

**NOTICE OF REGULAR MEETING
CITY OF SOUTH PADRE ISLAND
CITY COUNCIL MEETING**

NOTICE IS HEREBY GIVEN THAT THE CITY COUNCIL OF THE CITY OF SOUTH PADRE ISLAND, TEXAS, WILL HOLD A REGULAR MEETING ON:

WEDNESDAY, MAY 15, 2019
5:30 P.M. AT THE MUNICIPAL BUILDING,
CITY COUNCIL CHAMBERS, 2ND FLOOR
4601 PADRE BOULEVARD, SOUTH PADRE ISLAND, TEXAS

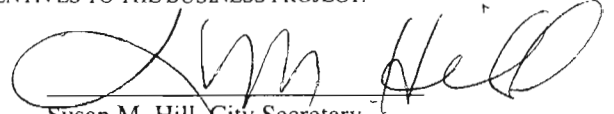
1. Call to order
2. Pledge of Allegiance and Texas Pledge
3. **Public Comments and Announcements:** *This is an opportunity for citizens to speak to Council relating to agenda or non-agenda items. Speakers are required to address Council at the podium and give their name before addressing their concerns. [Note: State law will not permit the City Council to discuss, debate or consider items that are not on the agenda. Citizen comments may be referred to City Staff or may be placed on the agenda of a future City Council meeting]*
4. **Presentations and Proclamations:**
 - a. Presentation: South Padre Island Fire Department K-9 Arson Dog Program
5. **Approve Consent Agenda:**
 - a. Approve minutes of April 17, 2019 workshop and regular meeting along with May 1, 2019 regular meeting. (S. Hill)
 - b. Approve invoices for payment. (Gimenez)
 - c. Approve Quarterly Investment Report for quarter ending March 31, 2019 as presented by Valley View Consulting. (Gimenez)
 - d. Approve Resolution No. 2019-21 for the temporary closure of Highway 100 for the 5th Annual 2019 Summer Longest Causeway Run and Fitness Walk on Saturday, June 1, 2019. (Huffman)
 - e. Approve a budget amendment to allocate grant funds for training in the amount of \$1,050. (Fowler)
 - f. Approve second and final reading of Ordinance No. 19-08 amending Chapter 20 (Zoning), Section 20-11(D) to regulate the construction and operation of temporary structures. (Travis)
 - g. Approve excused absence for Council Member Eva-Jean Dalton from the May 15, 2019 City Council meeting. (Dalton)
6. Discussion and action to approve Resolution No. 2019-22 canvassing the returns and declaring the results of the May 4, 2019 Special Election for the purpose to fill a vacancy in the unexpired term of Mayor. (Hill)

7. Discussion and action to approve Order of Runoff Election for Municipalities for June 29, 2019 for the purpose to fill a vacancy in the unexpired term of Mayor. (Hill)
8. Discussion and action to approve Resolution No. 2019-23 establishing procedures for a runoff election to be held on June 29, 2019 for the purpose to fill a vacancy in the unexpired term of Mayor. (Hill)
9. Discussion and action to approve a payment plan request for Hotel Occupancy Tax including penalties and applicable interest in the amount of \$21,064.43 due from Peninsula Island Resort & Spa. (Gimenez)
10. Presentation and discussion regarding the establishment of the Sea Turtle Art Trail. (Caum)
11. Presentation and discussion regarding the implementation of a courtesy 'Combat Wounded' parking program. (Flores/Ricco)
12. Discussion and action to approve PR 100 (Padre Boulevard) Improvements Change Order #7 – Pavement Markings. (Sanchez)
13. Discussion and possible action to approve purchase of a Dive-Rescue and Firefighting boat not to exceed \$120,000 with Beach Maintenance funds. (Fowler)
14. Discussion and action to approve a budget amendment in the amount of \$16,100 for replacement of outboard motor for Police boat (M-12 Majek Illusions). (Sanchez)
15. Discussion and action to approve Resolution No. 2019-24 suspending the June 5, 2019 effective date of AEP Texas Inc.'s requested rate change to permit the city time to study the request and to establish reasonable rates, approving cooperation with the cities served by AEP Texas and authorizing intervention in AEP Texas Inc.'s requested rate change proceedings before the commission, hiring Lloyd Gosselink attorneys and consulting services to negotiate with the company and direct any necessary litigation and appeals requiring reimbursement of cities' rate case expenses. (Smith)
16. EXECUTIVE SESSION: Closed session pursuant to Section 552.071 of the Texas Government Code on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter, regarding options in addressing abandoned, blighted or substandard structures and properties.
17. Discussion and possible action regarding options in addressing abandoned, blighted or substandard structures and properties. (Ricco)
18. Adjourn.

WE RESERVE THE RIGHT TO GO INTO EXECUTIVE SESSION REGARDING ANY OF THE ITEMS POSTED ON THIS AGENDA, PURSUANT TO SECTIONS 551.071, CONSULTATION WITH ATTORNEY; 551.072, DELIBERATIONS ABOUT REAL PROPERTY; 551.073, DELIBERATIONS ABOUT GIFTS & DONATIONS; 551.074, PERSONNEL MATTERS; 551.076, DELIBERATIONS ABOUT SECURITY DEVICES;

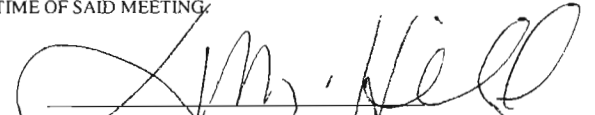
AND/OR 551.087, DISCUSS (1) COMMERCIAL OR FINANCIAL INFORMATION RECEIVED FROM A BUSINESS PROSPECT WITH WHICH THE CITY IS CONDUCTING NEGOTIATIONS, OR (2) FINANCIAL OR OTHER INCENTIVES TO THE BUSINESS PROJECT.

DATED THIS THE 10TH DAY OF MAY 2019


Susan M. Hill, City Secretary

I, THE UNDERSIGNED AUTHORITY, DO HEREBY CERTIFY THAT THE ABOVE NOTICE OF MEETING OF THE GOVERNING BODY OF THE CITY OF SOUTH PADRE ISLAND, TEXAS IS A TRUE AND CORRECT COPY OF SAID NOTICE AND THAT I POSTED A TRUE AND CORRECT COPY OF SAID NOTICE ON THE BULLETIN BOARD AT CITY HALL/MUNICIPAL BUILDING ON **MAY 10, 2019**, AT/OR BEFORE 6:00 P.M. AND REMAINED SO POSTED CONTINUOUSLY FOR AT LEAST 72 HOURS PRECEDING THE SCHEDULED TIME OF SAID MEETING.




Susan M. Hill, City Secretary

THIS FACILITY IS WHEELCHAIR ACCESSIBLE, AND ACCESSIBLE PARKING SPACES ARE AVAILABLE. REQUESTS FOR ACCOMMODATIONS OR INTERPRETIVE SERVICES MUST BE MADE 48 HOURS PRIOR TO THIS MEETING. PLEASE CONTACT BUILDING OFFICIAL, DAVID TRAVIS; ADA DESIGNATED RESPONSIBLE PARTY AT (956) 761-8103.

**CITY COUNCIL MEETING
CITY OF SOUTH PADRE ISLAND
CONSENT AGENDA**

MEETING DATE: May 15, 2019

ITEM DESCRIPTION

NOTE: All matters listed under Consent Agenda are considered routine by the City Council of the City of South Padre Island and will be enacted by one motion. There will not be separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and considered separately.

Items to be considered are:

- a. Approve minutes of April 17, 2019 workshop and regular meeting along with May 1, 2019 regular meeting. (S. Hill)
- b. Approve invoices for payment. (Gimenez)
- c. Approve Quarterly Investment Report for Quarter Ending March 31, 2019 as presented by Valley View Consulting. (Gimenez)
- d. Approve Resolution No. 2019- for the temporary closure of Highway 100 for the 5th Annual 2019 Summer Longest Causeway Run and Fitness Walk on Saturday, June 1, 2019. (Huffman)
- e. Approve a budget amendment to allocate grant funds for training in the amount of \$1,050. (Fowler)
- f. Approve second and final reading of Ordinance No. 19-21 amending Chapter 20 (Zoning), Section 20-11(D) to regulate the construction and operation of temporary structures. (Travis)
- g. Approve excused absence for Council Member Eva-Jean Dalton from the May 15, 2019 City Council meeting. (Dalton)

RECOMMENDATIONS/COMMENTS

Approve Consent Agenda

5-1

**CITY OF SOUTH PADRE ISLAND
CITY COUNCIL MEETING
AGENDA REQUEST FORM**

MEETING DATE: May 15, 2019

NAME & TITLE: Susan Hill, City Secretary

DEPARTMENT: City Manager's Office

ITEM

Approve the minutes of April 17, 2019 workshop and regular meeting along with May 1, 2019 regular meeting.

ITEM BACKGROUND

BUDGET/FINANCIAL SUMMARY

COMPREHENSIVE PLAN GOAL

LEGAL REVIEW

Sent to Legal: YES: _____ NO: X
Approved by Legal: YES: _____ NO: X

Comments:

RECOMMENDATIONS/COMMENTS

Approve Minutes

5-2

**MINUTES
CITY OF SOUTH PADRE ISLAND
CITY COUNCIL WORKSHOP**

WEDNESDAY, APRIL 17, 2019

I. CALL TO ORDER

The City Council Members of the City of South Padre Island, Texas held a workshop on Wednesday, April 17, 2019 at the Municipal Complex Building, 2nd Floor, 4601 Padre Boulevard, South Padre Island, Texas. Mayor Stahl called the meeting to order at 3:00 p.m. A full quorum was present: Mayor Dennis Stahl, Council Members Ken Medders, Jr., Kerry Schwartz, Joe Ricco, Alita Bagley and Eva-Jean Dalton.

City staff members present were Interim City Manager Randy Smith, Chief Financial Officer Rodrigo Gimenez, Public Works Director Alex Sanchez, Administrative Services Director Wendi Delgado, Fire Chief Doug Fowler, Environmental Health Director Victor Baldovinos, Interim Shoreline Management Director Kristina Boburka, CVB Director Ed Caum, Interim Chief of Police Claudine O'Carroll, Assistant Public Works Director Jon Wilson, Information Technology Director Mark Shellard, Building Official David Travis, Public Information Officer Angelique Soto, Police Lieutenant Juan Herrera, Police Sergeant Gilbert Silva, CVB Accountant Lori Moore and City Secretary Susan Hill.

II. PLEDGE OF ALLEGIANCE

Mayor Stahl led the Pledge of Allegiance and the Texas Pledge.

III. PUBLIC COMMENTS AND ANNOUNCEMENTS

None.

IV. DISCUSSION REGARDING MID-YEAR BUDGET REVIEW. (GIMENEZ)

- a. REQUIRED RESERVES**
- b. REVENUE HIGHLIGHTS**
- c. EXPENDITURE HIGHLIGHTS**
- d. FUND OVERVIEW**
- e. OUTLINE UPCOMING BUDGET PROCESS**

Chief Financial Officer Rodrigo Gimenez explained that the City is required by the Home Rule Charter, Section 5.08 to review the performance of the budget at mid-year. Rodrigo have an overview of the current budget and highlighted several areas, such as, compliance with required reserves, excess reserves available, funding for infrastructure, grant funding for equipment and maintenance plans.

V. ADJOURN.

5-3

There being no further discussion, Mayor Stahl closed the workshop at 3:37 p.m.

Susan M. Hill, City Secretary

APPROVED

Dennis Stahl, Mayor

DRAFT

**MINUTES
CITY OF SOUTH PADRE ISLAND
CITY COUNCIL REGULAR MEETING**

WEDNESDAY, APRIL 17, 2019

1. CALL TO ORDER

The City Council Members of the City of South Padre Island, Texas held a Regular Meeting on Wednesday, April 17, 2019 at the Municipal Complex Building, 2nd Floor, 4601 Padre Boulevard, South Padre Island, Texas. Mayor Stahl called the meeting to order at 5:30 p.m. A full quorum was present: Mayor Dennis Stahl, Council Members Ken Medders, Jr., Kerry Schwartz, Joe Ricco, Alita Bagley and Eva-Jean Dalton.

City staff members present were Interim City Manager Randy Smith, Chief Financial Officer Rodrigo Gimenez, Public Works Director Alex Sanchez, Administrative Services Director Wendi Delgado, Fire Chief Doug Fowler, Interim Shoreline Management Director Kristina Boburka, CVB Director Ed Caum, Interim Chief of Police Claudine O'Carroll, Assistant Public Works Director Jon Wilson, Information Technology Director Mark Shellard, Public Information Officer Angelique Soto and City Secretary Susan Hill.

2. PLEDGE OF ALLEGIANCE AND TEXAS PLEDGE

Mayor Stahl led the Pledge of Allegiance and the Texas Pledge.

3. PUBLIC COMMENTS AND ANNOUNCEMENTS

Public comments and announcements were given at this time.

4. PRESENTATIONS AND PROCLAMATIONS:

- A. PROCLAMATION: EARTH DAY**
- B. PROCLAMATION: MOTORCYCLE SAFETY AND AWARENESS MONTH**
- C. PROCLAMATION: ADMINISTRATIVE PROFESSIONALS DAY**
- D. PRESENTATION: RECOGNITION OF SUPPORT FOR MAYOR DENNIS STAHL AND FORMER MAYOR BHARAT (BARRY) PATEL**

5. APPROVE CONSENT AGENDA:

Council Member Bagley made a motion, seconded by Council Member Ricco to approve the Consent Agenda. Motion carried on a unanimous vote.

- A. APPROVE MINUTES OF APRIL 3, 2019 REGULAR MEETING. (S. HILL)**
- B. APPROVE INVOICES FOR PAYMENT. (GIMENEZ)**

5-5

Invoices approved for payment were paid by General Fund checks numbered 144119 through 144269 and EFT payments totaling \$839,530.57.

- C. APPROVE RESOLUTION NO. 2019-13 TO DECLARE VARIOUS ASSETS AS SURPLUS PROPERTY AND AUTHORIZE THE INTERIM CITY MANAGER TO DISPOSE OF SUCH PROPERTY IN A MANNER THAT IS BENEFICIAL TO THE CITY AND IT ACCORDANCE WITH THE FIXED ASSETS POLICY. (GIMENEZ)**

A true and correct copy of said Resolution was placed in the City's Resolution Book and entitled Resolution No. 2019-13, and, by reference hereto, included in these Minutes as if fully set out and spread upon the pages of the Minutes Book.

- D. APPROVE RESOLUTION NO. 2019-14 FOR TEMPORARY CLOSURE OF HWY. 100 AND PARTIAL CLOSURE OF THE QUEEN ISABELLA CAUSEWAY FOR THE PEDAL TO PADRE BIKE RIDE ON MAY 5, 2019 AND AUTHORIZE THE INTERIM CITY MANAGER TO SIGN THE AGREEMENT WITH TEXAS DEPARTMENT OF TRANSPORTATION. (HUFFMAN)**

A true and correct copy of said Resolution was placed in the City's Resolution Book and entitled Resolution No. 2019-14, and, by reference hereto, included in these Minutes as if fully set out and spread upon the pages of the Minutes Book.

- E. APPROVE A BUDGET AMENDMENT TO ALLOCATE GRANT FUNDS FOR TRAINING IN THE AMOUNT OF \$1,000. (FOWLER)**

- F. APPROVE A BUDGET AMENDMENT TO ALLOCATE FUNDS FOR THE ARSON DOG PROGRAM IN THE AMOUNT OF \$1,752. (FOWLER)**

- G. APPROVE A BUDGET AMENDMENT IN THE AMOUNT OF \$319,317 TO RECEIVE REIMBURSEMENT FROM THE CONVENTION AND VISITORS BUREAU (CVB) TO THE GENERAL FUND FOR ADDITIONAL PUBLIC SAFETY EXPENDITURES DURING SPRING BREAK 2019. (GIMENEZ)**

- VI. DISCUSSION AND ACTION TO INCREASE RESIDENTIAL PICK-UP SERVICE ON SOUTH PADRE ISLAND BY REPUBLIC SERVICES. (BALDOVINOS)**

Nick Barrera from Republic Services explained that currently trash pickup services are provided twice a week on Mondays and Thursdays. Republic Services is proposing increasing the pickup to include service on Tuesdays and Fridays and splitting the island into two sections.

Council Member Schwartz made a motion to direct the Interim City Manager to work with the Environmental Health Department and Republic Services to implement the proposed changes. Motion was seconded by Council Member Ricco, which passed on a unanimous vote.

VII. DISCUSSION AND ACTION TO APPROVE A RESOLUTION TO DISSOLVE THE SPECIAL EVENTS COMMITTEE CREATED BY RESOLUTION NO. 2018-35 AS RECOMMENDED BY THE CONVENTION AND VISITORS ADVISORY BOARD. (CAUM) (TABLED FROM THE APRIL 3, 2019 CITY COUNCIL MEETING).

Council Member Bagley made a motion to postpone this item until the May 15, 2019 City Council meeting. Council Member Ricco seconded the motion. Motion carried unanimously.

VIII. DISCUSSION AND ACTION TO APPROVE SECOND AND FINAL READING OF ORDINANCE NO. 19-05 REPEALING ORDINANCE NO. 18-17 THAT PROVIDED THE SPECIFIC USE PERMIT FOR OUTDOOR AMUSEMENT AT PADRE ISLAND UNSUBDIVIDED ABST 260 AND THEREBY REVOKING SAID SPECIFIC USE PERMIT DUE TO NON-COMPLIANCE WITH THE REQUIREMENTS AND CONDITIONS PROVIDED IN THE SPECIFIC USE PERMIT. (BAGLEY) (TABLED FROM THE APRIL 3, 2019 CITY COUNCIL MEETING)

Doyle Wells, proprietor of Island Fun Park, updated the Council that the new fence has been ordered and will be installed by the end of the week.

Council Member Dalton made a motion, seconded by Council Member Ricco to deny approval of second and final reading of Ordinance No. 19-05 which would repeal Ordinance No. 18-17. Motion passed on a unanimous vote. Ordinance No. 19-05 failed and Ordinance No. 18-17 remains in place.

IX. PUBLIC HEARING: TO DISCUSS A SPECIFIC USE PERMIT FOR THE EXPANSION AND OPERATION OF AN "OUTDOOR AMUSEMENT" PARK WITH THE ADDITION OF A ZIP-LINE RIDE AT THE PROPERTY COMMONLY KNOWN AS 1201 PADRE BOULEVARD. (SANCHEZ/TRAVIS/MARTINEZ)

At 6:09 p.m., Mayor Stahl opened the Public Hearing.

Proponents: Five (unknown) Opponents: None

Mayor Stahl closed the Public Hearing at 6:11 p.m.

X. DISCUSSION AND ACTION TO APPROVE FIRST READING OF ORDINANCE TO ALLOW FOR A SPECIFIC USE PERMIT FOR THE EXPANSION AND OPERATION OF AN "OUTDOOR AMUSEMENT" PARK WITH THE

ADDITION OF A ZIP-LINE RIDE AT THE PROPERTY COMMONLY KNOWN AS 1201 PADRE BOULEVARD. (SANCHEZ/TRAVIS/MARTINEZ)

Council Member Schwartz made a motion, seconded by Council Member Medders to approve first reading of Ordinance No. 19-07 to allow for a Specific Use Permit for the addition of a zip-line ride at the property located at 1201 Padre Boulevard. Motion passed on a unanimous vote.

XI. PRESENTATION AND UPDATE BY KIMLEY-HORN REGARDING ENGINEERING AND CONSTRUCTION SERVICES FOR PADRE BOULEVARD (PR 100) IMPROVEMENTS PROJECT. (SANCHEZ)

Tom Grant, with Kimley-Horn and Associates, Inc., gave an overview of the project including the process and work that has already transpired and where the project is at today. Next steps include finalizing the plans, final TxDOT approval, ATT coordination with cell nodes, material testing contract, bid the project out and begin construction.

XII. DISCUSSION AND ACTION TO APPROVE CONTRACT AMENDMENT NO. 11 (NOT TO EXCEED \$10,000) WITH KIMLEY-HORN FOR ENGINEERING/CONSTRUCTION SERVICES FOR PADRE BOULEVARD (PR100) IMPROVEMENTS FOR SIDEWALKS AND MEDIANS AND APPROVE BUDGET AMENDMENT TO ALLOCATE THE REMAINING 2016 TAX NOTES FUNDS TO PAY FOR THIS SERVICE. (SANCHEZ)

Council Member Bagley made a motion to approve Contract Amendment No. 11 (not to exceed \$10,000) for the Padre Boulevard Improvement project and approve budget amendment to allocate the remaining 2016 tax notes to pay for this service. Motion was seconded by Council Member Ricco, which carried unanimously.

XIII. DISCUSSION AND ACTION TO APPROVE CONTRACT AMENDMENT NO. 12 (NOT TO EXCEED \$32,000) WITH KIMLEY-HORN FOR ENGINEERING SERVICES FOR PADRE BOULEVARD (PR100) IMPROVEMENTS FOR SIDEWALKS AND MEDIANS. (SANCHEZ)

Mayor Stahl made a motion to approve Contract Amendment No. 12 with an amount not to exceed \$29,000 (\$3,000 less than proposed) to prepare a traffic signal analyses and modifications to plan to include traffic signal plans. Council Member Bagley seconded the motion, motion passed unanimously. Council Member Ricco requested that a letter submitted by Joni S. Montover be added to the minutes. Referenced letter will be attached and included with the official minutes.

XIV. DISCUSSION AND ACTION TO APPROVE CONTRACT AMENDMENT NO. 13 (AMOUNT NOT TO EXCEED \$160,000) WITH KIMLEY-HORN FOR SUPPLEMENTAL CONSTRUCTION SERVICES FOR PADRE BOULEVARD (PR 100) IMPROVEMENTS FOR SIDEWALKS AND MEDIANS (PHASE II). (SANCHEZ)

5-8

Council Member Medders made a motion, seconded by Council Member Dalton, to table until after City Council holds a workshop with Kimley-Horn regarding the Padre Boulevard (PR 100) Improvement project. Motion carried unanimously.

V. DISCUSSION AND ACTION TO APPROVE A BEACH AND DUNE PERMIT TO CONSTRUCT A SINGLE-FAMILY RESIDENCE WITH ASSOCIATED AMENITIES LOCATED AT 8414 BREAKERS BOULEVARD. (BOBURKA)

Council Member Medders made a motion to approve the Beach and Dune Permit to construct a single-family residence with associated amenities at 8414 Breakers Boulevard. Motion was seconded by Council Member Ricco, which passed on a 5 to 0 vote (Council Member Bagley stepped out of the chambers momentarily).

XVI. DISCUSSION AND ACTION FOR APPROVAL TO WORK INFORMALLY WITH THE TEXAS GENERAL LAND OFFICE (GLO) TO ENSURE THE CITY'S BEACH MANAGEMENT PLAN IS READY FOR FULL SUBMISSION. (BOBURKA)

Mayor Stahl made a motion to approve the Shoreline Department to work informally with the Texas General Land Office regarding the City's Beach Management Plan. Council Member Schwartz seconded the motion. Motion carried unanimously.

XVII. DISCUSSION AND ACTION TO APPROVE RESOLUTION NO. 2019-15 IN OPPOSITION TO HOUSE BILL 2 AND SENATE BILL 2 THAT WOULD RESULT IN LEGISLATIVE IMPOSITION OF A REVENUE CAP AND LEGISLATIVE INTERFERENCE WITH LOCAL SERVICES. (SMITH)

Council Member Bagley made a motion, seconded by Council Member Schwartz to approve Resolution No. 2019-15 in opposition to House Bill 2 and Senate Bill 2. Motion carried on a 5 to 1 vote with Council Member Dalton casting a nay vote.

XVIII. DISCUSSION AND ACTION TO APPROVE RESOLUTION NO. 2019-16 REQUESTING THE MEMBERS OF THE 86TH LEGISLATION OF THE STATE OF TEXAS TO SUPPORT HOUSE BILL 2647 AND SENATE BILL 1719 TO ALLOW FOR INCREASED AND LONG TERM FUNDING FOR THE COASTAL EROSION PROTECTION AND RESPONSE ACT (CEPRA). (BOBURKA)

Mayor Stahl made a motion to approve Resolution No. 2019-16 to support House Bill 2647 and Senate Bill 1719 to allow for increased and long term funding for the Coastal Erosion Protection and Response Act (CEPRA). Motion passed on a 5 to 0 vote with Council Member Schwartz momentarily leaving the Council Chambers.

XIX. DISCUSSION AND ACTION TO APPROVE RESOLUTION NO. 2019-17 IN OPPOSITION TO HOUSE BILL 3778 THAT WOULD RESULT IN LEGISLATIVE IMPOSITION TO THE REGULATION OF SHORT-TERM RENTAL UNITS. (SMITH)

Council Member Dalton made a motion, seconded by Council Member Bagley to approve Resolution No. 2019-17 in opposition to House Bill 3778 that would impose regulation of short-term rentals. Motion carried unanimously.

XX. DISCUSSION AND POSSIBLE ACTION REGARDING PROPOSED LNG PLANTS INCLUDING CURRENT FILINGS, FERC ACTIONS, CITY RESPONSE AND COMMUNICATION. (SCHWARTZ)

After much discussion, Council Member Bagley made a motion

to go forward to instruct staff to file the original resolution as an e-comment on the FERC website immediately, retain legal counsel immediately to make sure we are protecting our interests at this crucial time, counsel shall have experience in environmental and administrative law and work with the city staff to file the request for contested case hearing and represent the City of South Padre Island before TCEQ and FERC, authorize the City Manager to evaluate our position and make sure our contacts are updated and follow our opposition, establish a round table of volunteers to work with City staff and report back to Council. After retaining an attorney and updating our contacts with FERC and TCEQ, write a letter to FERC and TCEQ stating the City's opposition to the proposed permits. Include the original resolution of September 2, 2015 and an explanation of why the city did not participate during the comment period. Include an affidavit from the designated contact person that they did not receive any emails or other information from FERC in spite filing the motion to intervene and designating themselves as the City's contact person. After retaining an attorney, write a letter to TCEQ stating the City's opposition and including the September 2, 2015 resolution and file a request for contested case hearing with TCEQ to contest the permits. Council Member Ricco seconded the motion.

Council Members Bagley and Ricco withdrew the first motion and made another motion to direct the Interim City Manager to move forward regarding the proposed LNG plants including current filings, FERC actions, city response and communications. Motion passed on a 5 to 0 vote with Mayor Stahl abstaining from the vote.

XXI. DISCUSSION AND ACTION TO APPROVE RESOLUTION NO. 2019-18 IN OPPOSITION TO HOUSE BILL 3535 AND SENATE BILL 1152 THAT WOULD RESULT IN LEGISLATIVE IMPOSITION OF A REVENUE CAP AND LEGISLATIVE INTERFERENCE WITH LOCAL SERVICES. (SMITH)

Council Member Bagley made a motion, seconded by Council Member Dalton to approve Resolution No. 2019-18 in opposition to House Bill 3535 and Senate Bill 1152 regarding the imposition of a revenue cap. Motion carried unanimously.

XXII. EXECUTIVE SESSION: PURSUANT TO SECTIONS 551.072, DELIBERATIONS ABOUT REAL PROPERTY; TO DISCUSS:

A. LEASE OF PROPERTY FOR WIND SPORTING VENUE.

At 8:06 p.m., Council Member Bagley made a motion, seconded by Council Member Schwartz to go into Executive Session. Motion carried unanimously.

At 8:36 p.m., the City Council reconvened into open session.

XXIII. DISCUSSION AND ACTION REGARDING LEASE OF PROPERTY FOR WIND SPORTING VENUE.

Mayor Stahl made a motion to direct the Interim City Manager to work with the Pinnell representatives to finalize and execute an option for a lease agreement on the property earmarked for a silent water sports park. Motion was seconded by Council Member Ricco, which passed on a 5 to 1 vote with Council Member Medders casting a nay vote.

XXIV. ADJOURN.

There being no further business, Mayor Stahl adjourned the meeting at 8:36 p.m.

Susan M. Hill, City Secretary

APPROVED

Dennis Stahl, Mayor

Joni S. Montover
5505 Padre Blvd
South Padre Island, TX 78597
303-358-4464

April 15, 2019

City Council and Interim City Manager
4601 Padre Blvd.
South Padre Island, TX 78597

Dear Ladies and Gentlemen:

I spoke at the council meeting on April 3, 2019 about my concerns to changes made in the raised median project.

First, I am in full support of raised medians for all the reasons which have been identified throughout the five year process of planning and arranging for funds to be acquired.

My understanding is that the master plan called for raised medians extending the entire length of the island, terminating at the Convention Center. I have now been made aware of at least two property owners along Padre Boulevard who have been able to opt out of the plan. Mr. Patel, apparently, contacted TXDOT requesting that — in the area where we are in the most need of traffic control and pedestrian safety — the portion of Padre Blvd. in front of his hotels receive a “flush median” which will have none of the advantages of raised medians.

After this modification was made, at the request of Mr. Patel, other property owners, north of Morningside, held private meetings with staff, and have received the same consideration.

So the current plans call for significant areas of Padre Boulevard to have “flush medians” instead of the raised medians which we as citizens voted for and which are needed for pedestrian safety.

I humbly request that the council hold a public meeting so that those concerned will be fully aware of the modifications to the project or instruct staff to replace the “flush medians” with the raised medians we originally approved.

5-12

If "flush medians" are to be allowed for some businesses or residents then I request to have similar consideration. Access to my home will require either a six block detour or a U-turn at a busy intersection. Many people do not know that U-turns are legal in Texas. I would ask either for a cut in the median, a flush median, or at the minimum a U-turn sign to be installed at Morningside.

Thank you for your consideration.

Sincerely yours,

Joni S. Montover

S-13

**MINUTES
CITY OF SOUTH PADRE ISLAND
CITY COUNCIL REGULAR MEETING**

WEDNESDAY, MAY 1, 2019

I. CALL TO ORDER

The City Council Members of the City of South Padre Island, Texas held a Regular Meeting on Wednesday, May 1, 2019 at the Municipal Complex Building, 2nd Floor, 4601 Padre Boulevard, South Padre Island, Texas. Mayor Pro-Tem Medders called the meeting to order at 5:30 p.m. A quorum was present: Mayor Pro-Tem Ken Medders, Jr., Council Members Kerry Schwartz, Joe Ricco, Alita Bagley and Eva-Jean Dalton. Mayor Dennis Stahl was out with an excused absence.

City staff members present were Interim City Manager Randy Smith, Chief Financial Officer Rodrigo Gimenez, Public Works Director Alex Sanchez, Administrative Services Director Wendi Delgado, Fire Chief Doug Fowler, Environmental Health Director Victor Baldovinos, Interim Shoreline Management Director Kristina Boburka, Interim Chief of Police Claudine O'Carroll, Director of Research Marketing & Analytics Michael Flores, Assistant Public Works Director Jon Wilson, Information Technology Director Mark Shellard, Building Official David Travis, Public Information Officer Angelique Soto Shoreline Operations Manager Oscar Grisham and City Secretary Susan Hill.

II. PLEDGE OF ALLEGIANCE AND TEXAS PLEDGE

Mayor Pro-Tem Medders led the Pledge of Allegiance and the Texas Pledge.

III. PUBLIC COMMENTS AND ANNOUNCEMENTS

Public comments and announcements were given at this time.

IV. PRESENTATIONS AND PROCLAMATIONS:

A. PROCLAMATION: NATIONAL TRAVEL AND TOURISM WEEK

Along with the above proclamation, Reverend Sam Steele was sworn in as the Chaplain for the Police Department.

V. APPROVE CONSENT AGENDA:

Mayor Pro-Tem Medders announced that Item 5b and Item 5d will be pulled to be considered separately.

Council Member Bagley made a motion, seconded by Mayor Pro-Tem Medders, to approve Consent Agenda Items 5a, 5c, 5e, 5f, 5g and 5h. Motion carried unanimously.

5-14

Council Member Bagley made a motion to approve Item 5b on the Consent Agenda. Motion was seconded by Mayor Pro-Tem Medders, which passed on a 4 to 0 vote with Council Member Ricco abstaining from the vote.

Council Member Bagley made a motion, seconded by Mayor Pro-Tem Medders, to approve Consent Agenda Item 5d. Motion passed unanimously.

A. APPROVE INVOICES FOR PAYMENT. (GIMENEZ)

Invoices approved for payment were paid by General Fund checks numbered 144270 through 144356 and EFT payments totaling \$1,529,790.40.

B. APPROVE RESOLUTION NO. 2019-19 FOR THE TEMPORARY CLOSURE OF HIGHWAY 100 AND PORTION OF THE QUEEN ISABELLA CAUSEWAY MEMORIAL BRIDGE FOR THE RIDE FOR ROTARY ACROSS THE CAUSEWAY ON SUNDAY, OCTOBER 6, 2019 AND AUTHORIZE THE INTERIM CITY MANAGER TO SIGN THE TEXAS DEPARTMENT OF TRANSPORTATION AGREEMENT. (HUFFMAN)

A true and correct copy of said Resolution was placed in the City's Resolution Book and entitled Resolution No. 2019-19, and, by reference hereto, included in these Minutes as if fully set out and spread upon the pages of the Minutes Book.

C. APPROVE RESOLUTION 2019-20 TO DECLARE CASE TRACTOR RAKING MECHANISM AND COUNTER WEIGHT AS SURPLUS PROPERTY AND AUTHORIZE THE INTERIM CITY MANAGER TO DISPOSE OF SUCH PROPERTY IN A MANNER THAT IS BENEFICIAL TO THE CITY AND IN ACCORDANCE WITH THE FIXED ASSETS POLICY. (GIMENEZ)

A true and correct copy of said Resolution was placed in the City's Resolution Book and entitled Resolution No. 2019-20, and, by reference hereto, included in these Minutes as if fully set out and spread upon the pages of the Minutes Book.

D. APPROVE ACCEPTANCE OF TEXAS DEPARTMENT OF TRANSPORTATION PROJECT GRANT AGREEMENT RPT 1903 IN THE AMOUNT OF \$531,326 AND AUTHORIZE THE INTERIM CITY MANAGER TO ENTER INTO THE GRANT AGREEMENT. (ARRIAGA)

E. APPROVE A BUDGET AMENDMENT OF FEDERAL FORFEITURE FUNDS IN THE AMOUNT OF \$5,020 FOR ADDITIONAL WATCH GUARD VIDEO SYSTEM. (O'CARROLL)

F. APPROVE AN EXCUSED ABSENCE REQUEST FROM MAYOR DENNIS STAHL FOR THE MAY 1, 2019 CITY COUNCIL MEETING. (STAHL)

5-15

G. APPROVE SECOND AND FINAL READING OF ORDINANCE NO. 19-06 AMENDING THE CITY'S FISCAL YEAR 2018-2019 OPERATING BUDGET TO INCORPORATE PRIOR BUDGET AMENDMENTS AND MODIFICATIONS FOR THE MONTHS OF OCTOBER 2018 THROUGH FEBRUARY 2019. (GIMENEZ)

A true and correct copy of said Ordinance was placed in the City's Ordinance Book and entitled Ordinance No. 19-06, and, by reference hereto, included in these Minutes as if fully set out and spread upon the pages of the Minutes Book.

H. APPROVE SECOND AND FINAL READING OF ORDINANCE NO. 19-07 TO ALLOW FOR A SPECIFIC USE PERMIT FOR THE EXPANSION AND OPERATION OF AN "OUTDOOR AMUSEMENT" PARK WITH THE ADDITION OF A ZIP-LINE RIDE AT THE PROPERTY COMMONLY KNOWN AS 1201 PADRE BOULEVARD. (TRAVIS/SANCHEZ/MARTINEZ)

A true and correct copy of said Ordinance was placed in the City's Ordinance Book and entitled Ordinance No. 19-07, and, by reference hereto, included in these Minutes as if fully set out and spread upon the pages of the Minutes Book.

VI. DISCUSSION AND ACTION TO DEDICATE THE SOUTH PADRE ISLAND MUNICIPAL COURT TO THE LATE JUDGE DAVID K. COLWELL. (RICCO)

Council Member Ricco made a motion, seconded by Council Member Bagley to dedicate the Municipal Court Room to former Judge David K. Colwell and direct staff to set up a date and time for the dedication. Motion carried on a unanimous vote.

VII. DISCUSSION AND ACTION TO SELECT AND MOVE FORWARD WITH POTENTIAL PROJECTS AND IMPROVEMENTS BASED UPON THE SHORELINE MASTER PLAN. (BOBURKA)

Council Member Bagley made a motion to support the Shoreline Task Force recommendations to move forward with their ranking of potential projects and improvements. Mayor Pro-Tem Medders seconded the motion, which passed unanimously.

VIII. DISCUSSION AND ACTION TO CONTINUE TO WORK WITH OUR PARTNERS AT UNITED STATES GEOLOGICAL SURVEY (USGS), UNITED STATES ARMY CORP OF ENGINEERS (USACE) AND PARTRAC ON THE UPCOMING BENEFICIAL USE OF DREDGED MATERIAL (BUDM) PLACEMENT TO CARRY ON THE PARTICLE TRACING STUDY. (BOBURKA)

Council Member Bagley made a motion, seconded by Mayor Pro-Tem Medders, to move forward with continuing the Particle Tracing Study. Motion carried unanimously.

IX. UPDATE ON THE TWENTY PERMANENT, TEMPORARY RESTROOMS THAT HAVE BEEN PLACED AT ELEVEN OF THE CITY'S BEACH ACCESSES. (BOBURKA)

As requested by City Council at their November 7, 2018 meeting, Interim Shoreline Director Kristina Boburka gave an update on the twenty permanent, temporary restrooms that were placed at the City's beach accesses. Update and discussion only, no action taken.

X. DISCUSSION AND ACTION TO APPOINT A CITY COUNCIL MEMBER TO SERVE ON THE LOWER TEXAS COAST'S COMMUNITY WORK GROUP (CWG) FOR THE UNITED STATES ARMY CORPS OF ENGINEER'S TEXAS COASTAL STUDY. (BOBURKA)

Council Member Ricco made a motion to appoint Kerry Schwartz to serve as the Council's representative, with Eva-Jean Dalton as alternate, on the Lower Texas Coast's Community Work Group for the U.S. Army Corp of Engineer's Texas Coastal Study. Motion was seconded by Council Member Bagley, which passed on a unanimous vote.

XI. DISCUSSION AND POSSIBLE ACTION REGARDING THE PR 100 (PADRE BOULEVARD) MEDIAN, BOARDWALK AND SIDEWALK IMPROVEMENT 95% PLANS. (SANCHEZ)

This item was pulled.

XII. DISCUSSION AND POSSIBLE ACTION TO APPROVE CONTRACT AMENDMENT NO. 13 (AMOUNT NOT TO EXCEED \$160,000) WITH KIMLEY-HORN FOR SUPPLEMENTAL CONSTRUCTION PHASE SERVICES FOR PADRE BOULEVARD (PR 100) IMPROVEMENTS FOR SIDEWALKS AND MEDIANS (PHASE II). (SANCHEZ)

This item was pulled.

XIII. DISCUSSION AND ACTION TO DIRECT THE CITY MANAGER, BUILDING OFFICIAL, ENVIRONMENTAL HEALTH DIRECTOR AND UP TO THREE MEMBERS OF THE COMMUNITY WITH BUILDING AND/OR REAL ESTATE KNOWLEDGE TO DEVELOP A PROCESS/ORDINANCE TO ADDRESS ABANDONED AND BLIGHTED STRUCTURES AND PROPERTIES. (RICCO)

Council Member Ricco made a motion, seconded by Council Member Schwartz, to direct the City Manager, Building Official, Environmental Health Director and up to three members of the community with building and/or real estate knowledge to develop a process/ordinance to address abandoned and blighted structures and properties. Instruct the City Manager to reach out to Mr. J. J. Rocha with TML in reference with the Dallas vs Stewart case while working with the City's Legal Counsel. Motion carried unanimously.

XIV. DISCUSSION AND ACTION REGARDING SIGNS OVER AND ACROSS LAGUNA BOULEVARD ON THE NORTH AND SOUTH SIDES OF THE “ENTERTAINMENT” DISTRICT. (SANCHEZ)

Council Member Bagley made a motion to not move forward with this project. Motion was seconded by Council Member Ricco, which passed on a unanimous vote.

XV. PUBLIC HEARING: TO DISCUSS A PROPOSED TEXT AMENDMENT TO CHAPTER 20-11(D) OF THE ZONING ORDINANCE TO REGULATE THE CONSTRUCTION AND OPERATION OF TEMPORARY STRUCTURES WITHIN 150 FEET OF PADRE BOULEVARD. (TRAVIS, SANCHEZ, MARTINEZ)

At 6:40 p.m., Mayor Pro-Tem Medders opened the Public Hearing.

Proponents: List Names Opponents: Joe Ricco

Mayor Pro-Tem Medders closed the Public Hearing at 6:43.

XVI. DISCUSSION AND ACTION REGARDING A PROPOSED TEXT AMENDMENT TO CHAPTER 20-11(D) OF THE ZONING ORDINANCE TO REGULATE THE CONSTRUCTION AND OPERATION OF TEMPORARY STRUCTURES WITHIN 150 FEET OF PADRE BOULEVARD AND APPROVE FIRST READING OF ORDINANCE. (TRAVIS/SANCHEZ/MARTINEZ)

Council Member Dalton made a motion, seconded by Council Member Schwartz to approve the amendment to Chapter 20-11(D) and first reading of ordinance.

After further discussion, Council Members Dalton and Schwartz amended their motion to modify the proposed ordinance to reduce the event application to no more than three times per year, cannot run consecutively no more than four days total (set up and for the event), the event application cannot run consecutively, all permits pulled must be directly related to the business and sales location or applicable 501c organization function. Motion carried on a unanimous vote.

XVII. PRESENTATION REGARDING PRO WATERCROSS 2019 EVENT. (CAUM)

Director of Research Marketing & Analytics Michael Flores gave a brief presentation on the Pro Watercross Competition that is to be held in August.

XVIII. DISCUSSION AND ACTION TO AUTHORIZE THE CITY MANAGER TO EXECUTE A CONTRACT WITH INK PUBLISHING IN THE AMOUNT OF \$95,000 TO PROMOTE SOUTH PADRE ISLAND TO UNITED AIRLINES PASSENGERS DURING THE PEAK SUMMER TRAVEL MONTHS. (CAUM)

Council Member Ricco made a motion, seconded by Council Member Dalton to authorize the City Manager to execute a contract with Ink Publishing in the amount of

\$95,000 to promote South Padre Island during the peak summer travel months. Motion carried on a unanimous vote.

XIX. DISCUSSION AND ACTION TO AMEND THE ATKINS GROUP CONTRACT AND TO APPROVE A BUDGET AMENDMENT IN THE AMOUNT OF \$150,000 FOR THE SUMMER MARKETING PUSH. (CAUM)

Council Member Dalton made a motion to amend The Atkins Group contract in the amount of \$150,000 for the Summer Marketing Push, Option B and approve the budget amendment. Council Member Bagley seconded the motion, which passed unanimously.

XX. ADJOURN.

There being no further business, Mayor Pro-Tem Medders adjourned the meeting at 7:09 p.m.

Susan M. Hill, City Secretary

APPROVED

Ken Medders, Jr., Mayor Pro-Tem

**CITY OF SOUTH PADRE ISLAND
CITY COUNCIL MEETING
AGENDA REQUEST FORM**

MEETING DATE: May 15, 2019

NAME & TITLE: Rodrigo Gimenez, Chief Financial Officer

DEPARTMENT: Finance Department

ITEM

Approve invoices for payment by General Fund checks numbered 144357 through 144454 and EFT payments totaling \$536,518.83.

ITEM BACKGROUND

BUDGET/FINANCIAL SUMMARY

COMPREHENSIVE PLAN GOAL

LEGAL REVIEW

Sent to Legal: YES: _____ NO: _____
Approved by Legal: YES: _____ NO: _____

Comments:

RECOMMENDATIONS/COMMENTS

Approve payments.

5.20

VENDOR SET: 01 City of South Padre Islan

BANK: OPER

FUND : 01 GENERAL FUND

DEPARTMENT: N/A NON-DEPARTMENTAL

INVOICE DATE RANGE: 1/01/1998 THRU 99/99/9999

PAY DATE RANGE: 5/02/2019 THRU 5/10/2019

BUDGET TO USE: CB-CURRENT BUDGET

| VENDOR | NAME | ITEM # | G/L | ACCOUNT | NAME | DESCRIPTION | CHECK # | AMOUNT |
|-----------|------------------------|-------------------|-----|---------|----------------|----------------------|-------------------------|----------|
| 01-002434 | CINDY BOUDLOCHE | I-DWE201904296428 | 01 | 2469 | DEBTORS WAGE : | CASE NO 16-10432 | 144359 | 1,513.02 |
| | | | | | | | VENDOR 01-002434 TOTALS | 1,513.02 |
| 01-003035 | CALIFORNIA STATE DISBU | I-C2X201904296428 | 01 | 2473 | CHILD SUPPORT: | ORDER NO 0890195390- | 144360 | 219.23 |
| | | | | | | | VENDOR 01-003035 TOTALS | 219.23 |
| 01-003185 | OFFICE OF THE ATTY GEN | I-C10201904296428 | 01 | 2473 | CHILD SUPPORT: | A/N 2004094864B | 000796 | 364.15 |
| 01-003185 | OFFICE OF THE ATTY GEN | I-C1C201904296428 | 01 | 2473 | CHILD SUPPORT: | ORDER NO 2015-DCL-56 | 000796 | 339.23 |
| 01-003185 | OFFICE OF THE ATTY GEN | I-C1L201904296428 | 01 | 2473 | CHILD SUPPORT: | ORDER NO 2005063139E | 000796 | 121.38 |
| 01-003185 | OFFICE OF THE ATTY GEN | I-C1Q201904296428 | 01 | 2473 | CHILD SUPPORT: | CS 2014-DCL-08362 | 000796 | 191.54 |
| 01-003185 | OFFICE OF THE ATTY GEN | I-C1R201904296428 | 01 | 2473 | CHILD SUPPORT: | ORDER NO 08-1471 | 000796 | 429.23 |
| 01-003185 | OFFICE OF THE ATTY GEN | I-C21201904296428 | 01 | 2473 | CHILD SUPPORT: | A/N 0011549506 | 000796 | 369.23 |
| 01-003185 | OFFICE OF THE ATTY GEN | I-C24201904296428 | 01 | 2473 | CHILD SUPPORT: | A/N 0011488748 | 000796 | 293.89 |
| 01-003185 | OFFICE OF THE ATTY GEN | I-C2W201904296428 | 01 | 2473 | CHILD SUPPORT: | CASE ID 0012479628 | 000796 | 221.54 |
| 01-003185 | OFFICE OF THE ATTY GEN | I-C2Y201904296428 | 01 | 2473 | CHILD SUPPORT: | ORDER # 2019-DCL-011 | 000796 | 163.85 |
| 01-003185 | OFFICE OF THE ATTY GEN | I-C3F201904296428 | 01 | 2473 | CHILD SUPPORT: | A/N: 0012888144 | 000796 | 246.46 |
| 01-003185 | OFFICE OF THE ATTY GEN | I-C3G201904296428 | 01 | 2473 | CHILD SUPPORT: | A/N: 0013400046 | 000796 | 226.15 |
| 01-003185 | OFFICE OF THE ATTY GEN | I-C51201904296428 | 01 | 2473 | CHILD SUPPORT: | A/N 0012375322 | 000796 | 294.33 |
| 01-003185 | OFFICE OF THE ATTY GEN | I-C77201904296428 | 01 | 2473 | CHILD SUPPORT: | A/N 0010353126 | 000796 | 159.23 |
| 01-003185 | OFFICE OF THE ATTY GEN | I-C82201904296428 | 01 | 2473 | CHILD SUPPORT: | ORDER #2012-DCL-0866 | 000796 | 410.77 |
| 01-003185 | OFFICE OF THE ATTY GEN | I-C91201904296428 | 01 | 2473 | CHILD SUPPORT: | AG 0012920905 | 000796 | 296.77 |
| 01-003185 | OFFICE OF THE ATTY GEN | I-C93201904296428 | 01 | 2473 | CHILD SUPPORT: | ORDER # 99125207D | 000796 | 101.54 |
| 01-003185 | OFFICE OF THE ATTY GEN | I-C95201904296428 | 01 | 2473 | CHILD SUPPORT: | CASE #0013025749 | 000796 | 420.00 |
| | | | | | | | VENDOR 01-003185 TOTALS | 4,649.29 |
| 01-006133 | DEARBORN NATIONAL | I-42619 | 01 | 2465 | VTL LIFE INSU: | EMPLOYEE PREMIUMS-VT | 144363 | 60.34 |
| 01-006133 | DEARBORN NATIONAL | I-42619 | 01 | 48042 | MISCELLANEOUS: | EMPLOYEE PREMIUMS-VT | 144363 | 0.01 |
| | | | | | | | VENDOR 01-006133 TOTALS | 60.33 |
| 01-007001 | ANA GARZA | I-C04201904296428 | 01 | 2473 | CHILD SUPPORT: | A/N 2003-03-1480-B | 144364 | 194.88 |
| | | | | | | | VENDOR 01-007001 TOTALS | 194.88 |
| 01-019222 | S.P.I. FIREFIGHTERS AS | I-43019 | 01 | 2472 | FIREFIGHTERS : | ASSOCIATION DUES 5/0 | 144382 | 361.00 |
| | | | | | | | VENDOR 01-019222 TOTALS | 361.00 |

VENDOR SET: 01 City of South Padre Islan

BANK: OPER

FUND : 01 GENERAL FUND

DEPARTMENT: N/A NON-DEPARTMENTAL

INVOICE DATE RANGE: 1/01/1998 THRU 99/99/9999

PAY DATE RANGE: 5/02/2019 THRU 5/10/2019

BUDGET TO USE: CB-CURRENT BUDGET

| VENDOR | NAME | ITEM # | G/L ACCOUNT | NAME | DESCRIPTION | CHECK # | AMOUNT |
|-------------------------|------------------------|----------|-------------|-----------------|----------------------|------------------|------------------|
| 01-019327 | SOUTH PADRE ISLAND PRO | I-43019 | 01 2487 | POLICE DEPT A: | ASSOCIATION DUES MAY | 000212 | 75.00 |
| VENDOR 01-019327 TOTALS | | | | | | | 75.00 |
| 01-020057 | TML MULTISTATE IEBP | I-42419 | 01 2461 | TML MEDICAL : | APRIL 2019 MEDICAL P | 000213 | 15,323.00 |
| 01-020057 | TML MULTISTATE IEBP | I-42419 | 01 2484 | VISION : | APRIL 2019 MEDICAL P | 000213 | 499.50 |
| VENDOR 01-020057 TOTALS | | | | | | | 15,822.50 |
| 01-020100 | T.M.R.S. | I-043019 | 01 2470 | T.M.R.S. : | APRIL 2019 | 000222 | 46,968.55 |
| VENDOR 01-020100 TOTALS | | | | | | | 46,968.55 |
| 01-020700 | TRANSAMERICA WORKSITE | I-42619 | 01 2464 | TRANSAMERICA : | EMPLOYEE PRIMIUNS AP | 144392 | 15.18 |
| 01-020700 | TRANSAMERICA WORKSITE | I-42619 | 01 48042 | MISCELLANEOUS : | EMPLOYEE PRIMIUNS AP | 144392 | 0.01- |
| VENDOR 01-020700 TOTALS | | | | | | | 15.17 |
| 01-1 | DIANE HOFMEISTER | I-43019 | 01 47046 | ANIMAL/COMPOS : | DIANE HOFMEISTER:REF | 144396 | 50.00 |
| VENDOR 01-1 TOTALS | | | | | | | 50.00 |
| DEPARTMENT | | | | | | NON-DEPARTMENTAL | TOTAL: 69,928.97 |

5/09/2019 10:20 AM

REGULAR DEPARTMENT PAYMENT REPORT

PAGE: 3

VENDOR SET: 01 City of South Padre Islan

BANK: OPER

FUND : 01 GENERAL FUND

DEPARTMENT: 511 CITY COUNCIL

INVOICE DATE RANGE: 1/01/1998 THRU 99/99/9999

PAY DATE RANGE: 5/02/2019 THRU 5/10/2019

BUDGET TO USE: CB-CURRENT BUDGET

| VENDOR | NAME | ITEM # | G/L ACCOUNT | NAME | DESCRIPTION | CHECK # | AMOUNT |
|-----------|-------------------|----------|-----------------|-------------|-------------------|-----------------------------|--------------|
| 01-018509 | SAM'S CLUB DIRECT | I-004390 | 01 511-0550-031 | KEN MEDDERS | SPPLS,CC MEETINGS | 144378 | 31.18 |
| | | | | | | VENDOR 01-018509 TOTALS | 31.18 |
| | | | | | | DEPARTMENT 511 CITY COUNCIL | TOTAL: 31.18 |

VENDOR SET: 01 City of South Padre Islan

BANK: OPER

FUND : 01 GENERAL FUND

DEPARTMENT: 512 CITY MANAGERS OFFICE

INVOICE DATE RANGE: 1/01/1998 THRU 99/99/9999

PAY DATE RANGE: 5/02/2019 THRU 5/10/2019

BUDGET TO USE: CB-CURRENT BUDGET

| VENDOR | NAME | ITEM # | G/L ACCOUNT | NAME | DESCRIPTION | CHECK # | AMOUNT |
|-------------------------------------|---------------------|----------|-------------|----------------|------------------------|---------|----------|
| 01-018509 | SAM'S CLUB DIRECT | I-004969 | 01 512-0120 | CONSUMABLES | : MISC. WATER FOR COUN | 144378 | 46.23 |
| VENDOR 01-018509 TOTALS | | | | | | | 46.23 |
| 01-020057 | TML MULTISTATE IEBP | I-42419 | 01 512-0081 | GROUP INSURAN: | APRIL 2019 MEDICAL P | 000213 | 2,140.20 |
| VENDOR 01-020057 TOTALS | | | | | | | 2,140.20 |
| 01-020100 | T.M.R.S. | I-043019 | 01 512-0080 | TMRS | : APRIL 2019 | 000222 | 3,467.77 |
| VENDOR 01-020100 TOTALS | | | | | | | 3,467.77 |
| DEPARTMENT 512 CITY MANAGERS OFFICE | | | | | | TOTAL: | 5,654.20 |

VENDOR SET: 01 City of South Padre Islan

BANK: OPER

FUND : 01 GENERAL FUND

DEPARTMENT: 513 FINANCE DEPARTMENT

INVOICE DATE RANGE: 1/01/1998 THRU 99/99/9999

PAY DATE RANGE: 5/02/2019 THRU 5/10/2019

BUDGET TO USE: CB-CURRENT BUDGET

| VENDOR | NAME | ITEM # | G/L ACCOUNT | NAME | DESCRIPTION | CHECK # | AMOUNT |
|-----------|---------------------|----------|-------------|----------------|----------------------|-------------------------|----------|
| 01-020057 | TML MULTISTATE IEBP | I-42419 | 01 513-0081 | GROUP INSURAN: | APRIL 2019 MEDICAL P | 000213 | 2,490.07 |
| | | | | | | VENDOR 01-020057 TOTALS | 2,490.07 |
| 01-020100 | T.M.R.S. | I-043019 | 01 513-0080 | TMRS | : APRIL 2019 | 000222 | 2,973.38 |
| | | | | | | VENDOR 01-020100 TOTALS | 2,973.38 |
| | | | | DEPARTMENT 513 | FINANCE DEPARTMENT | TOTAL: | 5,463.45 |

VENDOR SET: 01 City of South Padre Islan

BANK: OPER

FUND : 01 GENERAL FUND

DEPARTMENT: 514 PLANNING DEPARTMENT

INVOICE DATE RANGE: 1/01/1998 THRU 99/99/9999

PAY DATE RANGE: 5/02/2019 THRU 5/10/2019

BUDGET TO USE: CB-CURRENT BUDGET

| VENDOR | NAME | ITEM # | G/L | ACCOUNT | NAME | DESCRIPTION | CHECK # | AMOUNT |
|-----------|------------------------|----------|-----|----------|----------------|----------------------|-------------------------|--------|
| 01-016600 | PT ISABEL/SO PADRE PRE | I-042619 | 01 | 514-0101 | OFFICE SUPPLI: | 1 YR., SUBSCRIPTION | 144374 | 22.00 |
| | | | | | | | VENDOR 01-016600 TOTALS | 22.00 |
| 01-020057 | TML MULTISTATE IEBP | I-42419 | 01 | 514-0081 | GROUP INSURAN: | APRIL 2019 MEDICAL P | 000213 | 520.54 |
| | | | | | | | VENDOR 01-020057 TOTALS | 520.54 |
| 01-020100 | T.M.R.S. | I-043019 | 01 | 514-0080 | TMRS | : APRIL 2019 | 000222 | 479.37 |
| | | | | | | | VENDOR 01-020100 TOTALS | 479.37 |

DEPARTMENT 514 PLANNING DEPARTMENT TOTAL: 1,021.91

VENDOR SET: 01 City of South Padre Islan
 FUND : 01 GENERAL FUND

BANK: OPER

DEPARTMENT: 515 TECHNOLOGY DEPARTMENT

INVOICE DATE RANGE: 1/01/1998 THRU 99/99/9999

PAY DATE RANGE: 5/02/2019 THRU 5/10/2019

BUDGET TO USE: CB-CURRENT BUDGET

| VENDOR | NAME | ITEM # | G/L | ACCOUNT | NAME | DESCRIPTION | CHECK # | AMOUNT |
|---|------------------------|-----------------|-----|----------|----------------|----------------------|---------|----------|
| 01-016677 | PRO SOFTNET CORPORATIO | I-20049713 | 01 | 515-0415 | SERVICE CONTR: | IDRIVE DATA OVERUSAG | 144427 | 360.50 |
| VENDOR 01-016677 TOTALS | | | | | | | | 360.50 |
| 01-018509 | SAM'S CLUB DIRECT | I-009931 | 01 | 515-0150 | MINOR TOOLS &: | SAFE FOR DISASTER RE | 144378 | 49.98 |
| VENDOR 01-018509 TOTALS | | | | | | | | 49.98 |
| 01-020057 | TML MULTISTATE IEBP | I-42419 | 01 | 515-0081 | GROUP INSURAN: | APRIL 2019 MEDICAL P | 000213 | 1,571.62 |
| VENDOR 01-020057 TOTALS | | | | | | | | 1,571.62 |
| 01-020100 | T.M.R.S. | I-043019 | 01 | 515-0080 | TMRS | : APRIL 2019 | 000222 | 1,845.23 |
| VENDOR 01-020100 TOTALS | | | | | | | | 1,845.23 |
| 01-020185 | TIME WARNER CABLE | I-0213755042019 | 01 | 515-0415 | SERVICE CONTR: | SERVOCE @ 106 W RETA | 144388 | 520.46 |
| VENDOR 01-020185 TOTALS | | | | | | | | 520.46 |
| 01-020351 | SELEX ES INC. | I-33040 | 01 | 515-0410 | MACHINERY & E: | LPR EQUIPMENT | 144389 | 235.00 |
| VENDOR 01-020351 TOTALS | | | | | | | | 235.00 |
| 01-020644 | T-MOBILE | I-41519 | 01 | 515-0501 | COMMUNICATION: | DATA SERVICE | 144391 | 1,555.60 |
| VENDOR 01-020644 TOTALS | | | | | | | | 1,555.60 |
| DEPARTMENT 515 TECHNOLOGY DEPARTMENT TOTAL: | | | | | | | | 6,138.39 |

VENDOR SET: 01 City of South Padre Islan

BANK: OPER

FUND : 01 GENERAL FUND

DEPARTMENT: 516 HUMAN RESOURCES

INVOICE DATE RANGE: 1/01/1998 THRU 99/99/9999

PAY DATE RANGE: 5/02/2019 THRU 5/10/2019

BUDGET TO USE: CB-CURRENT BUDGET

| VENDOR | NAME | ITEM # | G/L ACCOUNT | NAME | DESCRIPTION | CHECK # | AMOUNT |
|-------------------------|---------------------|----------------|-------------|----------------|-----------------------------|---------|----------|
| 01-015010 | OFFICE DEPOT | I-306437325001 | 01 516-0101 | OFFICE SUPPLI: | PRESSBOARD FLDRS, | 144372 | 72.96 |
| VENDOR 01-015010 TOTALS | | | | | | | 72.96 |
| 01-018524 | WENDY SALDANA | I-43019 | 01 516-0550 | TRAVEL EXPENS: | MILEAGE ATTENDING TM 000217 | | 35.03 |
| VENDOR 01-018524 TOTALS | | | | | | | 35.03 |
| 01-020057 | TML MULTISTATE IEBP | I-42419 | 01 516-0081 | GROUP INSURAN: | APRIL 2019 MEDICAL P 000213 | | 2,490.07 |
| VENDOR 01-020057 TOTALS | | | | | | | 2,490.07 |
| 01-020100 | T.M.R.S. | I-043019 | 01 516-0080 | TMRS | : APRIL 2019 | 000222 | 1,919.04 |
| VENDOR 01-020100 TOTALS | | | | | | | 1,919.04 |

DEPARTMENT 516 HUMAN RESOURCES TOTAL: 4,517.10

VENDOR SET: 01 City of South Padre Islan

BANK: OPER

FUND : 01 GENERAL FUND

DEPARTMENT: 520 MUNICIPAL COURT

INVOICE DATE RANGE: 1/01/1998 THRU 99/99/9999

PAY DATE RANGE: 5/02/2019 THRU 5/10/2019

BUDGET TO USE: CB-CURRENT BUDGET

| VENDOR | NAME | ITEM # | G/L ACCOUNT | NAME | DESCRIPTION | CHECK # | AMOUNT |
|--------------------------------|---------------------|----------|-------------|----------------|-----------------------|-------------------------|----------|
| 01-004101 | STUART J. DIAMOND | I-050119 | 01 520-0530 | PROFESSIONAL | : PROF. SERV. 2018-19 | 000220 | 1,335.00 |
| | | | | | | VENDOR 01-004101 TOTALS | 1,335.00 |
| 01-020057 | TML MULTISTATE IEBP | I-42419 | 01 520-0081 | GROUP INSURAN: | APRIL 2019 MEDICAL P | 000213 | 1,041.08 |
| | | | | | | VENDOR 01-020057 TOTALS | 1,041.08 |
| 01-020100 | T.M.R.S. | I-043019 | 01 520-0080 | TMRS | : APRIL 2019 | 000222 | 836.07 |
| | | | | | | VENDOR 01-020100 TOTALS | 836.07 |
| DEPARTMENT 520 MUNICIPAL COURT | | | | | | TOTAL: | 3,212.15 |

VENDOR SET: 01 City of South Padre Islan

BANK: OPER

FUND : 01 GENERAL FUND

DEPARTMENT: 521 POLICE DEPARTMENT

INVOICE DATE RANGE: 1/01/1998 THRU 99/99/9999

PAY DATE RANGE: 5/02/2019 THRU 5/10/2019

BUDGET TO USE: CB-CURRENT BUDGET

| VENDOR | NAME | ITEM # | G/L ACCOUNT | NAME | DESCRIPTION | CHECK # | AMOUNT |
|----------------------------------|-------------------------|----------------|-------------|----------------|-------------------------|---------|-----------|
| 01-016719 | PRODUCTIVITY CENTER, IN | I-SPPD00122919 | 01 521-0551 | DUES & MEMBER: | TCLEDDS SUBSCRIPTION | 144375 | 775.00 |
| | | | | | VENDOR 01-016719 TOTALS | | 775.00 |
| 01-019049 | SIEGEL'S CORPORATION | I-408302 | 01 521-0130 | WEARING APPAR: | COAT FOR SAM STEELE | 144432 | 309.99 |
| | | | | | VENDOR 01-019049 TOTALS | | 309.99 |
| 01-020057 | TML MULTISTATE IEBP | I-42419 | 01 521-0081 | GROUP INSURAN: | APRIL 2019 MEDICAL P | 000213 | 18,404.48 |
| | | | | | VENDOR 01-020057 TOTALS | | 18,404.48 |
| 01-020100 | T.M.R.S. | I-043019 | 01 521-0080 | TMRS | : APRIL 2019 | 000222 | 21,514.25 |
| | | | | | VENDOR 01-020100 TOTALS | | 21,514.25 |
| DEPARTMENT 521 POLICE DEPARTMENT | | | | | | TOTAL: | 41,003.72 |

VENDOR SET: 01 City of South Padre Islan

BANK: OPER

FUND : 01 GENERAL FUND

DEPARTMENT: 522 FIRE DEPARTMENT

INVOICE DATE RANGE: 1/01/1998 THRU 99/99/9999

PAY DATE RANGE: 5/02/2019 THRU 5/10/2019

BUDGET TO USE: CB-CURRENT BUDGET

| VENDOR | NAME | ITEM # | G/L | ACCOUNT | NAME | DESCRIPTION | CHECK # | AMOUNT |
|-------------------------|------------------------|--------------|-----|----------|-----------------|----------------------|---------|-----------|
| 01-002145 | BIO-OPS, LLC | I-17-10282 | 01 | 522-0415 | SERVICE CONTR: | PICKUP OF REGULATED | 144403 | 30.00 |
| VENDOR 01-002145 TOTALS | | | | | | | | 30.00 |
| 01-007075 | GALLS, LLC | I-012396006 | 01 | 522-0130 | WEARING APPAR: | 2- EXTRICATION GLOVE | 144365 | 90.93 |
| 01-007075 | GALLS, LLC | I-012424231 | 01 | 522-0130 | WEARING APPAR: | 2- S/S POLO SHIRTS | 144365 | 90.93 |
| VENDOR 01-007075 TOTALS | | | | | | | | 181.86 |
| 01-013506 | METRO FIRE APPARATUS S | I-137933-1 | 01 | 522-0117 | SAFETY SUPPLI: | MISC. HOODS, GLOVES | 144370 | 468.00 |
| VENDOR 01-013506 TOTALS | | | | | | | | 468.00 |
| 01-016202 | PHYSIO-CONTROL, INC. | I-119029169 | 01 | 522-1004 | MACHINERY & E: | Defibrillators /Luca | 144373 | 2,993.00 |
| VENDOR 01-016202 TOTALS | | | | | | | | 2,993.00 |
| 01-018509 | SAM'S CLUB DIRECT | I-005367 | 01 | 522-0160 | LAUNDRY & JAN: | MISC. JANITORIAL, OF | 144378 | 362.04 |
| 01-018509 | SAM'S CLUB DIRECT | I-005367 | 01 | 522-0101 | OFFICE SUPPLI: | MISC. JANITORIAL, OF | 144378 | 24.96 |
| 01-018509 | SAM'S CLUB DIRECT | I-005367 | 01 | 522-0170 | DORM AND KITC: | MISC. JANITORIAL, OF | 144378 | 41.98 |
| 01-018509 | SAM'S CLUB DIRECT | I-2472664914 | 01 | 522-0150 | MINOR TOOLS & : | 1- MOBILE STORAGE UN | 144378 | 369.00 |
| VENDOR 01-018509 TOTALS | | | | | | | | 797.98 |
| 01-019255 | SOUTH TEXAS COMMUNICAT | I-64196 | 01 | 522-0501 | COMMUNICATION: | SERV, CALL, FIRE STA | 144383 | 686.00 |
| VENDOR 01-019255 TOTALS | | | | | | | | 686.00 |
| 01-020057 | TML MULTISTATE IEBP | I-42419 | 01 | 522-0081 | GROUP INSURAN: | APRIL 2019 MEDICAL P | 000213 | 14,524.99 |
| VENDOR 01-020057 TOTALS | | | | | | | | 14,524.99 |
| 01-020100 | T.M.R.S. | I-043019 | 01 | 522-0080 | TMRS | : APRIL 2019 | 000222 | 20,100.63 |
| VENDOR 01-020100 TOTALS | | | | | | | | 20,100.63 |
| 01-024001 | RICHARD J. YBARRA, M.D | I-7544 | 01 | 522-0530 | PROFESSIONAL : | Medical Director Fee | 144395 | 1,000.00 |
| VENDOR 01-024001 TOTALS | | | | | | | | 1,000.00 |

DEPARTMENT 522 FIRE DEPARTMENT TOTAL: 40,782.46

VENDOR SET: 01 City of South Padre Islan

BANK: OPER

FUND : 01 GENERAL FUND

DEPARTMENT: 532 HEALTH/CODE ENFORCEMENT

INVOICE DATE RANGE: 1/01/1998 THRU 99/99/9999

PAY DATE RANGE: 5/02/2019 THRU 5/10/2019

BUDGET TO USE: CB-CURRENT BUDGET

| VENDOR | NAME | ITEM # | G/L | ACCOUNT | NAME | DESCRIPTION | CHECK # | AMOUNT |
|-----------|---------------------|--------------|-----|----------|----------------|------------------------|-------------------------|----------|
| 01-001187 | A.M.LEONARD INC. | I-C119070163 | 01 | 532-0172 | ANIMAL SUPPLI: | ANIMAL CAGE/TRAPS | 144399 | 737.91 |
| | | | | | | | VENDOR 01-001187 TOTALS | 737.91 |
| 01-006162 | JUAN FLORES | I-784921 | 01 | 532-0545 | LOT MOWING | : 1 LAWN SERVICE | 000221 | 30.00 |
| 01-006162 | JUAN FLORES | I-784922 | 01 | 532-0545 | LOT MOWING | : 1 LAWN SERVICE | 000221 | 30.00 |
| 01-006162 | JUAN FLORES | I-784923 | 01 | 532-0545 | LOT MOWING | : LAWN SERVICE 105 E S | 000221 | 35.00 |
| | | | | | | | VENDOR 01-006162 TOTALS | 95.00 |
| 01-020057 | TML MULTISTATE IEBP | I-42419 | 01 | 532-0081 | GROUP INSURAN: | APRIL 2019 MEDICAL P | 000213 | 3,073.66 |
| | | | | | | | VENDOR 01-020057 TOTALS | 3,073.66 |
| 01-020100 | T.M.R.S. | I-043019 | 01 | 532-0080 | TMRS | : APRIL 2019 | 000222 | 2,087.72 |
| | | | | | | | VENDOR 01-020100 TOTALS | 2,087.72 |

DEPARTMENT 532 HEALTH/CODE ENFORCEMENT TOTAL: 5,994.29

VENDOR SET: 01 City of South Padre Islan

BANK: OPER

FUND : 01 GENERAL FUND

DEPARTMENT: 540 FLEET MANAGEMENT

INVOICE DATE RANGE: 1/01/1998 THRU 99/99/9999

PAY DATE RANGE: 5/02/2019 THRU 5/10/2019

BUDGET TO USE: CB-CURRENT BUDGET

| VENDOR | NAME | ITEM # | G/L | ACCOUNT | NAME | DESCRIPTION | CHECK # | AMOUNT |
|-----------|-----------------------|----------------|-----|-------------|----------------|----------------------|--|-----------|
| 01-012091 | CINTAS UNIFORM | I-4020936475 | 01 | 540-0130 | WEARING APPAR: | SHOP TOWELS, UNIFORM | 144422 | 17.77 |
| 01-012091 | CINTAS UNIFORM | I-4021381199 | 01 | 540-0130 | WEARING APPAR: | MATS, UNIFORM, MISC | 144422 | 17.77 |
| | | | | | | | VENDOR 01-012091 TOTALS | 35.54 |
| 01-020057 | TML MULTISTATE IEBP | I-42419 | 01 | 540-0081 | GROUP INSURAN: | APRIL 2019 MEDICAL P | 000213 | 1,041.08 |
| | | | | | | | VENDOR 01-020057 TOTALS | 1,041.08 |
| 01-020100 | T.M.R.S. | I-043019 | 01 | 540-0080 | TMRS | : APRIL 2019 | 000222 | 826.51 |
| | | | | | | | VENDOR 01-020100 TOTALS | 826.51 |
| 01-020203 | TIPTON MOTORS, INC | I-155669 | 01 | 540-0410 | MACHINERY & E: | PW-46 FUEL TANK | 144439 | 1,615.00 |
| | | | | | | | VENDOR 01-020203 TOTALS | 1,615.00 |
| 01-021134 | UNITED RENTALS (NORTH | I-154666463017 | 01 | 540-0510 | RENTAL OF EQU: | 1 YEAR RENTAL-BACKHO | 144445 | 1,779.01 |
| | | | | | | | VENDOR 01-021134 TOTALS | 1,779.01 |
| 01-021226 | US BANK VOYAGER FLEET | I-869326488917 | 01 | 540-0104-01 | FUEL & LUBRIC: | FUEL PURCHASED 3-23 | 144447 | 4,883.85 |
| 01-021226 | US BANK VOYAGER FLEET | I-869326488917 | 01 | 540-0104-02 | FUEL & LUBRIC: | FUEL PURCHASED 3-23 | 144447 | 469.83 |
| 01-021226 | US BANK VOYAGER FLEET | I-869326488917 | 01 | 540-0104-03 | FUEL & LUBRIC: | FUEL PURCHASED 3-23 | 144447 | 2,279.29 |
| 01-021226 | US BANK VOYAGER FLEET | I-869326488917 | 01 | 540-0104-04 | FUEL & LUBRIC: | FUEL PURCHASED 3-23 | 144447 | 787.48 |
| 01-021226 | US BANK VOYAGER FLEET | I-869326488917 | 01 | 540-0104-05 | FUEL & LUBRIC: | FUEL PURCHASED 3-23 | 144447 | 1,240.48 |
| | | | | | | | VENDOR 01-021226 TOTALS | 9,660.93 |
| | | | | | | | DEPARTMENT 540 FLEET MANAGEMENT TOTAL: | 14,958.07 |

VENDOR SET: 01 City of South Padre Islan
 FUND : 01 GENERAL FUND
 DEPARTMENT: 541 BUILDING MAINTENANCE
 INVOICE DATE RANGE: 1/01/1998 THRU 99/99/9999
 PAY DATE RANGE: 5/02/2019 THRU 5/10/2019
 BUDGET TO USE: CB-CURRENT BUDGET

BANK: OPER

| VENDOR | NAME | ITEM # | G/L | ACCOUNT | NAME | DESCRIPTION | CHECK # | AMOUNT |
|-------------------------|------------------------|--------------|-----|----------|----------------|----------------------|---------|----------|
| 01-007399 | GRAINGER | I-9130536031 | 01 | 541-0411 | BUILDINGS & S: | OH SOUND BAFFLE, AUT | 144366 | 416.07 |
| VENDOR 01-007399 TOTALS | | | | | | | | 416.07 |
| 01-012051 | JR'S ELECTRIC & SONS I | I-13819 | 01 | 541-0411 | BUILDINGS & S: | INSTALL LIGHT BUS GA | 144421 | 450.00 |
| VENDOR 01-012051 TOTALS | | | | | | | | 450.00 |
| 01-012091 | CINTAS UNIFORM | I-4020936475 | 01 | 541-0160 | LAUNDRY & JAN: | SHOP TOWELS, UNIFORM | 144422 | 107.59 |
| 01-012091 | CINTAS UNIFORM | I-4020936475 | 01 | 541-0130 | WEARING APPAR: | SHOP TOWELS, UNIFORM | 144422 | 17.77 |
| 01-012091 | CINTAS UNIFORM | I-4021381199 | 01 | 541-0160 | LAUNDRY & JAN: | MATS, UNIFORM, MISC | 144422 | 193.92 |
| 01-012091 | CINTAS UNIFORM | I-4021381199 | 01 | 541-0130 | WEARING APPAR: | MATS, UNIFORM, MISC | 144422 | 17.77 |
| VENDOR 01-012091 TOTALS | | | | | | | | 337.05 |
| 01-014991 | OCTAVIO'S REMODELING & | I-10170 | 01 | 541-0411 | BUILDINGS & S: | REPLACE DOOR PIVOT & | 144425 | 435.00 |
| VENDOR 01-014991 TOTALS | | | | | | | | 435.00 |
| 01-019192 | SHERWIN WILLIAMS CO. | I-8870-9 | 01 | 541-0411 | BUILDINGS & S: | PAINT FOR CITY HALL | 144433 | 257.89 |
| VENDOR 01-019192 TOTALS | | | | | | | | 257.89 |
| 01-019499 | SOUTHWEST TEXAS EQUIPM | I-2345766 | 01 | 541-0415 | SERVICE CONTR: | CONTRACT 0001981779 | 144435 | 100.00 |
| VENDOR 01-019499 TOTALS | | | | | | | | 100.00 |
| 01-020016 | TERMINIX | I-385299902 | 01 | 541-0415 | SERVICE CONTR: | PEST CONTROL 4601 PA | 144385 | 234.00 |
| VENDOR 01-020016 TOTALS | | | | | | | | 234.00 |
| 01-020057 | TML MULTIISTATE IEBP | I-42419 | 01 | 541-0081 | GROUP INSURAN: | APRIL 2019 MEDICAL P | 000213 | 1,041.08 |
| VENDOR 01-020057 TOTALS | | | | | | | | 1,041.08 |
| 01-020100 | T.M.R.S. | I-043019 | 01 | 541-0080 | TMRS | : APRIL 2019 | 000222 | 503.94 |
| VENDOR 01-020100 TOTALS | | | | | | | | 503.94 |

VENDOR SET: 01 City of South Padre Islan

BANK: OPER

FUND : 01 GENERAL FUND

DEPARTMENT: 541 BUILDING MAINTENANCE

INVOICE DATE RANGE: 1/01/1998 THRU 99/99/9999

PAY DATE RANGE: 5/02/2019 THRU 5/10/2019

BUDGET TO USE: CB-CURRENT BUDGET

| VENDOR | NAME | ITEM # | G/L ACCOUNT | NAME | DESCRIPTION | CHECK # | AMOUNT |
|-----------|------------------------|---------|-------------|----------------|----------------------|-------------------------|--------|
| 01-023160 | WORTH HYDROCHEM OF COR | I-22590 | 01 541-0415 | SERVICE CONTR: | MONTHLY CHEMICAL TRE | 000224 | 300.00 |
| | | | | | | VENDOR 01-023160 TOTALS | 300.00 |

DEPARTMENT 541 BUILDING MAINTENANCE TOTAL: 4,075.03

VENDOR SET: 01 City of South Padre Islan

BANK: OPER

FUND : 01 GENERAL FUND

DEPARTMENT: 542 INSPECTIONS DIVISION

INVOICE DATE RANGE: 1/01/1998 THRU 99/99/9999

PAY DATE RANGE: 5/02/2019 THRU 5/10/2019

BUDGET TO USE: CB-CURRENT BUDGET

| VENDOR | NAME | ITEM # | G/L ACCOUNT | NAME | DESCRIPTION | CHECK # | AMOUNT |
|-------------------------------------|--------------------------------|----------|-------------|----------------|-------------------------|---------|----------|
| 01-019633 | TEHA-SOUTH TEXAS CHAPT I-42419 | | 01 542-0550 | TRAVEL EXPENS: | REGISTRATION FOR SO | 144384 | 75.00 |
| | | | | | VENDOR 01-019633 TOTALS | | 75.00 |
| 01-020057 | TML MULTISTATE IEBP | I-42419 | 01 542-0081 | GROUP INSURAN: | APRIL 2019 MEDICAL P | 000213 | 1,571.62 |
| | | | | | VENDOR 01-020057 TOTALS | | 1,571.62 |
| 01-020100 | T.M.R.S. | I-043019 | 01 542-0080 | TMRS | : APRIL 2019 | 000222 | 1,542.56 |
| | | | | | VENDOR 01-020100 TOTALS | | 1,542.56 |
| 01-020751 | DAVID K. TRAVIS III | I-050119 | 01 542-0513 | TRAINING EXPE: | REIM EVENT FEE TX IL | 144443 | 25.00 |
| | | | | | VENDOR 01-020751 TOTALS | | 25.00 |
| 01-1 | VALLEY BLDG | I-129 | 01 542-0551 | DUES & MEMBER: | VALLEY BLDG: 2019 VB | 144454 | 40.00 |
| | | | | | VENDOR 01-1 TOTALS | | 40.00 |
| DEPARTMENT 542 INSPECTIONS DIVISION | | | | | | TOTAL: | 3,254.18 |

VENDOR SET: 01 City of South Padre Islan

BANK: OPER

FUND : 01 GENERAL FUND

DEPARTMENT: 543 PUBLIC WORKS DEPARTMENT

INVOICE DATE RANGE: 1/01/1998 THRU 99/99/9999

PAY DATE RANGE: 5/02/2019 THRU 5/10/2019

BUDGET TO USE: CB-CURRENT BUDGET

| VENDOR | NAME | ITEM # | G/L | ACCOUNT | NAME | DESCRIPTION | CHECK # | AMOUNT |
|-----------|---------------------|--------------|-----|----------|----------------|-----------------------------|-------------------------|-----------|
| 01-003704 | CAMERON COUNTY | I-050319 | 01 | 543-0432 | CAUSEWAY LIGH: | CAUSEWAY LIGHTING SH 144410 | | 139.55 |
| | | | | | | | VENDOR 01-003704 TOTALS | 139.55 |
| 01-007399 | GRAINGER | I-9153130811 | 01 | 543-0416 | STREETS & RIG: | BLADE PLUG, LED LMP, 144366 | | 43.96 |
| 01-007399 | GRAINGER | I-9153130829 | 01 | 543-0416 | STREETS & RIG: | PORTABLE CORD,UG CON 144366 | | 128.03 |
| | | | | | | | VENDOR 01-007399 TOTALS | 171.99 |
| 01-012091 | CINTAS UNIFORM | I-4020936475 | 01 | 543-0130 | WEARING APPAR: | SHOP TOWELS, UNIFORM 144422 | | 245.72 |
| 01-012091 | CINTAS UNIFORM | I-4021381199 | 01 | 543-0130 | WEARING APPAR: | MATS, UNIFORM, MISC 144422 | | 158.44 |
| | | | | | | | VENDOR 01-012091 TOTALS | 404.16 |
| 01-020057 | TML MULTISTATE IEBP | I-42419 | 01 | 543-0081 | GROUP INSURAN: | APRIL 2019 MEDICAL P 000213 | | 10,342.72 |
| | | | | | | | VENDOR 01-020057 TOTALS | 10,342.72 |
| 01-020100 | T.M.R.S. | I-043019 | 01 | 543-0080 | TMRS | : APRIL 2019 000222 | | 7,289.29 |
| | | | | | | | VENDOR 01-020100 TOTALS | 7,289.29 |

DEPARTMENT 543 PUBLIC WORKS DEPARTMENT TOTAL: 18,347.71

VENDOR SET: 01 City of South Padre Islan

BANK: OPER

FUND : 01 GENERAL FUND

DEPARTMENT: 570 GENERAL SERVICES

INVOICE DATE RANGE: 1/01/1998 THRU 99/99/9999

PAY DATE RANGE: 5/02/2019 THRU 5/10/2019

BUDGET TO USE: CB-CURRENT BUDGET

| VENDOR | NAME | ITEM # | G/L | ACCOUNT | NAME | DESCRIPTION | CHECK # | AMOUNT |
|-----------|------------------------|-----------------|-----|----------|-----------------|----------------------|-------------------------|-----------|
| 01-007115 | GEXA ENERGY, LP | I-27668322-4 | 01 | 570-0580 | ELECTRICITY | : GEXA ENERGY, LP | 144417 | 12,927.09 |
| 01-007115 | GEXA ENERGY, LP | I-27668324-4 | 01 | 570-0580 | ELECTRICITY | : GEXA ENERGY, LP | 144418 | 16.45 |
| | | | | | | | VENDOR 01-007115 TOTALS | 12,943.54 |
| 01-013404 | MOUNTAIN GLACIER, LLC | I-0301156975 | 01 | 570-0581 | WATER, SEWER, : | SHRLINE RENTAL / WA | 144423 | 33.50 |
| 01-013404 | MOUNTAIN GLACIER, LLC | I-0301160697 | 01 | 570-0581 | WATER, SEWER, : | WATER & MONTHLY RENT | 144423 | 64.50 |
| 01-013404 | MOUNTAIN GLACIER, LLC | I-0301160698 | 01 | 570-0581 | WATER, SEWER, : | RENTAL ACCT 024874 | 144423 | 2.00 |
| 01-013404 | MOUNTAIN GLACIER, LLC | I-031160695 | 01 | 570-0581 | WATER, SEWER, : | SHORELINE WATER AND | 144423 | 39.00 |
| | | | | | | | VENDOR 01-013404 TOTALS | 139.00 |
| 01-018154 | REPUBLIC SERVICES #863 | I-0863001639526 | 01 | 570-0581 | WATER, SEWER, : | 108 W. RETAMA, ON CA | 144377 | 1,695.69 |
| 01-018154 | REPUBLIC SERVICES #863 | I-308630000209 | 01 | 570-0581 | WATER, SEWER, : | SERVICES 5-1-19 TO 5 | 144429 | 363.36 |
| | | | | | | | VENDOR 01-018154 TOTALS | 2,059.05 |
| 01-022033 | VALLEY VIEW CONSULTING | I-2599 | 01 | 570-9025 | INVESTMENT AD: | INVEST. ADV SRVS JAN | 144450 | 6,680.89 |
| | | | | | | | VENDOR 01-022033 TOTALS | 6,680.89 |
| 01-023906 | XEROX CORPORATION | I-096790607 | 01 | 570-0510 | RENTAL OF EQU: | COPIER LEASE ADMIN A | 144451 | 108.48 |
| 01-023906 | XEROX CORPORATION | I-096790610 | 01 | 570-0510 | RENTAL OF EQU: | COPIER LEASE FIRE AP | 144451 | 245.93 |
| | | | | | | | VENDOR 01-023906 TOTALS | 354.41 |

DEPARTMENT 570 GENERAL SERVICES TOTAL: 22,176.89

VENDOR SET 01 GENERAL FUND TOTAL: 246,559.70

VENDOR SET: 01 City of South Padre Islan
 FUND : 02 HOTEL/MOTEL TAX FUND
 DEPARTMENT: 590 VISITORS BUREAU
 INVOICE DATE RANGE: 1/01/1998 THRU 99/99/9999
 PAY DATE RANGE: 5/02/2019 THRU 5/10/2019
 BUDGET TO USE: CB-CURRENT BUDGET

BANK: OPER

| VENDOR | NAME | ITEM # | G/L | ACCOUNT | NAME | DESCRIPTION | CHECK # | AMOUNT |
|-----------|------------------------|-----------------|-----|----------|----------------|-------------------------|---------|----------|
| 01-004006 | DEROUSIE, LILIA | I-050119 | 02 | 590-0550 | TRAVEL EXPENS: | EXP FOR ARLAG TRADE | 144411 | 440.00 |
| | | | | | | VENDOR 01-004006 TOTALS | | 440.00 |
| 01-007115 | GEXA ENERGY, LP | I-27668322-4 | 02 | 590-0580 | ELECTRICITY : | GEXA ENERGY, LP | 144417 | 481.66 |
| | | | | | | VENDOR 01-007115 TOTALS | | 481.66 |
| 01-013404 | MOUNTAIN GLACIER, LLC | I-0301158644 | 02 | 590-0101 | OFFICE SUPPLI: | VIST. CTR WATER ACC | 144423 | 8.50 |
| | | | | | | VENDOR 01-013404 TOTALS | | 8.50 |
| 01-014237 | DONNELLY HOLDINGS, LTD | I-829968 | 02 | 590-0415 | SERVICE CONTR: | FILTER HVAC | 144371 | 22.50 |
| | | | | | | VENDOR 01-014237 TOTALS | | 22.50 |
| 01-018154 | REPUBLIC SERVICES #863 | I-308630039131 | 02 | 590-0581 | WATER,SEWER &: | SERVICES 5-1-19 TO 5 | 144429 | 105.94 |
| | | | | | | VENDOR 01-018154 TOTALS | | 105.94 |
| 01-019198 | SHI-GOVERNMENT SOLUTIO | I-GB00321725 | 02 | 590-0180 | INFORMATION T: | 1- NETGEAR NIGHTHAWK | 144381 | 184.00 |
| | | | | | | VENDOR 01-019198 TOTALS | | 184.00 |
| 01-020057 | TML MULTISTATE IEBP | I-42419 | 02 | 590-0081 | GROUP INSURAN: | APRIL 2019 MEDICAL P | 000213 | 1,561.62 |
| | | | | | | VENDOR 01-020057 TOTALS | | 1,561.62 |
| 01-020100 | T.M.R.S. | I-043019 | 02 | 590-0080 | TMRS | : APRIL 2019 | 000222 | 1,036.57 |
| | | | | | | VENDOR 01-020100 TOTALS | | 1,036.57 |
| 01-020185 | TIME WARNER CABLE | I-0029235041219 | 02 | 590-0415 | SERVICE CONTR: | RR2 ACCT, 600 PADRE | 144387 | 520.12 |
| | | | | | | VENDOR 01-020185 TOTALS | | 520.12 |
| 01-020355 | TK LAWN CARE | I-1604 | 02 | 590-0412 | LANDSCAPE | : LANDSCAPE VC | 144441 | 220.00 |

VENDOR SET: 01 City of South Padre Islan

BANK: OPER

FUND : 02 HOTEL/MOTEL TAX FUND

DEPARTMENT: 590 VISITORS BUREAU

INVOICE DATE RANGE: 1/01/1998 THRU 99/99/9999

PAY DATE RANGE: 5/02/2019 THRU 5/10/2019

BUDGET TO USE: CB-CURRENT BUDGET

| VENDOR | NAME | ITEM # | G/L | ACCOUNT | NAME | DESCRIPTION | CHECK # | AMOUNT |
|--------------------------------|------------------------|----------------|-----|----------|----------------|------------------------|-------------------------|----------|
| 01-020355 | TK LAWN CARE | I-1688 | 02 | 590-0412 | LANDSCAPE | : LANDSCAPE VC | 144441 | 220.00 |
| | | | | | | | VENDOR 01-020355 TOTALS | 440.00 |
| 01-020602 | TOUCAN GRAPHICS | I-26652 | 02 | 590-8141 | EVENTS | : 500 F;YERS NATL TOUR | 144442 | 170.00 |
| | | | | | | | VENDOR 01-020602 TOTALS | 170.00 |
| 01-021095 | UNITED PARCEL SERVICE | I-648239179 | 02 | 590-0108 | POSTAGE | : CVB WEEKLY SERVICE C | 144444 | 29.00 |
| | | | | | | | VENDOR 01-021095 TOTALS | 29.00 |
| 01-021102 | UNIFIRST HOLDINGS, INC | I-8132846193 | 02 | 590-0160 | LAUNDRY & JAN: | MOPS, MATTS, MISC | 000223 | 74.50 |
| | | | | | | | VENDOR 01-021102 TOTALS | 74.50 |
| 01-021226 | US BANK VOYAGER FLEET | I-869326488917 | 02 | 590-0104 | FUELS & LUBRI: | FUEL PURCHASED 3-23 | 144447 | 32.09 |
| | | | | | | | VENDOR 01-021226 TOTALS | 32.09 |
| DEPARTMENT 590 VISITORS BUREAU | | | | | | | TOTAL: | 5,106.50 |

VENDOR SET: 01 City of South Padre Island

BANK: OPER

FUND : 02 HOTEL/MOTEL TAX FUND

DEPARTMENT: 592 SALES & ADMINISTRATION

INVOICE DATE RANGE: 1/01/1998 THRU 99/99/9999

PAY DATE RANGE: 5/02/2019 THRU 5/10/2019

BUDGET TO USE: CB-CURRENT BUDGET

| VENDOR | NAME | ITEM # | G/L | ACCOUNT | NAME | DESCRIPTION | CHECK # | AMOUNT |
|-----------|-------------------------------------|--------|-----|----------|----------------|-----------------------------|---------|----------|
| 01-002882 | BLIZZARD INTERNET MARK I-201937596 | | 02 | 592-0415 | SERVICE CONTR: | BOOKING ENGINE FOR W 144404 | | 600.00 |
| | | | | | | VENDOR 01-002882 TOTALS | | 600.00 |
| 01-003410 | SPI CHAMBER OF COMMERC I-042319 | | 02 | 592-0538 | CONVENTION SE: | SPONSORSHIP 2019 TCC 144407 | | 1,000.00 |
| | | | | | | VENDOR 01-003410 TOTALS | | 1,000.00 |
| 01-006173 | JESUS FLORES JR. I-101 | | 02 | 592-0538 | CONVENTION SE: | TVSA TRANSPORTATION 144453 | | 1,320.00 |
| | | | | | | VENDOR 01-006173 TOTALS | | 1,320.00 |
| 01-006711 | GDS TRANSPORT, LLC I-200028 | | 02 | 592-0534 | AIRPORT SHUTT: | HRL AIRPORT SHUTTLE 144416 | | 6,365.00 |
| | | | | | | VENDOR 01-006711 TOTALS | | 6,365.00 |
| 01-013426 | MUNI SERVICES, LLC I-005844 | | 02 | 592-0530 | PROFESSIONAL : | HOTADMIN-FY2018/19 144424 | | 5,719.00 |
| | | | | | | VENDOR 01-013426 TOTALS | | 5,719.00 |
| 01-018160 | RELIANT RIBBON CORP. I-0295877-IN | | 02 | 592-0538 | CONVENTION SE: | AQUA SATIN HOT STAMP 144431 | | 359.47 |
| | | | | | | VENDOR 01-018160 TOTALS | | 359.47 |
| 01-018164 | EUGENE RIOS I-42519 | | 02 | 592-0550 | TRAVEL EXPENS: | PER DIEM:AUSTIN TRIP 000216 | | 90.00 |
| | | | | | | VENDOR 01-018164 TOTALS | | 90.00 |
| 01-019198 | SHI-GOVERNMENT SOLUTIO I-GB00323098 | | 02 | 592-0180 | INFORMATION T: | CVB DIR. LAPTOP EQUI 144434 | | 144.00 |
| | | | | | | VENDOR 01-019198 TOTALS | | 144.00 |
| 01-020057 | TML MULTISTATE IEBP I-42419 | | 02 | 592-0081 | GROUP INSURAN: | APRIL 2019 MEDICAL P 000213 | | 4,734.86 |
| | | | | | | VENDOR 01-020057 TOTALS | | 4,734.86 |
| 01-020100 | T.M.R.S. I-043019 | | 02 | 592-0080 | TMRS | : APRIL 2019 000222 | | 5,234.98 |
| | | | | | | VENDOR 01-020100 TOTALS | | 5,234.98 |

VENDOR SET: 01 City of South Padre Islan

BANK: OPER

FUND : 02 HOTEL/MOTEL TAX FUND

DEPARTMENT: 592 SALES & ADMINISTRATION

INVOICE DATE RANGE: 1/01/1998 THRU 99/99/9999

PAY DATE RANGE: 5/02/2019 THRU 5/10/2019

BUDGET TO USE: CB-CURRENT BUDGET

| VENDOR | NAME | ITEM # | G/L | ACCOUNT | NAME | DESCRIPTION | CHECK # | AMOUNT | |
|-----------|-----------------------|------------------|-----|----------|----------------|------------------------|------------------|----------|----------|
| 01-020104 | SCOTT MCGEHEE | I-252 | 02 | 592-0108 | POSTAGE | : VISITOR FULLFILLMENT | 144437 | 881.46 | |
| 01-020104 | SCOTT MCGEHEE | I-253 | 02 | 592-0108 | POSTAGE | : VISITOR FULLFILLMENT | 144437 | 234.12 | |
| | | | | | | | VENDOR 01-020104 | TOTALS | 1,115.58 |
| 01-020232 | TEXAS CIT ASSOCIATION | I-E1434 | 02 | 592-0538 | CONVENTION SE: | 2019 CONF SPONSORSHI | 144440 | 1,200.00 | |
| | | | | | | | VENDOR 01-020232 | TOTALS | 1,200.00 |
| 01-020602 | TOUCAN GRAPHICS | I-26611 | 02 | 592-0230 | STOCK - PROMO: | METALIC FINISH TOTE | 144390 | 1,035.58 | |
| 01-020602 | TOUCAN GRAPHICS | I-26613 | 02 | 592-0538 | CONVENTION SE: | ART SERV .PRNTING PO | 144390 | 80.00 | |
| 01-020602 | TOUCAN GRAPHICS | I-26643 | 02 | 592-0538 | CONVENTION SE: | 5000 ISLAND MAPS | 144442 | 399.00 | |
| 01-020602 | TOUCAN GRAPHICS | I-26655 | 02 | 592-0230 | STOCK - PROMO: | NYLON UMBRELLAS | 144442 | 6,122.20 | |
| 01-020602 | TOUCAN GRAPHICS | I-26656 | 02 | 592-0230 | STOCK - PROMO: | MEXICO COLLATERAL | 144442 | 1,400.00 | |
| 01-020602 | TOUCAN GRAPHICS | I-26657 | 02 | 592-0538 | CONVENTION SE: | 5M POSTCARDS | 144442 | 250.00 | |
| 01-020602 | TOUCAN GRAPHICS | I-26664 | 02 | 592-0538 | CONVENTION SE: | 5M BOOKMARKS | 144442 | 290.00 | |
| | | | | | | | VENDOR 01-020602 | TOTALS | 9,576.78 |
| 01-021093 | EDWARD L. CAUM | I-32519 | 02 | 592-0550 | TRAVEL EXPENS: | PER DIEM: NASC SYMPO | 000218 | 204.00 | |
| | | | | | | | VENDOR 01-021093 | TOTALS | 204.00 |
| 01-021095 | UNITED PARCEL SERVICE | I-000648239169-1 | 02 | 592-0108 | POSTAGE | : SERVICE CHARGES | 144393 | 29.00 | |
| | | | | | | | VENDOR 01-021095 | TOTALS | 29.00 |
| 01-021149 | MAGDALENA B. VASQUEZ | I-56283 | 02 | 592-0101 | OFFICE SUPPLI: | DRY CLEANING FOR TAB | 144446 | 234.00 | |
| | | | | | | | VENDOR 01-021149 | TOTALS | 234.00 |
| 01-021226 | US BANK VOYAGER FLEET | I-869326488917 | 02 | 592-0104 | FUELS & LUBRI: | FUEL PURCHASED 3-23 | 144447 | 110.11 | |
| | | | | | | | VENDOR 01-021226 | TOTALS | 110.11 |

DEPARTMENT 592 SALES & ADMINISTRATION TOTAL: 38,036.78

VENDOR SET: 01 City of South Padre Island

BANK: OPER

FUND : 02 HOTEL/MOTEL TAX FUND

DEPARTMENT: 593 EVENTS MARKETING

INVOICE DATE RANGE: 1/01/1998 THRU 99/99/9999

PAY DATE RANGE: 5/02/2019 THRU 5/10/2019

BUDGET TO USE: CB-CURRENT BUDGET

| VENDOR | NAME | ITEM # | G/L | ACCOUNT | NAME* | DESCRIPTION | CHECK # | AMOUNT |
|-----------|-----------------------|----------|-----|----------|----------------|------------------------|-------------------------|----------|
| 01-001238 | MARISA AMAYA | I-32519 | 02 | 593-0550 | TRAVEL | : PER DIEM: NASC SYMPO | 000214 | 250.00 |
| | | | | | | | VENDOR 01-001238 TOTALS | 250.00 |
| 01-004146 | DOS GUYS PRODUCTIONS. | I-050319 | 02 | 593-8099 | MISC. SPONSOR: | TRIATHLON | 144412 | 2,625.00 |
| | | | | | | | VENDOR 01-004146 TOTALS | 2,625.00 |
| 01-020057 | TML MULTISTATE IEBP | I-42419 | 02 | 593-0081 | GROUP INSURAN: | APRIL 2019 MEDICAL P | 000213 | 530.54 |
| | | | | | | | VENDOR 01-020057 TOTALS | 530.54 |
| 01-020100 | T.M.R.S. | I-043019 | 02 | 593-0080 | TMRS | : APRIL 2019 | 000222 | 541.35 |
| | | | | | | | VENDOR 01-020100 TOTALS | 541.35 |
| 01-020602 | TOUCAN GRAPHICS | I-26625 | 02 | 593-8060 | ENTRANCE SIGN: | ART WORK AND BANNERS | 144390 | 465.00 |
| 01-020602 | TOUCAN GRAPHICS | I-26626 | 02 | 593-8060 | ENTRANCE SIGN: | 2- MESH BANNERS, LOM | 144390 | 420.00 |
| 01-020602 | TOUCAN GRAPHICS | I-26627 | 02 | 593-8060 | ENTRANCE SIGN: | ART SERV/SIGNS, SAND | 144390 | 230.00 |
| | | | | | | | VENDOR 01-020602 TOTALS | 1,115.00 |

DEPARTMENT 593 EVENTS MARKETING TOTAL: 5,061.89

VENDOR SET: 01 City of South Padre Island

BANK: OPER

FUND : 02 HOTEL/MOTEL TAX FUND

DEPARTMENT: 594 MARKETING

INVOICE DATE RANGE: 1/01/1998 THRU 99/99/9999

PAY DATE RANGE: 5/02/2019 THRU 5/10/2019

BUDGET TO USE: CB-CURRENT BUDGET

| VENDOR | NAME | ITEM # | G/L | ACCOUNT | NAME | DESCRIPTION | CHECK # | AMOUNT |
|------------------------------------|--------------------------------|---------|-----|----------|------|-------------------------------------|-------------------------|------------|
| 01-001344 | THE ATKINS GROUP | I-13972 | 02 | 594-0531 | | MEDIA PLACEME: 2018/2019 FRONTIER A | 000219 | 64,215.62 |
| | | | | | | | VENDOR 01-001344 TOTALS | 64,215.62 |
| 01-021160 | UNIVERSITY OF TEXAS RG I-41419 | | 02 | 594-0530 | | PROFESSIONAL : ECONOMIC IMPACT RESE | 144394 | 59,500.00 |
| | | | | | | | VENDOR 01-021160 TOTALS | 59,500.00 |
| DEPARTMENT 594 MARKETING | | | | | | | TOTAL: | 123,715.62 |
| VENDOR SET 02 HOTEL/MOTEL TAX FUND | | | | | | | TOTAL: | 171,920.79 |

VENDOR SET: 01 City of South Padre Islan

BANK: OPER

FUND : 06 CONVENTION CENTER FUND

DEPARTMENT: 565 CONVENTION CENTER OPER

INVOICE DATE RANGE: 1/01/1998 THRU 99/99/9999

PAY DATE RANGE: 5/02/2019 THRU 5/10/2019

BUDGET TO USE: CB-CURRENT BUDGET

| VENDOR | NAME | ITEM # | G/L ACCOUNT | NAME | DESCRIPTION | CHECK # | AMOUNT |
|-------------------------|------------------------|--------------|----------------|----------------|------------------------|---------|-----------|
| 01-001210 | AIR FILTER COMPANY | I-78097 | 06 565-0415 | SERVICE CONTR: | HVAC FILTER SERVICE | 000211 | 292.40 |
| | | | | | | | 292.40 |
| VENDOR 01-001210 TOTALS | | | | | | | |
| 01-003150 | CAMERON COUNTY PARKS-A | I-050819 | 06 565-0560 | CAMERON COUNT: | LEASE PAYMENT FOR AP | 144405 | 896.41 |
| | | | | | | | 896.41 |
| VENDOR 01-003150 TOTALS | | | | | | | |
| 01-003418 | JAMES R. MATTHEWS | I-0519 | 06 565-0415 | SERVICE CONTR: | WATER TREATMENT MAY | 144361 | 150.00 |
| | | | | | | | 150.00 |
| VENDOR 01-003418 TOTALS | | | | | | | |
| 01-003419 | DONNELLY HOLDINGS, LTD | I-163058 | 06 565-0114 | MEDICAL | : FIRST AID SUPPLIES | 144408 | 100.68 |
| | | | | | | | 100.68 |
| VENDOR 01-003419 TOTALS | | | | | | | |
| 01-005512 | EXPRESS SERVICES, INC. | I-22230763 | 06 565-0530 | PROFESSIONAL | : TEMP LABOR CVB 4/21/ | 144362 | 256.41 |
| 01-005512 | EXPRESS SERVICES, INC. | I-22272054 | 06 565-0530 | PROFESSIONAL | : TEMP LABOR CVB 4-29- | 144413 | 390.72 |
| | | | | | | | 647.13 |
| VENDOR 01-005512 TOTALS | | | | | | | |
| 01-006162 | JUAN FLORES | I-728 | 06 565-0415 | SERVICE CONTR: | LANDSCAPE SERVICE @ | 000221 | 1,350.00 |
| | | | | | | | 1,350.00 |
| VENDOR 01-006162 TOTALS | | | | | | | |
| 01-007115 | GEXA ENERGY, LP | I-27668322-4 | 06 565-0580 | ELECTRICITY | : GEXA ENERGY, LP | 144417 | 27,459.34 |
| | | | | | | | 27,459.34 |
| VENDOR 01-007115 TOTALS | | | | | | | |
| 01-008227 | HINO GAS SALES, INC. | I-696048 | 06 565-0104 | FUELS & LUBRI: | 69 GALLONS LPG FOR K | 144367 | 179.99 |
| | | | | | | | 179.99 |
| VENDOR 01-008227 TOTALS | | | | | | | |
| 01-013404 | MOUNTAIN GLACIER, LLC | I-0301158649 | 06 565-0103-01 | CONSUMABLES | : ACCT 036013 DRINKING | 144423 | 45.00 |
| | | | | | | | 45.00 |
| VENDOR 01-013404 TOTALS | | | | | | | |

VENDOR SET: 01 City of South Padre Islan
 FUND : 06 CONVENTION CENTER FUND
 DEPARTMENT: 565 CONVENTION CENTER OPER
 INVOICE DATE RANGE: 1/01/1998 THRU 99/99/9999
 PAY DATE RANGE: 5/02/2019 THRU 5/10/2019
 BUDGET TO USE: CB-CURRENT BUDGET

BANK: OPER

| VENDOR | NAME | ITEM # | G/L ACCOUNT | NAME | DESCRIPTION | CHECK # | AMOUNT |
|-----------|------------------------|----------------|-------------|----------------|-----------------------------|---------|----------|
| 01-017997 | RUBEN RAMOS | I-1342 | 06 565-0415 | SERVICE CONTR: | PEST CONTROL CVB | 144376 | 210.00 |
| | | | | | VENDOR 01-017997 TOTALS | | 210.00 |
| 01-018154 | REPUBLIC SERVICES #863 | I-308630061804 | 06 565-0581 | WATER, SEWER : | SERVICES 5-1-19 TO 5 144429 | | 775.76 |
| | | | | | VENDOR 01-018154 TOTALS | | 775.76 |
| 01-018509 | SAM'S CLUB DIRECT | I-005211 | 06 565-0176 | CONCESSION SU: | CREAMER, WATER, CONC 144378 | | 67.80 |
| | | | | | VENDOR 01-018509 TOTALS | | 67.80 |
| 01-019520 | AT&T | I-041819 | 06 565-0501 | COMMUNICATION: | LONG DISTANCE CHARGE 144436 | | 46.69 |
| | | | | | VENDOR 01-019520 TOTALS | | 46.69 |
| 01-020057 | TML MULTISTATE IEBP | I-42419 | 06 565-0061 | GROUP INSURAN: | APRIL 2019 MEDICAL P 000213 | | 5,205.40 |
| | | | | | VENDOR 01-020057 TOTALS | | 5,205.40 |
| 01-020100 | T.M.R.S. | I-043019 | 06 565-0080 | TMRS | : APRIL 2019 000222 | | 3,302.18 |
| | | | | | VENDOR 01-020100 TOTALS | | 3,302.18 |
| 01-020602 | TOUCAN GRAPHICS | I-26644 | 06 565-0101 | OFFICE SUPPLI: | PURPLE HEART PARKING 144442 | | 19.50 |
| | | | | | VENDOR 01-020602 TOTALS | | 19.50 |
| 01-021102 | UNIFIRST HOLDINGS, INC | I-8412121989 | 06 565-0130 | WEARING APPAR: | CLEANING SUPPLIES, E 000223 | | 63.18 |
| 01-021102 | UNIFIRST HOLDINGS, INC | I-8412121989 | 06 565-0160 | LAUNDRY & JAN: | CLEANING SUPPLIES, E 000223 | | 115.21 |
| 01-021102 | UNIFIRST HOLDINGS, INC | I-8412122905 | 06 565-0130 | WEARING APPAR: | MATS, UNIFORM, MISC 000223 | | 63.18 |
| 01-021102 | UNIFIRST HOLDINGS, INC | I-8412122905 | 06 565-0160 | LAUNDRY & JAN: | MATS, UNIFORM, MISC 000223 | | 115.21 |
| | | | | | VENDOR 01-021102 TOTALS | | 356.78 |
| 01-021226 | US BANK VOYAGER FLEET | I-869326488917 | 06 565-0104 | FUELS & LUBRI: | FUEL PURCHASED 3-23 144447 | | 103.24 |
| | | | | | VENDOR 01-021226 TOTALS | | 103.24 |

VENDOR SET: 01 City of South Padre Islan

BANK: OPER

FUND : 06 CONVENTION CENTER FUND

DEPARTMENT: 565 CONVENTION CENTER OPER

INVOICE DATE RANGE: 1/01/1998 THRU 99/99/9999

PAY DATE RANGE: 5/02/2019 THRU 5/10/2019

BUDGET TO USE: CB-CURRENT BUDGET

| VENDOR | NAME | ITEM # | G/L ACCOUNT | NAME | DESCRIPTION | CHECK # | AMOUNT |
|--------|--------|--------|-------------|------------------------|-------------|--------------------|--------|
| 01-1 | PASCAL | I-5119 | 06 565-0410 | MACHINERY & E: PASCAL: | REPAIRS CVB | 144452 | 100.00 |
| | | | | | | VENDOR 01-1 TOTALS | 100.00 |

DEPARTMENT 565 CONVENTION CENTER OPER TOTAL: 41,308.30

VENDOR SET 06 CONVENTION CENTER FUND TOTAL: 41,308.30

VENDOR SET: 01 City of South Padre Islan

BANK: OPER

FUND : 09 PARKS, REC & BEAUTIF

DEPARTMENT: 572 GENERAL SERVICES

INVOICE DATE RANGE: 1/01/1998 THRU 99/99/9999

PAY DATE RANGE: 5/02/2019 THRU 5/10/2019

BUDGET TO USE: CB-CURRENT BUDGET

| VENDOR | NAME | ITEM # | G/L ACCOUNT | NAME | DESCRIPTION | CHECK # | AMOUNT |
|-------------------------|---------------------|----------|-------------|----------------|----------------------|---------|--------|
| 01-005513 | DOROTEO GARCIA JR. | I-1674 | 09 572-0433 | PARKS MAINTEN: | TAS PLAN, AND INSPEC | 144414 | 850.00 |
| VENDOR 01-005513 TOTALS | | | | | | | 850.00 |
| 01-020057 | TML MULTISTATE IEBP | I-42419 | 09 572-0081 | GROUP INSURAN: | APRIL 2019 MEDICAL P | 000213 | 520.54 |
| VENDOR 01-020057 TOTALS | | | | | | | 520.54 |
| 01-020100 | T.M.R.S. | I-043019 | 09 572-0080 | TMRS | : APRIL 2019 | 000222 | 451.95 |
| VENDOR 01-020100 TOTALS | | | | | | | 451.95 |

DEPARTMENT 572 GENERAL SERVICES TOTAL: 1,822.49

VENDOR SET 09 PARKS, REC & BEAUTIF TOTAL: 1,822.49

VENDOR SET: 01 City of South Padre Islan

BANK: OPER

FUND : 21 MUN. COURT TECHNOLOGY

DEPARTMENT: 520 MUN COURT TECHNOLOGY

INVOICE DATE RANGE: 1/01/1998 THRU 99/99/9999

PAY DATE RANGE: 5/02/2019 THRU 5/10/2019

BUDGET TO USE: CB-CURRENT BUDGET

| VENDOR | NAME | ITEM # | G/L | ACCOUNT | NAME | DESCRIPTION | CHECK # | AMOUNT |
|-----------|------------------------|--------------|-----|----------|----------------|----------------------|--|--------|
| 01-009117 | TYLER TECHNOLOGIES INC | I-025-257038 | 21 | 520-0415 | SERVICE CONTR: | MO FEE TO SUPPORT & | 144419 | 175.00 |
| | | | | | | | VENDOR 01-009117 TOTALS | 175.00 |
| 01-019198 | SHI-GOVERNMENT SOLUTIO | I-GB00323937 | 21 | 520-0150 | MINOR TOOLS &: | HPSCAN JET 043019PRO | 144434 | 392.00 |
| | | | | | | | VENDOR 01-019198 TOTALS | 392.00 |
| | | | | | | | DEPARTMENT 520 MUN COURT TECHNOLOGY TOTAL: | 567.00 |
| | | | | | | | VENDOR SET 21 MUN. COURT TECHNOLOGY TOTAL: | 567.00 |

VENDOR SET: 01 City of South Padre Islan

BANK: OPER

FUND : 30 TRANSPORTATION

DEPARTMENT: 591 SPI METRO

INVOICE DATE RANGE: 1/01/1998 THRU 99/99/9999

PAY DATE RANGE: 5/02/2019 THRU 5/10/2019

BUDGET TO USE: CB-CURRENT BUDGET

| VENDOR | NAME | ITEM # | G/L | ACCOUNT | NAME | DESCRIPTION | CHECK # | AMOUNT |
|-----------|------------------------|----------------|-----|----------|-------------------|----------------------|-------------------------|----------|
| 01-001006 | GREGORY D. ALEXANDER | I-667773 | 30 | 591-0420 | MOTOR VEHICLE: 1- | AC PRESSURE SWITC | 144357 | 14.30 |
| | | | | | | | VENDOR 01-001006 TOTALS | 14.30 |
| 01-001129 | A & W OFFICE SUPPLY IN | I-633416-0 | 30 | 591-0101 | OFFICE SUPPLI: | BOXES, BATTERIES, MA | 144397 | 341.35 |
| 01-001129 | A & W OFFICE SUPPLY IN | I-633416-1 | 30 | 591-0160 | LAUNDRY & JAN: | STORAGE BOXES, CLEAN | 144397 | 141.70 |
| | | | | | | | VENDOR 01-001129 TOTALS | 483.05 |
| 01-001161 | AT&T | I-040819 | 30 | 591-0501 | COMMUNICATION: | INTERNET | 144398 | 110.12 |
| | | | | | | | VENDOR 01-001161 TOTALS | 110.12 |
| 01-006185 | ALEX FLORES | I-584204 | 30 | 591-0420 | MOTOR VEHICLE: | SPI BUSSES | 144415 | 280.00 |
| | | | | | | | VENDOR 01-006185 TOTALS | 280.00 |
| 01-007115 | GEXA ENERGY, LP | I-27668322-4 | 30 | 591-0580 | ELECTRICITY : | GEXA ENERGY, LP | 144417 | 773.37 |
| 01-007115 | GEXA ENERGY, LP | I-27668324-4 | 30 | 591-0580 | ELECTRICITY : | GEXA ENERGY, LP | 144418 | 1,325.85 |
| | | | | | | | VENDOR 01-007115 TOTALS | 2,099.22 |
| 01-012091 | CINTAS UNIFORM | I-4020515368 | 30 | 591-0130 | WEARING APPAR: | UNIFORMS FOR TRANSIT | 144368 | 109.21 |
| | | | | | | | VENDOR 01-012091 TOTALS | 109.21 |
| 01-013404 | MOUNTAIN GLACIER, LLC | I-0301156976 | 30 | 591-0581 | WTR/SWR/GARBA: | BOTTLED WATER DEL. B | 144369 | 15.00 |
| | | | | | | | VENDOR 01-013404 TOTALS | 15.00 |
| 01-018154 | REPUBLIC SERVICES #863 | I-308630000209 | 30 | 591-0581 | WTR/SWR/GARBA: | SERVICES 5-1-19 TO 5 | 144429 | 714.45 |
| | | | | | | | VENDOR 01-018154 TOTALS | 714.45 |
| 01-018156 | RIDE SYSTEMS, INC. | I-16584 | 30 | 591-0501 | COMMUNICATION: | SUBSCRIPTION | 144430 | 960.00 |
| | | | | | | | VENDOR 01-018156 TOTALS | 960.00 |

VENDOR SET: 01 City of South Padre Islan

BANK: OPER

FUND : 30 TRANSPORTATION

DEPARTMENT: 591 SPI METRO

INVOICE DATE RANGE: 1/01/1998 THRU 99/99/9999

PAY DATE RANGE: 5/02/2019 THRU 5/10/2019

BUDGET TO USE: CB-CURRENT BUDGET

| VENDOR | NAME | ITEM # | G/L | ACCOUNT | NAME | DESCRIPTION | CHECK # | AMOUNT | | |
|-----------|------------------------|----------------|-----|----------|----------------|-----------------------|----------------|----------------|--------|-----------|
| 01-019192 | SHERWIN WILLIAMS CO. | I-8797-4 | 30 | 591-0401 | FURNITURE & F: | MISC. PAINT, ETC. TO | 144380 | 155.23 | | |
| | | | | | | VENDOR 01-019192 | TOTALS | 155.23 | | |
| 01-019198 | SHI-GOVERNMENT SOLUTIO | I-GB00320581 | 30 | 591-0501 | COMMUNICATION: | NETWORK CAMERAS | 144381 | 2,862.08 | | |
| | | | | | | VENDOR 01-019198 | TOTALS | 2,862.08 | | |
| 01-020057 | TML MULTISTATE IEBP | I-42419 | 30 | 591-0081 | GROUP INSURAN: | APRIL 2019 MEDICAL P | 000213 | 7,297.56 | | |
| | | | | | | VENDOR 01-020057 | TOTALS | 7,297.56 | | |
| 01-020096 | TEXAS DEPT. OF TRANSP | I-41819 | 30 | 591-0513 | TRAINING | : TTA MEMBERSHIP DUES | 144386 | 375.00 | | |
| | | | | | | VENDOR 01-020096 | TOTALS | 375.00 | | |
| 01-020100 | T.M.R.S. | I-043019 | 30 | 591-0080 | TMRS | : APRIL 2019 | 000222 | 5,830.19 | | |
| | | | | | | VENDOR 01-020100 | TOTALS | 5,830.19 | | |
| 01-020602 | TOUCAN GRAPHICS | I-26537 | 30 | 591-0118 | PRINTING | : BUS CARDS TRANSPORT | 144442 | 146.00 | | |
| | | | | | | VENDOR 01-020602 | TOTALS | 146.00 | | |
| 01-021226 | US BANK VOYAGER FLEET | I-869326488917 | 30 | 591-0104 | FUELS & LUBRI: | FUEL PURCHASED 3-23 | 144447 | 10,599.27 | | |
| | | | | | | VENDOR 01-021226 | TOTALS | 10,599.27 | | |
| | | | | | | | DEPARTMENT 591 | SPI METRO | TOTAL: | 32,050.68 |
| | | | | | | | VENDOR SET 30 | TRANSPORTATION | TOTAL: | 32,050.68 |

VENDOR SET: 01 City of South Padre Islan

BANK: OPER

FUND : 50 GENERAL DEBT SERVICE

DEPARTMENT: 567 DEBT SERVICE

INVOICE DATE RANGE: 1/01/1998 THRU 99/99/9999

PAY DATE RANGE: 5/02/2019 THRU 5/10/2019

BUDGET TO USE: CB-CURRENT BUDGET

| VENDOR | NAME | ITEM # | G/L | ACCOUNT | NAME | DESCRIPTION | CHECK # | AMOUNT |
|-----------|------------------------|---------------|-----|----------|----------------|----------------------|------------------------------------|---------------|
| 01-001991 | THE BANK OF NEW YORK M | I-252-2193683 | 50 | 567-0623 | PAYING AGENT : | PAYING AGENT FEE JUN | 144358 | 750.00 |
| | | | | | | | VENDOR 01-001991 TOTALS | 750.00 |
| | | | | | | | DEPARTMENT 567 DEBT SERVICE | TOTAL: 750.00 |
| | | | | | | | VENDOR SET 50 GENERAL DEBT SERVICE | TOTAL: 750.00 |

VENDOR SET: 01 City of South Padre Islan

BANK: OPER

FUND : 60 BEACH MAINTENANCE FUND

DEPARTMENT: 521 POLICE

INVOICE DATE RANGE: 1/01/1998 THRU 99/99/9999

PAY DATE RANGE: 5/02/2019 THRU 5/10/2019

BUDGET TO USE: CB-CURRENT BUDGET

| VENDOR | NAME | ITEM # | G/L | ACCOUNT | NAME | DESCRIPTION | CHECK # | AMOUNT |
|-----------|---------------------|----------|-----|----------|----------------|----------------------|------------------------------|--------|
| 01-020057 | TML MULTISTATE IEBP | I-42419 | 60 | 521-0081 | GROUP INSURAN: | APRIL 2019 MEDICAL P | 000213 | 132.64 |
| | | | | | | | VENDOR 01-020057 TOTALS | 132.64 |
| 01-020100 | T.M.R.S. | I-043019 | 60 | 521-0080 | TMRS | : APRIL 2019 | 000222 | 254.22 |
| | | | | | | | VENDOR 01-020100 TOTALS | 254.22 |
| | | | | | | | DEPARTMENT 521 POLICE TOTAL: | 386.86 |

VENDOR SET: 01 City of South Padre Islan

BANK: OPER

FUND : 60 BEACH MAINTENANCE FUND

DEPARTMENT: 522 BEACH PATROL

INVOICE DATE RANGE: 1/01/1998 THRU 99/99/9999

PAY DATE RANGE: 5/02/2019 THRU 5/10/2019

BUDGET TO USE: CB-CURRENT BUDGET

| VENDOR | NAME | ITEM # | G/L | ACCOUNT | NAME | DESCRIPTION | CHECK # | AMOUNT |
|-----------|-----------------------|----------------|-----|----------|----------------|----------------------|------------------------------------|----------|
| 01-016247 | JIM PIGG | I-050219 | 60 | 522-0550 | TRAVEL EXPENS: | REIM HOTEL - USLA ME | 000225 | 557.92 |
| | | | | | | | VENDOR 01-016247 TOTALS | 557.92 |
| 01-020057 | TML MULTISTATE IEBP | I-42419 | 60 | 522-0081 | GROUP INSURAN: | APRIL 2019 MEDICAL P | 000213 | 650.67 |
| | | | | | | | VENDOR 01-020057 TOTALS | 650.67 |
| 01-020100 | T.M.R.S. | I-043019 | 60 | 522-0080 | TMRS | : APRIL 2019 | 000222 | 975.43 |
| | | | | | | | VENDOR 01-020100 TOTALS | 975.43 |
| 01-021226 | US BANK VOYAGER FLEET | I-869326488917 | 60 | 522-0104 | FUEL & LUBRIC: | FUEL PURCHASED 3-23 | 144447 | 539.06 |
| | | | | | | | VENDOR 01-021226 TOTALS | 539.06 |
| | | | | | | | DEPARTMENT 522 BEACH PATROL TOTAL: | 2,723.08 |

VENDOR SET: 01 City of South Padre Islan

BANK: OPER

FUND : 60 BEACH MAINTENANCE FUND

DEPARTMENT: 532 ENVIRONMENTAL HEALTH

INVOICE DATE RANGE: 1/01/1998 THRU 99/99/9999

PAY DATE RANGE: 5/02/2019 THRU 5/10/2019

BUDGET TO USE: CB-CURRENT BUDGET

| VENDOR | NAME | ITEM # | G/L ACCOUNT | NAME | DESCRIPTION | CHECK # | AMOUNT |
|-------------------------------------|----------------------|----------|-------------|----------------|-------------------------|---------|--------|
| 01-001211 | ALEX AVALOS PRINTING | I-050719 | 60 532-0118 | PRINTING | : 1200 INVOICES 2 SIDE | 144402 | 428.29 |
| | | | | | VENDOR 01-001211 TOTALS | | 428.29 |
| 01-018509 | SAM'S CLUB DIRECT | I-009264 | 60 532-0150 | MINOR TOOLS & | GATORADE, CLIPBOARDS | 144378 | 123.81 |
| | | | | | VENDOR 01-018509 TOTALS | | 123.81 |
| 01-020057 | TML MULTISTATE IEBP | I-42419 | 60 532-0081 | GROUP INSURAN: | APRIL 2019 MEDICAL P | 000213 | 79.58 |
| | | | | | VENDOR 01-020057 TOTALS | | 79.58 |
| 01-020100 | T.M.R.S. | I-043019 | 60 532-0080 | TMRS | : APRIL 2019 | 000222 | 125.26 |
| | | | | | VENDOR 01-020100 TOTALS | | 125.26 |
| DEPARTMENT 532 ENVIRONMENTAL HEALTH | | | | | | TOTAL: | 756.94 |

VENDOR SET: 01 City of South Padre Islan

BANK: OPER

FUND : 60 BEACH MAINTENANCE FUND

DEPARTMENT: 560 BEACH MAINTENANCE

INVOICE DATE RANGE: 1/01/1998 THRU 99/99/9999

PAY DATE RANGE: 5/02/2019 THRU 5/10/2019

BUDGET TO USE: CB-CURRENT BUDGET

| VENDOR | NAME | ITEM # | G/L | ACCOUNT | NAME | DESCRIPTION | CHECK # | AMOUNT |
|-----------|------------------------|-----------------|-----|----------|----------------|----------------------|-------------------------|----------|
| 01-003221 | CAROLINA BIOLOGICAL SU | I-50681523 | 60 | 560-0510 | BEACH MAINTEN: | Microscope | 144406 | 1,719.99 |
| | | | | | | | VENDOR 01-003221 TOTALS | 1,719.99 |
| 01-003697 | ANRIGE INC. | I-3421115 | 60 | 560-9045 | SPRING BREAK | | 144409 | 5,402.50 |
| | | | | | | | VENDOR 01-003697 TOTALS | 5,402.50 |
| 01-012091 | CINTAS UNIFORM | I-4020936375 | 60 | 560-0530 | PROFESSIONAL : | SHORELINE UNIFORM LA | 144422 | 119.80 |
| | | | | | | | VENDOR 01-012091 TOTALS | 119.80 |
| 01-018154 | REPUBLIC SERVICES #863 | I-0863001639320 | 60 | 560-0510 | BEACH MAINTEN: | 7355 PADRE BLVD SPEC | 144377 | 313.75 |
| | | | | | | | VENDOR 01-018154 TOTALS | 313.75 |
| 01-019119 | SEA TURTLE, INC. | I-42619 | 60 | 560-0530 | PROFESSIONAL : | FIELD TRIP FOR 131 O | 144379 | 534.00 |
| | | | | | | | VENDOR 01-019119 TOTALS | 534.00 |
| 01-020057 | TML MULTISTATE IEBP | I-42419 | 60 | 560-0081 | GROUP INSURAN: | APRIL 2019 MEDICAL P | 000213 | 3,202.32 |
| | | | | | | | VENDOR 01-020057 TOTALS | 3,202.32 |
| 01-020100 | T.M.R.S. | I-043019 | 60 | 560-0080 | TMRS | : APRIL 2019 | 000222 | 3,642.30 |
| | | | | | | | VENDOR 01-020100 TOTALS | 3,642.30 |
| 01-021226 | US BANK VOYAGER FLEET | I-869326488917 | 60 | 560-0104 | FUEL & LUBRIC: | FUEL PURCHASED 3-23 | 144447 | 1,584.55 |
| | | | | | | | VENDOR 01-021226 TOTALS | 1,584.55 |

DEPARTMENT 560 BEACH MAINTENANCE TOTAL: 16,519.21

VENDOR SET 60 BEACH MAINTENANCE FUND TOTAL: 20,386.09

VENDOR SET: 01 City of South Padre Islan

BANK: OPER

FUND : 62 BAY ACCESS FUND

DEPARTMENT: 560 SHORELINE

INVOICE DATE RANGE: 1/01/1998 THRU 99/99/9999

PAY DATE RANGE: 5/02/2019 THRU 5/10/2019

BUDGET TO USE: CB-CURRENT BUDGET

| VENDOR | NAME | ITEM # | G/L ACCOUNT | NAME | DESCRIPTION | CHECK # | AMOUNT |
|-------------------------------|---------------------|----------|-------------|----------------|----------------------|-------------------------|--------|
| 01-020057 | TML MULTISTATE IEBP | I-42419 | 62 560-0081 | GROUP INSURAN: | APRIL 2019 MEDICAL P | 000213 | 520.54 |
| | | | | | | VENDOR 01-020057 TOTALS | 520.54 |
| 01-020100 | T.M.R.S. | I-043019 | 62 560-0080 | TMRS | : APRIL 2019 | 000222 | 245.79 |
| | | | | | | VENDOR 01-020100 TOTALS | 245.79 |
| DEPARTMENT 560 SHORELINE | | | | | | TOTAL: | 766.33 |
| VENDOR SET 62 BAY ACCESS FUND | | | | | | TOTAL: | 766.33 |

VENDOR SET: 01 City of South Padre Islan

BANK: OPER

FUND : 80 ECONOMIC DEVELOPMENT CORP

DEPARTMENT: N/A NON-DEPARTMENTAL

INVOICE DATE RANGE: 1/01/1998 THRU 99/99/9999

PAY DATE RANGE: 5/02/2019 THRU 5/10/2019

BUDGET TO USE: CS-CURRENT BUDGET

| VENDOR | NAME | ITEM # | G/L ACCOUNT | NAME | DESCRIPTION | CHECK # | AMOUNT | | |
|-----------|----------|----------|-------------|----------|------------------------|-------------------------|------------------|--------|--------|
| 01-020100 | T.M.R.S. | I-050119 | 80 2470 | T.M.R.S. | : APRIL 2019 EDC CONTR | 000227 | 327.22 | | |
| | | | | | | VENDOR 01-020100 TOTALS | 327.22 | | |
| | | | | | | DEPARTMENT | NON-DEPARTMENTAL | TOTAL: | 327.22 |

VENDOR SET: 01 City of South Padre Islan

BANK: OPER

FUND : 80 ECONOMIC DEVELOPMENT CORP

DEPARTMENT: 580 EDC

INVOICE DATE RANGE: 1/01/1998 THRU 99/99/9999

PAY DATE RANGE: 5/02/2019 THRU 5/10/2019

BUDGET TO USE: CB-CURRENT BUDGET

| VENDOR | NAME | ITEM # | G/L ACCOUNT | NAME | DESCRIPTION | CHECK # | AMOUNT |
|-----------|------------------------|-------------|-------------|----------------|-------------------------|---------|-----------|
| 01-001188 | THE ADVIS GROUP | I-19022419 | 80 580-9178 | DESIGNATED PR: | HOSPITAL FEASIBILITY | 144400 | 7,099.66 |
| | | | | | VENDOR 01-001188 TOTALS | | 7,099.66 |
| 01-001189 | ART BUSINESS INCUBATOR | I-050119 | 80 580-9178 | DESIGNATED PR: | INITIAL START UP FUN | 144401 | 10,000.00 |
| | | | | | VENDOR 01-001189 TOTALS | | 10,000.00 |
| 01-012017 | LEADERSHIP LAGUNA MADR | I-01-2019 | 80 580-0555 | PROMOTIONS : | EDC: JR LEADERSHIP P | 144420 | 300.00 |
| | | | | | VENDOR 01-012017 TOTALS | | 300.00 |
| 01-012097 | DARLA LAPEYRE | I-41219 | 80 580-0102 | LOCAL MEETING: | EDC: REIMBURSE LUNCH | 000215 | 115.93 |
| 01-012097 | DARLA LAPEYRE | I-41219 | 80 580-0108 | POSTAGE : | EDC: REIMBURSE LUNCH | 000215 | 11.00 |
| 01-012097 | DARLA LAPEYRE | I-41219 | 80 580-0550 | TRAVEL : | EDC: REIMBURSE LUNCH | 000215 | 52.46 |
| | | | | | VENDOR 01-012097 TOTALS | | 74.47 |
| 01-016600 | PT ISABEL/SO PADRE PRE | I-050219 | 80 580-0107 | BOOKS & PUBLI: | EDC: ANNUAL SUBSCRIP | 144426 | 22.00 |
| | | | | | VENDOR 01-016600 TOTALS | | 22.00 |
| 01-018099 | RIO GRANDE VALLEY PART | I-5102 | 80 580-0551 | DUES & MEMBER: | EDC:ANNUAL MEMBERSHI | 144428 | 350.00 |
| | | | | | VENDOR 01-018099 TOTALS | | 350.00 |
| 01-020057 | TML MULTISTATE IEBP | I-42419 | 80 580-0081 | GROUP INSURAN: | APRIL 2019 MEDICAL P | 000213 | 520.54 |
| | | | | | VENDOR 01-020057 TOTALS | | 520.54 |
| 01-020100 | T.M.R.S. | I-050119 | 80 580-0080 | TMRS : | APRIL 2019 EDC CONTR | 000227 | 606.30 |
| | | | | | VENDOR 01-020100 TOTALS | | 606.30 |
| 01-021232 | GATEWAY PRINTING & OFF | I-4807789-0 | 80 580-0101 | OFFICE SUPPLI: | EDC: OFFICE SUPPLIES | 144448 | 141.50 |
| | | | | | VENDOR 01-021232 TOTALS | | 141.50 |

DEPARTMENT 580 EDC TOTAL: 19,114.47

VENDOR SET: 01 City of South Padre Islan

BANK: OPER

FUND : 80 ECONOMIC DEVELOPMENT CORP

DEPARTMENT: 583 BNC BUILDING FACILITY

INVOICE DATE RANGE: 1/01/1998 THRU 99/99/9999

PAY DATE RANGE: 5/02/2019 THRU 5/10/2019

BUDGET TO USE: CB-CURRENT BUDGET

| VENDOR | NAME | ITEM # | G/L ACCOUNT | NAME | DESCRIPTION | CHECK # | AMOUNT |
|-----------|-----------------|--------------|-------------|-------------|-------------------|--|------------|
| 01-007115 | GEXA ENERGY, LP | I-27668122-4 | 80 583-0580 | ELECTRICITY | : GEXA ENERGY, LP | 144417 | 945.76 |
| | | | | | | VENDOR 01-007115 TOTALS | 945.76 |
| | | | | | | DEPARTMENT 583 BNC BUILDING FACILITY TOTAL: | 945.76 |
| | | | | | | VENDOR SET 80 ECONOMIC DEVELOPMENT CORP TOTAL: | 20,387.45 |
| | | | | | | REPORT GRAND TOTAL: | 536,518.83 |

**CITY OF SOUTH PADRE ISLAND
CITY COUNCIL MEETING
AGENDA REQUEST FORM**

MEETING DATE: May 15, 2019

NAME & TITLE: Rodrigo Gimenez, Chief Financial Officer

DEPARTMENT: Finance

ITEM

Approve Quarterly Investment Report for quarter ending March 31, 2019 as prepared by Valley View Consulting, L.L.C.

ITEM BACKGROUND

BUDGET/FINANCIAL SUMMARY

COMPREHENSIVE PLAN GOAL

LEGAL REVIEW

Sent to Legal: YES: _____ NO: _____
Approved by Legal: YES: _____ NO: _____

Comments:

RECOMMENDATIONS/COMMENTS

Approve Quarterly Investment Report as presented.

12-5



QUARTERLY INVESTMENT REPORT

For the Quarter Ended

March 31, 2019


Prepared by

Valley View Consulting, L.L.C.

The investment portfolio of the City of South Padre Island is in compliance with the Public Funds Investment Act and the City's Investment Policy and Strategies.



City Manager



Chief Financial Officer

Disclaimer: These reports were compiled using information provided by the City. No procedures were performed to test the accuracy or completeness of this information. The market values included in these reports were obtained by Valley View Consulting, L.L.C. from sources believed to be accurate and represent proprietary valuation. Due to market fluctuations these levels are not necessarily reflective of current liquidation values. Yield calculations are not determined using standard performance formulas, are not representative of total return yields, and do not account for investment advisor fees.

ee-5

Summary

Quarter End Results by Investment Category:

| Asset Type | December 31, 2018 | | March 31, 2019 | | |
|----------------|----------------------|----------------------|----------------------|----------------------|------------|
| | Book Value | Market Value | Book Value | Market Value | Ave. Yield |
| DDA/MMA | \$ 28,693,721 | \$ 28,693,721 | \$ 23,934,408 | \$ 23,934,408 | 2.50% |
| Pools | 148,410 | 148,410 | 149,290 | 149,290 | 2.41% |
| CDs/Securities | 8,620,161 | 8,620,161 | 9,092,753 | 9,092,753 | 2.68% |
| Totals | \$ 37,462,291 | \$ 37,462,291 | \$ 33,176,452 | \$ 33,176,452 | |

Current Quarter Average Yield (1)

| | |
|------------------------------|-------|
| Total Portfolio | 2.55% |
| Rolling Three Month Treasury | 2.44% |
| Rolling Six Month Treasury | 2.51% |

Fiscal Year-to-Date Average Yield (2)

| | |
|------------------------------|-------|
| Total Portfolio | 2.46% |
| Rolling Three Month Treasury | 2.41% |
| Rolling Six Month Treasury | 2.45% |
| TexPool | 2.35% |

Interest Income (unaudited)

| | |
|---------------------|------------|
| This Quarter | \$ 208,287 |
| Fiscal Year to Date | \$ 412,768 |

(1) Average Yield calculated using quarter end report yields and adjusted book values and does not reflect a total return analysis or account for advisory fees.

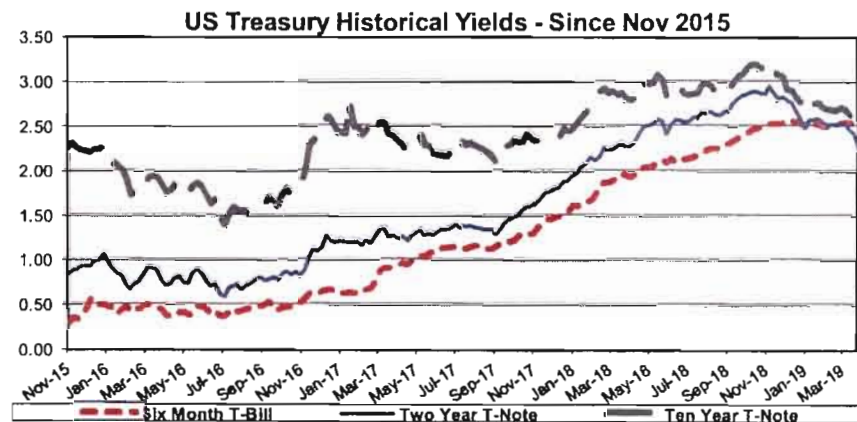
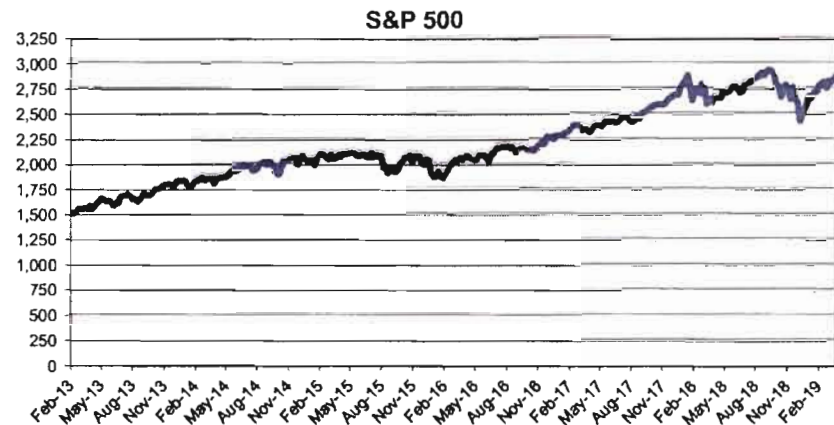
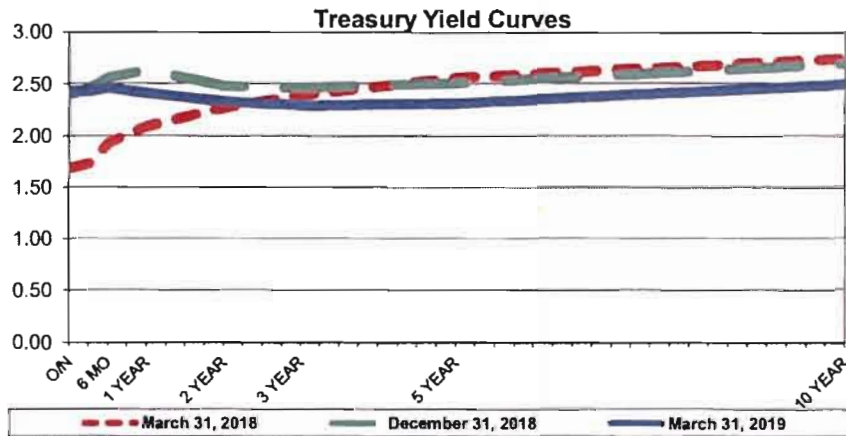
(2) Fiscal Year-to-Date Average Yields calculated using quarter end report yields and adjusted book values and does not reflect a total return analysis or account for advisory fees.

5-23

Economic Overview

3/31/2019

The Federal Open Market Committee (FOMC) maintained the Fed Funds target range to 2.25% - 2.50% (Effective Fed Funds are trading +/-2.40%). The market projections now lean towards decreases late 2019 or early 2020. Gradual FRB portfolio reduction continues by limiting reinvestment of maturing holdings, but that strategy will end this summer. February Non Farm Payroll plunged to only 20,000 new jobs (although Dec and Jan were revised up slightly). Fourth quarter GDP registered 2.2% (final). Crude oil remained +/- \$55. The Stock Markets continued higher from December lows. Housing mostly mixed. The mid-maturity yield curve is lower and still sway-backed.



hcs

Investment Holdings
March 31, 2019

| Description | Rating | Coupon/ Discount | Maturity Date | Settlement Date | Par Value | Book Value | Market Price | Market Value | Life (days) | Yield |
|--------------------------|--------|---------------------|------------------|--------------------|----------------------|----------------------|-----------------|----------------------|----------------|--------------|
| IBC | | 2.39% | 04/01/19 | 03/31/19 | \$ 12,439,883 | \$ 12,439,883 | 1.00 | \$ 12,439,883 | 1 | 2.39% |
| LSNB | | 0.25% | 04/01/19 | 03/31/19 | 123,239 | 123,239 | 1.00 | 123,239 | 1 | 0.25% |
| Southside Bank MMA | | 2.59% | 04/01/19 | 03/31/19 | 2,579,442 | 2,579,442 | 1.00 | 2,579,442 | 1 | 2.59% |
| NexBank MMA | | 2.66% | 04/01/19 | 03/31/19 | 8,791,844 | 8,791,844 | 1.00 | 8,791,844 | 1 | 2.66% |
| TexasDaily | AAAm | 2.41% | 04/01/19 | 03/31/19 | 118,503 | 118,503 | 1.00 | 118,503 | 1 | 2.41% |
| TexPool | AAAm | 2.42% | 04/01/19 | 03/31/19 | 30,787 | 30,787 | 1.00 | 30,787 | 1 | 2.42% |
| East West Bank CD | | 2.55% | 04/10/19 | 10/10/18 | 506,080 | 506,080 | 100.00 | 506,080 | 10 | 2.58% |
| Lubbock National Bank CD | | 2.60% | 06/16/19 | 06/16/17 | 2,039,226 | 2,039,226 | 100.00 | 2,039,226 | 77 | 2.60% |
| Lubbock National Bank CD | | 2.60% | 06/19/19 | 06/19/18 | 1,019,615 | 1,019,615 | 100.00 | 1,019,615 | 80 | 2.60% |
| BTH Bank CD | | 2.63% | 07/26/19 | 07/26/18 | 1,017,644 | 1,017,644 | 100.00 | 1,017,644 | 117 | 2.66% |
| Origin Bank CD | | 2.72% | 08/20/19 | 02/20/19 | 501,490 | 501,490 | 100.00 | 501,490 | 142 | 2.75% |
| East West Bank CD | | 2.71% | 02/10/20 | 02/08/19 | 1,254,835 | 1,254,835 | 100.00 | 1,254,835 | 316 | 2.75% |
| LegacyTexas Bank CD | | 2.63% | 09/22/20 | 03/22/19 | 1,500,000 | 1,500,000 | 100.00 | 1,500,000 | 541 | 2.66% |
| Origin Bank CD | | 2.82% | 02/20/21 | 02/20/19 | 1,253,863 | 1,253,863 | 100.00 | 1,253,863 | 692 | 2.85% |
| | | | | | \$ 33,176,452 | \$ 33,176,452 | | \$ 33,176,452 | 76 | 2.55% |
| | | | | | | | | | (1) | (2) |

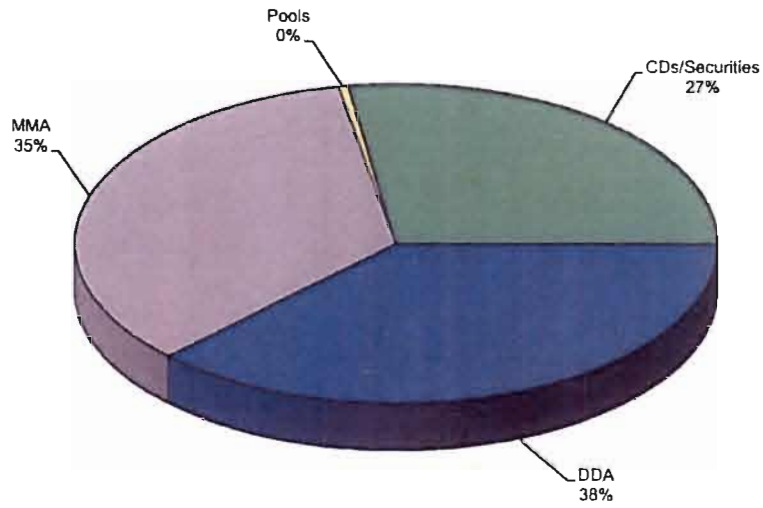
(1) **Weighted average life** - For purposes of calculating weighted average life bank, pool, and money market balances are assumed to have a one day maturity.

(2) **Weighted average yield to maturity** - The weighted average yield to maturity is based on adjusted book value, realized and unrealized gains/losses and investment advisory fees are not considered. The yield for the reporting month is used for bank, pool, and money market balances.

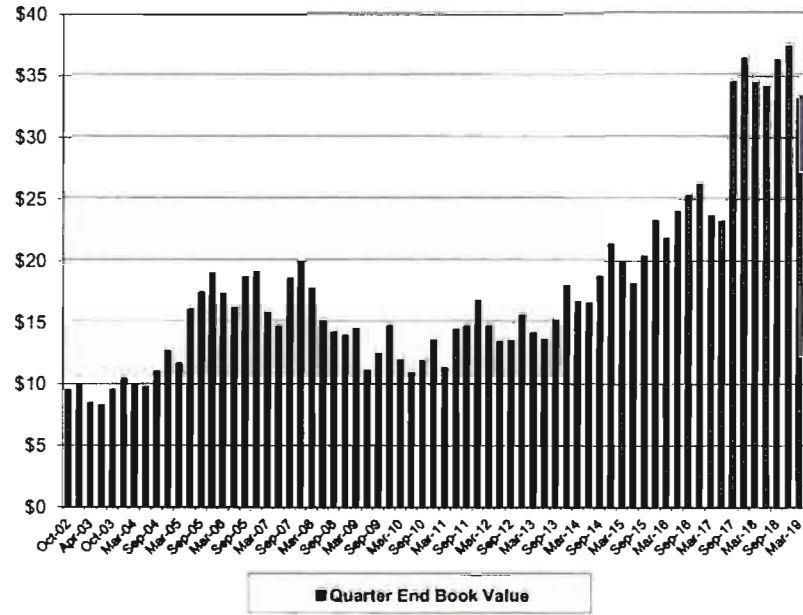
(3) **IBC and SSB Yields Estimated.**

se-s

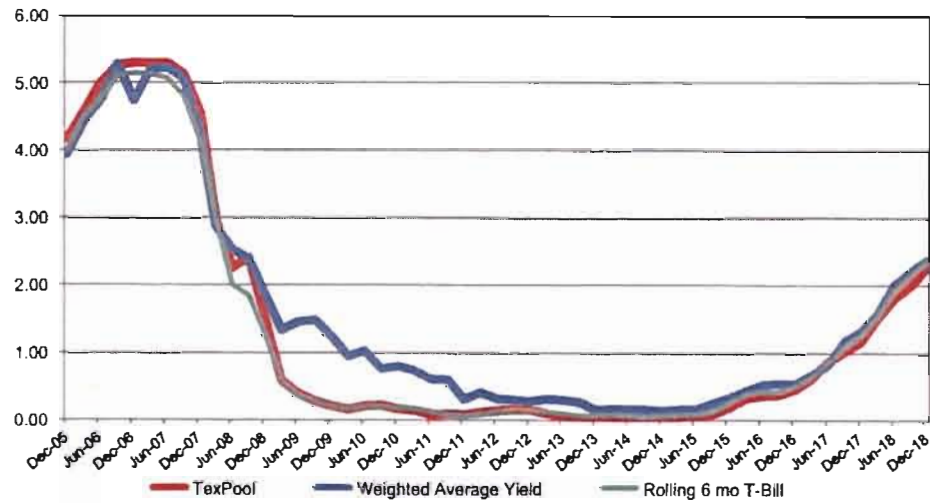
Portfolio Composition



Total Portfolio (Millions)



Total Portfolio Performance



98.5

Book & Market Value Comparison

| Description | Coupon/ Discount | Maturity Date | Settlement Date | December 31, 2018 | | | March 31, 2019 | | |
|--------------------------|---------------------|------------------|--------------------|----------------------|----------------------|------------------------|-----------------------|----------------------|----------------------|
| | | | | Par Value | Book Value | Purchases/ Accruals | Sales/ Maturities | Par Value | Book Value |
| IBC | 2.39% | 04/01/19 | 03/31/19 | \$ 15,487,199 | \$ 15,487,199 | \$ - | \$ (3,047,316) | \$ 12,439,883 | \$ 12,439,883 |
| LSNB | 0.25% | 04/01/19 | 03/31/19 | 119,980 | 119,980 | 3,259 | | 123,239 | 123,239 |
| Green Bank MMA | 2.56% | 04/01/19 | 03/31/19 | 758,534 | 758,534 | | (758,534) | - | - |
| Southside Bank MMA | 2.59% | 04/01/19 | 03/31/19 | 2,563,533 | 2,563,533 | 15,908 | | 2,579,442 | 2,579,442 |
| NexBank MMA | 2.66% | 04/01/19 | 03/31/19 | 9,764,475 | 9,764,475 | | (972,631) | 8,791,844 | 8,791,844 |
| TexasDaily | 2.41% | 04/01/19 | 03/31/19 | 117,804 | 117,804 | 699 | | 118,503 | 118,503 |
| TexPool | 2.42% | 04/01/19 | 03/31/19 | 30,606 | 30,606 | 182 | | 30,787 | 30,787 |
| LegacyTexas Bank CD | 2.00% | 02/07/19 | 02/07/18 | 2,033,455 | 2,033,455 | | (2,033,455) | - | - |
| LegacyTexas Bank CD | 2.00% | 02/12/19 | 02/12/18 | 508,364 | 508,364 | | (508,364) | - | - |
| LegacyTexas Bank CD | 2.20% | 03/22/19 | 03/22/18 | 1,525,047 | 1,525,047 | | (1,525,047) | - | - |
| East West Bank CD | 2.55% | 04/10/19 | 10/10/18 | 502,908 | 502,908 | 3,172 | | 506,080 | 506,080 |
| Lubbock National Bank CD | 2.60% | 06/16/19 | 06/16/17 | 2,026,208 | 2,026,208 | 13,018 | | 2,039,226 | 2,039,226 |
| Lubbock National Bank CD | 2.60% | 06/19/19 | 06/19/18 | 1,013,107 | 1,013,107 | 6,509 | | 1,019,615 | 1,019,615 |
| BTH Bank CD | 2.63% | 07/26/19 | 07/26/18 | 1,011,073 | 1,011,073 | 6,571 | | 1,017,644 | 1,017,644 |
| Origin Bank CD | 2.72% | 08/20/19 | 02/20/19 | - | - | 501,490 | | 501,490 | 501,490 |
| East West Bank CD | 2.71% | 02/10/20 | 02/08/19 | - | - | 1,254,835 | | 1,254,835 | 1,254,835 |
| LegacyTexas Bank CD | 2.63% | 09/22/20 | 03/22/19 | - | - | 1,500,000 | | 1,500,000 | 1,500,000 |
| Origin Bank CD | 2.82% | 02/20/21 | 02/20/19 | - | - | 1,253,863 | | 1,253,863 | 1,253,863 |
| TOTAL | | | | \$ 37,462,291 | \$ 37,462,291 | \$ 4,559,506 | \$ (8,845,346) | \$ 33,176,452 | \$ 33,176,452 |

6E-S

Fund Allocation

March 31, 2019

| Book & Market Value | Consolidated/ Operating | Payroll | Police Forfeiture | EDC | EDC Debt Reserve | Venue Debt Reserve | 2016 Tax Notes | 2017 Venue Tax Bonds | Totals |
|-----------------------------------|------------------------------------|-----------------|------------------------------|-------------------|-----------------------------|-------------------------------|---------------------------|---------------------------------|----------------------|
| IBC | \$ 11,075,817 | \$ 3,753 | \$ 47,761 | \$ 20,506 | \$ 409,907 | \$ 522,570 | \$ 152,860 | \$ 206,710 | \$ 12,439,883 |
| LSNB | - | - | - | 123,239 | - | - | - | - | 123,239 |
| Green Bank MMA | - | - | - | - | - | - | - | - | - |
| Southside Bank MMA | 2,579,442 | - | - | - | - | - | - | - | 2,579,442 |
| NexBank MMA | 1,036,589 | - | - | - | - | - | - | 7,755,255 | 8,791,844 |
| TexasDaily | 118,503 | - | - | - | - | - | - | - | 118,503 |
| TexPool | 7,698 | - | - | 23,089 | - | - | - | - | 30,787 |
| 04/10/19–East West Bank CD | 506,080 | - | - | - | - | - | - | - | 506,080 |
| 06/16/19–Lubbock National Bank CD | 2,039,226 | - | - | - | - | - | - | - | 2,039,226 |
| 06/19/19–Lubbock National Bank CD | 1,019,615 | - | - | - | - | - | - | - | 1,019,615 |
| 07/26/19–BTH Bank CD | 1,017,644 | - | - | - | - | - | - | - | 1,017,644 |
| 08/20/19–Origin Bank CD | 501,490 | - | - | - | - | - | - | - | 501,490 |
| 02/10/20–East West Bank CD | 1,254,835 | - | - | - | - | - | - | - | 1,254,835 |
| 09/22/20–LegacyTexas Bank CD | 1,500,000 | - | - | - | - | - | - | - | 1,500,000 |
| 02/20/21–Origin Bank CD | 1,253,863 | - | - | - | - | - | - | - | 1,253,863 |
| Totals | \$ 23,910,802 | \$ 3,753 | \$ 47,761 | \$ 166,834 | \$ 409,907 | \$ 522,570 | \$ 152,860 | \$ 7,961,965 | \$ 33,176,452 |

8E-5

Fund Allocation

December 31, 2018

| Book & Market Value | Consolidated/ Operating | Payroll | Police Forfeiture | EDC | EDC Debt Reserve | Venue Debt Reserve | 2016 Tax Notes | 2017 Venue Tax Bonds | Totals |
|-----------------------------------|------------------------------------|-----------------|------------------------------|-------------------|-----------------------------|-------------------------------|---------------------------|---------------------------------|----------------------|
| IBC | \$ 14,217,203 | \$ 5,794 | \$ 18,375 | \$ 20,398 | \$ 407,759 | \$ 519,831 | \$ 32,693 | \$ 265,146 | \$ 15,487,199 |
| LSNB | - | - | - | 119,980 | - | - | - | - | 119,980 |
| Green Bank MMA | - | - | - | - | - | - | 758,534 | - | 758,534 |
| Southside Bank MMA | 2,563,533 | - | - | - | - | - | - | - | 2,563,533 |
| NexBank MMA | 1,029,844 | - | - | - | - | - | - | 8,734,631 | 9,764,475 |
| TexasDaily | 117,804 | - | - | - | - | - | - | - | 117,804 |
| TexPool | 7,653 | - | - | 22,953 | - | - | - | - | 30,606 |
| 02/07/19-LegacyTexas Bank CD | 2,033,455 | - | - | - | - | - | - | - | 2,033,455 |
| 02/12/19-LegacyTexas Bank CD | 508,364 | - | - | - | - | - | - | - | 508,364 |
| 03/22/19-LegacyTexas Bank CD | 1,525,047 | - | - | - | - | - | - | - | 1,525,047 |
| 04/10/19-East West Bank CD | 502,908 | - | - | - | - | - | - | - | 502,908 |
| 06/16/19-Lubbock National Bank CD | 2,026,208 | - | - | - | - | - | - | - | 2,026,208 |
| 06/19/19-Lubbock National Bank CD | 1,013,107 | - | - | - | - | - | - | - | 1,013,107 |
| 07/26/19-BTH Bank CD | 1,011,073 | - | - | - | - | - | - | - | 1,011,073 |
| Totals | \$ 26,556,197 | \$ 5,794 | \$ 18,375 | \$ 163,331 | \$ 407,759 | \$ 519,831 | \$ 791,227 | \$ 8,999,777 | \$ 37,462,291 |

6e-5

**CITY OF SOUTH PADRE ISLAND
CITY COUNCIL MEETING
AGENDA REQUEST FORM**

MEETING DATE: May 15, 2019

NAME & TITLE: Debbie Huffman, Parks and Recreation Manager

DEPARTMENT: Parks & Recreation

ITEM

Approve Resolution No. 2019-21 for the temporary closure of Highway 100 for the 5th Annual 2019 Summer Longest Causeway Run and Fitness Walk on Saturday, June 1, 2019.

ITEM BACKGROUND

This is the 5th year for this Port Isabel Event and is scheduled for Saturday, June 1, 2019. The event starts at Schlitterbahn parking lot and ends at Port Isabel Event & Cultural Center.

BUDGET/FINANCIAL SUMMARY

COMPREHENSIVE PLAN GOAL

LEGAL REVIEW

Sent to Legal: YES: _____ NO: _____
Approved by Legal: YES: _____ NO: _____

Comments:

RECOMMENDATIONS/COMMENTS

Approve resolution.



RESOLUTION NO. 2019-21

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOUTH PADRE ISLAND, TEXAS, APPROVING THE TEMPORARY CLOSURE OF HIGHWAY 100 FOR THE 5th ANNUAL 2019 SUMMER LONGEST CAUSEWAY RUN AND FITNESS WALK ON SATURDAY JUNE 1, 2019.

WHEREAS, The Longest Causeway Run and Fitness Walk, produced by Port Isabel Chamber of Commerce and;

WHEREAS, The Longest Causeway Run and Fitness Walk is expected to attract over 2500 participants and their families to South Padre Island.

WHEREAS, the implementation of the Longest Causeway Run and Fitness Walk requires our consent by resolution for temporary closure of a state right-of-way;

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of South Padre Island, Texas:

Section 1. The City Council hereby adopts Resolution No. 2019-21 supporting the temporary closure of Hwy. 100 on June 1, 2019 for this event and will provide traffic control for the temporary closure of Hwy.100 to provide safe travel for all participants.

PASSED, APPROVED AND ADOPTED on this the 15th day of May, 2019.

CITY OF SOUTH PADRE ISLAND, TEXAS

Dennis Stahl, Mayor

ATTEST:

Susan M. Hill, City Secretary



Special Event Permit

City of South Padre Island
4801 Padre Blvd.
South Padre Island, TX 78597
Phone: (956) 781-8188
e-mail
SpecialEventPermit@myspi.org

Event Title: 5th Annual Summer Longest Causeway Run & Fitness Walk

New Event Returning Event Convention Bureau Sponsorship

Permit Applicant: Port Isabel Chamber of Commerce - Betty Wells
This is the person organizing the event and is responsible in all ways for the event.

E-mail: director@portisabel.org **Phone:** 956-581-1052

Address: 421 E. Queen Isabella Blvd., Port Isabel, TX 78578

Event Date(s): Saturday, June 1, 2019

Location: Starts at Schiltebahn Parking Lot and ends at Port Isabel Event Cultural Center

Times:
Set-Up 5:30 AM Start of Event 08/01/19 7:00 am
Finish 08/01/19 9:30am Tear Down 10:00 AM

Location Map Attached Estimated Attendance: 2500

Services needed from City Departments:

Special Event Designation (CM) Causeway Closure (CM) Street Closure (CM)

Please put as much detail as possible to describe your event. How many people do you expect to attend and how did you determine your attendance? Please include the name of entities involved in the event. (This information may not be used to determine approval of plan, but may be used to research prior events for potential risk assessment to determine public safety requirements.)

Event Description:

The summer run and walk is patterned after our 35 year old January event, but with a different course. The 6.2 mile (10K) course starts at Schiltebahn Beach Waterpark on South Padre Island and ends at the new Port Isabel Event & Cultural Center (PIECC). Runners will also be treated to a waterfront loop through Isla Blanca Park before continuing on to the Historic Queen Isabella Causeway and Port Isabel. Walkers along the 5K course will also start at Schiltebahn and also crossing the Queen Isabella Causeway and end at the PIECC, where awards ceremonies will be held immediately following the race.

5-32

CVA Sponsorship Info: If your event is the recipient of CVB funding, please state here what they are providing for the event.

- Funding Marketing

Description:

N/A

Police

- Traffic Plan Parking Plan Street or Causeway Closure Security Staffing

Security is an important part of any large gathering. As the event organizer, it is your responsibility to ensure that security is adequate for your event. Please consult the LEO document to determine the specific security requirements for your event. SPI off duty police officers can be hired for \$35 per hour, if needed. Contact LT. Herrera at (956) 761-8146 for more information. The South Padre Police Department has authority over your event safety requirements.

A parking and transportation plan is also required. If off site parking is planned, permission of the property owner must be submitted in writing with this form.

Description

The Port Isabel and South Padre Island police departments will provide traffic control and safety measures along the route to ensure our participants employ standard safety practices. We request the closure of the outside lane of the southbound side of State Park Road 100 and the outside lane on the eastbound side of the Queen Isabel Memorial Bridge. These lanes would be closed from 6 am to 10 am.

The traffic plans are attached.

2 Police Officers for every 2,000 people What street closures? And from what to what times?
Is traffic plan attached?

Fire/EMS

- Fireworks/pyrotechnics Fire Marshall inspection 2 EMTs (\$60/hr) Lifeguards Ambulance Standby which includes the 2 personnel @ \$100/hr

This section is to help assess the level of fire and medical services needed for your event. You must develop and submit a medical plan for your event. The most basic plan for small events with a low medical risk is the designation of an event representative to call 9-1-1 and a representative on-site with CPR certification. Events with attendees of 1,000-3,000 + may be required to have 1 certified EMT (2 if transport is required).

Please provide the name, address, telephone number and e-mail address of the primary medical service provider. It is your responsibility to ensure that all medical support personnel, whether paid or volunteer, has the appropriate licensing, certifications, and insurance to provide services at your event. The South Padre Fire Chief has authority to require a minimum number of licensed medical providers and staff positions as well as other Fire-Rescue Department personnel necessary to support the needs of the event.

5-33

The Port Isabel and South Padre Island EMS teams will be positioned at the foot of the bridge on both sides, and PI EMS will be at the first aid station at the finish line. In addition, the Port Isabel Health Clinic will staff a booth at the finish line in Port Isabel.

Description

Environmental Dept.

- Temporary Food Permit Sinks Port a potties Trash receptacles

If you intend to sell, serve, give away, or sample food or consumable products, including beverages, at a public event, you must develop a Food Proposal Plan that complies with the Texas Food Establishment Rules and approved through the SPI Environmental Health Department. Each food vendor at your event must obtain a separate Temporary Food Permit. As part of the food handling requirements, you are required to include public safety features in your event plan such as hand-washing sinks and restrooms, etc. As part of the Environmental Health Services Department's food handling permit process, you will also be required to provide specific types of hand sanitizing and/or sink facilities in all food and beverage service areas.

In this section, please list the number of restrooms and trash receptacles you plan to provide to support your event. The City requires one (1) portable toilet for every 300 attendees, unless otherwise approved by the Environmental Health Director. Please identify on your attached site plan, where the restrooms will be located.

One 40 gallon trash can per 100 attendees is required for a special event. These receptacles should also be shown on your attached site plan. Please indicate below the plan for emptying these cans. You may want to contact Republic Services 800-423-7316 for more information on trash pick up.

Assure hydration of your event participants. Drinking water stations should be provided, 1 station per 2,500 participants.

There will be the use of 12 Schlitterbahn restrooms at the start line, and additional 6 portable toilets and 1 ADA certified portable toilet and additional units at the finish line in Port Isabel. Please see route map for locations. Our provider for the restrooms is:
A Clean Portoco
Erika
1-800-499-4226
Erika@portoco.com

Description

Public Works

- Temporary Fencing Traffic Cones Early Set-Up (before 9 am) Trash receptacles

At the conclusion of your event, the event venue and surrounding areas must be cleaned.

If you are in need of traffic cones or temporary fencing for your event, this section is where you will make that request. If you require trash receptacles, please indicate this information below.

Please note, The City of SPI has limited cones available. All attempts will be made to fulfill your request.

Description

Both Port Isabel and South Padre Island Public Works departments will provide early site set-up, trash receptacles and clean up services. Traffic cones will also be provided for the route from both departments, with a request for 100 cones from the South Padre Island Public Works.

Please reference attached route map for placement of trash receptacles. There will be units at the start line, all water stations, and the finish line.

Building Inspections

- Staging Signs/Banners Electrical/Lighting Temporary Structures/Tents

As an event organizer you are required to meet or exceed the local and state codes and regulations related to the use and distribution of electrical power. The installation and distribution of all electrical power must be completed by a State of Texas licensed electrician.

If your event includes the need for portable structures, pre-fabricated structures or site-built structures such as bleachers, elevated platforms, temporary pedestrian bridges, tent structures, etc. you will be required to obtain a temporary building permit from the City Building Inspections Division. As a part of the building permit process, issues such as structural safety due to wind, as well as requirements for accessibility by disabled persons will be reviewed for compliance with the Code of Ordinances. Your event cannot occupy regulated structures without a final inspection of construction.

Any signage plans should be described here.

Description

There will be 10 x 10 pop-up tents, weather and wind permitting, at each water station. These will be reinforced with sand bags provided by Port Isabel Public Works. There will be an inflatable arch at the start line. Please reference diagram and information attached. This will be deflated and removed as soon as the last participants have started their course.

There be three water stations on SPI—at the start line at Schlitterbahn, in front of Dirty Al's on State Park Road 100, and one the left side just prior to the bridge. One pop-up tent will be located at each water station.

5-35

Shoreline Dept.

- Beach Vehicle Access (permit \$30) Beach Prep/Raking (\$30 per hour)

In this section please explain your plan for any beach access or use, such as activities that may impact other beach users, dunes, vegetation or marine life, or any vehicles that may need to access the beach. Special rules, regulations and restrictions unique to the beach may apply. Public beaches cannot be reserved for the exclusive use of one group. Access to the beach by the general public must be available at all times. No open fires are allowed on any beach. Please be aware that the City of SPI works in partnership with the GLO. Vegetation and dunes must not be disturbed by any activities of a special event or it's participants. Fines may be imposed for violations.

Description:

N/A

Other - any other information relevant to this event that should be shared:

Description

The 10K run and the 5K walk will start at Schlitterbahn at 7 am and finish at the Port Isabel Event & Cultural Center. Registration fees after April 30 are \$40 for 10K; \$35 for 5K; and \$25 for students and military.

MEDIA: Please include a press release about your event to be released to the community. Include the who, what, why, and where, any admission fee and who to contact for further information or registration.

Alcohol at an event.

If alcohol is served, it is the organizer's responsibility to contact the TABC and to follow all State and Federal regulations. The safety and security of the participants should be an important part of your security and safety plan and should be addressed in this application.

If your event site plan assumes a large egress or ingress of pedestrians or if access to off-site parking anticipates attendees to pass through other businesses or neighborhoods AND alcohol is being consumed at the event, then a plan to mitigate the impacts must be included.

Insurance and Indemnification

All special event permits are valid for a specified term, subject to early termination or modification in accordance with the terms and conditions set forth herein. This permit is not re-assignable. This agreement is made upon the express condition that the City, it's officers, directors, agents, representatives and employees shall be free from all liabilities and claims for damages, legal fees, court costs and/or suits for or by reason of any injury, injuries or deaths to any person or persons or property of any kind whatsoever, whether the person or property, its agents or employees, or third persons, from any cause or causes whatsoever while in or upon said property or any part thereof during the term of this agreement occasioned by any occupancy or use of said premises or any activity carried on by the event organizer. The event organizer hereby covenants and agrees to indemnify and save harmless the City from all

liabilities, charges, expenses (including counsel fees) and costs on account of or by reason of any such injuries, liabilities, claims, suits or losses however occurring or damages growing out of same.

During the term of this agreement, the event organizer shall procure and keep in force insurance with limits of \$1,000,000 per occurrence and 2,000,000 general aggregate. The policy must contain a policy endorsement that names "The City of South Padre Island, it's elected officials, representatives, employees or agents" as additionally insured. Applicant must provide a copy of the actual endorsement. Endorsement Certificate Attached

Additional Comments

In addition to the requirements of Chapter 13 of the City of South Padre Island Code of Ordinances, the City may impose any other restrictions or requirements appropriate for said event. Texas law applies to all matters relating to the event. All costs shall be borne by the event organizer unless agreed otherwise in writing.

Betty Zullo
Applicant Signature

Date 4/30/19

Approval by City

Date _____

5-37



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
10/04/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

| | | | |
|--|--|--|--|
| PRODUCER Cameron County Insurance Center, Inc. dba Coleman Hall & Heinze Ins 302 E Queen Isabella Blvd Port Isabel TX 78578 | | CONTACT NAME: Debby Eliff PHONE (A/C No. Ext): (956)943-6481 FAX (A/C. No): (956)943-7088 E-MAIL ADDRESS: deiff@chins.net | |
| INSURED PI Chamber Of Commerce 421 E Queen Isabella Blvd. Port Isabel TX 78578 | | INSURER(S) AFFORDING COVERAGE INSURER A: Nautilus Insurance Co INSURER B: INSURER C: INSURER D: INSURER E: INSURER F: | |

COVERAGES CERTIFICATE NUMBER: CL1710401533 REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| DESC LTR | TYPE OF INSURANCE | ADDITIONAL INSURED | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS |
|----------|--|--------------------|---------------|-------------------------|-------------------------|--|
| A | <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> \$500. Deductible | Y | NN809300 | 10/03/2017 | 10/03/2018 | EACH OCCURRENCE \$ 1,000,000 |
| | GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO. JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER | | | | | DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/PROP AGG Included Non-owned \$ 1,000,000 |
| | AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> H/RD AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY | | | | | COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ |
| | UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$ | | | | | EACH OCCURRENCE \$ AGGREGATE \$ |
| | WORKERS COMPENSATION AND EMPLOYER'S LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICEMEMBER EXCLUDED? (Mandatory in MI) If yes, describe under DESCRIPTION OF OPERATIONS below | Y/N | N/A | | | PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$ |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Certificate holder is listed as an Additional Insured on the General Liability policy

| | |
|---|--|
| CERTIFICATE HOLDER City of South Padre Island PO Box 3410 South Padre Island TX 78597 | CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE |
|---|--|

5-38



Port Isabel Chamber of Commerce
PICC Causeway Run (June 2019)

Good day Betty,

Please consider this letter as our approval and agreement to allow usage of our parking lot at the outdoor waterpark, located at 33261 State Park Road 100, South Padre Island, TX 78597, for the starting point for the 5K and 10K Runs on June 1, 2019.

We wish you much success with the event and hope for a great turnout.

Let us know how we can further assist in this wonderful community event.

Regards,

Mike Bigelow
Director of Marketing & Sales
Schlitterbahn South Padre Island
956.772.7873, x 3212
mbigelow@schlitterbahn.com



Port Isabel Police Department

110 W. Hickman St., Port Isabel, TX 78578
Phone (956) 943-2727 * Fax (956) 943-1949



April 29, 2019

District Engineer
District Permit Coordinator
600 W. US Expressway 83
Pharr, Tx 78577

To whom it may concern,

On behalf of the Port Isabel Police Department we are honored to support the Port Isabel Chamber of Commerce Annual Longest Causeway Run and Walk. This event is scheduled to begin at 7 am on Saturday June 1, 2019, start from South Padre Island and end at the Port Isabel Event and Cultural Center Port Isabel Texas.

The City of Port Isabel has authorized the Port Isabel Chamber of Commerce to utilize the prescribed route. The City will assist in the areas such as traffic control and safety for all events participants within the City's jurisdiction.

Port Isabel Chamber of Commerce Inc. will forward a certificate of liability additionally insuring the State of Texas.

If you have any questions please call me at (956) 943-1242

Sincerely,

Robert Lopez
Chief of Police

Cc: Betty Wells, Port Isabel Chamber of Commerce
Randy Smith, South Padre Island Chief of Police
Mary Kay Hancock, South Padre Island Convention Center Events Coordinator

5-40



South Padre Island Police Department

Randy Smith, Chief

**Port Isabel Chamber of Commerce
Attn: Betty Wells**

04/12/2019

Ref: Traffic Management Plan, 5th Annual 2019 Summer Longest Causeway Run and Fitness Walk on June 1, 2019

Purpose

The purpose of this plan is to best manage traffic flow during the 2017 Summer Longest Causeway Run & Fitness Walk from South Padre Island and Isla Blanca Park to Port Isabel. The partial closure of the Queen Isabella Memorial Causeway and partial closure of Isla Blanca Park and selected roadways within the City of South Padre Island to facilitate the event. It will also provide procedures for deployment of personnel and equipment to ensure the success of this event.

Discussion

It is the plan of this law enforcement agency along with other city departments, Cameron County Parks and the City Of Port Isabel to work together and manage personnel and equipment placed in areas to enhance the flow of traffic and control the event.

Action

The placement of traffic control barrels/cones on the roadway to direct traffic movement to minimize the delay of traffic movement. The placement of these devices would be at a time and place identified by city personnel and staff of the event. Identified locations where police and other city personnel could be positioned to ensure control and safe movement of traffic.

Locations of management control:

1. Start Schlitterbahn parking lot
 - a. All north bound traffic will be directed to inside lane using cones/ barrels and traffic personnel from the Isla Blanca Park toll booth Entrance / Exit Park Road 100. All north bound traffic exiting Sea Ranch Marina will be directed to inside lane.
 - b. Racers will begin from the parking lot of Schlitterbahn enter Park Road 100 and head south against traffic on the outside lane.
 - c. Racers will enter Chapel by the Sea Church drive and exit on south side of parking lot.
 - d. Racers will enter Gulf view loop on the outside lane and head south until they enter Channel view loop running around the Isla Blanca Park exiting at the Toll Booth Entrance/Exit.

City of South Padre Island -- Police Department -- Randy Smith, Chief

4601 Padre Boulevard • South Padre Island, Texas 78597 • 956.761.8147 • Fax 956.761.3896

5-411

South Padre Island Police Department

- e. Racers will continue on the outside lane running against traffic south bound until they turn onto Queen Isabella Memorial Causeway. The racers will continue on the outside lane against traffic on the East Bound Lane.
 - f. All East bound traffic will be directed to inside lane beginning in Garcia St and State Hwy. 100 Port Isabel. Traffic cones/barrels and traffic personnel will be directing all motor vehicles to the inside lane. Speed limit on the Queen Isabella Causeway will be reduced to 20 miles per hour by signage and by traffic personnel at the foot of Causeway.
 - g. All traffic exiting Queen Isabella Memorial Causeway will continue to be directed to inside lane headed south towards the Cameron County Toll Booth entrance / exit using cones / barrels and personnel.
 - h. Racers upon exiting Queen Isabella Memorial Causeway will make a left turn on Garcia Street and continue on the race route.
 - i. Electronic signage will inform/warn motorist of pending race in progress.
2. Finish line will be at the Port Isabel Event and Cultural Center.
- a. Westbound S.H. 100 and traffic crossing the Queen Isabella Memorial Causeway will not be affected.
 - b. Eastbound traffic on the Queen Isabella Memorial Causeway will continue without interruption.
 - c. Estimated time closure: 06:00 a.m. To 10:00 a.m.

A tail-escort of emergency vehicles will be available until the end of the wellness walk from The South Padre Island side to Port Isabel. A police vehicle will begin the race and provide lead escort.



Claudine O'Carroll
Interim Police Chief

City of South Padre Island -- Police Department -- Randy Smith, Chief

4601 Padre Boulevard • South Padre Island, Texas 78597 • 956.761.8147 • Fax 956.761.3896

5-42



From teaspoons to trenchers and everything in between...

www.RentalWorld.com

821 W. Jackson St
Hartlingen, TX 78550
956-428-7368
Corporate Office &
Central Warehouse

1070 E. Business 83
McAllen, TX 78501
956-830-5272

401 E. 4th Street
Weslaco, TX 78590
956-968-7508

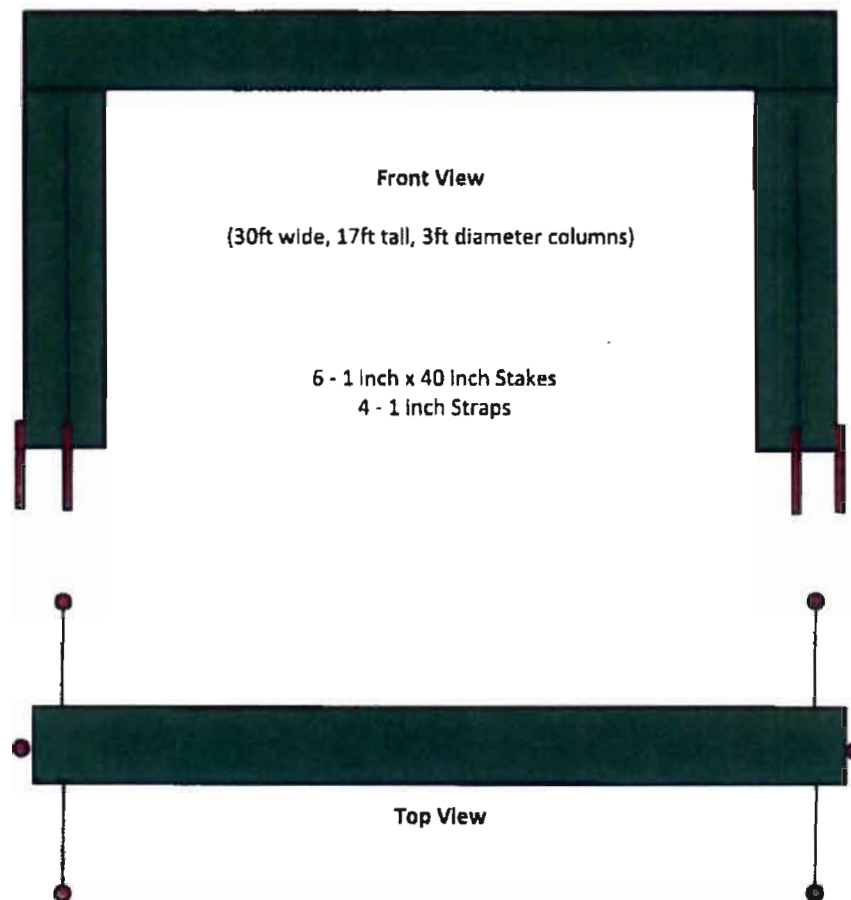
1014 W. Tyler Ave
Hartlingen, TX 78550
956-364-1014

2134 Central Blvd
Brownsville, TX 78320
956-542-7700

3729 Saratoga Blvd
Corpus Christi, TX 78415
361-855-7368

HUB Certified Vendor # 1742961774300

Inflatable Arch



5-413



From teaspoons to trenchers and everything in between...

www.RentalWorld.com

821 W Jackson St
Hartlingen TX 78550
956-478-7368
Corporate Office &
Central Warehouse

1020 E Business 83
McAllen TX 78501
956-830-5222

404 E 4th Street
Weslaco TX 78596
956-968-7508

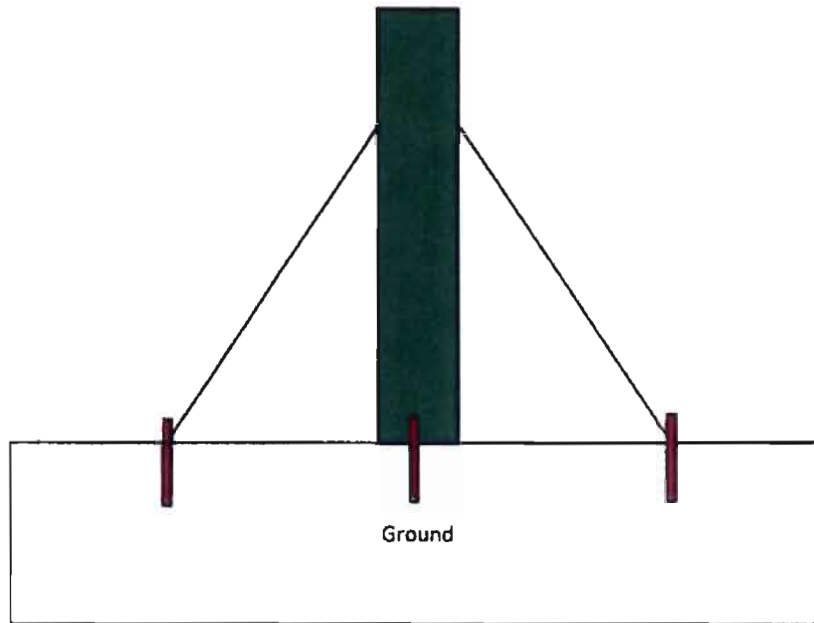
1014 W Tyler Ave
Hartlingen TX 78550
956-364-1014

2134 Central Blvd
Brownsville TX 78520
956-542-7200

3729 Saratoga Blvd
Corpus Christi TX 78415
361-855-7368

HUB Certified Vendor # 1742961774300

Side View



● 1"x40" Stake

Inflatable Arch Sample Installations



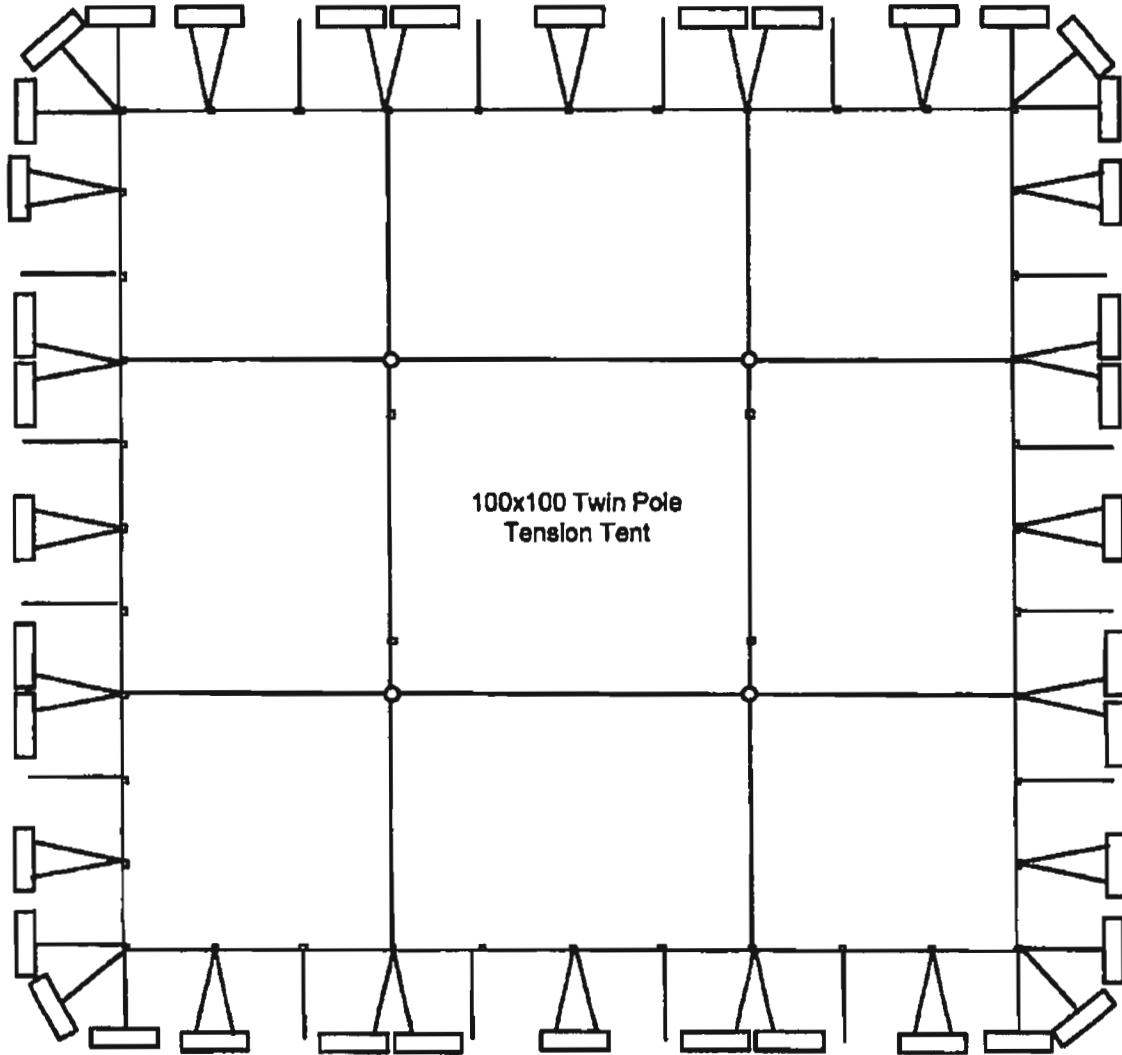
5-44

100x100 Parts List - 10ft Legs -

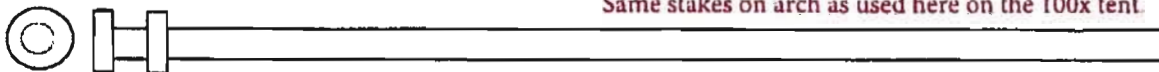
| # | Poles | Usage |
|----|----------|-------------|
| 4 | 8"x30'6" | Center Pole |
| 40 | 2.5"x10' | Side Pole |

| | |
|---|--------------|
| 1 | Forklift |
| 1 | Scissor Lift |

| # | Fittings |
|-----|------------------------------|
| 40 | Stake Bar |
| 68 | 2" Ground Ratchet w/Strap |
| 136 | 40" Double Head Nail Stake |
| 400 | Sidewalls (Linear Feet) |
| 4 | PVC Center Pole Pipe |
| 8 | 40x60 Black Mesh Ground Tarp |



3-Hole Stake Bar - 2"x2"x24", 1/4" thickness

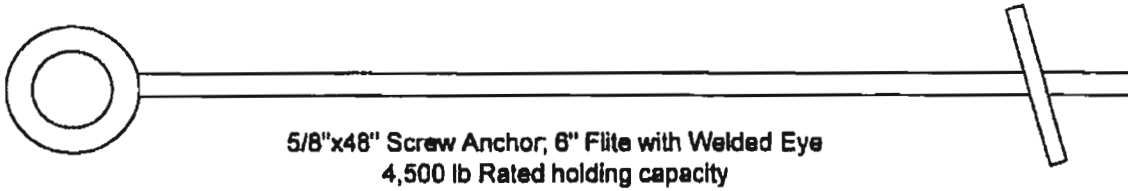


1"x40" Tent Stake

Same stakes on arch as used here on the 100x tent.

5-45

**100x100 Parts List
- 10ft Legs -**



**5/8"x48" Screw Anchor, 6" Flite with Welded Eye
4,500 lb Rated holding capacity**



Sample Picture



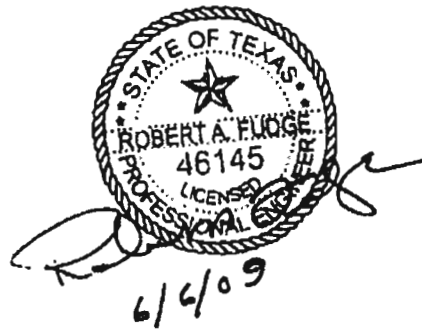
Web Which Assembly:

Intended Usage: Frame Tents, Polo Tents 30' wide and greater

Specifications:

This tie-down is supplied in a two part set. The bottom component features a lashing winch Ratchet Assembly welded to a plate (stake bar and stake shown not included). The top section of this assembly is supplied with a 20' long, 2" Polyester webstrip sewn to a 2" twisted snap hook.

**2" x 20' Web Ratchet Assembly
10,000 lb capacity**



SAMPLE WATER STATION FROM JANUARY 19 RUD



4h-5



84-5

6h-5



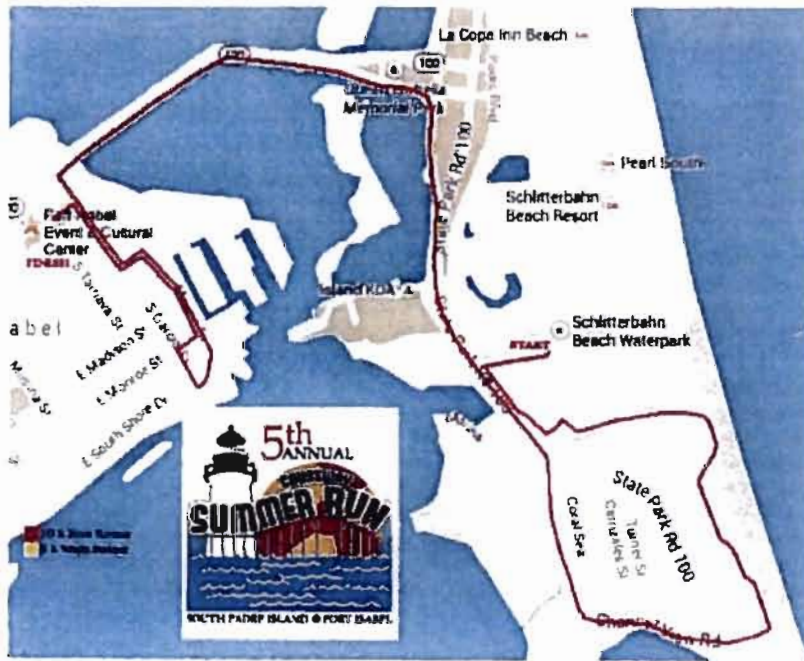
2019 SUMMER LONGEST CAUSEWAY RUN & FITNESS WALK

Fill out Causeway Run & Fitness Walk Registration Form on other side and return to:

Port Isabel Chamber of Commerce

www.portisabelchamber.com 421 E. Queen Isabella Boulevard,

Port Isabel, Tx 78578 Or Fax to: 956/943-4001.



Make checks payable to Port Isabel Chamber of Commerce.

FOR RUN, WALK, ACTIVITIES & ACCOMMODATION INFO, CALL:

Port Isabel Chamber of Commerce
1-800-527-6102 or (956) 943-2262 or email director@portisabel.org or the

South Padre Island Convention & Visitors Bureau at 1-800-South Padre or gopadre.com.

REGISTER ONLINE
until **MAY 30, 10:00 p.m.**
<https://bit.ly/2VpKILD>
DEADLINE for EARLY

REGISTRATION by mail
is **May 25, 2019**

Sponsored in part by:



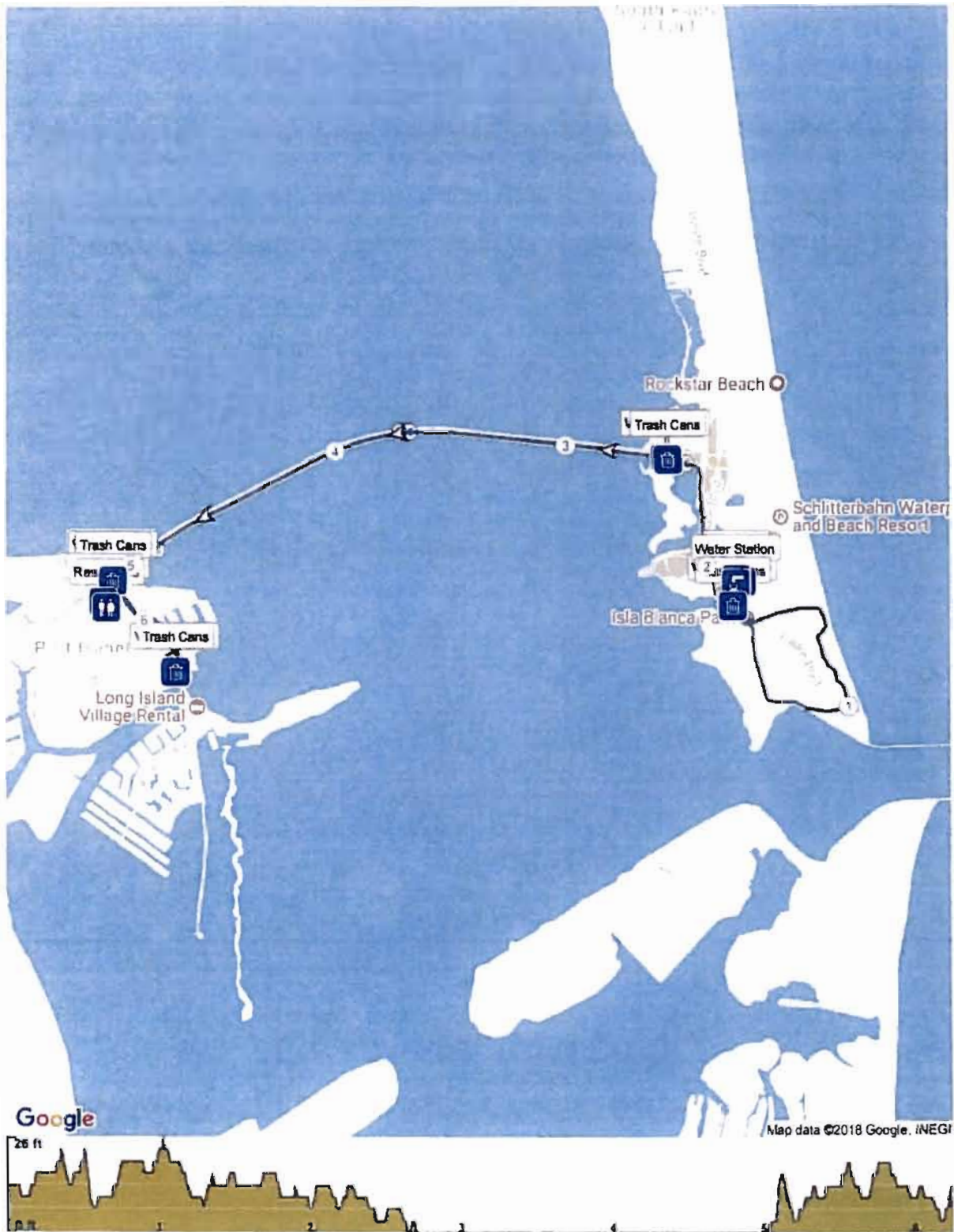
Port Isabel Chamber of Commerce
421 E. Queen Isabella Blvd.
Port Isabel, TX 78578



2019 Longest Summer Causeway 10k Run & 5k Fitness Walk - June 1, 2019

5-50

Summer Causeway Run & Fitness Walk (6.241 miles)



5-81

ES-5

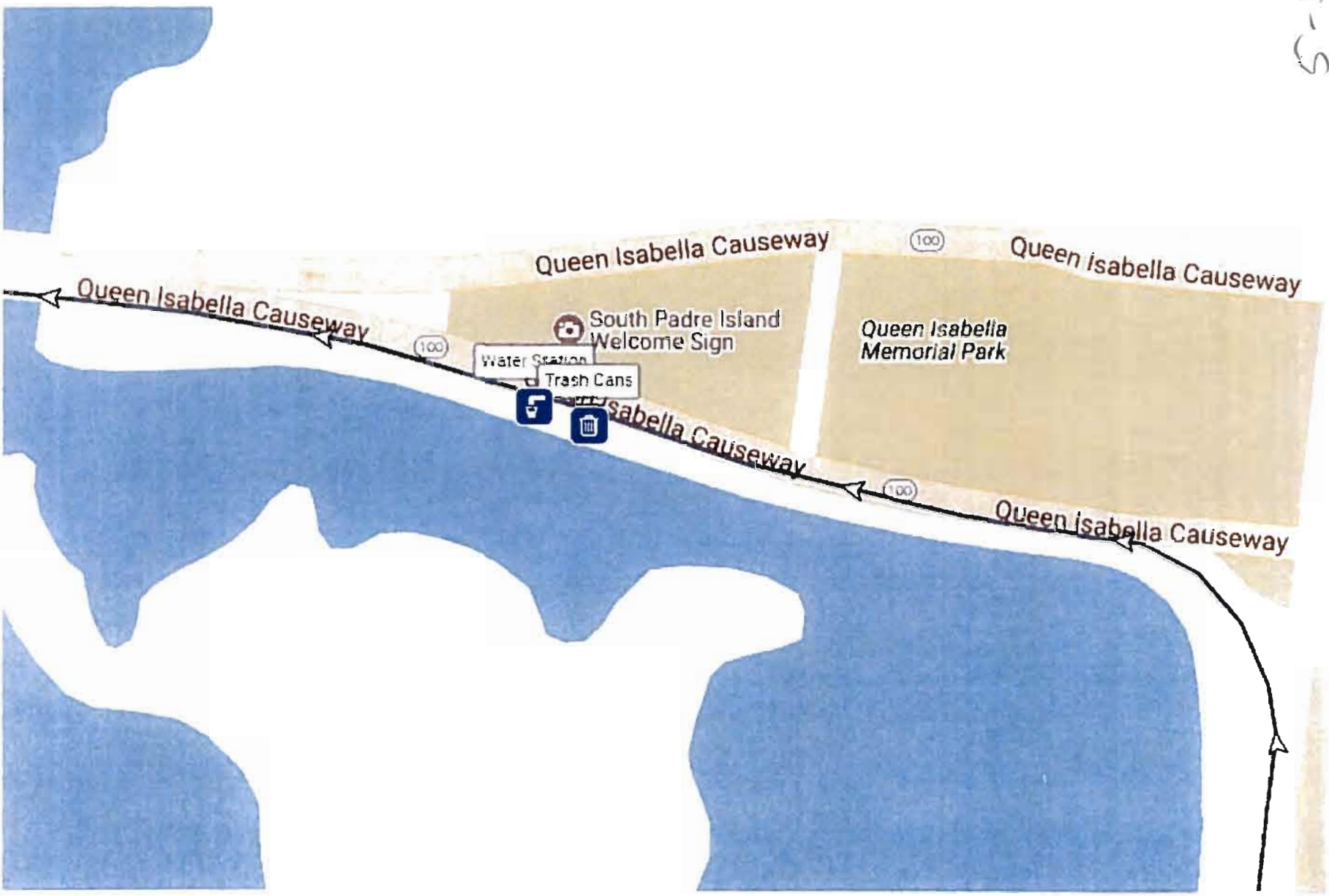
Shrimp Haus



LANDS WATER ROAD PARK RESTROOM

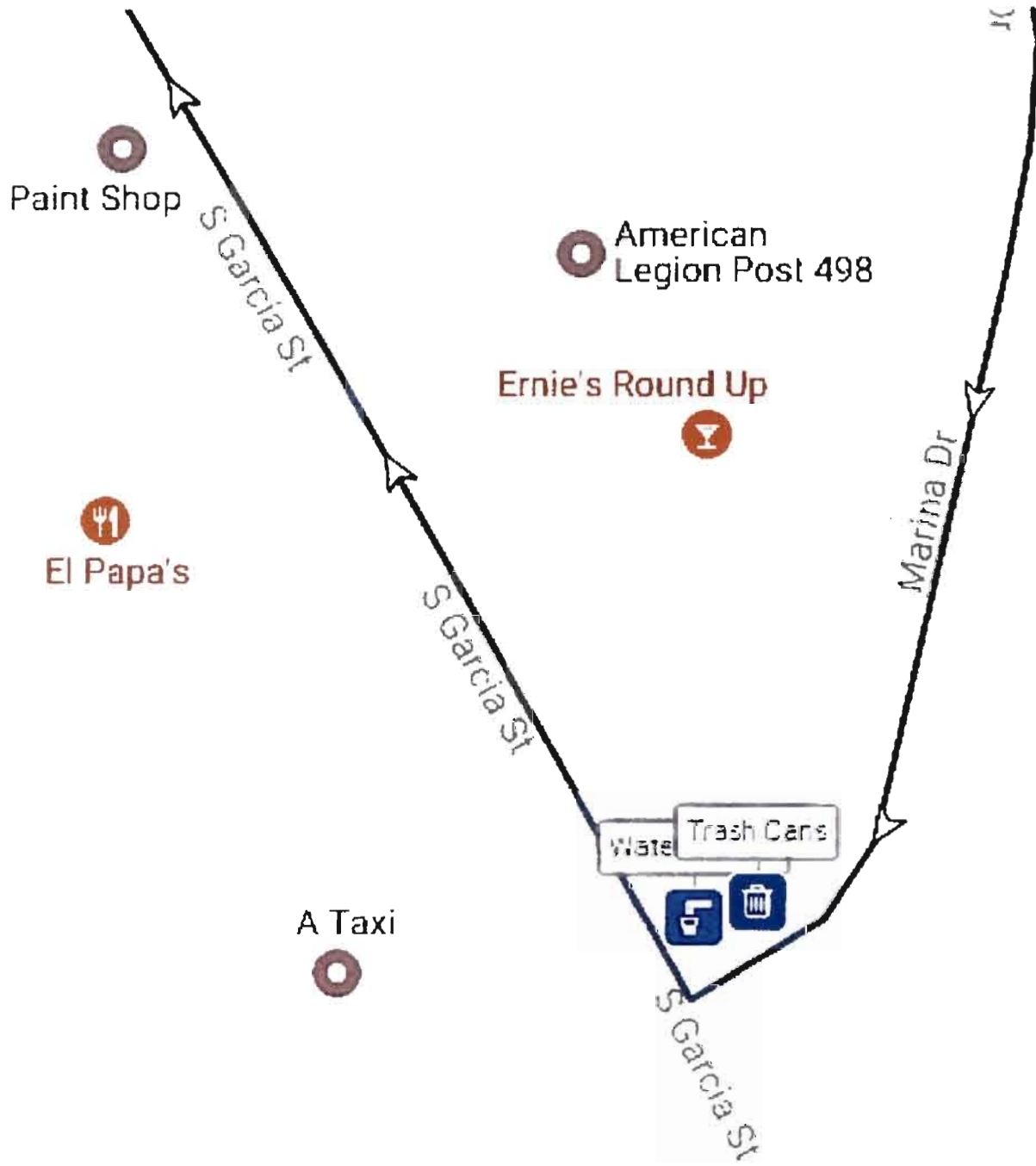
Pacific

5-53



h.s.s





SS-9



2019 SUMMER LONGEST CAUSEWAY RUN & FITNESS WALK

June 1, 2019 – 7 a.m. – Port Isabel-South Padre Island, Texas

HOSTED by the Port Isabel Chamber of Commerce

START: Causeway Run starts at 7:00 a.m. sharp at Schlitterbahn Beach Water Park. Fitness Walk starts at the Schlitterbahn Beach Water Park at 7:30 a.m.

EARLY BIRD REGISTRATION: \$35 (10K Run); \$30 (5K Walk); Students & Military with ID \$20 (10K Run or 5K Walk) before May 1, 2019. Late fees go into effect May 1, 2019. Online registration or mail to: Port Isabel Chamber of Commerce, 421 E. Queen Isabella Blvd., Port Isabel, TX 78578.

ON-SITE LATE REGISTRATION: Port Isabel Event & Cultural Center, 309 E. Railroad Ave., Port Isabel, Friday, May 31, from 3 – 8 p.m. **LATE REGISTRATION ON SATURDAY, PACKET PICK UP, 5:30 - 6:30 A.M. AT SCHLITTERBAHN. \$40 (10K Run), \$35 (5K Walk);**

\$25 Students & Military with ID (10K Run or 5K Walk).

T-SHIRT AND WALKER WRISTBAND PICK UP: Participants may check in at the Port Isabel Chamber office Mon.-Thurs. the week of the event from 9:00 a.m. to 5:00 p.m. to pick up their T-shirts and walker wristbands.

RUNNERS DISPOSABLE TIMING CHIPS AND BIBS WILL ONLY BE HANDED OUT AT LATE REGISTRATION FRIDAY (at the PORT ISABEL EVENT & CULTURAL CENTER) AND SATURDAY (at the SCHLITTERBAHN BEACH WATER PARK). T-SHIRTS ARE GUARANTEED TO THE FIRST 1,000 PARTICIPANTS TO CHECK IN. SIZES CANNOT BE GUARANTEED.

RACE COURSE: 10K (6.2 mi.) starts at the Schlitterbahn Beach Water Park and ends at the Port Isabel Event & Cultural Center. One major incline. Water stations at locations along course and at the finish line. Police and EMS protection is provided. The run is USA Track and Field certified: Certification #TX15005WG. (See map on reverse)

FITNESS WALK COURSE: 3 miles. This course starts at the Schlitterbahn parking lot, then left on to Park Road 100 and on to the Queen Isabella Memorial Bridge, on to Highway 100 one block, then left at Tarnava St. ending at the finish line in the parking lot of the Port Isabel Historic Museum (adjacent to the PIECC). **THIS IS NOT A RACE. IT IS A PARTICIPATION WALK.** Participation medals will be presented to those walkers crossing the finish line.

SHUTTLE SERVICE: Shuttle service will be available starting at 6:00 a.m. Saturday morning from the PIECC to the start line at Schlitterbahn. Shuttles will also transport participants from the PIECC back to Schlitterbahn at the end of the race for vehicle pick up. You must be wearing a PICC Causeway Run & Fitness bib or wristband to use the shuttle bus back to Schlitterbahn at the end of the race. Please expect delays with the buses. **ABSOLUTELY NO PETS ARE ALLOWED IN THE RUN OR WALK!**

AWARDS & PRESENTATIONS: Medals will be given to the top 3 overall male and female winners as well as first through third place winner in each male and female age division of the 10K. Overall winners will be ineligible for awards in their respective age divisions. Awards will be presented at the awards ceremony immediately following the race and scoring at the Port Isabel Event & Cultural Center. **FREE refreshments will be available as supplies last. ALL PARTICIPANTS CROSSING THE FINISH LINES WILL RECEIVE FINISHER MEDALS.**

FOR RUN, WALK, ACCOMMODATIONS & ACTIVITES INFORMATION, CALL: Port Isabel Chamber of Commerce

1-800-527-6102 or (956) 943-2262 or email director@portisabel.org or the

South Padre Island Convention & Visitors Bureau at 1-800-So-Padre or sopadre.com.

Fill out and detach the Registration Form below. Fax to (956) 943-4001 or mail to

Port Isabel Chamber of Commerce 421 E. Queen Isabella Blvd., Port Isabel, TX 78578.

Proceeds in part benefit our new annual Port Isabel Chamber of Commerce scholarship program.

Registration for: RUN or WALK

(Make checks payable to Port Isabel Chamber of Commerce)

Please check or circle the applicable options. Registration cannot be processed unless RUNNER or WALKER category is selected.

Name: _____ Sex: Male / Female Phone: (_____) _____

Address: _____ City: _____ State: _____ Zip: _____

Payment: Check # _____ Amount: _____ Credit Card: Name _____

Credit Card # _____ (M/C-VISA-Discover) _____ Exp. Date: _____

Date of Birth: _____ Age: _____

e-Mail Address: _____

Age Group: (13 & under) (14-18) (19-24) (25-29) (30-34) (35-39) (40-44) (45-49) (50-54) (55-59) (60-64) (65-69) (70-74) (75-79) (80+)

WAIVER STATEMENT: I waive any and all claims for myself, my administrator and my heirs against all officials, sponsors and organizations, executors of the State of Texas, Texas Highway Department, County of Cameron, City of Port Isabel, Town of South Padre Island, Port Isabel Chamber of Commerce, the timing officials and any and all volunteers connected with the 2019 SUMMER ANNUAL LONGEST CAUSEWAY RUN AND FITNESS WALK, for injury or illness which is directly or indirectly a result from my participation in this event. I attest that I have full knowledge of the risks involved in this event and I am physically fit and sufficiently trained to participate in this event.

Signature: _____

Date: _____

5-56

RESOLUTION NO. 04-09-19-02

RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PORT ISABEL, TEXAS, SUPPORTING THE SUMMER LONGEST CAUSEWAY RUN & FITNESS WALK JUNE 1, 2019 AND SUPPORTING USE OF QUEEN ISABELLA MEMORIAL BRIDGE FOR THE EVENT.

WHEREAS, the Summer Longest Causeway Run and Fitness Walk, coordinated by the Port Isabel Chamber of Commerce, is an annual tradition; and

WHEREAS, the implementation of the Summer Longest Causeway run & Fitness Walk requires our consent by resolution for temporary closure of a state right of way;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF PORT ISABEL, TEXAS, THAT:

The City Commission hereby adopts Resolution No. 04-09-2019-01, supporting the Summer Longest Causeway Run & Fitness Walk on June 01, 2019. This resolution includes our support for a temporary closure of state right of way. The City will also provide the appropriate city services to assure the success of the event.

We authorize the City Manager or duly authorized personnel to enter into agreement with the Texas Department of Transportation concerning this June 01, 2019 event, under the conditions specified in the agreement.

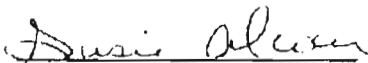
PASSED, ADOPTED AND APPROVED ON THIS THE 9th DAY OF April 2019.

CITY OF PORT ISABEL, TEXAS



Juan Jose "JJ" Zamora, Mayor

ATTEST:



Susie Alcocer, City Secretary

5-57

**CITY OF SOUTH PADRE ISLAND
CITY COUNCIL MEETING
AGENDA REQUEST FORM**

MEETING DATE: May 15, 2019

NAME & TITLE: Doug Fowler, Fire Chief

DEPARTMENT: Fire Department

ITEM

Approve a budget amendment to allocate grant funds for training in the amount of \$1,050.

ITEM BACKGROUND

The TIFMAS Grant Assistance Program was launched in 2010 as a result of Senate Bill 1011 of the 81st Texas State Legislature. TIFMAS is an acronym for Texas Intrastate Fire Mutual Aid System. The program provides reimbursement grants to career fire departments and combination department assistance programs (HB 2604 Program). Training Tuition grants will reimburse 100% of the cost of tuition for eligible courses not to exceed \$87. per day per trainee, not to exceed \$160. per trainee, and not to exceed \$6,100.00 per school. The annual maximum cap per department is \$12,000.

BUDGET/FINANCIAL SUMMARY

Increase line item 01-46068(Grant Revenue) by \$1,050.
Increase line item 01-522-0513 (Training) by \$1,050.

COMPREHENSIVE PLAN GOAL

LEGAL REVIEW

Sent to Legal: YES: _____ NO: _____
Approved by Legal: YES: _____ NO: _____

RECOMMENDATIONS/COMMENTS

Approve budget amendment.

5-58



3.2244

May 3, 2019

CITY OF SOUTH PADRE ISLAND

Dear Chief:

Enclosed is a check in the amount of **\$ 450.00** for cost-share assistance for **(SWIFTWATER TECH I)** Please deposit this check as soon as possible.

Sincerely,

Katelyn Tidwell

Business Specialist I

Capacity Building Department

(979)458-6637

Katelyn.tidwell@tfs.tamu.edu

Visit texasfd.com to learn more about the TFS Fire Department Assistance Programs.

We are also on Facebook!  www.facebook.com/firedepartmentassistance

5-59

| INVOICE DATE CUSTOMER NO. | INVOICE NO. DESCRIPTION | PURCHASE ORDER | VOUCHER | INVOICE AMOUNT | DISCOUNT AMOUNT | AMOUNT PAID |
|------------------------------|----------------------------|-------------------|---------|-------------------|--------------------|----------------|
| 02/21/19 | 143786 RESCUE | E900319 | 0909089 | 450.00 | .00 | 450.00 |
| TOTALS | | | | 450.00 | | 450.00 |
| VENDOR NO. | | CHECK DATE | | CHECK NO. | | |
| *****64420 | | 050319 | | 692108 | | |

WARNING - Security Features
Included. Details on Back.



56-382
412

Wells Fargo Bank, N.A.

05/03/19
CHECK DATE

692108
CHECK NO.

PAY

FOUR HUNDRED FIFTY AND 00/100 DOLLARS*****

TO
THE
ORDER
OF

CITY OF SOUTH PADRE ISLAND
SOUTH PADRE ISLAND FIRE DEPT
4601 PADRE BLVD
SOUTH PADRE ISLAND TX 78597-73

*****450.00
AMOUNT

Mar L Zamora
Robby DeWitt

⑈0692108⑈ ⑆041203824⑆ 9600088175⑈

5-60



3.2244

May 3, 2019

CITY OF SOUTH PADRE ISLAND

Dear Chief:

Enclosed is a check in the amount of **\$ 600.00** for cost-share assistance for **(SWIFTWATER TECH II)** Please deposit this check as soon as possible.

Sincerely,
Katelyn Tidwell
Business Specialist I
Capacity Building Department
(979)458-6637
Katelyn.tidwell@tfs.tamu.edu

Visit texasfd.com to learn more about the TFS Fire Department Assistance Programs.

We are also on Facebook!  www.facebook.com/firedepartmentassistance

5-61

| INVOICE DATE CUSTOMER NO. | INVOICE NO. DESCRIPTION | PURCHASE ORDER | VOUCHER | INVOICE AMOUNT | DISCOUNT AMOUNT | AMOUNT PAID |
|------------------------------|----------------------------|-------------------|---------|-------------------|--------------------|----------------|
| 02/21/19 | 143786 RESCUE | E900320 | 0909090 | 600.00 | .00 | 600.00 |
| TOTALS | | | | 600.00 | | 600.00 |
| VENDOR NO. | | CHECK DATE | | CHECK NO. | | |
| *****64420 | | 050319 | | 692109 | | |

WARNING - Security Features
Included. Details on Back.



56-382
412

Wells Fargo Bank, N.A.

05/03/19
CHECK DATE

692109
CHECK NO.

PAY

SIX HUNDRED AND 00/100 DOLLARS*****

TO
THE
ORDER
OF

CITY OF SOUTH PADRE ISLAND
SOUTH PADRE ISLAND FIRE DEPT
4601 PADRE BLVD
SOUTH PADRE ISLAND TX 78597-73

\$*****600.00
AMOUNT

Mark L. Zamzow
Robby DeWitt

⑈0692109⑈ ⑆04⑆203824⑆ 9600088175⑈

5-62

**CITY OF SOUTH PADRE ISLAND
CITY COUNCIL MEETING
AGENDA REQUEST FORM**

MEETING DATE: May 15, 2019

NAME & TITLE: David Travis, Building Official

DEPARTMENT: Planning Team

ITEM

Approve second and final reading of Ordinance No. 19-08 amendment to Chapter 20-11 (D) of the Zoning Ordinance to Regulate the Construction and Operation of Temporary Structures within 150 feet of Padre Boulevard and approve first reading of Ordinance.

ITEM BACKGROUND

December 19, 2018, the Planning and Zoning Commission approved the text amendment to Chapter 20-11(D) of the Zoning Ordinance to regulate the construction and operation of temporary structures within 150 feet of Padre Boulevard.

January 16, 2019, the City Council denied the text amendment to Chapter 20-11(D) of the Zoning Ordinance to Regulate the Construction and Operation of Temporary Structures within 150 feet of Padre Boulevard, and directed staff to take it back to the Planning and Zoning Commission.

April 18, 2019 the Planning and Zoning Commission review and approved the text amendment to Chapter 20-11(D) of the Zoning Ordinance to regulate the construction and operation of temporary structures within 150 feet of Padre Boulevard with some changes.

BUDGET/FINANCIAL SUMMARY

Not Applicable

COMPREHENSIVE PLAN GOAL

LEGAL REVIEW

Sent to Legal: YES: _____ NO: _____
Approved by Legal: YES: _____ NO: _____

RECOMMENDATIONS/COMMENTS

Approve second and final reading of Ordinance No. 19-08.

563

ORDINANCE NO. 19-08

AN ORDINANCE OF THE CITY OF SOUTH PADRE ISLAND, TEXAS, AMENDING CHAPTER 20 OF THE CITY CODE OF ORDINANCES (ZONING CHAPTER) SECTION 20-11(D) TO REGULATE THE CONSTRUCTION AND OPERATION OF TEMPORARY STRUCTURES, AND DEALING WITH RELATED MATTERS

WHEREAS, Chapter 211 of the Texas Local Government Code empowers the City Council of the City of South Padre Island to enact zoning regulations and districts and provide for their administration, enforcement and amendment; and

WHEREAS, the Planning and Zoning Commission and the City Council has complied with all notice and public hearing requirements of the City Code of Ordinances and Chapter 211 of the Texas Local Government Code; and

WHEREAS, the City Council desires to amend the zoning regulations contained within the City Code to allow for certain uses not currently permitted but consistent with existing uses in certain districts; and

WHEREAS, the City Council specifically finds that the requirements specified herein are rationally related to protecting the public purposes of lessening congestion in the streets, securing the safety of its citizens from fire, panic, and other dangers, promoting the health and the general welfare of its citizens; preventing the overcrowding of land, and avoiding undue concentration of population

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOUTH PADRE ISLAND, TEXAS:

SECTION 1: That Chapter 20, Section 20-11(D) of the City of South Padre Island Code of Ordinances be amended by deleting the following;

- (2) Temporary structures are prohibited within one-hundred and fifty (150) feet of Padre Boulevard.
- (3) Commercial sales activities of any kind are not allowed in temporary structures regardless of their location.
- (9) City Exemption: Notwithstanding the requirements of this City Code of Ordinances relating to open display and the use of temporary structures, the City of South Padre Island shall be exempt from all provisions herein, and is expressly permitted to authorize the use of public property and the public right-of-way for the purposes of outdoor display and temporary structures for the purpose of publicly sponsored events, as well as recognized events sponsored by other agencies authorized by the City.

5-64

SECTION 2: That Chapter 20, Section 20-11(D) of the City of South Padre Island Code of Ordinances be amended by adding the following;

- (2) Temporary structures are prohibited within one-hundred and fifty (150) feet of Padre Boulevard unless they are directly associated with operations of the onsite permanent business and a Temporary Structure Permit has been obtained by the property owner or lessee. No more than three (3) Temporary Structure Permits may be issued within a calendar year. Each permit shall be valid for not more than four (4) days. Temporary Structure Permits will not be issued consecutively.
- (3) Commercial sales activities excluding food and beverage of any kind are not allowed in temporary structures regardless of their location. The Activity must be directly related to the business and sales location or applicable 501c organization function, and an extension of the primary business or recreational.
- (9) City Exemption: Notwithstanding the requirements of this City Code of Ordinances relating to open display and the use of temporary structures, the City of South Padre Island shall be exempt from all provisions herein, and may request the use of: 1) private property with express authorization from private property owner; and authorize the use of: 2) public property and 3) the public right-of-way for the purposes of outdoor display and temporary structures for the purpose of publicly sponsored events, as well as recognized events sponsored by other agencies authorized by the City.

SECTION 3: This Ordinance repeals all portions of any prior ordinances or parts of ordinances of the Code of Ordinances in conflict herewith.

SECTION 4: If for any reason, any section, paragraph, subdivision, clause, phrase, word, or provision of the Ordinance shall be held unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word, or provision of this Ordinance, for it is the definite intent of this City Council that every section, paragraph, subdivision, clause, phrase, word, or provision hereof be given full force and effect for its purpose.

SECTION 5: This Ordinance shall become effective when published in summary form according to law.

PASSED, APPROVED AND ADOPTED on First Reading, the 1st day of May 2019.

PASSED, APPROVED AND ADOPTED on Second Reading, the 15th day of May 2019.

ATTEST:

CITY OF SOUTH PADRE ISLAND,
TEXAS

SUSAN HILL, CITY SECRETARY

DENNIS STAHL, MAYOR

5-65

**CITY OF SOUTH PADRE ISLAND
CITY COUNCIL MEETING
AGENDA REQUEST FORM**

MEETING DATE: May 15, 2019

NAME & TITLE: Eva-Jean Dalton, Council Member

DEPARTMENT: City Council

ITEM

Approve excused absence request for Council Member Eva-Jean Dalton from the May 1, 2019 City Council Meeting.

ITEM BACKGROUND

BUDGET/FINANCIAL SUMMARY

COMPREHENSIVE PLAN GOAL

LEGAL REVIEW

Sent to Legal: YES: _____ NO: _____
Approved by Legal: YES: _____ NO: _____

Comments:

RECOMMENDATIONS/COMMENTS

Approve excused absence request.

5-66

**CITY OF SOUTH PADRE ISLAND
CITY COUNCIL MEETING
AGENDA REQUEST FORM**

MEETING DATE: May 15, 2019

NAME & TITLE: Susan Hill, City Secretary

DEPARTMENT: City Manager's Office

ITEM

Discussion and action to approve Resolution No. 2019-22 canvassing the returns and declaring the results of the May 4, 2019 Special Election for the purpose to fill a vacancy in the unexpired term of Mayor.

ITEM BACKGROUND

A Special Election was held on May 4, 2019 to fill a vacancy in the unexpired term of the office of Mayor. Canvassing must be conducted between May 7th and May 15th.

BUDGET/FINANCIAL SUMMARY

COMPREHENSIVE PLAN GOAL

LEGAL REVIEW

Sent to Legal: YES: _____ NO: _____
Approved by Legal: YES: _____ NO: _____

RECOMMENDATIONS/COMMENTS

6-1



RESOLUTION NO. 2019-22

A RESOLUTION OF THE COUNCIL MEMBERS OF THE CITY OF SOUTH PADRE ISLAND, TEXAS, CANVASSING RETURNS AND DECLARING RESULTS OF A SPECIAL ELECTION FOR THE PURPOSE TO FILL A VACANCY IN THE UNEXPIRED TERM OF MAYOR IN THE CITY OF SOUTH PADRE ISLAND, TEXAS ON MAY 4, 2019.

WHEREAS, there came to be considered the returns of a Special election to fill a vacancy in the unexpired term of Mayor; and it appearing from said returns, duly and legally made, that there were cast at said election 947* valid and legal votes for the municipal election; that each of the candidates in said elections received the following number of votes: and

Special Election—to fill a vacancy in the unexpired term of Mayor:

| Candidates | Votes Cast | | Total |
|-------------------|------------|--------------|-------|
| | Early | Election Day | |
| Clayton Brashear* | 178 | 67* | 245* |
| Darla Jones | 332 | 85 | 417 |
| Patrick McNulty | 188 | 97 | 285 |

*One (1) Provisional vote was accepted by the Cameron County Elections Balloting Board and the City of South Padre Island Early Voting Ballot Board and included in this tally.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED BY THE COUNCIL MEMBERS OF THE CITY OF SOUTH PADRE ISLAND, TEXAS:

That a Special election was duly called, posted in accordance with the laws of the Texas Election Code. That none of the candidates received over 50% of the majority vote, that Darla Jones and Patrick McNulty received the most votes; and said person(s) will be listed in a Run-off Election, as required by the laws of the State of Texas

It is further found and determined that in accordance with the laws of the Texas Election Code, the City Secretary posted written notice of the date, place and subject of this meeting on the bulletin board located at City Hall, 4601 Padre Boulevard, a place convenient and readily accessible to the general public, and said notice having been so posted and remaining posted continuously for at least 72 hours preceding the scheduled time of said meeting.

PASSED, ADOPTED AND APPROVED on this the 15th day of May, 2019.

Dennis Stahl, Mayor

ATTEST:

Susan M. Hill, City Secretary

**CITY OF SOUTH PADRE ISLAND
CITY COUNCIL MEETING
AGENDA REQUEST FORM**

MEETING DATE: May 15, 2019

NAME & TITLE: Susan Hill, City Secretary

DEPARTMENT: City Manager's Office

ITEM

Discussion and action to approve Order of Runoff Election for Municipalities for June 29, 2019 for the purpose to fill a vacancy in the unexpired term of Mayor.

ITEM BACKGROUND

A Special Election was held on May 4, 2019 to fill a vacancy caused by the resignation of Mayor Dennis Stahl. None of the candidates received over 50% of the majority vote, as required by the Home Rule Charter and Texas Constitution. The two candidates that received the most votes were Darla Jones and Patrick McNulty and will be listed in the Run-off election. Mayor Stahl's term will expire November 3, 2020.

BUDGET/FINANCIAL SUMMARY

COMPREHENSIVE PLAN GOAL

Chapter VII. Governance and Community Relations.
Goal 1: The City shall maintain a "Home Rule" type of government and allow for a more stable environment for effective decision-making.

LEGAL REVIEW

Sent to Legal: YES: _____ NO: _____
Approved by Legal: YES: _____ NO: _____

RECOMMENDATIONS/COMMENTS

Approve Order of Run-off Election.

21

ORDER OF RUNOFF ELECTION FOR MUNICIPALITIES
(ORDEN DE ELECCION RUNOFF PARA MUNICIPIOS)

An election is hereby ordered to be held on June 29, 2019 for the purpose of: Runoff Election
to fill an unexpired term in the office of Mayor. (date)

(Por la presente se ordena que se llevará a cabo una elección el 29 de junio de 2019 con el propósito de: *raza la eleccion para completar un termino injusto en la oficina del alcalde* (fecha)

Early voting by personal appearance will be conducted each weekday at
(La votación adelantada en persona se llevará a cabo de lunes a viernes e:)

City Hall, 4601 Padre Boulevard, South Padre Island, Texas 78597
(location) (sitio)

Recommended but not required

between the hours of 8:00 a.m. and 5:00 p.m. beginning on June 17, 2019
(date)
(entre las 8:00 de la mañana y las 5:00 de la tarde empezando el 17 de junio de 2019)
(fecha)
and ending on June 25, 2019. (y terminando el 25 de junio de 2019.)
(date) (fecha)

Applications for ballot by mail shall be mailed to:
(Las solicitudes para boletas que se votarán en ausencia por correo deberán enviarse a:)

Susan Hill
(Name of Early Voting Clerk)
(Nombre del Secretario(a) de la Votación Adelantada)
4601 Padre Boulevard
(Address) (Dirección)
South Padre Island, TX 78597
(City) (Ciudad) (Zip Code) (Zona Postal)

Issued this the 15th day of May, 2019.

(Emitida este día 15 de mayo, 2019.)

Council Member
(Miembro del Consejo)

Council Member
(Miembro del Consejo)

Council Member
(Miembro del Consejo)

Signature of Mayor
(Firma del Alcalde)

Council Member
(Miembro del Consejo)

Council Member
(Miembro del Consejo)

Instruction Note: A copy of this election order must be delivered to the County Clerk/Elections Administrator and Voter Registrar immediately after ordering the election.

(Nota de instrucción: Se deberá entregar una copia de esta orden de elección al/a la Secretario(a) del Condado/Administrador(a) de Elecciones y el/la Registrador(a) de Votantes inmediatamente después de ordenar la elección.)

7-2

**CITY OF SOUTH PADRE ISLAND
CITY COUNCIL MEETING
AGENDA REQUEST FORM**

MEETING DATE: May 15, 2019

NAME & TITLE: Susan Hill, City Secretary

DEPARTMENT: City Manager's Office

ITEM

Discussion and action to approve Resolution No. 2019-23 establishing procedures for a runoff election to be held on June 29, 2019 for the purpose to fill a vacancy in the unexpired term of Mayor.

ITEM BACKGROUND

A special election was held on May 4, 2019 to fill a vacancy caused by the resignation of Mayor Dennis Stahl. None of the candidates received over 50% of the majority vote, as required by the Home Rule Charter and Texas Constitution. The two candidates that received the most votes were Darla Jones and Patrick McNulty and will be listed in the run-off election.

BUDGET/FINANCIAL SUMMARY

COMPREHENSIVE PLAN GOAL

Chapter VII. Governance and Community Relations.
Goal 1: The City shall maintain a "Home Rule" type of government and allow for a more stable environment for effective decision-making.

LEGAL REVIEW

Sent to Legal: YES: _____ NO: _____
Approved by Legal: YES: _____ NO: _____

RECOMMENDATIONS/COMMENTS

Approve Resolution No. 2019-23.

8-1



RESOLUTION NO. 2019-23

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
SOUTH PADRE ISLAND, TEXAS ESTABLISHING PROCEDURES
FOR A RUN-OFF ELECTION IN SOUTH PADRE ISLAND, TEXAS
ON JUNE 29, 2019, FOR THE PURPOSE TO FILL A VACANCY
FOR THE UNEXPIRED TERM OF MAYOR**

WHEREAS, the laws of Texas provide that on June 29, 2019 there shall be a Run-off Municipal Election to elect the following official for this City:

One (1) Mayor to fill a vacancy on an unexpired term (term to expire on November 3, 2020).

WHEREAS, the laws of the State of Texas provide that the Election Code of the State of Texas is applicable to said election and in order to comply with said code, a resolution should be passed establishing the procedure to be followed in said election and designating the voting place for said election.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOUTH PADRE ISLAND, TEXAS, that:

Section 1: That a special election was duly called, posted in accordance with the laws of the Texas Election Code. That none of the candidates received over 50% of the majority vote, that Darla Jones and Patrick McNulty received the most votes; and said person(s) will be listed in a run-off election, as required by the laws of the State of Texas.

Section 2: The order in which the names of the candidates for Council Members are to be printed on the ballot shall be determined by a drawing held during the period of May 28, 2019 through May 31, 2019 by the City Secretary and/or her designee, as provided by the Texas Election Code.

Section 3: This City has one election precinct, Precinct 52, and said election shall be held at the following polling place: 4601 Padre Boulevard, South Padre Island, Texas.

Section 4: Kathie Hawkinson will serve as Presiding Judge for Election Day; Marge Leeman will serve as Alternate Presiding Judge. The clerks for the election will be appointed by the Presiding Judge in a number not to exceed three (3).

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Section 5: Chris Townsend will serve as Presiding Judge for the Early Voting Ballot Board (EVBB); Joe Townsend will serve as Alternate EVBB Presiding Judge. The clerks(s) for the EVBB will be appointed by the EVBB Presiding Judge, in a number not to exceed two.

Section 6: The City Council shall set the pay rate for election officials at \$10.00 per hour for clerks and \$15.00 per hour for judges.

Section 7: The poll at the above polling place shall be open from 7:00 a.m. to 7:00 p.m. on said Election Day.

Section 8: Susan Hill is hereby appointed clerk for early voting and in her absence, Marta Martinez will serve as clerk for early voting. The early voting for the above designated election shall be held at City Hall, 4601 Padre Boulevard, South Padre Island, Texas, which shall remain open for at least eight hours on each day, which is not a Saturday, Sunday or an official State holiday. Early voting by personal appearance will be held between the hours of 8:00 a.m. to 5:00 p.m. on June 17, 2019 through June 25, 2019 except Thursday, June 20, 2019 and Tuesday, June 25, 2019, on which the hours of Early voting by personal appearance will be from 7:00 a.m. to 7:00 p.m.

Section 9: The mailing address to which ballot applications and ballots by mail may be sent is as follows: 4601 Padre Boulevard, South Padre Island, Texas 78597.

Section 10: Early voting by personal appearance and by mail, and voting on election day shall be by paper ballots. The Early Voting Presiding Judge, the Early Voting Alternate Presiding Judge, and a clerk shall canvass the paper ballots cast during early voting. The Alternate Presiding Judge or Lead Counter and two clerks shall canvass the paper ballots cast on election day.

Section 11: Said election shall be held in accordance with the Election Code of this state, and only resident qualified voters of said City shall be eligible to vote at said election.

Section 12: The Mayor shall give notice of this election in accordance with the terms and provisions of the Texas Election Code, and all necessary orders and writs for said election shall be issued by the proper authority. Returns of said election shall be made available to the City Council immediately after closing the poll.

Section 13: Should any part, section, subsection, paragraph, sentence, clause or phrase contained in this resolution be held to be unconstitutional or of no force and effect, such holding shall not affect the validity for the remaining portion of this resolution, but in all respects said remaining portion shall be and remain in full force and effect.

Section 14: That this Resolution shall be effective immediately upon adoption.

It is further found and determined that in accordance with the order of this governing body, the City Secretary posted a written notice of the day, place and subject of this meeting on the bulletin board located at the Municipal Complex Building, a place convenient and readily accessible to the general public, and said notice having been so posted and having remained posted and continuously for at least 72 hours preceding the scheduled time of said meeting.

PASSED, ADOPTED AND APPROVED ON THIS THE 15TH DAY OF MAY 2019.

Dennis Stahl, Mayor

ATTEST:

Susan Hill, City Secretary

**CITY OF SOUTH PADRE ISLAND
CITY COUNCIL MEETING
AGENDA REQUEST FORM**

MEETING DATE: May 15, 2019

NAME & TITLE: Rodrigo Gimenez, Chief Financial Officer

DEPARTMENT: Finance

ITEM

Discussion and action to approve a payment plan request for Hotel Occupancy Tax including penalties and applicable interest in the amount of **\$21,064.43** due from Peninsula Island Resort & Spa.

ITEM BACKGROUND

A payment plan was submitted to the Finance Department from Peninsula Island Resort & Spa. The request covers HOT for both August 2017 and September 2018 taxes. The total, including penalties and interest, is broken down by month as follows: \$9,182.85 for August 2017, and \$11,881.58 for September 2018.

City staff does not have authority to grant such requests.

BUDGET/FINANCIAL SUMMARY

COMPREHENSIVE PLAN GOAL

LEGAL REVIEW

Sent to Legal: YES: _____ NO: X
Approved by Legal: YES: _____ NO: X

RECOMMENDATIONS/COMMENTS



May 1, 2019

Peninsula Island Resort & Spa, LLC
340 Padre Boulevard
South Padre Island, TX 78597

Attention – Felicia Bazan

Re: Hotel Occupancy Tax (HOT) and Venue Payment Plan Agreement

This letter confirms the City of South Padre Island and Cameron County agreement with the above noted taxpayer, in which they acknowledge their indebtedness to the city and county as specified below and promise to pay the amount due in monthly installments as follows:

DELINQUENT PERIODS AUGUST 2017 AND SEPTEMBER 2018

AMOUNT DUE

| | |
|----------------------------|--------------|
| SOUTH PADRE ISLAND (HOT) | \$ 17,052.15 |
| SOUTH PADRE ISLAND (VENUE) | \$ 4,012.28 |
| CAMERON COUNTY (VENUE) | \$ 1,003.06 |
| TOTAL AMOUNT DUE | \$ 22,067.49 |

PAYMENT SCHEDULE: AS FOLLOWS

| | |
|--------------------|-------------|
| May 24, 2019 | \$ 3,677.00 |
| June 24, 2019 | \$ 3,677.00 |
| July 24, 2019 | \$ 3,677.00 |
| August 24, 2019 | \$ 3,677.00 |
| September 24, 2019 | \$ 3,677.00 |
| October 24, 2019 | \$ 3,682.49 |

The payment plan is contingent upon receipt of the signed payment plan agreement and the first payment is due by May 24, 2019

Interest will not continue to accrue on the outstanding tax balance. Payments are due on the 24th of each month. Payments shall be deemed delinquent if not received in our office before the close of business on the payment due date. Peninsula Island Resort & Spa, LLC shall not allow the current Hotel

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Occupancy Tax payments to become delinquent. The current HOT payments shall be paid timely and in a consistent manner.

If any scheduled payment related to this agreement or any regularly required HOT return related to the taxpayer's ongoing business is deemed delinquent during the term of this agreement, the agreement shall be in default, and the entire amount of tax, penalty and interest owed shall be due and payable immediately.



Mario Selinas

Peninsula Island Resort & Spa, LLC

Avenu Insights & Analytics

Administered Agent for South Padre Island/Cameron County

PO BOX 830725
 BIRMINGHAM, AL 35283-0725



PENINSULA ISLAND RESORT & SPA, LLC
 340 PADRE BOULEVARD
 SOUTH PADRE ISLAND, TX 78597

LATE/UNDERPAID

TAXPAYER ID: 286203

INVOICE DATE: 5/1/2019

| Jurisdiction | Tax Type | Tax Period | NET SALES | GROSS TAX DUE | AMT PAID | DIFFERENCE | *Penalty | *Interest | Amount Due |
|-------------------------|----------|------------|-------------|---------------|----------|-------------|-------------|---------------------------|--------------------|
| 8011 South Padre Island | 30-11 | 08/2017 | \$68,862.76 | \$ 5,853.33 | | \$ 5,853.33 | \$ 878.00 | \$ 702.40 | \$ 7,433.73 |
| 8011 South Padre Island | 9-11 | 08/2017 | \$68,862.76 | \$ 1,377.26 | | \$ 1,377.26 | \$ 206.59 | \$ 165.27 | \$ 1,749.12 |
| 8011 South Padre Island | 30-11 | 09/2018 | \$92,550.78 | \$ 7,866.82 | \$ - | \$ 7,866.82 | \$ 1,180.02 | \$ 571.58 | \$ 9,618.42 |
| 8011 South Padre Island | 9-11 | 09/2018 | \$92,550.78 | \$ 1,851.02 | \$ - | \$ 1,851.02 | \$ 277.65 | \$ 134.49 | \$ 2,263.16 |
| | | | | | | | | Amount to be paid: | \$21,064.43 |

Remit To: Avenu Insights & Analytics
 PO Box 830725
 Birmingham, AL 35283-0725

If you have questions regarding this invoice, please call an Avenu Representative at 866-240-3665

*The return(s) for the jurisdiction and period(s) listed above were late and/or underpaid. For information regarding municipal penalties and/or interest for Hotel Occupancy Tax, please visit our website at www.revds.com. (Taxpayer - Texas - Taxpayer Forms)

In order to avoid further collection action payment must be received within 10 days. Questions, call (866) 240-3665

Returned Check Disclaimer: Effective July 1, 2010, each returned item received by Avenu due to insufficient funds will be electronically represented to the presenters' bank no more than two times in an effort to obtain payment. Avenu is not responsible for any additional back fees that will accrue due to the resubmission of the returned item. please see the full returned check policy at www.revds.com/taxpayer/return-check-disclaimer.

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TO: Peninsula Island Resort & Spa, LLC
 340 Padre Boulevard
 South Padre Island, TX 78597

ID#: 286203

| CODE | JURISDICTION NAME | TAX TYPE & RATE CODE | Due Date | Amount Due | PAYMENTS RECEIVED | BALANCE DUE |
|------|------------------------|----------------------|------------|--------------|-------------------|--------------|
| | TOTAL AMOUNT DUE | | | \$ 17,052.15 | | |
| 8011 | South Padre Island, TX | 30-11 | 5/24/2019 | \$ 2,841.32 | | 2,841.32 |
| 8011 | South Padre Island, TX | 30-11 | 6/24/2019 | \$ 2,841.32 | | 2,841.32 |
| 8011 | South Padre Island, TX | 30-11 | 7/24/2019 | \$ 2,841.32 | | 2,841.32 |
| 8011 | South Padre Island, TX | 30-11 | 8/24/2019 | \$ 2,841.32 | | 2,841.32 |
| 8011 | South Padre Island, TX | 30-11 | 9/24/2019 | \$ 2,841.32 | | 2,841.32 |
| 8011 | South Padre Island, TX | 30-11 | 10/24/2019 | \$ 2,845.55 | | 2,845.55 |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | \$ - | \$ 17,052.15 |

Total Amount Due \$ 17,052.15

If you should have any questions or if you need additional information, please call 1-800-556-7274

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Gio Bouquet <gbouquet@myspi.org>

FW: South Padre Island and Cameron County, TX

Carmen R. Grier <Carmen.Grier@avenuinsights.com>
To: Gio Bouquet <gbouquet@myspi.org>

Tue, Apr 23, 2019 at 11:14 AM

Good morning,

The explanation we received for their delinquencies:

The taxpayer is late due to several changing of employees. The owners were not aware of the delinquencies prior to many different employees handling the tax filing information.

[Quoted text hidden]

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**CITY OF SOUTH PADRE ISLAND
CITY COUNCIL
AGENDA REQUEST FORM**

MEETING DATE: May 15, 2019

NAME & TITLE: Ed Caum, CVB Director

DEPARTMENT: Convention and Visitors Bureau

ITEM

Presentation and discussion regarding the establishment of the Sea Turtle Art Trail.

ITEM BACKGROUND

As South Padre Island is a world-wide destination for multiple species of Sea Turtles and other dynamic sea life, the City of South Padre Island would like to establish a static, Sea Turtle art trail.

BUDGET/FINANCIAL SUMMARY

02-593-8099 Special Events Budget

COMPREHENSIVE PLAN GOAL

LEGAL REVIEW

Sent to Legal: YES: _____ NO: _____
Approved by Legal: YES: _____ NO: _____

Comments:

RECOMMENDATIONS/COMMENTS

**CITY OF SOUTH PADRE ISLAND
CITY COUNCIL
AGENDA REQUEST FORM**

MEETING DATE: May 15, 2019

NAME & TITLE: Mike Flores, Director of Marketing Research & Analytics
Joe Ricco, Council Member

DEPARTMENT: Convention and Visitors Bureau/City Council

ITEM

Presentation and discussion regarding the implementation of a courtesy 'Combat Wounded' parking program.

ITEM BACKGROUND

As South Padre Island is a vehement supporter of all Active Duty Service Members, Veterans of the Armed Forces and all First Responders, a visual display of the City's support of combat wounded men and women in the form of courtesy parking spaces should be discussed.

BUDGET/FINANCIAL SUMMARY

02-593-8099 Special Events Budget

COMPREHENSIVE PLAN GOAL

LEGAL REVIEW

Sent to Legal: YES: _____ NO: _____
Approved by Legal: YES: _____ NO: _____

Comments:

RECOMMENDATIONS/COMMENTS

**CITY OF SOUTH PADRE ISLAND
CITY COUNCIL MEETING
AGENDA REQUEST FORM**

MEETING DATE: May 15, 2019

NAME & TITLE: C. Alejandro Sanchez, P.E., CFM, Public Works Director

DEPARTMENT: Public Works Department

ITEM

Discussion and action to approve PR 100 (Padre Boulevard) Improvements Change Order #7 - Pavement Markings

ITEM BACKGROUND

The Padre Boulevard Sidewalk Improvement Project (Phase I) is funded by the Transportation Alternatives Program (TAP) Grant. The project scope is sidewalk improvements from Isla Blanca Park to the Convention Center including pavement markings.

The plans proposed to eliminate pavement markings at various locations within the project limits for crosswalks. However, field attempts to remove the existing markings revealed the existence of various layers of markings in the pavement surface. Attempting to remove the various layers of marking using the planned specified method would result in excessive damage to the existing pavement surface.

As an alternative method, this change order will add black pavement marking to paint over the existing white markings to eliminate any confusion for pedestrians using the crosswalks. See attached Change Order No. 7 in the amount of \$11,466.86.

BUDGET/FINANCIAL SUMMARY

| | |
|--|------------------|
| Advance Funding Agreement Original Amount: | \$766,010 |
| <u>Change Order to date</u> | <u>\$607,752</u> |
| Estimated Available Funds | \$158,258 |

COMPREHENSIVE PLAN GOAL

4.F. Provide a safe and attractive environment for walking and bicycling.

LEGAL REVIEW

Sent to Legal: YES: _____ NO: x
Approved by Legal: YES: _____ NO: x

Comments:

RECOMMENDATIONS/COMMENTS

Recommend approval.

TEXAS DEPARTMENT OF TRANSPORTATION

CONSTRUCTION CONTRACT CHANGE ORDER NUMBER: 7

Third Party Funding Notification Sheet

This form is used when the subject change order involves funding by a source other than TxDOT/U.S. DOT, and involves third parties who are providing funding under an Advance Funding Agreement or Donation Agreement.

1. Outside funding provided by:

City of South Padre Island

 (Outside Entity's Legal Name)

| | |
|-------------------------|---------------------|
| CCSJ: | 0031-04-067 |
| Project: | STP 2017 (193) TAPS |
| Highway: | PR 100 |
| County: | Cameron |
| District: | 21 |
| Contract Number: | 01173038 |

2. Type of outside funding agreement for this change:

- Existing
 Amended
 New
 [Check one]

3. Indicate the type and amount of funding:

- Fixed Price (Lump Sum) (Estimated Amount \$10,650.00)
 Actual Cost

| | | | | | |
|---------------------------------|-----------|-------------|---|--|--------------------|
| (a) Contract Items (Bid Items): | | | | | <u>\$10,650.00</u> |
| (b) E&C*: | (a) x | <u>7.67</u> | = | | <u>\$816.86</u> |
| | | enter % | | | |
| (c) Indirect Cost**: | (a + b) x | | = | | |
| | | enter % | | | |
| TOTAL | | | | | <u>\$11,466.86</u> |

Use as needed:
 I hereby acknowledge notification of the modifications covered by this Change Order.

Date _____

By _____

Typed/Printed Name _____

Typed/Printed Title _____

* The percentage (%) for E&C (Engineering and Contingencies) charges varies from project to project depending on the contract amount of the project. Projects with a higher contract amount will have a lower rate of E&C charge. For a specific project, E&C rate (%) can be derived from the cost of "Engineering and Contingencies" in the "Estimated Cost" of the project.

** Use the statewide district rate as established by Finance Division each year. This line 3(c) is for Service Project only, unless otherwise specified in the Advance Funding Agreement. See Stand Alone Manual Notice 98-2 for instructions.

Funding for this Change Order has been arranged:

| | |
|---------------------------|------|
| TxDOT Representative | Date |
| Typed/Printed Name: _____ | |

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CHANGE ORDER NBR. 7

REPORT DATE: 4/26/2019 12:32:30PM

CONTRACT ID: 033104067
PROJECT: STP 2017(193)TAPS
CONTRACT: 01173038
AWARD AMOUNT: \$3,452,509.19
PROJECTED AMOUNT: \$3,513,409.19
ADJ PROJECTED AMT: \$3,564,835.13
PEND ADJ PROJ AMT: \$3,564,835.13
CONTRACTOR: REIM CONSTRUCTION, INC.
CO AMOUNT: \$10,650.00
CO TYPE: FEDERAL PARTICIPATING
3RD PARTY AMOUNT: \$0.00
APPRV LEVEL: OVERRIDE

HIGHWAY: PR 100
DISTRICT: 21
COUNTY: CAMERON
AREA ENGINEER: Juan Bosquez, P. E.
AREA NUMBER: 055

DESCRIPTION: Black Thermoplastic Paint
REASON: 2A - 2A-DIFFER SITE CONDITION (UNFORESEEABLE)
SECONDARY REASON(S):

| | |
|--|--|
| Functions: | |
| <input checked="" type="checkbox"/> Extra Work | <input type="checkbox"/> Force Account |
| <input type="checkbox"/> Zero Dollar | <input type="checkbox"/> Final Quantity |
| <input checked="" type="checkbox"/> Overrun/Underrun | <input type="checkbox"/> Change Project Limits |
| <input type="checkbox"/> Time Adjustment | <input type="checkbox"/> Delete/Add CSJ |
| <input type="checkbox"/> Stock Account | |

DESCRIBE THE REASON FOR THE CHANGE ORDER AND WHAT IS BEING CHANGED. WHEN NECESSARY, INCLUDE EXCEPTIONS TO THIS AGREEMENT:

This change order is being submitted to introduce ITEM 666-2274(REF)(PAV)(MRK)TY1(BLACK)14"SLD(100MIL), ITEM 666-2275(REF)(PAV)(MRK)TY1(BLACK)26"SLD(100MIL) and QUANTITY ADJUSTMENT to the contract.

NEW ITEMS BEING INTRODUCED

The following items are being introduced to compensate the contractor for the elimination of pavement markings at various locations within the project limits using black thermoplastic paint. The plans propose to eliminate 12 and 24 inch pavement markings at various locations within the project limits using existing ITEM 0677-6005 ELIM EXT PAV MARK & MARKS (12IN) and ITEM 677-6007 ELIM EXT PAV MARK & MARKS (24IN). However, field attempts to remove the existing striping revealed the existence of various layers of striping in the pavement surface resulting from multiple seal coats and overlays that the road has experienced. Attempting to remove the various layers of striping using the existing items of work would result in excessive damage to the existing pavement surface that is to remain in place. As a result, the contractor is proposing to eliminate the pavement markings using black thermoplastic paint as needed to avoid damaging the existing roadway. This project has Local Government (City of South Padre Island) funding. Coordinated with Local Government and obtain third party form with signatures. The city of South Padre Island and TxDOT agree with the proposed alternative method and will introduce ITEM 666-2274(REF)(PAV)(MRK)TY1(BLACK)14"SLD(100MIL) and ITEM 666-2275(REF)(PAV)(MRK)TY1 (BLACK) 26" SLD(100MIL) to compensate the contractor for additional cost due to this change.

The contractor agrees to waive any and all claims for additional compensation due to any and all other expenses; additional charges for time, overhead and profit, or loss of compensation as a result of this change and that this agreement is made in accordance to item 4 of the contract.

QUANTITY ADJUSTMENT

This change order will address quantity adjustments to existing items due to substitution at certain areas.

QUANTITY ADJUSTMENT TO THE FOLLOWING ITEM:

- Item 0677-6005 ELIM EXT PAV MRK & MRKS (12")
- Item 0677-6007 ELIM EXT PAV MRK & MRKS (24")

ADDITIONAL TIME NOT NEEDED

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"By signing this change order, the contractor agrees to waive any and all claims for additional compensation due to any and all other expenses; additional changes for time, overhead and profit; or loss of compensation as a result of this change and that this agreement is made in accordance Item 4 and the Contract. Exceptions should be noted in explanation above."

THE CONTRACTOR

BY: _____
DATE

TYPED/PRINTED NAME: _____
DATE

TYPED/PRINTED TITLE: _____
DATE

AREA ENGINEER: _____
DATE

AREA ENGINEER'S SEAL:

DISTRICT ENGINEER: _____
DATE

DIRECTOR, CONSTRUCTION DIVISION: _____
DATE

DEPUTY EXECUTIVE DIRECTOR: _____
DATE

FHWA: _____
DATE

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CONTRACT ID 033104067

CHANGE ORDER NBR. 7

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CONTRACT ITEMS

PROJECT NBR 033104067

| CATG NBR | LINE ITEM | ITEM CODE | SP NBR | DESCRIPTION | UNIT | UNIT PRICE | ORIG + PREV REV QTY | QTY THIS CO | NEW QTY | AMOUNT THIS CO |
|---------------------|--------------|--------------|-----------|---|------|---------------|------------------------|----------------|------------|-------------------|
| 001 | 0415 | 06776005 | 000 | ELIM EXT PAV MRK & MRKS (12") | LF | 0.85000 | 3,337.000 | -1,932.000 | 1,405.000 | -\$1,642.20 |
| 001 | 0420 | 06776007 | 000 | ELIM EXT PAV MRK & MRKS (24") | LF | 1.75000 | 416.000 | -196.000 | 220.000 | -\$343.00 |
| 001 | 418 | 06662274 | | REF PAV MRK TY I(BLACK)14"(SLD)(100MIL) | LF | 2.65000 | 0.000 | 3,500.000 | 3,500.000 | \$9,275.00 |
| 001 | 421 | 06662275 | | REF PAV MRK TY I(BLACK)26"(SLD)(100MIL) | LF | 5.30000 | 0.000 | 634.000 | 634.000 | \$3,360.20 |
| CHANGE ORDER AMOUNT | | | | | | | | | | \$10,650.00 |

12-6

**CITY OF SOUTH PADRE ISLAND
CITY COUNCIL MEETING
AGENDA REQUEST FORM**

MEETING DATE: May 15, 2019

NAME & TITLE: Doug Fowler, Fire Chief

DEPARTMENT: Fire Department

ITEM

Discussion and possible action to approve purchase of a Dive-Rescue and Firefighting boat not to exceed \$120,000 with Beach Maintenance funds.

ITEM BACKGROUND

On January 17, 2018, the SPI City Council passed Resolution No. 2018-02 to allow the Fire Department to seek grant funding for a Dive-Rescue Firefighting boat. The Fire Department has made multiple grant applications without success. With the advent of additional tourism due to water sports, Space-X, and higher tourism, the level of activity is expected to continue rising. Since FY 2010 there have been over 300 incidents to include water rescues, boat accidents, swimmers in distress, as well as water sport enthusiasts needing assistance.

BUDGET/FINANCIAL SUMMARY

Increase line item 60-522-1004 by \$120,000
The current level of excess reserves in the Beach Maintenance Fund is approximately \$1.5 million

COMPREHENSIVE PLAN GOAL

Public Safety 2 – Support the Fire Department; 2.1 Improve fire and emergency medical services.

LEGAL REVIEW

Sent to Legal: YES: _____ NO: X
Approved by Legal: YES: _____ NO: X

RECOMMENDATIONS/COMMENTS

Approve purchase.

BOAT BIO # 1

25 X3 2019

SELECTED EQUIPMENT:

Mercury 350XL Verado (25")

(1) \$11,973 | P/N: 25x3 | Color:

Aluminum Boarding Ladder

(1) \$652 | P/N: SSA013 | Color:

Powder coat aluminum 25'X3

(1) \$2,354 | Color: slick-wet-white

New Style Lean Post with Folding Arms, **includes dual foot rest

(1) \$2,275 | P/N: SSA016-18 | Color:

Aluminum T-Top with Sunbrella/Vinyl Top 5'x7'

(1) \$3,355 | P/N: SSA007-18 | Color:

Notes: make legs all the way to ground, hard top

20" LED Bar Light-Spot/Flood (Specify Location)

(1) \$791 | P/N: SSE12-18 | Color: white

Notes: front of T-top

25X3 Double Axle Trailer *Standard Package*

Welded Bunks, Saltwater Package, LED Lights, Full

Frame w/ Jack on I-Beam, Torsion Axles *NO

BREAKS* Includes Galvanized Wheels

(1) \$5,707 | Color:

8' Blade Power Pole Installed

(1) \$2,915 | P/N: SSD019-18 | Color: black



PRICING:

| | |
|---|-----------|
| Boat Base Cost: | \$87,076 |
| Options, Motor Upgrade, & Color Upgrade Cost: | \$35,679 |
| Total MSRP: | \$122,755 |
| Dealer Discount: | -\$18,413 |
| Subtotal: | \$104,342 |

CUSTOMER INFORMATION:

Name: South Padre Island Fire Department

Email: wes@shallowportboats.com

Phone:

Address:

1146 SCHAFER RD
 Corpus Fresnos, TX 78566

ORDER INFORMATION:

Dealer PO#:

Sales Person: Weslee Hudson

Requested Ship Date: 05/31/2019

Order Notes:

Light bar LED Mini Edge Whelen blue/blue \$2,429.00
 Loud Speaker Hailer \$507.69 Speaker Siren Control

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4/22/2019

Dealer Portal - Shallow Sport Boats

- Hole Shot Fiberglass Compression Plate
- Storage Compartments with Fiberglass Hatches
- Fiberglass Center Console
- Deluxe Rigging Package
- Hydraulic Jack Plate
- Pro Trim Jack Plate Switch
- Windshield
- Premium Steering System
- Deluxe Switch Panel
- Digital Gauges
- Deluxe Binnacle Control
- Marine Battery
- Battery Switch
- Fuse Block
- 12v Accessory Plug
- Recirculating Live Well
- Bilge Pump
- Navigation Lights LED Red/Green, white anchor
- In Dash Tackle Boxes
- 10 Year Warranty

Head \$460.61 Amp for speaker \$421.84 Full T-top through bolted to deck \$850.00 Aluminum hard top add \$538.00 hard top requires powder coating VHF radio w/ whip antenna \$450.00
 Subtotal: 5657

COLORS:

| | | |
|---------------------|-----------------|-----|
| Hull: | cool-white | \$0 |
| Deck: | cool-white | \$0 |
| Deck Non-skid: | cool-white | \$0 |
| Deck Webbing: | cool-white | \$0 |
| Stripe: | false | \$0 |
| Console: | cool-white | \$0 |
| Raised Console: | cool-white | \$0 |
| Powder Coat: | slick-wet-white | \$0 |
| Cushion Accent: | cool-white | \$0 |
| Cushion Stripes: | cool-white | \$0 |
| Cushion Base Color: | cool-white | \$0 |



BOAT BID #2

2510 Bay

| | |
|---|----------|
| 2510 Bay w/ Mercury® Verado® 350XL | \$84,395 |
| Trailer | Included |
| Dual Pro® on-board charger 15 x 4 (standard upgrade) | \$645 |
| AGM battery w/ holder (three) for trolling motor | \$1,262 |
| Humminbird® Helix 10 MDI GPS G3N bow gimbal mount | \$1,752 |
| Humminbird® Helix 10 MDI GPS G3N console backmount | \$1,798 |
| Hard top w/ electronics box & light package | \$10,176 |
| Painted underside of hard top | \$1,454 |
| Garmin® GT30 DI SI transom-mount transducer | \$293 |
| Manufacturer's gauges Yamaha® Command Link | \$1,159 |
| White stick-on keel protector | \$293 |
| Two tone console | \$598 |
| Port rear storage box plumbed for baitwell | \$195 |
| Extra set of 4 speakers w/ amp | \$482 |
| Loc-R-Bar™ (long) | \$305 |
| Power-Pole® Anchor Blade Series w/ remote & bracket / 10 foot starboard | \$2,809 |
| Cockpit Bolsters | \$415 |
| Bob's hydraulic setback plate aluminum finish (optional) | \$251 |
| Indicator switch replace standard / Lenco electric trim tabs | \$396 |

\$108,678 USD*



Questions? 1-800-373-2628

Call today to see if you qualify for financing. Financing is available through our financing partner. Terms, conditions and restrictions apply. ©2014 Ranger Boats, Inc. All rights reserved.

13-4

SPECS

| | | | |
|---|--------|---|-------|
| Hull Length | 24'7" | Approximate Boat Weight (lbs.) | 3600 |
| Beam | 100.5" | Rod Box Length - Port | 9'0" |
| Overall Beam w/ Rubrail | 102" | Rod Box Length - Starboard | 9'6" |
| Max. recommended HP (HP) | 350 | Max. person capacity (persons) | 10 |
| Engine Shaft Length | 25" | Trailer GVWR (lbs.) | 6800 |
| Inside Depth | 19" | Approximate Length On Trailer w/ Motor Down (May vary with engine model and set-back plate) | 30'2" |
| Draft (Engine, Bait, Fuel, Accessories) | 14" | Approx Length On Trailer w/Motor Down/Swing Tongue Open (May vary with engine model/set-back plate) | 28'2" |
| Fuel capacity (gal.) | 97 | Width On Trailer | 102" |
| Total Person, Motor, Gear (lbs.) | 2800 | Height On Trailer (Add Approx 3' for T-Top) | 8'9" |

STANDARD FEATURES

Power/Performance

- Master power switch
- Available w/ a wide range of precision matched outboards
- Cranking battery w/ holder
- Power trim
- Binnacle throttle control
- Stainless Steel Prop
- Pultruded fiberglass transom
- Fiberglass stringer system
- Stainless steel steering wheel w/ knob assist
- Hydraulic tilt steering (may vary with engine model and setback plate)
- Recirculating aerated livewell/baitwell leaning post combination w/ high speed pickup, pump & in-line filter, rear
- 12" hydraulic setback plate

Trailer Features

- Aluminum frame
- Aluminum Wheels
- Matching spare tire & wheel
- Center swing jack
- Swing-away tongue
- Fenders (Stainless steel)
- Hydraulic surge disc brakes (tandem axle trailers are standard w/ brakes on both axles)
- LED lighting
- Ranger Trail® Cool Hub® lubrication system
- Torsion axles
- NMMA®/NATM certified

Electronics

- Speed, Tach, Fuel, Trim & Water Pressure Gauges
- Console panel w/ toggle switches
- Battery switch
- Corrosion resistant wiring harness w/ resettable breakers
- 12V DC power receptacle
- LED navigation lights
- Console panel w/ switching w/ 30 amp breaker
- Heavy duty 6 ga. TM wiring w/50 amp breakers
- LED cockpit, compartment & livewell light package
- Patented Power Ventilation Rod Storage™, console
- LED under water lights

Safety/Comfort

- NMMA® certified
- Fire extinguisher & horn
- Automatic & manual bilge pump
- Boarding ladder
- Stainless steel bow / stern eyes
- Heavy duty rubrail w/ stainless steel insert
- Stainless steel console rail
- Skid-resistant deck & interior
- Windshield
- Upright, level flotation
- Custom-fitted premium marine upholstery: leaning post w/ 40 gal. baitwell & added storage
- Folding rear bench seat w/ storage
- Self-bailing cockpit w/ stainless steel scuppers
- Stainless steel pull up tie cleats/ fore, aft, & midship
- Baitwell/livewell shut off spray head
- Swim platform
- Mirror on console cabin door

Custom Details

- Stainless steel gas spring lid assist
- Molded-in drive & passenger footrests
- Suitable for optional potty
- Custom 320 quart fish box w/ large overboard drain
- Rod storage & port rod tubes
- Gunnel & transom rod holders (8)
- Polished stainless steel pedestal base
- Leaning post rod holders (4)
- Built-in 120 quart cooler
- Trim tabs 12"x12"
- Integrated rod storage
- Deck mounted rod holders
- Storage under front & rear deck
- Gelcoated lockable storage boxes
- Anchor locker w/ protective stainless steel plate
- Stainless steel seat bases
- Stainless steel compression lid locks
- Stainless steel fittings
- Rod storage organizers
- Fresh water and raw washdowns
- Exhaust fan & light under console

13-5

BOAT B10 #3



Doug Fowler <dfowler@myspi.org>

Fwd: Pathfinder Boat Builder

1 message

Jim Pigg <jpigg@myspi.org>
To: Doug Fowler <dfowler@myspi.org>

Mon, Apr 29, 2019 at 10:15 AM

Jim Pigg | Captain
Fire Dept. | Ocean Rescue

City of South Padre Island Fire Department
106 W. Retama South Padre Island, Texas 78597
Fire Department: 956-761-3040 | Fax: 956-761-2792
Office: 956-761-3829
Cell: 956-433-1150
E-mail: jpigg@MySPI.org www.MySPI.org
How did I do? Please take our Customer Service Survey by [clicking here](#).
 Picture

----- Forwarded message -----
From: **Pathfinder Boat Builder** <sales@maverickboatgroup.com>
Date: Mon, Apr 29, 2019 at 10:15 AM
Subject: Pathfinder Boat Builder
To: <jpigg@myspi.org>

Options

Special Requests

I am requesting for a fire department as a rescue / fire boat.

Summary

First Name

Jim

Last Name

Pigg

Street Address

South Padre Island Fire Department Att: Jim Pigg

Address Line 2

106 W RETAMA ST

City

SOUTH PADRE ISLAND

State

Texas

ZIP / Postal Code

78597

Country

United States

13-6

Email

jpigg@myspi.org

When do you plan to purchase your next boat?

1 to 3 Months

Order

| Product | Qty | Unit Price | Price |
|---|-----|------------|-------------------|
| 2500 Hybrid | | | |
| <ul style="list-style-type: none"> • Paired with Yamaha Motor & Prop: F350NCC • Steering: Power assist steering • Hull Gelcoat Color: Pure White • Hull Color Pattern: Reverse 2-tone (hull color on bottom) • Engine Color: OEM color • Cushion color: Grey/white • Rub rail: Black w/ SS insert • Hard top color options: Two-tone hard top (underside non-white) • Helm Seating: Leaning Post w/Engel cooler (exchange) • T-top: T-Top, weblon w/spreader lights • Powder coating package: Grey (w/ t-top) • Electronics: Garmin VHF radio (VHF 200) • Trailer: Pathfinder tandem axle trailer • Trailer: Aluminum wheels (4) • : Matte Black Powder Coating (w/ t-top) • : Power Pole (10 ft, black, port) • : Trim tabs | 1 | \$ 129,733 | \$ 129,733 |
| Total: | | | \$ 129,733 |

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13-7



Subscribe

PUMP BID #1



CALL US: 1-800-568-2403 / 1-712-792-3143 EMAIL:



HOME > FIRE > FIRE PUMPS >

Waterax BB-4 23 HP Portable Fire Pump



Fire Pump BB-4-23P



Waterax BB-4 23 HP Portable Fire Pump

Part Number: BB-4-23P

Retail Price: ~~\$6,494.00~~

Your Savings: \$274.05 (5%)

Your Price: **\$5,219.95**

Choose Options

* Options

Carry Frame, Guzzler Primer

Quantity

1

Share

Be the first of your friends to like this

Description

13-8

The BB-4 portable fire pump is an ideal unit for remote water transfer, initial attack, sprinkler systems, brush truck and slip-on firefighting systems forestry and rural fire environments.

High-pressure up to 440 PSI (30 bar) is provided to operate very long hose lays and overcome pressure losses due to large elevation changes often encountered in rugged wildland fire operations.

The higher power provided by the Briggs & Stratton 23 HP engine makes it ideal for pumping at high altitudes.

A unique feature of the BB-4 pump is the quick release pump end that is inter-changeable with our MARK-3 pump. This standardization allows for field pump end exchanges eliminating long equipment down time and greatly reduces the inventory of parts at equipment service shops.

Specifications:

Flow Rate At Specified Pressure:

- Maximum Pressure: 440 PSI (30.3 bar)
- Maximum Flow: 106 US gals/min (401 L/min)
- Maximum Head: 1016' (310 m)

Performance:

- 103 GPM (390 lpm) @ 150 PSI (10.3 BAR)
- 94 GPM (356 lpm) @ 250 PSI (17.2 BAR)
- 65 GPM (246 lpm) @ 350 PSI (24.1 BAR)

Engine:

- Model & Type: Briggs & Stratton Vanguard, 4-cycle, horizontal shaft, twin cylinder, OHV
- Maximum Power: 23 hp (17.2 KW) @ 3600 RPM
- Maximum Torque: 32.75 lb-ft (44.4 Nm) @ 2600 RPM
- Starting System: Re-coil start with 12 VDC electric start option

Pump:

- Type: Detachable 4-Stage Centrifugal Pump
- Intake: 2" Male NPSH
- Discharge: 1-1/2" Male NPSH

Weight:

- Weight: 195 lbs (88 kg)

Frame:

- Carry Frame

Drive Unit:

- Timing Belt and Pulley; Speed Increaser 1.88:1

BB-4-23PETC

- Primer: Electric Package - Electric Primer, LED work light, & Battery (Standard)
- Muffler: Exhaust primer muffler (Standard)
- Check Valve Manifold: 1-1/2 NPSH (Standard)
- Discharge Gauge: 0-600 psi, 2-1/2" dial (Standard)
- Controls: Engine Mount Control Panel (Standard)
- Fuel Tank: Integral / 1.75 US galls (6.6 L) (Standard)

BB-4-23PXTC

- Primer: Exhaust Primer (Standard)
- Muffler: Exhaust primer muffler (Standard)
- Check Valve Manifold: 1-1/2 NPSH (Standard)
- Discharge Gauge: 0-600 psi, 2-1/2" dial (Standard)
- Controls: Engine Mount Control Panel (Standard)
- Fuel Tank: Integral / 1.75 US galls (6.6 L) (Standard)

BB-4-23PC

- Primer: Guzzler Hand Primer (Standard)
- Muffler: Dual low tone (Standard)
- Check Valve Manifold: 1-1/2 NPSH (Standard)
- Discharge Gauge: 0-600 psi, 2-1/2" dial (Standard)
- Controls: Engine Mount Control Panel (Standard)

13-9

Pump B10 #2

Home > All Categories > Pumps > HP/HV >



Hale HPX275-B35 Portable Firefighting Pump

Price: \$5,925.00

Price with Selected Options: **\$5,925.00**

Larger Photo Email A Friend

Alternative Views:



Availability: Available for order

Product Code: HALE-HPX275-B35

Choose your options:

Hale Base

- Skid Base (truck mount)

Hale Battery & Cables Kit

Click to view another Hale Battery & Cables Kit



- Battery & Cables Kit [Add \$310.00]
- none

Hale Control Panel

Click to view another Hale Control Panel



13-10

- X-Stream Panel (discharge gauge, start button, on/off switch, oil light, choke/throttle, primer)
- no panel required

Hale Fuel Tank

Click to view another Hale Fuel Tank



- No Fuel Tank (std)
- 5 Gallon Remote Fuel Tank w/ Mounting Bracket [Add \$600.00]
- 6 Gallon Portable Fuel Tank Assembly [Add \$490.00]

Hale Hourmeter

Click to view another Hale Hourmeter



- Maintenance Hour Meter [Add \$150.00]
- Round Hour Meter, 12/24 Volt DC [Add \$275.00]
- none (std)

Hale Muffler Blanket

Click to view another Hale Muffler Blanket



- Muffler Blanket [Add \$155.00]
- none

Hale Muffler Exhaust Kit

Click to view another Hale Muffler Exhaust Kit



- Muffler Exhaust Elbow with Rain Cap (shipped loose) [Add \$108.00]
- none (std)

Hale Primer

Click to view another Hale Primer



13-11



Subscribe

Pump Bio #3



CALL US: 1-800-568-2403 / 1-712-792-3143 EMAIL:

Search bar with magnifying glass icon and menu icon

HOME > FIRE > FIRE PUMPS > Hale PowerFlow HPX200-B23 Portable Pump



PowerFlow HPX200-B23 Portable Pump

Hale PowerFlow HPX200-B23 Portable Pump

Part Number: 545-5161-30-0

On sale \$5,556.95

~~Retail Price: \$7,920.48~~

Your Savings: \$2,970.53 (38%)

Your Price:

You want flexibility and performance. High quality is your minimum standard.



Choose Options

- * **Base Package**
X Package Pump
 - * **Battery Option**
No Battery
 - * **Fuel Option**
6 Gal Fuel Assembly
 - * **Primer System**
Exhaust Primer
- Quantity

1

13-12

Share

Be the first of your friends to like this

Description

You want flexibility and performance. High quality is your minimum standard. That's why the Hale Attack Firefighting pump range are designed to tough and perform well at higher or lower pressures. With over 100 years' experience making fire pumps, you can be sure your Hale portable pump will deliver performance when you need it.

Hale HPX200-B23 Power Flow Pump Features:

- Flows ranging from 90 GPM @ 150 PSI to 250 GPM @ 30 PSI
- Ultra-reliable Briggs & Stratton 23-HP 4-cycle V-Twin gasoline engine
- Electric start with recoil backup
- Anodized aluminum alloy pump head and body
- Pump head and body coupled together with stainless steel band clamp for easy serviceability
- Bronze impeller and renewable wear rings
- Self-adjusting mechanical seal
- Exhaust gas venturi priming
- 3.0" NPT / 4.0" Victaulic suction connection; 2.5" NPT discharge

Specifications:

- Pump material: Anodized aluminum
- alloy pump body, bronze impeller
- Connections: Suction 3" NPT/ 4" victaulic
- Discharge 2.5" NPT
- Priming: Exhaust venturi ejector
- Max flow: 255 GPM
- Max pressure: 175 PSI
- Engine: Briggs & Stratton 23HP 4 cycle
- Panel: X-Stream with discharge gauge, priming lever, start button, ON/OFF switch, oil warning light, choke & throttle control



Team K970A Husqvarna Circular Saw

[short_review]

\$1,316.34



GSS Safety Class 2 Two Tone Mesh Zip

Vest

[short_review]

\$6.58

13-13

**CITY OF SOUTH PADRE ISLAND
CITY COUNCIL MEETING
AGENDA REQUEST FORM**

MEETING DATE: May 15, 2019

NAME & TITLE: C. Alejandro Sanchez, P.E., CFM. – Public Works Director

DEPARTMENT: Public Works – Fleet Division

ITEM

Discussion and action to approve budget amendment in the amount of \$16,100 for replacement of outboard motor for police boat (M-12 Majek Illusions).

ITEM BACKGROUND

The existing Evinrude E-Tec 200 HP outboard motor has been having various issues over the years. The most recent issue encountered was the gear unit blew up and the lower unit with the propeller was repaired. Currently it is having additional problems; the outboard motor has been out of service for about two weeks. The Fleet Committee recommends replacement.

BUDGET/FINANCIAL SUMMARY

Increase line item 01-540-1004 by \$16,100

The current level of General Fund excess reserves is approximately \$909,000

COMPREHENSIVE PLAN GOAL

Goal 1: City should continue to support the needs of the Police Department to ensure adequate protection of the population.

Goal 2: The City shall maintain appropriate level of public service.

LEGAL REVIEW

Sent to Legal: YES: _____ NO: x
Approved by Legal: YES: _____ NO: x

Comments:

| |
|---------------------------------|
| RECOMMENDATIONS/COMMENTS |
|---------------------------------|

Recommend approval.

**CITY OF SOUTH PADRE ISLAND
CITY COUNCIL MEETING
AGENDA REQUEST FORM**

MEETING DATE: May 15, 2019

NAME & TITLE: Randy Smith, City Manager

DEPARTMENT: City Manager's Office

ITEM

Discussion and action to approve Resolution No. 2019-24 suspending the June 5, 2019 effective date of AEP Texas Inc.'s requested rate change to permit the city time to study the request and to establish reasonable rates, approving cooperation with the cities served by AEP Texas and authorizing intervention in AEP Texas Inc.'s requested rate change proceedings before the commission, hiring Lloyd Gosselink attorneys and consulting services to negotiate with the company and direct any necessary litigation and appeals requiring reimbursement of cities' rate case expenses.

ITEM BACKGROUND

On May 1, 2019, AEP Texas Inc. filed an application for a rate increase to use in its transmission and distribution lines and related services. Both our legal team and Lloyd Gosselink Rochelle & Townsend recommend that we adopt the suspension resolution that is before you for approval. The deadline to respond to this application is June 5, 2019.

BUDGET/FINANCIAL SUMMARY

COMPREHENSIVE PLAN GOAL

LEGAL REVIEW

Sent to Legal: YES: _____ NO: _____
Approved by Legal: YES: _____ NO: _____

RECOMMENDATIONS/COMMENTS

Approve Resolution.

15-1

RESOLUTION NO. _____

**RESOLUTION OF THE CITY OF _____
SUSPENDING THE JUNE 5, 2019 EFFECTIVE DATE OF
AEP TEXAS INC.'S REQUESTED RATE CHANGE TO
PERMIT THE CITY TIME TO STUDY THE REQUEST AND
TO ESTABLISH REASONABLE RATES; APPROVING
COOPERATION WITH THE CITIES SERVED BY AEP
TEXAS AND AUTHORIZING INTERVENTION IN AEP
TEXAS INC.'S REQUESTED RATE CHANGE
PROCEEDINGS BEFORE THE COMMISSION; HIRING
LLOYD GOSSELINK ATTORNEYS AND CONSULTING
SERVICES TO NEGOTIATE WITH THE COMPANY AND
DIRECT ANY NECESSARY LITIGATION AND APPEALS;
REQUIRING REIMBURSEMENT OF CITIES' RATE CASE
EXPENSES; FINDING THAT THE MEETING AT WHICH
THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC
AS REQUIRED BY LAW; REQUIRING NOTICE OF THIS
RESOLUTION TO THE COMPANY AND LEGAL
COUNSEL**

WHEREAS, on or about May 1, 2019, AEP Texas Inc. ("AEP Texas" or "Company"), pursuant to Public Utility Regulatory Act ("PURA") §§ 33.001 and 36.001 filed with the City of _____ ("City") a Statement of Intent to change electric delivery rates in all municipalities exercising original jurisdiction within its service area, effective June 5, 2019; and

WHEREAS, the City is an electric utility customer of AEP Texas and a regulatory authority with an interest in the rates and charges of AEP Texas; and

WHEREAS, the City is a member of the Cities Served by AEP Texas ("Cities"), a membership of similarly situated cities served by AEP that have joined together to efficiently and cost effectively review and respond to electric issues affecting rates charged in AEP Texas' service area; and

WHEREAS, PURA § 36.108 grants local regulatory authorities the right to suspend the effective date of proposed rate changes for ninety (90) days after the date the rate change would otherwise be effective; and

WHEREAS, the City retains its rights as a city with original jurisdiction including the right to suspend the application; and

WHEREAS, PURA § 33.023 provides that costs incurred by Cities in ratemaking activities are to be reimbursed by the regulated utility; and

WHEREAS, the City's consultants and attorneys recommend that the City suspend the application for further review.

THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF _____, TEXAS:

SECTION 1. That the June 5, 2019, effective date of the rate request submitted by AEP Texas on or about May 1, 2019, be suspended for the maximum period allowed by law to permit adequate time to review the proposed changes and to establish reasonable rates.

SECTION 2. That the City joins other Cities Served by AEP Texas in this proceeding and, subject to the right to terminate employment at any time, hereby authorizes the hiring of Thomas Brocato of Lloyd Gosselink Rochelle and Townsend, P.C, and consultants to review the Company's filing, negotiate with the Company, make recommendations regarding reasonable rates and to direct any necessary administrative proceedings or court litigation associated with an appeal of city action.

SECTION 3. That the City shall work with Cities Served by AEP Texas in the review and evaluation of whether the proposed rates are appropriate, fair, just, and reasonable; and, intervene as a necessary party in the Public Utility Commission of Texas' consideration of AEP Texas' rate filing in Docket No. 49494 as it affects the customers in the unincorporated areas of AEP Texas' service territory.

SECTION 4. That the City's reasonable rate case expenses shall be reimbursed by AEP Texas.

SECTION 5. That it is hereby officially found and determined that the meeting at which this Resolution is passed is open to the public as required by law and the public notice of the time, place, and purpose of said meeting was given as required.

SECTION 6. A copy of this Resolution shall be sent to AEP Texas, care of Jennifer Frederick, American Electric Power Company, 400 West 15th Street, Suite 1520, Austin, Texas 78701 (jffrederick@aep.com), and to Thomas Brocato at Lloyd Gosselink Rochelle & Townsend, P.C., 816 Congress Avenue, Suite 1900, Austin, Texas 78701 (tbrocato@lglawfirm.com).

PASSED AND APPROVED this _____ day of _____, 2019.

MAYOR

ATTEST:

City Secretary

15-3

APPROVED AS TO FORM:

City Attorney

MODEL STAFF REPORT

*****ACTION MUST BE TAKEN TO SUSPEND THE EFFECTIVE DATE
BEFORE JUNE 5, 2019*****

PURPOSE:

AEP Texas Inc (“AEP Texas” or “Company”) filed an application on May 1, 2019 with cities retaining original jurisdiction seeking to increase system-wide distribution rates by \$38.3 million per year (an increase of 4.2%), and decrease system-wide transmission rates by \$3.16 million (a decrease of 0.7%).

The Company also asks the City to approve consolidated rates and tariffs for its Central and North Divisions. According to AEP Texas, the impact of this approval on an average residential customer would be an increase of about \$4.75 per month for customers in the Central Division, and a decrease of \$5.01 for customers in the North Division.

The resolution suspends the June 5, 2019 effective date of the Company’s rate change for the maximum period permitted by law to allow the City, working in conjunction with other Cities served by AEP Texas to intervene in the Public Utility Commission Docket No. 49494 to evaluate the filing, determine whether the filing complies with law, and if lawful, to determine what further strategy, including settlement, to pursue.

The law provides that a rate request made by an electric utility cannot become effective until at least 35 days following the filing of the application to change rates. The law permits the City to suspend the rate change for 90 days after the date the rate change would otherwise be effective. **If the City fails to take some action regarding the filing before the effective date, AEP Texas’s rate request is deemed approved.**

Purpose of this Resolution:

The purpose of this Resolution is to suspend the Statement of Intent to Change Rates proposed by AEP Texas and authorize the City to intervene in the Company’s rate case proceeding before the Public Utility Commission in Docket No. 49494.

Explanation of “Be It Resolved” Paragraphs:

Section 1. The City is authorized to suspend the rate change for 90 days after the date that the rate change would otherwise be effective for any legitimate purpose. Time to study and investigate the application is always a legitimate purpose. Please note that the resolution refers to the suspension period as “the maximum period allowed by law” rather than ending by a specific date. This is because the Company controls the effective date and can extend the deadline for final city action to increase the time that the City retains jurisdiction if necessary to reach settlement on the case. If the suspension period is not otherwise extended by the Company, the City must take final action on AEP Texas’ request to change rates by June 5, 2019.

15-5

Section 2. This provision authorizes the City to participate in a coalition of Cities served by AEP Texas (“Cities”) in order to more efficiently represent the interests of the City and their citizens and authorizes the hiring of Lloyd Gosselink and consultants to review the filing, negotiate with the Company, and make recommendations to the City regarding reasonable rates. Additionally, it authorizes Cities to direct any necessary administrative proceedings or court litigation associated with an appeal of this application filed with the PUC.

Section 3. This section authorizes the City to intervene in and participate with Cities Served by AEP Texas as a party in the Company’s filing, PUC Docket No. 49494.

Section 4. The Company will reimburse the cities for their reasonable rate case expenses. Legal counsel and consultants approved by Cities will submit monthly invoices that will be forwarded to AEP Texas for reimbursement. No individual city incurs liability for payment of rate case expenses by adopting a suspension resolution.

Section 4. This section merely recites that the resolution was passed at a meeting that was open to the public and that the consideration of the Resolution was properly noticed.

Section 5. This section provides that both AEP Texas’ counsel and counsel for the Cities will be notified of the City’s action by sending a copy of the approved and signed resolution to certain designated individuals.



Susan Hill <shill@myspi.org>

AEP Rate Case Clarification

1 message

Thomas Brocato <tbrocato@lglawfirm.com>
 To: Thomas Brocato <tbrocato@lglawfirm.com>
 Cc: Jamie Mauldin <jmauldin@lglawfirm.com>

Fri, May 3, 2019 at 11:58 AM

Several cities have called me confused by what AEP is telling them. Specifically, AEP has encouraged cities to deny the rate application and may have provided you with a resolution. I have not seen a resolution from AEP but recommend you not adopt it.

We recommend that you instead adopt the suspension resolution I sent. Under the law, cities with original jurisdiction (i.e. legal authority) over AEP's rates may suspend the effective date (i.e. the date proposed by the Company when the rate change will go into effect) by 90 days. This extends the time cities have to review the filing and it allows us to settle the case early without being subject to PUC jurisdiction. Adopting our resolution also confirms that we are authorized to represent you and include your city as part of our coalition. I hope that this is helpful. Feel free to contact me if you have questions. Thomas



THOMAS L. BROCATO

Partner

512-322-5857 Direct

512-914-5061 Cell

Lloyd Gosselink Rochelle & Townsend, P.C.

816 Congress Ave., Suite 1900, Austin, TX 78701

www.lglawfirm.com | 512-322-5800

News | vCard | Bio



****ATTENTION TO PUBLIC OFFICIALS AND OFFICIALS WITH OTHER INSTITUTIONS SUBJECT TO THE OPEN MEETINGS ACT ****

15-7



Susan Hill <shill@myspi.org>

RE: AEP Rate Increase Application (SPI)

1 message

Allison Bastian <abastian@rampage-rgv.com>

Thu, May 9, 2019 at 6:15 PM

To: "Susan Hill (shill@myspi.org)" <shill@myspi.org>

Cc: Veronica Duron <vduron@rampage-rgv.com>, Angelica Martinez <amartinez@rampage-rgv.com>, Rebecca Hayward <rhayward@rampage-rgv.com>

Hi, Susan

We do not advise adopting the resolution as provided by AEP. You or the Mayor should have received an email from Thomas Brocato advising of the same. The one you need to adopt is this one; the model staff report is also included.

I've cut and pasted his email immediately below.

Subject: AEP Rate Case Clarification

Date: 2019-05-03 16:58

From: Thomas Brocato <tbrocato@lglawfirm.com>

To: Thomas Brocato <tbrocato@lglawfirm.com>

Cc: Jamie Mauldin <jmauldin@lglawfirm.com>

Several cities have called me confused by what AEP is telling them.

Specifically, AEP has encouraged cities to deny the rate application and may have provided you with a resolution. I have not seen a resolution from AEP but recommend you not adopt it.

We recommend that you instead adopt the suspension resolution I sent.

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15-8

THOMAS L. BROCATO



An AEP Company

BOUNDLESS ENERGY

Judith E. Talavera
President and Chief Operating Officer

AEP Texas
539 N. Carancahua
Corpus Christi, TX 78401
aeptexas.com

May 1, 2019

The Honorable Dennis Stahl
Mayor, City of South Padre Island
4601 Padre Blvd
South Padre Island, TX 78597

Re: *Application of AEP Texas for Authority to Change Rates*

Dear Mayor Stahl:

As indicated in previous correspondence, AEP Texas is filing with the Public Utility Commission of Texas (PUCT) and cities that have retained original jurisdiction over AEP Texas a request to change the rates it charges for the use of its transmission and distribution lines and related services. AEP Texas is filing this request with the PUCT on May 1, 2019 and, by this letter, with cities that have retained original jurisdiction over AEP Texas. This letter provides you information about the filing, as well as the filing itself. Attached to this letter are the following:

Attachment 1 discusses the action your city needs to take by **June 5, 2019** and provides a sample city ordinance for your convenience. If your City has previously ceded its original rate-setting jurisdiction to the PUCT, this information is being provided to you as a courtesy and no action is required by you.

Attachment 2 is the AEP Texas Petition and Statement of Intent, which is the request to change rates for those cities that have retained original jurisdiction. Appendix A of the Petition and Statement of Intent provides a list of cities in the AEP Texas service territory and indicates which cities have retained original jurisdiction over the company's rates and those which have ceded original jurisdiction to the PUCT.

Attachment 3 is a copy of my testimony as AEP Texas President & COO, which provides you an overview of the filing and the subjects covered by each AEP Texas witness.

Flash Drive provided with this letter contains the entirety of AEP Texas' rate request testimony and rate filing package. AEP Texas is proposing revisions to most tariffs and schedules. A copy of the proposed tariffs is contained in Exhibit JLJ-4 to the testimony of AEP Texas witness Jennifer Jackson, which is contained on the flash drive.

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{Over}

PUC DOCKET NO. _____

| | | |
|-------------------------------|---|---------------------------|
| APPLICATION OF AEP TEXAS INC. | § | BEFORE THE |
| FOR AUTHORITY TO CHANGE | § | PUBLIC UTILITY COMMISSION |
| RATES | § | OF TEXAS |

PETITION AND STATEMENT OF INTENT TO CHANGE RATES

AEP Texas Inc. (AEP Texas or the Company) files this Petition and Statement of Intent to Change Rates (Petition) in accordance with Subchapter C of Chapter 36 of the Public Utility Regulatory Act (PURA),¹ 16 Tex. Admin. Code (TAC) § 22.243(b), and 16 TAC § 25.247(c)(2)(B). AEP Texas is filing with this Petition a rate filing package (RFP) that complies in all material respects with the Commission’s *Transmission & Distribution (TDU) Investor-Owned Utilities Rate Filing Package for Cost-of-Service Determination*.²

I. INTRODUCTION

AEP Texas is connected to and serves more than one million electric consumers in the restructured Texas marketplace. As an energy delivery (wires) company, AEP Texas delivers electricity safely and reliably to homes, businesses, and industry across its nearly 100,000 square mile service territory in south and west Texas. AEP Texas also maintains and repairs its lines, reads electric meters, and handles connections and disconnections as directed by the Retail Electric Providers (REPs) selling electricity to end-use customers. Providing safe and reliable electricity is AEP Texas’ mission.

The State of Texas is fortunate to have a dynamic and diverse economy and much of the economic growth has been taking place throughout the AEP Texas service territory. New and existing businesses find an attractive environment for growth and investment. Notably, the Rio

¹ PURA is codified at Tex. Util. Code Ann. §§ 11.001–66.016.

² Approved November 19, 2015.

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Grande Valley and Laredo have consistently been two of the fastest growing areas of the state. When oil field related activity in the well-known “Eagle Ford” shale production area began around the year 2011, AEP Texas saw tremendous growth in areas that had been stagnant for years. Similarly, the oil and gas related activity in west Texas around the Permian Basin and Cline areas also required a significantly higher level of investment to serve the increasing demand for electric service. The port areas of the state served by AEP Texas also have experienced continued growth and expansion, particularly relating to liquefied natural gas (LNG) facilities.

This expanding economy and population growth in its service territory, as well as the need to upgrade and maintain the existing transmission and distribution (T&D) infrastructure, has required AEP Texas to invest nearly six billion dollars in its T&D system since the close of the previous test year, June 30, 2006. The additional T&D investment, for which AEP Texas requests a prudency determination, supports not only the new and expanding oil and gas businesses, but also the expanding communities that create increased need for housing, schools, and commercial enterprises. This growth is a primary driver of new rates for AEP Texas. Other drivers, including the Company’s request for AEP Texas-wide consolidated rates, are discussed below and in the direct testimony of AEP Texas President and Chief Operating Officer Judith Talavera.

At the time the Company’s existing rates were set in Docket Nos. 33309 and 33310, AEP Texas consisted of two separate corporate entities, AEP Texas Central Company (TCC) and AEP Texas North Company (TNC). However, these companies were managed and operated as a single business under the brand name “AEP Texas.” In Docket No. 46050, TCC and TNC sought and received the approval of the Commission to merge and change its name to AEP Texas Inc. (AEP

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Texas).³ After the merger, as ordered by the Commission, AEP Texas established the Central and North “divisions” within the merged utility and continued to maintain separate rates, riders, and tariff manuals for the Central and North Divisions. The then-existing TCC and TNC base rates did not change and remained in force for customers taking service within the Company’s two divisions. In this case, as contemplated by the Commission in its order approving the merger, AEP Texas proposes to consolidate rates for AEP Texas’ Central and North Divisions.⁴

This rate case also will allow AEP Texas to realign its rates to be consistent with the changes that have taken place in the Company’s customer classes over the last 12 years. For instance, some customer classes have grown significantly while others have decreased in size, which has resulted in a mismatch of revenues collected from customer classes relative to the costs to serve those customers. Resetting rates will realign rates with the current existing customer base.

Additionally, as discussed by AEP Texas witness Jennifer Jackson, the Company proposes to: 1) terminate the Advanced Metering System Cost Recovery Factor Rider (AMSCRF); 2) reset the baseline for the Distribution Cost Recovery Factor Rider (DCRF); 3) determine the revenue requirement for the Transmission Cost Recovery Factor Rider (TCRF) and move all transmission cost recovery to the TCRF; 4) move energy efficiency costs from base rates to Rider Energy Efficiency Cost Recovery Factor (EECRF); and 5) modify or discontinue tariffs that are now outdated in light of current circumstances.

³ See *Application of AEP Texas Central Company, AEP Texas North Company, and AEP Utilities, Inc. for Approval of Merger*, Docket No. 46050, Final Order at Ordering Paragraph No. 1 (Dec. 12, 2016).

⁴ *Id.* at Ordering Paragraph No. 2 (“Applicants shall maintain separate TCC and TNC divisions, which will continue to charge separate rates and riders, and maintain separate tariffs, unless and until such time as the Commission may consider and approve consolidated rates and tariffs.”).

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Finally, the timing of this filing fits with the Commission's Rate Review Schedule rule (16 TAC § 25.247), which requires AEP Texas to file a comprehensive rate case on or before May 1, 2019, subject to extensions that AEP Texas has not sought.

Ultimately, the resolution of the issues raised in this case will facilitate AEP Texas' continued deployment of innovative technology, while simultaneously maintaining, operating, and expanding a flexible grid that provides for the safe and reliable delivery of electricity.

II. AUTHORIZED REPRESENTATIVES

AEP Texas' authorized representative for service of all pleadings and other documents is:

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AEP Texas' authorized legal representatives are:

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AEP Texas requests that all information and documents in this matter be served on each of the persons above.

III. APPLICANT AND JURISDICTION

AEP Texas is an electric utility, a public utility, and a utility as those terms are defined in PURA §§ 11.004(1) and 31.002(6). AEP Texas is a wholly-owned subsidiary of American Electric Power Company, Inc. (AEP), which is a holding company within the meaning of the Public Utility Holding Company Act of 2005. AEP Texas' business address is 539 North Carancahua Street, Corpus Christi, Texas 78401.

The Commission has jurisdiction over this application pursuant to PURA §§ 14.001, 32.001, and 36.001. Specifically, the Commission has jurisdiction to change AEP Texas' distribution rates within unincorporated areas of the Company's service area, within all municipalities served by the Company that have surrendered their original jurisdiction to the Commission, and upon appeal by the Company of actions taken by municipalities exercising original jurisdiction. Each municipality in AEP Texas' service area that has not ceded jurisdiction to the Commission has jurisdiction over this Petition to the extent it seeks to change rates for distribution service within those municipalities. AEP Texas anticipates that it will appeal the actions of its original jurisdiction municipalities, and that it will seek consolidation of those appeals with this docket. A list of the municipalities that have ceded original jurisdiction, and of those which have retained original jurisdiction, is provided as Appendix A. AEP Texas will file this Petition with the Commission, as well as with all of its original jurisdiction municipalities.

IV. TEST YEAR

This Petition is based on a test year ending December 31, 2018, adjusted for known and measurable changes.

V. INCREASE IN REVENUE REQUIREMENT

Related to its distribution cost of service, the Company requests a rate increase of approximately \$38.3 million over its adjusted test year revenues, an increase of 4.2%. This amount is net of the Company's proposed Income Tax Refund (ITR) Rider, discussed in detail in Section VII(B) below. Related to its transmission cost of service, the Company requests a rate decrease of \$3.16 million below its adjusted test year revenues, a decrease of 0.7%.

Revenues by rate class and number of customers are provided in the following table:

| <u>AEP TEXAS INC. SUMMARY OF REVENUES BY RATE CLASS</u> | | | | | | | | |
|--|----------------------------|-------------------------|--------------------------|--------------------------------|--------------------------|-----------------|-----------------------------|-----------------------|
| Rate Class Description | AEP TX Number of Customers | AEP TX Present Revenues | AEP TX Proposed Revenues | Revenue Change w/out Rider ITR | % Change w/out Rider ITR | Rider ITR | Revenue Change w/ Rider ITR | % Change w/ Rider ITR |
| Residential Service | 876,553 | \$ 478,051,710 | \$ 506,224,177 | \$ 28,172,467 | 5.9% | \$ (11,382,278) | \$ 494,841,899 | 3.5% |
| Secondary Service Less Than or Equal to 10 kW | 89,158 | \$ 33,924,128 | \$ 27,614,375 | \$ (6,309,753) | -18.6% | \$ (700,749) | \$ 26,913,627 | -20.7% |
| Secondary Service Greater Than 10 kW | 73,070 | \$ 273,524,671 | \$ 295,954,662 | \$ 22,429,991 | 8.2% | \$ (6,303,560) | \$ 289,651,102 | 5.9% |
| Primary Voltage Service | 1,045 | \$ 70,027,981 | \$ 76,832,472 | \$ 6,804,492 | 9.7% | \$ (1,364,554) | \$ 75,467,918 | 7.8% |
| Transmission Voltage Service | 85 | \$ 30,420,295 | \$ 35,820,956 | \$ 5,400,661 | 17.8% | \$ (174,806) | \$ 35,646,150 | 17.2% |
| Lighting Service | 2,301 | \$ 21,769,668 | \$ 24,347,960 | \$ 2,578,292 | 11.8% | \$ (815,653) | \$ 23,532,307 | 8.1% |
| Retail Electric Delivery Revenues | 1,042,212 | \$ 907,718,453 | \$ 966,794,603 | \$ 59,076,150 | 6.5% | \$ (20,741,600) | \$ 946,053,003 | 4.2% |
| Wholesale Transmission Revenue | | \$ 423,372,870 | \$ 420,213,369 | \$ (3,159,501) | -0.7% | | | |
| <i>Note: AEP Texas is proposing a one-time transmission credit of \$29 million associated with the TCJA.</i> | | | | | | | | |
| Total Cost of Service | | \$1,331,091,323 | \$1,387,007,972 | \$55,916,649 | 4.2% | | | |
| Retail Electric Delivery Revenue Change | | | | \$ 59,076,150 | | | | |
| ITR Rider Credit | | | | \$(20,741,600) | | | | |
| Total Schedule I-A Reconciliation | | | | \$38,334,550 | | | | |

The proposed increase constitutes a "major change" as that term is defined in PURA § 36.101.

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VI. AFFECTED PERSONS

AEP Texas' Petition affects all REPs serving end-use retail electric customers in the Company's certificated service territory. Each of these end-use retail electric customers may be affected by this Petition, depending upon the actions taken by the REPs that provide electricity to such customers.

This Petition also affects all customers taking service under the Company's wholesale transmission service tariff.

VII. FILING OVERVIEW

| | WITNESS | DESCRIPTION OF TESTIMONY | RFP VOLUME/PAGE |
|----|---------------------|---|----------------------------|
| 1. | Judith E. Talavera | Ms. Talavera presents the AEP Texas rate case application and provides an overview of the filing. Specifically, she provides an overview of AEP Texas and the cost elements that encompass the base rate increase request. | |
| 2. | Leigh Anne Strahler | Ms. Strahler introduces proposals for regulatory programs supported by various witnesses. Ms. Strahler also discusses AEP Texas affiliate expenses related to legal, regulatory, and environmental services and supports AEP Texas' rate case expenses. | |
| 3. | Randall Hamlett | Mr. Hamlett presents AEP Texas' requested total company cost of service and associated RFP schedules. He describes various pro forma accounting adjustments. | |
| 4. | Greg Wilson | Mr. Wilson discusses AEP Texas' approach to the use of a Catastrophe Reserve. | |
| 5. | Jay Joyce | Mr. Joyce sponsors the results of the lead-lag study for measuring the cash working capital allowance required for AEP Texas' operations. | |

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| | WITNESS | DESCRIPTION OF TESTIMONY | RFP VOLUME/PAGE |
|-----|---------------|--|--------------------|
| 6. | Robert Hevert | Mr. Hevert presents his recommended return on equity. | |
| 7. | Renee Hawkins | Ms. Hawkins supports the calculations of AEP Texas' cost of debt as well as AEP Texas' overall capital structure. She discusses AEP Texas' financial condition. | |
| 8. | Steve Fetter | Mr. Fetter discusses AEP Texas' requested capital structure. | |
| 9. | Thomas Coad | Mr. Coad discusses AEP Texas' performance with respect to various reliability and quality of service measures. He also supports the reasonableness and necessity of AEP Texas' overall and affiliate O&M costs for distribution services, as well as distribution capital additions. | |
| 10. | Dan Boezio | Mr. Boezio discusses AEP's transmission organization and operations. He supports AEP Texas' overall and affiliate O&M costs for transmission services. | |
| 11. | Wayman Smith | Mr. Smith supports AEP Texas' transmission capital additions. | |
| 12. | Joel Murphy | Mr. Murphy discusses the AEP Texas and AEPSC customer services organizations and discusses AEP Texas' quality of customer service. He also supports the reasonableness and necessity of AEP Texas' overall and affiliate O&M costs for customer services. | |

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| | WITNESS | DESCRIPTION OF TESTIMONY | RFP VOLUME/PAGE |
|-----|-----------------|---|--------------------|
| 13. | Gilbert Hughes | Mr. Hughes discusses AEP Texas' External Affairs and Corporate Communications organizations and the services they provide. He also discusses AEPSC's External Affairs and Corporate Communications organizations and demonstrates the reasonableness and necessity of the affiliate charges billed to AEP. He supports the advertising costs, contributions and membership dues requested in this case. | |
| 14. | Jeff Stracener | Mr. Stracener discusses AEP Texas' AMS reconciliation and implementation of the approved AMS Deployment Plan. | |
| 15. | Heather Whitney | Ms. Whitney discusses the accounting for the actual costs, investment, and revenues associated with the deployment of AMS during the reconciliation period. | |
| 16. | Jason Cash | Mr. Cash discusses the depreciation study overview, the study methods and procedures, and the study results. | |
| 17. | Michael Kelly | Mr. Kelly discusses AEP Texas' Federal Income Taxes included in its cost of service and describes the RFP's tax schedules. He also addresses the impact of the 2017 Tax Cuts and Jobs Act. | |

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| | WITNESS | DESCRIPTION OF TESTIMONY | RFP VOLUME/PAGE |
|-----|---------------------|---|--------------------|
| 18. | Brian Frantz | Mr. Frantz discusses AEPSC and the corporate support services it provides. He describes AEPSC's internal controls, billing and cost allocation methods, and how they assure that AEP Texas is charged reasonable and necessary costs for affiliate services. He also provides supporting testimony regarding the reasonableness and necessity of the Chief Financial Officer, Chief Executive Officer, Internal Support, and AEPSC Incentives classes of AEPSC affiliate costs. He explains the particular allocation factors used to bill the various affiliate classes of cost to AEPSC, to support the conclusion that AEP Texas is charged affiliate costs by AEPSC that are no higher than those billed to other AEP affiliates. | |
| 19. | Patrick Baryenbruch | Mr. Baryenbruch presents an assessment of the reasonableness and necessity of the services provided to AEP Texas by AEPSC, and the associated costs. This assessment includes review of the necessity and benefit of AEPSC services, the appropriateness of AEPSC allocation factors, and the reasonableness of AEPSC and AEP Texas costs. | |
| 20. | Tracy Elich | Ms. Elich discusses the services of the AEPSC Human Resources Department. She supports the reasonableness and necessity of the Human Resource Department affiliate charges to AEP Texas. | |
| 21. | Curt Cooper | Mr. Cooper describes and supports the reasonableness of the benefit plans for AEP Texas and AEPSC employees. | |

| | WITNESS | DESCRIPTION OF TESTIMONY | RFP VOLUME/PAGE |
|-----|------------------|--|--------------------|
| 22. | Andrew Carlin | Mr. Carlin describes the reasonableness and market competitiveness of the AEP compensation plan and the salary and incentive compensation levels for AEP Texas and AEPSC, and supports a pro forma adjustment made by Mr. Hamlett for base pay increases effective in 2019. | |
| 23. | Jon Burns | Mr. Burns describes the services provided by the AEP Supply Chain, Fleet and Procurement organizations. He supports the reasonableness and necessity of AEP Texas' costs for these services. | |
| 24. | Randy Ware | Mr. Ware provides supporting testimony for AEP Texas affiliate expenses related to AEPSC Real Estate and Workplace Services. He supports the reasonableness and necessity of AEP Texas' affiliate costs for these services. | |
| 25. | Greg Filipkowski | Mr. Filipkowski discusses the AEP Information Technology (IT) organization and the services provided. He supports the reasonableness and necessity of AEP Texas' IT affiliate costs. He also supports IT capital additions and the IT related portions of AEP Texas' AMS reconciliation. | |
| 26. | David Standley | Mr. Standley discusses the AEP Telecom organization and the services provided. He supports the reasonableness of AEP Texas' Telecom affiliate costs. He also supports Telecom capital additions. | |
| 27. | Stan Partlow | Mr. Partlow discusses the AEP Security organization and the services provided. He supports the reasonableness of AEP Texas' Security affiliate costs. | |
| 28. | Nora Williams | Ms. Williams sponsors various schedules related to load and demand. | |

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| | WITNESS | DESCRIPTION OF TESTIMONY | RFP VOLUME/PAGE |
|-----|------------------|--|-----------------|
| 29. | Chad Burnett | Mr. Burnett presents the weather normalization processes used in forecasting, and supports several associated schedules. | |
| 30. | John Aaron | Mr. Aaron presents and supports AEP Texas' class cost-of-service study. He also supports the pro forma adjustments made to the test year customer, revenue, and sales volume data. | |
| 31. | Jennifer Jackson | Ms. Jackson presents AEP Texas' retail class rate design, including the Company's proposal to combine Central and North Division rates. | |
| 32. | David Hawk | Mr. Hawk discusses the proposal to consolidate the current separate tariff manuals for AEP Texas' Central and North Divisions into a single tariff manual and also addresses proposed changes to company-specific discretionary service charges. | |

A. Request for Consolidated Rates

AEP Texas proposes to consolidate its Central and North Divisions' rates and tariffs. As discussed above, AEP Texas and its two divisions have been operated as a single business for the benefit of customers for more than a decade. The reality is that the AEP Texas system is operated as a single system serving all its customers, rendering the allocation of cost on a divisional basis an outdated practice. Consequently, consolidating rates is a natural progression from the foundation laid by the Commission's approval of the AEP Texas merger, and will support more efficient administration and regulation of AEP Texas rates.

To facilitate the transition to consolidated rates for the Central and North Divisions, the Commission required as part of its order approving the AEP Texas merger that AEP Texas file a

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proposal for setting AEP Texas-wide rates, along with an underlying study and supporting data, four months prior to filing a case proposing consolidated rates with the Commission. The Company filed the required study and supporting data on December 21, 2018.

With this filing, the Company submits a cost of service study that combines Central and North Division costs. The Company also presents a combined set of billing determinants for the purpose of establishing a single set of AEP Texas base rates, based on the adjusted test year data and other applicable facts and circumstances. With limited exceptions, discussed in the testimony of AEP Texas witnesses David Hawk and Jennifer Jackson, the Company's consolidated rates proposal includes consolidation of all transmission and distribution service rates for all rate classes.

If the Commission approves consolidated rates in this case, future filings such as interim Transmission Cost of Service (TCOS), TCRF, EECRF, and DCRF updates will be filed on an AEP Texas-wide basis. However, the Company has provided divisional cost information in its filing in the event that the Commission decides that a continuation of divisional rates is appropriate.

B. Tax Cuts & Jobs Act of 2017

In accordance with the Commission's Amended Order in Docket No. 47945,⁵ AEP Texas is proposing the Income Tax Refund (ITR) Rider that is related to the impacts of the Tax Cuts and Jobs Act of 2017 (TCJA). Through the ITR Rider, AEP Texas will refund: (1) the difference between the revenues collected under existing rates and the revenues that would have been collected had the existing rates been set using the recently approved federal income tax rates; (2) amounts associated with the change in the amortization of protected Excess Accumulated Deferred Federal Income Taxes (EADFIT) as a result of the TCJA; and (3) unprotected EADFIT associated

⁵ *Proceeding to Investigate and Address the Effects of Tax Cuts and Jobs Act of 2017 on the Rates of Texas Investor-Owned Utility Companies*, Amended Order (Feb. 15, 2018).

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with the TCJA tax rate change. Additionally, AEP Texas is proposing a tax credit rider to refund amounts owed to wholesale transmission customers as a result of the TCJA. The total refund has been determined and is supported by AEP Texas witness Randall Hamlett.

C. Catastrophe Reserve

As approved in Docket No. 33309, the AEP Texas Central Division has a Commission-approved catastrophe reserve that allows it to collect \$1.3 million for per year, with a target reserve of \$13 million. In this case, AEP Texas requests that the Commission approve an expansion of the current catastrophe reserve to include the AEP Texas North Division in addition to the Central Division territory, for a total reserve of \$13.3 million, and allow an annual accrual of \$4,270,000.

D. Advanced Metering System (AMS)

In Docket No. 36928, the Commission approved the Company's AMS Deployment Plan. In February 2014, the Company successfully completed the AMS deployment, less than two months after the original estimate of December 31, 2013. In April 2012, the Company filed its initial reconciliation of AMS deployments costs in Docket No. 40261, which addressed the costs expended and investments made in the Company's AMS deployment through December 31, 2011. In this case, the Company is seeking to reconcile its AMS deployment costs for the period from January 1, 2012 to December 31, 2018 (Reconciliation Period). Accounting for the actual costs, investment, and revenues associated with the Company's AMS deployment through the Reconciliation Period has resulted in AMSCRF surcharge under-recoveries of \$30,157,739 (net of \$6,063,403 of cumulative interest expense) and \$12,923,589 (including \$283,307 of cumulative interest benefit) as of December 31, 2018 for the AEP Texas Central and North Divisions, respectively.

In this case, AEP Texas is requesting to: (1) reconcile AMS costs with AMSCRF surcharge revenues under 16 TAC § 25.130; and (2) implement new base rates reflecting its ongoing costs

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to provide AMS. Specifically, at the conclusion of this proceeding, with the implementation of new base rates, AEP Texas proposes to eliminate the AMSCRF surcharge and roll AMS capital expenditures and AMS operations and maintenance costs into base rates. AEP Texas will file a final AMS reconciliation to cover the time period from January 2019 through the effective date of new base rates approved in this proceeding.

E. Vegetation Management

The Company is requesting funds in addition to those incurred during the test year to expand its vegetation management program. A robust vegetation management program is critical to maintaining the reliability of the Company's distribution system and serving our customers. AEP Texas is proposing a total annual vegetation management spend of \$16.2 million. This is an increase of \$5 million over the \$11.2 million in vegetation management expenses in the Test Year. In addition to providing improved reliability on targeted circuits, the increased level of vegetation management spend will provide for a level of tree trimming necessary to facilitate the replacement of aging infrastructure as a part of the AEP Texas grid modernization plan. This request is further discussed by AEP Texas witnesses Talavera and Coad.

F. Rate Case Expenses

AEP Texas has provided an estimate of the rate case expenses it expects to incur in this docket. However, the Company requests that the determination of the reasonableness of these expenses be severed to a separate docket, so that they may be examined after the majority of the expenses have actually been incurred.

In addition, AEP Texas is seeking a reasonableness finding in this proceeding for rate case expenses incurred by the Company and the municipalities participating in the following prior dockets:

- Docket No. 28840, *Application of AEP Texas Central Company for Authority to Change Rates*;
- Docket No. 33309, *Application of AEP Texas Central Company for Authority to Change Rates*;
- Docket No. 33310, *Application of AEP Texas North Company for Authority to Change Rates*;
- Docket No. 34301, *Proceeding to Consider Rate Case Expenses Severed from Docket No. 33310 (Application of AEP Texas North Company for Authority to Change Rates) and Docket No. 33309 (Application of AEP Texas Central Company for Authority to Change Rates)*;
- Docket No. 40261, *Application of AEP Texas Central Company and AEP Texas North Company for Approval of Advanced Metering System Reconciliation Pursuant to PUC Subst. R. §25.130(k)(6)*;
- Docket No. 47015, *Application of AEP Texas, Inc. to Amend Its Distribution Cost Recovery Factors*;
- Docket No. 48222, *Application of AEP Texas Inc. to Amend Its Distribution Cost Recovery Factors*; and
- Docket No. 48577, *Application of AEP Texas Inc. for Determination of System Restoration Costs*.

The rate case expenses associated with these dockets total \$1,000,027 through February 2019. However, AEP Texas proposes to offset the rate case expenses collected with the \$302,051 over-collection that resulted from the rate case expense surcharge in Docket No. 34301. Therefore, AEP Texas will seek actual recovery of \$697,976.

AEP Texas proposes the review of the reasonableness of rate case expenses incurred in connection with these prior proceedings in this docket; however, AEP Texas is not requesting approval of the mechanism for their recovery in this docket. To recover these prior expenses, AEP Texas proposes to seek recovery through the mechanism requested in the severed docket that is opened to address the recovery of rate case expenses associated with this case.

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VIII. IMPACT OF PROPOSED RATE CHANGE ON VARIOUS CLASSES

A. Retail Base Rates

The impact of AEP Texas' proposed combined rates for Retail Delivery Service differs for customers in the current Central and North Divisions, as shown by customer class in following table:

| | Billing Unit | Current Charges (March 2018) | | Proposed Charges by Division | | Proposed Consolidated | Current Charges vs Proposed Charges Consolidated | |
|---|---------------|------------------------------|----------------|------------------------------|----------------|-----------------------|--|----------------|
| | | Central Division | North Division | Central Division | North Division | | Central Division | North Division |
| RESIDENTIAL | | | | | | | | |
| Customer Charge | per account | \$ 3.19 | \$ 2.94 | \$ 1.60 | \$ 1.26 | \$ 1.54 | \$ (1.65) | \$ (1.40) |
| Metering Charge | per meter | \$ 3.55 | \$ 5.24 | \$ 4.14 | \$ 5.52 | \$ 4.40 | \$ 0.85 | \$ (0.84) |
| Transmission System Charge | per kWh | \$ 0.011515 | \$ 0.012992 | \$ 0.012615 | \$ 0.014777 | \$ 0.012940 | \$ 0.00143 | \$ (0.00005) |
| Distribution System Charge | per kWh | \$ 0.016073 | \$ 0.022861 | \$ 0.022586 | \$ 0.025532 | \$ 0.023110 | \$ 0.00704 | \$ 0.000249 |
| SECONDARY SERVICE <= 10kW | | | | | | | | |
| Customer Charge | per account | \$ 3.20 | \$ 4.25 | \$ 1.60 | \$ 1.28 | \$ 1.54 | \$ (1.66) | \$ (2.71) |
| Metering Charge | per meter | \$ 3.68 | \$ 7.50 | \$ 5.56 | \$ 7.22 | \$ 5.88 | \$ 2.20 | \$ (1.62) |
| Transmission System Charge | per kWh | \$ 0.006599 | \$ 0.008435 | \$ 0.007179 | \$ 0.009080 | \$ 0.007601 | \$ 0.001002 | \$ (0.000834) |
| Distribution System Charge | per kWh | \$ 0.021285 | \$ 0.042533 | \$ 0.022101 | \$ 0.032562 | \$ 0.024218 | \$ 0.002933 | \$ (0.018315) |
| SECONDARY SERVICE > THAN 10kW - NCP | | | | | | | | |
| Customer Charge | per account | \$ 3.26 | \$ 4.25 | \$ 1.61 | \$ 1.29 | \$ 1.54 | \$ (1.72) | \$ (2.71) |
| Metering Charge | per meter | \$ 15.81 | \$ 18.68 | \$ 15.27 | \$ 21.07 | \$ 16.38 | \$ 0.57 | \$ (2.30) |
| Transmission System Charge | per NCP kW | \$ 3.305590 | \$.209856 | \$ 3.113000 | \$ 3.051000 | \$ 3.10 | \$ (0.204) | \$ (0.108) |
| Distribution System Charge | per Billed kW | \$ 3.773440 | \$ 3.889589 | \$ 5.270000 | \$ 5.470000 | \$ 5.330 | \$ 1.557 | \$ 1.440 |
| SECONDARY SERVICE > THAN 10kW - 4CP | | | | | | | | |
| Customer Charge | per account | \$ 26.52 | \$ 26.00 | \$ 1.61 | \$ 1.29 | \$ 1.54 | \$ (24.98) | \$ (24.46) |
| Metering Charge | per meter | \$ 15.81 | \$ 35.00 | \$ 15.27 | \$ 21.07 | \$ 16.38 | \$ 0.57 | \$ (18.62) |
| Transmission System Charge | per 4CP | \$ 5.657 | \$ 4.985 | \$ 4.389 | \$ 4.921 | \$ 4.568 | \$ (1.089) | \$ (0.417) |
| Distribution System Charge | per Billed kW | \$ 3.773 | \$ 3.890 | \$ 5.270 | \$ 5.470 | \$ 5.330 | \$ 1.557 | \$ 1.440 |
| PRIMARY SERVICE BILLS - NCP | | | | | | | | |
| Customer Charge | per account | \$ 3.80 | \$ 4.25 | \$ 1.82 | \$ 1.49 | \$ 1.61 | \$ (2.19) | \$ (2.64) |
| Metering Charge | per meter | \$ 154.62 | \$ 151.75 | \$ 167.12 | \$ 176.54 | \$ 162.81 | \$ 8.19 | \$ 11.06 |

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| | | | | | | | | |
|------------------------------------|---------------|-------------|-----------|-------------|-----------|-----------|-------------|------------|
| Transmission System Charge | per NCP | \$ 5.202 | \$ 1.782 | \$ 3.411 | \$ 2.658 | \$ 3.128 | \$ (2.074) | \$ 1.346 |
| Distribution System Charge | per Billed kW | \$ 3.310 | \$ 2.185 | \$ 3.710 | \$ 3.960 | \$ 3.696 | \$ 0.386 | \$ 1.511 |
| PRIMARY SERVICE BILLS - 4CP | | | | | | | | |
| Customer Charge | per account | \$ 28.41 | \$ 26.00 | \$ 1.82 | \$ 1.49 | \$ 1.61 | \$ (26.80) | \$ (24.39) |
| Metering Charge | per meter | \$ 154.62 | \$ 168.65 | \$ 167.12 | \$ 176.54 | \$ 162.81 | \$ 8.19 | \$ (5.84) |
| Transmission System Charge | per 4CP | \$ 5.789 | \$ 3.913 | \$ 4.583 | \$ 4.849 | \$ 4.716 | \$ (1.073) | \$ 0.803 |
| Distribution System Charge | per Billed kW | \$ 3.310 | \$ 2.185 | \$ 3.710 | \$ 3.960 | \$ 3.696 | \$ 0.386 | \$ 1.511 |
| TRANSMISSION SERVICE | | | | | | | | |
| Customer Charge | per account | \$ 38.84 | \$ 24.80 | \$ 2.75 | \$ 1.55 | \$ 1.74 | \$ (37.10) | \$ (23.06) |
| Metering Charge | per meter | \$ 1,869.15 | \$ 850.00 | \$ 1,157.44 | \$ 561.95 | \$ 999.51 | \$ (869.64) | \$ 149.51 |
| Transmission System Charge | per 4CP | \$ 4.159 | \$ 2.281 | \$ 4.668 | \$ 5.080 | \$ 4.657 | \$ 0.498 | \$ 2.376 |
| Distribution System Charge | per Billed kW | \$ 0.206 | \$ 0.043 | \$ 0.283 | \$ 0.003 | \$ 0.249 | \$ 0.043 | \$ 0.206 |

The most significant driver of these rate changes is not the proposed consolidation of divisional rates, but instead the change in class revenue requirements. As explained by AEP Texas witness Jennifer Jackson, class allocation factors and billing determinants have changed substantially since AEP Texas' last rate case in 2006, leading to changes in class revenue requirements.

If approved and implemented through the Company's proposed consolidated rates for Retail Delivery Service, the impact on a residential customer in the Company's Central Division using 1,000 kilowatt-hours (kWh) per month would be an increase of approximately \$4.75 or 9.8% per month. A customer with a retail plan that charges 12.5 cents per kWh would see their rate go to 12.97 cents per kWh, or a 3.8% increase in their total bill. The impact on a residential customer in the Company's North Division using 1,000 kWh per month would be a decrease of approximately \$5.01 or -10.6 % per month. A customer with a retail plan that charges 12.5 cents per kWh would see their rate decrease to 12.0 cents per kWh, or a 4.0% decrease in their total bill. These impacts include the impact of the proposed ITR Rider.

B. Wholesale Transmission Service Rates

This application seeks a reduction to AEP Texas' transmission cost of service of approximately \$3.16 million and a combined rate for the two divisions. The result of AEP Texas' proposal is to change the wholesale transmission service rate from \$4.036612/kW for the Central Division and \$2.066591/kW for the North Division⁶ to \$6.058035/kW for AEP Texas combined. As addressed above, AEP Texas is also proposing a one-time credit of \$29 million associated with the effects of the TCJA.

IX. EFFECTIVE DATE

The proposed effective date of the requested rate change is June 5, 2019, which is 35 days after the filing of this Petition as allowed under PURA § 36.102 and 16 TAC § 22.243(a).

X. REQUEST FOR APPROVAL TO CONTINUE COMPETITIVE ENERGY SERVICE OFFERING

Pursuant to 16 TAC § 25.343(d), AEP Texas requests Commission approval to continue its offering of facilities rental services, as described in tariff schedules 6.1.2.3.6, 6.1.3.3.6 and 6.1.4.3.6, for a period of three years commencing January 1, 2020. Facilities rental service to retail customers is considered a Competitive Energy Service (CES) under 16 TAC § 25.341(3). 16 TAC § 25.342(d)(1) further states that electric utilities may not offer CES, but allows a utility to petition under 16 TAC § 25.243(d) for authority to continue to provide such services. The Commission most recently approved AEP Texas' request to provide facilities rental services, to existing customers only, in Docket No. 46824, for a period of three years, which expires January 1, 2020. The Commission's order in Docket No. 46824 further requires that AEP Texas provide, in the earlier of its next base rate or CES renewal filing: (1) a comprehensive study that addresses the

⁶ *Application of AEP Texas Inc. for Interim Update of Wholesale Transmission Rates*, Docket No. 49192, Notice of Approval (Apr. 24, 2019).

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costs and rate impact of adding additional metering points to each installation where company-owned facilities are on the customer side of the meter, and (2) a proposed cost-based tariff for transformation services.

In order to present all matters pertinent to the continuation of the facilities rental service, AEP Texas is providing as part of this case the information ordered in Docket No. 46824, and is also making its request at this time for a further three-year continuation of its ability to offer facilities rental service to existing retail customers. Renewal is appropriate as the service is valuable and needed by existing customers, there is currently no adequate alternative to AEP Texas' provision of the service, and the limited extension of the service proposed by the Company will not create or perpetuate a market barrier for new providers of the CES. AEP Texas requests that the Commission enter an order granting approval to continue the facilities rental service for an additional three-year period before January 1, 2020.

XI. PROPOSED REVISIONS OF TARIFFS AND SCHEDULES

AEP Texas is proposing revisions to most tariffs and schedules. A copy of the proposed revised tariffs is included as Exhibit JLJ-4 to the Direct Testimony of AEP Texas witness Jennifer Jackson.

AEP Texas' consolidated rate request discussed above results in textual changes throughout the proposed Consolidated Tariff for Retail Delivery Service, as well as updates to and consolidation of the discretionary services terms and fees based on updated AEP Texas-specific costs.

In addition, the Company's consolidated rate design proposal also includes support for existing AEP Texas Service Riders, as well as the Company's plan to:

- terminate the AMSCRF,
- reset the baseline for the DCRF,

- collect all transmission expenses through the TCRF,
- explain the removal of energy efficiency costs from base rates to recovery through the EECRF pursuant to 16 TAC § 25.182(d)(4)-(5), and
- continue Central Division-specific riders including the Transition Cost riders (TC2 and TC3) and the Nuclear Decommissioning Rider (NDC).

XII. REQUESTED PROTECTIVE ORDER

AEP Texas requests that the Presiding Officer assigned to this case issue a protective order in the form provided as Appendix B to this Petition and Section VII to the RFP to govern review and use of confidential, proprietary, and market-sensitive information. The proposed protective order provided as Appendix B is identical to that approved in Docket No. 46449.

AEP Texas requests that the Presiding Officer consider this request for issuance of a protective order on an expedited basis. Pending approval of the protective order, AEP Texas will offer access to confidential and highly sensitive information to eligible requesting parties who execute the protective order certification provided in Section VII. The confidential and highly sensitive information will also be made available at the Austin offices of AEP to those eligible parties who execute the protective order certification, which is included as Attachment A to the proposed protective order. Also attached to the proposed protective order is AEP Texas' initial Statement Under Section 4 of the Protective Order and List of Confidential/Highly Sensitive Information, which provides a list of documents accompanying the RFP that AEP Texas considers confidential or highly sensitive information entitled to protection under the proposed protective order.

XIII. NOTICE

On March 25, 2019, pursuant to PURA § 33.024, AEP Texas provided notice of its intent to file a Statement of Intent to all municipalities with original jurisdiction over the Company's rates and services.

In accordance with 16 TAC § 22.51(a)(1), AEP Texas will publish notice of this application once a week for four consecutive weeks prior to the effective date of the proposed rate change, in newspapers that have general circulation in each county containing territory in AEP Texas' service area that will be affected by the proposed rate change. A copy of the notice is included as Appendix C to this Petition.

In accordance with 16 TAC § 22.51(a)(2), AEP Texas will mail notice of its intent to change rates to all of its affected customers in substantially the same form as that included in Appendix C. Because AEP Texas does not have any end-use customers, this notice will be directed to each REP registered to provide service in Texas, and all entities listed in the Commission's transmission matrix in Docket No. 48929, *Commission Staff's Petition to Set 2019 Wholesale Transmission Service Charges For the Electric Reliability Council of Texas*.

AEP Texas will deliver a copy of this Petition to the appropriate officer of each affected municipality in its service territory in compliance with 16 TAC § 22.51(a)(3).

Finally, AEP Texas will provide notice of this filing, in substantially the same form as that included in Appendix C, to each party in AEP Texas' last rate cases, Docket Nos. 33309 and 33310.

XIV. PRAYER FOR RELIEF

AEP Texas requests that the Commission approve the rates requested in this Petition and grant AEP Texas such other relief to which it has shown itself entitled.

Respectfully submitted,

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By: _____

William Coe

ATTORNEYS FOR AEP TEXAS INC.

PUC DOCKET NO. _____

APPLICATION OF AEP TEXAS INC. § BEFORE THE
FOR AUTHORITY TO CHANGE § PUBLIC UTILITY COMMISSION
RATES § OF TEXAS

MUNICIPALITIES IN AEP TEXAS' SERVICE TERRITORY

A. AEP Texas Central Division

| | | |
|------------------|---------------|------------------------|
| Abram-Perezville | Crystal City | Hillje |
| Adams Garden | Dacosta | Indian Lake |
| Agua Dulce | Del Rio | Inez |
| Alamo | Derby | Ingleside |
| Alice | Devine | Ingleside on the Bay |
| Alleyton | Dilley ** | Jourdanton ** |
| Alton | Donna | Karnes City |
| Aransas Pass | Driscoll | Kenedy |
| Asherton | Eagle Lake | Kingsville |
| Austwell ** | Eagle Pass | Knippa |
| Banquete | Edcouch | La Blanca |
| Barksdale | Edinburg | La Casita-Garciasville |
| Bay City | Edna | La Feria |
| Bayside | Edroy | La Grulla ** |
| Bayview | El Campo | La Joya |
| Beeville | El Cenizo ** | La Pryor |
| Belmont | El Indio | La Villa |
| Benavides | El Maton | Laguna Heights |
| Berclair | Elsa | Laguna Vista |
| Big Wells | Encinal ** | Lake City ** |
| Bishop | Encino | Lakeside ** |
| Blessing | Escobares | Lamar |
| Blewett | Falfurrias ** | Laredo |
| Bloomington | Freer | Laureles |
| Bluetown | Fronton | Leakey |
| Brackettville | Fulton | Leesville |
| Brownsville * | Ganado | Leming |
| Bruni | Garwood | Long Mott |
| Camp Wood | George West | Los Ebanos |
| Carrizo Springs | Gillett | Los Fresnos |
| Catarina | Glidden | Los Indios |
| Chapman Ranch | Goliad | Louise |
| Charlotte | Granjeno | Lozano |
| Christine ** | Gregory | Luling * |
| Columbus | Guadalupe | Lyford |
| Combes | Hargill | Lytle |

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| | | |
|-------------------|-----------------|--------------------|
| Comstock | Harlingen | Madero |
| Concepcion | Havana | Markham |
| Corpus Christi | Hebbronville | Matagorda |
| Cotulla ** | Hidalgo | Mathis |
| Matthews | Port Aransas | San Perlita ** |
| McAllen | Port Isabel | San Ygnacio |
| Mercedes | Port Lavaca | Sandia |
| Midfield | Port Mansfield | Santa Maria |
| Millett | Portland | Santa Monica |
| Mirando City | Poteet | Santa Rosa |
| Mission | Premont ** | Seadrift ** |
| Monte Alto | Primera | Sebastian |
| Moore | Progreso | Seco Mines |
| Nada | Progreso Lakes | Sejita |
| Natalia ** | Quemado | Seven Sisters |
| Nixon | Rabb | Sinton |
| Nordheim | Ramireno | Skidmore |
| Normandy | Ramirez | Smiley |
| Normanna | Rancho Viejo | South Padre Island |
| Oakville | Raymondville | Spofford ** |
| Odem | Realitos | Sullivan City |
| Oilton | Refugio | Taft |
| Olmito | Ricardo | Three Rivers |
| Orange Grove | Rio Bravo ** | Tivoli |
| Palacios | Rio Grande City | Tuleta |
| Palm Valley | Rio Hondo | Tulsita |
| Palmhurst ** | Rios | Tynan |
| Palmview | Rivera | Uvalde |
| Pawnee | Rockport | Victoria |
| Pearsall | Rocksprings | Violet |
| Penitas | Roma-Los Saenz | Wadsworth |
| Pernitas Point ** | Runge | Weesatche |
| Petronila | Sabinal | Weslaco |
| Pettus | San Benito | Westhoff |
| Pharr | San Carlos | Winter Haven |
| Placedo | San Diego | Woodsboro |
| Pleasanton | San Juan | Yorktown |
| Point Comfort ** | San Patricio ** | Zapata |

All communities are in the State of Texas

* AEP Texas - Central Division serves only a portion of each of these cities.

** Original jurisdiction ceded to the Public Utility Commission of Texas by the city.

B. AEP Texas North Division

| | | | |
|------------------|-------------------|-------------------|-----------------|
| Abilene | Flomot * | Menard * | Sagerton * |
| Acme * | Fort Chadbourne * | Mereta * | San Angelo |
| Afton * | Fort Davis * | Merkel * | Santa Anna * |
| Albany * | Gasoline * | Mertzson * | Saragosa * |
| Alpine * | Girard * | Miles * | Scranton * |
| Anson * | Girvin * | Moran * | Sedwick * |
| Aspermont * | Glenn * | Munday | Shafter * |
| Avoca * | Goodlett * | Nimrod * | Sheffield * |
| Baird * | Goree * | Noodle * | Sherwood * |
| Bakersfield * | Grayback * | Norton * | Sonora |
| Ballinger * | Hamlin * | O'Brien * | Spur * |
| Balmorhea * | Harrold * | Odell * | Stamford |
| Barnhart * | Haskell * | Oklaunion * | Sterling City * |
| Benjamin | Hatchell * | Old Glory * | Swenson * |
| Best * | Hawley | Ovalo * | Sylvester * |
| Big Lake | Hefner * | Ozona * | Talpa * |
| Blackwell * | Impact * | Paducah | Tankersley * |
| Bradshaw * | Imperial * | Paint Rock * | Thalia * |
| Bronte * | Iraan * | Peacock * | Throckmorton * |
| Buffalo Gap * | Jayton * | Pioneer * | Toyahvale * |
| Burkett * | Junction * | Potosi * | Trent * |
| Caps * | Kirkland * | Presidio * | Truscott * |
| Carlsbad * | Knickerbocker * | Putnam | Turkey * |
| Childress | Knox City | Quannah | Tuscola * |
| Chillicothe * | Lawn * | Quitaque * | Tye * |
| Christoval * | Lockett * | Rankin * | Valentine * |
| Cisco | Longworth * | Rayland * | Valera * |
| Clyde * | Lueders * | Redford * | Veribest * |
| Cross Cut * | Marathon * | Rising Star * | Vernon |
| Cross Plains * | Marfa * | Roaring Springs * | View * |
| Crowell * | Margaret * | Robert Lee * | Wall * |
| Dickens * | Matador * | Roby * | Water Valley * |
| Eden | May * | Rochelle * | Weinert * |
| Eldorado * | McAdoo * | Rochester | Whiteland * |
| Elliot * | McCamey * | Rotan * | Wilmeth * |
| Elton * | McCaulley * | Rowena * | Wingate * |
| Eola * | Medicine Mound * | Royston * | Winters |
| Eula * | Melvin * | Rule * | Woodson * |
| Farmers Valley * | | | |

* Original jurisdiction ceded to the Public Utility Commission of Texas by the city.

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ACTION REQUIRED BY JUNE 5, 2019

Action is required by your City as a regulatory authority which has retained original jurisdiction to review and act on AEP Texas' requested change in base rates. Your City's exercise of its regulatory authority is governed by the Public Utility Regulatory Act, commonly referred to as "PURA." PURA requires that a municipal regulatory authority must take action on AEP Texas' rate request within 35 days after the case is filed. If your City has ceded original jurisdiction, then no action is required. If your City has retained original jurisdiction then you can take one of four basic actions by June 5, 2019:

- 1) deny AEP Texas' request;
- 2) grant AEP Texas' request in whole or part;
- 3) "suspend" AEP Texas' requested change in rates for an additional 90 days (a total of 125 days) before taking final action; or
- 4) cede original jurisdiction to the Public Utility Commission of Texas (PUC).

Once your City acts, PURA authorizes AEP Texas to appeal that action to the PUC, which has the authority to make the final decision on the rate change request. AEP Texas is filing the same rate change request with all other cities in its Texas service area that have the same regulatory authority as your City. Similar actions by these other cities would also be appealed by AEP Texas, and ultimately the Commission would exercise its statutory authority to set uniform system wide rates throughout AEP Texas' service area.

If you would like more information on permanently ceding original jurisdiction to the Commission, please contact your External Affairs Manager.

**IF NO ACTION IS TAKEN BY YOUR CITY BY
JUNE 5, 2019, THE PROPOSED RATE CHANGE REQUESTED BY AEP TEXAS
AUTOMATICALLY TAKES EFFECT WITHIN YOUR CITY LIMITS.**

In order to avoid this result, and to provide the simplest means of processing the Company's request, **AEP Texas recommends that your City Council take action by June 5, 2019.** If you deny the request, AEP Texas will then appeal the matter to the PUC, together with all the other appeals of municipal actions within AEP Texas' service area, and the cases will be consolidated at the PUC. Draft ordinances are provided with this attachment for your consideration and convenience.

Once your City Council has taken one of the above actions please mail a copy of the approved ordinance in the enclosed postage paid envelope to:

Jennifer J. Frederick
AEP Texas Regulatory Case Manager
400 West 15th St., Suite 1520
Austin, Texas 78701
(512) 481-4573

If you have questions on this request or the draft ordinance, please do not hesitate to contact your AEP Texas External Affairs Manager. Thank you for your attention to this matter.

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AN ORDINANCE / RESOLUTION OF THE CITY OF _____, TEXAS FINDING, AFTER REASONABLE NOTICE AND HEARING, THAT AEP TEXAS INC'S EXISTING ELECTRIC RATES AND CHARGES WITHIN THE CITY SHOULD REMAIN IN EFFECT

WHEREAS, pursuant to §33.001 of the Public Utility Regulatory Act, the City of _____ has exclusive, original jurisdiction over the electric rates, operations, and services provided within city limits by AEP Texas Inc. (AEP Texas or the Company).

WHEREAS, on May 1, 2019, AEP Texas filed with the City of _____ a Petition and Statement of Intent seeking an overall net increase of 4.2% related to its distribution revenues and a decrease of 0.7% related to its transmission revenues.

WHEREAS, the Company proposed an effective date of June 5, 2019.

NOW, THEREFORE, BE IT ORDAINED/RESOLVED BY THE CITY COUNCIL OF THE CITY OF _____, TEXAS:

SECTION 1. It is hereby found and determined that said meeting at which this Ordinance/Resolution was passed was open to the public, as required by Texas law, and that advance public notice of the time, place, and purpose of said meeting was given.

SECTION 2. AEP Texas' request for approval of its base rates increase is denied. The existing rates and charges of AEP Texas are hereby found to be just and reasonable rates and the City adopts such existing rates to continue to be observed and to be in force within the City hereafter.

SECTION 3. The base rates set forth in this Ordinance / Resolution may be changed and amended by either the City or the Company only as provided by law.

SECTION 4. This Ordinance / Resolution shall be served on AEP Texas by U.S. Mail to the Company's authorized representative, Jennifer J. Frederick, 400 West 15th Street, Suite 1520, Austin, Texas 78701.

SECTION 5. Nothing contained in this Ordinance shall be construed now or hereafter in limiting or modifying, in any manner, the right and power of the City under law to regulate the base rates and charges of AEP Texas.

CONSIDERED, PASSED, APPROVED AND SIGNED this the ____ day of _____, 2019, at a regular called meeting of the City Council of the city of _____, Texas, at which a quorum was present and which was held in accordance with the provisions of Chapter 551, Texas Government Code.

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SIGNED this ____ day of _____, 2019.

CITY OF _____

By: _____

_____, Mayor

Attest:

_____, City Secretary

APPROVED AS TO FORM:

_____, City Attorney

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PUBLIC UTILITY COMMISSION OF TEXAS

APPLICATION OF

AEP TEXAS INC.

FOR AUTHORITY TO CHANGE RATES

DIRECT TESTIMONY OF

JUDITH E. TALAVERA

FOR

AEP TEXAS INC.

MAY 2019

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TESTIMONY INDEX

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EXHIBITS

| <u>EXHIBITS</u> | <u>DESCRIPTION</u> |
|-----------------|---|
| EXHIBIT JET-1 | AEP Texas Witnesses - 2019 Texas Base Rate Case |

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1 I. INTRODUCTION

2 Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

3 A. My name is Judith E. Talavera. My business address is 539 N. Carancahua, Corpus
4 Christi, Texas 78401.

5 Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?

6 A. I am President and Chief Operating Officer of AEP Texas Inc. (AEP Texas or the
7 Company). AEP Texas is a transmission & distribution (T&D) utility and a wholly
8 owned subsidiary of American Electric Power Company, Inc. (AEP). AEP Texas
9 operates exclusively within the borders of the Electric Reliability Council of Texas
10 (ERCOT).

11 Q. WHAT ARE YOUR RESPONSIBILITIES AS PRESIDENT AND CHIEF
12 OPERATING OFFICER OF AEP TEXAS?

13 A. I oversee the distribution operations of AEP Texas which, through its North and Central
14 Divisions,¹ serves more than a million meters in south and west Texas. I also oversee
15 the Company's safety, customer services, communications, community affairs,
16 governmental affairs, and regulatory functions. In addition, although the AEP Texas
17 Transmission Organization is managed on an AEP enterprise-wide functional basis, I
18 oversee financial matters concerning that organization's support of AEP Texas.

19 Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND JOB
20 EXPERIENCE.

¹ AEP Texas' North and Central Divisions were formerly two separate AEP utility operating companies known as AEP Texas North Company (TNC) and AEP Texas Central Company (TCC), respectively. The Commission approved the merger of the two companies by its December 12, 2016 Order in Commission Docket No. 46050. The merger was effective December 31, 2016.

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1 A. I received a Bachelor of Journalism from the University of Texas at Austin in 1996.
2 Before joining AEP, I spent nearly eight years in the public policy arena working for a
3 state senator from the Houston area. In 2000, AEP hired me as a Manager of
4 Government Affairs in their Texas State Office. In 2008, I became Director of
5 Regulatory Services for AEP Texas.² In June 2016, I was promoted to my current
6 position as President and Chief Operating Officer of AEP Texas.

7 Q. WHO ARE YOU TESTIFYING ON BEHALF OF IN THIS PROCEEDING?

8 A. I am testifying on behalf of AEP Texas Inc.

9 Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE PUBLIC UTILITY
10 COMMISSION OF TEXAS (COMMISSION)?

11 A. Yes, I testified before the Commission in Docket No. 46050, *Application of AEP Texas*
12 *Central Company, AEP Texas North Company, and AEP Utilities, Inc. for Approval of*
13 *Merger*, Docket No. 46368, *Application of AEP Texas North Company for Regulatory*
14 *Approvals Related to the Installation of Utility-Scale Battery Facilities*, and Docket
15 *No. 48577, Application of AEP Texas Inc. for Determination of System Restoration*
16 *Costs*.

17

18 II. PURPOSE OF TESTIMONY AND FILING

19 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

20 A. My direct testimony supports the Company's request for authority to change rates by
21 providing an overview of the relief requested, introducing the other witnesses and

² At that point, "AEP Texas" was the brand name for the jointly managed operations of TCC and TNC, prior to the Commission's approval of their merger.

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1 providing a brief description of the subject matters in their testimony and introducing
2 and discussing some of the more significant policy issues raised in the filing. My
3 discussion highlights some of the important changes in the Company's operations and
4 services since its existing rates were set approximately twelve years ago.

5 Q. WHY IS AEP TEXAS FILING THIS CASE AT THIS TIME?

6 A. There are several reasons AEP Texas is filing this case. The State of Texas is fortunate
7 to have a dynamic and diverse economy and much of the economic growth has been
8 taking place throughout the AEP Texas service territory. New and existing businesses
9 find an attractive environment for growth and investment, which has required AEP
10 Texas to make significant investments in its transmission and distribution (T&D)
11 system to support the expanding economy and the electric service needs of an
12 increasing population. Providing safe and reliable electricity is AEP Texas' mission
13 and the continued growth in Texas, as well as the need to upgrade and maintain the
14 existing T&D infrastructure, has resulted in AEP Texas' investment of nearly \$6 billion
15 in its T&D system since the last rate case. As explained by AEP Texas witness Thomas
16 Coad, distribution investment is attributable largely to growth in the AEP Texas service
17 area, driven particularly by the boom in the oil and gas industry associated with shale-
18 related exploration and production. As explained by AEP Texas witness Wayman
19 Smith, transmission improvements range from upgrading existing circuits to
20 installation of new substations and the associated transmission lines needed to maintain
21 reliable service. Further, AEP's distribution and transmission systems continue to age,
22 which necessitates additional maintenance and targeted replacement of equipment. I
23 will address this investment in more detail later in my testimony.

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1 Second, filing a comprehensive rate case will allow AEP Texas to realign its
2 rates to be consistent with the changes that have taken place in the Company's customer
3 classes over the last 12 years. For instance, some customer classes have grown
4 significantly while others have decreased in size, which has resulted in a mismatch of
5 revenues collected from customer classes relative to the costs to serve those customers.
6 Resetting rates will realign rates with the current existing customer base.

7 Third, as I discuss below, the Company is proposing AEP Texas-wide rates for
8 AEP Texas, as contemplated in Docket No. 46050, where the Commission approved
9 the merger of AEP Texas North Company and AEP Texas Central Company into AEP
10 Texas. Additionally, as discussed by AEP Texas witness Jennifer Jackson, the
11 Company needs to 1) terminate the Advanced Metering System Cost Recovery Factor
12 Rider (AMSCRF), 2) reset the baseline for the Distribution Cost Recovery Factor Rider
13 (DCRF), 3) determine the revenue requirement for the Transmission Cost Recovery
14 Factor Rider (TCRF), and 4) move energy efficiency costs from base rates to Rider
15 Energy Efficiency Cost Recovery Factor (EECRF). Also, this rate filing will provide
16 the opportunity to modify or discontinue tariffs that are now outdated in light of current
17 circumstances.

18 Finally, the timing of this filing fits with the Commission's Rate Review
19 Schedule rule (16 Tex. Admin. Code (TAC) § 25.247), which requires AEP Texas to
20 file a comprehensive rate case on or before May 1, 2019, subject to extensions that AEP
21 Texas does not seek to invoke.

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1 III. AEP TEXAS OVERVIEW

2 Q. PLEASE DESCRIBE AEP TEXAS.

3 A. AEP Texas is connected to and serves more than one million electric consumers in the
4 restructured Texas marketplace. It is headquartered in Corpus Christi, with regulatory
5 and external affairs offices in Austin. Major cities served include Abilene, Corpus
6 Christi, Harlingen, Laredo, McAllen, San Angelo, Vernon, and Victoria. As an energy
7 delivery (wires) company, AEP Texas delivers electricity safely and reliably to homes,
8 businesses, and industries across its nearly 100,000 square mile service territory in
9 south and west Texas. AEP Texas also maintains and repairs its lines, reads electric
10 meters, and handles connections and disconnections as directed by the Retail Electric
11 Providers (REPs) selling electricity to end-use customers.

12 Q. WILL YOU PLEASE DESCRIBE AEP TEXAS' SUPPORT FOR ITS
13 COMMUNITIES?

14 A. AEP Texas employees are connected to their local Texas communities and actively
15 involved in many civic organizations, helping to make their communities better places
16 to live, work and play. In addition, AEP Texas makes significant contributions annually
17 to teach electrical safety, improve education and health, and support community and
18 economic vitality in the areas we serve. The Company is a financial supporter of non-
19 profit organizations whose focus is improving quality of life. AEP Texas is proud to
20 be a partner in education – through workshops, initiatives and educational resources –
21 to thousands of teachers and students, particularly in grades pre-K to 12, with a focus
22 on Science, Technology, Engineering, and Math (STEM). Through our economic

1 development efforts and in partnership with the communities we serve, AEP Texas
2 strives to make certain our service territory remains vibrant and strong.

3 Q. PLEASE DESCRIBE AEP, AEPSC, AND THE SERVICES AEPSC PROVIDES TO
4 AEP TEXAS FOR THE BENEFIT OF CUSTOMERS

5 A. AEP Texas is part of the American Electric Power system, collectively one of the
6 largest electric utilities in the United States, delivering electricity to more than five
7 million customers in eleven states. AEP's utility units operate as AEP Texas,
8 Southwestern Electric Power Company (in Texas, Louisiana, and Arkansas), Public
9 Service Company of Oklahoma, AEP Ohio, Appalachian Power (in Virginia, West
10 Virginia, and Tennessee), Indiana Michigan Power, and Kentucky Power. Shared
11 services are provided to AEP Texas and the other AEP operating companies through
12 the American Electric Power Service Corporation (AEPSC).

13 AEPSC, a wholly owned subsidiary of AEP, provides utility support services
14 such as engineering, financial, human resource, and accounting services, at cost, for all
15 operating units within the AEP system. AEP Texas and the other AEP operating
16 companies benefit from economies of scale through the use of services provided by
17 AEPSC. The use of AEPSC eliminates the need to maintain a separate and independent
18 organizational structure and information technology systems for these services within
19 AEP Texas and allows for the availability of subject matter experts to serve all AEP
20 operating companies. Company witnesses Brian J. Frantz and Patrick L. Baryenbruch
21 discuss the AEPSC services and billings in more detail. Additionally, individual
22 Company witnesses support the reasonableness and necessity of various classes of
23 AEPSC charges to AEP Texas.

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1 Q. PLEASE INTRODUCE THE OTHER AEP TEXAS WITNESSES.

2 A. EXHIBIT JET-1 to this testimony identifies each AEP Texas witness and provides a
3 brief description of the subject matters covered by that testimony.

4

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IV. AEP TEXAS GROWTH AND INVESTMENT

6 Q. PLEASE DESCRIBE THE INVESTMENTS THAT AEP TEXAS HAS MADE IN
7 ITS DISTRIBUTION AND TRANSMISSION SYSTEMS OVER THE PREVIOUS
8 TWELVE YEARS.

9 A. AEP Texas has invested nearly \$6 billion in its T&D system for the benefit of
10 customers since the close of the previous test year. There are two main drivers for the
11 increased capital investment – customer growth and an aging infrastructure in need of
12 upgrades and replacements to provide the reliable and resilient electric service
13 necessary to meet customers’ expectations. Over the last decade, significant
14 investment in the AEP Texas T&D infrastructure throughout the service territory has
15 been needed to help support the growing Texas economy. The Rio Grande Valley and
16 Laredo have consistently been two of the fastest growing areas of the state. When oil
17 field related activity in the well-known “Eagle Ford” shale production area began
18 around the year 2011, AEP Texas saw tremendous growth in areas that had been
19 stagnant for years. Similarly, the oil and gas related activity in west Texas around the
20 Permian Basin and Cline areas also required a significantly higher level of investment
21 to serve the increasing demand for electric service. The port areas of the state served
22 by AEP Texas also have experienced continued growth and expansion, particularly
23 relating to liquefied natural gas (LNG) facilities and petrochemical investments. The

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1 Company's additional T&D investment supports not only the new and expanding oil
2 and gas businesses, but also the communities that benefit from the increased need for
3 housing, schools and commercial needs that must be met.

4 To support the efficient and effective provision of T&D services to its
5 customers, the Company constructed new service centers in Alice, Corpus Christi,
6 Hebbronville, Los Fresnos, San Benito, and San Angelo, while a new Transmission
7 Operations Control Center was built in Corpus Christi.

8 AEP Texas' investment in the distribution system is further addressed in the
9 testimony of AEP Texas witness Coad. AEP Texas witness Wayman Smith addresses
10 the investment in the transmission system in further detail in his testimony.

11 Q. HAS AEP TEXAS TAKEN STEPS TO ADDRESS RELIABILITY
12 REQUIREMENTS AND STORM HARDENING?

13 Yes. Storm hardening also has been a significant driver for capital investment. While
14 it is important to provide safe and reliable service to end use customers, it is equally
15 important to invest in a system that is resilient. Two hurricanes made landfall in the
16 AEP Texas service territory during the last decade or so, along with numerous storms,
17 and those experiences highlight the importance of investing in a system that can
18 withstand major events or recover in a timely manner to continue providing service to
19 those who depend on us. Similarly, components of the Company's T&D system must
20 be continually maintained, updated or replaced to meet reliability requirements and
21 customers' expectations.

22 Q. DOES AEP TEXAS PLAN CONTINUED INVESTMENT IN THE AEP TEXAS
23 ELECTRIC GRID?

1 A. Yes. AEP Texas plans to continue its high level of investment to improve service to
2 its customers. The Company's investment plans include a grid modernization program
3 that will provide benefits to the end-use consumer and increased efficiencies to the
4 company. Additionally, AEP Texas continues to experience significant growth
5 throughout its service territory and the growing demand for service requires the
6 Company to invest in its transmission and distribution system at a level that will meet
7 customers' needs.

8 Q. WHAT TYPE OF INVESTMENTS DOES AEP TEXAS ANTICIPATE GOING
9 FORWARD?

10 A. AEP Texas has deployed and intends to continue to deploy innovative technology, and
11 it continues to seek out fresh ideas to modernize its electric grid. These initiatives,
12 through its grid modernization program, include a smarter, self-healing grid and
13 smarter street lights. Continued investment will allow the Company to maintain and
14 expand a flexible grid that can adapt to distributed generation and intermittent
15 renewable generation resources. The fact is that AEP Texas, similar to other utilities
16 across the nation, must address the challenges posed by an aging electric grid. The
17 Company installed a growing portion of its current distribution line and distribution
18 substation components 40 to 80 years ago. AEP Texas' Grid Modernization Program
19 will improve system resiliency by reducing the length of outages and limiting sustained
20 outages to smaller numbers of customers and is discussed further by AEP Texas witness
21 Coad.

V. AEP TEXAS MERGER

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Q. PLEASE DESCRIBE THE AEP TEXAS MERGER APPROVED BY THE COMMISSION IN DOCKET NO. 46050.

A. At the time the Company's existing rates were set in Docket Nos. 33309 and 33310, AEP Texas consisted of two separate corporate entities, AEP Texas Central Company (TCC) and AEP Texas North Company (TNC). TCC and TNC were separate transmission and distribution utilities (TDUs) operating in ERCOT. However, these companies were managed and operated as a single business under the brand name "AEP Texas." In Docket No. 46050, TCC and TNC sought and received the approval of the Commission to merge into their immediate parent company and change its name to AEP Texas Inc. (AEP Texas). In essence, the merger aligned the legal structure of AEP Texas with its then-existing organization and operation as a single business. After the merger, as ordered by the Commission, AEP Texas established the TCC and TNC "divisions" within the merged utility and continued to maintain separate rates, riders, and tariff manuals for the Central and North divisions. In other words, the then-existing TCC and TNC base rates did not change but, instead, remained in force for customers taking service within the Company's two divisions. AEP Texas has maintained separate accounting ledgers for the Central and North divisions that allow costs to be accounted for and rates to be maintained separately for each division.

Q. WERE THERE MERGER CREDIT PROVISIONS ORDERED BY THE COMMISSION IN DOCKET NO. 46050?

A. Yes. The Commission required AEP Texas to provide merger credits to customers associated with an expected reduction in debt issuance costs each year from the date of

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1 the merger until the effective date of its next base-rate proceeding. Upon the
2 establishment of new rates as a result of this filing, the merger savings provisions will
3 expire and cease to operate. The expiration of the Docket No. 46050 merger credits is
4 discussed further in the direct testimony of AEP Texas witness Renee Hawkins.

5 Q. WERE THERE ADDITIONAL CONDITIONS ASSOCIATED WITH THE
6 MERGER?

7 A. Yes. The Commission found that it was appropriate for AEP Texas to maintain
8 separate divisional base rates, DCRFs, EECRFs, TCOS factors, and other rates until
9 such time that the Commission considers and approves rate consolidation. The
10 Commission further required AEP Texas to file a proposal for setting AEP Texas-wide
11 rates, along with an underlying study and supporting data, four months prior to filing a
12 case proposing AEP Texas consolidated rates with the Commission.

13 Q. IS THE COMPANY PROPOSING CONSOLIDATED RATES IN THIS
14 PROCEEDING AND HAS THE COMPANY FILED THE REQUIRED STUDY AND
15 SUPPORTING DATA?

16 A. Yes. The Company is proposing consolidated rates and, on December 21, 2018, filed
17 the required study and supporting data. The policy support for the Company's proposal
18 for consolidated rates is discussed below, while ratemaking details and impacts are
19 addressed in the testimony of AEP Texas witness Jackson.

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1 VI. CONSOLIDATED RATE PROPOSAL

2 Q. PLEASE INTRODUCE AND DESCRIBE THE COMPANY'S CONSOLIDATED
3 RATE PROPOSAL.

4 A. AEP Texas proposes to establish AEP Texas-wide consolidated rates. As discussed
5 above, AEP Texas and its two divisions have been operating as a single business for
6 the benefit of customers for more than a decade. The reality is that the AEP Texas
7 system is operated as a single system serving all its customers, rendering the allocation
8 of cost on a divisional basis an outdated practice. Company-wide rates is the norm for
9 TDUs operating in ERCOT. Consolidated rates are a natural progression from the
10 foundation laid by the Commission's approval of the AEP Texas merger and support
11 more efficient administration and regulation of AEP Texas rates.

12 With this filing, the Company submits a cost of service study that combines
13 Central and North Division costs. The Company also presents a combined set of billing
14 determinants for the purpose of establishing a single set of AEP Texas base rates, based
15 on the adjusted test year data and other applicable facts and circumstances. The
16 Company's consolidated rates proposal includes consolidation of transmission service,
17 distribution service, and customer and metering service rates for all rate classes.
18 Consolidated rates are more easily achievable because both Divisions have the same
19 customer rate classes, rate classifications, and types of billing determinants for recovery
20 of functionalized costs. AEP Texas' proposal includes one set of rates for all rate
21 classes with limited exceptions, including Transition Charges (TC) and Nuclear
22 Decommissioning Charges for customers in the certificated service area previously
23 served by AEP Texas Central Company.

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1 If the Commission approves consolidated rates in this case, future Transmission
2 Cost of Service, Transmission Cost Recovery Factor, Energy Efficiency Cost Recovery
3 Factor, and Distribution Cost Recovery Factor updates will be filed on an AEP Texas-
4 wide basis. However, the Company has provided divisional cost information in its
5 filing in the event that the Commission decides that a continuation of divisional rates
6 is appropriate. Divisional information is provided by several Company witnesses and
7 addressed more generally by Company witness Randall Hamlett.

8 Q. PLEASE DESCRIBE THE CUSTOMER RATE IMPACT OF THE COMPANY'S
9 CONSOLIDATED RATE PROPOSAL.

10 A. In most cases, the impact on customers' rates of the Company's consolidated rate
11 proposal is relatively modest. In general, under the Company's consolidated rate
12 proposal, Central Division customers will see a slight increase in rates, and North
13 Division customers will see a relatively small decrease, as a result of consolidated rates.
14 The customer rate impact of the Company's consolidated rate proposal is further
15 discussed by AEP witness Jackson.

16 It should be further noted that there are rate impacts that will occur regardless
17 of rate consolidation between the Divisions. Each Division's class customer count,
18 class distribution billing determinant (kWh and kW) data, and allocation statistics have
19 changed, and relationships among the classes have shifted, since the time base rates
20 were last established in cases that used a test year period ending June 2006. These
21 shifts, and their impact on AEP Texas cost allocation and rate design, are wholly
22 independent of the proposed rate consolidation. In other words, these shifts will occur

1 regardless of rate consolidation between the Divisions. These impacts are further
2 discussed in the testimony of AEP Texas witness Jackson.

3

4

VII. REQUESTED RATE RELIEF

5 Q. PLEASE DESCRIBE THE RATE INCREASE REQUESTED IN THIS FILING.

6 A. As discussed by AEP Texas witness Randall Hamlett, related to its distribution cost of
7 service, the Company requests a rate increase of approximately \$38.3 million over its
8 adjusted test year revenues, an increase of 4.2%. Related to its transmission cost of
9 service, the Company requests a rate decrease of \$3.16 million below its adjusted test
10 year revenues, a decrease of 0.7%.

11 Q. IS THE DISTRIBUTION COST OF SERVICE INCREASE IDENTIFIED ABOVE
12 NET OF THE PROPOSED INCOME TAX REFUND RIDER?

13 A. Yes. As explained by AEP Texas witness Hamlett, the Company proposes an Income
14 Tax Refund (ITR) Rider that refunds the difference between revenues collected under
15 existing rates and the revenues that would have been collected under the new, lower
16 federal income tax rates. The ITR also returns to customers amounts associated with
17 Accumulated Deferred Federal Income Taxes (ADFIT). The distribution cost of
18 service increase identified above is net of a nearly \$21 million per year (for four years)
19 ITR credit.

20 Q. WHAT IS THE EFFECT OF THIS RATE REQUEST ON AEP TEXAS'
21 CUSTOMERS AS COMPARED TO EXISTING RATES?

22 A. As calculated by AEP Texas witness Jackson, the impact of the retail transmission and
23 distribution rate change on a residential customer in the Company's Central Division

15-55

1 using 1,000 kilowatt-hours ("kWh") per month would be an increase of approximately
2 \$4.75 or 9.8% per month (including the effect of the proposed Income Tax Refund
3 Rider). A customer with a retail plan that charges 12.5 cents per kWh would see their
4 rate go to 12.97 cents per kWh, or a 3.8% increase in their total bill, if the REP passes
5 through the rate change. The impact of the retail transmission and distribution rate
6 change on a residential customer in the Company's North Division using 1,000
7 kilowatt-hours ("kWh") per month would be a decrease of approximately \$5.01 or -
8 10.6 % per month. A customer with a retail plan that charges 12.5 cents per kWh would
9 see their rate decrease to 12.0 cents per kWh, or a 4.0% decrease in their total bill, if
10 the REP passes through the rate change.

11 Q. WILL CUSTOMERS IN THE CENTRAL DIVISION RECEIVE A RATE
12 REDUCTION IN 2020 THAT WILL OFFSET THE INCREASE DESCRIBED
13 ABOVE?

14 A. Yes. Customers in the Central Division are currently charged amounts associated with
15 stranded costs called Transition Charges (TC). Two TC charges remain in effect – TC2
16 and TC3. As explained by AEP Texas witness Jackson, in October 2020, the TC2
17 Rider ends and, as a result, every customer class in the Central Division will show an
18 overall decrease in AEP Texas charges even with the total base rate change requested
19 in this case. The TC2 Rider ending represents a monthly bill reduction of \$8.35 for an
20 average 1,000 kWh/month Central Division residential customer.

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1 VIII. REQUEST FOR ADDITIONAL FUNDS DEDICATED TO SERVICE
2 QUALITY IMPROVEMENTS

3 Q. IS AEP TEXAS REQUESTING ADDITIONAL FUNDS THAT WILL BE
4 DEDICATED TO IMPROVING AEP TEXAS' SERVICE TO ITS CUSTOMERS?

5 A. Yes. The Company is requesting funds in addition to those incurred during the Test
6 Year to expand its vegetation management program. A robust vegetation management
7 program is critical to maintaining the reliability of the Company's distribution system
8 and serving our customers. AEP Texas is proposing a total annual vegetation
9 management spend of \$16.2 million. This is an increase of \$5 million over the \$11.2
10 million in vegetation management expenses in the test year. In addition to providing
11 improved reliability on targeted circuits, the increased level of vegetation management
12 spend will provide for a level of tree trimming necessary to replace aging infrastructure
13 as a part of the AEP Texas grid modernization plan. This proposal is further discussed
14 by AEP Texas witness Coad.

15
16 IX. ADDITIONAL RATESETTING POLICY ISSUES

17 Q. WHAT DOES THE COMPANY PROPOSE IN REGARD TO COST RECOVERY
18 FOR INCENTIVE COMPENSATION PAID TO EMPLOYEES?

19 A. The Company is aware of Commission precedent that does not allow a utility to recover
20 from customers incentive compensation paid to employees for meeting Company
21 financial goals. As explained by AEP Texas witness Andrew Carlin, AEP Texas'
22 incentive compensation program is not a "bonus" on top of market-competitive pay.
23 Instead, it is a necessary component to achieve market-competitive pay for employees.

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| AEP Texas Witnesses 2019 Texas Base Rate Case | | | |
|--|---|---------------------|--|
| | Subject | Witness | Description of Testimony |
| 1. | Policy and Overview | Judith E. Talavera | Ms. Talavera presents the AEP Texas rate case application and provides an overview of the filing. Specifically, she provides an overview of AEP Texas and the cost elements that encompass the base rate increase request. |
| 2. | Policy, Affiliate Expenses and Rate Case Expenses | Leigh Anne Strahler | Ms. Strahler introduces proposals for regulatory programs supported by various witnesses. Ms. Strahler also discusses AEP Texas affiliate expenses related to legal, regulatory, and environmental services and supports AEP Texas' rate case expenses. |
| 3. | Cost of Service, Rate Base, Pro Forma Accounting Adjustments | Randall Hamlett | Mr. Hamlett presents AEP Texas' requested total company cost of service and associated RFP schedules. He describes various pro forma accounting adjustments. |
| 4. | Catastrophe Reserve | Greg Wilson | Mr. Wilson discusses AEP Texas' approach to the use of a Catastrophe Reserve. |
| 5. | Lead-Lag Study | Jay Joyce | Mr. Joyce sponsors the results of the lead-lag study for measuring the cash working capital allowance required for AEP Texas' operations. |
| 6. | Cost of Common Equity | Robert Hevert | Mr. Hevert presents his recommended return on equity. |
| 7. | Capital Structure and Overall Cost of Capital and Factoring | Renee Hawkins | Ms. Hawkins supports the calculations of AEP Texas' cost of debt as well as AEP Texas' overall capital structure. She discusses AEP Texas' financial condition. |
| 8. | Capital Structure and Factoring | Steve Fetter | Mr. Fetter discusses AEP Texas' requested capital structure. |
| 9. | Service Reliability, Affiliate Distribution Costs, Distribution Capital Additions | Thomas Coad | Mr. Coad discusses AEP Texas' performance with respect to various reliability and quality of service measures. He also supports the reasonableness and necessity of AEP Texas' overall and affiliate O&M costs for distribution services, as well as distribution capital additions. |
| 10. | Overall and Affiliate Transmission O&M Costs | Dan Boezio | Mr. Boezio discusses AEP's transmission organization and operations. He supports AEP Texas' overall and affiliate O&M costs for transmission services. |
| 11. | Transmission Capital Additions | Wayman Smith | Mr. Smith supports AEP Texas' transmission capital additions. |

15.59

| AEP Texas Witnesses 2019 Texas Base Rate Case | | | |
|--|--|-----------------|---|
| | Subject | Witness | Description of Testimony |
| 12. | Customer Service Metrics, Overall and Affiliate Customer Service O&M Costs | Joel Murphy | Mr. Murphy discusses the AEP Texas and AEPSC customer services organizations and discusses AEP Texas' quality of customer service. He also supports the reasonableness and necessity of AEP Texas' overall and affiliate O&M costs for customer services. |
| 13. | AEP Texas External Affairs and Corporate Communications, Affiliate External Affairs and Corporate Communications O&M Costs, Advertising, Contributions and Memberships | Gilbert Hughes | Mr. Hughes discusses AEP Texas' External Affairs and Corporate Communications organization(s) and the services they provide. He also discusses AEPSC's External Affairs and Corporate Communications organizations and demonstrates the reasonableness and necessity of the affiliate charges billed to AEP. He supports the advertising costs, contributions and membership dues requested in this case. |
| 14. | AMS Reconciliation | Jeff Stracener | Mr. Stracener discusses AEP Texas' AMS reconciliation and implementation of the approved AMS Deployment Plan. |
| 15. | AMS Reconciliation Accounting | Heather Whitney | Ms. Whitney discusses the accounting for the actual costs, investment, and revenues associated with the deployment of AMS during the reconciliation period. |
| 16. | Depreciation | Jason Cash | Mr. Cash discusses the depreciation study overview, the study methods and procedures, and the study results. |
| 17. | Federal and State Income Taxes, Tax-Related Adjustments and Consolidated Tax Savings | Michael Kelly | Mr. Kelly discusses AEP Texas' Federal Income Taxes included in its cost of service and describes the RFP's tax schedules. He also addresses the impact of the 2017 Tax Cuts and Jobs Act. |
| 18. | AEPSC and Affiliate Transactions | Brian Frantz | Mr. Frantz discusses AEPSC and the corporate support services it provides. He describes AEPSC's internal controls, billing and cost allocation methods, and how they assure that AEP Texas is charged reasonable and necessary costs for affiliate services. He also provides supporting testimony regarding the reasonableness and necessity of the Chief Financial Officer, Chief Executive Officer, Internal Support, and AEPSC Incentives classes of AEPSC affiliate costs. He explains the particular allocation factors used to bill the various affiliate classes of cost to AEPSC, to support the conclusion that AEP Texas is charged affiliate costs by AEPSC that are no higher than those billed to other AEP affiliates. |

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| AEP Texas Witnesses 2019 Texas Base Rate Case | | | |
|--|---|---------------------|--|
| | Subject | Witness | Description of Testimony |
| 19. | Necessity of AEPSC Services and Charges, AEPSC Budgeting Processes, and Cost Allocation | Patrick Baryenbruch | Mr. Baryenbruch presents an assessment of the reasonableness and necessity of the services provided to AEP Texas by AEPSC, and the associated costs. This assessment includes review of the necessity and benefit of AEPSC services, the appropriateness of AEPSC allocation factors, and the reasonableness of AEPSC and AEP Texas costs. |
| 20. | Human Resources Organization and Affiliate Charges | Tracy Elich | Ms. Elich discusses the services of the AEPSC Human Resources Department. She supports the reasonableness and necessity of the Human Resource Department affiliate charges to AEP Texas. |
| 21. | Employee Benefit Plans | Curt Cooper | Mr. Cooper describes and supports the reasonableness of the benefit plans for AEP Texas and AEPSC employees. |
| 22. | Employee Compensation | Andrew Carlin | Mr. Carlin describes the reasonableness and market competitiveness of the AEP compensation plan and the salary and incentive compensation levels for AEP Texas and AEPSC, and supports a pro forma adjustment made by Mr. Hamlett for base pay increases effective in 2019. |
| 23. | Supply Chain, Fleet and Procurement Affiliate Charges | Jon Burns | Mr. Burns describes the services provided by the AEP Supply Chain, Fleet and Procurement organizations. He supports the reasonableness and necessity of AEP Texas' costs for these services. |
| 24. | Real Estate and Workplace Services Affiliate Charges | Randy Ware | Mr. Ware provides supporting testimony for AEP Texas affiliate expenses related to AEPSC Real Estate and Workplace Services. He supports the reasonableness and necessity of AEP Texas' affiliate costs for these services. |
| 25. | Information Technology Organization and Affiliate Charges | Greg Filipkowski | Mr. Filipkowski discusses the AEP Information Technology (IT) organization and the services provided. He supports the reasonableness and necessity of AEP Texas' IT affiliate costs. He also supports IT capital additions and the IT related portions of AEP Texas' AMS reconciliation. |
| 26. | Telecom and Affiliate Charges | David Standley | Mr. Standley discusses the AEP Telecom organization and the services provided. He supports the reasonableness of AEP Texas' Telecom affiliate costs. He also supports Telecom capital additions. |
| 27. | Security and Affiliate Charges | Stan Partlow | Mr. Partlow discusses the AEP Security organization and the services provided. He supports the reasonableness of AEP Texas' Security affiliate costs. |

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| AEP Texas Witnesses 2019 Texas Base Rate Case | | | |
|--|---|------------------|--|
| | Subject | Witness | Description of Testimony |
| 28. | Load Research Schedule Sponsorship | Nora Williams | Ms. Williams sponsors various schedules related to load and demand. |
| 29. | Energy Forecast and Weather Normalization | Chad Burnett | Mr. Burnett presents the weather normalization processes used in forecasting and supports several associated schedules. |
| 30. | Cost of Service Study | John Aaron | Mr. Aaron presents and supports AEP Texas' class cost-of-service study. He also supports the pro forma adjustments made to the test year customer, revenue, and sales volume data. |
| 31. | Rate Design and Tariff Riders | Jennifer Jackson | Ms. Jackson presents AEP Texas' retail class rate design, including the Company's proposal to combine Central and North Division rates. |
| 32. | Tariff Issues/Rate Design | David Hawk | Mr. Hawk discusses the proposal to consolidate the current separate tariff manuals for AEP Texas' Central and North Divisions into a single tariff manual and also addresses proposed changes to company-specific discretionary service charges. |

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**CITY COUNCIL MEETING
CITY OF SOUTH PADRE ISLAND
EXECUTIVE SESSION
AGENDA REQUEST FORM**

MEETING DATE: May 15, 2019

EXECUTIVE SESSION

ITEM DESCRIPTION

EXECUTIVE SESSION: Closed session pursuant to Section 552.071 of the Texas Government Code on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter, regarding options in addressing abandoned, blighted or substandard structures and properties.

**CITY OF SOUTH PADRE ISLAND
CITY COUNCIL MEETING
AGENDA REQUEST FORM**

MEETING DATE: May 15, 2019

NAME & TITLE: Joe Ricco, Council Member

DEPARTMENT: City Council

ITEM

Discussion and possible action regarding options in addressing abandoned, blighted or substandard structures and properties.

ITEM BACKGROUND

More than a dozen structures on the Island have fallen into uninhabitable condition or are abandoned projects that have been in disrepair for many years.

BUDGET/FINANCIAL SUMMARY

COMPREHENSIVE PLAN GOAL

Goal 1: Policy 1.1.5: The City should establish standards to enhance the appearance of properties facing public rights-of-way.

Goal 1: Strategy 1.2.1.2: Livable and attractive neighborhoods should be developed with a broad array of amenities such as parks, playgrounds, sidewalks, and landscaping.

LEGAL REVIEW

Sent to Legal: YES: _____ NO: _____
Approved by Legal: YES: _____ NO: _____

RECOMMENDATIONS/COMMENTS

Chapter 4 - BUILDINGS AND CONSTRUCTION

ARTICLE I. - GENERAL

Sec. 4-1. - Building permit required, holders responsible for damage to streets.

There shall be no construction or erection of any type of structure or manufacture of any kind, temporary or permanent, without obtaining a building permit from the City. Permit holders shall be responsible for all damage to City streets (Section 16-10 et. seq.) and must comply with all the requirements of Chapter 16 of this Code regarding the right-of-ways of the City.

Sec. 4-2. - Same—Payment of fees required.

If any person or entity which commences construction or erection of any type of structure or manufacture of any kind or does any work requiring a permit before first obtaining the proper permit and shall subsequently apply for said permit and said permit is thereafter issued, the applicant shall pay twice the normal permit fee or the sum of Two Hundred Dollars (\$200.00), whichever is greater.

(Ord. No. 176, 4-5-1995; Ord. No. 18-19, § 1, 8-15-2018)

Sec. 4-2.1. - Install a sidewalk.

- (A) *Installation required.* Whenever a building permit is issued for the construction of any structure on a vacant lot or tract the building permit applicant shall be required to install a sidewalk in the right-of-way between the property line and the edge of the street and the sidewalk shall be constructed: (i) in compliance with the Standards and Specifications for the Acceptance of Public Improvements for the City of South Padre Island; and (ii) at such location and pursuant to such plans required by the Public Works Director.
- (B) *Payment of fee in lieu of sidewalk installation.* In lieu of installing a sidewalk, as required by the subsection immediately above, a building permit applicant may request to pay a fee. The request to pay the fee in lieu of sidewalk installation shall be submitted in writing with the building permit application and shall be submitted in the manner prescribed in Sec. 23.15 (E).

(Ord. No. 15-22, 1-6-2016; Ord. No. 18-05, § 1, 2-7-2018)

Sec. 4-3. - Applications on permits by licensed masters required.

All permits issued for construction shall require an application by a licensed master plumber and licensed master electrician prior to the commencement of plumbing or electrical work, although such application shall not be required for initial issuance of the permit. No additional fee shall be charged by the City in connection with the applications of master plumbers and electricians on building permits.

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(Ord. No. 17, 12-19-1973)

Sec. 4-4. - Same—Stop-work order for violation.

- (A) Any permit holder that does not comply with any City ordinance, code, law or instruction of the Building Inspector shall be issued a stop-work order by the Building Inspector.
- (B) In the event plumbing or electrical work is commenced prior to application by a master plumber or electrician as required by Section 4-3, the Building Inspector may issue a stop-order until such requirement is met.

Sec. 4-5. - Adoption of standard codes.

- (A) The City adopts the 2015 International Building Code, 2015 International Residential Code without Section R313 (deleted), 2015 International Fire Code without Appendices L and M (deleted), 2015 International Mechanical Code, 2015 International Plumbing Code, 2015 International Fuel Gas Code, 2014 National Electrical Code, 2015 International Energy Conservation Code, 1997 Standard Housing Code, and the 1985 Unsafe Building Abatement Code and all other amendments thereto except as modified by the Code of Ordinances.
- (B) When any of the Standard Codes makes reference to the duties of a certain official named therein, that designated official of the City of South Padre Island who has duties corresponding to those of the named official in said standard code shall be deemed to be the responsible official in so far as enforcing the provisions of said standard codes are concerned.

(Ord. No. 14-07; Ord. No. 18-02, § 1, 2-7-2018)

Sec. 4-6. - Master flood hazard prevention ordinance adopted.

The City adopts the Master Flood Hazard Prevention Ordinance as promulgated by the City.

(Ord. No. 18-03, 2-7-2018; Ord. No. 18-19, § 1, 8-15-2018)

Sec. 4-7. - Same—Permits to conform.

All permits for construction shall require conformance with the Master Flood Hazard Prevention Ordinance.

Sec. 4-8. - Elevators.

The Adopted Building Code is supplemented by the requirement that all elevators in buildings over six (6) stories shall be connected to the on-site standby power plant.

(Ord. No. 18-19, § 1, 8-15-2018)

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Sec. 4-9. - Exceptions to codes authorized.

The Board of Adjustments is hereby granted authority to grant exceptions to Codes enumerated in Section 4-5 hereof upon application by the proper party, and upon a finding by said Board that said exception to this Chapter shall not create a hazard to the health and safety of the citizens of the City.

Sec. 4-10. - Fire limits established.

The City maintains fire limits (fire zones) as set forth on a map on file in the City offices bearing the signature of the responsible City Official of the City, which map is known as the Fire Zone Map of the City of South Padre Island. Type V (Wood Frame) construction is allowed for one and two family structures in the fire district if said structure maintains all required residential setbacks (District A) and said structure has non-combustible exterior coverings (brick, stucco-concrete, etc.).

(Ord. No. 51, 1-18-1978; Ord. No. 99-19, 12-1-1999; Ord. No. 18-19, § 1, 8-15-2018)

Sec. 4-11. - Appointment of building inspector.

The Building Inspector or Inspectors shall be such person(s) as may be designated by the City Council.

(Ord. No. 2A, 8-7-1974)

Sec. 4-12. - Adoption of Building Code for Windstorm Resistant Construction.

The City adopts the provisions for Windstorm Resistant Construction approved by the Texas Windstorm Insurance Association, a true and correct copy of same being on file with the Building Inspector and all construction within the City shall be in strict compliance therewith and with all other codes and ordinances of the City.

(Ord. No. 99A, 9-1-1982; Ord. No. 99-19, 12-1-1999; Ord. No. 18-19, § 1, 8-15-2018)

Sec. 4-13. - Most stringent requirement adopted.

In the event any other code or ordinance of the City should impose a more stringent restriction or requirement than that provided by the adopted codes for windstorm resistant construction, then the more stringent requirement shall be complied with.

(Ord. No. 99A, 9-1-1982; Ord. No. 18-19, § 1, 8-15-2018)

Sec. 4-14. - Liability insurance required.

Any person, corporation, or contractor who shall perform any type of work within the public roadways, streets, right-of-ways and easements of the City shall, prior to the issuance of any permit for performing such work within said roadways, streets, right-of-ways and easements, file with the City Secretary, and thereafter keep in full force and effect during the period of construction, a general liability policy in form approved by the Board of Insurance Commissioners, issued by an insurance company duly authorized to transact liability insurance in this State, covering bodily injuries and destruction of property resulting from said work.

(Ord. No. 46, 3-2-1977)

Sec. 4-15. - Minimum insurance limits.

The minimum limits for the policy of liability insurance required by Section 4-14 shall be \$100,000.00.

Sec. 4-16. - Fees.

On buildings, structures, electrical, gas, mechanical, and plumbing systems or alterations requiring a permit, a fee for each permit shall be paid as required, in accordance with the following schedule:

(A) Permit Fees:

1. The minimum fee for issuing any permit shall be \$25.00.
2. The fee rate is \$7.00 per \$1,000 valuation.

(B) Building Permit Valuations:

Permit valuation shall include total cost, such as plumbing, electrical, mechanical and other systems, all or any of which require a separate permit. For the purpose of establishing the valuation of a building, the Building Official may use data published by a recognized authority substantiating current cost of construction and/or the contractor's estimated cost whichever is higher.

(C) Moving of a Building or Structure:

For the moving of any building or structure, the fee shall be \$200.00.

(D) Demolition of Building or Structure:

For the demolition of any building or structure the fee shall be \$100.00.

(E) Reinspection Fee:

In the event the Building Inspector is called upon to inspect an aspect of construction which he has previously inspected and determined insufficient, a reinspection fee shall be assessed the person requesting such reinspection. The amount of such fee shall be

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determined by the City Manager based upon actual time, overhead, expenses and other factors related to the performance of the reinspection.

(Ord. No. 18-19, § 1, 8-15-2018)

Editor's note— Ord. No. 18-19, § 1, adopted August 15, 2018, renamed § 4-16 from "fees; amendment of Standard Building Code" to "fees."

Sec. 4-17. - Standard Housing Code, board of adjustments and appeals.

The Housing Board of Adjustments and Appeals provided for in the Standard Housing Code shall be the same Board of Adjustments as created and appointed pursuant to the Zoning Code of the City of South Padre Island. Said Board of Adjustments under the Zoning Code shall also have all the powers and duties provided for the Housing Board of Adjustments and Appeals as set forth in the Standard Housing Code.

Sec. 4-18. - Standard Unsafe Building Abatement Code and chapter 214 Local Government Code.

- (A) The Board of Adjustments and Appeals provided for in the Standard Unsafe Building Abatement Code shall be the same Board of Adjustments and Appeals appointed pursuant to the Standard Building Code. Said Board of Adjustments and Appeals under the Building Code shall also have all the powers and duties provided for the Board of Adjustments and Appeals as set forth in the Standard Unsafe Building Abatement Code.
- (B) Chapter 214 of the Local Government Code.
 - (1) In the event any provision of Chapter 214 of the Local Government Code is inconsistent with the Standard Unsafe Building Abatement Code, then the provisions of Chapter 214 of the Local Government Code shall apply.
 - (2) Pursuant to Section 214.001(d) of the Local Government Code, the City shall make a diligent effort to discover each mortgagee and lienholder of any property subject to a hearing before the Board pursuant to the Standard Unsafe Building Abatement Code; and before conducting the public hearing, shall give notice to said mortgagee and/or lienholder and afford them an opportunity to comment at the hearing. Additionally, any Order issued to the property owner pursuant to the Standard Unsafe Building Abatement Code shall also provide an additional reasonable time for the ordered action to be taken by any of the mortgagees or lienholders in the event the owner fails to comply with the Order within the time provided for action by the owner.
- (C) If the City incurs expenses pursuant to the Standard Unsafe Building Abatement Code including the expenses to secure, repair, remove, or demolish the building or re-locate the occupants, the City shall have a lien against the property for all costs and expenses, including

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attorney's fees, unless the property is a homestead protected by the Texas Constitution. The lien is a privileged lien subordinate only to tax liens and all previously recorded bona fide mortgage liens attached to the real property to which the City's lien attaches.

- (D) In addition the provisions of the Standard Unsafe Building Abatement Code, the City may also assess a civil penalty against the property owner for failure to repair, remove or demolish the building and that said civil penalty shall be determined by the Board of Adjustments and Appeals and which civil penalty may be in any sum not to exceed Five Hundred Dollars (\$500.00) and said penalty may be assessed for each day that property owner fails to comply with the Orders issued pursuant to the Standard Unsafe Building Abatement Code, and said penalty shall constitute a lien against the property in the same manner as is provided in Section 4-18 (C). Said civil penalty shall accrue interest at the rate of Ten Percent (10%) per year from the date of assessment until paid in full.
- (E) Pursuant to Section 214.002 of the Local Government Code, if the City determines that a building, fence, shed, awning or other structure or part of a structure is likely to fall and endanger persons or property, the Building Official may order the owner, the Owner's agent, or occupant of the property to remove or demolish the structure or part of the structure within a specified time; and if the owner fails to remove the same, the City may remove or demolish the structure and assess the expense against the property on which the structure is located. The City shall follow the same procedure for notice, assessment, and recovery of expenses as provided by the Standard Unsafe Building Abatement Code and this Section 4-18.

Sec. 4-19. - Taxes—Payment prior to issuance of permit.

No permit, including, but not limited to, building permits or permits for excavation, shall be issued unless all taxes due and owing the City on the real estate and improvements whereon such house, building or structure is situated, or on which such demolition or moving is to take place, are fully paid.

Sec. 4-20. - Bond required upon granting of permit.

- (A) Upon the granting of a building permit, a bond with good and sufficient sureties for a sum of not less than Ten Thousand (\$10,000) Dollars providing for the payment to the City and to any person or persons injured or damaged in person or property of the City, for all injuries and damages caused by, or growing out of, or in any manner connected with such moving, demolition or construction, is required.
- (B) Upon filing of the required bond, the Building Inspector shall determine whether or not the sum of Ten Thousand (\$10,000) Dollars is sufficient to cover the amount of probable damage. In the event that it is determined that a higher amount is necessary to cover such damages, such bond shall be made and increased to such determined amount.

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(Ord. No. 51, 1-18-1978)

Sec. 4-21. - Building inspector authorized to issue citations.

The Building Inspector is hereby authorized to issue citations to any person who in his opinion is violating the terms of this Chapter, and if said violation should continue for ten (10) days after said notice, then the Building Inspector shall file a complaint with the Municipal Court.

(Ord. No. 51, 1-18-1978)

ARTICLE II. - STRUCTURAL REQUIREMENTS

Sec. 4-22. - Post tension construction requirements.

All concrete construction employing post tension construction techniques shall adhere to a recognized standard for sealing the anchors against rust corrosion and other weather elements.

(Ord. No. 00-03, 3-1-2000)

Sec. 4-23. - Wood frame or combustible construction prohibited for public buildings.

Wood frame or combustible construction, as the same is defined by the current International Building Code adopted by the City, is hereby prohibited for any new construction or conversion when the building or structure is intended to be used by the general public and any existing structure that is classified as a wood frame or combustible construction may not be converted for the use by the general public. Wood frame or combustible materials may be used when in compliance with the current International Building Code adopted by the City.

(Ord. No. 59, 5-17-1978; Ord. No. 18-19, § 1, 8-15-2018)

Editor's note— Ord. No. 18-19, § 1, adopted August 15, 2018, renamed § 4-23 from "type VI construction prohibited for public buildings" to "wood frame or combustible construction prohibited for public buildings."

Sec. 4-24. - Wood frame or combustible construction prohibited for certain living units.

Except as provided by Sections 4-10, 4-25, and 4-26, wood frame or combustible construction, as the same is defined and described by the current International Building Code adopted by the City, is hereby prohibited for any structure containing three or more living units or designed to accommodate three or

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more independent family units to occupy the premises, and conversion of any wood frame or combustible structure to three or more family living units is prohibited. Wood frame or combustible materials may be used when in compliance with the current International Building Code adopted by the City.

(Ord. No. 59, 5-17-1978; Ord. No. 18-19, § 1, 8-15-2018)

Editor's note— Ord. No. 18-19, § 1, adopted August 15, 2018, renamed § 4-24 from "type VI construction prohibited certain living units" to "wood frame or combustible construction prohibited for certain living units."

Sec. 4-25. - Conversion of type VI structure to public or multi-family use.

Any structure of Type VI construction, as the same is defined by the Standard Building Code, that was built, or its building permit issued prior to June 1, 1978, may be converted to a use by the general public or converted to multi-family use, if the owners of said building shall first submit a plan of conversion of said structure to the Building Inspector of the City as herein provided and obtain the approval of the Building Inspector.

(Ord. No. 59A, 12-11-1978)

Sec. 4-26. - Same—Approval of building inspector required.

If the plan of conversion to be submitted under Section 4-25 hereof does not meet with the approval of the Building Inspector, then said building shall not be converted. The Building Inspector may require the applicant to make certain renovations and changes in order to maximize the protection of the general public that may use and occupy the building. If the Building Inspector determines that the building may not be made safe in a reasonable manner, then said conversion may be denied.

(Ord. No. 59A, 12-11-1978)

Sec. 4-27. - Standards for construction.

The hereinafter enumerated standards shall be required in the construction of all buildings, to-wit:

- (A) All structures erected within the corporate limits of the City shall be supported by continuous connection of pilings to base flood level or first living level whichever is greater.

Pilings shall be treated timber or concrete [Note: Windstorm Code has no provision for concrete pilings] as per the following schedule:

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| Number of stories supported by pilings | Size of piling | Type of pilings | Depth of piling below grade | Spacing pilings |
|--|--|------------------------|-----------------------------|--|
| 1 | Min. 12 inches Butt Min. 8 inches Top | Treated Timber | 15 feet | Min 1 piling per 100 sq. ft. bldg. |
| 1 | <u>11 ½ × 11 ½</u> | Reinforced Concrete | 12 feet 12 feet | Min. 1 piling per 100 sq. ft. Bldg. |
| 2 | Min. 12 inches Butt Min. 8 inches Top | Treated Timber | 25 feet | Min. 1 piling per 100 sq. ft. Bldg. |
| 2 | <u>11 ½ × 11 ½</u> | Reinforced Concrete | 17 feet | Min. 1 piling per 100 sq. ft. Bldg. |
| 3 | Min. 12 inches Butt Min. 8 inches Top | Treated timber | 30 feet | Min. 1 piling per 100 sq. ft. Bldg. |
| 3 | <u>11 ½ × 11 ½</u> | Reinforced concrete | 20 feet | Min. 1 piling per 100 sq. ft. Bldg. |

- (B) Concrete pilings shall be reinforced concrete with minimum compressive strength of 4,000 P.S.I. twenty-eight day test, five sack mix and minimum four #6 Grade 60 Deformed steel bars throughout full length of piling and extending eighteen inches into the beam. There shall be a continuous tie with concrete pilings to at least the base flood

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level, or first floor living level. This continuation shall be with concrete columns or concrete block with four #6 rebar and concrete. Engineered alternate designs may be approved by the Building Official.

- (C) Wood pilings shall be minimum 12 inches butt diameter minimum 8 inches top timber pilings. Piling shall be creosoted or preservative-treated in compliance with Section 2303.1.9, Preservative-treated wood, of the 2015 International Building Code.
- (D) Pilings must be tied to building structure by suitable connections bolted with not less than two $\frac{3}{4}$ inches galvanized bolts at wood to wood, wood to concrete connections. Rebar shall be extended from pilings into adjacent member in concrete to concrete connections.
- (E) Concrete grade beams to be a minimum size of 12 inches \times 24 inches [three (3) story structures must be minimum of 16 inches \times 24 inches] with four #5 rebar and four corner bars with #3 stirrups at twenty-four inch spacing. A moisture barrier (Visquene) to be used under slab. Slab to be minimum four inches thick with #3 bars at 12 inches O.C. or 6/6 - 6/6 welded wire fabric or equivalent, continuous. Minimum eight inch reinforced concrete beam or "U" block tie beam to be used to tie masonry structure at floor levels. This beam to have two #5 rebar. Concrete block walls shall have one #5 rebar on each side of all openings and at four foot intervals in horizontal wall, and at all corners. All cells where this occurs, shall be filled with five sack grout. All concrete to be of minimum five (5) sack mix.
- (F) All structures or piling from grade level to base flood level, or first floor living level, whichever is greater, shall be masonry construction which may include brick veneer, or other masonry veneer and stucco.
- (G) All stringers, girder to be minimum of two 2 inches \times 12 inches material, one on each side of notched piling.
- (H) Sills on concrete to be wolmanized or preservative treated lumber and anchored with $\frac{5}{8}$ inch galvanized bolts with washers and nuts embedded in concrete minimum 8 inch at all corners with 4 foot intermediate spacing. Roof plates to be anchored with $\frac{5}{8}$ inch galvanized bolts with washers and nuts embedded in concrete beam or U-block 8 inch at two foot intervals. [Note: three (3) story structures have greater requirements per windstorm code]
- (I) Wall studs on all exterior walls shall be on 16 inches centers. Walls over two stories in height require at least 2 inches \times 6 inches studs, at lower level.
- (J) Roof Construction:
 - (1) All ceiling joists and roof spans shall meet code requirements and each one shall be anchored to wall plates by approved metal anchors.
 - (2) All roof joists to be of 2 inches \times 6 inches material or heavier or of an engineered

truss type construction.

- (3) Roof decking shall be a minimum of $\frac{5}{8}$ inches plywood CDX grade with exterior glue. Plywood to be nailed 5 inches apart at the joint, and 7 inches on the rest of the sheet. Galvanized nails #8 to be used.
- (4) Wood shingles may be applied to roofs with solid or spaced sheathing. The spaced sheathing shall be spaced not to exceed four inches clear, nor more than the width of the sheathing board. Spaced sheathing shall be not less than one inch by three inches nominal dimensions.
- (5) Class "A" or "B" minimum roof covering allowed in fire district.
- (K) Supports for roofs or porches, carports, etc. must be of nominal 4 inches \times 4 inches material or larger, notched and bolted with a tie-down at base.
- (L) All wood exterior walls shall have one hour fire protection, one layer $\frac{5}{8}$ inches fire code "X" gypsum board on the interior, with minimum $\frac{5}{8}$ inches plywood exterior ($\frac{5}{8}$ inches texture 1-11), plywood siding for the purpose of this Article shall be considered to be $\frac{3}{8}$ inches material. Any material other than $\frac{5}{8}$ inches plywood shall have $\frac{5}{8}$ inches plywood sheathing installed.
- (M) All wood party walls shall be one hour protected with minimum one layer $\frac{5}{8}$ inches type "X" fire code gypsum board on each side, to roof and all doors in party walls shall be minimum one hour class "B" doors. Electrical outlets and plumbing outlets shall be staggered. All ceiling assemblies shall be minimum 5 feet 8 inches gypsum board.
- (N) At least one approved smoke detector shall be installed adjacent to the sleeping area. When actuated, the detector shall provide an alarm suitable to warn occupants within the sleeping area.
- (O) Interior paneling of occupied area shall have a minimum of 200 flame spread. Minimum class "C" paneling.
- (P) Enclosed garage area under dwellings shall have a minimum of 1 hour fire resistance rating between the habitable space and the garage, openings shall be protected by assemblies that are self-closing and of noncombustible construction or solid core not less than 1.75 inches (45 mm) in thickness, and an approved smoke detector installed.
- (Q) Reserved for future expansion.
- (R) All factory-built fireplaces shall be installed in compliance with the terms of their listing, the manufacturers' instructions, and completely installed and tested before Certificate of Occupancy is issued.
- (S) Reserved for future expansion.
- (T) There shall be no occupancy of buildings without an occupancy inspection by the Building Inspector and the issuing of a certificate acknowledging such an inspection.

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- (U) The building permit holder shall be responsible for all street damages.
- (V) All applicants for a building permit for structures shall have a property survey, plot plan, building materials list, and a substantial drawing of the structure to enable the Building Inspector to make a plan review. There shall be a minimum waiting period of 48-hours for a plan review.
- (W) No structure may use metal, corrugated siding, or use materials that have the appearance of metal or corrugated siding, for the exterior finish of any structure without the express approval of the Development Standards Review Task Force or the City Council (Corrugated defined as: shaped sheet metal or other material into straight, parallel, regular, and equally curved ridges and hollows). The only exceptions to this requirement are the following:
 - (1) Metal roofs;
 - (2) Garage doors;
 - (3) Accessory storage structures less than one hundred (100) square feet in area or with dimensions less than ten (10) feet by ten (10) feet, whichever is more restrictive; and
 - (4) Vinyl siding made to look like wood.
- (X) After the issuance of a building permit from the Public Works Department, the applicant/property owner shall be required to submit a signed and sealed elevation certificate after completion of the structure's foundation. This document will be required prior to commencement of framing. The Building Inspector and/or Building Official will stop construction should information from the elevation certificate be inconsistent with the approved plans, the required FEMA elevation, or City setback regulations.
- (Y) Prior to pouring a foundation for a building or structure the applicant/owner shall be required to have a form board survey prepared by a Registered Professional Land Surveyor (RPLS) or Registered Professional Engineer (PE) and must show the building setback lines and the exact location (including distances from property lines) of the foundation form boards. The foundation inspection cannot be performed until a form board survey has been submitted to the Building Department and reviewed by the Building Inspector.
- (Z) Chain link fences and barbed wire are prohibited. Vinyl-coated chain link fences may be allowed temporarily for a construction site only. Vinyl-coated chain link fences may be allowed around tennis and basketball courts.

(Ord. No. 78, 4-16-1980; Ord. No. 99-19, 12-1-1999; Ord. No. 18-19, § 1, 8-15-2018)

The requirements of Section 4-27 above supplement and are in addition to any and all other provisions of this Code and the Codes adopted therein regarding construction and building within the City. If Section 4-27 should be in conflict with any other provision of any other Code, then and in that event, the more restrictive or greater requirement shall supersede and replace any such provision in conflict therewith.

(Ord. No. 78, 4-16-1980; Ord. No. 99-19, 12-1-1999)

Sec. 4-29. - Townhouses.

Each townhouse shall be considered a separate building and shall be separated from adjoining townhouses by the use of separate exterior walls meeting the requirements for zero clearance from property lines as required by the type of construction and fire protection requirements or when not more than three stories in height, may be separated by a single wall meeting the requirements of the current version of International Residential Code that has been adopted by the City.

(Ord. No. 99-19, 12-1-1999; Ord. No. 18-19, § 1, 8-15-2018)

ARTICLE III. - ELECTRIC

Sec. 4-30. - Electrical standards.

The National Electrical Code is adopted by the City and all new construction, renovation and modification of structures of any nature within the City shall conform with such code and all other Codes adopted by the City and, in particular, but not by way of limitation, shall meet the following minimum standards of electric service and equipment, to-wit:

- (A) All electrical conductors, other than those supplied, installed, and maintained by the power supplier shall be copper. Copper bearing or copper-clad will not be acceptable. Aluminum conductors may be used for feeders 1/0 or greater in conditioned spaces or as approved by the Standard Code.
- (B) The service drop conductors shall have a minimum clearance from finished grade or installations as specified by the National Electric Code or the electric power supplier, whichever is greater. All new services first installed at a customer's premises after October 23, 1991 shall be underground in accordance with specifications and policies of the utility supplying electric power.
- (C) Service entrance conductors and service disconnect equipment shall be of a capacity to serve the initial load plus 25%, but in no case will they be smaller than #6, 3-wire 120/240 volt single phase. Structures designed to house people will have no smaller

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than 125 amp., 120/240 volt single phase service entrance and service disconnect equipment.

- (D) Meter enclosures and service disconnect equipment shall be grounded with a minimum of #6 copper conductor in rigid steel conduit or approved metal guard, extending three (3) feet above and one (1) foot below finished grade.
- (E) Minimum acceptable grounding electrode shall be 5/8 inches x 8 feet 0 inches copper-clad steel rod installed vertically and 6 inches below finished grade with an acceptable copper or bronze ground rod clamp. Minimum resistance to ground shall not exceed 25 ohms. Rod may be common to both meter enclosure and service disconnect equipment.
- (F) The electrical contractor shall place his name, address and telephone number in the service disconnect enclosure in a manner that will withstand the environmental conditions.
- (G) Space for at least 2 spare branch circuit disconnection means shall be provided in the panel in the initial installation. (This does not include single load installations such as pumps, signs, etc.).
- (H) All material and equipment installed shall be listed with Underwriters Laboratories Inc., or other approved testing agency.
- (I) Minimum size conductors, except control circuits, flexible cords, fixture wires and signal circuits shall be #12.
- (J) Non-metallic sheathed cable shall not be used except for branch circuits. Only type NMC, THW or an approved equal with grounding wire shall be used. Feeders and subfeeders shall be enclosed in conduit or other suitable raceway.
- (K) Metal conduit shall not be used as a grounding conductor. A separate grounding conductor shall be carried in the same conduit as current carrying conductors.
- (L) Service entrance cable shall not be used for meter services.
- (M) Type "USE" cable shall not be direct buried.
- (N) Concealed knob and tube wiring and concealed "MC" or "AC" cable will not be permitted.

(Ord. No. 17A, 7-3-1974; Ord. No. 18-19, § 1, 8-15-2018)

Sec. 4-31. - Non-metallic conduit required.

All commercial structures and structures containing three or more living units are hereby required to install all electrical wiring not atmospherically protected within a non-metallic conduit.

(Ord. No. 76A, 4-21-1982)

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Sec. 4-32. - Highest standards to take precedent.

Where plans have been submitted to the Building Inspector for the City and said plans and specifications exceed the requirements of the Building Code and this Article, the highest standards shall take precedence, and any change in the plans and specifications shall be delivered to the Building Inspector prior to implementing said change.

(Ord. No. 17A, 4-3-1974)

ARTICLE IV. - RESERVED.

Secs. 4-33—4-39. - Reserved.

ARTICLE V. - DEVELOPMENT STANDARDS REVIEW TASK FORCE

Sec. 4-40. - Composition.

There is hereby established an advisory Board called the Development Standards Review Task Force (hereafter "Review Board"). The Review Board shall consist of five (5) members of the public appointed by the City Council.

(Ord. No. 09-01; Ord. No. 10-32; Ord. No. 13-05)

Sec. 4-41. - Term of office.

Each member of the Review Board shall be appointed for a term of two (2) years. Vacancies shall be filled for an unexpired term in the same manner in which the original appointments are made. Continued absences of a member of the Review Board shall, at the discretion of the City Council, subject any such member to immediate removal from office.

Sec. 4-42. - Quorum.

Three (3) members of the Review Board shall constitute a quorum. No Board member shall act in any case in which he or she has a personal interest.

(Ord. No. 09-01; Ord. No. 13-05)

Sec. 4-43. - Procedure.

(A) The Review Board shall establish rules and regulations for its own procedures consistent with

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the provisions of this Code.

- (B) The Review Board shall meet at least once each month at a regularly established time and may hold any such additional meetings that the Chairman may call.

Sec. 4-44. - Chairman.

The Review Board shall elect a Chairman, Vice Chairman and such other offices as the Board may determine to be necessary to carry out its duties.

Sec. 4-45. - Purpose.

- (A) The purpose of the Development Standards Review Task Force is to develop recommended site plan and exterior design guidelines and ordinances for non-residential uses [all uses other than One (1) or Two (2) family structures] to the City Council, as well as to review all such non-residential building site plans and specifications to insure their compliance with City Ordinances and City Design Guidelines. Review and approval of said site plans and specifications shall take place prior to receipt of a building permit for said structure(s).
- (B) Development Standards Review Task Force will establish goals annually including the following general objectives:
- Make recommendations regarding design guidelines and ordinances for all development, public and private
 - Administer the City's Form-Based Code as adopted by the City Council
 - Develop guidelines for the enhancement of Padre Boulevard
 - Consider and grant variances to established development regulation, when appropriate

Sec. 4-46. - Appeal.

Any person aggrieved by the decision of the Development Standards Review Task Force may appeal such decision to the City Council. Such appeal to the City Council must be made within ten (10) days from the date the applicant received Notice from the Development Standards Review Task Force. The City Council will hear the appeal within thirty (30) days of receipt of Notice of the Appeal. The decision of the City Council is final.

Sec. 4-47. - Required review by the development standards review task force.

Prior to issuance of permits from the Public Works Department, the Development Standards Review Task Force shall first review and approve the following:

- (A) Site plans and elevation drawings for all structures excluding one (1) or two (2) family

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structures and multifamily structures with two (2) or less stories or with sixteen (16) or less units in one (1) building.

- (B) All structures, excluding one (1) or two (2) family use structures and multifamily structures with two (2) or less stories or with sixteen (16) or less units in one (1) building, desiring exterior color and material use changes (i.e. painting, siding, stucco, etc.) must obtain a permit from the Public Works Department, except color changes that comply with the design guidelines do not require review by the Development Standards Review Task Force.

The Development Standards Review Task Force may only deny an application if it does not meet all existing applicable ordinances or the Review Board may refer an applicant to the City Council if their project does not meet existing design guidelines.

(Ord. No. 08-04, April 2008)

Secs. 4-48, 4-49. - Reserved.

ARTICLE VI. - COMMERCIAL PROPERTY MAINTENANCE

DIVISION 1. - GENERAL

Sec. 4-50. - Scope.

The provisions of this Article shall govern the minimum conditions and the responsibilities of persons for maintenance of Commercial structures, equipment and exterior property.

Sec. 4-51. - Responsibility.

The owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in the City's Code of Ordinances. A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in a sanitary and safe condition and which do not comply with the requirements of this chapter.

Sec. 4-52. - Vacant structures and land.

All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

DIVISION 2. - EXTERIOR PROPERTY AREAS

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Sec. 4-53. - Sanitation.

All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.

Sec. 4-54. - Grading and drainage.

All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon. Exception: Approved retention areas and reservoirs.

Sec. 4-55. - Sidewalks and driveways.

All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.

Sec. 4-56. - Weeds.

All premises and exterior property shall be maintained free from weeds or plant growth in excess of ten inches (10 inches). All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

Sec. 4-57. - Rodent harborage.

All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.

Sec. 4-58. - Exhaust vents.

Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.

Sec. 4-59. - Accessory structures.

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All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.

Sec. 4-60. - Motor vehicles.

Except as provided for in other regulations, no inoperative or unlicensed motor vehicle shall be parked, kept or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth.

Exception: A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purpose.

Sec. 4-61. - Defacement of property.

No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti.

DIVISION 3. - EXTERIOR STRUCTURE

Sec. 4-62. - General.

The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

Sec. 4-63. - Protective treatment.

All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

Sec. 4-64. - Premises identification.

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Buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 4 inches high with minimum stroke width of 0.5 inches.

Sec. 4-65. - Structural members.

All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.

Sec. 4-66. - Foundation walls.

All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

Sec. 4-67. - Exterior walls.

All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.

Sec. 4-68. - Roofs and drainage.

The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

Sec. 4-69. - Decorative features.

All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

Sec. 4-70. - Overhang extensions.

All overhang extensions including, but not limited to canopies, marquees, signs, awnings, fire escapes, standpipes, and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic applications of weather-coating materials, such as paint or similar surface treatment.

Sec. 4-71. - Stairways, decks, porches and balconies.

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Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

Sec. 4-72. - Handrails and guards.

Every handrail and guard shall be firmly fastened and capable of supporting code imposed loads and shall be maintained in good condition.

Sec. 4-73. - Windows, skylight and door frames.

Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.

Sec. 4-74. - Glazing.

All glazing materials shall be maintained free from cracks and holes.

Sec. 4-75. - Doors.

All exterior doors, door assemblies and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and sleeping units shall tightly secure the door.

Sec. 4-76. - Notice to property owner for non-compliance.

Whenever any condition described in this ordinance is found to exist on any premises with the City, the owner of such premises shall be notified by the City, in writing, to address, correct, remedy or remove the condition within ten (10) days after such notice is issued and it shall be unlawful for any person to fail to comply with such notice.

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Building Hope: Tools for Transforming Abandoned and Blighted Properties into Community Assets

A Report on Dallas, Texas

Prepared for: Builders of Hope

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December 2007

17-23

Building Hope: Tools for Transforming Abandoned and Blighted Properties Into Community Assets

A Report on Dallas, Texas

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Building Hope: Tools for Transforming Abandoned and Blighted Properties Into Community Assets

A Report on Dallas, Texas

Introduction

This report was prepared at the request of Builders of Hope, a Texas nonprofit corporation and community-based organization in West Dallas, to examine some of the different legal and policy tools that can be used to improve the abandoned and blighted properties that plague the community. Builders of Hope is working with other community organizations to transform a section of West Dallas into a safe, healthy, and viable neighborhood, with the belief that all residents have the right to live in neighborhoods free from crime and urban blight.

West Dallas is an area gripped in poverty and crime. In the 75212 zip code, which includes West Dallas, there are 22,789 residents. One out of three families in this area live below the poverty level. Sixty-five percent of the population over age 25 has not completed high school. The median household income is \$25,790, and the median housing values (\$41,483) are less than half of the median for the City of Dallas (\$109,153). West Dallas's crime rates are significantly higher than the rest of the City—with some areas suffering from crimes rates as high as 5-8 times the city rate. In one census tract area (the area in between Singleton, Hampton, Westmoreland, and I-30), for example, the residential property crime rate in 2004 was 252.4 crimes per 1,000 persons—roughly 8 times the city rate.¹

Significant to this report, the area is also crippled by thousands of vacant, abandoned, and blighted properties—which contribute to criminal activity, detract from the area's quality of life, and stand in the way of the nonprofit's efforts to build hope for residents in the area. A 2006 window survey identified 11,390 total parcels in West Dallas, of which 2,791 were vacant lots, and 1,648 had major code issues.²

Anyone driving through this area cannot help but be struck by the level of abandonment and urban blight. These abandoned properties are a daily reminder of the loss of hope in the community and the reluctance of government and private institutions to invest in the community's future. These properties are a persistent threat to the neighborhood and its residents.

The impact of these blighted properties are not limited to West Dallas, but instead are an economic drain to the entire City of Dallas. They lower property values of the

¹ J. McDonald Williams Institute, "Research Compilation: West Dallas (Zip Code 75212)," December 2006, pp. 7, 14.

² James Murdoch, "2006 West Dallas Windshield Survey," cd on file with author.

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surrounding residences, resulting in lower property tax revenues. They require costly city maintenance including repeated code inspections, trash clean up, and demolitions. They breed crime and place a heightened demand on law enforcement resources.³ They undermine attempts to bring economic development to the area. If these blighted properties are not addressed, “even ambitious revitalization projects and neighborhood improvement expenditures may fail to increase demand.”⁴

Builders of Hope and other community groups in West Dallas still have hope—hope to see these properties rebuilt into decent, safe places to live. The transformation of these properties will result in multiple benefits not only to West Dallas, but also the entire city. These benefits include: increased residential and commercial property values resulting in increased tax revenues, reduced maintenance costs, and reduced demand on law enforcement resources.⁵

Builders of Hope is concerned with the large number of properties in West Dallas that fall into one of the following three categories:

- (1) vacant lots, which attract crime, dumping, and are an eyesore to the community.
- (2) abandoned and dilapidated homes, some of which are boarded up, which also attract crime, dumping, and are an eyesore to the community.
- (3) rental properties owned by absentee landlords that are not in compliance with code and are occupied by tenants engaging in criminal activity.

Builders of Hope has asked the Clinic to examine the City’s existing legal tools for dealing with these problem properties, to identify barriers with the existing strategies, to examine model practices used in other cities, and to provide a set of recommended policies and strategies for moving forward. Over the past four months, to prepare this report, the Community Development Clinic interviewed more than 20 individuals from across the state, along with national experts; researched local ordinances, state statutes, and Texas case law; and reviewed numerous reports and publications on the topic of vacant, abandoned, and blighted properties.

Parts I-IV of this report examine the following legal tools that the City of Dallas has available to eliminate the problems associated with abandoned and blighted properties: code enforcement, criminal nuisance abatement, receivership, and asset forfeiture. For each tool, we researched the scope of the tool and how it works on the books and in practice. We then examined the different barriers that exist in maximizing the effectiveness of the tool. Parts I-IV also lay out best practices we researched from around the country pertaining to these tools and how these

³ See generally, National Vacant Properties Campaign, “Vacant Properties: The Trust Cost to Communities,” August 2005.

⁴ Accordino, John and Gary T. Johnson, “Addressing the Vacant and Abandoned Property Problem,” *Journal of Urban Affairs* 22(3) (2000), p. 303.

⁵ A five-year collaborative code enforcement effort in Sacramento, California led to a 28% increase in median home prices, a 10% increase in sales tax receipts, and a 32% reduction in crime. The economic benefits to the city exceeded the costs by almost \$8 million. Susan Catron & Robert W. Wassmer, “A Benefit-Cost Analysis of the Auburn Boulevard Revitalization Project,” February 4, 2005.

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practices could be modeled in Dallas. Part V of the report lays out a set of recommendations and next steps for the community to consider in moving forward. Part VI sets forth a list of items for potential follow up research.

Part I. Code Enforcement

Effective code enforcement is essential to revitalizing a distressed neighborhood. Problem properties can “deter investors, frustrate existing residents and generally contribute to an environment of fear, disorder, and crime” in a neighborhood.⁶ Yet, code compliance in Dallas “has long ranked at the top of residents’ complaints.”⁷ This section provides an overview of the code enforcement process in Dallas, identifies some barriers to effective code enforcement, and lists some best practices and ideas for reforms from cities around the country.

Code Enforcement Laws In Dallas

There are several different state and local laws governing code enforcement in the City of Dallas. Chapter 54 of the Texas Local Government Code sets up parameters under which a municipality may enforce its health and safety ordinances. Chapter 214 of the Local Government Code governs municipal authority to regulate substandard buildings. Chapter 211 of the Texas Local Government Code concerns the enforcement of zoning ordinances. Chapter 27 of the Dallas City Code includes the City’s health and safety standards for the maintenance of residential and nonresidential structures, along with regulations for the repair and demolition of substandard buildings.

Property owners must comply with a set of minimum standards under Article 3, Chapter 27, of the Dallas City Code. These requirements are wide-ranging and include eliminating rodents, maintaining a residential structure in a weather-tight and water-tight condition, and maintaining the structural integrity of the structure. Other provisions of the City Code also govern maintenance conditions for properties. Chapter 18 of the City Code governs solid waste, weeds and vegetation, and junked vehicles. Chapter 7A governs littering. Each of these provisions carries its own set of penalties.

For vacant structures, the Dallas City Code includes a requirement that the doors and windows of a vacant structure (or vacant portion of a structure) be “securely closed” to prevent unauthorized entry.⁸ If a structure is unsanitary or unsafe and presents an immediate danger to the health, safety, or welfare of the public or any occupant of the structure, the City may place a red placard warning of the dangerous condition. The City then has a duty to immediately refer the case to the City Attorney’s Office for a hearing in municipal court on the need to vacate any residents.⁹ The City has a duty to secure a vacant structure that violates the minimum standards for structures in Article III of Chapter 27 and that is unoccupied or occupied by persons without a right

⁶ LISC & MetLife Foundation, “Leveraging Code Enforcement for Neighborhood Safety Initiatives: Insights from Community Developers,” p.1.

⁷ Bush, Rudolph, “Dallas’ Code Compliance unit set to change procedures,” *Dallas Morning News*, December 6, 2007. The article describes the problem as a “Code Compliance department judged bureaucratic, unresponsive and incapable of tackling major problems that plague neighborhoods.”

⁸ Dallas City Code § 27-11(a)(6).

⁹ Dallas City Code § 27-15.1

to live in the structure.¹⁰ After securing the structure, the City has a duty to give notice to the owner; the owner then has a right to a public hearing in municipal court to contest the securing of the structure. The requirements for securing the property are in the Dallas Fire Code.

If the property remains boarded up after 180 days without being occupied by the owner or lawful tenant and has at least one visible violation of Chapter 27, the City can bring an action to require repair or demolition of the structure.¹¹ In actions to repair or demolish a substandard structure, if the court gives the owner more than 90 days to do work to bring the dangerous structure into compliance with code, the owner must submit progress reports. If the work is not done, the city may then complete the work at its own expense and has a lien for its expenses.¹²

The City may seek civil penalties or injunctive relief for code violations, although injunctive relief is available only in municipal or district court enforcement actions, and not in administrative actions. Injunctive remedies may include, depending on the facts: (1) requiring the property owner to comply with the city's code ordinances; (2) compelling repair or demolition of the property; (3) ordering a property to be vacated; (4) compelling a vacant property to be secured in compliance with the Dallas Fire Code within 30 days; and (4) granting approval for the City to repair or remove the structure and recover costs.¹³ Stiff civil penalties are available if the City shows that the defendant had actual knowledge of the violation and failed to comply or take action after receiving the notice. Fines of up to \$1000 per day per violation are available for non-homestead property. If the property is the owner's lawful homestead, then fines are capped at \$10 a day under Chapter 27.¹⁴

Code Enforcement Process In Dallas¹⁵

Code enforcement is conducted in several different City of Dallas departments. Most code enforcement is conducted under the City of Dallas Department of Code Enforcement (DCE). DCE is divided into nine geographical regions with code inspectors assigned to each. The DCE process for determining violations is largely complaint driven. The majority of complaints are received through the City's 3-1-1 non-emergency phone line, although complaints are also made through council members' offices and other avenues. Violations may also be located through inspectors' observations while in the field or as a result of the City's new multi-tenant licensing system, which requires regular inspections of multi-tenant buildings with more than three units and that are five years of age and older.¹⁶ Through the licensing system, inspections are required at least every three years. Multi-tenant

¹⁰ Dallas City Code § 27-16(b).

¹¹ Dallas City Code § 27-16(i).

¹² Dallas City Code § 27-16.3(c)(3).

¹³ Dallas City Code § 27-16.7(b).

¹⁴ Dallas City Code § 27-16.3(7).

¹⁵ Much of this information was obtained from phone interviews with Dallas assistant city attorneys.

¹⁶ See http://www.dallascityhall.com/code_compliance/Multitenant.html.

properties are also required to register annually with the Department of Code Compliance as well as the Office of Special Collections.¹⁷

After information about complaints, such as those received by 311 calls, is entered into the City's data system—an integrated information system accessible by all city departments—the complaints are referred to the DCE where appropriate. The DCE has the authority to conduct an inspection of the exterior of the premises, but not the interior unless permission is granted by the owner, occupant, or person in control of the premises.¹⁸

The DCE first tries to get owners to come into compliance before initiating proceedings against the owner. Code inspectors will first send the property owner a notice of violation which sets out the ordinance being violated and gives the owner a reasonable time period to comply, depending on the nature of the violation. Once the time has expired, the code inspector will re-inspect the property to determine if the violation was corrected. If the owner does not come into compliance after receiving a notice of violation, the code inspector generally writes a citation.

Some code enforcers in Dallas are not under the umbrella of the Code Compliance Department and report directly to the City Attorney's office instead. Two sections of the City Attorney's office employ their own code inspectors: the Code Compliance Section and the Community Prosecution Section. The Community Prosecution Section, which employs five code inspectors, was created to work in specific Dallas neighborhoods to develop proactive, creative solutions to quality of life problems, including code enforcement. There are ten attorneys assigned as Community Prosecutors, who may be involved in code enforcement cases involving properties in their assigned areas, although code enforcement is not necessarily their primary responsibility.

There are two primary ways in which a code violation is prosecuted: (1) an administrative enforcement action in the City's Hearing Officers Court; or (2) a civil action in municipal or district court.¹⁹ The City of Dallas is now prosecuting the vast majority of code violations in the Hearing Officers Court, an administrative forum discussed below. There are three different sections of the City Attorney's office involved in prosecuting code violations. The Prosecution Section prosecutes all of the code citation cases in administrative court and the lawsuits filed in municipal court. Three attorneys work full time as civil adjudicators on these cases. The Code Compliance Section prosecutes all of the code compliance lawsuits filed in district court, primarily more complex cases involving multifamily and commercial properties. Cases with environmental enforcement issues are handled by the attorneys in the Code Compliance and Prosecution Section. The Community Prosecution Section is also involved in some code enforcement actions.

¹⁷ City of Dallas, "Multi-tenant registration program," available at http://www.dallascityhall.com/code_compliance/Multitenant.html.

¹⁸ Dallas City Code § 27-5.

¹⁹ Under the statute, a civil action can also be filed in county court, but the City Attorney's office brings suits only in municipal or state district court.

In addition to doing code enforcement work, the City Attorney Code Compliance Section coordinates with the SAFE (Support Abatement Forfeiture and Enforcement) Team, which is a program of the Dallas Police Department. The SAFE Team consists of police officers, code enforcement officials, and attorneys, who pursue a comprehensive strategy addressing criminal activity and code compliance issues. (Further discussion of the SAFE Team is below in the section on criminal nuisance abatement). When appropriate, the Code Compliance Section will bring lawsuits against property owners that combine Chapter 54 code enforcement actions with other strategies such as Chapter 125 criminal nuisance abatement lawsuits and Local Government Code Chapter 211 zoning violation suits.

Under Chapter 27, the City is required to set up a Citizen Advocate Program to assist individuals who are found financially unable to comply with an administrative order.²⁰ Penalties and fines assessed under Chapter 27 go into the City's general fund, except for \$36 a violation, which goes into the Dallas Tomorrow Fund. Thirty percent of all civil fines collected under Chapter 54 also go into the Tomorrow Fund. The fund must be used for the sole purpose of rehabilitating and repairing properties for low-income persons who have committed code violations and who do not qualify for other repair assistance.²¹

In December 2007, in response to repeated complaints from residents, the City announced changes to its code enforcement process. These changes are being spearheaded by the Dallas City Manager and new interim director of code enforcement, Forest Turner. By April 1st, 2008, most code enforcement officers will be based out of one of five geographic regions in the city and be responsible for neighborhoods within those regions, instead of covering the entire City. The City is creating a new position, known as neighborhood code representatives. Each of the City's five regions will have three representatives, who will communicate directly with residents and community leaders and serve as an advocate to involve different city departments in addressing more complex code issues. The City is also investigating tightening some of its existing ordinances, including ordinances that govern high weeds and signs in storefront windows.²²

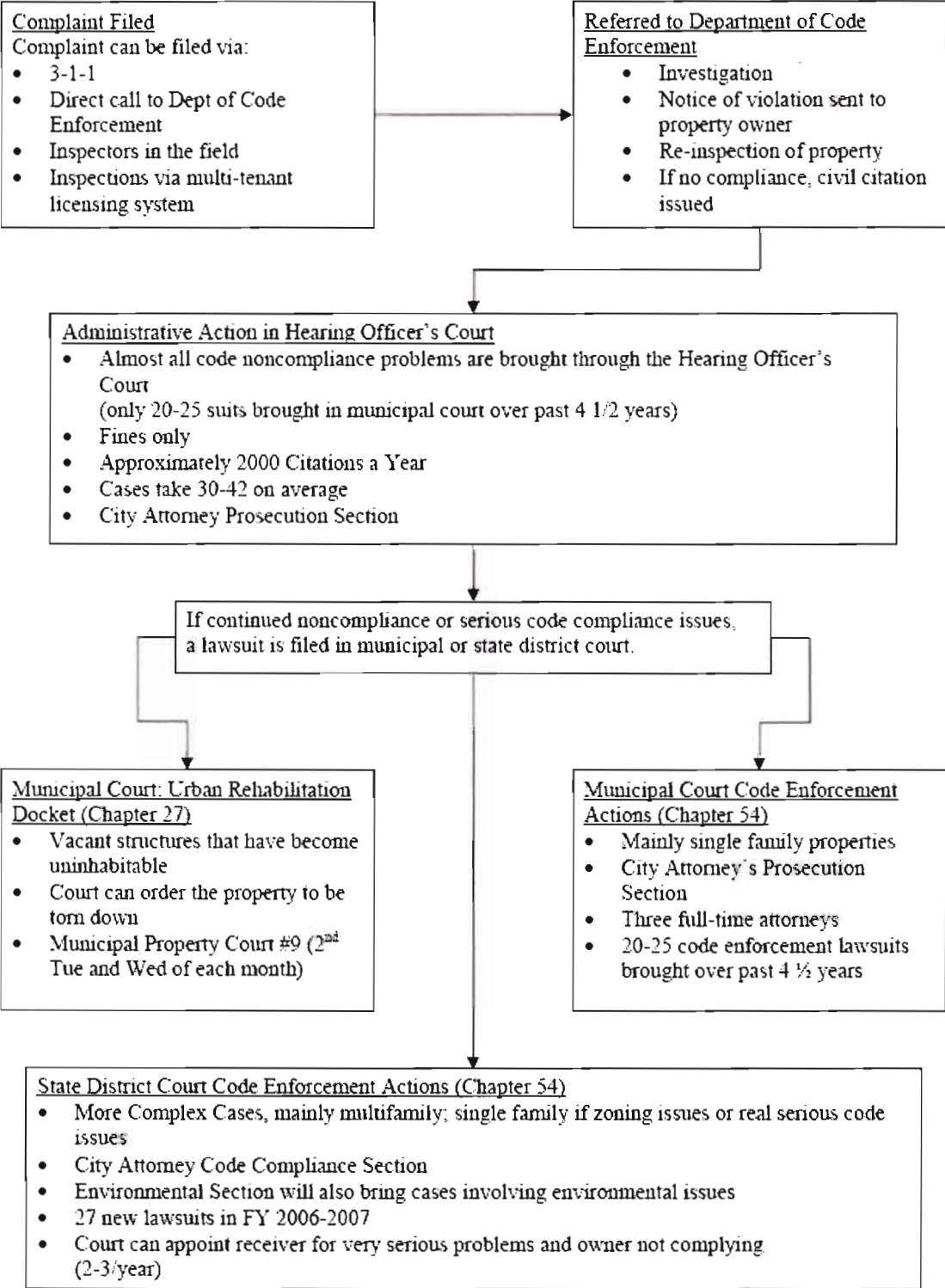
²⁰ Dallas City Code, § 27-16.19.

²¹ Dallas City Code, §§ 27-16.21 to 27-16.23. These sections list other qualifications that individuals must also meet to receive assistance from the Dallas Tomorrow Fund.

²² Bush, Rudolph, "Dallas' Code Compliance unit set to change procedures," *Dallas Morning News*, December 6, 2007.

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**CODE COMPLIANCE PROCESS
DALLAS, TEXAS**



Administrative Enforcement

In 2005, substantial revisions were made to the Dallas City Code to implement a comprehensive administrative process for handling civil code violations. The system was modeled after successful systems in cities such as Detroit, Chicago, and Seattle. Prior to that time, the City only had the option of writing criminal citations, which were prosecuted in municipal court. The heavy backlog led to cases taking one to two years to come to resolution. The heightened procedural requirements and burdens of proof in a criminal proceeding also created difficulties. For example, the defendant had to be identified by an eyewitness in every case. Cases could be easily dismissed if the code inspector who wrote the citation was unable to appear at the hearing to identify the defendant property owner.

Now, the vast majority of common violations contained in Chapters 7A, 18, and 27 of the Dallas City Code are known as “property codes” on which civil citations can be issued. These violations are then prosecuted in an administrative proceeding called the “Hearing Officers Court.”²³ For example, litter, weed, structural deficiency, and multi-tenant requirement violations can all be issued civil citations. Civil prosecution eases the burdens of proof, and the administrative forum allows for quicker movement of violations through the system.

About 2000 civil citations are processed through the administrative system each month. Per city ordinance, the hearing date cannot be earlier than 31 days after a citation is issued. Cases take 31-40 days on average to come to the hearing officer's court. Most cases in the administrative process are resolved at the hearing because the citation creates a rebuttable presumption of violation, which means the owner must prove otherwise or the City automatically wins its case. The City asks for a finding of “liable” and for the full penalty to be assessed. The hearing officer then enters a finding of “liable” or “not liable,” and also has the discretion to reduce the fine amount from the maximum available penalties. The property owner has a right to file an appeal within 30 days in the municipal court.

Civil Enforcement Actions

In addition to the administrative enforcement actions, the City Attorney's office can prosecute code enforcement violations in civil actions filed in the municipal or state district court. Civil actions are not widely used and are typically brought only after an administrative citation has not brought about compliance. Sometimes a Chapter 54 code enforcement case will be joined with a lawsuit under Section 211 for zoning code violations, such as illegally running a business (e.g., a boarding house) out of a residence. Unlike with the administrative enforcement actions, injunctive relief is available in municipal and state district court actions, along with fines. Through injunctive relief, the court can order the owner to make specific repairs and take specific actions concerning the property. The court can also grant permission to the city to enter the property and make repairs, although the City of Dallas never seeks this relief because of the lack of resources. According to the City, typically a court's

²³ Dallas City Code §§ 7A-20, 18-51, 27-4.

injunctive orders and the threat of fines and even jail time for violation of the orders are sufficient to get the owner to make the repairs.

Most cases against single-family properties are brought in the Hearing Officers Court. When an administrative action does not bring about compliance, the Prosecution Section of the City Attorney's Office can bring a lawsuit in municipal court. The Section has brought about 20 to 25 such lawsuits against single family properties over the past four and half years.

The Code Compliance Section of the City Attorney's Office handles cases filed in the state district court. The state forum is better suited to handle more complex cases, mainly those involving multi-tenant and commercial properties. In the 2006-2007 fiscal year, the Code Compliance Section filed approximately 27 new code enforcement lawsuits in the state district court. The Code Compliance Section will handle a small percentage of cases related to single family properties, especially those involving zoning violations and nuisance abatement issues.

Civil actions under Chapters 27 and 54 are not very widely used in part because of the complexity, time, and resources involved in bringing a lawsuit. Actions under Chapter 54 are more complicated to prosecute, in part because the standards imposed by the state statutes are high. For example, in order to receive injunctive relief under Chapter 54, the City must prove a substantial risk of health impact to the person or property of someone *other* than the owner.

Violations of Chapter 27 and Chapter 211 can also still be prosecuted criminally. Criminal cases represent only a small portion of the overall caseload involving code enforcement. Penalties for Chapter 211 zoning violations can include a fine, imprisonment, or both.²⁴ In Chapter 27, however, the City Code only allows for fines and not imprisonment.²⁵ A court can require jail time for contempt in Chapter 27 and Chapter 54 code enforcement cases when an owner refuses to comply with the court's injunctive orders.

Self-Help Actions

Chapter 54 does not provide a procedure by which neighbors or community organizations can file their own lawsuits to require an owner to clean up a property or to seek injunctive relief to allow an organization to make the repairs. In Texas, however, there may a traditional court-recognized right whereby individuals can bring a "common law" right of action against a property owner for failing to abate a nuisance. We have not conducted research on the scope of Texas common law concerning self-help actions. Further research is needed to determine to what extent a self-help nuisance abatement action is legal in Texas under the common law.

²⁴ TX Local Gov't Code, § 211.012.

²⁵ Dallas City Code, § 27-4.

Generally, under the common law in other states, if the neighbors' health, safety, or quality of life is affected by a nuisance, they have the right, after providing notice to the owner, to enter the property and remedy the nuisance themselves. The owners can then file a civil action against the owner to reimburse the expense. Because of the financial risk involved in a self-help action, such an action must be approached cautiously.²⁶

A Dallas Assistant City Attorney mentioned one instance in which two neighborhood groups in Lake Highlands recently intervened in a city code enforcement lawsuit involving nuisance issues, including an open sewage line, failure to maintain heating equipment, failure to keep areas free of insects and rodents, and failure to maintain fire alarms. The two groups, the Lake Highlands Area Improvement Association and the Highland Meadows Neighborhood Association, sought \$150 a day in damages.²⁷

Urban Rehabilitation Docket

When properties are seriously dilapidated and need to be torn down, the City Attorney's Office may seek to have the property demolished by filing an *in rem* action against the property in the municipal court's Urban Rehabilitation Docket, which is part of the Municipal Property Court #9.²⁸ The docket is set for two days a month, on the second Tuesday and Wednesday. Such actions are primarily filed for vacant, severely dilapidated single family homes. The Municipal Property Court also hears any Chapter 54 lawsuits filed in municipal court.

Under Chapter 27, if the structures are inhabited, the City must provide relocation assistance to the individuals living there, unless the occupant is the owner and has the financial means to repair the property.²⁹ State law also has a provision governing relocation benefits.³⁰ The City has limited resources to handle demolition cases cases.³¹ The Urban Rehabilitation Docket can handle approximately 200 cases per year, and each case generally takes three to six months to be resolved. This number is in part limited by the court's resources available to hear cases and the limited budget allocated to enforcement of these actions. In the 2006-2007 fiscal year, the City Attorney filed approximately 167 such lawsuits.

²⁶ Mallach, Alan, *Bringing Buildings Back: From Abandoned Properties to Community Assets* (National Housing Institute 2006), p. 155.

²⁷ Wendy Hundley, "Damages sought from apartment complex," December 10, 2006, Dallas Morning News website: http://www.dallasnews.com/sharedcontent/dws/news/city/richardson/stories/DN-apartments_10met.ART0.North.Edition1.3db98bd.html#

²⁸ Dallas City Code, § 27-16.3.

²⁹ Dallas City Code, § 27.16-3.

³⁰ TX Property Code, § 21.046(e).

³¹ The DCE has a budget of \$896,514 and 6.0 FTE to provide relocation assistance for individuals whose structures are condemned as an urban nuisance, with the goal of helping 40 people a year.

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Liens

There are several different Texas and local laws governing liens. Chapters 54 and 214 of the Local Government Code are the more relevant state law provisions. Chapter 27 of the Dallas City Code also governs liens. The City has the authority to record liens against a property when an owner does not pay certain type of costs, fees, and penalties associated with code enforcement, such as the city's costs of mowing the premises, repairing or demolishing a structure, or unpaid court judgments.³² The City then has the ability to foreclose on these liens, although there are exceptions for homestead properties.

Traditionally, the city has not foreclosed on non-tax liens. Instead, the Linebarger law firm, which handles the city's property tax collections, would foreclose on these liens only when the property also had ad valorem tax liens. The City has recently hired an attorney who, as part of the City Attorney General Litigation Section, will be focusing on collections, including collection on Chapter 54 judgments. It is unclear so far whether this attorney will also collect on demolition and mowing liens. Under Chapter 214.004 of the Local Government Code, it appears that a City cannot foreclose on a substandard building lien under that Chapter unless ad valorem taxes are also delinquent. Chapter 27 of the Dallas Code states that the City may foreclose on the liens unless the structure is occupied as a residential homestead by a person 65 years of age or older.³³ Further research is needed.

The City's liens for costs incurred in Chapter 27 actions are nontransferable to third parties and take priority over all liens, other than tax liens, as long as the City provides the other lien holders with notice and an opportunity to properly maintain the property.

Barriers to Effectiveness

In the past, the Dallas municipal court system was so overloaded that bringing code violation suits to their conclusion could take one to two years if contested. Property owners operating multiple residential rental properties in West Dallas neighborhoods were able to exploit the system's inefficiencies and the already overloaded court system to further delay resolution of their cases. The City has since begun prosecuting the majority of code violations through its administrative forum since 2005 and through civil (rather than criminal) suits in municipal court. The administrative enforcement appears to have remedied some of the problems that plagued the former system, but problems remain. In the Summer of 2006, there was a backlog of 400 unresolved code complaints; by December 2007, this number was down to 139.³⁴

More data is needed to assess the new system's success and impact in bringing the more recalcitrant property owners into compliance. There has been a lot of recent

³² See, e.g., Dallas City Code, §§ 27-16.8(e), 27-19.8, 18-18; TX Local Gov't Code § 54.040(a).

³³ Dallas City Code, § 27-16.8(e).

³⁴ Bush, Rudolph, "Dallas' Code Compliance unit set to change procedures," *Dallas Morning News*, December 6, 2007.

turnover in the Department of Code Enforcement, and the staff we contacted in the department were either too new to answer our questions or did not return our phone calls. The fact that there continues to be a large backlog of code complaints and large number of vacant and blighted properties makes it evident, however, that something is still wrong with the current system and that the City needs to be more aggressive in improving the conditions of these neighborhoods. Close to 10% of properties in West Dallas have major code violations, and another 25% of properties are vacant.³⁵

In recognition of the ongoing challenges involved in building an effective code enforcement system, in 2004, the City of Dallas retained McKinsey & Company to assess the City's code compliance and economic development programs. The final report included a set of eight recommendations, including the following:³⁶

- Complete fixes to the 311 system to ensure that every request gets assigned to an inspector;
- Provide citizens with updates on progress for certain cases;
- Ensure that Code department managers get useful performance data from the 311 database;
- Hold the department accountable for its effectiveness in resolving code cases; and
- Regularly conduct surveys to measure citizen satisfaction with quality of life in Dallas.

It is unclear which of these recommendations have been implemented and, for those recommendations that have been implemented, what impact they have had on the code enforcement process. We recommend that a follow up reassessment be conducted.

Our primary focus was to examine the effectiveness and adequacy of the state and local laws governing code enforcement; we did not conduct a thorough analysis of the ways in which the code enforcement laws are being administered at the inspector level. Based on our analysis, however, we did identify the following barriers that remain under the new system:

- The City's code enforcement process is hampered by the lack of adequate dedicated funding and staff resources. This is a complaint we heard from several community leaders. Code enforcement takes time, people, and money, and there is not enough of these resources dedicated to code enforcement in Dallas.
- There continues to be limited public access in Dallas to information concerning code complaints and city enforcement actions. When a resident makes a call into 311, the resident does not hear back from the City regarding

³⁵ James Murdoch, "2006 West Dallas Windshield Survey," cd on file with author.

³⁶ McKinsey & Company, "Improving the City's Effectiveness in Code Compliance and Economic Development." Presentation to Dallas City Council, November 17, 2004, available at www.mckinsey.com/.

the status of the complaint, and it is difficult if not impossible to then independently track what happens to the complaint, short of submitting a public information request in writing. The lack of transparent, easily accessible information concerning code enforcement makes it difficult for neighborhoods to be engaged in the code enforcement process, and makes it difficult for neighborhoods to hold the city accountable for what types of code enforcement activities are happening or not happening in their neighborhoods.

- The City's code enforcement strategy appears to remain primarily complaint driven—the “squeaky wheel gets the grease.” Inspectors are assigned to geographic areas which they patrol, but rely substantially on citizen complaints to locate problem properties. This leads to a more reactive, sporadic approach to code enforcement, rather than a proactive and strategic response to code violation issues.
- The code enforcement scheme is limited in its ability to address the problems of property owners who commit repeated code violations and yet fix up their properties as soon as an enforcement action begins. It is easy for property owners to evade penalties by demonstrating the violation is “fixed,” which starts the process over again.
- If the property is in such poor condition that the appropriate remedy is to order the occupants to vacate the premises or to demolish the premises, the City is required by law to provide relocation assistance to the residents (unless the occupant is the owner and has the financial means to repair the property, in which case the city only has to pay moving costs).³⁷ The code compliance department has a very limited budget for relocation benefits, so only vacant properties can be effectively targeted for demolition.
- There are several different city departments and sections charged with code enforcement responsibilities. While there is coordination between the Department of Code Enforcement, the City Attorney's office, and the SAFE team, it is unclear how far-ranging and comprehensive this coordination is across these and other city departments, and whether the complex enforcement system results in a barrier to maximizing effective enforcement.
- The City's failure to foreclose on its liens related to code enforcement activities is problematic. Owners have little incentive to pay if they know the liens will not be collected, and the city is foregoing thousands of dollars in revenues that could be re-invested in community revitalization efforts.

³⁷ Dallas City Code, § 27-16.3.

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Best Practices

- **Dedicated housing courts.** The consolidation of all property-related cases into dedicated housing courts has been effective in several cities. Specialized housing courts have been particularly effective where judges are specially elected or appointed to that court. A specialized court allows matters such as code enforcement to be a priority, rather than falling to the bottom of the judicial docket.³⁸ Judges from these courts can be active champions of healthy and safe neighborhoods.

One of Dallas's municipal courts handles property-related actions, including a special Urban Rehabilitation docket which meets twice a month to handle the cases involving the demolition and repair of extremely dilapidated single family homes.

- **Example:** The Cleveland Housing Court is a national model for housing courts.³⁹ The court has exclusive jurisdiction over code enforcement cases, and also hears landlord tenant cases, foreclosures, nuisance abatement, and receivership actions. Forty to fifty code enforcement advocates, most affiliated with neighborhood organizations, track complaints and violation notices, and assist the City in properly documenting code enforcement cases. The advocates meet with the court once a quarter to share ideas. The court also employs housing specialists to provide counseling and assistance to landlords to help them achieve compliance. The court has criminal enforcement powers, starting with minor misdemeanor fines of \$150 a day to \$5,000 a day for violations by properties owned by corporations. The court has the authority to issue search warrants to allow the City to go inside the units. The court also has broad equitable powers so that the court can issue orders such as requiring the owner to go and live in the house. In 2007, the court had a budget of \$3 million that included \$2.2 million in salaries for a 45-person staff including one judge, a magistrate, and bailiffs. The court runs a housing clinic and code enforcement workshops and conducts a wide variety of other community outreach projects. The court sometimes holds community courts in the actual neighborhood where the property is located; the residents come out to hear the cases, which results in peer pressure on the landlord to abate the nuisance.

Example: Buffalo's housing court is another national model.⁴⁰

- **Effective code enforcement management system.** An effective code enforcement management system is critical—one that is effective from the bottom up and utilizes specific performance measurement targets. As part of

³⁸ Mallach, at 44.

³⁹ Most of the information in this report about the Cleveland Housing Court came from a presentation by the Housing Court's Presiding Judge at the 2007 conference, "Reclaiming Vacant Properties: Strategies for Rebuilding America's Neighborhoods." For information about the Cleveland Housing Court, visit the court's excellent website: <http://www.clevelandhousingcourt.org>.

⁴⁰ "Here Come the Judges: Housing and Environmental Courts," Presentation at Reclaiming Vacant Properties Conference, September 25, 2007, notes on file with author.

an effective system, a city should provide regular and comprehensive training of its code enforcement personnel. A city should also train and encourage its inspectors to help citizens access resources to bring their properties back up to code, and a city should provide financial resources to assist owners with overcoming barriers to compliance.

Example: The former head of the City of Austin Code Enforcement Department emphasizes the importance of setting performance measurements based on compliance rather than the number of cases or amount of fines. The City of Austin found that a goal of “95% compliance within 90 days,” for example, was more effective than measuring the number of citations issued or the number of cases handled.

- **Posting and maintenance code requirements for uninhabitable and vacant properties.** An effective strategy to deal with properties that are uninhabitable and vacant is to require the owner to post a large “no trespass sign” so police can arrest anyone going onto the premises. The sign should be painted on the window or on boards—trespassers will rip up paper notices. The sign should also list where the owner lives and the owner’s contact information. Inspectors need to inspect the property once a week to make sure the notice is still intact. The maintenance code should also specify that putting boards up in the windows is not sufficient, but that buildings must have windows and meet other basic standards, or otherwise the property is subject to fines and demolition.
- **Proactive enforcement.** Instead of only pursuing violations on a complaint-driven, reactive basis, a best practice is to create an effective targeting strategy for enforcement that complements responses to complaints. One expert recommends implementing a process that is not complaint or politically driven, but is instead intended to further substantive public policy goals.⁴¹ For example, the City may target specific at-risk geographic areas for systematic enforcement or target properties with a greater risk of deterioration such as, for example, properties with tax delinquencies or unpaid utility bills.⁴²

Example: In the past, the City of Austin created priority property lists for each designated geographic area and started with the worst offenders for each area and worked down the list.

Example: In Louisville, Kentucky, the Neighborhood Roundtable identifies the ten worst properties in their areas. City inspectors conduct intensified inspections on these properties and generate a before and after report on each property.

⁴¹ Mallach, at 41.

⁴² Mallach, at 43.

Example: Toledo, Ohio, has created a “Dirty Dozen” program. Under this program, a property and its owner are added to the Dirty Dozen list when the property is identified as a contributor to blight in a neighborhood. When a list of 12 properties has been assembled, a team of inspectors from several city departments converges on the properties, inspects them, and issues citations. Furthermore, the location of the properties, a picture of each, and the name of the owner are provided to the news media and published on the City’s web site.⁴³

- **Effective coordination across city departments.** A keystone of a good code enforcement program is one in which resources are dedicated to capacity building and effective coordination of responsibilities across departments with code enforcement responsibilities. A city’s code enforcement program will also be more effective if it is coordinated with other city departments and agencies that are regularly in the field, including the police department, fire department, utility companies, animal control, and public works department.⁴⁴ There should be regular communication across city departments. Personnel in city departments and agencies should be cross-trained to report problems. For example, if a bailiff evicting a tenant sees a property in disrepair, the bailiff can be trained and required to report this to the city code enforcement department. If the court orders a house to be boarded up, then the water department needs to be turning the water off to the house.
- **Rental registration.** Other cities have had success with registration systems, which require landlords to register their rental properties, provide contact information for a central database, and obtain licensing or occupancy permits. Rental registration also provides the city with expanded opportunities to inspect the property and educate owners about their responsibilities as property owners and landlords. Dallas has implemented a new multi-tenant registration system in the past two years which requires inspections on a rotating basis each year. This idea has been proposed, but not enacted in Dallas, to extend this program to single-family rental homes.

Example: Los Angeles has adopted a Systematic Code Enforcement Program, which provides for the inspection every five years of all multifamily properties with two or more units, and an annual fee of \$35.52 a unit.⁴⁵

Example: New Jersey rent courts will not enter eviction orders for landlords who have not complied with the state’s registration requirements.⁴⁶

⁴³ Finkbeiner, Carlton, “The Dirty Dozen,” in *Combating Problems of Vacant and Abandoned Properties: Best Practices in 27 Cities* (United States Conference of Mayors, June 2006).

⁴⁴ Mallach, at 41-42.

⁴⁵ City of Los Angeles Housing Department website: <http://www.ci.la.ca.us/LAHD/code.htm>.

⁴⁶ Mallach, at 43

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- **Community engagement and collaboration.** The more a community can be engaged as a partner in code enforcement, the more effective the process will be. Neighborhood groups can be involved in helping a city track code violations, and can also be engaged in monitoring the process for accountability and efficiency.⁴⁷ When a city fails to meet its duties to enforce code violations, the community should have the right to then bring its own enforcement action.

Example: In Memphis, neighborhood groups have created the Problem Properties Campaign to support neighborhoods' efforts to redevelop and eliminate neglected properties.⁴⁸

Example: In Cleveland, the local housing court judge engages in a variety of activities that engage the community and connect the judge to the problems of blighted properties. For example, the judge meets once a quarter with community groups to talk about problem properties, conducts site visits to see the neighborhoods and problem properties, and distributes a newsletter to educate the community about tools to deal with problem properties.

Example: The Providence Nuisance Abatement Task Force is composed of community development corporations, the deputy attorney general, and representatives from several city departments, including the police, fire, housing, and code departments. The task force meets twice a month to work on approximately 20 problem properties nominated by the community, police, and others. The task force follows each property through resolution for at least six months.⁴⁹

Example: Baltimore has adopted a Community Bill of Rights, which grants community organizations the authority to seek injunctions to enforce a broad range of municipal code provisions when the city does not take action.⁵⁰

Example: In Atlanta, the City trains volunteer "neighborhood deputies" who patrol the neighborhood and send notices of potential code violations to property owners and occupants. If the conditions are not corrected, the deputies refer the case to the city code enforcement department. The program costs the City just \$80,000 to run, the same as the cost of two full-time housing inspectors.⁵¹

⁴⁷ Mallach, at 44.

⁴⁸ Problem Properties Collaborative website: <http://problemproperties.typepad.com>.

⁴⁹ LISC & MetLife Foundation, "Leveraging Code Enforcement for Neighborhood Safety Initiatives: Insights from Community Developers," p. 6.

⁵⁰ Kelly, James J, "Refreshing the Heart of the City: Vacant Building Receivership as a Tool for Neighborhood Revitalization and Community Empowerment," *Journal of Affordable Housing* 13(2) (2004), p. 236, n. 78 (citing Md. Code Ann., Real Prop. § 14-123 (1996)).

⁵¹ Mallach, at 42.

- **Vacant property accountability ordinances.** Cities have implemented an array of ordinances to increase the accountability of vacant property owners. These ordinances may require a range of registration fees, maintenance standards, liability insurance requirements, and enforcement mechanisms. Under a vacant property registration system, the owner of a vacant property must register the property with the City and pay a fee, ranging from \$50 to \$5,000. A vacant property registration system allows a city to be proactive instead of reactive by knowing when a property has become vacant and discouraging owners from letting their properties remain vacant. The fees also allow a city to shift the cost of enforcement for problems arising from vacant buildings onto the shoulders of problematic property owners versus the general citizenry. A number of cities also require the owners of vacant buildings to post the owners' name and contact information on the property.

Example: In Wilmington, Delaware, the city government has implemented a set of stiff, graduated fees based on the number of years the property is vacant (approximately \$500 per year). Several months before assessing the fees, notices are sent to each owner offering a one-time, one-year fee waiver if the owner rehabilitates, sells, or demolishes his or her property. While the goal of the program is to get vacant properties back into shape and into use, the program was immediately successful in collecting higher amounts of revenue to cover the cost of monitoring, citing, and prosecuting non-compliant owners.⁵²

Example: Chula Vista, California, enacted its vacant property registration system out of concern with the high rate of foreclosures in the City. Under the City ordinance, out-of-town lenders must (1) record assignment of a deed of trust; (2) inspect the property upon recordation of mortgage default; and (3) register the property if it becomes vacant and is in mortgage default. The fees cover the cost of the City's program. The owner must hire a local contact company to secure the property and also post contact information on the property. Owners have ten days to comply. For noncompliance, the City can issue administrative citations and civil penalties and recover the full costs of city enforcement (includes hourly cost of city staff at \$123 an hour). Receivership is also available as a remedy.⁵³

Example: In Cincinnati, Ohio, an owner is required to get a license whenever a building is ordered to be vacated because it is uninhabitable. If the property is fixed up and becomes habitable again, the owner no longer has to retain a license. The fee for the initial year is \$900, and the fees then increase to \$2,700 a year. If the fees are not paid, the City can institute a civil action and file a lien on the property, on which the City can then foreclose. The owner

⁵² Baker, James M., "Vacant Property Registration Fee Program," in *Combating Problems of Vacant and Abandoned Properties: Best Practices in 27 Cities*, (United States Conference of Mayors, June 2006), p. 40.

⁵³ Chula Vista Municipal Code § 15.60.

must also maintain liability insurance in the amount of \$300,000 for residential property, and \$1 million for commercial properties.

- **Ban on vacant properties.** Several cities consider any building that is vacant to be in violation of city code and subject to penalties. These cities require owners of vacant properties to take affirmative steps to either rehabilitate or demolish their properties.

Example: Owners of vacant properties in San Diego are required to submit for approval a "Statement of Intent" to bring vacant structures into productive use. The Statement of Intent must include the following: (1) expected period of vacancy; (2) maintenance plan during period of vacancy; and (3) a plan and time line for the lawful occupancy, rehabilitation, or demolition of the structure.⁵⁴

Example: In Minneapolis, the City can fine and demolish a vacant property after it has been boarded up for 60 days or more.⁵⁵

Example: Louisville, Kentucky, pursuant to authority under state law, imposes an "abandoned urban property" tax on properties which have been vacant or unimproved for one year and have been tax delinquent for at least three years or violate certain maintenance standards. The abandoned urban property tax is three times the regular property tax rate.⁵⁶

- **Public shaming.** In an attempt to publicly shame landlords whose properties are a blight to the community, some cities place a large sign on the front of properties with serious code violations, listing the landlord's name and contact information.

Example: Syracuse, New York.⁵⁷

- **Abandoned property coordinator.** In a system that inherently involves multiple city departments and sections with diverse enforcement responsibilities, it is helpful to have one person with clearly delegated oversight over the entire system who can serve as a liaison among various departments, property owners, and residents.

Example: San Diego has a vacant properties coordinator who is in charge of administering the city's nuisance abatement program. The coordinator's responsibilities include: maintaining an inventory of all vacant properties, coordinating efforts among city departments, performing liaison tasks with the

⁵⁴ City of San Diego, Neighborhood Code Compliance Department, "Vacant Property Rehabilitation Programs," available at <http://www.sandiego.gov/nccd/housing/vacant.shtml>.

⁵⁵ Minneapolis Code of Ordinances, § 249.30(a)(2).

⁵⁶ Louisville, Kentucky Housing and Community Development Department website: <http://www.louisvilleky.gov/Housing/Abandoned+Urban+Property.htm>

⁵⁷ Enterprise Foundation, "Solving Chronic Nuisance Problems: A Guide for Neighborhoods"

city's vacant property task force, and communicating with community groups and local institutions.⁵⁸

- **Property information system.** A property information system that provides current and comprehensive information about properties is a critical part of any effective abandoned and blighted property initiative. Cities can then use this data to target resources to the areas in the need of most attention. The system should be accessible via the Internet and allow the city and residents in the community to easily track and monitor the code enforcement process.⁵⁹ The system should also provide the community with the tools to assess the impact of the code enforcement. A well-run system will "inform planning, intervention, and research around abandoned properties."⁶⁰

Example: Philadelphia's Neighborhood Information System is accessible to city staff, community development corporations, and other community-based agencies that have contracts with the city. ⁶¹ Certain parts of the system are also available to the public at large. The system was created in partnership with the University of Pennsylvania and tracks a wide array of information related to properties, including the date of purchase, purchase price, tax delinquency status, city code violations, and utility terminations. The system has been particularly valuable in neighborhood planning for activities such as housing rehabilitation.

Other Examples: Baltimore, Chicago, Los Angeles, Memphis, and New York.

⁵⁸ National Vacant Properties Campaign, "Strategies & Technical Tools," available at: <http://www.vacantproperties.org/strategies/tools.html>.

⁵⁹ Mallach, at 45.

⁶⁰ Hillier, Amy, et al., "Predicting Housing Abandonment with the Philadelphia Neighborhood Information System," *Journal of Urban Affairs*, 25(1) (2003), p. 92.

⁶¹ Hillier, at 92.

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Part II. Criminal Nuisance Abatement

Background

Nuisance abatement is one of the most effective enforcement strategies that cities have for dealing with abandoned and blighted properties that are sources of repeated criminal activity. In many parts of Dallas, police calls for drug dealing, illegal weapons, and crimes against property are a regular occurrence. Drug dealing and other criminal activity contributes to a neighborhood's vulnerability and has a detrimental impact on the residents' quality of life and well-being. When a particular property is the source of repeated criminal activity (such as drug dealing by tenants and their guests), and the owner has failed to take reasonable steps to stop the activity (such as evicting the tenants), a nuisance abatement lawsuit is an important tool that cities use to shut down the criminal activity on the property.

Texas Nuisance Abatement Law

In Texas, a nuisance abatement action can be brought under Chapter 125 of the Texas Civil Practice and Remedies Code. Nuisance abatement under Chapter 125 covers two types of nuisances: common nuisance and public nuisance. A common nuisance occurs when a property serves as the location for habitual criminal activity, including drugs, gambling, and prostitution. A common nuisance abatement action is brought against a property, the property's owner or maintainer, or the person who uses the property as a nuisance. A public nuisance occurs where a property is habitually used by a gang for gang activity. A public nuisance suit can be brought against any person who owns or is responsible for maintaining a property being used for habitual gang activities. Unlike common nuisance, the property itself may not be sued.

Both civil and public nuisance abatement actions are based upon a showing that the property owner both allowed the illegal acts to occur on the property and failed to make reasonable attempts to stop them. A suit to abate and enjoin a common or public nuisance may be brought by: (1) an individual; (2) the district, county, or city attorney; or (3) the Texas Attorney General.

In addition to maintaining a property habitually for criminal activity, common nuisance requires that the person who maintains the property: (1) knowingly tolerates the activity; and (2) fails to make reasonable attempts to abate the activity.⁶² In a common nuisance suit, the court may consider the fact that an illegal activity is frequently committed at a property as evidence that the defendant knowingly tolerated the activity. The court may also consider evidence that persons have been arrested for prohibited activities on the property, evidence of the general reputation of the place, and evidence that the defendant refused to cooperate with law enforcement or emergency services with respect to the activity. As a

⁶² TX Civil Practice & Remedies Code, § 125.0015(a).

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precondition to filing a nuisance abatement lawsuit, the party filing the suit must first consider whether the property owner promptly notified law enforcement of the occurrence of criminal acts on the property and whether he or she cooperated with the law enforcement investigation.⁶³

If the city or individual bringing the suit is successful in the abatement action, the court will issue a preliminary or permanent injunction ordering the property owner to abate the nuisance. Typically, the court will issue a preliminary injunction first and a permanent injunction and penalties, as appropriate, after a trial on the merits. The court order may include specific steps the owner must take to improve the property. In a common nuisance suit brought against the property (instead of the owner), the court must order that the property be closed for one year after the date of judgment. Violation of the injunctive order can subject the property owner to a fine of \$1,000 to \$10,000 and confinement in jail for 10-30 days.⁶⁴

Evidence used in a nuisance abatement action usually consists of some or all of the following: arrest reports, citations, search warrants, incident reports, complaints, and calls for police service at the property, along with videotapes or photographs of illegal behavior conducted on the property.⁶⁵ A good nuisance abatement case rests on multiple violations within a certain time period. The Attorney General's guidebook on nuisance abatement, for instance, provides an example of a property involving six or more arrests for the same type of illegal activity within the past six months to a year. For a successful nuisance abatement action where a property is linked to criminal activity, policy reports need to identify the property and be specific as to the connection between the crime and the property.

A nuisance abatement action may also be brought under the Texas Alcoholic Beverages Code, Section 101.70, for violations of the code, such as illegally serving alcohol to minors.

History of Nuisance Abatement Enforcement In Dallas

Until this year, the City of Dallas had not made use of nuisance abatement for several years due to prior allegations of police abuse. Business and apartment owners alleged that the City of Dallas was targeting legitimate business, using Chapter 125 as justification to require those owners to implement expensive security measures to abate criminal activity. Opponents of Dallas's conduct said the police's behavior amounted to requiring owners to perform law enforcement's function of policing against criminal activity.⁶⁶ House Bill 1690, authored by Representative Terry Keel,

⁶³ TX Civil Practice & Remedies Code, § 125.002(h).

⁶⁴ TX Civil Practice & Remedies Code, § 125.002(d).

⁶⁵ Attorney General of Texas, Criminal Law Enforcement Division, *Nuisance Abatement Manual* (14th ed. 2005), pp.10-16.

⁶⁶ Ramshaw, Emily, "Cutting Through Crime Owners, City Disagrees on Efforts to Keep Area Around Carwash Safe," *The Dallas Morning News*, December 3, 2004: 1B.; Brooks, Karen, "State: Dallas Ran 'Amok' More Legislation on Nuisance Rules Urged; Miller Touts Changes," *The Dallas Morning News*,

was specifically directed at alleged misuses of the nuisance abatement laws by the City of Dallas against multi-family property owners and businesses.

House Bill 1690 amended Chapter 125 by: (1) enlarging what a city must prove before a property owner can be held responsible for criminal activity; (2) rewarding owners who promptly report criminal activity; and (3) preventing the city from using evidence that the owner reported criminal activity against the owner in an abatement proceeding. This year, through a bill filed by Representative Scott Hochberg from Houston, the Legislature made additional modifications to Chapter 125 by eliminating the requirement of a bond for common nuisance suits brought against the property.

In the Fall of 2007, following the implementation of new local procedures, the City started to bring Chapter 125 nuisance abatement enforcement actions again, after a hiatus of several years. Criminal nuisances continue to be a severe problem in Dallas. In West Dallas, for example, there are properties with as many as 69 criminal offenses committed on the property within the course of just two years.

Chapter 125 Procedures In Dallas

Nuisance abatement actions are brought through the City's SAFE Team. The SAFE Team is a unit within the Dallas Police Department that was created to reduce criminal nuisances by integrating the police department, code enforcement department, the fire department, and the city attorneys.

As discussed above, the City of Dallas has implemented a new process to handle nuisance abatement cases in the wake of alleged misuse and changes to Chapter 125. Local beat officers will first respond to an allegation of criminal activity on a property. The complaint is received and is entered into a citywide database for tracking. If the officers are unable to resolve the problem, a recommendation will be made to open a SAFE Team investigation.

The SAFE Team will research the property at issue to determine if a SAFE case should be opened. Generally, at least three abatable offenses must have been committed on the property within a year before the SAFE Team will consider taking action. If the case appears worthwhile, a SAFE Team unit consisting of a police officer, code officer, and fire inspector will be dispatched to inspect the property.

Once the SAFE Team decides to go forward on a property, certain procedures are followed. First, the SAFE Team will contact the owner to set up an "accord meeting." At this tape-recorded meeting, the owner is advised of the activities occurring on the property and what the owner can do to help address the problem with the assistance

March 4, 2006: 1A; State of Texas, House Committee on Criminal Jurisprudence and House General Investigating and Ethics Committee, "Report on Joint Interim Study Charge 2006," February 28, 2006.

of local law enforcement. Second, the team will return to the property within thirty days to determine whether the owner has taken the suggested steps to abate the problem and whether the problem persists. The team will also check computer records to see if additional complaints or offenses have been registered against the property since the accord meeting. The SAFE Team will continue to work with the property owner despite initial noncompliance or setbacks. Finally, if the owner continually fails to cooperate, the SAFE Team will begin processing a Chapter 125 abatement suit through the team's assistant city attorney.

Barriers to Effectiveness

Nuisance abatement actions are just now being brought again in the City of Dallas after a series of legislative changes. As a result, more time and data is needed to assess the impact of these changes and the effectiveness of Chapter 125 actions as a tool to remedy blighted properties. We spoke to assistant city attorneys in Texas who felt that the current statute is working well and that further legislative reforms are unneeded. Because of the large number of single family properties that are sources of repeated criminal activity in Dallas, more resources for nuisance abatement actions are definitely needed.

The following are the barriers we identified based on comparison with other state and city laws and procedures:

- The Texas nuisance abatement statute is vague in several respects. For one, the statute does not define when an owner "knowingly tolerates" criminal activity and what it means to not make "reasonable attempts" to abate the activity. This lack of statutory guidance makes it more challenging to successfully bring a nuisance abatement action. Furthermore, the Texas statute defines a nuisance as a "place to which persons habitually go" for certain criminal activity, but does not define how many criminal violations need to be tied to a property before it can be deemed habitual. Further legislative guidance at the local or state level as to when a nuisance abatement action may be brought could make Chapter 125 more effective.

Houston, for example, has a new detailed city ordinance that allows for "excessive criminal activity" to be abated and sets forth a detailed definition of what is considered to be "excessive." The Houston ordinance also provides for "remediation" inspections of problem properties, along with inspection fees of \$400.⁶⁷

- Nuisance abatement procedures can lead to property abandonment, rather than property improvement. For instance, when the city sues a property instead of the property owner, Texas law requires that the property be shut down for a year if a permanent injunction is obtained. The property then becomes an abandoned structure subject to being vandalized and stripped,

⁶⁷ City of Houston Ordinance No. 2006-1124.

and thus at risk of becoming a greater nuisance than before.⁶⁸ If a property needs to be shut down, it may be preferable to place the property in the hands of a receiver instead who can be responsible for maintaining the property.

- Community organizations do not have a right under Chapter 125 to bring nuisance abatement actions and, even if they did have the right, Chapter 125 nuisance abatement is limited to abating criminal activity, and not the other types of property-related problems that can plague a community. If a community organization in a Dallas neighborhood is impacted by blighted properties and wants to bring its own legal action, it has to file a common law action, for which there is much less guidance. While individual residents currently have the right to bring a criminal nuisance abatement action, they rarely do so, in part because of the lack of resources and possible even fear of retaliation, especially when drug activity on the property is involved.

Best Practices

- **Clear definitions of abatable nuisances.** Clearly defined instances in the state law of when a nuisance is abatable fosters compliance.

Example: In Cleveland, if three or more criminal activities occur within 30 days on the same property, the property is declared a nuisance.

- **Making nuisance a felony.** Failure to abate serious nuisances can be made a felony, such as in Phoenix, where the City has achieved a 98% compliance rate for landlords.
- **Eviction of tenants.** When tenants commit multiple or serious crimes on or near their leased premises, some cities impose an obligation on the landlord to evict the tenant, and the city has the authority to evict the tenant if the landlord fails to fulfill this obligation.

Example: In Los Angeles, a landlord must evict a tenant who has been arrested within 1,000 feet of the unit for violent or narcotic crimes. California law also provides that a city attorney can bring an eviction action for tenants who commit crimes on their property.⁶⁹

- **Self-help nuisance abatement actions.** If recourse to local government proves ineffective, community organizations impacted by nuisance property should have the clear legislative authority to bring self-help nuisance abatement actions, and also bring nuisance abatement actions that pertain to health and safety violations and nuisances beyond just those involving criminal activity. Community groups have a long-term vested interest in the community and

⁶⁸ Mallach, at 47.

⁶⁹ LA Ordinance, , § 47.50; Cal. Health & Safety Code, § 11571.1.

may have access to resources such as pro bono legal assistance to file these actions.

Example: Maryland's Drug Nuisance Abatement Law allows community groups to seek injunctive relief when a property is being used as an illegal drug business.⁷⁰

Example: In Baltimore, Maryland, residents of the Butcher's Hill community brought a self-help abatement action against a property that was the source of repeated drug activity. The neighbors sent a letter to the property owner that they intended to board up the property and, when the owner did not respond, the residents followed through on their letter. The residents then went to court to cover their labor and material costs.⁷¹

⁷⁰ MD. Code Ann., Real Prop. § 14-120 (1996).

⁷¹ Sarbanes, Michael, "Neighbors Plow Field of Nightmares," *Shelterforce* 80, March/April 1995.

Part III. Receivership

Receivership is an important tool that, if used appropriately, “liberates neighborhood development previously stalled by the lingering presence of vacant houses that stubbornly defied more traditional approaches.”⁷² Receivership “can significantly enhance a community’s efforts to deal with problem properties.”⁷³

Traditional code enforcement utilizes fines and injunctions to coerce the property owner into renovating his or her property.⁷⁴ Yet, even after fines mount, the owner may still fail to repair the property—this is especially true when the property is abandoned and the owner cannot be located. Receivership laws gives the authority to a third party to make repairs to the property and to pay for the repairs out of rents and other proceeds from the property. Where the goal is restoring a property versus demolition, receivership can be a more powerful and appropriate strategy than code enforcement and nuisance abatement.

Under Chapter 214.003 of the Texas Local Government Code, home rule cities may ask a court to appoint a receiver to take over a property that is not in substantial compliance with municipal ordinances regarding fire protection, structural integrity, zoning, or disposal of refuse—except for single family properties that are owner-occupied. A nonprofit organization with a demonstrated record of rehabilitating properties can be appointed as a receiver. The court also has authority to appoint a receiver under Section 64.001 of the Texas Civil Practice & Remedies Code to allow, among other things, the City to collect on a debt, such as a court judgment. Under this latter section, the receiver must be a citizen and registered to vote—organizations are ineligible for service.

The receiver has the authority to enter into rental leases, collect rents on the property, make any repairs necessary to bring the property into compliance with minimum standards, and exercise any other authority that an owner of the property would have, with the exception of selling the property. Under Chapter 214, after restoring the property to meet minimum code standards, the receiver submits to the court an accounting of all incomes, costs, and expenses, including a receivership fee of up to 10 percent of the costs and expenses. The net income, if any, is returned to the owner. If the total costs and expenses exceed the income, the receiver may maintain control of the property until the expenses are recovered or until the receivership is terminated.

A receiver has a lien on the property for all unreimbursed expenses. The court may order sale of the property if the receiver has been in control for more than a year and the owner has failed to repay the expenses (and if no other lienholders have intervened in the action and offered to repay the costs and assume control). The sale must be conducted pursuant to the provisions of Chapter 51 of the Texas Property

⁷² Kelly, at 231.

⁷³ Mallach, at 49.

⁷⁴ Kelly, at 214.

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Code, which require a public auction. The receiver may bid on the property at the sale and may use a lien as credit toward the purchase. The receiver's lien takes priority over all other liens.

One of the greatest benefits of receivership is that, like tax foreclosure and bankruptcy actions, it can be used to release other clouds on the property's title. As a super priority lien, when the receiver forecloses on its lien, it clears out the other liens.

In Dallas, the city seeks a court-appointed receiver in approximately two to three cases a year in situations where an owner refuses to comply with a court's orders and the property is in very bad shape. Receivership is done as a last resort. Most recently, the court appointed a receiver for a multi-family property on Malcolm X Boulevard. The receiver will have the right to recover his costs incurred in running and fixing up the property. The city has not sought a receiver for a single family property, at least not in the past several years.

Barriers to Effectiveness

- The grounds upon which a receivership action can be brought in Texas are limited. Along with Arizona, Texas has the most narrowly drafted statute in the country.⁷⁵ Under Chapter 214, an action is limited to owners who are not in substantial compliance with ordinances regarding fire protection, structural integrity, zoning, or disposal of refuse. Thus, for example, a receiver could not be appointed for a building that is dilapidated and poses a health and safety hazard but does not have structural integrity issues or other issues that fall under one of the other three qualifications listed above. Vacant properties are also presumably ineligible unless it is being used for trash dumping.
- Tenants, residents, and community organizations are unable to bring a receivership action in Texas under Chapter 214 or Chapter 64.
- Receivership can be expensive and time consuming. The receiver needs to have the ability to manage the property and have the financial means to pay for bringing the property back into compliance with code, especially if the short-term rents from the property are insufficient to cover the rehabilitation costs. The legal fees in bringing a suit, especially if it is contested, can be significant. Access to pro bono legal resources is helpful. Receivership actions against occupied properties are the most complex.
- Local title companies must be on board to ensure that the process results in clear title.

⁷⁵ Mallach, at 51.

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Best Practices

Allan Mallach, in his book *Bringing Buildings Back*, includes a great list of best practices and considerations that should go into the drafting of a receivership policy. These practices include:

- **Nonprofit authority to bring a receivership action.** A receivership statute should grant nonprofit organizations, community groups, and residents the authority to bring their own receivership action. By being able to bring receivership actions, nonprofit organizations can bring additional resources to the table and build upon a city's efforts to bring problem properties into compliance with the law.

Example: Baltimore has implemented one of the broadest receivership ordinances, under which a nonprofit, as an agent for the City, has the power to ask the court to appoint a receiver for any vacant property that has an outstanding building violation notice. Under the ordinance, the court can grant the receiver the authority to foreclose on the property before any rehabilitation work is done and to auction the property off to a developer with a demonstrated ability of rehabilitating the property immediately. To avoid the appointment of a receiver, the owner must post a bond to guaranty performance.⁷⁶ Actions have been brought against owners of more than 300 properties, with roughly half of the owners taking action to rehabilitate the property.

Example: Cleveland brings a maximum of 50 receivership cases a year against residential properties, which are typically vacant. One nonprofit organization is appointed as the receiver in all of the cases.

Other examples: Illinois and Missouri law allow for nonprofit organizations to bring a receivership action. New Jersey law allows for "qualified rehabilitation agencies" to bring an action.⁷⁷

- **Authority for the receiver to sell the property to promote neighborhood goals.** A receivership law should ensure that the reuse of the property is consistent with the neighborhood's revitalization plans and housing goals. The law should also provide for a judicially supervised sale if the owner fails to regain control within a reasonable amount of time.⁷⁸

Example: New Jersey requires that the property be used for housing for low- and moderate-income households. Instead of requiring a sale, Illinois law allows for a quitclaim deed to be issued to the receiver if the owner does not regain control of the property within two years. The property must be used for

⁷⁶ Kelly, at 218-19.

⁷⁷ Mallach, at 162.

⁷⁸ Mallach, at 63.

low- and moderate-income housing for at least ten years. Missouri law is similar in allowing a judicial quitclaim to be issued if the owner does not regain control of the property within a year.⁷⁹

- **Allow for extinguishment of all liens and other interests in the property upon sale or transfer of the property.** A receivership statute should ensure that the purchaser of the property gains clear title, free from liens and other interests.⁸⁰

Example: New Jersey

⁷⁹ Mallach, at 164.

⁸⁰ Mallach, at 161.

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Part IV. Civil Asset Forfeitures

Texas Chapter 59 Forfeitures

Chapter 59 of the Texas Code of Criminal Procedure provides authority for a law enforcement agency to seize real property that is being used in the commission of certain types of crimes, including drug distribution and first degree or second degree felonies. The police seize the property by securing the premises and taking control of the property. The District Attorney's office then has 30 days to file a civil "in rem" ("against the property") action in district court. Throughout the court action, the police have the responsibility for keeping up the property. To the extent the government's lawsuit is successful, the owner then relinquishes any interest in the property. The property or proceeds from the property can then be used only for law enforcement purposes. If the property is sold, it must be sold at a public auction. Because asset forfeiture involves relinquishment of an owner's property interests, the procedure is generally used for forfeiture of real property in only narrow circumstances involving serious and repeated criminal activity.

If the crimes on the property are committed by someone other than the owner, the owner can raise an "innocent owner" defense. Prior to 2003, an owner had to prove that he or she did not "knew or reasonably should have known" of the criminal activity. In 2003, however, this defense was expanded. Now, an owner can be successful as long as the owner can show that the property "was used or intended to be used without the effective consent of the owner."⁸¹ We could not find any court guidance concerning this defense. Based on the language alone, however, we conclude that it will be very difficult, if not impossible, to successfully bring an asset forfeiture action against property that is owned by an absentee landlord, even in the case of repeated criminal activity on the property.

Barriers to Effectiveness

Civil asset forfeiture of real property is used very sparingly in Dallas. The last time an action was brought was in 2001, and the case then took three years to complete. There are several barriers in Texas to using this tool for transforming blighted properties into community assets:

- Under state law, the police are required to seize and secure the property as soon as the civil forfeiture lawsuit is filed in court and to then maintain the property throughout the forfeiture action, which can drag on for two years or even longer. The maintenance of the property during this time period requires lots of resources. The police must either maintain the property in-house or hire an outside entity such as a property management company to keep up the property. The state also is subject to liability for

⁸¹ TX Code of Crim. Proc., § 59.02(h)(1)(C).

any damages that happen to the property during the lawsuit, in the event the state loses the lawsuit. Unlike the federal government, which has a U.S. Marshall's office that is trained and equipped to maintain seized property, the State of Texas does not have a similar agency.

- If the property is in a low-income neighborhood and is encumbered by liens, the government is less likely to take on the liability of bringing a property through the asset forfeiture process. The government is responsible for paying off any liens on the property after the government obtains ownership of the property. The government will also want to be able to recoup its costs of maintaining the property and other costs involved in the forfeiture action.
- The innocent owner defense is very broad and does not appear to place an affirmative requirement on a landlord to evict tenants or otherwise be proactive in keeping the property free from crime. Because of the lack of guidance in the statute and from courts as to what this standard means, the District Attorney's office is reluctant to bring actions involving a potential innocent owner defense.
- To successfully win an asset forfeiture action requires lots of footwork on the part of the local police department, as well as collaboration between the police and other government agencies. The police need special training on how to make these cases work.

Federal Asset Forfeitures

The federal government has the power to seize properties being used for certain types of criminal activities, including a violation of federal drug trafficking laws.⁸² Unlike the state asset forfeiture policy, the federal government does not have to take control of the property until after the civil forfeiture action is completed. This cuts down on administrative costs and dramatically lowers the government's liability exposure. Pending the court action, the government can obtain a restraining order to require that the property is maintained and that the mortgage and property tax payments remain current.

The federal statute also provides more guidance on when and how an owner can raise an "innocent owner" defense, thereby eliminating some of the ambiguity that exists with the Texas law. For example, to claim the defense, the owner must prove by a preponderance of the evidence that, "upon learning of the conduct giving rise to the forfeiture, [the owner] did all that reasonably could be expected under the circumstances to terminate such use of the property." Examples of doing all "that could be reasonably expected" include revoking permission for those engaging in the

⁸² The relevant provisions of the federal civil asset forfeiture statute are contained in 18 U.S.C. §§ 881, 983, and 981. The Department of Justice has published a comprehensive manual outlining the government's policies and procedures on asset forfeiture: United States Department of Justice, United States Marshall, Asset Forfeiture Office, *Real Property Manual* (Aug. 2001).

conduct to use the property or taking reasonable actions in consultation with a law enforcement agency to discourage or prevent the illegal use of the property.⁸³

Typically, property seized by the federal government must be used for law enforcement purposes. The federal government, however, has a program called Operation Goodwill, which allows for the transfer of seized properties in a short period of time to community organizations to improve neighborhoods and build goodwill between law enforcement agencies and communities. The properties must then be used to support drug abuse treatment, crime prevention and education, housing, job skills, or other community-based public health and safety programs.

The United States Attorney's office told us that they would potentially be interested in working with the District Attorney and Dallas police department on some of the drug house cases in West Dallas, especially if done in collaboration with the Weed and Seed program. The federal asset forfeiture statute provides for the sharing of forfeited assets with state and local law enforcement agencies and encourages cooperation among different agencies.

Barriers to Effectiveness

- There needs to be more collaboration between federal and local agencies and training for police on how to build cases specifically for potential future civil forfeiture actions. It is important for the law enforcement agencies to have special training on civil forfeitures and on how to give notice to owners for each criminal activity occurring on the property.
- The federal government is generally reluctant to seize real properties with little value because of the cost of maintaining the property and paying off any liens on the property. However, these costs to the federal government can be abated if the property is transferred to a community group such as through U.S. Operation Goodwill or the City of Dallas land bank.
- A federal asset forfeiture action requires many different layers of approval from different government agencies, which can take a lot of time to obtain and can make asset forfeiture a very cumbersome process.

Best Practices

There are several instances in which the federal government has worked in collaboration with community groups to seize blighted properties being used for criminal activity, and then transferred the property to community groups.

- In Tulsa, Oklahoma, the U.S. Department of Justice seized nine properties in a neighborhood being used to sell cocaine. After the owner and conspirators were convicted, the government seized the properties. Recognizing the risk of

⁸³ 18 U.S.C. § 983(d)(B)(i).

selling the property at low prices to speculators and recycling the problem of absentee ownership, the federal government gave the properties to Habitat for Humanity, through U.S. Operation Goodwill.⁸⁴

- In Portland, Oregon, the federal government seized a drive-through business being used for drug distribution. The government transferred the property to a neighborhood group to be used as a community center.⁸⁵

⁸⁴ Ginnie Graham, "Officials Celebrate Property Transfer," *Tulsa World*, Aug. 5, 2005.

⁸⁵ United State Attorney's Office for the District of Oregon, "U.S. Marshal Transfers Criminally-Forfeited Property Across the Street from Franklin High School and Atkinson Elementary School to Community Organization," press release, June 6, 2006, available at <http://www.usdoj.gov/usao/or/pressroom2006.htm>.

Part V. Recommendations for Action

Based on an examination of Dallas's existing policies concerning abandoned and blighted properties, and based on an examination of best practices from around the country, we recommend the following actions in moving forward:

State Legislative Changes

1. **Amend the state law governing receivership actions to include the following:**
 - Expand state law to allow community organizations and residents to file a receivership action.
 - Expand the grounds upon which a receivership action can be brought.
 - Allow the receivership property to be sold to the land bank or nonprofit organization as an alternative to the public auction. Require that use of the property after resale be consistent with the neighborhood's revitalization plans and housing goals.
 - Allow for extinguishment of all liens and other clouds on title upon the sale or transfer of the property.

2. **Reform state law on civil asset forfeiture to:**
 - Allow for the government to take control of the property upon completion of the court forfeiture action, instead of upon the filing of the lawsuit.
 - Provide for expedited court review of asset forfeiture actions (a "rocket docket").
 - Provide guidance on when an owner may raise an innocent owner defense. Disallow defense from being raised when landlords of single family properties fail to evict tenants who are allowing the property to be used for repeated criminal activity, such as drug distribution. Also disallow defense for landlords who own multiple properties that are the sources of repeated criminal activity and are rented to "straw renters" with names on several leases of the landlord's properties.
 - Allow for seized real property to be transferred to a community land bank, or to other community groups for affordable housing, crime prevention education, and other community-based programs.
 - Allow for the District Attorney to place a super-priority lien on the property for the costs of bringing an asset forfeiture action and maintaining the property that, upon foreclosure, would extinguish all other liens and other clouds on title.

3. **Amend state nuisance abatement law to:**
 - Include clearly defined instances of when a nuisance abatement lawsuit can be filed, including an obligation for landlords to evict tenants living in units with three or more drug violations over the course of a year.

- Provide authority for community-based nonprofit organizations to bring self-help nuisance abatement actions and extend authority to non-criminal nuisances.
- Extend state law to create a special cause of action against landlords who own multiple single family properties that are repeatedly used for criminal activity, who rent to “straw renters” whose names are on several leases of the landlord, and who fail to obtain criminal background checks for all of the occupants.

City Policy Actions

1. **Hire a Neighborhood Preservation Coordinator who reports directly to the Mayor.** Because the tasks required to revitalize a neighborhood are handled by many different city departments in Dallas (including the Housing Department, Economic Development, Police, Code Compliance, Public Works, and Sanitation Services), there needs to be one point person who reports directly to the Mayor to in regards to revitalizing the City’s neighborhood improvement districts: (1) facilitate collaboration and coordination across the different city departments; (2) oversee the implementation of a comprehensive revitalization plan for each district.
2. **Create a Community Bill of Rights** granting community organizations the authority to seek injunctions to enforce municipal code ordinance when the City does not take action.
3. **Retain McKinsey & Associates to conduct a follow up audit of the city’s code enforcement process.** The implementation of the administrative adjudicative process by the City of Dallas in 2004 appears to be an important step towards dealing with problem properties more effectively. An analysis should also be conducted to determine the effectiveness of the new administrative process and to determine which of the 2004 recommendations have been successfully implemented and the impact of the implementation.
4. **Adopt and fund a Comprehensive Neighborhood Preservation Initiative.** Enact a general obligation bond initiative to fund a proactive preservation and code enforcement program in the City’s most distressed neighborhoods. The initiative should include support to distressed neighborhoods to develop and implement comprehensive neighborhood revitalization plans, and include specific numerical targets of properties to be revitalized through renovations or demolition and new construction or “greening” projects. For example, Columbus, Ohio, through its Home Again Program, used \$25 million in bonds to target 1,000 vacant homes over six years for preservation and home rehabilitation.
5. **Tighten the City’s vacant property ordinances and increase enforcement.** Change the City’s ordinances to make it illegal to own a building that is vacant

and boarded up for at least 90 days, by eliminating the requirement that the building must also violate another provision of the Code, and shortening the time period from 180 days. Require property owners to post no trespassing signs on properties that are vacant over a certain time period. Increase capacity to bring more lawsuits against severely dilapidated properties to order the repair or demolition of these structures as appropriate, and provide funding to nonprofit organizations to acquire and revitalize these properties. As needed, expand the Urban Rehabilitation Docket to handle a higher load of these cases.

6. **Explore adoption of the Cleveland Housing Court model** and its reliance on code enforcement advocates from the community, the utilization of code enforcement workshops, and other community outreach activities.
7. **Explore amending the city ordinance governing relocation benefits for dangerous structures.** Bring together neighborhood leaders and tenant advocates to discuss changes to the City ordinance governing relocation benefits, to consider imposing the duty on the landlord and not the City, and to consider creating exceptions to the law by which the City can proceed to repair or demolish a dangerous single family structure without having to pay for the relocation costs of tenants. In the alternative, explore the creation of additional funding to pay for relocation benefits, such as a new vacant property registration system. Amendments to state law may also be required.
8. **Adopt performance measurement targets for code compliance efforts in distressed neighborhoods,** based on the number of units that are brought into compliance and then remain in compliance over a one-year period. In collaboration with neighborhoods. For example, create a list of the top ten worst properties for each neighborhood improvement district and bring together city departments and neighborhood groups to revitalize these properties within a year.
9. **Extend the multi-tenant registration system to all rental properties.** Rental registration systems provide opportunities and obligations for code inspectors to be on site at properties that are the subject of serious code violations. The costs of the system can be offset by requiring small registration fees and through fines placed against noncompliant properties. The ordinance should also provide city code inspectors with authority to inspect the inside of single family rental properties.
10. **Create a publicly-accessible data system along the lines of the Philadelphia model.** The system should include the following information: property valuation, tax status, municipal liens, code violations, crime reports, utility shut-offs, building permits, sales, and foreclosures. The data system should be set up to allow residents to track the processing of code enforcement actions and outcomes and allow community organizations to create maps and track performance measurements. The system should also include an early-

warning system to flag problem properties before the problems escalate. We recommend the City partner with a local university to track trends, to evaluate the magnitude of problem properties in specific neighborhoods, and analyze the effectiveness of different types of intervention strategies.

11. **Adopt a vacant property registration system.** Require owners of properties that have become vacant or abandoned for a certain length of time to register formally with the local government and pay a registration fee.
12. **Target a portion of money collected from code enforcement and nuisance abatement actions** to fund community-based activities such as community watch programs, rehabilitation of houses, and video cameras for neighborhoods to film drug activity. Also target a portion of proceeds to expand training to city staff on code enforcement and best practices.
13. **Enforce the city's liens related to code enforcement activity.** Further research is needed to find out why the City has not foreclosed on liens related to code enforcement actions, outside of tax foreclosure lawsuits. Possible amendment to state law is needed.
14. **Dedicate additional resources and tools to shut down single family rental properties and landlords who own single family properties that are sources of repeated criminal offenses.** It is shocking that there are properties in West Dallas with as many as 69 criminal offenses on an individual single family property over the course of just two years. It is next to impossible for any neighborhood to revitalize under these conditions. Police reports for crimes linked to properties should automatically be sent to the property owner. When there are more than three to six crimes on a single family property over the course of six months, the city should bring a nuisance abatement action to shut down the property or bring a receivership action to allow a nonprofit organization to take over the property (amendments to state law will be needed to expand receivership actions in this regards). The city should explore adopting new laws and policies to deal with the problems of straw renters and landlords who own multiple single family properties that are the sources of repeated criminal activity.

Community-Based Actions

1. **Expose the high costs of property abandonment.** We recommend that Builders of Hope work with a local university to conduct a study of the costs that abandoned and blighted properties impose on the city, including the costs of heightened police enforcement, maintenance, and lower property values. The study should include a cost-benefit analysis to the city of creating and expanding code enforcement programs. In order to expand local support for code enforcement and nuisance abatement, it is critical that the public and

government understand why they should care about this and the economic impact it has on the city as a whole.

2. **Explore partnerships between neighborhood groups and the City of Dallas to recruit volunteer “housing specialists,”** similar to those used in Cleveland and Atlanta. The specialists could work in coordination with the City’s new neighborhood code representatives to assist with tracking code violations, notifying owners, and providing information to property owners about bringing properties into compliance. This program could also be used to track the effectiveness of the City’s current code enforcement program. For example, the volunteer housing specialists in each neighborhood could create a list of the ten worst properties, report these to the City, and track what happens to the properties over the course of a year. A picture of these properties could also be posted on a website and forwarded to the news media.
3. **Raise funds to create a receivership program and work with the city to appoint nonprofit organizations as receivers in more code enforcement and abandoned building cases.**
4. The City of Dallas has recently created a task force to look at the problems of vacant properties. **Community groups should contact the city and ask to be included in the task force early on so they can contribute their perspectives and ideas.**
5. **Develop a partnership among the community, the United States Attorney’s office, and the Dallas County District Attorney’s office to implement an organized collaborative criminal nuisance abatement initiative** that: (a) targets properties being used as drug houses, (b) trains police on building an asset forfeiture case, and (c) where appropriate, seizes the properties under the federal civil asset forfeiture laws and transfers the properties to community-based nonprofits through U.S. Operation Goodwill for affordable housing and community-based programs. Invite the District Attorney and United States Attorney on a bus tour to point out the worst properties in the neighborhood and educate them about the problems the community is facing.
6. **Sponsor a roundtable,** in partnership with the National Vacant Properties Campaign, to bring together neighborhood groups, Dallas leaders, and national experts to discuss the current barriers to revitalizing neighborhoods in Dallas and develop a community plan of action for dealing with the issues of abandoned and blighted properties.

Follow-up Research

During our research, we came across several other recommended tools for communities to utilize in transforming vacant and abandoned properties into

community assets. The following tools are some of the ones we have highlighted for potential areas of future research:

1. **Straw renters.** A couple of persons we spoke with raised a problem with straw renters: persons, usually women, who put their names on multiple leases on behalf of someone with a criminal history who then utilizes the property for drug activity. Further research is needed on this issue.
2. **Greening programs.** For areas with large numbers of vacant lots, community greening programs (such as the Philadelphia Green Project) have been an important component of some neighborhood revitalization efforts, through the creation of projects such as community gardens and pocket parks. Further research on these programs and how they could benefit West Dallas may be appropriate.
3. **Spot eminent domain.** A narrowly defined eminent domain statute that targets vacant blighted properties has been effective in some cities, through targeting the worst unoccupied properties while protecting the interests of owners living in their homes as well as tenants. We recommend further research on these statutes.
4. **Foreclosure Issues.** Because of the current foreclosure crisis, we recommend research on how this crisis is impacting Dallas neighborhoods and West Dallas in particular: Are banks keeping up foreclosed properties and, if not, are additional policies needed to ensure that these properties are code compliant and do not remain vacant for extended periods of time? Several cities have adopted specific policies to deal with the abandoned property issues generate by the large number of foreclosed properties in the market.
5. **Comprehensive research on the worst properties.** There is currently a lack of information on the full range of issues associated with problem properties in West Dallas. For the 100 properties generating the most police calls, it would be informative to know more about these properties; for example, what percent are occupied by homeowners versus renters, who the property owners are, whether the properties have tax delinquencies, and how many have code enforcement violations. It is difficult to craft a policy response to eliminate crime and blight associated with properties without first understanding the full scope of the issues associated with these properties.
6. **Models of community engagement.** Further research is needed on different models of community engagement whereby neighborhood residents are active and playing an effective role in the code enforcement process. Potential models for research include Atlanta, Philadelphia, and Baltimore.
7. **Expansion of land bank.** Many of the vacant and abandoned properties in West Dallas have tax delinquencies, but the current city land bank program is at capacity in terms of the properties it can bring through the tax foreclosure

process. Further research is needed to determine how the land bank can be expanded to target more of these properties with multiple years of tax delinquencies, and also how the tax foreclosure process could be improved to further facilitate the sale of these properties.

8. **Self-help common law nuisance abatement actions.** Research is needed to determine to what extent community organizations or residents impacted by a nuisance property can bring a common law action to require repairs or make the repairs themselves.
9. **Foreclosure on city liens.** Further research is needed on whether and how the city may foreclose on properties with liens related to code enforcement. How many liens are there and how often are these liens not part of an ad valorem tax foreclosure action? Why has the city not historically foreclosed on these liens?

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LOCAL GOVERNMENT CODE

TITLE 7. REGULATION OF LAND USE, STRUCTURES, BUSINESSES, AND RELATED ACTIVITIES

SUBTITLE A. MUNICIPAL REGULATORY AUTHORITY

CHAPTER 214. MUNICIPAL REGULATION OF HOUSING AND OTHER STRUCTURES

SUBCHAPTER A. DANGEROUS STRUCTURES

Sec. 214.001. AUTHORITY REGARDING SUBSTANDARD BUILDING. (a) A municipality may, by ordinance, require the vacation, relocation of occupants, securing, repair, removal, or demolition of a building that is:

- (1) dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety, and welfare;
- (2) regardless of its structural condition, unoccupied by its owners, lessees, or other invitees and is unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children; or
- (3) boarded up, fenced, or otherwise secured in any manner if:
 - (A) the building constitutes a danger to the public even though secured from entry; or
 - (B) the means used to secure the building are inadequate to prevent unauthorized entry or use of the building in the manner described by Subdivision (2).

(b) The ordinance must:

- (1) establish minimum standards for the continued use and occupancy of all buildings regardless of the date of their construction;
- (2) provide for giving proper notice, subject to Subsection (b-1), to the owner of a building; and
- (3) provide for a public hearing to determine whether a building complies with the standards set out in the ordinance.

(b-1) For a condominium, as defined by Section 81.002 or 82.003, Property Code, located wholly or partly in a municipality with a population of more than 1.9 million, notice to a unit owner in accordance with Section 82.118, Property Code, and notice to the registered agent for the unit owners' association in the manner provided for service of process to a condominium association under Section 54.035(a-1) satisfy the notice requirements under this section.

(c) A notice of a hearing sent to an owner, lienholder, or mortgagee under this section must include a statement that the owner, lienholder, or mortgagee will be required to submit at the hearing proof of the scope of any work that may be required to comply with the ordinance and the time it will take to reasonably perform the work.

(d) After the public hearing, if a building is found in violation of standards set out in the ordinance, the municipality may order that the building be vacated, secured, repaired, removed, or demolished by the owner within a reasonable time as provided by this section. The municipality also may order that the occupants be relocated within a reasonable time. If the owner does not take the ordered action within the allotted time, the municipality shall make a diligent effort to discover each mortgagee and lienholder having an interest in the building or in the property on which the building is located. The municipality shall personally deliver, send by certified mail with return receipt requested, or deliver by the United States Postal Service using signature confirmation service, to each identified mortgagee and lienholder a notice containing:

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(1) an identification, which is not required to be a legal description, of the building and the property on which it is located;

(2) a description of the violation of municipal standards that is present at the building; and

(3) a statement that the municipality will vacate, secure, remove, or demolish the building or relocate the occupants of the building if the ordered action is not taken within a reasonable time.

(e) As an alternative to the procedure prescribed by Subsection (d), the municipality may make a diligent effort to discover each mortgagee and lienholder before conducting the public hearing and may give them a notice of and an opportunity to comment at the hearing. In addition, the municipality may file notice of the hearing in the Official Public Records of Real Property in the county in which the property is located. The notice must contain the name and address of the owner of the affected property if that information can be determined, a legal description of the affected property, and a description of the hearing. The filing of the notice is binding on subsequent grantees, lienholders, or other transferees of an interest in the property who acquire such interest after the filing of the notice, and constitutes notice of the hearing on any subsequent recipient of any interest in the property who acquires such interest after the filing of the notice. If the municipality operates under this subsection, the order issued by the municipality may specify a reasonable time as provided by this section for the building to be vacated, secured, repaired, removed, or demolished by the owner or for the occupants to be relocated by the owner and an additional reasonable time as provided by this section for the ordered action to be taken by any of the mortgagees or lienholders in the event the owner fails to comply with the order within the time provided for action by the owner. Under this subsection, the municipality is not required to furnish any notice to a mortgagee or lienholder other than a copy of the order in the event the owner fails to timely take the ordered action.

(f) Within 10 days after the date that the order is issued, the municipality shall:

(1) file a copy of the order in the office of the municipal secretary or clerk, if the municipality has a population of 1.9 million or less; and

(2) publish in a newspaper of general circulation in the municipality in which the building is located a notice containing:

(A) the street address or legal description of the property;

(B) the date of the hearing;

(C) a brief statement indicating the results of the order; and

(D) instructions stating where a complete copy of the order may be obtained.

(g) After the hearing, the municipality shall promptly mail by certified mail with return receipt requested, deliver by the United States Postal Service using signature confirmation service, or personally deliver a copy of the order to the owner of the building and to any lienholder or mortgagee of the building. The municipality shall use its best efforts to determine the identity and address of any owner, lienholder, or mortgagee of the building.

(h) In conducting a hearing authorized under this section, the municipality shall require the owner, lienholder, or mortgagee of the building to within 30 days:

(1) secure the building from unauthorized entry; or

(2) repair, remove, or demolish the building, unless the owner or lienholder establishes at the hearing that the work cannot reasonably be performed within 30 days.

(i) If the municipality allows the owner, lienholder, or mortgagee more than 30 days to repair, remove, or demolish the building, the municipality shall establish specific time schedules for the commencement and performance of the work and shall require the owner, lienholder, or mortgagee to secure the property in a reasonable manner from unauthorized entry while the work is being performed, as determined by the hearing official.

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(j) A municipality may not allow the owner, lienholder, or mortgagee more than 90 days to repair, remove, or demolish the building or fully perform all work required to comply with the order unless the owner, lienholder, or mortgagee:

(1) submits a detailed plan and time schedule for the work at the hearing; and

(2) establishes at the hearing that the work cannot reasonably be completed within 90 days because of the scope and complexity of the work.

(k) If the municipality allows the owner, lienholder, or mortgagee more than 90 days to complete any part of the work required to repair, remove, or demolish the building, the municipality shall require the owner, lienholder, or mortgagee to regularly submit progress reports to the municipality to demonstrate compliance with the time schedules established for commencement and performance of the work. The order may require that the owner, lienholder, or mortgagee appear before the hearing official or the hearing official's designee to demonstrate compliance with the time schedules. If the owner, lienholder, or mortgagee owns property, including structures or improvements on property, within the municipal boundaries that exceeds \$100,000 in total value, the municipality may require the owner, lienholder, or mortgagee to post a cash or surety bond in an amount adequate to cover the cost of repairing, removing, or demolishing a building under this subsection. In lieu of a bond, the municipality may require the owner, lienholder, or mortgagee to provide a letter of credit from a financial institution or a guaranty from a third party approved by the municipality. The bond must be posted, or the letter of credit or third party guaranty provided, not later than the 30th day after the date the municipality issues the order.

(l) In a public hearing to determine whether a building complies with the standards set out in an ordinance adopted under this section, the owner, lienholder, or mortgagee has the burden of proof to demonstrate the scope of any work that may be required to comply with the ordinance and the time it will take to reasonably perform the work.

(m) If the building is not vacated, secured, repaired, removed, or demolished, or the occupants are not relocated within the allotted time, the municipality may vacate, secure, remove, or demolish the building or relocate the occupants at its own expense. This subsection does not limit the ability of a municipality to collect on a bond or other financial guaranty that may be required by Subsection (k).

(n) If a municipality incurs expenses under Subsection (m), the municipality may assess the expenses on, and the municipality has a lien against, unless it is a homestead as protected by the Texas Constitution, the property on which the building was located. The lien is extinguished if the property owner or another person having an interest in the legal title to the property reimburses the municipality for the expenses. The lien arises and attaches to the property at the time the notice of the lien is recorded and indexed in the office of the county clerk in the county in which the property is located. The notice must contain the name and address of the owner if that information can be determined with a reasonable effort, a legal description of the real property on which the building was located, the amount of expenses incurred by the municipality, and the balance due.

(o) If the notice is given and the opportunity to relocate the tenants of the building or to repair, remove, or demolish the building is afforded to each mortgagee and lienholder as authorized by Subsection (d), (e), or (g), the lien is a privileged lien subordinate only to tax liens.

(p) A hearing under this section may be held by a civil municipal court.

(q) A municipality satisfies the requirements of this section to make a diligent effort, to use its best efforts, or to make a reasonable effort to determine the identity and address of an owner, a lienholder, or a mortgagee if the municipality searches the following records:

(1) county real property records of the county in which the building is located;

(2) appraisal district records of the appraisal district in which the building is located;

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- (3) records of the secretary of state;
- (4) assumed name records of the county in which the building is located;
- (5) tax records of the municipality; and
- (6) utility records of the municipality.

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

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 87(j), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 743, Sec. 1, eff. Aug. 28, 1989; Acts 1993, 73rd Leg., ch. 836, Sec. 10, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 359, Sec. 1, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 362, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 357, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 413, Sec. 10, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 701, Sec. 2, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 370 (S.B. 352), Sec. 3, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1323 (H.B. 3128), Sec. 5, eff. September 1, 2009.

Sec. 214.0011. ADDITIONAL AUTHORITY TO SECURE SUBSTANDARD BUILDING. (a) A municipality by ordinance may establish minimum standards for the use and occupancy of buildings in the municipality regardless of the date of their construction and may adopt other ordinances as necessary to carry out this section.

(b) The municipality may secure a building the municipality determines:

- (1) violates the minimum standards; and
- (2) is unoccupied or is occupied only by persons who do not have a right of possession to the building.

(c) Before the 11th day after the date the building is secured, the municipality shall give notice to the owner by:

- (1) personally serving the owner with written notice;
- (2) depositing the notice in the United States mail addressed to the owner at the owner's post office address;
- (3) publishing the notice at least twice within a 10-day period in a newspaper of general circulation in the county in which the building is located if personal service cannot be obtained and the owner's post office address is unknown; or
- (4) posting the notice on or near the front door of the building if personal service cannot be obtained and the owner's post office address is unknown.

(d) The notice must contain:

- (1) an identification, which is not required to be a legal description, of the building and the property on which it is located;
- (2) a description of the violation of the municipal standards that is present at the building;
- (3) a statement that the municipality will secure or has secured, as the case may be, the building; and
- (4) an explanation of the owner's entitlement to request a hearing about any matter relating to the municipality's securing of the building.

(e) The municipality shall conduct a hearing at which the owner may testify or present witnesses or written information about any matter relating to the municipality's securing of the building if, within 30 days after the date the municipality secures the building, the owner files with the municipality a written request for the hearing. The municipality shall conduct the hearing within 20 days after the date the request is filed.

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(f) A municipality has the same authority to assess expenses under this section as it has to assess expenses under Section 214.001(n). A lien is created under this section in the same manner that a lien is created under Section 214.001(n) and is subject to the same conditions as a lien created under that section.

(g) The authority granted by this section is in addition to that granted by Section 214.001.

Added by Acts 1991, 72nd Leg., ch. 13, Sec. 1, eff. April 2, 1991. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 12.104, eff. Sept. 1, 2001.

Sec. 214.00111. ADDITIONAL AUTHORITY TO PRESERVE SUBSTANDARD BUILDING AS HISTORIC PROPERTY. (a) This section applies only to a municipality that is designated as a certified local government by the state historic preservation officer as provided by 16 U.S.C.A. Section 470 et seq.

(b) This section does not apply to an owner-occupied, single-family dwelling.

(c) Before a notice is sent or a hearing is conducted under Section 214.001, the historic preservation board of a municipality may review a building described by Section 214.001(a) to determine whether the building can be rehabilitated and designated:

- (1) on the National Register of Historic Places;
- (2) as a Recorded Texas Historic Landmark; or
- (3) as historic property through a municipal historic designation.

(d) If a municipal historic preservation board reviews a building, the board shall submit a written report to the municipality indicating the results of the review conducted under this section before a public hearing is conducted under Section 214.001.

(e) If the municipal historic preservation board report determines that the building may not be rehabilitated and designated as historic property, the municipality may proceed as provided by Section 214.001.

(f) If the municipal historic preservation board report determines that the building may be rehabilitated and designated as historic property, the municipality may not permit the building to be demolished for at least 90 days after the date the report is submitted. During this 90-day period, the municipality shall notify the owner and attempt to identify a feasible alternative use for the building or locate an alternative purchaser to rehabilitate and maintain the building. If the municipality is not able to locate the owner or if the owner does not respond within the 90-day period, the municipality may appoint a receiver as provided by Section 214.003.

(g) The municipality may require the building to be demolished as provided by Section 214.001 after the expiration of the 90-day period if the municipality is not able to:

- (1) identify a feasible alternative use for the building;
- (2) locate an alternative purchaser to rehabilitate and maintain the building; or
- (3) appoint a receiver for the building as provided by Section 214.003.

(h) An owner of a building described by Section 214.001(a) is not liable for penalties related to the building that accrue during the 90-day period provided for disposition of historic property under this section.

Added by Acts 1995, 74th Leg., ch. 158, Sec. 1, eff. Aug. 28, 1995.

Sec. 214.0012. JUDICIAL REVIEW. (a) Any owner, lienholder, or mortgagee of record of property jointly or severally aggrieved by an order of a municipality issued under Section 214.001 may file in district court a verified petition setting forth that the decision is illegal, in whole or in part, and specifying the grounds of the illegality. The petition must be filed by an owner, lienholder, or mortgagee within 30 calendar days after the respective

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dates a copy of the final decision of the municipality is personally delivered to them, mailed to them by first class mail with certified return receipt requested, or delivered to them by the United States Postal Service using signature confirmation service, or such decision shall become final as to each of them upon the expiration of each such 30 calendar day period.

(b) On the filing of the petition, the court may issue a writ of certiorari directed to the municipality to review the order of the municipality and shall prescribe in the writ the time within which a return on the writ must be made, which must be longer than 10 days, and served on the relator or the relator's attorney.

(c) The municipality may not be required to return the original papers acted on by it, but it is sufficient for the municipality to return certified or sworn copies of the papers or of parts of the papers as may be called for by the writ.

(d) The return must concisely set forth other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

(e) The issuance of the writ does not stay proceedings on the decision appealed from.

(f) Appeal in the district court shall be limited to a hearing under the substantial evidence rule. The court may reverse or affirm, in whole or in part, or may modify the decision brought up for review.

(g) Costs may not be allowed against the municipality.

(h) If the decision of the municipality is affirmed or not substantially reversed but only modified, the district court shall allow to the municipality all attorney's fees and other costs and expenses incurred by it and shall enter a judgment for those items, which may be entered against the property owners, lienholders, or mortgagees as well as all persons subject to the proceedings before the municipality.

Added by Acts 1993, 73rd Leg., ch. 836, Sec. 11, eff. Sept. 1, 1993. Amended by Acts 2001, 77th Leg., ch. 413, Sec. 12, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 370 (S.B. 352), Sec. 4, eff. June 15, 2007.

Sec. 214.0015. ADDITIONAL AUTHORITY REGARDING SUBSTANDARD BUILDING. (a) This section applies only to a municipality that has adopted an ordinance under Section 214.001.

(b) In addition to the authority granted to the municipality by Section 214.001, after the expiration of the time allotted under Section 214.001(d) or (e) for the repair, removal, or demolition of a building, the municipality may:

(1) repair the building at the expense of the municipality and assess the expenses on the land on which the building stands or to which it is attached and may provide for that assessment, the mode and manner of giving notice, and the means of recovering the repair expenses; or

(2) assess a civil penalty against the property owner for failure to repair, remove, or demolish the building and provide for that assessment, the mode and manner of giving notice, and the means of recovering the assessment.

(c) The municipality may repair a building under Subsection (b) only to the extent necessary to bring the building into compliance with the minimum standards and only if the building is a residential building with 10 or fewer dwelling units. The repairs may not improve the building to the extent that the building exceeds minimum housing standards.

(d) The municipality shall impose a lien against the land on which the building stands or stood, unless it is a homestead as protected by the Texas Constitution, to secure the payment of the repair, removal, or demolition expenses or the civil penalty. Promptly after the imposition of the lien, the municipality must file for record, in recordable form in the office of the county clerk of the county in which the land is located, a written notice of the imposition of the lien. The notice must contain a legal description of the land.

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(e) Except as provided by Section 214.001, the municipality's lien to secure the payment of a civil penalty or the costs of repairs, removal, or demolition is inferior to any previously recorded bona fide mortgage lien attached to the real property to which the municipality's lien attaches if the mortgage lien was filed for record in the office of the county clerk of the county in which the real property is located before the date the civil penalty is assessed or the repair, removal, or demolition is begun by the municipality. The municipality's lien is superior to all other previously recorded judgment liens.

(f) Any civil penalty or other assessment imposed under this section accrues interest at the rate of 10 percent a year from the date of the assessment until paid in full.

(g) The municipality's right to the assessment lien may not be transferred to third parties.

(h) In any judicial proceeding regarding enforcement of municipal rights under this section, the prevailing party is entitled to recover reasonable attorney's fees from the nonprevailing party.

(i) A lien acquired under this section by a municipality for repair expenses may not be foreclosed if the property on which the repairs were made is occupied as a residential homestead by a person 65 years of age or older.

(j) The municipality by order may assess and recover a civil penalty against a property owner at the time of an administrative hearing on violations of an ordinance, in an amount not to exceed \$1,000 a day for each violation or, if the owner shows that the property is the owner's lawful homestead, in an amount not to exceed \$10 a day for each violation, if the municipality proves:

(1) the property owner was notified of the requirements of the ordinance and the owner's need to comply with the requirements; and

(2) after notification, the property owner committed an act in violation of the ordinance or failed to take an action necessary for compliance with the ordinance.

(k) An assessment of a civil penalty under Subsection (j) is final and binding and constitutes prima facie evidence of the penalty in any suit brought by a municipality in a court of competent jurisdiction for a final judgment in accordance with the assessed penalty.

(l) To enforce a civil penalty under this subchapter, the clerk or secretary of the municipality must file with the district clerk of the county in which the municipality is located a certified copy of an order issued under Subsection (j) stating the amount and duration of the penalty. No other proof is required for a district court to enter a final judgment on the penalty.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 49(a), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 743, Sec. 2, 3, eff. Aug. 28, 1989; Acts 1995, 74th Leg., ch. 359, Sec. 2, eff. Aug. 28, 1995; Acts 2001, 77th Leg., ch. 1420, Sec. 12.105, eff. Sept. 1, 2001.

Sec. 214.002. REQUIRING REPAIR, REMOVAL, OR DEMOLITION OF BUILDING OR OTHER STRUCTURE.

(a) If the governing body of a municipality finds that a building, bulkhead or other method of shoreline protection, fence, shed, awning, or other structure, or part of a structure, is likely to endanger persons or property, the governing body may:

(1) order the owner of the structure, the owner's agent, or the owner or occupant of the property on which the structure is located to repair, remove, or demolish the structure, or the part of the structure, within a specified time; or

(2) repair, remove, or demolish the structure, or the part of the structure, at the expense of the municipality, on behalf of the owner of the structure or the owner of the property on which the structure is located, and assess the repair, removal, or demolition expenses on the property on which the structure was located.

(b) The governing body shall provide by ordinance for:

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(1) the assessment of repair, removal, or demolition expenses incurred under Subsection (a) (2);

(2) a method of giving notice of the assessment; and

(3) a method of recovering the expenses.

(c) The governing body may punish by a fine, confinement in jail, or both a person who does not comply with an order issued under Subsection (a) (1).

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 743, Sec. 4, eff. Aug. 28, 1989; Acts 1993, 73rd Leg., ch. 219, Sec. 1, eff. Aug. 30, 1993.

Sec. 214.003. RECEIVER.

(a) A home-rule municipality may bring an action in district court against an owner of property that is not in substantial compliance with:

(1) the municipal ordinances regarding:

(A) fire protection;

(B) structural integrity;

(C) zoning; or

(D) disposal of refuse; or

(2) a municipal ordinance described by Section 54.012(1), (2), (5), (6), (7), or (9).

(b) Except as provided by Subsection (c), the court may appoint as a receiver for the property a nonprofit organization or an individual with a demonstrated record of rehabilitating properties if the court finds that:

(1) the structures on the property are in violation of the standards set forth in Section 214.001(b) and an ordinance described by Subsection (a);

(2) notice of violation was given to the record owner of the property; and

(3) a public hearing as required by Section 214.001(b) has been conducted.

(c) A receiver appointed under Subsection (b) may act as a receiver for any property, including historic property subject to Section 214.00111.

(d) For the purposes of this section, if the record owner does not appear at the hearing required by Section 214.001(b), the hearing shall be conducted as if the owner had personally appeared.

(e) In the action, the record owners and any lienholders of record of the property shall be served with personal notice of the proceedings or, if not available after due diligence, may be served by publication. Actual service or service by publication on the record owners or lienholders constitutes notice to all unrecorded owners or lienholders.

(f) The court may issue, on a showing of imminent risk of injury to any person occupying the property or a person in the community, any mandatory or prohibitory temporary restraining orders and temporary injunctions necessary to protect the public health and safety.

(g) A receiver appointed by the court may:

(1) take control of the property;

(2) collect rents due on the property;

(3) make or have made any repairs necessary to bring the property into compliance

with:

(A) minimum standards in local ordinances; or

(B) guidelines for rehabilitating historic properties established by the secretary of the interior under 16 U.S.C.A. Section 470 et seq. or the municipal historic preservation board, if the property is considered historic property under Section 214.00111;

(4) make payments necessary for the maintenance or restoration of utilities to the properties;

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- (5) purchase materials necessary to accomplish repairs;
- (6) renew existing rental contracts and leases;
- (7) enter into new rental contracts and leases;
- (8) affirm, renew, or enter into a new contract providing for insurance coverage on the property; and
- (9) exercise all other authority that an owner of the property would have except for the authority to sell the property.

(h) On the completion of the restoration of the property to the minimum code standards of the municipality or guidelines for rehabilitating historic property, or before petitioning a court for termination of the receivership under Subsection (l):

(1) the receiver shall file with the court a full accounting of all costs and expenses incurred in the repairs, including reasonable costs for labor and supervision, all income received from the property, and, at the receiver's discretion, a receivership fee of 10 percent of those costs and expenses;

(2) if the income exceeds the total of the cost and expense of rehabilitation and any receivership fee, the rehabilitated property shall be restored to the owners and any net income shall be returned to the owners; and

(3) if the total of the costs and expenses and any receivership fee exceeds the income received during the receivership, the receiver may maintain control of the property until the time all rehabilitation and maintenance costs and any receivership fee are recovered, or until the receivership is terminated.

(h-1) A receiver shall have a lien on the property under receivership for all of the receiver's unreimbursed costs and expenses and any receivership fee.

(i) Any record lienholder may, after initiation of an action by a municipality:

(1) intervene in the action; and

(2) request appointment as a receiver:

(A) under the same conditions as the nonprofit organization or individual; and

(B) on a demonstration to the court of an ability and willingness to rehabilitate the property.

(j) For the purposes of this section, the interests and rights of an unrecorded lienholder or unrecorded property owner are, in all respects, inferior to the rights of a duly appointed receiver.

(k) The court may not appoint a receiver for any property that is an owner-occupied, single-family residence.

(l) A receiver appointed by a district court under this section, or the home-rule municipality that filed the action under which the receiver was appointed, may petition the court to terminate the receivership and order the sale of the property after the receiver has been in control of the property for more than one year, if an owner has been served with notice but has failed to assume control or repay all rehabilitation and maintenance costs and any receivership fee of the receiver.

(m) In the action, the record owners and any lienholders of record of the property shall be served with personal notice of the proceedings or, if not found after due diligence, may be served by publication. Actual service or service by publication on all record owners and lienholders of record constitutes notice to all unrecorded owners and lienholders.

(n) The court may order the sale of the property if the court finds that:

(1) notice was given to each record owner of the property and each lienholder of record;

(2) the receiver has been in control of the property for more than one year and an owner has failed to repay all rehabilitation and maintenance costs and any receivership fee of the receiver; and

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(3) no lienholder of record has intervened in the action and offered to repay the costs and any receivership fee of the receiver and assume control of the property.

(o) The court shall order the sale to be conducted by the petitioner in the same manner that a sale is conducted under Chapter 51, Property Code. If the record owners and lienholders are identified, notice of the date and time of the sale must be sent in the same manner as provided by Chapter 51, Property Code. If the owner cannot be located after due diligence, the owner may be served notice by publication. The receiver may bid on the property at the sale and may use a lien granted under Subsection (h-1) as credit toward the purchase. The petitioner shall make a report of the sale to the court.

(p) The court shall confirm the sale and order a distribution of the proceeds of the sale in the following order:

- (1) court costs;
- (2) costs and expenses of the receiver, and any lien held by the receiver; and
- (3) other valid liens.

(q) Any remaining sums must be paid to the owner. If the owner is not identified or cannot be located, the court shall order the remaining sums to be deposited in an interest-bearing account with the district clerk's office in the district in which the action is pending, and the clerk shall hold the funds as provided by other law.

(r) After the proceeds are distributed, the court shall award fee title to the purchaser subject to any recorded bona fide liens that were not paid by the proceeds of the sale.

Added by Acts 1989, 71st Leg., ch. 389, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 49, Sec. 1, eff. April 29, 1991; Acts 1995, 74th Leg., ch. 158, Sec. 2, eff. Aug. 28, 1995; Acts 2001, 77th Leg., ch. 1420, Sec. 12.106, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 29, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 16.004, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1054 (S.B. 173), Sec. 2, eff. September 1, 2011.

Sec. 214.0031. ADDITIONAL AUTHORITY TO APPOINT RECEIVER FOR HAZARDOUS PROPERTIES. (a)
In this section:

(1) "Eligible nonprofit housing organization" means a nonprofit housing organization that is certified by a home-rule municipality to bring an action under this section.

(2) "Multifamily residential property" means any residential dwelling complex consisting of four or more units.

(b) A home-rule municipality may annually certify one or more nonprofit housing organizations to bring an action under this section after making the following findings:

(1) the nonprofit housing organization has a record of community involvement; and

(2) the certification will further the home-rule municipality's goal to rehabilitate hazardous properties.

(c) A home-rule municipality or an eligible nonprofit housing organization may bring an action under this section in district court against an owner of property that is not in substantial compliance with one or more municipal ordinances regarding:

(1) the prevention of substantial risk of injury to any person; or

(2) the prevention of an adverse health impact to any person.

(d) A municipality that grants authority to an eligible nonprofit housing organization to initiate an action under this section has standing to intervene in the proceedings at any time as a matter of right.

(e) The court may appoint a receiver if the court finds that:

(1) the property is in violation of one or more ordinances of the municipality described by Subsection (c);

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(2) the condition of the property constitutes a serious and imminent public health or safety hazard; and

(3) the property is not an owner-occupied, single-family residence.

(f) The following are eligible to serve as court-appointed receivers:

(1) an entity with, as determined by the court, sufficient capacity and experience rehabilitating properties; and

(2) an individual with, as determined by the court, sufficient resources and experience rehabilitating properties.

(g) Notwithstanding Subsection (f), an entity is ineligible to serve as a receiver for a multifamily residential property if the nonprofit housing organization that brought the action under this section has an ownership interest or a right to income in the entity.

(h) The home-rule municipality or eligible nonprofit housing organization must send by certified mail notice of any ordinance violation alleged to exist on the property on or before the 30th day before the date an action is filed under this section to:

(1) the physical address of the property; and

(2) the address as indicated on the most recently approved municipal tax roll for the property owner or the property owner's agent.

(i) In an action under this section, each record owner and each lienholder of record of the property shall be served with notice of the proceedings or, if not available after due diligence, may be served by alternative means, including publication, as prescribed by the Texas Rules of Civil Procedure. Actual service or service by publication on a record owner or lienholder constitutes notice to each unrecorded owner or lienholder.

(j) On a showing of imminent risk of injury to a person occupying the property or present in the community, the court may issue a mandatory or prohibitory temporary restraining order or temporary injunction as necessary to protect the public health or safety.

(k) Unless inconsistent with this section or other law, the rules of equity govern all matters relating to a court action under this section.

(1) Subject to control of the court, a court-appointed receiver has all powers necessary and customary to the powers of a receiver under the laws of equity and may:

(1) take possession and control of the property;

(2) operate and manage the property;

(3) establish and collect rents and income on the property;

(4) lease the property;

(5) make any repairs and improvements necessary to bring the property into compliance with local codes and ordinances and state laws, including:

(A) performing and entering into contracts for the performance of work and the furnishing of materials for repairs and improvements; and

(B) entering into loan and grant agreements for repairs and improvements to the property;

(6) pay expenses, including paying for utilities and paying taxes and assessments, insurance premiums, and reasonable compensation to a property management agent;

(7) enter into contracts for operating and maintaining the property;

(8) exercise all other authority of an owner of the property other than the authority to sell the property unless authorized by the court under Subsection (n); and

(9) perform other acts regarding the property as authorized by the court.

(m) A court-appointed receiver may demolish a single-family structure on the property under this section on authorization by the court and only if the court finds:

(1) it is not economically feasible to bring the structure into compliance with local codes and ordinances and state laws; and

(2) the structure is:

(A) unfit for human habitation or is a hazard to the public health or safety;

(B) regardless of its structural condition:

(i) unoccupied by its owners or lessees or other invitees; and

(ii) unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children; or

(C) boarded, fenced, or otherwise secured, but:

(i) the structure constitutes a danger to the public even though secured from entry; or

(ii) the means used to secure the structure are inadequate to prevent unauthorized entry or use of the structure in the manner described by Paragraph (B) (ii).

(n) On demolition of the structure, the court may authorize the receiver to sell the property to an individual or organization that will bring the property into productive use.

(o) On completing the repairs or demolishing the structure or before petitioning a court for termination of the receivership, the receiver shall file with the court a full accounting of all costs and expenses incurred in the repairs or demolition, including reasonable costs for labor and supervision, all income received from the property, and, at the receiver's discretion, a receivership fee of 10 percent of those costs and expenses. If the property was sold under Subsection (n) and the revenue exceeds the total of the costs and expenses incurred by the receiver plus any receivership fee, any net income shall be returned to the owner. If the property is not sold and the income produced exceeds the total of the costs and expenses incurred by the receiver plus any receivership fee, the rehabilitated property shall be restored to the owner and any net income shall be returned to the owner. If the total of the costs and expenses incurred by the receiver plus any receivership fee exceeds the income produced during the receivership, the receiver may maintain control of the property until all rehabilitation and maintenance costs plus any receivership fee are recovered or until the receivership is terminated.

(p) A receiver shall have a lien on the property for all of the receiver's unreimbursed costs and expenses, plus any receivership fee.

(q) Any lienholder of record may, after initiation of an action under this section:

(1) intervene in the action; and

(2) request appointment as a receiver under this section if the lienholder demonstrates to the court an ability and willingness to rehabilitate the property.

(r) A receiver appointed under this section or the home-rule municipality or eligible nonprofit housing organization that filed the action under which the receiver was appointed may petition the court to terminate the receivership and order the sale of the property if an owner has been served with notice but has failed to repay all of the receiver's outstanding costs and expenses plus any receivership fee on or before the 180th day after the date the notice was served.

(s) The court may order the sale of the property if the court finds that:

(1) notice was given to each record owner of the property and each lienholder of record;

(2) the receiver has been in control of the property and the owner has failed to repay all the receiver's outstanding costs and expenses of rehabilitation plus any receivership fee within the period prescribed by Subsection (r); and

(3) no lienholder of record has intervened in the action and tendered the receiver's costs and expenses, plus any receivership fee, and assumed control of the property.

(t) The court may order the property sold:

(1) to a land bank or other party as the court may direct, excluding, for multifamily residential properties, an eligible nonprofit housing organization that initiated the action under this section; or

(2) at public auction.

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(u) The receiver, if an entity not excluded under Subsection (t), may bid on the property at the sale described by Subsection (t)(2) and may use a lien granted under Subsection (p) as credit toward the purchase.

(v) The court shall confirm a sale under this section and order a distribution of the proceeds of the sale in the following order:

(1) court costs;

(2) costs and expenses, plus a receivership fee, and any lien held by the receiver;
and

(3) other valid liens.

(w) Any remaining amount shall be paid to the owner. If the owner cannot be identified or located, the court shall order the remaining amount to be deposited in an interest-bearing account with the district clerk's office in the district court in which the action is pending. The district clerk shall hold the funds as provided by other law.

(x) After the proceeds are distributed, the court shall award fee title to the purchaser. If the proceeds of the sale are insufficient to pay all liens, claims, and encumbrances on the property, the court shall extinguish all unpaid liens, claims, and encumbrances on the property and award title to the purchaser free and clear.

(y) This section does not foreclose any right or remedy that may be available under Section 214.003, other state law, or the laws of equity.

Added by Acts 2009, 81st Leg., R.S., Ch. 1414 (S.B. 1449), Sec. 1, eff. September 1, 2009.

Sec. 214.004. SEIZURE AND SALE OF PROPERTY TO RECOVER EXPENSES. A Type A general-law municipality or home-rule municipality may foreclose a lien on property under this subchapter:

(1) in a proceeding relating to the property brought under Subchapter E, Chapter 33, Tax Code; or

(2) in a judicial proceeding, if:

(A) a building or other structure on the property has been demolished;

(B) a lien for the cost of the demolition of the building or other structure on the property has been created and that cost has not been paid more than 180 days after the date the lien was filed; and

(C) ad valorem taxes are delinquent on all or part of the property.

Added by Acts 1995, 74th Leg., ch. 1017, Sec. 5, eff. Aug. 28, 1995. Amended by Acts 1997, 75th Leg., ch. 470, Sec. 1, eff. May 30, 1997.

Sec. 214.005. PROPERTY BID OFF TO MUNICIPALITY. A municipality may adopt an ordinance under Section 214.001(a) that applies to property that has been bid off to the municipality under Section 34.01(j), Tax Code.

Added by Acts 2001, 77th Leg., ch. 413, Sec. 11, eff. Sept. 1, 2001.

SUBCHAPTER B. PLUMBING AND SEWERS

Sec. 214.011. PLUMBING INSPECTOR. (a) If a municipality does not have a special charter that provides for an inspector of plumbing, the governing body of the municipality may appoint an inspector of plumbing for a term fixed by the governing body.

(b) The same individual may serve as plumbing inspector and municipal engineer.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 87(k), eff. Aug. 28, 1989.

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Sec. 214.012. SEWERS AND PLUMBING. A municipality that has underground sewers or cesspools shall regulate by ordinance:

- (1) the tapping of the sewers and cesspools; and
- (2) house draining and plumbing.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 214.013. SEWER CONNECTIONS. (a) A municipality may:

- (1) provide for a sanitary sewer system; and
- (2) require property owners to connect to the sewer system.

(b) If an owner does not connect to the sewer system, the municipality may:

- (1) fix a lien against the owner's property;
- (2) charge the cost of the connection to the owner as a personal liability; and
- (3) impose a penalty on the owner.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 51, Sec. 1, eff. Aug. 30, 1993.

Sec. 214.014. DRAINS, SINKS, AND PRIVIES. (a) The governing body of a Type A general-law municipality may, by resolution or ordinance, order the owner of a private drain, sink, or privy to fill up, clean, drain, alter, relay, repair, or improve the drain, sink, or privy.

(b) If the order cannot be served on a person in the municipality, the municipality may have the work done on behalf of the owner. The municipality may fix a lien on the owner's property for expenses incurred in having the work done. The lien is created when the mayor of the municipality files and records a memorandum, under the seal of the municipality, with the clerk of the district court.

(c) The municipality may enforce the lien and may obtain in any court having jurisdiction a judgment against the owner for the amount of the expenses.

(d) The governing body may punish by a fine a person who does not comply with an order adopted under this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 214.015. SEIZURE AND SALE OF PROPERTY TO RECOVER EXPENSES. A home-rule municipality or Type A general-law municipality may foreclose a lien on property under this subchapter in a proceeding relating to the property brought under Subchapter E, Chapter 33, Tax Code.

Added by Acts 1995, 74th Leg., ch. 1017, Sec. 6, eff. Aug. 28, 1995.

SUBCHAPTER C. SWIMMING POOL ENCLOSURES

Sec. 214.101. AUTHORITY REGARDING SWIMMING POOL ENCLOSURES. (a) A municipality may by ordinance establish minimum standards for swimming pool fences and enclosures and may adopt other ordinances as necessary to carry out this subchapter. A municipal ordinance containing standards for a pool yard enclosure as defined by Chapter 757, Health and Safety Code, as added by Section 2, Chapter 517, Acts of the 73rd Legislature, 1993, must contain the same standards for that enclosure as are required or permitted by that chapter of the Health and Safety Code.

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(b) A municipality that adopts an ordinance under this subchapter may repair, replace, secure, or otherwise remedy an enclosure or fence that is damaged, deteriorated, substandard, dilapidated, or otherwise in a state that poses a hazard to the public health, safety, and welfare.

(c) A municipality may require the owner of the property on which the swimming pool or enclosure or fence is situated, after notice and hearing as provided in Sections 214.001(d) and (e), to repair, replace, secure, or otherwise remedy an enclosure or fence of a swimming pool that the municipality or an appropriate municipal official, agent, or employee determines violates the minimum standards adopted under this subchapter.

(d) If the enclosure or fence is on unoccupied property or is on property occupied only by persons who do not have a right of possession to the property, the municipality shall give notice to the owner, in accordance with the procedures set out in Sections 214.001(c) and (d), of the municipality's action to repair, replace, secure, or otherwise remedy an enclosure or fence of a swimming pool.

(e) If a municipality incurs expenses under this subchapter, the municipality may assess the expenses on, and the municipality has a lien against, unless it is a homestead as protected by the Texas Constitution, the property on which the swimming pool or the enclosure or fence is situated. The lien is extinguished if the property owner or another person having an interest in the legal title to the property reimburses the municipality for the expenses. The lien arises and attaches to the property at the time the notice of the lien is recorded in the office of the county clerk in the county in which the property is situated. The notice must contain the name and address of the owner if that information can be determined with a reasonable effort, a legal description of the real property on which the swimming pool or the enclosure or fence is situated, the amount of expenses incurred by the municipality, and the balance due. The lien is a privileged lien subordinate only to tax liens and all previously recorded bona fide mortgage liens attached to the real property to which the municipality's lien attaches.

(f) An ordinance adopted under this subchapter may provide for a penalty, not to exceed \$1,000, for a violation of the ordinance. The ordinance may provide that each day a violation occurs constitutes a separate offense.

(g) A municipal official, agent, or employee, acting under the authority granted by this subchapter or any ordinance adopted under this subchapter, may enter any unoccupied premises at a reasonable time to inspect, investigate, or enforce the powers granted under this subchapter or any ordinance adopted pursuant to this subchapter. After providing a minimum of 24 hours notice to the occupant, a municipal official, agent, or employee, acting under the authority granted by this subchapter or any ordinance adopted under this subchapter, may enter any occupied premises to inspect, investigate, or enforce the powers granted under this subchapter or any ordinance adopted pursuant to this subchapter. A municipality and its officials, agents, or employees shall be immune from liability for any acts or omissions not knowingly done that are associated with actions taken in an effort to eliminate the dangerous conditions posed by an enclosure or fence that is damaged, deteriorated, substandard, dilapidated, or otherwise in a state that poses a hazard to the public health, safety, and welfare and for any previous or subsequent conditions on the property.

(h) The authority granted by this subchapter is in addition to that granted by any other law.

Added by Acts 1993, 73rd Leg., ch. 517, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 577, Sec. 1, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 1420, Sec. 12.107, eff. Sept. 1, 2001.

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Sec. 214.102. SEIZURE AND SALE OF PROPERTY TO RECOVER EXPENSES. A municipality may foreclose a lien on property under this subchapter in a proceeding relating to the property brought under Subchapter E, Chapter 33, Tax Code.

Added by Acts 1995, 74th Leg., ch. 1017, Sec. 7, eff. Aug. 28, 1995.

SUBCHAPTER D. BUILDING LINES

Sec. 214.131. DEFINITIONS. In this subchapter:

(1) "Street" means a public highway, boulevard, parkway, square, or street, or a part or side of any of these.

(2) "Structure" means a building or other structure, or a part of a building or other structure.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 213.001 and amended by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(4), eff. Sept. 1, 2001.

Sec. 214.132. BUILDING LINES AUTHORIZED. The governing body of a municipality may, by resolution or ordinance, establish a building line on a street in the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 213.002 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(4), eff. Sept. 1, 2001.

Sec. 214.133. ACTIVITY PROHIBITED WITHIN BUILDING LINE. In the area between a street and a building line established under this subchapter for the street, the erection, re-erection, reconstruction, or substantial repair of a structure is prohibited.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 213.003 and amended by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(4), eff. Sept. 1, 2001.

Sec. 214.134. RESOLUTION OR ORDINANCE. (a) In adopting a resolution or ordinance that establishes a building line, a municipality must follow the same procedure that it is authorized by law to use to acquire land for the opening of streets.

(b) The resolution or ordinance must:

(1) describe the street affected and the location of the building line; and

(2) provide a period, not to exceed 25 years after the date on which the line is established, during which structures extending into the area between the street and the building line must be brought into conformance with the line.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 213.004 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(4), eff. Sept. 1, 2001.

Sec. 214.135. CONDEMNATION OF EASEMENTS AND INTERESTS; ASSESSMENTS. (a) A municipality must follow the same procedure that it is authorized by law to use to open streets when the municipality:

(1) institutes and conducts a condemnation proceeding to condemn an easement or interest necessary to establish a building line; or

(2) imposes and collects an assessment based on the benefits arising out of the establishment of a building line against the property owner and property abutting or in the vicinity of the building line.

(b) If, in the condemnation of a tract, the ownership of the tract or the interests in the tract are in controversy or unknown, an award for the tract may be made in bulk and paid

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into court for the use of the parties owning or interested in the tract as their ownership or interest appears.

(c) When the award and findings of the special commissioners, who are appointed under Chapter 21, Property Code, are filed with the court having jurisdiction over the condemnation proceedings, the award and findings are final and shall be made the judgment of the court. Compensation is due and payable on rendition of the judgment by the court adopting the award.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 213.005 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(4), eff. Sept. 1, 2001.

Sec. 214.136. CONDEMNATION OF PROPERTY. (a) Before or after expiration of the period for conformance set under Section 214.134(b)(2), a municipality, following the same procedure that it is authorized by law to use to institute condemnation proceedings, may:

(1) remove a structure and condemn property in the area between a street and a building line; and

(2) impose an assessment against property owners and property that is benefitted by the establishment of the building line to the extent of the benefit.

(b) The municipality must provide notice and a hearing to the owner of affected property for the determination of:

(1) additional damages sustained by the removal of a structure or the taking of land in the area between a street and a building line; or

(2) the assessment to be imposed against a property owner and the property.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 213.006 and amended by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(4), eff. Sept. 1, 2001.

SUBCHAPTER E. COMMERCIAL BUILDING PERMITS IN CERTAIN POPULOUS MUNICIPALITIES

Sec. 214.161. MUNICIPALITY COVERED BY SUBCHAPTER. This subchapter applies only to a municipality with a population of more than 1.18 million located primarily in a county with a population of 2 million or more.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 597, Sec. 94, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 669, Sec. 74, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(5), eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 79, eff. September 1, 2011.

Sec. 214.162. DEFINITIONS. In this subchapter:

(1) "Commercial building" means a building that is not a single family residence.

(2) "Permit department" means the municipal agency that is authorized to issue commercial building permits.

(3) "Subdivider" means a person who divides a tract of real property under circumstances to which Subchapter A, Chapter 212 applies.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 230.012 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(5), eff. Sept. 1, 2001.

Sec. 214.163. PERMIT APPLICATION REQUIREMENTS; ISSUANCE OF PERMIT. (a) A person who desires to obtain a commercial building permit must file with the permit application a certified copy of any instrument that contains a restriction on the use of or on construction

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on the affected property and must also include a certified copy of any amendment, judgment, or other document that affects the use of the property.

(b) The permit department shall issue a permit for construction or repair that conforms to all restrictions relating to the use of the property described in the application if the applicant for the permit has complied with this subchapter and with local ordinances relating to commercial building permits.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 230.013 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(5), eff. Sept. 1, 2001.

Sec. 214.164. FILING OF PLAT AND RESTRICTIONS; EFFECT ON PERMIT. (a) At the time that a subdivider files a plat of a proposed subdivision for recording, the subdivider shall file with the permit department two copies of the subdivision plat and of any restrictions relating to the property included in the plat.

(b) The permit department shall securely keep one copy of the plat and restrictions as a permanent record.

(c) A person who desires to obtain a commercial building permit for property that is included in a plat or restrictions on file with the permit department is not required to file a copy of the plat and the restrictions with the permit application.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 230.014 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(5), eff. Sept. 1, 2001.

Sec. 214.165. REPAIRS; CONVERSIONS. (a) A person who proposes to substantially repair or remodel a commercial building located within a subdivision or to convert a single family residence into a commercial building must obtain a commercial building permit from the permit department.

(b) This section does not apply to a violation of a restrictive covenant that occurred before May 18, 1965, if the violation retains the status existing on that date.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 230.015 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(5), eff. Sept. 1, 2001.

Sec. 214.166. INJUNCTION. (a) A person who, without obtaining a permit, attempts to construct or repair any structure for which a commercial building permit is required may be enjoined from any further construction activity until the person complies with this subchapter.

(b) The municipality may join with an interested property owner in a suit to enjoin further construction activity by a person who does not have a permit issued in compliance with this subchapter if the structure or proposed structure violates a restriction contained in the deed or other instrument.

(c) A municipality may join with an interested property owner in a suit to enjoin the maintenance of a commercial building by a person who does not have a permit in compliance with this subchapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 230.016 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(5), eff. Sept. 1, 2001.

Sec. 214.167. REVIEW OF REFUSAL TO ISSUE PERMIT. (a) An administrative refusal to issue a commercial building permit based on a violation of restrictions contained in a deed or other instrument is reviewable by a court of competent jurisdiction if, during the 90-day

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period after the day on which the permit is refused, the person contesting the refusal gives notice to the permit department that the suit has been filed.

(b) If conditions in a subdivision change or if other legally sufficient reasons to modify the restrictions occur, a person who has been refused a commercial building permit may petition a court of competent jurisdiction to alter the restrictions to better conform to present conditions.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 230.017 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(5), eff. Sept. 1, 2001.

Sec. 214.168. VOID PERMITS. A commercial permit obtained without full compliance with this subchapter is void.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Renumbered from Sec. 230.018 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(5), eff. Sept. 1, 2001.

SUBCHAPTER F. BURGLAR ALARM SYSTEMS IN CERTAIN MUNICIPALITIES WHOLLY LOCATED IN CERTAIN COUNTIES

Sec. 214.191. DEFINITIONS. In this subchapter:

(1) "Alarm system" means a device or system that transmits a signal intended to summon police of a municipality in response to a burglary. The term includes an alarm that emits an audible signal on the exterior of a structure. The term does not include an alarm installed on a vehicle, unless the vehicle is used for a habitation at a permanent site, or an alarm designed to alert only the inhabitants within the premises.

(2) "Permit" means a certificate, license, permit, or other form of permission that authorizes a person to engage in an action.

Added by Acts 1991, 72nd Leg., ch. 550, Sec. 1, eff. Sept. 1, 1991. Renumbered from Sec. 218.001 and amended by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(6), eff. Sept. 1, 2001.

Sec. 214.1915. APPLICABILITY. This subchapter applies only to a municipality with a population of less than 100,000 that is located wholly in a county with a population of less than 500,000.

Added by Acts 2015, 84th Leg., R.S., Ch. 930 (H.B. 2162), Sec. 2, eff. September 1, 2015.

Sec. 214.192. CATEGORIES OF ALARM SYSTEMS. The category of alarm system to be regulated is burglary.

Added by Acts 1991, 72nd Leg., ch. 550, Sec. 1, eff. Sept. 1, 1991. Renumbered from Sec. 218.002 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(6), eff. Sept. 1, 2001.

Sec. 214.193. DURATION OF MUNICIPAL PERMIT. (a) If a municipality adopts an ordinance that requires a person to obtain a permit from the municipality before a person may use an alarm system in the municipality, the ordinance must provide that the permit is valid for at least one year.

(b) This requirement does not affect the authority of the municipality to:

(1) revoke, suspend, or otherwise affect the duration of a permit for disciplinary reasons at any time during the period for which the permit is issued; or

(2) make a permit valid for a period of less than one year if necessary to conform the permit to the termination schedule established by the municipality for permits.

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Added by Acts 1991, 72nd Leg., ch. 550, Sec. 1, eff. Sept. 1, 1991. Renumbered from Sec. 218.003 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(6), eff. Sept 1, 2001.

Sec. 214.194. MUNICIPAL PERMIT FEE GENERALLY. (a) If a municipality adopts an ordinance that requires a person to pay an annual fee to obtain a permit from the municipality before the person may use an alarm system in the municipality, the fee shall be used for the general administration of this subchapter, including the provision of responses generally required to implement this subchapter other than specific responses to false alarms.

(b) A municipal permit fee imposed under this section may not exceed the rate of \$50 a year for a residential location.

Added by Acts 1991, 72nd Leg., ch. 550, Sec. 1, eff. Sept. 1, 1991. Renumbered from Sec. 218.004 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(6), eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 808 (S.B. 568), Sec. 1, eff. September 1, 2005.

Sec. 214.195. NONRENEWAL OR REVOCATION OF PERMIT AND TERMINATION OF MUNICIPAL RESPONSE; DISCRIMINATION PROHIBITED. (a) Except as provided in Subsection (d), a municipality may not terminate its law enforcement response to a residential permit holder because of excess false alarms if the false alarm fees are paid in full.

(b) In permitting free false alarm responses and in setting false alarm fees, a municipality must administer any ordinance on a fair and equitable basis as determined by the governing body.

(c) A municipality may not terminate an alarm permit for nonrenewal without providing at least 30 days' notice.

(d) A municipality may revoke or refuse to renew the permit of an alarm system that has had eight or more false alarms during the preceding 12-month period.

Added by Acts 1991, 72nd Leg., ch. 550, Sec. 1, eff. Sept. 1, 1991. Renumbered from Sec. 218.005 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(6), eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 808 (S.B. 568), Sec. 2, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 808 (S.B. 568), Sec. 3, eff. September 1, 2005.

Sec. 214.1955. MULTIUNIT HOUSING FACILITIES. (a) A municipality may not refuse to issue an alarm system permit for a residential location solely because the residential location is an individual residential unit located in a multiunit housing facility.

(b) In issuing an alarm system permit for an alarm installed in an individual residential unit of a multiunit housing facility, the municipality shall issue the permit to the person occupying the individual residential unit.

(c) A municipality may impose a penalty under Section 214.197 for the signaling of a false alarm on the premises of a multiunit housing facility for a facility other than an individual residential unit only if the permit holder is notified of:

(1) the date of the signaling of the false alarm;
(2) the address of the multiunit housing facility where the signaling of the false alarm occurred; and

(3) the identification of the individual facility, if applicable, located on the multiunit housing facility premises where the signaling of the false alarm occurred.

Added by Acts 2005, 79th Leg., Ch. 808 (S.B. 568), Sec. 4, eff. September 1, 2005.

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Sec. 214.196. ON-SITE INSPECTION REQUIRED. A municipality may not consider a false alarm to have occurred unless a response is made by an agency of the municipality within 30 minutes of the alarm notification and the agency determines from an inspection of the interior or exterior of the premises that the alarm was false.

Added by Acts 1991, 72nd Leg., ch. 550, Sec. 1, eff. Sept. 1, 1991. Renumbered from Sec. 218.006 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(6), eff. Sept. 1, 2001.

Sec. 214.197. PENALTIES FOR FALSE ALARMS. A municipality may impose a penalty for the signaling of a false alarm by a burglar alarm system if at least three other false alarms have occurred during the preceding 12-month period. The amount of the penalty for the signaling of a false alarm as described by Section 214.196 may not exceed:

- (1) \$50, if the location has had more than three but fewer than six other false alarms in the preceding 12-month period;
- (2) \$75, if the location has had more than five but fewer than eight other false alarms in the preceding 12-month period; or
- (3) \$100, if the location has had eight or more other false alarms in the preceding 12-month period.

Added by Acts 1991, 72nd Leg., ch. 550, Sec. 1, eff. Sept. 1, 1991. Renumbered from Sec. 218.007 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(6), eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 808 (S.B. 568), Sec. 5, eff. September 1, 2005.

Sec. 214.198. VERIFICATION. A municipality may require an alarm systems monitor to attempt to contact the occupant of the alarm system location twice before the municipality responds to the alarm signal.

Added by Acts 2005, 79th Leg., Ch. 808 (S.B. 568), Sec. 6, eff. September 1, 2005.

Sec. 214.199. EXCEPTION OF MUNICIPALITY FROM ALARM SYSTEM RESPONSE. (a) The governing body of a municipality may not adopt an ordinance providing that law enforcement personnel of the municipality will not respond to any alarm signal indicated by an alarm system in the municipality unless, before adopting the ordinance, the governing body of the municipality:

- (1) makes reasonable efforts to notify permit holders of its intention to adopt the ordinance; and
- (2) conducts a public hearing at which persons interested in the response of the municipality to alarm systems are given the opportunity to be heard.

(b) A municipality that adopts an ordinance under this section may not impose or collect any fine, fee, or penalty otherwise authorized by this subchapter.

(c) A municipality that adopts or proposes to adopt an ordinance under this section may notify permit holders that a permit holder may contract with a security services provider licensed by the Texas Private Security Board under Chapter 1702, Occupations Code, to respond to an alarm. The notice, if given, must include the board's telephone number and Internet website address.

Added by Acts 2005, 79th Leg., Ch. 808 (S.B. 568), Sec. 6, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 232 (H.B. 1784), Sec. 1, eff. September 1, 2007.

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Sec. 214.200. PRIORITY OR LEVEL OF RESPONSE NOT AFFECTED; LIABILITY OF MUNICIPALITY FOR NONRESPONSE. (a) Nothing in this subchapter:

(1) affects the priority or level of response provided by a municipality to a permitted location; or

(2) waives the governmental immunity provided by law for a municipality.

(b) A municipality that does not respond to an alarm signal is not liable for damages that may occur relating to the cause of the alarm signal.

Added by Acts 2005, 79th Leg., Ch. 808 (S.B. 568), Sec. 6, eff. September 1, 2005.

SUBCHAPTER F-1. BURGLAR ALARM SYSTEMS IN LARGE MUNICIPALITIES AND MUNICIPALITIES WHOLLY OR PARTLY LOCATED IN LARGE COUNTIES

Sec. 214.201. DEFINITIONS. In this subchapter:

(1) "Alarm system" and "permit" have the meanings assigned by Section 214.191.

(2) "Alarm systems monitor" means a person who acts as an alarm systems company under Section 1702.105, Occupations Code.

(3) "False alarm" means a notification of possible criminal activity reported to law enforcement:

(A) that is based solely on electronic information remotely received by an alarm systems monitor;

(B) that is uncorroborated by eyewitness, video, or photographic evidence that an emergency exists; and

(C) concerning which an agency of the municipality has verified that no emergency exists after an on-site inspection of the location from which the notification originated.

Added by Acts 2015, 84th Leg., R.S., Ch. 930 (H.B. 2162), Sec. 3, eff. September 1, 2015.

Sec. 214.2015. APPLICABILITY. This subchapter does not apply to a municipality to which Subchapter F applies.

Added by Acts 2015, 84th Leg., R.S., Ch. 930 (H.B. 2162), Sec. 3, eff. September 1, 2015.

Sec. 214.202. CATEGORIES OF ALARM SYSTEMS. The category of alarm system to be regulated is burglary.

Added by Acts 2015, 84th Leg., R.S., Ch. 930 (H.B. 2162), Sec. 3, eff. September 1, 2015.

Sec. 214.203. DURATION OF MUNICIPAL PERMIT. (a) If a municipality adopts an ordinance that requires a person to obtain a permit from the municipality before a person may use an alarm system in the municipality, the ordinance must provide that the permit is valid for at least one year.

(b) This requirement does not affect the authority of the municipality to:

(1) revoke, suspend, or otherwise affect the duration of a permit for disciplinary reasons at any time during the period for which the permit is issued; or

(2) make a permit valid for a period of less than one year if necessary to conform the permit to the termination schedule established by the municipality for permits.

Added by Acts 2015, 84th Leg., R.S., Ch. 930 (H.B. 2162), Sec. 3, eff. September 1, 2015.

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Sec. 214.204. MUNICIPAL PERMIT FEE GENERALLY. (a) If a municipality adopts an ordinance that requires a person to pay an annual fee to obtain a permit from the municipality before the person may use an alarm system in the municipality, the fee shall be used for the general administration of this subchapter, including the provision of responses generally required to implement this subchapter other than specific responses to false alarms.

(b) A municipal permit fee imposed under this section for an alarm system may not exceed the rate of:

- (1) \$50 a year for a residential location; and
- (2) \$250 a year for other alarm system locations.

Added by Acts 2015, 84th Leg., R.S., Ch. 930 (H.B. 2162), Sec. 3, eff. September 1, 2015.

Sec. 214.205. NONRENEWAL OR REVOCATION OF PERMIT; TERMINATION OF MUNICIPAL RESPONSE; DISCRIMINATION PROHIBITED. (a) Except as provided by Subsection (d), a municipality may not terminate its law enforcement response to a residential permit holder because of excess false alarms if the false alarm fees are paid in full.

(b) In permitting free false alarm responses and in setting false alarm fees, a municipality must administer any ordinance on a fair and equitable basis as determined by the governing body.

(c) A municipality may not terminate an alarm permit for nonrenewal without providing at least 30 days' notice.

(d) A municipality may revoke or refuse to renew the permit of an alarm system that has had eight or more false alarms during the preceding 12-month period.

Added by Acts 2015, 84th Leg., R.S., Ch. 930 (H.B. 2162), Sec. 3, eff. September 1, 2015.

Sec. 214.2055. MULTIUNIT HOUSING FACILITIES. (a) A municipality may not refuse to issue an alarm system permit for a residential location solely because the residential location is an individual residential unit located in a multiunit housing facility.

(b) In issuing an alarm system permit for an alarm installed in an individual residential unit of a multiunit housing facility, the municipality shall issue the permit to the person occupying the individual residential unit.

(c) A municipality may impose a penalty under Section 214.207 for the signaling of a false alarm on the premises of a multiunit housing facility for a facility other than an individual residential unit only if the permit holder is notified of:

- (1) the date of the signaling of the false alarm;
- (2) the address of the multiunit housing facility where the signaling of the false alarm occurred; and
- (3) the identification of the individual facility, if applicable, located on the multiunit housing facility premises where the signaling of the false alarm occurred.

Added by Acts 2015, 84th Leg., R.S., Ch. 930 (H.B. 2162), Sec. 3, eff. September 1, 2015.

Sec. 214.206. ON-SITE INSPECTION REQUIRED. A municipality may not consider a false alarm to have occurred unless a response is made by an agency of the municipality within a reasonable time and the agency determines from an inspection of the interior or exterior of the premises that the alarm report by an alarm systems monitor was false.

Added by Acts 2015, 84th Leg., R.S., Ch. 930 (H.B. 2162), Sec. 3, eff. September 1, 2015.

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Sec. 214.207. PENALTIES FOR FALSE ALARMS. (a) A municipality may impose a penalty on a person who uses an alarm system in the municipality for the report of a false alarm by an alarm systems monitor if at least three other false alarms have occurred at that location during the preceding 12-month period. The amount of the penalty for the report of a false alarm as described by Section 214.206 may not exceed:

- (1) \$50, if the location has had more than three but fewer than six other false alarms in the preceding 12-month period;
- (2) \$75, if the location has had more than five but fewer than eight other false alarms in the preceding 12-month period; or
- (3) \$100, if the location has had eight or more other false alarms in the preceding 12-month period.

(b) A municipality may not impose a penalty authorized under Subsection (a) if reasonable visual proof of possible criminal activity recorded by an alarm systems monitor is provided to the municipality before the inspection of the premises by an agency of the municipality.

(c) A municipality that adopts an ordinance requiring a person to obtain a permit from the municipality before the person may use an alarm system in the municipality may impose a penalty, not to exceed \$250, for the report of a false alarm by an alarm systems monitor on a person who has not obtained a permit for the alarm system as required by the municipal ordinance.

(d) A municipality:

(1) may impose a penalty, not to exceed \$250, for the report of a false alarm on a person not licensed under Chapter 1702, Occupations Code, that to any extent is reported or facilitated by the unlicensed person; and

(2) may not impose a penalty for the report of a false alarm on a person licensed under Chapter 1702, Occupations Code.

(e) A municipality may not impose or collect any fine, fee, or penalty, other than collection fees, related to a false alarm or alarm system unless the fine, fee, or penalty is defined in the ordinance in accordance with this subchapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 930 (H.B. 2162), Sec. 3, eff. September 1, 2015.

Sec. 214.208. PROCEDURES FOR REDUCING FALSE ALARMS. A municipality may require an alarm systems monitor to attempt to contact the occupant of the alarm system location twice before the municipality responds to the alarm signal.

Added by Acts 2015, 84th Leg., R.S., Ch. 930 (H.B. 2162), Sec. 3, eff. September 1, 2015.

Sec. 214.209. EXCEPTION OF MUNICIPALITY FROM ALARM SYSTEM RESPONSE. (a) The governing body of a municipality may not adopt an ordinance providing that law enforcement personnel of the municipality will not respond to any alarm signal indicated by an alarm system in the municipality unless, before adopting the ordinance, the governing body of the municipality:

(1) makes reasonable efforts to notify permit holders of its intention to adopt the ordinance; and

(2) conducts a public hearing at which persons interested in the response of the municipality to alarm systems are given the opportunity to be heard.

(b) A municipality that adopts an ordinance under this section may not impose or collect any fine, fee, or penalty otherwise authorized by this subchapter.

(c) A municipality that adopts or proposes to adopt an ordinance under this section may notify permit holders that a permit holder may contract with a security services provider licensed by the Texas Private Security Board under Chapter 1702, Occupations Code, to respond

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to an alarm. The notice, if given, must include the board's telephone number and Internet website address.

Added by Acts 2015, 84th Leg., R.S., Ch. 930 (H.B. 2162), Sec. 3, eff. September 1, 2015.

Sec. 214.210. PRIORITY OR LEVEL OF RESPONSE NOT AFFECTED; LIABILITY OF MUNICIPALITY FOR NONRESPONSE. (a) Nothing in this subchapter:

(1) affects the priority or level of response provided by a municipality to a permitted location; or

(2) waives the governmental immunity provided by law for a municipality.

(b) A municipality that does not respond to an alarm system signal is not liable for damages that may occur relating to the cause of the alarm system signal.

Added by Acts 2015, 84th Leg., R.S., Ch. 930 (H.B. 2162), Sec. 3, eff. September 1, 2015.

Sec. 214.2105. EXCLUSION OF CERTAIN ALARM SYSTEMS BY OWNER. (a) A property owner or an agent of the property owner authorized to make decisions regarding the use of the property may elect to exclude the municipality from receiving an alarm signal by an alarm system located on the owner's property. A municipality may adopt an ordinance that specifies the requirements a property owner must satisfy for an election to be made under this section.

(b) If an election is made under Subsection (a), the municipality:

(1) may not impose a fee to obtain a permit to use the alarm system;

(2) may impose a fee on the property owner, not to exceed \$250, for each law enforcement response to a signal from the alarm system requested by an alarm systems monitor; and

(3) may not impose or collect any other fine, penalty, or fee, other than a collection fee, related to the alarm system.

Added by Acts 2015, 84th Leg., R.S., Ch. 930 (H.B. 2162), Sec. 3, eff. September 1, 2015.

SUBCHAPTER G. BUILDING AND REHABILITATION CODES

Sec. 214.211. DEFINITIONS. In this subchapter:

(1) "International Residential Code" means the International Residential Code for One- and Two-Family Dwellings promulgated by the International Code Council.

(2) "National Electrical Code" means the electrical code published by the National Fire Protection Association.

(3) "Residential" means having the character of a detached one-family or two-family dwelling or a multiple single-family dwelling that is not more than three stories high with separate means of egress, including the accessory structures of the dwelling, and that does not have the character of a facility used for the accommodation of transient guests or a structure in which medical, rehabilitative, or assisted living services are provided in connection with the occupancy of the structure.

(4) "International Building Code" means the International Building Code promulgated by the International Code Council.

(5) "Commercial" means a building for the use or occupation of people for:

(A) a public purpose or economic gain; or

(B) a residence if the building is a multifamily residence that is not defined as residential by this section.

Added by Acts 2001, 77th Leg., ch. 120, Sec. 1, eff. Jan. 1, 2002.

Amended by:

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Acts 2005, 79th Leg., Ch. 389 (S.B. 1458), Sec. 1, eff. January 1, 2006.

Sec. 214.212. INTERNATIONAL RESIDENTIAL CODE. (a) To protect the public health, safety, and welfare, the International Residential Code, as it existed on May 1, 2001, is adopted as a municipal residential building code in this state.

(b) The International Residential Code applies to all construction, alteration, remodeling, enlargement, and repair of residential structures in a municipality.

(c) A municipality may establish procedures:

(1) to adopt local amendments to the International Residential Code; and

(2) for the administration and enforcement of the International Residential Code.

(d) A municipality may review and consider amendments made by the International Code Council to the International Residential Code after May 1, 2001.

Added by Acts 2001, 77th Leg., ch. 120, Sec. 1, eff. Jan. 1, 2002.

Sec. 214.213. EXCEPTIONS. (a) The International Residential Code and the International Building Code do not apply to the installation and maintenance of electrical wiring and related components.

(b) A municipality is not required to review and consider adoption of amendments to the International Residential Code or the International Building Code regarding electrical provisions.

Added by Acts 2001, 77th Leg., ch. 120, Sec. 1, eff. Jan. 1, 2002.

Amended by:

Acts 2005, 79th Leg., Ch. 389 (S.B. 1458), Sec. 2, eff. January 1, 2006.

Sec. 214.214. NATIONAL ELECTRICAL CODE. (a) Except as provided by Subsection (c), the National Electrical Code, as it existed on May 1, 2001, is adopted as the municipal electrical construction code in this state and applies to all residential and commercial electrical construction applications.

(b) A municipality may establish procedures:

(1) to adopt local amendments to the National Electrical Code; and

(2) for the administration and enforcement of the National Electrical Code.

(c) The National Electrical Code applies to all commercial buildings in a municipality for which construction begins on or after January 1, 2006, and to any alteration, remodeling, enlargement, or repair of those commercial buildings.

Added by Acts 2001, 77th Leg., ch. 120, Sec. 1, eff. Jan. 1, 2002.

Amended by:

Acts 2005, 79th Leg., Ch. 389 (S.B. 1458), Sec. 3, eff. January 1, 2006.

Sec. 214.215. ADOPTION OF REHABILITATION CODES OR PROVISIONS. (a) In this section, "rehabilitation" means the alteration, remodeling, enlargement, or repair of an existing structure.

(b) A municipality that adopts a building code, other than the International Residential Code adopted under Section 214.212, shall adopt one of the following:

(1) prescriptive provisions for rehabilitation as part of the municipality's building code; or

(2) the rehabilitation code that accompanies the building code adopted by the municipality.

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(c) The rehabilitation code or prescriptive provisions do not apply to the rehabilitation of a structure to which the International Residential Code applies or to the construction of a new structure.

(d) A municipality may:

(1) adopt the rehabilitation code or prescriptive provisions for rehabilitation recommended by the Texas Board of Architectural Examiners; or

(2) amend its rehabilitation code or prescriptive provisions for rehabilitation.

(e) A municipality shall enforce the prescriptive provisions for rehabilitation or the rehabilitation code in a manner consistent with the enforcement of the municipality's building code.

Added by Acts 2003, 78th Leg., ch. 331, Sec. 6.02, eff. Sept. 1, 2003.

Sec. 214.216. INTERNATIONAL BUILDING CODE. (a) To protect the public health, safety, and welfare, the International Building Code, as it existed on May 1, 2003, is adopted as a municipal commercial building code in this state.

(b) The International Building Code applies to all commercial buildings in a municipality for which construction begins on or after January 1, 2006, and to any alteration, remodeling, enlargement, or repair of those commercial buildings.

(c) A municipality may establish procedures:

(1) to adopt local amendments to the International Building Code; and

(2) for the administration and enforcement of the International Building Code.

(d) A municipality may review and consider amendments made by the International Code Council to the International Building Code after May 1, 2003.

(e) A municipality that has adopted a more stringent commercial building code before January 1, 2006, is not required to repeal that code and may adopt future editions of that code.

Added by Acts 2005, 79th Leg., Ch. 389 (S.B. 1458), Sec. 4, eff. January 1, 2006.

Sec. 214.217. NOTICE REGARDING MODEL CODE ADOPTION OR AMENDMENT IN CERTAIN MUNICIPALITIES. (a) In this section, "national model code" means a publication that is developed, promulgated, and periodically updated at a national level by organizations consisting of industry and government fire and building safety officials through a legislative or consensus process and that is intended for consideration by units of government as local law. National model codes include the International Residential Code, the National Electrical Code, and the International Building Code.

(b) This section applies only to a municipality with a population of more than 100,000.

(c) On or before the 21st day before the date the governing body of a municipality takes action to consider, review, and recommend the adoption of or amendment to a national model code governing the construction, renovation, use, or maintenance of buildings and building systems in the municipality, the governing body shall publish notice of the proposed action conspicuously on the municipality's Internet website.

(d) The governing body of the municipality shall make a reasonable effort to encourage public comment from persons affected by the proposed adoption of or amendment to a national model code under this section.

(e) On the written request from five or more persons, the governing body of the municipality shall hold a public hearing open to public comment on the proposed adoption of or amendment to a national model code under this section. The hearing must be held on or before the 14th day before the date the governing body adopts the ordinance that adopts or amends a national model code under this section.

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(f) If the governing body of a municipality has established an advisory board or substantially similar entity for the purpose of obtaining public comment on the proposed adoption of or amendment to a national model code, this section does not apply.

Added by Acts 2009, 81st Leg., R.S., Ch. 130 (S.B. 820), Sec. 1, eff. May 23, 2009.

Sec. 214.218. IMMEDIATE EFFECT OF CERTAIN CODES OR PROVISIONS DELAYED. (a) In this section, "national model code" has the meaning assigned by Section 214.217.

(b) Except as provided by Subsection (c), the governing body of a municipality with a population of more than 100,000 that adopts an ordinance or national model code provision that is intended to govern the construction, renovation, use, or maintenance of buildings and building systems in the municipality shall delay implementing and enforcing the ordinance or code provision for at least 30 days after final adoption to permit persons affected to comply with the ordinance or code provision.

(c) If a delay in implementing or enforcing the ordinance or code provision would cause imminent harm to the health or safety of the public, the municipality may enforce the ordinance or code provision immediately on the effective date of the ordinance or code provision.

Added by Acts 2009, 81st Leg., R.S., Ch. 130 (S.B. 820), Sec. 1, eff. May 23, 2009.

Sec. 214.219. MINIMUM HABITABILITY STANDARDS FOR MULTI-FAMILY RENTAL BUILDINGS IN CERTAIN MUNICIPALITIES. (a) This section applies only to a municipality with a population of 1.7 million or more. This section does not affect the authority of a municipality to which this section does not apply to enact or enforce laws relating to multi-family rental buildings.

(b) In this section:

(1) "Multi-family rental building" means a building that has three or more single-family residential units.

(2) "Unit" means one or more rooms rented for use as a permanent residence under a single lease to one or more tenants.

(c) A municipality shall adopt an ordinance to establish minimum habitability standards for multi-family rental buildings, including requiring maintenance of proper operating conditions.

(d) A municipality may establish other standards as necessary to reduce material risks to the physical health or safety of tenants of multi-family rental buildings.

(e) A municipality shall establish a program for the inspection of multi-family rental buildings to determine if the buildings meet the minimum required habitability standards. The program shall include inspections under the direction of:

(1) the municipality's building official, as defined by the International Building Code or by a local amendment to the code under Section 214.216;

(2) the chief executive of the municipality's fire department; and

(3) the municipality's health authority, as defined by Section 121.021, Health and Safety Code.

(f) A municipality may not order the closure of a multi-family rental building due to a violation of an ordinance adopted by the municipality relating to habitability unless the municipality makes a good faith effort to locate housing with comparable rental rates in the same school district for the residents displaced by the closure.

(g) The owner of a multi-family rental building commits an offense if the owner violates an ordinance adopted under this section. An offense under this subsection is a Class C misdemeanor. Each day the violation continues constitutes a separate offense.

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(h) A municipality may impose a civil penalty under Section 54.017 for a violation of this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 1127 (H.B. 1819), Sec. 1, eff. June 19, 2009.

SUBCHAPTER H. REGISTRATION OF VACANT BUILDINGS

Sec. 214.231. DEFINITIONS. In this subchapter:

(1) "Building" means any enclosed structure designed for use as a habitation or for a commercial use, including engaging in trade or manufacture.

(2) "Owner" means the person that owns the real property on which a building is situated, according to:

(A) the real property records of the county in which the property is located; or

(B) the records of the appraisal district in which the property is located.

(3) "Unit" means an enclosed area designed:

(A) for habitation by a single family; or

(B) for a commercial use, including engaging in trade or manufacture, by a tenant.

Added by Acts 2009, 81st Leg., R.S., Ch. 1157 (H.B. 3065), Sec. 1, eff. January 1, 2010.

Sec. 214.232. PRESUMPTION OF VACANCY. A building is presumed to be vacant under this subchapter if:

(1) all lawful residential, commercial, recreational, charitable, or construction activity at the building has ceased, or reasonably appears to have ceased, for more than 150 days; or

(2) the building contains more than three units, 75 percent or more of which have not been used lawfully, or reasonably appear not to have been used lawfully, for more than 150 days.

Added by Acts 2009, 81st Leg., R.S., Ch. 1157 (H.B. 3065), Sec. 1, eff. January 1, 2010.

Sec. 214.233. REGISTRATION. (a) A municipality located in a county with a population of two million or more may adopt an ordinance requiring owners of vacant buildings to register their buildings by filing a registration form with a designated municipal official.

(b) A municipality, in an ordinance adopted under this subchapter, may exempt certain classifications of buildings as determined reasonable and appropriate by the governing body of the municipality.

Added by Acts 2009, 81st Leg., R.S., Ch. 1157 (H.B. 3065), Sec. 1, eff. January 1, 2010.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 80, eff. September 1, 2011.

Sec. 214.234. FORM. An ordinance adopted under this subchapter may require a designated municipal official to adopt a form for registration. The form adopted may require the disclosure of information reasonably necessary for the municipality to minimize the threat to health, safety, and welfare that a vacant building may present to the public.

Added by Acts 2009, 81st Leg., R.S., Ch. 1157 (H.B. 3065), Sec. 1, eff. January 1, 2010.

SUBCHAPTER 2. MISCELLANEOUS POWERS AND DUTIES

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Sec. 214.905. PROHIBITION OF CERTAIN MUNICIPAL REQUIREMENTS REGARDING SALES OF HOUSING UNITS OR RESIDENTIAL LOTS. (a) A municipality may not adopt a requirement in any form, including through an ordinance or regulation or as a condition for granting a building permit, that establishes a maximum sales price for a privately produced housing unit or residential building lot.

(b) This section does not affect any authority of a municipality to:

(1) create or implement an incentive, contract commitment, density bonus, or other voluntary program designed to increase the supply of moderate or lower-cost housing units; or

(2) adopt a requirement applicable to an area served under the provisions of Chapter 373A, Local Government Code, which authorizes homestead preservation districts, if such chapter is created by an act of the legislature.

(c) This section does not apply to a requirement adopted by a municipality for an area as a part of a development agreement entered into before September 1, 2005.

(d) This section does not apply to property that is part of an urban land bank program.

Added by Acts 2005, 79th Leg., Ch. 1103 (H.B. 2266), Sec. 1, eff. September 1, 2005.

Renumbered from Local Government Code, Section 214.904 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(55), eff. September 1, 2007.

Sec. 214.906. REGULATION OF MANUFACTURED HOME COMMUNITIES. (a) "Manufactured home" has the meaning assigned by Section 1201.003, Occupations Code.

(b) Notwithstanding any other law, the governing body of a municipality may not regulate a tract or parcel of land as a manufactured home community, park, or subdivision unless the tract or parcel contains at least four spaces offered for lease for installing and occupying manufactured homes.

Added by Acts 2017, 85th Leg., R.S., Ch. 741 (S.B. 1248), Sec. 2, eff. September 1, 2017.

1985 Standard Unsafe Building Abatement Code



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PREFACE

This Code was developed to provide a jurisdiction with a concise set of procedures to effect the elimination of unsafe buildings in a legal and timely manner. The authority having jurisdiction should carefully examine this Code to determine compliance with existing local or state laws; any conflicts must be eliminated prior to adoption.

This Code is applicable to all occupancies, but is not meant to be substituted for the Standard Housing Code.

This Code is designed to work hand in hand with the Standard Building, Plumbing, Mechanical, Gas, Housing and Fire Prevention Codes.

METRIC CONVERSIONS

| MULTIPLY | BY | TO GET |
|------------------------|---------|-------------------|
| inches | 25.4 | mm |
| ft | 0.3048 | m |
| sq in | 645.16 | mm ² |
| sq ft | 0.0929 | m ² |
| cu in | 16,387 | mm ³ |
| cu ft | 0.02832 | m ³ |
| gal | 3.785 | L |
| in ⁴ | 416,230 | mm ⁴ |
| ° (angle) | 0.01745 | rad |
| mph | 0.447 | m/s |
| lb (mass) | 0.4536 | kg |
| lb (force) | 4.448 | N |
| plf (lb/ft) | 14.59 | N/m |
| psi (lb/sq in) | 6.895 | kPa |
| psf (lb/sq ft) (force) | 47.88 | Pa |
| psf (lb/sq ft) (mass) | 4.882 | kg/m ² |
| pcf (lb/cu ft) (mass) | 16.02 | kg/m ³ |
| Btu | 1055 | J |
| footcandle (lm/sq ft) | 10.76 | lx (lux) |
| °F — 32 | 5/9 | °C |

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701 GENERAL19

SUPPLEMENT

Flow Chart for the Use with Standard Unsafe Building Abatement Code.

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CHAPTER 1

ADMINISTRATION

101 TITLE AND SCOPE

101.1 Title

The provisions included within the following chapters and sections shall constitute and be known and may be cited as "The Standard Unsafe Building Abatement Code," hereinafter referred to as "this Code."

101.2 Code Remedial

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

101.3 Scope

The provisions of this Code shall apply to all unsafe buildings or structures, as herein defined, and shall apply equally to new and existing conditions

101.4 Alterations, Repairs or Rehabilitation Work

101.4.1 Alterations, repairs or rehabilitation work may be made to any existing building without requiring the building to comply with all the requirements of the Standard Building Code provided that the alteration, repair or rehabilitation work conforms to the requirements of the Standard Building Code for new construction. The building official shall determine, subject to appeal to the Board of Adjustments and Appeals the extent, if any, to which the existing building shall be made to conform to the requirements of the Standard Building Code for new construction.

101.4.2 Alterations, repairs or rehabilitation work shall not cause an existing building to become unsafe as defined in Section 202.

101.4.3 If the occupancy classification of an existing building is changed, the building shall be made to conform to the intent of the Standard Building Code for the new occupancy classification as established by the Building Official

101.4.4 Repairs and alterations, not covered by the preceding paragraphs of this section, restoring a building to its condition previous to damage or deterioration, or altering it in conformity with the provisions of this Code or in such manner as will not extend or increase an existing nonconformity or hazard, may be made with the same kind of materials as those of which the building is constructed; but not more than 25% of the roof covering of a building shall be replaced in any period of 12 months unless the entire roof covering is made to conform with the requirements of the Standard Building Code for new buildings.

101.5 Special Historic Buildings and Districts

The provisions of this Code relating to the construction alteration, repair, enlargement, restoration, relocation or moving buildings or structures shall not be mandatory for existing buildings or structures identified and classified by the state or local jurisdiction as Historic Buildings when such building or structures are judged by the Building Official to be safe and in the public interest of health, safety and welfare regarding any proposed construction, alteration, repair, enlargement, restoration, relocation or moving of buildings within fire districts. The applicant must submit complete architectural and engineering plans and specifications bearing the seal of a registered professional engineer or architect.

101.6 Maintenance

All buildings or structures, both existing and new, and all parts thereof, shall be maintained in a safe and sanitary condition. All devices or safeguards which are required by the Standard Building Code in a building when erected, altered or repaired, shall be maintained in good working order. The owner, or his designated agent, shall be responsible for the maintenance of buildings and structures.

102 ORGANIZATION

102.1 Enforcement Officer

The provisions of this Code shall be enforced by the Building Official

102.2 Restrictions on Employees

An officer or employee connected with the department, except one whose only connection is as a member of a board established by this act, shall not have a financial interest in the furnishing of labor, material or appliances for the construction, alteration, demolition, repair or maintenance of a building, or in the making of plans or of specifications therefor, unless he is the owner of such building. Such officer or employee shall not engage in any work which is inconsistent with his duties or with the interests of the department.

102.3 Records

The Building Official shall keep, or cause to be kept, a record of the business of the department. The records of the department shall be open to public inspection.

103 POWERS AND DUTIES OF THE BUILDING OFFICIAL

103.1 Right of Entry

103.1.1 The Building Official or his authorized representative may enter any building, structure or premises at all reasonable times to make an inspection or enforce any of the provisions of this Code.

103.1.2 When entering a building, structure or premise that is occupied, the Building Official shall first identify himself, present proper credentials and request entry. If the building, structure or premise is unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge of the building

and demand entry. If entry is refused, the Building Official or his authorized representative shall have recourse to every remedy provided by law to secure entry.

103.1.3 No person, owner or occupant of any building or premise shall fail, after proper credentials are displayed, to permit entry into any building or onto any property by the Building Official or his authorized agent for the purpose of inspections pursuant to this Code. Any person violating this section shall be prosecuted within the limits of the law as established by the proper governing authority.

103.2 Inspections

The Building Official, the Fire Official and other authorized representatives are hereby authorized to make such inspections and take such actions as may be required to enforce the provisions of this Code.

103.3 Requirements Not Covered By Code

Any requirement necessary for the strength or stability of an existing or proposed building or structure, or for the safety or health of the occupants thereof, not specifically covered by this Code, shall be determined by the Building Official.

103.4 Liability

Any officer or employee, or member of the Board of Adjustments and Appeals, charged with the enforcement of this Code, acting for the applicable governing body in the discharge of his duties, shall not thereby render himself liable personally, and he is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties. Any suit brought against any officer or employee because of such act performed by him in the enforcement of any provision of this Code shall be defended by the Legal Department of the applicable governing body until the final termination of the proceedings.

103.5 Reports

The Building Official shall annually submit a report to the Chief Administrator of the decisions rendered by the Board of Adjustments and Appeals during the preceding year. The report shall include a summary of the decisions of the Board of Adjustments and Appeals during said year.

104 VIOLATIONS AND PENALTIES

Any person, firm, corporation or agent who shall violate a provision of this Code, or fail to comply therewith, or with any of the requirements thereof, or who shall erect, construct, alter, demolish or move any structure, or has erected, constructed, altered, repaired, moved or demolished a building or structure in violation of a detailed statement or drawing submitted and approved thereunder, shall be prosecuted within the limits provided by state or local law. Each such person shall be deemed guilty of a separate offense for any violation of any of the provisions of this Code, and upon conviction of any such violation such person shall be punished within the limits and as provided by state or local laws.

105 BOARD OF ADJUSTMENTS AND APPEALS

105.1 Appointment

A Board of Adjustments and Appeals shall be established for the express purpose of providing for the final interpretation of provisions of this Code. The Board shall consist of five members who are not employees of the jurisdiction having authority and shall be appointed by the Chief Appointing Authority. The composition of the Board shall be one engineer, one architect, and three members at large from the construction industry.

105.2 Term of Office

Of the members first appointed, two shall be appointed for a term of 1 year, two for a term of 2 years, one for a term of 3 years, and thereafter they shall be appointed for terms of 4 years. Vacancies shall be filled for an unexpired term in the manner in which original appointments are required to be made.

105.3 Quorum

Three members of the Board shall constitute a quorum. In varying the application of any provisions of this Code or in modifying an order of the Building Official, affirmative votes of the majority present, but not less than three affirmative votes, shall be required. A Board member shall not act in a case in which he has a personal interest.

105.4 Records

The Building Official shall be an ex-officio member of the Board, act as Secretary and shall make a detailed record of all its proceedings. The record shall set forth the reasons for the Board's decisions, the vote of each member participating therein, the absence of a member and any failure of a member to vote.

105.5 Procedures

The Board shall establish rules and regulations for its own procedure not inconsistent with the provisions of this Code. The Board shall meet at regular intervals, to be determined by the Chairman, or in any event, the Board shall meet within 10 days after notice of appeal has been received.

106 VALIDITY

If any section, subsection, sentence, clause or phrase of this Code is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Code.

CHAPTER 2

DEFINITIONS

201 GENERAL

201.1 Tense, Gender and Number

For the purpose of this Code, certain abbreviations, terms, phrases, words and their derivatives shall be construed as set forth in this section.

Words used in the present tense include the future. Words in the masculine gender include the feminine and neuter. Words in the feminine and neuter gender include the masculine. The singular number includes the plural and the plural number includes the singular.

201.2 Words Not Defined

Words not defined herein shall have the meanings stated in the Standard Building Code, Standard Mechanical Code, Standard Plumbing Code, Standard Gas Code, Standard Housing Code or Standard Fire Prevention Code. Words not defined in the Standard Codes shall have the meanings stated in the Webster's Eighth New Collegiate Dictionary, as revised.

202 DEFINITIONS

APPLICABLE GOVERNING BODY — a city, county, state, state agency or other political government subdivision or entity authorized to administer and enforce the provisions of this Code, as adopted or amended.

APPROVED — approved by the Building Official or other authority having jurisdiction.

BUILDING — any structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind which has enclosing walls for 50% of its perimeter. The term "building" shall be construed as if followed by the words "or part thereof." For the purpose of this Code each portion of a building separated from other portions by a fire wall shall be considered as a separate building.

BUILDING OFFICIAL — the officer or other designated authority charged with the administration and enforcement of this Code, or his duly authorized representative.

CHIEF APPOINTING AUTHORITY — the person or persons designated by the laws of the local governing body as having authority to appoint persons to various boards.

DEPARTMENT — the Building Department or other agency charged with the enforcement of this Code

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OFFICE OF THE RECORDER — that office, in the local governing body, responsible for recording deeds and other legal documents or actions.

OWNER — any person, agent, firm or corporation having a legal or equitable interest in the property.

STRUCTURE — that which is built or constructed.

UNSAFE BUILDING — any building or structure that has any of the following conditions, such that the life, health, property or safety of its occupants of the general public are endangered:

1. Any means of egress or portion thereof is not of adequate size or is not arranged to provide a safe path of travel in case of fire or panic.
2. Any means of egress or portion thereof, such as but not limited to fire doors, closing devices and fire resistive ratings, is in disrepair or in a dilapidated or nonworking condition such that the means of egress could be rendered unsafe in case of fire or panic.
3. The stress in any material, member or portion thereof, due to all imposed loads including dead load exceeds the stresses allowed in the Standard Building Code for new buildings.
4. The building, structure or portion thereof has been damaged by fire, flood, earthquake, wind or other cause to the extent that the structural integrity of the building or structure is less than it was prior to the damage and is less than the minimum requirement established by the Standard Building Code for new buildings.
5. Any exterior appendage or portion of the building or structure is not securely fastened, attached or anchored such that it is capable of resisting wind, seismic or similar loads as required by the Standard Building Code for new buildings.
6. If for any reason the building, structure or portion thereof is manifestly unsafe or unsanitary for the purpose for which it is being used.
7. The building, structure or portion thereof as a result of decay, deterioration or dilapidation is likely to fully or partially collapse.
8. The building, structure or portion thereof has been constructed or maintained in violation of a specific requirement of the Standard Codes or of a city, county or state law.
9. Any building, structure or portion thereof that is in such a condition as to constitute a public nuisance.
10. Any building, structure or portion thereof that is unsafe, unsanitary or not provided with adequate egress, or which constitutes a fire hazard, or is otherwise dangerous to human life, or, which in relation to existing use, constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence or abandonment.

CHAPTER 3

INSPECTION AND NOTICE OF NONCOMPLIANCE

301 ACTION REQUIRED

301.1 General

The Building Official shall inspect or cause to be inspected any building, structure or portion thereof which is or may be unsafe. After the Building Official has inspected or caused to be inspected a building, structure or portion thereof and has determined that such building, structure or portion thereof is unsafe, he shall initiate proceedings to cause the abatement of the unsafe condition by repair, vacation or demolition or combination thereof.

302 NOTICE

302.1 Content

301.1.1 The Building Official shall prepare and issue a notice of unsafe building directed to the owner of record of the building or structure. The notice shall contain, but not be limited to, the following information:

1. The street address and legal description of the building, structure or premise.
2. A statement indicating the building or structure has been declared unsafe by the Building Official, and a detailed report documenting the conditions determined to have rendered the building or structure unsafe under the provisions of this code.
3. A statement advising that if the following required action as determined by the Building Official is not commenced within or completed by the time specified, the building will be ordered vacated and posted to prevent further occupancy until the work is completed and the Building Official may cause the work to be done and all costs incurred charged against the property or the owner of record.

3.1. If the building or structure is to be repaired, the notice shall require that all necessary permits be secured and the work commenced within 60 days and continued to completion within such time as the Building Official determines. The notice shall also indicate the degree to which the repairs must comply with the provisions of the Standard Building Code, in accordance with 101.4.

3.2. If the building or structure is to be vacated, the notice shall indicate the time within which vacation is to be completed.

3.3. If the building or structure is to be demolished, the notice shall require that the premises be vacated within 60 days, that all required permits for demolition be secured and that the demolition be completed within such time as determined reasonable by the Building Official.

4. A statement advising that any person having any legal interest in the property may appeal the notice by the Building Official to the Board of Adjustment and Appeals; and that such appeal shall be in writing in the form specified in 401 and shall be filed with the Building Official within 30 days from the date of the notice and that failure to appeal in the time specified will constitute a waiver of all rights to an administrative hearing.

302.1.2 The notice and all attachments thereto shall be served upon the owner of record and posted on the property in a conspicuous location. A copy of the notice and all attachments thereto shall also be served on any person determined from official public records to have a legal interest in the property. Failure of the Building Official to serve any person herein required to be served other than the owner of record shall not invalidate any proceedings hereunder nor shall it relieve any other person served from any obligation imposed on him.

302.1.3 The notice shall be served either personally or by certified mail, postage prepaid, return receipt requested, to each person at the address as it appears on the official public records. If addresses are not available on any person required to be served the notice, the notice addressed to such person shall be mailed to the address of the building or structure involved in the proceedings. The failure of any person to receive notice, other than the owner of record, shall not invalidate any proceedings under this section. Service by certified or registered mail as herein described shall be effective on the date the notice was received as indicated on the return receipt.

302.1.4 Proof of service of the notice shall be by written declaration indicating the date, time and manner in which service was made and signed by the person served on by the return receipt.

302.2 Recording of Notice

If the notice is not complied with nor an appeal filed within the allotted time, the Building Official shall file in the Office of the Recorder a certificate describing the property and certifying that the building or structure is unsafe and that the owner of record has been served. This certificate shall remain on file until such time as the conditions rendering the building or structure unsafe have been abated. At such time, the Building Official shall file a new certificate indicating that corrective action has been taken and the building or structure is no longer unsafe from that condition.

303 STANDARDS FOR COMPLIANCE

The following action shall be taken by the Building Official when ordering the repair, vacation or demolition of an unsafe building or structure.

1. The building shall be ordered repaired in accordance with the Standard Building Code or demolished at the option of the owner.
2. If the building or structure poses an immediate hazard to life or to the safety of the public it shall be ordered vacated immediately.

304 POSTING OF NOTICE TO VACATE

Every notice to vacate, in addition to complying with 302, shall be posted at each exit and entrance to the building or structure and shall state:

**THIS BUILDING IS UNSAFE AND ITS USE OR OCCUPANCY
HAS BEEN PROHIBITED BY THE BUILDING OFFICIAL**

Such notice shall remain posted until the required repairs are made or demolition is completed. It shall be unlawful for any person, firm or corporation or their agents to remove such notice without written permission of the Building Official, or for any person to enter the building except for the purpose of making the required repairs or of demolishing same.

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CHAPTER 4

APPEALS

401 RIGHT OF APPEAL

401.1 Filing

Any person entitled to service in accordance with the provisions of Chapter 3 may appeal any action of the Building Official under this Code to the Board of Adjustments and Appeals. Such appeal must be filed in writing with the Building Official within 30 days from the date of service and must contain at least the following information:

1. Identification of the building or structure concerned by street address or legal description.
2. A statement identifying the legal interest of each appellant.
3. A statement identifying the specific order or section being appealed.
4. A statement detailing the issues on which the appellant desires to be heard.
5. The legal signature of all appellants and their official mailing address.

401.2 Hearing

Upon receipt of an appeal, the Board shall as soon as practicable fix a date, time and location for the hearing of the appeal. The hearing date shall not be more than 60 days from the date the appeal was filed with the Building Official. Written notice of the time and location of the hearing shall be delivered personally or mailed to each appellant at the address on the appeal by certified mail, postage prepaid and receipt requested.

402 FAILURE TO APPEAR

Failure of any person to appear at the hearing set in accordance with the provisions of this chapter shall constitute a waiver of his right to an administrative hearing on the notice.

403 SCOPE OF HEARING

The hearing shall offer the appellant reasonable opportunity to be heard on only those specific matters or issues raised by the appellant in his appeal. The appellant may appear at the hearing in person or through his attorney or other designated representative.

404 STAYING OF NOTICE UNDER APPEAL

Except for a vacation order issued in accordance with 303, enforcement of any notice issued by the Building Official under the provisions of this Code shall be held in abeyance during the course of an appeal.

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CHAPTER 5
RULES OF PROCEDURE FOR HEARING
APPEALS
501 GENERAL

501.1 Hearing Examiners

The Board itself may conduct the appeals hearing or at its discretion may appoint one or more hearing examiners to conduct the appeals hearings. The examiner shall exercise all powers relating to the conduct of hearings until a report is submitted by him to the Board.

501.2 Reporting

A permanent record shall be made of all hearings and proceedings using the method of recording designated by the Board. A transcript of the proceedings of all hearings shall, upon payment of the prescribed fees, be made available to any person on request.

501.3 Reasonable Dispatch

The Board shall proceed with reasonable dispatch to conclude any matter before it, with due regard to the convenience and necessity of the parties involved.

501.4 Form of Notice

501.4.1 The hearing notice shall include but not be limited to the following information:

You are hereby notified that on the _____ day of _____, 19, _____, at _____ o'clock, at _____, a hearing will be held before _____ to consider the

THE BOARD OR NAME OF HEARING EXAMINER

appeal from the order of the Building Official regarding property located at _____. You may choose to be represented by counsel. You may present relevant evidence and will be given an opportunity to cross-examine all witnesses. You may request the issuance of subpoenas to compel witnesses to appear and/or for the production of other supporting data or documentation, by filling a written report with _____.

BOARD OR HEARING EXAMINER

501.4.2 The hearing notice shall be served personally or mailed as required in 302.1.3 at least 15 days prior to the hearing date.

502 SUBPOENAS

502.1 Filing

The Board or hearing examiner may obtain the issuance and service of subpoenas for the attendance of witnesses or the production of evidence at the hearings. Subpoenas may be issued upon the request of any member of the Board, the hearing examiner, or upon the written request of any party involved in the hearing. The issuance and service of subpoenas shall be in accordance with established law.

502.2 Failure To Appear

Any person who refuses, without legal excuse, to respond to any subpoena lawfully issued and served may be prosecuted to the extent established by law.

503 PROCEDURES FOR HEARING

503.1 Rules

503.1.1 Hearings shall not be required to be conducted in accordance with the technical rules relating to evidence and testimony.

503.1.2 The Board may grant continuance for good cause

503.2 Evidence

503.2.1 In any proceedings under this chapter any member of the Board or the hearing examiner shall have the power to administer oaths and affirmations and to certify official acts.

503.2.2 Oral evidence shall be taken only on oath or affirmation.

503.2.3 Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence. The further use of hearsay evidence shall be limited to that which would be admissible in civil court.

503.2.4 Relevant evidence shall be admitted if it is the type on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil courts.

503.3 Inspections

The Board or the hearing examiner may inspect any building, structure or premise involved in the appeal during the course of the hearing, provided the following are complied with:

1. Notice of such inspection is given to the parties prior to making the inspection, and
2. The parties are allowed to be present during the inspection, and
3. The inspector states for the record, upon completion of the inspection, the facts observed and any conclusions drawn therefrom.

504 DECISION PROCEDURE

504.1 Board Hearing

When an appeal is heard before the Board itself, any member who did not hear the evidence presented or has not read the entire record of the proceedings shall not vote or take part in the decision.

504.2 Hearing Before Examiner

504.2.1 When an appeal is heard before an examiner, the examiner shall within a reasonable time, not to exceed 30 days from the date the hearing is closed, submit in writing a report to the Board. Such report shall summarize the evidence submitted and considered and state precisely the examiner's findings, conclusions and recommendations. The report shall also contain a proposed decision that may be adopted by the Board. All such reports shall become matters of public record and shall be mailed to each party on the date they are filed with the Board.

504.2.2 The Board shall set a time, date and location to consider the examiner's report. Such date shall not exceed 30 days from the date of receipt of the hearing examiner's report. Each interested party shall be notified by mail at least 5 days prior to the meeting date by the manner prescribed in 302.1.3.

504.2.3 If the proposed decision is not adopted as provided in Section 504.2.4, the Board may decide the appeal upon the entire record before it, with or without taking additional evidence; or the cause may be referred back to a hearing examiner to take additional evidence.

504.2.4 The Board may adopt or reject the hearing examiner's proposed decision in whole or in part and may modify the proposed decision.

504.2.5 If the proposed decision is not adopted as provided in 504.2.4, the Board may decide the appeal upon the entire record before it, with or without taking additional evidence; or the cause may be referred back to a hearing examiner for additional evidence.

504.2.6 The final decision of the Board shall be in writing and shall contain all findings of fact and detailed requirements to be complied with. A copy of the decision shall be delivered to the appellant either personally or by certified mail, postage prepaid, return receipt requested.

504.2.7 The effective date of the Board's final decision shall be as stated therein.

505 RECOURSE

If the appellant is aggrieved by the decision of the Board of Adjustments and Appeals, nothing in this code shall be construed to deprive him of seeking redress in the civil or other applicable court. Said appeal must be filed within 15 days from the effective date of the Board's final decision.

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CHAPTER 6

IMPLEMENTATION

601 COMPLIANCE

601.1 Failure To Respond

Any person who, after the order of the Building Official or the decision of the Board becomes final, fails or refuses to respond to the direction of such order, shall be prosecuted to the extent provided for by law.

601.2 Failure To Commence Work

601.2.1 Whenever the required repair, vacation or demolition is not commenced within 30 days after the effective date of any order, the building, structure or premise shall be posted as follows:

UNSAFE BUILDING
DO NOT OCCUPY

It shall be punishable by law to occupy this
building or remove or deface this notice
(Specify the applicable local law and the penalty for violation thereof)
Building Official

City of _____

601.2.2 Subsequent to posting the building, the Building Official may cause the building to be repaired to the extent required to render it safe or if the notice required demolition, to cause the building or structure to be demolished and all debris removed from the premise. The cost of repair or demolition shall constitute a lien on the property and shall be collected in a manner provided by law.

601.2.3 Any monies received from the sale of a building or from the demolition thereof, over and above the cost incurred, shall be paid to the owner of record or other persons lawfully entitled thereto.

602 EXTENSION OF TIME

The Building Official may approve one or more extensions of time as he may determine to be reasonable to complete the required repair or demolition. Such requests for extensions shall be made in writing stating the reasons therefor. If the extensions of time, in total, exceed 120 days, they must also be approved by the Board which may act without further public hearing.

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603 INTERFERENCE

No person shall obstruct or interfere with the implementation of any action required by the final notice of the Building Official or the Board. Any person found interfering or obstructing such actions shall be prosecuted to the extent provided for by law.

604 PERFORMANCE OF WORK

The repair or demolition of an unsafe building as required in the notice by the Building Official or the final decision by the Board shall be performed in an expeditious and workmanlike manner in accordance with the requirements of this Code and all other applicable codes and accepted engineering practice standards.

CHAPTER 7
RECOVERY OF COST OF REPAIR OR
DEMOLITION

701 GENERAL

Whenever a building or structure is repaired or demolished in accordance with the provisions of this Code and the cost of such repair or demolition is borne by the city, county or state, procedures for the budgeting, expenditure and recovery of such funds shall be established.

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LOCAL GOVERNMENT CODE

TITLE 2. ORGANIZATION OF MUNICIPAL GOVERNMENT

SUBTITLE D. GENERAL POWERS OF MUNICIPALITIES

CHAPTER 54. ENFORCEMENT OF MUNICIPAL ORDINANCES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 54.001. GENERAL ENFORCEMENT AUTHORITY OF MUNICIPALITIES; PENALTY. (a) The governing body of a municipality may enforce each rule, ordinance, or police regulation of the municipality and may punish a violation of a rule, ordinance, or police regulation.

(b) A fine or penalty for the violation of a rule, ordinance, or police regulation may not exceed \$500 except that:

(1) a fine or penalty for the violation of a rule, ordinance, or police regulation that governs fire safety, zoning, or public health and sanitation, other than the dumping of refuse, may not exceed \$2,000; and

(2) a fine or penalty for the violation of a rule, ordinance, or police regulation that governs the dumping of refuse may not exceed \$4,000.

(c) This section applies to a municipality regardless of any contrary provision in a municipal charter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 7(a), 87(e), eff. Aug. 28, 1989.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 680 (H.B. 274), Sec. 1, eff. September 1, 2015.

Sec. 54.002. IMPOSITION OF FINE IN TYPE B GENERAL-LAW MUNICIPALITY.

(a) The governing body of a Type B general-law municipality may prescribe the fine for the violation of a municipal bylaw or ordinance.

(b) If a defendant in a Type B general-law municipality demands a jury trial, the fine may be imposed only on the verdict of a jury.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 54.003. REMISSION OF FINE BY TYPE A GENERAL-LAW MUNICIPALITY. On a two-thirds vote of the members present, the governing body of a Type A general-law municipality may remit a fine or a penalty, or a part of a fine or penalty, imposed or incurred under law or under an ordinance or resolution adopted in accordance with law.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 54.004. PRESERVATION OF HEALTH, PROPERTY, GOOD GOVERNMENT, AND ORDER IN HOME-RULE MUNICIPALITY. A home-rule municipality may enforce ordinances necessary to protect health, life, and property and to preserve the good government, order, and security of the municipality and its inhabitants.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

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Sec. 54.005. NOTICES TO CERTAIN PROPERTY OWNERS. (a) A governmental entity that is required by statute, rule, regulation, or ordinance to send a notice to an owner of real property for the purpose of enforcing a municipal ordinance may include the following statement in the notice: "According to the real property records of Cameron County, you own the real property described in this notice. If you no longer own the property, you must execute an affidavit stating that you no longer own the property and stating the name and last known address of the person who acquired the property from you. The affidavit must be delivered in person or by certified mail, return receipt requested, to this office not later than the 20th day after the date you receive this notice. If you do not send the affidavit, it will be presumed that you own the property described in this notice, even if you do not." The notice must be delivered in person or by certified mail, return receipt requested.

(b) If a governmental entity sends a notice to the owner of the property to which the notice relates, as shown on or after the 10th day before the date notice is sent by the real property records of the county in which the property is located, and the record owner no longer owns the property, the record owner shall execute an affidavit provided with the notice by the governmental entity stating:

- (1) that the record owner no longer owns the property; and
- (2) the name and last known address of the person who acquired the property from the record owner.

(c) The record owner shall deliver the affidavit in person or by certified mail, return receipt requested, to the governmental entity not later than the 20th day after the date the record owner receives the notice.

(d) If the governmental entity receives an affidavit under Subsection (c), the governmental entity shall send the appropriate notice to the person named in the affidavit as having acquired the property. A notice sent under this subsection must include the statement authorized by Subsection (a).

(e) A governmental entity that receives an affidavit under Subsection (c) shall:

- (1) maintain the affidavit on file for at least two years after the date the entity receives the affidavit; and
- (2) deliver a copy of the affidavit to the chief appraiser of the appraisal district in which the property is located.

(f) A governmental entity is considered to have provided notice to a property owner if the entity complies with the statute, rule, regulation, or ordinance under which the notice is sent and if it:

- (1) complies with Subsection (a) and does not receive an affidavit from the record owner; or
- (2) complies with Subsection (d) and does not receive an affidavit from the person to whom the notice was sent under Subsection (d).

(g) If a governmental entity complies with this section and does not receive an affidavit under Subsection (c), the record owner is presumed to be the owner of the property for all purposes to which the notice relates.

(h) For purposes of this section, "real property" does not include a mineral interest or royalty interest.

Added by Acts 1991, 72nd Leg., ch. 486, Sec. 1, eff. Aug. 26, 1991.

Sec. 54.006. NONSEVERABILITY OF CERTAIN CONSOLIDATED OFFENSES. Section 3.04(a), Penal Code, does not apply to two or more offenses

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consolidated or joined for trial under Section 3.02, Penal Code, if each of the offenses is:

- (1) for the violation of an ordinance described by Section 54.012;
- (2) punishable by fine only; and
- (3) tried in a municipal court, regardless of whether the court is a municipal court of record.

Added by Acts 2001, 77th Leg., ch. 413, Sec. 4, eff. Sept. 1, 2001.

SUBCHAPTER B. MUNICIPAL HEALTH AND SAFETY ORDINANCES

Sec. 54.012. CIVIL ACTION. A municipality may bring a civil action for the enforcement of an ordinance:

- (1) for the preservation of public safety, relating to the materials or methods used to construct a building or other structure or improvement, including the foundation, structural elements, electrical wiring or apparatus, plumbing and fixtures, entrances, or exits;
- (2) relating to the preservation of public health or to the fire safety of a building or other structure or improvement, including provisions relating to materials, types of construction or design, interior configuration, illumination, warning devices, sprinklers or other fire suppression devices, availability of water supply for extinguishing fires, or location, design, or width of entrances or exits;
- (3) for zoning that provides for the use of land or classifies a parcel of land according to the municipality's district classification scheme;
- (4) establishing criteria for land subdivision or construction of buildings, including provisions relating to street width and design, lot size, building width or elevation, setback requirements, or utility service specifications or requirements;
- (5) implementing civil penalties under this subchapter for conduct classified by statute as a Class C misdemeanor;
- (6) relating to dangerously damaged or deteriorated structures or improvements;
- (7) relating to conditions caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects and rodents;
- (8) relating to the interior configuration, design, illumination, or visibility of business premises exhibiting for viewing by customers while on the premises live or mechanically or electronically displayed entertainment intended to provide sexual stimulation or sexual gratification;
- (9) relating to point source effluent limitations or the discharge of a pollutant, other than from a non-point source, into a sewer system, including a sanitary or storm water sewer system, owned or controlled by the municipality;
- (10) relating to floodplain control and administration, including an ordinance regulating the placement of a structure, fill, or other materials in a designated floodplain;
- (11) relating to animal care and control; or
- (12) relating to water conservation measures, including watering restrictions.

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Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 343, Sec. 1, eff. June 14, 1989; Acts 1991, 72nd Leg., ch. 753, Sec. 3, eff. June 16, 1991; Acts 1993, 73rd Leg., ch. 472, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 135 (S.B. 654), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1396 (H.B. 1554), Sec. 1, eff. September 1, 2013.

Reenacted and amended by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 12.001, eff. September 1, 2015.

Sec. 54.013. JURISDICTION; VENUE. Jurisdiction and venue of an action under this subchapter are in the district court or the county court at law of the county in which the municipality bringing the action is located.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 54.014. PREFERENTIAL SETTING. If the municipality submits to the court a verified motion that includes facts that demonstrate that a delay will unreasonably endanger persons or property, the court shall give a preference to the action brought by the municipality when setting cases filed under this subchapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 54.015. PROCEDURE. (a) The only allegations required to be pleaded in an action brought under this subchapter are:

- (1) the identification of the real property involved in the violation;
- (2) the relationship of the defendant to the real property or activity involved in the violation;
- (3) a citation to the applicable ordinance;
- (4) a description of the violation; and
- (5) a statement that this subchapter applies to the ordinance.

(b) The standard of proof is the same as for other suits for extraordinary relief.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 54.016. INJUNCTION. (a) On a showing of substantial danger of injury or an adverse health impact to any person or to the property of any person other than the defendant, the municipality may obtain against the owner or owner's representative with control over the premises an injunction that:

- (1) prohibits specific conduct that violates the ordinance; and
- (2) requires specific conduct that is necessary for compliance with the ordinance.

(b) It is not necessary for the municipality to prove that another adequate remedy or penalty for a violation does not exist or to show that prosecution in a criminal action has occurred or has been attempted.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

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Sec. 54.017. CIVIL PENALTY. (a) In a suit against the owner or the owner's representative with control over the premises, the municipality may recover a civil penalty if it proves that:

(1) the defendant was actually notified of the provisions of the ordinance; and

(2) after the defendant received notice of the ordinance provisions, the defendant committed acts in violation of the ordinance or failed to take action necessary for compliance with the ordinance.

(b) A civil penalty under this section may not exceed \$1,000 a day for a violation of an ordinance, except that a civil penalty under this section may not exceed \$5,000 a day for a violation of an ordinance relating to point source effluent limitations or the discharge of a pollutant, other than from a non-point source, into a sewer system, including a sanitary or storm water sewer system, owned or controlled by the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 472, Sec. 2, eff. Sept. 1, 1993.

Sec. 54.018. ACTION FOR REPAIR OR DEMOLITION OF STRUCTURE. (a) The municipality may bring an action to compel the repair or demolition of a structure or to obtain approval to remove the structure and recover removal costs.

(b) In an action under this section, the municipality may also bring:

(1) a claim for civil penalties under Section 54.017; and

(2) an action in rem against the structure that may result in a judgment against the structure as well as a judgment against the defendant.

(c) The municipality may file a notice of lis pendens in the office of the county clerk. If the municipality files the notice, a subsequent purchaser or mortgagee who acquires an interest in the property takes the property subject to the enforcement proceeding and subsequent orders of the court.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1054 (S.B. 173), Sec. 1, eff. September 1, 2011.

Sec. 54.019. IMPRISONMENT; CONTEMPT. (a) A person is not subject to personal attachment or imprisonment for the failure to pay a civil penalty assessed under this subchapter.

(b) This subchapter does not affect the power of a court to imprison a person for contempt of valid court orders or the availability of remedies or procedures for the collection of a judgment assessing civil penalties. The remedies under Section 31.002, Civil Practice and Remedies Code, are preserved.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 54.020. ABATEMENT OF FLOODPLAIN VIOLATION IN MUNICIPALITIES; LIEN. (a) In addition to any necessary and reasonable actions authorized by law, a municipality may abate a violation of a floodplain management ordinance by causing the work necessary to bring real property into

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compliance with the ordinance, including the repair, removal, or demolition of a structure, fill, or other material illegally placed in the area designated as a floodplain, if:

(1) the municipality gives the owner reasonable notice and opportunity to comply with the ordinance; and

(2) the owner of the property fails to comply with the ordinance.

(b) The municipality may assess the costs incurred by the municipality under Subsection (a) against the property. The municipality has a lien on the property for the costs incurred and for interest accruing at the annual rate of 10 percent on the amount due until the municipality is paid.

(c) The municipality may perfect the lien by filing written notice of the lien with the county clerk of the county in which the property is located. The notice of lien must be in recordable form and must state the name of each property owner, if known, the legal description of the property, and the amount due.

(d) The municipality's lien is inferior to any previously recorded bona fide mortgage lien attached to the real property to which the municipality's lien attaches, if the mortgage lien was filed for record before the date the municipality files the notice of lien with the county clerk. The municipality's lien is superior to all other previously recorded judgment liens.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1396 (H.B. 1554), Sec. 2, eff. September 1, 2013.

SUBCHAPTER C. QUASI-JUDICIAL ENFORCEMENT OF HEALTH AND SAFETY ORDINANCES

Sec. 54.031. SUBCHAPTER APPLICABLE TO CERTAIN MUNICIPALITIES. This subchapter applies to a municipality that by ordinance implements the subchapter.

Added by Acts 1989, 71st Leg., ch. 1113, Sec. 1, eff. Aug. 28, 1989.

Amended by Acts 1991, 72nd Leg., ch. 753, Sec. 5, eff. June 16, 1991.

Sec. 54.032. ORDINANCES SUBJECT TO QUASI-JUDICIAL ENFORCEMENT. This subchapter applies only to ordinances:

(1) for the preservation of public safety, relating to the materials or methods used to construct a building or improvement, including the foundation, structural elements, electrical wiring or apparatus, plumbing and fixtures, entrances, or exits;

(2) relating to the fire safety of a building or improvement, including provisions relating to materials, types of construction or design, warning devices, sprinklers or other fire suppression devices, availability of water supply for extinguishing fires, or location, design, or width of entrances or exits;

(3) relating to dangerously damaged or deteriorated buildings or improvements;

(4) relating to conditions caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects and rodents;

(5) relating to a building code or to the condition, use, or appearance of property in a municipality;

(6) relating to animal care and control; or

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(7) relating to water conservation measures, including watering restrictions.

Added by Acts 1989, 71st Leg., ch. 1113, Sec. 1, eff. Aug. 28, 1989.

Amended by Acts 1997, 75th Leg., ch. 582, Sec. 1, eff. June 2, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 135 (S.B. 654), Sec. 2, eff. September 1, 2013.

Sec. 54.033. BUILDING AND STANDARDS COMMISSION. (a) The governing body of the municipality may provide for the appointment of a building and standards commission to hear and determine cases concerning alleged violations of ordinances.

(b) A commission appointed for the purpose of hearing cases under this subchapter shall consist of one or more panels, each composed of at least five members, to be appointed for terms of two years.

(c) The appointing authority may remove a commission member for cause on a written charge. Before a decision regarding removal is made, the appointing authority must hold a public hearing on the matter if requested by the commission member subject to the removal action.

(d) A vacancy shall be filled for the unexpired term.

(e) The governing body, by charter or ordinance, may provide for the appointment of eight or more alternate members of the commission who shall serve in the absence of one or more regular members when requested to do so by the mayor or city manager. The alternate members serve for the same period and are subject to removal in the same manner as the regular members. A vacancy is filled in the same manner as a vacancy among the regular members.

Added by Acts 1989, 71st Leg., ch. 1113, Sec. 1, eff. Aug. 28, 1989.

Amended by Acts 1993, 73rd Leg., ch. 836, Sec. 1, eff. Sept. 1, 1993; Acts 2001, 77th Leg., ch. 413, Sec. 3, eff. Sept. 1, 2001.

Sec. 54.034. PROCEEDINGS OF COMMISSION PANELS. (a) All cases to be heard by the commission may be heard by any panel of the commission. A majority of the members of a panel must hear a case.

(b) A majority of the entire commission shall adopt rules for the entire commission in accordance with any ordinances adopted pursuant to this subchapter. The rules shall establish procedures for use in hearings, providing ample opportunity for presentation of evidence and testimony by respondents or persons opposing charges brought by the municipality or its building officials relating to alleged violations of ordinances.

(c) The governing body of the municipality by ordinance shall designate the appropriate official of the municipality who shall present all cases before the commission panels.

(d) Meetings of the commission panels shall be held at the call of the chairman of each panel and at other times as determined by the commission. All meetings of the commission and its panels shall be open to the public. Each chairman of a panel, or in the chairman's absence each acting chairman, may administer oaths and compel the attendance of witnesses.

(e) Each commission panel shall keep minutes of its proceedings showing the vote of each member on each question or the fact that a member is absent or fails to vote. Each commission panel shall keep records of its

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examinations and other official actions. The minutes and records shall be filed immediately in the office of the commission as public records.

Added by Acts 1989, 71st Leg., ch. 1113, Sec. 1, eff. Aug. 28, 1989.

Amended by Acts 1993, 73rd Leg., ch. 836, Sec. 2, eff. Sept. 1, 1993; Acts 2001, 77th Leg., ch. 413, Sec. 5, eff. Sept. 1, 2001.

Sec. 54.035. NOTICE. (a) Except as provided by Subsections (a-1) and (a-2), notice of all proceedings before the commission panels must be given:

(1) by personal delivery, by certified mail with return receipt requested, or by delivery by the United States Postal Service using signature confirmation service, to the record owners of the affected property, and each holder of a recorded lien against the affected property, as shown by the records in the office of the county clerk of the county in which the affected property is located if the address of the lienholder can be ascertained from the deed of trust establishing the lien or other applicable instruments on file in the office of the county clerk; and

(2) to all unknown owners, by posting a copy of the notice on the front door of each improvement situated on the affected property or as close to the front door as practicable.

(a-1) Notice to a condominium association of a proceeding before a commission panel relating to a condominium, as defined by Section 81.002 or 82.003, Property Code, located wholly or partly in a municipality with a population of more than 1.9 million must be served by personal service, by certified mail, return receipt requested, or by the United States Postal Service using signature confirmation service, to the registered agent of the unit owners' association.

(a-2) Notice to an owner of a unit of a condominium, as defined by Section 81.002 or 82.003, Property Code, located wholly or partly in a municipality with a population of more than 1.9 million must be given in accordance with Section 82.118, Property Code.

(b) The notice must be posted and either personally delivered or mailed on or before the 10th day before the date of the hearing before the commission panel and must state the date, time, and place of the hearing. In addition, the notice must be published in a newspaper of general circulation in the municipality on one occasion on or before the 10th day before the date fixed for the hearing.

(c) The commission may file notice of a proceeding before a commission panel in the Official Public Records of Real Property in the county in which the affected property is located. The notice must contain the name and address of the owner of the affected property if that information can be determined from a reasonable search of the instruments on file in the office of the county clerk, a legal description of the affected property, and a description of the proceeding. The filing of the notice is binding on subsequent grantees, lienholders, or other transferees of an interest in the property who acquire such interest after the filing of the notice and constitutes notice of the proceeding on any subsequent recipient of any interest in the property who acquires such interest after the filing of the notice.

(d) A municipality must exercise due diligence to determine the identity and address of a property owner, lienholder, or registered agent to whom the municipality is required to give notice.

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(e) A municipality exercises due diligence in determining the identity and address of a property owner, lienholder, or registered agent when it follows the procedures for service under Section 82.118, Property Code, or searches the following records:

- (1) county real property records of the county in which the property is located;
- (2) appraisal district records of the appraisal district in which the property is located;
- (3) records of the secretary of state, if the property owner, lienholder, or registered agent is a corporation, partnership, or other business association;
- (4) assumed name records of the county in which the property is located;
- (5) tax records of the municipality; and
- (6) utility records of the municipality.

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

Added by Acts 1989, 71st Leg., ch. 1113, Sec. 1, eff. Aug. 28, 1989.

Amended by Acts 1993, 73rd Leg., ch. 836, Sec. 3, eff. Sept. 1, 1993; Acts 2001, 77th Leg., ch. 413, Sec. 6, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 370 (S.B. 352), Sec. 1, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1323 (H.B. 3128), Sec. 4, eff. September 1, 2009.

Sec. 54.036. FUNCTIONS. A commission panel may:

- (1) order the repair, within a fixed period, of buildings found to be in violation of an ordinance;
- (2) declare a building substandard in accordance with the powers granted by this subchapter;
- (3) order, in an appropriate case, the immediate removal of persons or property found on private property, enter on private property to secure the removal if it is determined that conditions exist on the property that constitute a violation of an ordinance, and order action to be taken as necessary to remedy, alleviate, or remove any substandard building found to exist;
- (4) issue orders or directives to any peace officer of the state, including a sheriff or constable or the chief of police of the municipality, to enforce and carry out the lawful orders or directives of the commission panel;
- (5) determine the amount and duration of the civil penalty the municipality may recover as provided by Section 54.017.

Added by Acts 1989, 71st Leg., ch. 1113, Sec. 1, eff. Aug. 28, 1989.

Amended by Acts 1993, 73rd Leg., ch. 836, Sec. 4, eff. Sept. 1, 1993.

Sec. 54.037. CIVIL PENALTY. (a) A determination made under Section 54.036(5) is final and binding and constitutes prima facie evidence of the penalty in any court of competent jurisdiction in a civil suit brought by

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the municipality for final judgment in accordance with the established penalty.

(b) To enforce any civil penalty under this subchapter, the municipal secretary or clerk must file with the district clerk of the county in which the municipality is located, a certified copy of the order of the commission panel establishing the amount and duration of the penalty. No other proof is required for a district court to enter final judgment on the penalty.

Added by Acts 1989, 71st Leg., ch. 1113, Sec. 1, eff. Aug. 28, 1989.

Amended by Acts 1993, 73rd Leg., ch. 836, Sec. 5, eff. Sept. 1, 1993.

Sec. 54.038. VOTE. A majority vote of the members voting on a matter is necessary to take any action under this subchapter and any ordinance adopted by the municipality in accordance with this subchapter.

Added by Acts 1989, 71st Leg., ch. 1113, Sec. 1, eff. Aug. 28, 1989.

Amended by Acts 1993, 73rd Leg., ch. 836, Sec. 6, eff. Sept. 1, 1993; Acts 2001, 77th Leg., ch. 413, Sec. 7, eff. Sept. 1, 2001.

Sec. 54.039. JUDICIAL REVIEW. (a) Any owner, lienholder, or mortgagee of record jointly or severally aggrieved by any decision of a commission panel may present a petition to a district court, duly verified, setting forth that the decision is illegal, in whole or in part, and specifying the grounds of the illegality. The petition must be presented to the court within 30 calendar days after the date a copy of the final decision of the commission panel is personally delivered, mailed by first class mail with certified return receipt requested, or delivered by the United States Postal Service using signature confirmation service, to all persons to whom notice is required to be sent under Section 54.035. The commission panel shall deliver or mail that copy promptly after the decision becomes final. In addition, an abbreviated copy of the order shall be published one time in a newspaper of general circulation in the municipality within 10 calendar days after the date of the delivery or mailing of the copy as provided by this subsection, including the street address or legal description of the property; the date of the hearing, a brief statement indicating the results of the order, and instructions stating where a complete copy of the order may be obtained, and, except in a municipality with a population of 1.9 million or more, a copy shall be filed in the office of the municipal secretary or clerk.

(b) On presentation of the petition, the court may allow a writ of certiorari directed to the commission panel to review the decision of the commission panel and shall prescribe in the writ the time, which may not be less than 10 days, within which a return on the writ must be made and served on the relator or the relator's attorney.

(c) The commission panel may not be required to return the original papers acted on by it. It is sufficient for the commission panel to return certified or sworn copies of the papers or of parts of the papers as may be called for by the writ.

(d) The return must concisely set forth other facts as may be pertinent and material to show the grounds for the decision appealed from and shall be verified.

(e) The allowance of the writ does not stay proceedings on the decision appealed from.

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(f) The district court's review shall be limited to a hearing under the substantial evidence rule. The court may reverse or affirm, in whole or in part, or may modify the decision brought up for review.

(g) Costs may not be allowed against the commission panel.

(h) If the decision of the commission panel is affirmed or not substantially reversed but only modified, the district court shall allow to the municipality all attorney's fees and other costs and expenses incurred by it and shall enter a judgment for those items, which may be entered against the property owners as well as all persons found to be in occupation of the property subject to the proceedings before the commission panel.

Added by Acts 1989, 71st Leg., ch. 1113, Sec. 1, eff. Aug. 28, 1989.

Amended by Acts 1993, 73rd Leg., ch. 836, Sec. 7, eff. Sept. 1, 1993; Acts 2001, 77th Leg., ch. 413, Sec. 8, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 701, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 370 (S.B. 352), Sec. 2, eff. June 15, 2007.

Sec. 54.040. LIEN; ABSTRACT. (a) An order issued under Section 54.036, including any civil penalties assessed under Section 54.036(5), is enforceable in the same manner as provided in Sections 214.001(k), (m), (n), and (o). An abstract of judgment shall be ordered against all parties found to be the owners of the subject property or in possession of that property.

(b) A lienholder does not have standing to bring a proceeding under Section 54.039 on the ground that the lienholder was not notified of the proceedings before the commission panel or was unaware of the condition of the property, unless the lienholder had first appeared before the commission panel and entered an appearance in opposition to the proceedings.

Added by Acts 1989, 71st Leg., ch. 1113, Sec. 1, eff. Aug. 28, 1989.

Amended by Acts 1993, 73rd Leg., ch. 836, Sec. 8, eff. Sept. 1, 1993.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1141 (H.B. 2647), Sec. 1, eff. September 1, 2009.

Sec. 54.041. COMMISSION PANEL DECISION FINAL. If no appeals are taken from the decision of the commission panel within the required period, the decision of the commission panel is, in all things, final and binding.

Added by Acts 1989, 71st Leg., ch. 1113, Sec. 1, eff. Aug. 28, 1989.

Amended by Acts 1993, 73rd Leg., ch. 836, Sec. 9, eff. Sept. 1, 1993.

Sec. 54.042. MUNICIPAL COURT PROCEEDING NOT AFFECTED. This subchapter does not affect the ability of a municipality to proceed under the jurisdiction of the municipal court.

Added by Acts 1989, 71st Leg., ch. 1113, Sec. 1, eff. Aug. 28, 1989.

Sec. 54.043. ALTERNATIVE ADJUDICATION PROCESSES. A municipality by ordinance may adopt a civil adjudication process, as an alternative to the enforcement process prescribed by the other provisions of this subchapter, for the enforcement of ordinances described by Section 54.032. The alternative process must contain provisions relating to notice, the conduct

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of proceedings, permissible orders, penalties, and judicial review that are similar to the provisions of this subchapter.

Added by Acts 1997, 75th Leg., ch. 582, Sec. 2, eff. June 2, 1997.

Sec. 54.044. ALTERNATIVE PROCEDURE FOR ADMINISTRATIVE HEARING. (a) As an alternative to the enforcement processes described by this subchapter, a municipality by ordinance may adopt a procedure for an administrative adjudication hearing under which an administrative penalty may be imposed for the enforcement of an ordinance described by Section 54.032 or adopted under Section 214.001(a)(1).

(b) A procedure adopted under this section must entitle the person charged with violating an ordinance to a hearing and must provide for:

- (1) the period during which a hearing shall be held;
- (2) the appointment of a hearing officer with authority to administer oaths and issue orders compelling the attendance of witnesses and the production of documents; and
- (3) the amount and disposition of administrative penalties, costs, and fees.

(c) A municipal court may enforce an order of a hearing officer compelling the attendance of a witness or the production of a document.

(d) A citation or summons issued as part of a procedure adopted under this section must:

- (1) notify the person charged with violating the ordinance that the person has the right to a hearing; and
- (2) provide information as to the time and place of the hearing.

(e) The original or a copy of the summons or citation shall be kept as a record in the ordinary course of business of the municipality and is rebuttable proof of the facts it states.

(f) The person who issued the citation or summons is not required to attend a hearing under this section.

(g) A person charged with violating an ordinance who fails to appear at a hearing authorized under this section is considered to admit liability for the violation charged.

(h) At a hearing under this section, the hearing officer shall issue an order stating:

- (1) whether the person charged with violating an ordinance is liable for the violation; and
- (2) the amount of a penalty, cost, or fee assessed against the person.

(i) An order issued under this section may be filed with the clerk or secretary of the municipality. The clerk or secretary shall keep the order in a separate index and file. The order may be recorded using microfilm, microfiche, or data processing techniques.

(j) An order issued under this section against a person charged with an ordinance violation may be enforced by:

- (1) filing a civil suit for the collection of a penalty assessed against the person; and
- (2) obtaining an injunction that:
 - (A) prohibits specific conduct that violates the ordinance;or
 - (B) requires specific conduct necessary for compliance with the ordinance.

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(k) A person who is found by a hearing officer to have violated an ordinance may appeal the determination by filing a petition in municipal court before the 31st day after the date the hearing officer's determination is filed. An appeal does not stay enforcement and collection of the judgment unless the person, before filing the appeal, posts a bond with an agency designated for that purpose by the municipality.

Added by Acts 2001, 77th Leg., ch. 413, Sec. 9, eff. Sept. 1, 2001.

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provisions of the compliance order or notice of violation have been complied with, or until such *owner* or the owner's authorized agent shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the *code official* and shall furnish to the *code official* a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

- ❖ When a property has a pending violation order, it is unlawful for an owner to sell, transfer, mortgage, lease or otherwise dispose of the property without either following the order or advising the buyer, mortgagee, etc., of the pending violation. The owner must prove that the buyer has received notice of pending violations by providing the code official with a signed, notarized receipt from the new transferee.

Determining the current owner of a building is a frustrating and difficult activity. To evade code enforcement action, owners will frequently transfer ownership of their property. This provision of the code permits the code official to cite the seller if he or she did not provide the code official with the required notification when the property was transferred; thus, even though the seller may avoid complying with the outstanding violation orders, he or she can still be charged with a violation for failing to provide proof that the transferee was aware of the pending orders.

SECTION 108 UNSAFE STRUCTURES AND EQUIPMENT

[A] 108.1 **General.** When a structure or equipment is found by the *code official* to be unsafe, or when a structure is found unfit for human *occupancy*, or is found unlawful, such structure shall be *condemned* pursuant to the provisions of this code.

- ❖ This section provides a brief description of conditions where the code official is given the authority to condemn an existing structure or equipment. Where a structure or equipment is "unlawful," as described in the text of this section, that structure or equipment does not comply with the requirements of the code. The deficiencies are such that an unsafe condition or a condition that is unfit for human occupancy exists.

[A] 108.1.1 **Unsafe structures.** An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the *occupants* of the structure by not providing minimum safeguards to protect or warn *occupants* in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

- ❖ Any building that endangers life, health, safety or property is unsafe. A building is considered dangerous if it meets one or more of the following conditions:

- It lacks adequate protection from fire;
- It contains unsafe equipment; or
- All or part of the building is likely to collapse.

Only structures with major defects or life-threatening conditions are considered unsafe. Minor defects, such as an inadequate number of electrical outlets or damaged plaster, do not necessarily create an unsafe structure, even though they are violations of the code.

[A] 108.1.2 **Unsafe equipment.** Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the *premises* or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or *occupants* of the *premises* or structure.

- ❖ Equipment may become unsafe when it is a hazard to life, health, property or safety.

The judgment of the code official is critical in determining when equipment should be deemed unsafe. If uncertain about appropriate enforcement action, he or she should seek additional expertise and advice and, if necessary, err on the side of safety.

[A] 108.1.3 **Structure unfit for human occupancy.** A structure is unfit for human *occupancy* whenever the *code official* finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks *ventilation*, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the *occupants* of the structure or to the public.

- ❖ A building is unfit for occupancy if it is: unsafe; unlawful; lacking maintenance to a serious degree; in disrepair; insanitary; vermin or rat infested; found to contain filth; lacking essential equipment; or located such that it is hazardous to the occupants or the public.

The list of reasons for declaring a structure unfit requires subjective judgement. Because the consequences of declaring a structure unfit for occupancy are severe, the code official should carefully and thoroughly document all conditions contributing to that determination.

[A] 108.1.4 **Unlawful structure.** An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law.

- ❖ An unlawful structure is one that has serious deficiencies such that an unsafe condition or a condition that is unfit for human occupancy exists. An unlawful structure does not mean one where there are criminal activities.

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[A] 108.1.5 **Dangerous structure or premises.** For the purpose of this code, any structure or *premises* that has any or all of the conditions or defects described below shall be considered dangerous:

1. Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the *approved* building or fire code of the jurisdiction as related to the requirements for existing buildings.
2. The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.
3. Any portion of a building, structure or appurtenance that has been damaged by fire, earthquake, wind, flood, *deterioration*, *neglect*, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become *detached* or dislodged.
4. Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so *anchored*, attached or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value.
5. The building or structure, or part of the building or structure, because of dilapidation, *deterioration*, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.
6. The building or structure, or any portion thereof, is clearly unsafe for its use and *occupancy*.
7. The building or structure is *neglected*, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.
8. Any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the *approved* building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.
9. A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, *ventilation*, mechanical or plumbing system, or otherwise, is determined by the *code official* to be unsanitary, unfit

for human habitation or in such a condition that is likely to cause sickness or disease.

10. Any building or structure, because of a lack of sufficient or proper fire-resistance-rated-construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the *code official* to be a threat to life or health.
 11. Any portion of a building remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.
- ❖ This specific section contains a general list of conditions establishing a baseline to evaluate a structure against to determine if its present condition is dangerous. The purpose of this section is to allow a code official to cite specific conditions under which he or she finds a structure to be dangerous. The list of conditions focuses on adequacy of the means of egress, structural, fire resistance, fire protection, and plumbing and ventilation systems.

[A] 108.2 **Closing of vacant structures.** If the structure is vacant and unfit for human habitation and *occupancy*, and is not in danger of structural collapse, the *code official* is authorized to post a placard of condemnation on the *premises* and order the structure closed up so as not to be an attractive nuisance. Upon failure of the *owner* or owner's authorized agent to close up the *premises* within the time specified in the order, the *code official* shall cause the *premises* to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and shall be collected by any other legal resource.

- ❖ Code officials are granted the authority to condemn, placard and vacate any building that they determine to be unsafe, unlawful or unfit for occupancy. Also, code officials may remove unsafe equipment from use.

No one is permitted to reoccupy or reuse any building or equipment until the code official has given his or her approval. Unsafe structures, unsafe equipment, buildings that are unfit for human occupancy and unlawful structures are further defined in subsequent sections.

The ability to condemn and vacate structures is a powerful enforcement tool. It protects occupants from danger and prevents owners from collecting income on their properties. Before condemning or vacating structures, the code official should establish a clearly defined list of violations that warrant such actions. Additionally, it is critical to document all of the violations found in each building to be condemned. When practical, photographs should be taken of violations. Should litigation become necessary, photographs provide documents that have a powerful impact.

SCOPE AND ADMINISTRATION

Open, vacant buildings are an attractive nuisance to children, a potential fire hazard, a harborage for rodents and insects and a potential home for vagrants. Vacant buildings also create a blighting influence within a community.

The code official is authorized to condemn as unfit those buildings that are vacant and open to trespass but not in danger of collapse. When the owner has been ordered to secure an open building but fails to do so, the code official must secure the structure by contracting with a public or private agent to close up the building.

The costs for closing buildings are to be charged to the property in the form of a lien. Generally, once a lien has been filed against a property, it must be satisfied before the property can be sold. This section authorizes collection by any other legal resource. It also allows collection by additional methods such as small claims judgements, collection agency actions and personal liens. This enhances the chances of cost recovery.

[A] 108.2.1 Authority to disconnect service utilities. The *code official* shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this code and the referenced codes and standards set forth in Section 102.7 in case of emergency where necessary to eliminate an immediate hazard to life or property or where such utility connection has been made without approval. The *code official* shall notify the serving utility and, whenever possible, the *owner* or *owner's* authorized agent and *occupant* of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnection the *owner*, *owner's* authorized agent or *occupant* of the building structure or service system shall be notified in writing as soon as practical thereafter.

❖ Disconnecting a service utility from the energy supply is the most radical method of hazard abatement available to the code official and should be reserved for cases in which all other lesser remedies have proven ineffective. Such an action must be preceded by a written notice to the owner and any occupants of the building being ordered to disconnect. Disconnection must be accomplished within the timeframe established by the code official in the written notification. When the hazard to the public health and welfare is so imminent as to mandate immediate disconnection, the code official has the authority and even the obligation to cause disconnection without notice.

[A] 108.3 Notice. Whenever the *code official* has condemned a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the *owner*, *owner's* authorized agent or the person or persons responsible for the structure or equipment in accordance with Section 107.3. If the notice pertains to equipment, it shall be placed on the condemned equipment. The notice shall be in the form prescribed in Section 107.2.

❖ The condemnation notice is required to be posted at the structure, and the owner, the owner's authorized

agent or responsible person in charge is to be served notice in accordance with the procedure in Section 107.3, in the form prescribed in Section 107.2. If the notice includes condemned equipment, the notice must also be placed on that equipment.

[A] 108.4 Placarding. Upon failure of the *owner*, *owner's* authorized agent or person responsible to comply with the notice provisions within the time given, the *code official* shall post on the *premises* or on defective equipment a placard bearing the word "Condemned" and a statement of the penalties provided for occupying the *premises*, operating the equipment or removing the placard.

❖ If the owner fails to comply with the notice, a placard indicating that the structure is condemned as unfit for human occupancy or use should be posted on the property or equipment. This placard should also show the penalty for illegal occupancy of the building or equipment, and for removing the placard.

Immediate enforcement action should be pursued when there is an illegal occupancy of a condemned building or equipment. The credibility of the code enforcement program is dependent upon the public's belief that the code will be adequately enforced.

Any owner, owner's authorized agent, or other responsible party who has failed to comply with a correction order must vacate the property immediately after the time for correction has passed. All occupants should be given reasonable time to find other accommodations.

[A] 108.4.1 Placard removal. The *code official* shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the *code official* shall be subject to the penalties provided by this code.

❖ Only the code official is authorized to remove a condemnation placard. The code official is to remove the placard only when the defect or defects have been corrected as required by the code. Any other person who removes or defaces a placard is in violation of the code and subject to its penalties.

[A] 108.5 Prohibited occupancy. Any occupied structure condemned and placarded by the *code official* shall be vacated as ordered by the *code official*. Any person who shall occupy a placarded *premises* or shall operate placarded equipment, and any *owner*, *owner's* authorized agent or person responsible for the *premises* who shall let anyone occupy a placarded *premises* or operate placarded equipment shall be liable for the penalties provided by this code.

❖ It is important that any unsafe structure be vacated to help prevent possible injury to or death of its occupants. The code official has the authority to require a condemned building to be vacated. Anyone who continues to occupy a placarded building or equipment and any owner who permits another to occupy a placarded building or equipment are subject to the penalties provided by the code.

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[A] **108.6 Abatement methods.** The *owner*, *owner's* authorized agent, *operator* or *occupant* of a building, *premises* or equipment deemed unsafe by the *code official* shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other *approved* corrective action.

❖ This section describes the usual circumstance in which a building has such critical violations that it is declared unsafe by the *code official*. The *owner*, *operator* or *occupant* should take abatement measures to correct the unsafe condition. If this is not done promptly, the *code official* has the authority to directly abate the unsafe conditions and bill the *owner* for the abatement work in accordance with the code.

[A] **108.7 Record.** The *code official* shall cause a report to be filed on an unsafe condition. The report shall state the *occupancy* of the structure and the nature of the unsafe condition.

❖ The *code official* must file a report on each investigation of unsafe conditions, stating the *occupancy* of the structure and the nature of the unsafe condition.

SECTION 109 EMERGENCY MEASURES

[A] **109.1 Imminent danger.** When, in the opinion of the *code official*, there is *imminent danger* of failure or collapse of a building or structure that endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building *occupants* or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the *code official* is hereby authorized and empowered to order and require the *occupants* to vacate the *premises* forthwith. The *code official* shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the Code Official." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

❖ If the *code official* has determined that failure or collapse of a building or structure is imminent, failure has occurred that results in a continued threat to the remaining structure or adjacent properties or if any other unsafe condition as described in this section exists in a structure, he or she is authorized to require the *occupants* to vacate the *premises* and to post such buildings or structures as unsafe and not occupiable. Unless authorized by the *code official* to make repairs, secure or demolish the structure, it is illegal for anyone to enter the building or structure. This will minimize the potential for injury.

[A] **109.2 Temporary safeguards.** Notwithstanding other provisions of this code, whenever, in the opinion of the *code official*, there is *imminent danger* due to an unsafe condition, the *code official* shall order the necessary work to be done,

including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the *code official* deems necessary to meet such emergency.

❖ This section recognizes the need for immediate and effective action in order to protect the public. This section empowers the *code official* to cause the necessary work to be done to temporarily minimize the imminent danger without regard for due process. This section has to be viewed critically insofar as the danger of structural failure must be "imminent"; that is, readily apparent and immediate.

[A] **109.3 Closing streets.** When necessary for public safety, the *code official* shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, *public ways* and places adjacent to unsafe structures, and prohibit the same from being utilized.

❖ The *code official* is authorized to temporarily close sidewalks, streets and adjacent structures as needed to provide for the public safety from the unsafe building or structure when an imminent danger exists. Since the *code official* may not have the direct authority to close sidewalks, streets and other public ways, the agency having such jurisdiction (e.g., the police or highway department) must be notified.

[A] **109.4 Emergency repairs.** For the purposes of this section, the *code official* shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

❖ The cost of emergency work may have to be initially paid for by the jurisdiction. The important principle here is that the *code official* must act immediately to protect the public when warranted, leaving the details of costs and owner notification for later.

[A] **109.5 Costs of emergency repairs.** Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the jurisdiction shall institute appropriate action against the *owner* of the *premises* or *owner's* authorized agent where the unsafe structure is or was located for the recovery of such costs.

❖ The cost of emergency repairs is to be paid by the jurisdiction, with subsequent legal action against the *owner* to recover such costs. This does not preclude, however, reaching an alternative agreement with the *owner*.

[A] **109.6 Hearing.** Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the appeals board, be afforded a hearing as described in this code.

❖ Anyone ordered to take an emergency measure or to vacate a structure because of an emergency condition must do so immediately.

Thereafter, any affected party has the right to appeal the action to the appeals board to determine whether the order should be continued, modified or revoked.

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SCOPE AND ADMINISTRATION

It is imperative that appeals to an emergency order occur after the hazard has been abated, rather than before, to minimize the risk to the occupants, employees, clients and the public.

SECTION 110 DEMOLITION

[A] 110.1 **General.** The *code official* shall order the *owner* or owner's authorized agent of any *premises* upon which is located any structure, which in the *code official's* or owner's authorized agent judgment after review is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary, or to board up and hold for future repair or to demolish and remove at the *owner's* option; or where there has been a cessation of normal construction of any structure for a period of more than two years, the *code official* shall order the *owner* or owner's authorized agent to demolish and remove such structure, or board up until future repair. Boarding the building up for future repair shall not extend beyond one year, unless *approved* by the building official.

❖ This section describes the conditions where the code official has the authority to order the owner to remove the structure. Conditions where the code official may give the owner the option of repairing the structure or boarding the structure for future repair are also in this section. The code official should carefully document the condition of the structure prior to issuing a demolition order to provide an adequate basis for ordering the owner to remove the structure. Note that Appendix A contains boarding provisions, but needs to be specifically referenced in the adopting ordinance of the jurisdiction to be mandatory.

[A] 110.2 **Notices and orders.** Notices and orders shall comply with Section 107.

❖ Before the code official can pursue action to demolish a building in accordance with Section 110.1 or 110.3, it is imperative that all owners and any other persons with a recorded encumbrance on the property be given proper notice of the demolition plans (see Section 107 for notice and order requirements).

[A] 110.3 **Failure to comply.** If the *owner* of a *premises* or owner's authorized agent fails to comply with a demolition order within the time prescribed, the *code official* shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

❖ When the owner fails to comply with a demolition order, the code official is authorized to take action to have the building razed and removed. The costs are to be charged as a lien against the real estate. To reduce

complaints regarding the validity of demolition costs, the code official will obtain competitive bids from several demolition contractors before authorizing any contractor to raze the structure.

[A] 110.4 **Salvage materials.** When any structure has been ordered demolished and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

❖ The governing body may sell any valuables or salvageable materials for the highest price obtainable. The costs of demolition are then to be deducted from any proceeds from the sale of salvage. If a surplus of funds remains, it is to be remitted to the owner with an itemized expense and income account; however, if no surplus remains, this must also be reported.

SECTION 111 MEANS OF APPEAL

[A] 111.1 **Application for appeal.** Any person directly affected by a decision of the *code official* or a notice or order issued under this code shall have the right to appeal to the board of appeals, provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

❖ This section allows a person with a material or definitive interest in the decision of the code official to appeal that decision. The aggrieved party may not appeal a code requirement. The intent of the appeal process is not to waive or set aside a code requirement; it is to provide a means of reviewing a code official's decision on an interpretation or application of the code or reviewing the code official's decision to approve or reject the equivalency of protection to the code requirement.

[A] 111.2 **Membership of board.** The board of appeals shall consist of not less than three members who are qualified by experience and training to pass on matters pertaining to property maintenance and who are not employees of the jurisdiction. The *code official* shall be an ex-officio member but shall have no vote on any matter before the board. The board shall be appointed by the chief appointing authority, and shall serve staggered and overlapping terms.

❖ The concept of the board is to provide an objective group of persons who review the matters brought to them and make a collective decision. The members of the board are not to be employees of the jurisdiction

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and are to have sufficient knowledge and experience to act on the concerns that are heard. A minimum of three board members is specified for a fair and impartial hearing process. Staggered terms are appropriate for uniform changeover such that a minimum number of board members are new each year. The number of members is to be determined by the chief appointing authority.

[A] 111.2.1 **Alternate members.** The chief appointing authority shall appoint not less than two alternate members who shall be called by the board chairman to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for board membership.

❖ This section authorizes the chief appointing authority to appoint two alternate members who are to be available if the principal members of the board are absent or disqualified. Alternate members must possess the same qualifications as the principal members.

[A] 111.2.2 **Chairman.** The board shall annually select one of its members to serve as chairman.

❖ It is customary to determine chairmanship annually so that a regular opportunity is available to evaluate and either reappoint the current chairman or appoint a new one.

[A] 111.2.3 **Disqualification of member.** A member shall not hear an appeal in which that member has a personal, professional or financial interest.

❖ All members must disqualify themselves regarding any appeal in which they have a personal, professional or financial interest.

[A] 111.2.4 **Secretary.** The chief administrative officer shall designate a qualified person to serve as secretary to the board. The secretary shall file a detailed record of all proceedings in the office of the chief administrative officer.

❖ The chief administrative officer is to designate a qualified clerk to serve as secretary to the board. The secretary is required to file a detailed record of all proceedings in the office of the chief administrative officer.

[A] 111.2.5 **Compensation of members.** Compensation of members shall be determined by law.

❖ Members of the board of appeals are not required to be compensated unless required by the local municipality or jurisdiction.

[A] 111.3 **Notice of meeting.** The board shall meet upon notice from the chairman, within 20 days of the filing of an appeal, or at stated periodic meetings.

❖ The board must meet within 20 days of the filing of an appeal or at regularly scheduled meetings. This provides adequate time to coordinate the board members' schedules, and also requires that the board consider the appeal in a timely manner.

[A] 111.4 **Open hearing.** Hearings before the board shall be open to the public. The appellant, the appellant's representative, the *code official* and any person whose interests are

affected shall be given an opportunity to be heard. A quorum shall consist of a minimum of two-thirds of the board membership.

❖ All hearings before the board must be open to the public. The appellant, the appellant's representative, the code official and any person whose interests are affected must be heard.

The quorum of two-thirds of the board is to be present for the board to take any official action.

[A] 111.4.1 **Procedure.** The board shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

❖ The board is required to establish and make available to the public written procedures detailing how hearings are to be conducted. Additionally, this section provides that, although strict rules of evidence are not applicable, the information presented must be deemed relevant.

[A] 111.5 **Postponed hearing.** When the full board is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

❖ When all members of the board are not present, either the appellant or the appellant's representative may request a postponement of the hearing. This request may be made even though a quorum is present.

[A] 111.6 **Board decision.** The board shall modify or reverse the decision of the *code official* only by a concurring vote of a majority of the total number of appointed board members.

❖ A concurring vote of a majority of the members present is needed to modify or reverse the decision of the *code official*.

[A] 111.6.1 **Records and copies.** The decision of the board shall be recorded. Copies shall be furnished to the appellant and to the *code official*.

❖ A formal decision is required to provide an official record. Copies are to be furnished to both the appellant and the code official. The code official is bound by the action of the board of appeals, unless it is the opinion of him or her that the board of appeals has acted improperly. In such cases, relief through the court having jurisdiction may be sought by corporate counsel.

[A] 111.6.2 **Administration.** The *code official* shall take immediate action in accordance with the decision of the board.

❖ To avoid any undue hindrance in the progress of construction, the code official is required to act without delay based on the board's decision. This action may be to enforce the decision or to seek judicial relief if the board's action can be demonstrated to be inappropriate.

[A] 111.7 **Court review.** Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of

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law. Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the chief administrative officer.

❖ This section allows any person to request a review by the court of jurisdiction with regard to perceived errors of law. Application for such review must be made after the decision of the board is filed with the chief administrative officer. This helps all those concerned to observe due process.

[A] 111.8 **Stays of enforcement.** Appeals of notice and orders (other than *Imminent Danger* notices) shall stay the enforcement of the notice and order until the appeal is heard by the appeals board.

❖ The purpose of this section is to specify that if an appeal is made, the jurisdiction is not to enforce its notice or order until such appeal has been heard by the board of appeals. This does not apply, of course, to imminent danger notices.

SECTION 112 STOP WORK ORDER

[A] 112.1 **Authority.** Whenever the *code official* finds any work regulated by this code being performed in a manner contrary to the provisions of this code or in a dangerous or unsafe manner, the *code official* is authorized to issue a stop work order.

❖ This section provides for the suspension of work for which a permit was issued, pending the removal or correction of a severe violation or unsafe condition identified by the code official.

Normally, correction notices are used to inform the permit holder of code violations. Stop work orders are issued when enforcement can be accomplished no other way or when a dangerous condition exists.

[A] 112.2 **Issuance.** A stop work order shall be in writing and shall be given to the *owner* of the property, to the *owner's* authorized agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work is authorized to resume.

❖ Upon receipt of a violation notice from the code official, all construction activities identified in the notice must immediately cease, except as expressly permitted to correct the violation.

[A] 112.3 **Emergencies.** Where an emergency exists, the *code official* shall not be required to give a written notice prior to stopping the work.

❖ This section gives the code official the authority to stop the work in dispute immediately when, in his or her opinion, there is an unsafe emergency condition that has been created by the work. The need for the written notice is suspended for this situation so that the work can be stopped immediately. After the work is stopped, immediate measures should be taken to correct the work at issue.

[A] 112.4 **Failure to comply.** Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than [AMOUNT] dollars or more than [AMOUNT] dollars.

❖ The local jurisdiction is to designate the fine that is to apply to any person who continues work that is at issue, other than abatement work. The dollar amounts for the minimum and maximum fines are to be specified in the adopting ordinance. See a sample adoption ordinance on pages xi and xii of the code.

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CITY OF DALLAS V. STEWART: DIVIDED SUPREME COURT HOLDS THAT NUISANCE DECISIONS SHOULD BE MADE BY COURTS RATHER THAN CITY BOARDS

In *City of Dallas v. Stewart*, No. 09-0257 (Tex. July 1, 2011), the Supreme Court of Texas (Court) held in a 5-4 decision that an appointed city board's determination that a building is a public nuisance should not be given deference by a court, but should be reviewed *de novo* ("from the beginning"). The opinion may mean that appointed city officials may no longer make substandard building and other nuisance determinations.

In the case, a person abandoned a house. The house fell into disrepair, had been inhabited by vagrants, and suffered from numerous code violations. The city building standards board determined that the house was an urban nuisance and ordered its demolition. Before the demolition, the owner appealed the board's decision to the trial court. (The appeal did not stay the demolition, and the house was demolished.)

After the demolition, the owner added due process and taking claims to her suit. The trial court judge affirmed the board's decision to demolish. However, a jury decided that the home was not a public nuisance, that the demolition worked a "taking" by the city of the property, and awarded the owner damages. The city appealed the issue of whether the board's decision that the house was a public nuisance precluded a finding of a taking.

Local Government Code Chapter 214 defines a building as a nuisance if it is "dilapidated, substandard, or unfit for human habitation." Local Government Code Chapter 54 authorizes a city to create a board to determine violations of public safety ordinances like those in Chapter 214. Pursuant to Chapter 214, a property owner is entitled to notice and a hearing before the board on the issue of demolition, and is given a limited appeal of a decision to a trial court. That statutory appeal is based on deference to the board's decision under what is known as the "substantial evidence" standard of review. However, the Court concluded that the statutory appeal does not comply with the Texas Constitution's "takings" clause.

That clause provides that the government may not take a person's property without just compensation. All takings claims are limited by the rule that the abatement of a public nuisance is not a taking. The twist in this case is that the Court added the requirement that the nuisance determination be made by a court rather than an appointed administrative body. In other words, a city board's decision that a piece of property is a "nuisance" should not be given deference, but should be reviewed *de novo* by a court similar to eminent domain cases:

Because we believe that unelected municipal agencies cannot be effective bulwarks against constitutional violations, we hold that the URSB's nuisance determination, and the trial court's affirmance of that determination under a substantial evidence standard, were not entitled to preclusive effect in Stewart's takings case, and the trial court correctly considered the issue de novo.

Multiple cities and the attorney general filed briefs in support of the City of Dallas, to no avail. The City of Dallas is seeking a rehearing of the case, and the League will provide amicus support in that effort. In addition, numerous cities and the International Municipal Lawyers Association will be filing briefs.

Until the rehearing is decided, many cities have brought their substandard structure and other nuisance ordinance enforcement to a halt. And many city attorneys have asked the Texas Municipal League for guidance. Perhaps the safest course of action, which is also impractical, would be to have an elected judge (or at the very least an appointed municipal court judge in a court of record) bless every nuisance action that could be considered a taking. In any case, the League will monitor and participate in the rehearing process. If that process results in a favorable opinion, the issue may once again be settled. If not, the issue will certainly go through the League's legislative policy development process, and may even require a constitutional amendment to fix.

If your city has halted nuisance abatement activities based on the opinion, please send an e-mail to JJ Rocha at jj@tml.org. The e-mail should include your name, title, contact information, and a brief but specific description of how

the opinion will affect your city. The information may be used in the League's amicus brief on the motion for rehearing.

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Substandard Structures after *City of Dallas v. Stewart*

Prepared February 16, 2012

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What statutory authority does a city have to abate a substandard structure?

Municipal authority to abate substandard structures comes from several statutory provisions. Essentially, the authority to define and abate a substandard structure stems from Chapter 214 of the Local Government Code, and the process by which it is carried out (with some exceptions) comes from a combined application of Chapters 214 and 54 of the Local Government Code. Historically, cities have used one of three methods for the substandard building abatement process:

1. adopt an ordinance under Chapter 214 relating to the condition of structures in the city, and provide for notice and a public hearing, generally before the city council, an appointed building and standards commission, or the city's municipal court acting in a civil capacity (the council, commission, or municipal court, pursuant to Subchapter C of Chapter 54, acts as the administrative municipal body to carry out the required procedures);
2. bring a civil action under Chapter 54 in district court, county court, or the city's municipal court of record to make a judicial determination that a structure is substandard; or
3. provide for an alternative enforcement process under Section 54.044 by creating an administrative adjudication hearing under which an administrative penalty may be imposed for the enforcement of a substandard structure ordinance.

How did the Texas Supreme Court's first opinion in *City of Dallas v. Stewart* affect the abatement process?

In *City of Dallas v. Stewart*, the Texas Supreme Court held that an appointed city board's determination that a building is a public nuisance should not be given deference by a court, but should be reviewed *de novo* ("from the beginning" or "as if the first determination never happened). No. 09-0257 (Tex. July 1, 2011), available at <http://www.supreme.courts.state.tx.us/opinions/HTMLopinion.asp?OpinionID=2001733>. The opinion meant that the administrative determination by city officials (e.g., a building and

standards commission, a city council, and perhaps even a judge in a municipal court of record) that a building is substandard was no longer entitled to deference by a court.

The lawsuit started when Stewart's house fell into disrepair, had been inhabited by vagrants, and suffered from numerous code violations. The city building standards board determined that the house was an urban nuisance and ordered its demolition. Before the demolition, the owner appealed the board's decision to district court. The appeal did not stay the demolition, and the house was demolished.

After the demolition, the owner added a takings claim to her suit. The trial court judge affirmed the board's decision to demolish. However, a jury decided that the home was not a public nuisance, that the demolition resulted in a "taking" by the city of the property, and awarded the owner damages. The city appealed the issue of whether the board's decision that the house was a public nuisance precluded a finding of a taking.

Local Government Code Chapter 214 defines a building as a nuisance if it is "dilapidated, substandard, or unfit for human habitation" based upon minimum standards that a city adopts in its ordinance. Chapter 214 does not identify a particular administrative municipal body that makes the nuisance determination, but it does authorize the use of a municipal court acting in a civil capacity. Local Government Code Chapter 54 authorizes a city to create a board to determine violations of public safety ordinances like those in Chapter 214. Pursuant to Chapter 214, a property owner is entitled to notice and a hearing as to whether a structure constitutes a public nuisance based upon violation of the city's adopted minimum standards, a decision relating to whether it can be repaired or must be demolished, and a limited appeal of a decision to a trial court. That statutory appeal is based on deference to the board's decision under what is known as the "substantial evidence" standard of review. However, the Court concluded that the statutory appeal and its substantial evidence standard does not comply with the Texas Constitution's "takings" clause.

The takings clause, found in Article I, Section 17, of the Texas Constitution, provides that the government may not take a person's property without just compensation. The twist in the *Stewart* case is that, in addition to holding that an appointed board's decision is not entitled to deference, the Court also added the requirement that the nuisance determination be made by a judge rather than an appointed administrative body. In other words, the Court held that a city board's decision that a piece of property is a "nuisance" should not be given deference, but can be reviewed *de novo* by a court in a manner similar to eminent domain cases:

Because we believe that unelected municipal agencies cannot be effective bulwarks against constitutional violations, we hold that the URSB's nuisance determination, and the trial court's affirmance of that determination under a substantial evidence standard, were not entitled to preclusive effect in Stewart's takings case, and the trial court correctly considered the issue de novo.

The City of Dallas sought a rehearing of the case, and the Texas Municipal League provided amicus support in that effort. In addition, numerous cities and the International Municipal Lawyers Association filed briefs in support of the city.

Did the Texas Supreme Court's second, "substituted" opinion make things any better?

Perhaps. In response to the motion by the City of Dallas for a rehearing (a request that the court reconsider its first opinion), the Texas Supreme Court withdrew its original opinion (meaning that it is no longer legal authority) and substituted a new opinion. *City of Dallas v. Stewart*, No-09-0257, 2012 WL 247966 (Jan. 27, 2012). The Court held essentially the same thing in its second opinion:

Today we hold that a system that permits constitutional issues of this importance to be decided by an administrative board, whose decisions are essentially conclusive, does not correctly balance the need to abate nuisances against the rights accorded to property owners under our constitution. In the context of a property owner's appeal of an administrative nuisance determination, independent court review is a constitutional necessity.

Because we believe that unelected municipal agencies cannot be effective bulwarks against constitutional violations, we hold that the URSB's nuisance determination, and the trial court's affirmance of that determination under a substantial evidence standard, were not entitled to preclusive effect in Stewart's takings case, and the trial court correctly considered the issue de novo.

Id. at *1. The Court attempted to soften the blow of the case by stating that "property owners rarely invoke the right to appeal." *Id.* at *13. It further stated that "*de novo* review is required only when a nuisance determination is appealed. Thus, the City need not institute court proceedings to abate every nuisance. Rather, the City must defend appeals of nuisance determinations and takings claims asserted in court by property owners who lost before the agency." *Id.* Those things may be true, but they are probably of little comfort to cities that could now incur liability for takings damages when they demolish a substandard building.

The potentially good news in the second opinion is that the Court recognized that Section 214.0012(a) provides a "narrow thirty day window for seeking review." *Id.* This may mean that a city could continue to use the city council or building and standards commission abatement process and simply wait until the time for appeal has passed before demolishing a structure. However, not all city attorneys are in agreement that such is the case. The questions and answers below explain the processes a city can use in some detail, with analysis of the impact of the *Stewart* case where appropriate.

What procedures must a city follow when using the administrative abatement authority in Chapters 214 and 54?

If a city decides to use its city council, building and standards commission, or municipal court of record to abate substandard structures administratively, it is required to adopt an ordinance requiring the vacation, securing, and demolition of dilapidated structures. TEX. LOCAL GOV'T CODE § 214.001. The ordinance must establish minimum standards for the continued use and occupancy of buildings, provide for the giving of proper notice of a substandard building, and

provide for a public hearing. *Id.* (Building codes are often used for the minimum standards required by Chapter 214.) The procedures to use Chapter 214 are as follows:

1. Identify Substandard Structures Based Upon Minimum Standards

Following the adoption of the ordinance, the initial step to demolish a substandard structure is to identify the structure as substandard. A city official (most commonly the building official or code enforcement official) prepares a report stating the structural deficiencies and makes a recommendation as to whether the structure can be repaired or should be demolished.

The report is submitted to the municipal body designated in the ordinance to conduct a hearing for the purpose of determining whether the structure complies with the minimum standards in the ordinance. (The administrative “municipal body” is usually the city council, a building and standards commission created under Section 54.033 of the Texas Local Government Code, or in a few cities – the city’s municipal court of record acting as a civil court.)

2. Notice of Public Hearing

After the structure has been identified as substandard, the city official who made the determination should issue a notice of public hearing to every known owner, lienholder, or mortgagee of the structure. *See* TEX. LOC. GOV’T CODE § 214.001(d) & (e). The notice should contain the following information:

1. name and address of the owner of the affected property;
2. an identification, which is not required to be a legal description (unless the notice is also going to the lienholders and mortgagees), of the structure and the property upon which it is located;
3. a statement that the official has found the structure to be substandard with a brief and concise description of the conditions found to render the structure substandard;
4. a statement of the action recommended to be taken, as determined by the official;
5. a statement that the owner, lienholder, or mortgagee will be required to submit at the hearing proof of the scope of any work that may be required to comply with the ordinance and the time it will take to reasonably perform the work; and
6. the date, time, place, and brief description of the public hearing.

The notice should also be filed with the county in order to provide notice to, and be binding upon, subsequent grantees, lienholders or other transferees who acquire an interest in the property after the filing. *Id.* at § 214.001(e).

3. Public Hearing

Once the notice of public hearing has been mailed and all Open Meetings Act posting requirements have been satisfied, the public hearing is held. Prior to opening the public hearing, the municipal body should hear the report detailing the structural deficiencies and recommending that the structure be repaired or demolished. The lienholders, mortgagees, or owners of the property are given an opportunity to be heard and to address the nuisance issues as they relate to

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the minimum standards, including the scope of the work and financial capability of repairing the structure. The municipal body should then open the public hearing to those who wish to speak on behalf of or against the recommended action. The burden is on the owner, lienholder, or mortgagee to demonstrate the scope of the work required to comply with the ordinance and the time it will take to perform the work. TEX. LOC. GOV'T CODE § 214.001(l).

4. Determination

After the public hearing, if the structure is found to be in violation of the standards in the ordinance, the municipal body may order the owner, lienholder, or mortgagee to, within 30 days:

1. secure the structure from unauthorized entry. TEX. LOC. GOV'T CODE § 214.0011 (If the city secures the structure prior to a hearing, notice and similar procedures are still required.); or
2. repair, remove, or demolish the structure, unless the owner or lienholder establishes at the hearing that the work cannot reasonably be performed within 30 days. *Id.* at § 214.001(h).

The body may also order that the occupants be relocated within a reasonable time. *Id.* If the municipal body allows the owner, lienholder, or mortgagee more than 30 days to repair, remove, or demolish the building, the body must establish specific time schedules for the commencement and completion of the work and must require that the building be secured to prevent unauthorized entry while the work is being performed. *Id.* at § 214.001(i).

Within ten days after the date that the order to vacate, secure, repair, or demolish the structure is issued, the city must:

1. file a copy of the order in the office of the city secretary; and
2. publish in a newspaper of general circulation in the city a notice containing: (a) the street address or legal description of the property; (b) the date of the hearing; (c) a brief statement indicating the results of the order; and (d) instructions stating where a complete copy of the order may be obtained. *Id.* at § 214.001(f).

Also, after the hearing, the city must promptly send by certified mail, return receipt requested, signature confirmation through United States Postal Service, or personal delivery, a copy of the order to the owner and to any lienholder or mortgagee of the structure, as determined through the use of the city's best efforts. For purposes of this provision, the city has used its best, reasonable, or diligent effort if it has searched the county real property and assumed name records, appraisal district records, records of the secretary of state, and the city's tax and utility records. *Id.* at § 214.001(q). If the notice is mailed and, if the United States Postal Service returns the notice as "refused" or "unclaimed," the notice is deemed delivered. *Id.* at § 214.001(r).

5. Appeal

Chapter 214 provides that any owner, lienholder, or mortgagee of record of a structure for which an order is issued by the municipal body may, within 30 days after the order is mailed to them, appeal the order by filing a verified petition in district court stating that the decision is illegal, either in whole or in part, and specifying the grounds for the illegality. TEX. LOC. GOV'T CODE § 214.0012(a).

The district court may issue a *writ of certiorari* (a legal term for a request for the record of the municipal body) directing the city to review the order and return certified or sworn copies of the papers within a period of time, which must be longer than 10 days. *Id.* at § 214.0012(b) & (c). Upon making the return of the writ, the city is required to concisely set forth verified facts supporting the decision that do not appear in the returned papers. *Id.* at §§ 214.0012(c) & (d). Chapter 214 provides that the district court, upon review of the record under the substantial evidence rule, may either reverse or affirm, in whole or in part, or modify the municipal body's decision. *Id.* at § 214.0012(f). If the decision is affirmed or not substantially reversed but only modified, the district court must award the city all attorney's fees and other costs and expenses incurred by it. *Id.* at § 214.0012(h).

The issue in the *Stewart* case was “whether, in Stewart’s takings claim, the [building and standards commission]’s nuisance determination is *res judicata*. That is, should it have been a dispositive affirmative defense to her claim?” *City of Dallas v. Stewart*, at *9. “Res Judicata” is a doctrine that precludes a subsequent claim on a matter that has already been adjudicated, and loosely translates to “a matter already judged.” In plain – and perhaps oversimplified – English, the Court concluded that the appeal from a nuisance determination using the substantial evidence rule “does not sufficiently protect a person’s rights under [the Takings Clause in] Article I, Section 17 of the Texas Constitution.” *Id.* at *2. The substantial evidence rule prohibits a court from substituting its judgment for the judgment of the municipal body on the weight of the evidence. Under that standard, a court would uphold the municipal body’s decision if enough evidence suggests the body’s determination was within the bounds of reasonableness (i.e., if substantial evidence supports the body’s determination). The Court held that the standard does not protect a property owner’s constitutional rights and that the only way to do so is to allow a judge – by implication, one who is elected – to review the body’s decision *de novo*:

Accountability is especially weak with regard to municipal-level agencies such as the [building and standard’s commission]....,

Our precedents make clear that nuisance determinations must ultimately be made by a court, not an administrative body, when the property owner contests the administrative finding.

Id. at *8. It appears that, pursuant to the *Stewart* opinion and another opinion (*Patel v. City of Everman*, No-09-0506, 2012 WL 247983 (Jan. 27, 2012).) issued on the same day, an appeal from the decision of the municipal body—including a takings claim as Stewart made—must be raised by a property owner within 30 days of certain city actions. *Id.* at *2. (The appeal petition “must be filed by an owner, lienholder, or mortgagee within 30 calendar days after the respective dates a copy of the final decision of the municipality is personally delivered to them, mailed to

them by first class mail with certified return receipt requested, or delivered to them by the United States Postal Service using signature confirmation service, or such decision shall become final as to each of them upon the expiration of each such 30 calendar day period.”) In *Patel*, the Court stated that:

We recently held that a party asserting a taking based on an allegedly improper administrative nuisance determination must appeal that determination and assert his takings claim in that proceeding. See City of Dall. v. Stewart, ___ S.W.3d ___ (Tex. 2012). We noted that “[a]lthough agencies have no power to preempt a court’s constitutional construction, a party asserting a taking must first exhaust its administrative remedies and comply with jurisdictional prerequisites for suit.” Id. (footnote omitted). We also held that “a litigant must avail [himself] of statutory remedies that may moot [his] takings claim, rather than directly institute a separate proceeding asserting such a claim.” Id. (citing City of Dall. v. VSC, 347 S.W.3d 321 (Tex. 2011)).

Id. Most city attorneys will read the Court’s opinions in *Stewart* and *Patel* to collectively mean that a property owner or other aggrieved person must appeal from an administrative decision to demolish a structure within 30 days, and must include in that appeal the takings challenge. The failure to do so should bar a later takings claim. But until an actual challenge occurs, the topic will be hotly-debated.

6. City Action and Liens

The city may vacate, secure, remove, or demolish the structure or relocate the occupants at its own expense if the structure is not vacated, secured, repaired, removed, demolished, or the occupants are not relocated within the allotted time. TEX. LOC. GOV’T CODE § 214.001(m). However, the city may not repair the structure. *Id.* To initiate a proceeding to secure, vacate, remove, or demolish the structure or relocate the occupants, the city must first make diligent efforts to discover each mortgagee and lienholder having an interest in the structure or the property upon which it is located. To save time and expense, the lienholders, mortgagees, and other interested parties should be notified at the time of the initial hearing. *Id.* at § 214.001(e).

All expenses incurred by the city in vacating, securing, removing, or demolishing the structure or relocating the occupants may be assessed and a lien placed on the property upon which the structure is located, *unless the structure is a homestead.* *Id.* at § 214.001(n)(emphasis added). The lien arises and attaches to the property when it is filed with the county clerk. *Id.* It constitutes a “privileged lien” inferior only to tax liens, if mortgagees and lienholders were previously notified as to the result of the city’s “diligent effort” to identify these parties. *Id.* at § 214.001(o). The lien is extinguished if the property owner or another party having an interest in the legal title to the property reimburses the city for the expenses incurred. *Id.* at § 214.001(n). In relation to *Stewart*, note that damages awarded under a takings challenge may not be assessed as a lien.

What procedures must a city follow when using the judicial abatement authority in Chapter 54 to bring an action in district or county court?

Rather than hold an administrative hearing under Chapter 214, many cities opt for an alternative provided by Chapter 54 of the Local Government Code. Under Section 54.012, a city may bring a civil action for the enforcement of its ordinances “relating to dangerously damaged or deteriorated structures or improvements.”

The jurisdiction and venue of a suit brought pursuant to Section 54.012 are in the district court or the county court at law of the county in which the city bringing the civil action is located. TEX. LOC. GOV'T CODE § 54.013 The Chapter 54 proceeding is the clearest way to comply with *Stewart's* holding that “unelected municipal agencies cannot be effective bulwarks against constitutional violations” because it is brought in district or county court, which are presided over by an elected judge. *Id.* at *13. Of course, the process – like any civil lawsuit – can be lengthy and expensive, and requires the services of an attorney.

1. Procedure

The procedure for filing a civil suit for enforcement of an ordinance is fairly straightforward. The only allegations required to be pleaded in such a civil action are:

1. the identification of the real property involved in the violation;
2. the relationship of the defendant to the real property or activity involved in the violation;
3. a citation to the applicable ordinance;
4. a description of the violation; and
5. a statement that Subchapter B of Chapter 54 of the Local Government Code, which contains the provisions concerning civil suits brought by municipalities for the enforcement of ordinances, applies to the violated ordinance.

TEX. LOC. GOV'T CODE § 54.015. Therefore, in order to properly file a suit for enforcement of the city's ordinances, the city need only file an original petition that: includes the above-mentioned elements; requests that the property owner be served and made to appear before the court; and requests that upon final hearing of the matter a mandatory injunction be issued compelling the property owner to comply with the city's ordinances or allowing the city to conduct the appropriate abatement.

Civil suits of this nature can last for months, even years, before a trial. However, a city can seek a “preferential setting” for the suit if it submits to the court a verified motion that includes facts that demonstrate that the delay in deciding the matter will unreasonably endanger persons or property. *Id.* at § 54.014. If the city prevails in the civil action brought for enforcement of its ordinances, it may be entitled to injunctive relief and civil penalties. *See generally, Id.* at §§ 54.016-54.017.

2. Burden to Establish Entitlement to Injunctive Relief

In order to establish its right to injunctive relief in a suit brought for enforcement of an ordinance, a city must show the court that there is a “substantial danger of injury or an adverse health impact to any person or to the property of any person other than the defendant.” TEX.

LOC. GOV'T CODE § 54.016. If the city makes that showing, it may obtain against the owner, or owner's representative with control over the premises, an injunction that:

1. prohibits specific conduct that violates the concerned ordinance; and
2. requires specific conduct that is necessary for compliance with the ordinance.

Id. Thus, if the city prevails in a civil action against the property owner for enforcement of the ordinances, the city may be entitled to an injunction that not only requires the property to comply, but may also allow the city to conduct the necessary abatement proceedings. *Id.* at § 54.018 (City may bring action to compel the repair or demolition of a structure or to obtain approval to remove the structure and recover removal costs).

3. Civil Penalty

The city may recover a civil penalty, not to exceed \$1,000.00 per day, for a violation of the ordinance if it proves that the property owner was:

1. actually notified of the provisions of the city's ordinances; and
2. after he received notice of the ordinance provisions, he committed acts in violation of the ordinance or failed to take action necessary for compliance with the ordinance.

TEX. LOC. GOV'T CODE § 54.017. Prior to initiating suit, to invoke the full protection of the law, notice should be sent to the property owner specifically outlining the violations, including the ordinance provisions, with a set number of days for compliance. While civil penalties may be assessed against the property owner, he is not subject to personal attachment or imprisonment for failure to pay such penalties. *Id.* at § 54.019. However, if the penalties are reduced to judgment, the city may attach a lien to the property if it is otherwise unable to recover on the judgment.

What is the authority for a municipal court of record to make a judicial determination that a structure is substandard?

Section 30.00005 of the Government Code grants additional authority to municipal courts of record relative to health and safety and nuisance abatement ordinances. Specifically, a city may, by ordinance, provide that its municipal court of record has civil jurisdiction for purposes of enforcing municipal ordinances enacted under Chapter 214 of the Texas Local Government.

The civil authority of municipal courts, found in Section 54.015 of the Local Government Code, is an unclear area of law, and only those cities with judges and city attorneys who are intimately familiar with the area should use them for civil purposes. As stated previously, a municipal court of record can arguably act in a civil capacity to be the municipal body that makes administrative determinations about whether a structure is substandard. To take advantage of the municipal court of record in the administrative process, a city should designate the municipal court of record as the municipal body under Chapter 214 (as opposed to the city council or building and standards commission). TEX. LOC. GOV'T CODE § 214.001(p)(referencing a "civil municipal court" rather than a court of record).

In addition, Section 30.00005 provides that a municipal court of record has concurrent jurisdiction with a district court or county court at law under Subchapter B of Chapter 54 of the Local Government Code within the corporate city limits and the city's extraterritorial jurisdiction for purposes of enforcing health and safety and nuisance abatement ordinances. That means that a city could file a chapter 54 judicial abatement proceeding in a municipal court of record as it could in a district or county court. The *Stewart* problem with filing in a municipal court of record is that judges in that court are not elected. Thus, the decision of the court may not – by itself – satisfy the Texas Supreme Court's edict.

Are there any other lingering issues to be aware of in the substandard structure abatement process?

In 1999, a panel of the Fifth Circuit Court of Appeals ruled in *Freeman v. City of Dallas* that a city must obtain a warrant from a judge or magistrate before a substandard structure may be demolished. *Freeman v. City of Dallas*, 186 F.3d 601 (5th Cir. 1999), *rehearing en banc granted*, 200 F.3d 884 (5th Cir. 2000), *on rehearing*, 242 F.3d 642 (5th Cir. 2001), *cert. denied*, 122 S.Ct. 47 (2001). As a result, many cities opted for a Chapter 54 judicial proceeding rather than seeking relief under Chapter 214 due to the additional warrant requirement.

In a later opinion issued *en banc* (by all of the court's judges rather than a panel), the Fifth Circuit held that the original panel erred, and that the U.S. Constitution does not require a warrant. *Freeman*, 242 F.3d at 644. The court, as a threshold determination, acknowledged that the demolition of a structure constituted a "seizure" of property under the Fourth Amendment. However, the Fourth Amendment does not state that there shall be no seizure without a warrant. Rather, it provides only that there shall be no "unreasonable" searches or seizures. To determine the reasonableness of the seizure, the court examined the procedures under state law and the City of Dallas' ordinances. The court determined that the process, along with the defined standards in the municipal code for finding that a structure is a nuisance, offered greater protection against unreasonable actions than an application for a warrant before a judge (which is usually done without notice to the landowner or the opportunity to participate). *Id.* at 653. Thus, substandard building abatement does not appear to pose a Fourth Amendment problem.

What is the bottom line regarding *Stewart's* effect on the substandard building abatement process?

The bottom line is that it appears that the only way to be certain to "head off" a takings claim after *Stewart* is to seek a decision from a court in which the judge is elected (e.g., a county or district court). That means the judicial abatement process under Chapter 54 is the safest, albeit most expensive and time-consuming, route.

Of course, the *Stewart* opinion may be right that "property owners rarely invoke the right to appeal." And, if the court's opinion in the case – read in conjunction with the *Patel* opinion – truly means that an appeal from the decision of an administrative municipal body (e.g., the city council, a building and standards commission, or a municipal court acting in a civil capacity)

must be raised by a property owner within 30 days of certain city actions, it may not be as big of a problem as some thought.

Only time will tell. Each city should consult with its city attorney prior to taking action on a substandard building.

Substandard Building Abatement after *City of Dallas v. Stewart*

Presented at:
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INTRODUCTION

The Texas Supreme Court recently issued an opinion that has caused much confusion about municipal abatement of substandard structures. *City of Dallas v. Stewart*, No-09-0257, 2012 WL 247966 (Jan. 27, 2012). Specifically, the Court's opinion concluded that, even if a structure is determined to be a nuisance by a city, it is still subject to constitutional protections. Thus, demolishing it may constitute a "taking" of property for which compensation could be due the owner. The court's opinion should have no effect on criminal prosecutions in municipal court for ordinance violations. This paper will provide a detailed overview of the legal requirements relative to investigation, compliance, and preparation for prosecution or abatement proceedings.

The bottom line is that it appears that the only way to be certain to "head off" a takings claim after *Stewart* is to seek a decision from a court in which the judge is elected (for example, a county or district court) that an abatement proceeding does not work a regulatory taking of the owner's property.

Of course, the *Stewart* opinion may be right that "property owners rarely invoke the right to appeal." And, if the court's opinion in the case—read in conjunction with another opinion issued on the same day (*Patel v. City of Everman*, No-09-0506, 2012 WL 247983 (Jan. 27, 2012)—truly means that an appeal from the decision of an administrative municipal body (for example, the city council, a building and standards commission, or a municipal court acting in a civil capacity) must be raised by a property owner within 30 days of certain city actions, it may not be as big of a problem as some thought.

City officials should always consult local legal counsel regarding the specifics of each situation.

THE STEWART OPINIONS

What statutory authority does a city have to abate a substandard structure?

Municipal authority to abate substandard structures comes from several statutory provisions. Essentially, the authority to define and abate a substandard structure stems from Chapter 214 of the Local Government Code, and the process by which it is carried out (with some exceptions) comes from a combined application of Chapters 214 and 54 of the Local Government Code. Historically, cities have used one of three methods for the substandard building abatement process:

1. adopt an ordinance under Chapter 214 relating to the condition of structures in the city, and provide for notice and a public hearing, generally before the city council, an appointed building and standards commission, or the city's municipal court acting in a civil capacity (the council, commission, or municipal court, pursuant to Subchapter C of Chapter 54, acts as the *administrative* municipal body to carry out the required procedures);

2. bring a civil action under Chapter 54 in district court, county court, or the city's municipal court of record to make a judicial determination that a structure is substandard; or
3. provide for an alternative enforcement process under Section 54.044 by creating an administrative adjudication hearing, under which an administrative penalty may be imposed for the enforcement of a substandard structure ordinance.

How did the Texas Supreme Court's *first* opinion in *City of Dallas v. Stewart* affect the abatement process?

In *City of Dallas v. Stewart*, the Texas Supreme Court held that an appointed city board's determination that a building is a public nuisance should not be given deference by a court, but should be reviewed *de novo* ("from the beginning" or "as if the first determination never happened"). No. 09-0257 (Tex. July 1, 2011), available at www.supreme.courts.state.tx.us/opinions/HTMLopinion.asp?OpinionID=2001733. The opinion meant that the administrative determination by city officials (for example, a building and standards commission, a city council, and perhaps even a judge in a municipal court of record) that a building is substandard was no longer entitled to deference by a court.

The lawsuit started when Stewart's house fell into disrepair, had been inhabited by vagrants, and suffered from numerous code violations. The city building standards board determined that the house was an urban nuisance and ordered its demolition. Before the demolition, the owner appealed the board's decision to district court. The appeal did not stay the demolition, and the house was demolished.

After the demolition, the owner added a takings claim to her suit. The trial court judge affirmed the board's decision to demolish. However, a jury decided that the home was not a public nuisance and that the demolition resulted in a "taking" by the city of the property, and the jury awarded the owner damages. The city appealed the issue of whether the board's decision that the house was a public nuisance precluded a finding of a taking.

Local Government Code Chapter 214 defines a building as a nuisance if it is "dilapidated, substandard, or unfit for human habitation" based upon minimum standards that a city adopts in its ordinance. Chapter 214 does not identify a particular administrative municipal body that makes the nuisance determination, but it does authorize the use of a municipal court acting in a civil capacity. Local Government Code Chapter 54 authorizes a city to create a board to determine violations of public safety ordinances like those in Chapter 214. Pursuant to Chapter 214, a property owner is entitled to notice and a hearing as to whether a structure constitutes a public nuisance based upon violation of the city's adopted minimum standards, a decision relating to whether it can be repaired or must be demolished, and a limited appeal of a decision to a trial court. That statutory appeal is based on deference to the board's decision under what is known as the "substantial evidence" standard of review. However, the Court concluded that the statutory appeal and its substantial evidence standard do not comply with the Texas Constitution's "takings" clause.

The takings clause, found in Article I, Section 17, of the Texas Constitution, provides that the government may not take a person's property without just compensation. The twist in the *Stewart* case is that, in addition to holding that an appointed board's decision is not entitled to deference, the Court also added the requirement that the nuisance determination be made by a judge rather than an appointed administrative body. In other words, the Court held that a city board's decision that a piece of property is a "nuisance" should not be given deference, but can be reviewed *de novo* by a court in a manner similar to eminent domain cases:

Because we believe that unelected municipal agencies cannot be effective bulwarks against constitutional violations, we hold that the URSB's nuisance determination, and the trial court's affirmance of that determination under a substantial evidence standard, were not entitled to preclusive effect in Stewart's takings case, and the trial court correctly considered the issue de novo.

The City of Dallas sought a rehearing of the case, and the Texas Municipal League provided amicus support in that effort. In addition, numerous cities and the International Municipal Lawyers Association filed briefs in support of the city.

Did the Texas Supreme Court's second, "substituted" opinion make things any better?

Perhaps. In response to the motion by the City of Dallas for a rehearing (a request that the court reconsider its first opinion), the Texas Supreme Court withdrew its original opinion (meaning that it is no longer legal authority) and substituted a new opinion. *City of Dallas v. Stewart*, No-09-0257, 2012 WL 247966 (Jan. 27, 2012). The Court held essentially the same thing in its second opinion:

Today we hold that a system that permits constitutional issues of this importance to be decided by an administrative board, whose decisions are essentially conclusive, does not correctly balance the need to abate nuisances against the rights accorded to property owners under our constitution. In the context of a property owner's appeal of an administrative nuisance determination, independent court review is a constitutional necessity

Because we believe that unelected municipal agencies cannot be effective bulwarks against constitutional violations, we hold that the URSB's nuisance determination, and the trial court's affirmance of that determination under a substantial evidence standard, were not entitled to preclusive effect in Stewart's takings case, and the trial court correctly considered the issue de novo.

Id. at *1. The Court attempted to soften the blow of the decision by stating that "property owners rarely invoke the right to appeal." *Id.* at *13. It further stated that "*de novo* review is required only when a nuisance determination is appealed. Thus, the City need not institute court proceedings to abate every nuisance. Rather, the City must defend appeals of nuisance determinations and takings claims asserted in court by property owners who lost before the agency." *Id.* Those things may be true, but they are probably of little comfort to cities that could now incur liability for takings damages when they demolish a substandard building.

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The potentially good news in the second opinion is that the Court recognized that Section 214.0012(a) provides a “narrow thirty-day window for seeking review.” *Id.* This may mean that a city could continue to use the city council or building and standards commission abatement process and simply wait until the time for appeal has passed before demolishing a structure. However, not all city attorneys are in agreement that such is the case. The questions and answers below explain the processes a city can use in some detail, with analysis of the impact of the *Stewart* case where appropriate.

ADMINISTRATIVE SUBSTANDARD BUILDING ABATEMENT PROCEDURES

What procedures must a city follow when using the administrative abatement authority in Chapters 214 and 54?

If a city decides to use its city council, building and standards commission, or municipal court of record to abate substandard structures administratively, it is required to adopt an ordinance requiring the vacation, securing, and demolition of dilapidated structures. TEX. LOCAL GOV'T CODE § 214.001. The ordinance must establish minimum standards for the continued use and occupancy of buildings, provide for the giving of proper notice of a substandard building, and provide for a public hearing. *Id.* (Building codes are often used for the minimum standards required by Chapter 214.) The procedures to use Chapter 214 are as follows:

1. Identify Substandard Structures Based Upon Minimum Standards

Following the adoption of the ordinance, the initial step to demolish a substandard structure is to identify the structure as substandard. A city official (most commonly the building official or code enforcement official) prepares a report stating the structural deficiencies and makes a recommendation as to whether the structure can be repaired or should be demolished.

The report is submitted to the municipal body designated in the ordinance to conduct a hearing for the purpose of determining whether the structure complies with the minimum standards in the ordinance. (The administrative “municipal body” is usually the city council, a building and standards commission created under Section 54.033 of the Texas Local Government Code, or—in a few cities—the city’s municipal court of record acting as a civil court.)

2. Notice of Public Hearing

After the structure has been identified as substandard, the city official who made the determination should issue a notice of public hearing to every known owner, lienholder, or mortgagee of the structure. *See* TEX. LOC. GOV'T CODE § 214.001(d) & (e). The notice should contain the following information:

- a. name and address of the owner of the affected property;
- b. an identification, which is not required to be a legal description (unless the notice is also going to the lienholders and mortgagees), of the structure and the property upon which it is located;

- c. a statement that the official has found the structure to be substandard with a brief and concise description of the conditions found to render the structure substandard;
- d. a statement of the action recommended to be taken, as determined by the official;
- e. a statement that the owner, lienholder, or mortgagee will be required to submit at the hearing proof of the scope of any work that may be required to comply with the ordinance and the time it will take to reasonably perform the work; and
- f. the date, time, place, and brief description of the public hearing.

The notice should also be filed with the county in order to provide notice to, and be binding upon, subsequent grantees, lienholders or other transferees who acquire an interest in the property after the filing. *Id.* at § 214.001(e).

3. Public Hearing

Once the notice of public hearing has been mailed and all Open Meetings Act posting requirements have been satisfied, the public hearing is held. Prior to opening the public hearing, the municipal body should hear the report detailing the structural deficiencies and recommending that the structure be repaired or demolished. The lienholders, mortgagees, or owners of the property are given an opportunity to be heard and to address the nuisance issues as they relate to the minimum standards, including the scope of the work and financial capability of repairing the structure. The municipal body should then open the public hearing to those who wish to speak on behalf of or against the recommended action. The burden is on the owner, lienholder, or mortgagee to demonstrate the scope of the work required to comply with the ordinance and the time it will take to perform the work. TEX. LOC. GOV'T CODE § 214.001(l).

4. Determination

After the public hearing, if the structure is found to be in violation of the standards in the ordinance, the municipal body may order the owner, lienholder, or mortgagee to, within 30 days:

- a. secure the structure from unauthorized entry. TEX. LOC. GOV'T CODE § 214.0011 (If the city secures the structure prior to a hearing, notice and similar procedures are still required.); or
- b. repair, remove, or demolish the structure, unless the owner or lienholder establishes at the hearing that the work cannot reasonably be performed within 30 days. *Id.* at § 214.001(h).

The body may also order that the occupants be relocated within a reasonable time. *Id.* If the municipal body allows the owner, lienholder, or mortgagee more than 30 days to repair, remove, or demolish the building, the body must establish specific time schedules for the commencement and completion of the work and must require that the building be secured to prevent unauthorized entry while the work is being performed. *Id.* at § 214.001(i).

Within ten days after the date that the order to vacate, secure, repair, or demolish the structure is issued, the city must:

- a. file a copy of the order in the office of the city secretary; and
- b. publish in a newspaper of general circulation in the city a notice containing: (a) the street address or legal description of the property; (b) the date of the hearing; (c) a brief statement indicating the results of the order; and (d) instructions stating where a complete copy of the order may be obtained. *Id.* at § 214.001(f).

Also, after the hearing, the city must promptly send by certified mail, return receipt requested, signature confirmation through United States Postal Service, or personal delivery, a copy of the order to the owner and to any lienholder or mortgagee of the structure, as determined through the use of the city's best efforts. For purposes of this provision, the city has used its best, reasonable, or diligent effort if it has searched the county real property and assumed name records, appraisal district records, records of the secretary of state, and the city's tax and utility records. *Id.* at § 214.001(q). If the notice is mailed, and if the United States Postal Service returns the notice as "refused" or "unclaimed," the notice is deemed delivered. *Id.* at § 214.001(r).

5. Appeal

Chapter 214 provides that any owner, lienholder, or mortgagee of record of a structure for which an order is issued by the municipal body may, within 30 days after the order is mailed to them, appeal the order by filing a verified petition in district court stating that the decision is illegal, either in whole or in part, and specifying the grounds for the illegality. TEX. LOC. GOV'T CODE § 214.0012(a).

The district court may issue a *writ of certiorari* (a legal term for a request for the record of the municipal body) directing the city to review the order and return certified or sworn copies of the papers within a period of time, which must be longer than 10 days. *Id.* at § 214.0012(b) & (c). Upon making the return of the writ, the city is required to concisely set forth verified facts supporting the decision that do not appear in the returned papers. *Id.* at §§ 214.0012(c) & (d). Chapter 214 provides that the district court, upon review of the record under the substantial evidence rule, may either reverse or affirm, in whole or in part, or modify the municipal body's decision. *Id.* at § 214.0012(f). If the decision is affirmed or not substantially reversed but only modified, the district court must award the city all attorney's fees and other costs and expenses incurred by it. *Id.* at § 214.0012(h).

The issue in the *Stewart* case was "whether, in Stewart's takings claim, the [building and standards commission]'s nuisance determination is *res judicata*. That is, should it have been a dispositive affirmative defense to her claim?" *City of Dallas v. Stewart*, at *9. "Res Judicata" is a doctrine that precludes a subsequent claim on a matter that has already been adjudicated, and loosely translates to "a matter already judged." In plain—and perhaps oversimplified—English, the Court concluded that the appeal from a nuisance determination using the substantial evidence rule "does not sufficiently protect a person's rights under [the Takings Clause in] Article I, Section 17 of the Texas Constitution." *Id.* at *2. The substantial evidence rule prohibits a court from substituting its judgment for the judgment of the municipal body on the weight of the evidence. Under that standard, a court would uphold the municipal body's decision if enough evidence suggests the body's determination was within the bounds of reasonableness (for example,

if substantial evidence supports the body's determination). The Court held that the standard does not protect a property owner's constitutional rights and that the only way to do so is to allow a judge—by implication, one who is elected—to review the body's decision *de novo*:

Accountability is especially weak with regard to municipal-level agencies such as the [building and standard's commission]....,

Our precedents make clear that nuisance determinations must ultimately be made by a court, not an administrative body, when the property owner contests the administrative finding.

Id. at *8. It appears that, pursuant to the *Stewart* opinion and another opinion (*Patel v. City of Everman*, No-09-0506, 2012 WL 247983 (Jan. 27, 2012).) issued on the same day, an appeal from the decision of the municipal body—including a takings claim as *Stewart* made—must be raised by a property owner within 30 days of certain city actions. *Id.* at *2. (The appeal petition “must be filed by an owner, lienholder, or mortgagee within 30 calendar days after the respective dates a copy of the final decision of the municipality is personally delivered to them, mailed to them by first class mail with certified return receipt requested, or delivered to them by the United States Postal Service using signature confirmation service, or such decision shall become final as to each of them upon the expiration of each such 30-calendar-day period.”) In *Patel*, the Court stated that:

We recently held that a party asserting a taking based on an allegedly improper administrative nuisance determination must appeal that determination and assert his takings claim in that proceeding. See City of Dall. v. Stewart, ___ S.W.3d ___ (Tex. 2012). We noted that “[a]lthough agencies have no power to preempt a court’s constitutional construction, a party asserting a taking must first exhaust its administrative remedies and comply with jurisdictional prerequisites for suit.” Id. (footnote omitted). We also held that “a litigant must avail [himself] of statutory remedies that may moot [his] takings claim, rather than directly institute a separate proceeding asserting such a claim.” Id. (citing City of Dall. v. VSC, 347 S.W.3d 321 (Tex. 2011)).

Id. Most city attorneys will read the Court's opinions in *Stewart* and *Patel* to collectively mean that a property owner or other aggrieved person must appeal from an administrative decision to demolish a structure within 30 days, and must include in that appeal the takings challenge. The failure to do so should bar a later takings claim. But until an actual challenge occurs, the topic will be hotly-debated.

6. City Action and Liens

The city may vacate, secure, remove, or demolish the structure or relocate the occupants at its own expense if the structure is not vacated, secured, repaired, removed, demolished,

or the occupants are not relocated within the allotted time. TEX. LOC. GOV'T CODE § 214.001(m). However, the city may not repair the structure. *Id.* To initiate a proceeding to secure, vacate, remove, or demolish the structure or relocate the occupants, the city must first make diligent efforts to discover each mortgagee and lienholder having an interest in the structure or the property upon which it is located. To save time and expense, the lienholders, mortgagees, and other interested parties should be notified at the time of the initial hearing. *Id.* at § 214.001(e).

All expenses incurred by the city in vacating, securing, removing, or demolishing the structure or relocating the occupants may be assessed and a lien placed on the property upon which the structure is located, *unless the structure is a homestead.* *Id.* at § 214.001(n)(emphasis added). The lien arises and attaches to the property when it is filed with the county clerk. *Id.* It constitutes a "privileged lien" inferior only to tax liens, if mortgagees and lienholders were previously notified as to the result of the city's "diligent effort" to identify these parties. *Id.* at § 214.001(o). The lien is extinguished if the property owner or another party having an interest in the legal title to the property reimburses the city for the expenses incurred. *Id.* at § 214.001(n). In relation to *Stewart*, note that damages awarded under a takings challenge may not be assessed as a lien.

JUDICIAL ABATEMENT PROCEDURES

What procedures must a city follow when using the judicial abatement authority in Chapter 54 to bring an action in district or county court?

Rather than hold an administrative hearing under Chapter 214, many cities opt for an alternative provided by Chapter 54 of the Local Government Code. Under Section 54.012, a city may bring a civil action for the enforcement of its ordinances "relating to dangerously damaged or deteriorated structures or improvements."

The jurisdiction and venue of a suit brought pursuant to Section 54.012 are in the district court or the county court at law of the county in which the city bringing the civil action is located. TEX. LOC. GOV'T CODE § 54.013. The Chapter 54 proceeding is the clearest way to comply with *Stewart's* holding that "unelected municipal agencies cannot be effective bulwarks against constitutional violations" because it is brought in district or county court, which are presided over by an elected judge. *Id.* at *13. Of course, the process—like any civil lawsuit—can be lengthy and expensive, and requires the services of an attorney.

1. Procedure

The procedure for filing a civil suit for enforcement of an ordinance is fairly straightforward. The only allegations required to be pleaded in such a civil action are:

- a. the identification of the real property involved in the violation;
- b. the relationship of the defendant to the real property or activity involved in the violation;
- c. a citation to the applicable ordinance;

- d. a description of the violation; and
- e. a statement that Subchapter B of Chapter 54 of the Local Government Code, which contains the provisions concerning civil suits brought by municipalities for the enforcement of ordinances, applies to the violated ordinance.

TEX. LOC. GOV'T CODE § 54.015. Therefore, in order to properly file a suit for enforcement of the city's ordinances, the city need only file an original petition that: includes the above-mentioned elements; requests that the property owner be served and made to appear before the court; and requests that upon final hearing of the matter, a mandatory injunction be issued compelling the property owner to comply with the city's ordinances or allowing the city to conduct the appropriate abatement.

Civil suits of this nature can last for months, even years, before a trial. However, a city can seek a "preferential setting" for the suit if it submits to the court a verified motion that includes facts that demonstrate that the delay in deciding the matter will unreasonably endanger persons or property. *Id.* at § 54.014. If the city prevails in the civil action brought for enforcement of its ordinances, it may be entitled to injunctive relief and civil penalties. *See generally, Id.* at §§ 54.016-54.017.

2. Burden to Establish Entitlement to Injunctive Relief

In order to establish its right to injunctive relief in a suit brought for enforcement of an ordinance, a city must show the court that there is a "substantial danger of injury or an adverse health impact to any person or to the property of any person other than the defendant." TEX. LOC. GOV'T CODE § 54.016. If the city makes that showing, it may obtain against the owner, or owner's representative with control over the premises, an injunction that:

- a. prohibits specific conduct that violates the concerned ordinance; and
- b. requires specific conduct that is necessary for compliance with the ordinance.

Id. Thus, if the city prevails in a civil action against the property owner for enforcement of the ordinances, the city may be entitled to an injunction that not only requires the property to comply, but may also allow the city to conduct the necessary abatement proceedings. *Id.* at § 54.018 (city may bring action to compel the repair or demolition of a structure or to obtain approval to remove the structure and recover removal costs).

3. Civil Penalty

The city may recover a civil penalty, not to exceed \$1,000.00 per day, for a violation of the ordinance, if it proves that the property owner was:

- a. actually notified of the provisions of the city's ordinances; and
- b. after he received notice of the ordinance provisions, he committed acts in violation of the ordinance or failed to take action necessary for compliance with the ordinance.

TEX. LOC. GOV'T CODE § 54.017. Prior to initiating suit, to invoke the full protection of the law, notice should be sent to the property owner specifically outlining the violations,

including the ordinance provisions, with a set number of days for compliance. While civil penalties may be assessed against the property owner, he is not subject to personal attachment or imprisonment for failure to pay such penalties. *Id.* at § 54.019. However, if the penalties are reduced to judgment, the city may attach a lien to the property if it is otherwise unable to recover on the judgment.

JUDICIAL ABATEMENT BY MUNICIPAL COURT OF RECORD

What is the authority for a municipal court of record to make a judicial determination that a structure is substandard?

Section 30.00005 of the Government Code grants additional authority to municipal courts of record relative to health and safety and nuisance abatement ordinances. Specifically, a city may, by ordinance, provide that its municipal court of record has civil jurisdiction for purposes of enforcing municipal ordinances enacted under Chapter 214 of the Texas Local Government Code.

The civil authority of municipal courts, found in Section 54.015 of the Local Government Code, is an unclear area of law, and only those cities with judges and city attorneys who are intimately familiar with the area should use them for civil purposes. As stated previously, a municipal court of record can arguably act in a civil capacity to be the municipal body that makes administrative determinations about whether a structure is substandard. To take advantage of the municipal court of record in the administrative process, a city should designate the municipal court of record as the municipal body under Chapter 214 (as opposed to the city council or building and standards commission). TEX. LOC. GOV'T CODE § 214.001(p)(referencing a "civil municipal court" rather than a court of record).

But Section 30.00005 provides that a municipal court of record has concurrent jurisdiction with a district court or county court at law under Subchapter B of Chapter 54 of the Local Government Code within the corporate city limits and the city's extraterritorial jurisdiction for purposes of enforcing health and safety and nuisance abatement ordinances. That means that a city could file a chapter 54 judicial abatement proceeding in a municipal court of record as it could in a district or county court. The *Stewart* problem with filing in a municipal court of record is that judges in that court *are not elected*. Thus, the decision of the court may not—by itself—satisfy the Texas Supreme Court's edict.

DUE PROCESS

Are there any other lingering issues to be aware of in the substandard structure abatement process?

In 1999, a panel of the Fifth Circuit Court of Appeals ruled in *Freeman v. City of Dallas* that a city must obtain a warrant from a judge or magistrate before a substandard structure may be demolished. *Freeman v. City of Dallas*, 186 F.3d 601 (5th Cir. 1999), *rehearing en banc granted*,

200 F.3d 884 (5th Cir. 2000), *on rehearing*, 242 F.3d 642 (5th Cir. 2001), *cert. denied*, 122 S.Ct. 47 (2001). As a result, many cities opted for a Chapter 54 judicial proceeding rather than seeking relief under Chapter 214, due to the additional warrant requirement.

In a later opinion issued *en banc* (by all of the court's judges rather than a panel), the Fifth Circuit held that the original panel erred, and that the U.S. Constitution does not require a warrant. *Freeman*, 242 F.3d at 644. The court, as a threshold determination, acknowledged that the demolition of a structure constituted a "seizure" of property under the Fourth Amendment. However, the Fourth Amendment does not state that there shall be no seizure without a warrant. Rather, it provides only that there shall be no "unreasonable" searches or seizures. To determine the reasonableness of the seizure, the court examined the procedures under state law and the City of Dallas' ordinances. The court determined that the process, along with the defined standards in the municipal code for finding that a structure is a nuisance, offered greater protection against unreasonable actions than an application for a warrant before a judge (which is usually done without notice to the landowner or the opportunity to participate). *Id.* at 653. Thus, substandard building abatement does not appear to pose a Fourth Amendment problem.

CONCLUSION

What is the bottom line regarding *Stewart's* effect on the substandard building abatement process?

The bottom line is that it appears that the only way to be certain to "head off" a takings claim after *Stewart* is to seek a decision from a court in which the judge is elected (for example, a county or district court). That means the judicial abatement process under Chapter 54 is the safest, albeit most expensive and time-consuming, route.

Of course, the *Stewart* opinion may be right that "property owners rarely invoke the right to appeal." And, if the court's opinion in the case—read in conjunction with the *Patel* opinion—truly means that an appeal from the decision of an administrative municipal body (for example, the city council, a building and standards commission, or a municipal court acting in a civil capacity) must be raised by a property owner within 30 days of certain city actions, it may not be as big of a problem as some thought.

Only time will tell. Each city should consult with its city attorney prior to taking action on a substandard building.

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April 1, 2019

RODRIGUEZ GUADALUPE TRSTEE
1702 LAUREL AVE
MCALLEN, TX 78501-4456

Legal Description: MILMOR LOT 12 BLK 4
Site Address: 1702 LAUREL AVENUE, MCALLEN, TX

Dear RODRIGUEZ GUADALUPE TRSTEE,

Upon completion of an inspection conducted at 1702 LAUREL AVENUE, MCALLEN, TX, in accordance with the City of McAllen Housing Code, the structure at this address has been identified as substandard and must be vacated immediately. The structure at this address does not meet the minimum requirements of the City of McAllen, Housing Code, Part II, Chapter 22, Article VIII, Sec. 22-245. At this time, the structure is hereby prohibited for use or occupancy until corrections are made to bring it into compliance with the minimum standards set out in the City Housing Ordinance Sec. 22-245. Alternatively, you may choose to demolish the structure. Either course of action, will require a Building permit. Violations include but are not limited to:

1. Exterior bricks are in need of repair
2. Roof is in need of repairs.

You are hereby notified that you must make an application for a building permit within ten (10) days from the date of receipt of this notice for repair, removal of structure, or demolition of structure. If you do not respond within that time period, the City of McAllen will take further legal action up to and including action to demolish the structure, as per Housing Ordinance 22-246(d). If the City takes action to correct the situation, you will be responsible for reimbursement of all costs related to such actions.

You are further notified of your right to appeal as provided by Housing Ordinance Sec. 22-247. If you have any questions concerning this matter, please contact me directly at 956-681-1906.

Sincerely,

Cesar N. Rodriguez, Code Enforcement Officer
City of McAllen-Health & Code Enforcement
CERTIFIED MAIL RETURN RECEIPT REQUESTED NO. 7018068000009477009

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May 8, 2019

ROBERT W WILLIAMS
PO BOX [REDACTED]
MCALLEN, TX 78502-[REDACTED]

Legal Description: [REDACTED]

Site Address: 1305 JASMINE Ave, MCALLEN, TX

Dear ROBERT W WILLIAMS,

Upon completion of an inspection conducted at 1305 JASMINE Ave, MCALLEN, TX, the structure at this address has been identified as unsafe. The Housing Inspector has prohibited its use or occupancy.

The building has been maintained in violation of requirements of the City of McAllen. Structure is in violation of the Housing Ordinance 22-245; constitutes a health hazard to reason of inadequate maintenance and dilapidation, and is considered a public nuisance.

- 1 Roof is in need of repairs.
- 1 Existing electrical wiring needs correcting.
- 1 Existing plumbing is in need of repair.
- 3 Windows are in disrepair.
- 4 Exterior walls need repairs.

You are allowed ten (10) days from the receipt of this notice to RESPOND IN WRITING to this office of your intentions to repair, remove or demolish in accordance with City Codes or appeal the determination by the Housing Official. If this notice is not complied with nor an appeal made to the Building Board of Adjustments and Appeals, then the City of McAllen will take action in demolishing the structure. If the City undertakes actual demolition of the structure, you shall be responsible for reimbursement of all costs relating to the demolition. The City shall place a lien on the property until payment of the demolition cost is made.

Your attention in this matter will be greatly appreciated. If you have any questions concerning this matter, contact me at 956-681-1300.

Sincerely,

Alma G. Solis, C.P.

Housing Inspector

CERTIFIED MAIL RETURN RECEIPT REQUESTED NO. sdfgdhfgjghj

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Chapter 22 - BUILDINGS AND BUILDING REGULATIONS⁽¹⁾

Footnotes:

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Cross reference— Substantial evidence rule in effect in appeals from decisions or orders of city officers or employees, § 2-196; regulations regarding proximity of alcoholic beverage establishment to church, school or hospital, § 6-2; beekeeping regulations and restrictions, § 14-111 et seq.; alarm systems, § 42-26 et seq.; fire prevention code, § 50-66 et seq.; smoking prohibited in certain public places, § 54-122; emergency water conservation, § 106-116; flood hazard reduction standards for structures, § 118-57; sign construction specifications, § 130-136; no permit shall be issued for buildings, repairs, plumbing or electrical installation in a subdivision until the final subdivision plat has been approved and filed for recording, § 134-5; additional requirements for application for building permits, § 138-27; site plans required for conditional use permits, § 138-114; site plan required in the R-3 multifamily residential districts, § 138-210; conditional uses in the R-4 mobile home and modular home district, §138-223.

ARTICLE I. - IN GENERAL

Sec. 22-1. - Fire zones established.

(a) *Generally.* This section shall be deemed to be an ordinance creating and establishing a fire district. There are hereby established within the city two fire zones known as the first fire zone and the second fire zone.

(b) *First fire zone.* The first fire zone is hereby established and declared to be as follows:

Beginning at a point on the north right-of-way line of Missouri Pacific Railroad and 18th Street; thence south along 18th Street to Dallas Avenue; thence east along Dallas Avenue to alley between 18th and South Guerra Street; thence south along alley to Houston Avenue; thence east to alley between South Guerra and 16th Street; thence north in alley to Dallas Avenue; thence east to the alley between 15th and Main Streets; thence south in alley to Houston Avenue; thence east along Houston Avenue to the alley between Broadway and 12th Street; thence north in alley to Chicago Avenue; thence east on Chicago Avenue to Tenth Street; thence north on Tenth Street to the north boundary line of Missouri Pacific Railroad right-of-way; thence west along north boundary line of said Missouri Pacific Railroad right-of-way to 18th Street, the point of beginning.

(c) *Second fire zone.* The second fire zone is hereby established and declared to be as follows:

Parcel No. 1. Beginning at north boundary line of Missouri Pacific Railroad right-of-way and 16th Street; thence west along boundary line of said railroad right-of-way to east line of 18th Street; thence south along east line of 18th Street to north line of Dallas Avenue; thence east along north line of Dallas Avenue to alley between Guerra and 18th Streets; thence south along said alley to north line of Houston Avenue; thence west along north line of Houston Avenue to east line of 22nd Street; thence north along east line of 22nd Street to Dallas Avenue; thence west along Dallas Avenue to 24th Street; thence north along 24th Street to Beaumont Avenue; thence west along Beaumont Avenue to southeast corner of Lot 3, Block 18, Alta Mira Addition; thence north along east boundary line of Lots 1, 2 and 3, Block 18 to southeast corner Wardlow Addition; thence north along east boundary line Lots 3, 4, 5, 6, 7 and 8 in Wardlow Addition to northeast corner of Lot 3 in Wardlow Addition; thence west along south boundary line of Lots 1 and 2, Wardlow Addition, to Samano (26th St.); thence north along Samano (26th St.) to Highway Avenue; thence west along Highway Avenue to Leslie Street (27th St.); thence south along Leslie Street (27th St.) to northeast corner of Lot 4, Block 13, Alta Mira Addition; thence west along north boundary line of Lot 4, Block 13 to northwest corner of said Lot 4; thence south along west boundary line Lots 4, 5 and 6 of Block 13 to southwest corner of Lot 6 in said Block 13; thence west to Division Street (28th St.); thence north along Division Street (28th St.) to southeast corner of Lot 6, Gentry Addition; thence west along south boundary line of said Lot 6, Gentry Addition to South Rooth Road; thence north along Rooth

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Road crossing Missouri Pacific Railroad right-of-way to a point 100 feet from center of main line of Missouri Pacific Railroad; thence east and paralleling the center main line of Missouri Pacific Railroad to a jog in the right-of-way of said railroad on the south line of Lot 97, Hammond Addition, Block 2; thence north along said jog in right-of-way to north corner of said right-of-way on south line of said Lot 97; thence east along south line of Lots 97 and 98 and north line of said right-of-way to a southeast corner of said Lot 98; thence north along east line of said Lot 98 and west line of Lot 99 to northwest corner of Lot 99 in said Hammonds Block 2; thence east along north boundary line of Lots 99, 100 and 101 of Hammond Block 2 to 23rd Street; thence south along 23rd Street to Cedar Avenue; thence east along Cedar Avenue to 20th Street; thence north along 20th Street to Hackberry Avenue; thence east along Hackberry Avenue to 19th Street; thence south along 19th Street to Beech Avenue; thence east along Beech Avenue to a point south of a line between Bryan and Poorbaugh Addition; thence north along said projected line to Date Palm Avenue; thence east along Date Palm Avenue crossing Second Street and continuing along jog in Date Palm Avenue to a northeast corner of the 7.5 acre tract belonging to McAllen Waterworks; thence south along east boundary line of said 7.5 acre tract to a point 150 feet north of center main line of Missouri Pacific Railroad; thence east paralleling center main line of said railroad to east boundary line of Lot 4, Section 12, Steele and Pershing survey; thence south along east boundary line of said Lot 4 crossing railroad and Highway Avenue and continuing south along alley dividing Cathay Courts and Betty Rose Subdivision to southeast corner of Lot 2, Block 3, Cathay Courts Subdivision; thence west along south boundary line of Lots 1 and 2, Block 3, Cathay Courts Subdivision and continuing west along south boundary line of Lots 1, 2, 3 and 4, Block 2 and continuing west along south boundary line of Lots 1 and 2, Block 1, Cathay Courts Subdivision, to southwest corner of said Lot 1, Block 1 on east boundary of 2.5 acre tract; thence south along east boundary line of said 2.5 acre tract to a point east of south boundary line Block B, Cathay Courts Annex; thence west across said 2.5 acre tract and a 1.5 acre tract crossing First Street; thence west along south boundary line of Block B, Cathay Courts Annex, and continuing west crossing Hidalgo County Water and Improvement District No. 2 main canal to Second Street; thence south on Second Street to a point directly east of south boundary line of Lot 6, Block 4, Best Addition; thence west crossing a ten acre tract and continuing west along south boundary line of said Lot 6, Block 4, Best Courts, and along south boundary line of Lot 6, Block 3, Best Courts Addition, and along south boundary line of Lot 6, Block 2, Mary Gordon Addition, and along south boundary line of Blocks 2 and 3 of Leavell Addition and Blocks 5 and 6 of Kehm Addition to Seventh Street; thence north along Seventh Street to Beaumont Avenue; thence west on Beaumont Avenue to Tenth Street; thence north on Tenth Street to north boundary line of Missouri Pacific Railroad right-of-way; thence west along north boundary line Missouri Pacific Railroad right-of-way to 16th Street, the place of beginning. And

Parcel No. 2. Beginning at 18th and Houston Avenue; thence west along Houston Avenue to northwest corner of Block 3, D. Guerra Addition; thence south along west boundary line of Block 3, D. Guerra Addition and continuing south along west boundary line of Block 2, Southern Pacific Industrial Subdivision to Oakland Avenue; thence east crossing Hidalgo County Water and Improvement District No. 3 main canal to 18th Street; thence north along 18th Street to Houston Avenue, the place of beginning. And

Parcel No. 3. Beginning on Maple Avenue at southeast corner of Block 1, Milmor Addition; thence north along east boundary line of Block 1 to northeast corner of Lot 14, Block 1; thence west along north boundary line of Lots 14 and 19, Block 1, Milmor to northwest corner of Lot 19; thence south along west boundary line of Lots 19, 18 and 17, Block 1, Milmor to southwest corner thereof; thence east along south boundary line Block 1, Milmor to southeast corner thereof, the place of beginning.

(Code 1966, § 8-1; Ord. No. 2009-07, § IX, 1-26-09)

Cross reference— Electrical wiring, § 22-108; fire prevention and protection, ch. 50.

State Law reference— Authority to establish and designate fire limits, V.T.C.A., Local Government Code § 342.012.

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Sec. 22-2. - Penalty for violation of chapter.

Any person found guilty of a violation of any provision of this chapter shall be punished pursuant to section 1-14.

(Ord. No. 1992-80, § XXX, 10-12-92)

Sec. 22-3. - Office of building official created.

The office of the building official in and for the City of McAllen is hereby established. The building official shall carry out all duties prescribed for such office under the provisions of the city's Code of Ordinances. The building official shall be well versed in all the provisions of the city's Code of Ordinances and all the rules and regulations of the various codes adopted thereunder, for which that office is responsible.

(Ord. No. 2006-80, § 1, 7-24-06)

Sec. 22-4. - Powers and duties of building official.

- (a) The building official shall enforce the provisions of this chapter and any other provisions of this Code for which that office is responsible, including, without limitation, Chapter 122 and Chapter 130, and is hereby authorized to issue citations for violations of any such provisions.
- (b) Upon presentation of proper identification to the owner, agent, tenant or occupant of any property, and with their consent, may enter any land, lot, building, structure, dwelling, or premises during reasonable hours, except in cases of emergency where extreme hazards may exist which involve the potential loss of life or severe property damage, in which case the above limitations shall not apply. Should the building official be denied entry, an application may be made for a search warrant to allow entry, such warrant to be issued by a municipal court judge of the city upon proper application therefor.
- (c) Neither the building official nor any duly authorized representative of the same, nor any officer, agent or employee of the city, nor any member of the board of adjustments and appeals nor any of its members, which are charged with enforcement of the building official's responsibilities, shall thereby render themselves personally liable, and are hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of such duties. Any suit brought against any of the aforementioned employee because of the discharging of such duties shall be defended by the city until the final termination of the proceedings.

(Ord. No. 2006-80, § 1, 7-24-06)

Sec. 22-5. - Permits—Time limits.

Any permits issued under this chapter, unless indicated otherwise, shall not extend for more than one year from the time of issuance.

(Ord. No. 2012-82, § I, 11-26-12)

Secs. 22-6—22-25. - Reserved.

ARTICLE II. - BUILDING CODE²¹

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Footnotes:

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Cross reference— Substantial evidence rule in effect in appeals from decisions or orders of city officers or employees, § 2-196; sign construction specifications, § 130-136.

Sec. 22-26. - Adopted.

There is hereby adopted for and by the city, the International Building Code, 2012 edition, including appendices B, C, D, E, F, G, H, I, J and K, prepared by the International Code Council, published in booklet form, which is referred to, incorporated herein and made a part hereof for all purposes. A copy of such code shall be filed in the office of the building official.

(Code 1966, § 8-12; Ord. No. 1992-80, § III, 10-12-92; Ord. No. 1995-13, § I, 3-13-95; Ord. No. 1999-72, § 1, 8-9-99; Ord. No. 2001-86, § 1, 12-10-01; Ord. No. 2009-07, § I, 1-26-09; Ord. No. 2012-84, § I, 11-26-12)

Sec. 22-27. - Building permit and moving permit fees.

- (a) The board of commissioners shall consider, after recommendation by the building official, and approve a schedule setting forth all fees to be assessed for the issuance of building permits for all buildings, structures, or alterations required by the International Building Code, as adopted in section 22-26.
- (b) The board of commissioners shall establish a schedule setting forth all fees to be assessed for the issuance of permits for the moving of any structure located within the city.
- (c) The board of commissioners may modify the permit fee schedules required under subsections (a) and (b) of this section from time to time as deemed necessary.

(Code 1966, § 8-13; Ord. No. 2009-07, § I, 1-26-09)

Sec. 22-28. - Amendments.

The building code adopted in section 22-26 is hereby amended as follows:

- (a) Section 3109 ("swimming pool enclosures and safety devices") is amended at subsection 3109.3 ("public swimming pools") and at subsection 3109.4.1 ("barrier height and clearances") to require enclosure by a fence or barrier at least five feet in height above grade.
- (b) In the event any provision in appendix H ("signs") of the International Building Code appears to conflict with any provision of chapter 130 ("Signs") of this Code, unless they may reasonably be reconciled, the provision in chapter 130 shall prevail.

(Code 1966, § 8-14; Ord. No. 1992-80, §§ III—V, 10-12-92; Ord. No. 1995-13, § II, 3-13-95; Ord. No. 2001-54, § 1, 8-13-01; Ord. No. 2001-86, § 2, 12-10-01; Ord. No. 2009-07, § I, 1-26-09)

Sec. 22-29. - Structures in rights-of-way prohibited.

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No structure, including but not limited to temporary or permanent fences or buildings, may be placed or erected on or in any city street or alley right-of-way without the express written consent of the board of commissioners. This section is intended to cover all such rights-of-way whether paved, curbed or guttered, or in front of or behind any lot or any other structure on any lot in the city. No variance may be granted to the provisions of this section other than by the board of commissioners, any other provisions of this chapter notwithstanding. The provisions of this section do not apply to mailboxes.

(Code 1966, § 8-19)

Cross reference— Streets, sidewalks and other public places, ch. 94.

Sec. 22-30. - Reinspections.

For any permit obtained from the building official in accordance with this chapter, including any standard or national codes adopted herein the minimum fee for reinspections shall be \$40.00, except that where a higher inspection fee is provided for elsewhere in this chapter, it shall control over this general provision.

(Code 1966, § 8-20; Ord. No. 2002-57, § 5, 9-11-02; Ord. No. 2006-123, § 1, 12-11-06; Ord. No. 2009-07, § I, 1-26-09)

Sec. 22-31. - Procedure for revocation of construction permits.

- (a) This section shall govern the procedure for the revocation of the following construction permits required by the applicable ordinances adopted by the board of commissioners: swimming pool, building, curb cut, electrical, plumbing, mechanical, sign and removal and demolition.
- (b) The express purpose for requiring and issuing permits is to enforce compliance with the applicable construction code requirements for which the permit was issued and to require that qualified personnel are utilized in meeting these requirements. The issuance of any of the permits listed in this section does not raise any legal right or remedy in any person that does not exist without the requirement of such permits.
- (c) The owner of any property for which a construction permit has been issued may request that the building inspection department revoke such permit by following the procedures as set out in subsection (e) of this section.
- (d) The general contractor on any construction project may request that the building inspection department revoke any or all permits held by any or all subcontractors responsible to the general contractor on such construction project by following the procedures as set out in subsection (e) of this section.
- (e) The party requesting that a permit be revoked shall give written notice thereof to the holder of such permit and a copy of such notice shall be forwarded to the building inspection department. Upon receipt thereof, the building official or his authorized representative shall send a notice of revocation to the permit holder by certified mail, return of receipt requested. Such notice shall be sent to the applicable address as on record in the building inspection department and shall state that such permit shall be revoked seven days from the date posted on the written notice.
- (f) Upon the completion of the procedures as set out in subsection (e) of this section, the building official shall revoke such permit and cause a notation of such revocation to be entered upon the records of the building inspection department office.
- (g) This section only applies to the procedure for and authorization for revocation of construction permits under the criteria set out in this section and does not act to repeal any ordinance setting out

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procedures for the issuance of construction permits or revocation thereof as set out in applicable ordinances.

(Code 1966, § 8-21)

Sec. 22-32. - Authority to revoke or suspend permits and certificates.

If the building official determines that a building or structure or any portion thereof is in violation of any provision of the International Building Code, ordinance, regulation, or local, state or federal law, the building official is authorized to suspend or revoke any city-issued permits or certificates, including but not limited to certificates of occupancy.

(Ord. No. 2018-48, § I, 7-9-18)

Secs. 22-33—22-55. - Reserved.

ARTICLE III. - ELECTRICAL CODE^[3]

Footnotes:

--- (3) ---

Cross reference— Substantial evidence rule in effect in appeals from decisions or orders of city officers or employees, § 2-196; sign construction specifications, § 130-136.

DIVISION 1. - GENERALLY

Sec. 22-56. - Reserved.

Editor's note— Ord. No. 2006-80, § 1, adopted July 24, 2006, repealed § 22-56, which pertained to office created; appointment and qualifications. See also the Code Comparative Table.

Sec. 22-57. - Electricians to be furnished a copy of this article.

Upon registration with the city as required by this article all contractors shall be furnished a copy of this article at a cost which is on file in the building official's office.

(Code 1966, § 13-20; Ord. No. 2005-76, § 1, 9-26-05)

Secs. 22-58—22-70. - Reserved.

DIVISION 2. - LICENSES; REGISTRATION^[4]

Footnotes:

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(7-18)

Editor's note— Ord. No. 2005-76, § 1, adopted Sept. 26, 2005, amended the title of Div. 2 to read as herein set out. Prior to inclusion of said ordinance, Div. 2 was entitled, "Licenses."

Sec. 22-71. - Requirements.

- (a) Unless exempted under state law, all persons who perform electrical work in the city, including electrical contractors and electrical sign contractors, must hold a currently valid license issued by the Texas Department of Licensing and Regulation.
- (b) Electrical contractors and electrical sign contractors who perform electrical work in the city, must register with the building official on a form supplied by that official, provide all necessary documentation, and pay the requisite fee. Registered contractors are under a continuing obligation to immediately update the information and documentation provided at the initial registration or renewal of the same.
- (c) A journeyman may be employed or contracted for work in the city only by a contractor registered hereunder. The contractor shall be responsible for having at least one currently licensed journeyman on the job site for every ten apprentices when electrical work is being performed during the master electrician's absence from such site. The registered contractor shall be responsible for journeyman electricians employed or whose services are hired, and assumes all liability for their work.

(Code 1966, § 13-4; Ord. No. 2005-76, § 1, 9-26-05)

Sec. 22-72. - Registration fees.

The fee for an initial registration under this article shall be \$75.00, and the annual fee for renewal of such registrations shall be \$50.00.

(Code 1966, § 13-5; Ord. No. 2005-76, § 1, 9-26-05)

Secs. 22-73—22-76. - Reserved.

Editor's note— Ord. No. 2005-76, § 2, adopted Sept. 26, 2005, repealed §§ 22-73—22-76, which pertained to electrical examining board; examination of applicant for journeyman and master electrician license; insurance requirements; and fees. See also the Code Comparative Table.

Sec. 22-77. - Reserved.

Editor's note— Ord. No. 1996-42, § II, adopted June 24, 1996, repealed § 22-77, which pertained to display of master electrician licenses and derived from Code 1966, § 13-9.

Sec. 22-78. - Term; renewal.

The initial registration under this article shall be valid for the remainder of the calendar year current on the date of issuance. Each renewal thereafter shall expire on December 31st next following the date of issuance of the renewal.

Renewals shall be processed after the filing of such form as the building official shall provide, and submission of the required fees and documentation.

(Code 1966, § 13-10; Ord. No. 2005-76, § 1, 9-26-05)

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Sec. 22-79. - Revocation of registration.

A registration under this article may be revoked or suspended at any time by order of the building official for violation of any of the provisions of this article or of any Texas law or rule regulating electrical contractors or electrical sign contractors, and the offending person shall be prohibited from engaging in electrical work in the city. Any order of revocation or suspension may be appealed to the building board of adjustments and appeals within 20 days of such action.

(Code 1966, § 13-11; Ord. No. 2005-76, § 1, 9-26-05)

Sec. 22-80. - Reserved.

Editor's note— Ord. No. 2005-76, § 2, adopted Sept. 26, 2005, repealed § 22-80, which pertained to revocation. See also the Code Comparative Table.

Secs. 22-81—22-90. - Reserved.

DIVISION 3. - PERMIT⁵

Footnotes:

--- (5) ---

Cross reference— Substantial evidence rule in effect in appeals from decisions or orders of city officers or employees, § 2-196.

Sec. 22-91. - Permit required; application; exceptions.

- (a) Only contractors registered pursuant to Division 2 hereof may obtain permits or perform electrical work in the city. It shall be unlawful for any person to construct, install, alter or wire any electrical work, either outside or inside of any building, prior to the issuance of a permit to do so from the building official. Application for such permit shall be made in writing on forms furnished by the building official and shall contain a description, by street and number or by street, lot and block, as may be necessary to locate the premises upon which the work is to be done. Upon making such application and the payment of the fees prescribed by section 22-92, the building official shall issue a permit for the construction, installation or alteration of the electrical work.
- (b) No permit shall be required for maintenance work done by any person through an employee regularly employed to do such work solely on or within the premises or property owned or controlled by such person, provided that such employee shall not be allowed to install any new wiring, conduit, apparatus or equipment.
- (c) This section shall not apply to the following:
 - (1) The installation of meters or other registering devices by any utility company engaged in the business of supplying electrical service and operating under a franchise from the city.
 - (2) The installation of telephone and telegraph equipment by any utility company engaged in the business of supplying communications service and operating under a franchise from the city.

(Code 1966, § 13-15; Ord. No. 2005-76, § 1, 9-26-05)

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Sec. 22-92. - Fees.

- (a) The fee for the permit required by section 22-91 shall be in accordance with the following schedule, such fee to be paid to the building official's office and a permit obtained before electrical work of any nature shall be started:
- (1) Base fee \$15.60
 - (2) Service as defined in the National Electrical Code, service re-do, and temporary pole, each 15.60
 - (3) Circuits or feeders as defined by the National Electrical Code, each 2.40
 - (4) Minimum permit reinspections 48.00
 - (5) Working clearance controls by one meter, per meter 39.60
- Plus other applicable deposits or sureties
- (b) For any electrical work being reconstructed, renewed, altered, overhauled, repaired, moved, rewired or taken over, the permit fee shall be \$39.60.
- (c) If an inspection is made and the resultant discovery is that work for which a permit is required by this article has been started or done but the required permit has not been issued, then the discovery fee shall be equal to the permit fee, but not less than \$39.60 in any event, and this will not alleviate the requirement to obtain a permit or prevent legal action for work done without a permit.
- (d) The building official shall have the right to declare a permit null and void if there has been a misrepresentation of facts or any violation of the provisions of this article, and after such declaration of facts or any violation of the provisions of this article, no work shall be performed until a new permit is issued and all fees have been paid.

(Code 1966, § 13-16; Ord. No. 2002-57, § 6, 9-11-02; Ord. No. 2002-67, § 3, 10-14-02; Ord. No. 2006-123, § 2, 12-11-06; Ord. No. 2016-67, § II, 10-10-16)

Sec. 22-93. - Reserved.

Editor's note— Ord. No. 2005-76, § 2, adopted Sept. 26, 2005, repealed § 22-93 which pertained to expiration upon failure to commence or complete work. See also the Code Comparative Table.

Sec. 22-94. - Inspection of work.

- (a) The building official or designee shall inspect all work covered by a permit required by this article during and after its completion. If the work appears to be constructed in accordance with all rules and requirements governing such work, the building official shall issue a certificate approving the work. Such certificate shall be issued only to the master electrician who ordered the permit. The approval by the building official relating to any such electrical work shall not constitute a guarantee or warranty to anyone by the city or the building official that such work is in compliance with code requirements or is otherwise safe or without default, and the city and building official shall never be liable for any damage of whatsoever nature caused by any defect in any electrical work installed or repaired under any permit issued under this article.
- (b) No concealed wiring for which a permit is issued or required by this article shall be lathed over or in any manner concealed from sight until inspected and accepted by the building official.
- (c) All wiring must be completed before the wiring shall be allowed to be concealed from view. All cabinets, cutouts, flush switches and all other fittings shall be permanently installed before final

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inspection and acceptance, except the lighting or other fixtures themselves, and a separate permit shall be required for any alteration or changes thereafter.

- (d) When electrical work has been reported to the building official as ready for final inspection, and when upon such inspection the work is found to be defective, a permit reinspection fee shall be paid at the time of the new application for final inspection and before such work is again inspected for final approval.
- (e) Any person having charge of the construction, alteration or repair of buildings or any person who covers or conceals or causes to be concealed or covered any wiring for which a permit has been issued or required before the wiring has been inspected and approved, without having officially notified the building official at least two whole business days before (Monday through Friday), shall be guilty of a misdemeanor.

(Code 1966, § 13-18; Ord. No. 2005-76, § 1, 9-26-05)

Sec. 22-95. - Records to be kept by building official.

The building official shall keep in his office a complete record of all master and journeyman electricians working in the city. He shall also keep on file in his office a copy of this article and a copy of the National Electrical Code adopted by section 22-106. Such copies shall be open to inspection by any person.

(Code 1966, § 13-19)

Secs. 22-96—22-105. - Reserved.

DIVISION 4. - TECHNICAL REQUIREMENTS

Sec. 22-106. - National Electrical Code amended.

The 2011 National Electrical Code adopted by the State of Texas for statewide applicability is amended as follows:

- (1) Annex H ("Administration and Enforcement") is not adopted hereunder.
- (2) Section 310.106(B) is amended to read: Aluminum conductors will not be permitted for permanent interior wiring for any type of occupancy, except that stranded aluminum conductors 1/0 AWG through 1,000 kcmil marked as type RW, RHW, XHHN, THW, THWN, THHN may be used for service entrance conductors or feeders ONLY. Type SE Style U and SE Style R shall be made of an AA-8000 series electrical grade aluminum alloy conductor material.

(Code 1966, § 13-43; Ord. No. 1993-84, § I, 11-24-93; Ord. No. 1996-42, § I, 6-24-96; Ord. No. 1999-72, § 2, 8-9-99; Ord. No. 2003-05, § 1, 1-13-03; Ord. No. 2005-76, § 1, 9-26-05; Ord. No. 2009-07, § II, 1-26-09; Ord. No. 2012-89, § I, 11-26-12)

Editor's note— Ord. No. 2009-07, § II, adopted Jan. 26, 2009, changed the title of § 22-106 from 2005 national electrical code amended to national electrical code amended.

Sec. 22-107. - Use of type NM and NMC cables.

Type NM and NMC cables shall not be used in the construction of buildings within the city, except in single-family residential buildings. Type NM and NMC cables may be permitted in multifamily residential buildings provided all of the walls and ceilings thereof are constructed of two sheets of five-eighths-inch

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gypsum wall board (one-hour total fire-rated). All floors of such building shall have a subfloor of two sheets of five-eighths-inch gypsum wall board (one-hour total fire-rated) or shall be made of 1 5/8 -inch lightweight concrete. The thickness of a floor which provides adequate fire protection, as described in this section, has no relation to and is not to be interpreted as being adequate for the load-bearing requirements of such floor.

(Code 1966, § 13-43.2)

Sec. 22-108. - When metallic conduit required.

- (a) All of the following electrical wiring for lights, heat, power or other purposes installed within the city shall in all cases be contained and encased in metallic conduit:
- (1) All electric wiring in buildings of any description situated in the first fire zone.
 - (2) All electric wiring in buildings of a construction known in the building trade as "fireproof" or "slow burning."
 - (3) All electric wiring on all service installations, and such wiring shall be continuous from entrance to main line switch and from main line switch to distribution cabinet, unless approved S.E. cable is used.
- (b) A nonmetallic conduit is permitted if the building is not located in a fire zone district.

(Code 1966, § 13-44)

Cross reference— Fire zones, § 22-1.

Sec. 22-109. - Reserved.

Editor's note— Ord. No. 1996-42, § II, adopted June 24, 1996, repealed § 22-109, which pertained to maximum number of outlets per circuit and derived from Code 1966, § 13-51.

Sec. 22-110. - Location of main service switch for lighting.

Where the service switch and/or distribution panels are not located immediately adjacent to the meter box or "back to back" (outside/inside), an approved switch and fuses or circuit breaker shall be installed at the outer end of the run by the meter box on the load side.

(Code 1966, § 13-60)

Sec. 22-111. - Reserved.

Editor's note— Ord. No. 1996-42, § II, adopted June 24, 1996, repealed § 22-111, which pertained to motor feeder overcurrent protection and derived from Code 1966, § 13-62.

Sec. 22-112. - Application of article to preexisting wiring.

Whenever the service wires or interior wiring in a building existing prior to September 9, 1946, and which do not meet the requirements of this article, are disconnected, the service shall not again be connected until the entire wiring has been made to comply with this article, except that the building official may waive this requirement whenever a registered contractor certifies in writing, following the contractor's

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on-site inspection, that the wiring is in a good and safe condition and does not represent a hazard to the property in question nor to the surrounding properties. This provision shall likewise apply to any and all outdoor electrical signs attached to or connected with any building situated within the city.

(Code 1966, § 13-63; Ord. No. 2005-76, § 1, 9-26-05)

Sec. 22-113. - Use of aluminum conductors not permitted.

Aluminum conductors will not be permitted for permanent interior wiring for any type occupancy.

(Code 1966, § 13-64)

Sec. 22-114. - Interpretation of electrical code.

The building official, or his designated representative, shall interpret the provisions of the electrical code, as amended in section 22-106, any provision in any other ordinance or resolution notwithstanding. Such interpretation shall be final and conclusive, except that an appeal may be taken as provided in this article.

(Code 1966, § 13-100; Ord. No. 2005-76, § 1, 9-26-05)

Sec. 22-115. - Board of adjustments and appeals.

Whenever a party is aggrieved by an interpretation of the electrical code made by the building official or his designated representative, such party may appeal such interpretation to the building board of adjustments and appeals. Such board of adjustments and appeals shall have the same powers and duties regarding the interpretation of the provisions of the electrical code that it has in interpreting the building code. Further, such board shall also operate under the same procedures in hearing and deciding appeals regarding the interpretation of the electrical code as it does in hearing and deciding appeals regarding the interpretation of the building code.

(Code 1966, § 13-101; Ord. No. 2009-07, § II, 1-26-09)

Cross reference— Appointment, terms and procedures for boards, committees, commissions of the city, § 2-76 et seq.; substantial evidence rule applies in appeals from city officer or employee decisions, § 2-196.

Sec. 22-116. - Effect of appeal on orders of the building official.

An appeal to the board of adjustments and appeals complaining of an interpretation of the electrical code made by the building official or his designated representative shall not operate as a stay of any order regarding such interpretation.

(Code 1966, § 13-102)

Secs. 22-117—22-135. - Reserved.

ARTICLE IV. - PLUMBING CODE⁽⁶⁾

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Footnotes:

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Cross reference— Substantial evidence rule in effect in appeals from decisions or orders of city officers or employees, § 2-196; utilities, ch. 106; water, § 106-51 et seq.; sanitary sewer system, § 106-141 et seq.

State Law reference— Requirement that cities prescribe rules and regulations relating to plumbing, Vernon's Ann. Civ. St. art. 6243-101, § 15.

Sec. 22-136. - Plumbing code adopted.

There is hereby adopted for and by the city, the International Plumbing Code, 2012 edition, including appendices, prepared by the International Code Council, published in booklet form, (with the exception that section 312.3 is hereby amended to allow the use of an air pressure test on plastic piping when in the discretion of the building official inclement weather would interfere in the effectiveness of a water test,) which is referred to, incorporated in this article, and made a part of this article for all purposes. A copy of such code shall be filed in the office of the building inspector.

(Code 1966, § 24-12; Ord. No. 1992-80, § XVII, 10-12-92; Ord. No. 1995-13, § III, 3-13-95; Ord. No. 1999-72, § 3, 8-9-99; Ord. No. 2001-86, § 3, 12 10-01; Ord. No. 2009-07, § III, 1-26-09; Ord. No. 2012-86, § I, 11-26-12)

Sec. 22-137. - Permit fee schedule.

The following schedule of fees shall be assessed for the issuance of all plumbing permits by the building inspection department of the city:

(1) *Permit fees:*

For issuing each permit (base fee) \$39.60

(2) *In addition:*

For each plumbing fixture, floor drain or trap (including water and drainage piping) 4.80

For each new sewer 15.60

For each sewer plug 39.60

For each sewer having to be replaced or repaired 15.60

For each cesspool 8.40

For each septic tank and seepage pit or drain field 15.60

For each water heater and/or vent 24.00

For installation, alteration or repair of water piping and/or water treating equipment 8.40

For repair or alteration of drainage or vent piping 39.60

For vacuum breakers or backflow protective devices installed subsequent to the installation of the piping or equipment served:

One to five 4.00

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Over five, each 2.40

(3) *Gas permits:*

Gas permit (minimum) per outlet 15.60

Gas line (new or repair) 15.60

All fees shall be paid to the building official and by him paid into the general fund of the city.

(Code 1966, § 24-13; Ord. No. 2002-57, § 7, 9-11-02; Ord. No. 2002-67, § 4, 10-14-02; Ord. No. 2006-123, § 3, 12-11-06; Ord. No. 2009-07, § III, 1-26-09; Ord. No. 2016-67, § III, 10-10-16)

Sec. 22-138. - Required license, registration and insurance.

- (a) No person shall engage in the business of plumbing, or perform any task or work regulated by V.T.C.A., Texas Occupations Code ch. 1301 unless they have complied with all the applicable requirements of that code.
- (b) Master plumbers who perform work in the city must register annually with the building official on a form supplied by that official, provide all necessary documentation, and pay the requisite fee. Registered master plumbers are under a continuing obligation to immediately update the information and documentation provided at the initial registration or last renewal of the same. The fee for an initial registration under this article shall be \$75.00, and the annual fee for renewal of such registrations shall be \$50.00.
- (c) Before being granted any permit a master plumber must have on file with the building official or designee a copy of a certificate of insurance that meets the requirements of V.T.C.A., Texas Occupations Code § 1301.552.

(Code 1966, § 24-14(b); Ord. No. 1992-80, § XLIV, 10-12-92; Ord. No. 2009-07, § III, 1-26-09)

Editor's note— Ord. No. 2009-07, § III, adopted Jan. 26, 2009, changed the title of § 22-138 from master plumber's license, insurance requirements to required license, registration and insurance.

Secs. 22-139, 22-140. - Reserved.

Editor's note— Ord. No. 2009-07, § III, adopted Jan. 26, 2009, deleted §§ 22-139 and 22-140 which pertained to appliance installation mechanics and state plumbing license law adopted, and derived from the Code of 1966, §§ 24-15 and 24-11.

Secs. 22-141—22-160. - Reserved.

ARTICLE V. - GAS CODE⁷

Footnotes:

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Cross reference— Substantial evidence rule in effect in appeals from decisions or orders of city officers or employees, § 2-196.

Sec. 22-161. - Reserved.

Editor's note— Ord. No. 2009-07, § IV, adopted Jan. 26, 2009, deleted § 22-2161, which pertained to definitions and derived from the Code of 1966, § 24-27.

Sec. 22-162. - Purpose of and compliance with article.

The purpose of this article is to provide minimum standards, provisions and requirements for safe installation of consumer gas piping and gas appliances. All such gas piping and gas appliances installed, replaced, maintained or repaired within the corporate limits of the city shall conform to the requirements of this article.

(Code 1966, § 24-28)

Sec. 22-163. - Standard Gas Code adopted.

There is hereby adopted for and by the city, the International Fuel Gas Code, 2012 edition, including appendices, prepared by the International Code Council, published in booklet form, which is referred to, incorporated in this article and made a part of this article for all purposes. A copy of such code shall be filed in the office of the building official.

(Code 1966, § 24-30; Ord. No. 1992-80, § XXI, 10-12-92; Ord. No. 1995-13, § IV, 3-13-95; Ord. No. 1999-72, § 4, 8-9-99; Ord. No. 2001-86, § 4, 12-10-01; Ord. No. 2009-07, § IV, 1-26-09; Ord. No. 2012-85, § I, 11-26-12)

Secs. 22-164, 22-165. - Reserved.

Editor's note— Ord. No. 2009-07, § IV, adopted Jan. 26, 2009, deleted §§ 22-164 and 22-165 which pertained to insurance required and use of existing piping; converting piping, and derived from the Ord. No. 1992-80, § XXII, 10-12-92 and the Code of 1966, § 24-32.

Sec. 22-166. - Permits.

- (a) No person shall install a gas conversion burner, floor furnace, central heating plant, vented wall furnace, water heater, boiler, consumer's gas piping, or convert existing piping to utilize natural gas without first obtaining a permit to do such work from the building official. Permits will not be required, however, for setting or connecting other gas appliances, or for the repair of leaks in house piping.
- (b) When only temporary use of gas is desired, the building official may issue a permit for such use, for a period of not to exceed 60 days, provided the consumer's gas piping to be used is given a test equal to that required by this article for a final piping inspection.

(Code 1966, § 24-33; Ord. No. 2009-07, § IV, 1-26-09)

Sec. 22-167. - Reserved.

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Editor's note— Ord. No. 2009-07, § IV, adopted Jan. 26, 2009, deleted § 22-32, which pertained to trench excavation and derived from the Code of 1966, § 8-22.

Sec. 22-168. - Disconnection of defective piping, fixtures and appliances.

The building official is authorized to disconnect any gas piping, fixture or appliance for which a certificate of approval is required but has not been issued with respect to such gas piping, fixture or appliance, or which, upon inspection, shall be found defective or in such condition as to endanger life or property. In all cases where such a disconnection is made, a notice shall be attached to the piping, fixture or appliance disconnected by the building official, which notice shall state that such gas piping, fixture or appliance has been disconnected by the building official, together with the reason or reasons therefor, and it shall be unlawful for any person to remove such notice or reconnect such gas piping, fixture or appliance without authorization by the building official, and such gas piping, fixture or appliance shall not be put in service or used until the building official has attached his certificate of approval in lieu of his prior disconnection notice.

(Code 1966, § 24-36)

Sec. 22-169. - Reserved.

Editor's note— Ord. No. 2009-07, § IV, adopted Jan. 26, 2009, deleted § 22-169, which pertained to enforcement of article; building official's right of entry and derived from the Code of 1966, § 24-37.

Sec. 22-170. - Article does not impose liability on city.

This article shall not be construed as imposing upon the city any liability or responsibility for damages to any person injured by any defect in any gas piping or appliance mentioned in this article, or by installation thereof, nor shall the city or any official or employee thereof be held as assuming any such liability or responsibility by reason of the inspection authorized under this article or the certificate of approval issued by the building official.

(Code 1966, § 24-38)

Sec. 22-171. - Amendments.

The International Fuel Gas Code adopted in section 22-163 is hereby amended by deleting Sections 404.14 and 404.14.1.

(Ord. No. 2001-86, § 5, 12-10-01; Ord. No. 2009-07, § IV, 1-26-09)

Secs. 22-172—22-190. - Reserved.

ARTICLE VI. - MECHANICAL CODE⁽⁸⁾

Footnotes:

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Cross reference— Substantial evidence rule in effect in appeals from decisions or orders of city officers or employees, § 2-196.

State Law reference— Licensing of air conditioning contractor, Vernon's Ann. Civ. St. art. 8861, § 9.

Sec. 22-191. - Standard Mechanical Code adopted.

There is hereby adopted for and by the city the International Mechanical Code, 2012 edition, including appendices, prepared by the International Code Council, published in booklet form, which is referred to, incorporated in this article and made a part of this article for all purposes. A copy of such code shall be filed in the office of the building official.

(Code 1966, § 8-41; Ord. No. 1992-8, § IX, 10-12-92; Ord. No. 1995-13, § V, 3-13-95; Ord. No. 1999-72, § 5, 8-9-99; Ord. No. 2001-86, § 6, 12-10-01; Ord. No. 2009-07, § V, 1-26-09; Ord. No. 2012-87, § I, 11-26-12)

Sec. 22-192. - Required license, registration and insurance.

- (a) No person shall engage in business as an air conditioning and refrigeration contractor, or perform any task or work regulated by V.T.C.A., Texas Occupations Code ch. 1302 unless they have complied with all the applicable requirements of that code.
- (b) Air conditioning and refrigeration contractors who perform work in the city must register annually with the building official on a form supplied by that official, provide all necessary documentation, pay the requisite fee, and provide proof that all persons who assist the contractor in performing air conditioning and refrigeration maintenance work are air conditioning technicians registered with or certified by the state department of licensing and regulation. Registered air conditioning and refrigeration contractors are under a continuing obligation to immediately update the information and documentation provided at the initial registration or last renewal of the same. The fee for an initial registration under this article shall be \$75.00, and the annual fee for renewal of such registrations shall be \$50.00.
- (c) Before being granted any permit an air conditioning and refrigeration contractor must have on file with the building official or designee a copy of the certificate of insurance required by state law.

(Code 1966, § 8-41.2; Ord. No. 1992-80, § X, 10-12-92; Ord. No. 2001-86, § 7, 12-10-01; Ord. No. 2009-07, § V, 1-26-09)

Editor's note— Ord. No. 2009-07, § V, adopted Jan. 26, 2009, changed the title of § 22-192 from amendments to required license, registration and insurance.

Secs. 22-193—22-200. - Reserved.

ARTICLE VII. - IRRIGATION⁹

Footnotes:

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Editor's note— Ord. No. 2009-07, § VI, adopted Jan. 26, 2009, deleted Art. VII, §§ 22-216, 22-217 which pertained to swimming pool code and enacted a new Art. VII as set out herein. The former Art. VII derived

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from Code 1966, §§ 26³/₄-1, 26³/₄-2; Ord. No. 1992-80, § XXVI, 10-12-92; Ord. No. 1997-3, § I, 1-13-97; Ord. No. 1999-72, § 6, 8-9-99.

Sec. 22-201. - Irrigation systems; license, permit, registration; fees.

- (a) As required by V.T.C.A., Texas Water Code § 401.006, and unless exempted by state law, every person who engages in the business of irrigation systems within the territorial city limits or its extraterritorial jurisdiction must hold a current irrigation technician license issued under V.T.C.A., Texas Occupations Code § 1903.251.
- (b) As required by V.T.C.A., Texas Water Code § 401.006, and unless exempted by Texas law, no person shall install an irrigation system within the city or its extraterritorial jurisdiction before obtaining an irrigation permit issued by the building official. Permits shall be issued only to currently licensed persons who have registered with the building official as provided in subsection (c) hereof. Permit applications shall be submitted to the building official on a form supplied by that official, provide all necessary documentation, and include payment of a fee of \$67.60. Issuance of a permit shall be conditioned upon full compliance with all applicable rules, standards and specifications as may have been adopted by the V.T.C.A., Texas Occupations Code § 1903.053 relating to the design, installation, and operation of irrigations systems, including those contained in Title 30, Texas Administrative Code, Chapter 344.
- (c) Licensed irrigation technicians who perform work in the city or its ETJ must register annually with the building official on a form supplied by that official, provide all necessary documentation, and pay the requisite fee. Registered irrigation technicians are under a continuing obligation to immediately update the information and documentation provided at the initial registration or last renewal of the same. The fee for an initial registration under this article shall be \$75.00, and the annual fee for renewal of such registrations shall be \$50.00.
- (d) Before being granted a permit for the installation of a system an installer must have on file with the building official or designee a bond of not less than \$10,000.00. The bond must:
 - (1) Be written by a company licensed to do business in this state;
 - (2) Provide for commercial general liability insurance for the irrigation technician for any claim for property damage or bodily injury, regardless of whether the claim arises from negligence or on a contract;
 - (3) Provide coverage for all claims arising in a one-year period; and
 - (4) Provide coverage of all irrigation technicians who assist the contractor in performing the installation work, and provide proof of each such technician's registration with the state department of licensing and regulation.
- (e) This section shall have no applicability when the system involved is either an onsite sewage disposal system, as defined by V.T.C.A., Texas Health and Safety Code § 366.002, or an irrigation system used on or by an agricultural operation as defined by V.T.C.A., Texas Agriculture Code § 251.002, or connected to a groundwater well used by the property owner for domestic use.

(Ord. No. 2016-67, § IV, 10-10-16)

Secs. 22-202—22-240. - Reserved.

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ARTICLE VIII. - HOUSING CODE^[10]

Footnotes:

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Cross reference— Substantial evidence rule in effect in appeals from decisions or orders of city officers or employees, § 2-196; unsafe building abatement code, § 22-271 et seq.; nuisances, § 46-26 et seq.; littering, § 46-61 et seq.; fire prevention and protection, ch. 50; solid waste, ch. 90; utilities, ch. 106; landscaping, § 110-26 et seq.; supplementary zoning district regulations, § 138-346 et seq.

Sec. 22-241. - Title; code remedial.

The provisions embraced within this article shall constitute and be known and may be cited as the housing code for the city. This article is hereby declared to be remedial, and shall be construed to secure the beneficial interests and purposes thereof, which are public safety, health and general welfare through structural strength, stability, sanitation, adequate light and ventilation, and safety to life and property from fire and other hazards incident to the construction, alteration, repair, removal, demolition, use and occupancy of residential buildings.

(Code 1966, § 8-28)

Sec. 22-242. - Scope.

- (a) The provisions of this article shall apply to all buildings or structures or portions thereof presently located within the city at the time of adoption of this article, used or designed or intended to be used for human habitation, regardless of when such building may have been constructed. This article establishes minimum standards for occupancy, and does not replace or modify standards otherwise established for construction, replacement or repair of buildings, except such as are contrary to the provisions of this article. All buildings or structures moved into or within the jurisdiction of the city shall comply with the requirements for new buildings in the building code, adopted by section 22-26.
- (b) All buildings or structures, both existing and new, and all parts thereof, shall be maintained in a safe and sanitary condition. All devices or safeguards which are required by this article in a building when erected, altered or repaired shall be maintained in good working order. The owner, or his designated agent, shall be responsible for the maintenance of buildings, structures and premises and all other requirements of this article.
- (c) Nothing in this article shall be construed to cancel, modify or set aside any provision of the zoning ordinance of the city.

(Code 1966, § 8-29)

Sec. 22-243. - Definitions.

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

Alter or alteration means any change or modification in construction or occupancy.

Building official means the officer, or other person, charged with the administration and enforcement of this article, or his duly authorized representative.

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Dwelling, when used in this article without other qualifications, means a structure occupied exclusively for residential purposes, including multiple dwelling unit structures.

Dwelling unit means a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Floor area means the total area of habitable space in a building or structure.

Habitable room means a space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility spaces and similar areas are not considered habitable space.

Multiple dwelling means any building, or portion thereof, which is occupied as the home or residence of more than two families living independently of each other and doing their own cooking in such building, and shall include flats and apartments.

Owner means the holder of the title in fee simple, and any person in whose name tax bills on the property are submitted. It shall also mean any person who, alone or jointly or severally with others:

- (1) Shall have legal title to any dwelling or dwelling unit, with or without accompanying actual possession thereof;
- (2) Shall have charge, care or control of any dwelling or dwelling unit, as owner, executor, executrix, administrator, trustee, guardian of the estate of the owner, mortgagee or vendee in possessions, or assignee of rents, lessee, or other person in control of a building; or their duly authorized agents. Any such person thus representing the actual owner shall be bound to comply with the provisions of this article, and of rules and regulations adopted pursuant thereto, to the same extent as if he were the owner. It is his responsibility to notify the actual owner of the reported infractions of this article pertaining to the property, which apply to the owner;
- (3) Shall mean any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are let.

Plumbing means the practice, materials and fixtures used in the installation, maintenance, extension and alteration of all piping, fixtures, appliances and appurtenances in connection with any of the following: Sanitary drainage or storm drainage facilities; the venting system and the public or private water supply systems, within or adjacent to any building, structure or conveyance; also the practice and materials used in the installation, maintenance, extension or alteration of stormwater, liquid waste or sewerage, and water supply systems of any premises to their connection with any point of public disposal or other acceptable terminal.

Premises means a lot, plot or parcel of land, including the buildings or structures thereon.

Repair means the replacement of existing work with the same kind of material used in the existing work, not including additional work that would change the structural safety of the building, or that would affect or change required exit facilities, a vital element of an elevator, plumbing, gas piping, wiring or heating installations, or that would be in violation of a provision of law or ordinance. The term "repair" or "repairs" shall not apply to any change of construction.

Required means required by some provision of this article.

Residential buildings means buildings in which families or households live, which include dwellings or dwelling units, or in which sleeping accommodations are provided, and all dormitories, shall be classified as "residential occupancy." Such buildings include, among others, the dwellings, multiple dwellings and roominghouses.

Rooming unit means any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

Stairway means one or more flights of stairs and the necessary landings and platforms connecting them, to form a continuous and uninterrupted passage from one story to another in a building or structure.

Story means that portion of a building included between the upper surface of a floor and upper surface of the floor or roof next above.

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Structure means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. The term "structure" shall be construed as if followed by the words "or part thereof."

Supplied means paid for, furnished or provided by, or under control of, the owner or operator.

Ventilation means the process of supplying and removing air, by natural or mechanical means, to or from any space.

- (b) Whenever the words "dwelling," "dwelling units," "roominghouse," "rooming units" or "premises" are used in this article, they shall be construed as though they were followed by the words "or any part thereof."

(Code 1966, § 8-30)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 22-244. - Reserved.

Editor's note— Ord. No. 2006-80, § 1, adopted July 24, 2006, repealed § 22-244, which pertained to powers and duties of building official. See also the Code Comparative Table.

Sec. 22-245. - Minimum requirements.

No person shall occupy as owner-occupant, or let or sublet to another for occupancy, any dwelling, dwelling unit or residential building after notification from the building official that such structure is deemed unsafe for human occupancy as provided for in this article, nor shall any dwelling, dwelling unit or residential building be permitted to exist which does not comply with the following requirements, or which is defined as substandard under this article:

- (1) *Sanitary facilities required.* Every dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, all in good working condition and properly connected to an approved water and sewer system. Every plumbing fixture and water and waste pipe shall be properly installed and maintained in good sanitary working condition, free from defects, leaks and obstructions.
- (2) *Location of sanitary facilities.*
 - a. All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of such dwelling unit. The tub or shower and lavatory shall be located in a room affording privacy to the user and such room shall have a minimum floor space of 30 square feet (2.8 square meters), with no dimension less than four feet (1.2 meters).
 - b. Bathrooms shall be accessible from habitable rooms, hallways, corridors or other protected or enclosed areas, not including kitchens or other food preparation areas.
- (3) *Hot and cold water supply.* Every dwelling unit shall have connected to the kitchen sink, lavatory and tub or shower an adequate supply of both cold water and hot water. All water shall be supplied through an approved distribution system connected to a potable water supply.
- (4) *Water heating facilities.* Every dwelling unit shall have water heating facilities which are properly installed and maintained in a safe and good working condition and are capable of heating water to such a temperature as to permit an adequate amount of water to be drawn at every required kitchen sink, lavatory basin, bathtub or shower, at a temperature of not less than 120 degrees Fahrenheit (49 degrees Celsius). Minimum storage capacity of the water heater shall be 30 gallons (140 liters). Apartment houses may use a centralized water heating facility capable of heating an adequate amount of water, as required by the Standard Plumbing Code, to not less than 120 degrees Fahrenheit (49 degrees Celsius).

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- (5) *Electric lights and outlets required.* Every habitable room or space shall contain at least two separate and remote convenience outlets, and bedrooms shall have, in addition, at least one wall-switch-controlled ceiling or wall-type light fixture. In kitchens, three separate and remote convenience outlets shall be provided, and a wall or ceiling type light fixture controlled by a wall switch shall be required. Every hall, water closet compartment, bathroom, laundry room or furnace room shall contain at least one electric fixture. In bathrooms the electric light fixture shall be controlled by a wall switch. In addition to the electric light fixture in every bathroom and laundry room, there shall be provided at least one convenience outlet. Every such outlet and fixture shall be properly installed, shall be maintained in good and safe working condition, and shall be connected to the source of electric power in a safe manner. Improperly insulated electrical wires or excessive multiple connections per outlet are specifically prohibited.
- (6) *Minimum requirements for electrical systems.* Every electrical outlet and fixture required by this article shall be installed, maintained and connected to a source of electric power in accordance with the provisions of the electrical code of the city.
- (7) *Foundation.* The building foundation system shall be maintained in a safe manner and capable of supporting the load which normal use may cause to be placed thereon. A foundation is substandard if:
 - a. The unit has a dirt floor;
 - b. The floor moves under normal stress, due to improper reinforcement; or
 - c. Supporting piers are not of one solid-piece construction.
- (8) *Exterior walls.* Every exterior wall of a dwelling unit shall be free of holes, breaks, or loose or rotting boards or timbers, to the extent that such conditions might admit rain or dampness to the interior portions of the walls or to the occupied spaces of the building. All exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment.
- (9) *Roofs.* Roofs shall be structurally sound and maintained in a safe manner and have no defects which might admit rain or cause dampness in the walls or interior portion of the building.
- (10) *Means of egress.* Every dwelling unit shall have safe, unobstructed means of egress, with minimum ceiling height of seven feet, leading to a safe and open space at ground level.
- (11) *Stairs, porches and appurtenances.* Every inside and outside stairway, porch and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon, and shall be kept in sound condition and good repair.
- (12) *Windows and doors.* Every intended opening in a structure shall be covered with a window, exterior door, basement or cellar door, or hatchway, as applicable, which shall be substantially weathertight, watertight and rodentproof, and shall be kept in sound working condition and good repair.
- (13) *Interior floor, walls and ceilings.* Every floor, interior wall and ceiling shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.
- (14) *Structural supports.* Every structural element of the dwelling shall be maintained structurally sound and show no evidence of deterioration which would render it incapable of carrying loads which normal use may cause to be placed thereon.

(Code 1966, § 8-32)

Sec. 22-246. - Enforcement procedures.

- (a) *Minimum standards.* The standards as set out in section 22-245 for dwellings, dwelling units or residential buildings are the minimum standards required for all such dwellings or dwelling units or residential buildings located within the corporate limits of the city. All buildings and structures which

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have any of the defects as provided for in section 22-245 are hereby declared substandard buildings and are declared to be public nuisances and shall be ordered to be vacated, repaired or demolished, as provided in this article. It shall be the duty of the owners of all such buildings to comply with the requirements of this article.

(b) *Inspections.*

- (1) The building official shall inspect or cause to be inspected any dwelling, dwelling unit or residential building which is or may be unsafe.
- (2) After the building official has inspected or caused to be inspected a dwelling, dwelling unit or residential structure and has determined that such structure is not in compliance with the provisions of this article, he may initiate proceedings to cause the abatement of the unsafe condition by repair, vacation or demolition, or a combination thereof.

(c) *Notice to repair, demolish or vacate.*

- (1) Whenever the building official determines that there has been a violation of any provision of this article, he shall give notice of such alleged violations to the person or persons responsible therefor, and such alleged violations shall constitute a nuisance. Such notice shall contain, but not be limited to, the following information:

- a. Street address;
- b. A statement of the reasons why it is being issued;
- c. Allow ten days from receipt for the application of a building permit and allow 120 days' time for the performance of any act it requires;
- d. Such notice shall further state that if an application for such building permit of such repairs, reconstruction, alterations, removal or demolition are not completed within the stated time as set forth in the notice, the building official shall institute such legal proceedings charging the person or agent with a violation of this article;
- e. State that the recipient of such notice has the right of appeal from the decision of the building official, to the housing board of adjustments and appeals. Such notice of appeal must be written, and must be delivered to the inspection department of the city within ten working days from the date of receipt of the notice to repair, demolish or vacate, or in the case of notice of publication, within ten working days of the date of publication. Upon timely receipt of such notice of appeal, the building official shall notify the appellant of the date upon which a hearing will be held on such appeal.

- (2) Service of notice shall be as follows:

- a. By posting a copy of the notice in a conspicuous place on the structure to be repaired; and
- b. By depositing the notice in the United States Post Office addressed to the owner at his last known address from the property tax records, with postage prepaid thereon; or
- c. If the owner resides within the city, by delivery to the owner personally, or by leaving the notice at the usual place of abode of the owner, with a person of suitable age and discretion; however, only one such attempt at delivery need be made;
- d. If, through the exercise of all due diligence an owner of such property cannot be determined, or if determined, cannot be located, service may be had by publication in a newspaper of general circulation in the city.

(d) *Recording of notice.*

- (1) If the notice is not complied with nor an appeal filed within the allotted time, the building official will file, with the office of the city secretary, a certificate describing the property and certifying that the building or structure is unsafe and that the owner of record has been served. A copy of this certificate shall be forwarded to the housing board of adjustments and appeals to be placed

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on the agenda of such board for the purposes of determining whether or not an order of demolition shall be issued by such board for such structure.

- (2) If the building or structure poses an immediate hazard to life or to the safety of the public, the building official shall issue an order vacating the premises immediately, which such notice of vacation shall be served as set out in subsection (c)(2) of this section.
 - (3) Every notice to vacate, in addition to complying with subsection (c)(2) of this section, shall be posted at each exit and entrance to the building or structure and shall state: "This building is unsafe and its use or occupancy has been prohibited by the building official."

Such notice shall remain posted until the required repairs are made or demolition is completed. It shall be unlawful for any person or his agent to remove such notice without written permission of the building official, or for any person to enter the building or structure, except for the purposes of making the required repairs or demolishing the building or structure.
 - (4) The city attorney is hereby authorized to enforce the provisions relating to the vacation and repair of structures by enforcement in municipal court or by writ of injunction in a court of competent jurisdiction.
- (e) *Repair of structure.* If, after a notice of repair is issued by the building official, the responsible person takes out a building permit for the purposes of repairing the structure, such repairs shall be accomplished within 120 days from the date of the issuance of the building permit for such repairs. If such person fails to diligently pursue the repair of such structure to completion or abandons the repair of such structure, then the building official shall proceed as provided for under subsection (d) of this section.
- (f) *Home improvement economic incentive program.*
- (1) *Authority and purpose.* Section 380.001 of the Local Government Code authorizes the city to establish and provide for the administration of one or more programs, including programs for making loans and grants of public money and providing personnel and services of the City, to promote local economic development and to stimulate business and commercial activities in the city. Pursuant to V.T.C.A., Local Government Code ch. 380, and subject to available funding and the conditions of this program as set out in this section and 98-26, the city may, on a case-by-case basis, provide economic development incentives equivalent to a multiple of any increase in the ad valorem taxes assessed by the city against an eligible residential structure or a residentially zoned undeveloped lot located following completion of the development, improvements to or the remodeling of such residence or undeveloped lot and as may be provided in an executed economic development agreement.
 - (2) *Economic development incentive.*
 - a. The city may, as an economic development incentive, provide a one-time lump sum payment which shall be the equivalent of ten times the increase in ad valorem taxes payable to the city for the tax year following the issuance of certificate of occupancy of an approved project, based on the certified appraised value of the subject property as determined by the Hidalgo County Appraisal District.
 - b. The aforementioned economic development incentive shall be provided on the basis of an economic development agreement between the city and the property owner, to be prepared and approved by the city attorney.
 - c. The economic development incentive may be assigned one time in connection with the sale or transfer of the ownership (including a life estate) of the residence and/or eligible undeveloped lot to a subsequent owner. In the event the residence or lot is subsequently sold or transferred following an assignment, the economic development incentive agreement shall automatically terminate.

- (3) *Eligibility requirements.* Any residential structure or undeveloped lot located in a residential zoning district or residential structure located in a commercial or industrial zone is eligible for participation in the home improvement economic incentive program (section 22-246), provided:
- a. The structure is located within the corporate limits of the City of McAllen, and:
 1. The building official has determined that such a structure is not in compliance with the provisions of article IX ("Unsafe Building Abatement Code") of chapter 22 ("Buildings and Building Regulations") of this Code; and
 2. The building official has given notice of such alleged violations to the person or persons responsible therefor, and advised that such alleged violations constitute a nuisance requiring repairs or demolition; and
 - b. The owner and/or property meet such further criteria the city manager may from time to time determine are reasonable to effectively and efficiently promote the goals of the tax incentive program, including but not limited to the location of the dwelling;
 - c. The property owners are not delinquent in the payment of property taxes or other fees owed to the city;
 - d. The certified construction costs of the residential improvement, modification or remodeling project are a minimum of \$20,000.00;
 - e. The property owner's application for participation in the tax incentive program has been approved and an agreement between the city and the property owner has been executed;
 - f. The approved project must be completed within 24 months after approval by the city. The property owner will be required to consent to periodic inspections by the city as the project construction progresses. The property owner will be required to provide such information as the city staff may reasonably require to verify the costs incurred for the project; and
 - g. If the project relates to improvement of an undeveloped lot located in a residential zoning district, then said lot must be located within the corporate limits of the City of McAllen and comply with the eligibility requirements established in subsections 22-246(f)(3)b—f.
- (4) *Application; review process.*
- a. No city assistance to an owner shall be extended unless an application is filed and approved as provided hereunder.
 - b. A person desiring to participate in the program shall submit an application to the city manager or designee on a form provided by the city, as approved by the city attorney. The application shall require the property owner to provide the details of the proposed residential improvement project, the estimated project costs and such other information as the city may require.
 - c. Any eligible applicant as established in subsection 22-246(f)(3) may apply for assistance under the home improvement economic incentive program no later than the day the city issues a building permit for the improvement project.
 - d. The city manager, or designee, shall promptly review the application and any other submitted documents for completeness, ascertain whether the structure or lot is eligible for assistance under the provisions of this subsection 22-246(f), and approve or deny the same, notifying the applicant in writing of the city's determination.
 - e. The denial of an application is not appealable.
- (5) *Payment of economic development incentive.* The economic development incentive will be payable in a lump sum to the property owner who executed the economic development agreement or, where applicable, the successor or assignee pursuant to subsection 98-91(c) and shall be paid no later than by April 1 of the year after the first full calendar year following the issuance of the subject structure's certificate of occupancy, provided the property owner submits a valid tax payment receipt for the subject property showing no delinquent ad valorem

taxes owed to the city. For example, assuming that a project were completed and a certificate of occupancy issued by June, 2007, the economic development incentive would be payable on April 1, 2009. For the same aforementioned example, assuming that the subject property's 2008 city property taxes increased \$300.00 above the 2007 property taxes as a result of the increase in the taxable value of the improvements, the total incentive would be ten times that amount, i.e., \$3,000.00, which would be payable on April 1, 2009. The city manager or designee shall calculate the amount of the incentive and that determination shall be final in all respects.

(Code 1966, § 8-33; Ord. No. 2014-30, § I, 6-23-14; Ord. No. 2015-47, § I, 5-26-15)

Sec. 22-247. - Board of adjustments and appeals.

- (a) The building board of adjustments and appeals of the city shall also serve as the housing board of adjustments and appeals for the purposes of enforcing the provisions of the housing code. The existing procedures for the building board of adjustments and appeals, except to the extent of conflict with this article, shall be followed in all proceedings before such board when such board is exercising its jurisdiction under this article.
- (b) Upon receipt of an appeal or a certificate of demolition and repair, as provided for in section 22-247, the board of adjustments and appeals shall, as soon as practicable, fix a date, time and location for the hearing of the appeal or consideration of the certificate. The hearing date shall not be more than 30 days from the date of appeal or date of delivery of the certificate. Written notice of the time and location of the hearing and the subject matter thereof shall be delivered personally or mailed to each affected person, being any tenants and owners of the structure, at the address of such persons by certified mail, postage prepaid and return receipt requested. Failure of any person to appear at the hearing set in accordance with the provisions of this section shall constitute a waiver of his right to an administrative hearing on the notice.
- (c) The hearing concerning a certificate issued by the building official under the provisions of section 22-247 shall be conducted for the purposes of determining whether or not to uphold the decision of the building official, as set out in the certificate issued by the building official under section 22-247. The board of adjustments and appeals shall hear applicable evidence of the building official and the owner of the dwelling unit concerning such order. The board shall make a determination as to the occupancy, repair or demolition of such dwelling unit. The board shall issue an order setting out its final determination, which shall be served as provided for in subsections 22-247(c)(2)a, and b. If the board orders demolition of the structure, then the order shall require that the owner of the dwelling unit demolish the structure within 30 days from the date of issuance of such order. If the owner fails to demolish the structure within such 30-day period, then the city may demolish or cause the demolition of such structure, and the owner shall be responsible for reimbursing the city for all costs relating to such demolition, for which the city shall have a lien on the property for such costs until payment. The city attorney is authorized to enforce the orders of the board by municipal court prosecution or by injunction in a court of competent jurisdiction.
- (d) The hearing based on an appeal of an owner of a structure shall be conducted according to the provisions of subsection (b) of this section. The board of adjustments and appeals, after hearing the evidence of the building official and the owner, shall make a ruling either upholding the decision of the building official or may require additional repairs, demolition or vacation of the structure, extend any necessary time limits involved, or not require repair or demolition or vacation of the premises, in the discretion of the board. The board shall issue an order stating its findings and deliver the same to the building official personally and deliver the order to the owner and tenants, if applicable, by certified mail, return receipt requested. The board shall follow the same procedure as provided for in subsection (b) of this section relating to demolition of dwelling units, if applicable. The city attorney is hereby authorized to enforce the orders of the board by prosecution in municipal court or by writ of injunction in a court of competent jurisdiction.
- (e) Final decision of the board.

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- (1) The board of adjustments and appeals shall issue an order after any hearing, within five days from the date of such hearing. Notice of such order shall be accomplished within two days of the issuance of the board's order.
 - (2) The effective date of the board's final decision shall be as stated therein.
 - (3) If the owner of a structure is aggrieved by the decision by the board, nothing in this article shall be construed as depriving him of seeking redress in the civil or other applicable court. Such appeal must be filed within 15 days from the effective date of the board's final decision.
- (f) The board of adjustments and appeals is hereby authorized to issue orders in the alternative. If the board shall order repair of the structure within a certain time limit, it shall also have the authority to include in such order an order of demolition if the repair of the structure is not accomplished or diligently carried out according to the order of the board. In such case the order of the board requiring demolition shall not require an additional hearing.

(Code 1966, § 8-34)

Cross reference— Boards, committees and commissions, § 2-76 et seq.; substantial evidence rule in effect regarding appeals from decisions of boards, commissions and committees, § 2-82; substantial evidence rule in effect for appeals from decisions of officers and employees, § 2-196.

Sec. 22-248. - Owner-occupied dwelling unit.

- (a) For the purpose of this section an "owner-occupied dwelling unit" means that the owner resides within the dwelling unit and is the holder of title in fee simple of the interest in the land on which the dwelling unit is situated.
- (b) Notwithstanding anything in this article to the contrary, where the building official has determined that an owner-occupied dwelling unit is in a substandard condition, as defined in this article, an initial determination shall be made by the building official to see if the owner of such dwelling unit is qualified for the purposes of receiving financial assistance through the city's housing program, for the purposes of repair of such dwelling unit. The criteria established according to the federal government or any other criteria established by the city shall be used in determining qualification.
- (c) The building official is authorized to grant extensions to time limits and exceptions to the building code or the housing code necessary to ensure that the dwelling unit meets the minimum standards, as set out in this article, without an undue financial hardship on the owner of the owner-occupied dwelling unit.

(Code 1966, § 8-35)

Sec. 22-249. - Building code enforcement provisions not applicable, exceptions.

The provisions of the building code of the city shall not be applicable to the enforcement of this article, unless the dwelling unit is being remodeled or has been damaged, as those terms are defined under the building code of the city.

(Code 1966, § 8-36)

Secs. 22-250—22-270. - Reserved.

ARTICLE IX. - UNSAFE BUILDING ABATEMENT CODE¹¹¹

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Footnotes:

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Cross reference— Housing code adopted, § 22-241 et seq.

Sec. 22-271. - Standard Unsafe Building Abatement Code adopted.

The Standard Unsafe Building Abatement Code, 1985 edition, prepared by the Southern Building Code Congress International, Inc., and as such code may in this article be amended, is hereby adopted for the city, and such edition is referred to, incorporated in this article and made a part of this article for all purposes. A copy of such code shall be on file in the office of the building official.

(Code 1966, § 8-24; Ord. No. 1992-80, § VII, 10-12-92)

Cross reference— Substantial evidence rule in effect in appeals from decisions or orders of city officers or employees, § 2-76 et seq.; substantial evidence rule in effect in appeals from decisions or orders of city officers or employees, § 2-196 et seq.; nuisances, § 46-26 et seq.; fire prevention and protection, ch. 50; utilities, ch. 106; supplementary zoning district regulations, § 138-346 et seq.

Sec. 22-272. - Amendments.

The unsafe building abatement code adopted in section 22-271 is hereby amended as follows:

Sections 101.4, Alterations, Additions and Repairs, and 103.3, Requirements Not Covered by Code, are hereby deleted in the adoption of such code and shall not be adopted as part of the code adopted in this article.

Section 105, Board of Adjustments and Appeals, consisting of subsections 105.1 through and including 105.5, is hereby amended to read as follows:

Section 105, Board of Adjustments and Appeals.

The building board of adjustments and appeals of the city shall also serve as the board of adjustments and appeals for the purpose of providing for the final interpretation of the provisions of this code and for providing for the carrying out of all the duties imposed on the board of adjustments and appeals by this code. The existing procedures for the building board of adjustments and appeals shall be followed in all proceedings before such board when such board is exercising its jurisdiction under this article. However, when any procedure specified in this code provides for additional or contradictory procedures from existing procedures followed by such board, then in that event, the procedures set out in this code shall be followed.

(Code 1966, § 8-24)

Secs. 22-273—22-289. - Reserved.

ARTICLE X. - RESIDENTIAL CODE

Sec. 22-290. - International Residential Code for One- and Two-family dwellings adopted.

There is hereby adopted for and by the city, the International Residential Code for One- and Two-family Dwellings, 2012 edition, including appendices E, F, H, J, K, M, O, and P (except as amended by section 22-291) prepared by the International Code Council, published in booklet form, which is referred

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to, incorporated in this article and made a part of this article for all purposes. A copy of such code shall be filed in the office of the building official.

(Ord. No. 2001-86, § 8, 12-10-01; Ord. No. 2009-07, § VII, 1-26-09; Ord. No. 2012-83, § I, 11-26-12)

Sec. 22-291. - Amendments.

The Residential Code for One and Two-Family Dwellings adopted in section 22-290 is hereby amended as follows: Appendix P is amended at Section P2904 to remove all requirements to include any sprinklers or sprinkler systems in any One- and Two-family Dwellings, and other previous section 22-291 amendments are replaced by the adoption of the International Swimming Pool and Spa Code.

(Ord. No. 2001-86, § 9, 12-10-01; Ord. No. 2009-07, § VII, 1-26-09; Ord. No. 2012-83, § I, 11-26-12)

Secs. 22-292—22-300. - Reserved.

ARTICLE XI. - SWIMMING POOL CODE

Sec. 22-301. - International Swimming Pool and Spa Code adopted.

There is hereby adopted for and by the city, the International Swimming Pool and Spa Code, 2012 edition, prepared by the International Code Council, published in booklet form, which is referred to, incorporated in this article and made a part of this article for all purposes. A copy of such code shall be filed in the office of the building official.

(Ord. No. 2012-88, § I, 11-26-12)

Sec. 22-302. - Amendment.

The Swimming Pool and Spa Code, is hereby amended as follows:

- (a) Section 305 (Barrier Requirements) is amended at sections 305.2.1 (Barrier height and clearances), 305.2.5 (Closely spaced horizontal members), 305.2.6 (Widely spaced horizontal members) and 305.4 (Structure wall as a barrier) to require barrier height of at least 5 feet (60 inches) from grade.

(Ord. No. 2012-88, § I, 11-26-12)

Secs. 22-303—22-349. - Reserved.

ARTICLE XII. - INTERNATIONAL ENERGY CONSERVATION CODE

Sec. 22-350. - International Energy Conservation Code adopted.

The International Energy Conservation Code, 2006 edition, including appendices, prepared by the International Code Council, published in booklet form, is hereby adopted for the city, and such edition is referred to, incorporated in this article and made a part of this article for all purposes. A copy of such code shall be on file in the office of the building official.

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(Ord. No. 2009-07, § VIII, 1-26-09)

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ORDINANCE NUMBER 2010 - 16

AN ORDINANCE BY THE BOARD OF ALDERMEN OF THE TOWN OF LAGUNA VISTA, TEXAS; PROVIDING FOR THE DEFINITION AND REGULATION OF SUBSTANDARD BUILDINGS WITHIN THE TOWN OF LAGUNA VISTA, TEXAS; PROVIDING FOR THE REPEAL OF ANY ORDINANCE IN CONFLICT HEREWITH; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF:

WHEREAS, Pursuant to Section 214.001 and Section 214.0011 of the Texas Local Government Code the Town of Laguna Vista, Texas is authorized to regulate the standards of buildings within its city limits; and;

WHEREAS, the Town of Laguna Vista, Texas is desirous of establishing uniform standards for regulation of substandard buildings within its city limits;

NOW, THEREFORE, BE IT ORDAINED by the Board of Aldermen of the Town of Laguna Vista, of Texas that:

SECTION 1: DEFINITION OF SUBSTANDARD BUILDING:

A substandard building for purposes of this Ordinance shall be defined as a structure which is 1) dilapidated, or unfit for human habitation and which constitutes a hazard to the public health, safety and welfare; or 2) regardless of its structural condition, is unoccupied by its owners, lessees, or other invitees and is unsecured from unauthorized entry to the extent that it is being or can be entered or used by vagrants or other uninvited persons as a place of harborage or could be or is being entered by children; or 3) boarded up, fenced, or otherwise secured in any manner if the building constitutes a danger to the public even if secured from entry or the means utilized to secure the building is inadequate to prevent unauthorized entry or use of the building as set forth in 2) above.

SECTION 2: MINIMUM STANDARDS:

For purposes of this Ordinance, minimum standards shall require that each building be adequately secured by doors and windows which can be and are secured from unauthorized entry; be connected to a power and water source whether or not such source is active; be covered by a roof which is adequate to protect the interior of the building from water leakage; be enclosed by a fence where a swimming pool or other body of water exists on the premises and is not self-contained; and all other standards set forth in the International Commerce Codes governing habitability of buildings.

SECTION 3: NOTICE OF PUBLIC HEARING:

Any owner, lien holder or mortgagee or other person or entity in violation of this Ordinance shall be provided with a written notice of hearing either by personal delivery, depositing notice in the United States Mail for delivery to the current or last known address or by posting the notice on or near the front door of the building. Said notice of hearing shall require the recipient to appear at the date, time and place of hearing contained in the Notice and to produce proof of the work required to bring the building into compliance with this Ordinance and the amount of time required to complete the work.

SECTION 4: CONDUCT OF PUBLIC HEARING:

Following a public hearing held before the Board of Aldermen of the Town of Laguna Vista, Texas and a finding that the building does not meet the minimum standards set forth herein, the Town may Order that the building be vacated, secured, repaired, removed or demolished by the Owner and set a reasonable time. Town may also require that the occupants of the building be relocated during the repair period. Town shall require the Owner to secure the building from unauthorized entry and/or repair, remove or demolish the building within thirty (30) days from the date of hearing and to secure the premises while any repairs are being made. Town shall not grant the Owner more than thirty

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(30) days to complete the repairs unless the Owner submits at the hearing a detailed plan and time schedule for the work and establishes at the hearing that the work cannot reasonably be completed within the thirty (30) days period. In that event, the Owner shall submit periodic reports no less than once a month of the progress of the repairs. In no event shall Owner or anyone acting on Owner's behalf be granted more than ninety (90) days to bring the building into compliance unless the Town determines that the required work cannot reasonably be performed within that time period and finds that the building is properly secured.

SECTION 5: NOTICE OF ORDER FOLLOWING HEARING:

Within ten (10) days of the date the Order is issued, Town shall file a copy of the Order with the Town Secretary and shall publish notice in a newspaper of general circulation in the area stating the physical address, location or legal description of the building, the date of hearing, a brief summary of the Town's Order and details as to where a complete copy of the Order may be obtained. Notice shall be promptly forwarded via certified mail to the Owner and to any lien holder or mortgagee.

SECTION 6: OWNER'S FAILURE TO REMEDY:

In the event Owner fails to comply with Town's Order following hearing, Town shall make a diligent effort to discover each mortgagee and lien holder having an interest in the property and shall notify each mortgagee or other lien holder in writing by certified mail, return receipt requested by providing the address or legal description of the building, a description of the violation of this Ordinance and the Order of the Town following public hearing and Notice that the Town will vacate, secure, remove, or demolish the building and/or relocate the occupants of the building if the ordered action is not taken within a reasonable period of time.

SECTION 7: INTERIM ACTION BY TOWN:

In the event that the building does not meet the minimum standards set forth herein and is unoccupied or is occupied by a person or persons who do not have a right to possession of the building, the Town may immediately secure the building without a hearing. In that event, Town shall give written notice to the Owner not later than the eleventh (11th) day after the building has been secured by personal service, depositing notice in the United States mail, publishing the notice at least twice (2) within a ten (10) day period in a newspaper of general circulation in the area; or by posting notice on or near the front door of the building. The notice shall identify the location of the building either by address or legal description, describe the violation of this Ordinance, advise the Owner that the Town will or has secured the building, and advising the Owner of the entitlement to a hearing on the Town's securing the building.

SECTION 8: HEARING ON TOWN'S SECURING BUILDING:

Owner may request a hearing in writing within thirty (30) days of receipt of notice as described in Section 5. Town shall hold the hearing within twenty (20) days of receipt of the written notice.

SECTION 9: ACTION BY TOWN:

In the event that the Owner, lien holder or mortgagee does not comply with any Order issued by Town, Town may at its own expense vacate, secure, remove or demolish the building or relocate the building's occupants.

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SECTION 10: LIEN ON PROPERTY:

The Town may assess expenses incurred in the enforcement of this Ordinance including but not limited to vacating, securing, removing or demolishing the substandard structure or relocating the building's occupants against the real property and may place a lien of record against the property unless the property is a homestead protected by the Texas Constitution. The lien arises and attaches to the property at the time the notice of the lien is recorded and indexed in the office of the county clerk of the county in which the property is located. The notice must contain the name and address of the owner if that information can be determined with a reasonable effort, a legal description of the property on which the building is located, the amount of expenses incurred by Town and the balance due.

SECTION 11: FORECLOSURE:

Town may foreclose a lien on the real property in a proceeding relating to the property brought under Subchapter E, Chapter 33, Tax Code.

SECTION 12: SEVERABILITY:

If any section, paragraph, subdivision, clause, phrase, or provision of this Ordinance shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this Ordinance as a whole or any part or provision thereof, other than the part so decided to be invalid or unconstitutional.

SECTION 13: REPEAL OF CONFLICTING ORDINANCE:

Any Ordinance in conflict with this Ordinance or any portion hereof be and is hereby repealed.

SECTION 14: PUBLICATION

This Ordinance shall become effective when adopted and published according to law.

PASSED, APPROVED, AND ADOPTED by the Aldermen of the Town of Laguna Vista, Texas at a regular meeting on the 13th day of July 2010, at which a quorum was present.

Susie Houston, Mayor

Attest:

Alma Deckard, City Secretary

Approved as to form:

Janice Cassidy, Town Attorney

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ARTICLE III. - UNSAFE AND SUBSTANDARD BUILDINGS

Sec. 8-61. - Repair or demolition required.

Any building within the city that is determined under the provisions of this article to be dilapidated, substandard, unfit for human habitation, or a hazard to the health, safety and welfare of the citizens, shall be repaired or demolished and removed.

(Ord. No. 198, § 1, 9-22-1987)

Sec. 8-62. - Applicable minimum standards.

The minimum standards for continued use and occupancy of any building within the city, regardless of the date of construction, shall be the minimum standard specified in the building and technical codes adopted by the city in this chapter.

(Ord. No. 198, § 2, 9-22-1987)

Sec. 8-63. - Notice of violation.

- (a) Whenever the city building inspector finds a building to be dilapidated, substandard, unfit for human habitation, or a hazard to the health, safety and welfare of the citizens, he shall give notice to the owner of such finding. Such notice may be served by delivering a copy of the notice to the owner, or his agent, either in person or by certified mail, postage prepaid, return receipt requested, to the owner's last known address.
- (b) The notice given in subsection (a) of this section shall:
 - (1) Be in writing;
 - (2) Include a description of the real estate sufficient for identification;
 - (3) Include a copy of the city building inspector's report on the condition of the building, including specific repairs required to meet minimum standards, or a statement that the building cannot be repaired to meet minimum standards and must be demolished and removed;
 - (4) Require the owner, within a reasonable time specified in the notice, to

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complete the specific repairs required to meet minimum standards to restore the building, or, if the building cannot be repaired to meet such standards, to demolish and remove the building;

- (5) State that, if the owner fails to repair or demolish and remove the building within the time specified, the city building inspector will request a public hearing before the city council to determine if the building is dilapidated, substandard, unfit for human habitation, or a hazard to the health, safety and welfare of the citizens, and the owner ordered to repair or demolish and remove the building.

(Ord. No. 198, §§ 3, 4, 9-22-1987)

Sec. 8-64. - Failure to comply with notice; report to city council; request for public hearing.

- (a) After service of the notice given in section 8-63, if the owner fails to repair or demolish and remove the building within the time specified in the notice, the city building inspector shall file with the city council his request for a public hearing before the city council to determine if the building is dilapidated, substandard, unfit for human habitation, or a hazard to the health, safety and welfare of the citizens, and that the owner be ordered to repair or demolish and remove the building. A copy of the city building inspector's report on the condition of the building and a copy of his notice to the owner shall be filed with such request for a public hearing.
- (b) The city council, upon considering such request for a public hearing and finding that the request, report and notice to the owner comply with the requirements of this article, shall grant such request and fix the date, time and place for such hearing.

(Ord. No. 198, §§ 5, 6, 9-22-1987)

Sec. 8-65. - Notice of hearing.

Notice of such public hearing shall be given by the city secretary to the owner, which may be served on the owner or his agent either in person or by certified mail, postage prepaid, return receipt requested, to the owner's last known address. Notice to the public shall be

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given by publication in a newspaper of general circulation in the county once each week for two consecutive weeks prior to the hearing with an affidavit being returned to the city secretary showing publication of same.

(Ord. No. 198, § 7, 9-22-1987)

Sec. 8-66. - Conduct of hearing; order for repair or demolition.

- (a) The city council shall hold a public hearing at the time and place specified in said notices and a determination made in the form of a written decision to be sent to the owner by certified mail, postage prepaid, return receipt requested, within seven days of the hearing, whether or not the owner appeared at the public hearing.
- (b) The mayor shall preside at the public hearing, and the city council shall hear evidence presented by the city building inspector and any other witnesses on behalf of the city as to the condition of the building. The owner, his agent, or his attorney appearing at the hearing shall have the opportunity to present evidence to show cause as to why the city council should not order the building repaired or demolished and removed and shall have the opportunity to cross examine witnesses for the city.
- (c) A determination shall be made as to whether or not the building is dilapidated, substandard, unfit for human habitation, or a hazard to the health, safety and welfare of the citizens of the city, and, if so, a determination shall be made as to what corrective action shall be necessary, and shall order the owner to repair the building, or to demolish and remove it, as the decision shall require, and shall order such action to be taken within a reasonable time, specified in the decision.

(Ord. No. 198, § 8, 9-22-1987)

Sec. 8-67. - Repair or demolition by city; costs.

If, after the allotted time for the owner to repair or demolish and remove the building, the owner has failed to do so, the city may demolish and remove the building at its expense. The city shall have a lien against the property to which the building was attached, which lien shall

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be released if the owner reimburses the city for the expenses incurred by the city in demolishing and removing the building.

(Ord. No. 198, § 9, 9-22-1987)

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Susan Hill <shill@myspi.org>

Fwd: Update - Abandoned Buildings

1 message

David Travis <dtravis@myspi.org>
 To: Susan Hill <shill@myspi.org>
 Cc: David Travis <dtravis@myspi.org>

Fri, May 10, 2019 at 3:11 PM

Hi Susan,

This is the email that I sent to Councilman Joe Ricco after I had a phone conversation with Allison Bastian on May 7, 2019.

Thank you,

David Travis

----- Forwarded message -----

From: **David Travis** <dtravis@myspi.org>
 Date: Tue, May 7, 2019 at 12:23 PM
 Subject: Update - Abandoned Buildings
 To: Joe Ricco <jricco@myspi.org>
 Cc: Wendi Delgado <wdelgado@myspi.org>, Randy Smith <rsmith@myspi.org>, Susan Hill <shill@myspi.org>

Good afternoon Councilman Ricco,

I am providing a recap of staff actions regarding abandoned buildings in the City of South Padre Island. Since the City Council Meeting on May 1, 2019, I have been in discussing the matter with Attorney Allison Bastian. She was my point of contact earlier this year when I began working on addressing unsafe buildings. Allison and I had a phone conversation today where we discussed the process of addressing abandoned buildings, proactive versus reactive enforcement, the roll of the Construction Board of Adjustment and Appeals, Residential versus Commercial enforcement, the applicability of the International Property Maintenance Code and International Existing Building Code, and generating a letter for the property owners. I will be generating the letter along with a process map which will be sent to legal for review. The property owners will receive a letter from the City that itemizes the observed deficiencies, nuisances, and/or violations, sets a time frame for compliance, and explains the penalties for noncompliance.

Should the owner not comply, we will go to the Construction Board of Appeals where it would be determined by the Board if the building is safe or unsafe, or a nuisance or not. The Board will also decide on the appropriate action for the City to take, whether that is to make repairs, secure the building or demolish it. The City is required to notify the owner of the meeting, and the owner has the right to appeal the decision of the CBOA. Should the City incur any costs, those costs shall be documented and a lien shall be placed on the property.

While we are working on generating the letters, sending them to the owners via Certified Mail with a signature required, and waiting for responses, I will be creating a flow chart that will outline the process of addressing abandoned or substandard buildings. This will be reviewed by legal so that we are sure that our actions will place us in a good legal standing.

If you have any questions or I can be of any service, please let me know.

Kind regards,

David Travis

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David Travis | Building Official Plumbing Inspector #3397

City of South Padre Island | Building Inspections

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4601 Padre Blvd. South Padre Island, Texas 78597

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David Travis | Building Official Plumbing Inspector #3397

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