previously convicted of an offense under this chapter and the owner is subsequently convicted of an offense under the same provision of this chapter, the owner may be subject to an enhanced fine as set by the municipal court.

Sec. 2.01.008 Compliance with other ordinances

The keeping of any animal in accordance with the provisions of this chapter shall not be construed to authorize the keeping of the same in violation of the zoning ordinance or any other ordinance of the city.

Sec. 2.01.009 Fees

The fee schedule as provided for in appendix A of this code shall apply to all animals within the city limits. It shall not be construed that the city be required to bear the costs of any animal that has an owner. The owner shall reimburse the city for any actual expenses and shall be responsible for all fees set forth in appendix A of this code. The city may recover all fees, costs and damages incurred as a result of the animal as restitution in a criminal proceeding under the provisions of this chapter or the state statutes in addition to a fine being charged. In extraordinary circumstances, certain fees related to redemption of impounded animals may be administratively waived for owners with supervisory approval, or pay agreements reached between owners and the animal services supervisor(s). Such administrative actions shall be guided by animal service's adopted policies and procedures.

Sec. 2.01.010 Animals held on complaint

If a complaint has been filed in municipal court of the city against the owner of an impounded animal for a violation of this article, the animal may be held on the order of the municipal judge, who may also direct the owner to pay any penalties for violation of this article in addition to all impoundment fees. Surrender of an animal by the owner thereof to the animal services officer does not relieve or render the owner immune from the decision of the court nor from the fees and fines which may result from a violation of this article.

Sec. 2.01.011 Removing animal from confinement; interference with impoundment

(a) It shall be unlawful for any person to remove or allow to escape from any place of confinement, any dog or cat which has been confined or ordered to be confined by the city, without the consent of the animal services division.

(b) It shall be unlawful for any person to knowingly or intentionally enter upon the property of another person for which the person is not given specific permission to enter for the purpose of releasing a confined, chained or tethered animal.

(c) It shall be unlawful for any person to interfere or attempt to interfere with the animal services officer or to interfere or attempt to interfere with any person acting for the city in the taking up and impounding of animals in the city.

Sec. 2.01.012 Tampering with traps or equipment set out by animal services officer

No person shall remove, alter, damage or otherwise tamper with a trap or equipment belonging to or set out by the animal services officer.

ARTICLE 2.02 ANIMAL SHELTER ADVISORY COMMITTEE

Sec. 2.02.001 State law requirement for animal shelter advisory committee

At any future date if the city creates a city run animal shelter within the city limits, in compliance with chapter 823 of the Health and Safety Code an animal shelter advisory committee will be created in compliance to the law.

Sec. 2.03.001 Animal identification

(a) Required; exemptions. Except as provided herein, all animals within the city shall be marked by some type of identifying license, tag, band, tattoo or brand by which the animal's owner can be identified. Animals exempted from this requirement are mice, rats, rabbits, guineas, hamsters, gerbils, ferrets, fowl and snakes.

(b) Feral cats. It is an affirmative defense to prosecution for identification requirements herein for cats if it is shown that the cat is feral and properly ear tipped to indicate participation in a trap, neuter and release program, and its having been vaccinated against rabies in accordance with law. The city's animal services unit shall have access to vaccination certificates when deemed necessary by the unit.

Sec. 2.03.002 Running at large

(a) Responsible party. It shall be unlawful for any person who owns, keeps, harbors or otherwise has control over any animal within the city to allow or permit such animal to run or be at large within the city.

(b) Cats. The prohibition against an animal running at large shall not apply to a domestic cat which has been vaccinated as required by this chapter and which is wearing the required vaccination tags or feral cat that has been ear tipped by a feral cat organization. The prohibition shall apply to all other cats.

(c) Restraint required. An animal shall be considered to be at large if it is not under the control of its owner by either a leash, chain, cord or other suitable material attached to a collar or harness, or not restrained on the property of the owner by a leash, chain, cord or fence. An animal shall be considered not restrained if the property owner is utilizing solely an invisible fence or similar technology. An animal inside a vehicle parked in a public place or in the open bed of a moving or parked vehicle in a public place shall be considered to be at large unless it is restrained in such a manner that it cannot exit the vehicle of its own volition.

(d) Snakes. It shall be unlawful for any person to have a snake in any park or other public place unless it is within some type of cage, pen or enclosure.

(e) Impoundment, citation. The animal services officer for the city may impound any animal observed to be at large, whether the animal is on public or private property, subject to the applicable provisions of the law. If the animal services officer observes an animal on property which is owned by a person other than the owner of the animal, and observes the animal return to property of its owner, the animal services officer may impound the animal or issue a citation for the animal running at large. In the event the animal is on private property or property of the animal's owner, the animal services officer, his/her agent, or a peace officer may enter the property, other than a private dwelling, for the purpose of impoundment or issuance of a citation, or both, subject to the applicable provisions of this chapter and law.

(f) Prima facie evidence of responsibility for violation. Proof that an animal was found at large in violation of this section, together with proof that the defendant was the owner of such animal at the time, shall constitute prima facie evidence that the defendant allowed or permitted the animal to be at large.

State law references–Restraint, impoundment and disposition of dogs and cats, Health and Safety Code, sec. 826; estrays, Agriculture Code, Ch. 142.

Sec. 2.03.003 Confinement of unspayed female dogs and cats during estrus

(a) Secured enclosure required. Any unspayed female dog or cat in the state of estrus (heat) shall be confined during such period of time in a house, building or secure enclosure, and the area of enclosure shall be so constructed that no other dog or cat may gain access to the confined animals or to allow the enclosed animal to escape, except for controlled breeding permitted by the owner of the female.

(b) Chaining or tethering. Additionally, the female dog or cat shall not be chained or tethered, except in a secured enclosure, and if chained or tethered within a secured enclosure, the female dog or cat may not be chained or tethered in a manner that prevents her from defending herself or from avoiding a male.

(c) Removal order. Owners who do not comply shall be ordered to immediately remove the animal in heat to a veterinary hospital. Failure to comply with the removal order of the animal services officer shall be a violation of this chapter and the dog or cat will then be impounded as prescribed herein. All expenses incurred as a result of this confinement shall be paid by the owner.

Sec. 2.03.004 Animal defecation on public property or property of another

(a) Prohibited. It is unlawful for the owner or person in control of an animal to intentionally, knowingly, recklessly or with criminal negligence allow or permit such animal to defecate on any public property or improved private property other than that of the owner of the animal. That the animal was at large at the time it defecated on any property shall constitute prima facie evidence that the owner or person in control of the animal allowed or permitted the animal to so act.

(b) Exception. It is an exception to the application of this section that the owner or person in control of the animal immediately removed and cleaned up such animal's feces from public or private property.

Sec. 2.03.005 Keeping prohibited animal or wild animal

(a) No person shall possess, keep or have care, custody or control of a prohibited animal, wild animal or wildlife within the city except as provided herein.

(b) All persons shall be prohibited from selling, giving, transferring or importing into the city any wild animal.

(c) This section shall not apply to approved zoological parks or circuses. Nor shall this section apply to primary and secondary schools, colleges and universities, zoological parks owned or operated by a governmental entity or any animal assisting physically handicapped persons.

(d) It shall be a defense to prosecution under this section that the animal being kept was an infant or injured animal which was not capable of surviving on its own and that such animal was kept for three days or less, or for such reasonable time as was necessary before giving the animal to a licensed wildlife rehabilitator.

Sec. 2.03.006 Nuisance animals

(a) Any animal within the city that unreasonably disturbs, annoys, or alarms persons of ordinary sensibility, endangers the public health, safety, or welfare, or substantially interferes with the rights of citizens to quiet enjoyment of life or property, including but not limited to:

(1) Any animal that chases motor vehicles in a public right-of-way;

(2) Any animal, whether or not on the property of its owner and without reasonable provocation, that approaches and hisses, barks, or growls at a person in an angry, threatening, and ill-tempered manner and causes that person to have an immediate reasonable fear of bodily injury, that bites, snaps at, or attacks a person or otherwise interferes with the freedom of movement of persons in a public right-of-way, or that attacks and seriously injures or kills another animal that was properly confined, restrained, or under the physical control of its owner as required by this chapter;

(3) Any animal that is found at-large three (3) or more times; or any dog in a park or public recreation area, unless the dog is controlled by a leash or similar physical restraint or within a designated off-leash area within a city park facility, in compliance with posted rules at such city park facility and/or off-leash area;

(4) Any animal that damages any property other than that of its owner;

(5) Any animal that defecates on any common thoroughfare, street, sidewalk, passageway, road bypass, play area, park or any place where people congregate or walk upon any public property whatsoever, or upon any private property without the permission of the private property owner, if the owner of such an animal that soils, defiles, or defecates on any of the above areas fails to immediately remove the pet feces and droppings and place them in a designated waste receptacle or other suitable waste container;

(6) An animal that makes disturbing noises, including but not limited to, continued and repeated howling, barking, whining, meowing, crowing, or other utterances in an excessive, continuous or unreasonable fashion or at unreasonable hours, causing annoyance, disturbance, or discomfort to, or disrupting the quiet enjoyment of neighbors or others in close proximity to the premises where the animal is kept or harbored;

(7) Any animal that causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored, or that causes noxious or offensive odors which would be unreasonably annoying or discomforting to neighbors or others in close proximity to the premises where the animal is kept or harbored;

(8) Any female animal in heat (estrus) that is not confined so as to prevent attraction or contact with animals other than the owner's, unless for the purpose of planned breeding in compliance with all local, state, and federal laws;

(9) Any dog in violation of posted rules governing a city park facility and/or off-leash area;
(10) Any dangerous wild animal, as defined by section 822, Texas Health & Safety Code or
(11) Any animal that is a threat to public health safety or welfare by virtue of the number of animals. It shall be unlawful for an animal to be or create a public nuisance within the city.

(b) The owner of a public nuisance animal shall be culpable for any violations of this section.
(c) Complaints of public nuisance animals
(1) Whenever any person shall complain to the animal services officer of an alleged public nuisance animal, an animal services officer shall promptly investigate the complaint and notify the owner of the animal that a complaint has been received.

(2) If the animal services officer does not observe a violation of this article, then the animal services officer shall promptly provide to the complaining person a nuisance animal complaint form.

(3) If the animal services officer observes a violation of this article, or receives from the complaining person a signed and completed nuisance animal complaint form, then a citation shall be issued to the owner of the alleged public nuisance animal, and, if deemed by the animal services officer to be necessary in order to abate an imminent risk to public health, safety, or welfare, the animal services officer may impound the alleged public nuisance animal pursuant to sections regarding impoundment of this chapter without regard to whether the animal is at-large.

(d) Completion and submission of nuisance animal complaint form
(1) The nuisance animal complaint form is to be completed voluntarily, truthfully, and accurately by the complaining person, signed, and then submitted to the animal services officer, police department, or municipal court.
(2) By submitting a nuisance animal complaint form, the complaining person agrees to testify as the complaining witness if the matter should proceed to trial in municipal court.

(e) It shall be unlawful for the owner or harborer of an animal determined a nuisance under this section to permit continued or future nuisance behavior or condition(s). Nothing herein precludes the city from seeking other remedies if owners fail to comply with the remedial requirements stated.

Sec. 2.03.007 Keeping bees

No person shall construct, place or maintain any beehive within 500 feet of any residence other than that of the owner except with the consent of the occupants of all such residences. A tract or parcel of land where the bees are kept or enclosed must be three acres or more in size.

Sec. 2.03.008 Pens or coops for animals other than livestock

(a) All chickens and rabbits shall be kept within a coop or hutch. A fenced yard shall not qualify as a pen or coop.

(i) If the animals kept are chickens they must be limited to no more than 10. A rooster is prohibited from a backyard coop on a property of less than 3 acres.

(b) Any person keeping or harboring any animal, other than livestock, shall locate any pen, coop, hutch or other housing at least 50 feet from any residence, excluding the residence of the person keeping or harboring the animals. Other ordinances covering nuisances shall still apply

Sec. 2.03.009 Staking or pasturing livestock on public land or property of another person

(a) It shall be unlawful for any person owning or having care, custody or control over any livestock, except the horses used by the city police department, to:

(1) Cause or permit any livestock to be pastured, herded, staked or tied in any street, lane, alley, park or other public place;

(2) Tie, stake or pasture or permit the tying, staking or pasturing of any animal upon any private property within the city without the consent of the owner or occupant of such property, or in such a way as to permit any livestock to trespass upon any street or other public place or upon any private property.

Sec. 2.03.010 Storage of feed

All feed provided for animals, other than hay, shall be kept in an enclosed building or container except when being used to feed an animal.

Sec. 2.03.011 Keeping livestock or fowl; keeping hogs prohibited

(a) Keeping hogs prohibited. The keeping of hogs is prohibited if lot size is not 3 acres or more.

(b) Keeping near city water supply well.

(1) It is unlawful and constitutes an offense for any person, whether for himself or as the agent or servant of another or others, to keep or to participate in keeping any horse, cattle, sheep, goat, other livestock and/or fowl in any pen or lot used to confine any such multiple animal operation within 500 feet of any water supply wells from which the city obtains its principal water supply as specified in the official Texas Administrative Code published under authority of the secretary of state, title 31, Natural Resources and Conservation [title 30, Environmental Quality], section 290.41(c)(1)(C), (D), (F).

(2) "Keeping" means the care and control of the livestock or fowl in question for a period of longer than five days.

(c) It shall be unlawful for any person to keep livestock within the corporate limits of the city unless the livestock is being kept in accordance with the following restrictions:

(1) The overall lot must be three or more acres in size and the livestock shall be kept on a parcel of land that is at least one acre in size.

(2) There shall be no more than one unit (as defined below) of livestock for the first acre of land. There shall be no more than one additional unit of livestock for each additional one-half acre of land in the same parcel. For the purpose of this section, units of livestock shall be defined as follows:

(i) The following types of livestock shall be counted as one head equals one unit: horse, stallion, mare, gelding, filly, colt, mule, hinny, jack, jenny, llama, and all species of cattle;

(ii) The following types of livestock shall be counted as one head equals one-half of a unit: all species of swine; and

(iii) The following types of livestock shall be counted as one head equals one-fifth of a unit: sheep, goat, and fowl.

(3) No livestock shall be permitted to graze, forage, or otherwise roam within 50 feet of any business or commercial establishment, dwelling, residence, or structure used for human occupancy (other than the livestock owner's dwelling or residence). Hogs or any type of swine are further restricted to 200 feet of any business or commercial establishment, dwelling, residence, or structure used for human occupancy (other than the livestock owner's dwelling or residence). Roosters must be kept in a coop and are further restricted to 200 feet of any business or commercial establishment, dwelling, residence, or structure used for human occupancy (other than the livestock owner's dwelling or residence).

(4) Barns, stables, corrals, sheds, pens or other similar structure where livestock may be housed, fed, or confined, or where food for livestock is stored shall not be located within 200 feet of any residence, business or commercial establishment or office (other than the livestock owner's residence, business or commercial establishment or office), grocery store, school building, church, hospital, nursing home, or restaurant or other food service establishment.

(5) Livestock shall be enclosed with adequate fences or barriers that will prevent such livestock from damaging shrubbery or other property situated on adjacent property. Such fences or barriers shall be sufficient to prevent the livestock from escaping the enclosure.

(6) The owner keeping any livestock shall keep all yards, barns, pens, stables, sheds or other enclosures in which such animals are confined in such a manner so as not to give off odors offensive to persons of ordinary sensibilities in the immediate vicinity, or to breed or attract flies, mosquitoes or other noxious insects or rodents, or in any manner to endanger the public health, safety, or welfare, or to create a public nuisance. All yards, barns, pens, stables, sheds or other enclosures in which livestock is confined shall be of a size to allow said animals sufficient space to move freely and not endanger the health, safety, or welfare of the animal or animals.

(7) Subsections (1) through (4) of this section shall not apply to a licensed veterinarian at the veterinarian's place of business, a riding stable/school or academy, or a sanctioned 4-H or FFA livestock project.

(d) Exceptions to distance restrictions. The following properties are exempt from the distance restrictions and livestock prohibitions of this article. Any distance restrictions or livestock prohibitions set forth in other ordinances of the city shall continue to apply.

(1) Property zoned as Rural/Agricultural District (R/A-1) according to the zoning ordinance of the city; or

(2) Property properly zoned and used for veterinary hospitals, permitted kennels that are used solely for the care and boarding animals, or existing shipping pens utilized for temporary holding before shipment or sale of animals.

Sec. 2.03.012 Disposal of dead animals and fowl

In compliance with Texas Administrative Code, Title 4, Part2, Chapter 59; It is unlawful for any person in the city to cause to be placed or place or allow to remain in or near his premises or the premises of any other person, or in any of the streets or other public roadways, any dead animal, either wild or domesticated, or any dead fowl, either wild or domesticated.

Sec. 2.04.001 Animals in motor vehicles

(a) Leaving animal in standing or parking vehicle. It shall be unlawful for any person to leave any animal in any standing or parked vehicle in such a way as to intentionally, knowingly, recklessly, or with criminal negligence endanger the animal's health, safety or welfare. An animal services officer or police officer is authorized to use reasonable force to remove the animal from the vehicle whenever it appears that the animal's health, safety or welfare is or will be endangered if the owner of the vehicle cannot be located after reasonable attempts. The animal shall be taken to the animal shelter or to a veterinarian if the animal is in distress. A written notice bearing the name of the officer removing the animal, a telephone number where he can be contacted and the location where the animal may be claimed by the owner shall be attached to the vehicle. Any person violating this section shall bear the full cost and expense incurred by the city in the care, medical treatment, impoundment cost and disposal of the animal, including the removal from a vehicle, in addition to any criminal penalty that may be imposed under this section.

(b) Vehicle involved in accident or other incident. Instances where occupants of motor vehicles are involved in a traffic accident or other vehicle-related incidents which result in animals being left uncontrolled or unattended, animal services or police officers of the city are authorized to take welfare custody of such unattended animals. In the interest of the health, safety or welfare of such animals, officers are authorized to transport such animals to the regional shelter, a veterinarian, a humane shelter, or an animal emergency clinic. Information shall be provided to the animal's owner as to the animal's disposition. Animal owners shall bear the full cost and expense incurred by the city in the care, medical treatment, impoundment costs or other associated costs.

Sec. 2.04.002 Duties of person striking animal with motor vehicle

(a) Any person who, as the operator of a motor vehicle within the city, strikes any animal shall report the accident to the police department within a reasonable time if the animal stricken is on or near the roadway so that it constitutes a potential traffic hazard. It shall be an affirmative defense to any violation under this section that the incident occurred while the operator was responding to an emergency and that the incident was reported as soon as possible.

(b) Any person who, as the operator of a motor vehicle, strikes a domestic animal shall immediately report such injury or death to the animal's owner; in the event the owner cannot be ascertained and located, such operator shall at once report the accident to the appropriate law enforcement agency or the local humane society.

Sec. 2.04.003 Unlawful restraint of Dog.

Restrictions on unlawful restraint found in HSC Sec. 821.

Sec. 2.04.004 Selling dyed animals

It shall be unlawful for any person to sell or offer for sale, raffle, offer or give as a prize, premium or an advertising device or cause to be displayed in any store, shop, carnival or other public place an animal or fowl of any kind that has been dyed or otherwise colored artificially.

Sec. 2.04.005 Giving animal as prize or inducement

(a) No person shall give away any live animal, reptile, fowl, livestock or wildlife as a prize for or as an inducement to enter any contest, game or other competition; or as an inducement to enter a place of amusement; or as an incentive to enter into any business agreement whereby the offer is for the purpose of attracting trade. This prohibition shall apply to carnivals, fairs and circuses.

(b) The prohibition contained in this section shall not apply to fish or to animals given as prizes at a rodeo contest or livestock show or as part of an FFA, 4-H or similar project.

Sec. 2.04.006 Trapping, hunting, shooting or killing animals

(a) Trapping restrictions and requirements. It shall be unlawful to set, trigger, activate or otherwise use, or cause to be set, triggered, activated or used, any steel-jawed leg-hold trap. Except for authorized licensed trappers, trapping of animals at high risk for rabies is prohibited. These animals include raccoon, fox, coyote and skunk. Traps classified as "live traps," used by citizens for the capture of feral cats must be done in conjunction with animal services, a feral cat organization for spay/neuter and vaccination or an authorized humane shelter. Citizen's setting such traps are responsible for taking the animal in to the organization providing the feral cat service.

Consistent with the provisions herein, animal services is authorized to utilize humane "live traps" and may conduct trapping operations or provide or authorize such devices' use to property owners as may be needed throughout the city for rabies control and investigation. Citizens should not remove or tamper with any trap set by animal services for this purpose. This subsection is not intended to prohibit the prudent use of traps on one's own property to control rodents.

(b) Hunting or killing prohibited. It shall be unlawful for any person to hunt, shoot, intentionally injure or kill any wild bird, animal, mammal or reptile within the corporate limits of the city. It shall be unlawful for any person to hunt, shoot or kill, within the city, any domestic bird, animal, mammal, reptile or pet that is not owned by such person. Except this subsection shall not be construed or interpreted to prohibit the destruction of venomous snakes or to prohibit the police officers from utilizing certain firearms in emergency field conditions where such actions are provided for by law or policy.

(c) Shooting domestic animal. It shall be unlawful for any person to shoot a domestic animal within the corporate limits of the city. It shall be a defense to prosecution that the domestic animal shot was a vicious animal and presenting an immediate threat to personal or public safety. Except this subsection shall not be construed or interpreted to prohibit police officers from utilizing certain firearms in emergency field conditions where such actions are provided for by law or policy.

Sec. 2.04.007 Molesting animals

It shall be unlawful for any person to in any manner tease, annoy, disturb, molest or irritate an animal that is confined to the owner's premises.

Sec. 2.04.008 Pens, coops, hutches, and enclosures; requirements

(a) The owners of any animal shall maintain and keep all pens, coops, kennels, fenced areas and enclosures of any kind in a sanitary condition. This shall include the following:

(1) All animal wastes shall be disposed of promptly and all pens and enclosures shall be cleaned as needed to prevent odors and not draw insects or other vermin or create a nuisance.

(2) The premises upon which animals are kept shall be clean and free from noxious and unpleasant odors.

(3) Some standard spray or other chemicals shall be used at reasonable intervals to keep the premises free of flies, mosquitoes, ticks, fleas and other vectors.

(b) Cages, coops, hutches, pens or enclosures used to confine animals shall be of sufficient size and material to securely contain and maintain all of the animals within such pen, coop, hutch, or enclosure comfortably and in good health.

(c) Coops and hutches must be enclosed to prevent the animal or fowl from escaping.

Sec. 2.04.009 Negligent care

(a) It is unlawful for any person to fail, refuse or neglect to provide any animal in his charge or custody, as owner or otherwise, with proper food, water, shade, adequate shelter, veterinary care when needed to prevent suffering, grooming when lack thereof would adversely affect the health of the animal, and with humane care and treatment.

(b) To provide "adequate shelter" for a dog or cat kept outdoors, a person must provide a shelter accessible to the dog or cat meeting the following standards:

(1) The shelter must provide protection from the weather, i.e., sun, wind, precipitation (in whatever form), or other inclement weather conditions.

(2) If there are no artificial heat sources, the structure shall be small enough to allow the dog or cat to warm the interior of the structure and maintain its body heat, but large enough to permit normal postural adjustments, or standing.

(3) Plastic air shipping containers and/or pet carriers shall not be used as outdoor shelters.

(c) A written warning of violation requiring that the condition be corrected within a specified time period shall be issued to a person before any notice to appear at the municipal court may be issued or before a complaint may be filed with the municipal court.

Sec. 2.04.010 Animal in state of pain or suffering

(a) If any animal without a license tag or other identifying marker is found in a state of pain and suffering or becomes so during confinement, the animal services unit may dispose of the animal in any humane manner without complying with the three-day (72-hour) waiting period as set out herein.

(b) If the owner or keeper of an animal found in a state of pain or suffering refuses to assume responsibility to care for the animal, the animal services officer may dispose of the animal in a humane manner.

Sec. 2.04.011 Sale of animals in public place

(a) Not in lieu of or withstanding any permit requirements imposed herein, if an animal is offered for sale in a public place within the city, the person offering the animal for sale, the owner of the animal, the manager of the property which is the public place on which the offer is being made, and the owner of the property which is the public place on which the offer is being made shall be responsible for ensuring that the animal protections of this article are complied with in regard to the animal offered for sale in a public place during the time the animal is in the public place.

(b) The term "public place" as used herein shall mean any place to which the public or a substantial group of the public has access. It shall include, but is not limited to, shops, stores and flea markets.

(c) If an animal offered for sale in a public place is kept within a cage or pen of any type, such cage or pen shall comply with the following requirements:

(1) The cage or pen must be large enough for the animal to stand on all of its legs and hold its head in a natural position and not be in a crouched position. The cage or pen must also have enough room for the animal to turn around or move without stepping on another animal, animal feces or food or water provided for the animal.

(2) The cage or pen must either have room for water and food or have water and food situated so that the animal has access to it through the cage.

(3) The cage or pen must be situated so that air may circulate through it, so that any animal kept within the cage or pen is not exposed to extreme heat. During cold or inclement weather, cages or pens should be situated so that animals contained therein may stay warm and stay dry.

Sec. 2.04.012 Using property for purpose of conducting animal fights;

Possession of fighting equipment with intent that the equipment be used to train a dog for dog fighting or in furtherance of dog fighting or intentionally or knowingly acting in violation of the State law reference, Dog fighting, Penal Code, sec. 42.10.

Sec. 2.04.013 Cruelly treated animals.

No person shall abandon, beat, cruelly treat, torment, torture, mentally abuse, overload, overwork, poison, trip, use as a lure, fail to unreasonably provide necessary food, water, care, or shelter, or otherwise abuse an animal or cause, instigate or permit any dogfight, cockfight, bullfight or other combat between animals or between animals and humans.

State law references–Cruelty to Livestock Animals, Penal Code, sec. 42.09; Cruelty to Non-Livestock, Penal Code, sec. 42.092; dog fighting, Penal Code, sec. 42.10.

Sec. 2.04.014 Slaughtering of animals

Animals may be slaughtered for human or animal consumption within the city, provided it is done at a location that is shielded from sensory perception of the general public, and provided it is done in a manner designed to cause the animal's death as quickly as possible without needless suffering.

Sec. 2.04.017 Health hazards or offensive odors

Any person who shall harbor or keep animals on his/her premises, or in or about premises under his/her control, and who allows such premises to become a hazard to the general health and welfare of the community, or who shall allow such premises to give off obnoxious or offensive odors due to the activity or presence of such animals, shall be guilty of a class C misdemeanor.

Sec. 2.05.001 Purpose and intent

Follow Health and Safety Code, chapter 822 regarding dangerous dogs.

Sec. 2.05.002 Dangerous dogs

(a) See sections Health and Safety code section 822.001 for definitions of animal control authority, serious bodily injury, dangerous dog and secure.

(b) See Health and Safety Code sections 822.002 regarding seizure of a dog causing death or serious bodily injury to a person.

(c) See Health and Safety Code sections 822.003 regarding a hearing

Sec. 2.05.003 Potentially dangerous animals

Any prohibitions against potentially dangerous animals are found in Health and Safety code section 822.

Sec. 2.05.005 Exhibitions of certain animals prohibited

Any prohibitions on exhibitions of certain animals are found in Health and Safety code section 822.

Sec. 2.05.006 Prohibited animals generally

Any prohibitions on possession of certain animals are found in Health and Safety code section 822.

Sec. 2.05.008 Permit and certificates of registration for circus and zoo operations

Regulation of circus and zoo operation will be compliance with Texas Administrative Code 169, subchapter B.

Sec. 2.05.009 Violations; civil penalty

Violations and handling of violations will be compliance with Texas Administrative Code 169, subchapter B.

ARTICLE 2.06 IMPOUNDMENT*

Division 1. Generally

Sec. 2.06.001 Authorized; fees

(a) Animals owned or harbored in violation of this chapter or laws of the state or those safekeeping or humane situations provided in this chapter shall be taken into custody by an animal services officer or other designated official and may be impounded under this article.

(b) Owners of impounded pets are required to pay all fees related to the impoundment as set by the Williamson County Regional Animal Shelter.

Sec. 2.06.002 Tampering with animal shelter or impoundment vehicle

It shall be unlawful for any person in the city without proper authority to break into, open, pull down any enclosure belonging to or used by the city to impound or temporarily keep animals. It shall also be unlawful for any person to turn out or release, or cause to be turned out or released, or aid or abet the turning out or release of any animal from an impoundment vehicle or from any enclosure used by the city for the impoundment of animals.

Sec. 2.06.003 Redemption of impounded animal

(a) Generally. Except as may be provided elsewhere in this article, the owner of any animal impounded in accordance with this article may reclaim, during shelter hours open to the public, such animal upon showing satisfactory proof of ownership and paying all impoundment fees and any other expenses incurred by the city or its agent in keeping the animal or attempting to locate the owner of the animal. If the owner does not pay such fees, or some alternate fee satisfaction as provided for in section 2.01.009 of this chapter, the animal may be sold or otherwise disposed of by the city or its agent.

(b) Spaying or neutering of dogs and cats. If a dog or cat has been impounded at the regional shelter, a fee will be imposed per Williamson County Regional Shelter rules. The cost to spay or neuter the dog or cat shall be paid by the owner, along with the impoundment fees, to the animal shelter.

Sec. 2.06.004 Disposition of impounded animals

(a) Dogs and cats with no identification. All dogs and cats impounded by the animal services officer, or brought to the animal shelter by a person other than the harborer or owner of that animal, shall be held for a minimum of 72 hours, during which time period the owner may present proof of ownership at the shelter. After paying all applicable fees, that owner may reclaim the dog/cat. In the event that the dog/cat is not claimed after 72 hours in the shelter, the dog/cat shall become the property of the shelter.

(b) Dogs and cats with identification. Unless earlier claimed by the owner, all dogs and cats impounded by the animal services officer, or brought to the animal shelter by a person other than the harborer or owner of that animal, that are wearing traceable identification, or where an owner is known, shall be held in the shelter for a minimum time period set by the Williamson County Regional Animal Shelter from the time the animal enters the facility, during which time the animal services officer will notify the owner, when known, of the impoundment. Unless the owner has notified the Williamson County Regional Animal Shelter in compliance with shelter policy of his/her intentions to claim the dog/cat after that date, listing a date by which time that owner will reclaim the dog/cat and satisfy all applicable fees, and this arrangement has been approved by the shelter staff, the animal shall become their property after the minimum amount of time.

(c) Animals surrendered by owner/harborer. All animals surrendered by the owner/harborer to the Williamson County Regional Animal Shelter in compliance with shelter policy and fees shall become the property of the shelter immediately upon completion of the owner/harborer surrender form.

(d) Animals other than dogs, cats, or estrays. All animals other than dogs, cats, or estrays that are impounded by the animal services officer, or brought to the animal shelter by a person other than the owner/harborer, shall become the property of the shelter unless such ownership is prohibited by state or federal law.

(e) Unclaimed animals. Any animal that cannot be adopted or transferred to a proper and appropriate agency shall be euthanized in compliance with Williamson County Regional Animal Shelter policy and administered in compliance with policy and the laws of the state. All animals listed as endangered or protected shall be transferred to the proper authority at the earliest possible date.

Sec. 2.06.005 Adoption of impounded animals

(a) All animals which are adopted from the Williamson County Regional Animal Shelter shall be surgically altered to prevent reproduction in that animal, in compliance with shelter policy.

Secs. 2.06.006–2.06.030 Reserved

Division 2. Livestock and Fowl*

Sec. 2.06.031 Allowing livestock, fowl or pigeons to be at large

Owners of livestock and fowl must be in compliance with Agriculture Code section 142 regarding estrays.

ARTICLE 2.07 LICENSING AND RABIES CONTROL

Division 1. Generally

Sec. 2.07.001 Enforcement

For the purposes of discharging the duties imposed by this article and to enforce its provisions, any peace officer or animal services officer is empowered to enter upon any premises upon which an animal is kept or harbored and to demand the exhibition by the owner of such animal of the license for such animal in accordance with the provisions of this article, to include random city-wide canvassing and checks for compliance with this article. The owner of any animal is required to produce the license and vaccination information for each animal in his ownership upon demand by an animal services officer or peace officer.

Sec. 2.07.002 Counterfeiting or destroying vaccination tag, certificate or license

(a) It shall be unlawful for any person to intentionally or knowingly counterfeit a rabies vaccination tag or certificate or a license.

(b) It shall be unlawful for any person to intentionally or knowingly destroy a rabies vaccination tag or certificate.

Secs. 2.07.003–2.07.030 Reserved

Division 2. Licensing*

Sec. 2.07.031 License required; issuance; tag or other identification

(a) Modified registration. Registration with city is not required for animals that are microchipped and spayed or neutered. All animals four months of age or older which are kept, harbored or maintained within the corporate limits of the city shall be microchipped. To be eligible for this modified registration, the owner's name, current address and current phone number must be on file with the microchip manufacturer. The manufacturer will maintain information about the pet including the breed, color, name, and sex of the animal. Dangerous dogs are not eligible for modified registration.

(b) Tags. No tag and no registration fee are required for a neutered animal with a microchip. Owners desiring a registration tag instead of a microchip, must present current rabies vaccination documentation and must renew the registration every year. Owners of dangerous dogs requiring registration, must apply for a tag. Upon payment of the license fee, where applicable, the city shall issue to the owner a license certificate and metal tag having stamped thereon the number corresponding with the number of the certificate. Such tag shall at all times be securely attached to a collar or harness around the neck of the animal. In case a tag is lost, a duplicate will be issued by the animal services officer or his agent upon presentation of the receipt showing the payment of license fee for the current 12 month registration. Tags shall not be transferable from one animal to another, and no refunds shall be made.

(c) Livestock. All livestock shall be tagged or tattooed and the tag or tattoo will be the identification tag required to be worn and will be shown on the license.

Sec. 2.07.032 Revocation of registration

(a) The chief of police may revoke any registration after a hearing where an affirmative finding on any one or more of the following facts issues:

(1) That impoundment of the animal by the city more than two times during a 12 month period has occurred;

(2) That more than two final convictions of a person for violating this article when such convictions relate to the animal being considered for revocation of its license certificate have been entered into the official court docket; or

(3) Any combination of subsections (a)(1) and (a)(2) of this section totaling three incidents.

(b) Notice of revocation hearing setting the hearing date no sooner than 10 days from the service or certified mailing shall be served in person to the owner or such notice deemed served when made by certified letter, return receipt requested and addressed to the last known mailing address of the animal’s owner and deposited in the U.S. mail.

(c) Upon revoking the registration of any animal, the animal services officer shall notify the owner of the animal of such action in writing. Written notification shall be deemed made when [made by] a certified letter, return receipt requested, addressed to the last known mailing address of the animal’s owner and deposited in the U.S. mail.

(d) Upon the expiration of ten days after written notification of revocation is deposited in the U.S. mail, as provided above, no animal which has had its registration revoked shall be kept, maintained or harbored within the city limits, and each 24-hour period shall constitute a separate violation.

(e) Upon revocation of a registration, the owner of the animal with the revoked registration shall notify the animal services officer of the location to which the animal is being removed.

(f) Appeals of revocation hearing findings must be filed with the city manager within ten days of receiving notice of the action. Such notices shall be written without want of form but must include the statement "Notice of Appeal of Decision of the Chief of Police in Revocation Hearing," containing a statement of the reason(s) for the appeal, and signed by the animal owner making the appeal. The city manager or designee shall hear the appeal. At the hearing, the formal rules of evidence do not apply. The hearing officer shall make his/her decision on the basis of a preponderance of the evidence presented. The hearing officer may affirm, reverse, or modify the action of the chief; however, a decision must be rendered within 60 days after the appeal. The decision of the hearing officer is final.

Secs. 2.07.033–2.07.060 Reserved

Division 3. Rabies Control*

Sec. 2.07.061 Vaccination required

Vaccination of dogs and cats required per HSC section 826, subchapter C.

Sec. 2.07.063 Failure to vaccinate animal; dismissal of offense upon proof of vaccination

The failure of a dog or cat to wear a vaccination tag on a collar shall be prima facie evidence of the failure to vaccinate the animal as required by this article. To prove that a dog or cat was vaccinated at the time of the offense, the owner of the dog or cat must present a copy of the vaccination certificate issued by the veterinarian that shows the date the vaccination was administered. The offense shall be dismissed upon verification that the animal alleged in the offense was vaccinated on the date of the offense with the payment of an administrative fee as set forth in the fee schedule in appendix A of this code.

Sec. 2.07.064 Reporting requirements

(a) It shall be the duty of all animal owners, veterinarians, physicians or any other person to report to the animal services officer all cases of rabies with which he comes in contact or to which his attention has been directed. This report shall be made immediately upon diagnosis or suspicion of a case of rabies.

(b) Any person having knowledge of an animal bite or scratch to an individual or to another animal by an animal which the person suspects is rabid shall report that incident to the animal services officer within 24 hours.

(c) Every physician or other medical practitioner who treats a person or persons for any animal bite/scratch that occurred within the city shall within 12 hours report such treatment to the animal services officer giving the name, age, sex and precise location of the bitten/scratched person or persons and such other information as the officer or agency may require.

(d) Any veterinarian who clinically diagnoses rabies or any person who suspects rabies in a dog, cat or other domestic or wild animal shall immediately report the incident to the animal services officer stating precisely where such animal may be found.

(e) If a known suspected rabid animal bites or scratches a domestic animal, such incident shall also be reported immediately to the animal services officer.

Sec. 2.07.065 Contents of reports

When an individual is placed under a duty to report an incident in which an animal has bitten or scratched some person or some animal or to report an animal known or suspected to be rabid, that report to the animal services officer shall include, if the person making the report knows, the following information:

(1) The location where the bite or scratch occurred.

(2) The location where the animal which committed the act or which is known or suspected to have rabies or have been exposed to rabies can be located.

(3) The name and address of any person who was bitten or scratched.

(4) The name and address of the person who owns, keeps, harbors or has control over the premises where the animal committing the act normally can be found.

(5) The names and addresses of the persons who own, keep or harbor [or have control over the premises where] any other animal exposed to rabies can be found.

Sec. 2.07.066 Animal bites and scratches; quarantine of animal

(a) Report of victim. Any person who is bitten or scratched by an animal shall report that fact to the animal services officer within 24 hours. If the person bitten or scratched is a minor under the age of 17, the parent or guardian of such minor, if he has knowledge of the incident, shall report that fact to the animal services officer within 24 hours.

(b) Report of animal owner. A person who owns, keeps, harbors or allows an animal to remain on premises under his control and who has knowledge of a bite shall report to the animal services officer within 24 hours any incident where such animal bit or scratched any person.

(c) Quarantine. The animal committing the act shall be submitted into quarantine by the owner of the animal. If the owner can not be located, animal services may impound and submit the animal into quarantine at the contracted shelter or humanely euthanize and submit the animal for rabies testing. When the local rabies control authority goes to the premises where the animal that bit or scratched any person is being kept, the animal services officer may take immediate custody of the animal. Where suitable arrangements are made, the local rabies control authority may permit the animal to be transferred from the location of the incident to approved quarantine facility for the remainder of the quarantine period. This duty to submit the animal to quarantine shall apply to any person who owns, keeps, harbors, has possession of or allows an animal to remain on premises under his control. If convicted of violating this section, a minimum fine as set forth in the general penalty provision in section 1.01.009 of this code shall be imposed by the municipal court.

(d) Observation of animal. Any owned dog or cat having bitten or scratched a person shall be observed for a period of ten days (240 hours) from the date and time of the bite. The procedure and place of observation shall be designated by the investigating officer or responsible agency in compliance with state law. If the dog or cat is not confined on the owner's premises for owner's quarantine, confinement shall be by impoundment in the animal shelter, or at a veterinary hospital of the owner's choice. Such confinement shall be at the owner's expense.

(e) Strays. Stray dogs and cats, or those animals whose owners cannot be located, may be confined in the animal shelter or may be destroyed and the brain of such animal immediately submitted to a qualified laboratory for rabies examination at the victim's expense.

(f) Temporary surrender of animal. The owner of any dog or cat that has been reported to have inflicted a bite or broke skin on any person shall on demand produce the dog or cat for quarantine, as prescribed in this article.

(h) Wild, exotic or dangerous animals. Any wild, exotic or dangerous animal that is considered high risk by state law or regulation and which has bitten or scratched a person shall be caught and humanely killed and the brain submitted for rabies examination. Those wild animals which are classified as low risk animals shall be handled as dictated by state law.

(i) Quarantine at residence. An animal owner who quarantines the animal at their residence with the animal services officer's permission under the following conditions:

(1) The animal must have a current rabies vaccination, must not have been running at large at the time of the scratch or bite, and be registered with animal services;

(2) The animal must be inside an enclosed structure, i.e., a house or garage, and must remain there for ten days (240 hours);

(3) The animal must be kept away from other animals and people inclulding those in the immediate household; only minimal contact with caretaker allowed during home quarantine.

(4) The animal may not be removed from the corporate city limits while under quarantine;unless approved by animal services.

(5) The owner shall notify the animal services officer immediately if the animal becomes sick or displays any behavioral changes;

(6) The owner shall not subject the animal to any medical procedure without first notifying the animal services officer. This includes any vaccinations;

(7) The animal must be examined by the local rabies control authority or designee by the first day of home quarantine and released by a final examination by a licensed veterinarian. Upon final examination, the veterinarian may declare the animal to be free of the rabies virus. The owner shall be responsible for all associated costs and when required produce proof of such veterinarian examinations;

(8) Owners who are deemed habitual offenders, as defined herein, shall not be allowed home quarantine;

(9) The owner must allow animal services, with reasonable notice, to view and confirm the health of the animal during the rabies quarantine period.

Sec. 2.07.067 Release of quarantined animal

(a) When an animal is required to be placed in quarantine, the animal shall be submitted for quarantine at an approved facility. The owner will be responsible for all fees and cost associated with quarantine. Only with the prior approval of the local rabies control authority may the animal be held in quarantine at any other location.

(b) Any animal quarantined shall be held for a period of ten days (240 hours) from the date and time of the exposure. The animal shall not be released from quarantine until such release has been approved by the local rabies control authority.

(c) Upon release of an animal from quarantine, if the ownership of the animal is known, such owner shall be responsible for all associated fees and costs of quarantine and contact the quarantine facility for release of said animal. If the ownership of the animal is unknown, the animal may be disposed of as provided in this article without waiting for an additional 72 hours.

Sec. 2.07.068 Submission of head for rabies diagnosis

(a) If the animal biting or scratching a person is a wild animal, the animal shall be humanely destroyed in such a manner that the brain is not mutilated. The head shall then be submitted to a laboratory certified by the department of state health services for rabies diagnosis.

(b) If an animal being quarantined becomes ill, it may be humanely destroyed in such a manner that the head is not mutilated. The head shall then be submitted to a laboratory certified by the department of state health services for rabies diagnosis. The head of each animal dying while in quarantine shall also be submitted for rabies diagnosis.

ARTICLE 2.08 COMMERCIAL ANIMAL ENTERPRISES AND MULTIPLE ANIMAL OWNERSHIP

Sec. 2.08.001 Permit required

Commercial activity: (a) Permits shall be required for all commercial animal enterprises. Commercial animal enterprises shall include but not be limited to enterprises such as kennel facility, pet shops, riding stables, animal auctions, performing animal exhibitions, animal training services, grooming shops, petting zoos, aviaries or any similar entrepreneurial relationships regarding animals.

Sec. 2.08.002 Term of permit; fee; denial; correction of conditions; appeals

(a) Term of permit; fee. Permits shall be valid for one year from date of issuance. The permit fee shall be as provided for in the fee schedule found in appendix A of this code.

(b) Denial of permit. The animal services officer, upon an inspection finding inconsistent with the permit inspection requirements of this article, may deny the issuance of such permit and prescribe corrections for the applicant to meet the requirements of this article. Applicants shall be given a reasonable amount of time to make such corrections and submit to a reinspection for compliance. Applicants contesting original denial or subsequent reinspection denial shall have a right to appeal. Appeal of such denial of permit shall be in writing to the chief of police within 10 days from the receipt of the denial notification. If no written appeal is received within the prescribed period, the denial is final. In instances of a timely appeal, the chief of police shall conduct a hearing to determine the validity of the denial. At such hearings, the formal rules of evidence do not apply, and the chief shall make determinations based on a preponderance of evidence presented. The chief shall render a decision within 30 days from receipt of the appeal and the decision of the chief shall be subject to appeal to the city manager, in writing, within 5 days of the ruling being delivered. The city manager may elect to hear the appeal by review or a de novo informal preponderance of evidence hearing. The city manager’s decision is final.

(c) Inspections; correction of conditions. [If] The animal services officer, as a part of random inspections of permitted facilities or upon complaint of noncompliance, finds inconsistencies in permitted facilities adequately maintaining the requirements set out in section 2.08.003 of this article, the officer may prescribe corrections for compliance. Such corrections shall be made in a reasonable time by the permit holder followed by a reinspection for compliance. Any permitted facility refusing corrections or failing after reinspection shall be temporarily suspended, pending a hearing to consider revocation of permit. Such a hearing shall be conducted by the chief of police within 10 days of the suspension. Proper notice of such a hearing shall be sent, in person or via certified mail (return receipt requested), to the permit holder. The formal rules of evidence do not apply to such hearings and the chief shall make decisions based on a preponderance of evidence presented. The chief may order an inspection/reinspection by a different officer, [or] make a personal inspection/reinspection of the permitted premises in addition to other evidence that may be heard. The chief's decision will be rendered within 10 days of the hearing and the chief may:

(1) Uphold the suspension and formally revoke the permit; or

(2) Vacate the suspension and reinstate the permit to valid status.

A default judgment may be entered if the permit holder fails to appear for the hearing after receiving proper notice. A permit holder subject to permit revocation may appeal the chief's ruling to the city manager, in writing, within 5 days of the ruling being delivered. The city manager may elect to hear the appeal by review or a de novo informal preponderance of evidence hearing. The city manager's decision is final.

Sec. 2.08.003 Facility requirements

Upon inspection of the premises by the animal services officer, the permit shall be issued if the following conditions are met:

(1) The facility must be adequate for the number and type of animals to be kept:

(A) The facility must be of sufficient size as to allow animals to move about freely. This shall apply to each animal kept. The size of facility shall be in proportion to the size of the individual animal's height and weight.

(B) Adequate food and water must be provided so that each and all animals kept shall be maintained in good health and free of malnutrition and/or dehydration.

(C) The premises shall be kept in a sanitary condition and reasonably free of animal waste, parasites, insects and flies that could be harmful to the animal's health and/or to the health of the general public.

(2) The animals and the facility must be kept free of odor or stench which is offensive to a person of ordinary sensibilities.

(3) The animals must be maintained in a manner which does not pose a danger to the health of the animals themselves or to adjacent animals.

(4) The animals must not cause noise which is offensive or disturbing to a person of ordinary sensibilities on adjoining, adjacent or neighboring premises.

(5) The applicant or holder of the permit shall not have been issued citations for violation of this article on two separate occasions, or animals covered by or to be covered by the permit have not been impounded on two separate occasions.

(6) The chief of police shall adopt standard operational procedures for the animal services unit consistent with this article in providing guidelines and standards for the inspection of such facilities for permitting and for the periodic monitoring of such facilities. Such permitted facilities may be randomly inspected for compliance with the basic requirements stated herein at any reasonable time for a commercial animal enterprise permitted facility. Refusal to allow such inspections shall be grounds for permit revocation.

Sec. 2.08.004 Revocation of permit

Any commercial animal enterprise permit may be revoked if the owner's facility is found to be in violation of this article, any zoning law, health law or any other applicable ordinance of the city or of the state, or the facility is maintained in such a manner as to be detrimental to the health, safety or peace of mind of persons residing in the immediate vicinity.

Sec. 2.08.005 Multi-pet Owner

(a) No household shall maintain, harbor or care for more than five total dogs and cats.

(b) Exceptions; a household may have seven total dogs and cats if all are registered with the city, spayed or neutered and kept in separate kennels. A household assisting in fostering animals for the Williamson County Regional Shelter or similar problem may have more animals if the household has a letter on official letterhead or other official documention from the shelter stating that they are fostering animals. If it is on an ongoing basis, the approximately number of animals at any given time they would foster; if it is on an individual basis, the approprixmate time and number of animals fostered. Such a household should produce this to animal services upon request.

Exhibit B

Sec. A2.002 Standard licensing fee - only when tag issued

(a) Dog or cat, per annum fee: $15.00.

(b) Dangerous dogs, per annum fee: $50.00.

Sec. A2.003 Permits

A permit shall be issued after payment of the applicable fee:

(1) Circus/zoo: $500.00.

(2) Commercial animal enterprise: $100.00.

(4) Renewal, per annum fee $50.00.

Sec. A2.008Dismissal of offense upon proof of vaccination

The failure of a dog or cat to wear a vaccination tag on a collar shall be prima facie evidence of the failure to vaccinate the animal as required by chapter 3 of the Code of Ordinances. To prove that a dog or cat was vaccinated at the time of the offense, the owner of the dog or cat must present a copy of the vaccination certificate issued by the veterinarian that shows the date the vaccination was administered. The offense shall be dismissed upon verification that the animal alleged in the offense was vaccinated on the date of the offense with the payment of a $20.00 administrative fee. (2003 Code, app. A, art. 2.000(7))

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ANIMAL CONTROL ORDINANCE; LEANDER CODE OF ORDINANCES, CHAPTER 2 RELATING TO ANIMAL CONTROL; AND LEANDER CODE OF ORDINANCES, APPENDICES, ARTICLE A2.000 OF APPENDIX "A" RELATING TO ANIMAL CONTROL FEES; ADOPTING ANIMAL CONTROL REGULATIONS DESIGNED TO PROTECT THE PUBLIC HEALTH AND SAFETY; PROVIDING FOR LICENSING AND PERMIT FEES; PROVIDING FINES AND PENALTIES; AMENDING ALL PARTS OF ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING SEVERABILITY AND OPEN MEETINGS CLAUSES; AND PROVIDING FOR RELATED MATTERS.

Whereas, the proper care, regulation and control of animals, fowl and livestock is necessary for the health, safety and quality of life of the citizens of the City of Leander, Texas (herein the "City");

Whereas, the establishment of reasonable requirements for the care and control of dogs, cats, animals, fowl and livestock is necessary to protect such animals and the general public;

Whereas, it is necessary for the City to adopt requirements and regulations which will enable the officers and employees of the City to respond in a manner consistent with State law to unusual circumstances and conditions that arise from time to time with respect to the keeping, care and control of domestic, wild and exotic animals; and

Whereas, the rules, regulations and requirements established by ordinance may not be inconsistent with State law;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LEANDER, TEXAS, THAT:

Section 1. Findings of Fact. The above and foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact. The City Council hereby further finds and determines that the rules, regulations, terms, conditions, provisions and requirements of this ordinance are reasonable and necessary to protect the public health, safety and quality of life.

Section 2. Animal Control Regulation Amendments Adopted. The City Council hereby adopts the animal control regulations for the control and regulation of animals within the City of Leander to be set forth in Chapter 2 of the Code of Ordinances to read as set forth in Exhibit A attached to and incorporated in this ordinance as though fully transcribed herein for all purposes.

Section 3. Animal Control Fees Amendment. Sections A2.002, A2.003, and A2.008 of Article A2.000 of the Appendix A of the Code of Ordinances are hereby amended in their entirety to read as set forth in Exhibit B.

Section 4. Amendment Of Ordinances. Leander Code of Ordinances, Chapter 2, relating to animal control, is hereby amended in its entirety to read as set forth in Exhibit A, and Article A2.002 of Appendix "A", Leander Code of Ordinances, is hereby amended as provided in this ordinances and any ordinances or portions thereof conflicting or inconsistent with the provisions of this ordinance as adopted and amended herein, are hereby amended to the extent of such conflict. In the event of a conflict or inconsistency

between this ordinance and any other code or ordinance of the City, the terms and provisions of this ordinance shall govern.

Section 5. Savings Clause. All rights and remedies of the City of Leander are expressly saved as to any and all violations of the provisions of any ordinances affecting animals, licensing and registration within the City which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

Section 6. Effective Date. This ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Tex. Loc. Gov't. Code.

Section 7. Severability. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of this ordinance of any such invalid phrase, clause, sentence, paragraph or section. If any provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.

Section 8. Open Meetings. It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on this _____ day of _____, 2016.

ATTEST: **THE CITY OF LEANDER, TEXAS**

_____ _____

Debbie Haile, City Secretary Christopher Fielder, Mayor

Executive Summary

July 21, 2016

Agenda Subject: Ordinance Case 16-OR-001: Consider action on amending sections of the Composite Zoning Ordinance, to add definitions, update the use components, to modify setbacks for commercial fueling, to update requirements for screening, to update the parking requirements table, to modify residential setbacks, to clarify requirements for drainage and detention facilities, to modify outdoor lighting requirements, to update the architectural standards, to update the site development standards.

Background: Staff presented a proposal to the Planning & Zoning Commission on November 12, 2015 that included several amendments to clarify the Composite Zoning Ordinances. Based on the results of that meeting, staff is proposing the following amendments to the Composite Zoning Ordinance.

1. Update the definitions section
2. Clarify the number of children permitted in an in home daycare
3. Add temporary parking to the list of permitted uses
4. Add Gaming Room Facility to the HC use component
5. Update the PUD section to include examples of higher standards
6. Increase the setback between commercial fueling and residential uses
7. Modify the screening requirements
8. Update the disturbance zone
9. Change "Tree Protection" to "Tree Preservation" to be consistent throughout the ordinance
10. Update the parking requirements
11. Revise the setback requirements
12. Revise the drainage and detention facility requirements
13. Update the outdoor lighting requirements
14. Modify the fencing requirements
15. Clarify the masonry requirements
16. Update the brush removal requirements

Origination: Applicant: City of Leander

Financial Consideration: None

Recommendation: See Planning Analysis. The Planning & Zoning Commission unanimously recommended to approve the amendments with staff recommendation and the following changes at the June 23, 2016 meeting:

1. Remove the restrictions regarding the limitations on stucco
2. Reword the language regarding the drainage structures to clarify the permitted wall materials

The City Council approved the amendments with the following changes at the July 7, 2016:

1. Remove the restrictions regarding stucco for the Type A & B Architectural Components. Staff and the HBA shall work together to draft a proposed amendment with the next round of ordinance amendments.
2. Add stamped and tinted concrete as approved by the Director of Planning to the Detention Pond.

Attachments:

1. Proposed Amendments
2. Ordinance
3. HBA Correspondence
4. Proposed P&Z Amendments

Prepared By: Tom Yantis, AICP
Assistant City Manager 07/11/2016

COMPOSITE ZONING ORDINANCE AMENDMENTS

ARTICLE I – GENERAL

SECTION 6: DEFINITIONS

Dark Sky means the use of lighting in a way that directs the light source away from the sky in order for the night sky to remain relatively free of interference from artificial light. This type of lighting is in compliance with the International Dark Sky Association standards.

Gaming Room Facility means a place to deal, operate, carry on, conduct, maintain, or expose for play any game, sports book, promotion, sweepstakes, or other activity electronic or otherwise that may or may not confer upon the patrons or participants the right, chance, or ability to win and or claim prizes.

Gaming Device means a clock, tape machine, slot machine, or other machine or device for the reception of money or other thing of value on chance or skill or upon action of which money or other thing of value is staked, hazarded, bet, won, or lost; or any mechanism, furniture, fixture, equipment or other device designed primarily for use in a gambling place. It does not include: (1) A coin-in-slot-operated mechanical device played for amusement that rewards the player with the right to replay such mechanical device; or (2) Vending machines by which full and adequate return is made for the money invested and in which there is no element of chance or hazard.

Lot Width means the average horizontal distance between side property or lot lines. Lot width can also be identified as the measurement of the lot at the building setback line. The minimum lot width for lots fronting a cul-de-sac may be reduced to a minimum of thirty (30') feet at the front property line provided that the minimum required lot width is provided at the front setback line.

Riparian Corridor means any defined stream channel including the area up to the ordinary high water (or bankfull-flow line), as well as all riparian (streamside) vegetation in contiguous adjacent uplands. Riparian Corridors also includes the Secondary and Connector Trail Corridors identified in the City of Leander Parks, Recreation & Open Space Master Plan and the Transportation Plan.

Soil means the upper layer of the earth in which plants grow and contains humus, minerals, available nutrients, and beneficial micro-organisms, resulting in a favorable condition for vegetative growth.

ARTICLE III – USE COMPONENTS

SECTION 1: SFR – SINGLE-FAMILY RURAL

(b) Conforming Uses

(1) Single-family dwelling of not less than sixteen hundred (1,600) square feet of living area; accessory dwelling with a minimum living area of four hundred (400) square feet; and a maximum living area of nine hundred (900) square feet or 40% of the gross living area of the primary dwelling, whichever is greater. However, for lots

greater than three acres in size, there is no limit to the maximum size of the accessory dwelling.

(2) Community services including community center, civic organizations, fraternal organizations, and cemetery / mausoleum not including a crematory or embalming facilities

(3) Golf courses (public and private) and all associated improvements and activities, but not including miniature golf courses, golf practice ranges (unless associated with a golf course), or similar forms of commercial amusement

(4) Day care (in home) for 5~~6~~ or fewer children

(5) Emergency services including fire, police and EMS stations

(6) Family Home and Group Home-Class 1

(7) Home occupations (see Article IV, Section 8 for Use Standards)

(8) Parks, playgrounds and associated equipment and facilities, recreational amenity center

(9) Place of worship

(10) Public buildings, including libraries, museums and administrative offices

(11) Real estate sales offices during the development and sale of a residential subdivision and subject to the restrictions contained in this ordinance

(12) Schools, public or private, including all levels up to and including secondary (high) school and equivalent curriculum including support facilities are permitted

(13) Temporary buildings incidental to construction work on the premises if such buildings are removed upon the completion or abandonment of construction work (see Article IV, Sec. 7)

(14) Utilities (minor) including ground mounted service equipment and minor structures and facilities such as poles, minor electrical switching facilities, lift stations, water pump stations and gas regulating facilities

(15) Water supply reservoirs and pumping plants when screened from public view

(16) Wireless communications facilities (WCFs) attached to street poles or facades attached to non-residential buildings or stealth WCFs are permitted subject to the provisions of this ordinance. Freestanding WCFs, including lattice towers and mono-poles, are prohibited.

(17) (For lots or tracts three or more acres in size) ranches, dairy farms, stables, riding academies and roping arenas; including the feeding, raising and breeding of agricultural livestock and exotic hoof stock; however, with exception of commercial feed lots which are not permitted, and the exception that not more than one large animal (e.g. a horse, cow, bull or similar animal) or five small animals (e.g. goats, sheep or similar animal) may be permitted for each acre of grazeable land. Grazeable land shall be land that is fenced and maintained with suitable forage for grazing of the particular species. Barns and stables shall not be located within 25 feet of any property line. (See Chap. 2, City Code for animal control regulations)

(18) Agricultural, small wind energy systems, solar energy systems and rainwater harvesting systems including or similar to:

(i) As accessory uses, solar energy systems designed to supply energy for use on the premises, and rainwater harvesting systems meeting the standards of Article IV, Sec. 5 of Article 14.200. In addition, if approved with a special use

permit, small wind energy systems may be approved as an accessory use if meeting the standards of Article IV, Sec. 5 of Article 14.200.

(ii) Hunting and/or hunting leases (for lots or tracts three or more acres in size).

(iii) Farming or truck gardens, limited to the propagation and cultivation of plants.

(19) Temporary parking associated with model homes and/or sales trailers prior to the completion of model homes. Article IX of this ordinance will apply to temporary parking lots.

(20) Other similar uses as determined by the Director of Planning [see Article II, Sec. 2, (f)].

SECTION 14: HC – HEAVY COMMERCIAL

(b) Conforming Uses

(1) Any use permitted in the "GC" component

(2) Bingo

(3) Car Title Loans Shop/Business

(4) Commercial laundry

(5) Contractor and building material storage

(6) Gaming Room Facility/Gaming Device

~~(6)~~(7) Hooka Lounge

~~(7)~~(8) Manufacture, assembly or processing of materials not classified as hazardous by the Fire Chief

~~(8)~~(9) Mini-warehouse or self-service storage facilities [required to be set back at least four hundred (400) feet from a tollway, highway or major arterial roadway if built to Type B, C or D architectural standards or such facilities include exterior warehouse doors], warehouse and distribution, commercial storage

~~(9)~~(10) Pawn Shop

~~(10)~~(11) Payday Lending Business

~~(11)~~(12) Research, Testing, and Development Laboratory

~~(12)~~(13) Research, Testing, and Development Laboratory (Intense)

~~(13)~~(14) Retail sales, second hand resale, and services

~~(14)~~(15) RV, trailer, commercial motor vehicle and boat outdoor storage [required to be set back at least four hundred (400) feet from a tollway, highway or major arterial roadway] (Note: refer to Article VI, Section 9 for rules on special vehicle storage)

~~(15)~~(16) Tattoo and/or Body Piercing Parlor

~~(16)~~(17) Utilities, including ground mounted service equipment and structures as a primary use and facilities such as poles, electrical switching facilities, lift stations, water pump stations, gas regulating facilities, electrical substations, generating plants, wastewater and water treatment plants, etc. (see screening requirements in Article VI, Sec. 1)

~~(17)~~(18) Vehicle and major equipment sales, rental or leasing, repair, body shop [Small engine repair shops and motorcycle repair shops shall not be permitted within one-hundred fifty (150') feet of a residential district unless such repairs are conducted totally within a fully enclosed building.]

~~(18)~~(19) Warehouse and distribution

~~(19)~~(20) Wood yard

~~(20)~~(21) Wholesale activities

~~(21)~~(22) Wrecker Impoundment, Towing [required to be set back at least four hundred (400) feet from a tollway, highway or major arterial roadway]

~~(22)~~(23) Stand alone crematory or embalming establishment as long as the crematory stack is no closer than 200' from a restaurant or associated parking or from a residential district (unless such district is utilized for non-residential uses).

~~(23)~~(24) Other similar uses as determined by the Director of Planning based on the criteria of Article II, Sec. 2, (f)

SECTION 16: PUD – PLANNED UNIT DEVELOPMENT

(d) Rules Applicable

(8) The PUD shall result in overall higher standards than what would be provided by the base zoning district. As examples: (1) if residential lot sizes are decreased or development densities are increased, the PUD will be expected to significantly exceed other standards such as parkland and facilities dedication, landscaping, architectural controls, thoroughfare or other transportation improvements, creation of unique characteristics of the neighborhood, retention of significant trees and/or provision of public facilities, etc., or (2) if masonry standards or building/development setbacks are proposed to be decreased, other standards would be expected to be increased such as landscaping, screening, retention of significant trees, architectural controls, land uses and/or unique site layout standards, etc. Other examples may include:

(i) Designating the Type A Architectural Component
(ii) Adding additional architectural features
(iii) Provide a master architectural and signage plan that includes a cohesive materials palette
(iv) Enhanced landscaping and/or trees
(v) Increased landscape area
(vi) Masonry perimeter walls for subdivisions
(vii) Provide brick or stone instead of decorative concrete panels for screening walls
(viii) Plant street trees
(ix) Provide more parkland dedication
(x) Increase recreation improvements
(xi) Trails system in greenbelt areas
(xii) Provide a Master Sign Plan including: proposed locations, provide cohesive materials palette, design specifications for signage, type of illumination
(xiii) Limit fencing to wrought iron or decorative tubular metal fencing along greenbelt lots.
(xiv) Provide unique characteristics of a neighborhood with a unique site layout
(xv) Include a mixture of uses
(xvi) Provide public spaces
(xvii) Incorporate public art

ARTICLE V – SITE COMPONENTS

SECTION 3: TYPE 3

(b) Site Uses and Features (Some Site Uses Listed Also Require Appropriate Use Component)

(2) Commercial and Industrial Development:

(v) Outdoor commercial fueling and washing of vehicles meeting the following requirements is permitted:

a. Washing of vehicles (including vacuum facilities) is not located within one hundred fifty (150') feet of a residential district unless such district is utilized for non-residential purposes. The location is measured from the closest portion of the structure associated with the washing of vehicles to the residential district; and

b. Commercial fueling is not located within ~~one~~ two hundred (~~1~~200') feet of a residential district unless such district is utilized for non-residential purpose. The location is measured from the closest portion of the structure associated with the outdoor commercial fueling to the residential district; and

ARTICLE VI – SITE STANDARDS

SECTION 1: LANDSCAPING, TREE PRESERVATION AND PROTECTION, AND SCREENING REQUIREMENTS

(c) Tree Preservation and Protection.

(4) Significant Tree Preservation Requirements

(iv) Significant Trees greater than eight (8) inches in caliper shall be preserved to the greatest extent reasonably possible. Significant Trees removed during construction shall be supplanted with Replacement Trees if required by the tree mitigation requirements of this section. No Significant Tree shall be removed until a tree ~~protection~~ preservation plan has been approved by the Director of Planning in accordance with this Chapter. Significant Trees may be removed only in accordance with the approved tree ~~protection~~ preservation plan, and trees must be protected during construction activities on the property in accordance with the approved tree ~~protection~~ preservation plan. This provision only applies to projects before the certificate of occupancy has been issued for single-family and two-family developments. For single-family and two-family projects, this provision only applies prior to the initial certificate of occupancy for each lot.

* * *

(8) A non-disturbance zone shall be maintained on single-family and two-family lots during the subdivision construction and building permit phases of development. A disturbance area no more than five (5') feet from the foundation necessary for construction and grade transitions shall be permitted. This disturbance area shall be no more than ten (10') feet from the foundation for properties zoned with the SFR (Single-Family Rural) use component. The trees located on the remainder of the lot shall not be removed unless a unique situation is approved by the ~~Planning~~ Director of Planning.

(9) Tree Protection Plan Requirements

(i) An applicant for a single-family or two-family preliminary plat or final plat, or a site development permit shall provide a tree survey prepared within five years preceding the application date. This tree survey shall include the street and lot layout, or site plan superimposed at a scale of 1"=100' (or as appropriate) identifying significant trees located on the property that meet the requirements indicated in this section. Applicants for a single-family or two-family preliminary or final plat are only required to submit a tree survey for the portion of the property that the applicant is proposing to disturb with the subdivision construction. The applicant shall provide a tree preservation plan that identifies the surveyed trees and the mitigation of the protected trees that are proposed for removal. The applicant shall be required to demonstrate that lot lines, street layouts and site improvements have been designed and located and that lot width, depth and size flexibility as permitted by the applicable zoning district has been utilized to the maximum extent necessary to retain the maximum number of significant trees reasonably practicable. Applicants for a single-family or two-family preliminary or final plat may plant replacement trees within lots owned by the Homeowners Association including but not limited to landscape lots, park lots, or amenity center lots.

(ii) The Director of Planning shall determine if adequate performance is achieved based on the standards of this section. Approval of the tree ~~protection~~

preservation plan by the Director of Planning is required prior to preparation and submission of a subdivision or site development permit application. The applicant may appeal any decision of the Director to the Commission. A decision of the Commission may be appealed to the City Council. Any preserved or replacement trees may be counted toward the landscape requirements of this section. See the Construction Plan requirements for details.

(d) Screening Requirements.

(1) In addition to the landscaping requirements of this section, all development other than single-family or two-family shall comply with the following screening requirements:

(i) The following shall be screened from the view of at least sixty percent (60%) of adjacent single-family or two-family residences and any street or public right-of-way: off-street parking areas, loading spaces and docks, trash and storage containers, outside storage areas, satellite dishes larger than eighteen (18) inches in diameter, antennas, mechanical equipment, and metal siding.

(ii) Above ground utility facilities up to six (6) feet above grade for multi-family and non-residential development are required to be screened from view except for poles, fire hydrants and existing lines.

(iii) Detention Facilities including detention ponds and/or water quality ponds shall be screened from view.

(iv) Screening by vegetation that could be removed from adjacent undeveloped or partially developed properties when such property is developed is not considered as screening from view.

(v) Outside storage areas shall be screened by the use of a privacy fence or wall at least the height of the items to be screened and in conformance with the requirements of this ordinance. If the outdoor storage area is adjacent to an arterial or collector roadway, then the wall is required to be constructed of one or more of the following materials: brick, stone, cast stone, stucco (limited to thirty-five (35%) of the exterior surface area of walls), factory tinted (not painted) split face concrete masonry unit, or other similar material approved by the Director of Planning. In addition to the materials listed above, textured pre-cast concrete (e.g. Woodcrete) is also permitted when the wall is adjacent to collectors.

(vi) A minimum five-foot (5') landscaped area located on the exterior of the fence shall be provided and landscaped in accordance with paragraph (2) (i) above unless the fence is on a rear boundary line or adjoining a permanent structure on the site.

(vii) Fuel pumps are required to be screened from view of any street or public right-of-way to at least the height of the fuel pump.

(viii) Lift stations are required to be screened from view of adjacent single-family or two-family residences, or any street or public right-of-way by the use of a wall. The wall is required to be constructed of one or more of the following materials: brick, stone, cast stone, stucco (limited to thirty-five (35%) of the exterior surface area of walls), factory tinted (not painted) split face concrete masonry unit, textured pre-cast concrete (e.g. Woodcrete) or other similar material approved by the Director of Planning.

(2) Approved screening techniques include privacy fences, evergreen vegetative screens, landscape berms, existing vegetation or any combination thereof unless otherwise noted in this section.

(3) Privacy Fences (See section 14 and 16 of this Article)
(4) Evergreen Vegetative Screens. Evergreen plant materials shall be shrubs, at least thirty (30) inches in height and at a minimum spacing of 48 inches at the time of installation, in combination with shade trees not more than fifty feet apart.
(5) Landscape Berms, in combination with trees, shall fulfill the screening requirements of this section if the berms are at least three (3) feet in height and have maximum side slopes of four (4) feet of horizontal run for every one (1) foot in vertical rise.
(6) Existing on-site vegetation, demonstrating significant visual screening capabilities and as approved by the Director of Planning, shall fulfill the requirements of this section.

SECTION 3: OFF-STREET PARKING REQUIREMENTS

(a) The following off-street parking requirements are considered minimum requirements and may not adequately reflect the specific needs of a proposed business. A commercial building permit applicant shall analyze the parking needs of the specific users being proposed and provide the amount of parking required for such uses. When any building or structure is erected, or an existing building is enlarged by fifty (50) percent or more in floor area, off-street parking shall be provided in accordance with the following requirements (Note: Any building enlargement is required to add at least the amount of additional parking required by the enlargement):

USE CATEGORY	SPECIFIC USE	SPACE REQUIREMENT
RESIDENTIAL USES		
Household Living	Single Family	See Use District
	Multi-Family	1 ½ for one bedroom plus ½ for each additional bedroom.
	Senior Multi-Family	1 per dwelling plus additional 5% of total spaces for visitor use.
Group Living	Fraternity House, Sorority House, Dormitory, Rooming House, Boarding House	1 per each two beds
	Nursing Home/Hospice/ Assisted Living	1 per bedroom
	All other Group Homes	1 per bedroom
	Family Home and Group Home-Class 1	not less than four (4) off street parking spaces, or one parking space per bedroom, whichever is greater.
	Group Home-Class 2 & Group Home-Class 3	not less than six (6) off street parking spaces, or one parking space per bedroom, whichever is greater
CIVIC USES		

Educational & Daycare Facilities	Elementary Schools	greater of 1:4 seats in auditorium or 2:classroom
	Secondary Schools, colleges	greater of 1:4 seats in auditorium or 10:classroom
	Day Care Center	1:400 sq. ft.
Medical & Institutional Facilities	Hospital, Sanitarium~~, Convalescent Home~~	1:4 beds
	All other institutions	1:250 sq. ft.
Parks & Open Areas	Golf Courses	3:hole
	Neighborhood Amenity Center	1:300 sq. ft. (including pools in square footage calculation)
Places of Worship	Religious Assembly	1:200 square feet of sanctuary, classrooms, flexible seating areas
COMMERCIAL USES		
Automotive Sales & Services	Motor Vehicle Salesrooms & Used Car Lots	greater of 1:800 sq. ft. of sales floor or lot area
	Vehicle Repair Garage	1:400 sq. ft.
Overnight Accommodations	Hotel, Motel	1 per room plus 1:200 sq. ft. of Comm. Floor Area
	Bed & Breakfast/Inn	1 per guest room plus 2 additional spaces
Food & Beverage Establishments	Restaurant as a single use or comprising more than 20% of a mixed retail center	1:100 sq. ft.
Entertainment & Recreation	Dance / Assembly / Exhibition Hall, Restaurant, Night Club, Lodge or Country Club	1:100 sq. ft.
	Bowling Alleys	5:lane ~~alley~~
	Community Center, Library, Museum, Art Gallery	1:300 sq. ft.
	Theater, Auditorium (except school), Sports Arena, Stadium, Gymnasium, Funeral Home	1:4 seats

Commercial Office, Retail Sales, & Services	Medical / Dental Clinic/ Office, Personal Service, Mixed Use Retail Center less than 20,000 sq. ft.	1:200 sq. ft.
	Mixed Use Retail greater than 20,000 sq. ft.	1:225 sq. ft.
	Studio, Bank, Retail	1:250 sq. ft.
	Business / Professional Office	1:275 sq. ft.
	Furniture, Appliance or Hardware Store; Wholesale Sales Establishment, Machinery / Equipment Sales & Service; Clothing / Shoe Repair; Service Shop	1:300 sq. ft.
INDUSTRIAL USES		
Industrial, Manufacturing, Warehousing, Storage	Manufacturing, Industrial, Research, Testing, Warehouse, Storage Buildings and Yards, Lumber Yard, Printing Shop, Plumbing Shop	1:600 plus spaces for business vehicles
	Mini-Warehouse Self Storage	parking required only for office
	~~Church, Theater, Auditorium (except school), Sports Arena, Stadium, Gymnasium, Funeral Home~~	~~1:4 seats~~
	~~Hotel, Motel~~	~~1 per room plus 1:200 sq. ft. of Comm. Floor Area~~
	~~Furniture, Appliance or Hardware Store; Wholesale Sales Establishment, Machinery / Equipment Sales & Service; Clothing / Shoe Repair; Service Shop, Community Center,~~	~~1:300 sq. ft.~~

	~~Library, Museum, Art Gallery~~	
	~~Hospital, Sanitarium, Convalescent Home~~	~~1:4 beds~~
	~~Dance / Assembly / Exhibition Hall, Restaurant, Night Club, Lodge or Country Club~~	~~1:100 sq. ft.~~
	~~Motor Vehicle Salesrooms & Used Car Lots~~	~~greater of 1:800 sq. ft. of sales floor or lot area~~
	~~Vehicle Repair Garage~~	~~1:400 sq. ft.~~
	~~Mini-Warehouse Self Storage~~	~~parking required only for office~~
	~~Golf Courses~~	~~3:hole~~
	~~Bowling Alleys~~	~~5:alley~~
	~~Elementary Schools~~	~~greater of 1:4 seats in auditorium or 2:classroom~~
	~~Secondary Schools, colleges~~	~~greater of 1:4 seats in auditorium or 10:classroom~~
	~~Family Home and Group Home-Class 1~~	~~not less than four (4) off-street parking spaces, or one parking space per bedroom, whichever is greater.~~
	~~Group Home-Class 2 & Group Home-Class 3~~	~~not less than six (6) off-street parking spaces, or one parking space per bedroom, whichever is greater~~

In a development with mixed-use buildings designed and built in a walkable and pedestrian friendly configuration, the Director of Planning may consider the following shared parking factors in reviewing a proposal for a reduction in the minimum parking requirements (the shared parking factor is applied to the sum of the individual uses minimum parking requirements):

Shared Parking Factor				
	Residential	**Lodging**	**Office**	**Retail**
Residential	100%	—	—	—
Lodging	90%	100%	—	—
Office	70%	60%	100%	—
Retail	80%	75%	80%	100%

For uses not listed, the Director of Planning may request additional parking demand analysis from the applicant to justify a reduction in the minimum parking requirements.

Where shared parking is provided, a shared parking and cross access agreement between the cooperating property owners shall be approved by the Director of Planning and recorded prior to issuance of a building permit. This agreement must be recorded in the real property records of the county in which the property sits and the agreement may not be modified or revoked without the approval of the Director of Planning. If any requirements for shared parking are violated, the affected property owners must provide a remedy satisfactory to the Director of Planning or provide the full amount of required parking for each individual use.

SECTION 6: SETBACKS

(a) Building / Structure and Site Improvements:

BUILDING / STRUCTURE						
	Use Component	**Architectural Component**	**Front**	**Side**	**Street Side**	**Rear**
Standard Setback	SFR		25'	7'	15'	15'
	SFE, SFS, SFU, SFU/MH, TF		20'	5'	15'	15'
	SFC, SFL		~~20~~15'*	5' or 0' & 10'	15'	15~~0~~'
	SFT		10~~5~~'*	0 or 10'	15'	15~~0~~'
	MF	Type A Type B	20' 25'	10' 10'	20' 25'	20' 20'
	LO, LC, GC, HC, HI	Type A, B Type C	15' 20'	10' 10'	15' 20'	10' 10'
	GC, HC, HI	Type D	25'	15'	25'	15'
Special Setback Where Adjacent to SFR, SFE, SFS, SFU, SFC, SFL, SFU/MH, TF***	MF, LO, LC, GC, HC, HI	Type A Type B	(NA) (NA)	20' 25'	(N/A) (N/A)	20' 25'
	LO, LC, GC, HC, HI	Type C	(NA)	30'	(N/A)	30'
	GC, HC, HI	Type D	(NA)	50'	(N/A)	50'
Garage Setback	SFR, SFE, SFS, SFU, SFU/MH. SFC. SFL, SFT, TF	See Article VIII, Section 5 (i)				

PARKING, AISLE, LOADING, CANOPIES, OUTDOOR DISPLAY						
	Use Component	**Site Component**	**Front**	**Side**	**Street Side**	**Rear**
Standard Setback	MF	All	20'	5'*****	20'	5'*****
	LO, LC, GC, HC, HI	Type 1, 2 Type 3 Type 4, 5	15' 20' 25'	5'***** 5'***** 5'*****	15' 20' 25'	5'***** 5'***** 5'*****
Special Setback Where Adjacent to SF or TF***	MF, LO, LC, GC, HC, HI	Type 1-3 Type 4, 5	(N/A) (N/A)	15' 20'	(N/A) (N/A)	15' 20'

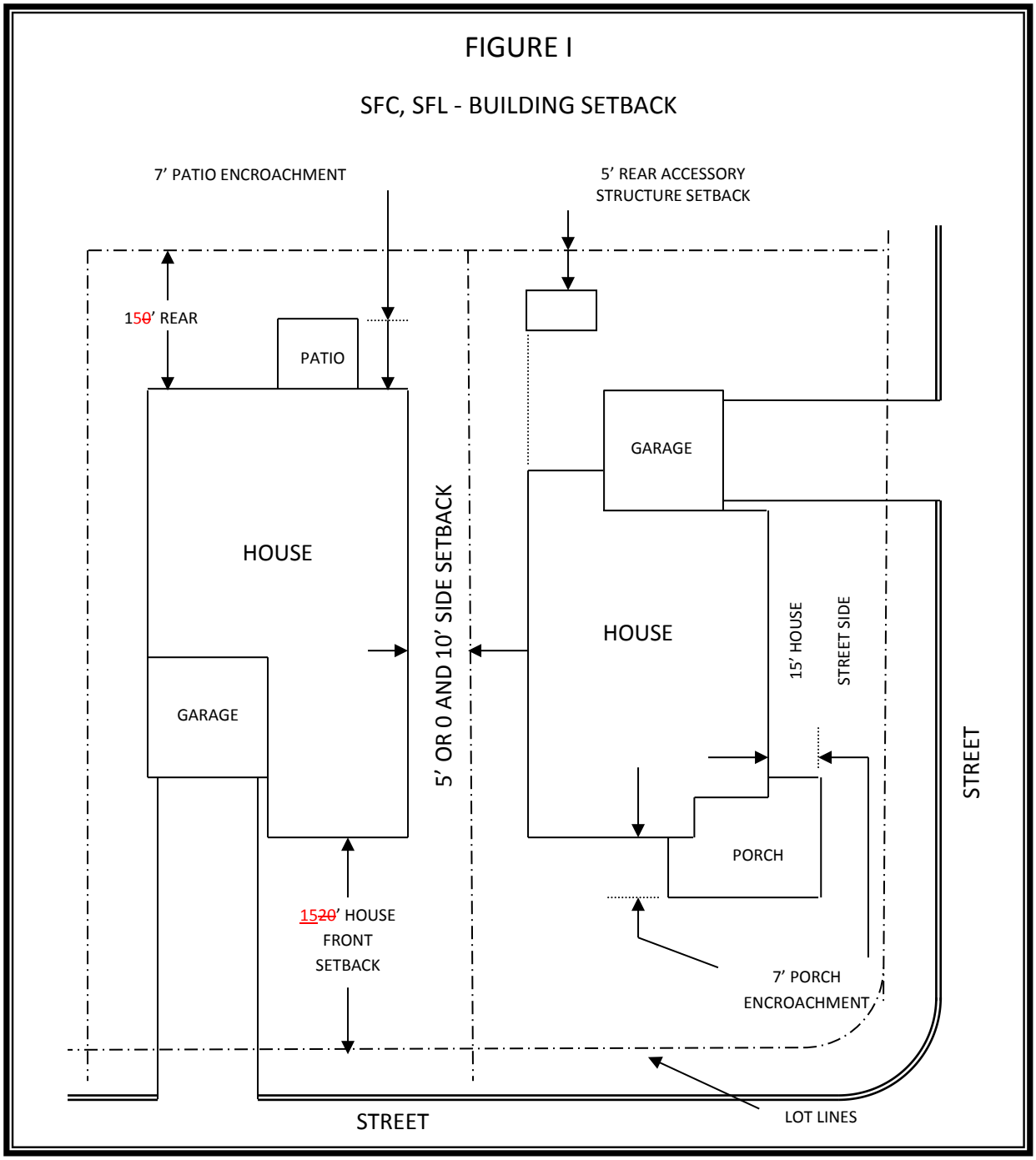
OUTDOOR STORAGE						
	Use Component	**Site Component**	**Front**	**Side**	**Street Side**	**Rear**
Standard Setback	LO, LC, GC, HC, HI	Type 3-4 Type 5	**** 25'	5'***** 0'*****	**** 25'	0' 0'
Special Setback Where Adjacent to SF or TF***	LO, LC, GC, HC, HI	Type 3-5	(N/A)	25'	(N/A)	25'

* In no case shall the garage be closer to the ROW than 18'

** Unless such district is utilized for a non-residential use

*** No closer than the street facing wall of the primary structure that utilizes such storage.

**** Setback does not apply for parking, drive aisles, storage etc. that are intended to cross lot line.



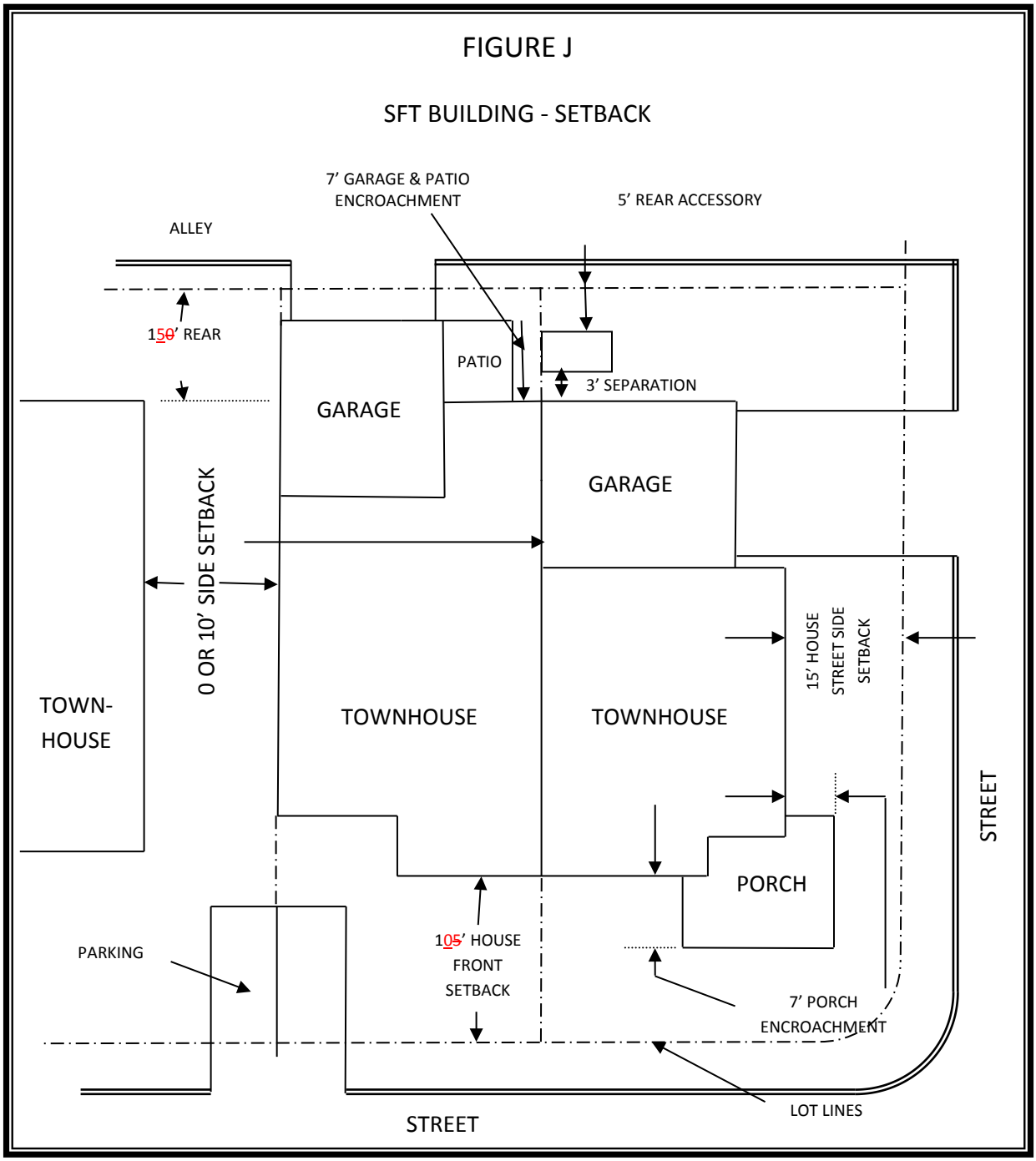


FIGURE J
SFT BUILDING - SETBACK
7' GARAGE & PATIO ENCROACHMENT
5' REAR ACCESSORY
ALLEY
15~~0~~' REAR
PATIO
3' SEPARATION
GARAGE
GARAGE
0 OR 10' SIDE SETBACK
TOWN-HOUSE
TOWNHOUSE
TOWNHOUSE
15' HOUSE STREET SIDE SETBACK
STREET
PORCH
PARKING
10~~5~~' HOUSE FRONT SETBACK
7' PORCH ENCROACHMENT
LOT LINES
STREET

SECTION 7: DRAINAGE AND DETENTION FACILITIES

(a) Purpose.

The purpose of this section is to provide for the design of drainage and detention facilities that contribute to visual aesthetics of projects and limit the amounts of visible concrete that do not meet the requirements listed below. For the purposes of this section, visible shall be defined as noticeable by a person of average height walking on a street, sidewalk, or trail, or able to be seen by a neighboring property that is two stories in height. In addition, stamped and tinted concrete shall be defined as concrete that is patterned and/or textured to resemble brick or stone. Tinting shall be defined as adding color to the concrete mix prior to pouring that is an earth tone.

(b) Non-Residential and Multi-Family Drainage and Detention Facilities:

(1) Non-residential and multi-family drainage facilities include all detention ponds, water quality ponds, pond outlet structures, berms, improved channels or other improvements associated with the drainage improvements. Roadside swales, storm sewer outfalls unless visible from a ROW, inlets, and areas of concrete that are no more than one hundred (100) square feet in size are not included.

(2) Non-residential and multi-family drainage facilities are not allowed within ten feet (10') of street ROW except those which are necessary to convey drainage in the shortest possible route to or from street ROW.

(3) Non-residential and multi-family drainage facilities located within the front setback shall not exceed 25% of the area of the front setback.

(4) Any fencing around non-residential and multi-family detention ponds shall be constructed of wrought iron or decorative tubular metal or other similar product.

(5) Structural stabilization including vertical walls and riprap for non-residential and multi-family drainage facilities shall be limited to not more than thirty (30%) percent of the perimeter of the pond excluding outlet structures. The remainder of the perimeter shall be earthern embankment no steeper than 3:1 slope. All exposed concrete that is visible is required to be clad in stone ~~provide decorative textured concrete and tinting in earthern colors, or masonry veneer~~ including but not limited to ledgestone, fieldstone, ~~or~~ cast stone, or other decorative materials such as stamped and tinted concrete that resembles stone or brick as approved by the Director of Planning. All other exposed concrete is required to be clad in stone as listed above or textured and tinted in earthern colors. In the event that the drainage facility is below grade, structural stabilization is permitted for the full perimeter and screening requirements listed in Article VI, Section 1 (d) of this Ordinance shall apply.

(c) Residential Drainage and Detention Facilities:

(1) Residential drainage facilities include all detention ponds, water quality ponds, pond outlet structures, berms, improved channels or other improvements associated with the drainage improvements. Roadside swales, storm sewer outfalls unless visible from a ROW, inlets, and areas of concrete that are no more than one hundred (100) square feet in size are not included.

(2) Residential drainage facilities shall utilize earthern berms and be designed with a curvi-linear shape. Any structural stabilization with slopes steeper than 3:1 shall be limited to the use of native stone (except for outlet structures which can be concrete) and shall be limited to not more than thirty (30%) percent of the perimeter of the pond. Such ponds shall be seamlessly integrated with the landscaping. All exposed concrete that is visible is required to be clad in stone ~~provide decorative textured concrete and tinting in earthern colors, or masonry veneer~~ including but not limited to ledgestone, fieldstone, ~~or~~ cast stone, or other decorative materials such as stamped and tinted concrete that resembles stone or brick as approved by the Director of Planning. All other exposed concrete is required to be clad in stone as listed above or textured and tinted in earthern colors. In the event that the drainage facility is below grade, concrete is

permitted instead of native stone and screening requirements Article VI, Sec. 1 (d) of this Ordinance shall apply.

(3) Any fencing around residential detention ponds shall be constructed of wrought iron or decorative tubular metal or other similar product.

SECTION 8: SINGLE-FAMILY AND TWO-FAMILY LOTS ABUTTING OR ADJACENT TO TOLLWAY, HIGHWAY, ~~OR~~ ARTERIAL, OR COLLECTOR ROADWAY

For single-family and two-family lots contained within a subdivision receiving approval for a preliminary plat and final plat or a short form plat after the effective date of this ordinance and abutting or adjacent to a tollway, highway, arterial, or collector roadways as identified on the Leander Transportation Plan or based on roadway design, direct driveway access to any single-family or two-family lot from such roadway shall be prohibited. The following are also applicable:

(b) For lots adjacent to tollway, highway, arterial, or collector roadways and backing up to such roadway (having frontage on another roadway of a lesser classification), the following shall be provided (see Figure Q – following pages):

(2) A six-foot privacy fence is required to be constructed at the common lot line between the landscape lot and the single-family or two-family lots. The fence is required to be constructed of one or more of the following materials: brick, stone, cast stone, ~~stucco,~~ factory tinted (not painted) split-faced concrete masonry unit, or other similar material approved by the Director of Planning. In addition to the materials listed above, textured pre-cast concrete (e.g. WoodCrete) is also permitted when the privacy fence is adjacent to collectors. All columns are required to have concrete footings. The landscape lot is required to be maintained by a private association.

(c) For lots adjacent to tollway, highway, arterial, or collector roadways and having a side of the lot adjacent to such roadway (having frontage on another roadway of a lesser classification), the following shall be provided (see Figure Q – next page):

(2) A six-foot privacy fence is required to be constructed at the common lot line between the landscape lot and the single-family or two-family lots from the rear lot line to a point even with the rear wall of the house at a minimum, but no further than to a point even with the front wall of the house. Any fence closer to the front lot line than the front wall of the house shall not exceed three feet in height; however, such fence is not required. Such fence is required to be constructed of one or more of the following materials: brick, stone, cast stone, ~~stucco,~~ factory tinted (not painted) split-faced concrete masonry unit, or other similar material approved by the Director of Planning. In addition to the materials listed above, textured pre-cast concrete (e.g. WoodCrete) is also permitted when the privacy fence is adjacent to collectors. All columns are required to have concrete footings. The landscape lot is required to be maintained by a private association.

SECTION 12: OUTDOOR LIGHTING

(a) The purpose of this section is to provide design standards for site and building lighting that are Dark Sky compliant and compatible with adjacent uses.

(b) Non-residential outdoor lighting will be in accordance with other provisions of this ordinance and City building codes. A detailed ~~L~~lighting ~~P~~plan and photometric plan shall be included with the Building Permit application and shall meet the following requirements:~~.~~

(1) Outdoor Lighting

a. Fixture.

i. All permanent exterior lighting shall be non-flashing and shielded such that the light source (cone of direct light) is not visible from the public ROW or adjacent residential uses at the property line (see Figure R – following page).

~~i.~~ii. Wall pack lighting or other lighting that directs the light in a horizontal direction without an adequate shield is not permitted (since it directs the light glare directly outward) if there are streets or residential uses in the direction of the light.

b. Illumination Levels

~~ii.~~i. All site lighting shall be designed and installed so that the level of illumination as measured in foot candles at a height of three (3') feet at the property line does not exceed two (2') foot candles.

~~(a)~~(c) Residential outdoor lighting on residential property will be installed in accordance with applicable City Code Standards. It will be located so as not to create a nuisance for adjoining property owners.

~~(b)~~(d) ~~All permanent exterior lighting shall be non-flashing and shielded such that the light source (cone of direct light) is not visible from the public ROW or adjacent residential uses at the property line (see Figure R – following page). Wall pack lighting or other lighting that directs the light in a horizontal direction without an adequate shield is not permitted (since it directs the light glare directly outward) if there are streets or residential uses in the direction of the light.~~

SECTION 14: ADDITIONAL MULTI-FAMILY AND NON-RESIDENTIAL STANDARDS

(d) Masonry Privacy Wall

(1) A six-foot masonry privacy wall is required to be constructed by any non-residential use that abuts property utilized for a single-family or two-family residence on land zoned single-family or two-family, or land planned or platted for such with an approved concept plan, preliminary plat or final plat, unless an existing structure is proposed to be expanded by less than 50%, or 1,000 sq. ft., whichever is less.

(i) Such wall shall be constructed at the common property line between the uses, or if such location is not feasible because of floodplain, trees or other natural feature, at a location that will effectively screen the non-residential use from view from the single-family or two-family residence.

(ii) Such wall is required to be constructed of one or more of the following materials: textured pre-cast concrete that is constructed to appear as brick, stone, or cast stone as approved by the Director of Planning, brick, stone, cast stone, ~~stucco,~~ factory tinted or painted split-faced concrete masonry unit, granite, tile or other similar material approved by the Director of Planning.

(iii) An eight-foot wall may be utilized for security purposes.

(iv) Gates shall be provided in the wall as appropriate to connect to public sidewalks or other pedestrian connections unless such wall is also used as described above for security.

(2) The masonry privacy wall is not required for non-residential uses that are permitted by right in any Single-Family Districts.

SECTION 16: FENCES

(d) Fences less than or equal to eight (8) feet in height shall be allowed for impeding access to hazardous or secured facilities including, but not limited to, electrical substations and chemical or equipment storage yards; or where ~~, because of severe~~

~~slope conditions, such fencing height can be demonstrated to be necessary for privacy or visual buffering; or where~~ the fence forms a perimeter around a subdivision. For high security applications, barbed wire or razor wire (or equivalent) may be installed above the eight (8) foot height limit but not to exceed a total of ten feet in height.

ARTICLE VII – ARCHITECTURAL COMPONENTS

SECTION 1: TYPE A

(b) Exterior Wall Standards:

(1) At least eighty-five percent (85%) of the exterior surface area of all walls, including all stories of primary buildings / structures, shall consist of un-painted clay brick, ledge stone, fieldstone, cast stone, marble, granite, tile, painted or tinted stucco, non-reflective glass façade, glass block (or alternative glazing e.g. Kalwall) and factory tinted (not painted) split faced concrete masonry unit (non-residential buildings and structures only) or similar material approved by the Director of Planning. The remaining exterior wall surface shall be comprised of those materials listed or cementious-fiber planking (not panels unless they are used with board and batten application). Solid wood planking and decorative cementious-fiber panels may be used for accent features.

SECTION 2: TYPE B

(b) Exterior Wall Standards:

(1) At least eighty-five (85%) percent of the exterior surface area of first story walls and fifty ~~percent~~ (50%) percent of the exterior surface area of each additional story walls ~~of the exterior surface area (all stories) and at least eighty-five percent (85%) of the exterior surface area of first story walls~~ of primary buildings / structures, shall consist of un-painted clay brick, ledge stone, fieldstone, cast stone, marble, granite, tile, painted or tinted stucco, glass façade, glass block (or alternative glazing e.g. Kalwall) and factory tinted (not painted) split faced concrete masonry unit (non-residential buildings and structures only) or similar material approved by the Director of Planning. The remaining exterior wall surface shall be comprised of those materials listed or cementious-fiber planking (not panels unless they are used with a board and batten application). Solid wood planking, decorative cementious-fiber panels and other materials approved by the Director of Planning may be used for accent features.

SECTION 3: TYPE C

(b) Exterior Wall Standards:

(1) At least sixty (60%) percent of the exterior surface area of street facing walls (See Figures U, V, and W – following pages) of primary buildings and thirty five ~~percent~~ (35%) percent of the exterior surface area of all other walls ~~(all stories), including at least sixty percent (60%) of the exterior surface area of street facing walls (all stories) (see Figures U, V and W – following pages)~~ of primary buildings / structures shall consist of un-painted clay brick, ledge stone, fieldstone, cast stone, marble, granite, tile, painted or tinted stucco, glass façade, glass block (or alternative glazing e.g. Kalwall) and, for non-residential buildings and structures, factory tinted (not painted) split faced concrete masonry unit, pre-cast concrete tilt wall with a decorative or textured finish (needs approval by the Director of Planning to determine if finish is acceptable) or similar material approved by the Director of Planning. The remaining exterior wall surface shall be comprised of those materials listed or cementious-fiber

planking (not panels unless they are used with a board and batten application) or~~, for non-residential applications only,~~ exterior insulating finishing system (E.I.F.S.). Solid wood planking, decorative cementious-fiber panels and other materials approved by the Director of Planning may be used for accent features. For non-residential buildings, smooth faced concrete masonry unit and metal panels or similar materials approved by the Director of Planning may be utilized as an accent feature and shall comprise not more than ten percent (10%) of any wall surface area.

SECTION 4: TYPE D

(b) Exterior Wall Standards:

(1) For all buildings / structures that are more than four hundred (400') feet from a street, the masonry requirements do not apply. For all buildings / structures that are within four hundred (400') feet of a street at least sixty (60%) percent of the exterior surface area of street facing walls (See Figures U, V, and W – following pages) of primary buildings and thirty five (35%) percent of the exterior surface area of all other walls ~~Unless there are no street facing walls, at least thirty five percent (35%) of the exterior surface area of walls (all stories), including at least sixty percent (60%) of the exterior surface area of street facing walls (all stories) (see Figures S, T and U – previous pages)~~ of primary buildings / structures shall consist of un-painted brick, ledge stone, fieldstone, cast stone, marble, granite, tile, painted or tinted stucco, exterior insulating finishing system (E.I.F.S.), glass façade, glass block (or alternative glazing e.g. Kalwall), factory tinted (not painted) split faced concrete masonry unit, pre-cast concrete tilt wall with a decorative or textured finish or similar material approved by the Director of Planning. The remaining exterior wall surfaces shall be comprised of those materials listed or cementious-fiber planking or panels, or painted metal siding except that metal siding is not permitted on any street facing wall. Solid wood planking, decorative cementious-fiber panels and other materials approved by the Director of Planning may be used for accent features. Smooth faced concrete masonry unit and metal panels or similar materials approved by the Director of Planning may be utilized as an accent feature only and shall not comprise more than fifteen percent (15%) of any wall surface area.

ARTICLE VIII - ARCHITECTURAL STANDARDS

SECTION 1: WALL AREA CALCULATIONS

(a) In calculating percentage of exterior wall area, the area of windows and window frames, doors and door frames, eves, soffits, dormers, columns, recessed entryways, foundation and similar areas are excluded from the calculations and may utilize any of the materials listed in the applicable component exterior wall standards, when, in the opinion of the Building Official, construction with the required masonry materials is not reasonably feasible.

(b) A street facing wall is the exterior wall of a building, including any off-sets, projections or recesses, facing a street or within forty-five (45) degrees of such orientation and within four hundred (400) feet of the street. A wall is considered facing a street even if there is another public ROW between the wall and the street. A wall is not considered facing a street if another building or other permanent screening material on site is between the wall and the street and blocks the view of the wall from the street by at least seventy-five percent (75%) from all view angles. Five year projected maturity of any on-site evergreen planted materials may be considered in the screening assessment.

(c) A masonry calculation table is required at the building permit stage to demonstrate compliance with the ordinance requirements.

ARTICLE IX – SITE DEVELOPMENT

SECTION 1: GENERAL PROVISIONS

(b) Applicability; Site Development Permit Required

Any person who develops, or causes to be developed, property located within the corporate limits of the City shall comply with this Chapter. Within the city corporate limits the use of property shall not be changed, no development shall take place and no building permit shall be issued until a site development permit has been issued in accordance with the code of ordinances of the City. Property for which a site development permit has been issued shall be developed in compliance with the approved site plan. The following are exceptions to the applicability of this Chapter:

(1) Construction, alteration or addition to a single-family or two family residential structure, or an accessory building to any such structure.

(2) Alteration or finish-out of an existing building when the alteration or finish-out does not increase the square footage of the building or change the building footprint as long as one of the following applies:

- (i) The use does not change, or if the use changes, the new use does not require more parking than is currently existing and no additional parking spaces, aisles or driveways are proposed;
- (ii) The alteration, finish-out or change of use is in compliance with all applicable codes and regulations of the city; and
- (iii) The proposal does not increase the degree of any existing non-conforming use or non-conforming structure.

(3) Construction of a fence, but no exception is granted by this subsection for construction of a retaining wall or for a fence that may obstruct or change the flow of water.

(4) Brush clearing in compliance with the landscape and tree regulations of the city as long as only rubber-tired equipment is introduced to the site (no equipment with tracks).

(e) Minor Site Development Permit

(1) Projects that include minor site activity similar to those listed in Section 1(b) and including brush clearing, Article IX of this ordinance may be eligible for a minor site development permit. To be eligible, such projects may increase the impervious cover by no more than 1,000 square feet. In addition, a minor site development permit application shall be submitted for review in conformance with all information and materials required by the most recent minor site development permit application/checklist.

(2) A professional recovery fee as set forth in Appendix A shall be required at the time of site development permit exemption application submittal.

ARTICLE X – ADMINISTRATION

SECTION 10: ENFORCEMENT

(a) Penalty

(1) Penalty. Any person who shall violate any of the provisions of this ordinance, 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 two thousand dollars ($2000.00). Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein

(2) Administrative Penalty. Any person who removes a Significant Tree greater than 8 inches in caliper prior to approval of a tree ~~protection~~ preservation plan, or who removes a Significant Tree greater than 8 inches in caliper that is not authorized to be removed under an approved tree ~~protection~~ preservation plan shall be charged and shall pay a fee of $300 per inch for each Significant Tree greater than 8 inches in caliper removed in violation of this ordinance. The City will rely on remaining evidence on site to determine if a violation of this ordinance has occurred. For enforcement purposes the City will consider that any stump remaining on the property which is eight inches or more in diameter measured at ground level or higher was a stump of a Significant Tree greater than 8 inches in caliper. Furthermore, any cut wood discovered on site will be considered evidence of a Significant Tree greater than 8 inches in caliper if the diameter of the cut wood is measured at eight inches or greater at any point on any piece of cut wood. A site development or building permit application for property from which one or more Significant Trees have been removed in violation of this ordinance may not be approved until an administrative.

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF LEANDER, TEXAS AMENDING SECTIONS OF ARTICLE 14.02, THE COMPOSITE ZONING ORDINANCE, TO ADD DEFINITIONS, UPDATE THE USE COMPONENTS, TO MODIFY SETBACKS FOR COMMERCIAL FUELING, TO UPDATE REQUIREMENTS FOR SCREENING, TO UPDATE THE PARKING REQUIREMENTS TABLE, TO MODIFY RESIDENTIAL SETBACKS, TO CLARIFY REQUIREMENTS FOR DRAINAGE AND DETENTION FACILITIES, TO MODIFY OUTDOOR LIGHTING REQUIREMENTS, TO UPDATE THE ARCHITECTURAL STANDARDS, TO UPDATE THE SITE DEVELOPMENT STANDARDS; PROVIDING A SEVERABILITY CLAUSE, PROVIDING SAVINGS, EFFECTIVE DATE AND OPEN MEETINGS CLAUSES, AND PROVIDING FOR RELATED MATTERS.

Whereas, the Planning & Zoning Commission held a public hearing on the proposed amendments to Section 14.02.001, Article 14.02, Chapter 14, Leander Code of Ordinances (the "Composite Zoning Ordinance"), and forwarded its recommendation on the amendments to the City Council; and

Whereas, after publishing notice of the public hearing at least fifteen days prior to the date of such hearing, the City Council at a public hearing has considered the proposed amendments and finds that the amendments are reasonable and necessary to protect the health, safety, and welfare of the present and future residents of the City;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LEANDER, TEXAS, THAT:

Section 1. **Findings of Fact.** The above and foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact.

Section 2. **Amendment of Article I, Section 6.** Article I, Section 6 of the Composite Zoning Ordinance is hereby amended to add the following definitions:

Dark Sky means the use of lighting in a way that directs the light source away from the sky in order for the night sky to remain relatively free of interference from artificial light. This type of lighting is in compliance with the International Dark Sky Association standards.

Gaming Room Facility means a place to deal, operate, carry on, conduct, maintain, or expose for play any game, sports book, promotion, sweepstakes, or other activity electronic or otherwise that may or may not confer upon the patrons or participants the right, chance, or ability to win and or claim prizes.

Gaming Device means a clock, tape machine, slot machine, or other machine or device for the reception of money or other thing of value on chance or skill or upon action of

which money or other thing of value is staked, hazarded, bet, won, or lost; or any mechanism, furniture, fixture, equipment or other device designed primarily for use in a gambling place. It does not include: (1) A coin-in-slot-operated mechanical device played for amusement that rewards the player with the right to replay such mechanical device; or (2) Vending machines by which full and adequate return is made for the money invested and in which there is no element of chance or hazard.

Soil means the upper layer of the earth in which plants grow and contains humus, minerals, available nutrients, and beneficial micro-organisms, resulting in a favorable condition for vegetative growth.

Section 3. **Amendment of Article I, Section 6.** The definitions of "Lot Width" and "Riparian Corridor" set forth in Article I, Section 6 of the Composite Zoning Ordinance are hereby amended to read as follows:

Lot Width means the average horizontal distance between side property or lot lines. Lot width can also be identified as the measurement of the lot at the building setback line. The minimum lot width for lots fronting a cul-de-sac may be reduced to a minimum of thirty (30') feet at the front property line provided that the minimum required lot width is provided at the front setback line.

Riparian Corridor means any defined stream channel including the area up to the ordinary high water (or bankfull-flow line), as well as all riparian (streamside) vegetation in contiguous adjacent uplands. Riparian Corridors also includes the Secondary and Connector Trail Corridors identified in the City of Leander Parks, Recreation & Open Space Master Plan and the Transportation Plan.

Section 4. **Amendment to Article III, Section 1 (b).** Article III, Section 1(b) of the Composite Zoning Ordinance is hereby amended in its entirety to read as follows:

(b) Conforming Uses

(1) Single-family dwelling of not less than sixteen hundred (1,600) square feet of living area; accessory dwelling with a minimum living area of four hundred (400) square feet; and a maximum living area of nine hundred (900) square feet or 40% of the gross living area of the primary dwelling, whichever is greater. However, for lots greater than three acres in size, there is no limit to the maximum size of the accessory dwelling.

(2) Community services including community center, civic organizations, fraternal organizations, and cemetery / mausoleum not including a crematory or embalming facilities

(3) Golf courses (public and private) and all associated improvements and activities, but not including miniature golf courses, golf practice ranges (unless associated with a golf course), or similar forms of commercial amusement

(4) Day care (in home) for 5 or fewer children

(5) Emergency services including fire, police and EMS stations

(6) Family Home and Group Home-Class 1

(7) Home occupations (see Article IV, Section 8 for Use Standards)

(8) Parks, playgrounds and associated equipment and facilities, recreational amenity center

(9) Place of worship

(10) Public buildings, including libraries, museums and administrative offices

(11) Real estate sales offices during the development and sale of a residential subdivision and subject to the restrictions contained in this ordinance

(12) Schools, public or private, including all levels up to and including secondary (high) school and equivalent curriculum including support facilities are permitted

(13) Temporary buildings incidental to construction work on the premises if such buildings are removed upon the completion or abandonment of construction work (see Article IV, Sec. 7)

(14) Utilities (minor) including ground mounted service equipment and minor structures and facilities such as poles, minor electrical switching facilities, lift stations, water pump stations and gas regulating facilities

(15) Water supply reservoirs and pumping plants when screened from public view

(16) Wireless communications facilities (WCFs) attached to street poles or facades attached to non-residential buildings or stealth WCFs are permitted subject to the provisions of this ordinance. Freestanding WCFs, including lattice towers and mono-poles, are prohibited.

(17) (For lots or tracts three or more acres in size) ranches, dairy farms, stables, riding academies and roping arenas; including the feeding, raising and breeding of agricultural livestock and exotic hoof stock; however, with exception of commercial feed lots which are not permitted, and the exception that not more than one large animal (e.g. a horse, cow, bull or similar animal) or five small animals (e.g. goats, sheep or similar animal) may be permitted for each acre of grazeable land. Grazeable land shall be land that is fenced and maintained with suitable forage for grazing of the particular species. Barns and stables shall not be located within 25 feet of any property line. (See Chap. 2, City Code for animal control regulations)

(18) Agricultural, small wind energy systems, solar energy systems and rainwater harvesting systems including or similar to:

(i) As accessory uses, solar energy systems designed to supply energy for use on the premises, and rainwater harvesting systems meeting the standards of Article IV, Sec. 5 of Article 14.200. In addition, if approved with a special use permit, small wind energy systems may be approved as an accessory use if meeting the standards of Article IV, Sec. 5 of Article 14.200.

(ii) Hunting and/or hunting leases (for lots or tracts three or more acres in size).

(iii) Farming or truck gardens, limited to the propagation and cultivation of plants.

(19) Temporary parking associated with model homes and/or sales trailers prior to the completion of model homes. Article IX of this ordinance will apply to temporary parking lots.
(20) Other similar uses as determined by the Director of Planning [see Article II, Sec. 2, (f)].

Section 5. **Amendment to Article III, Section 14 (b).** Article III, Section 14 (b) of the Composite Zoning Ordinance is hereby amended in its entirety to read as follows:

(b) Conforming Uses

(1) Any use permitted in the "GC" component
(2) Bingo
(3) Car Title Loans Shop/Business
(4) Commercial laundry
(5) Contractor and building material storage
(6) Gaming Room Facility/Gaming Device
(7) Hooka Lounge
(8) Manufacture, assembly or processing of materials not classified as hazardous by the Fire Chief
(9) Mini-warehouse or self-service storage facilities [required to be set back at least four hundred (400) feet from a tollway, highway or major arterial roadway if built to Type B, C or D architectural standards or such facilities include exterior warehouse doors], warehouse and distribution, commercial storage
(10) Pawn Shop
(11) Payday Lending Business
(12) Research, Testing, and Development Laboratory
(13) Research, Testing, and Development Laboratory (Intense)
(14) Retail sales, second hand resale, and services
(15) RV, trailer, commercial motor vehicle and boat outdoor storage [required to be set back at least four hundred (400) feet from a tollway, highway or major arterial roadway] (Note: refer to Article VI, Section 9 for rules on special vehicle storage)
(16) Tattoo and/or Body Piercing Parlor
(17) Utilities, including ground mounted service equipment and structures as a primary use and facilities such as poles, electrical switching facilities, lift stations, water pump stations, gas regulating facilities, electrical substations, generating plants, wastewater and water treatment plants, etc. (see screening requirements in Article VI, Sec. 1)
(18) Vehicle and major equipment sales, rental or leasing, repair, body shop [Small engine repair shops and motorcycle repair shops shall not be permitted within one-hundred fifty (150') feet of a residential district unless such repairs are conducted totally within a fully enclosed building.]
(19) Warehouse and distribution
(20) Wood yard
(21) Wholesale activities
(22) Wrecker Impoundment, Towing [required to be set back at least four hundred (400) feet from a tollway, highway or major arterial roadway]

(23) Stand alone crematory or embalming establishment as long as the crematory stack is no closer than 200' from a restaurant or associated parking or from a residential district (unless such district is utilized for non-residential uses).

(24) Other similar uses as determined by the Director of Planning based on the criteria of Article II, Sec. 2, (f)

Section 6. **<u>Amendment to Article III, Section 16 (d) (8)</u>.** Article III, Section 16 (d) (8) of the Composite Zoning Ordinance is hereby amended in its entirety to read as follows:

(d) Rules Applicable

(8) The PUD shall result in overall higher standards than what would be provided by the base zoning district. As examples: (1) if residential lot sizes are decreased or development densities are increased, the PUD will be expected to significantly exceed other standards such as parkland and facilities dedication, landscaping, architectural controls, thoroughfare or other transportation improvements, creation of unique characteristics of the neighborhood, retention of significant trees and/or provision of public facilities, etc., or (2) if masonry standards or building/development setbacks are proposed to be decreased, other standards would be expected to be increased such as landscaping, screening, retention of significant trees, architectural controls, land uses and/or unique site layout standards, etc. Other examples may include:

(i) Designating the Type A Architectural Component
(ii) Adding additional architectural features
(iii) Provide a master architectural and signage plan that includes a cohesive materials palette
(iv) Enhanced landscaping and/or trees
(v) Increased landscape area
(vi) Masonry perimeter walls for subdivisions
(vii) Provide brick or stone instead of decorative concrete panels for screening walls
(viii) Plant street trees
(ix) Provide more parkland dedication
(x) Increase recreation improvements
(xi) Trails system in greenbelt areas
(xii) Provide a Master Sign Plan including: proposed locations, provide cohesive materials palette, design specifications for signage, type of illumination
(xiii) Limit fencing to wrought iron or decorative tubular metal fencing along greenbelt lots.
(xiv) Provide unique characteristics of a neighborhood with a unique site layout
(xv) Include a mixture of uses
(xvi) Provide public spaces
(xvii) Incorporate public art

Section 7. **<u>Amendment to Article V, Section 3 (b) (2) (v) (b)</u>.** Article V, Section 3 (b) (2) (v) (b) of the Composite Zoning Ordinance is hereby amended in its entirety to read as follows:

b. Commercial fueling is not located within two hundred (200') feet of a residential district unless such district is utilized for non-residential purpose. The location is measured from the closest portion of the structure associated with the outdoor commercial fueling to the residential district; and

Section 8. **<u>Amendment to Article VI, Section 1 (c) (4) (iv)</u>.** Article VI, Section 1 (c) (4) (iv) of the Composite Zoning Ordinance is hereby amended in its entirety to read as follows:

(iv) Significant Trees greater than eight (8) inches in caliper shall be preserved to the greatest extent reasonably possible. Significant Trees removed during construction shall be supplanted with Replacement Trees if required by the tree mitigation requirements of this section. No Significant Tree shall be removed until a tree preservation plan has been approved by the Director of Planning in accordance with this Chapter. Significant Trees may be removed only in accordance with the approved tree preservation plan, and trees must be protected during construction activities on the property in accordance with the approved tree preservation plan. This provision only applies to projects before the certificate of occupancy has been issued for single-family and two-family developments. For single-family and two-family projects, this provision only applies prior to the initial certificate of occupancy for each lot.

Section 9. **<u>Amendment to Article VI, Section 1 (c) (9) (i) & (ii)</u>.** Article VI, Section 1 (c) (9) (i) & (ii) of the Composite Zoning Ordinance is hereby amended in its entirety to read as follows:

(9) Tree Protection Plan Requirements

(i) An applicant for a single-family or two-family preliminary plat or final plat, or a site development permit shall provide a tree survey prepared within five years preceding the application date. This tree survey shall include the street and lot layout, or site plan superimposed at a scale of 1"=100' (or as appropriate) identifying significant trees located on the property that meet the requirements indicated in this section. Applicants for a single-family or two-family preliminary or final plat are only required to submit a tree survey for the portion of the property that the applicant is proposing to disturb with the subdivision construction. The applicant shall provide a tree preservation plan that identifies the surveyed trees and the mitigation of the protected trees that are proposed for removal. The applicant shall be required to demonstrate that lot lines, street layouts and site improvements have been designed and located and that lot width, depth and size flexibility as permitted by the applicable zoning district has been utilized to the maximum extent necessary to retain the maximum number of significant trees reasonably practicable. Applicants for a single-family or two-family preliminary or final plat may plant replacement trees within lots owned by

the Homeowners Association including but not limited to landscape lots, park lots, or amenity center lots.

(ii) The Director of Planning shall determine if adequate performance is achieved based on the standards of this section. Approval of the tree preservation plan by the Director of Planning is required prior to preparation and submission of a subdivision or site development permit application. The applicant may appeal any decision of the Director to the Commission. A decision of the Commission may be appealed to the City Council. Any preserved or replacement trees may be counted toward the landscape requirements of this section. See the Construction Plan requirements for details.

Section 10. **Amendment to Article VI, Section 1 (c) (8).** Article VI, Section 1 (c) (8) of the Composite Zoning Ordinance is hereby amended in its entirety to read as follows:

(8) A non-disturbance zone shall be maintained on single-family and two-family lots during the subdivision construction and building permit phases of development. A disturbance area no more than five (5') feet from the foundation necessary for construction and grade transitions shall be permitted. This disturbance area shall be no more than ten (10') feet from the foundation for properties zoned with the SFR (Single-Family Rural) use component. The trees located on the remainder of the lot shall not be removed unless a unique situation is approved by the Director of Planning.

Section 11. **Amendment to Article VI, Section 1 (d) (1) (v).** Article VI, Section 1 (d) (1) (v) of the Composite Zoning Ordinance is hereby amended in its entirety to read as follows:

(v) Outside storage areas shall be screened by the use of a privacy fence or wall at least the height of the items to be screened and in conformance with the requirements of this ordinance. If the outdoor storage area is adjacent to an arterial or collector roadway, then the wall is required to be constructed of one or more of the following materials: brick, stone, cast stone, stucco (limited to thirty-five (35%) of the exterior surface area of walls), factory tinted (not painted) split face concrete masonry unit, or other similar material approved by the Director of Planning. In addition to the materials listed above, textured pre-cast concrete (e.g. Woodcrete) is also permitted when the wall is adjacent to collectors.

Section 12. **Amendment to Article VI, Section 1 (d) (1) (viii).** Article VI, Section 1 (d) (1) of the Composite Zoning Ordinance is hereby amended by adding subsection (viii) to read as follows:

(viii) Lift stations are required to be screened from view of adjacent single-family or two-family residences, or any street or public right-of-way by the use of a wall. The wall is required to be constructed of one or more of the following materials: brick, stone, cast stone, stucco (limited to thirty-five (35%) of the exterior surface

area of walls), factory tinted (not painted) split face concrete masonry unit, textured pre-cast concrete (e.g. Woodcrete) or other similar material approved by the Director of Planning.

Section 13. **Amendment to Article VI, Section 1 (d) (2).** Article VI, Section 1 (d) (2) of the Composite Zoning Ordinance is hereby amended in its entirety to read as follows:

(2) Approved screening techniques include privacy fences, evergreen vegetative screens, landscape berms, existing vegetation or any combination thereof unless otherwise noted in this section.

Section 14. **Amendment to Article VI, Section 3 (a).** Article VI, Section 3(a) of the Composite Zoning Ordinance is hereby amended in its entirety to read as follows:

SECTION 3: OFF-STREET PARKING REQUIREMENTS

(a) The following off-street parking requirements are considered minimum requirements and may not adequately reflect the specific needs of a proposed business. A commercial building permit applicant shall analyze the parking needs of the specific users being proposed and provide the amount of parking required for such uses. When any building or structure is erected, or an existing building is enlarged by fifty (50) percent or more in floor area, off-street parking shall be provided in accordance with the following requirements (Note: Any building enlargement is required to add at least the amount of additional parking required by the enlargement):

USE CATEGORY	SPECIFIC USE	SPACE REQUIREMENT
RESIDENTIAL USES		
Household Living	Single Family	See Use District
	Multi-Family	1 ½ for one bedroom plus ½ for each additional bedroom.
	Senior Multi-Family	1 per dwelling plus additional 5% of total spaces for visitor use.
Group Living	Fraternity House, Sorority House, Dormitory, Rooming House, Boarding House	1 per each two beds
	Nursing Home/Hospice/ Assisted Living	1 per bedroom
	All other Group Homes	1 per bedroom
	Family Home and Group	not less than four (4) off street parking

	Home-Class 1	spaces, or one parking space per bedroom, whichever is greater.
	Group Home-Class 2 & Group Home-Class 3	not less than six (6) off street parking spaces, or one parking space per bedroom, whichever is greater
CIVIC USES		
Educational & Daycare Facilities	Elementary Schools	greater of 1:4 seats in auditorium or 2:classroom
	Secondary Schools, colleges	greater of 1:4 seats in auditorium or 10:classroom
	Day Care Center	1:400 sq. ft.
Medical & Institutional Facilities	Hospital, Sanitarium	1:4 beds
	All other institutions	1:250 sq. ft.
Parks & Open Areas	Golf Courses	3:hole
	Neighborhood Amenity Center	1:300 sq. ft. (including pools in square footage calculation)
Places of Worship	Religious Assembly	1:200 square feet of sanctuary, classrooms, flexible seating areas
COMMERCIAL USES		
Automotive Sales & Services	Motor Vehicle Salesrooms & Used Car Lots	greater of 1:800 sq. ft. of sales floor or lot area
	Vehicle Repair Garage	1:400 sq. ft.
Overnight Accommodations	Hotel, Motel	1 per room plus 1:200 sq. ft. of Comm. Floor Area
	Bed & Breakfast/Inn	1 per guest room plus 2 additional spaces
Food & Beverage Establishments	Restaurant as a single use or comprising more than 20% of a mixed retail center	1:100 sq. ft.
Entertainment & Recreation	Dance / Assembly / Exhibition Hall, Restaurant, Night Club, Lodge or Country Club	1:100 sq. ft.
	Bowling Alleys	5:lane

	Community Center, Library, Museum, Art Gallery	1:300 sq. ft.
	Theater, Auditorium (except school), Sports Arena, Stadium, Gymnasium, Funeral Home	1:4 seats
Commercial Office, Retail Sales, & Services	Medical / Dental Clinic/ Office, Personal Service, Mixed Use Retail Center less than 20,000 sq. ft.	1:200 sq. ft.
	Mixed Use Retail greater than 20,000 sq. ft.	1:225 sq. ft.
	Studio, Bank, Retail	1:250 sq. ft.
	Business / Professional Office	1:275 sq. ft.
	Furniture, Appliance or Hardware Store; Wholesale Sales Establishment, Machinery / Equipment Sales & Service; Clothing / Shoe Repair; Service Shop	1:300 sq. ft.
INDUSTRIAL USES		
Industrial, Manufacturing, Warehousing, Storage	Manufacturing, Industrial, Research, Testing, Warehouse, Storage Buildings and Yards, Lumber Yard, Printing Shop, Plumbing Shop	1:600 plus spaces for business vehicles
	Mini-Warehouse Self Storage	parking required only for office

In a development with mixed-use buildings designed and built in a walkable and pedestrian friendly configuration, the Director of Planning may consider the following shared parking factors in reviewing a proposal for a reduction in the minimum parking requirements (the shared

parking factor is applied to the sum of the individual uses minimum parking requirements):

Shared Parking Factor				
	Residential	**Lodging**	**Office**	**Retail**
Residential	100%	—	—	—
Lodging	90%	100%	—	—
Office	70%	60%	100%	—
Retail	80%	75%	80%	100%

For uses not listed, the Director of Planning may request additional parking demand analysis from the applicant to justify a reduction in the minimum parking requirements.

Where shared parking is provided, a shared parking and cross access agreement between the cooperating property owners shall be approved by the Director of Planning and recorded prior to issuance of a building permit. This agreement must be recorded in the real property records of the county in which the property sits and the agreement may not be modified or revoked without the approval of the Director of Planning. If any requirements for shared parking are violated, the affected property owners must provide a remedy satisfactory to the Director of Planning or provide the full amount of required parking for each individual use.

Section 15. **Amendment to Article VI, Section 6 (a).** Article VI, Section 6 (a) of the Composite Zoning Ordinance is hereby amended in its entirety to read as follows; provided that Figures G through M shall remain in full force and effect except as modified by this ordinance:

(a) Building / Structure and Site Improvements:

BUILDING / STRUCTURE						
	Use Component	**Architectural Component**	**Front**	**Side**	**Street Side**	**Rear**
Standard Setback	SFR		25'	7'	15'	15'
	SFE, SFS, SFU, SFU/MH, TF		20'	5'	15'	15'
	SFC, SFL		15'*	5' or 0' & 10'	15'	15'
	SFT		10'*	0 or 10'	15'	15'
	MF	Type A Type B	20' 25'	10' 10'	20' 25'	20' 20'

	LO, LC, GC, HC, HI	Type A, B Type C	15' 20'	10' 10'	15' 20'	10' 10'
	GC, HC, HI	Type D	25'	15'	25'	15'
Special Setback Where Adjacent to SFR, SFE, SFS, SFU, SFC, SFL, SFU/MH, TF**	MF, LO, LC, GC, HC, HI	Type A Type B	(NA) (NA)	20' 25'	(N/A) (N/A)	20' 25'
	LO, LC, GC, HC, HI	Type C	(NA)	30'	(N/A)	30'
	GC, HC, HI	Type D	(NA)	50'	(N/A)	50'
Garage Setback	SFR, SFE, SFS, SFU, SFU/MH, SFC, SFL, SFT, TF	See Article VIII Section 5(j)				

PARKING, AISLE, LOADING, CANOPIES, OUTDOOR DISPLAY						
	Use Component	**Site Component**	**Front**	**Side**	**Street Side**	**Rear**
Standard Setback	MF	All	20'	5'****	20'	5'****
	LO, LC, GC, HC, HI	Type 1, 2 Type 3 Type 4, 5	15' 20' 25'	5'**** 5'**** 5'****	15' 20' 25'	5'**** 5'**** 5'****
Special Setback Where Adjacent to SF or TF**	MF, LO, LC, GC, HC, HI	Type 1-3 Type 4, 5	(N/A) (N/A)	15' 20'	(N/A) (N/A)	15' 20'

OUTDOOR STORAGE						
	Use Component	**Site Component**	**Front**	**Side**	**Street Side**	**Rear**
Standard Setback	LO, LC, GC, HC, HI	Type 3-4 Type 5	*** 25'	5'**** 0'****	*** 25'	0' 0'
Special Setback Where Adjacent to SF or TF*	LO, LC, GC, HC, HI	Type 3-5	(N/A)	25'	(N/A)	25'

* In no case shall the garage be closer to the ROW than 18’

** Unless such district is utilized for a non-residential use

*** No closer than the street facing wall of the primary structure that utilizes such storage.

**** Setback does not apply for parking, drive aisles, storage etc. that are intended to cross lot line.

Section 16. **<u>Amendment to Article VI, Section 6 (a) Figures I & J</u>.** Article VI, Section 6 (a) Figures I & J of the Composite Zoning Ordinance are hereby amended in their entirety to read as follows:

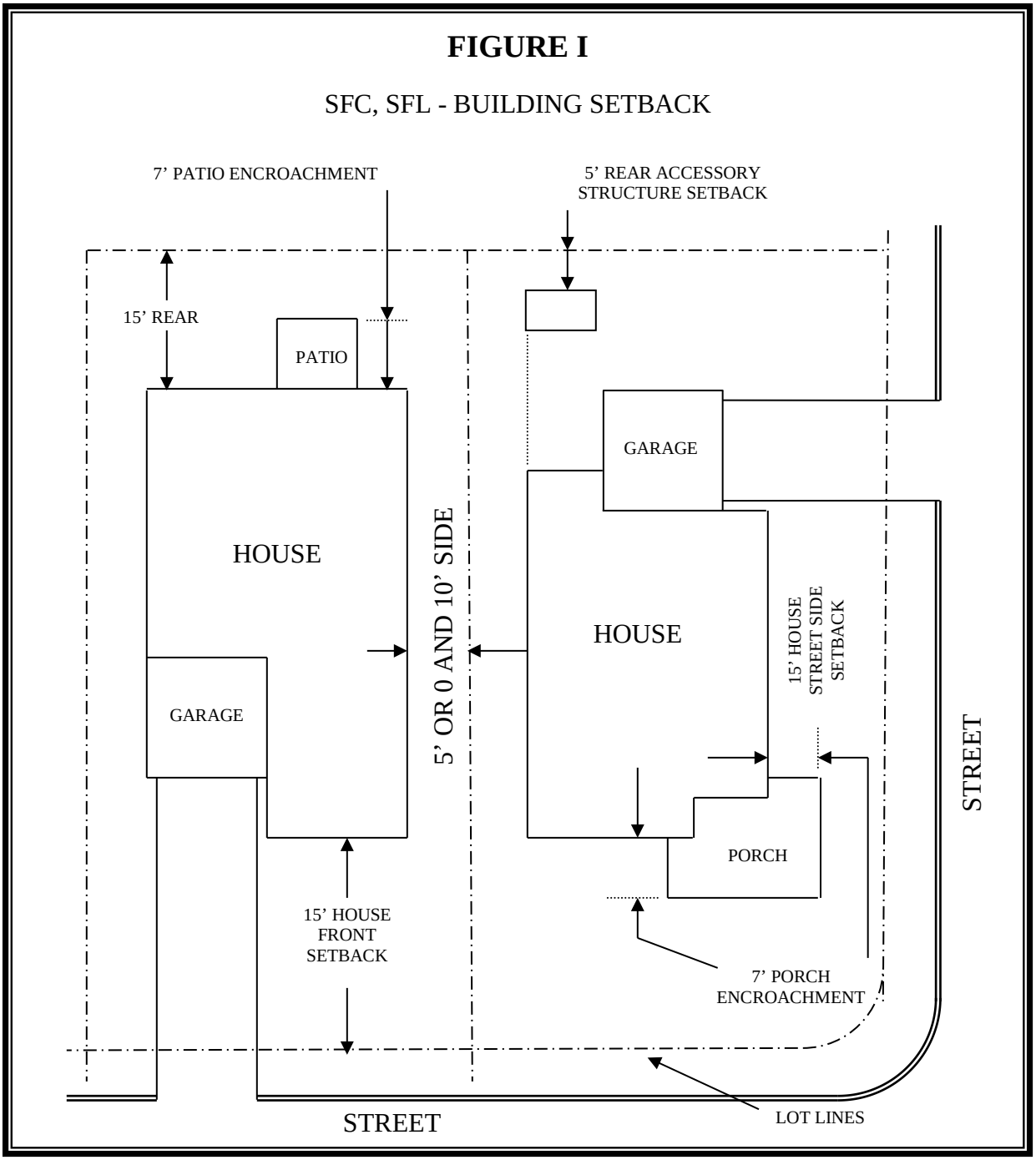
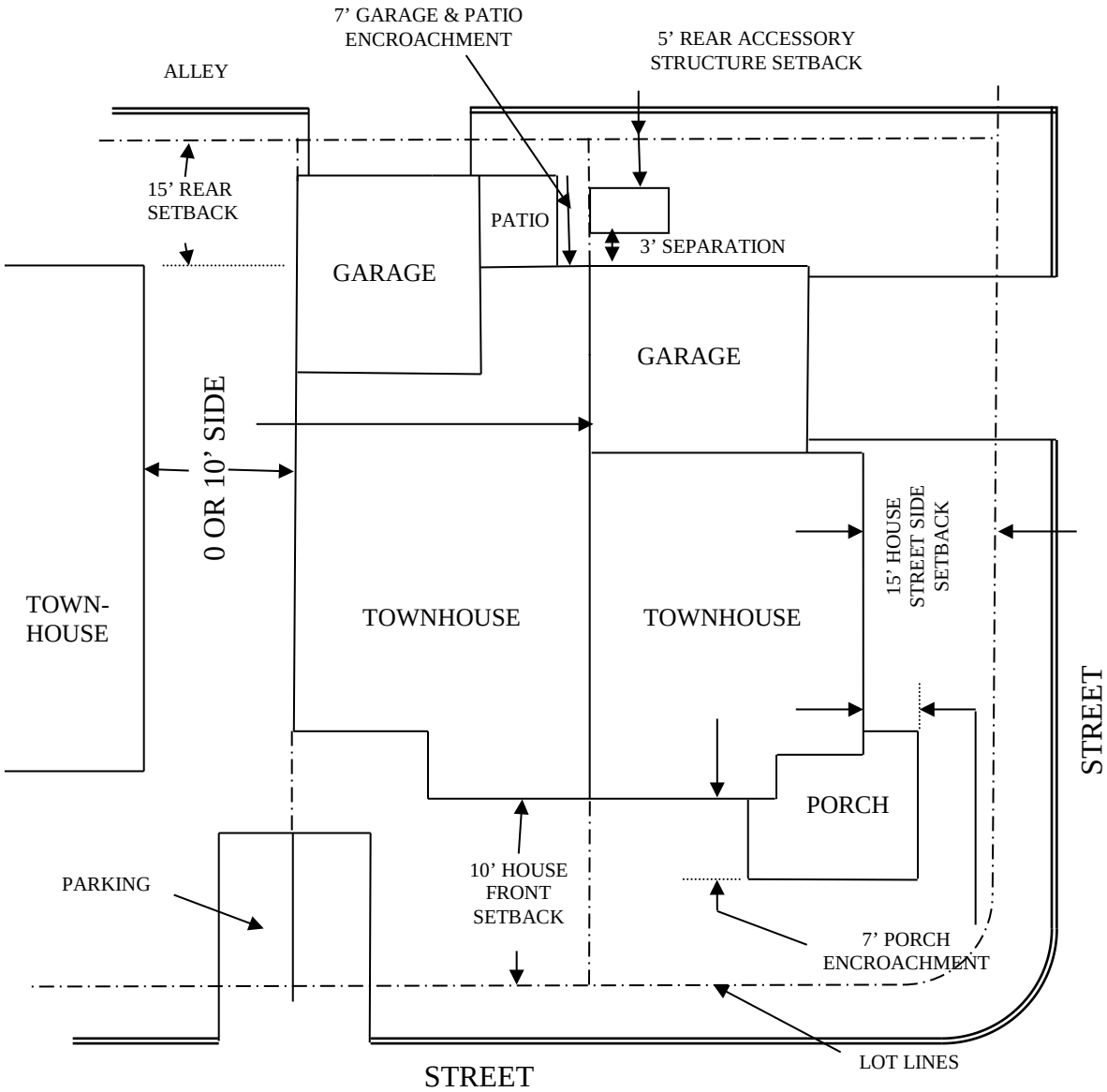


FIGURE J

SFT BUILDING - SETBACK



Section 17. **<u>Amendment to Article VI, Section 7</u>.** Article VI, Section 7 of the Composite Zoning Ordinance is hereby amended in its entirety to read as follows:

SECTION 7: DRAINAGE AND DETENTION FACILITIES

(a) Purpose.

The purpose of this section is to provide for the design of drainage and detention facilities that contribute to visual aesthetics of projects and limit the amounts of visible concrete that do not meet the requirements listed below. For the purposes of this section, visible shall be defined as noticeable by a person of average height walking on a street, sidewalk, or trail, or able to be seen by a neighboring property that is two stories in height. In addition, stamped and tinted concrete shall be defined as concrete that is patterned and/or textured to resemble brick or stone. Tinting shall be defined as adding color to the concrete mix prior to pouring that is an earth tone.

(b) Non-Residential and Multi-Family Drainage and Detention Facilities:

(1) Non-residential and multi-family drainage facilities include all detention ponds, water quality ponds, pond outlet structures, berms, improved channels or other improvements associated with the drainage improvements. Roadside swales, storm sewer outfalls unless visible from a ROW, inlets, and areas of concrete that are no more than one hundred (100) square feet in size are not included.

(2) Non-residential and multi-family drainage facilities are not allowed within ten feet (10') of street ROW except those which are necessary to convey drainage in the shortest possible route to or from street ROW.

(3) Non-residential and multi-family drainage facilities located within the front setback shall not exceed 25% of the area of the front setback.

(4) Any fencing around non-residential and multi-family detention ponds shall be constructed of wrought iron or decorative tubular metal or other similar product.

(5) Structural stabilization including vertical walls and riprap for non-residential and multi-family drainage facilities shall be limited to not more than thirty (30%) percent of the perimeter of the pond excluding outlet structures. The remainder of the perimeter shall be earthern embankment no steeper than 3:1 slope. All exposed concrete that is visible is required to be clad in stone including but not limited to ledgestone, fieldstone, cast stone, or other decorative materials such as stamped and tinted concrete that resembles stone or brick as approved by the Director of Planning. All other exposed concrete is required to be clad in stone as listed above or textured and tinted in earthern colors. In the event that the drainage facility is below grade, structural stabilization is permitted for the full perimeter and screening requirements listed in Article VI, Section 1 (d) of this Ordinance shall apply.

(c) Residential Drainage and Detention Facilities:

(1) Residential drainage facilities include all detention ponds, water quality ponds, pond outlet structures, berms, improved channels or other improvements associated with the drainage improvements. Roadside swales, storm sewer outfalls unless visible from a ROW, inlets, and areas of concrete that are no more than one hundred (100) square feet in size are not included.

(2) Residential drainage facilities shall utilize earthern berms and be designed with a curvi-linear shape. Any structural stabilization with slopes steeper than 3:1 shall be limited to the use of native stone (except for outlet structures which can be concrete) and shall be limited to not more than thirty (30%) percent of the perimeter of the pond. Such ponds shall be seamlessly integrated with the landscaping. All exposed concrete that is visible is required to be clad in stone including but not limited to ledgestone, fieldstone, cast stone, or other decorative materials such as stamped and tinted concrete that resembles stone or brick as approved by the Director of Planning. All other exposed concrete is required to be clad in stone as listed above or textured and tinted in earthern colors. In the event that the drainage facility is below grade, concrete is permitted instead of native stone and screening requirements Article VI, Sec. 1 (d) of this Ordinance shall apply..

(3) Any fencing around residential detention ponds shall be constructed of wrought iron or decorative tubular metal or other similar product.

Section 18. **Amendment to Article VI, Section 8.** The title of Article VI, Section 8 of the Composite Zoning Ordinance is hereby amended in its entirety to read as follows:

SECTION 8: SINGLE-FAMILY AND TWO-FAMILY LOTS ABUTTING OR ADJACENT TO TOLLWAY, HIGHWAY, ARTERIAL, OR COLLECTOR ROADWAY

Section 19. **Amendment to Article VI, Section 8 (b) (2).** Article VI, Section 8 (b) (2) of the Composite Zoning Ordinance is hereby amended in its entirety to read as follows:

(2) A six-foot privacy fence is required to be constructed at the common lot line between the landscape lot and the single-family or two-family lots. The fence is required to be constructed of one or more of the following materials: brick, stone, cast stone, factory tinted (not painted) split-faced concrete masonry unit, or other similar material approved by the Director of Planning. In addition to the materials listed above, textured pre-cast concrete (e.g. WoodCrete) is also permitted when the privacy fence is adjacent to collectors. All columns are required to have concrete footings. The landscape lot is required to be maintained by a private association.

Section 20. **Amendment to Article VI, Section 8 (c) (2).** Article VI, Section 8 (c) (2) of the Composite Zoning Ordinance is hereby amended in its entirety to read as follows:

(2) A six-foot privacy fence is required to be constructed at the common lot line between the landscape lot and the single-family or two-family lots from the rear lot line to a point even with the rear wall of the house at a minimum, but no further than to a point even with the front wall of the house. Any fence closer to the front lot line than the front wall of the house shall not exceed three feet in height; however, such fence is not required. Such fence is required to be constructed of one or more of the following materials: brick, stone,

cast stone, factory tinted (not painted) split-faced concrete masonry unit, or other similar material approved by the Director of Planning. In addition to the materials listed above, textured pre-cast concrete (e.g. WoodCrete) is also permitted when the privacy fence is adjacent to collectors. All columns are required to have concrete footings. The landscape lot is required to be maintained by a private association.

Section 21. **Amendment to Article VI, Section 12.** Article VI, Section 12 of the Composite Zoning Ordinance is hereby amended in its entirety to read as follows; provided that Figure R shall be and remain in full force and effect:

SECTION 12: OUTDOOR LIGHTING

(a) The purpose of this section is to provide design standards for site and building lighting that are Dark Sky compliant and compatible with adjacent uses.

(b) Non-residential outdoor lighting will be in accordance with other provisions of this ordinance and City building codes. A detailed lighting plan and photometric plan shall be included with the Building Permit application and shall meet the following requirements:

(1) Outdoor Lighting

a. Fixture.

i. All permanent exterior lighting shall be non-flashing and shielded such that the light source (cone of direct light) is not visible from the public ROW or adjacent residential uses at the property line (see Figure R – following page).

ii. Wall pack lighting or other lighting that directs the light in a horizontal direction without an adequate shield is not permitted (since it directs the light glare directly outward) if there are streets or residential uses in the direction of the light.

b. Illumination Levels

i. All site lighting shall be designed and installed so that the level of illumination as measured in foot candles at a height of three (3') feet at the property line does not exceed two (2') foot candles.

(c) Residential outdoor lighting on residential property will be installed in accordance with applicable City Code Standards. It will be located so as not to create a nuisance for adjoining property owners.

Section 22. **Amendment to Article VI, Section 14 (d).** Article VI, Section 14 (d) of the Composite Zoning Ordinance is hereby amended in its entirety to read as follows:

(d) **Masonry privacy wall**

(1) A six-foot masonry privacy wall is required to be constructed by any non-residential use that abuts property utilized for a single-family or two-family residence on land zoned single-family or two-family, or land planned or platted for such with an approved concept plan, preliminary plat or final plat, unless an existing structure is proposed to be expanded by less than 50%, or 1,000 sq. ft., whichever is less.

(i) Such wall shall be constructed at the common property line between the uses, or if such location is not feasible because of floodplain, trees or other natural feature, at a location that will effectively screen the non-residential use from view from the single-family or two-family residence.

(ii) Such wall is required to be constructed of one or more of the following materials: textured pre-cast concrete that is constructed to appear as brick, stone, or cast stone as approved by the Director of Planning, brick, stone, cast stone, factory tinted or painted split-faced concrete masonry unit, granite, tile or other similar material approved by the Director of Planning.

(iii) An eight-foot wall may be utilized for security purposes.

(iv) Gates shall be provided in the wall as appropriate to connect to public sidewalks or other pedestrian connections unless such wall is also used as described above for security.

(2) The masonry privacy wall is not required for non-residential uses that are permitted by right in any Single-Family Districts.

Section 23. **Amendment to Article VI, Section 16 (d).** Article VI, Section 16 (d) of the Composite Zoning Ordinance is hereby amended in its entirety to read as follows:

(d) Fences less than or equal to eight (8) feet in height shall be allowed for impeding access to hazardous or secured facilities including, but not limited to, electrical substations and chemical or equipment storage yards; or where the fence forms a perimeter around a subdivision. For high security applications, barbed wire or razor wire (or equivalent) may be installed above the eight (8) foot height limit but not to exceed a total of ten feet in height.

Section 24. **Amendment to Article VII, Section 1 (b) (1).** Article VI, Section 1 (b) (1) of the Composite Zoning Ordinance is hereby amended in its entirety to read as follows:

(1) At least eighty-five percent (85%) of the exterior surface area of all walls, including all stories of primary buildings / structures, shall consist of un-painted clay brick, ledge stone, fieldstone, cast stone, marble, granite, tile, painted or tinted stucco, non-reflective glass façade, glass block (or alternative glazing e.g. Kalwall) and factory tinted (not painted) split faced concrete masonry unit (non-residential buildings and structures only) or similar material approved by the Director of Planning. The remaining exterior wall surface shall be comprised of those materials listed or cementious-fiber planking (not panels unless they are used with board and batten application). Solid wood planking and decorative cementious-fiber panels may be used for accent features.

Section 25. **Amendment to Article VII, Section 2 (b) (1).** Article VI, Section 2 (b) (1) of the Composite Zoning Ordinance is hereby amended in its entirety to read as follows:

(1) At least eighty-five (85%) percent of the exterior surface area of first story walls and fifty (50%) percent of the exterior surface area of each additional story walls of primary buildings / structures, shall consist of un-painted clay brick, ledge stone, fieldstone, cast stone, marble, granite, tile, painted or tinted stucco, glass façade, glass block (or alternative glazing e.g. Kalwall) and factory tinted (not painted) split faced concrete masonry unit (non-residential buildings and structures only) or similar material approved by the Director of Planning. The remaining exterior wall surface shall be comprised of those materials listed or cementious-fiber planking (not panels unless they are used with a board and batten application). Solid wood planking, decorative cementious-fiber panels and other materials approved by the Director of Planning may be used for accent features.

Section 26. **<u>Amendment to Article VII, Section 3 (b) (1)</u>.** Article VI, Section 3 (b) (1) of the Composite Zoning Ordinance is hereby amended in its entirety to read as follows:

(1) At least sixty (60%) percent of the exterior surface area of street facing walls (See Figures U, V, and W – following pages) of primary buildings and thirty five (35%) percent of the exterior surface area of all other walls of primary buildings / structures shall consist of un-painted clay brick, ledge stone, fieldstone, cast stone, marble, granite, tile, painted or tinted stucco, glass façade, glass block (or alternative glazing e.g. Kalwall) and, for non-residential buildings and structures, factory tinted (not painted) split faced concrete masonry unit, pre-cast concrete tilt wall with a decorative or textured finish (needs approval by the Director of Planning to determine if finish is acceptable) or similar material approved by the Director of Planning. The remaining exterior wall surface shall be comprised of those materials listed or cementious-fiber planking (not panels unless they are used with a board and batten application) orexterior insulating finishing system (E.I.F.S.). Solid wood planking, decorative cementious-fiber panels and other materials approved by the Director of Planning may be used for accent features. For non-residential buildings, smooth faced concrete masonry unit and metal panels or similar materials approved by the Director of Planning may be utilized as an accent feature and shall comprise not more than ten percent (10%) of any wall surface area.

Section 27. **<u>Amendment to Article VII, Section 4 (b) (1)</u>.** Article VI, Section 4 (b) (1) of the Composite Zoning Ordinance is hereby amended in its entirety to read as follows:

(1) For all buildings / structures that are more than four hundred (400') feet from a street, the masonry requirements do not apply. For all buildings / structures that are within four hundred (400') feet of a street at least sixty (60%) percent of the exterior surface area of street facing walls (See Figures U, V, and W – following pages) of primary buildings and thirty five (35%) percent of the exterior surface area of all other walls of primary buildings / structures shall consist of un-painted brick, ledge stone, fieldstone, cast stone, marble, granite, tile, painted or tinted stucco, exterior insulating finishing system (E.I.F.S.), glass façade, glass block (or alternative glazing e.g. Kalwall), factory tinted (not painted) split faced concrete masonry unit, pre-cast concrete tilt wall with a decorative or textured finish or similar material approved by the Director of Planning. The remaining exterior wall

surfaces shall be comprised of those materials listed or cementious-fiber planking or panels, or painted metal siding except that metal siding is not permitted on any street facing wall. Solid wood planking, decorative cementious-fiber panels and other materials approved by the Director of Planning may be used for accent features. Smooth faced concrete masonry unit and metal panels or similar materials approved by the Director of Planning may be utilized as an accent feature only and shall not comprise more than fifteen percent (15%) of any wall surface area.

Section 28. **Amendment to Article VIII, Section 1 (c).** Article VI, Section 1 of the Composite Zoning Ordinance is hereby amended to add subsection (c) to read as follows:

(c) A masonry calculation table is required at the building permit stage to demonstrate compliance with the ordinance requirements.

Section 29. **Amendment to Article IX, Section 1 (b).** Article IX, Section 1 (b) of the Composite Zoning Ordinance is hereby amended to remove the following:

(4) Brush clearing in compliance with the landscape and tree regulations of the city as long as only rubber-tired equipment is introduced to the site (no equipment with tracks).

Section 30. **Amendment to Article IX, Section 2 (c) (1).** Article IX, Section 2 (c) (1) of the Composite Zoning Ordinance is hereby amended in its entirety to read as follows:

(1) Projects that include minor site activity similar to those listed in Section 1(b) and including brush clearing, Article IX of this ordinance may be eligible for a minor site development permit. To be eligible, such projects may increase the impervious cover by no more than 1,000 square feet. In addition, a minor site development permit application shall be submitted for review in conformance with all information and materials required by the most recent minor site development permit application/checklist.

Section 31. **Amendment to Article X, Section 10 (a) (2).** Article X, Section 10 (a) (2) of the Composite Zoning Ordinance is hereby amended in its entirety to read as follows:

(2) Administrative Penalty. Any person who removes a Significant Tree greater than 8 inches in caliper prior to approval of a tree preservation plan, or who removes a Significant Tree greater than 8 inches in caliper that is not authorized to be removed under an approved tree preservation plan shall be charged and shall pay a fee of $300 per inch for each Significant Tree greater than 8 inches in caliper removed in violation of this ordinance. The City will rely on remaining evidence on site to determine if a violation of this ordinance has occurred. For enforcement purposes the City will consider that any stump remaining on the property which is eight inches or more in

diameter measured at ground level or higher was a stump of a Significant Tree greater than 8 inches in caliper. Furthermore, any cut wood discovered on site will be considered evidence of a Significant Tree greater than 8 inches in caliper if the diameter of the cut wood is measured at eight inches or greater at any point on any piece of cut wood. A site development or building permit application for property from which one or more Significant Trees have been removed in violation of this ordinance may not be approved until an administrative

Section 32. **Conflicting Ordinances.** Exhibit "A", Section 14.02.001, Article 14.02, Leander Code of Ordinances and of Ordinance No. 05-018-00 is amended as provided herein. All ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance as adopted herein, are hereby amended to the extent of such conflict. In the event of a conflict or inconsistency between this ordinance and any other code or ordinance of the City, the terms and provisions of this ordinance shall govern.

Section 33. **Savings Clause.** All rights and remedies of the City of Leander are expressly saved as to any and all violations of the provisions of any ordinances affecting zoning within the City which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

Section 34. **Effective Date.** This ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Tex. Loc. Gov't. Code and the City Charter.

Section 35. **Severability**. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of this ordinance of any such invalid phrase, clause, sentence, paragraph or section. If any provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.

Section 36. **Open Meetings.** It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on the 7th day of July, 2016.
PASSED AND FINALLY APPROVED on the 21st day of July, 2016.

THE CITY OF LEANDER, TEXAS **ATTEST:**

_____	_____
Christopher Fielder, Mayor	Debbie Haile, City Secretary

HOME BUILDERS ASSOCIATION GREATER AUSTIN

RECOMMENDATIONS

Agenda Subject: Ordinance Case 16-OR-001

Background: On February 25, 2016 the Leander Real Estate Advisory Board was notified by the City of Leander that several code changes would be proposed later this year and they would include modifications to the Masonry Ordinance.

On May 20, 2016 the Real Estate Advisory Board received the proposed draft ordinances for both the composite and subdivision ordinances and made several recommendations.

On June 9, 2016 there was a follow-up meeting to discuss the recommendations as well as seek clarification. Most of the recommendations were accepted, however there were still questions and reservations regarding two components in the Composite Zoning Ordinance Amendments.

The two sections are:

1. Article VI, Section 7: Drainage and Detention Facilities
2. Article VII, Sections 1-4 (related to Architectural components)

Concerns:

- Article VI:
  - We believe that requiring "All exposed concrete that is visible" to be clad in stone is excessive.
  - By the standards presented, someone who is 5'7'' (average height of a male 20 years of age and over according to the CDC) needs only to see concrete that is exposed to meet the requirement.
  - Requiring the concrete to be clad in stone may require complete re-engineering of drainage facilities to safely support the additional weight of the stones, resulting in significant increased costs.
- Article VII
  - Limiting stucco to 35% of the overall façade of a home is effectively a "ban" on stucco.
  - 35% only allows stucco accents which are not cost effective to do.
  - There are also warranty issues with providing warranties on the stucco accents because they are more prone to cracking because the structural support isn't as substantial as an entire wall.
  - Recent market studies have shown majority of prospective buyers are requesting "all" stucco homes, by eliminating it as an option the city would force buyers to look elsewhere for their needs.

Recommendations:

Recommendation No. 1- Amend Article VI, Section 7, b(5) to: *"All exposed concrete that is visible is required to be clad in stone, or consist of approved decorative materials including: ledgestone, fieldstone, cast stone, or textured and tinted in earthen colors and must be approved by the Director of Planning. All other materials not listed must be approved by the Director of Planning."*

Recommendation No. 2-Amend Article VII, Section 1-4 by removing: *"(limited to thirty-five (35%) of the exterior surface area of walls)"* in all sections.

Contact Information:

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Home Builders Association of Greater Austin
(512) 982-9175
geoffrey@hbaaustin.com

COMPOSITE ZONING ORDINANCE AMENDMENTS

ARTICLE I – GENERAL

SECTION 6: DEFINITIONS

Dark Sky means the use of lighting in a way that directs the light source away from the sky in order for the night sky to remain relatively free of interference from artificial light. This type of lighting is in compliance with the International Dark Sky Association standards.

Gaming Room Facility means a place to deal, operate, carry on, conduct, maintain, or expose for play any game, sports book, promotion, sweepstakes, or other activity electronic or otherwise that may or may not confer upon the patrons or participants the right, chance, or ability to win and or claim prizes.

Gaming Device means a clock, tape machine, slot machine, or other machine or device for the reception of money or other thing of value on chance or skill or upon action of whcih money or other thing of value is staked, hazarded, bet, won, or lost; or any mechanism, furniture, fixture, equipment or other device designed primarily for use in a gambling place. It does not include: (1) A coin-in-slot-operated mechanical device played for amusement that rewards the player with the right to replay such mechanical device; or (2) Vending machines by which full and adequate return is made for the money invested and in which there is no element of chance or hazard.

Lot Width means the average horizontal distance between side property or lot lines. Lot width can also be identified as the measurement of the lot at the building setback line. The minimum lot width for lots fronting a cul-de-sac may be reduced to a minimum of thirty (30') feet at the front property line provided that the minimum required lot width is provided at the front setback line.

Riparian Corridor means any defined stream channel including the area up to the ordinary high water (or bankfull-flow line), as well as all riparian (streamside) vegetation in contiguous adjacent uplands. Riparian Corridors also includes the Secondary and Connector Trail Corridors identified in the City of Leander Parks, Recreation & Open Space Master Plan and the Transportation Plan.

Soil means the upper layer of the earth in which plants grow and contains humus, minerals, available nutrients, and beneficial micro-organisms, resulting in a favorable condition for vegetative growth.

ARTICLE III – USE COMPONENTS

SECTION 1: SFR – SINGLE-FAMILY RURAL

(b) Conforming Uses

(1) Single-family dwelling of not less than sixteen hundred (1,600) square feet of living area; accessory dwelling with a minimum living area of four hundred (400) square feet; and a maximum living area of nine hundred (900) square feet or 40% of the gross living area of the primary dwelling, whichever is greater. However, for lots

greater than three acres in size, there is no limit to the maximum size of the accessory dwelling.

(2) Community services including community center, civic organizations, fraternal organizations, and cemetery / mausoleum not including a crematory or embalming facilities

(3) Golf courses (public and private) and all associated improvements and activities, but not including miniature golf courses, golf practice ranges (unless associated with a golf course), or similar forms of commercial amusement

(4) Day care (in home) for 5~~6~~ or fewer children

(5) Emergency services including fire, police and EMS stations

(6) Family Home and Group Home-Class 1

(7) Home occupations (see Article IV, Section 8 for Use Standards)

(8) Parks, playgrounds and associated equipment and facilities, recreational amenity center

(9) Place of worship

(10) Public buildings, including libraries, museums and administrative offices

(11) Real estate sales offices during the development and sale of a residential subdivision and subject to the restrictions contained in this ordinance

(12) Schools, public or private, including all levels up to and including secondary (high) school and equivalent curriculum including support facilities are permitted

(13) Temporary buildings incidental to construction work on the premises if such buildings are removed upon the completion or abandonment of construction work (see Article IV, Sec. 7)

(14) Utilities (minor) including ground mounted service equipment and minor structures and facilities such as poles, minor electrical switching facilities, lift stations, water pump stations and gas regulating facilities

(15) Water supply reservoirs and pumping plants when screened from public view

(16) Wireless communications facilities (WCFs) attached to street poles or facades attached to non-residential buildings or stealth WCFs are permitted subject to the provisions of this ordinance. Freestanding WCFs, including lattice towers and mono-poles, are prohibited.

(17) (For lots or tracts three or more acres in size) ranches, dairy farms, stables, riding academies and roping arenas; including the feeding, raising and breeding of agricultural livestock and exotic hoof stock; however, with exception of commercial feed lots which are not permitted, and the exception that not more than one large animal (e.g. a horse, cow, bull or similar animal) or five small animals (e.g. goats, sheep or similar animal) may be permitted for each acre of grazeable land. Grazeable land shall be land that is fenced and maintained with suitable forage for grazing of the particular species. Barns and stables shall not be located within 25 feet of any property line. (See Chap. 2, City Code for animal control regulations)

(18) Agricultural, small wind energy systems, solar energy systems and rainwater harvesting systems including or similar to:

(i) As accessory uses, solar energy systems designed to supply energy for use on the premises, and rainwater harvesting systems meeting the standards of Article IV, Sec. 5 of Article 14.200. In addition, if approved with a special use

permit, small wind energy systems may be approved as an accessory use if meeting the standards of Article IV, Sec. 5 of Article 14.200.

(ii) Hunting and/or hunting leases (for lots or tracts three or more acres in size).

(iii) Farming or truck gardens, limited to the propagation and cultivation of plants.

(19) Temporary parking associated with model homes and/or sales trailers prior to the completion of model homes. Article IX of this ordinance will apply to temporary parking lots.

(20) Other similar uses as determined by the Director of Planning [see Article II, Sec. 2, (f)].

SECTION 14: HC – HEAVY COMMERCIAL

(b) Conforming Uses

(1) Any use permitted in the "GC" component

(2) Bingo

(3) Car Title Loans Shop/Business

(4) Commercial laundry

(5) Contractor and building material storage

(6) Gaming Room Facility/Gaming Device

~~(6)~~(7) Hooka Lounge

~~(7)~~(8) Manufacture, assembly or processing of materials not classified as hazardous by the Fire Chief

~~(8)~~(9) Mini-warehouse or self-service storage facilities [required to be set back at least four hundred (400) feet from a tollway, highway or major arterial roadway if built to Type B, C or D architectural standards or such facilities include exterior warehouse doors], warehouse and distribution, commercial storage

~~(9)~~(10) Pawn Shop

~~(10)~~(11) Payday Lending Business

~~(11)~~(12) Research, Testing, and Development Laboratory

~~(12)~~(13) Research, Testing, and Development Laboratory (Intense)

~~(13)~~(14) Retail sales, second hand resale, and services

~~(14)~~(15) RV, trailer, commercial motor vehicle and boat outdoor storage [required to be set back at least four hundred (400) feet from a tollway, highway or major arterial roadway] (Note: refer to Article VI, Section 9 for rules on special vehicle storage)

~~(15)~~(16) Tattoo and/or Body Piercing Parlor

~~(16)~~(17) Utilities, including ground mounted service equipment and structures as a primary use and facilities such as poles, electrical switching facilities, lift stations, water pump stations, gas regulating facilities, electrical substations, generating plants, wastewater and water treatment plants, etc. (see screening requirements in Article VI, Sec. 1)

~~(17)~~(18) Vehicle and major equipment sales, rental or leasing, repair, body shop [Small engine repair shops and motorcycle repair shops shall not be permitted within one-hundred fifty (150') feet of a residential district unless such repairs are conducted totally within a fully enclosed building.]

~~(18)~~(19) Warehouse and distribution

~~(19)~~(20) Wood yard

~~(20)~~(21) Wholesale activities

~~(21)~~(22) Wrecker Impoundment, Towing [required to be set back at least four hundred (400) feet from a tollway, highway or major arterial roadway]

~~(22)~~(23) Stand alone crematory or embalming establishment as long as the crematory stack is no closer than 200' from a restaurant or associated parking or from a residential district (unless such district is utilized for non-residential uses).

~~(23)~~(24) Other similar uses as determined by the Director of Planning based on the criteria of Article II, Sec. 2, (f)

SECTION 16: PUD – PLANNED UNIT DEVELOPMENT

(d) Rules Applicable

(8) The PUD shall result in overall higher standards than what would be provided by the base zoning district. As examples: (1) if residential lot sizes are decreased or development densities are increased, the PUD will be expected to significantly exceed other standards such as parkland and facilities dedication, landscaping, architectural controls, thoroughfare or other transportation improvements, creation of unique characteristics of the neighborhood, retention of significant trees and/or provision of public facilities, etc., or (2) if masonry standards or building/development setbacks are proposed to be decreased, other standards would be expected to be increased such as landscaping, screening, retention of significant trees, architectural controls, land uses and/or unique site layout standards, etc. Other examples may include:

(i) Designating the Type A Architectural Component
(ii) Adding additional architectural features
(iii) Provide a master architectural and signage plan that includes a cohesive materials palette
(iv) Enhanced landscaping and/or trees
(v) Increased landscape area
(vi) Masonry perimeter walls for subdivisions
(vii) Provide brick or stone instead of decorative concrete panels for screening walls
(viii) Plant street trees
(ix) Provide more parkland dedication
(x) Increase recreation improvements
(xi) Trails system in greenbelt areas
(xii) Provide a Master Sign Plan including: proposed locations, provide cohesive materials palette, design specifications for signage, type of illumination
(xiii) Limit fencing to wrought iron or decorative tubular metal fencing along greenbelt lots.
(xiv) Provide unique characteristics of a neighborhood with a unique site layout
(xv) Include a mixture of uses
(xvi) Provide public spaces
(xvii) Incorporate public art

ARTICLE V – SITE COMPONENTS

SECTION 3: TYPE 3

(b) Site Uses and Features (Some Site Uses Listed Also Require Appropriate Use Component)

(2) Commercial and Industrial Development:

(v) Outdoor commercial fueling and washing of vehicles meeting the following requirements is permitted:

a. Washing of vehicles (including vacuum facilities) is not located within one hundred fifty (150') feet of a residential district unless such district is utilized for non-residential purposes. The location is measured from the closest portion of the structure associated with the washing of vehicles to the residential district; and

b. Commercial fueling is not located within ~~one~~ two hundred (~~1~~200') feet of a residential district unless such district is utilized for non-residential purpose. The location is measured from the closest portion of the structure associated with the outdoor commercial fueling to the residential district; and

ARTICLE VI – SITE STANDARDS

SECTION 1: LANDSCAPING, TREE PRESERVATION AND PROTECTION, AND SCREENING REQUIREMENTS

(b) Screening Requirements.

(1) In addition to the landscaping requirements of this section, all development other than single-family or two-family shall comply with the following screening requirements:

(i) The following shall be screened from the view of at least sixty percent (60%) of adjacent single-family or two-family residences and any street or public right-of-way: off-street parking areas, loading spaces and docks, trash and storage containers, outside storage areas, satellite dishes larger than eighteen (18) inches in diameter, antennas, mechanical equipment, and metal siding.

(ii) Above ground utility facilities up to six (6) feet above grade for multi-family and non-residential development are required to be screened from view except for poles, fire hydrants and existing lines.

(iii) Detention Facilities including detention ponds and/or water quality ponds shall be screened from view.

(iv) Screening by vegetation that could be removed from adjacent undeveloped or partially developed properties when such property is developed is not considered as screening from view.

(v) Outside storage areas shall be screened by the use of a privacy fence or wall at least the height of the items to be screened and in conformance with the requirements of this ordinance. If the outdoor storage area is adjacent to an arterial or collector roadway, then the wall is required to be constructed of one or more of the following materials: brick, stone, cast stone, stucco (limited to thirty-five (35%) of the exterior surface area of walls), factory tinted (not painted) split face concrete masonry unit, or other similar material approved by the Director of Planning. In addition to the materials listed above, textured pre-cast concrete (e.g. Woodcrete) is also permitted when the wall is adjacent to collectors.

(vi) A minimum five-foot (5') landscaped area located on the exterior of the fence shall be provided and landscaped in accordance with paragraph (2) (i) above unless the fence is on a rear boundary line or adjoining a permanent structure on the site.

(vii) Fuel pumps are required to be screened from view of any street or public right-of-way to at least the height of the fuel pump.

(viii) Lift stations are required to be screened from view of adjacent single-family or two-family residences, or any street or public right-of-way by the use of a wall. The wall is required to be constructed of one or more of the following materials: brick, stone, cast stone, stucco (limited to thirty-five (35%) of the exterior surface area of walls), factory tinted (not painted) split face concrete masonry unit, textured pre-cast concrete (e.g. Woodcrete) or other similar material approved by the Director of Planning.

(2) Approved screening techniques include privacy fences, evergreen vegetative screens, landscape berms, existing vegetation or any combination thereof unless otherwise noted in this section.

(3) Privacy Fences (See section 14 and 16 of this Article)

(4) Evergreen Vegetative Screens. Evergreen plant materials shall be shrubs, at least thirty (30) inches in height and at a minimum spacing of 48 inches at the time of installation, in combination with shade trees not more than fifty feet apart.

(5) Landscape Berms, in combination with trees, shall fulfill the screening requirements of this section if the berms are at least three (3) feet in height and have maximum side slopes of four (4) feet of horizontal run for every one (1) foot in vertical rise.

(6) Existing on-site vegetation, demonstrating significant visual screening capabilities and as approved by the Director of Planning, shall fulfill the requirements of this section.

* * *

(8) A non-disturbance zone shall be maintained on single-family and two-family lots during the subdivision construction and building permit phases of development. A disturbance area no more than five (5') feet from the foundation necessary for construction and grade transitions shall be permitted. This disturbance area shall be no more than ten (10') feet from the foundation for properties zoned with the SFR (Single-Family Rural) use component. The trees located on the remainder of the lot shall not be removed unless a unique situation is approved by the Director of Planning ~~Director~~.

(c) Tree Preservation and Protection.

(4) Significant Tree Preservation Requirements

~~(iii)~~(iv) Significant Trees greater than eight (8) inches in caliper shall be preserved to the greatest extent reasonably possible. Significant Trees removed during construction shall be supplanted with Replacement Trees if required by the tree mitigation requirements of this section. No Significant Tree shall be removed until a tree ~~protection~~ preservation plan has been approved by the Director of Planning in accordance with this Chapter. Significant Trees may be removed only in accordance with the approved tree ~~protection~~ preservation plan, and trees must be protected during construction activities on the property in accordance with the approved tree ~~protection~~ preservation plan. This provision only applies to projects before the certificate of occupancy has been issued for single-family and two-family developments. For single-family and two-family projects, this provision only applies prior to the initial certificate of occupancy for each lot.

(9) Tree Protection Plan Requirements

(i) An applicant for a single-family or two-family preliminary plat or final plat, or a site development permit shall provide a tree survey prepared within five years preceding the application date. This tree survey shall include the street and lot layout, or site plan superimposed at a scale of 1"=100' (or as appropriate) identifying significant trees located on the property that meet the requirements indicated in this section. Applicants for a single-family or two-family preliminary or final plat are only required to submit a tree survey for the portion of the property that the applicant is proposing to disturb with the subdivision construction. The applicant shall provide a tree preservation plan that identifies the surveyed trees and the mitigation of the protected trees that are proposed for removal. The applicant shall be required to demonstrate that lot lines, street layouts and site improvements have been designed and located and that lot width, depth and size flexibility as permitted by the applicable zoning district has been utilized to the maximum extent necessary to retain the maximum number of significant trees reasonably practicable. Applicants for a single-family or two-family preliminary or final plat may plant replacement trees within lots owned by

the Homeowners Association including but not limited to landscape lots, park lots, or amenity center lots.

(ii) The Director of Planning shall determine if adequate performance is achieved based on the standards of this section. Approval of the tree ~~protection~~ preservation plan by the Director of Planning is required prior to preparation and submission of a subdivision or site development permit application. The applicant may appeal any decision of the Director to the Commission. A decision of the Commission may be appealed to the City Council. Any preserved or replacement trees may be counted toward the landscape requirements of this section. See the Construction Plan requirements for details.

SECTION 3: OFF-STREET PARKING REQUIREMENTS

(a) The following off-street parking requirements are considered minimum requirements and may not adequately reflect the specific needs of a proposed business. A commercial building permit applicant shall analyze the parking needs of the specific users being proposed and provide the amount of parking required for such uses. When any building or structure is erected, or an existing building is enlarged by fifty (50) percent or more in floor area, off-street parking shall be provided in accordance with the following requirements (Note: Any building enlargement is required to add at least the amount of additional parking required by the enlargement):

USE CATEGORY	SPECIFIC USE	SPACE REQUIREMENT
RESIDENTIAL USES		
Household Living	Single Family	See Use District
	Multi-Family	1 ½ for one bedroom plus ½ for each additional bedroom.
	Senior Multi-Family	1 per dwelling plus additional 5% of total spaces for visitor use.
Group Living	Fraternity House, Sorority House, Dormitory, Rooming House, Boarding House	1 per each two beds
	Nursing Home/Hospice/ Assisted Living	1 per bedroom
	All other Group Homes	1 per bedroom
	Family Home and Group Home-Class 1	not less than four (4) off street parking spaces, or one parking space per bedroom, whichever is greater.
	Group Home-Class 2 & Group Home-Class 3	not less than six (6) off street parking spaces, or one parking space per bedroom, whichever is greater
CIVIC USES		

Educational & Daycare Facilities	Elementary Schools	greater of 1:4 seats in auditorium or 2:classroom
	Secondary Schools, colleges	greater of 1:4 seats in auditorium or 10:classroom
	Day Care Center	1:400 sq. ft.
Medical & Institutional Facilities	Hospital, Sanitarium~~, Convalescent Home~~	1:4 beds
	All other institutions	1:250 sq. ft.
Parks & Open Areas	Golf Courses	3:hole
	Neighborhood Amenity Center	1:300 sq. ft. (including pools in square footage calculation)
Places of Worship	Religious Assembly	1:200 square feet of sanctuary, classrooms, flexible seating areas
COMMERCIAL USES		
Automotive Sales & Services	Motor Vehicle Salesrooms & Used Car Lots	greater of 1:800 sq. ft. of sales floor or lot area
	Vehicle Repair Garage	1:400 sq. ft.
Overnight Accommodations	Hotel, Motel	1 per room plus 1:200 sq. ft. of Comm. Floor Area
	Bed & Breakfast/Inn	1 per guest room plus 2 additional spaces
Food & Beverage Establishments	Restaurant as a single use or comprising more than 20% of a mixed retail center	1:100 sq. ft.
Entertainment & Recreation	Dance / Assembly / Exhibition Hall, Restaurant, Night Club, Lodge or Country Club	1:100 sq. ft.
	Bowling Alleys	5:lane ~~alley~~
	Community Center, Library, Museum, Art Gallery	1:300 sq. ft.
	Theater, Auditorium (except school), Sports Arena, Stadium, Gymnasium, Funeral Home	1:4 seats

Commercial Office, Retail Sales, & Services	Medical / Dental Clinic/ Office, Personal Service, Mixed Use Retail Center less than 20,000 sq. ft.	1:200 sq. ft.
	Mixed Use Retail greater than 20,000 sq. ft.	1:225 sq. ft.
	Studio, Bank, Retail	1:250 sq. ft.
	Business / Professional Office	1:275 sq. ft.
	Furniture, Appliance or Hardware Store; Wholesale Sales Establishment, Machinery / Equipment Sales & Service; Clothing / Shoe Repair; Service Shop	1:300 sq. ft.
INDUSTRIAL USES		
Industrial, Manufacturing, Warehousing, Storage	Manufacturing, Industrial, Research, Testing, Warehouse, Storage Buildings and Yards, Lumber Yard, Printing Shop, Plumbing Shop	1:600 plus spaces for business vehicles
	Mini-Warehouse Self Storage	parking required only for office
	~~Church, Theater, Auditorium (except school), Sports Arena, Stadium, Gymnasium, Funeral Home~~	~~1:4 seats~~
	~~Hotel, Motel~~	~~1 per room plus 1:200 sq. ft. of Comm. Floor Area~~
	~~Furniture, Appliance or Hardware Store; Wholesale Sales Establishment, Machinery / Equipment Sales & Service; Clothing / Shoe Repair; Service Shop, Community Center,~~	~~1:300 sq. ft.~~

	~~Library, Museum, Art Gallery~~	
	~~Hospital, Sanitarium, Convalescent Home~~	~~1:4 beds~~
	~~Dance / Assembly / Exhibition Hall, Restaurant, Night Club, Lodge or Country Club~~	~~1:100 sq. ft.~~
	~~Motor Vehicle Salesrooms & Used Car Lots~~	~~greater of 1:800 sq. ft. of sales floor or lot area~~
	~~Vehicle Repair Garage~~	~~1:400 sq. ft.~~
	~~Mini-Warehouse Self Storage~~	~~parking required only for office~~
	~~Golf Courses~~	~~3:hole~~
	~~Bowling Alleys~~	~~5:alley~~
	~~Elementary Schools~~	~~greater of 1:4 seats in auditorium or 2:classroom~~
	~~Secondary Schools, colleges~~	~~greater of 1:4 seats in auditorium or 10:classroom~~
	~~Family Home and Group Home-Class 1~~	~~not less than four (4) off-street parking spaces, or one parking space per bedroom, whichever is greater.~~
	~~Group Home-Class 2 & Group Home-Class 3~~	~~not less than six (6) off-street parking spaces, or one parking space per bedroom, whichever is greater~~

In a development with mixed-use buildings designed and built in a walkable and pedestrian friendly configuration, the Director of Planning may consider the following shared parking factors in reviewing a proposal for a reduction in the minimum parking requirements (the shared parking factor is applied to the sum of the individual uses minimum parking requirements):

Shared Parking Factor				
	Residential	**Lodging**	**Office**	**Retail**
Residential	100%	—	—	—
Lodging	90%	100%	—	—
Office	70%	60%	100%	—
Retail	80%	75%	80%	100%

For uses not listed, the Director of Planning may request additional parking demand analysis from the applicant to justify a reduction in the minimum parking requirements.

Where shared parking is provided, a shared parking and cross access agreement between the cooperating property owners shall be approved by the Director of Planning and recorded prior to issuance of a building permit. This agreement must be recorded in the real property records of the county in which the property sits and the agreement may not be modified or revoked without the approval of the Director of Planning. If any requirements for shared parking are violated, the affected property owners must provide a remedy satisfactory to the Director of Planning or provide the full amount of required parking for each individual use.

SECTION 6: SETBACKS

(a) Building / Structure and Site Improvements:

BUILDING / STRUCTURE						
	Use Component	**Architectural Component**	**Front**	**Side**	**Street Side**	**Rear**
Standard Setback	SFR		25'	7'	15'	15'
	SFE, SFS, SFU, SFU/MH, TF		20'	5'	15'	15'
	SFC, SFL		~~20~~15'*	5' or 0' & 10'	15'	15~~0~~'
	SFT		10~~5~~'*	0 or 10'	15'	15~~0~~'
	MF	Type A Type B	20' 25'	10' 10'	20' 25'	20' 20'
	LO, LC, GC, HC, HI	Type A, B Type C	15' 20'	10' 10'	15' 20'	10' 10'
	GC, HC, HI	Type D	25'	15'	25'	15'
Special Setback Where Adjacent to SFR, SFE, SFS, SFU, SFC, SFL, SFU/MH, TF**	MF, LO, LC, GC, HC, HI	Type A Type B	(NA) (NA)	20' 25'	(N/A) (N/A)	20' 25'
	LO, LC, GC, HC, HI	Type C	(NA)	30'	(N/A)	30'
	GC, HC, HI	Type D	(NA)	50'	(N/A)	50'
Garage Setback	SFR, SFE, SFS, SFU, SFU/MH. SFC. SFL, SFT, TF	See Article VIII, Section 5 (i)				

PARKING, AISLE, LOADING, CANOPIES, OUTDOOR DISPLAY						
	Use Component	**Site Component**	**Front**	**Side**	**Street Side**	**Rear**
Standard Setback	MF	All	20'	5'*****	20'	5'*****
	LO, LC, GC, HC, HI	Type 1, 2 Type 3 Type 4, 5	15' 20' 25'	5'***** 5'***** 5'*****	15' 20' 25'	5'***** 5'***** 5'*****
Special Setback Where Adjacent to SF or TF**	MF, LO, LC, GC, HC, HI	Type 1-3 Type 4, 5	(N/A) (N/A)	15' 20'	(N/A) (N/A)	15' 20'

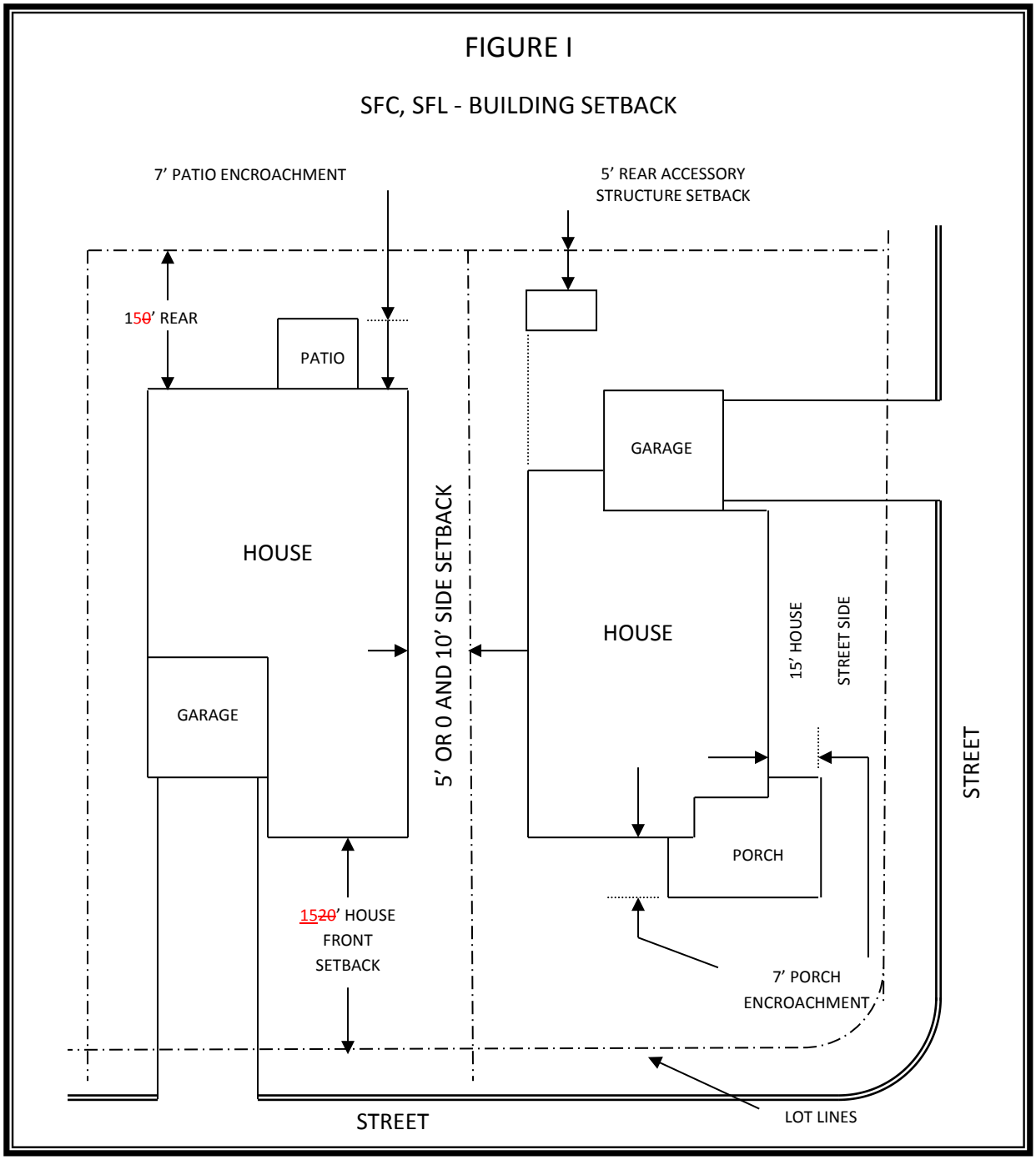
OUTDOOR STORAGE						
	Use Component	**Site Component**	**Front**	**Side**	**Street Side**	**Rear**
Standard Setback	LO, LC, GC, HC, HI	Type 3-4 Type 5	*** 25'	5'***** 0'*****	*** 25'	0' 0'
Special Setback Where Adjacent to SF or TF**	LO, LC, GC, HC, HI	Type 3-5	(N/A)	25'	(N/A)	25'

* In no case shall the garage be closer to the ROW than 18'

** Unless such district is utilized for a non-residential use

*** No closer than the street facing wall of the primary structure that utilizes such storage.

**** Setback does not apply for parking, drive aisles, storage etc. that are intended to cross lot line.



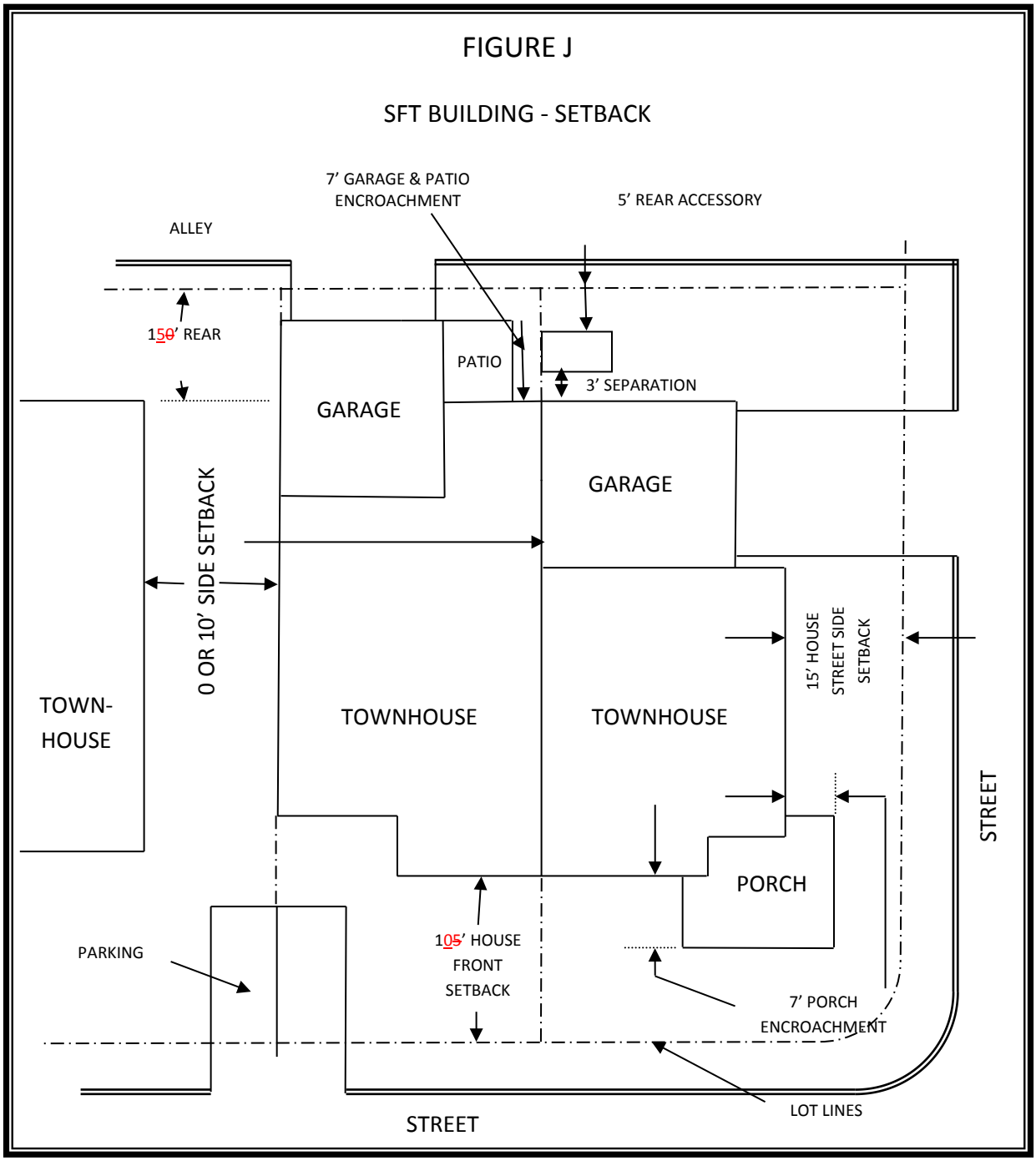


FIGURE J
SFT BUILDING - SETBACK
7' GARAGE & PATIO ENCROACHMENT
5' REAR ACCESSORY
ALLEY
15~~0~~' REAR
PATIO
3' SEPARATION
GARAGE
GARAGE
0 OR 10' SIDE SETBACK
TOWN-HOUSE
TOWNHOUSE
TOWNHOUSE
15' HOUSE STREET SIDE SETBACK
STREET
PORCH
PARKING
10~~5~~' HOUSE FRONT SETBACK
7' PORCH ENCROACHMENT
LOT LINES
STREET

SECTION 7: DRAINAGE AND DETENTION FACILITIES

(a) Purpose.

The purpose of this section is to provide for the design of drainage and detention facilities that contribute to visual aesthetics of projects and limit the amounts of visible concrete that do not meet the requirements listed below. For the purposes of this section, visible shall be defined as noticeable by a person of average height walking on a street, sidewalk, or trail, or able to be seen by a neighboring property that is two stories in height.

(b) Non-Residential and Multi-Family Drainage and Detention Facilities:

(1) Non-residential and multi-family drainage facilities include all detention ponds, water quality ponds, pond outlet structures, berms, improved channels or other improvements associated with the drainage improvements. Roadside swales, storm sewer outfalls unless visible from a ROW, inlets, and areas of concrete that are no more than one hundred (100) square feet in size are not included.

(2) Non-residential and multi-family drainage facilities are not allowed within ten feet (10') of street ROW except those which are necessary to convey drainage in the shortest possible route to or from street ROW.

(3) Non-residential and multi-family drainage facilities located within the front setback shall not exceed 25% of the area of the front setback.

(4) Any fencing around non-residential and multi-family detention ponds shall be constructed of wrought iron or decorative tubular metal or other similar product.

(5) Structural stabilization including vertical walls and riprap for non-residential and multi-family drainage facilities shall be limited to not more than thirty (30%) percent of the perimeter of the pond excluding outlet structures. The remainder of the perimeter shall be earthern embankment no steeper than 3:1 slope. All exposed concrete that is visible is required to be made of stone or clad in stone ~~provide decorative textured concrete and tinting in earthern colors, or masonry veneer~~ including but not limited to ledgestone, fieldstone, ~~or~~ cast stone, or other decorative materials as approved by the Director of Planning. All other exposed concrete is required to be made of stone or clad in stone as listed above or textured and tinted in earthern colors. In the event that the drainage facility is below grade, structural stabilization is permitted for the full perimeter and screening requirements listed in Article VI, Section 1 (d) of this Ordinance shall apply.

(c) Residential Drainage and Detention Facilities:

(1) Residential drainage facilities include all detention ponds, water quality ponds, pond outlet structures, berms, improved channels or other improvements associated with the drainage improvements. Roadside swales, storm sewer outfalls unless visible from a ROW, inlets, and areas of concrete that are no more than one hundred (100) square feet in size are not included.

(2) Residential drainage facilities shall utilize earthern berms and be designed with a curvi-linear shape. Any structural stabilization with slopes steeper than 3:1 shall be limited to the use of native stone (except for outlet structures which can be concrete) and shall be limited to not more than thirty (30%) percent of the perimeter of the pond. Such ponds shall be seamlessly integrated with the landscaping. All exposed concrete that is visible is required to be made of stone or clad in stone ~~provide decorative textured concrete and tinting in earthern colors, or masonry veneer~~ including but not limited to ledgestone, fieldstone, ~~or~~ cast stone, or other decorative materials as approved by the Director of Planning. All other exposed concrete is required to be made of stone or clad in stone as listed above or textured and tinted in earthern colors. In the event that the drainage facility is below grade, concrete is permitted instead of native stone and screening requirements Article VI, Sec. 1 (d) of this Ordinance shall apply.

(3) Any fencing around residential detention ponds shall be constructed of wrought iron or decorative tubular metal or other similar product.

SECTION 8: SINGLE-FAMILY AND TWO-FAMILY LOTS ABUTTING OR ADJACENT TO TOLLWAY, HIGHWAY, ~~OR~~ ARTERIAL, OR COLLECTOR ROADWAY

For single-family and two-family lots contained within a subdivision receiving approval for a preliminary plat and final plat or a short form plat after the effective date of this ordinance and abutting or adjacent to a tollway, highway, arterial, or collector roadways as identified on the Leander Transportation Plan or based on roadway design, direct driveway access to any single-family or two-family lot from such roadway shall be prohibited. The following are also applicable:

(b) For lots adjacent to tollway, highway, arterial, or collector roadways and backing up to such roadway (having frontage on another roadway of a lesser classification), the following shall be provided (see Figure Q – following pages):

(2) A six-foot privacy fence is required to be constructed at the common lot line between the landscape lot and the single-family or two-family lots. The fence is required to be constructed of one or more of the following materials: brick, stone, cast stone, ~~stucco,~~ factory tinted (not painted) split-faced concrete masonry unit, or other similar material approved by the Director of Planning. In addition to the materials listed above, textured pre-cast concrete (e.g. WoodCrete) is also permitted when the privacy fence is adjacent to collectors. All columns are required to have concrete footings. The landscape lot is required to be maintained by a private association.

(c) For lots adjacent to tollway, highway, arterial, or collector roadways and having a side of the lot adjacent to such roadway (having frontage on another roadway of a lesser classification), the following shall be provided (see Figure Q – next page):

(2) A six-foot privacy fence is required to be constructed at the common lot line between the landscape lot and the single-family or two-family lots from the rear lot line to a point even with the rear wall of the house at a minimum, but no further than to a point even with the front wall of the house. Any fence closer to the front lot line than the front wall of the house shall not exceed three feet in height; however, such fence is not required. Such fence is required to be constructed of one or more of the following materials: brick, stone, cast stone, ~~stucco,~~ factory tinted (not painted) split-faced concrete masonry unit, or other similar material approved by the Director of Planning. In addition to the materials listed above, textured pre-cast concrete (e.g. WoodCrete) is also permitted when the privacy fence is adjacent to collectors. All columns are required to have concrete footings. The landscape lot is required to be maintained by a private association.

SECTION 12: OUTDOOR LIGHTING

(a) The purpose of this section is to provide design standards for site and building lighting that are Dark Sky compliant and compatible with adjacent uses.

(b) Non-residential outdoor lighting will be in accordance with other provisions of this ordinance and City building codes. A detailed ~~L~~lighting ~~P~~plan and photometric plan shall be included with the Building Permit application and shall meet the following requirements:~~.~~

(1) Outdoor Lighting

a. Fixture.

i. All permanent exterior lighting shall be non-flashing and shielded such that the light source (cone of direct light) is not visible from the public ROW or adjacent residential uses at the property line (see Figure R – following page).

~~i.~~ii. Wall pack lighting or other lighting that directs the light in a horizontal direction without an adequate shield is not permitted (since it directs the light glare directly outward) if there are streets or residential uses in the direction of the light.

b. Illumination Levels

~~ii.~~i. All site lighting shall be designed and installed so that the level of illumination as measured in foot candles at a height of three (3') feet at the property line does not exceed two (2') foot candles.

~~(a)~~(c) Residential outdoor lighting on residential property will be installed in accordance with applicable City Code Standards. It will be located so as not to create a nuisance for adjoining property owners.

~~(b)~~(d) ~~All permanent exterior lighting shall be non-flashing and shielded such that the light source (cone of direct light) is not visible from the public ROW or adjacent residential uses at the property line (see Figure R – following page). Wall pack lighting or other lighting that directs the light in a horizontal direction without an adequate shield is not permitted (since it directs the light glare directly outward) if there are streets or residential uses in the direction of the light.~~

SECTION 14: ADDITIONAL MULTI-FAMILY AND NON-RESIDENTIAL STANDARDS

(d) Masonry Privacy Wall

(1) A six-foot masonry privacy wall is required to be constructed by any non-residential use that abuts property utilized for a single-family or two-family residence on land zoned single-family or two-family, or land planned or platted for such with an approved concept plan, preliminary plat or final plat, unless an existing structure is proposed to be expanded by less than 50%, or 1,000 sq. ft., whichever is less.

(i) Such wall shall be constructed at the common property line between the uses, or if such location is not feasible because of floodplain, trees or other natural feature, at a location that will effectively screen the non-residential use from view from the single-family or two-family residence.

(ii) Such wall is required to be constructed of one or more of the following materials: textured pre-cast concrete that is constructed to appear as brick, stone, or cast stone as approved by the Director of Planning, brick, stone, cast stone, ~~stucco,~~ factory tinted or painted split-faced concrete masonry unit, granite, tile or other similar material approved by the Director of Planning.

(iii) An eight-foot wall may be utilized for security purposes.

(iv) Gates shall be provided in the wall as appropriate to connect to public sidewalks or other pedestrian connections unless such wall is also used as described above for security.

(2) The masonry privacy wall is not required for non-residential uses that are permitted by right in any Single-Family Districts.

SECTION 16: FENCES

(d) Fences less than or equal to eight (8) feet in height shall be allowed for impeding access to hazardous or secured facilities including, but not limited to, electrical substations and chemical or equipment storage yards; or where ~~, because of severe slope conditions, such fencing height can be demonstrated to be necessary for privacy or visual buffering; or where~~ the fence forms a perimeter around a subdivision. For high security applications, barbed wire or razor wire (or equivalent) may be installed above the eight (8) foot height limit but not to exceed a total of ten feet in height.

ARTICLE VII – ARCHITECTURAL COMPONENTS

SECTION 1: TYPE A

(b) Exterior Wall Standards:

(1) At least eighty-five percent (85%) of the exterior surface area of all walls, including all stories of primary buildings / structures, shall consist of un-painted clay brick, ledge stone, fieldstone, cast stone, marble, granite, tile, painted or tinted stucco, non-reflective glass façade, glass block (or alternative glazing e.g. Kalwall) and factory tinted (not painted) split faced concrete masonry unit (non-residential buildings and structures only) or similar material approved by the Director of Planning. The remaining exterior wall surface shall be comprised of those materials listed or cementious-fiber planking (not panels unless they are used with board and batten application). Solid wood planking and decorative cementious-fiber panels may be used for accent features.

SECTION 2: TYPE B

(b) Exterior Wall Standards:

(1) At least eighty-five (85%) percent of the exterior surface area of first story walls and fifty ~~percent~~ (50%) percent of the exterior surface area of each additional story walls ~~of the exterior surface area (all stories) and at least eighty-five percent (85%) of the exterior surface area of first story walls~~ of primary buildings / structures, shall consist of un-painted clay brick, ledge stone, fieldstone, cast stone, marble, granite, tile, painted or tinted stucco, glass façade, glass block (or alternative glazing e.g. Kalwall) and factory tinted (not painted) split faced concrete masonry unit (non-residential buildings and structures only) or similar material approved by the Director of Planning. The remaining exterior wall surface shall be comprised of those materials listed or cementious-fiber planking (not panels unless they are used with a board and batten application). Solid wood planking, decorative cementious-fiber panels and other materials approved by the Director of Planning may be used for accent features.

SECTION 3: TYPE C

(b) Exterior Wall Standards:

(1) At least sixty (60%) percent of the exterior surface area of street facing walls (See Figures U, V, and W – following pages) of primary buildings and thirty five ~~percent~~ (35%) percent of the exterior surface area of all other walls ~~(all stories), including at least sixty percent (60%) of the exterior surface area of street facing walls (all stories) (see Figures U, V and W – following pages)~~ of primary buildings / structures shall consist of un-painted clay brick, ledge stone, fieldstone, cast stone, marble, granite, tile, painted or tinted stucco, glass façade, glass block (or alternative glazing e.g. Kalwall) and, for non-residential buildings and structures, factory tinted (not painted) split faced concrete masonry unit, pre-cast concrete tilt wall with a decorative or textured finish (needs approval by the Director of Planning to determine if finish is acceptable) or similar material approved by the Director of Planning. The remaining exterior wall surface shall be comprised of those materials listed or cementious-fiber planking (not panels unless they are used with a board and batten application) or~~, for non-residential applications only,~~ exterior insulating finishing system (E.I.F.S.). Solid wood planking, decorative cementious-fiber panels and other materials approved by the Director of Planning may be used for accent features. For non-residential buildings, smooth faced concrete masonry unit and metal panels or similar materials approved by the Director of Planning may be utilized as an accent feature and shall comprise not more than ten percent (10%) of any wall surface area.

SECTION 4: TYPE D

(b) Exterior Wall Standards:

(1) For all buildings / structures that are more than four hundred (400') feet from a street, the masonry requirements do not apply. For all buildings / structures that are within four hundred (400') feet of a street at least sixty (60%) percent of the exterior surface area of street facing walls (See Figures U, V, and W – following pages) of primary buildings and thirty five (35%) percent of the exterior surface area of all other walls ~~Unless there are no street facing walls, at least thirty five percent (35%) of the exterior surface area of walls (all stories), including at least sixty percent (60%) of the exterior surface area of street facing walls (all stories) (see Figures S, T and U – previous pages)~~ of primary buildings / structures shall consist of un-painted brick, ledge stone, fieldstone, cast stone, marble, granite, tile, painted or tinted stucco, exterior insulating finishing system (E.I.F.S.), glass façade, glass block (or alternative glazing e.g. Kalwall), factory tinted (not painted) split faced concrete masonry unit, pre-cast concrete tilt wall with a decorative or textured finish or similar material approved by the Director of Planning. The remaining exterior wall surfaces shall be comprised of those materials listed or cementious-fiber planking or panels, or painted metal siding except that metal siding is not permitted on any street facing wall. Solid wood planking, decorative cementious-fiber panels and other materials approved by the Director of Planning may be used for accent features. Smooth faced concrete masonry unit and metal panels or similar materials approved by the Director of Planning may be utilized as an accent feature only and shall not comprise more than fifteen percent (15%) of any wall surface area.

ARTICLE VIII - ARCHITECTURAL STANDARDS

SECTION 1: WALL AREA CALCULATIONS

(a) In calculating percentage of exterior wall area, the area of windows and window frames, doors and door frames, eves, soffits, dormers, columns, recessed entryways, foundation and similar areas are excluded from the calculations and may utilize any of the materials listed in the applicable component exterior wall standards, when, in the opinion of the Building Official, construction with the required masonry materials is not reasonably feasible.

(b) A street facing wall is the exterior wall of a building, including any off-sets, projections or recesses, facing a street or within forty-five (45) degrees of such orientation and within four hundred (400) feet of the street. A wall is considered facing a street even if there is another public ROW between the wall and the street. A wall is not considered facing a street if another building or other permanent screening material on site is between the wall and the street and blocks the view of the wall from the street by at least seventy-five percent (75%) from all view angles. Five year projected maturity of any on-site evergreen planted materials may be considered in the screening assessment.

(c) A masonry calculation table is required at the building permit stage to demonstrate compliance with the ordinance requirements.

ARTICLE IX – SITE DEVELOPMENT

SECTION 1: GENERAL PROVISIONS

(b) Applicability; Site Development Permit Required

Any person who develops, or causes to be developed, property located within the corporate limits of the City shall comply with this Chapter. Within the city corporate limits the use of property shall not be changed, no development shall take place and no building permit shall be issued until a site development permit has been issued in accordance with the code of ordinances of the City. Property for which a site development permit has been issued shall be developed in compliance with the approved site plan. The following are exceptions to the applicability of this Chapter:

(1) Construction, alteration or addition to a single-family or two family residential structure, or an accessory building to any such structure.

(2) Alteration or finish-out of an existing building when the alteration or finish-out does not increase the square footage of the building or change the building footprint as long as one of the following applies:

- (i) The use does not change, or if the use changes, the new use does not require more parking than is currently existing and no additional parking spaces, aisles or driveways are proposed;
- (ii) The alteration, finish-out or change of use is in compliance with all applicable codes and regulations of the city; and
- (iii) The proposal does not increase the degree of any existing non-conforming use or non-conforming structure.

(3) Construction of a fence, but no exception is granted by this subsection for construction of a retaining wall or for a fence that may obstruct or change the flow of water.

(4) ~~Brush clearing in compliance with the landscape and tree regulations of the city as long as only rubber-tired equipment is introduced to the site (no equipment with tracks).~~

(e) Minor Site Development Permit

(1) Projects that include minor site activity similar to those listed in Section 1(b) and including brush clearing, Article IX of this ordinance may be eligible for a minor site development permit. To be eligible, such projects may increase the impervious cover by no more than 1,000 square feet. In addition, a minor site development permit application shall be submitted for review in conformance with all information and materials required by the most recent minor site development permit application/checklist.

(2) A professional recovery fee as set forth in Appendix A shall be required at the time of site development permit exemption application submittal.

ARTICLE X – ADMINISTRATION

SECTION 10: ENFORCEMENT

(a) Penalty

(1) Penalty. Any person who shall violate any of the provisions of this ordinance, 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 two thousand dollars ($2000.00). Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein

(2) Administrative Penalty. Any person who removes a Significant Tree greater than 8 inches in caliper prior to approval of a tree ~~protection~~ preservation plan, or who removes a Significant Tree greater than 8 inches in caliper that is not authorized to be removed under an approved tree ~~protection~~ preservation plan shall be charged and shall pay a fee of $300 per inch for each Significant Tree greater than 8 inches in caliper removed in violation of this ordinance. The City will rely on remaining evidence on site to determine if a violation of this ordinance has occurred. For enforcement purposes the City will consider that any stump remaining on the property which is eight inches or more in diameter measured at ground level or higher was a stump of a Significant Tree greater than 8 inches in caliper. Furthermore, any cut wood discovered on site will be considered evidence of a Significant Tree greater than 8 inches in caliper if the diameter of the cut wood is measured at eight inches or greater at any point on any piece of cut wood. A site development or building permit application for property from which one or more Significant Trees have been removed in violation of this ordinance may not be approved until an administrative

AGENDA ITEM # 11

Executive Summary

July 21, 2016

Agenda Subject: Development Agreement Case 16-DA-002: Discussion and possible action to approve a development agreement between the City of Leander and K. L. Enterprises, Inc, a California corporation for 13.718 acres more or less, generally located to the west of the intersection of Bagdad Road and Marsala Circle; City of Leander, Williamson County, Texas.

Background: The Development Agreement includes the following key provisions:

- establishes a maintenance fee for the compound water meter for both domestic and fire service
- provides for the installation of street light at the intersection of Bagdad Road and Marsala Circle

Origination: Applicant: CSF Civil Group on behalf of Emmet J Hawkes and K.L. Enterprises, Inc

Financial Consideration: None.

Recommendation: Staff recommends approval of the development agreement.

Attachments:

1. Development Agreement & Exhibits
2. Location Map

Prepared By: Tom Yantis, AICP
Assistant City Manager 07/11//2016

DEVELOPMENT AGREEMENT FOR CARNEROS VILLAGE APARTMENT HOMES

This Development Agreement for Carneros Village Apartment Homes (the "Agreement") is made, entered into and effective as of _____ (the "Effective Date") by the City of Leander, a Texas home-rule, and K. L. Enterprises, Inc., a California corporation (the "Developer"). The City and the Developer are herein referred to together as the "Parties".

Recitals

Whereas, the Developer owns or has the right to purchase that certain property (Lot 1, Block M and Lot 1, Block O, of the Final Plat of Carneros Ranch Section Seven) described in **Exhibit "A"**, attached hereto and incorporated herein for all purposes, (the "Property" or the "Lots"), which the Developer is developing for an apartment home project known as the Carneros Village Apartment Homes (the "Development");

Whereas, the Parties desire to provide for the Developer to install a compound water meter to serve the Development on the terms and conditions set forth in this Agreement;

NOW, THEREFORE, for and in consideration of the mutual agreements, covenants, and conditions contained herein, and other good and valuable consideration, the parties hereto agree as follows:

Section 1. Recitals. The foregoing recitals are incorporated herein and made a part of this Addendum for all purposes.

Section 2. Consideration. The benefits to the Parties, being the mutual promises expressed herein, are good and valuable consideration for this Agreement, the sufficiency of which is hereby acknowledged by both Parties.

Section 3. Compound Water Meter. The Lots may each be served by a compound water meter for both domestic and fire service; provided that the Lots are developed as an apartment home project, and provided further that the Developer shall, on behalf of itself, its grantees, successors, assigns, subsequent purchasers of any portion of the Property, and future water customers on the Property pay a monthly maintenance fee for such compound water meter in the amount of $79.25 per month for each compound meter (the "**Maintenance Fee**"). The Maintenance Fee may be included in the water bill for the Lots, and shall be required to be paid upon the earlier of 30 days of receipt of an invoice from the City or by the deadline set forth in the invoice. The Maintenance Fee shall compensate the City for inspecting the compound meters at least annually and for replacing the compound meters when required. It is anticipated that the compound meters will need to be replaced every ten (10) years, but meters will be replaced sooner if required. No Maintenance Fees will be assessed to the owner of the Property for any separate private meters that it may install on a unit-by-unit basis for allocation of water charges to the unit occupant. Notwithstanding anything contained herein to the contrary, the City may adopt the Maintenance Fee by ordinance and, in such event, the Developer, or its grantee, successor, assign, or subsequent purchaser of the Property, shall pay the Maintenance Fee set forth in ordinance, and agrees that said fee may be modified from time to time as determined appropriate by the City Council.

Section 4. Street Light. The Developer shall install a street light at the intersection of Bagdad Road and Marsala Circle that complies with the City ordinances and regulations, as well as the approved site development plans, at such time that the Developer constructs the site development improvements for the apartment homes. The Developer shall obtain approval of the location and design of the street light at such time that the Developer applies for a site development permit in connection with the apartment homes. The associated conduit and wiring must be installed and connected so that the light is fully operational before a certificate of completion for the site development improvements will be issued by the City.

Section 5. Assignment of Commitments and Obligations. Developer's rights and obligations under this Agreement may be assigned by Developer to one (1) or more purchasers of all or part of the Property; provided the Developer sends the City written notice of the assignment.

Section 6. Term; Termination.

(a) This Agreement shall terminate at such time that the City adopts the Maintenance Fee by ordinance.

(b) The Parties further mutually agree that this Agreement shall be in full force and effect upon the date above first written, provided that the City may terminate this Agreement if Developer fails to comply with this Agreement or fails to meet any deadlines imposed by this Agreement or the City's ordinances subject to the notice and cure provisions in Section 7.

Section 7. Default. Notwithstanding anything herein to the contrary, no party shall be deemed to be in default hereunder until the passage of fourteen (14) business days after receipt by such party of notice of default from the other party. Upon the passage of fourteen (14) business days without cure of the default, such party shall be deemed to have defaulted for purposes of this Agreement; provided that if the nature of the default is that it cannot reasonably be cured within the fourteen (14) business day period, the defaulting party shall have a longer period of time as may be reasonably necessary to cure the default in question; but in no event more than sixty (60) days. In the event of default, the non-defaulting party to this Agreement may pursue the remedy of specific performance, mandamus, injunction, or other equitable legal remedy not inconsistent with this Agreement. All remedies will be cumulative and the pursuit of one authorized remedy will not constitute an election of remedies or a waiver of the right to pursue any other authorized remedy.

Section 8. Reservation of Rights. To the extent not inconsistent with this Agreement, each party reserves all rights, privileges, and immunities under applicable laws, and neither party waives any legal right or defense available under law or in equity.

Section 9. Attorneys Fees. In the event of action pursued in court to enforce rights under this Agreement, the prevailing party shall be entitled to its costs and expenses, including reasonable attorneys' fees, incurred in connection with such action.

Section 10. Waiver. Any failure by a party to insist upon strict performance by the other party of any provision of this Agreement will not, regardless of length of time during which that

failure continues, be deemed a waiver of that party's right to insist upon strict compliance with all terms of this Agreement. In order to be effective as to a party, any waiver of default under this Agreement must be in writing, and a written waiver will only be effective as to the specific default and as to the specific period of time set forth in the written waiver. A written waiver will not constitute a waiver of any subsequent default, or of the right to require performance of the same or any other provision of this Agreement in the future.

Section 11. Force Majeure.

(a) The term "force majeure" as employed herein shall mean and refer to acts of God; strikes, lockouts, or other industrial disturbances: acts of public enemies, orders of any kind of the government of the United States, the State of Texas or any civil or military authority; insurrections; riots; epidemic; landslides; lightning, earthquakes; fires, hurricanes; storms, floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accidents to machinery, pipelines, or canals; or other causes not reasonably within the control of the party claiming such inability.

(b) If, by reason of force majeure, any party hereto shall be rendered wholly or partially unable to carry out its obligations under this Agreement, then such party shall give written notice of the full particulars of such force majeure to the other party within ten (10) days after the occurrence thereof. The obligations of the party giving such notice, to the extent effected by the force majeure, shall be suspended during the continuance of the inability claimed, except as hereinafter provided, but for no longer period, and the party shall endeavor to remove or overcome such inability with all reasonable dispatch.

(c) It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty, and that the above requirement that any force majeure shall be remedied with all reasonable dispatch shall not require that the settlement be unfavorable in the judgment of the party having the difficulty.

Section 12. Notices. Any notice to be given hereunder by any party to another party shall be in writing and may be effected by personal delivery or by sending said notices by registered or certified mail, return receipt requested, to the address set forth below. Notice shall be deemed given when deposited with the United States Postal Service with sufficient postage affixed.

Any notice mailed to the City shall be addressed:

City of Leander
Attn: City Manager
200 West Willis
P.O. Box 319
Leander, Texas 78646-0319

with copy to:

Knight & Partners
Paige H. Saenz
223 West Anderson Lane, #A105
Austin, Texas 78752

Any notice mailed to the Developer shall be addressed:

K. L. Enterprises, Inc.
Attn: Ken Liem, President
26741 Portola Pkwy, IE-696
Foothill Ranch, CA 92610

Any party may change the address for notice to it by giving notice of such change in accordance with the provisions of this section.

Section 13. Waiver of Alternative Benefits. The Parties acknowledge the mutual promises and obligations of the Parties expressed herein are good, valuable and sufficient consideration for this Agreement. The Parties further acknowledge the City and Developer voluntarily elected the benefits and obligations of this Agreement, as opposed to the benefits available were Developer to have elected to develop the Property without the benefits and obligations of this Agreement, pursuant to and in compliance with the applicable City ordinances. Therefore, save and except the right to enforce the obligations of the City to perform each and all of the City's duties and obligations under this Agreement to the extent such are allowed under Texas law, Developer hereby waives any and all claims or causes of action against the City Developer may have for or with respect to any duty or obligation undertaken by Developer pursuant to this Agreement, including any benefits that may have been otherwise available to Developer but for this Agreement.

Section 14. Agreement and Amendment. This Agreement, together with any exhibits attached hereto, constitutes the entire agreement between Parties and may not be amended except by a writing approved by the City Council of the City that is signed by all Parties and dated subsequent to the date hereof.

Section 15. No Joint Venture. The terms of this Agreement are not intended to and shall not be deemed to create any partnership or joint venture among the parties. The City, its past, present and future officers, elected officials, employees and agents, do not assume any responsibilities or liabilities to any third party in connection with the development of the Property. The City enters into this Agreement in the exercise of its public duties and authority to provide for development of property within the City pursuant to its police powers and for the benefit and protection of the public health, safety, and welfare.

Section 16. No Third Party Beneficiaries. This Agreement is not intended, nor will it be construed, to create any third-party beneficiary rights in any person or entity who is not a party, unless expressly provided otherwise herein, or in a written instrument executed by both the City and the third party. Absent a written agreement between the City and third party providing otherwise, if a default occurs with respect to an obligation of the City under this Agreement, any notice of default or action seeking a remedy for such default must be made by the Owner.

Section 17. Effective Date. The Effective Date of this Agreement is the defined date set forth in the first paragraph.

Section 18. Binding Obligations; Recordation. This Agreement shall be binding upon and inure to the benefit of the parties, their successors, and assigns. This Agreement or a memorandum of Agreement acceptable to the City and Developer shall be recorded in the Official Public Records of Williamson County, Texas.

Section 19. Texas Law Governs. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas and shall be performable in Williamson County, Texas. Venue shall lie exclusively in Williamson County, Texas.

Section 20. Time is of the Essence. It is acknowledged and agreed by the Parties that time is of the essence in the performance of this Agreement.

EXECUTED in multiple originals this the ____ day of _____, 20____.

[***Signature Pages Follow***]

CITY:
City of Leander, Texas
a Texas home-rule municipal corporation

Attest:

By:_____
Name: Debbie Haile
Title: City Secretary

By:_____
Name: Christopher Fielder
Title: Mayor

THE STATE OF TEXAS §
COUNTY OF WILLIAMSON §

This instrument was acknowledged before me on this ____ day of _____, 2016, by Christopher Fielder, Mayor of the City of Leander, Texas, a Texas home-rule municipal corporation, on behalf of said corporation.

(SEAL)

_____
Notary Public, State of Texas

DEVELOPER:
K. L. Enterprises, Inc., a California corporation

By:_____
Name: Ken Liem
Title: President

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
COUNTY OF _____)

On _____before me, _____
(insert name and title of the officer)
personally appeared Ken Liem, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

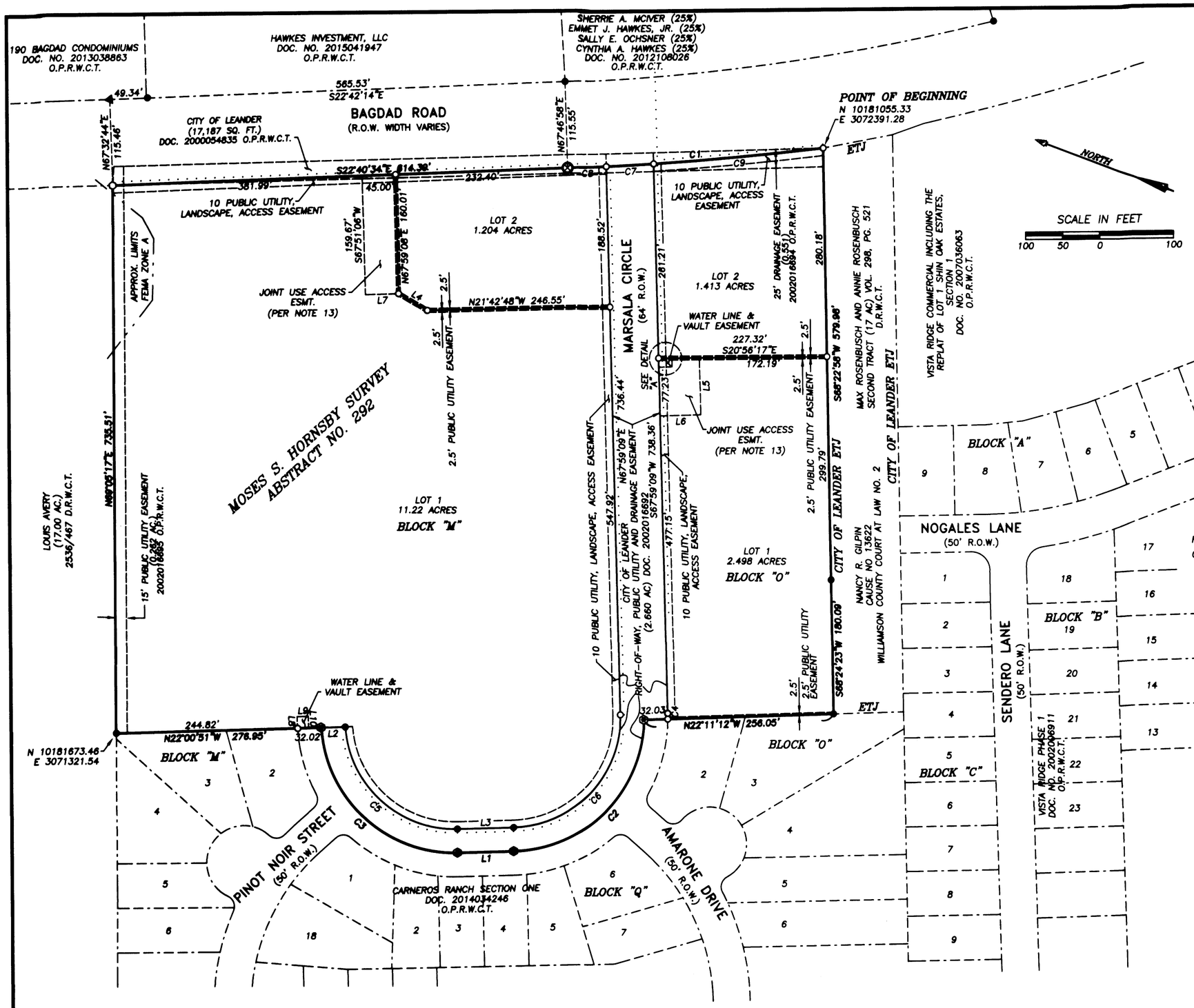
WITNESS my hand and official seal.

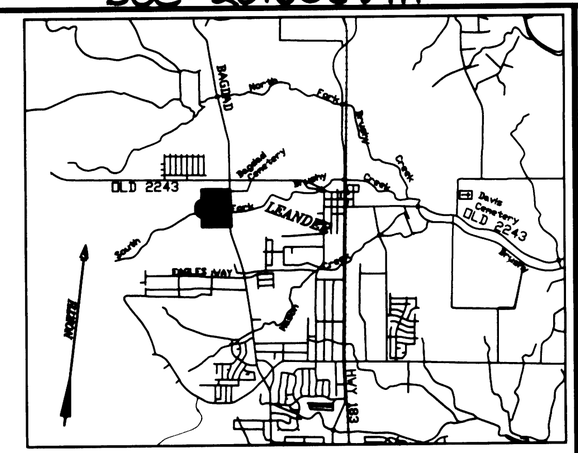
Signature **(Seal)**

EXHIBIT "A"

Description of the Property

DOC #2016058711



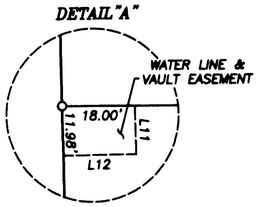


VICINITY MAP
(NOT TO SCALE)

LEGEND

●	1/2" IRON REBAR W/CAP MARKED TERRA FIRMA" FOUND (unless noted)
○	1/2" IRON REBAR W/CAP MARKED "LANDESIGN" SET (unless noted)
▲	NAIL FOUND
⊗	PUNCH/DRILL/"X" SET
▲	CALCULATED POINT
B.L.	BUILDING LINE
DE	DRAINAGE EASEMENT
PUE	PUBLIC UTILITY EASEMENT
. . . . .	SIDEWALK 6' WIDE ALONG MARSALA CIRCLE & 8' ALONG BAGDAD ROAD
D.R.W.C.T.	DEED RECORDS OF WILLIAMSON COUNTY, TEXAS
R.P.R.W.C.T.	REAL PROPERTY RECORDS OF WILLIAMSON COUNTY, TEXAS
O.P.R.W.C.T.	OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS
P.R.W.C.T.	PLAT RECORDS OF WILLIAMSON COUNTY, TEXAS

DETAIL "A"



NUMBER	DIRECTION	DISTANCE
L1	N22°00'52"W	76.00'
L2	S22°00'51"E	32.15'
L3	S22°00'51"E	75.88'
L4	N09°44'21"E	44.87'
L5	S67°59'09"W	76.19'
L6	N22°00'51"W	55.12'
L7	N22°14'21"W	44.63'

NUMBER	DIRECTION	DISTANCE
L8	N67°59'09"E	15.79'
L9	S22°00'52"E	15.00'
L10	S67°59'10"W	15.77'
L11	S68°02'02"W	11.65'
L12	N21°57'58"W	17.99'

NO.	Radius	Delta Angle	Length	Chord Bearing	Chord Length
C1	4407.47	04°29'56"	346.08	S24°55'32"E	345.99
C2	180.00	87°31'28"	274.97	N65°46'39"W	249.00
C3	180.00	87°46'17"	275.74	N21°52'16"E	249.56
C4	212.00	02°04'17"	7.66	S69°01'18"W	7.66
C5	148.00	87°17'19"	225.47	S21°37'49"W	204.29
C6	148.00	89°58'40"	232.42	S67°00'16"E	209.26
C7	4407.47	00°49'57"	64.03	S23°46'21"E	64.03
C8	4407.47	00°40'49"	52.33	S23°00'58"E	52.33
C9	4407.47	02°59'11"	229.72	S25°40'55"E	229.69

OWNER: EMMET J. HAWKES & SALLY HAWKES
213 W FIGUEROA STREET
SANTA BARBARA, CA 93101

SURVEYOR: LANDESIGN SERVICES, INC.
1220 McNEIL ROAD, SUITE 200
ROUND ROCK, TEXAS 78681
FIRM REGISTRATION NO. 10001800

ENGINEER: CSF CIVIL GROUP, LLC
3636 EXECUTIVE CENTER DRIVE SUITE 209
AUSTIN, TEXAS 78731
TBPE REG. NO. F-12377

SUBMITTAL DATE: FEBRUARY 23, 2016

CARNEROS RANCH SECTION SEVEN

AREA: 17.851 ACRES

SURVEY: MOSES S. HORNSBY
SURVEY ABSTRACT NO. 292

LOTS: 2 MULTI-FAMILY (LOT 1, BLOCK M & LOT 1, BLOCK O)
2 LOCAL OFFICE (LOT 2, BLOCK M & LOT 2, BLOCK O)

BLOCKS: 2

STREET DEDICATION – MARSALA CIRLCE 1371 LF

BENCHMARK:
BM 304, ELEV.:1033.95'
SQUARE CUT ON TOP OF CURB ON THE SOUTH ROW LINE OF PINOT NIOR STREET, AND THE NORTHWEST CORNER OF LOT 16, BLOCK N, CARNEROS SECTION 1

TBM 305, ELEV.:1048.97'
SQUARE CUT ON TOP OF CURB ON THE SOUTH ROW LINE OF AMARONE DRIVE, AND THE NORTHWEST CORNER OF LOT 15, BLOCK O, CARNEROS SECTION 1

BEARINGS BASIS: TEXAS COORDINATE SYSTEM, CENTRAL ZONE NAD 83. COORDINATES SHOWN HEREON ARE BASED ON THE TEXAS COORDINATE SYSTEM, OF 1983 CENTRAL ZONE, DERIVED BY GPS RTK, DISTANCES SHOWN HEREON ARE SURFACE, SCALE FACTOR 0.99986 TO GET THE GRID DIVIDE BY SCALE FACTOR OF 0.99986

LANDESIGN SERVICES, INC.
512-238-7901
1220 MCNEIL ROAD
SUITE 200
ROUND ROCK, TEXAS 78681
FIRM REGISTRATION NO. 10001800

LANDESIGN SERVICES, INC. LAND SURVEYORS EST. 2002

FINAL PLAT
CARNEROS RANCH SECTION SEVEN

PROJECT NAME: CARNEROS
JOB NUMBER: 381-15-1
DATE: 02/18/2016
SCALE: 1"=100'
DRAWING FILE PATH: L:\CFS CIVIL\CARNEROS_\K L ENTERPRISES\DWG
FIELDNOTE FILE PATH: L:\CFS CIVIL\CARNEROS_\K L ENTERPRISES\MAB
RPLS: DRH
TECH: HAS
PARTYCHIEF: AG
CHECKED BY: JB | FIELDBOOKS:

DRAWING NAME
38101002.DWG

DOC#2016058711

FINAL PLAT OF:
CARNEROS RANCH SECTION SEVEN
LEANDER, TEXAS

THE STATE OF TEXAS }}
THE COUNTY OF WILLIAMSON }}

KNOW ALL MEN BY THE PRESENTS:

THAT EMMET J. HAWKES AND SALLY HAWKES, BEING OWNERS OF THE REMAINDER OF A CALLED 152.580 ACRES BEING CONVEYED BY DEED OF RECORD IN VOLUME 2255, PG. 253, OF THE DEED RECORDS OF WILLIAMSON COUNTY, TEXAS, IN THE MOSES S. HORNSBY SURVEY, ABSTRACT NO. 292 IN WILLIAMSON COUNTY, TEXAS; DO HEREBY SUBDIVIDE 17.851 ACRES IN ACCORDANCE WITH THE MAP OR PLAT ATTACHED HERETO, TO BE KNOWN AS

CARNEROS RANCH, SECTION SEVEN

AND DO HEREBY DEDICATE ALL ADDITIONAL R.O.W., STREETS, ALLEYS, EASEMENTS, PARKS, AND OTHER OPEN SPACES TO PUBLIC USE, OR, WHEN THE SUBDIVIDER HAS MADE PROVISIONS FOR PERPETUAL MAINTENANCE THEREOF, TO THE INHABITANTS OF THE SUBDIVISION.

WITNESS MY HAND THIS THE 16 DAY OF May, 2016 A.D.

[signature]
EMMET J. HAWKES
213 W FIGUEROA STREET
SANTA BARBARA, CA 93101

[signature]
SALLY HAWKES
213 W FIGUEROA STREET
SANTA BARBARA, CA 93101

ACKNOWLEGEMENT

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT

THE STATE OF CALIFORNIA }}
THE COUNTY OF SANTA BARBARA }}

ON THIS THE 16 DAY OF MAY, 2016, AD BEFORE ME, Rebecca L Johnson/Notary Public (INSERT NAME AND TITLE OF THE OFFICER)

PERSONALLY APPEARED, Emmet James Hawkes
WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZEDCAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

REBECCA LYNN JOHNSON
Commission # 2017697
Notary Public - California
Santa Barbara County
My Comm. Expires Apr 5, 2017

WITNESS MY HAND AND OFFICIAL SEAL.

Rebecca Lynn Johnson (SEAL)
NOTARY PUBLIC, STATE OF CALIFORNIA

Rebecca L Johnson — PRINTED NAME
4-5-17 — MY COMMISSION EXPIRES

ACKNOWLEGEMENT

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT

THE STATE OF CALIFORNIA }}
THE COUNTY OF SANTA BARBARA }}

ON THIS THE 16 DAY OF MAY, 2016, AD BEFORE ME, Rebecca L Johnson/Notary Public (INSERT NAME AND TITLE OF THE OFFICER)

PERSONALLY APPEARED, Sally Hawkes
WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZEDCAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

REBECCA LYNN JOHNSON
Commission # 2017697
Notary Public - California
Santa Barbara County
My Comm. Expires Apr 5, 2017

WITNESS MY HAND AND OFFICIAL SEAL.

Rebecca Lynn Johnson (SEAL)
NOTARY PUBLIC, STATE OF CALIFORNIA

Rebecca L Johnson — PRINTED NAME
4-5-17 — MY COMMISSION EXPIRES

GENERAL NOTES:

1) THIS SUBDIVISION IS WHOLLY CONTAINED WITHIN THE CURRENT CORPORATE LIMITS OF THE CITY OF LEANDER, TEXAS

2) NO LOT IN THIS SUBDIVISION SHALL BE OCCUPIED UNTIL CONNECTED TO THE CITY OF LEANDER WATER DISTRIBUTION AND WASTEWATER COLLECTION FACILITIES.

3) A BUILDING PERMIT IS REQUIRED FROM THE CITY OF LEANDER PRIOR TO CONSTRUCTION OF ANY BUILDING OR SITE IMPROVEMENTS ON ANY LOT IN THIS SUBDIVISION.

4) NO BUILDINGS, FENCES, LANDSCAPE OR OTHER STRUCTURES ARE PERMITTED WITHIN DRAINAGE EASEMENTS SHOWN EXCEPT AS APPROVED BY THE CITY OF LEANDER PUBLIC WORKS DEPARTMENT.

5) PROPERTY OWNER SHALL PROVIDE FOR ACCESS TO DRAINAGE EASEMENTS AS MY BE NECESSARY AND SHALL NOT PROHIBIT ACCESS BY THE CITY OF LEANDER.

6) ALL EASEMENTS ON PRIVATE PROPERTY SHALL BE MAINTAINED BY THE PROPERTY OWNER OR HIS OR HER SUCCESSORS AND ASSIGNS.

7) IN ADDITION TO THE EASEMENT SHOWN HERON, A TEN (10') FOOT WIDE PUBLIC UTILITY EASEMENT IS DEDICATED ALONG AND ADJACENT TO ALL RIGHT-OF-WAY AND A TWO AND A HALF (2.5') FOOT WIDE PUBLIC UTILITY EASEMENT IS DEDICATED ALONG ALL SIDE LOT LINES.

8) A PORTION OF THIS PROPERTY IS WITHIN ZONE A, SPECIAL FLOOD HAZARD AREAS SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD - NO BASE FLOOD ELEVATIONS DETERMINED - ACCORDING TO MAP NO. 48491C0455E, EFFECTIVE SEPTEMBER 26, 2008, ISSUED BY FEMA FOR WILLIAMSON COUNTY, TEXAS. THE FLOODPLAIN LINES DEPICTED HEREON WERE SCALED AND/OR DIGITIZED FROM THE REFERENCED FLOODPLAIN MAP AND ARE DRAWN FOR GRAPHIC PURPOSES ONLY AND ARE APPROXIMATE - THE LINES SHALL NOT BE USED FOR THE DETERMINATION OF THE LOCATION OF THE FLOODPLAIN; THE PRECISE DELINEATION OF THE FLOODPLAIN IS NOT WITHIN THE SCOPE OF THIS SURVEY AND MAY REQUIRE FURTHER ANALYSIS.

9) BUILDING SETBACKS NOT SHOWN HEREON SHALL COMPLY WITH THE MOST CURRENT ZONING ORDINANCE OF THE CITY OF LEANDER. ADDITIONAL RESIDENTIAL GARAGE SETBACKS MAY BE REQUIRED AS LISTED IN THE CURRENT ZONING ORDINANCE.

10) SIDEWALKS SHALL BE INSTALLED ON BOTH SIDES OF MARSALA CIRCLE AND THE SUBDIVISION SIDE OF BAGDAD ROAD. THOSE SIDEWALKS NOT ABUTTING A RESIDENTIAL, COMMERCIAL OR INDUSTRIAL LOT (INCLUDING SIDEWALKS ALONG STREET FRONTAGES OF LOTS PROPOSED FOR SCHOOLS, CHURCHES, PARK LOTS, DETENTION LOTS, DRAINAGE LOTS, LANDSCAPE LOTS, OR SIMILAR LOTS), SIDEWALKS ON ARTERIAL STREETS TO WHICH ACCESS IS PROHIBITED, SIDEWALKS ON DOUBLE FRONTAGE LOTS ON THE SIDE TO WHICH ACCESS IS PROHIBITED, AND ALL SIDEWALKS ON SAFE SCHOOL ROUTES SHALL BE INSTALLED WHEN THE ADJOINING STREET IS CONSTRUCTED. ALL SIDEWALKS ABUTTING A RESIDENTIAL LOT SHALL BE BUILT BY THE HOMEBUILDER.

11) ALL SITE UTILITY LINES MUST BE UNDERGROUND.

12) AT THE TIME OF SITE DEVELOPMENT PERMIT, THE APPLICANT WILL PROVIDE A PAYMENT TO THE CITY IN LIEU OF A TRAFFIC IMPACT ANALYSIS (TIA), UNLESS A TIA FOR THE ENTIRE DEVELOPMENT INDICATES THAT AVERAGE DAILY TRIPS ARE ESTIMATED BELOW 2,000.

13) ALL DRIVE LANES, FIRE LANES, AND DRIVEWAYS WITHIN THIS SUBDIVISION SHALL PROVIDE FOR RECIPROCAL ACCESS FOR INGRESS AND EGRESS TO ALL OTHER LOTS WITHIN THE SUBDIVISION AND TO ADJACENT PROPERTIES. THIS PROVISION ONLY APPLIES FROM AND TO THE JOINT USE ACCESS EASEMENT SHOWN ON LOT 1, BLOCK M TO LOT 2, BLOCK M AND FROM AND TO THE JOINT USE ACCESS EASEMENT SHOWN ON LOT 1 BLOCK O TO LOT 2, BLOCK O.

14) DRIVEWAY ACCESS FROM LOT 2, BLOCK M AND LOT 2, BLOCK O TO BAGDAD ROAD IS PROHIBITED UNLESS OTHERWISE APPROVED BY THE CITY OF LEANDER.

APPROVED THIS THE 9th DAY OF June, 2016 A.D., AT A PUBLIC MEETING OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF LEANDER, TEXAS AND AUTHORIZED TO BE FILED FOR RECORD BY THE COUNTY CLERK OF WILLIAMSON COUNTY, TEXAS.

[signature]
SID SOKOL, CHAIRMAN
PLANNING AND ZONING COMMISSION
CITY OF LEANDER, TEXAS

ATTEST: Ellen Pizalate
ELLEN PIZALATE, SECRETARY
PLANNING AND ZONING COMMISSION
CITY OF LEANDER, TEXAS

ENGINEER'S CERTIFICATION:

I, JAMES M. COOK, P.E. DO HEREBY CERTIFY THAT TO THE BEST OF MY KNOWLEDGE, THE INFORMATION CONTAINED ON THIS PLAT COMPLIES WITH THE SUBDIVISION ORDINANCES AND THE STORMWATER DRAINAGE POLICY ADOPTED BY THE CITY OF LEANDER, TEXAS.

[signature] 5-9-16
JAMES M. COOK, P.E.

ENGINEERING BY:
CSF CIVIL GROUP, LLC
3636 EXECUTIVE CENTER DRIVE, SUITE 209
AUSTIN, TEXAS 78731
(512) 614-4466
TPE FIRM REGISTRATION NO. 12377

STATE OF TEXAS
JAMES M. COOK
58640
LICENSED
PROFESSIONAL ENGINEER

LAND SURVEYOR'S STATEMENT

I, DAVID R. HARTMAN, AM AUTHORIZED UNDER THE LAWS OF THE STATE OF TEXAS TO PRACTICE THE PROFESSION OF SURVEYING AND HEREBY CERTIFY THAT THIS PLAT COMPLIES WITH THE LEANDER SUBDIVISION ORDINANCE, IS TRUE AND CORRECT TO THE BEST OF MY ABILITY, AND WAS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY MADE UNDER MY SUPERVISION ON THE GROUND. ALL APPLICABLE EASEMENTS OF RECORD ARE SHOWN OR NOTED ON THE PLAT AS INDICATED IN COMMITMENT FOR TITLE G.F. NO. 01247-34727, DATED JANUARY 25, 2016.

[signature] 5/9/16
DAVID R. HARTMAN, R.P.L.S. NO. 5264 — DATE

LANDESIGN SERVICES, INC.
1220 McNEIL ROAD
SUITE 200
ROUND ROCK, TEXAS 78681
FIRM REGISTRATION NO. 10001800
(512) 238-7901

STATE OF TEXAS
REGISTERED
DAVID R. HARTMAN
5264
PROFESSIONAL
LAND SURVEYOR

METES AND BOUNDS DESCRIPTION

METES AND BOUNDS DESCRIPTION

BEING 17.851 ACRES OF LAND, SURVEYED BY LANDESIGN SERVICES, INC., OUT OF THE MOSES S. HORNSBY SURVEY, ABSTRACT NO. 292 IN WILLIAMSON COUNTY, TEXAS AND BEING PART OF A REMAINDER OF A CALLED 152.80 ACRE TRACT DESCRIBED IN DEED TO EMMET J. HAWKES AND WIFE, SALLY HAWKES RECORDED IN VOLUME 2255, PAGE 253 OF THE DEED RECORDS OF WILLIAMSON COUNTY, TEXAS (D.R.W.C.T.); AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 1/2" IRON ROD FOUND IN THE EXISTING WEST RIGHT-OF-WAY LINE OF BAGDAD ROAD (RIGHT-OF-WAY WIDTH VARIES) AT THE SOUTHEAST CORNER OF SAID 152.80 ACRES, THE NORTHEAST CORNER OF A CALLED 17 ACRE TRACT OF LAND DESCRIBED AS SECOND TRACT IN DEED TO MAX ROSENBUSCH AND ANNIE ROSENBUSCH RECORDED IN VOLUME 298, PAGE 521 OF THE D.R.W.C.T. AND THE SOUTH END OF A CALLED 17,187 SQUARE FEET TRACT OF LAND DESCRIBED IN DEED TO THE CITY OF LEANDER FOR RIGHT-OF-WAY OF BAGDAD ROAD RECORDED IN DOCUMENT NO. 2000054835 OF THE OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS (O.P.R.W.C.T.);

THENCE WITH THE SOUTH LINE OF THE 152.80 ACRES AND THE NORTH LINE OF SAID 17 ACRES THE FOLLOWING TWO (2) COURSES;

1. SOUTH 68°22'58" WEST A DISTANCE OF 579.98 FEET TO A 1/2" IRON ROD FOUND;

2. SOUTH 68°24'23" WEST A DISTANCE OF 180.09 FEET TO A 1/2" IRON ROD FOUND IN THE EAST LINE OF LOT 3, BLOCK O, CARNEROS RANCH SECTION ONE, A SUBDIVISION RECORDED IN DOCUMENT NO. 2014034246 OF THE O.P.R.W.C.T. AND AT THE SOUTHWEST CORNER OF THE REMAINDER OF THE 152.80 ACRES;

THENCE NORTH 22°11'12" WEST A DISTANCE OF 256.05 FEET WITH THE WEST LINE OF THE REMAINDER OF THE 152.80 ACRES AND THE EAST LINE OF BLOCK O, CARNEROS RANCH SECTION ONE TO A SPINDLE SET IN THE CENTERLINE OF MARSALA CIRCLE, (64' RIGHT-OF-WAY WIDTH BY EASEMENTS TO THE CITY OF LEANDER RECORDED IN DOCUMENT NO. 2002016692 AND DOCUMENT NO. 2002016693 OF THE O.P.R.W.C.T.);

THENCE WITH THE CENTERLINE OF MARSALA CIRCLE, THE WEST LINE OF THE REMAINDER OF THE 152.80 ACRES AND THE EAST LINE OF CARNEROS RANCH SECTION ONE THE FOLLOWING THREE (3) COURSES:

1. 274.97 FEET ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 180.00 FEET, A DELTA ANGLE OF 87°31'28", AND CHORD BEARS NORTH 65°46'39" WEST A DISTANCE OF 249.00 FEET TO A SPINDLE SET;

2. NORTH 22° 00'52' WEST A DISTANCE OF 76.00 FEET TO A SPINDLE SET;

3. 275.74 FEET ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 180.00 FEET, A DELTA ANGLE OF 87°46'17", AND CHORD BEARS NORTH 21°52'16" EAST A DISTANCE OF 249.56 FEET TO A SPINDLE SET;

THENCE NORTH 22°00'51" WEST WITH THE WEST LINE OF THE REMAINDER OF THE 152.80 ACRES AND THE EAST LINE OF BLOCK M, CARNEROS RANCH SECTION ONE A DISTANCE OF 276.95 FEET TO A 1/2" IRON ROD FOUND AT THE NORTHWEST CORNER OF THE REMAINDER OF 152.80 ACRES, THE NORTHEAST CORNER OF LOT 3, BLOCK M, CARNEROS RANCH SECTION ONE AND IN THE SOUTH LINE OF A CALLED 17.00 ACRE TRACT OF LAND DESCRIBED IN DEED TO LOUIS AVERY RECORDED IN VOLUME 2536, PAGE 467 OF THE D.R.W.C.T. ;

THENCE NORTH 69°05'17" EAST A DISTANCE OF 735.51 FEET WITH THE NORTH LINE OF THE 152.80 ACRES AND THE SOUTH LINE OF SAID 17.00 ACRES TO A FENCE CORNER POST IN THE EXISTING WEST RIGHT-OF-WAY LINE OF BAGDAD ROAD AT THE NORTHEAST CORNER OF THE REMAINDER OF 152.80 ACRES AND THE NORTHWEST CORNER OF SAID 17,187 SQUARE FEET CITY OF LEANDER TRACT;

THENCE WITH THE EXISTING WEST RIGHT-OF-WAY LINE OF BAGDAD ROAD AND THE EAST LINE OF THE REMAINDER OF 152.80 ACRES THE FOLLOWING TWO (2) CALLS:

1. SOUTH 22°40'43" EAST A DISTANCE OF 614.39 FEET TO A DRILL HOLE SET;

2. 346.08 FEET ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 4407.47 FEET, A DELTA ANGLE OF 04°26'56" AND CHORD BEARS SOUTH 24°55'32" EAST A DISTANCE OF 345.99 FEET TO THE POINT OF BEGINNING.

THIS PARCEL CONTAINS 17.851 ACRES OF LAND, MORE OR LESS, OUT OF THE MOSES S. HORNSBY SURVEY, ABSTRACT NO. 292 IN WILLIAMSON COUNTY, TEXAS. ALL BEARINGS ARE BASED GRID NORTH OF THE TEXAS STATE PLANE COORDINATE SYSTEM, *CENTRAL ZONE, NAD 83 DATUM.*

THE STATE OF TEXAS }}
THE COUNTY OF WILLIAMSON }}

I, NANCY E., RISTER, CLERK OF COUNTY COURT, WITH AND FOR THE COUNTY, DO HEREBY CERTIFY THAT THE FOREGOING INSTRUMENT IN WRITING, WITH ITS CERTIFICATE OF AUTHENTICATION, WAS FILED FOR RECORD IN MY OFFICE ON THIS THE 1st DAY OF July 2016 A.D., AT 8:32 O'CLOCK A.M., AND DULY RECORDED THIS THE 1st DAY OF July 2016 A.D., AT 8:49 O'CLOCK A.M., IN THE OFFICIAL PUBLIC RECORDS OF SAID COUNTY IN INSTRUMENT NO. 2016058711. TO CERTIFY WHICH, WITNESS MY HAND AND SEAL AT THE COUNTY COURT OF SAID COUNTY, AT MY OFFICE IN GEORGETOWN, TEXAS, THE DATE LAST SHOWN ABOVE WRITTEN.

BY: Connie Phelps, Deputy
NANCY E. RISTER
CLERK, COUNTY COURT OF
WILLIAMSON COUNTY, TEXAS
Connie Phelps

COUNTY COURT
WILLIAMSON COUNTY TEXAS

LANDESIGN SERVICES, INC.
512-238-7901
1220 MCNEIL ROAD
SUITE 200
ROUND ROCK, TEXAS 78681
FIRM REGISTRATION NO. 10001800

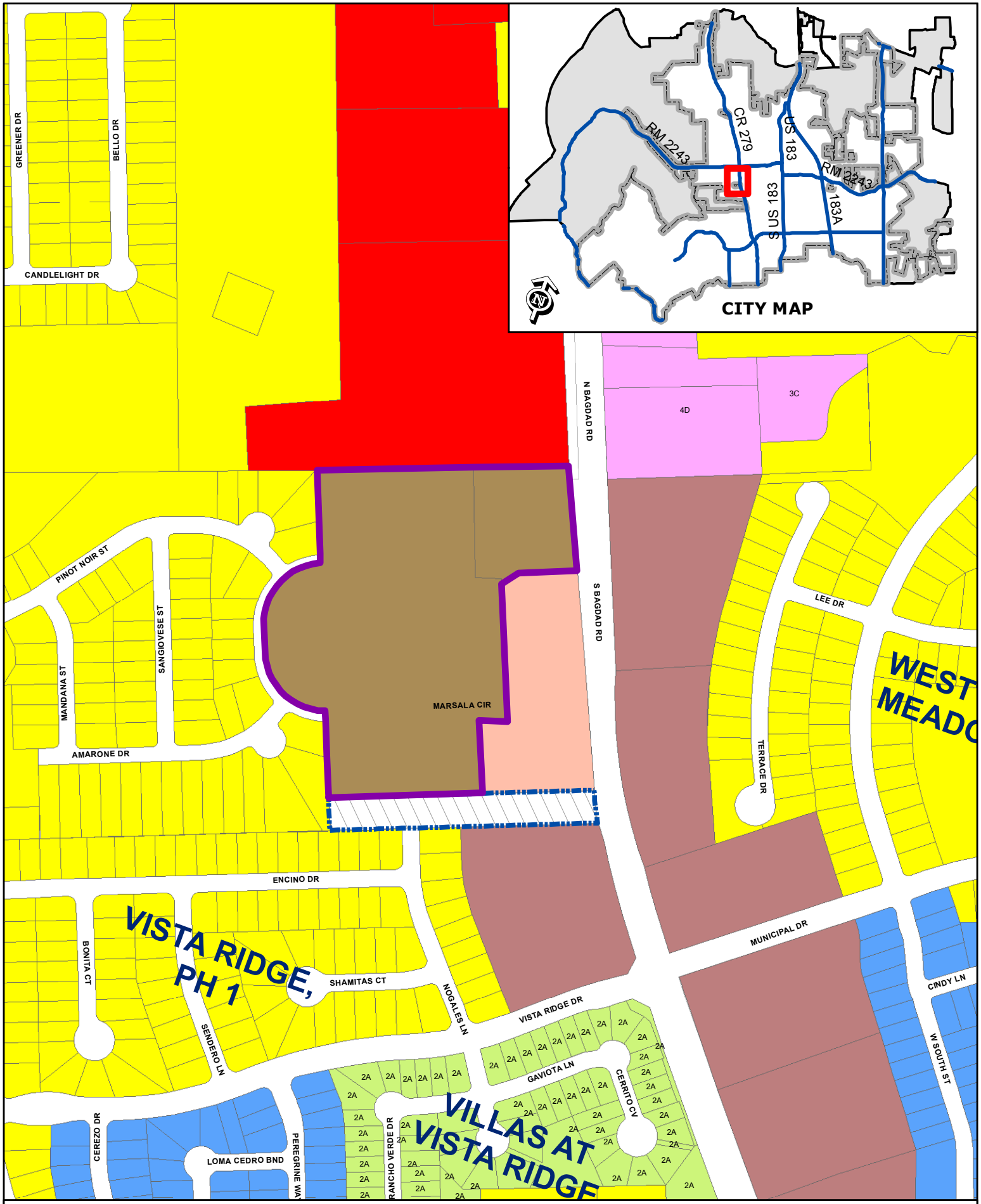
LANDESIGN SERVICES, INC.
LAND SURVEYORS
EST. 2002

FINAL PLAT
CARNEROS RANCH SECTION SEVEN

PROJECT NAME: CARNEROS	
JOB NUMBER: 381-15-1	
DATE: 02/18/2016	SCALE: 1"=100'
DRAWING FILE PATH: L:\CFS CIVIL\CARNEROS_\K L ENTERPRISES\DWG	
FIELDNOTE FILE PATH: L:\CFS CIVIL\CARNEROS_\K L ENTERPRISES\M&B	
RPLS: DRH	TECH: HAS	PARTYCHIEF: AG
CHECKED BY: JB	FIELDBOOKS:

DRAWING NAME
38101002.DWG

SHEET
2 of 2



16-DA-002
Development Agreement

Attachment #2
Location Exhibit
Carneros Village

Subject Property
City Limits

N

0 200
Feet

AGENDA ITEM # 12

Executive Summary

July 21, 2016

Council Agenda Subject: Consider Approval of Construction Activities between 9:00 p.m. and 7:00 a.m. for Cash Construction Company, Inc., for the Old 2243 Roadway Improvements Project on July 29 and 30 and August 5 and 6 of 2016

Background:

Cash Construction Company, Inc., is requesting City Council approval to work at night with in the hours of 9:00 p.m. to 7:00 a.m. on the Old 2243 Roadway Improvements Project on July 29 and 30 (Friday and Saturday) and August 5 and 6 (Friday and Saturday) of 2016. The purpose of this night work is to install a 9' x 5' box culvert across the north side of Bagdad Road at the intersection of Bagdad Road and Old 2243 West in order to minimize adverse impacts to traffic flow.

Cash Construction Company, Inc., will communicate with the properties neighboring the construction site and take all reasonable precautions to reduce late night disturbances. The City will also post a notice on its website regarding the dates and times of the nighttime operation.

Origination: Wayne S. Watts, P.E., CFM, City Engineer

Financial Consideration: Not Applicable

Recommendation: Staff recommends approval for Cash Construction Company, Inc., to work at night with in the hours of 9:00 p.m. to 7:00 a.m. on the Old 2243 Roadway Improvements Project on July 29 and 30 (Friday and Saturday) and August 5 and 6 (Friday and Saturday) of 2016 in order to install a 9' x 5' box culvert across the north side of the intersection of Bagdad Road and Old 2243 West.

Attachments: Email Request from Cash Construction Company, Inc., and Location Map (Plan Sheet)

Prepared by: Wayne S. Watts, P.E., CFM, City Engineer

Debbie Haile

From: BJ Cash <bj@ccctex.com>
Sent: Wednesday, July 06, 2016 10:31 AM
To: Wayne Watts; Terri Crauford; Alan Barrette
Cc: Kevin Payne; robert@ccctexfield.com
Subject: Night work for 2243

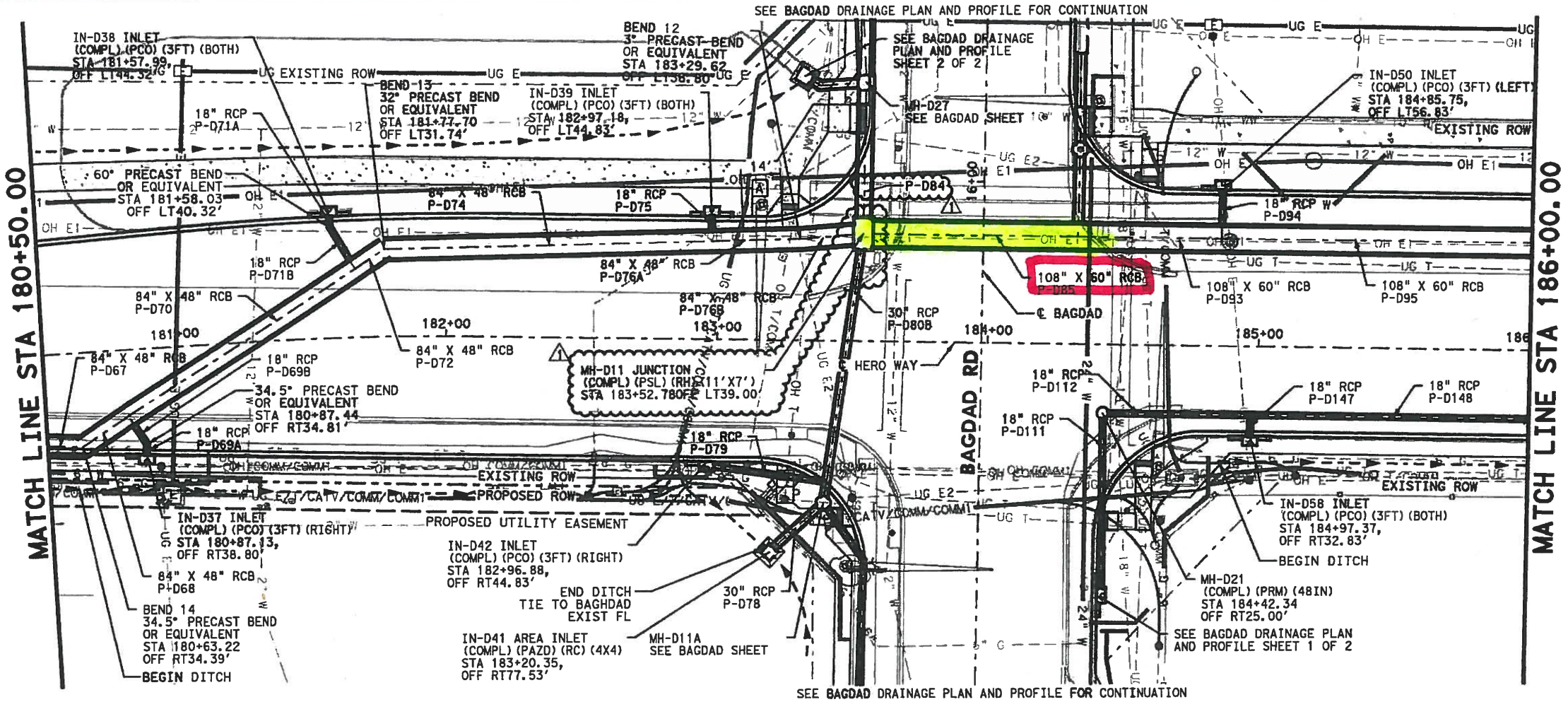
Wayne,

We are getting close to our 9x5 RCB crossing at Bagdad, and we would like to request night work for July 29th and 30th and also August 5th and 6th. Most likely we will not need to work at night, but we want to request it just in case.

Thanks,

BJ

Sent from my Verizon, Samsung Galaxy smartphone



H: 0 25 50 75 100
V: 0 5 10 15 20
SCALE IN FEET

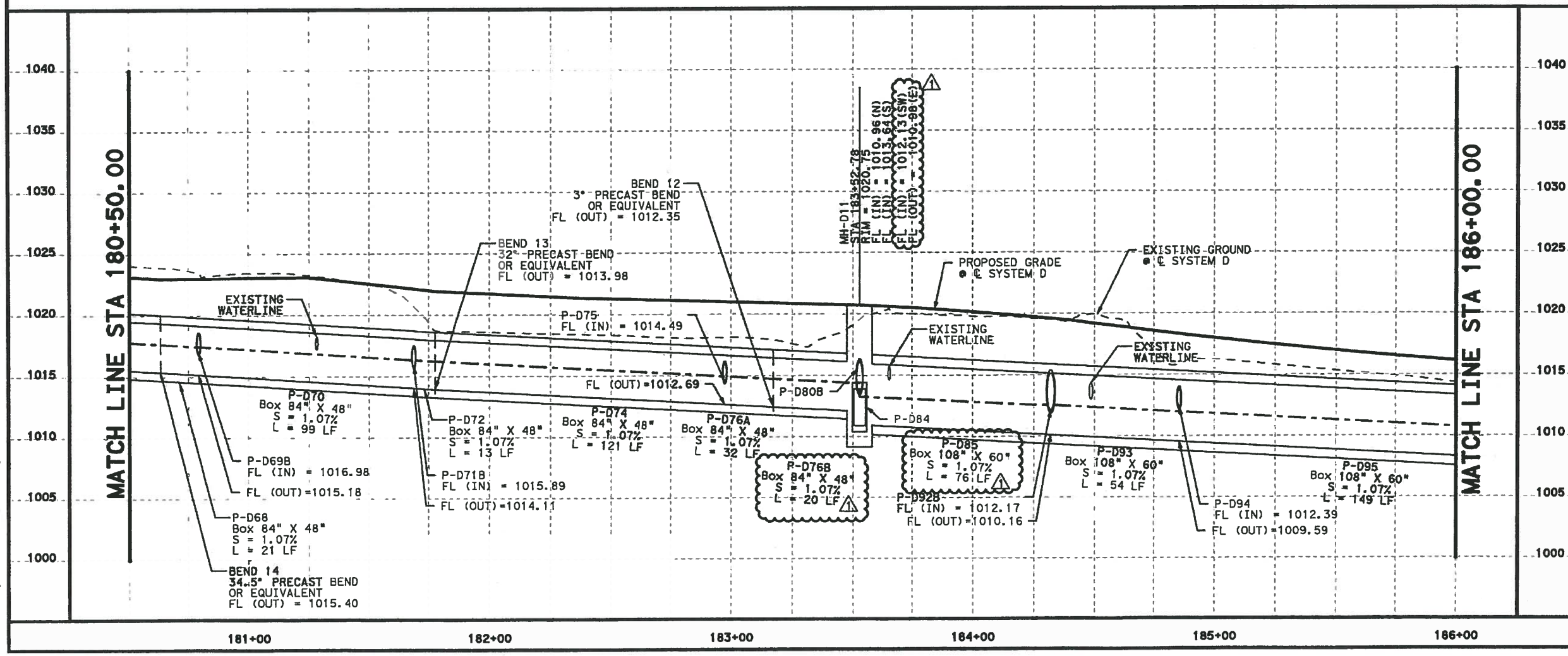
N

LEGEND

- PROPOSED STORM DRAIN
- PROPOSED PRECAST CURB INLET OUTSIDE RDWY (PCO)
- PROPOSED PRECAST ROUND MANHOLE
- PROPOSED PRECAST BASE
- PROTECTION STONE RIPRAP
- EXISTING GROUND
- PROPOSED TOP OF GRADE
- 25 YR HYDRAULIC GRADE LINE
- DITCH FLOW DIRECTION

NOTES

1. ALL PIPES WITH LESS THAN 2 FEET OF COVER OVER TOP OF PIPE ARE CLASS IV RC PIPE OTHERWISE. USE CLASS III PIPE.
2. STATION, OFFSET AND ELEVATION CALLOUTS FOR DRAINAGE STRUCTURES REFERENCE THE CONTROL POINTS SHOWN ON THE DRAINAGE STRUCTURES. CONTROL POINTS DETAIL ON SHEET.
3. CONTRACTOR TO VERIFY ALL LOCATIONS OF EXISTING UTILITIES WITHIN THE LIMITS OF CONSTRUCTION PRIOR TO EXCAVATING FOR STORM DRAIN. CAUTION UNDERGROUND GROUND GAS MAINS WITHIN PROJECT LIMITS.
4. CONTRACTOR SHALL FIELD VERIFY ALL ELEVATIONS PRIOR TO CONSTRUCTION OF STORM DRAIN.
5. DRAINAGE STRUCTURES FOUNDATIONS SHALL BE CONSTRUCTED IN A SIMILAR MANNER TO THE PIPE FOUNDATION AND COMPACTED TO A MINIMUM OF THE SAME PROCTOR DENSITY.
6. THE FOUNDATION UNDER PIPE NEAR THE STRUCTURE MUST BE CONSTRUCTED JUST AS THE FOUNDATION UNDER THE BALANCE OF THE PIPE.



1-18-2016

STATE OF TEXAS
KIMBERLY R. SCHERER
111688
LICENSED
PROFESSIONAL ENGINEER

NO.	DATE	REVISION	APPROVED
1	1/2016	CHANGED JUNCTION TYPE AND SIZE, CHANGE L LF	KRS

City of Leander

HDR

HDR Engineering, Inc.
810 Hesters Crossing, Suite 120
Round Rock, Texas 78681
Texas Registered Engineering Firm F-754

OLD 2243

DRAINAGE PLAN AND PROFILE STA 180+50 TO STA 186+00

SCALE: 1"=50'-H
1"=10'-V

SHEET 16 OF 27

DSN: KRS	CK: MDB	DATE	JOB NO.	SHEET NO.
DRN: KDB	CK: KRS	1/18/2016		313

PLOT DRIVER: TXDOT_PDF_BW.pltcfg PENTABLE: 0000000000216782.tbl
USER: kberger 1/18/2016 TIME: 11:35:18 AM SCALE: 1:50
FILE: City_of_Leand _HeroWay_PMN3.00_CADN3.02_Contract_Files\Sheet_Files\Drainage\HERO-DRNPP16.dgn

Executive Summary

July 21, 2016

Council Agenda Subject: Consideration of Amendment One to Task Order KFA-30 in the amount of $99,134.00 for the Kauffman Loop Elevated Storage Tank Project

Background: Initially, Task Order KFA-30 provided for the design, bidding, and construction phase professional services for a new 1.25 MG (bid alternates for 1.0 MG and 1.5 MG tanks will be provided) elevated storage tank (EST) on Kauffman Loop at CR 267 on the west side of Ronald Reagan Boulevard in northeast Leander. Compensation for that work in Task Order KFA-30 is a combination of a lump sum amount of $49,914.00 and time and materials not to exceed $68,010.00 without authorization by the City of Leander totaling $117,924.00.

Task Order KFA-30 specifically did not include the following items of work as quoted from KFA-30:
1. Electrical Design - Design for onsite electrical and SCADA controls for the EST will be added as a supplemental service at a future date.
2. Special Inspections & Testing for EST - Special inspections and testing of the EST will be performed by others; including welding and painting of the new EST.
3. Property/Easement Metes and Bounds - It is assumed that the property will be dedicated to the City of Leander by the property owner and no easements or property descriptions will be required.

Amendment One to Task Order KFA-30 (Amendment) adds above Items 1 and 2 to the scope of services. In addition, the Amendment also provides for the unusually high costs incurred by the consultant for coordination with the City Attorney's office on the most complex, detailed, right-of-entry agreement we have ever negotiated, the cost of cedar tree removal for geotechnical (borings) access, landscaping, and the design of a small detention facility associated with elevated storage tank flushing and/or draining activities, as detailed in attached Scope of Services. The compensation for these additional, required design phase and construction services is on a time and materials basis not to exceed $99,134.00 without City authorization. The engineering contract cost for this

project now consists of the lump sum amount of $49,914.00 and time and materials not to exceed $167,144.00 for a total of $217,058.00, as noted in the attached Amendment.

Origination: Wayne S. Watts, P.E., CFM, City Engineer

Financial Consideration: $99,134.00 from Water Impact Fee Fund, GL# TBD
-

Recommendation: Staff requests authorization for the City Manager to negotiate and execute Amendment One to Task Order KFA-30.

Attachments: Scope of Services and Amendment One to Task Order KFA-30

Prepared by: Wayne S. Watts, P.E., CFM, City Engineer

SCOPE OF SERVICES
KAUFFMAN ELEVATED STORAGE TANK

The Kauffman Elevated Storage Tank (EST) project will include the design and construction of a new 1.25 MG (estimated) EST off of Kauffman Loop in northeast Leander. The tank will be constructed on a 4 acre site that is being dedicated as part of the Wedemeyer Tract development for a new fire station and elevated tank. The project will include the design of approximately 1,500 linear feet of 24-inch diameter water main to the tank site along Kauffman Loop, tank appurtenances, driveway, fencing, and other site improvements. The layout of the tank site will take into consideration the construction of a future fire station, but no design of the fire station is included.

Additional services outside of the original scope of services are required. These include electrical engineering, tank inspection and testing, and some other miscellaneous services described below. This effort will be performed as "Time and Materials" tasks.

PHASE I - DESIGN AND BID PHASE (TIME & MATERIALS TASKS)

1. Property Owner Coordination & Sub Management – Additional services related to obtaining rights-of-entry and executing documents with the property owner, review of property acquisition documents, and management of the additional subconsultant effort below.

2. Plan Modifications – As the site drains toward private property and not to right-of-way, a small detention pond design is required in case of tank overflows or otherwise discharging water from the tank. The detention pond is not required for storm water runoff. Landscape plans have also been added to the project. Chloramine injection is also being added to the project to boost disinfection at the tank site.

3. Geotechnical Engineering Services (Fugro) – Additional services required for tree/brush removal required for access to the tank site with the drill rig.

4. Tank Paint System (Boswell) – Paint system selection and design to be performed by Boswell's Consulting Services.

5. Electrical Engineering (JRSA) – Electrical engineering design to bring power to the site and design onsite lighting, etc. for the elevated storage tank.

PHASE II – BID & CONSTRUCTION PHASE SERVICES (TIME & MATERIALS)

1. Additional services during the bid phase will include:

    a. Tank Inspection & Testing (Boswell) – Testing and inspection per the attached scope of services to include soils/foundation testing, reinforcing steel inspection, concrete inspection and testing, HMAC testing and inspection, welding inspection, and steel tank painting inspection and

testing. Testing and inspection services will be performed as-needed, the hours indicated on the attached proposal are estimates of the expected effort, but are subject to change depending on schedule and prosecution of the work by the Contractor.

b. Electrical Engineering (JRSA) – Construction phase services as required for electrical engineering items, including submittal review, responding to Contractor questions, etc.

KFA MANPOWER/BUDGET ESTIMATE - TIME AND MATERIALS TASKS
KAUFFMAN LOOP ELEVATED STORAGE TANK - ADDITIONAL SERVICES

		Task	Principal Hours	Project Manager Hours	Engineer Hours	EIT Hours	CADD Technician Hours	Clerical Hours	Total Labor Hours	Total Labor Cost	Sub-Consultant Cost	Expenses Cost	Total Cost
Phase I - Preliminary & Design Phase													
1		Property Owner Coord & Sub Management		8	4	8		4	24	$2,853			$2,853
2		Plan Modifications		12	16	20	16		64	$7,117			$7,117
3		Geotechnical Investigation (Fugro)							0	$0	$4,422		$4,422
4		Tank Paint System (Boswell)							0	$0	$4,000		$4,000
5		Electrical Engineering (JRSA)							0	$0	$10,000		$10,000
		Subtotal Phase II	**0**	**20**	**20**	**28**	**16**	**4**	**88**	**$9,970**	**$18,422**	**$0**	**$28,392**
Phase II - Bid & Construction Phase													
1		Construction Phase Services	0	0	0	0	0	0	0	$0	$70,742	$0	$70,742
	a	*Tank Inspection & Testing (Boswell)*							*0*	*$0*	*$68,242*		*$68,242*
	b	*Electrical Engineering (JRSA)*							*0*	*$0*	*$2,500*		*$2,500*
		Subtotal Phase II	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**$0**	**$70,742**	**$0**	**$70,742**
		T & M Project Totals	**0**	**20**	**20**	**28**	**16**	**4**	**88**	**$9,970**	**$89,164**	**$0**	**$99,134**

JRSA Engineering
CONSULTING ELECTRICAL ENGINEERS
6101 W Courtyard Dr, Building 1, Suite 200 ▪ Austin, Texas 78730
V 512.452.8789

December 28, 2015

K. Friese & Associates
1120 South Capital of Texas Highway
The Setting II, Suite 100
Austin, Texas 78746

Attn. Dale Murphy, P.E.

Re: Proposal for Engineering Services
City of Leander- Kaufman Loop EST
Instrumentation & Electrical Design

Dear Mr. Murphy:

JRSA proposes to furnish the Design & Bid Phase engineering services required to complete the electrical & instrumentation design for above stated project. Our fee will be a lump sum amount of $10,000.00. In addition to providing one, electronic/pdf set of plans and specifications necessary to bid the project, our services include the following:

Design & Bid Phase:

- Coordinating electrical service to the site.
- Preliminary site visit to assess design requirements.
- Providing power, instrumentation, and lighting design for the elevated storage tank.
- Providing power, instrumentation, and lighting design for the chemical feed system.
- Providing a cost estimate for the electrical and instrumentation systems.
- Coordinating a Radio Path Study.
- Designing a SCADA system for the site, and providing interconnection for the City of Leander overall SCADA system.
- Responding to contractor questions.
- Preparing addendum items, as required.
- Attending the pre-bid meeting.

JRSA can also provide Construction & Administration related services at an hourly rate, not to exceed $2,500.00. Our hourly rates are as follows:

- Engineer - $130 per hour
- Designer - $100 per hour
- Clerical - $70 per hour.

Construction & Administration Phase services will include the following:

- Responding to RFI's.
- Attending the Pre-Construction Conference.
- Site visits (up to 2) to monitor construction progress.
- Reviewing Submittals & O&M manuals.

- Performing a final inspection.
- Attending the start-up.
- Preparing conformed drawings.

Design & Bid Phase services will be billed on a percent completion basis. Construction & Administrative Phase services will be billed on a monthly basis. All payments will be due within 90 days from invoice date.

Please note that any changes made to the scope of the project, as noted in this proposal, or additional requirements to our current insurance coverage, may result in an increase in our fee.

Thank you for your consideration. If you agree with the terms of this proposal please sign in the allocated space below and return a copy to us. We appreciate this opportunity and look forward to working with you.

Yours truly,

JRSA Engineering

Elizabeth Segner-Zarate, P.E.
President

Accepted by: _____

For: K. Friese & Assocaties

CLIENT SERVICE IS NUMBER 1

1503 Sagebrush Drive
Round Rock, Texas 78681
phone | 512-426-3380
e-mail | Robert@boswellscts.com
web | www.boswellscts.com

May 5, 2016

Mr. Dale Murphy, P.E.
K Friese + Associates
1120 South Capital of Texas Highway
City View 2, Suite 100
Austin, Texas 78746

Subject: Consulting, and Construction Materials Inspection and Testing of the New 1.25 MG EST in Leander, Texas

Dear Mr. Murphy:

Boswell's Consulting Testing Services (BCTS) is pleased to submit this proposal for Consulting, and Construction Materials Inspection and Testing of the New 1.25 MG EST in Leander, Texas. The purpose of this proposal is to present our scope of work for the project, associated unit fees for our services.

We have prepared this proposal based on our experience with similar tank construction projects.

Plans, specifications and a contractor schedule for construction and painting were not available for us to base our quantities for inspection, testing, engineering and project management time on. Therefore, the overall cost for our services may be more than proposed depending on the needs and demands of the project and, contractor schedules and sequence of work.

Proposed Estimated Fee

At this time, we estimate a preliminary budget of $72,242 to be billed on a time-and-materials basis. We have attached a Proposed Fee Schedule / Estimate indicating our budget breakdown and unit costs. Our estimate does not include costs for re-inspections or re-test for contractor non-compliant work, contractor delays overtime worked hours, stand-by time or site visits that are cancelled upon arrival or while in route to the project.

Scope of Services

We understand the project includes the construction of a 1.25 MG elevated water tank located in Leander, Texas. Our services for this project will include project management, field observation and testing, and laboratory testing during the site and tank construction, and tank painting phases. The purpose of our services is to document substantial compliance with the construction documents using the generally accepted industry practice for our area.

Task 1: Compaction Testing of Fill Materials, Sub-grade and Base
BCTS will provide a soil technician for call-out testing to confirm that fill materials are properly placed and compacted. This task may include the following as requested:

- Obtain sample(s) of proposed material for laboratory evaluation.
- Observe and document subgrade conditions prior to fill/backfill placement.
- Observe and document any proof-rolling operations.
- Perform appropriate field testing to determine in-place moisture/density conditions.
- Monitor pier drilling operations (if applicable).
- Document field test locations.
- Verbally report test results to the Contractor's Superintendent.

Task 2: Portland Cement Concrete Testing
BCTS will provide a technician to confirm that the Portland Cement Concrete (concrete) provided at the project site is in conformance with project specifications. This task may include the following as requested:

- Observe and document reinforcement steel placement.
- Perform field testing to document slump, air and concrete temperature, air content as specified.
- Produce and transport specified concrete test cylinders for laboratory testing.
- Laboratory curing and compressive strength testing of test cylinders.
- Report results of field and laboratory test data.
- Verbally report test results to the Contractor's Superintendent.

Task 3: Hot Mix Asphaltic Concrete Testing
BCTS will provide a technician to confirm that the Asphaltic Concrete (asphalt) provided at the project site is in conformance with project specifications. This task may include the following as requested:

- Observe and test and document asphaltic placement.
- Laboratory testing and document asphaltic test specimens.
- Report results of field and laboratory test data.
- Verbally report test results to the Contractor's Superintendent.

Task 4: Steel Services
BCTS will provide a Certified Welding Inspector for call-out inspection and testing to confirm that construction of the tank is in conformance with the project specifications. This task would include the following as requested:

- Collect and review contractor welding procedures and welder certifications,
- Randomly observe fit-up and welding process for welds.
- Observe welds for conformance with AWS, API and/or AWWA standards as applicable.
- Radiographic testing of welds.
- Report results of observations and tests.
- Verbally report test results to the Contractor's Superintendent.

Task 5: Paint Testing
BCTS will provide a paint inspector to confirm that surface preparation and painting of the tank is in conformance with project specifications. This task may include the following as requested:

- Verification of paint manufacturer's product.
- Random observation of proper surface preparation.
- Random observation of coating application process.
- Random measurement of applied coating thickness.
- Observe contractor confirmation of coating integrity using Holiday testing.
- Report results of observations and tests.
- Verbally report test results to the Contractor's Superintendent.

Task 6: Project Management and Report Preparation
BCTS will provide general oversight, coordination with field technicians, and report reviews. If requested by the Client, the Project Manager will be available to assist with consultation and resolution of problems should they occur.

Scheduling and Communications
We request that our dispatch office (512-426-3380) be contacted at least 48 hours in advance of any necessary observations and tests. In order for us to accomplish our scope of services, we request to be provided with two sets of the project plans, specifications and builders drawings prior to the start of the project.

Authorization
Please indicate your approval of our proposal by signing the attached BCTS Terms and Conditions and by issuing us a work order for the services we have listed in our proposal.

Attachments
Proposed Not to Exceed Fee Schedule.

BCTS Terms and Conditions.

We appreciate the opportunity to provide you with this proposal, and look forward to working with you on your project. If you have any questions, please contact us at (512) 426-3380.

Sincerely,
Boswell's Consulting Testing Services

Robert Boswell
CEO/Principal Professional

CLIENT SERVICE IS NUMBER 1

1503 Sagebrush Drive
Round Rock, Texas 78681
phone | 512-426-3380
e-mail | Robert@boswellscts.com
web | www.boswellscts.com

BCTS Proposed Cost Estimate
K Freese
Leander New 1.25 MG Elevated Tank
5/4/2016

Service Description	Estimated Quantity		Unit Price	Estimated Total Amount
SOILS / TANK FOUNDATION				
Laboratory Testing				
Moisture Density Relationships TEX-113-E	4	ea.	$ 202.00	$ 808.00
Atterberg Limits Tests	4	ea.	$ 64.00	$ 256.00
Grain Size Analyses	4	ea.	$ 98.00	$ 392.00
Technician Time	6	hrs.	$ 52.00	$ 312.00
Trip Charge	1	ea.	$ 60.00	$ 60.00
			Subtotal	**$ 1,828.00**
Field Testing				
Nuclear Gauge	30	ea.	$ 35.00	$ 1,050.00
Technician Time	120	hrs.	$ 52.00	$ 6,240.00
Trip Charge	30	ea.	$ 60.00	$ 1,800.00
			Subtotal	**$ 9,090.00**
Project Management				
Project Manager	2	hrs.	$ 100.00	$ 200.00
Principal Engineer	2	hrs.	$ 150.00	$ 300.00
			Subtotal	**$ 500.00**
SOILS TANK / FOUNDATION			**Total**	**$ 11,418.00**
REINFORCING STEEL / TANK PEDESTAL				
Field Testing				
Technician Time	92	hrs.	$ 52.00	$ 4,784.00
Trip Charge	23	ea.	$ 60.00	$ 1,380.00
			Subtotal	**$ 6,164.00**
Project Management				
Project Manager	2	hrs.	$ 100.00	$ 200.00
Principal Engineer	2	hrs.	$ 150.00	$ 300.00
			Subtotal	**$ 500.00**
REINFORCING STEEL / TANK PEDESTAL			**Total**	**$ 6,664.00**
CONCRETE PLACEMENT / TANK PEDESTAL				
Field Testing				
Technician Time	92	hrs.	$ 52.00	$ 4,784.00
Trip Charge	23	ea.	$ 60.00	$ 1,380.00
			Subtotal	**$ 6,164.00**

Service Description	Estimated Quantity		Unit Price		Estimated Total Amount
Laboratory Testing					
Concrete Cylinder Compressive Strength Tests	200	ea.	$ 18.00	$	3,600.00
Technician Time	46	hrs.	$ 52.00	$	2,392.00
Trip Charge	23	ea.	$ 60.00	$	1,380.00
			Subtotal	**$**	**3,772.00**
Project Management					
Project Manager	2	hrs.	$ 100.00	$	200.00
Principal Engineer	2	hrs.	$ 150.00	$	300.00
			Subtotal	**$**	**500.00**
CONCRETE PLACEMENT / TANK PEDESTAL			**Total**	**$**	**10,436.00**
SUBGRADE AND HMAC / ACCESS ROAD					
Subgrade Laboratory Testing					
Moisture Density Relationships D698	2	ea.	$ 173.00	$	346.00
Atterberg Limits Tests	2	ea.	$ 64.00	$	128.00
Grain Size Analyses	2	ea.	$ 98.00	$	196.00
Technician Time	6	hrs.	$ 52.00	$	312.00
Trip Charge	1	ea.	$ 60.00	$	60.00
			Subtotal	**$**	**1,042.00**
Subgrade Field Testing					
Nuclear Gauge	4	ea.	$ 35.00	$	140.00
Technician Time	16	hrs.	$ 52.00	$	832.00
Trip Charge	4	ea.	$ 60.00	$	240.00
			Subtotal	**$**	**1,212.00**
HMAC Field Testing					
Bag Sample Pickup Technician Time	8	hrs.	$ 75.00	$	600.00
Field Cores	4	ea.	$ 70.00	$	280.00
Trip Charge	2	ea.	$ 60.00	$	120.00
			Subtotal	**$**	**400.00**
HMAC Laboratory Testing					
Specimen Molding/Bulk Density & Stability	6	ea.	$ 325.00	$	1,950.00
Theoretical Specific Gravity (Rice)	2	ea.	$ 75.00	$	150.00
Extraction Gradation Asphalt Content	2	ea.	$ 325.00	$	650.00
			Subtotal	**$**	**2,750.00**
Project Management					
Project Manager	4	hrs.	$ 100.00	$	400.00
Principal Engineer	4	hrs.	$ 150.00	$	600.00
			Subtotal	**$**	**1,000.00**
SUBGRADE AND HMAC / ACCESS ROAD			**Total**	**$**	**6,404.00**
STEEL TANK PAINTING SPECIFICATIONS					
Write Paint Specifications for Steel Tank					
Consultant Time	40	ea.	$ 100.00	$	4,000.00
			Subtotal	**$**	**4,000.00**

Service Description	Estimated Quantity		Unit Price		Estimated Total Amount
STEEL TANK CONSTRUCTION					
Field Inspection and Testing					
Welding Inspection	144	ea.	$ 70.00	$	10,080.00
Trip Charge	24	ea.	$ 60.00	$	1,440.00
X-ray Testing	1	ea.	$ 4,000.00	$	4,000.00
			Subtotal	**$**	**15,520.00**
Project Management					
Project Manager	8	hrs.	$ 100.00	$	800.00
			Subtotal	**$**	**800.00**
STEEL TANK CONSTRUCTION			**Total**	**$**	**16,320.00**
STEEL TANK PAINTING					
Field Inspection and Testing					
Paint Inspection	180	ea.	$ 80.00	$	14,400.00
Trip Charge	30	ea.	$ 60.00	$	1,800.00
			Subtotal	**$**	**16,200.00**
Project Management					
Project Manager	8	hrs.	$ 100.00	$	800.00
			Subtotal	**$**	**800.00**
STEEL TANK PAINTING			**Total**	**$**	**17,000.00**
			Project Total	**$**	**72,242.00**

TASK ORDER AMENDMENT FOR PROFESSIONAL SERVICES

TASK ORDER AMENDMENT NO. 1 FOR TASK ORDER KFA-30

This will constitute authorization by the City of Leander, Texas (Owner), for K Friese & Associates, Inc., Austin, Texas (Engineer), to proceed with the following described engineering services.

KAUFFMAN ELEVATED STORAGE TANK

A. AMENDMENT DESCRIPTION

The original scope of the project included the design of a 1.25 million gallon Elevated Storage Tank (EST) in northeast Leander. Additional services are requested to include tank inspection and testing during construction, electrical engineering for design and construction phases, and addition of a permanent choloramine booster station to the design.

B. SCOPE OF SERVICES

KFA will provide design services as described in the attached “Scope of Services.”

C. DELIVERABLES

KFA will provide deliverables as described in the attached "Scope of Services."

D. BASIS OF COMPENSATION

The total compensation for these additional services for the Kauffman Elevated Storage Tank shall be on a time and materials basis not to exceed $99,134.00 without prior authorization from the Owner. A Manpower/Budget Estimate is attached. This brings the total authorization under this Task Order to $217,058.00. The City shall make payments to the Engineer for performing the engineering services described on a monthly billing basis in accordance with monthly statements submitted by the Engineer and approved by the City. Final payment shall be due upon completion of the services described.

E. TIME FOR COMPLETION

The Engineer will work expeditiously to complete the services described herein. Design phase services are anticipated to be completed within 2 months, bid and construction phase services will be approximately a year.

KFA will begin work as soon as authorized and as services are requested. Design and construction phase services are anticipated to be completed within 18 months after notice to proceed.

APPROVED:	ACCEPTED:
CITY OF LEANDER, TEXAS	K FRIESE & ASSOCIATES, INC.
By _____	By _____ Karen A. Friese, P.E. President
Title _____	
Attest _____	Attest _____
Date _____	Date _____

Executive Summary

July 21, 2016

Subject: Consider Award of Employee Health Benefit Contracts for the 2016-2017 Plan Year

Background

On May 23rd, 2016, eighteen (18) vendors submitted bids for the various benefit lines.

Evaluation of the proposals received was conducted with the assistance of Gallagher Benefit Services. Evaluation and negotiations considered the plan costs, budget tolerance, Affordable Care Act (ACA) compliance and affordability guidelines and benefit packages proposed.

Wellness Initiative

The Wellness Initiative continues yearly. All employees are encouraged to attend the on-site health screening provided by Catapult. Employees that choose not to attend are assessed a wellness fee of $40 per month.

Recommendation Summary

Health Insurance

United Health Care submitted the most advantageous proposal that was more competitive than the City's existing provider, Blue Cross Blue Shield. The Blue Cross Blue Shield renewal proposal represented a rate increase of 17%. The United Health Care proposal offers a 4% rate increase with minimal disruption to in-network providers and the prescription drug benefit. UHC offered $5 PEPM credit as a line item on the monthly medical bill if we bundled medical and dental. This credit applies for 24 months.

Dental Insurance

Guardian, the City's current provider, offered a 15% renewal rate increase. The United Health Care proposal offers a larger number of in-network providers, coverage that is comparable to

the City's current offering and a 5% rate decrease. United Health Care is also offering a 24-month rate guarantee.

Voluntary Vision

United Health Care, in bundling this benefit with the health and dental proposals, has offered the most competitive package and a 36-month rate guarantee. This is a new benefit to employees. This voluntary benefit's premium is paid 100% by the employee.

Voluntary Life Insurance and AD&D, Voluntary Short Term Disability and Long Term Disability

Dearborn National is our current short and long term provider. Humana is our current provider for Basic and Voluntary Life products. Dearborn has provided the most competitive package by bundling all three of these benefits; and is offering the City employees a "true" open enrollment, meaning, no Evidence of Insurability (EOI- medical history document) this year. These voluntary benefit premiums are paid 100% by the employee with an exception of Basic Life, which the City pays 100% for a $15,000 policy for each employee.

Accident Insurance and Cancer Insurance

Allstate, the City's current provider, has provided comparable plans and pricing at almost no rate increase. These voluntary benefit premiums are paid 100% by the employee.

Employee Assistance Program

Alliance Work Partners, current provide, has maintained same plan with a slight increase from $2.02 PEPM to $2.06 PEPM.

Flexible Spending

BMA, the City's current administrator for employee Flexible Spending and Dependent Care Spending, has maintained the same plan with no cost increases. Currently, the fees are $6.50 PEPM for Flex and $1.00 PEPM for POP, with an annual/renewal fee of $250.00. Flex is based on the number of employees enrolled in Flex per month; POP is based upon the number of employees that have pretax medical or dental premium deductions.

Per IRS regulations, for an employer to pre-tax premiums, it must have a formal pre-tax plan in place (POP (Premium Only Plan)). Our administrator provides this service by providing the legal plan document, and resources for questions.

Health Savings Account

A+ Credit Union administers employee HSA accounts. Employees establish a membership with the credit union. Membership requires a total of $15.00 to initiate an account. This fee has a

$10.00 deposit into the employee's saving account and a $5.00 one time, non-refundable membership fee.

Financial Consideration:

The largest expense to the City lies in providing the Medical, Dental and Basic Life and AD&D insurance policies. Utilizing the plans and bundles outlined herein with United Health Care and Dearborn National, the City will realize a total annual cost of $1,957,350. This represents a 3% increase over last year of $65,282.

The Health Savings Account expense is approximately $9750.00 annually. For each employee that selects the HDHP (Low Plan), the City contributes $750.00 to each employee's HSA account as of 10/1 or in the case of new hires throughout the year, the $750.00 is prorated based upon the number of pay periods remaining in the plan year. Currently we have 13 employees that have elected the "Low Plan".

EAP: The annual cost as of 10/1/2016 plan year will be approximately $560.00; 10/1/15 plan year was approximately $560.00.

Flexible Spending: The approximate annual cost for Flex $5460.00 + POP $2568.00 + $250.00 = $8,278.00.

Recommendation: Staff respectfully recommends that the Council authorize the City Manager to enter into a 12-month agreement with each provider outlined herein with four (4) 12-month renewal options. Please note, that United Health Care is offering a 24-month rate guarantee on the Dental Insurance and a 36-month rate guarantee on Vision Insurance. The City recommends exercising those rate guarantee options.

Attachments:

- Medical Overview
- Dental Overview
- Dental Care Levels
- Voluntary Vision Overview
- Basic Life & AD&D Overview
- Voluntary Life & AD&D Overview
- Voluntary Short Term Disability Overview
- Voluntary Long Term Disability Overview
- Accident & Cancer Overview
- Total Cost Overview

Prepared by: Cindy Hignite, Human Resources Director
Joy Simonton, City Purchasing Agent

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Market Overview - Fully Insured
Plan Year 2016-2017

Carrier	BCBSTX				United Healthcare			
	Current & Renewal				Best & Final			
Benefits	Low HSA Plan		Mid Co-Pay Plan		HDHP Base Plan		Buy-Up Plan	
Plan Design	IN	OUT	IN	OUT	IN	OUT	IN	OUT
Lifetime Maximum	Unlimited		Unlimited		Unlimited		Unlimited	
Individual Deductible	$3,000	$6,000	$3,000 combined in/out network		$3,000		$3,000	
Family Deductible	$6,000	$12,000	$9,000 combined in/out network		$6,000		$6,000	
Aggregate/Embedded	Embedded		Embedded		Embedded		Embedded	
Co-insurance	80%	60%	80%	60%	80%		80%	
OOP Max Individual	$6,350	$12,000	$5,600	$15,000	$6,350		$6,000	
OOP Max Family	$12,700	$24,000	$10,200	$45,000	$12,700		$12,000	
Deductible, Office Visit Co-pays and Rx Co-pays Apply to OOP Max	Yes		Rx does not apply to Medical OOP		Yes		Yes	
Office Visit Co-pay	Ded/80%	Ded/60%	$40	Ded/70%	Ded/80%		$30 [1]	
Specialist Visit Co-pay	Ded/80%	Ded/60%	$50	Ded/70%	Ded/80%		$30 / $60	
Hospital	Ded/80%	Ded/60%	Ded/80%	Ded/60%	Ded/80%		Ded/80%	
Outpatient Surgery	Ded/80%	Ded/60%	Ded/80%	Ded/60%	Ded/80%		Ded/80%	
Lab/X-Ray	Ded/80%	Ded/60%	100%	Ded/70%	Ded/80%	Not Covered	100%	Not Covered
Major Diagnostics (MRI, CT Scan, etc.)	Ded/80%	Ded/60%	Ded/80%	Ded/60%	Ded/80%		Ded/80%	
Physical Therapy, OT, Chiro	Ded/80%	Ded/60%	Ded/80%	Ded/60%	Ded/80%		$30	
Visit Limitation	35 visits combined for all therapies		35 visits combined for all therapies		20 visits each		20 visits each	
Speech Therapy	Ded/80%	Ded/60%	Ded/80%	Ded/60%	Ded/80%		$30	
Visit Limitation	Unlimited		Unlimited		100 visits		100 visits	
Emergency room	Ded/80%	Ded/80%	Ded/80%	Ded/80%	Ded/80%		Ded/80%	
Additional ER Co-pay	N/A	N/A	$200	$200	N/A		$250	
Urgent Care Co-pay	Ded/80%	Ded/60%	$75	Ded/70%	Ded/80%		$75	
Prescription Drug Card In-Network	Ded/80%		$20 / $40 / $70		$10/$35/$60 after ded.		$20 / $40 / $75	
Prescription Mail Order In-Network	Ded/80%		3 x retail copay		2 x retail after ded.		2.5 x retail copay	
Prescription Deductible	Integrated w/Medical		N/A		Integrated w/Medical		N/A	
Prescription OOP Max	Included in Medical		$1,000 Individual / $3,000 Family		Included in Medical		Included in Medical	

	CURRENT		ORIGINAL RENEWAL		BEST & FINAL		United Healthcare	
Monthly Rates	HDHP	Co-Pay Plan	HDHP	Co-Pay Plan	HDHP	Co-Pay Plan		
Employee Only	$432.06	$494.34	$515.02	$589.25	$504.72	$577.47	$406.79	$517.04
Employee + Spouse	$1,028.32	$1,176.64	$1,225.76	$1,402.55	$1,201.24	$1,374.50	$968.18	$1,230.58
Employee + Children	$855.51	$978.88	$1,019.77	$1,166.82	$999.37	$1,143.49	$805.47	$1,023.78
Employee + Family	$1,304.85	$1,493.05	$1,555.38	$1,779.72	$1,524.27	$1,744.12	$1,228.53	$1,561.50
Monthly Total	$7,077	$141,625	$8,436	$168,817	$8,267	$165,441	$6,663	$148,124
Combined Premium	$148,703		$177,253		$173,709		$154,787	
Medical, Rx Total Annual Premium								
Premium	$1,784,431		$2,127,036		$2,084,504		$1,857,447	
Change vs. Current $	N/A		$342,605		$300,073		$73,016	
Change vs. Current %	N/A		19%		17%		4%	
Commissions			0%				0%	

Enrollment	HDHP	Co-Pay Plan
Employee Only	9	137
Employee + Spouse	1	7
Employee + Children	1	32
Employee + Family	1	23
TOTAL:	12	199
	211	

[1] $0 PCP copay for children under the age of 19
Designed Network Specialist: $30 / Network Specialist: $60
Telemedicine: Doctor on Demand for a PCP copay

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Dental Insurance - Fully Insured
Plan Year 2016-2017

Carrier	Guardian			UnitedHealthcare			Aetna		
[redacted]									

Plan Option	DHMO	Value	NAP	DHMO	Low Plan	High Plan	DHMO	Low Plan	High Plan
Participation Requirements	Current Participation			75%			75%		
Individual Deductible	N/A	$50	$50	N/A	$50	$50	N/A	$50	$50
Family Deductible	N/A	$150	$150	N/A	$150	$150	N/A	$150	$150
Deductible Period	N/A	Calendar Year	Calendar Year	N/A	Calendar Year	Calendar Year	N/A	Calendar Year	Calendar Year
Type 1 - Diagnostic & Preventive Care	Fee Schedule	100%	100%	Fee Schedule	100%	100%	Fee Schedule	100%	100%
Deductible Waived?	N/A	Yes	Yes	N/A	Yes	Yes	N/A	Yes	Yes
Type II - Basic Care	Fee Schedule	100%	80%	Fee Schedule	100%	80%	Fee Schedule	100%	80%
Type III - Major Care	Fee Schedule	60%	60%	Fee Schedule	60%	50%	Fee Schedule	60%	50%
Calendar Year Maximum	None	$1,000	$1,000	None	$1,000	$1,000	None	$1,250	$1,250
Max Rollover	N/A	$1,000	$1,000	N/A	N/A	N/A	N/A	N/A	N/A
Type IV - Orthodontia	Fee Schedule	N/A	N/A	Fee Schedule	N/A	N/A	Fee Schedule	N/A	N/A
Orthodontia Benefit	Fee Schedule	N/A	N/A	Fee Schedule	N/A	N/A	Fee Schedule	N/A	N/A
Orthodontia Lifetime Maximum	24 Months	N/A	N/A	24 Months	N/A	N/A	24 Months	N/A	N/A
Out of Network Claims Based On	Not Covered	Fee Schedule	90th Percentile	Not Covered	Fee Schedule	90th Percentile	Not Covered	Fee Schedule	90th Percentile
Dental Limiting Age	26	26	26	26	26	26	26	26	26
Waiting Periods	None	None	None	None	None	None	None	None	None
Rate Guarantee	12 Months	12 Months	12 Months	24 Months	24 Months	24 Months	12 Months	24 Months	24 Months
Annual Open Enrollment	Included	Included	Included	Included	Included	Included	Included	Included	Included

	Current		Renewal					
Monthly Rates	DHMO	PPO	DHMO	PPO	DHMO	PPO	DHMO	PPO
Employee Rate:	$9.95	$30.07	$9.95	$35.12	$9.45	$28.57	$10.10	$26.52
Employee + Spouse Rate:	$16.79	$60.29	$16.79	$70.42	$15.95	$57.28	$17.05	$53.18
Employee + Child(ren) Rate:	$25.46	$71.72	$25.46	$83.77	$24.18	$68.14	$25.85	$63.26
Employee + Family Rate:	$29.81	$101.95	$29.81	$119.08	$28.31	$96.86	$30.27	$89.92
Monthly Premium:	$1,042	$7,528	$1,042	$8,793	$990	$7,152	$1,058	$6,640
Combined Monthly Premium:	$8,570		$9,835		$8,142		$7,698	
Annual Premium:	$102,842		$118,018		$97,704		$92,373	
Change vs. Current $	N/A		$15,176		-$5,137		-$10,469	
Change vs. Current %	N/A		15%		-5%		-10%	
Commission	0%				0%		0%	
					$5 PEPM credit on the monthly medical bill if UHC dental/medical elected. Credit applies for 24 months.		Premium credit of $3,100	

Enrollment	DHMO
Employee Only	48
Employee + Spouse	4
Employee + Children	9
Employee + Family	9
TOTAL:	70

Enrollment	PPO
Employee Only	69
Employee + Spouse	21
Employee + Children	20
Employee + Family	27
TOTAL:	137

City of Leander
Dental Benefit Comparison
Plan Year 2016-2017

Guardian	United Healthcare	Aetna
Type I - Diagnostic & Preventive Care		
Routine Exams (2 per year)	Routine Exams (1 in 6 months)	Routine Exams (2 per year)
Routine Cleanings (2 per year)	Routine Cleanings (1 in 6 months)	Routine Cleanings (2 per year)
Fluoride (no age limit)	Fluoride (through age 15)	Fluoride (through age 18)
Sealants (through age 15)	Sealants (through age 15)	Sealants (through age 15)
Space Maintainers (through age 15)	Space Maintainers (through age 15)	Space Maintainers
Periodontal Maintenance (2 per year)		
Type II - Basic Care		
Amalgam fillings (1/tooth every 2 years)	Resin Composite Fillings	Amalgam fillings (1/tooth every 2 years)
Composite Fillings for anterior/front teeth	Oral Surgery: Simple Extractions	Composite Fillings for anterior/front teeth
Oral Surgery -including impacted teeth		Oral Surgery -simple extractions
Type III - Major Care		
Crowns (1 per tooth every 5 years)	Crowns (1 per tooth in 5 calendar years)	Crown
Peridontics	Periodontics / Maintenance (2 per year)	Periodontics
Oral Surgery -complex	Endodntics	Endodntics
Endodontics	Oral Surgery - Complex	Oral Surgery - Complex
Implants	Implants	Implants (Buy-Up Only)

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Voluntary Vision Insurance - Fully Insured
Plan Year 2016-2017

Carrier	Aetna		United Healthcare		Standard		Superior Vision	
Network	**Aetna**		**United Healthcare**		**VSP**		**Superior Vision**	
	Network	Non-Network	Network	Non-Network	Network	Non-Network	Network	Non-Network
Participation Requirement	None		None		10 lives		2 employees	
Co-pay (Eye Exam / Materials)	$10 / $10		$10 / $25		$10 / $25		$10 / $25	
Examination Interval	Once every 12 months		Once every 12 months		Once every 12 months		Once every 12 months	
Lenses Interval	Once every 12 months		Once every 12 months		Once every 12 months		Once every 12 months	
Frame Interval	Once every 24 months		Once every 24 months		Once every 24 months		Once every 24 months	
Annual Vision Exam	$10	Up to $25	$10	Up to $40	$10	Up to $45	$10	Up to $35
Frame	Up to $150	Up to $75	Up to $150	Up to $45	Up to $150 (Costco: Wholesale allowance)	Up to $75	Up to $150	Up to $70
Single Vision Lenses	100% after $10	Up to $20	100% after $25	Up to $40	100% after $25	Up to $30	100% after $25	Up to $25
Bifocal Lenses	100% after $10	Up to $40	100% after $25	Up to $60	100% after $25	Up to $50	100% after $25	Up to $40
Trifocal Lenses	100% after $10	Up to $65	100% after $25	Up to $80	100% after $25	Up to $65	100% after $25	Up to $45
Contact Lenses - Medical Necessary	100%	Up to $200	100%	Up to $210	100% after $25	Up to $210	100% after $25	Up to $150
Contact Lenses - Cosmetic	Up to $150	Up to $105	Up to $150	Up to $150	Up to $150	Up to $120	Up to $150	Up to $80
Rate Guarantee	48 Months		36 Months		24 Months		48 Months	
Employee Rate:	$6.86		$5.55		$6.39		$5.10	
Employee + Spouse Rate:	$13.04		$10.52		$12.72		$10.20	
Employee + Child(ren) Rate:	$13.73		$12.34		$12.10		$11.71	
Employee + Family Rate:	$20.18		$17.36		$18.43		$18.05	

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Group Term Life and AD&D Insurance

Plan Year 2016-2017

Carrier	Humana		Dearborn National	Standard
	Current/Renewal Plan			
Benefit	$15,000		$15,000	$15,000
Maximum	$15,000		$15,000	$15,000
Guarantee Issue	$15,000		$15,000	$15,000
Age Reductions	35% at Age 65 55% at Age 70 70% at Age 75 80% at Age 80 85% at Age 85+		35% at Age 65 55% at Age 70 70% at Age 75 80% at Age 80 85% at Age 85+	35% at Age 65 55% at Age 70 70% at Age 75 80% at Age 80 85% at Age 85+
Waiver of Premium	Included		Included	Included
Volume	$3,330,000		$3,330,000	$3,330,000
Rate Guarantee	Until 10/01/2017		24 Months	24 Months
	Current	Renewal		
Life (per $1,000)	$0.09	$0.09	$0.045	$0.040
AD&D (per $1,000)	$0.030	$0.030	$0.010	$0.020
Total Monthly Cost	$400	$400	$183	$200
Total Annual Cost	$4,795	$4,795	$2,198	$2,398
Change vs. Current $	N/A	$0	-$2,597	-$2,398
Change vs. Current %	N/A	0%	-54%	-50%
Commission	0%		0%	0%
Solvency Rating	A-		A+	A+

NOTE: If a carrier change is desired, all employees not actively at work must be disclosed prior to the transfer of coverage.

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City of Leander

Voluntary Life and AD&D Insurance

Plan Year 2016-2017

Carrier	Humana		Dearborn National	Standard
Participation Requirement	Current Participation		63%	59%
Maximum Benefit	$500,000		$500,000	$500,000 (may not exceed 6 x annual salary)
Minimum Benefit	$10,000		$10,000	$10,000
Increments	$1,000		$10,000	$10,000
Guarantee Issue Amount EE	$100,000		$100,000	$150,000
Voluntary AD&D	Matches Life Amount		Matches Life Amount	Matches Life Amount
Spouse Benefit % of EE Amount	50%		50%	N/A
Spouse Benefit Maximum	$250,000		$250,000	$250,000
Spouse Guarantee Issue Amount	$25,000		$25,000	$25,000
Children Benefit Maximum	Birth to 14 Days: $0 15 Days up to 6 Months: $500 6 Months to Age 26: $5,000		Birth to 14 Days: $0 15 Days up to 6 Months: $500 6 Months to Age 26: $5,000	$5,000
Age Reductions	35% at Age 65 55% at Age 70 70% at Age 75 80% at Age 80 85% at Age 85+		35% at Age 65 55% at Age 70 70% at Age 75 80% at Age 80 85% at Age 85+	35% at Age 65 55% at Age 70 70% at Age 75 80% at Age 80 85% at Age 85+
Waiver of Premium	Included		Included	Included
Portability	Included		Included	Included
Accelerated Benefit	Included		Included	Included
One-Time Open Enrollment	Not Included		Included	Included
Grandfather Current Participants	N/A		Included	Included
Rate Guarantee	Until 10/1/2017		24 Months	24 Months
	Current	Renewal		
Rates per $1,000 (Excludes AD&D)	EE & Spouse	EE & Spouse	EE & Spouse	EE & Spouse
<25	$0.050	$0.050	$0.050	$0.040
25-29	$0.050	$0.050	$0.050	$0.040
30-34	$0.050	$0.050	$0.050	$0.040
35-39	$0.070	$0.070	$0.070	$0.060
40-44	$0.130	$0.130	$0.130	$0.110
45-49	$0.250	$0.250	$0.250	$0.220
50-54	$0.370	$0.370	$0.370	$0.340
55-59	$0.640	$0.640	$0.640	$0.600
60-64	$1.090	$1.090	$1.090	$1.000
65-69	$1.920	$1.920	$1.920	$1.600
70-74	$2.970	$2.970	$2.970	$2.500
75-79	$4.970	$4.970	$4.970	$4.200
80-84	$8.130	$8.130	$8.130	$5.170
85-89	$13.270	$13.27	$13.270	$5.170
90-94	$20.320	$20.32	$20.320	$5.170
95+	$59.010	$59.01	$59.010	$5.170
AD&D Rate per $1,000	$0.020	$0.020	$0.020	$0.020
Child(ren) Rate per $1,000	$0.85	$0.85	$0.17	$0.18
Child(ren) AD&D Rate per $1,000	N/A	N/A	$0.02	$0.02
Commission	0%		0%	0%
Solvency Rating	A-		A+	A

NOTE: If a carrier change is desired, all employees not actively at work must be disclosed prior to the transfer of coverage.

City of Leander

Voluntary Short Term Disability Insurance

Plan Year 2016-2017

Carrier		Dearborn National
[redacted]		

Participation Requirement		Current Participation
Benefit		60%
Weekly Maximum		$750
Elimination Period		14 days
Pre-existing Limitations		12/12
Duration		11 Weeks
Zero Day Residual		Included
One-Time Open Enrollment		Included
Rate Guarantee		Renewal Rates: 24 Months

		Current	Renewal
Rates: (per $10 of benefit)	# per tier		
<25	2	$0.280	$0.220
25-29	16	$0.300	$0.240
30-34	26	$0.280	$0.220
35-39	14	$0.260	$0.210
40-44	16	$0.280	$0.220
45-49	14	$0.290	$0.230
50-54	9	$0.360	$0.290
55-59	13	$0.480	$0.380
60-64	8	$0.590	$0.470
65-69	2	$0.610	$0.490
70+	0	$0.690	$0.550

Carrier		Dearborn National	
WEIGHTED AVERAGE		$0.34	$0.27
Change vs. Current $		N/A	-$0.07
Change vs. Current %		N/A	-20.55%

Commission		0%
Solvency Rating		A+

City of Leander

Voluntary Long Term Disability Insurance
Plan Year 2016-2017

Carrier		Dearborn National
[redacted]		

Participation Requirement		Current Participation
Benefit		60%
Monthly Maximum		$5,000
Elimination Period		90 days
Duration		5 Years
Own Occupation		24 Months
Zero Day Residual		Included
Pre-existing Limitations		12/24
Mental/Nervous Limitation		24 Months
Substance Abuse Limitation		24 Months
Other Subjective Limits		24 Months
One-Time Open Enrollment		Included
Rate Guarantee		Renewal Rates: 24 Months

		Current	Renewal
Rates: (per $100 of payroll)	# per tier		
< 25	6	$0.11	$0.09
25-29	24	$0.13	$0.10
30-34	28	$0.18	$0.14
35-39	26	$0.25	$0.20
40-44	28	$0.35	$0.28
45-49	16	$0.53	$0.42
50-54	11	$0.78	$0.62
55-59	15	$1.14	$0.91
60-64	9	$1.90	$1.52
65-69	2	$1.90	$1.52
70+		$1.90	$1.52

Carrier		Dearborn National	
WEIGHTED AVERAGE		$0.49	$0.39
Change vs. Current $		N/A	-$1.51
Change vs. Current %		N/A	-79.65%

Commission		0%
Solvency Rating		A+

Volume	Age		
3500	<25	$3.85	$3.15
3500	25-29	$4.55	$3.50
3500	30-34	$6.30	$4.90
3500	35-39	$8.75	$7.00
3500	40-44	$12.25	$9.80
3500	45-49	$18.55	$14.70
3500	50-54	$27.30	$21.70
3500	55-59	$39.90	$31.85
3500	60-64	$66.50	$53.20
3500	65-69	$66.50	$53.20
3500	70+	$66.50	$53.20

Accident Plan

	CURRENT	PROPOSED
	Allstate Benefits	Allstate Benefits-Proposed
Initial Hospitalization	$1,000	$1,000
Daily Hospital	$200	$200
Appliances	$250	$250
Fracture / Dislocation	up to $4,000 / up to $4,000	up to $4,000 / up to $4,000
Portability	Yes (Active)	Yes (Active)
Termination of Coverage	Guaranteed Lifetime	Guaranteed Lifetime
Wellness	$50 Physician Benefit (any reason)	$50 Physician Benefit (any reason)
Employee Only	$12.52	$8.48
Employee + Spouse	$18.36	$19.50
Employee + Children	$25.26	$24.51
Family	$31.58	$31.61

Cancer Plan

	CURRENT	PROPOSED
	Allstate Benefits	Allstate Benefits
Wellness Benefit	$100	$100
Initial Diagnosis	$3,000	$3,000
Hospital Confinement	$200	$200
Surgery	Up to $4,500 Scheduled	Up to $4,500 Scheduled
Radiation / Chemo	$7,500 / 12 months	$7,500 / 12 months
Portability	Yes	Yes
Renewability	Guaranteed Lifetime	Guaranteed Lifetime
Miscellaneous	29 other illnesses included	29 other illnesses included
Employee Only	$23.45	$23.45
Employee + Spouse	$36.51	$36.51
Employee + Children	$32.74	$32.74
Family	$45.79	$45.79

Arthur J. Gallagher & Co.
BUSINESS WITHOUT BARRIERS™

City of Leander

Total Cost Overview

Plan Year 2016-2017

	Current	Renewal	Proposed 1
Medical	BCBSTX	BCBSTX	UnitedHealthcare
Dental	Guardian	Guardian	UnitedHealthcare
Group Term Life and AD&D	Humana	Humana	Dearborn National
Monthly Costs			
Medical	$148,703	$173,709	$154,787
Dental	$8,570	$9,835	$8,142
Group Term Life and AD&D	$400	$400	$183
Total Monthly Cost	$157,672	$183,943	$163,112
Total Annual Cost	$1,892,068	$2,207,318	$1,957,350
Annual Cost Difference	N/A	$315,249	$65,282
Percentage (Increase/Decrease)	N/A	17%	3%

Executive Summary

July, 21, 2016

Subject: Consider Increase in City contribution and cost spread for Employee Health Benefits

Background:

In 2016, SHRM (Society for Human Resource Management) conducted an Employee Job Satisfaction survey. "Benefits" was the third most important job satisfaction contributor below "Respectful treatment of all employees" which came in first and "compensation pay" ranking second. Benefits have been in the top five contributors to job satisfaction since 2002.

Included in the SHRM survey, the report stated "It is undeniable that compensation/pay, benefits and job security all shape the degree to which employees are satisfied; however, it is also noteworthy to mention that the extent of their importance fluctuates as a result of external factors such as changing economic conditions.

Alleviating financial burdens may have a positive impact on employees' ability to focus and thus improve the quality of their work.

While the rates we obtained from our Employee Health Benefits bids this year were competitive, the City's goal is to find the right mix of employee benefits that satisfy the personal and financial needs of the current and future workforce, given the high cost of health care increasing the city's contribution towards benefits costs is the right thing to do for our employees, and it improves our position in the market for attracting and retaining top talent.

Below is additional confirmation data to support a recommendation for the City to increase their contribution % for medical and dental.

Central Texas Benchmark: This study was conducted by our benefits consultants, Gallagher Benefits Services, and illustrates various public sector medical plan comparisons within the Central Texas region. While the actual organizations' names are not disclosed, it does highlight the differences in the plans. Our city is the 6th block down. By comparison, we rank on the more expensive side for "deductibles", "Out of Pocket Max", "Co-pays", and "Employer Family Contributions" factors.

Case Studies: The City's recruiting efforts are becoming more problematic for quality candidates accepting positions due to our high cost of premiums for dependents, and medical factors as described above. Also during employee orientation, the Human Resources department is often challenged by new hires as to "why" our medical is not competitive. Attached are just some excerpts of conversations between HR and new hires. As you read each of the case studies, you will notice that our employee base is becoming much savvier in weighing the pros and cons to work for the City by determining their medical costs in comparison to their salaries.

Medical & Pharmacy Loss Ratio**:** As you review the Medical & Pharmacy Loss Ratio chart, over the last 12 months, our current medical provider received $1,677,725 in premiums and paid out $1,578,994 in claims, which means the provider paid out almost the same amount as they received in.

As you look out on the horizon for the upcoming year(s), the outlook will probably not improve due to the medical conditions of the high claimants, which will be ongoing.

Recommendation Summary:

Staff recommends:

In years past, the City has contributed 30% of dependent coverage premiums for medical and dental. However, with our Medical claims ratios being extremely high, and the City's goal to attract and retain quality employees, it is recommended for the City to begin contributing at a rate of 40% versus 30%, for both medical and dental.

40% City Supplement Medical							
Mid	**City**	**EE**	**Biwkly**	**Low HSA**	**City**	**EE**	**Biwkly**
EO	517.04	0.00	**0.00**	**EO**	406.79	0.00	**0.00**
ES	802.46	428.12	214.06	**ES**	697.50	270.68	**135.34**
EC	719.74	304.04	152.02	**EC**	632.41	173.06	**86.53**
EF	934.82	626.68	313.34	**EF**	801.64	426.89	**213.45**

City Medical Contribution at 40% would be approximately $ 1,533,797.90

40% City Supplement Dental							
DHMO	**City**	**EE**	**Biwkly**	**Indem.**	**City**	**EE**	**Biwkly**
EO	9.45	0.00	0.00	EO	9.45	19.12	9.56
ES	12.05	3.90	1.95	ES	28.58	28.70	14.35
EC	15.342	8.84	4.42	EC	32.93	35.21	17.61
EF	16.994	11.32	5.66	EF	44.41	52.45	26.23

City Dental Contribution at 40% would be approximately $ 46,762.49

30% City Supplement Medical							
Mid	**City**	**EE**	**Biwkly**	**Low HSA**	**City**	**EE**	**Biwkly**
EO	517.04	0.00	**0.00**	**EO**	406.79	0.00	**0.00**
ES	731.10	499.48	249.74	**ES**	652.38	315.80	**157.90**
EC	669.06	354.72	177.36	**EC**	603.57	201.90	**100.95**
EF	830.38	731.12	365.56	**EF**	730.49	498.04	**249.02**

City Medical Contribution at 30% would be approximately $ 1,475,873.37

30% City Supplement Dental							
DHMO	**City**	**EE**	**Biwkly**	**Indem.**	**City**	**EE**	**Biwkly**
EO	9.45	0.00	0	EO	9.45	19.12	9.56
ES	11.40	4.55	2.28	ES	23.80	33.48	16.74
EC	13.87	10.31	5.16	EC	27.06	41.08	20.54
EF	15.11	13.20	6.60	EF	35.67	61.19	30.59

City Dental Contribution at 30% would be approximately $ 40,997.02

Financial Consideration:

City Combined Cost for Medical and Dental @ 40% is $1,580,560.39

City Combined Cost for Medical and Dental @ 30% is $ 1,516875.39

Difference is $ 63, 685.00.

Attachments:

- Central Texas Benchmark Study
- Case Studies
- Medical & Pharmacy Loss Ratio

Prepared by: Cindy Hignite, Human Resources Director

CENTRAL TEXAS BENCHMARK

PUBLIC SECTOR MEDICAL PLANS - MID TO LARGE MARKET EMPLOYERS

			Deductible		Co-Insurance		OOP Max		Co-payment		Employer Contribution	
	Group Size	Group Plans	Indiv	Family	In Ntwk.	Out of Ntwk.	Indiv	Family	Primary Care	Specialist Care	Employee	Family
Quasi-Gov't	203	POS	$250	$500	90%	60%	$1,750	$3,500	$20		100%	90%
City		HMO	$0	$0	Copays		$3,500	$7,000	$25	$45	95%	50%
		PPO	$500	$1,500	80%	60%	$2,500 per covered person		$25	$35	100%	50%
City	75	PPO[1]	$3,000	$6,000	70%	50%	$6,000	$12,000	$30	$60	100%	60%
City	213	High PPO	$3,000	$6,000	100%	50%	$1,000	$2,000	$30	$50	87%	74%
	254	Low PPO (HSA)[2]	$3,000	$6,000	90%	50%	$1,000	$2,000	90%		98%	84%
City	85	HMO	$2,600	$5,000	80%		$6,350	$12,700	80%	80%	100%	50%
City	190	Mid PPO	$3,000	$9,000	80%	60%	$5,600	$10,200	$40	$50	100%	53%
	12	Low PPO (HSA)[4]	$3,000	$6,000	80%	60%	$6,350	$12,700	80%		100%	57%
City	134	POS	$1,500	$3,000	80%	50%	$5,000	$10,000	$30	$50	100%	45%
State		PPO	$0	$0	80% [5]	60%	$2,000 per person		$25	$40	100%	73%
		HMO	$0	$0	80% [5]		$2,000 per person		$25	$40	100%	73%
City	212	High HMO	$750	$1,500	90%		$2,000	$4,000	$25	$40	90%	0%
	158	Low HMO	$2,500	$5,000	80%		$2,000	$4,000	$30	$40	100%	0%

Prepared by: Gallagher Benefit Services, Inc., Austin TX

County	117	High Plan	$500	$1,000	90%	n/a	$3,750	$7,500	$30		81%	35%
	831	Mid Plan	$1,000	$2,000	80%	n/a	$3,750	$7,500	$30		100%	43%
	66	Base Plan	$1,250	$2,500	80%	n/a	$3,750	$7,500	$20		100%	45%
County		EPO (HMO)	$300	$750	100%	n/a	$3,500	$7,000	$35	$50	85%	66%
		PPO	$500	$1,250	90%	70%	$3,500	$7,000	$30	$45	95%	80%
		Co-Insured EPO (HMO)	$700	$1,750	80%	n/a	$3,500	$7,000	$25	$40	100%	85%
County [6]	720	Aetna ACO Seton	$1,750	$3,500	80%	n/a	$5,500	$11,000	$30	$45	93%	80%
	480	Aetna Choice POS	$1,750	$3,500	80%	60%	$5,500	$11,000	$30	$45	64%	60%
Public Transit [7]	80	Core PPO	$500	$1,000	80%	50%	$3,000	$6,000	$30	$40	95%	84%
	148	Buy UP PPO	$300	$600	90%	60%	$1,500	$3,000	$25		90%	82%
AVERAGE			$1,319	$2,806	74%	57%	$3,242	$6,442	$25	$30	95%	59%

[1] Employer reimburses remaining deductible/coinsurance once employee pays first $750 of deductible. Employer reimburses employee for $10 per copay.

[2] Employer contributes $1,000 per year into each employee's Health Savings Account.

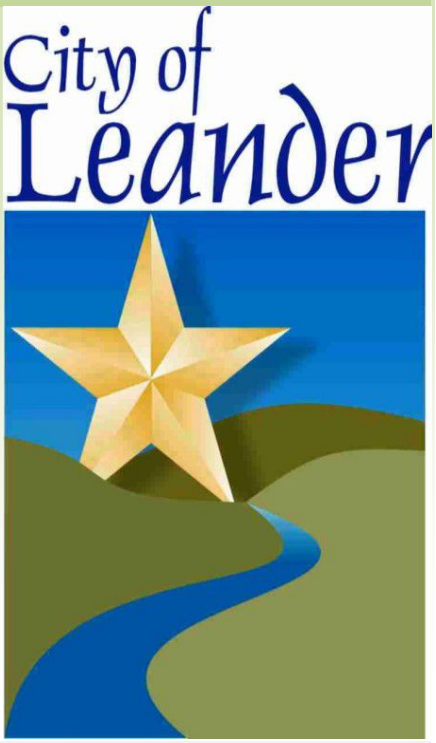
[3] Employer contributes $1800 per year into each employee's Health Savings Account.

[4] Employer contributes $750 per year into each employee's Health Savings Account.

[5] Inpatient hospital additional $150 copay per day to $750 max. Copay max is $2,250 per person per year.

[6] Employees will pay 50% more if employee/spouse use tobacco.

[7] Employees will pay approximately 3% more if they do not complete biometric screening.



Case Studies: City of Leander Medical Benefits Cost Comparisons

Case Study #1

2016 New Hire: The City of Leander made a candidate a competitive salary & benefits offer. The potential employee was pleased with offer but wanted to do research on our medical benefits. We provided a benefits book, with premiums, plan design, etc. Following was the response received from the candidate:

As you know, I asked my wife xxx to run the numbers regarding insurance costs (both the difference in premiums and what we would have spent over the last plan year had our family been participants in either of the Leander insurance plans), and the differences are ***fairly significant.*** *Since both the city and UT System use BCBSTX PPO, she was able to use the allowable amount from "in network" EOBs to see exactly what the cost difference would be in a plan year. Using the "mid-plan" (the closest plan to what I currently have and the less expensive of the two when xxx ran the numbers), I would have experienced an approximate* ***$4850 direct cost increase in premiums and out of pocket expenses*** *if I had been on the "mid plan" in PY15. While the offered rate of xx an hour is generous as a base rate compared to my current base rate, I would experience a net pay decrease with the extra health insurance costs.* ***While I am excited about this position, it would be extremely difficult for me to accept such a cut in net pay.*** *I would like you to consider a starting rate of xx that would help mitigate* ***the extra medical expense cost*** *I would experience by switching employers.*

We made a revised offer letter with a higher salary to reflect our increased medical costs and he accepted. We're very happy the candidate was willing to be up front with us so that we could address his needs. He has become a valued team member; it would have been a shame to lose him.

"While the offered rate of xx an hour is generous as a base rate compared to my current base rate, I would experience a net pay decrease with the extra health insurance costs."

Case Study #2

2015 New Hire:

This employee came from another municipal government in the area (City of Georgetown). She lived in Leander and so commutability and working for her community were big factors in her consideration to change employers. She has an MBA and directly related experience in Incode, so she was the perfect fit candidate. We offered her a ~5% increase to come to the city, which she accepted. However, her health care premiums (employee plus child coverage) were approximately double her previous rates. Increased medical premiums consumed the entire raise, and when she factored in Leander's higher deductibles (for birth of baby and child with tubes), **she took a pay cut to come to Leander.**

City of Leander	*City of Georgetown*	*City of Cedar Park*
Employee + Child Cost	*Employee + Child Cost*	*Employee + Child Cost*
$339.18/month	***$137.00/month***	***$279.46/month***

Benchmarking Data:

Deductibles/ Out of Pocket Maximums & Co-Insurance

(Current Plan Year)

City of Leander PPO Plan
Deductible :
$3,000 individual/**$9,000** family
Out of Pocket Maximum:
$5,600 individual/**$10,**200 family
Co-Insurance:
80% after deductible

City of Georgetown PPO Plan
Deductible :
$3,000 individual**/$6,000** family
Out of Pocket Maximum:
$4,000 individual/**$8,000** family
Co-Insurance:
100% after deductible

City of Cedar Park HNO Plan
Deductible :
$2500 individual**/$5000** family
Out of Pocket Maximum:
$4500 individual/**$9000** family
Coinsurance:
80% after deductible

Case Study #3

2015 New Hire:

Skilled labor is in shortage in the Austin area. We were lucky to find a skilled utilities employee in late 2015. He had multiple children whom he had covered under medical insurance at his previous job in the private sector, which was affordable ($300/mo). Due to City of Leander premiums and his salary, he could not afford to cover the whole family. (Annual salary $32,500. Family coverage under mid plan $8389 annual. 25.8% of his new hire annual income.) Thankfully, they qualified under the Medicare/Medicaid health coverage plan so he was able to obtain low cost medical coverage for his family.

He had the necessary utilities licenses and proved himself rapidly. Just three months later, he was promoted to Crew Leader. His new annual salary ($36,108) disqualified his oldest child from receiving Medicaid/Medicare coverage. However, the additional funds he received were not enough to actually add his family under the city's health plan. His oldest child is eligible for CHIPPRA health coverage through the state of Texas currently, but his wife remains uninsured.

Case Study #4

2015 New Hire:

A police officer was hired in November 2015 and quit in December 2015, after just 3 weeks of employment, all spent in training (at a raw cost of ~$3,000 plus benefits + cost of recruitment/ background checks/new hire). Employee claimed he could not financially support his family and was shocked at the cost of medical coverage. He stated in his exit interview that due to costs, we should post benefits online for potential new employees. (His medical costs alone for employee plus family were $8389/annually; total benefits costs $9564/annually) With a family of 5 at an annual income of $52,000 - $9500 premium costs - ~$3000 TMRS = $39,500 before taxes. Benefits premiums (excluding co-pays, deductibles, and co-insurance) accounted for over 19% of his income. For many other lower-paid employees, that % is much higher.

City of Leander

200 W. Willis
Leander, TX 78641

Find us on the Web:
https://www.leandertx.gov/hr

Human Resources:
Cindy Hignite, Dir. of Human Resources, chignite@leandertx.gov, ext. 2711, 512.528.2711
Tina Ritter, Human Resources Manager, tritter@leandertx.gov, ext. 2708, 512.528.2708

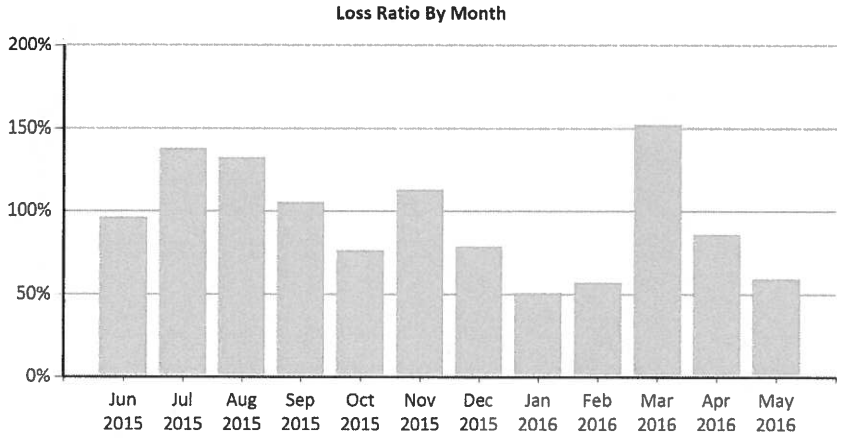
Case Study #5

The City of Leander recently hired two new police officers to begin work on July 25, 2016. This highly qualified officer (master's degree, many years of PD experience) is relocating to Austin, Texas, area and already experiencing the housing market sticker shock. He and his family will be living with the in-laws while they look for affordable housing. When learning of our medical insurance costs for family coverage (about $350/per pay period for family coverage), below was his response:

"Wow, I know it's expensive, but didn't expect it to be that bad. Sorry, we'll make it work. We're just used to paying about $80 every other pay, so this scale is quite a shock…"

Report Description: Provides the medical and pharmacy loss ratio and claims for the most recent reported twelve months.

Month	Premium	Medical Paid Claims	Pharmacy Paid Claims	Capitation	Total Paid	Medical and Pharmacy Loss Ratio
Jun 2015	$124,354	$101,148	$18,720		$119,868	96.4%
Jul 2015	$122,780	$142,663	$26,729		$169,392	138.0%
Aug 2015	$123,669	$143,274	$20,179		$163,453	132.2%
Sep 2015	$122,656	$107,547	$21,853		$129,401	105.5%
Oct 2015	$143,265	$73,960	$36,072		$110,032	76.8%
Nov 2015	$142,770	$134,622	$26,744		$161,366	113.0%
Dec 2015	$149,681	$82,943	$35,068		$118,012	78.8%
Jan 2016	$149,879	$54,208	$21,839		$76,047	50.7%
Feb 2016	$148,703	$54,878	$30,259		$85,137	57.3%
Mar 2016	$149,701	$205,905	$22,108		$228,013	152.3%
Apr 2016	$149,145	$100,635	$28,060		$128,695	86.3%
May 2016	$151,122	$70,378	$19,201		$89,578	59.3%
Summary	$1,677,725	$1,272,161	$306,833		$1,578,994	94.1%



Key Findings: The medical and pharmacy loss ratio for the most recent reported month was 34.8% lower than the average of the most recent reported twelve months, which was 94.1%.

Executive Summary

July 21, 2016

Council Agenda Subject: Resolution Authorizing Amendment to the City of Leander Personnel Policy.

Background:

Currently the City contributes 30% towards the retiree & their dependents' premiums. As the City strives to improve its contribution amounts for its current and future employees, adjustments must be made to the retiree programs now so adequate resources can be dedicated to its current workforce. This change would eliminate any City retiree premium contributions.

The changes to the Section 10.05 Insurance of the personnel policy manual will state that retirees and their dependents are eligible for the City group medical policy until the employee becomes Medicare Eligible. Upon reaching that eligibility, the retiree and dependents are no longer eligible for the City's group medical policy. Also, the City will no longer make any premium contributions towards a retiree's total premium.

Origination: Cindy Hignite, HR Director

Financial Consideration: Estimated impact: At this time, there are no retirees. Currently the City would contribute 30% to the retirees and their dependents. It is recommended that a revision be approved for the City to no longer make any contributions to the premiums. Without this change, the costs would include dollars paid by the City for their portion of premium contributions, and potential increased medical and pharmacy claims, which will impact the City's Loss Ratio as a whole.

Recommendation: Approval

Attachments:
- Resolution

Prepared by: Cindy Hignite, HR Director

Resolution _____

RESOLUTION AMENDING THE CITY OF LEANDER PERSONNEL POLICY

WHEREAS, Article 9.03.003 of the Code of Ordinances states that modifications and amendments to the City's personnel policies shall be approved by the City Council by resolution, and;

WHEREAS, the City Manager has recommended certain amendments to the current Personnel Policy now in effect, and;

WHEREAS, the City Council finds these changes to be beneficial.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LEANDER, TEXAS THAT:

Section 10: The following section in the City of Leander Personnel Policy is hereby amended.

Article 10. Benefits

Section 10.05. Insurance. Life, health, and dental insurance are provided to all regular full-time employees through a group insurance policy. Life, health, and dental insurance are not provided to temporary, seasonal, or part-time employees. This insurance is provided by the City for the employee at no cost to the employee. At the employee's option and expense, dependent insurance coverage is also available. The City may contribute a percentage of the supplemental dependent coverage for health and/or dental insurance as provided for in the City's operating budget. In addition to any benefits provided by State Law, Retirees may continue their health benefits with certain limitations to retirees and their dependents that were covered under the health plan at the time of retirement.

The City will ~~contribute a percentage, not to exceed 30%, to the retiree's total premium, as provided for in the City's operating budget~~ not supplement the retiree's total premium. The coverage for the retiree and dependents may continue until the retiree reaches Medicare eligibility. At that point, the retiree and dependents are no longer eligible for City group coverage and may continue coverage through Medicare or through the Consolidated Omnibus Budget Reconciliation Act (COBRA) in accordance with federal and state laws. ~~Coverage may be continued with certain limitations upon termination other than retirement provided the premiums are paid entirely by the employee. These limitations are consistent with the Consolidated Omnibus Budget Reconciliation Act (COBRA).~~

Section 2. <u>Effective Immediately</u>. This resolution shall be effective immediately from and after its passage.

Section 3. <u>Open Meetings</u>. It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, *Chapt. 551, Tex. Gov't. Code*.

PASSED AND APPROVED this the 21st day of July, 2016

Attest: **THE CITY OF LEANDER, TEXAS**

_____ _____

Debbie Haile, City Secretary Christopher Fielder, Mayor

AGENDA ITEM # 17

Executive Summary

July 21, 2016

Council Agenda Subject: Water Use and Supply Update

Background: As of June 30, 2016, Combined Water Storage in both Lakes Travis and Buchanan increased to 1,971,055 (98% Full) compared to 2,038,873 Acre-feet (over 100% Full) at the end of May. The Combined Storage on June 30, 2015 was 1,416,960 Acre-feet. The attached Table and Graph compare recent water use in June 2016 to June 2015.

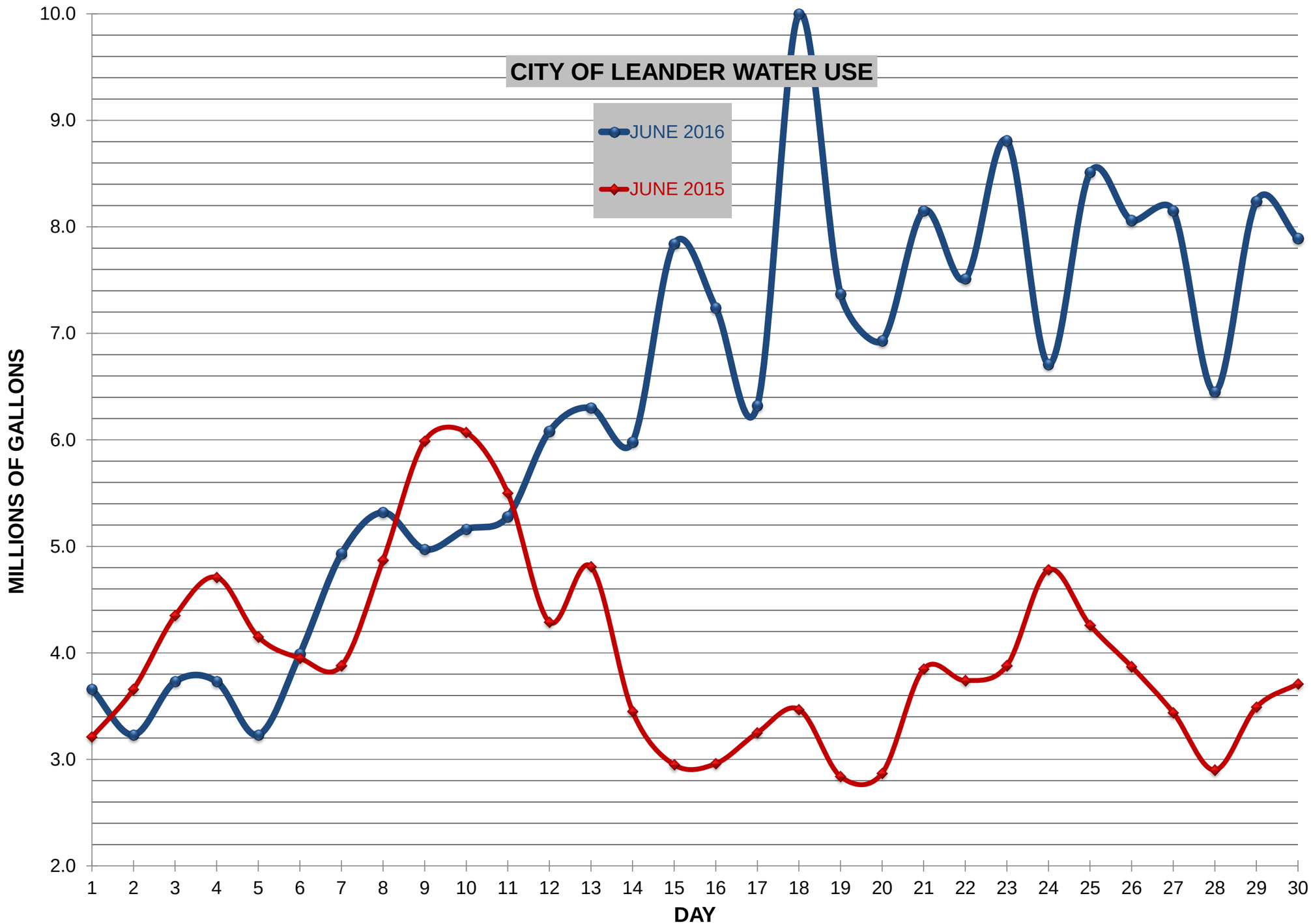
Origination: Patrick A. Womack, P.E. Public Works Director

Financial Consideration: None

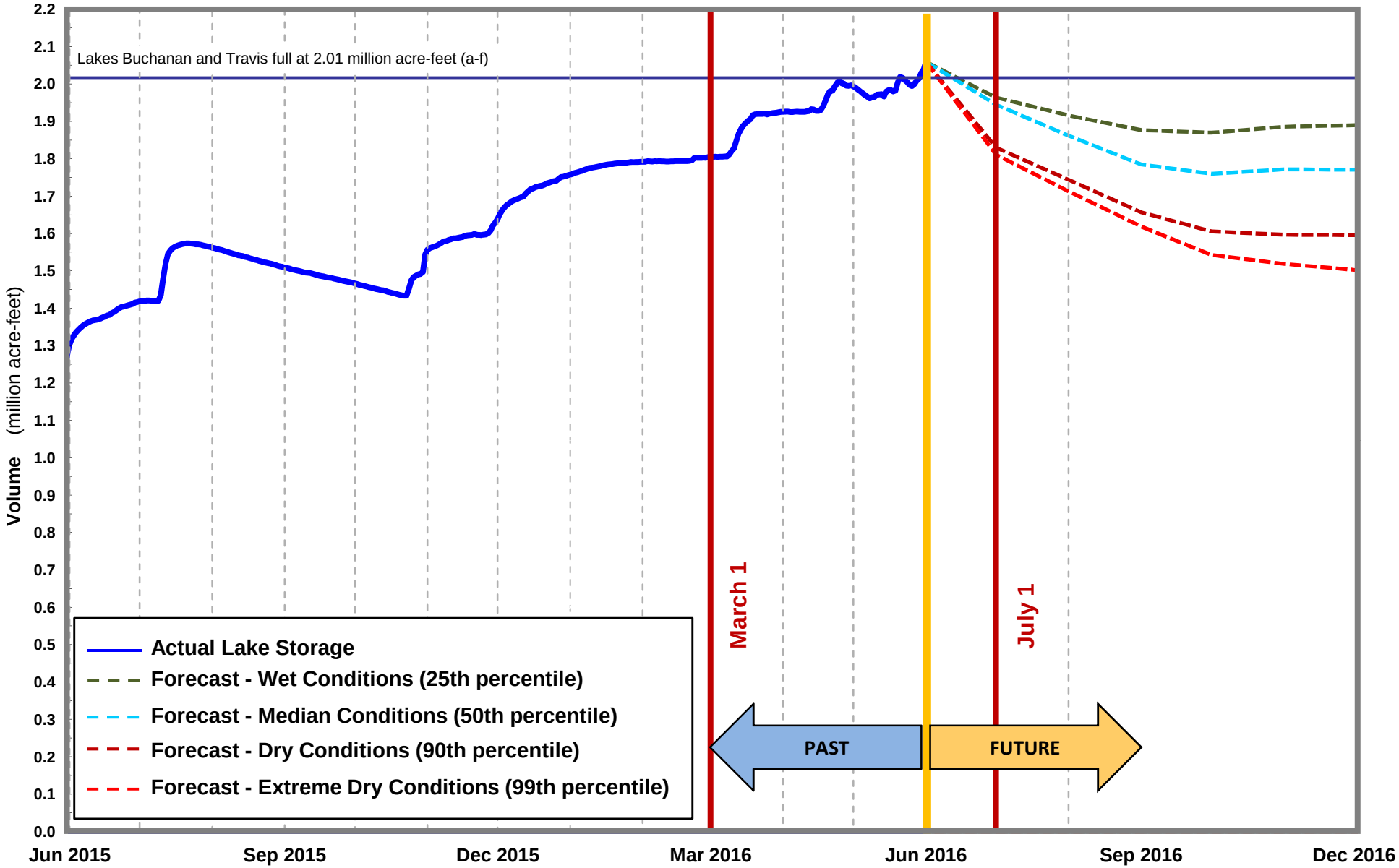
Recommendation: None

Attachments: City of Leander Water Use Table & Graph

Prepared by: Patrick A. Womack, P.E. Public Works Director


CITY OF LEANDER WATER USE
JUNE 2016
JUNE 2015
MILLIONS OF GALLONS
10.0
9.0
8.0
7.0
6.0
5.0
4.0
3.0
2.0
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30
DAY

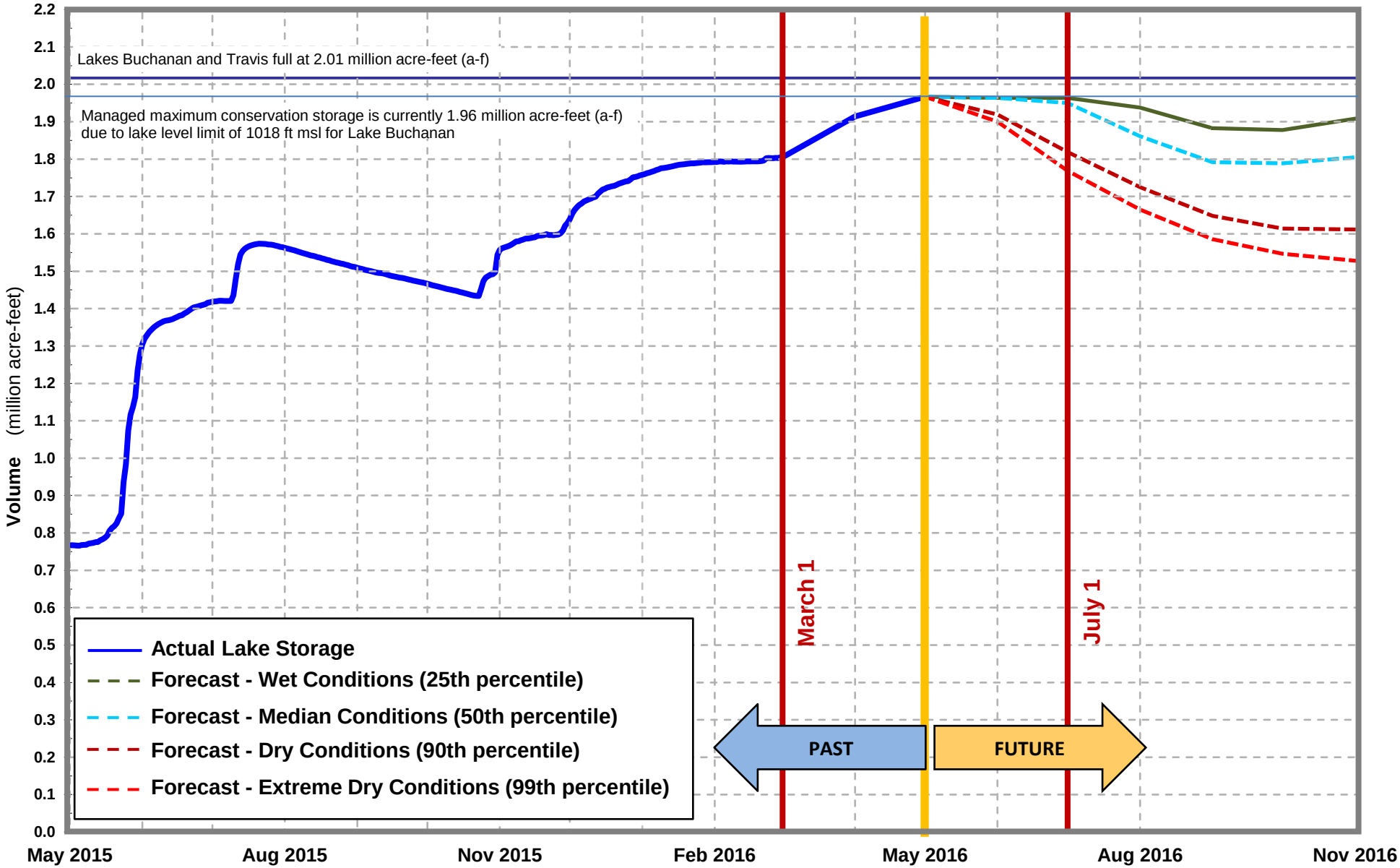
Lakes Buchanan and Travis
Total Combined Storage Projections



Note: One acre-foot equals 325,851 gallons.

Date: June 1, 2016

Lakes Buchanan and Travis
Total Combined Storage Projections *



Note: One acre-foot equals 325,851 gallons. **Date: May 1, 2016**

* Based on results from the draft stochastic model under development to reflect provisions of the 2015 Water Management Plan.