



**AGENDA  
MARCH 20, 2018  
LAVON CITY COUNCIL  
CITY HALL, 120 SCHOOL ROAD, LAVON, TEXAS  
REGULAR MEETING – EXECUTIVE SESSION  
7:00 P.M.**

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**1. PRESIDING OFFICER TO CALL THE MEETING TO ORDER AND ANNOUNCE THAT A QUORUM IS PRESENT**

**2. PLEDGE OF ALLEGIANCE AND INVOCATION**

**3. PRESENTATIONS**

Recognition of Donnie Spradlin for his dedicated service to the City of Lavon.

**4. CITIZENS COMMENTS**

*Citizens, who wish to address the Council, may discuss matters not on the agenda and who have not previously expressed to the Council or City Hall a desire to discuss such matters. The only response from the Council can be to request these items to be placed on a future agenda for action.*

**5. ITEMS OF INTEREST/COMMUNICATIONS**

*Members may identify community events, functions and other activities.*

- Easter Celebration – March 24, 2018
- Lavon Economic Development Corporation (LEDC) Small Business Bazaar – April 28, 2018

**6. CONSENT AGENDA**

*Consent items are considered to be routine or non-controversial and will be voted on in one motion unless a separate discussion is requested by a Member.*

- A. Approve the Minutes of the March 6, 2018 Meeting.
- B. Accept the Heritage Public Improvement District #1 Assessment Report Summary dated 2/28/2018 and authorize the payment of invoices included therein.
- C. Approve Ordinance No. **2018-03-02** amending Ordinance No. **1997-12-08** as previously amended, the same being the Comprehensive Zoning Ordinance of the City of Lavon, and amending Zoning Map 02-13-13, to adopt the new zoning regulations; providing for the adoption of the Lavon Comprehensive Zoning Ordinance and Zoning Map as set forth in Exhibits A and B thereto; providing a penalty for violation; and providing an effective date.

**7. ITEMS FOR CONSIDERATION**

- A. Discussion and action regarding Resolution No. **2018-03-01** authorizing the Mayor to execute a Participation Agreement with the Atmos Cities Steering Committee.
- B. Discussion and action regarding Ordinance No. **2018-03-03** approving a tariff authorizing an annual rate review mechanism (“RRM”) as a substitution for the annual interim rate adjustment process defined by Section 104.301 of the Texas Utilities Code, and as negotiated between Atmos Energy Corp., Mid-Tex Division (“Atmos Mid-Tex” or “Company”) and the Steering Committee of cities served by Atmos; requiring the Company to reimburse cities’ reasonable ratemaking expenses; adopting a savings clause; determining that this ordinance was passed in accordance with the requirements of the Open Meetings Act; declaring an effective date; and requiring delivery of this ordinance to the Company and legal counsel for the Steering Committee.
- C. Discussion and action regarding the Public Utility Commission of Texas inquiry relating to the 2018 consumer price index (CPI) adjustment to municipal telecommunications right-of-way access lines rates.

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- D. **PUBLIC HEARING**, discussion and action regarding an application submitted by Kelly Duncan, Big Daddy's Roadhouse BBQ for a variance to Ordinance No. **2003-04-01**, Sign Ordinance, Section 16 **Sign Standards** to waive the requirement that a Freestanding Sign shall be a Monument Sign at 1000 SH 78, Lavon, Texas on the southwest corner of the intersection of SH 78 and SH 205.
  - 1) Presentation of request.
  - 2) **PUBLIC HEARING** to receive comments regarding the request.
  - 3) Discussion and action regarding the request.
- E. Discussion and action regarding Ordinance No. **2018-03-04** adopting regulations for alcoholic beverages; amending the fee schedule; providing a severability clause; providing a repealer clause; providing for a penalty of fine not to exceed \$500.00 per offense and providing an effective date.
- F. Discussion and action regarding Ordinance No. **2018-03-05** regulating sexually oriented businesses; amending the fee schedule; providing a penalty clause and providing an effective date.
  - 1) Presentation of request.
  - 2) **PUBLIC HEARING** to receive comments regarding the request.
  - 3) Discussion and action regarding the request.
- G. Discussion and action regarding a Request for Qualifications for city engineering services and to solicit responses for city council consideration.
- H. Discussion and action regarding recent Texas Transportation Commission action relating to the removal of the 42½ foot height restriction on billboards.
- I. Discussion and action regarding the disposition of surplus police vehicles.
- J. Discussion and action regarding board and commission appointments – Parks and Recreation Board.

## 8. WORK SESSION

Discussion regarding plans for sanitary sewer system improvements and funding options.

## 9. STAFF REPORTS

*The City Council may receive and discuss the reports.*

- A. Police Department – 1) Monthly Reports for traffic stops, calls for service, call breakout and consolidated activity and 2) monthly reserve participation report.
- B. Fire Marshal's Office – 1) IFC advisory group update and potential Board of Appeals; 2) Emergency Preparedness at NeSmith; 3) Code enforcement training and 4) Ambulance Services, changes and run times report.
- C. Public Works Department – 1) General public works and street maintenance report including mowing and trash collection; 2) TxDOT projects report; 3) public works facility update; 4) sanitary sewer system maintenance and 5) CWD X-treme Green Household Hazardous Waste Collection Event report.
- D. Administration – 1) Financial Outlook; 2) Building Permits Report; 3) Collin County Monthly Tax Collection Report; 4) Sales Tax Report, 5) Recycling Report and 6) Municipal Court warrant roundup summary report.

## 10. EXECUTIVE SESSION

In accordance with Texas Government Code, Chapter 551, Subchapter D, the City Council may recess into Executive Session (closed meeting) to discuss the following item pursuant to Section 551.071 (2) and 551.071 (1): Consultation with Attorney 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 the Texas Open Meetings Act and Consultation with Attorney regarding pending litigation or settlement offer: *Application of City of Lavon to Obtain a Sewer Certificate of Convenience and Necessity (CCN)*, Public Utility Commission SOAH Docket No. 473-17-4339.WS, PUC Docket No. 46993.

Lavon City Hall will provide reasonable accommodations for persons attending meetings. Please contact the City Secretary at 972-843-4220 no later than 48 hours prior to a meeting if you require special assistance | WiFi password: Guest2014



**11. RECONVENE INTO REGULAR SESSION**

Consider and take any action necessary as a result of executive session.

**12. CITY COUNCIL TO SET FUTURE MEETINGS AND AGENDAS**

*Council Members and staff may request items be placed on a future agenda or request a special meeting.*

i.Regular meeting – April 3, 2018

**13. PRESIDING OFFICER TO ADJOURN THE CITY COUNCIL MEETING**

1. Notice is hereby given that members of the Lavon Economic Development Corporation Board, Lavon Planning and Zoning Commission, Parks and Recreation Board, and Reinvestment Zone #1 (TIF) Board of Directors may be in attendance at the Lavon City Council Meeting.
2. The Council may vote and/or act upon each of the items listed in this Agenda except for discussion items.
3. The Council reserves the right to meet in Executive Session closed to the public at any time in the course of this meeting to discuss matters listed on the agenda, as authorized by the Texas Open Meetings Act, Texas Government Code, Chapter 551, including §551.071 (private consultation with the attorney for the City); §551.072 (discussing purchase, exchange, lease or value of real property); §551.074 (discussing personnel or to hear complaints against personnel); and §551.087 (discussing economic development negotiations). Any decision held on such matters will be taken or conducted in Open Session following the conclusion of the Executive Session.

This is to certify that this Agenda was duly posted at City Hall and on the City’s website at [www.cityoflavon.com](http://www.cityoflavon.com) on or before 6:00 PM on March 16, 2018.

\_\_\_\_\_  
Kim Dobbs, City Administrator | City Secretary





## **PROCLAMATION CITY OF LAVON, TEXAS**

**WHEREAS**, Donnie Spradlin served on the City Council from November 2016 to November 2017; and

**WHEREAS**, Donnie Spradlin's generous contribution of time, talent and energy have been apparent in the work accomplished by the City Council and his leadership and volunteerism have contributed to improvements in the quality of life and governance for which the residents of Lavon will be forever indebted; and

**WHEREAS**, Donnie Spradlin's family is deserving of great appreciation for their support of his service;

**NOW THEREFORE**, I, Charles A. Teske, Jr., Mayor of the City of Lavon, on the 5<sup>th</sup> day of December 2017, recognize

### **DONNIE SPRADLIN**

and express our most sincere gratitude for his outstanding contributions and dedicated service to the residents of the City of Lavon.

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**Charles A. Teske, Jr. Mayor**



# City of Lavon Easter Celebration

Saturday March 24

3pm-4:30pm

at Lavon City Park

Lunch courtesy of

The City of Lavon

Activities include:

Face painting, Bounce House,

Easter Bunny Visit

Egg Hunt for children ages 1-10

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Happy Easter





# Spring Small Business Bazaar

**Saturday, April 28, 2018**

Noon to 5 PM  
(Setup @10am)

*City Hall Gymnasium and Park Pavilion Area*  
120 School Rd

**Reserve a spot today!**

Name of Business \_\_\_\_\_

Type of Sales Products or Services \_\_\_\_\_

Name of Contact/Owner \_\_\_\_\_

Telephone \_\_\_\_\_ E.nail \_\_\_\_\_

Address \_\_\_\_\_, City \_\_\_\_\_ Zip \_\_\_\_\_

Reserve **6' x 8' Booth in Gymnasium** \_\_\_with table **\$25/** \_\_\_without table **\$15**

Reserve **10' x' 10' Booth in Park Pavilion Area** \_\_\_with table **\$25/** \_\_\_without table **\$15**

For question and information contact Micki Hollien 214 934 7190 [micki.hollien@lavonedc.com](mailto:micki.hollien@lavonedc.com)

Checks payable to: **Lavon Economic Development Corp**

Mail to LEDC P.O. Box 340, Lavon **OR** visit our office at City Hall 120 School Rd. Lavon TX 75166



**MINUTES**  
**MARCH 6, 2018**  
**LAVON CITY COUNCIL**  
**501 LINCOLN DRIVE, LAVON, TEXAS**  
**EMERGENCY OPERATIONS CENTER GROUND BREAKING**  
**CITY HALL, 120 SCHOOL ROAD, LAVON, TEXAS**  
**REGULAR MEETING-BOARD OF ADJUSTMENT- EXECUTIVE SESSION**

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ATTENDING: VICKI SANSON, MAYOR PRO TEM, PLACE 1  
MIKE COOK, PLACE 2  
KAY WRIGHT, PLACE 3  
TIM DAVIS, PLACE 4  
MINDI SERKLAND, PLACE 5

ABSENT: CHARLES A. TESKE, JR., MAYOR

**GROUND BREAKING - 501 LINCOLN DRIVE**

At 6:00 p.m., a quorum of the City Council gathered for a ceremonial ground breaking for the expansion of the Emergency Operations Center-Fire Department. Mayor Pro Tem Sanson welcomed guests and stated that the groundbreaking represented an important milestone in the continuing development of the City of Lavon's public safety infrastructure. Mayor Pro Tem Sanson commented that when completed the new emergency operations center is expected to enhance first responders' ability to safeguard the lives and property of Lavon residents and help facilitate lower emergency response times. Mayor Pro Tem Sanson expressed appreciation specifically to Bloomfield Homes as a generous and forward-thinking partner who shared in the vision to the benefit of current and future residents. President of Bloomfield Homes Don Dykstra, Vice President of Operations Tim Stewart and Construction Superintendent Jason Wynns were recognized and Mr. Dykstra addressed the gathering. Mayor Pro Tem Sanson then recognized city staff members for their contribution to the process: Police Chief Mike Jones, Fire Marshal Jon Scott, Public Works Director Sonny Mancias and City Administrator Kim Dobbs. Mayor Pro Tem Sanson concluded that Mayor Teske especially deserved recognition and appreciation for championing the project and for his unwavering determination to make the project a reality.

1. **MAYOR PRO TEM SANSON CALLED THE MEETING TO ORDER AT 7:00 P.M. AND ANNOUNCED A QUORUM PRESENT.**
2. **MAYOR PRO TEM SANSON LED THE RECITATION OF THE PLEDGE OF ALLEGIANCE AND CHIEF JONES DELIVERED THE INVOCATION.**
3. **CITIZENS COMMENTS**

There were none.

4. **ITEMS OF INTEREST/COMMUNICATIONS**

- X-treme Green clean-up day has been scheduled for March 17 and 18.
- The Easter event will be on March 24 from 3:00 – 4:30 p.m.
- Lavon Economic Development Corporation (LEDC) Small Business Bazaar will be held on April 28.

5. **CONSENT AGENDA**

- A. **Approve the Minutes of the February 20, 2018 Meeting.**
- B. **Approve Ordinance No. 2018-03-01 amending the Code of Regulations, Title 3 Administration, Subtitle 3 Committees and Commissions, Chapter 9 Parks and Recreation Board regarding the structure of the Parks and Recreation Board.**

**MOTION: APPROVE THE CONSENT AGENDA.**

MOTION MADE: DAVIS  
SECONDED: WRIGHT  
APPROVED: UNANIMOUS

## 6. BOARD OF ADJUSTMENT

*In accordance with the Texas Local Government Code, Section 211.008 (g) and City of Lavon Ordinance No. 2011-08-01, the Lavon City Council will act as the Board of Adjustment to consider and act on a request for a variance from the Zoning Code.*

- A. Public Hearing, discussion and action regarding the application of 78 Lavon, LP for a variance to the requirements of Ordinance No. 97-12-08 Zoning, Article VII, Section 4.3 that provide for installation of a dedicated alley or private drive and a rear yard setback of 20' to waive the requirement for a dedicated alley or private drive on Lot 1, Block 1 of the proposed Lavon 7-Eleven Addition (Collin CAD# 2612693 and 2635513) a part of the William H. Moore Survey, A0638, Sheet 2, Tract 4 and Tract 28, generally located north of the intersection of State Highway (SH) 205 and SH 78 in the vicinity of the 900-1000 block of SH 78.**

### **Presentation of request.**

Ms. Dobbs provided information regarding the request for a variance and advised that owners of affected property located within one-hundred feet of the site had been mailed a notice of the request and public hearing.

Applicant Sherrelle Diggs submitted that the regulation would result in a hardship, that the required alley/drive would not connect to anything on either side of the property and that the adjacent property owners would be better served by not having the traffic or noise associated with a dedicated alley or private drive on the rear property line. Ms. Diggs pointed out that the building is planned to be setback one hundred and seven feet (107') from the rear property line and that where it is not already installed, a six-foot (6') wooden fence would be installed.

### **PUBLIC HEARING to receive comments regarding the request.**

Ms. Sanson opened the public hearing at 7:08 p.m. and invited comments regarding the proposed variance. The following people offered input regarding the application:

- Lori Lord, 980 Austin Ln. - inquired about the screening fence and the dumpster enclosure
- Jason Queneau, 970 Austin Ln. – asked who would be responsible for the maintenance of the fence
- Madhu Kanduru, 400 N. SH 78 – inquired about an access easement to property he owns behind the subject property
- Vince Doyle, 319 Alamo Ct. – expressed concern regarding traffic congestion at the intersection of SH 78 and SH 205. Ms. Diggs provided information from the traffic impact analysis (TIA) that provided conclusions on safe driveway placement and adequacy of current facilities. Ms. Diggs showed access and circulation plans and explained that the site will be accessed from the signalized intersection on the south side and from an access drive from the Sonic on the north.

There being no additional comments, Ms. Sanson closed the public hearing at 7:15 p.m.

### **Discussion and action regarding the request.**

The City Council discussed the request. Ms. Dobbs reviewed the standards for Board of Adjustment consideration and the findings of fact.

**MOTION: GRANT A VARIANCE TO THE REQUIREMENTS OF ORDINANCE NO. 97-12-08 ZONING, ARTICLE VII, SECTION 4.3 TO WAIVE THE REQUIRED INSTALLATION OF A DEDICATED ALLEY OR PRIVATE DRIVE ON LOT 1, BLOCK 1 OF THE PROPOSED LAVON 7-ELEVEN ADDITION.**

MOTION MADE:     WRIGHT  
SECONDED:         DAVIS  
APPROVED:         UNANIMOUS

## 7. ITEMS FOR CONSIDERATION

- A. Public hearing, discussion and action regarding the application of Rachel Antrikin on behalf of the owners for a replat without vacating the plat of Lot 2, also identified by the Collin County**

**Appraisal District as Lots 2 and 2-1, (CCAD property IDs 2767161 & 2767162 respectively) consisting of 9.806 acres, East Hubbard Properties Addition to form two (2) lots, Lot 2R and 3.**

**Presentation of request.**

Ms. Dobbs provided information regarding the location of the property in the City's extraterritorial jurisdiction, the proposed replat and the state law requirement for a public hearing regarding the creation of an additional lot. Property owners Will and Rachel Antrikin were present to answer questions.

**PUBLIC HEARING to receive comments regarding the request.**

Mayor Pro Tem Sanson opened the public hearing at 7:19 p.m. and invited comments regarding the proposed replat. There being no comments, the public hearing was closed at 7:20 p.m.

**Discussion and action regarding the request.**

Ms. Dobbs advised that the applicant had complied with all city engineer and staff notes. Planning and Zoning Commission Chair David Rosenquist provided a report that on February 27, 2018 the Commission voted unanimously to recommend approval of the replat.

**MOTION: APPROVE THE REPLAT OF LOT 2 CONSISTING OF 9.806 ACRES OF THE EAST HUBBARD PROPERTIES ADDITION TO FORM TWO (2) LOTS, LOT 2R AND 3.**

MOTION MADE:     WRIGHT  
SECONDED:         COOK  
APPROVED:         UNANIMOUS

- B. Discussion and action regarding the application of Sherrelle Diggs, The Dimension Group, for a Preliminary Plat of a 2.492 acre tract of land situated in the W. H. Moore Survey, Abstract No. 638, Sheet 2, Tract 4 and Tract 28, City of Lavon, Collin County Texas, (Collin CAD# 2612693 and 2635513), generally located north of the intersection of State Highway (SH) 205 and SH 78 in the vicinity of the 900-1000 block of SH 78, such property generally referenced as Lavon 7-Eleven Addition.**

Ms. Dobbs explained that the property is zoned Retail 1 and Business 1 and that the proposed preliminary plat conforms to the zoning and satisfies the subdivision code requirements. Ms. Diggs provided information regarding the preliminary plat. Ms. Diggs confirmed that the TIA showed the store would have minor impact on the local roadway network and modifications such as a deceleration lane were not warranted. Ms. Dobbs advised that the applicant had complied with a Planning and Zoning Commission request to relabel the northern ingress/egress easement. Mr. Rosenquist provided a report that on February 27, 2018 the Commission voted unanimously to recommend approval of the preliminary plat subject to the easement notation and Board of Adjustment approval of the variance.

**MOTION: APPROVE THE PRELIMINARY PLAT OF THE LAVON 7-ELEVEN ADDITION, A 2.492 ACRE TRACT OF LAND SITUATED IN THE W. H. MOORE SURVEY, ABSTRACT NO. 638.**

MOTION MADE:     SERKLAND  
SECONDED:         DAVIS  
APPROVED:         UNANIMOUS

- C. Discussion and action regarding a Site Plan for a 7-Eleven Store on Lot 1, Block 1 of the Lavon 7-Eleven Addition, a 1.109 acre lot, (a part of Collin CAD # 2612693 and 2635513), generally located north of the intersection of State Highway (SH) 205 and SH 78 in the vicinity of the 900-1000 block of SH 78, submitted by Sherrelle Diggs, The Dimension Group.**

Ms. Diggs presented information regarding the proposed site plan and landscape plan of Lot 1 of the 7-Eleven Addition. Ms. Diggs pointed out where the rear building setback of 107' had been noted on the Site Plan per the Planning and Zoning Commission request. Architect Chuck Hoffman, The Dimension Group explained that the store is a new prototype store and will contain architectural features not found on the older stores. Ms. Dobbs noted that the applicant had complied with city

engineer and staff review notes with the exception of the correction of the SH 78 median depiction on the northern driveway. Mr. Rosenquist provided a report that on February 27, 2018 the Commission voted unanimously to recommend approval of the site plan subject to certain contingencies, all of which had been satisfied except the corrected SH 78 median note and the TxDOT drainage approval.

**MOTION: APPROVE THE SITE PLAN FOR A 7-ELEVEN STORE ON LOT 1, BLOCK 1 OF THE LAVON 7-ELEVEN ADDITION, SUBJECT TO: 1) TXDOT APPROVAL OF THE DRAINAGE AND 2) CORRECTION OF THE MEDIAN OPENING AT THE NORTHERNMOST ENTRY POINT.**

MOTION MADE: DAVIS  
SECONDED: WRIGHT  
APPROVED: UNANIMOUS

**D. Discussion and action regarding a Landscape Plan for a 7-Eleven Store on Lot 1, Block 1 of the Lavon 7-Eleven Addition, a 1.109 acre lot, (a part of Collin CAD # 2612693 and 2635513), generally located north of the intersection of State Highway (SH) 205 and SH 78 in the vicinity of the 900-1000 block of SH 78, submitted by Sherrelle Diggs, The Dimension Group.**

Ms. Diggs and Mr. Hoffman presented the Landscape Plan for the proposed 7-Eleven site. Ms. Dobbs observed that the plan exceeds the minimum landscape requirements of both the current and proposed zoning ordinances. It was noted that outdoor LED lighting would be utilized to illuminate the site with minimal impact on surrounding properties. It was further noted that an automated irrigation system would be installed on entire site, including the grassy area behind the store. Director of Public Works requested and the applicant agreed that trees be placed an appropriate distance from the sanitary sewer line and sidewalks so as to not disrupt the infrastructure.

**MOTION: APPROVE THE LANDSCAPE PLAN FOR A 7-ELEVEN STORE ON LOT 1, BLOCK 1 OF THE LAVON 7-ELEVEN ADDITION.**

MOTION MADE: SERKLAND  
SECONDED: DAVIS  
APPROVED: UNANIMOUS

**E. Public hearing, discussion and action regarding a proposed rewrite of the Zoning Ordinance adopted by Ordinance No. 1997-12-08 and subsequently amended. The rewrite may affect land use regulations in all zoning districts and contains other related amendments.**

**Presentation of the proposed amendment**

Ms. Dobbs provided a recap of the multi-year process to update the 1997 Zoning Ordinance and expressed appreciation to Pam Mundo, Mundo & Associates and Lavon Economic Development Corporation Executive Director for her assistance in guiding the project and drafting the rewrite. Mayor Pro Tem Sanson provided background on the process and Ms. Wright commended the Planning and Zoning Commission for their work. Ms. Mundo stated that the Commission and staff had worked diligently to provide an updated code that will be more user-friendly and meaningful to residents and prospective businesses. Mr. Rosenquist acknowledged that the draft had been reviewed by the police and fire departments and the City Attorney. Ms. Dobbs reviewed a summary sheet of major changes in the rewrite and noted that the proposed drafts and revisions had been provided on the City website throughout the entire process.

**PUBLIC HEARING to receive comments regarding the proposed rewrite.**

Mayor Pro Tem Sanson opened the public hearing at 7:58 p.m. and invited comments regarding the proposed rewrite. There being no comments, the public hearing was closed at 7:59 p.m.

**Discussion and action regarding the proposed rewrite.**

Ms. Dobbs confirmed that the proposed rewrite conforms to the Comprehensive Plan. Ms. Serkland confirmed that animal boarding and kennels were permitted in a Planned Development District and permitted with a conditional use permit in the Agricultural District. Mr. Rosenquist provided a report that on February 27, 2018 the Commission voted unanimously to recommend approval of the rewrite.

**MOTION: APPROVE THE PROPOSED REWRITE OF THE ZONING ORDINANCE ADOPTED BY ORDINANCE NO. 1997-12-08 AND SUBSEQUENTLY AMENDED.**

MOTION MADE: WRIGHT

SECONDED: COOK

APPROVED: UNANIMOUS

**F. Public hearing, discussion and action regarding a proposed update of the Zoning Map.**

**Presentation of the proposed amendment.**

Ms. Mundo and Ms. Dobbs presented the updated Zoning Map. It was noted that the updated map does not change the use district of any specific property although the certain related regulations may change in the update. Mr. Rosenquist provided a report that on February 27, 2018 the Commission voted unanimously to recommend approval of the map update.

**PUBLIC HEARING to receive comments regarding the proposed update.**

Mayor Pro Tem Sanson opened the public hearing at 8:04 p.m. and invited comments regarding the proposed map update. There being no comments, the public hearing was closed at 8:04 p.m.

**Discussion and action regarding the proposed update.**

Ms. Dobbs noted that future zoning amendments would contain a provision that the when approved, the Zoning Map would be updated correspondingly.

**MOTION: APPROVE THE UPDATE OF THE ZONING MAP.**

MOTION MADE: DAVIS

SECONDED: COOK

APPROVED: UNANIMOUS

**G. Discussion regarding a request for qualifications for city engineer.**

Ms. Dobbs explained that the city engineer is a civil engineer tasked with the review and planning for public infrastructure and as development demands increase so do the need for city engineer services to support the staff and Council. Ms. Dobbs noted that as is common in similarly sized cities, the city engages engineering firms to work on different aspects of the city's engineering requirements with the city engineer as a contract consulting position not on staff. Ms. Dobbs stated that the city currently uses Adams Engineering as city engineer and she is unaware of any complaints regarding the service provided. Ms. Dobbs asked the Council if they wished to request and review qualifications for city engineers with Adams Engineers also invited to submit qualifications. The consensus of the Council was to proceed with the process for a Request for Qualification (RFQ) for City Engineering services.

**H. Discussion and action regarding a report from staff and findings from the Texas City Attorneys Association (TCCA) study of secondary effects of sexually oriented businesses and providing staff direction on scheduling a public hearing and adopting a Sexually Oriented Business ordinance.**

Ms. Dobbs explained that because the Zoning Ordinance rewrite does not contain regulations pertaining to sexually oriented businesses, a stand-alone ordinance would be in order. The process for that includes the Council's review of findings and certain other steps. Ms. Dobbs presented the findings of a study commissioned by the Texas City Attorneys Association (TCAA) Board of Directors regarding the extent to which retail only sexually oriented businesses with no on-premise entertainment cause harmful effects on surrounding property values and crime rates. Ms. Dobbs noted the studies in their entirety are available for review in the City Secretary's office.

**MOTION: ACCEPT THE TCAA STUDY OF SECONDARY EFFECTS AND DIRECT STAFF TO PREPARE AN ORDINANCE FOR THE REGULATION OF SEXUALLY ORIENTED BUSINESSES.**

MOTION MADE: COOK

SECONDED: DAVIS  
APPROVED: UNANIMOUS

**I. Discussion regarding participating with the Atmos Cities Steering Committee (ACSC) and the rate schedule “RRM – Rate Review Mechanism” for Atmos Energy Corporation, Mid-Tex Division as a substitution for the annual interim rate adjustment process defined by Section 104.301 of the Texas Utilities Code.**

Ms. Dobbs provided information relating to a recent Atmos submission for a resolution of the Council relating to a new Rate Review Mechanism (RRM) tariff to govern future annual rate filings. Ms. Dobbs further provided information about various coalitions of cities that provide legal advice to cities concerning rate making actions and specifically about options to join the Atmos Cities Steering Committee (ACSC). The consensus of the Council was to consider membership in the ACSC at the next meeting.

**8. EXECUTIVE SESSION**

**In accordance with Texas Government Code, Chapter 551, Subchapter D, the City Council may recess into Executive Session (closed meeting) to discuss the following item pursuant to Section 551.071 (2) and 551.071 (1): Consultation with Attorney 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 the Texas Open Meetings Act and Consultation with Attorney regarding pending litigation or settlement offer: *Application of City of Lavon to Obtain a Sewer Certificate of Convenience and Necessity (CCN)*, Public Utility Commission SOAH Docket No. 473-17-4339.WS, PUC Docket No. 46993.**

The City Council did not recess into executive session.

**9. RECONVENE INTO REGULAR SESSION**

**Consider and take any action necessary as a result of executive session.**

There was no discussion and no action was taken.

**10. CITY COUNCIL TO SET FUTURE MEETINGS AND AGENDAS**

- The next regular meeting of the City Council will be March 20, 2018.
- Ms. Wright requested that an item be placed on the agenda for discussion and action regarding the Texas Department of Transportation (TxDOT) recent rule increasing the allowed height of billboards along Texas’ federally funded roadways from 42.5’ to 85’ in height.

**11. MAYOR PRO TEM SANSON ADJOURNED THE CITY COUNCIL MEETING AT 8:14 P.M.**

**DULY PASSED and APPROVED** by the City Council of the City of Lavon, Texas, on this 20<sup>th</sup> day of March, 2018.

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Charles A. Teske, Jr.  
Mayor

**ATTEST:**

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Kim Dobbs, City Administrator | City Secretary



11500 Northwest Freeway I Suite 465 I Houston, Texas 77092 I Voice: 713-688-3855 I Fax: 713-688-3931

**HERITAGE PUBLIC IMPROVEMENT DISTRICT #1  
ASSESSMENT REPORT SUMMARY  
2/28/18**

Total Receivables As of	2/28/18	\$ 134,452.24	pg 2
Cash Balance As of	1/31/18	\$ 247,626.65	pg 3
February Receipts		\$ 23,675.46	pg 3
February Disbursements		\$ (225,690.00)	pg 3
<b>March Disbursements:</b>			
1 Wire Transfer		\$ (20,000.00)	pg 4
4 Invoices to be paid at a later date			
Cash Balance as of	3/1/18	\$25,612.11	pg 4

CURRENT COLLECTIONS & 4 YEAR HISTORICAL DATA						
Year	Collections 2/28/18	Adjustments 2/28/18	Reserve Uncollectibles	Collections 9/1/13 - 2/28/18	Receivables 2/28/18	Percent Collected
2017	20,898.67			538,437.64	127,378.92	80.87
2016	1,004.92			592,489.13	7,073.32	98.82
2015				599,562.45		100.00
2014				600,372.72		100.00
2013				616,722.00		100.00

Last Year's Percentage of Collections as of 2/28/17 80.55%

CURRENT CERTIFIED LEVY & 4 YEAR HISTORICAL DATA							
Year	Assessment Rates			Class 3	Original	Adjustments	Assessment
	Platted	Class 1	Class 2		Levy		Levy
2017	2006	675.89	810.27		417,963.51	66,930.00	484,893.51
	2008	663.13	794.96	397.48	<u>180,923.05</u>		<u>180,923.05</u>
					598,886.56		665,816.56
2016	2006	675.89	810.27		418,639.40		418,639.40
	2008	663.13	794.96	397.48	<u>180,923.05</u>		<u>180,923.05</u>
					599,562.45		599,562.45
2015	2006	675.89	810.27		419,449.67	(810.27)	418,639.40
	2008	663.13	794.96	397.48	<u>180,923.05</u>		<u>180,923.05</u>
					600,372.72		599,562.45
2014	2006	675.89	810.27		419,449.67		419,449.67
	2008	663.13	794.96	397.48	<u>180,923.05</u>		<u>180,923.05</u>
					600,372.72		600,372.72
2013		<u>Class 1</u> 690.00	<u>Class 2</u> 828.00	<u>Class 3</u> 414.00	616,722.00		616,722.00

(Levy Calculated by Lot Size)

**RECEIVED**  
**MAR 14 2018**  
**CITY OF LAVON**

**HERITAGE PUBLIC IMPROVEMENT DISTRICT #1  
ASSESSMENT REPORT  
2/28/18**

Receivables at 8/31/17	\$ 28,822.22		\$ 28,822.22
Prior Year Adjustments	\$ -		

2017 Assessment Levy	\$ 598,886.56		\$ 665,816.56
SR 0-1	\$ 66,930.00		

Collections From: 9/1/17 - 2/28/18

2017		\$ 538,437.64
2016		\$ 19,280.09
2015		\$ 2,468.81

( \$ 560,186.54 )

<b>TOTAL RECEIVABLE AS OF 2/28/18</b>	<b>\$ 134,452.24</b> =====
---------------------------------------	-------------------------------

**HERITAGE PUBLIC IMPROVEMENT DISTRICT #1  
2/28/18**

	<u>Month of</u> <u>2/28/18</u>	<u>Fiscal to Date</u> <u>10/1/17-2/28/18</u>
Cash Balance as of 1/31/18	\$ 247,626.65	\$ 25,164.03
<b>Receipts</b> Deposited in the Assessment Acct (UTS):		
Current/Prior Assessments	21,903.59	554,005.66
Penalty & Interest	1,599.82	4,806.19
Atty's Fee-Del Coll	165.78	3,311.52
Overpayment Refunds		737.31
NSF Checks		
NSF Fees Paid		
Court Filing Fees		2,461.99
Title Search Fee		647.00
Constable Fee		240.00
Notice to Purchaser		10.00
Escrow		
Assessment Fees Pd in Full		
Stale Dated Checks		
Bank Interest	<u>6.27</u>	<u>20.30</u>
<b>TOTAL RECEIPTS:</b>	<b>\$ 23,675.46</b>	<b>\$ 566,239.97</b>
<b>Disbursements</b> Issued from the Assessment Acct (UTS):		
Transfer/Debt Service	225,000.00	545,000.00
Overpayment Refunds	690.00	737.31
Bank Charges		<u>54.58</u>
<b>TOTAL DISBURSEMENTS:</b>	<b>( \$ 225,690.00 )</b>	<b>( \$ 545,791.89 )</b>
Cash Balance As of 2/28/18	<b>\$ 45,612.11</b> =====	<b>\$ 45,612.11</b> =====

**HERITAGE PUBLIC IMPROVEMENT DISTRICT #1  
2/28/18**

Cash Balance As of 2/28/18 \$ 45,612.11

**Disbursements For March 2018:**

<u>Check #</u>	<u>Payee</u>	<u>Description</u>	<u>Amount</u>
W/T	Debt Service Fund on 3/21/18	Transfer of Funds	20,000.00

Total Disbursements: ( \$ 20,000.00 )

Cash Balance As of 3/1/18 \$ 25,612.11  
=====

**Invoices to be Approved & Paid at a Later Date for March 2018:**

<u>Payee</u>	<u>Description</u>	<u>Amount</u>
CS IT Services, LLC	Consulting Fee	\$ 220.00
MuniCap, Inc.	Professional Fees (Inv #022018-134)	\$ 213.75
Ted A. Cox	Atty's Fee - Delinquent Coll	\$ 301.74
Mike Arterburn, A/C	March Fee	\$ 941.75
	<b>Total</b>	<b>\$ 1,677.24</b>

**HERITAGE PUBLIC IMPROVEMENT DISTRICT #1  
2/28/18**

<b>CURRENT COLLECTIONS &amp; HISTORICAL DATA</b>						
<u>Year</u>	<u>Collections</u> <u>2/28/18</u>	<u>Adjustments</u> <u>2/28/18</u>	<u>Reserve</u> <u>Uncollectibles</u>	<u>Collections</u> <u>9/1/07- 2/28/18</u>	<u>Receivables</u> <u>2/28/18</u>	<u>Percent</u> <u>Collected</u>
2017	20,898.67			538,437.64	127,378.92	80.87
2016	1,004.92			592,489.13	7,073.32	98.82
2015				599,562.45		100.00
2014				600,372.72		100.00
2013				616,722.00		100.00
2012				616,722.00		100.00
2011				617,412.00		100.00
2010				618,102.00		100.00
2009				618,102.00		100.00
2008				441,835.00		100.00
2007				431,388.00		100.00

<b>CURRENT CERTIFIED LEVY &amp; HISTORICAL DATA</b>								
<u>Year</u>	<u>Replatted</u>	<u>Class 1</u>	<u>Class 2</u>	<u>Class 3</u>	<u>Original</u> <u>Levy</u>	<u>Adjustments</u>	<u>Assessment</u> <u>Levy</u>	<u>SR/KR</u> <u>Rolls</u>
2017	2006	675.89			273,735.45	66,930.00	340,665.45	1-0
	2008	663.13	810.27		144,228.06		144,228.06	
			794.96		69,628.65		69,628.65	
				397.48	85,855.68		85,855.68	
					<u>25,438.72</u>		<u>25,438.72</u>	
					598,886.56		665,816.56	
2016	2006	675.89			274,411.34		274,411.34	
	2008	663.13	810.27		144,228.06		144,228.06	
			794.96		69,628.65		69,628.65	
				397.48	85,855.68		85,855.68	
					<u>25,438.72</u>		<u>25,438.72</u>	
					599,562.45		599,562.45	
2015	2006	675.89			274,411.34		274,411.34	
	2008	663.13	810.27		145,038.33	(810.27)	144,228.06	0-1
			794.96		69,628.65		69,628.65	
				397.48	85,855.68		85,855.68	
					<u>25,438.72</u>		<u>25,438.72</u>	
					600,372.72		599,562.45	
2014	2006	675.89			274,411.34		274,411.34	
	2008	663.13	810.27		145,038.33		145,038.33	
			794.96		69,628.65		69,628.65	
				397.48	85,855.68		85,855.68	
					<u>25,438.72</u>		<u>25,438.72</u>	
					600,372.72		600,372.72	
2013		<u>Class 1</u>	<u>Class 2</u>	<u>Class 3</u>	616,722.00		616,722.00	
2012		690.00	828.00	414.00	616,722.00		616,722.00	
2011		690.00	828.00	414.00	618,102.00	(690.00)	617,412.00	0-1
2010		690.00	828.00	414.00	618,102.00		618,102.00	
2009		690.00	828.00	414.00	615,894.00	2,208.00	618,102.00	2-1
2008		690.00	828.00		431,388.00	10,447.00	441,835.00	1-0
2007		690.00	828.00		431,388.00		431,388.00	

(Levy Calculated by Lot Size)

**HERITAGE PUBLIC IMPROVEMENT DISTRICT #1  
2/28/18**

**Accounts Paid in Full:**

- \$12,103.00 2008 Reported as other fees collected on 12/08 report. Transferred to 2008 Assessments on 3/09 report. Account paid in full.  
**Account #R-9032-00M-0120-1** (Per SR #1 increased 08 base on 3/09)
  
- \$ 9,228.19 2011 Received funds in the amount \$9,228.19 on 10/11 report. Applied as follows:  
(Base \$690.00 + \$8,538.19 as other fees & applied as full payment for  
**Account # R-9095-00B-0150-1**
  
- \$ 9,658.04 2014 Received funds in the amount of \$10,468.31 on 1/15 report. Applied as follows:  
(Base \$810.27 + \$9,658.04 as other fees & applied as full payment for  
**Account # R-9032-00A-0790-1**
  
- \$ 7,590.18 2016 Received funds in the amount of \$7,590.18 on 3/17 report. Applied as follows:  
\$7,590.18 as other fees & applied as full payment for **Account # R-9095-00G-0120-1**

**Notes:**

**Installment Plans**

<u>Year(s)</u>	<u>Name/Account Number</u>	<u>Payment Schedule</u>	<u>Current Yes/No</u>
2016	Linda Gayler R-9032-00D-0240-1	3/17-2/18 12 Months	Paid in Full on 1/18
2017	Renette Black R-9095-00A-0300-1	3/18 - 2/19 12 Months	1st pmt due 3/15/18
2017	Dianna Harrison R-9032-00e-0190-1	3/18 - 2/19 12 Months	1st pmt due 3/15/18
2017	Eric & Ernestine Hawkins R-9032-00E-0070-1	3/18 - 2/19 12 Months	Yes
2017	Kenneth Kennedy R-9635-00E-01801-1	1/18 - 12/18 12 Months	Yes



# CS IT Services, LLC.

9839 Whithorn Drive, Suite B  
Houston, TX 77095

Phone 713-875-7595

# INVOICE

Invoice Date	Invoice No	Page
1/2/2018	1286	

<b>Bill To:</b>
Utility Tax Service, LLC 11500 Northwest Freeway #485 Houston, TX 77092

<b>Ship To:</b>
Utility Tax Service, LLC 11500 Northwest Freeway #485 Houston, TX 77092

Customer No	Customer PO	Ship Via	Terms
		Our Truck	Net 30

Item	Description	Quantity	Unit	Unit Price	T	Total
CIH	Consulting In-house by RGO Generate 2017 SR1 roll for Heritage PID 1	2	Hour	110.00		220.00T

<b>Notes:</b>

Subtotal	\$220.00
Shipping	
Sales Tax	\$18.15
<b>Total Due</b>	<b>\$238.15</b>

*Thank you for your business!*

A finance charge of 1 1/2% per month will be charged on all past due amounts.

Please see reverse side for terms, conditions and return policies.

**MuniCap, Inc.**  
 8965 Guilford Road  
 Suite 210  
 Columbia, MD 21046

# INVOICE

**Invoice Date** 2/12/2018  
**Invoice #** 022018-134

**Balance Due** \$213.75

Remit check to:

or

Wire Instructions:

Bill To:

CITY OF LAVON, TEXAS  
 c/o Utility Tax Services  
 - VIA EMAIL TO -  
 utilitytaxservice@sbcglobal.net

MuniCap, Inc.  
 8630 M Guilford Road #263  
 Columbia, MD 21046

The Columbia Bank  
 9151 Baltimore National Pike  
 Ellicott City, MD 21042  
 (410) 418-8500

ABA Routing No.: 055 002 338  
 To the account of: MuniCap, Inc.  
 Account No.: 00 082 362 31

Project Heritage PID #1 1657

PLEASE DETACH AND RETURN TOP PORTION WITH PAYMENT

**Invoice Date**  
2/12/2018

**Invoice #**  
022018-134

**MuniCap, Inc.**  
 8965 Guilford Road  
 Suite 210  
 Columbia, MD 21046

**Terms** Net 30  
**Client #** 1657

Item	DATE	Description	Hrs	Amount
Assoc (MV)	1/16/2018	Process administrative invoices and certificates authorizing payment and forward for approval, as required by Trust Indenture.	0.25	33.75
Assoc (JLA)	1/19/2018	Assist with identification and provision of material information related to on-going compliance.	0.5	67.50
Sr Assoc (JA)	1/24/2018	Respond to realtor inquiry into principal balance of homeowner property.	0.5	75.00
Sr Assoc (JA)	1/30/2018	Respond to Remax realtor inquiry about annual installments.	0.25	37.50
Subtotal Fees:				213.75
EIN: 03-0461891. Overdue accounts are subject to 1% monthly finance charge.			<b>Total</b>	<b>\$213.75</b>

Billing Inquiries? Call (443) 539-4104

February 14, 2018

Marie Meave, Trustee  
The Bank of New York Mellon  
601 Travis Street, 16th Fl.  
Houston, TX 77002

**RE: City of Lavon, Texas, Special Assessment Revenue Bonds, Series 2013  
Heritage Public Improvement District No. 1**

Dear Ms. Meave,

Pursuant to the Trust Indenture between the City of Lavon, Texas and The Bank of New York Mellon Trust Company, N.A., as Trustee, providing for the issuance of \$8,065,000 of the City of Lavon, Texas Special Assessment Revenue Bonds (Heritage PID #1 Project), please pay the enclosed invoice in the total amount of \$213,75 to MuniCap, Inc., from the Administrative Expense Fund created pursuant to the Trust Indenture. This invoice is for administrative services provided by MuniCap for the City, and the nature of these services is more fully described in the attached invoice.

Please mail the check to MuniCap at the following address:

**8630 M Guilford Road  
#263  
Columbia, MD 21046**

The undersigned person is an Authorized Representative of the City as provided for in the Trust Indenture.

Please do not hesitate to call me with any questions regarding this matter.

Very truly yours,

City of Lavon, Texas

By: \_\_\_\_\_  
*Authorized Representative*

Enclosure



11500 Northwest Freeway I Suite 465 I Houston, Texas 77092 I Voice: 713-688-3855 I Fax: 713-688-3931

March 1, 2018

City of Lavon  
Heritage PID # 1

### **Ted Cox Invoice**

February 2018 Delinquent Collections	\$ 165.78
Postage/Xerox Fees (February 2018)	\$ 135.96
<b>Total</b>	<b>\$ 301.74</b>

**Payable to:**

Ted A. Cox, P.C.  
1225 W. 34<sup>th</sup> St.  
Houston, Texas 77018

**TED A. COX, P.C.**  
Attorney at Law  
2855 Mangum, Suite 100  
Houston, Texas 77092  
(713) 956-9400 Office  
(713) 956-8485 Telefax

February 26, 2018

Utility Tax Service, LLC  
11500 Northwest Freeway, #465  
Houston, TX 77092

RE: Heritage P.I.D. #1 - Collections

Expenses:

Postage/Xerox Fees/Deeds (February 2018) ..... \$135.96

**TOTAL DUE THIS INVOICE: ..... \$135.96**

MONTH OF FEBRUARY 2018

<u>DISTRICT</u>	<u>COPIES</u>	<u>POSTAGE</u>	<u>DEED</u>	<u>OTHER EXPENSES</u>	<u>TOTAL</u>
Chambers PID #2					
Chambers PID #3					
Denton County	\$4.30	\$1.50			\$5.80
CNP UD	\$3.50	\$16.34		\$125.00 (constable fee)	\$144.84
El Dorado UD	\$2.90	\$21.51		\$127.75 (constable fee)	\$152.16
Encanto Real					
Fort Bend MUD					
Galveston MUD #14	\$5.90	\$3.89		\$85.00 (constable fee)	\$94.79
Galveston MUD #15	\$1.10			\$90.00 (constable fee)	\$91.10
Heritage PID	\$5.10	\$2.86	\$128.00		\$135.96
HC MUD #5	\$13.50	\$34.18			\$47.68
HC UD #16	\$8.50	\$26.84			\$35.34
HC MUD #104	\$2.80				\$2.80
HC MUD #200	\$5.70	\$16.84			\$22.54
HC MUD #211					
HC MUD #233					
HC MUD #238	\$6.60	\$9.17			\$15.77
HC MUD #257					\$3.00
HC MUD #304	\$1.80	\$8.17		\$75.00 (constable fee)	\$84.97

**HERITAGE PUBLIC IMPROVEMENT DISTRICT #1**  
**2/28/18**

		<b>Month of</b> <u>2/28/18</u>	<b>Fiscal to Date</b> <u>10/1/17-2/28/18</u>
Cash Balance as of	1/31/18	<b>\$ 247,626.65</b>	<b>\$ 25,164.03</b>
 <b>Receipts</b> Deposited in the Assessment Acct (UTS):			
Current/Prior Assessments		21,903.59	554,005.66
Penalty & Interest		1,599.82	4,806.19
<del>Atty's Fee-Del Coll</del>		<del>165.78</del>	3,311.52
Overpayment Refunds			737.31
NSF Checks			
NSF Fees Paid			
Court Filing Fees			2,461.99
Title Search Fee			647.00
Constable Fee			240.00
Notice to Purchaser			10.00
Escrow			
Assessment Fees Pd in Full			
Stale Dated Checks			
Bank Interest		<u>6.27</u>	<u>20.30</u>
<b>TOTAL RECEIPTS:</b>		<b>\$ 23,675.46</b>	<b>\$ 566,239.97</b>
 <b>Disbursements</b> Issued from the Assessment Acct (UTS):			
Transfer/Debt Service		225,000.00	545,000.00
Overpayment Refunds		690.00	737.31
Bank Charges			<u>54.58</u>
<b>TOTAL DISBURSEMENTS:</b>		<b>( \$ 225,690.00 )</b>	<b>( \$ 545,791.89 )</b>
<b>Cash Balance As of</b>	<b>2/28/18</b>	<b><u>\$ 45,612.11</u></b>	<b><u>\$ 45,612.11</u></b>

Mike Arterburn, Tax A/C

%Utility Tax Service, LLC  
11500 NW Freeway, Ste 465  
Houston, TX 77092

# Invoice

Date	Invoice #
3/1/2018	8737

Bill To
Heritage PID 1

Item	Description	Amount
Monthly Fee	March Assessment Collector Fee	941.75
<b>Total</b>		\$941.75
<b>Payments/Credits</b>		\$0.00
<b>Balance Due</b>		\$941.75



**CITY OF LAVON  
CITY COUNCIL  
Agenda Brief**

**MEETING: March 20, 2018**

**ITEM: 6-C**

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**Item:**

Approve Ordinance No. **2018-03-02** amending Ordinance No. **1997-12-08** as previously amended, the same being the Comprehensive Zoning Ordinance of the City of Lavon, and amending Zoning Map 02-13-13, to adopt the new zoning regulations; providing for the adoption of the Lavon Comprehensive Zoning Ordinance and Zoning Map as set forth in Exhibits A and B thereto; providing a penalty for violation; and providing an effective date.

**Background:**

At the March 6, 2018 meeting, the City Council approved the rewrite of the Zoning Ordinance and the updated Zoning Map. The City Attorney suggested some minor changes to the adopting ordinance and recommended that as a formality, the City Council approve the revision. Other than to formalize the approvals, this revised ordinance does not alter, change or amend the March 6 actions of the City Council in any way. Approval is recommended.

**Attachments:** Proposed Ordinance

March 14, 2018

**CITY OF LAVON, TEXAS**  
**ORDINANCE NO. 2018-03-02**

Zoning Ordinance and Zoning Map

**AN ORDINANCE OF THE CITY OF LAVON, TEXAS AMENDING ORDINANCE NO. 1997-12-08, THE ORDINANCE ADOPTING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF LAVON, TEXAS, AS SUBSEQUENTLY AMENDED BY ORDINANCE NUMBERS 1998-02-01, 2000-10-03, 2004-01-01, 2004-10-01, 2010-12-01, 2011-11-02, 2013-05-02, AND 2013-12-15, (SUCH ORDINANCES BEING COLLECTIVELY REFERRED TO AS “ZONING ORDINANCE NO. 1997-12-08”), AND ADOPTING NEW ZONING REGULATIONS AS SPECIFICALLY SET FORTH IN EXHIBIT “A” AND ALL EXHIBITS THERETO, A COPY OF WHICH IS ATTACHED HERETO AND INCORPORATED HEREIN IN ITS ENTIRETY, TO REGULATE ZONING AND LAND USE, INCLUDING WITHOUT LIMITATION BUILDING HEIGHT, SIZE OF YARDS, COURTS AND OPEN SPACES, BULK AND USE OF BUILDINGS AND LAND, MINIMUM FLOOR AREA, MINIMUM OFF-STREET PARKING OF VEHICLES, AND RELATED ZONING AND LAND USE REGULATIONS IN ACCORDANCE WITH THE CITY’S COMPREHENSIVE PLAN; PROVIDING FOR THE DUTIES AND AUTHORITY OF THE PLANNING AND ZONING COMMISSION AND OF THE ZONING BOARD OF ADJUSTMENT; PROVIDING FOR THE ADOPTION OF A ZONING MAP ATTACHED HERETO AS EXHIBIT “B”, WHICH MAP SHALL AMEND ZONING MAP 02-13-13 AS SET FORTH IN EXHIBIT “B”; PROVIDING FOR THE INCORPORATION OF PREMISES; PROVIDING FINDINGS; PROVIDING FOR AN AMENDMENT; PROVIDING A SAVINGS CLAUSE; PROVIDING A CUMULATIVE REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE AND A SEPARATE OFFENSE SHALL BE DEEMED COMMITTED EACH DAY DURING OR ON WHICH A VIOLATION OCCURS OR CONTINUES; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of Lavon (hereinafter “City Council”) finds that public health, safety, welfare, and aesthetic concerns create the need to enact zoning regulations and that due diligence requires periodic review of zoning regulations; and

**WHEREAS**, Zoning Ordinance No. 1997-12-08, the Ordinance adopting the Comprehensive Zoning Ordinance of the City of Lavon, Texas, was subsequently amended by Ordinance Numbers 1998-02-01, 2000-10-03, 2004-01-01, 2004-10-01, 2010-12-01, 2011-11-02, 2013-05-02, and 2013-12-15, (such Ordinances being collectively referred to as “Zoning Ordinance No. 1997-12-08”),

**WHEREAS**, the City of Lavon, Texas, (the “City”) has the legal authority to adopt regulations governing zoning and the use of land within its corporate limits in accordance with its Comprehensive Plan in order to lessen congestion in the streets; secure safety from fire, panic and other dangers, promote health and general welfare; provide adequate light and air, prevent the overcrowding of land, avoid undue concentration of population, facilitate the adequate provision of transportation, water, sewers, schools, parks and other public requirements; regulate aesthetics and other important governmental interests; and

**WHEREAS**, as a result of the determination by the Lavon Planning & Zoning Commission and the City Council that a review the Lavon Zoning Ordinance was necessary to ensure the safe, orderly and healthful development of the City, the City staff and Planning and Zoning Commission undertook a review of the existing Zoning Ordinance; and

**WHEREAS**, after extensive study of the Zoning Ordinance No. 1997-12-08, as subsequently amended by Ordinance Numbers 1998-02-01, 2000-10-03, 2004-01-01, 2004-10-01, 2010-12-01, 2011-11-02, 2013-05-02, and 2013-12-15, (such Ordinances being collectively referred to as “Zoning Ordinance No. 1997-12-08”), the Planning and Zoning Commission determined that the rewrite, update and amendment of Zoning Ordinance No. 1997-12-08 was necessary; and

**WHEREAS**, the amendments to Zoning Ordinance No. 1997-12-08 begin adopted herein are set forth in Exhibit “A”, “Lavon Zoning Ordinance” and Exhibit “B” thereto, “Zoning Map”, respectively, to this Ordinance (collectively referred to as the “Lavon Zoning Ordinance”) are beneficial to the orderly development of the City of Lavon; and

**WHEREAS**, after all legal notices required by Chapter 211 of the Texas Local Government Code, the required public hearing on the proposed Lavon Zoning Ordinance was held by the Planning and Zoning Commission on the 27<sup>th</sup> day of February, 2018, and after consideration of the comments and input received, the Planning and Zoning Commission recommended approval of the proposed Lavon Zoning Ordinance and Zoning Map as set forth in Exhibit “A” and Exhibit “B” thereto; and

**WHEREAS**, after compliance with all legal notices required by Chapter 211 of the Texas Local Government Code, the required public hearing on the proposed Lavon Zoning Ordinance was held by the City Council on the 6<sup>th</sup> day of March, 2018, and after consideration of the Lavon Zoning Ordinance at its lawfully posted open meeting on the 6<sup>th</sup> day of March, 2018, the City Council finds and determines that the proposed regulations are consistent with the City’s Comprehensive Plan, are reasonable and that the best interests of the public are served by adoption of the Lavon Zoning Ordinance as more specifically set forth herein.

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

**SECTION 1. INCORPORATION OF PREMISES**

The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

## **SECTION 2. FINDINGS**

After due deliberations and consideration of the recommendation of the Planning & Zoning Commission and the information and other materials received at the public hearing and public meetings, the City Council has concluded that the adoption of the Lavon Zoning Ordinance serves the best interests of the City of Lavon, Texas, serves the health, safety, welfare and aesthetic concerns of the public, and is consistent with the City's Comprehensive Plan.

## **SECTION 3. AMENDMENT**

Zoning Ordinance No. 1997-12-08, the Ordinance adopting the Comprehensive Zoning Ordinance of the City Of Lavon, Texas, as subsequently amended by Ordinance Numbers 1998-02-01, 2000-10-03, 2004-01-01, 2004-10-01, 2010-12-01, 2011-11-02, 2013-05-02, and 2013-12-15, (such Ordinances being collectively referred to as "Zoning Ordinance No. 1997-12-08"), is hereby amended as set forth in **Exhibit "A"**, "Lavon Zoning Ordinance", including all attachments thereto, and **Exhibit "B"**, "Zoning Map" amending Zoning Map 02-13-13, copies of which are attached hereto and incorporated herein as if written word for word (Collectively **Exhibit "A"** and **Exhibit "B"** shall be referred to as the "Lavon Zoning Ordinance and Zoning Map"). The Lavon Zoning Ordinance and Zoning Map are hereby adopted and shall constitute the Zoning Ordinance and Zoning Map for the City of Lavon, Texas, and Zoning Ordinance No. 1997-12-08 and Zoning Map 02-13-13 and all previously adopted ordinances and parts thereof regulating zoning and providing a zoning district map which are in conflict with the terms of this Ordinance shall have no force or effect as of the effective date of this Ordinance, except as expressly and specifically provided herein. Notwithstanding the foregoing, any and all legally adopted ordinances creating or regulating a planned development district or granting a specific use permit shall remain in full force and effect and shall not be affected by the by the adoption of this Lavon Zoning Ordinance and Zoning Map amending Zoning Ordinance No. 1997-12-08.

## **SECTION 4. SAVINGS**

That all rights and remedies of the City of Lavon are expressly saved as to any and all violations of the provisions of any Ordinances regulating, affecting, or relating to zoning, land use and/or development which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such Ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

## **SECTION 5. CUMULATIVE REPEALER**

That this Ordinance shall be cumulative of all other Ordinances affecting zoning and zoning maps which are not expressly amended or repealed hereby in accordance with Section 3 above, and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance in accordance with Section 3 above. Except as provided in Section 3 above, Ordinances or parts thereof in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance. Provided however, that any

complaint, action, claim or lawsuit which has been initiated or has arisen under or pursuant to such Ordinance on the date of adoption of this Ordinance shall continue to be governed by the provisions of that Ordinance and for that purpose the Ordinance shall remain in full force and effect.

**SECTION 6. SEVERABILITY**

If any section, article, paragraph, sentence, clause, phrase or word in this Ordinance or application thereof to any person or circumstance is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

**SECTION 7. PENALTY**

It shall be unlawful for any person to violate any provision of this Ordinance, and any person violating or failing to comply with any provision hereof shall be fined, upon conviction, in an amount not less than One Dollar (\$1.00) nor more than Two Thousand Dollars (\$2,000.00), and a separate offense shall be deemed committed each day or part of a day during or on which a violation occurs or continues. Further, if the governing body of the City of Lavon determines that a violation of this Ordinance creates a threat to the public safety, the City may bring suit in the District Court to enjoin such violation and may exercise all available remedies as allowed by law.

**SECTION 8. PUBLICATION**

The City Secretary of the City of Lavon is hereby directed to publish the Caption, Penalty and Effective Date of this Ordinance as required by Section 52.011 of the Texas Local Government Code.

**SECTION 10. EFFECTIVE DATE**

That this Ordinance shall be in full force and effect from and after its date of passage, in accordance with law, and it is so ordained.

**DULY PASSED and APPROVED** by the City Council of the City of Lavon, Texas, on the 20th day of March, 2018.

---

Charles A. Teske, Jr., Mayor

**ATTEST:**

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Kim Dobbs, City Administrator | City Secretary

**EXHIBIT "A"**

**CITY OF LAVON, TEXAS  
ORDINANCE NO. 2018-03-02**

**LAVON ZONING ORDINANCE**

# LAVON ZONING ORDINANCE

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## **CHAPTER 1 – GENERAL AUTHORITY**

### **4.1.1.1 ENACTING CLAUSE**

This Subtitle shall be known, cited and referred to as the Zoning Ordinance of the City of Lavon, and may be referred to herein as “Subtitle” or “Zoning Ordinance”.

### **4.1.1.2 PURPOSE**

Regulations in this Zoning Ordinance are established in accordance with the Comprehensive Master Plan for the purpose of promoting the health, safety, morals, and general welfare and protecting and preserving places and areas of historical, cultural or architectural importance and significances for and of the citizens of the City of Lavon. All of the zoning regulations are designed to:

- 1) Implement the City of Lavon’s Comprehensive Master Plan;
- 2) Lessen congestion on streets, roads and highways;
- 3) Secure safety from fire, panic and other dangers;
- 4) Promote health and the general welfare;
- 5) Provide adequate light and air;
- 6) Prevent the overcrowding of land;
- 7) Avoid undue concentration of population; and
- 8) Facilitate adequate provision of transportation, water, sanitary and storm sewers, schools, parks and other public requirements facilities;

### **4.1.1.3 RELATIONSHIP TO OTHER PLANS**

This Subtitle is intended to implement the policies and recommendations contained in the City of Lavon Comprehensive Master Plan, the Thoroughfare Plan and the Open Space Plan.

### **4.1.1.4 EFFECTIVE DATE**

This Subtitle shall become effective from and after its adoption and publication as required by law, subject to the following:

- A) Any construction lawfully in progress and construction for which unexpired building permits have been issued in accordance with the prior ordinance shall be allowed to proceed and any such uses or structure, upon completion, shall be non-conforming uses or structures if they do not conform to the new ordinance.
- B) Pending applications for zoning changes submitted prior to the effective date of this Subtitle shall be processed in accordance with the City’s zoning regulations in effect at the time the application for the permit is filed and, upon recommendation of the Planning and Zoning Commission and approval of such application by the City Council in accordance with those applicable regulations, the change or amendment shall be classified and placed into the proper zoning district where the use and occupancy is permitted as contained in this Subtitle.

- C) A building permit application or construction plans submitted prior to the effective date of this Subtitle shall be processed and constructed in accordance with the Zoning Ordinance in effect on the date of application.

#### 4.1.1.5 ENFORCEMENT

- A) It shall be unlawful to intentionally, knowingly or recklessly erect, construct, reconstruct, alter, maintain or use any building or land area in violation of any provision of this Subtitle.
- B) No permit, certificate, license or other document or verbal approval, subject to the provisions of this Subtitle shall be issued by any department, agency, or board until it has been determined that all substantive requirements have been met and all procedures have been followed.
- C) Offenses committed and all liabilities incurred prior to the effective date of any subsequent amendments to this Subtitle shall be treated as though all prior applicable regulations were in full force and effect for the purpose of sustaining any suit, action or prosecution with respect to such offenses and liabilities.

#### 4.1.1.6 PENALTY FOR VIOLATION

- A) Any person or corporation who violates any of the provisions of this Subtitle or fails to comply with any of the requirements, or builds or alters any building or use in violation of any detailed statement or plan submitted and approved is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than two thousand dollars (\$2,000) and each day such violation shall be permitted to exist shall constitute a separate offense.
- B) The owner or owners of any building or premises or part thereof, where anything in violation of this Subtitle is placed, and any architect, builder, contractor, agent, person or corporation employed in connection therewith and who may have assisted in the commission of any such violation shall be guilty of a separate offense and upon conviction shall be fined as provided above.
- C) A person commits an offense if he owns, uses or controls a premise and fails to comply with any of the provisions of this Subtitle.
- D) It is a defense to prosecution under this Subtitle that a person is in compliance with an order of the Board of Adjustment that specifically authorizes otherwise unlawful conduct under this ordinance.

#### 4.1.1.7 CIVIL ACTION

This Subtitle may be enforced through civil court action as provided by State law.

#### 4.1.1.8 CERTIFICATE OF OCCUPANCY AND REVOCATION OF DEVELOPMENT PERMIT

- A) No building hereafter erected or structurally altered shall be used, occupied or changed in use until a certificate of occupancy has been issued by the City of Lavon, stating that the building or proposed use of a building or premises complies with this Ordinance and the adopted building and related codes and

the provisions of these regulations. A change in use shall be construed to mean any change in the occupancy of the building or premises. If provisions of this Subtitle are violated, the certificate of occupancy shall become null and void, and a new certificate shall be required for any further use of such building, structure or land.

- B) The City shall have the power to revoke any certificate, permit or development approval for the violation of any of these regulations or conditions imposed in the granting of a development permit. Revocation of a development permit requires:
- 1) A public hearing where the Planning and Zoning Commission shall determine the nature and extent of the violation of the development permit;
  - 2) Proper notice to the permittee;
  - 3) Written notice from the Chair which shall give the permittee the reasons for the proposed cancellation of the permit; and
  - 4) A finding by the Commission that reasonable corrective measures have not been done by the permittee and that revocation of the development permit is required.
- C) The Zoning Administrator shall have the right to order immediate compliance with any provision of this Subtitle or any condition of a development permit dealing with a direct health or safety issue. If immediate compliance is not obtained, the Zoning Administrator shall order immediate cessation of operation, cut off utility access, and refer the matter to the Commission for consideration of revocation of the permit.

#### 4.1.1.9 ADMINISTRATION AND ENFORCEMENT AUTHORITY

The provisions in this Subtitle shall be administered and enforced by the Zoning Administrator who shall be the City Administrator or such person's designee. The Zoning Administrator's duties shall include the bringing of legal action to ensure compliance with this Subtitle or other appropriate action or proceeding.

#### 4.1.1.10 EFFECTS OF PRIVATE COVENANTS

Nothing in this Subtitle shall be construed to render inoperative any restriction established by covenants running with the land, unless such restrictions are prohibited or are contrary to the provisions of these regulations. In the event of a conflict, this Ordinance controls.

#### 4.1.1.11 INTERPRETATIONS

Unless the context clearly indicates otherwise, the following rules apply in interpreting this Ordinance:

- A) Words used in the present tense include the future tense.
- B) Words in the singular include the plural, and words in the plural include the singular.
- C) The word "lot" includes the words "building site," "site," "plot" or "tract."

- D) The word “shall” is mandatory and not discretionary.
- E) The word “may” is optional and discretionary.
- F) The words “used” or “occupied” as applied to any land or building shall be construed to include the words “intended, arranged or designed to be used or occupied.”

4.1.1.12 ESTOPPEL/WAIVER

The failure of the City of Lavon to enforce any term or condition of this Ordinance shall not constitute a waiver or estoppel of any subsequent violation of this Ordinance.

**CHAPTER 2 –DISTRICTS AND ZONING DISTRICT MAP**

4.1.2.1 ZONING DISTRICTS ESTABLISHED

In order to regulate the use of land and buildings, and to regulate the location, height, bulk and size of buildings and other structures built on the land, the following districts are hereby created:

<b>Figure 4.1.2.1</b>	
<b>ABBREVIATED DESIGNATION</b>	<b>ZONING DISTRICT NAME</b>
<b>Agricultural &amp; Residential Districts</b>	
A	Agricultural
SF-1	Single Family-1
SF-2	Single Family-2
SF-4	Single Family-4
<b>Commercial Districts</b>	
R	Retail
M	Main Street
B	Business Park
<b>Planned Development Districts</b>	
PD-SF	Planned Development - Single Family
PD-MU	Planned Development - Mixed Use
PD-C	Planned Development - Commercial
PD-B	Planned Development - Business

4.1.2.2 PERMITTED USE TABLE

The following table presents the zoning district classifications and a summary of the permitted and conditional uses within those classifications. Uses are listed as being permitted (P), permitted by conditional use permit (C), and not permitted (as signified by "--").

If a use is not listed in the Zoning Ordinance or on the table, the use is prohibited. An applicant may request an amendment to the Zoning Ordinance to request the addition of an unlisted use.

Figure 4.1.2.2

ZONING USE SUMMARY TABLE

P = Permitted Use      C = Conditional Use      -- = Not Permitted

RESIDENTIAL USES	RESIDENTIAL DISTRICTS				NON-RESIDENTIAL & SPECIAL DISTRICTS			
	A	SF-1	SF-2	SF-4	R	M	B	PD
Single family (SF) detached dwelling	P	P	P	P	--	P	--	P
Home based business within a SF dwelling	P	P	P	P	--	P	--	P
Single family - zero lot line	--	--	--	--	--	--	--	P
Single family attached - townhomes	--	--	--	--	--	--	--	P
Duplex	--	--	--	--	--	--	--	P
Multi-family dwelling	--	--	--	--	--	C	--	C
Real estate model home	--	C	C	C	--	--	--	P
Vertically mixed use multifamily residential and retail	--	--	--	--	--	P	--	--
Bed and Breakfast	--	--	--	--	--	C	--	--
Manufactured home detached dwelling park	C	--	--	--	--	--	--	--
Guest house, caretaker or security quarters for SF dwelling	P	P	--	--	--	--	--	--
Accessory structure with restrictions	P	P	P	P	--	--	--	--
SF parking garage	P	P	P	P	--	--	--	--
SF swimming pool	P	P	P	P	--	--	--	P
SF hobby shed	P	P	P	P	--	--	--	--
SF tennis court	P	P	P	P	--	--	--	P

RETAIL, COMMERCIAL, PERSONAL SERVICE USES	A	SF-1	SF-2	SF-4	R	M	B	PD
Amusement establishment	--	--	--	--	C	C	--	P
Animal boarding, kennel or shelter	C	--	--	--	--	--	--	P
Automobile fueling station	--	--	--	--	C	--	--	P
Automobile service establishment	--	--	--	--	C	--	P	P
Bakery/confectionery retail establishment	--	--	--	--	C	C	--	C
Building material sales	--	--	--	--	C	--	--	P
Business service and sales	--	--	--	--	P	P	--	P
Car wash	--	--	--	--	C	--	--	P
Cash and retail lending service establishment	--	--	--	--	C	--	--	C
Commercial greenhouse or nursery	C	--	--	--	--	--	--	--
Commercial stable	C	C	--	--	--	--	--	--
Dry-cleaning retail establishment	--	--	--	--	C	C	--	P

## ZONING USE SUMMARY TABLE

P = Permitted Use      C = Conditional Use      -- = Not Permitted

	RESIDENTIAL DISTRICTS				NON-RESIDENTIAL & SPECIAL DISTRICTS			
	A	SF-1	SF-2	SF-4	R	M	B	PD
<b>RETAIL, COMMERCIAL, PERSONAL SERVICE USES</b>								
Establishments > 75% revenue from alcohol sales	--	--	--	--	C	--	--	C
Exercise and sports establishment	--	--	--	--	C	C	--	P
Financial institution	--	--	--	--	P	P	--	P
Home and residence services	--	--	--	--	P	P	--	P
Hotel	--	--	--	--	C	--	--	P
Insurance	--	--	--	--	P	P	--	P
Medical and state licensed health services	--	--	--	--	P	P	--	P
Merchandise rental	--	--	--	--	C	--	--	P
Nursery, garden, landscape material sales	--	--	--	--	C	--	--	P
Outdoor or drive-thru sales or service	--	--	--	--	C	C	--	P
Personal services	--	--	--	--	P	P	--	P
Pet grooming and care services	--	--	--	--	C	C	--	C
Pharmacy	--	--	--	--	P	P	--	P
Private clubs and organizations (indoor)	--	--	--	--	C	--	--	C
Professional service and sales	--	--	--	--	P	P	--	P
Recreational vehicle park	C	--	--	--	--	--	--	--
Real estate	--	--	--	--	P	P	--	P
Restaurant	--	--	--	--	P	P	--	P
Retail sales	--	--	--	--	P	P	--	P
Retail storage facilities	--	--	--	--	C	--	--	P
Second-hand/used goods/pawn shop	--	--	--	--	C	--	--	C
Tattoo service and similar body artwork	--	--	--	--	C	--	--	C
Technical service and sales	--	--	--	--	P	P	--	P
Vapor smoking services	--	--	--	--	C	C	--	C
Vehicle display and sales	--	--	--	--	--	--	--	P
Vehicle parking garage	--	--	--	--	--	--	--	P
Vertically mixed use retail and multifamily residential	--	--	--	--	--	P	--	--
Veterinarian service, animal clinic	C	--	--	--	C	C	--	P

	A	SF-1	SF-2	SF-4	R	M	B	PD
<b>INSTITUTIONAL &amp; CIVIC USES</b>								
Cemetery or mausoleum	P	P	P	--	--	--	--	--
Church or place of worship	P	P	P	P	C	C	--	P
Community recreational use	--	C	C	C	--	--	--	--

## ZONING USE SUMMARY TABLE

P = Permitted Use      C = Conditional Use      -- = Not Permitted

	RESIDENTIAL DISTRICTS				NON-RESIDENTIAL & SPECIAL DISTRICTS			
	A	SF-1	SF-2	SF-4	R	M	B	PD
<b>INSTITUTIONAL &amp; CIVIC USES</b>								
Community swimming pool	--	C	C	C	--	--	--	P
Country club	--	C	C	C	--	--	--	P
Day care and educational facility - privately-owned	C	C	C	C	P	P	--	P
Educational facility - public	P	P	P	P	--	--	--	P
Federal, State or City owned or controlled facilities	P	P	P	P	P	P	P	P
Franchise-holding facilities and utilities	C	C	C	C	--	--	--	P
Golf course	--	C	C	C	--	--	--	P
Municipal uses	P	P	P	P	P	P	P	P
Nursing home or assisted living facility	--	--	--	--	--	--	--	P
Open Space Preserves	P	P	P	P	P	--	--	P
Public parks and playgrounds	--	P	P	P	P	--	P	P
Public recreational facilities	--	P	P	P	P	--	--	P
Wind energy, utility or telecommunication tower	C	C	C	C	--	--	--	P

	A	SF-1	SF-2	SF-4	R	M	B	PD
<b>AGRICULTURAL USES</b>								
Animal husbandry, livestock	P	P	--	--	--	--	--	--
Crop cultivation, forestry, farming	P	P	--	--	--	--	--	--
Dairy farm	P	--	--	--	--	--	--	--
Wholesale plant nursery	P	--	--	--	--	--	--	--
Horse stables, riding academies and equestrian boarding	P	C	--	--	--	--	--	--

	A	SF-1	SF-2	SF-4	R	M	B	PD
<b>INDUSTRIAL USES</b>								
Auto, tool or equipment rental	--	--	--	--	--	--	--	P
Commercial cleaning or laundry plant	--	--	--	--	--	--	--	P
Data center and software design	--	--	--	--	--	--	--	P
Information assembly, broadcasting, carriers	--	--	--	--	--	--	P	--
Information data processing	--	--	--	--	--	--	P	P
Information distribution, publication, production	--	--	--	--	--	--	P	--
Information telecommunication, sellers	--	--	--	--	--	--	P	--
Machinery, heavy equipment, truck sales and service	--	--	--	--	--	--	--	P
Manufacturing - appliance, instrument, controller	--	--	--	--	--	--	P	--
Manufacturing - device, parts, vehicle	--	--	--	--	--	--	P	--

## ZONING USE SUMMARY TABLE

**P = Permitted Use      C = Conditional Use      -- = Not Permitted**

	RESIDENTIAL DISTRICTS				NON-RESIDENTIAL & SPECIAL DISTRICTS			
	A	SF-1	SF-2	SF-4	R	M	B	PD
<b>INDUSTRIAL USES</b>								
Manufacturing - die, tooling, equipment, machinery	--	--	--	--	--	--	P	P
Materials bending, cutting, machining, molding, welding	--	--	--	--	--	--	P	P
Medical or scientific laboratory	--	--	--	--	--	--	--	P
Open storage and open processing operations	--	--	--	--	--	--	C	--
Outside sales and storage	--	--	--	--	--	--	--	P
Packaging of parts and materials prev manufactured	--	--	--	--	--	--	P	P
Parts assembly, materials sorting prev manufactured	--	--	--	--	--	--	P	P
Professional, scientific and technical services	--	--	--	--	--	--	P	P
Storage of flammable liquids and materials	--	--	--	--	--	--	C	--
Temporary concrete batch plant	--	C	C	C	--	--	--	P
Trade contractor office and dispatch	--	--	--	--	--	--	--	P
Truck repairs and service	--	--	--	--	--	--	P	--
Warehousing and distribution facilities	--	--	--	--	--	--	P	P
Wholesale enterprises w/o materials storage and distrib	--	--	--	--	--	--	P	--

**The table does not supersede the zoning ordinance. There may be restrictions for permitted and conditional uses.**

**For uses listed in the PD District, consult property-specific PD ordinances.**

**Uses not identified as permitted or conditional are prohibited.**

### 4.1.2.3 ADOPTION OF THE OFFICIAL ZONING DISTRICT MAP

- A) The boundaries of each zoning district are delineated and shown on the official Zoning District Map of the City of Lavon, as amended from time to time. The official Zoning District Map, together with all notations, references, dimensions, designations and other information shown on the map, is adopted and made part of this Subtitle, as amended, by reference.
- B) The official Zoning District Map shall be stored, maintained, and kept current by the City Secretary.

### 4.1.2.4 AMENDMENTS TO THE OFFICIAL ZONING ORDINANCE AND ZONING DISTRICT MAP

- A) No change or amendment to the official Zoning District Map shall be authorized without the approval of a zoning application.

- B) The application shall be processed in accordance with the requirements of this Subtitle, as amended. Each application for amendment, supplement or change to the provisions of this Subtitle shall be made in writing on the City's required form and shall be filed with the City Secretary along with the appropriate fee in accordance with the Annual Fee Schedule for administration of the Zoning Application. An applicant does not have any right or entitlement to withdraw or table an application placed on the Planning and Zoning Commission agenda.
- C) No change to the official Zoning District Map shall be authorized or become effective without final action of the City Council or by order of a court of competent jurisdiction.
- D) No zoning shall be finalized unless annexation of the property for which the zoning is sought has been completed.
- E) The City Council may from time to time amend, supplement or change by Ordinance the boundaries or the Zoning District Map or of the land use regulations and restrictions of this district or any other regulation or provision of this Ordinance.
- F) The Planning and Zoning Commission shall hold a public hearing on a proposed adoption of or amendment to a zoning regulation or zoning district boundary before submitting a report to the City Council. Additionally, upon compliance with all applicable notice requirements, the Planning and Zoning Commission and the City Council may hold a joint public hearing.
- G) Before the fifteenth (15<sup>th</sup>) day before the date of the hearing, notice of the time and place of the public hearing shall be published in an official newspaper or a newspaper of general circulation in the City of Lavon.
- H) In addition to the general notice above, at least ten (10) days before the hearing date, written notice of each public hearing before the Planning and Zoning Commission on a proposed change in a zoning classification shall be sent to each owner, as indicated by the most recently approved municipal tax roll, of real property within two hundred (200) feet of the property on which the change in zoning classification is proposed.
- I) In addition one (1) sign shall be posted on the property, at each public road frontage of the property, notifying the public that a proposed change is pending and more information is available by contacting the City of Lavon.
- J) A written recommendation of the Planning and Zoning Commission shall be forwarded to the City Council. In the event that the Planning and Zoning Commission recommends that a proposed change to a regulation or boundary be denied, a vote of at least three-fourths (3/4) of all of the members of the City Council shall be required to overrule such recommendation.

- K) After public notice and after receipt of the Planning and Zoning Commission recommendation, the City Council shall hold a public hearing in regard to the proposed application, consider such application, and may take such action as determined appropriate with regard to the application. .
- L) An application that has been denied, without prejudice, by the City Council may be resubmitted at any time for reconsideration by the City Council. A new filing fee must accompany the request. The City Council may deny any application with prejudice. If an application has been denied with prejudice the application may not be resubmitted to the City for one (1) year from the original date of denial. However, a changed application may be submitted at any time.

#### 4.1.2.5 ZONING DISTRICT BOUNDARY RULES

- A) The following rules shall apply in determining uncertain boundaries of a district as shown on the official Zoning District Map:
  - 1) Where a boundary follows a public street or alley, the centerline of the street shall be the boundary.
  - 2) Where a boundary follows a platted lot line, the lot line shall be the boundary.
  - 3) Where a boundary follows a city limit line, the city limit line shall be the boundary.
  - 4) Where a boundary follows a railroad or utility line, the boundary is the established center line of the railroad or utility right-of-way. If no centerline is established, the boundary is midway between the right-of-way lines.
  - 5) Where a boundary follows the centerline of streams, rivers, canals, lakes or other bodies of water, the boundary is the centerline. The centerline is interpreted as being midway between the shorelines of the body of water. If the centerline changes, the boundaries are construed as moving with the centerline.
  - 6) In cases where district boundary lines are indicated as approximately paralleling a street, alley, right-of-way, easement line or other feature existing at the time of the enactment of this Ordinance, as amended, they shall be construed as parallel to or extensions of the street, alley, right-of-way, easement line, or other feature, unless otherwise specifically dimensioned on the official Zoning District Map.
  - 7) In instances where district boundary lines divide a parcel of un-subdivided property, the precise location of the district boundary shall be determined by the use of the scale appearing on the official Zoning District Map, unless the boundary is indicated by a specific dimension on the official Zoning District Map.

8) Where any public right-of-way is officially vacated or abandoned, the land use district regulations applied to abutting property shall extend to the former centerline of the vacated or abandoned right-of-way.

B) The Planning and Zoning Commission shall determine the location of the district boundary when uncertainty of boundaries exist that cannot be resolved by referencing Section 4.1.2.4 (A) above. Any person who is aggrieved by that determination may appeal to the City Council. Appeals shall be made in writing to the City Council within 10 days of the decision.

#### 4.1.2.6 ZONING ANNEXED TERRITORY

A) All territory annexed into the City shall be classified as A (Agricultural District), until zoning is established by the City Council. The procedure for establishing zoning on annexed territory shall conform to the procedure established by law for the adoption of original zoning regulations.

B) In an area classified as A (Agricultural District) upon annexation:

1) No person shall erect or construct any building or structure in any newly annexed territory without first applying for and obtaining a building permit or certificate of occupancy from the Building Official.

2) No permit for the construction of a building or use of land shall be issued by the Building Official other than a permit which will allow the construction of a building permitted in the A (Agricultural District).

### **CHAPTER 3 – DEFINITIONS**

1. Abutting or Adjacent Property Lines: Property lines adjacent and in common for a minimum distance of twenty-four (24) feet or district lines.

2. Accessory Use, Unit, Structure, or Building:

A) A building, structure, or use which is subordinate to and serves a primary use or principal structure;

B) A building, structure, or use which is subordinate in footprint on the lot, subordinate in area, extent, use or purpose to the primary use, building or structure served;

C) A building, structure, or use which contributes to the comfort, convenience, or necessity of occupants of the primary use served;

D) A building, structure, or use which is located within the same zoning district as the primary use; or

E) A building, structure, or use which in residential districts is not used for commercial purposes other than legitimate home occupations/home based

business, and is not rented to or utilized by other than bona fide servants employed on the premises or members of the family of the occupant(s) of the principal structure. Examples of accessory buildings, structures, or uses include, but are not limited to private garages, greenhouses, servant's quarters, tool sheds, hobby shed, storage buildings, greenhouses, or bathhouses adjoining a swimming pool, swimming pool, sports court and tennis court. Persons are related within the meaning of this provision if they are related within the first or second degree of consanguinity or affinity.

- 1) Attached accessory structure - a structure that shares an attached or common roof with the primary structure.
- 2) Detached accessory structure - a structure that does not share an attached or common roof with the primary structure.
3. Agricultural uses: Agricultural uses include activities that raise, produce or keep plants or animals. Examples include but are not limited to breeding or raising of fowl or other livestock animals; dairy farms; stables; riding academies; equestrian boarding facilities; farming, truck gardening, forestry, tree farming; and wholesale plant nurseries.
4. Alley: An "alley" is a public right-of-way or thoroughfare which is not less than Eighteen Feet (18') wide and affords only a secondary means of access to abutting property.
5. Alter: To change the size, shape or physical outline, copy, nature of message, intent or type of an entity including signs and buildings.
6. Animal Boarding: See Kennel.
7. Apartment: An "apartment" is a room or group of rooms used as a dwelling for one family or household being one (1) dwelling unit, said unit being equipped for the preparation of food.
8. Apartment Building: A building or portion of a building used or intended to be used as a dwelling for three (3) or more families or households, each household living independently of each other, with each unit equipped for preparation of food.
9. Barn, Commercial or Private: See Stable, Commercial or Private.
10. Basement: A story (or portion of a story) partly or totally below ground level, with less than one-half of its height (measured from floor to ceiling) above ground level.
11. Bed and Breakfast Inn:
  - A) Traditional. A residential structure where three (3) or fewer rooms are rented to transient paying guests on an overnight basis with no more than one meal served daily, where no cooking facilities are provided in the rooms and where the total number of permanent and transient occupants does not exceed six (6) at any one time. The owner-operator of a traditional Bed and Breakfast resides at that place. This is classified as a normal home occupation.

- B) Non-traditional. A residential structure where more than two (2) rooms are rented to transient paying guests on an overnight basis with no more than one (1) meal served daily, where no cooking facilities are provided in the rooms and where the total number of permanent and transient occupants does not exceed four (4) at any one time. The owner-operator may or may not reside there.
12. Block: A tract of land bounded by streets (or street rights-of-way) or a combination of streets and public parks.
  13. Brick: Includes kiln fired clay or shale brick manufactured to ASTM C216 or C652, Grade SW, can include concrete brick if the coloration is integral, shall not be painted, and it is manufactured to ASTM C1634; minimum thickness of two and one quarter inches when applied as a veneer, and shall not include unfired clay or shale brick.
  14. Buffer Zone: An unimproved area required between adjacent property lines or adjacent structures.
  15. Building: Any structure which is affixed to the land, has one (1) or more floors and a roof, and is bounded by either open area or the lot lines, and is designed for human use or habitation, shelter for animals, chattels, records or other moveable property. A building shall not include such structures as billboards, fences or communication towers or structures with interior surfaces not normally accessible for human use, such as tanks, smoke stacks, grain elevators, and oil cracking towers or similar structures.
  16. Building Line: The line established by the required yard.
  17. Building Official: Is the officer or other designated authority charged with the administration and enforcement of the City's building codes. Subtitle, or the duly authorized representative.
  18. Building Setback Line: The line defining an area on the lot between the street right-of-way and all other property lines and the building line within which no building or structure shall be constructed, encroach or project except:
    - (a) Sidewalks;
    - (b) Fences that conform to the Fence Ordinance regulations;
    - (c) Driveways;
    - (d) Retaining walls;
    - (e) Fountains and other landscaping elements;
    - (f) Light poles if fed from underground utilities;
    - (g) Flag poles;
    - (h) Mail boxes; and
    - (i) Signs that conform to the Sign Ordinance regulations.
  19. Building Front Setback Line: A line parallel to the street right-of-way line, which the building faces and from which it takes its primary access.

20. *Building Rear Setback Line:* A line parallel to an adjacent lot, alley or street in the case of double frontage lots, which the building backs up to and from which it has its rear or secondary access.
21. *Building Side Setback Line:* A line parallel to an adjacent lot or street right-of-way on a corner lot, up to which the building sides.
22. *Cemetery or Mausoleum:* A use, structure or place designated for burial of the dead.
23. *Civic Center:* A use, building or structure that is owned, managed or operated in whole or in part by a public governmental agency for governmental, cultural, recreational, athletic, convention or entertainment uses and activities.
24. *Common Area or Common Property:* A parcel or parcels of land, together with the improvements to the land, the use and enjoyment of which are shared by the owners and occupants of the individual building sites in a subdivision
25. *Community Home:* A building, structure or use providing food and shelter, personal guidance, care, rehabilitation services or supervision for not more than 6 disabled persons, regardless of their legal relationship to one another and 2 supervisory personnel. A group home is a community-based residential home operated in accordance with the Texas Human Resource Code Chapter 123 and the Texas Department of Mental Health and Mental Retardation Act. A group home is a use by right that is authorized in any district zoned residential.
26. *Conditional Use:* A use, building and structure allowed upon issuance of a permit after additional review and regulation to ensure compatibility between uses and for developing conditions which allow for compatibility with adjacent uses.
27. *Court (for building purposes):* An open, unoccupied space bounded on more than two (2) sides by the walls of a building.
28. *Church:* A use, building or structure used for religious activities, education and worship.
29. *Day Care - Commercial:* Any facility or premises where a total of seven (7) or more children under fourteen (14) years of age, and/or elderly adults, regularly attend for all or a portion the twenty-four (24) hour day for purposes of custody, care, or instruction; and which children or elderly adults are not members of the immediate nuclear family of any natural person actually operating the facility or premises.
30. *Day Care - In-Home:* Any occupied private residence utilized for purposes of custody, care, or instruction; and which persons are not members of the immediate nuclear family living in the residence, pursuant to and as further defined by Chapter 42 of the Texas Human Resources Code.
31. *Decorative Concrete Block:* Includes highly textured finish, such as split faced, indented, hammered, fluted, ribbed or similar architectural finish; coloration shall be integral to the masonry material and shall not be painted; minimum thickness of two and five-eighths inches (2-5/8") when applied as a veneer; shall include light weight and featherweight concrete block or cinder block units.

32. District: Any section or area of the City of Lavon for which the City Council has adopted zoning regulations governing the use of buildings and premises, the height of buildings, the size of yards, the intensity of use, and other land use matters.
33. Drive-In or Drive-Through Service or Sales: A retail transaction or the serving of a patron while in a motor vehicle or the permitting of consumption of food or drink while in a motor vehicle parked on the premises.
34. Duplex Dwelling Unit: A residential structure providing complete, independent living facilities for two (2) separate families, including permanent provisions for living, sleeping, cooking, eating, and sanitation in each unit.
35. Dwelling: Any building or portion of a building constructed for use by or occupied exclusively by one (1) family with culinary and sanitary conveniences provided for their use.
36. Dwelling Unit (DUs): A structure, constructed on the site of its location, designed for a person or family to live in, in an individual or private state, and to be occupied as a home for an occupant, or the occupant and the family, if any, and not designed to be occupied by more than one (1) family.
37. Erect: To build, construct, attach, hand, place, suspend or affix, and when used in reference to signs, such term shall also include the painting of signs on the exterior surface of a building or structure, and shall also include the painting or affixing of signs to the exterior or interior surface of windows and shall include signs located interior to a building but readily visible from the exterior.
38. Exterior Architectural Feature: Any building or portion of a building that, due to its design, adornment, decoration or unique features, is of interest to the general public as an important asset to the community.
39. Family: Any number of individuals occupying a dwelling unit and living together as a single housekeeping unit, in which not more than three (3) individuals are unrelated by blood, marriage, adoption, or guardianship; the term includes a single individual.
40. Farm Animals: Domestic animals generally used or raised on a farm for profit, including but not limited to cattle, horses, cows, sheep, bulls, stallions, jacks, swine, goats and all domesticated fowl used for eggs or food.
41. Floodplain: Property that has a history of inundation or is determined to be subject to flood hazard, specifically identified by the Federal Emergency Management Agency on its flood hazard boundary maps (FHBM) for the City of Lavon. Within the floodplain, no development or alteration of the floodplain due to dumping, excavation, storage, filling or mining operations shall be conducted without a development permit approved by the City of Lavon. Note that the fact that land may not be classified as floodplain shall not be interpreted as assurance that such land or area is not subject to periodic local flooding.
42. Floor Area Ratio: The ratio of the gross floor area of a building or buildings in relations to the required lot area. The floor area ratio (FAR) may be expressed as a percent of the lot area.

43. Frontage: All of the property on one side of a street between two intersecting streets (crossing or terminating) measured parallel along the line of the street, or if the street is a dead-end, then such term shall mean all of the property abutting on one side between an intersecting street and the dead-end of the street; additionally, “frontage” shall mean all of the property on one side of a street between two lot lines.
44. Garage, Private: An accessory building designed or used for the storage of not more than four (4) motor-driven vehicles owned by the occupants of the building to which it is accessory. Not more than one (1) of the vehicles may be a commercial vehicle of not more than a two (2)-ton capacity.
45. Garage, Public: A building or portion thereof, other than a private garage, designed or used for equipping, servicing, repairing, hiring, selling, or storing motor-driven vehicles.
46. Height: The vertical distance of a building, structure or portion thereof, measured from the mean level of the ground surrounding the building to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip or gambrel roofs.
47. Hobby Shed: An accessory use and structure not used for commercial purposes nor rented to others as defined under Accessory Use item (5)
48. Home Based Business: A home occupation or use for profit or non-profit involving business, art or hobby activities including the selling to, production of, and provision of services to others not part of the on-site single family residential use.
49. Home Occupation: Any occupation or activity carried on or occurring in a Dwelling Unit by a member of the immediate family, residing on the premises, in connection with which there is used no sign other than a name plate as allowed by the City’s Sign Ordinance attached to the building, and no display that will indicate from the exterior that the building is being utilized in part for any purpose other than that of a dwelling; and, no mechanical equipment is used except that which is of a type similar in character to that normally used for purely domestic or household purposes. Retail sales from the home to walk up or drive up customers, cafes, or diners and barber or beauty shops are not considered a home occupation. Examples of home occupations include crafts; woodworking; dressmaking; custom cakes or other small scale catering that uses no commercial type or size equipment; professional services such as bookkeeping, handling of telephone orders, technology or electronic communication; Traditional Bed and Breakfasts limited to three (3) rooms for rent, and day care for six (6) or fewer persons.
50. Hotel: A structure or building or group of structures or buildings whose principal function or use is to provide rooms for temporary lodging where entrance to reach room is from a completely enclosed area and which structure may also contain a restaurant, conference rooms and retail uses or personal service uses.
51. Kennel: Any location where four (4) or more dogs or cats aged six (6) months or older and other household pets are groomed, bred, boarded, trained or sold. Pet retail stores where animals are offered for sale as a secondary use, and where

grooming, small animal medicine, surgery and/or training is conducted as secondary to the retail selling of pet goods and supplies are not included within the definition of kennel.

52. Loading Space: A paved all weather impervious surface area, enclosed or unenclosed, sufficient in size to store a one (1) ton truck or larger truck and a passenger bus, with a paved surface driveway connecting the loading space with the public street or alley and permitting ingress and egress.
53. Lot: A lot is the smallest physical and undivided tract or portion of land as shown on a duly recorded plat, having frontage on a public street.
54. Lot, Corner: A lot that has an interior angle of less than one hundred and thirty five (135) degrees at the intersection of two (2) street lines. A lot abutting upon a curved street shall be considered a corner lot if the tangents of the curbs at the points of intersection of the side lot lines intersect at an interior angle of less than one hundred and thirty five (135) degrees.
55. Lot Coverage: The percent of the lot covered with structures as compared to open space. Structures include all buildings, parking lots and driveways. See definition of open space.
56. Lot, Double Frontage: A lot having a frontage on two (2) parallel streets.
57. Lot, Interior: A building lot other than a corner lot.
58. Lot Area: The area of a lot between lines, including any portion of an easement that may exist within such lot lines.
59. Lot of Record: A lot which is part of a subdivision, the map or plat of which has been recorded in the office of the County Clerk of Collin County; or a parcel of land, the deed of which was recorded in the office of the County Clerk of Collin County.
60. Manufactured Home: A structure constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, and which is built on a permanent chassis and designed to be used as a dwelling and shall have a permanent concrete foundation, connected to public water and sanitary sewer utilities, and includes plumbing, heating, air-conditioning, and electrical systems. The term does not include a recreational vehicle as that term is defined by 24 Code of Federal Regulations, Section 3282.8(g). The manufactured home is not constructed with a permanent hitch or other device allowing transport of the unit other than for the purpose of delivery to a permanent site and which does not have wheels or axles permanently attached to its body or frame.
61. Manufactured Home Lot: A parcel of land in a manufactured home park for the placement of a single HUD-code manufactured home and the exclusive use of its single family occupants.
62. Manufactured Home Park: A parcel of land designed as an area for manufactured homes to be installed as residences containing individual lots of record for the

permanent placement of a manufactured home on an individual lot of record with roads, utilities, and drainage in accordance with all applicable provisions of the City's Code of Ordinances and other regulations governing a manufactured home park.

63. Model Home: A dwelling unit within a residential development used for the purpose of display of amenities and marketing the sale of homes within the residential development and functioning as a sales office until sold to a third party buyer.
64. Motel: A structure or building or group of structures or buildings whose principal function or use is to provide rooms for temporary lodging in which the rooms are directly accessible from an outdoor parking area.
65. Multi-Unit Dwelling: A residential structure providing complete, independent living facilities for three (3) or more families or households living independently of each other and including permanent provisions for living, sleeping, cooking, eating, and sanitation in each unit. Condominiums are included in this definition.
66. Nonconforming Use: The use of land or a building, or portion thereof, which does not conform with the use regulations of the district in which it is situated and which use was legally in existence prior to the effective date of this Subtitle and any subsequent amendments.
67. Nursing Home: A building, or portion thereof, used or designed for medical services for the housing of the aged, and/or mentally or physically challenged persons who are under daily medical, psychological, or therapeutic care; including assisted living centers; provided that this definition shall not include rooms in any residential dwelling, hotel, or apartment hotel not ordinarily intended to be occupied by said persons.
68. Occupancy: The use or intended use of land or buildings by owners, occupants, proprietors or tenants.
69. Off-Street Parking: An area for storage of an automobile that is entirely on private property.
70. Open Space: The part of a building lot, including courts or yards, which are open and unobstructed from its lowest level to the sky, which is accessible to all residents or users upon a building lot, which is not part of a roof, driveway, parking area, and which does not include any structures.
71. Open Space Reserve: Open space reserve shall mean an open area, a minimum size of five (5) acres, which is designed and intended to be used for outdoor recreation. An area of usable open space reserve shall include Texas native or natural landscaping, walks, water features and decorative objects such as artwork or fountains. Open space reserves shall not include recreational equipment or recreational sports fields, or buildings, except those buildings designed specifically for maintenance of the open space reserve. Open space reserves may include parking areas and driveways.

72. Outdoor Storage: The keeping, in an unenclosed area, of any goods, items, material or merchandise in the same place for more than twenty-four (24) hours and not actively being sold.
73. Parking Space: A paved all weather impervious surface area, enclosed or unenclosed, sufficient in size to store one (1) automobile, with a paved surface driveway connecting the parking space with the public street or alley and permitting ingress and egress of an automobile.
74. Place of Worship: A building or structure, or group of buildings or structures that by design and construction are primarily intended for conducting organized religious services and associated accessory uses.
75. Planned Unit: A land area, which (1) has individual building sites and common property such as a park and (2) is designed to be capable of satisfactory use and operation as a separate entity without necessarily having the participation of other building sites or other common property. The ownership of the common property may either be public or private.
76. Planned Unit Development: A single planned unit as initially designed; or such a unit as expanded by annexation of additional land areas; or a group of continuous planned units, whether as separate entities or merged into a single consolidated entity.
77. Planning Commission: The Planning and Zoning Commission of the City of Lavon, Texas.
78. Recreation Vehicle: A vehicle designed for human habitation for recreational purposes and capable of being used on a highway. Recreational vehicles shall include a motor home, travel trailer, and camping trailer, but shall not include a mobile home or manufactured home.
79. Recreational Vehicle Park: Any area or tract of land where two or more recreational vehicle lots or spaces are rented or held for rent.
80. Repair: The reconstruction or renewal of any part of an existing building for the purposes of maintenance. The word repair shall not apply to structural alterations.
81. Right-of-Way: The area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which the City of Lavon has an interest.
82. Roof Line: The height which is defined by the intersection of the roof of the building and the wall of the building. For mansard-type roofs, the roof line shall be defined as the top of the lower slope of the roof. Roofs with parapet walls completely around the building and not exceeding four (4) feet in height may be considered as the roof line.
83. Site Plan: A Plan showing use of the land, to include locations of buildings, drives, sidewalks, parking areas, drainage facilities, and other structures to be constructed.

84. Servants Quarters: Living spaces for domestic servants, gardeners or childcare, adult /elder care or health specialists that have the same utility connections as the main house.
85. Setback or Building Line: A line, which marks the setback distance from the property line and establishes the minimum required front, side, or rear yard space of a lot.
86. Stable, Commercial or Private: Commercial barn or stable shall mean a boarding facility used for the rental of stall space or for the sale or rental of horses, mules or similar large animals. Private barn or stable shall mean a facility used solely for the owner's private purposes for the boarding, sale or keeping of horses, mules or ponies, and not kept for remuneration, hire or sale.
87. Stone: Includes naturally occurring granite, marble, limestone, slate, river rock, and other similar hard and durable all weather stone that is customarily used in exterior building construction; may also include cast or manufactured stone product, provided that such product yields a highly textured stone-like appearance, its coloration is integral to the masonry material and shall not be painted, and it is demonstrated to be highly durable and maintenance free; natural or manmade stone shall have a minimum thickness of two and five-eighths (2-5/8) inches when applied as a veneer.
88. Storage, Self Service: A structure containing separate, individual, and private storage spaces of varying sizes.
89. Storage Garage: A "storage garage" is any premises and structure used exclusively for storage of more than five (5) automobiles.
90. Story: That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it, the space between the floor and the ceiling next above it.
91. Street: A way for vehicular traffic or parking, whether designated as a highway or as any of the following types:
  - A) Residential Street: serves a residential neighborhood and may be a cul-de-sac, loop or short street.
  - B) Collector Street: serves to collect traffic from multiple residential streets.
  - C) Arterial Street: a through traffic street, generally aligned in the direction of major traffic movement carrying such traffic into or out of the city.
  - D) Parkways and Boulevards: across-city traffic thoroughfares, for movement of great amounts of traffic.
  - E) Commercial Streets: serve both business and industrial areas.
92. Structural Alterations: Any change which would tend to modify the life of a supporting member of a structure such as bearing walls, columns, beams, or girders.
93. Structure: Anything constructed, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground.

94. Stucco: Stucco shall be defined as traditional three (3) step hard coat stucco applied over a masonry or concrete backing.
95. Temporary Concrete Batch Plant: An On-site manufacturing plant utilized for a limited period of time as allowed in this Subtitle where concrete is mixed before being transported to a construction site ready to be poured. .
96. Townhouse: A single-family dwelling unit constructed in a series or a group of attached units with property lines separating such units, usually with the dividing wall between units falling on the property line.
97. Transmission Tower: A wireless telecommunications support structure designed primarily of the support and attachment of a wireless telecommunications facility. Transmission towers include:
- A) Monopole Tower - A self-supporting structure composed of a single spire used to support telecommunications antenna and/or related equipment.
  - B) Lattice Tower - A self-supporting three (3) or four (4) sided, open, steel frame structure used to support telecommunications antenna and/or related equipment;
  - C) Guyed Tower - An open, steel frame structure that requires wires and anchor bolts for support.
  - D) Stealth Tower - A manmade tree, clock tower, church steeple, bell tower, utility pole, light standard, identification pylon, flagpole, or similar structure, that is camouflaged to be unrecognizable as a telecommunications facility, designed to support or conceal the presence of telecommunication antennas and blends into the surrounding environment.
98. Use: The purpose or activity for which the land or building thereon is designed, arranged, or intended, or for which it is occupied or maintained, and shall include any manner or performance of such activity with respect to the performance standards of this Subtitle.
99. Use Permits: Permits authorized by the City Council upon recommendation of the Planning and Zoning Commission allowing certain uses in zoning districts.
- A) Conditional Uses are uses which are generally compatible with those uses permitted by right in a zoning district, but which require individual review of their location, design, configuration, density and intensity. These are granted to the land and will continue to be valid with sale or transfer of property.
  - B) Specific Uses are uses which are not generally compatible with those uses permitted by right in the zoning district, but by the unusual circumstances (existing uses and historic uses) in the area, consideration of the use is advisable. These are granted to a person and do not transfer with change of ownership of the property unless such change is by inheritance.
100. Utility Facility: Infrastructure services and structures necessary to deliver basic utilities essential to the public health, safety, and welfare. This includes all lines and facilities provided by a public or private agency and related to the provision,

distribution, collection, transmission or disposal of water, storm and sanitary sewage, oil, gas, power, information, telephone cable, electricity and other services provided by the utility. This does not include Wireless Telecommunication Facilities.

101. *Variance*: A legal modification in the application of specific Zoning District regulations such as yard, lot width and yard depth, signs, set back and off-street parking, and loading regulations granted due to the special conditions or circumstances peculiar to a particular parcel of property.
102. *Wireless Telecommunication Facility*: An unstaffed facility operating for the transmission and reception of low-power radio signals consisting of an equipment shelter or cabinet, a support structure, antennas, and related equipment.
103. *Yard*: An open space open from its lowest point to the sky unobstructed at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except for the ordinary projection of sills, belt courses, cornices, chimneys, buttresses, ornamental features and eaves and as otherwise provided herein.
104. *Yard, Front*: A yard extending across the front of a lot between the side lot lines, and being the minimum horizontal distance between the street line and the main building including any projections of the usual uncovered steps, uncovered balconies, or uncovered porches. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has its least dimension.
105. *Yard, Rear*: A yard extending across the rear of a lot and being the required minimum horizontal distance between the rear lot line and the rear of the main building including any projections thereof other than the projections of uncovered steps, unenclosed balconies, or unenclosed porches. On all lots, the rear yard shall be in the rear of the front yard.
106. *Yard, Side*: A yard between the main building and side line of the lot, and extending from the required front yard to the required rear yard, and being the minimum horizontal distance between a side lot line and the side of the main buildings or any projections thereof.

Definitions not expressly described herein are to be construed in accordance with customary usage in municipal planning and engineering practices. Words used in the masculine or feminine shall also be construed to mean the other.

## **CHAPTER 4 – REGULATIONS APPLICABLE TO ALL DISTRICTS**

### **4.1.4.1 APPLICABILITY**

The regulations in this Chapter shall apply to all zoning districts in this Subtitle, as amended.

### **4.1.4.2 GENERAL**

- A) No land or structure shall be used, nor intended for any use, other than those uses permitted in the district where the land or structure is located.
- B) No structure shall be erected, reconstructed, enlarged, structurally altered, or moved in such a manner as to evade conformity with height, bulk, lot area, use and other regulations for the district where the structure is located.
- C) No yard provided adjacent to a structure for the purpose of complying with provisions of this Subtitle, as amended, shall be considered as providing any part of a yard for another building on the same lot or on an adjacent lot.
- D) Any use that is not expressly permitted or allowed in this Subtitle shall be prohibited.
- E) In measuring the height of a building, parapet walls not exceeding four (4) feet, chimneys, cooling towers, ornamental cupolas, domes, antenna, support structures or spires shall be excluded from the measurement.
- F) In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of the rear yard, the minimum horizontal distance between the lot line and the main building shall be used.
- G) Double frontage lots shall not be permitted.
- H) Both private and common ownership property designated for outdoor living and/or recreation may be designated as open space.

#### 4.1.4.3 ACCESSORY STRUCTURES

- A) Attached accessory buildings shall conform to the regulations applicable to the main building to which they are attached.
- B) Detached accessory buildings shall be subject to all of the following regulations, in addition to any other applicable regulations:
  - 1) Number of Buildings:
    - a) No more than two detached (2) accessory structures may be placed on any lot.
    - b) The number of detached accessory structures that may be placed on an Agricultural zoned lot is limited by lot coverage.
  - 2) Lot coverage:
    - a) The combined floor area of all accessory buildings shall not exceed ten (10) percent of lot coverage or sixty (60) percent of the primary structure, whichever is less. In no case shall the combined area of the primary structure and accessory building(s) exceed the maximum percentage of lot coverage allowed for the zoning district on which the structures are placed.
    - b) Stables shall be limited in area to ten (10) percent of lot coverage.
  - 3) Setback and Building Line Requirements:

- a) Street: Accessory buildings shall not extend beyond a front, side or rear building line adjacent to a street. Provided however, for a lot utilized by a single detached dwelling, a gazebo or similar open air landscape structure may be located beyond the building line and within the front yard setback but shall not be larger than one hundred (100) square feet.
- b) Easement: No accessory structure shall be located within any easement.
- c) Side: Accessory buildings shall not be located closer than five (5) feet to the side property line when the accessory building is located behind the main building.
- d) Rear: When the accessory building is a garage or carport with rear access, the rear setback shall be a minimum of twenty (20) feet from the property line. All other accessory buildings shall not be located closer than five (5) feet to the rear property line.
- e) Other Structures - Accessory buildings, other than carports, shall not be located within five (5) feet of any other structure.
- f) Stables shall not be located within fifty (50) feet of any property line or dwelling.

4) Roof:

- a) The minimum roof slope for all accessory structures shall be 3:12, unless the accessory structure is prefabricated, pre-finished, and covers less than two (2) percent of the lot or is a carport.
- b) The color and materials of the roof of the accessory structures shall closely resemble the color and materials of the roof of the main structure, unless the accessory structures is prefabricated, pre-finished, and covers less than (2) percent of the lot or is a carport.

5) Exterior Walls:

- a) Accessory structures covering less than two (2) percent of the lot are required to be constructed with exterior walls composed of metal with a baked-on enamel or vinyl finish, vinyl, wood structure that is prefinished and prefabricated, composite masonry façade, or the same masonry content required of the main structure.
- b) Accessory structures covering more than two (2) percent of the lot are required to be constructed with exterior walls composed of composite masonry façade material or the same masonry content required of the main structure.
- c) Barns and Stables located on property zoned Agricultural (AG) are exempt from the masonry requirement for exterior walls.
- d) No pressure treated wood is permitted as exterior finish.

6) Height:

Accessory structures shall be limited to a height of not more than twenty (20) feet.

7) Specific Use Permit:

Commercial equestrian or rodeo arenas whether enclosed, partially enclosed, or open air require a Specific Use Permit.

8) Fences:

Regulation of fences is controlled by separate City Ordinance.

- C) Accessory Structure that do not conform to the requirements of Section 4.1.4.3 may be permitted with a conditional use permit.

4.1.4.4 WIND-POWERED SYSTEMS

- A) Wind powered systems designed for production of power to be sold to a power company or a consumer, are considered commercial wind power systems and require a Specific Use Permit.
- B) All other wind powered systems may exist only as an accessory use. A Wind Powered System may not be erected on a lot until a primary structure has been constructed.
- C) Size limitations. Wind-powered systems, including windmills and/or wind turbines, shall be setback from all boundaries of any lot or habitable structure by a distance equal to at least one hundred twenty-five percent (125%) of the tower's height, as measured from average natural ground level, to the highest point of the arc of the wind blades' elevation above such ground level.
- D) Design Requirements
- 1) Wind Powered System shall be installed according to the manufacturer's recommendations and under the seal of a professional engineer registered by the State of Texas. Wet stamps are required.
  - 2) Wind powered systems within a Residential or commercially zoned district shall be limited to 5kw of peak power output.
  - 3) Wind powered systems within Industrial Zoned Districts total peak power output shall be limited to 25kw.
  - 4) All wind powered systems are limited to 60dB at any point along the property line.
  - 5) The tower shall be monopole without guy wires.
  - 6) The color of all wind powered systems shall be non-reflective and of neutral tones or of earth tones such as subdued green or brown. Grey, including naturally darkening galvanized grey, is also an acceptable neutral tone. Wind powered systems shall not be finished in bright or vivid colors intended to draw attention to the structure.

- 7) Multiple wind powered systems are allowed on any lot, provided they are separated by a distance equal to at least the height of the tallest such tower, as measured from average natural ground level to the highest point of the wind blades' elevation above such ground level.
- 8) Lighting. All lighting not required by Federal Aviation Administration (FAA) regulations is prohibited.
- 9) Signs. There shall be no signage on the tower structure or any rotor blade.

E) Required Plans and Specifications.

- 1) In addition to the submittals otherwise required upon making application for a building permit, the application for a building permit for a Wind Powered System must be accompanied by a Site Plan.
- 2) A site plan of the proposed Wind Powered System shall include:
  - a) A survey or scaled drawing of the site on which the proposed Wind Powered System will be constructed.
  - b) The location of the Wind Powered System in relation to the property on which the system will be constructed.
  - c) All components of the system including the distance of the system to the property lines; required setbacks; existing structures on the site; natural features such as watercourse and trees.
- 3) Elevation drawings shall include:
  - a) The design and height of the proposed Wind Powered System;
  - b) Detailed drawings of all system components.

F) Permitting Requirements

- 1) Small wind turbines must have been approved under the Emerging Technologies program of the California Energy Commissioner or any other small wind certification program recognized by the American Wind Energy Association.
- 2) Compliance with Uniform Building Code: Building permit applications for wind systems shall be accompanied by standard drawings of the Wind Powered System, including the tower, base and footings. An engineering analysis of the tower showing compliance with the Uniform Building Code or International Building Code and certified by a licensed professional engineer registered by the State of Texas shall also be submitted. Wet stamps shall be required.
- 3) Compliance with FAA Regulations: Wind Powered Systems shall comply with applicable FAA regulations, including any necessary approvals for installations close to airports.

- 4) Compliance with National Electric Code: Building permit applications for Wind Powered Systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of the installation conforms to the National Electrical Code.
- 5) Utility Notification: No Wind Powered System shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

G) Maintenance and Abandonment.

- 1) A property owner with a valid permit to operate a wind powered system shall submit to the Building Inspection Department a bi-annual letter prepared by a Professional Engineer registered in the State of Texas, stating that the wind powered system continues to meet current electrical and structural requirements as set forth in this Title.
- 2) A Wind Powered System that has become unstable, leans significantly out of plumb, or that poses a danger of collapse shall be removed or brought into repair within sixty (60) days following notice by the Building Official to the owner of the lot upon which the System is located. The Building Official may order immediate repairs in the event of imminent collapse. Failure to make the required repairs within the time required shall be a violation of this Subtitle.
- 3) If the owner of a Wind Powered System plans to abandon or discontinue, or is required to discontinue, the operation of the System, the owner shall notify the Building Official by certified U.S. mail of the proposed date of abandonment or discontinuation. Such notice shall be given no less than thirty (30) days prior to abandonment or discontinuation.
- 4) In the event that an owner fails to give such notice, the Wind Powered System shall be considered abandoned if the Wind Powered System is not operated for a continuous period of six (6) months.
  - a) Upon abandonment or discontinuation of use, the property owner shall physically remove the Wind Powered System within ninety (90) days from the date of abandonment or discontinuation of use.
  - b) "Physically remove" includes, without limitation, the actual, complete removal of the tower, turbine and all other components of the Wind Powered System from the site of the original installation.

4.1.4.5 HOME OCCUPATION / HOME BASED BUSINESS

- A) Home based business and/or home occupation means business activities and uses that are incidental to the primary use of the premises as a residence and conducted on the residential premises by a resident of the premises.
- B) The following regulations shall apply to a home based business or home occupation.
  - 1) On-premise advertisements or signage is prohibited.
  - 2) No display of goods or materials or signage shall be allowed.
  - 3) Alteration of the exterior appearance of the residential structure or its accessory structure(s) shall not be permitted, nor shall the business occupation or use within the dwelling be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, or by signs, or the emission of sounds, noises, dust, odors, fumes, smoke, or vibrations.
  - 4) There shall be no more than two (2) employees who do not reside on the premises and who perform work on the premises.
  - 5) Pedestrian and vehicular traffic shall be limited to that normally associated with residential districts.
  - 6) There shall be no outdoor storage of materials or equipment. There shall be no merchandise visible from outside the dwelling.
  - 7) The use of utilities and community facilities shall be limited to that normally associated with the use of the property for residential purposes.
  - 8) No use or storage of mechanical equipment not recognized as being part of normal household or hobby use shall be visible from the public street or neighboring residential use(s).
  - 9) All parking shall be on premises with no on street parking allowed for a home based business or home occupation.
  - 10) As defined by the Human Resource Code, Chapter 42 an “In-home Day Care” or a “Family home” that is certified, listed or registered with the State of Texas is exempt from this Subtitle, and governed by the rules and regulations of the State of Texas.

#### 4.1.4.6 FLOODPLAIN AREA

- A) Land that is classified by FEMA as located within the one hundred (100) year flood plan shall be conserved or reclaimed as natural undeveloped lands unless in conformance with the FEMA and U.S. Army Corp of Engineers regulations.
- B) Except as otherwise expressly provided by Ordinance, within the floodplain, no development or alteration of the floodplain due to dumping, excavation,

storage, filling or mining operations shall be conducted without a development permit approved by the City of Lavon.

- C) Note that the fact that land may not be classified as floodplain shall not be interpreted as assurance that such land or area is not subject to periodic local flooding

#### 4.1.4.7 TRANSMISSION OR TELECOMMUNICATION TOWER

- A) Transmission or Telecommunications tower means a structure more than ten (10) feet tall, used for wireless transmission antennas.
- B) Site Plan review and approval is required and a minimum of two off-street parking spaces are required.
- C) Additional Provisions:

A site plan is required for all transmission and or telecommunications towers. Site plan review shall include the following provisions:

- 1) Telecommunications towers shall not be located within or closer to a residential district than two hundred (200) feet or a 3 to 1 distance to height ratio, whichever is greater.
- 2) New telecommunications towers shall be a minimum distance of five thousand (5,000) feet from another telecommunications tower.
- 3) All guys and guy anchors shall be located within the buildable area of the lot and not within the front, rear, or side yard setbacks and no closer than five (5) feet to any property line.
- 4) The base of the tower shall be enclosed by security fencing at least eight (8) feet high.
- 5) Equipment buildings shall be similar in color and character to the main or adjoining building or structure or blend with the landscape and other surroundings immediately adjacent to it and shall be screened by a masonry wall.
- 6) The tower shall be erected and operated in compliance with current Federal Communication Commission and Federal Aviation Administration rules and regulations and other applicable federal and state standards.
- 7) A telecommunications tower shall be designed and built so as to be capable of use by more than one wireless communications provider, including providers such as cellular or PCS providers.
- 8) All towers shall be of a tapering monopole construction, except that another type tower shall only be allowed upon a showing that it would cause less visual impact on surrounding property than a similar monopole structure.
- 9) No lettering, symbols, images, signs or trademarks large enough to be legible to occupants of vehicular traffic on any adjacent roadway shall

be placed on or affixed to any part of a telecommunications tower, antenna array or antenna, other than as required by FCC regulations regarding tower registration or other applicable law.

- 10) Telecommunications towers shall be constructed to minimize potential safety hazards. Telecommunications towers shall be constructed so as to meet or exceed the most recent FCC standards and prior to issuance of a building permit the Building Official shall be provided with an engineer's certification that the tower's design meets or exceeds those standards. Guyed towers shall be located in such a manner that if the structure should fall along its longest dimension, it will remain within property boundaries and avoid habitable structures, public streets, utility lines and other telecommunications towers.
- 11) Telecommunications towers and equipment buildings shall be located to minimize their number, height and obtrusiveness, to minimize visual impacts on the surrounding area, and in accordance with the following policies:
  - a. The height of towers and monopoles shall have the least visual impact and be no greater than required to achieve service area requirements and potential co-location, when visually appropriate.
  - b. Site telecommunication facilities to minimize being visually solitary or prominent when viewed from residential areas and the public rights-of-way. The facility shall be screened by vegetation, tree cover, topographic features, and buildings or other structures to the maximum extent possible and reasonably feasible.
  - c. Telecommunication facilities shall be placed to ensure that historically significant landscapes are protected. The views of and vistas from architecturally and/or historically significant structures should not be impaired or diminished by the placement of telecommunication facilities.
  - d. A variance may be granted by the Board of Adjustment to these policies for a telecommunications tower when it is determined that such a variance better accomplishes the policies set out in this Ordinance than would a strict application of the requirement. Such variance shall be no greater than necessary to accomplish those policies.
- 12) No signals or lights or illumination shall be permitted on a monopole unless required by the Federal Communications Commission, the Federal Aviation Administration, or the City.
- 13) If any additions, changes, or modifications are made to the monopole, the changes shall comply with all of the above requirements for new towers and shall demonstrate, through the submission of engineering and structural data, that the addition, change, or modification

conforms to structural wind load and all other requirements of the current Building Code.

- 14) Telecommunication towers which have not been used for a period of one (1) year shall be removed from a site. The last telecommunication service provider to use a tower shall notify the City Secretary within thirty (30) days that use of a tower has been discontinued.

#### 4.1.4.8 TELEPHONE AND TELECOMMUNICATION EXCHANGE OR FACILITIES BUILDINGS WITHOUT SHOPS OR OFFICES

- A) Definition: Telephone exchange without shops or offices means a facility for the switching and routing of telephone transmissions.
- B) Required Parking: One (1) space for every one thousand (1,000) square feet of floor area.
- C) Site Plan review and approval is required

#### 4.1.4.9 TRANSIT PASSENGER SHELTER

- A) Definition: Transit passenger shelter means a structure which affords protection from the weather to persons who are waiting to board a publicly owned or franchised transit vehicle.
- B) Site Plan review and approval is required

#### 4.1.4.10 UTILITY OR GOVERNMENT INSTALLATION OTHER THAN LISTED

- A) Definition. Utility or government installation other than listed means:
  - 1) A "utility other than listed" is a public or private facility franchised or operated by a Governmental unit as a utility, and which is not specifically covered by the use regulations in this chapter.
  - 2) A "government installation other than listed" is an installation owned or leased by a government or quasi-public agency and which is not specifically covered by the use regulations in this chapter.
- B) Required Parking. As determined at the time of site plan review based on the standard for the use that is most equivalent to the proposed use in terms of function and operation.
- C) Required Loading. As determined at the time of site plan review based on the standard for the use that is most equivalent to the proposed use in terms of function and operation.
- D) Site Plan review and approval is required.

## **CHAPTER 5 – REGULATIONS APPLICABLE TO RESIDENTIAL DISTRICTS**

### 4.1.5.1 AGRICULTURAL DISTRICT (A)

- A) *Purpose*

Land within the City of Lavon which is presently used for agricultural purposes and to which urban services may not yet be available should continue to be used for such agricultural purposes until needed for urban purposes in conformity with the City's Comprehensive Master Plan. Livestock may be maintained indoors and outdoors within the Agricultural District. It is anticipated that lands currently zoned and used for agricultural purposes will eventually be used for more urban purposes as the City develops. Newly annexed areas will be zoned as an agricultural district initially.

B) *Permitted Uses*

- 1) Agricultural uses
- 2) Uses including structures related to animal husbandry and raising of crops
- 3) Single family detached dwelling
- 4) Home based business or occupation within the single family detached dwelling
- 5) Accessory buildings limited to no more than ten percent (10%) of the lot area and a minimum of fifty (50) feet from a lot or property line
- 6) Federal, State or City owned or controlled facilities, utilities, parks, playgrounds, recreational facilities, open space preserves and municipal uses
- 7) Public educational facility
- 8) Cemetery or mausoleum provided the principal or accessory structures are a minimum of fifty (50) feet from a lot or property line
- 9) Churches and places of worship
- 10) Guest house, caretakers quarters, security quarters provided said facility shall be a minimum of one thousand two hundred (1,200) square feet, have separate access to a public road or street, and have a minimum of twenty (20) feet front, side and rear yard
- 11) Two (2) accessory uses customarily associated with a single family detached dwelling and limited to parking garage, swimming pool, unlit tennis court, unlit sports court and hobby shed

C) *Conditional Uses*

- 1) Animal clinic, shelter, boarding and kennel with inside pens and outside pens provided that outside pens shall be a minimum of fifty (50) feet from a lot or property line
- 2) Commercial greenhouse or Nursery (wholesale and retail) provided the retail use and any structure shall be a minimum of fifty (50) feet from a lot or property line

- 3) Commercial stable provided the structure is a minimum of fifty (50) feet from a lot or property line
- 4) Manufactured Home Detached Dwelling Park of two (2) or more dwellings
- 5) Recreational Vehicle Park of two or more vehicles
- 6) Privately owned educational and day care facility
- 7) Wind energy, utility or telecommunication tower provided such structure is a minimum of fifty (50) feet from a lot or property line
- 8) Franchise holding facilities and utilities holding a franchise under the City of Lavon

*D) Area Requirements*

1. Lot Size
  - a. Minimum Lot Area (square feet): 5 acres
  - b. Minimum Lot Width (feet): 200
  - c. Minimum Lot width of corner Lots (feet) 230
  - d. Minimum Lot Depth (feet) 300
2. Dwelling Regulations
  - a. Minimum Square Footage: 1,200
  - b. Maximum number of single-family detached dwellings units per lot: one
3. Yard Requirements – Main Structures Setback
  - a. Minimum Front Yard (feet): 100
  - b. Minimum Side Yard (feet): 20
  - c. Minimum Side Yard of Corner Lots (feet): 50
  - d. Minimum Side Yard of permitted nonresidential use (feet): 50
  - e. Minimum Rear Yard (feet): 50
  - f. Maximum Lot Coverage: 40%
4. Height of Structures
  - a. Maximum Main Structure (feet): 40
  - b. Maximum Accessory Structure (feet): 20

*E) Additional Provisions*

- 1) A minimum separation of one hundred (100) feet between agricultural buildings and dwelling units on the same lot shall be maintained. Agricultural buildings for the purpose of this provision means those buildings used of the raising of crops or animals, or for the storage of

agricultural equipment, supplies, or products with a minimum separation of twelve (12) feet between such buildings.

- 2) A minimum setback of fifty (50) feet from the property line shall be provided for any agricultural building.
- 3) Non-Enclosed attached patio covers, although an addition to and part of the main structure shall be exempt from the rear yard setback requirements above. Patio covers shall be allowed to extend into the rear setback no closer than ten (10) feet from the rear property line provided maximum lot coverage is not exceeded.

#### 4.1.5.2 SINGLE FAMILY - 1 ACRE DISTRICT (SF-1)

##### A) *Purpose*

SF-1 is a single family residential district for detached dwelling units on individual lots and requiring a minimum lot size of 1 acre. The cultivation of agricultural crops and livestock is allowed.

##### B) *Permitted Uses*

- 1) Single family detached dwelling
- 2) Home based business or occupation within the single family detached dwelling
- 3) Federal, State or City owned or controlled facilities, utilities, parks, playgrounds, recreational facilities, open space preserves and municipal uses
- 4) Public educational facility
- 5) Cemetery or mausoleum provided the principal or accessory structures are a minimum of fifty (50) feet from a lot or property line
- 6) Churches and places of worship
- 7) Uses related to animal husbandry and raising of crops on unplatted land
- 8) One (1) agricultural related accessory building limited to no more than ten percent (10%) of the lot area and a minimum of fifty (50) feet from a lot or property line
- 9) Guest house, caretakers quarters, security quarters provided said facility shall be a maximum of one thousand two hundred (1,200) square feet, have separate access to a public road or street, and have a minimum of twenty (20) feet front, side and rear yard
- 10) Two (2) accessory uses customarily associated with a single family detached dwelling and limited to parking garage, swimming pool, unlit tennis court, unlit sports court and hobby shed

##### C) *Conditional Uses*

- 1) Community or neighborhood swimming pool or recreational use provided the use and structures are a minimum of fifty (50) feet from a lot, yard or property line
- 2) Commercial or privately used stable provided the structure is on a minimum ten (10) acre lot and a minimum of fifty 50 feet from a lot or property line
- 3) Real estate model home
- 4) Privately owned educational and day care facility
- 5) Golf course or country club
- 6) Wind energy, utility or telecommunication tower, used for non-commercial purposes, provided such structure is no less than fifty (50) feet from a lot or property line and in every case no less than its height from the property line
- 7) Franchise holding facilities and utilities holding a franchise under the City of Lavon
- 8) Temporary concrete batch plants limited to no more than six (6) months, however the limit on the temporary permit may be extended for one (1) additional six (6) month period, by the Building Official as necessary to complete construction for the project under which the temporary permit was granted; the location of the batch plant is subject to the approval of the Building Official

*D) Area Requirements*

- 1) Density – Maximum: one unit per gross acre
- 2) Lot Size
  - a) Minimum Lot Area: 1 acre (43,560 square feet)
  - b) Minimum Lot Width (feet): 100
  - c) Minimum Lot width of corner Lots (feet): 175
  - d) Minimum Lot Depth (feet): 200
- 3) Dwelling Regulations
  - a) Minimum Square Footage: 1,800
  - b) Maximum number of single-family detached dwellings units per lot: one
- 4) Yard Requirements – Main Structures
  - a) Minimum Front Yard (feet): 30
  - b) Minimum Side Yard (feet): 15
  - c) Minimum Side Yard of Corner Lots (feet): 30
  - d) Minimum Side Yard of allowable nonresidential use (feet): 30

- e) Minimum Rear Yard (feet): 25
- f) Maximum Lot Coverage: 45%
- 5) Height of Structures
  - a) Maximum Main Structure (feet) 40
  - b) Maximum Accessory Structure (feet) 20

E) *Additional Provisions*

- 1) A minimum separation of one hundred (100) feet between agricultural buildings and dwelling units on the same lot shall be maintained. Agricultural buildings for the purpose of this provision means those buildings used of the raising of crops and livestock or for the storage of agricultural equipment, supplies, or products.
- 2) A minimum setback of fifty (50) feet from the property line shall be provided for any agricultural building.
- 3) Non-Enclosed attached patio covers, although an addition to and part of the main structure, shall be exempt from the rear yard setback requirements above. Patio covers shall be allowed to extend into the rear setback no closer than ten (10) feet from the rear property line provided maximum lot coverage is not exceeded.

4.1.5.3 SINGLE FAMILY - 2 DISTRICT (SF-2)

A) *Purpose*

SF-2 is a single family residential district allowing detached houses on individual lots and requiring a minimum lot size of on half acre (1/2) acre, being 21,780 square feet.

B) *Permitted Uses*

- 1) Single family detached dwelling
- 2) Home based business or occupation within the single family detached dwelling
- 3) Federal, State or City owned or controlled facilities, utilities, parks, playgrounds, recreational facilities, open space preserves and municipal uses
- 4) Public educational facility
- 5) Cemetery or mausoleum provided the principal or accessory structures are a minimum of 50 feet from a lot or property line
- 6) Churches and places of worship
- 7) Two (2) accessory uses customarily associated with a single family detached dwelling limited to parking garage, swimming pool, unlit tennis court, unlit sports court and hobby shed

C) *Conditional Uses*

- 1) Community or neighborhood swimming pool or recreational use provided the use and structures are a minimum of fifty (50) feet from a lot, yard or property line
- 2) Real estate model home
- 3) Privately owned educational and day care facility
- 4) Golf course or country club
- 5) Wind energy, utility or telecommunication tower, to be used for non-commercial purpose, provided such structure is no less than fifty (50) feet from a lot or property line and in every case no less than its height from the property line
- 6) Franchise holding facilities and utilities holding a franchise under the City of Lavon
- 7) Temporary concrete batch plants limited to no more than six (6) months however the limit on the temporary permit may be extended to one (1) additional six (6) month period, by the Building Official as necessary to complete construction for the project under which the temporary permit was granted

D) *Area Requirements*

Following are the area requirements and development standards for the Single Family-2 District.

- 1) Density – Maximum: two units per gross acre
- 2) Lot Size
  - a) Minimum Lot Area: 1/2 acre (21,780 square feet)
  - b) Minimum Lot Width (feet): 90
  - c) Minimum Lot width of corner Lots (feet): 115
  - d) Minimum Lot Depth (feet): 200
- 3) Dwelling Regulations
  - a) Minimum Square Footage: 1,800
  - b) Maximum number of single-family detached dwellings units per lot: one
- 4) Yard Requirements – Main Structures- Setbacks
  - a) Minimum Front Yard (feet): 30
  - b) Minimum Side Yard (feet): 15
  - c) Minimum Side Yard of Corner Lots (feet): 30
  - d) Minimum Side Yard of allowable nonresidential use (feet): 30

- e) Minimum Rear Yard (feet): 25
  - f) Maximum Lot Coverage: 45%
- 5) Height of Structure
- a) Maximum Main Structure (feet) 40
  - b) Maximum Accessory Structure (feet) 20

E) *Additional Provisions:*

Non-enclosed attached patio covers, although an addition to and part of the main structure, shall be exempt from the rear yard setback requirements above. Patio covers shall be allowed to extend into the rear setback no closer than ten (10) feet from the rear property line provided maximum lot coverage is not exceeded.

4.1.5.4 SINGLE FAMILY - 4 DISTRICT (SF-4)

A) *Purpose*

SF- 4 is a single family residential district allowing detached houses on individual lots and requiring a minimum lot size of ten thousand (10,000) square feet.

B) *Permitted Uses*

- 1) Single family detached dwelling.
- 2) Home based business or occupation within the single family detached dwelling
- 3) Federal, State or City owned or controlled facilities, utilities, parks, playgrounds, recreational facilities, open space preserves and municipal uses
- 4) Public educational facility
- 5) Churches and places of worship
- 6) One (1) accessory use customarily associated with a single family detached and limited to parking garage, swimming pool, unlit tennis court, unlit sports court and hobby shed

C) *Conditional Uses*

- 1) Community or neighborhood swimming pool or recreational use provided the use and structures are a minimum of twenty (20) feet from a lot, yard or property line
- 2) Real estate model home
- 3) Privately owned educational and day care facility provided minimum lot shall be one acre (43,506 square feet)
- 4) Golf course or country club

- 5) Wind energy, utility or telecommunication tower, to be used for non-commercial purpose, provided such structure is no less than fifty (50) feet from a lot or property line and in every case no less than its height from a lot or property line
- 6) Franchise holding facilities and utilities holding a franchise under the authorization of the City of Lavon
- 7) Temporary concrete batch plants limited to no more than six (6) months however the limit on the temporary permit may be extended one (1) additional (6) six month period, by the Building Official as necessary to complete construction for the project under which the temporary permit was granted; the location of the batch plant is subject to the approval of the Building Official

*D) Area Requirements*

Following are the yard, lot and space requirements for the Single Family-4 District. (SF-4)

1. Density - Maximum: four (4) units per gross acre
2. Lot Size
  - a) Minimum Lot Area :10,000 square feet
  - b) Minimum Lot Width: (feet) 80
  - c) Minimum Lot width of Corner Lots (feet): 100
  - d) Minimum Lot Depth (feet): 125
3. Dwelling Regulations
  - a) Minimum Square Footage: 1,500
  - b) Maximum number of single-family detached dwellings units per lot: one
4. Yard Requirements – Main Structures
  - a) Minimum Front Yard (feet): 25
  - b) Minimum Side Yard (feet): 10
  - c) Minimum Side Yard of Corner Lots (feet): 25
  - d) Minimum Side Yard of allowable nonresidential use (feet): 30
  - e) Minimum Rear Yard (feet): 25
  - f) Minimum Rear Yard Double Front Lots (feet): 45
  - g) Maximum Lot Coverage: 45%
5. Height of Structures
  - a) Maximum Main Structure (feet): 40
  - b) Maximum Accessory Structure (feet): 15

E) *Additional Provisions*

Patio covers shall be allowed to extend into the rear setback no closer than ten (10) feet from the rear property line provided maximum lot coverage is not exceeded.

## **CHAPTER 6 – REGULATIONS APPLICABLE TO MIXED USE AND NON- RESIDENTIAL DISTRICTS**

### **4.1.6.1 RETAIL DISTRICT (R)**

A) *Purpose*

The Retail District (R) is to establish business areas for sales tax generating retail, business and personal service enterprises. Site planning controls shall limit sales and services to the interior of building and structures. Where exterior sales and services are necessary, buffering and landscaping shall be required adjacent to residential uses and zones.

B) *Permitted Uses*

The following are permitted when such use is conducted entirely within the interior of a building. A permitted use does not include a use when it is identified as a conditional use herein.

- 1) Business, professional and technical service and sales
- 2) Financial institution, insurance, real estate
- 3) Medical, pharmacy and State licensed health services
- 4) Personal service, and service for home and residence
- 5) Privately owned educational and day care facility
- 6) Retail sales in individual buildings or in planned centers of retail users
- 7) Restaurant
- 8) Federal, State or Local governmental use

C) *Conditional Uses*

- 1) Automobile fueling and gasoline filling station
- 2) Automobile service establishment
- 3) Car wash
- 4) Outdoor, drive-in or drive-through sales or service activity
- 5) Amusement, theater, exercise and sports establishment
- 6) Bakery/confectionery retail establishment
- 7) Building materials sales
- 8) Church or place of worship at free standing or individual sites

- 9) Dry-cleaning retail establishments with no processing on site
- 10) Hotel
- 11) Landscaping material sales
- 12) Merchandise rental
- 13) Pet grooming and care services
- 14) Veterinarian services
- 15) Vapor smoking services
- 16) Retail storage service facilities
- 17) Establishments that derive more than seventy-five (75) percent of its revenue from the sale of alcoholic beverages
- 18) Private clubs and organizations (indoor)
- 19) Second hand/used goods/pawn shop provided the lot on which a similar establishment is located is more than one thousand (1,000) feet from the location of the proposed use; the one thousand (1,000) foot distance shall be measured between the lots and along the public street
- 20) Cash and retail lending service establishment provided the lot on which a similar establishment is located is more than one thousand (1,000) feet from the location of the proposed use; the one thousand (1,000) foot distance shall be measured between the lots and along the public street
- 21) Tattoo service and similar body artwork establishment provided the lot on which a similar establishment is located is more than one thousand (1,000) feet from the location of the proposed use; the one thousand (1,000) foot distance shall be measured between the lots and along the public street

*D) Area Requirements*

- 1) Minimum Lot Area: 1 acre (43,560 square feet)
- 2) Lot Dimensions: none
- 3) Minimum Building Size: 2,500 square feet
- 4) Maximum Building Size: 20,000 square feet
- 5) Yard Requirements – Main Structures
  - a) Minimum Front Yard (feet): 25
  - b) Minimum Side Yard (feet): 7 except adjoining residential where the side yard shall be (feet) 15
  - c) Minimum Side Yard of Corner Lots (feet): 25
  - d) Minimum Rear Yard (feet) none except adjoining residential where the rear yard shall be (feet): 15

- e) Minimum Rear Yard Double Front Lots (feet): 25
- f) Maximum Lot Coverage: 80%
- 6) Height of Structures
  - a) Maximum Main Structure (feet): 45
  - b) Maximum Accessory Structure (feet): 14

E) *Building Placement, Orientation and Site Design*

- 1) No service canopies, drive-thru lanes, service doors for auto or similar service shall face the public street nor a residential lot or residential zoning district.
- 2) All utility lines (power, phone, cable, etc.) shall be placed underground.
- 3) Sidewalks (eight (8) foot minimum width) shall be provided along lot lines adjoining the public streets. Interior walkways are required and shall be connected to adjoining public sidewalks.
- 4) Marked pedestrian crosswalks shall be provided at all public street intersections adjoining the development.
- 5) Architectural and/or landscape elements shall be designed to provide shade on the south and west exposures to protect patrons in plazas, patios and other public spaces.
- 6) Shopping cart areas, within the tenant space shall be screened from view with decorative screening or landscaping as high as the carts.
- 7) Exterior display of retail sales, vending, amusements and seasonal sales shall be pre-planned and proposed locations for such activities shall be depicted on the site plan for approval by City.
- 8) Accessory structures such as trash enclosures, utility services, telecommunication equipment and heating/cooling systems shall be screened from view of neighboring buildings, sites and roadways. Materials to screen around these systems shall match or compliment adjacent building materials. Gates shall not allow for view of the contents of the enclosure.
- 9) Highly visible detention basins for storm drainage shall be contoured, use curvilinear design forms and shall be aesthetically landscaped and maintained.
- 10) All sides of a building shall be designed with consistent architectural and façade elements. Roofline silhouettes shall be broken up through the use of large cornices, changes in parapet heights, or other techniques such as awnings, bulb-outs, and reliefs. At least fifty percent (50%) of the total façade shall use features such as windows, awnings, entryways, columns, architectural relief to discourage long expanses of bare wall. All exterior metals and plastics (vents,

flashings, and gutters) shall be screened from view, painted or treated to blend in with the adjacent surrounding materials.

- 11) All glass, plastic or other transparent materials shall be treated to eliminate reflective glare.
- 12) Retail and Commercial Uses adjacent to a residential use or zone shall provide a masonry wall or dense landscaped screen along the lot line from the front yard through the rear yard.

#### 4.1.6.2 MAIN STREET DISTRICT (M)

##### A) *Purpose*

Main Street District (M) recognizes the existence of established residential uses along Main Street in Lavon; however, as Lavon grows there is recognized a need and desire to develop a traditional downtown for the City. The traditional Main Street envisions a mixture of uses that a traditional downtown includes; residential, commercial, governmental, churches. Development regulations will encourage low density design, walkability, retention of historical structures, flexibility of land use with control of site design and the form of the structure. Screening shall be required of all commercial uses adjoining residential structures.

##### B) *Permitted Uses*

The following are permitted when such use is conducted entirely within the interior of a building, except when identified as conditional use herein.

- 1) Business, professional and technical service and sales
- 2) Financial institution, insurance, real estate
- 3) Medical, pharmacy and State licensed health services
- 4) Personal service and services for home and residence
- 5) Day care for child and adult and educational services
- 6) Retail sales as individual enterprises within individual and separate structures
- 7) Planned centers of more than one individual retail uses
- 8) Restaurant
- 9) Single family detached dwelling
- 10) Townhouse
- 11) Home based business within single family detached dwelling
- 12) Federal, State or Local governmental use
- 13) Vertically mixed use retail and multi-family residential

##### C) *Conditional Uses*

- 1) An outdoor, drive-in or drive-through sales or service activity including rear yard patios requiring limited service hours and limited noise/entertainment levels and limited hours
- 2) Amusement, theater, exercise and sports establishment
- 3) Bakery/confectionery retail establishment
- 4) Church or place of worship at free standing or individual site
- 5) Dry-cleaning retail establishment with no processing on site
- 6) Pet grooming and care services
- 7) Veterinarian services
- 8) Vapor smoking services

**D) *Area Requirements***

- 1) Lot Size
  - a) Minimum Lot Area: 1 acre (43,560 square feet)
  - b) Minimum Lot Width: none
- 2) Minimum Building Size: 1,500 square feet
- 3) Maximum Building Size: 7,500 square feet
- 4) Yard Requirements – Main Structures
  - a) Minimum Front Yard (feet): 12
  - b) Maximum Front Yard (feet): 20
  - c) Minimum Side Yard (feet): 7 except adjoining residential where the side yard shall be (feet) 15
  - d) Minimum Front Yard (feet): 12
  - e) Maximum Side Yard of Corner Lots (feet): 20
  - f) Minimum Rear Yard (feet): none except adjoining residential where the rear yard shall be (feet) 15
  - g) Minimum Rear Yard Double Front Lots (feet): 45
  - h) Maximum Lot Coverage: 40%
- 5) Height of Structures
  - a) Maximum Main Structure (feet): 36
  - b) Maximum Accessory Structure (feet): 14

**E) *Building Placement, Orientation and Site Design***

- 1) No service canopies, drive-thru lanes, service doors for auto or similar service shall face the public street nor face a residential use or zoning district.

- 2) All utility lines (power, phone, cable, etc.) shall be placed underground.
- 3) Sidewalks (twelve (12) foot minimum width) shall be provided along the lot lines adjoining public streets. Interior walkways shall be required and shall connect to existing surrounding and adjoining public sidewalks as well as locations of future required public sidewalks.
- 4) Marked pedestrian crosswalks shall be provided at all public street intersections adjoining the development.
- 5) Architectural and/or landscape elements shall be designed to provide shade on the south and west exposures to protect patrons in plazas, patios and other public spaces.
- 6) Shopping cart areas, within the tenant space shall be screened from view with decorative screening or landscaping as high as the carts.
- 7) Exterior display of retail sales, vending, amusements and seasonal sales shall be pre-planned and proposed locations for such activities shall be depicted on the site plan for approval by City.
- 8) Accessory structures such as trash enclosures, utility services, telecommunication equipment and heating/cooling systems shall be screened from view of neighboring buildings, sites and roadways. Materials to screen around these systems shall match or compliment adjacent building materials. Gates shall not allow for view of the contents of the enclosure.
- 9) Highly visible detention basins for storm drainage shall be contoured with curvilinear design forms, aesthetically landscaped and maintained.
- 10) All sides of the building shall be designed with consistent architectural and façade elements. Roofline silhouettes shall be broken up through the use of large cornices, changes in parapet heights, or other techniques such as awnings, bulb-outs, and reliefs. At least fifty (50) percent of the total façade shall use features such as windows, awnings, entryways, columns, or other architectural relief to discourage long expanses of bare wall. All exterior metals and plastics (vents, flashings, and gutters) shall be screened from view, painted or treated.
- 11) All glass, plastic or other transparent materials shall be treated to eliminate reflective glare.
- 12) Retail and Commercial Uses adjacent to a residential use or zone shall provide a masonry wall or dense landscaped screen along the lot line from the front yard through the rear yard.

#### 4.1.6.3 BUSINESS PARK DISTRICT (B)

A) *Purpose*

The purpose of this District, Business Park (B) is to plan for a wide range of information technology, research and development, manufacturing, wholesale, warehouse and transportation uses that will generate job opportunities for the citizens of the City. Regulations are set in place to allow for manufacturing uses that meet guidelines to reduce the impact on adjacent non-manufacturing development from potentially incompatible uses and conditions.

B) *Permitted Uses*

The following are permitted when such use is conducted entirely within the interior of a building which is a minimum of fifteen thousand (15,000) square feet.

- 1) Appliance, instrument, controller, device, parts, and vehicle manufacturing
- 2) Automobile and Truck Repairs and Service
- 3) Die, tooling, equipment and machinery manufacturing
- 4) Federal, State or City owned or controlled facilities, utilities, parks, playgrounds, recreational facilities, open space preserves and municipal uses
- 5) Information assembly, broadcasting, carriers, distribution, publication, production, telecommunication, information sellers, data processing
- 6) Materials bending, cutting, machining, molding, and welding
- 7) Parts assembly, materials sorting previously manufactured
- 8) Packaging of parts and materials previously manufactured
- 9) Professional, scientific and technical services
- 10) Storage – Self Service
- 11) Wholesale enterprises without materials storage and distribution
- 12) Warehousing and distribution facilities

C) *Conditional Uses*

Conditional uses include the following uses when such uses are conducted entirely within the interior of a building. Equipment necessary to the manufacturing process outside of the building shall be screened from the public street and adjoining property. Building shall be minimum of fifteen thousand (15,000) square feet.

- 1) Manufacturing processes that bake, blend, coat, dip, draw, distill, extract, extrude, heat, mill, refine, reclaim, recycle, roll and any process not identified, provided any such process is conducted entirely within a building and provided no emission or contaminants shall leave the property. Such process shall meet all permitting

requirements of the U.S. Environmental Protection Agency, Texas Commission Environmental Quality and similar regulating Federal and State Agencies. Waste handling, disposal and pretreatment studies and certifications shall be required for all products, by-products and waste materials produced.

The emission of particulate matter from all sources shall not exceed the level specified by the Texas Commission on Environmental Quality or regulations specified by the Texas Department of Health. Proof that emissions comply with applicable permitting requirements shall be provided to City.

- 2) Storage of all flammable liquids and materials.
- 3) Open Storage and open processing operations, including on-site sand and gravel processing and storage, sand blasting or similar uses provided said particulate matter shall not leave the property nor be transported across the boundary property line of the tract on which the use is located.

*D) Area Requirements*

1) Lot and Building Size

- a) Minimum Lot Area: two (2) acres
- b) Minimum Lot Width: none
- c) Minimum Building Size: 15,000 square feet
- d) Maximum Building Size: no requirement

2) Yard Requirements

- a) Minimum Front Yard (feet) 30
- b) Minimum Side Yard (feet) 20 except adjoining residential where the side yard shall be (feet) 50
- c) Minimum Side Yard of Corner Lots (feet) 30
- d) Minimum Rear Yard (feet) none except adjoining residential where the rear yard shall be (feet) 50
- e) Maximum Lot Coverage 60%

3) Height of Structures

- a) Maximum Main Structure (feet): 65
- b) Maximum Accessory Structure (feet): 36

*E) Site Design, Building Placement, Orientation and Process Controls*

- 1) All buildings, principal and accessory, vertical surfaces, except for windows, doors, and other normal opening, shall be 100% masonry (brick, stone, stucco, concrete tilt wall or split faced concrete block).

- 2) Accessory structures including trash enclosures, utility services, telecommunication equipment, heating and cooling systems, assembly yards, loading areas shall be screened around these systems. Materials to screen around these systems shall match or compliment adjacent principal building materials. Gates shall not allow for view of the contents of building, structures and yards within enclosure.
- 3) All sides of the building shall be designed with consistent architectural and façade elements. Building shall incorporate wall recessions or projections at a minimum of five (5) feet in depth. These projections or recessions shall cover at least twenty-five (25) percent of the total building façade along each side of the building.
- 4) All exterior metals and plastics (vents, flashings, and gutters) shall be screened from view, painted or treated to blend in with the adjacent surrounding materials.
- 5) No service canopies, drive-thru lanes, service doors for loading or similar service facilities shall face the public street nor a residential lot or residential zoning district.
- 6) All utility lines (power, phone, cable, etc.) shall be placed underground.
- 7) Sidewalks (eight (8) foot minimum width) shall be provided along the lot lines adjoining a public streets. Interior walkways are required and shall connect to existing surrounding and adjoining public sidewalks as well as locations for future required public sidewalks.
- 8) Marked pedestrian crosswalks shall be provided at all public street intersections adjoining the development.
- 9) No exterior display of products or goods produced at the site shall be allowed.
- 10) Highly visible detention basins for storm drainage shall be contoured, use curvilinear design forms and shall be aesthetically landscaped and maintained.
- 11) All glass, plastic or other transparent materials shall be treated to eliminate reflective glare.
- 12) Uses adjacent a residential use or residential zone shall provide a masonry wall or dense landscaped screen along the lot line from the front yard through the rear yard.
- 13) All exterior lighting, designed for security, illumination, parking lot illumination or advertising shall be designed in such a manner as to ensure that it does not extend into adjacent residentially zoned property. Information shall be provided on a lighting plan,

for approval, which indicate the intensity of all exterior lighting fixtures and the footcandle level beyond the property. Lighting fixtures shall be designed to direct light down onto the site and away from neighboring property. Lighting shall be designed to include cut-off shielding to minimize light pollution on to adjoining property and not exceed 0.25 footcandle beyond the property line.

14) No use shall be located or operated which involves the emission of odorous matter from the source of the operation where the odorous matter exceeds the odor threshold at the boundary line or any point beyond the tract on which the operation is located. A plan report shall be provided to demonstrate that no odor shall leave the premise incorporating standards, methods and procedures specified by the American Society for Testing Materials (ASTMD 1391-57 entitled “Standard Method for Measuring Odor in Atmospheres”).

15) No use shall be permitted that creates earth borne vibration beyond the boundary property line of the source of operation.

#### 4.1.6.4 PLANNED DEVELOPMENT DISTRICT (PD)

##### A) *Purpose*

The (PD) Planned Development District is intended to provide for combining and mixing uses into integral land use units such as industrial parks, industrial, office and commercial centers; residential development with multiple or mixed housing types; or any appropriate combination of uses which may be planned, developed or operated as integral land use units, whether by a single owner or a combination of owners.

##### B) *Description*

After a public hearing has been convened and proper notice to all affected property owners has been made in accordance with this Subtitle and after a recommendation by the Planning and Zoning Commission has been submitted to the City Council, the City Council may authorize the creation of a (PD) Planned Development District as follows:

- 1) Planned Development – Single Family (PD-SF) comprised of residential developments on tracts of five (5) acres or more;
- 2) Planned Development – Mixed Use (PD-MU) comprised of mixed use development on tracts of five (5) acres or more;
- 3) Planned Development – Commercial (PD-C) comprised of commercial development on tracts of less than five (5) acres when a determination has been made by the Planning and Zoning Commission that the area to be rezoned cannot be rezoned to any other zoning district without creating the potential of adversely affecting the property that is the subject of the rezoning or adversely affecting

properties adjacent or in close proximity; or

- 4) Planned Development – Business (PD-B) comprised of business developments on tracts of less than five (5) acres when a determination has been made by the Planning and Zoning Commission that the area to be rezoned cannot be rezoned to any other zoning district without creating the potential of adversely affecting the property that is the subject of the rezoning or adversely affecting properties adjacent or in close proximity.

C) *Permitted Uses*

The uses to be permitted in any (PD) Planned Development District shall be enumerated in the ordinance which creates such district. Any proposed amendment to the uses permitted within a (PD) Planned Development District shall be submitted and processed in accordance with this Subtitle.

D) *Procedures*

- 1) The steps necessary to request creation of a (PD) Planned Development District shall be as follows:
- 2) Preapplication conference for presentation and discussion of a preliminary drawing in a form for a change of zoning with all required supporting materials.
- 3) Every (PD) Planned Development District approved under the provisions of this Subtitle shall be considered an amendment to the Zoning Ordinance and Zoning Map and applicable only to the property described in the legal description of the property;
- 4) In carrying out the development of a (PD) Planned Development District, compliance with the applicable development conditions and development schedule shall be required. Such conditions as are specified for the development of a (PD) Planned Development District shall not be construed as conditions precedent to the approval of the zoning amendment, but shall be construed as conditions precedent to the granting of a Certificate of Occupancy by the City of Lavon.

E) *Pre-application Requirements*

- 1) Pre-application Conference: An applicant for a (PD) Planned Development District shall schedule a pre-application conference prior to the formal submission of the application materials. At the pre-application conference, the applicant shall provide a preliminary drawing, Concept Plan that includes, but is not limited to, the following:
  - a) A statement of completion of the Pre-Application Checklist requirements. The Pre-Application Checklist will be available from the City Secretary's office.

- b) Delineation of site boundaries;
- c) General site layout indicating relationship of the proposed land uses, parking, and street layouts(s);
- d) Proposed residential development densities;
- e) Approximate gross square footage of non-residential uses where applicable;
- f) Projected building heights;
- g) General topographic conditions;
- h) A table identifying the Zoning District and the associated Area Requirements to which the proposed Planned Development District (PD) is most closely aligned and to which the PD will conform unless otherwise identified; and
- i) Significant environmental features, including flood plains and water course; and delineation of approximate acreage for each land use specified.

In addition to the Concept Plan, the applicant shall provide proposed Development Guidelines outlining design requirements and characteristics of the Planned Development District (PD).

- 2) Comments: Based on the information provided by the applicant, initial comments concerning the merits of the proposed development and provide any other information necessary to aid the applicant in the preparation of the formal application.
- 3) Application Submission: Any person, group of persons, or Corporation having a proprietary interest in any property may file an application for a (PD) Planned Development District. Such application shall be submitted and processed in accordance with Lavon, Texas, Zoning Ordinance.
- 4) Formal Public Hearing: The Planning and Zoning Commission shall hold an advertised public hearing in accordance with the procedures set forth herein. The Planning and Zoning Commission shall make its recommendation to the City Council in accordance with the standard procedures for a change in zoning classification in the City of Lavon. The Planning and Zoning Commission may recommend, and the City Council may approve the request for a (PD) Planned Development District as submitted or may make any modifications thereto as may be appropriate.
- 5) In approving an ordinance establishing the (PD) Planned Development District, the City Council shall, after recommendation of the Planning and Zoning Commission, specify such height density, site coverage, setback, landscaping, off-street parking and all other standards as are appropriate for the development which are

considered necessary to protect the health, safety, and general welfare, and to create a reasonable transition to, and protection from, property adjacent to the (PD) Planned Development District.

F) *Development Schedule*

- 1) If the applicant desires, or the Planning and Zoning Commission or the City Council requires, a development schedule shall be submitted indicating the approximate date on which construction is expected to begin and the rate of anticipated development to completion. The development schedule shall, if adopted by the City Council, become part of the ordinance creating such (PD) Planned Development District, and shall be adhered to by the owner, developer, and successors in interest.
- 2) If in the opinion of the Planning and Zoning Commission and /or City Council the owner or owners of the property are failing or have failed to meet the approved schedule, the Planning and Zoning Commission and/or City Council may initiate proceeding to amend the ordinance of the (PD) Planned Development District, or remove all or part of the (PD) Planned Development District from the Official Zoning Map and place the area involved in another appropriate zoning district. Such action shall occur in accordance with this Subtitle. Upon the recommendation of the Planning and Zoning Commission, and for good cause shown by the owner or developer, the City Council may extend the development schedule or adopt such new development schedule as may be indicated by the facts and conditions of the case.

G) *Amendment to (PD) Planned Development District*

- 1) Any major amendment, supplement, deletion or modification to the (PD) Planned Development District may be granted upon application by any person, group of persons or corporation having a proprietary interest herein. Any application for such amendment, supplement, deletion or modification shall contain the information specified in this Subtitle and shall be processed in accordance with the procedures set forth in this Subtitle.
- 2) The Mayor or designee may authorize minor amendments that:
  - a) Do not alter the basic relationship of the proposed development to adjacent property;
  - b) Do not alter the permitted uses;
  - c) Do not increase the maximum density, floor area, height, or site coverage;
  - d) Do not decrease the amount of required off-street parking; and
  - e) Do not reduce the required minimum yards or setbacks.

- 3) An applicant may appeal the decision of the Mayor or Designee to the Planning and Zoning Commission for review and decision as to whether a formal amendment to the (PD) Planned Development District shall be required.

H) *Coordination with Subdivision Ordinance*

- 1) It is the intent of this section that subdivision review under the subdivision regulation of the City of Lavon is carried out simultaneously with the review of a (PD) Planned Development District under the provisions of this Subtitle.
- 2) Both this Subtitle and the Lavon, Texas Subdivision Regulations contain regulations which apply to the design of a Planned Development District, including such matters as streets, utilities, and open spaces. In any (PD) Planned Development District for which the provision of the two (2) ordinances are in conflict, the Mayor or Designee shall submit a recommendation to the Planning and Zoning Commission, which shall determine which standard shall prevail. Appeal from such decision shall be in accordance with this Subtitle.

## **CHAPTER 7 – SITE PLAN REQUIREMENTS**

### **4.1.7.1 PURPOSE**

The purpose of this Section is to regulate the manner in which land in the City of Lavon is used and developed, minimize adverse effects on surrounding property or the general public, protection from fire, protection of adjacent uses from obstructions to light, air and visibility plus provision of adequate storm water drainage facilities, transportation, water and sanitary sewage facilities.

### **4.1.7.2 SITE PLAN APPLICATION AND APPROVAL**

- A) A site plan application drawn to scale and approval of such site plan shall be required prior to the issuance of a building permit for a building other than construction of one (1) single family detached dwelling.
- B) The City Council shall consider approval of the site plan after review by the Zoning Administrator and receipt of recommendations from the Planning and Zoning Commission.

### **4.1.7.3 SITE PLAN REQUIREMENTS**

Each site plan drawing submitted with an application for review and approval shall contain the following information:

- A) Project Name.
- B) Vicinity Map at a scale of less than 1":1,000'.
- C) Scale of the site plan drawing shall be no less than 1":50'.
- D) North Arrow.

- E) Date.
- F) Aerial Photography upon which the proposed development features shall be placed.
- G) Public Street Names and locations for all existing and proposed streets right of ways, within or on the boundary of the proposed development, pavement widths, sidewalks and bikeways.
- H) Lot layout with dimensions for all lot lines, all yards and building site(s).
- I) Zoning designations of proposed development and all adjoining lots and development.
- J) Location of all existing and proposed fences, structures, and buildings on the development site as well as within two hundred (200) feet of the proposed site.
- K) Location and sizes of all existing and proposed easements for public utilities in and adjacent to the proposed development including:
  - 1) Water lines and diameter, fire hydrants, connections to water.
  - 2) Sanitary sewer lines, diameters, manholes, connections to City Sewer Line.
  - 3) Storm water detention/retention facilities, outlets and inlets with pre and post detention facilities for five (5) to one-hundred (100) year storms in five (5) year increments.
  - 4) Electric and gas facilities and easements.
  - 5) Telecommunication facilities and easements.
- L) Show existing land topography at contour interval of not more than two (2) feet, floodplains and proposed grading and changes to topography.
- M) Proposed open space reserves, park lands and recreation lands.
- N) Proposed location of all proposed parking and loading areas and parking and loading spaces, ingress and egress on the site, fire lanes, required site triangles, curb radius and on-site circulation. A loading space shall be not less than twelve (12) feet by fifty (50) feet with a vertical clearance of at least fourteen (14) feet. The exterior loading space shall be located to the rear or side of the principal use and not within the front yard or required side yard. A minimum ten (10) foot screening wall of masonry or dense landscaping shall be required to screen views of loading docks and loading spaces from any public right of way or adjoining residential zone or residentially used property.
- O) Location of existing landscaping features including, but not limited to existing trees greater than six inches (6"), creeks, wetlands, FEMA flood plains or ponds existing on the site and within fifty (50) feet of the site boundary. Also, any planned modifications of a natural landscape feature shall be noted.

- P) Landscape Plan showing detail of the location, type and size of the proposed landscaping and plantings as required by this Subtitle.
- Q) Architectural elevations for all buildings on all sides of the building proposed on the site. Plans to include material, color, texture, windows, doors and other design features of the building, including screening for mechanical equipment on roof or visible at site. Elevations shall be submitted drawn to scale of 1":10' or greater.
- R) Signage plans shall include signs drawn to scale, illumination type, height and construction (material and style) and location for all proposed and existing signs.
- S) Illumination plans shall be provided that show the illumination of the building and structures and the lighting levels within the site and within twenty (20) feet of the site.
- T) Parkland, Recreation Land and Open space Reserve Plan showing detail of the location, type and size of proposed development features, recreational features, access and egress, parking, trails and sidewalks and plantings as required by this Subtitle.
- U) Data to be provided include: Gross area of site, number of dwelling units, percent of lot coverage, percentage of lot covered by impervious surfaces, percent of landscaping, total number of parking and loading spaces.

#### 4.1.7.4 CRITERIA FOR APPROVAL

- A) All applicable City of Lavon Comprehensive Master Plan and Ordinance requirements shall have been met as a condition of site plan approval.
- B) All applicable Site Plan requirements of this Subtitle shall have been met as a condition of site plan approval.
- C) The adequate capacity of public or private facilities for water, sewer and access to, from and through the development shall be met as a condition of site plan approval. City reserves the right to deny approval of a site plan based upon insufficient capacity of any public facility or facilities.

#### 4.1.7.5 POWER TO AMEND PLANS

When considering approval of Site Plan, the Planning and Zoning Commission and/or City Council may include any or all of the following conditions as they deem necessary to achieve compliance with the intent and purpose of this Subtitle and the Comprehensive Master Plan.

- A) Require a traffic study
- B) Require modifications in the landscaping plan to ensure proper screening and aesthetic appearance.
- C) Require the modification or revision of the placement, design or remodeling of structures, signs, accessory buildings, etc., to be consistent with the standards.

- D) Require the type and placement of shielding of lights for outdoor circulation and parking.
- E) Require any new development which produces more than one thousand (1,000) vehicle trips per day to provide traffic mitigation by means of traffic signals, controls and turning islands, landscaping or any other means necessary to insure the viability, safety and integrity of the major street as a through corridor.
- F) Require pedestrian access, separate pedestrian access ways and sidewalks.
- G) Require open space reserves, park land, recreational lands and development or a fee in lieu of land dedication or park land development.

#### 4.1.7.6 TERM OF THE APPROVED SITE PLAN

An approved Site Plan shall be effective for a period of two (2) years from the date of approval by City Council; at the end the two (2) year period, the Site Plan shall automatically expire without the requirement of further action by the City unless the development has received a Certificate of Occupancy.

## **CHAPTER 8 - OFF-STREET PARKING AND LOADING REGULATIONS**

#### 4.1.8.1 PURPOSE.

For the safe use of public streets and roads, all parking and loading of automobiles, trucks and other motorized vehicles shall be off of the public right of way, public street and public roads unless a City permit has been authorized for on street parking.

#### 4.1.8.2 OFF-STREET PARKING SITE DESIGN REQUIREMENTS

- A) No more than two (2) rows of parking with a combined maximum of sixty (60) feet in width shall be allowed for nonresidential uses between the principal building or use and the front yard. Notwithstanding the foregoing, in the Main Street Zoning District all parking shall be to the side and rear of the principal building.
- B) Parking shall be primarily to the side and rear of the principal use and shall not be within the front yard or the side yard.
- C) Cross access easements shall be required of retail developments to adjoining retail or commercial zoned areas to ensure cross access to future median breaks of public highways and streets and to reduce the number of needed curb cuts for driveways.
- D) Shared parking agreements shall be required at final platting where proposed shared parking is approved as a way to reduce parking space requirements otherwise required by this Subtitle or other City ordinance.
- E) Access/Ingress/Egress.

- 9) Driveways from a public street to the required parking space shall be constructed of reinforced concrete
- 10) Driveways serving all uses should be spaced a minimum of one hundred (100) feet from the intersection of a public street or as required by the Texas Department of Transportation on State maintained roads.
- 11) All ingress and egress driveways shall have a minimum turning radius of thirty (30) feet unless more is required for truck delivery.
- 12) Driveways shall maintain the required sight distance triangle at all perimeter entrances and exists.
- 13) Nonresidential development main entrances shall be located at the public street or road median breaks providing a left turn access to and from the site.
- 14) Cross access easements from adjoining commercial property shall be required.
- 15) Main entrance drives should connect to a “straightaway” aisle that does not dead end or require an immediate turn to approach the principal use.
- 16) Parking aisles intersecting with entrance drives shall be spaced at a minimum of twenty (20) feet from the property line to provide for smooth turning movements.
- 17) The standard required parking space shall be not less than one hundred sixty two (162) square feet – measuring approximately, in feet, nine (9) feet by eighteen (18) feet.
- 18) A compact car space shall be no less than one hundred twenty-eight square feet (128’) measuring approximately, eight (8) feet by sixteen (16) feet.
- 19) Bus or recreational vehicle parking shall not be less than six hundred (600) square feet measuring approximately ten (10) feet by fifty (50) feet.
- 20) The surface of the area of a residential off-street parking area shall be constructed of four (4) inches of reinforced concrete or one and one-half (1-1/2) inches of hot mix asphalt, cobble stones or bricks, on a stabilized base four (4) inches thick, or by special permission of the City Engineer or Director of Public Works, other suitable surfaces that complement the architectural style of the property shall be allowed.
- 21) Commercial parking areas and lots shall be constructed of six (6) inches of reinforced concrete.

F) Street/driveway intersection visibility/site triangles.

- 1) All site plans shall show the required site triangle on both sides of each proposed drive/street to the proposed principle use or proposed development with the grades, curb, elevations, proposed street/drive locations and all items (both natural and manmade) within the site triangle. The plan for the site triangle shall show no visibility restrictions either horizontal or vertical within the site triangle area.
- 2) No fence, wall, screen, sign face, tree or shrub, foliage, berm or other item either manmade or natural shall be maintained, erected or planted in the site triangle area; provided however, on non-residentially zoned lots, a mounting of a single pole for a sign not exceeding twelve (12) inches in diameter shall be allowed, provided every portion of the sign other than the pole has a minimum height clearance of nine (9) feet.
- 3) Vision clearance, at all intersections, shall be clear at elevations between twenty-four (24) inches and nine (9) feet above the top of the curb elevation within a triangle area formed by extending the two (2) curb lines from their point of intersection for the minimum distances listed below for the applicable intersection, and connecting these points with an imaginary line, thereby making triangle. If no curbs are proposed or exist, the triangle area shall be formed by extending the property lines from their point of intersection for a distance, as noted below and connecting these points with an imaginary line, thereby making a triangle as shown below.
  - a) Two (2) public streets – the minimum required distance along each curb, from the curbs' point of intersection shall be thirty (30) feet, and the minimum required distance along each property line, from the point of intersection of the property lines , within a curb, shall be twenty (20) feet.
  - b) Public street intersection with a private driveway – the minimum required distance, along the curb, from the curb point of intersection with the driveway shall be fifteen (15) feet, and the minimum required distance along the property line from the property line intersection, on streets without a curb, shall be ten (10) feet.
  - c) Public street intersections with an alley - minimum required distance, along the curb, from the curb intersection shall be twenty-five (25) feet, and the minimum required distance along the property line, from the property line intersection, on streets without a curb, shall be 15 feet.
  - d) The required standards for both vertical and horizontal sight distance requirements set forth in the latest edition of AASHTO green book “policy on geometric design of highways and streets” for the construction of both public street intersections and private drive intersections shall be met unless otherwise approve by the city engineer. If in the opinion of the

city engineer, a proposed street or drive intersection may not meet these standards, additional engineering information exhibiting how the standards have been addressed may be required for submission and approval by the city engineer.

- G) Parking lots shall be adequately lit and shall include pedestrian amenities such as sidewalks and pedestrian ways perpendicular to the main building. Trash receptacles shall be provided. Grocery cart parking shall be placed in controlled areas throughout the parking lots when carts are provided.
- H) Minimum one (1) pedestrian walkway (minimum five (5) foot wide (beyond the bumper overhang) through the parking lot to the building shall be provided.
- I) Parking lots shall be screened from view along sidewalks and roadways through the combined use of free forming berms, low masonry walls and plantings.
- J) Trees shall be placed in islands, medians, and perimeter areas adjacent to the parking lots (excluding street trees).
- K) No landscaped area within the parking lot shall be less than one hundred (100) square feet.
- L) Landscape islands, medians, perimeter curbs and sidewalks shall contain an eighteen (18) inch wide concrete or decorative paver curb along the inside of the feature that abuts parking stalls to allow patrons to avoid treading over landscaping.

#### 4.1.8.3 OFF STREET PARKING REQUIREMENTS

- A) Auditorium or similar gathering assembly – one (1) parking space for every four (4) seats.
- B) Bank or Financial Institution – one (1) parking space for every three hundred (300) square feet of floor area.
- C) Cemetery or Mausoleum – cemetery parking requirement at a rate of 2.5 percent of the cemetery site dedicated to off street parking. For a cemetery gathering building, room or public structure the parking requirement shall be a minimum of one (1) parking space for each 300 (three hundred) square feet of building or structure space. The interior roadways (non-public streets and roadways) of the cemetery may act to meet the cemetery parking requirement except for the building parking space requirement which shall be at a rate of 300 per square feet.
- D) Church – one (1) parking space for every three hundred (300) square feet of floor area, except that for assembly areas one (1) space shall be provided for every four (4) seats in an assembly area.
- E) Civic Center – one (1) parking space for every three hundred (300) square feet of floor area, except that for assembly areas one (1) space shall be provided for every four (4) seats in an assembly area.

- F) Educational Facility – one (1) parking space per each employee plus one (1) parking space for every four (4) classrooms for elementary levels, plus one (1) parking space for every four (4) students for secondary and higher levels of education.
- G) General Office – one (1) parking space for every three hundred (300) square feet of floor space.
- H) Group Home – four (4) parking spaces.
- I) Home based bed and breakfast business – one (1) parking space for each sleeping room.
- J) Hospital or Medical/Health Care facility – one (1) parking for every two (2) patient beds plus one (1) parking space for every one and one half (1-1/2) employees.
- K) Hotels and Motels: one (1) parking space for each sleeping room plus one (1) parking space for every three hundred (300) square feet of meeting or commercial assembly floor area.
- L) Library – one (1) parking space for every four hundred (400) square feet of floor area.
- M) Manufacturer Home Park Development – two (2) parking spaces per single residential unit and one (1) community parking space within a community parking area for every two (2) residential units.
- N) Manufacturing and Assembly – one and one half (1-1/2) parking spaces for every one (1) employee for businesses with two (2) or more work shifts, one (1) parking space per employee for businesses with one (1) work shift.
- O) Medical Office or clinic – one (1) parking space for every two hundred (200) square feet of floor area.
- P) Multifamily Dwellings.
  - 1) One (1) parking space for each dwelling unit have two (2) or fewer bedrooms.
  - 2) Two (2) parking spaces for each dwelling unit have more than two (2) bedrooms.
  - 3) One (1) guest parking for every five (5) dwelling units.
  - 4) Recreational vehicle and utility vehicle storage area of one (1) space for every five (5) dwelling units.
- Q) Personal Services including spas, beauty and barber shops, one (1) parking space for every two hundred (200) square feet of floor area.
- R) Recreational, Amusement, Health Club, Country clubs, and similar membership uses – public or private:
  - 1) One (1) parking space for every two hundred (200) square feet of building floor area.

- 2) Two (2) parking spaces for every outside or inside game court.
- 3) One (1) parking space for each four (4) seats of outdoor assembly bleachers or indoor seating.
- 4) Seventy (70) spaces for every playing field used for league play.
- 5) Two (2) parking spaces for every golf course green or driving range tee.
- 6) Five (5) parking spaces for every bowling alley.
- S) Retail sales uses, including general merchandise and/or grocery store – one (1) parking space for every two hundred and fifty (250) square feet of building floor area.
- T) Restaurants – one (1) parking space for every three (3) seats with a minimum of eight (8) parking spaces provided and one and one-half (1-1/2) parking spaces per employee.
- U) Service providers to the general public other than listed in this Subtitle – one (1) parking space for every three hundred (300) square feet of building floor area.
- V) Single Dwelling Unit including a manufactured home – two (2) covered parking spaces for each dwelling unit located behind the front yard building line and not within the side yard.
- W) Warehousing/Distribution Center – one (1) parking space per each employee on one (1) shift and one and one half (1-1/2) parking spaces per employee for two (2) or more work shifts.
  - 1) Mini-Warehouses, self-storage – one (1) parking space per employee and one (1) parking space for each three hundred (300) square feet of office and showroom space.
  - 2) Retail showroom/warehouse – one (1) parking space per employee and one (1) space for each five hundred (500) square feet of showroom space.
- X) Unclassified use- for uses not included above, one (1) parking space for each three hundred (300) square feet of floor area.

#### 4.1.8.4 OFF -STREET LOADING SITE DESIGN REQUIREMENTS

- A) Exterior loading space(s) shall be located to the rear or side of the principal use and not within the front yard or side yard. A minimum ten (10) foot screening wall of masonry or dense landscaping shall be required to screen views of loading docks and loading spaces from any public right of way or adjoining residential zone or residential use. If masonry is utilized said masonry shall match the masonry used on the principal building.
- B) Driveways from the public street to the loading space shall be constructed of reinforced concrete.

- C) Drive through service bays shall not be located adjacent to a residential zone or residential property.

#### 4.1.8.5 OFF-STREET LOADING SPACE REQUIREMENTS

- A) Amusement, Health Club and similar uses- one (1) loading space plus one (1) additional loading space for each twenty-five thousand (25,000) square feet of building space over twenty-five thousand (25,000) square feet.
- B) Auditorium or similar gathering assembly – one (1) loading space plus one (1) additional loading space for each twenty-five thousand (25,000) square feet of floor space over twenty-five thousand (25,000) square feet.
- C) Bank or similar financial institution – one (1) loading space plus one (1) additional loading space for each twenty-five thousand (25,000) square feet of floor space above twenty-five thousand (25,000) square feet.
- D) Cemetery or Mausoleum – one (1) loading space.
- E) Civic Center – one (1) loading space plus one (1) additional loading space for each twenty-five thousand (25,000) square feet of floor space above twenty-five thousand (25,000) square feet.
- F) Church – one (1) loading space.
- G) Educational – one supply loading space plus one additional loading space for each twenty-five thousand (25,000) square feet over twenty-five thousand (25,000) square feet. For bus loading –one (1) loading space for each bus scheduled at simultaneous loading and unloading times.
- H) General Office – one (1) loading space plus one additional loading space for each ten thousand (10,000) square feet of floor space above fifty thousand (50,000) square feet.
- I) Hospital or Medical/Health Care Facility – One (1) loading space plus one (1) additional loading space for each ten thousand (10,000) square feet of space above fifty thousand (50,000) square feet.
- J) Hotels - one loading space plus one additional loading space for each ten thousand (10,000) square feet of meeting space above twenty-five thousand (25,000) square feet.
- K) Library – one (1) loading space.
- L) Manufacturing and assembly – one (1) loading space plus one (1) additional loading space for each twenty-five thousand (25,000) square feet over 25,000 square feet.
- M) Medical office or clinic – one (1) loading space plus one additional loading space for each ten thousand (10,000) square feet of space above fifty thousand (50,000) square feet.
- N) Multifamily Dwellings, one (1) loading space plus one additional loading space for every twenty-five (25) units over twenty-five (25) dwelling units.

- O) Retail – one (1) loading space plus one additional loading space for each twenty-five thousand (25,000) square feet of floor space over fifty-thousand (50,000) square feet.
- P) Restaurants – one (1) loading space.
- Q) Single Detached Dwelling- one (1) loading space, which is not located within the rear yard or within the side or front yard, shall be required for parking of any recreational vehicles other than a passenger automobile.
- R) Service uses (business and personal) other than those categorized above- one (1) loading space plus one (1) additional loading space for each twenty-five thousand (25,000) square feet of floor space over fifty thousand (50,000) square feet.
- S) Warehousing – one (1) loading space plus one additional loading space for each fifteen thousand (15,000) square feet over twenty-five thousand (25,000) square feet.
- T) Unclassified use – for uses not listed above, one (1) loading space plus one (1) additional loading space for each fifteen (15,000) square feet over twenty-five thousand (25,000) square feet.

## **CHAPTER 9 - LANDSCAPING REQUIREMENTS**

### **4.1.9.1 PURPOSE**

The purpose of these landscape requirements is to protect the public health, safety and welfare by requiring that new development be adaptive to the existing natural areas and sensitive to sustaining the existing tree canopy and Texas native landscape thereby reducing heat build-up, air pollution, soil erosion and reduction of the rate of storm water drainage as well as providing for the control of the density of development.

- A) Landscape Plan Requirements.
  - 1) As part of the Site Plan approval a landscape plan shall be prepared and submitted.
  - 2) The Landscape Plan shall be prepared by a person knowledgeable in Plan material usage, irrigation and landscape design (e.g. a landscape architect is recommended as well as an irrigation specialist).
  - 3) A minimum of twenty (20) percent of the property shall be landscaped and ten (10) percent of existing trees over six (6) inches shall be preserved.
  - 4) The landscape plan, drawn to a minimum scale of one (1) inch equals fifty (50) feet, shall provide, at a minimum, the following:
    - a) Property limits, topography of the site, north arrow, date and name (seal if applicable) of preparer.

- b) Location, size and species of all trees to be preserved indicating size measured at twenty four (24) inches above ground level, location size and species of Texas native landscape materials to be maintained.
- c) Location and spacing of all plants and landscaping materials to be proposed, including plants, paving, benches, screens, fountains, statues, earthen berms, ponds (include depth of water).
- d) Species of all plant materials to be proposed include common names as well as scientific names. Texas native plants species are preferred.
- e) Size of all plant materials at time of planting and size of plant at maturity. Texas native plant materials are preferred.
- f) Layout of irrigation, sprinkler or water systems including water source.
- g) Description of landscape maintenance requirements and responsibility for all landscape features and plans.

**B) Required Landscaping Standards.**

- 1) **Planting Strip.** Along each public street, a twenty (20) foot wide landscaped planting strip shall be required in all Districts except in the Main Street District where the planting strip shall be ten (10) feet wide. The planting strip excludes driveways and access ways at points of ingress and egress to and from a property. The planting strip may be in the front yard. The planting strip may include some or all of the sidewalk. The planting strip shall not be located within all or any portion of the public right of way.
- 2) **Street Trees.** For all development, a minimum of one (4) inch caliper, eight foot (8) height tree shall be required every twenty-five (25) linear feet of public street frontage within the landscaped planting strip.
- 3) For all single detached residential development lots, a minimum of one (1) tree shall be located in the front yard of each lot and one (1) tree in the rear yard of each lot.
- 4) For multi-family residential development, a minimum of one (1) tree shall be planted for each dwelling unit on the development property.
- 5) For development within the Retail, Main Street and Planned Commercial Districts a minimum of one (1) tree shall be planted for every fifteen hundred (1,500) square feet of floor area with the site.
- 6) For the Business Park District a minimum of two (1) trees shall be planted for every five thousand (5,000) square feet of floor area within the site.
- 7) Planting strips less than six (6) feet wide are prohibited.

- 8) Where landscaping is intended to provide a visual screen, the species, quantity, maturity (size), and spacing of the initial plantings shall be sufficient to provide a functional screen within a single growing season.
- 9) Planters shall be guarded from automobiles by raised curbs or wheel stops.
- 10) Vegetative matter shall cover seventy-five (75) percent of any landscape area.
- 11) Storm water detention facilities do not meet the landscape requirements.

## **CHAPTER 10 - USE REGULATIONS**

### **4.1.10.1 CONDITIONAL USE**

- A) The purpose of a Conditional Use Permit provides a means for developing certain uses in a manner in which the proposed use will be compatible with adjacent property and consistent with the character of the neighborhood.
- B) The uses listed in each district as “Conditional Use” are prohibited in the district unless and until a Conditional Use Permit is granted for such use by the City Council in accordance with the requirements and procedures set forth in this section. Conditional Use requirements as to number, area, location, duration or relationship to the neighborhood and adequate development standards and safeguards established for such use are intended to promote the health, safety and welfare of the neighborhood and the City.
- C) Each Conditional Use Permit shall be evaluated as to its probable effect on the adjacent property and the community welfare and may be approved or denied as the findings indicate appropriate in the discretion of the City Council.
- D) Conditional Use Permit Application. An application for a Conditional Use Permit shall be submitted to the Planning and Zoning Commission and shall include the following:
  - 1) A written description of the proposed use.
  - 2) A plan showing the location of the proposed use on the site.
  - 3) Any additional information required by the Zoning Administrator.
- E) Review by the Planning and Zoning Commission and the City Council of a Conditional Use Permit Application.
  - 1) The Planning and Zoning Commission shall hold a public hearing after proper advertisement and make a recommendation to the City Council.
  - 2) The City Council shall hold a public hearing and approve, approve with conditions, or deny the Conditional Use Permit based on the review criteria below

F) Conditional Use Permit Review Criteria. In evaluating a Conditional Use Permit application, the Planning and Zoning Commission and the City Council shall consider whether the proposed use:

- 1) Compliments or is compatible with the surrounding uses and community facilities;
- 2) Contributes to, enhances, or promotes the welfare of the area of request and adjacent properties;
- 3) Is not detrimental to the public health, safety, or general welfare;
- 4) Conforms in all other respects to all applicable zoning regulations and standards; and
- 5) Is in conformance with the Comprehensive Plan.

G) Additional Conditions on a Conditional Use Permit.

- 1) As a condition of approval, the Planning and Zoning Commission and City Council may impose reasonable conditions upon the Conditional Use Permit consistent with the Comprehensive Plan, other stated development goals and objectives of the City and the requirements of other City regulations.
- 2) Such conditions may include, but are not limited to the location, health, safety, arrangement, operation, duration, traffic, parking, and type and manner of construction of any use for which a Conditional Use Permit is requested.

H) Effect of Conditional Use Permit.

- 1) The granting of a Conditional Use Permit has no effect on the uses permitted by right and does not waive the regulations of the underlying zoning district.
- 2) A Conditional Use Permit runs with the land; therefore, a new owner is not required to reapply for a Conditional Use Permit unless a time limit that has been established terminates.

I) Conditional Use Permit and the Zoning Map.

- 1) When the City Council authorizes granting of a Conditional Use Permit, the zoning map shall be amended according to its legend to indicate that the affected area has conditional and limited uses.
- 2) The amendment is to indicate the appropriate zoning district for the approved use and shall be suffixed by a “C” designation.

#### 4.1.10.2 TEMPORARY USE

- A) Temporary uses operating for less than ninety (90) days within a one (1) year time period shall obtain a Temporary Use Permit from the Zoning Administrator. Temporary Use Permits shall specify conditions of operation with the objective being to allow the use subject to conditions determined appropriate to protect the public health, safety, and welfare.

- B) Temporary Use shall include short-term or seasonal uses that would not be appropriate on a permanent basis. The following uses and activities shall be considered temporary uses and no other temporary uses shall be allowed:
- 1) Fundraising Activities by Not-for-Profit Agencies. Fundraising or Non-commercial events for nonprofit educational, community service or religious organizations where the public is invited to participate in the activities and which last longer than forty-eight (48) consecutive hours.
  - 2) Special and Seasonal Sales Events. Significant commercial activities lasting not longer than ninety (90) consecutive days and which are intended to sell, lease, rent or promote specific merchandise, services or product lines, including but not limited to warehouse sales, tent sales, trade shows, flea markets, farmer's markets, Christmas tree lot sales, product demonstrations or parking lot sales of food, art work or other goods.
  - 3) Entertainment or Amusement Events. Short-term cultural and entertainment events including public or private events lasting not longer than ninety (90) consecutive days and which are intended primarily for entertainment or amusement, such as concerts, plays or other theatrical productions, circuses, fairs, carnivals or festivals.
  - 4) Temporary Batch Plants in construction areas.
- C) Temporary Use Permit Applications. An application for a Temporary Use Permit shall be submitted to the Zoning Administrator at least ten (10) working days before the requested start date for a temporary use and shall include the following:
- 1) A written description of the proposed use or event, the duration of the use or event, the hours of operation, anticipated attendance, and any building or structures, signs or attention-attracting devices used in conjunction with the use or event.
  - 2) A written description of how the temporary use complies with the review criteria below.
  - 3) A plan showing the location of proposed structures, including onsite restrooms and trash receptacles, parking areas, activities, signs and attention attracting devices in relation to existing buildings, parking areas, streets and property lines.
  - 4) A letter from the property owner agreeing to the temporary use if the applicant is not the property owner.
  - 5) Any additional information required by the Zoning Administrator as he/she determines necessary to evaluate the permit request.
- D) Appeal of Denied Temporary Use Permit by the P&Z.

- 1) The Zoning Administrator shall make a determination whether to approve, approve with conditions, or deny the permit within five (5) working days after the date of submission of a complete application for a temporary use permit.
- 2) Any applicant denied a permit by the Zoning Administrator shall be notified in writing of the reasons for the denial and of the opportunity to appeal to the Commission.
- 3) A denial of a temporary use permit may be appealed to the Commission within ten (10) days of the Zoning Administrator's action. The appeal shall be made in writing to the City Secretary and a copy shall be provided to the Zoning Administrator.

E) Review Criteria for Temporary Use Permits:

- 1) The temporary use must be compatible with the purpose and intent of this Subtitle.
- 2) The temporary use shall not impair the normal, safe and effective operation of a permanent use on the same site or adjacent sites.
- 3) The temporary use shall not endanger or be detrimental to the public health, safety or welfare, or injurious to property or improvements in the immediate vicinity of the temporary use, given the type of activity, its location on the site, and its relationship to parking and access points.
- 4) The temporary use shall conform in all respects to all other applicable City regulations and standards.

F) Restoration of Site. Upon cessation of the event or use, the site shall be returned to its previous condition, including the removal of all trash, debris, signage, attention-attracting devices or other evidence of the special event or use. The applicant shall be responsible for ensuring the restoration of the site.

G) Hours of Operation and Duration: The hours of operation and duration of the temporary use shall be consistent with the intent of the event or use and compatible with the surrounding land uses and shall be established by the Zoning Administrator at the time of approval of the temporary use permit.

H) Traffic Circulation: The temporary use shall not cause undue traffic congestion given anticipated attendance and the capacity of adjacent streets, intersections and traffic controls.

I) Off-street Parking: Adequate off-street parking shall be provided for the temporary use, and it shall not create a parking shortage for any of the other existing uses on the site(s).

J) Public Conveniences and Litter Control: Adequate onsite rest room facilities and litter control may be required as condition of the permit.

- K) The applicant shall provide a written guarantee that all litter generated by the event or use shall be removed at no expense to the City, and City may require applicant to provide a financial guarantee of compliance.
- L) Appearance and Nuisances: The temporary use shall be compatible in intensity, appearance and operation with surrounding land uses in the area, and it shall not impair the usefulness, enjoyment or value of adjacent property due to the generation of excessive noise, dust, smoke, glare, spillover lighting, or other forms of environmental or visual pollution.
- M) Signs: The Zoning Administrator shall review all signage. The Zoning Administrator may approve the temporary use of attention attracting devices that comply with the City's Sign regulations.
- N) Additional Conditions for Temporary Use Permits. The Zoning Administrator may establish additional conditions to ensure land use compatibility and to minimize potential adverse impacts on nearby uses, including, but not limited to, time and frequency of operation, temporary arrangements for parking and traffic circulation, requirements for screening or buffering, guarantees for site restoration and cleanup following the temporary use and other conditions determined necessary for compliance with City's ordinances and the protection of public health, safety and welfare.

#### 4.1.10.3 CLASSIFICATION OF NEW AND UNLISTED USE

- A) Unlisted Uses: The uses permitted are classified on the basis of common operational characteristics and land use compatibility. Uses not specifically listed are hereby prohibited. However, additional new and unlisted uses may be permitted by the Commission, subject to City Council approval, if the use is similar to other uses listed in the same Zoning District.
- B) Conditions on New Land Uses: When considering requests for a new land use, the Commission shall consider the potential effects of the use on adjacent properties in terms of requirements for services, compatibility, visual impact, traffic generation, the extent to which the use is consistent with other uses allowed in the district, consistency with the comprehensive master plan and other issues they deem appropriate.
- C) Authorization of New Uses: If after public hearing, a new use is authorized by the Commission, a text amendment shall be sent to the City Council for public hearing and action.

#### 4.1.10.4 SPECIFIC USE

- A) The City Council may consider after a public hearing, proper notice to all parties affected and recommendations by the Commission to grant a specific use permit for a premises under consideration. In making its determination, the City Council shall consider the following whether such use is harmonious and adaptable to the building or structure and uses of abutting property and other property in the vicinity of the premises under consideration. In its discretion, City Council may impose requirements for the traffic, access, parking, ingress, egress, provisions

for drainage, protective screening and open space, heights of structures and compatibility of buildings or other requirements as it deems appropriate.

- B) In granting a specific use permit, the City Council may impose conditions which shall be complied with by the owner or grantee as a condition precedent to the issuance of a certificate of occupancy may be issued by the Zoning Administrator. The specific use permit shall be to the owner or grantee and is not transferrable with the lease or sale of the property, does not constitute zoning, nor does it run with the property. No specific use permit shall be granted unless approved by the City Council. The applicant shall be willing to accept and agree to be bound by and comply with the written requirements of the specific use permit, as attached to the site plan drawing or drawings.

#### 4.1.10.5 NON-CONFORMING USE

A lawful use of property existing at the time of the passage of this Subtitle, as amended that does not conform with the regulations of this Subtitle shall be deemed a “non-conforming use”, except that any residential use existing at the time of passage of this Subtitle shall be deemed a conforming use.

- A) If a non-conforming use of a property is discontinued and not occupied for more than (90) ninety days, the non-conforming use status of the property is automatically deemed to be discontinued and any future use of said property shall be in conformity with the provisions of this Zoning Ordinance.
- B) A non-conforming use of a building may be continued and may be changed to another non-conforming use of the same or more restricted classification. A non-conforming use existing in a portion of a building may be extended to other portions of the building provided that no structural alterations, except those required by law or ordinance, are made therein. Notwithstanding the foregoing, in the event that a non-conforming use of all or a portion of the building is changed to a non-conforming use of a more restricted classification in all or a portion of the building, such non-conforming use shall not later revert to a less restricted classification in any portion of the building for which the change to a more restricted classification was made.
- C) The non-conforming use shall not be continued in case of total destruction of the building by fire, wind or other cause. In the case of partial destruction, defined as destruction not exceeding fifty (50) percent of a building’s value, the Zoning Administrator shall issue a permit for reconstruction. If partial destruction is greater than fifty (50) percent, the City Council, in its discretion, may grant a permit for repair or reconstruction after conducting a public hearing at which the City Council considers the interests of the of the persons affected, the public welfare, the character of the area surrounding the non-conforming use, and the conservation and preservation of property.

## **CHAPTER 11 - BOARD OF ADJUSTMENT**

### 4.1.11.1 BOARD OF ADJUSTMENT

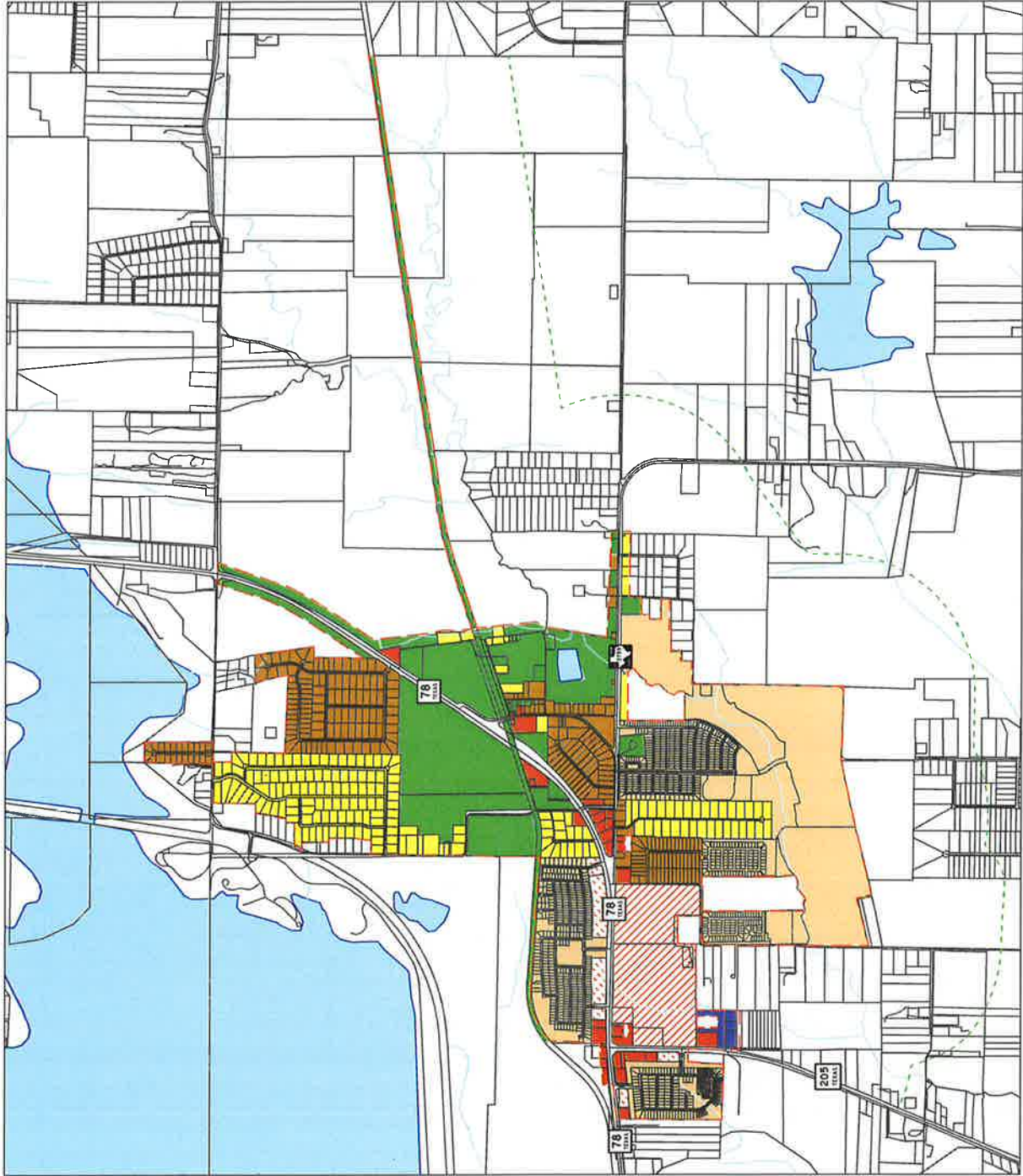
- A) The Board of Adjustment (Board) shall be established in accordance with the applicable Texas Municipal Zoning Authority.
- B) Each case before the Board must be heard by at least seventy five (75) percent of the members.
- C) The Board may:
  - 1) hear and decide an appeal that alleges error in an order, requirement, decision, or determination made by an administrative official in the enforcement of this Ordinance.
  - 2) hear and decide special exceptions to the terms of this Ordinance.
  - 3) authorize in specific cases a variance from the terms of this Ordinance if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of this Ordinance would result in unnecessary hardship, and so that the spirit of this Ordinance is observed and substantial justice is done. The hardship shall neither be self-imposed nor generally affecting all or most properties in the same zoning district.
  - 4) hear and decide other matters authorized by this Ordinance.
- D) In exercising its authority, the Board may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision or determination, and for that purpose the Board has the same authority as the administrative official.

**EXHIBIT "B"**

**CITY OF LAVON, TEXAS  
ORDINANCE NO. 2018-03-02**

**ZONING MAP**

# ZONING MAP



## Legend

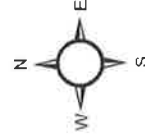
- Agricultural (A)
- Single Family-1 (SF-1)
- Single Family-2 (SF-2)
- Retail (R)
- Planned Development – Single Family (PD-SF)
- Planned Development – Mixed Use (PD-MU)
- Planned Development – Commercial (PD-C)
- Planned Development – Business (PD-B)

For Planned Development Regulations  
See the City of Lavon Ordinance applicable to the specific site.

## Unassigned Zoning Districts

- Single-Family -4 (SF-4)
- Main Street
- Business Park District (B-2)

For General Regulations of these Zoning Districts  
see the City of Lavon Zoning Ordinance



MUNDO ASSOCIATES INC.  
*Economic Development, Planning, and Civil Engineering*





# CITY OF LAVON CITY COUNCIL Agenda Brief

**MEETING:** March 20, 2018

**ITEM:** 7-A

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**Item:**

Discussion and action regarding Resolution No. **2018-03-01** authorizing the Mayor to execute a Participation Agreement with the Atmos Cities Steering Committee.

**Background Information**

Atmos recently submitted a resolution for the Council's consideration relating to a new Rate Review Mechanism (RRM) tariff to govern future annual rate filings by Atmos Mid-Tex. Many cities belong to groups that assist in the review and management of the processes relating to gas and electric rate regulation and other related franchise matters.

Atmos Cities Steering Committee (ACSC) is the largest coalition of cities served by Atmos Mid-Tex. There are 173 ACSC member cities, which represent more than 65 percent of the total load served by Atmos-Mid Tex. ACSC protects the authority of municipalities over the monopoly natural gas provider and defends the interests of residential and small commercial customers within the cities.

In December, 2017, the Atmos Cities Steering Committee approved the 2018 assessment for Steering Committee membership. Based upon the population-based assessment protocol previously adopted by the Steering Committee, the assessment for 2017 was set at a per capita fee of \$0.02. The cost for the City of Lavon to join membership would be about \$77.00.

**Attachments:** Proposed Resolution

March 14, 2018

**CITY OF LAVON, TEXAS**  
**RESOLUTION NO. 2018-03-01**

Participation in Atmos Cities Steering Committee

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAVON, TEXAS AUTHORIZING THE MAYOR TO EXECUTE A PARTICIPATION AGREEMENT IN THE ATMOS CITIES STEERING COMMITTEE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Texas Interlocal Cooperation Act (V.T.C.A. Texas Government Code, Chapter 791) provides authorization for the City of Lavon to enter into the Participation Agreement; and

**WHEREAS**, the City Council has determined that joining with cities in the service area of Atmos Gas to work together collectively in a coalition to participate in the regulatory process to assure gas rates charged are just and reasonable is in the best interests of the residents of the City of Lavon;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LAVON, TEXAS, THAT:**

**SECTION 1.** The City Council does hereby authorize the Mayor to execute a Participation Agreement with the Atmos Cities Steering Committee, attached hereto as Exhibit "A".

**SECTION 2.** That this resolution shall take effect from and after the date of its passage.

**DULY PASSED AND APPROVED** by the City Council of the City of Lavon, Texas on the 20<sup>th</sup> day of March, 2018.

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Charles A. Teske, Jr.  
Mayor

ATTEST:

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Kim Dobbs  
City Administrator | City Secretary

**CITY OF LAVON, TEXAS**  
**RESOLUTION NO. 2018-03-01**

**EXHIBIT A**

**ACSC PARTICIPATION AGREEMENT**

THE STATE OF TEXAS §  
COUNTY OF COLLIN §

**ATMOS CITIES STEERING COMMITTEE  
PARTICIPATION AGREEMENT**

THIS Agreement is made and entered into on this the \_\_\_\_\_ day of \_\_\_\_\_, 2018, by, between and among the CITY OF LAVON, TEXAS ("City") and member cities of the ATMOS CITIES STEERING COMMITTEE ("ACSC"). This Agreement is authorized by the Texas Interlocal Cooperation Act (V.T.C.A. Texas Government Code, Chapter 791), and other authorities.

WITNESSETH:

- WHEREAS, the cities in the service area of Atmos Gas have worked together collectively in a coalition to participate in the regulatory process to assure gas rates charged were just and reasonable; and
- WHEREAS, the nature of gas utility regulation is undergoing change; and
- WHEREAS, there remains a need for cities to cooperate to assure the public interest is protected and gas and other utility rates are just and reasonable; and
- WHEREAS, regulatory changes now require quick response in order to have meaningful input into the rate setting process; and
- WHEREAS, it is necessary to provide adequate resources to enable cities to act quickly, decisively, and jointly on gas utility regulatory developments; NOW THEREFORE,

In consideration of the premises, agreements, covenants and promises set forth herein, it is agreed as follows:

**1.**  
**Atmos Cities Steering Committee  
Membership and Executive Committee**

The City and the member cities hereby form the ACSC. Each member city shall, by action of its governing body, approve its membership in the ACSC and designate its representative to receive notices and participate in and vote at ACSC meetings. The ACSC shall be composed of all cities paying the current nonrefundable membership fee. The membership assessment shall be established annually by the Executive Committee. The current year assessment is 2¢ per capita, according to the City's population listed on the most recent Texas Municipal League online guide. The members shall elect an Executive Committee consisting of no more than twenty (20) persons which shall function as the Board of Directors. The Executive Committee shall at least include a representative from all member cities with a population greater than 100,000, according to the most recent Texas Municipal League Directory of Texas City Officials. The remainder of the representatives shall be selected based upon diversity of geographic location and city population size. Each city on the ACSC and each city on the Executive Committee shall have one vote, respectively. Meetings of the Executive Committee shall be open to each city on the ACSC whether or not it has a representative on the Executive Committee.

**2.**

**Powers of the Executive Committee**

The City and the member cities delegate to the Executive Committee the power to intervene on behalf of ACSC member cities in gas projects, rulemaking, rate case, and related dockets and appeals thereof, represent the interests of cities in utility matters before state and federal legislative bodies and to pay for such activities. A member city may subsequently request and cause its party status to be withdrawn from such activities. The Executive Committee shall fix the amount of the membership fee from time to time.

**3.**

**Election of Officers**

The Executive Committee shall elect a chair and any co-chairs as it deems necessary who shall serve at the pleasure of the Executive Committee. The Executive Committee shall also elect a secretary/treasurer.

**4.**

**Powers of the Officers**

Each officer elected shall serve at the pleasure of the Executive Committee up to a term of four (4) years. The Executive Committee shall elect or re-elect officers at least every four (4) years. Unless terminated by the Executive Committee or the respective city governing body, the officer shall perform the duties of office until a replacement has been elected. Meetings of the Executive Committee and ACSC shall be upon call of the chair or two (2) members of the Executive Committee. The Executive Committee shall meet at least annually. The chair is authorized by action of the Executive Committee to engage consultants and attorneys and to pay for such services.

**5.**

**Termination of Membership**

A city may terminate its membership by action of its governing body, or if said city fails to pay its membership fee in full within one-hundred eighty (180) days after notification of fee due. A city is considered notified on the day written notice is sent to its last designated representative on file with the secretary/treasurer.

**6.**

**Money Held in Trust**

The officers shall hold and manage all money collected in trust for the benefit of the member cities collectively. Officers may establish prudent fund accounts that accumulate funding for activities and to pay authorized expenses. Officers shall serve without pay, but may be reimbursed reasonable out-of-pocket expenses as approved by the Executive Committee. The City may request and receive a statement of ACSC revenues and expenses each year.

**7.**  
**Payment for Performance of Governmental Functions and Services Made from Current Revenues**

By entering into this Agreement, City affirms that it is paying for the performance of governmental functions or services from current revenues available. The payments made under this agreement fairly and adequately compensates the ACSC for the services or functions performed under the contract.

**8.**  
**Legal Construction**

In case any one or more of the terms, provisions, phrases or clauses contained in this agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall be construed as if such invalid, illegal or unenforceable portion had never been contained herein.

**9.**  
**Entire Agreement**

This contract embodies the complete agreement of the parties hereto superseding all oral or written previous and contemporary agreements between the parties relating to matters herein and, except as otherwise provided herein, cannot be modified without written agreement of the parties.

**10.**  
**No Other Obligations**

By entering into this Agreement, the parties do not create any obligations, express or implied, other than those set forth herein, and this Agreement shall not create any rights in parties not signatories hereto.

**11.**  
**Immunity**

It is expressly understood and agreed that in the execution of this Agreement, neither City nor ACSC waives, nor shall be deemed to waive, any immunity or defense that would otherwise be available to each against claims arising in the exercise of governmental powers and functions.

**12.**  
**Authority**

The undersigned officers and/or agents are properly authorized to execute this Agreement on behalf of the parties hereto, and each hereby certifies to the other that any necessary resolutions extending such authority have been duly passed and are now in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates indicated above.

**CITY OF LAVON, TEXAS**

**ATMOS CITIES STEERING COMMITTEE**

BY: \_\_\_\_\_  
Signature

BY: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed/Typed Name

\_\_\_\_\_  
Printed/Typed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

**ATTEST:  
CITY SECRETARY**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed/Typed Name





## **CITY OF LAVON CITY COUNCIL Agenda Brief**

**MEETING: March 20, 2018**

**ITEM: 7-B**

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### **ITEM**

Discussion and action regarding Ordinance No. **2018-03-03** approving a tariff authorizing an annual rate review mechanism (“RRM”) as a substitution for the annual interim rate adjustment process defined by Section 104.301 of the Texas Utilities Code, and as negotiated between Atmos Energy Corp., Mid-Tex Division (“Atmos Mid-Tex” or “Company”) and the Steering Committee of cities served by Atmos; requiring the Company to reimburse cities’ reasonable ratemaking expenses; adopting a savings clause; determining that this ordinance was passed in accordance with the requirements of the Open Meetings Act; declaring an effective date; and requiring delivery of this ordinance to the Company and legal counsel for the Steering Committee.

### **BACKGROUND AND SUMMARY**

The City, along with 171 other Mid-Texas Cities Served by Atmos Energy Corporation, Mid-Tex Division (“Atmos Mid-Tex” or “Company”), is a member of the Steering Committee of Cities Served by Atmos (“Cities”). In 2007, the Cities and Atmos Mid-Tex settled a rate application filed by the Company pursuant to Section 104.301 of the Texas Utilities Code for an interim rate adjustment commonly referred to as a GRIP filing (arising out of the Gas Reliability Infrastructure Program legislation). That settlement created a substitute rate review process, referred to as Rate Review Mechanism (“RRM”), as a substitute for future filings under the GRIP statute.

Since 2007, there have been several modifications to the original RRM Tariff. The Ordinance that resolved the Company’s application under the RRM Tariff in 2017 also terminated the existing RRM Tariff and required a renegotiation of the terms of that tariff. Negotiations have taken place over the past several months, and have resulted in a revised RRM Tariff that has been agreed to by the Company. The Cities’ Executive Committee has recommended acceptance of the revised RRM Tariff, which is attached to the Ordinance.

### **CITIES’ OBJECTION TO THE SECTION 104.301 GRIP PROCESS**

Cities strongly opposed the GRIP process because it constitutes piecemeal ratemaking by ignoring declining expenses and increasing revenues and rewarding the Company for increasing capital investment. The GRIP process does not allow any review of the reasonableness of capital investment and does not allow cities to participate in the Railroad Commission’s review of annual GRIP filings or recover their rate case expenses. The Railroad Commission undertakes a mere administrative review of GRIP filings (instead of a full hearing) and rate increases go into effect without any material adjustments. In the Steering Committee’s view, the GRIP process unfairly

raises customers' rates without any regulatory oversight. In contrast, the RRM process has allowed for a more comprehensive rate review and annual evaluation of expenses and revenues, as well as capital investment.

## **CHANGES TO THE RRM TARIFF**

The RRM Tariff on which the 2017 rates were based allowed a rate of return on equity of 10.50%. The revised RRM Tariff reduces that to 9.8%. The revised RRM Tariff also captures the reduction in federal income tax rates from 35% to 21%, and should result in a rate reduction effective by mid-March, 2018. Prior RRM tariffs allowed Cities only three months to review the Company's filing. The new revised Tariff expands that time period by two months. New applications by the Company should be made on or about April 1 of each year, with new rates effective October 1. A rate order from the Railroad Commission in an Atmos Texas Pipeline rate case adopted the position of Cities with regard to incentive compensation related to Atmos' Shared Services Unit that reduced allowed expenses, and that reduced level of expenses will be applicable under the new RRM Tariff.

## **EXPLANATION OF "BE IT ORDAINED" PARAGRAPHS**

1. This section approves all findings in the Ordinance.
2. This section adopts the attached RRM Tariff and finds the adoption of the Tariff to be just, reasonable, and in the public interest. The prior tariff expired by its own terms.
3. This section requires the Company to reimburse the City for expenses associated with adoption of the Ordinance and RRM Tariff and in processing future applications pursuant to the Ordinance.
4. This section repeals any resolution or ordinance that is inconsistent with this Ordinance.
5. This section finds that the meeting was conducted in compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.
6. This section is a savings clause, which provides that if any section is later found to be unconstitutional or invalid, that finding shall not affect, impair, or invalidate the remaining provisions of this Ordinance. This section further directs that the remaining provisions of the Ordinance are to be interpreted as if the offending section or clause never existed.
7. This section provides for an effective date upon passage.
8. This section directs that a copy of the signed Ordinance be sent to a representative of the Company and legal counsel for the Steering Committee.

**Attachments:** Proposed Ordinance

March 13, 2018

**CITY OF LAVON, TEXAS**

**ORDINANCE NO. 2018-03-03**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAVON, TEXAS, APPROVING A TARIFF AUTHORIZING AN ANNUAL RATE REVIEW MECHANISM (“RRM”) AS A SUBSTITUTION FOR THE ANNUAL INTERIM RATE ADJUSTMENT PROCESS DEFINED BY SECTION 104.301 OF THE TEXAS UTILITIES CODE, AND AS NEGOTIATED BETWEEN ATMOS ENERGY CORP., MID-TEX DIVISION (“ATMOS MID-TEX” OR “COMPANY”) AND THE STEERING COMMITTEE OF CITIES SERVED BY ATMOS; REQUIRING THE COMPANY TO REIMBURSE CITIES’ REASONABLE RATEMAKING EXPENSES; ADOPTING A SAVINGS CLAUSE; DETERMINING THAT THIS ORDINANCE WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE OPEN MEETINGS ACT; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND LEGAL COUNSEL FOR THE STEERING COMMITTEE.**

**WHEREAS**, the City of Lavon, Texas (“City”) is a gas utility customer of Atmos Energy Corp., Mid-Tex Division (“Atmos Mid-Tex” or “Company”), and a regulatory authority with an interest in the rates and charges of Atmos Mid-Tex; and

**WHEREAS**, the City and similarly-situated Mid-Tex municipalities created the Steering Committee of Cities Served by Atmos to efficiently address all rate and service matters associated with delivery of natural gas; and

**WHEREAS**, the Steering Committee formed an Executive Committee to direct legal counsel and to recommend certain specific actions to all aligned Mid-Tex Cities through resolution or ordinance; and

**WHEREAS**, pursuant to the terms of a November 2007 agreement between the Steering Committee and Atmos Mid-Tex that settled the Company’s interim rate filing under Section 104.301 of the Texas Utilities Code (a “GRIP” rate case), the Steering Committee and the Company collaboratively developed a Rate Review Mechanism (“RRM”) Tariff, ultimately authorized by the City in 2008, that allows for an expedited rate review process as a substitute for the GRIP process; and

**WHEREAS**, the City has kept some form of a RRM Tariff in place until 2017 when it adopted an ordinance approving an RRM Tariff filing settlement and specifically calling for termination of the existing RRM Tariff and negotiation of a replacement RRM Tariff following the Railroad Commission’s decision in a then-pending Atmos Texas Pipeline case (GUD No. 10580); and

**WHEREAS**, the Steering Committee’s Executive Committee has recently approved a settlement with the Company on the attached RRM Tariff that contains certain notable improvements, from a consumer perspective, over the prior RRM Tariff, including a reduced rate of return on equity, acceptance of certain expense adjustments made by the Railroad Commission in the Order in GUD No. 10580, and the addition of two months to the time for processing a RRM Tariff application; and

**WHEREAS**, the RRM Tariff contemplates reimbursement of Cities’ reasonable expenses associated with RRM Tariff applications; and

**WHEREAS**, the Steering Committee’s Executive Committee recommends that all Steering Committee member cities adopt this ordinance and the attached RRM Tariff; and

**WHEREAS**, the attached RRM Tariff is just, reasonable and in the public interest,

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAVON, TEXAS:**

**Section 1.** That the findings set forth in this Ordinance are hereby in all things approved.

**Section 2.** That the attached RRM Tariff re-establishing a form of Rate Review Mechanism is just and reasonable and in the public interest, and is hereby adopted.

**Section 3.** That Atmos Mid-Tex shall reimburse the Cities’ reasonable expenses associated with adoption of this Ordinance and the attached RRM Tariff and in processing future RRM Tariff applications filed pursuant to the attached tariff.

**Section 4.** That to the extent any resolution or ordinance previously adopted by the City is inconsistent with this Ordinance, it is hereby repealed.

**Section 5.** That the meeting at which this Ordinance was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

**Section 6.** That if any one or more sections or clauses of this Ordinance is adjudged to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining

provisions of this Ordinance , and the remaining provisions of this Ordinance shall be interpreted as if the offending section or clause never existed.

**Section 7.** That this Ordinance shall become effective from and after its passage.

**Section 8.** That a copy of this Ordinance shall be sent to Atmos Mid-Tex, care of Chris Felan, Vice President of Rates and Regulatory Affairs, Atmos Energy Corporation, Mid-Tex Division, 5420 LBJ Freeway, Suite 1862, Dallas, Texas 75240, and to Geoffrey Gay, General Counsel to Mid-Tex Cities, at Lloyd Gosselink Rochelle & Townsend, P.C., 816 Congress Avenue, Suite 1900, Austin, Texas 78701.

**DULY PASSED and APPROVED** by the City Council of the City of Lavon, Texas, on the 20<sup>th</sup> day of March, 2018.

\_\_\_\_\_  
Charles A. Teske, Jr., Mayor

**ATTEST:**

\_\_\_\_\_  
Kim Dobbs, City Administrator | City Secretary

**ATMOS ENERGY CORPORATION  
MID-TEX DIVISION**

<b>RATE SCHEDULE:</b>	<b>RRM – Rate Review Mechanism</b>	
<b>APPLICABLE TO:</b>	<b>ALL CITIES IN THE MID-TEX DIVISION AS IDENTIFIED IN EXHIBIT A TO THIS RATE SCHEDULE</b>	
<b>EFFECTIVE DATE:</b>	<b>Bills Rendered on and after 04/01/2018</b>	<b>PAGE: 1</b>

**I. Applicability**

Applicable to Residential, Commercial, Industrial, and Transportation tariff customers within the city limits of cities identified in Exhibit A that receive service from the Mid-Tex Division of Atmos Energy Corporation (“Company”). This Rate Review Mechanism (“RRM”) provides for an annual adjustment to the Company’s Rate Schedules R, C, I and T (“Applicable Rate Schedules”). Rate calculations and adjustments required by this tariff shall be determined on a System-Wide cost basis.

**II. Definitions**

“Test Period” is defined as the twelve months ending December 31 of each preceding calendar year.

The “Effective Date” is the date that adjustments required by this tariff are applied to customer bills. The annual Effective Date is October 1.

Unless otherwise provided in this tariff the term Final Order refers to the final order issued by the Railroad Commission of Texas in GUD No. 10170 and elements of GUD No. 10580 as specified in Section III below.

The term “System-Wide” means all incorporated and unincorporated areas served by the Company.

“Review Period” is defined as the period from the Filing Date until the Effective Date.

The “Filing Date” is as early as practicable, but no later than April 1 of each year.

**III. Calculation**

The RRM shall calculate an annual, System-Wide cost of service (“COS”) that will be used to adjust applicable rate schedules prospectively as of the Effective Date. The Company may request recovery of its total cost of service but will include schedules showing the computation of any adjustments. The annual cost of service will be calculated according to the following formula:

$$\text{COS} = \text{OM} + \text{DEP} + \text{RI} + \text{TAX} + \text{CD}$$

Where:

OM = all reasonable and necessary operation and maintenance expenses from the Test Period adjusted for known and measurable items and prepared

**ATMOS ENERGY CORPORATION  
MID-TEX DIVISION**

<b>RATE SCHEDULE:</b>	<b>RRM – Rate Review Mechanism</b>	
<b>APPLICABLE TO:</b>	<b>ALL CITIES IN THE MID-TEX DIVISION AS IDENTIFIED IN EXHIBIT A TO THIS RATE SCHEDULE</b>	
<b>EFFECTIVE DATE:</b>	<b>Bills Rendered on and after 04/01/2018</b>	<b>PAGE: 2</b>

consistent with the rate making treatments approved in the Final Order. Incentive compensation (Management Incentive Plan, Variable Pay Plan and Long Term Incentive Plan) related to Atmos' Shared Services Unit will be applied consistent with treatment approved in GUD 10580. Additionally, O&M adjustments will be incorporated and applied as modified by a final order, not subject to appeal, issued by the Railroad Commission of Texas in subsequent rate cases involving the Atmos Mid-Tex or West Texas divisions. Known and measurable adjustments shall be limited to those changes that have occurred prior to the Filing Date. OM may be adjusted for atypical and non-recurring items. Shared Services allocation factors shall be recalculated each year based on the latest component factors used during the Test Period, but the methodology used will be that approved in the Final Order in GUD 10580.

**DEP** = depreciation expense calculated at depreciation rates approved by the Final Order. Additionally, if depreciation rates are approved in a subsequent final order, not subject to appeal, issued by the Railroad Commission of Texas for the Mid-Tex division those rates would be applicable for subsequent RRM filings.

**RI** = return on prudently incurred investment calculated as the Company's pretax return multiplied by rate base at Test Period end. Rate base is prepared consistent with the rate making treatments approved in the Final Order, and as in GUD 10580 as specifically related to capitalized incentive compensation (Management Incentive Plan, Variable Pay Plan and Long Term Incentive Plan) for Atmos' Shared Services Unit. However, no post Test Period adjustments will be permitted. Additionally, adjustments will be incorporated and applied as modified by a final order, not subject to appeal, issued by the Railroad Commission of Texas in subsequent rate cases involving the Atmos Mid-Tex or West Texas divisions. Pretax return is the Company's weighted average cost of capital before income taxes. The Company's weighted average cost of capital is calculated using the methodology from the Final Order including the Company's actual capital structure and long term cost of debt as of the Test Period end (adjusted for any known and measurable changes that have occurred prior to the filing date) and the return on equity of 9.8%. However, in no event will the percentage of equity exceed 58%. Regulatory adjustments due to prior regulatory rate base adjustment disallowances will be maintained. Cash working capital will be calculated using the lead/lag days approved in the Final Order. With respect to pension and other postemployment benefits, the Company will record a regulatory asset or liability for these costs until the amounts are included in the next annual rate adjustment implemented under this tariff. Each year, the Company's filing under this Rider RRM will clearly state the level of pension

**ATMOS ENERGY CORPORATION  
MID-TEX DIVISION**

<b>RATE SCHEDULE:</b>	<b>RRM – Rate Review Mechanism</b>	
<b>APPLICABLE TO:</b>	<b>ALL CITIES IN THE MID-TEX DIVISION AS IDENTIFIED IN EXHIBIT A TO THIS RATE SCHEDULE</b>	
<b>EFFECTIVE DATE:</b>	<b>Bills Rendered on and after 04/01/2018</b>	<b>PAGE: 3</b>

and other postemployment benefits recovered in rates.

**TAX** = income tax and taxes other than income tax from the Test Period adjusted for known and measurable changes occurring after the Test Period and before the Filing Date, and prepared consistent with the rate making treatments approved in the Final Order. Atmos Energy shall comprehensively account for, including establishing a regulatory liability to account for, any statutory change in tax expense that is applicable to months during the Test Period in the calculation to ensure recovery of tax expense under new and old income tax rates.

**CD** = interest on customer deposits.

#### **IV. Annual Rate Adjustment**

The Company shall provide schedules and work papers supporting the Filing's revenue deficiency/sufficiency calculations using the methodology accepted in the Final Order. The result shall be reflected in the proposed new rates to be established for the effective period. The Revenue Requirement will be apportioned to customer classes in the same manner that Company's Revenue Requirement was apportioned in the Final Order. For the Residential Class, 50% of the increase may be recovered in the customer charge. However, the increase to the Residential customer charge shall not exceed \$0.60 per month in the initial filing and \$0.70 per month in any subsequent year. The remainder of the Residential Class increase not collected in the customer charge will be recovered in the usage charge. For all other classes, the change in rates will be apportioned between the customer charge and the usage charge, consistent with the Final Order. Test Period billing determinants shall be adjusted and normalized according to the methodology utilized in the Final Order.

#### **V. Filing**

The Company shall file schedules annually with the regulatory authority having original jurisdiction over the Company's rates on or before the Filing Date that support the proposed rate adjustments. The schedules shall be in the same general format as the cost of service model and relied-upon files upon which the Final Order was based. A proof of rates and a copy of current and proposed tariffs shall also be included with the filing. The filing shall be made in electronic form where practical. The Company's filing shall conform to Minimum Filing Requirements (to be agreed upon by the parties), which will contain a minimum amount of information that will assist the regulatory authority in its review and analysis of the filing. The Company and regulatory authority will endeavor to hold a technical conference regarding the filing within twenty (20) calendar days after the Filing Date.

**ATMOS ENERGY CORPORATION  
MID-TEX DIVISION**

<b>RATE SCHEDULE:</b>	<b>RRM – Rate Review Mechanism</b>	
<b>APPLICABLE TO:</b>	<b>ALL CITIES IN THE MID-TEX DIVISION AS IDENTIFIED IN EXHIBIT A TO THIS RATE SCHEDULE</b>	
<b>EFFECTIVE DATE:</b>	<b>Bills Rendered on and after 04/01/2018</b>	<b>PAGE: 4</b>

A sworn statement shall be filed by an Officer of the Company affirming that the filed schedules are in compliance with the provisions of this Rate Review Mechanism and are true and correct to the best of his/her knowledge, information, and belief. No testimony shall be filed, but a brief narrative explanation shall be provided of any changes to corporate structure, accounting methodologies, allocation of common costs, or atypical or non- recurring items included in the filing.

**VI. Evaluation Procedures**

The regulatory authority having original jurisdiction over the Company's rates shall review and render a decision on the Company's proposed rate adjustment prior to the Effective Date. The Company shall provide all supplemental information requested to ensure an opportunity for adequate review by the relevant regulatory authority. The Company shall not unilaterally impose any limits upon the provision of supplemental information and such information shall be provided within seven (7) working days of the original request. The regulatory authority may propose any adjustments it determines to be required to bring the proposed rate adjustment into compliance with the provisions of this tariff.

The regulatory authority may disallow any net plant investment that is not shown to be prudently incurred. Approval by the regulatory authority of net plant investment pursuant to the provisions of this tariff shall constitute a finding that such net plant investment was prudently incurred. Such finding of prudence shall not be subject to further review in a subsequent RRM or Statement of Intent filing.

During the Review Period, the Company and the regulatory authority will work collaboratively and seek agreement on the level of rate adjustments. If, at the end of the Review Period, the Company and the regulatory authority have not reached agreement, the regulatory authority shall take action to modify or deny the proposed rate adjustments. The Company shall have the right to appeal the regulatory authority's action to the Railroad Commission of Texas. Upon the filing of an appeal of the regulatory authority's order relating to an annual RRM filing with the Railroad Commission of Texas, the regulatory authority having original jurisdiction over the Company's rates shall not oppose the implementation of the Company's proposed rates subject to refund, nor will the regulatory authority advocate for the imposition of a third party surety bond by the Company. Any refund shall be limited to and determined based on the resolution of the disputed adjustment(s) in a final, non-appealable order issued in the appeal filed by the Company at the Railroad Commission of Texas.

**ATMOS ENERGY CORPORATION  
MID-TEX DIVISION**

<b>RATE SCHEDULE:</b>	<b>RRM – Rate Review Mechanism</b>	
<b>APPLICABLE TO:</b>	<b>ALL CITIES IN THE MID-TEX DIVISION AS IDENTIFIED IN EXHIBIT A TO THIS RATE SCHEDULE</b>	
<b>EFFECTIVE DATE:</b>	<b>Bills Rendered on and after 04/01/2018</b>	<b>PAGE: 5</b>

In the event that the regulatory authority and Company agree to a rate adjustment(s) that is different from the adjustment(s) requested in the Company's filing, the Company shall file compliance tariffs consistent with the agreement. No action on the part of the regulatory authority shall be required to allow the rate adjustment(s) to become effective on October 1. To the extent that the regulatory authority does not take action on the Company's RRM filing by September 30, the rates proposed in the Company's filing shall be deemed approved effective October 1. Notwithstanding the preceding sentence, a regulatory authority may choose to take affirmative action to approve a rate adjustment under this tariff. In those instances where such approval cannot reasonably occur by September 30, the rates finally approved by the regulatory authority shall be deemed effective as of October 1.

To defray the cost, if any, of regulatory authorities conducting a review of the Company's annual RRM filing, the Company shall reimburse the regulatory authorities on a monthly basis for their reasonable expenses incurred upon submission of invoices for such review. Any reimbursement contemplated hereunder shall be deemed a reasonable and necessary operating expense of the Company in the year in which the reimbursement is made. A regulatory authority seeking reimbursement under this provision shall submit its request for reimbursement to the Company no later than December 1 of the year in which the RRM filing is made and the Company shall reimburse regulatory authorities in accordance with this provision on or before December 31 of the year the RRM filing is made.

To the extent possible, the provisions of the Final Order shall be applied by the regulatory authority in determining whether to approve or disapprove of Company's proposed rate adjustment.

This Rider RRM does not limit the legal rights and duties of a regulatory authority. Nothing herein shall abrogate the jurisdiction of the regulatory authority to initiate a rate proceeding at any time to review whether rates charged are just and reasonable. Similarly, the Company retains its right to utilize the provisions of Texas Utilities Code, Chapter 104, Subchapter C to request a change in rates. The provisions of this Rider RRM are implemented in harmony with the Gas Utility Regulatory Act (Texas Utilities Code, Chapters 101-105).

The annual rate adjustment process set forth in this tariff shall remain in effect during the pendency of any Statement of Intent rate filing.

**ATMOS ENERGY CORPORATION  
MID-TEX DIVISION**

<b>RATE SCHEDULE:</b>	<b>RRM – Rate Review Mechanism</b>	
<b>APPLICABLE TO:</b>	<b>ALL CITIES IN THE MID-TEX DIVISION AS IDENTIFIED IN EXHIBIT A TO THIS RATE SCHEDULE</b>	
<b>EFFECTIVE DATE:</b>	<b>Bills Rendered on and after 04/01/2018</b>	<b>PAGE: 6</b>

**VII. Reconsideration, Appeal and Unresolved Items**

Orders issued pursuant to this mechanism are ratemaking orders and shall be subject to appeal under Sections 102.001(b) and 103.021, et seq., of the Texas Utilities Code (Vernon 2007).

**VIII. Notice**

Notice of each annual RRM filing shall be provided by including the notice, in conspicuous form, in the bill of each directly affected customer no later than forty-five (45) days after the Company makes its annual filing pursuant to this tariff. The notice to customers shall include the following information:

- a) a description of the proposed revision of rates and schedules;
- b) the effect the proposed revision of rates is expected to have on the rates applicable to each customer class and on an average bill for each affected customer;
- c) the service area or areas in which the proposed rates would apply;
- d) the date the annual RRM filing was made with the regulatory authority; and
- e) the Company's address, telephone number and website where information concerning the proposed rate adjustment can be obtained.

**ATMOS ENERGY CORPORATION  
MID-TEX DIVISION**

<b>RATE SCHEDULE:</b>	<b>RRM – Rate Review Mechanism</b>	
<b>APPLICABLE TO:</b>	<b>ALL CITIES IN THE MID-TEX DIVISION AS IDENTIFIED IN EXHIBIT A TO THIS RATE SCHEDULE</b>	
<b>EFFECTIVE DATE:</b>	<b>Bills Rendered on and after 04/01/2018</b>	<b>PAGE: 7</b>

## Exhibit A

### ACSC Cities

Abilene	Cleburne	Frost	Lincoln Park
Addison	Clyde	Gainesville	Little Elm
Albany	College Station	Garland	Lorena
Allen	Colleyville	Garrett	Madisonville
Alvarado	Colorado City	Grand Prairie	Malakoff
Angus	Comanche	Grapevine	Mansfield
Anna	Commerce	Groesbeck	Mckinney
Argyle	Coolidge	Gunter	Melissa
Arlington	Coppell	Haltom City	Mesquite
Aubrey	Copperas Cove	Harker Heights	Midlothian
Azle	Corinth	Haskell	Murphy
Bedford	Crandall	Haslet	Newark
Bellmead	Crowley	Hewitt	Nocona
Benbrook	Dalworthington Gardens	Highland Park	North Richland Hills
Beverly Hills	Denison	Highland Village	Northlake
Blossom	Denton	Honey Grove	Oak Leaf
Blue Ridge	Desoto	Hurst	Ovilla
Bowie	Draper	Hutto	Palestine
Boyd	Duncanville	Iowa Park	Pantego
Bridgeport	Eastland	Irving	Paris
Brownwood	Edgecliff Village	Justin	Parker
Buffalo	Emory	Kaufman	Pecan Hill
Burkburnett	Ennis	Keene	Petrolia
Burleson	Eules	Keller	Plano
Caddo Mills	Everman	Kemp	Ponder
Canton	Fairview	Kennedale	Pottsboro
Carrollton	Farmers Branch	Kerens	Prosper
Cedar Hill	Farmersville	Kerrville	Quitman
Celeste	Fate	Killeen	Red Oak
Celina	Flower Mound	Krum	Reno (Parker County)
Centerville	Forest Hill	Lake Worth	Rhome
Cisco	Forney	Lakeside	Richardson
Clarksville	Fort Worth	Lancaster	Richland
	Frisco	Lewisville	Richland Hills

**ATMOS ENERGY CORPORATION  
MID-TEX DIVISION**

<b>RATE SCHEDULE:</b>	<b>RRM – Rate Review Mechanism</b>	
<b>APPLICABLE TO:</b>	<b>ALL CITIES IN THE MID-TEX DIVISION AS IDENTIFIED IN EXHIBIT A TO THIS RATE SCHEDULE</b>	
<b>EFFECTIVE DATE:</b>	<b>Bills Rendered on and after 04/01/2018</b>	<b>PAGE: 8</b>

River Oaks	Temple
Roanoke	Terrell
Robinson	The Colony
Rockwall	Trophy Club
Roscoe	Tyler
Rowlett	University Park
Royse City	Venus
Sachse	Vernon
Saginaw	Waco
Sansom Park	Watauga
Seagoville	Waxahachie
Sherman	Westlake
Snyder	Westover Hills
Southlake	Westworth Village
Springtown	White Settlement
Stamford	Whitesboro
Stephenville	Wichita Falls
Sulphur Springs	Woodway
Sweetwater	Wylie





**CITY OF LAVON  
CITY COUNCIL  
Agenda Brief**

**MEETING: March 20, 2018**

**ITEM: 7-C**

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**Item:**

Discussion and action regarding the Public Utility Commission of Texas inquiry relating to the 2018 consumer price index (CPI) adjustment to municipal telecommunications right-of-way access lines rates.

**Background:**

The Public Utility Commission notified the City that the access line rates have increased due to inflation as measured by the consumer price index. The change in rates is outlined on the attached form.

The line rates are paid by the telephone companies to the City to compensate for using the city's right-of-way. If the City does not take action to refuse the increase, the will be implemented.

Staff recommends that the City Council take no action and allow the rates to be adjusted for inflation.

**Attachments:** PUC Form

March 12, 2018



# Public Utility Commission of Texas

1701 N. Congress Ave., PO Box 13326, Austin, TX 78711-3326

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## 2018 CONSUMER PRICE INDEX (CPI) ADJUSTMENT TO MUNICIPAL TELECOMMUNICATIONS RIGHT-OF-WAY ACCESS LINE RATES

---

**March 12, 2018**

### **PURPOSE**

This letter is to notify you that your city's 2018 maximum access line rates have increased by 1.0237% due to inflation, as measured by the CPI. This adjustment has been made pursuant to Chapter 283 of the Local Government Code (House Bill 1777).

### **DEFAULT RATES FOR 2018: INCREASE**

Based on the choices made by your city in April 2017, your city's 2018 rate will either be adjusted for inflation, or will remain the same as your 2017 rate. According to our records, when similar CPI adjustments were made in April 2017, your city chose the MAXIMUM allowable CPI-adjusted rates. Therefore, your 2018 rates will reflect an increase of 1.0237% from your 2017 rates. You have the option to decline this increase in rates by taking the action explained below.

### **ACTION BY CITY: TO REFUSE THE INCREASE**

(1) You do not have to respond to accept the increased access line rates. (2) Respond ONLY if you want to DECLINE the increase in access line rates. (3) To decline, notify the PUC using page 2 of this letter no later than April 30, 2018. (4) The PUC does not require City council authorization; however, if your city charter requires it, please do so immediately. (5) Verify your contact information and highlight any changes. (6) Make a copy of this document.

### **WHAT HAPPENS IF A CITY DOES NOT RESPOND BY APRIL 30, 2018?**

If a city does not respond by April 30, 2018, the rates for your city will increase from 2017 levels. The next opportunity to adjust your rates will be September 1, 2018.

### **WHAT HAPPENS NEXT?**

The PUC will notify telephone companies of your desired rates and you will be compensated accordingly no later than July 1, 2018.

### **FUTURE REVISIONS TO CPI**

The access line rates will be revised annually in March depending on whether the CPI changes for the previous year. If the CPI changes for the year 2018, you will receive a similar letter in March 2019.

See over...

**RECEIVED**

**MAK 12 2018**

**CITY OF LAVON**

City of Lavon

SECTION 1: Your 2017 city preferred rates are as follows:

Residential: \$0.64 Non-Residential: \$1.44 Point-to-Point: \$2.12

SECTION 2: Your default rates for 2018 are as follows. Note: These are higher than the 2017 rates (above) due to the CPI inflation adjustment.

Residential: \$0.65 Non-Residential: \$1.44 Point-to-Point: \$2.15

To decline your default increase in rates, notify the PUC by completing the section below. You can mail or fax this page to the PUC. To accept rates in SECTION 2, no action is required.

I \_\_\_\_\_, Title \_\_\_\_\_, am an authorized representative for the City/Town/Village of \_\_\_\_\_. The City declines to accept the default rates indicated in SECTION 2 above. Instead, we choose the following rates: Residential \_\_\_\_\_; Non-Residential \_\_\_\_\_; Point-to-Point \_\_\_\_\_.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Other Comments: [Empty box]

HOW TO RESPOND

Mail: Stephen Mendoza
Public Utility Commission
P.O. Box 13326
Austin, Texas 78711-3326

INQUIRIES

Inquiries only. NOT for sending your response.
HB1777@puc.texas.gov
Phone No: 512-936-7394

OR FAX TO Stephen Mendoza at: 512-936-7428

CITY CONTACT INFORMATION

Please notify us if the contact information we have on file for your city has changed. Thank you.

Phone No. 1: (972) 843-4220
Phone No. 2:
Fax No: (972) 843-0397
Email:

RECEIVED

Address

KIM DOBBS
LINDA ARDIS CITY SECRETARY
or current city official responsible for right-of-way issues
CITY OF LAVON
PO BOX 340; 120 SCHOOL ROAD
LAVON TX 75166





**CITY OF LAVON  
CITY COUNCIL  
Agenda Brief**

**MEETING: March 20, 2018**

**ITEM: 7 - D**

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**Item:**

**PUBLIC HEARING**, discussion and action regarding an application submitted by Kelly Duncan, Big Daddy's Roadhouse BBQ for a variance to Ordinance No. **2003-04-01**, Sign Ordinance, Section 16 Sign Standards to waive the requirement that a Freestanding Sign shall be a Monument Sign at 1000 SH 78, Lavon, Texas on the southwest corner of the intersection of SH 78 and SH 205.

- 1) Presentation of request.
- 2) **PUBLIC HEARING** to receive comments regarding the request.
- 3) Discussion and action regarding the request.

**Background Information**

**Owner:** 205-78 LTD

**Applicant:** Kelly Duncan, Big Daddy's Roadhouse BBQ

**Location:** 1000 SH 78

Southwest of the intersection of SH 78 and SH 205

**Property Description:** ABS A0121 W.A.S. Bohannan Survey, Sheet 3, Tr. 54; 1.0941 acres

City of Lavon, Collin County, Texas

**Current Zoning:** Retail

**Description**

**of Request:** Consideration of a sign variance

The applicant's sign contractor installed a pole sign on the west side of the property facing west without obtaining a sign permit. There are no other pole or monument signs located on the property. Numerous wall signs are affixed to the structure that were possibly grandfathered and seem central to the identity of the business. The applicant is seeking a variance to Section 16, Sign Standards that requires that any Freestanding Sign shall be a Monument Sign.

***Code Excerpt:***

The Sign Ordinance, Ordinance No. **2003-04-01**, Section 16, Sign Standards, Table 16-1 Approved Signs and Standards provides that all on-site permanent freestanding signs shall be monument signs.

**Table 16-1 Approved Signs and Standards**

Approved Permanent Signs	Standards
Freestanding	All on-site, permanent, freestanding Directory signs, Agricultural Signs, General Business Signs, Identification Signs, Institutional Signs, and Apartment signs shall be monument signs.

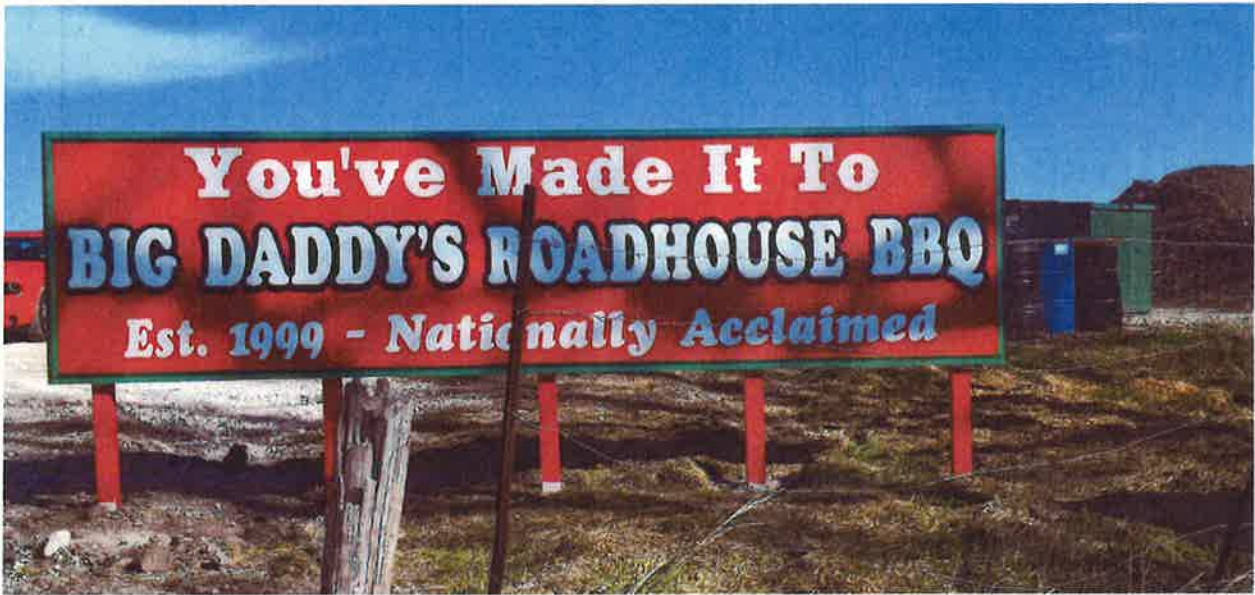
With the exception of the monument base, the installed sign complies with the Sign Code. The code provides that the sign can be six feet (6') in height and one-hundred fifty feet (150') in area. The installed sign meets with the size requirements of the code: six feet (6') in height and sixteen feet by four feet (16'x4') or sixty-four feet (64') in area.

The applicant's business is located on the corner of SH 78 and SH 205. The road frontage for the property totals four hundred and fifty feet (450'), comprised of 200' along SH 78, 125' facing the intersection and 75' along SH 205. The size of the business structure, including the covered patio is approximately 1836 square feet. Visibility on SH 78 from the west is somewhat impacted by the elevation of the eastbound roadway.



Architecturally, the pole sign is consistent with the theme and design of the existing structure.





Due to the pending SH 205 widening project, the pole sign may likely require relocation. The owner would arguably not be able to recoup the investment in a monument base for the sign prior to its relocation as the widening project is anticipated to be completed in 2023.



**Attachments:** Variance Application  
Sign Permit Application  
Location and Sign exhibits

March 15, 2018



# CITY OF LAVON

P.O. Box 340 120 School Rd.  
Lavon, TX 75166  
Office (972) 843-4220 Fax (972) 843-0397

## Application for an Appeal, Variance, or Adjustment

Fee \$100.00 plus costs

(Costs shall include the actual cost to the City plus 10% administrative fee.)

### Items to be included with Variance Application:

1. Ordinance or Requirement of which you are requesting a variance.
2. Written description of exactly what is to be varied within Rule or Ordinance.
3. Hardship necessitating this variance.

Kelly Duncan \_\_\_\_\_ 3-15-18 \_\_\_\_\_  
 Owner Name Date

1000 Hwy 78 \_\_\_\_\_ LAVON TX 75166 \_\_\_\_\_ 214-566-8219 \_\_\_\_\_  
 Street Address City, State, Zip Phone Number

Kelly Duncan \_\_\_\_\_ 214-566-8219 \_\_\_\_\_  
 Representative or Agent Phone Number

@ Hwy 78 & SH 205 \_\_\_\_\_ Sign \_\_\_\_\_  
 Location of Property Type of Variance

**RECEIVED**

**MAR 15 2018**

**CITY OF LAVON**

### Office Use Only

\_\_\_\_\_ Date Received \_\_\_\_\_ Fee \_\_\_\_\_ Receipt/Check # \_\_\_\_\_

\_\_\_\_\_ Date Paid \_\_\_\_\_ Next P&Z Meeting \_\_\_\_\_ Next CC Meeting \_\_\_\_\_



# CITY OF LAVON

P.O. Box 340 - 120 School Rd. - Lavon, TX 75166  
 Office 972-843-4220 - Fax 972-843-0397 - Inspection 972-853-0855  
 Email: leann.mccleendon@cityoflavon.org

## COMMERCIAL BUILDING PERMIT APPLICATION

Please type or print clearly. Incomplete applications will not be accepted.

CONSTRUCTION/PROJECT ADDRESS: \_\_\_\_\_ DATE: \_\_\_\_\_

<input type="checkbox"/> PROPERTY OWNER <input checked="" type="checkbox"/> TENANT* Name: <u>Kelly Duncan</u> Address: <u>1000 Hwy 78</u> City/State/Zip: <u>LAVON TX 75166</u> Phone #: <u>214-566-829</u> Fax #: _____ Owner Name (if tenant): <u>Hopkins Comm.</u>	<input type="checkbox"/> ARCHITECT <input type="checkbox"/> ENGINEER License/Registration #: _____ Name: _____ Company Name: _____ Address: _____ City/State/Zip: _____ Phone #: _____ Fax #: _____
--	---

\*May require written approval from Property Owner.

**CONTRACTOR:**     GENERAL     ELECTRICAL     MECHANICAL     PLUMBING     OWNER-BUILDER  
 SEWER     HVAC     IRRIGATION     ROOFING     OTHER: SIGNS

Company/Name: Signs By DAVID    License/Registration #: \_\_\_\_\_  
 Address: \_\_\_\_\_    License Class: \_\_\_\_\_  
 City/State/Zip: PLANO TX    Expiration: \_\_\_\_\_  
 Phone #: 972-424-6424 Fax #: \_\_\_\_\_    Business License #: \_\_\_\_\_

**SUB-CONTRACTOR(S):**

ELECTRICAL: _____	Phone #: _____
MECHANICAL: _____	Phone #: _____
PLUMBING: _____	Phone #: _____
IRRIGATION: _____	Phone #: _____
SEPTIC: _____	Phone #: _____

**NOTICE TO APPLICANT:** This permit is issued on the basis of information furnished in this application and on any submitted plans. It is subject to the provisions and requirements of the City of Lavon Code of Ordinances and any other applicable ordinances of the City, regardless of information and/or plans submitted.

**SCOPE OF PERMIT:** For new buildings and additions to existing buildings, this permit authorizes all structural, plumbing, electrical and mechanical work to be performed in the construction of the building or structure at this address if completed during initial construction. Separate subcontractor permits may be required. The permit holder is required to use only sub-contractors licensed, registered or bonded by the City of Lavon where such a requirement is applicable.

<p style="text-align: center;"><b>DESCRIPTION OF WORK:</b></p> <input type="checkbox"/> NEW BUILDING <input type="checkbox"/> REMODEL - <input type="checkbox"/> Interior <input type="checkbox"/> Exterior <input type="checkbox"/> NEW BUILDING (Shell) <input type="checkbox"/> ADDITION <input type="checkbox"/> FINISH OUT <input type="checkbox"/> REPAIR / REPLACEMENT <input type="checkbox"/> CONVERSION <input type="checkbox"/> FENCE - TYPE: _____ <input type="checkbox"/> ACCESSORY BUILDING <input checked="" type="checkbox"/> OTHER (EXPLAIN):  Comments: <u>Sign</u>	<p style="text-align: center;"><b>BUILDING INFORMATION AREA IN SQUARE FEET (Project S.F.)</b></p> Under Roof: _____ A/C: _____ Garage: _____ Lot Size: _____ Building Height: _____ Ft. # of Stories: _____ Site Coverage %: _____	<p style="text-align: center;"><b>BUILDING USE/OCCUPANCY</b></p> Accessory Building <input type="checkbox"/> Townhouse <input type="checkbox"/> Apartment <input type="checkbox"/> Duplex <input type="checkbox"/> Commercial <input type="checkbox"/> Industrial/Warehouse <input type="checkbox"/> Church <input type="checkbox"/> School <input type="checkbox"/> Other (Explain Below) <input type="checkbox"/>
--	--	---



# CITY OF LAVON

P.O. Box 340 - 120 School Rd. - Lavon, TX 75166  
 Office 972-843-4220 - Fax 972-843-0397 - Inspection 972-853-0855  
 Email: ieann.mcclendon@cityoflavon.org

Date Received: \_\_\_\_\_

PERMIT #: \_\_\_\_\_

## COMMERCIAL BUILDING PERMIT APPLICATION

Please type or print clearly. Incomplete applications will not be accepted.

ELECTRIC: <input type="checkbox"/> FEC <input type="checkbox"/> TXU <input type="checkbox"/> Other _____		HAZARDOUS MATERIALS? <input type="checkbox"/> YES <input type="checkbox"/> NO	
GAS IN BUILDING? <input type="checkbox"/> YES <input type="checkbox"/> NO			
<b>Total Valuation</b>	<b>Equation Valuation = Total Sq. Ft</b>	<b>x</b>	<b>current building data</b>
\$1 - \$5,000	\$200.00		
\$5,001 - \$25,000	\$200.00 for 1 <sup>st</sup> \$5,000 and \$12.00 for each add. \$1,000 or portion thereof, to & including \$25,000		
\$25,001 - \$50,000	\$440.00 for 1 <sup>st</sup> \$25,000 & \$9.00 for each add. \$1,000 or portion thereof, to & including \$50,000		
\$50,001 - \$100,000	\$652.50 for 1 <sup>st</sup> \$50,000 & \$6.83 for each add. \$1,000 or portion thereof, to & including \$100,000		
\$100,001 - \$500,000	\$994.00 for 1 <sup>st</sup> \$100,000 & \$5.60 for each add. \$1,000 or portion thereof, to & including \$500,000		
\$500,001 - \$1,000,000	\$3,234 for 1 <sup>st</sup> \$500,000 & \$4.75 for each add. \$1,000 or portion thereof, to & including \$1,000,000		
\$1,000,000 & Up	\$5,608 for 1 <sup>st</sup> \$1,000,000 & \$3.65 for each add. \$1,000 or portion thereof, to & including \$1,000,000		
Remodel/Finish-Out	20% table (N) + \$350.00		
<b>Signs, Parking Lots, Detached Structures, Fire Systems, and Support Facilities have to be permitted separately.</b>			
<b>Requested Permit</b>			<b>Fee</b>
Plumbing Only/Electrical/Mechanical : \$75.00		Certificate of Occupancy : \$100.00	
Right of way excavation : \$100.00 + (C) in ord.		Exterior light structure : \$50.00 per structure	
Flatwork only (each) : \$100.00		Finish out : 20% table (N) + \$350.00	
Permanent Signs : \$125.00 Electrical ; \$250.00 Temporary ; \$50.00 (1 inspection included)			
Building : *moving \$100.00 + inspections *demolition: \$250.00		Fence : \$50.00 for first 100 ft. + \$0.50 per linear feet over 100 ft.	
Contractor Registration : \$50.00			
Irrigation Systems : \$150.00		Special Use Other: \$100.00 + inspections	
Parking lots : \$200.00 per 10,000 sq. ft. of parking lot or portion thereof			
Screen walls : \$50.00 for first 100 ft. + \$0.50 per linear feet over 100 ft.		Retaining wall : \$200.00 + cost	
Fire Alarm /Sprinkler System permit: prices listed on Application			
Miscellaneous :			
			Total Fees
<b>Plans must include Plot, Floor, Foundation, Electrical, HVAC, ADA, Plumbing, and Energy Code Compliance. All pages should be marked accordingly. Finish-outs/remodels are subject to change from above.</b>			
I have carefully read the complete application and know the same is true and correct and hereby agree that if a permit is issued all provisions of the city ordinance and state laws will be complied with. Whether herein specified or not, I agree to comply with all property restriction. I am the owner of the above property or his duty authorized agent. Permission is hereby granted to enter premises and make all inspections.			
Date: 3-15-18	Owner/Submitters Printed Name: KELLY DOWMAN	Owner/Submitters Signature: <i>Kelly Doman</i>	
For City Use Only			
Zoning:	Amount Paid:	Check No.	
Inspectors Printed Name:	Inspectors Signature:	Date Approved:	
In takers Printed Name:	In Takers Signature:	Date Pick Up:	

# Big Daddy's Roadhouse BBQ – Location Exhibit

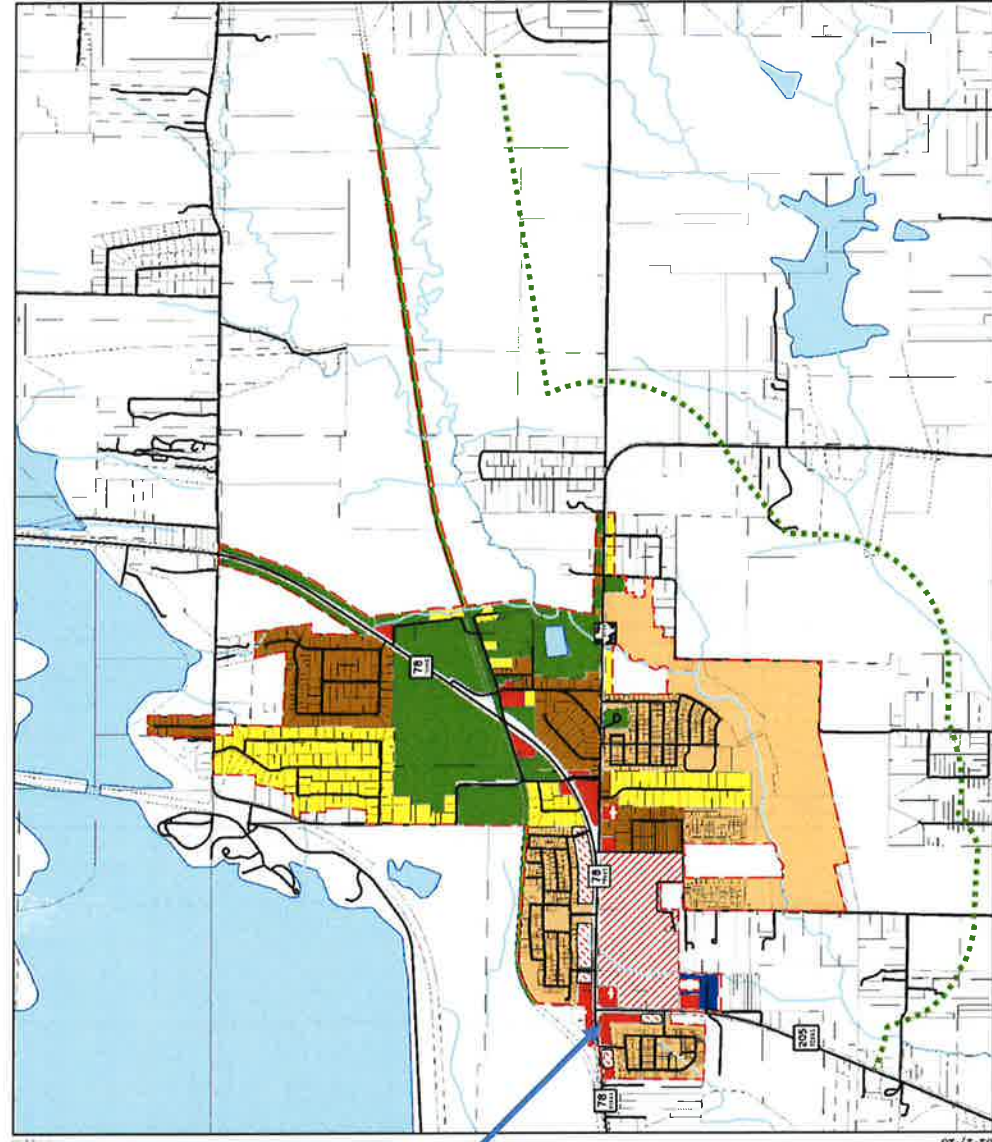


**Big Daddy's Roadhouse BBQ – Location Exhibit**



# Zoning Map

## Big Daddy's Roadhouse BBQ



### ZONING MAP



#### Legend

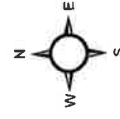
- Agricultural (A)
- Single Family-1 (SF-1)
- Single Family-2 (SF-2)
- Retail (R)
- Planned Development – Single Family (PD-SF)
- Planned Development – Mixed Use (PD-MU)
- Planned Development – Commercial (PD-C)
- Planned Development – Business (PD-B)

For Planned Development Regulations see the City of Lavon Ordinance applicable to the specific site.

#### Unassigned Zoning Districts

- Single-Family -4 (SF-4)
- Main Street
- Business Park District (B-2)

For General Regulations of these Zoning Districts see the City of Lavon Zoning Ordinance



MUNDOPAC ASSOCIATES INC.  
*Planning, Development, Planning, and Civil Engineering*

**Big Daddy's Roadhouse BBQ – Sign Exhibit**



**Big Daddy's Roadhouse BBQ – Sign Exhibit**







**CITY OF LAVON  
CITY COUNCIL  
Agenda Brief**

**MEETING: March 20, 2018**

**ITEM: 7-E**

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**Item:**

Discussion and action regarding Ordinance No. 2018-03-04 adopting regulations for alcoholic beverages; amending the fee schedule; providing a severability clause; providing a repealer clause; providing for a penalty of fine not to exceed \$500.00 per offense and providing an effective date.

**Background:**

With Ordinance No. 2010-12-01, the City Council adopted regulations relating to alcoholic beverages in response to the voters' approval of the local option for the sale of beer and wine for off-premise consumption. Ordinance No. 2010-12-01, was adopted as an amendment to the Zoning Ordinance. During the rewrite of the Zoning Ordinance, the alcohol regulations were removed to stand alone as business regulations.

The relocation of the regulations from the zoning ordinance to the general regulations provides the City with improved ability to enforce and amend the regulations. In addition to the removal from the zoning ordinance, the proposed ordinance corrects a conflict in Ordinance No. 2010-12-01 with state law relating to the distance an establishment can sell beer and wine from a public school from 1000' to 300'. Approval is recommended.

**Attachments:** Proposed Ordinance  
Ordinance No. 2010-12-01

March 16, 2018

**CITY OF LAVON, TEXAS**  
**ORDINANCE NO. 2018-03-04**

Alcoholic Beverage Regulations

**AN ORDINANCE OF THE CITY OF LAVON, TEXAS ADOPTING AN ORDINANCE FOR THE REGULATION OF ALCOHOLIC BEVERAGES; AMENDING THE FEE SCHEDULE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED \$500.00 PER OFFENSE AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, on November 2, 2010, the voters of the City of Lavon approved the sale of beer and wine for off-premise consumption in the City of Lavon; and

**WHEREAS**, on December 21, 2010, the City Council adopted Ordinance No. **2010-12-01** amending the Comprehensive Zoning Ordinance to add **Article XVII** providing for the regulation of alcoholic beverages; and

**WHEREAS**, the City Council desires to change the regulations adopted in Ordinance No. **2010-11-01** from the zoning ordinance to the business regulations of the City; and

**WHEREAS**, the City Council desires to amend the regulations pertaining to the location distance from a public school and to open containers; and

**WHEREAS**, the City Council desires to authorize an administrative fee for the review of an initial application for a Beer and Wine Retailer Permit;

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

**SECTION 1. ADOPTING BUSINESS REGULATIONS FOR ALCOHOLIC BEVERAGES**

The City Council of the City of Lavon does hereby adopt the regulations attached hereto as Exhibit "A" Alcoholic Beverages.

**SECTION 2. SEVERABILITY CLAUSE**

In the event any clause, phrase, provision, sentence, or any part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provisions hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Lavon, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

**SECTION 3. PENALTY**

Any person or dealer violating the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a penalty or fine not to exceed \$500.00 for each offense.

**SECTION 4. REPEALER CLAUSE**

All ordinances or parts of an ordinance inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed. All other provisions of the ordinances of the City which are not in conflict with the provisions of this Ordinance shall remain in full force and effect.

**SECTION 5. OPEN MEETING**

It is hereby officially found and determined that all notice required by law has been given and notice of this Ordinance was posted and the Ordinance passed in accordance with the Open Meeting Act.

**SECTION 6. PUBLICATION**

The City Secretary is hereby directed to publish notice of this Ordinance in accordance with applicable laws.

**SECTION 7. EFFECTIVE DATE.**

This Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law in such cases provides.

**DULY PASSED and APPROVED** by the City Council of the City of Lavon, Texas, on the 20<sup>th</sup> day of March, 2018.

\_\_\_\_\_  
Charles A. Teske, Jr., Mayor

**ATTEST:**

\_\_\_\_\_  
Kim Dobbs, City Administrator | City Secretary

**CITY OF LAVON, TEXAS**  
**ORDINANCE NO. 2018-03-04**

**EXHIBIT "A"**

**ALCOHOLIC BEVERAGES**

**SECTION 1. DEFINITIONS**

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

1.1 Alcoholic beverage means alcohol, or any beverage containing more than one-half of one percent of alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted.

1.2 Beer means a malt beverage containing one-half of one percent or more of alcohol by volume and not more than four percent of alcohol by weight, and does not include a beverage designated by label or otherwise by a name other than beer.

1.3 Child care facility means a facility licensed, certified, or registered by the department to provide assessment, care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility, for all or part of the 24-hour day, whether or not the facility is operated for profit or charges for the services it offers.

1.4 Day care center means a child care facility that provides care for more than 12 children under 14 years of age for less than 24 hours a day.

1.5 Dealer means the same as that term is used in V.T.C.A., Alcoholic Beverage Code section 109.33, and shall include "person" as that term is defined in this section.

1.6 Open container means a container that is no longer sealed.

1.7 Person means a natural person or association of natural persons, trustee, receiver, partnership, corporation, organization, or the manager, agent, servant, or employee of any of them.

1.8 Private school means a private school, including a parochial school that offers a course of instruction for students in one or more grades from kindergarten through grade 12 and has more than 100 students enrolled and attending courses at a single location.

**SECTION 2. LOCATIONS WHERE SALE OF ALCOHOLIC BEVERAGES IS PROHIBITED**

2.0 It shall be unlawful for any dealer to sell alcoholic beverages unless properly authorized and licensed to do so by the Texas Alcoholic Beverage Commission.

2.1 It shall be unlawful for any dealer to sell alcoholic beverages from or at a place of business within this city within 300 feet of a church, public school, private school, or public hospital.

2.1.1 Section 2.1 does not apply to the holder of:

- A. A license or permit who also holds a food and beverage certificate covering premises that is located within 300 feet of a private school; or
- B. A license or permit covering premises where minors are prohibited from entering under V.T.C.A., Alcoholic Beverage Code section 109.53 and that is located within 300 feet of a private school.

2.2 The measurement of the distance between the place of business where alcoholic beverages are sold and the church or public hospital shall be along the property lines of the street fronts and from front door to front door, and in direct line across intersections.

2.3 The measurement of the distance between the place of business where alcoholic beverages are sold and the public or private school shall be:

- A. In a direct line from the property line of the public or private school to the property line of the place of business, and in a direct line across intersections; or
- B. If the permit or license holder is located on or above the fifth story of a multistory building, in a direct line from the property line of the public or private school to the property line of the place of business, in a direct line across intersections, and vertically up the building at the property line to the base of the floor on which the permit or license holder is located.

2.4 It shall be unlawful for any holder of a wine and beer retailer's permit, mixed beverage permit, private club registration permit, retail dealer's on-premises license, or brewpub license who does not hold a food and beverage certificate to sell alcoholic beverages from or at a place of business within this city within 300 feet of a day care center or child care facility.

2.4.1 Section 2.4 does not apply to a permit or license holder who sells alcoholic beverages if:

- A. The permit or license holder and the day care center or child care facility are located on different stories of a multistory building; or
- B. The permit or license holder and the day care center or child care facility are located in separate buildings and either the permit or license holder or the day care center or child care facility is located on the second story or higher of a multistory building.

2.4.2 Section 2.4 does not apply to a foster group home, foster family home, family home, agency group home, or agency home as those terms are defined by V.T.C.A., Human Resources Code section 42.002.

2.5 The measurement of the distance between the place of business where alcoholic beverages are sold and the day care center or child care facility shall be:

- A. In a direct line from the property line of the day care center or child care facility to the property line of the place of business, and in a direct line across intersections; or
- B. If the permit or license holder is located on or above the fifth story of a multistory building, in a direct line from the property line of the day care center or child care facility to the property line of the place of business, in a direct line across intersections, and vertically up the building at the property line to the base of the floor on which the permit or license holder is located.

2.6 It shall be unlawful for any person or dealer to sell beer in any residential areas within the city.

### **SECTION 3 PERMITS FOR SALE OF ALCOHOLIC BEVERAGES REQUIRED**

3.0 Unless state law exempts a permittee or licensee from payment of a fee established by this section, a permittee or licensee must pay the city:

- A. An administrative processing fee.
- B. An annual permit or license fee of one-half (1/2) the amount of the state fee for each permit and license authorizing the sale of alcoholic beverages.

3.1 An applicant shall pay the fees established under subsection 4.0 to the city no later than the 30th day after the date the applicant's payment of a state permit or license fee is due.

3.2 A permittee and licensee who sells an alcoholic beverage at a business location before the applicant pays the fees established by this section commits a class C misdemeanor punishable by a fine of not less than \$10.00 nor more than \$200.00.

3.3 The city secretary shall issue and deliver a receipt under this section to the permittee or licensee authorizing the sale of alcoholic beverages under this chapter and a state permit or license, if the permittee or licensee:

- A. Pays the fees established by subsection 3.0; and
- B. Exhibits a valid permit or license issued by the state.

### **SECTION 4 WET/DRY CERTIFICATION**

Prior to issuing a city permit to applicant for the proposed location, the city secretary shall certify whether the location is located in an area that is wet and that the sale of alcoholic beverages

at this location is not prohibited by Charter or ordinance. The city secretary shall keep a record of all permits and certificates issued under this chapter.





## CITY OF LAVON CITY COUNCIL Agenda Brief

**MEETING:** March 20, 2018

**ITEM:** 7-F

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**Item:**

Discussion and action regarding Ordinance No. 2018-03-05 regulating sexually oriented businesses; amending the fee schedule; providing a penalty clause and providing an effective date.

- 1) Presentation of request.
- 2) **PUBLIC HEARING** to receive comments regarding the request.
- 3) Discussion and action regarding the request.

**Background:**

On March 6, 2018, City Council adopted case studies conducted by the Texas City Attorneys Association (TCAA) Board of Directors determining the extent to which retail only sexually oriented businesses with no on-premises entertainment cause harmful effects on surrounding property values and crime rates, including several other case studies. The attached Ordinance regulates sexually oriented businesses and places restrictions on where such a business may be located. The Ordinance additionally creates an offense for operating or establishing a sexually oriented business within 1,000 feet of:

- 1) A religious institution, church, synagogue, mosque or temple;
- 2) A public or private educational facility (i.e. child day care facilities, nursery schools, and colleges and universities);
- 3) A boundary of a residential district and or a historic district;
- 4) A public park or recreational area;
- 5) An entertainment business which is oriented primarily towards children or family entertainment;
- 6) A licensed premise, licensed pursuant to the Texas Alcoholic Beverage Code (except premises holding a food and beverage certificate whose primary business being operated on the premises is food service); or
- 7) within 1,000 feet of another sexually oriented business.

The Ordinance additionally makes it unlawful for an individual to intentionally or knowingly appear in a state of nudity or semi-nudity within fifty (50) feet of a public place or establishment that serves or permits the consumption of alcohol and to employ at an escort agency, nude model studio, adult cabaret, adult theater or an adult motion picture theater any person under the age of 18 years.

The Ordinance prohibits a person in control of a sleeping room in a hotel, motel or similar commercial establishment that does not have a sexually oriented business license to rent or subrent a sleeping room to a person and, within ten hours from the time the room is rented, renting or subrenting the same sleeping room again. Finally, the Ordinance prohibits sexual encounter centers and makes it an offense to operate or own such a business.

The Ordinance requires that operators of sexually oriented businesses maintain appropriate security and surveillance equipment.

The Ordinance restricts sexually oriented business, except for an adult motel, to remain open at any time except between the hours of 12:00 p.m. (noon) and 9:00 p.m. on weekdays and Saturdays, and from 2:00 p.m. until 9:00 p.m. on Sundays.

The Ordinance makes it an offense for any person to maintain, own or operate a sexually oriented business on any premises on which alcoholic beverages are served or offered for sale for consumption.

License, permit and application fees are incorporated as follows:

- (a) Nonrefundable license application fee: \$500.00 or as may be amended.
- (b) Nonrefundable application processing fee: \$60.00 or as may be amended.
- (c) Replacement of personal card or on-site card: \$35.00 or as may be amended.
- (d) Reinstatement fee in lieu of suspension: \$500.00 or as may be amended.

**Penalty:**

The Ordinance adopts penalty or fine of any violation of the Ordinance as a misdemeanor punishable by a fine not to exceed five hundred dollars (\$500). Any violation of a rule or regulation that governs public health and safety may not exceed two thousand dollars (\$2,000). Additionally, each day that a violation is permitted to exist constitutes a separate offense. The Ordinance makes it clear that the City may also seek an injunction in district court as well.

**Requires Licensing:**

A person wanting to operate a sexually oriented business must first apply for and obtain a license for the particular classification of sexually oriented business. A separate license is required for each sexually oriented business as defined within the Ordinance. The applicant must submit an application and provide the City, from the Federal Bureau of Investigations (FBI), an Identity History Summary or another similar background check from other appropriate state and federal agencies. Each license expires one year after the date of issuance and applicants must reapply for a new one.

**Inspection of premises and maintenance of records:**

The City retains the right to inspect all portions of the premises where customers are allowed, and the records required to be maintained under this Ordinance by the sexually oriented business for the purpose of ensuring compliance with this Ordinance at any time it is occupied or open for business.

**Grounds for suspension of license:**

The City may suspend or revoke a license if the owner is found to have violated this Ordinance. The revocation of a license as provided for in Section 37 of the Ordinance is for a period of 12 months. The suspension of a license as provided for in Section 36 of this Ordinance for a first suspension is for three calendar days; the second suspension is for seven calendar days.; the third suspension is for 15 calendar days; and the fourth suspension is for 30 calendar days.

**Administrative hearings and appeals:**

Due process claims are always a concern with any regulation adopted by a City. Therefore, applicants, permit holders or licensees are afforded due process as they have ten (10) calendar days from the date notice is received to request a hearing on the denial, suspension or revocation.

**Employees:**

Employees of a sexually oriented business must also apply for a permit that must be displayed and visible to the public. The permit is valid for one year from the date of its issuance. A temporary entertainer's permit or temporary manager's permit is valid for 30 calendar days.

**Revocation of permit:**

The Chief of Police may revoke a permit if he finds that a person has been convicted of or has spent time in jail or prison for any offense under the Ordinance. The permit holder has a right to administrative hearing as well.

**Conspicuous signage and markings required:**

The Ordinance requires the posting of a sign identifying the sexually oriented businesses. Additionally, a licensee, owner or operator is required to display a sign on the interior of the sexually oriented business premises notifying customers and employees of the prohibition against touching or tipping an employee who is in a state of nudity or semi-nudity and requiring all patrons from remaining at least six feet from all unenclosed performance stages while an employee is performing.

**Attachments:** Proposed Ordinance No. 2018-03-05

**The City Council may:**

1. Adopt the Ordinance as is and direct staff to publish in accordance with state law.
2. Table the Ordinance for further review.
3. Entertain a motion to deny passage of the Ordinance.

March 16, 2018

**CITY OF LAVON, TEXAS**  
**ORDINANCE NO. 2018-03-05**

Sexually Oriented Business Regulations

**AN ORDINANCE OF THE CITY OF LAVON, TEXAS  
ESTABLISHING REGULATIONS OF SEXUALLY ORIENTED  
BUSINESSES; PROVIDING A REPEALER CLAUSE; PROVIDING  
A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE;  
PROVIDING FOR PUBLICATION OF THIS CAPTION; AND  
PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, sexually oriented businesses require special supervision from the public safety agencies of the City of Lavon, Texas (the “City”) in order to protect and preserve the health, safety, and welfare of the patrons of such businesses as well as the citizens of the City; and

**WHEREAS**, the City is expressly authorized to regulate sexually oriented business pursuant to Chapter 243 of the Texas Local Government Code; and

**WHEREAS**, the Texas City Attorneys Association (“TCAA”) commissioned a study in 2008 to determine the secondary effects of retail-only sexually oriented businesses that sell or rent goods that can be consumed off-site (i.e. adult video stores, adult book stores, adult novelty stores); and

**WHEREAS**, the 2008 TCAA commissioned study concluded that retail-only sexually oriented businesses have the negative secondary effect of reducing the market value of single family homes and community shopping centers within a half (½) mile of the sexually oriented business; and

**WHEREAS**, the 2008 TCAA commissioned study concluded that retail-only sexually oriented businesses have the negative secondary effect of increasing crime since they pose large, statistically significant ambient public safety hazards in terms of prostitution, drugs, assault, robbery, and vandalism; and

**WHEREAS**, in a 1984 Indianapolis study that polled appraisers, 80% of the respondents predicted that an adult bookstore would negatively impact residential property values and 72% of the respondents believed that commercial property value would also be negatively affected; and

**WHEREAS**, in a 1986 Oklahoma City study that polled area local estate appraisers, 74% predicted that the presence of an adult bookstore would have a negative impact on real estate value in surrounding area; and

**WHEREAS**, based on evidence concerning the adverse secondary effects of sexually oriented businesses on the community presented in hearings and in reports made available to the city council, and on findings incorporated in the cases of *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *City of Erie v. Pap's A.M.*, 529 U.S. 277, 120 S.Ct. 1382 (2000); *City of Los Angeles v. Alameda Books, Inc.*, 122 S.Ct. 1728 (2002); *Baby Dolls Topless Saloons, Inc. v. City of Dallas*, 295 F.3d 471 (5th Cir. 2002); *LLEH, Inc. v. Wichita County, Texas*, 289 F.3d 358 (5th Cir. 2002); *Mitchell v. Commission on Adult Entertainment*, 10 F.3d 123 (3rd Cir. 1993); *Schultz v. City of Cumberland*, 228 F.3d 831 (7th Cir. 2000); *Hang On, Inc. v. City of Arlington*, 65 F.3d 1248 (5th Cir. 1995); *2300, Inc. v. City of Arlington*, 888 S.W.2d 123 (Tex. App.—Fort Worth, 1994); *Colacurcio v. City of Kent*, 163 F.3d 545 (9th Cir. 1998), cert. denied, 529 U.S. 1053 (2000); *Kev, Inc. v. Kitsap County*, 793 F.2d 1053 (9th Cir. 1986); *Center for Fair Public Policy v. Maricopa County*, 336 F.3d 1153 (9th Cir. 2003); *DLS, Inc. v. Chattanooga*, 107 F.3d 403 (6th Cir. 1997); *Jake's, Ltd., Inc. v. Coates*, 384 F.3d 884 (8th Cir. 2002); and on studies, reports and/or testimony in other communities including, but not limited to: Phoenix, Arizona; Minneapolis, Minnesota; St. Paul, Minnesota; Houston, Texas; Indianapolis, Indiana; Dallas, Texas; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; Beaumont, Texas; Newport News, Virginia; Bellevue, Washington; New York, New York; St. Croix County, Wisconsin; Kitsap County, Washington; Los Angeles, California Police Department (dated August 12, 2003); Arlington, Texas, License and Amortization Appeal Board hearings, 2001 and 2002; Arlington Community Health Profile (dated July 2003); a summary of land use studies compiled by the National Law Center for Children and Families; and also on findings from the Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses (June 6, 1989), State of Minnesota), and the study entitled Survey of Texas Appraisers - Secondary Effects of Sexually Oriented Businesses on Market Values, by Cooper and Kelley, and Crime-Related Secondary Effects - Secondary Effects of "Off-Site" Sexually-Oriented Businesses, by McCleary, June 2008, the City Council of the City of Lavon, Texas (the "City Council") finds:

- (1) Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments. Further, absent municipal regulation aimed at reducing adverse secondary effects, there is no mechanism to make the owners of these establishments responsible for the activities that occur on the premises.
- (2) Certain employees of sexually oriented businesses, defined in this ordinance as adult arcade, adult bookstore, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio or sexual encounter center, engage in a higher incidence of certain types of illicit sexual behavior than employees of other establishments.
- (3) Sexual acts, including masturbation, prostitution, sexual contact, and oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles or rooms for viewing films, videos, or live sex shows.

(4) Offering and providing private or semi-private areas in sexually oriented businesses encourages such sexual activities, which creates unhealthy conditions.

(5) Persons frequent certain sexually oriented businesses, adult arcades, adult motion picture theaters and adult theaters for the purpose of engaging in sex within the premises of such sexually oriented businesses.

(6) At least fifty (50) communicable diseases may be spread by activities occurring in sexually oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, non A, non B, amebiasis, salmonella infections and shigella infections.

(7) Since 1981 and to the present, there has been an increasing cumulative number of reported cases of AIDS (acquired immunodeficiency syndrome) caused by the human immunodeficiency virus (HIV) in the United States: 600 in 1982, 2,200 in 1983, 4,600 in 1984, 8,555 in 1985, and 253,448 cumulative through December 31, 1992. In 2007, the estimated number of persons diagnosed with AIDS in the United States and dependent areas was 37,041. Of these, 35,962 were diagnosed in the 50 states and the District of Columbia and 812 were diagnosed in the dependent areas. In the 50 states and the District of Columbia, adult and adolescent AIDS cases totaled 35,934 with 26,355 cases in males and 9,579 cases in females. The cumulative estimated number of diagnoses of AIDS through 2007 in the United States and dependent areas was 1,051,875. Of these, 1,018,428 were diagnosed in the 50 states and the District of Columbia and 32,051 were diagnosed in the dependent areas. In the 50 states and the District of Columbia, adult and adolescent AIDS cases totaled 1,009,220 with 810,676 cases in males and 198,544 cases in females. (Source: U.S. Centers for Disease Control, U.S. Dept. of Health and Human Services. February 26, 2009.)

(8) Indeed, the number of cases that were diagnosed with HIV totaled approximately 53,200 in 2007, 47,500 in 2008, 45,000 in 2009 and 47,500 in 2010 in the United States. (Source: CDC HIV Surveillance Supplemental Report 2012;17 (No. 4) December 2012.) There were an estimated 37,600 new HIV infections in 2014 alone. (Source: Singh S et al. (CDC). HIV incidence, prevalence, and undiagnosed infections in men who have sex with men. Presentation at Conference on Retroviruses and Opportunistic Infections, 2017, Seattle, WA.) It is estimated that 1,122,900 adults and adolescents were living with HIV at the end of 2015. Of those, 162,500 (15%) had not received a diagnosis. (Source: CDC. Monitoring selected national HIV prevention and care objectives by using HIV surveillance data—United States and 6 dependent areas—2015).

(9) Since the early 1980s and to the present, there has been an increasing cumulative number of persons testing positive for the HIV antibody test in Collin County, Texas and across the State of Texas. As of December 31, 2001, there had been 57,199 reported cases of AIDS in the State of Texas. In 2008, 63,019 persons were reported to be living with HIV/AIDS in Texas. This number has increased

through December 31, 2016 with 85,807 people living with HIV across the state of Texas and 137,583 reported to be living with HIV/AIDS in Texas. Collin County was listed as one of the top 25 county with reported HIV/AIDS diagnoses in 2016 alone. (Source: Tex. Dept. of State Health Services; *See also* Texas 2016 HIV Surveillance Report).

(10) The number of cases of early (less than one year) syphilis in the United States reported annually has risen, with 33,613 cases reported in 1982, and 45,200 through November 1990. According to department of state health services records, there were 1,175 cases of early syphilis reported in the State of Texas during 2000 and an additional 972 cases reported in 2001. Between 2007 and 2008, the number of cases of early latent syphilis reported to CDC increased 15.2 percent (from 10,768 to 12,401), while the number of cases of late and late latent syphilis increased 9.3 percent (from 18,256 to 19,945). The total number of cases of syphilis (all stages: P&S, early latent, late, late latent, and congenital syphilis) reported to CDC increased 13.1 percent (from 40,921 to 46,277) between 2007 and 2008. In 2008, P&S syphilis cases reported to CDC increased to 13,500 from 11,466 in 2007, an increase of 17.7 percent. The rate of P&S syphilis in the United States in 2008 (4.5 cases per 100,000 population) was 18.4 percent higher than the rate in 2007 (3.8 cases per 100,000 population) (Source: U.S. Centers for Disease Control, Sexually Transmitted Disease Surveillance, 2008.) Moreover, the rate of reported cases of P&S syphilis in the United States has increased from 2012 to 2016 by approximately 77%. The incidence of reported cases of P&S syphilis in 2012 was 15,979, 17,768 cases in 2013, 20,492 cases in 2014, 24,413 cases in 2015, and 28,309 cases in 2016. (Source: Division of STD Prevention, National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention, Centers for Disease Control and Prevention).

(11) The number of cases of gonorrhea in the United States reported annually remains at a high level, with over one-half million cases being reported in 1990. Again, according to department of state health services records, there were 32,895 cases of gonorrhea reported in the State of Texas during 2000 and an additional 30,116 cases reported in 2001. During the same time period there were also 138,692 cases of chlamydia reported in the State of Texas (Arlington Community Health Profile, dated July 2003). In 2008, 336,742 cases of gonorrhea were reported in the United States, a rate of 111.6 cases per 100,000 population, reflecting a small decrease of 5.4 percent since 2007. Gonorrhea rates have remained relatively stable over the past 12 years. Texas ranked 15th in the nation in 2008 with 32,199 cases at a rate of 134.7 cases per 100,000 population. Thereafter, Texas ranked 17<sup>th</sup> in the nation in 2016 for reported cases of gonorrhea. Texas experienced a 31% increase of reported cases of gonorrhea between 2012 and 2016. In 2008, 1,210,523 chlamydial infections were reported to CDC from 50 states and the District of Columbia. This case count corresponds to a rate of 401.3 cases per 100,000 population, an increase of 9.2% compared with the rate of 367.5 in 2007. Over the past 20 years, from 1989 through 2008, the rate of reported chlamydial infection increased from 102.5 to 401.3 cases per 100,000 population. Moreover, the rate of reported chlamydial infection increased from 450.2 to 494.2 cases per 100,000 population between the years of

2012 through 2016. Texas itself experienced a 12% increase between 2012 and 2016 of reported cases of chlamydial infection. (Source: U.S. Centers for Disease Control, Sexually Transmitted Disease Surveillance, 2008, 2016; *See also* 2016 Sexually Transmitted Diseases Surveillance, Table 14, from the Division of STD Prevention, National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention, Centers for Disease Control and Prevention).

(12) In his report of October 22, 1986, the Surgeon General of the United States has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components, and from an infected mother to her newborn.

(13) According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.

(14) Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.

(15) Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view “sexually oriented” films.

(16) Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect substantial governmental concerns.

(17) A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of the sexually oriented businesses. Further, such a licensing procedure will place an incentive on the operators to see that the sexually oriented business is run in a manner consistent with the health, safety, and welfare of its patrons and employees, as well as the citizens of the city. It is appropriate to require reasonable assurances that the licensee is the actual operator of the sexually oriented business, fully in possession and control of the premises and activities occurring therein.

(18) Removal of doors on booths and requiring sufficient lighting on premises with booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult motion picture theaters.

(19) Requiring licensees of sexually oriented businesses to keep information regarding current employees and certain past employees will help reduce the incidence of certain types of criminal behavior by facilitating the identification of potential witnesses or suspects and by preventing minors from working in such establishments.

(20) The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of the sexually oriented businesses, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases.

(21) In the prevention of the spread of communicable diseases, it is desirable to obtain a limited amount of information regarding certain employees who may engage in the conduct that this ordinance is designed to prevent, or who are likely to be witnesses to such conduct.

(22) The barring of such individuals from the management of sexually oriented businesses for a period of years serves as a deterrent to, and prevents conduct which leads to, the transmission of sexually transmitted diseases.

(23) It is reasonably believed that to better protect the public health, safety, and welfare, it is necessary to adopt this ordinance.

(24) Partially nude performances in sexually oriented businesses are also included within the purview of the regulations, since they have the same harmful secondary effects on the surrounding community as sexually oriented businesses currently regulated under the ordinance. (See *Baby Dolls Topless Saloons, Inc. v. City of Dallas*, 295 F.3d 471 (5th Cir. 2002).)

(25) There is no constitutional right for sexually oriented business employees in a state of nudity to touch customers. (*Hang On, Inc. v. City of Arlington*, 65 F.3d 1248 (5th Cir. 1995).)

(26) One court has characterized the acts of sexually oriented business employees in a state of nudity and being paid to touch or be touched by customers as prostitution. (*People v. Hill*, 2002 Ill. App. LEXIS 792 (Ill. App. 2 Dist. Sept. 4, 2002); see also Texas Penal Code secs. 43.01 (“sexual conduct” and “sexual contact”) and 43.02 (“prostitution”).)

(27) In case study, attempts by the City of Arlington to require sexually oriented businesses to advise customers and employees in a state of nudity to refrain from intentionally touching and fondling each other through signage posted at the business entrance have not been effective.

(28) Sexually oriented businesses have not complied with the “no touch” provisions, but have flagrantly disregarded them and/or have encouraged employees and customers to violate the “no touch” provision.

(29) Provocative touching between customers and employees in a sexually oriented business where at least one is in a state of nudity frequently leads to the commission

of sex crimes, illegal drug use, and increased health risks due to sexually transmitted diseases.

(30) Compelling signage at the entrances of sexually oriented businesses has not been effective in halting “no touch” violations.

(31) In case study, the City of Arlington had to expend considerable law enforcement resources to enforce the “no touch” provisions.

(32) The city council reasonably believes that requiring employees in a state of nudity to be physically separated from customers by the use of elevated stages and buffer zones is necessary to better ensure ordinance compliance while still not inhibiting constitutionally protected expressive conduct or speech. (*LLEH, Inc. v. Wichita County, Texas*, 289 F.3d 358 (5th Cir. 2002).)

(33) The city council reasonably believes that sexual activity occurring in private viewing booths at sexually oriented businesses leads to unhealthy and unsanitary conditions and to the transmission of sexually transmitted and other communicable diseases. (*Matney v. County of Kenosha*, 86 F.3d 692, 695 (7th Cir. 1996).)

(34) The city council reasonably believes that certain negative secondary effects, including prostitution, drug trafficking and assaultive offenses are associated with nude or semi-nude dancing in environments where alcohol is served or allowed. (*J.L. Spoons, Inc. v. Dragani*, 538 F.3d 379, 382 (6th Cir. 2008).)

(35) The city council reasonably believes that the licensing and permitting requirements imposed on sexually oriented businesses that offer on-site entertainment comport with the prompt judicial review and preservation of the status quo requirements enunciated by the United States Supreme Court, and thus do not constitute an unconstitutional prior restraint. (*Richland Bookmart, Inc. v. Knox County, Tenn.*, 555 F.3d 512 (6th Cir. 2009), rehearing, en banc denied, 2009 U.S. App. LEXIS 12994 (6th Cir. April 23, 2009).)

(36) The city council reasonably believes that inadequately illuminated parking lots and parking lots that are not visible from the public right-of-way by virtue of being fenced or otherwise shielded from view present increased opportunities for criminal and sexual activity.

(37) The city council reasonably believes that video monitoring the parking lots of sexually oriented businesses will deter individuals from engaging in criminal and sexual activity in the area being monitored and retaining recordings will assist law enforcement in criminal investigations should any crimes be committed in the area.

(38) It is reasonably believed by the city council that the general welfare, health, and safety of the citizens of the city will be promoted by the enactment of this ordinance.

(39) It is reasonably believed by the city council that adequate sites are reasonably available for sexually oriented businesses that meet licensing and otherwise applicable requirements to locate and operate in the city.

(40) The fact that an applicant for a sexually oriented business license has been convicted of a sexually related crime leads to the rational assumption that the applicant may engage in that conduct in contravention of this ordinance. There is correlation between sexually oriented businesses, specifically their hours of operation and the type of people which such businesses attract, and higher crime rates. (*Baby Dolls Topless Saloons, Inc. v. City of Dallas*, 295 F.3d 471 (5th Cir. 2002); and

**WHEREAS**, the City Council further finds that sexually oriented businesses, as a category of establishments, are frequently used for unlawful sexual activities, including prostitution and sexual liaisons of a casual nature; and

**WHEREAS**, the concern over sexually transmitted diseases is a legitimate health concern of the city that demands reasonable regulation of sexually oriented businesses in order to protect the health and well-being of the citizens; and

**WHEREAS**, permitting and/or licensing is a legitimate means of accountability to ensure that operators, licensees, employees, and customers of sexually oriented businesses comply with reasonable regulations, and to ensure that operators do not allow their establishments to be used as places of illegal sexual activity or solicitation; and

**WHEREAS**, there is convincing documented evidence that sexually oriented businesses, as a category of establishments, have deleterious secondary effects and are often associated with crime and adverse effects on surrounding properties; and

**WHEREAS**, it is recognized that sexually oriented businesses, as a category of establishments, have serious objectionable operational characteristics, particularly when they are located in proximity to each other or in or near locations that are licensed to sell alcohol, thereby contributing to urban blight and downgrading the quality of life in the adjacent area; and

**WHEREAS**, certain employees of sexually oriented businesses, defined in this ordinance as adult arcades, adult bookstores or adult video stores, adult cabarets, adult motels, adult motion picture theaters, escort agencies, adult model studios, and sexual encounter centers, engage in higher incidence of certain types of illicit sexual behavior than employees of other establishments.

**WHEREAS**, sexual acts, including masturbation, prostitution, sexual contact, and oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles, or rooms for viewing films, videos, or live sex shows; and

**WHEREAS**, offering and providing private or semi-private areas in sexually oriented businesses encourages such sexual activities, which creates unhealthy conditions; and

**WHEREAS**, persons frequent certain sexually oriented theaters, sexually oriented arcades, and other sexually oriented businesses for the purpose of engaging in sex within the premises of the sexually oriented businesses; and

**WHEREAS**, the managers or owners of sexually oriented businesses fail to monitor or are unable to monitor the patron of said places and allow these patrons to engage in specified sexual activity while on the premises of said places; and

**WHEREAS**, sexually oriented businesses offering a public place where a state of nudity, semi-nudity or specified sexual acts occur or exist pose public health risks by engaging in unsanitary disposition of bodily secretion there by posing a threat of spreading infection or disease; and

**WHEREAS**, sanitary conditions in some sexually oriented businesses are unhealthy in part, because the activities conducted therein are unhealthy and in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities; and

**WHEREAS**, numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view ‘sexually oriented’ films; and

**WHEREAS**, sexually oriented businesses have operational characteristics, which should be reasonably regulated in order to protect substantial governmental concerns; and

**WHEREAS**, a reasonable licensing procedure is an appropriate mechanism to place the burden on the owners and the operators of the sexually oriented businesses. Further such a licensing procedure will place an incentive on the operators to see that the sexually oriented businesses is run in a manner consistent with the health, safety and welfare of its patrons and employees, as well as the citizens of the City, it is appropriate to require reasonable assurances that the license is the actual operator of the sexually oriented businesses, fully in possession and control of the premises and activities occurring therein; and

**WHEREAS**, requiring the operators of sexually oriented businesses to keep information regarding employees as well as perform criminal background checks on all prospective employees will help reduce the incidence of certain types of criminal behavior by facilitating the identification of potential employees with past pertinent criminal behavior and by preventing minors from working in such establishments; and

**WHEREAS**, the disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of the sexually oriented businesses, where such information is substantially related to the significant governmental interest in the operation of such uses will aid in preventing the spread of sexually transmitted diseases; and

**WHEREAS**, in the prevention of the spread of communicable diseases, it is desirable to obtain a limited amount of information regarding certain employees who may engage in the

conduct that this ordinance is designed to prevent, or who are likely to be witnesses to such conduct; and

**WHEREAS**, the fact that an applicant Specialized Certificate of Occupancy for a Sexually Oriented Businesses has been convicted of a sexually related crime leads to the rational assumption that the applicant may engage in that conduct in contravention of this Ordinance. There is a correlation between Sexually Oriented Businesses, specifically their hours of operation and the type of people, which such businesses attract, and higher crime rates [*See Baby Dolls Topless Saloons, Inc. v. City of Dallas*, 295 F.3d 471 (5<sup>th</sup> Cir. 2002)]; and

**WHEREAS**, the barring of such individuals the management of sexually oriented businesses serves as a deterrent to, and prevents conduct, which leads to, the transmission of sexually transmitted diseases; and

**WHEREAS**, the City Council desires to minimize and control these adverse effects and thereby protect the health, safety, and welfare of the citizenry; protect the citizens from crime; preserve the quality of life; preserve the character of surrounding neighborhoods and deter the spread of urban blight; and

**WHEREAS**, certain sexually oriented products and services offered to the public are recognized as not inherently expressive and not protected by the First Amendment, *see, e.g., FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215, 224 (1990) (escort services and sexual encounter services); *Heideman v. South Salt Lake City*, 348 F.3d 1182, 1195 (10<sup>th</sup> Cir. 2003) (“On its face, the Ordinance applies to all ‘sexually oriented businesses,’ which include establishments such as ‘adult motels’ and ‘adult novelty stores,’ which are not engaged in expressive activity.”); *Sewell v. Georgia*, 233 S.E.2d 187 (Ga. 1977), *dismissed for want of a substantial federal question*, 435 U.S. 982 (1978) (sexual devices); and

**WHEREAS**, there is documented evidence of sexually oriented businesses, including adult bookstores and adult video stores, manipulating their inventory and/or business practices to avoid regulation while retaining their essentially “adult” nature, *see, e.g., Taylor v. State*, No. 01-01-00505-CR, 2002 WL 1722154 (Tex. App. July 25, 2002) (noting that “the non-adult video selections appeared old and several of its display cases were covered with cobwebs”); *Z.J. Gifts D-4, L.L.C. v. City of Littleton*, Civil Action No. 99-N-1696, Memorandum Decision and Order (D. Colo. March 31, 2001) (finding retail adult store’s “argument that it is not an adult entertainment establishment” to be “frivolous at best”); *People ex rel. Deters v. The Lion’s Den, Inc.*, Case No. 04-CH-26, Modified Permanent Injunction Order (Ill. Fourth Judicial Circuit, Effingham County, July 13, 2005) (noting that “the accuracy and credibility” of the evidence on inventory in adult retail store was suspect, and that testimony was “less than candid” and “suggested an intention to obscure the actual amount of sexually explicit material sold”); *City of New York v. Hommes*, 724 N.E.2d 368 (N.Y. 1999) (documenting manipulation of inventory to avoid adult classification); and.

**WHEREAS**, the manner in which an establishment holds itself out to the public is a reasonable consideration in determining whether the establishment is a sexually oriented business, *see, e.g., FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215, 261 (1991) (Scalia, J.,

concurring in part and dissenting in part) (“[I]t is most implausible that any enterprise which has as its constant intentional objective the sale of such [sexual] material does not advertise or promote it as such.”); *East Brooks Books, Inc. v. Shelby County*, 588 F.3d 360, 365 (6th Cir. 2009) (“A prominent display advertising an establishment as an ‘adult store,’ moreover, is a more objective indicator that the store is of the kind the Act aims to regulate, than the mere share of its stock or trade comprised of adult materials.”); *see also Johnson v. California State Bd. Of Accountancy*, 72 F.3d 1427 (9th Cir. 1995) (rejecting First Amendment challenge to statute which used the phrase “holding out” to identify conduct indicative of the practice of public accountancy, but did not ban any speech); *Spencer v. World Vision, Inc.*, 633 F.3d 723 (9th Cir. 2010) (O’Scannlain, J., concurring) (concluding that whether an entity “holds itself out” as religious is a neutral factor and that factor helps to ensure that the entity is a bona fide religious entity); and

**WHEREAS**, the City intends to regulate such businesses as sexually oriented businesses through a narrowly tailored ordinance designed to serve the substantial government interest in preventing the negative secondary effects of sexually oriented businesses; and

**WHEREAS**, the City’s regulations shall be narrowly construed to accomplish this end; and

**WHEREAS**, the City recognizes its constitutional duty to interpret and construe its laws to comply with constitutional requirements as they are announced; and

**WHEREAS**, with the passage of any ordinance, the City and the City Council accept as binding the applicability of general principles of criminal and civil law and procedure and the rights and obligations under the United States and Texas Constitutions, Texas Code, and the Texas Rules of Civil and Criminal Procedure; and

**WHEREAS**, it is not the intent of this ordinance to suppress any speech activities protected by the U.S. Constitution or the Texas Constitution, but to enact legislation to further the content neutral governmental interests of the City, to wit, the controlling of secondary effects of sexually oriented businesses; and

**WHEREAS**, the City Council has determined it is in the best interest of the citizens to adopt regulations governing the development and conduct of sexually oriented businesses within the City; and

**WHEREAS**, the City Council has further determined the following regulations would provide for and would be in the best interest of the safety, health and general welfare of its citizens.

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

**Section 1. Findings Incorporated.** The findings set forth above are incorporated as if fully set forth herein.

**Section 2. Amendment.** The regulations attached hereto as Exhibit “A” shall be incorporated into the Code of Regulations of the City of Lavon, Texas, as amended.

**Section 3. Amendment to City’s Master Fee Schedule.** The City’s Master Fee Schedule establishing various fees related to Business Regulations and permitting, is amended to add the following fees as set forth below:

Sexually oriented businesses:

- (a) Nonrefundable license application fee: \$500.00 or as may be amended.
- (b) Nonrefundable application processing fee: \$60.00 or as may be amended.
- (c) Replacement of personal card or on-site card: \$35.00 or as may be amended.
- (d) Reinstatement fee in lieu of suspension: \$500.00 or as may be amended.

**Section 4. Cumulative/Repealer Clause.** This ordinance shall be cumulative of all provisions of state or federal law and all ordinances of the City of Lavon, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such other ordinances, in which event the conflicting provisions of such ordinances are hereby repealed to the extent of such conflict.

**Section 5. Severability.** Should any section, subsection, sentence, clause, phrase of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this ordinance shall remain in full force and effect. The City of Lavon, Texas hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

**Section 6. Open Meeting.** It is hereby officially found and determined that all notice required by law has been given and notice of this Ordinance was posted and the Ordinance passed in accordance with the Open Meeting Act.

**Section 7. Effective Date.** This Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law in such cases provides.

**DULY PASSED and APPROVED** by the City Council of the City of Lavon, Texas, on the 20<sup>th</sup> day of March, 2018.

\_\_\_\_\_  
Charles A. Teske, Jr., Mayor

**ATTEST:**

\_\_\_\_\_  
Kim Dobbs, City Administrator | City Secretary

## EXHIBIT A

### CITY OF LAVON, TEXAS ORDINANCE NO. 2018-03-05

#### SEXUALLY ORIENTED BUSINESS REGULATIONS

##### Division 1. Generally

###### Sec. 1 Purpose; intent

(a) It is the purpose of this ordinance to regulate sexually oriented businesses to promote the health, safety, morals and general welfare of the citizens of the city and to establish reasonable and uniform regulations to prevent the concentration of sexually oriented businesses within the city. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by distributors and exhibitors of sexually oriented entertainment to their intended market.

(b) It is the intent of the city council that the locational regulations of this ordinance are promulgated pursuant to Local Government Code Ch. 243, as amended.

(c) A license granted under this ordinance or under any other city ordinance does not authorize or legalize any conduct, activity or business that is illegal under state or federal law.

###### Sec. 2 Findings

Based on evidence concerning the adverse secondary effects of sexually oriented businesses on the community presented in hearings and in reports made available to the city council, and on findings incorporated in the cases of *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *City of Erie v. Pap's A.M.*, 529 U.S. 277, 120 S.Ct. 1382 (2000); *City of Los Angeles v. Alameda Books, Inc.*, 122 S.Ct. 1728 (2002); *Baby Dolls Topless Saloons, Inc. v. City of Dallas*, 295 F.3d 471 (5th Cir. 2002); *LLEH, Inc. v. Wichita County, Texas*, 289 F.3d 358 (5th Cir. 2002); *Mitchell v. Commission on Adult Entertainment*, 10 F.3d 123 (3rd Cir. 1993); *Schultz v. City of Cumberland*, 228 F.3d 831 (7th Cir. 2000); *Hang On, Inc. v. City of Arlington*, 65 F.3d 1248 (5th Cir. 1995); *2300, Inc. v. City of Arlington*, 888 S.W.2d 123 (Tex. App.—Fort Worth, 1994); *Colacurcio v. City of Kent*, 163 F.3d 545 (9th Cir. 1998), cert. denied, 529 U.S. 1053 (2000); *Kev, Inc. v. Kitsap County*, 793 F.2d 1053 (9th Cir. 1986); *Center for Fair Public Policy v. Maricopa County*, 336 F.3d 1153 (9th Cir. 2003); *DLS, Inc. v. Chattanooga*, 107 F.3d 403 (6th Cir. 1997); *Jake's, Ltd., Inc. v. Coates*, 384 F.3d 884 (8th Cir. 2002); and on studies, reports and/or testimony in other communities including, but not limited to: Phoenix, Arizona; Minneapolis, Minnesota; St. Paul, Minnesota; Houston, Texas; Indianapolis, Indiana; Dallas, Texas; Amarillo,

Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; Beaumont, Texas; Newport News, Virginia; Bellevue, Washington; New York, New York; St. Croix County, Wisconsin; Kitsap County, Washington; Los Angeles, California Police Department (dated August 12, 2003); Arlington, Texas, License and Amortization Appeal Board hearings, 2001 and 2002; Arlington Community Health Profile (dated July 2003); a summary of land use studies compiled by the National Law Center for Children and Families; and also on findings from the Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses (June 6, 1989), State of Minnesota), and the study entitled Survey of Texas Appraisers - Secondary Effects of Sexually Oriented Businesses on Market Values, by Cooper and Kelley, and Crime-Related Secondary Effects - Secondary Effects of "Off-Site" Sexually-Oriented Businesses, by McCleary, June 2008, the city council finds:

- (1) Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments. Further, absent municipal regulation aimed at reducing adverse secondary effects, there is no mechanism to make the owners of these establishments responsible for the activities that occur on the premises.
- (2) Certain employees of sexually oriented businesses, defined in this ordinance as adult arcade, adult bookstore, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio or sexual encounter center, engage in a higher incidence of certain types of illicit sexual behavior than employees of other establishments.
- (3) Sexual acts, including masturbation, prostitution, sexual contact, and oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles or rooms for viewing films, videos, or live sex shows.
- (4) Offering and providing private or semi-private areas in sexually oriented businesses encourages such sexual activities, which creates unhealthy conditions.
- (5) Persons frequent certain sexually oriented businesses, adult arcades, adult motion picture theaters and adult theaters for the purpose of engaging in sex within the premises of such sexually oriented businesses.
- (6) At least fifty (50) communicable diseases may be spread by activities occurring in sexually oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, non A, non B, amebiasis, salmonella infections and shigella infections.
- (7) Since 1981 and to the present, there has been an increasing cumulative number of reported cases of AIDS (acquired immunodeficiency syndrome) caused by the human immunodeficiency virus (HIV) in the United States: 600 in 1982, 2,200 in 1983, 4,600 in 1984, 8,555 in 1985, and 253,448 cumulative through December 31,

1992. In 2007, the estimated number of persons diagnosed with AIDS in the United States and dependent areas was 37,041. Of these, 35,962 were diagnosed in the 50 states and the District of Columbia and 812 were diagnosed in the dependent areas. In the 50 states and the District of Columbia, adult and adolescent AIDS cases totaled 35,934 with 26,355 cases in males and 9,579 cases in females. The cumulative estimated number of diagnoses of AIDS through 2007 in the United States and dependent areas was 1,051,875. Of these, 1,018,428 were diagnosed in the 50 states and the District of Columbia and 32,051 were diagnosed in the dependent areas. In the 50 states and the District of Columbia, adult and adolescent AIDS cases totaled 1,009,220 with 810,676 cases in males and 198,544 cases in females. (Source: U.S. Centers for Disease Control, U.S. Dept. of Health and Human Services. February 26, 2009.)

(8) Indeed, the number of cases that were diagnosed with HIV totaled approximately 53,200 in 2007, 47,500 in 2008, 45,000 in 2009 and 47,500 in 2010 in the United States. (Source: CDC HIV Surveillance Supplemental Report 2012;17 (No. 4) December 2012.) There were an estimated 37,600 new HIV infections in 2014 alone. (Source: Singh S et al. (CDC). HIV incidence, prevalence, and undiagnosed infections in men who have sex with men. Presentation at Conference on Retroviruses and Opportunistic Infections, 2017, Seattle, WA.). It is estimated that 1,122,900 adults and adolescents were living with HIV at the end of 2015. Of those, 162,500 (15%) had not received a diagnosis. (Source: CDC. Monitoring selected national HIV prevention and care objectives by using HIV surveillance data—United States and 6 dependent areas—2015).

(9) Since the early 1980s and to the present, there has been an increasing cumulative number of persons testing positive for the HIV antibody test in Collin County, Texas and across the State of Texas. As of December 31, 2001, there had been 57,199 reported cases of AIDS in the State of Texas. In 2008, 63,019 persons were reported to be living with HIV/AIDS in Texas. This number has increased through December 31, 2016 with 85,807 people living with HIV across the state of Texas and 137,583 reported to be living with HIV/AIDS in Texas. Collin County was listed as one of the top 25 county with reported HIV/AIDS diagnoses in 2016 alone. (Source: Tex. Dept. of State Health Services; *See also* Texas 2016 HIV Surveillance Report).

(10) The number of cases of early (less than one year) syphilis in the United States reported annually has risen, with 33,613 cases reported in 1982, and 45,200 through November 1990. According to department of state health services records, there were 1,175 cases of early syphilis reported in the State of Texas during 2000 and an additional 972 cases reported in 2001. Between 2007 and 2008, the number of cases of early latent syphilis reported to CDC increased 15.2 percent (from 10,768 to 12,401), while the number of cases of late and late latent syphilis increased 9.3 percent (from 18,256 to 19,945). The total number of cases of syphilis (all stages: P&S, early latent, late, late latent, and congenital syphilis) reported to CDC increased 13.1 percent (from 40,921 to 46,277) between 2007 and 2008. In 2008, P&S syphilis

cases reported to CDC increased to 13,500 from 11,466 in 2007, an increase of 17.7 percent. The rate of P&S syphilis in the United States in 2008 (4.5 cases per 100,000 population) was 18.4 percent higher than the rate in 2007 (3.8 cases per 100,000 population) (Source: U.S. Centers for Disease Control, Sexually Transmitted Disease Surveillance, 2008.) Moreover, the rate of reported cases of P&S syphilis in the United States has increased from 2012 to 2016 by approximately 77%. The incidence of reported cases of P&S syphilis in 2012 was 15,979, 17,768 cases in 2013, 20,492 cases in 2014, 24,413 cases in 2015, and 28,309 cases in 2016. (Source: Division of STD Prevention, National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention, Centers for Disease Control and Prevention).

(11) The number of cases of gonorrhea in the United States reported annually remains at a high level, with over one-half million cases being reported in 1990. Again, according to department of state health services records, there were 32,895 cases of gonorrhea reported in the State of Texas during 2000 and an additional 30,116 cases reported in 2001. During the same time period there were also 138,692 cases of chlamydia reported in the State of Texas (Arlington Community Health Profile, dated July 2003). In 2008, 336,742 cases of gonorrhea were reported in the United States, a rate of 111.6 cases per 100,000 population, reflecting a small decrease of 5.4 percent since 2007. Gonorrhea rates have remained relatively stable over the past 12 years. Texas ranked 15th in the nation in 2008 with 32,199 cases at a rate of 134.7 cases per 100,000 population. Thereafter, Texas ranked 17<sup>th</sup> in the nation in 2016 for reported cases of gonorrhea. Texas experienced a 31% increase of reported cases of gonorrhea between 2012 and 2016. In 2008, 1,210,523 chlamydial infections were reported to CDC from 50 states and the District of Columbia. This case count corresponds to a rate of 401.3 cases per 100,000 population, an increase of 9.2% compared with the rate of 367.5 in 2007. Over the past 20 years, from 1989 through 2008, the rate of reported chlamydial infection increased from 102.5 to 401.3 cases per 100,000 population. Moreover, the rate of reported chlamydial infection increased from 450.2 to 494.2 cases per 100,000 population between the years of 2012 through 2016. Texas itself experienced a 12% increase between 2012 and 2016 of reported cases of chlamydial infection. (Source: U.S. Centers for Disease Control, Sexually Transmitted Disease Surveillance, 2008, 2016; *See also* 2016 Sexually Transmitted Diseases Surveillance, Table 14, from the Division of STD Prevention, National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention, Centers for Disease Control and Prevention).

(12) In his report of October 22, 1986, the Surgeon General of the United States has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components, and from an infected mother to her newborn.

(13) According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.

(14) Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.

(15) Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view “sexually oriented” films.

(16) Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect substantial governmental concerns.

(17) A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of the sexually oriented businesses. Further, such a licensing procedure will place an incentive on the operators to see that the sexually oriented business is run in a manner consistent with the health, safety, and welfare of its patrons and employees, as well as the citizens of the city. It is appropriate to require reasonable assurances that the licensee is the actual operator of the sexually oriented business, fully in possession and control of the premises and activities occurring therein.

(18) Removal of doors on booths and requiring sufficient lighting on premises with booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult motion picture theaters.

(19) Requiring licensees of sexually oriented businesses to keep information regarding current employees and certain past employees will help reduce the incidence of certain types of criminal behavior by facilitating the identification of potential witnesses or suspects and by preventing minors from working in such establishments.

(20) The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of the sexually oriented businesses, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases.

(21) In the prevention of the spread of communicable diseases, it is desirable to obtain a limited amount of information regarding certain employees who may engage in the conduct that this ordinance is designed to prevent, or who are likely to be witnesses to such conduct.

(22) The barring of such individuals from the management of sexually oriented businesses for a period of years serves as a deterrent to, and prevents conduct which leads to, the transmission of sexually transmitted diseases.

(23) It is reasonably believed that to better protect the public health, safety, and welfare, it is necessary to adopt additional amendments to this ordinance.

(24) Partially nude performances in sexually oriented businesses are also included within the purview of the regulations, since they have the same harmful secondary effects on the surrounding community as sexually oriented businesses currently regulated under the ordinance. (See *Baby Dolls Topless Saloons, Inc. v. City of Dallas*, 295 F.3d 471 (5th Cir. 2002).)

(25) There is no constitutional right for sexually oriented business employees in a state of nudity to touch customers. (*Hang On, Inc. v. City of Arlington*, 65 F.3d 1248 (5th Cir. 1995).)

(26) One court has characterized the acts of sexually oriented business employees in a state of nudity and being paid to touch or be touched by customers as prostitution. (*People v. Hill*, 2002 Ill. App. LEXIS 792 (Ill. App. 2 Dist. Sept. 4, 2002); see also Texas Penal Code secs. 43.01 (“sexual conduct” and “sexual contact”) and 43.02 (“prostitution”).)

(27) In case study, attempts by the City of Arlington to require sexually oriented businesses to advise customers and employees in a state of nudity to refrain from intentionally touching and fondling each other through signage posted at the business entrance have not been effective.

(28) Sexually oriented businesses have not complied with the “no touch” provisions, but have flagrantly disregarded them and/or have encouraged employees and customers to violate the “no touch” provision.

(29) Provocative touching between customers and employees in a sexually oriented business where at least one is in a state of nudity frequently leads to the commission of sex crimes, illegal drug use, and increased health risks due to sexually transmitted diseases.

(30) Compelling signage at the entrances of sexually oriented businesses has not been effective in halting “no touch” violations.

(31) In case study, the City of Arlington had to expend considerable law enforcement resources to enforce the “no touch” provisions.

(32) The city council reasonably believes that requiring employees in a state of nudity to be physically separated from customers by the use of elevated stages and buffer zones is necessary to better ensure ordinance compliance while still not inhibiting constitutionally protected expressive conduct or speech. (*LLEH, Inc. v. Wichita County, Texas*, 289 F.3d 358 (5th Cir. 2002).)

(33) The city council reasonably believes that sexual activity occurring in private viewing booths at sexually oriented businesses leads to unhealthy and unsanitary conditions and to the transmission of sexually transmitted and other communicable diseases. (*Matney v. County of Kenosha*, 86 F.3d 692, 695 (7th Cir. 1996).)

(34) The city council reasonably believes that certain negative secondary effects, including prostitution, drug trafficking and assaultive offenses are associated with nude or semi-nude dancing in environments where alcohol is served or allowed. (*J.L. Spoons, Inc. v. Dragani*, 538 F.3d 379, 382 (6th Cir. 2008).)

(35) The city council reasonably believes that the licensing and permitting requirements imposed on sexually oriented businesses that offer on-site entertainment comport with the prompt judicial review and preservation of the status quo requirements enunciated by the United States Supreme Court, and thus do not constitute an unconstitutional prior restraint. (*Richland Bookmart, Inc. v. Knox County, Tenn.*, 555 F.3d 512 (6th Cir. 2009), rehearing, en banc denied, 2009 U.S. App. LEXIS 12994 (6th Cir. April 23, 2009).)

(36) The city council reasonably believes that inadequately illuminated parking lots and parking lots that are not visible from the public right-of-way by virtue of being fenced or otherwise shielded from view present increased opportunities for criminal and sexual activity.

(37) The city council reasonably believes that video monitoring the parking lots of sexually oriented businesses will deter individuals from engaging in criminal and sexual activity in the area being monitored and retaining recordings will assist law enforcement in criminal investigations should any crimes be committed in the area.

(38) It is reasonably believed by the city council that the general welfare, health, and safety of the citizens of the city will be promoted by the enactment of this ordinance.

(39) It is reasonably believed by the city council that adequate sites are reasonably available for sexually oriented businesses that meet licensing and otherwise applicable requirements to locate and operate in the city.

(40) The fact that an applicant for a sexually oriented business license has been convicted of a sexually related crime leads to the rational assumption that the applicant may engage in that conduct in contravention of this ordinance. There is correlation between sexually oriented businesses, specifically their hours of operation and the type of people which such businesses attract, and higher crime rates. (*Baby Dolls Topless Saloons, Inc. v. City of Dallas*, 295 F.3d 471 (5th Cir. 2002).)

(41) The findings noted in subsections (1) through (40) raise substantial governmental concerns.

### Sec. 3 Definitions

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

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

Adult audio or video center. Any place at which any of the following activities regularly occurs:

- (1) Inbound or outbound telephone or other audio communications in which a topic or purpose of the communication between an occupant of the premises and a third party is the discussion or description of specified sexual activities or specified anatomical areas for consideration;
- (2) Video or audio broadcasting, whether live, delayed, by film, by tape recording or otherwise, of specified sexually activities or specified anatomical areas for consideration; or
- (3) Filming, taping or otherwise creating video or audio recordings of specified sexually activities or specified anatomical areas, including but not limited to, films, movies, video tapes, DVDs, audio tapes or compact disks, of specified sexually activities or specified anatomical areas that are broadcast, sold, manufactured or distributed for consideration.

Adult bookstore, adult novelty store or adult video store. A commercial establishment for which the primary business is the offering of a service or the selling, renting, or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer, including:

- (1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, DVDs, videocassettes or video reproductions, slides, or other visual representations, that depict or describe specified sexual activities or specified anatomical areas; or
- (2) Instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities, but not including items for birth control or for the prevention of sexually transmitted diseases.

Adult cabaret. A nightclub, bar, restaurant, or similar commercial establishment which regularly features:

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

Adult motel. A hotel, motel or similar commercial establishment which:

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

Adult motion picture theater. A commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

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

Applicant.

- (1) A person or entity in whose name a license to operate a sexually oriented business will be issued;
- (2) Each individual who signs an application for a sexually oriented business license as required by Section 31;
- (3) Each individual who is an owner or operator of a sexually oriented business for which a license application is made under Section 31, regardless of whether the individual's name or signature appears on the application;

(4) Each individual who has a 20 percent or greater ownership interest in a sexually oriented business for which a license application is made under Section 31, regardless of whether the individual's name or signature appears on the application; and

(5) Each individual who exercises substantial de facto control over a sexually oriented business for which a license application is made under Section 31, regardless of whether the individual's name or signature appears on the application.

Article, chapter or ordinance. Reference to "this article," "this chapter" or "this ordinance" shall mean and refer to this ordinance of the Code of Ordinances of the city, as amended.

City administrator. The city administrator for the City of Lavon or the city administrator's designated agent.

Chief of police. The chief of police of the City of Lavon or the chief of police's designated agent.

Conviction. A conviction in a federal court or a court of any state or foreign nation or political subdivision of a state or foreign nation that has not been reversed, vacated, or pardoned. "Conviction" includes disposition of charges against a person by probation or deferred adjudication.

Customer. Any person who:

(1) Is allowed to enter a sexually oriented business or any portion of a sexually oriented business in return for the payment of an admission fee, membership fee or any other form of consideration or gratuity;

(2) Enters a sexually oriented business or any portion of a sexually oriented business and purchases, rents or otherwise partakes of any merchandise, goods, entertainment or other services offered therein; or

(3) Is a member of and on the premises of a sexually oriented business operating as a private or membership club or a sexually oriented business that reserves any portion of the premises of the sexually oriented business as a private or membership club.

Employee. A person who performs any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, whether or not the person is designated an employee, independent contractor, agent or otherwise and whether or not the person is paid a salary, wage or other compensation by an owner or operator of the sexually oriented business. "Employee" does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

Enterprise. An adult arcade, adult audio or video center, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude modeling studio or any establishment whose primary business is the offering of a service or the selling, renting or exhibiting of devices or any other items intended to provide

sexual stimulation or sexual gratification to its customers, and which is distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas. The term “enterprise” shall include any premises for which a permit or license is required under either or both of division 2 and 3 of this ordinance. However, the term “sexually oriented business” shall not be construed to include:

- (1) Any business operated by or employing licensed psychologists, licensed physical therapists, licensed athletic trainers, licensed cosmetologists, or licensed barbers performing functions authorized under the license held;
- (2) Any business operated by or employing licensed physicians or licensed chiropractors engaged in practicing the healing arts; or
- (3) Any retail establishment whose major business is the offering of wearing apparel for sale to customers.

Entertainer. Any employee of a sexually oriented business who performs or engages in entertainment.

Entertainer’s permit. A permit issued by the chief of police to an entertainer pursuant to this ordinance.

Entertainment. Any act or performance, such as a play, skit, reading, revue, fashion show, modeling performance, pantomime, role playing, encounter session, scene, song, dance, musical rendition or striptease, that involves the display or exposure of specified sexual activities or specified anatomical areas. The term “entertainment” shall include any employee or entertainer exposing any specified anatomical areas or engaging in any specified sexual activities whatever in the presence of customers.

Escort. A person who, for consideration, agrees or offers to act as a companion, guide or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

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

Establishment. Any of the following:

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

- (4) The relocation of any sexually oriented business.

Hearing officer. The city administrator, or his or her designee. The hearing officer shall exercise those powers authorized under the Texas Local Government Code and the Code of Ordinances of the city, as appropriate in the furtherance of his or her duties.

License. A license issued to a licensee pursuant to this ordinance.

Licensee.

- (1) A person in whose name a license to operate a sexually oriented business has been issued;
- (2) Each individual listed as an applicant on the application for a license;
- (3) Each individual who is an owner or operator of a sexually oriented business for which a license has been issued under this ordinance, regardless of whether the individual's name or signature appears on the license application;
- (4) Each individual who has a 20 percent or greater ownership interest in a sexually oriented business for which a license has been issued under this ordinance, regardless of whether the individual's name or signature appears on the license application; and
- (5) Each individual who exercises substantial de facto control over a sexually oriented business for which a license has been issued under this ordinance, regardless of whether the individual's name or signature appears on the license application.

Manager. Any person, including an on-site manager, who supervises, directs or manages any employee or other person who conducts business on the premises of a sexually oriented business and/or performs certain services including, but not limited to, the following:

- (1) Operating a cash register, cash drawer or other depository on the premises of the sexually oriented business where cash funds or records of credit card or other credit transactions are generated in any manner by the operation of the sexually oriented business or the activities at the premises of the sexually oriented business;
- (2) Displaying or taking orders from any customer for any merchandise, goods, entertainment or other services offered on the premises of the sexually oriented business;
- (3) Delivering or providing to any customer any merchandise, goods, entertainment or other services offered on the premises of the sexually oriented business;
- (4) Acting as an attendant to regulate entry, flow or traffic of customers or other persons into the premises of the sexually oriented business; or

- (5) Supervising or managing other person(s) in the performance of any of the foregoing activities on the premises of the sexually oriented business.

Manager's permit. A permit issued by the chief of police to a manager pursuant to this ordinance.

Nude model studio. Any place where a person [who] appears in a state of nudity or displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration; however, nude modeling at or on behalf of any properly accredited institution of higher learning shall not fall within this definition.

Nudity or a state of nudity. A state of dress which fails to fully and opaquely cover the anus, genitals, pubic region, or perineum anal region, or the exposure of any device, costume or covering that gives the realistic appearance of or simulates the anus, genitals, pubic region, or perineum anal region, regardless of whether the nipple and areola of the human female breast are exposed.

On-site manager. Any person charged by an owner or operator of a sexually oriented business with the responsibility for direct supervision of the operation of the sexually oriented business and/or responsible for monitoring and observing areas of the sexually oriented business to which customers are admitted when the sexually oriented business is open for business and/or when customers are admitted to the premises of the sexually oriented business.

Opaquely. Impervious to the rays of light; not transparent; impenetrable to sight.

Operates or causes to be operated. To cause, to function or to put or keep in operation. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is a licensee, owner or operator of the sexually oriented business.

Operator. The individual or natural person who is principally in charge of the operations of a sexually oriented business.

Owner or owners. The proprietor, if a sole proprietorship, or all general partners if a partnership, or the corporation if a corporation, of a sexually oriented business.

Permit. A current, valid permit issued by the chief of police or building official pursuant to this ordinance.

Permit holder. A person who holds a permit pursuant to this ordinance.

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

Semi-nude or semi-nudity or state of semi-nudity. The exposure of the post-puberty female nipple or areola, or the exposure of any device, costume or covering that gives the realistic appearance

of or simulates the post-puberty female nipple or areola, so long as the following anatomical areas of an individual are fully and opaquely covered: the anus, genitals, pubic region and the perineum anal region of the human body. The term “semi-nude” shall not apply to an individual exposing a post-puberty female nipple or areola in the process of breastfeeding a child under that person’s care.

Separate area. Any portion of the interior of a sexually oriented business separated from any other portion of a sexually oriented business by a wall, partition or other divider.

Sexual encounter center. A business or commercial sexually oriented business that, as one of its primary business purposes, offers for any form of consideration:

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

Sexually oriented business. An adult arcade, adult audio or video center, adult bookstore, adult novelty store or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude modeling studio or sexual encounter center, or other sexually oriented business the primary business of which is the offering of a service or the selling, renting, or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer. For purposes of this ordinance, “primary business” means 25 percent or more of the items in inventory and/or floor space used for the offering of a service or the selling, renting, or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer. Inventory shall be measured with all titles or objects available on the premises for sale or rental, including those that are identical being considered a separate title or object. The term shall also mean any commercial sexually oriented business that self-identifies as an adult arcade, adult audio or video center, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude modeling studio or sexual encounter center, regardless of whether the percentage of items in inventory and/or floor space constitute 25 percent or more of the total items in inventory and/or floor space. The term “sexually oriented business” shall not be construed to include:

- (1) Any business operated by or employing a licensed psychologist, licensed physical therapist, licensed athletic trainer, licensed cosmetologist, licensed massage therapist, or licensed barber engaged in performing functions authorized under the lawful license held;
- (2) Any business operated by or employing a licensed physician or chiropractor engaged in practicing the healing arts;
- (3) Any business licensed as a tattoo studio or a body piercing studio and was engaged in practices authorized under the license; or

- (4) An activity conducted or sponsored:
- (A) By a proprietary school licensed by the state or a college, junior college or university supported entirely or partly by taxation; or
- (B) By a private college or university which maintains or operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation;

and any activity conducted or sponsored by an entity identified in subsection (A) or (B) must be situated in a structure: (i) which has no sign or other advertising visible from the exterior of the structure indicating a nude or semi-nude person is available for viewing; and (ii) where in order to participate in a class, a student must enroll at least three days in advance of the class; and (iii) where no more than one nude or semi-nude model is on the premises at any one time.

Specified anatomical area.

- (1) Any of the following, or any combination of the following, when less than completely and opaquely covered:
- (A) Any human genitals, pubic region or pubic hair;
- (B) Any buttock; or
- (C) Any portion of the female breast or breasts that is situated below a point immediately above the top of the areola; or
- (2) Human male genitals in a discernibly erect state, even if completely and opaquely covered.

Specified sexual activity. Any of the following:

- (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breast;
- (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- (3) Masturbation, actual or simulated; or
- (4) Excretory functions as part of or in connection with any of the activities set forth in subsections (1) through (3) of this definition.

Substantial enlargement of a sexually oriented business. The increase in floor area occupied by the business of more than 25 percent, as the floor area exists on the date of passage of this ordinance.

Temporary entertainer. An individual who holds a temporary entertainer's permit.

Temporary entertainer's permit. An entertainer's permit that is valid for a reduced period of time, pursuant to this ordinance.

Temporary manager. An individual who holds a temporary manager's permit.

Temporary manager's permit. A manager's permit that is valid for a reduced period of time, pursuant to this ordinance.

Temporary permit. A permit that is valid for a reduced period of time, pursuant to this ordinance.

Transfer of ownership or control. Pertaining to a sexually oriented business, means and includes any of the following:

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

#### **Sec. 4 Classification**

- (a) Adult arcades;
- (b) Adult audio or video centers;
- (c) Adult bookstores, adult novelty stores or adult video stores;
- (d) Adult cabarets;
- (e) Adult motels;
- (f) Adult motion picture theaters;
- (g) Adult theaters;
- (h) Escort agencies;

- (i) Nude modeling studios; and
- (j) Sexual encounter centers.

**Sec. 5 Location; exemption from location restrictions**

(a) A person commits an offense if the person operates or causes to be operated a sexually oriented business in any zoning district other than as allowed by the city's comprehensive zoning ordinance, as amended.

(b) A person commits an offense if the person causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within 1,000 feet of any of the following:

(1) A religious institution, church, synagogue, mosque, temple or structure that is used primarily for religious worship and related religious activities or real property owned by, or for the benefit of, a religious organization that intends to use the property for such purposes if such ownership has been registered with the city;

(2) A public or private educational facility, including, but not limited to, child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuing education schools, special education schools, junior colleges, colleges and universities; school includes the school grounds and related athletic or other facilities regularly visited by students;

(3) A boundary of a zoning district zoned for residential uses under the comprehensive zoning ordinance, an area designated as residential on the city's comprehensive plan, or a historic district as designated by the city's comprehensive zoning ordinance or comprehensive plan;

(4) A public park or recreational area which has been designated for park or recreational activities, including but not limited to a park, playground, nature trails, swimming pool, golf course, reservoir, athletic field, basketball or tennis courts, pedestrian/ bicycle paths, wilderness areas, or other similar public land within the city which is under the control, operation, or management of a governmental entity;

(5) The property line of a lot devoted to a residential use;

(6) An entertainment business which is oriented primarily towards children or family entertainment; or

(7) A licensed premises, licensed pursuant to the Texas Alcoholic Beverage Code (except premises holding a food and beverage certificate whose primary business being operated on the premises is food service).

(c) A person commits an offense if he causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within 1,000 feet of another sexually oriented business.

(d) For the purposes of subsection (b), measurement must be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the property line or boundary of the premises where a sexually oriented business is operated or to be operated, to the nearest portion of a property line or boundary for the uses listed in subsection (b). The presence of a city, county, or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this section.

(e) For purposes of subsection (c), the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the nearest property line of each property sought to be used as a sexually oriented business. Presence of a city, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this section.

(f) Any sexually oriented business lawfully operating prior to the effective date of this ordinance or the ordinance from which this ordinance is derived that is in violation of one or more subsections of this section shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed one year, unless sooner terminated for any reason, including but not limited to suspension or revocation of license, or voluntary discontinuance for a period of 30 days or more. Such nonconforming uses shall not be increased, enlarged, extended, or altered except that the use may be changed to a conforming use. If two or more sexually oriented businesses are within 1,000 feet of one another and otherwise in a permissible location, the sexually oriented business which was first lawfully established and continually operating at a particular location is the conforming use and the later established business is nonconforming.

(g) A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant of a renewal of the sexually oriented business license, of a use listed in subsection (b) within 1,000 feet of the sexually oriented business. This provision applies only to the renewal of a valid license, and does not apply when an application for a license is submitted after a license has expired or been revoked.

(h) Exemption from location restrictions.

(1) If the chief of police denies the issuance of a license to an applicant because the location of the sexually oriented business is in violation of any section of this ordinance, then the applicant may, not later than ten calendar days after receiving notice of the denial, file with the city administrator a written request for an exemption of the locational restrictions of this ordinance.

(2) If the written request is filed with the city administrator within the ten calendar day limit, the city council shall consider the request. The city administrator shall set a

date for the hearing within sixty 60 days from the date the written request is received, unless both parties agree to a certain date beyond the 60 days.

(3) A hearing by the council may proceed if a quorum of the council members is present. The council shall hear and consider evidence offered by any interested person. The normal rules of evidence do not apply.

(4) The council may, in its discretion, grant an exemption from the locational restrictions of this ordinance if it makes the following findings:

(A) That the location of the sexually oriented business will not have a detrimental effect on nearby properties or be contrary to the public safety or welfare;

(B) That the location of the sexually oriented business will not downgrade the property values or quality of life in the adjacent areas or encourage the development of urban blight;

(C) That the location of the sexually oriented business in the area will neither be contrary to any program of neighborhood conservation nor will it interfere with any efforts of urban renewal or restoration; and

(D) That all other applicable provisions of this ordinance will be observed.

(5) In making the findings specified in subsection (4), the council may take into account among other things:

(A) Crime statistics and forecasts of the location and its 1,000-foot radius maintained by the appropriate law enforcement agency;

(B) Assessed property values for the location and properties within the surrounding 1,000-foot radius, taking into account any decline or increase in property values or rates of decrease or increase in property values in relation to otherwise comparable properties;

(C) Sales, leases, and vacancy rates of all property types within the surrounding 1,000-foot radius in relation to otherwise comparable properties; and

(D) Any evidence regarding the award or denial of any public or private grants for neighborhood conservation, urban renewal or restoration for any property located within the surrounding 1,000-foot radius.

(6) The city council shall grant or deny the exemption by a majority vote of a quorum of the city council, no later than ten days after the hearing. The failure to grant or deny the exemption no later than ten days after the hearing and/or the failure

to reach a majority vote shall result in denial of the exemption. Disputes of fact shall be decided on the basis of a preponderance of the evidence. The decision of the council is final.

(7) If the council grants the exemption, the exemption is valid for one year from the date of the council's action. Upon the expiration of an exemption, the sexually oriented business is in violation of the locational restrictions of this ordinance until the applicant applies for and receives another exemption pursuant to this subsection. If the applicant applies for another exemption within ten days following the expiration of the exemption, the city administrator shall set a date for a hearing as set out in this subsection. If a timely request is so filed, the existing license is deemed not to have expired until the decision of the council on such request.

(8) If the council denies the exemption, the applicant may not reapply for an exemption until at least 12 months have elapsed since the date of the council's action.

(9) The grant of an exemption does not exempt the applicant from any other provisions of this ordinance other than the locational restrictions.

#### **Sec. 6 Amendment of ordinance**

Locational requirements of this ordinance may be amended only after compliance with the procedure required to amend the zoning code or any applicable zoning ordinance. Other sections of this ordinance may be amended by vote of the city council.

#### **Sec. 7 Suit for injunction**

A person who operates or causes to be operated a sexually oriented business without a valid license or in violation of locational requirements of this ordinance is subject to a suit for injunction as well as prosecution for criminal violations.

#### **Sec. 8 Penalty**

(a) Any person, firm, corporation, agent or employee who violates any of the provisions of this ordinance shall be guilty of a misdemeanor.

(b) Each day that a violation is permitted to exist shall constitute a separate offense.

(c) A fine or penalty for the violation of any provision of this ordinance shall not exceed five hundred dollars (\$500). However, a fine or penalty for the violation of a rule or regulation that governs public health and safety may not exceed two thousand dollars (\$2,000).

(d) The refusal to issue a permit based on ineligibility shall not prohibit the imposition of a criminal penalty and the imposition of a criminal penalty shall not prevent the refusal to issue a permit based on ineligibility.

(d) The revocation or suspension of a permit shall not prohibit the imposition of a criminal penalty and the imposition of a criminal penalty shall not prevent the revocation or suspension of a permit.

(f) Except where otherwise specified, a culpable mental state is not required for the commission of an offense under this ordinance.

**Secs. 9–30 Reserved**

**Division 2. Licensing**

**Sec. 31 License required**

(a) A person commits an offense if the person operates or causes to operate a sexually oriented business without a valid license, issued by the city for the particular classification of sexually oriented business. A separate license is required for each sexually oriented business. A sexually oriented business license shall be issued only for the one sexually oriented business use listed on the application. Any change in the type of sexually oriented business use shall invalidate the sexually oriented business license and require the licensee to obtain a new license for the change in use. The establishment or maintenance of more than one sexually oriented business in the same building, structure or portion thereof is prohibited.

(b) Any person, association, firm, partnership or corporation desiring to obtain a sexually oriented business license shall make application on a form provided by the chief of police. The completed application for a sexually oriented business shall contain the following information and be accompanied by the following documents:

(1) If the applicant is:

(A) An individual, the individual shall state such person's legal name and any aliases and submit proof that such person is at least 18 years of age;

(B) A partnership, the partnership shall state its complete name; the date of its formation; evidence that the partnership is in good standing under the laws of the state, and if not a Texas partnership, its state of formation; the names and capacity of all partners and officers; whether the partnership is general, limited or otherwise; a copy of the partnership agreement or certificate of partnership, if any; and the official name and address to be used for process of service on the partnership; and/or

(C) A corporation, limited liability company or other legal entity, the entity shall state its complete name; the date of its incorporation or formation; evidence that the entity is in good standing under the laws of the state of formation, and if not a Texas entity, the state of incorporation or formation; the names and capacity of all officers, directors and controlling stockholders or

owners; and the name of the registered agent and the address of the registered office for service of process.

(2) If the applicant intends to operate the sexually oriented business under a name other than that of the applicant, the applicant must:

(A) State the sexually oriented business's fictitious name or business owner's fictitious name; and

(B) Submit the required registration and assumed name documents.

(3) Whether the applicant, or a person residing with the applicant, has been convicted of a criminal activity listed under Section 32 of this ordinance, and, if so, the criminal activity involved, the date, place, and jurisdiction of each conviction, and the date of release from confinement, if applicable.

(4) Whether the applicant, or a person residing with the applicant, has had a previous license under this ordinance or other similar sexually oriented business provisions from another city or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, the date of the denial, suspension or revocation, and whether the applicant or a person residing with the applicant has been a partner in a partnership or an officer, director or principal stockholder or owner of a corporation or other legal entity that is licensed under this ordinance whose license has been previously denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, and the date of denial, suspension or revocation.

(5) Whether the applicant or a person residing with the applicant holds any other licenses under this ordinance or other similar sexually oriented business regulations from another city or county and, if so, the names and locations of such other licensed businesses.

(6) The classification of the sexually oriented business for which the applicant is seeking the license. A sexually oriented business may only have one classification to be eligible for a license.

(7) The location of the proposed sexually oriented business, including a legal description of the property, street address, telephone number, if any, and the dates a sign stating the intent to locate a sexually oriented business was posted as required by this ordinance.

(8) The applicant's mailing address and residence or physical address.

(9) For each applicant, a copy of the valid state driver's license with photo, or a valid state identification card with photo. The originals of the required forms of

identification shall be presented to the chief of police for inspection prior to the issuance of a license.

(10) The applicant's driver's license number and state of issuance.

(11) A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram shall also depict the total floor space devoted to the offering of a service or the selling, renting, or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification as it relates to the total floor space occupied by the business, if applicable. The sketch or diagram shall also depict the manager's station and any proposed stage or performance areas, if applicable. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches (6").

(12) A current straight-line drawing prepared and certified within 30 days prior to application by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented businesses within 1,000 feet of the property where the proposed sexually oriented business will be located and the property lines or boundaries of the uses and locations described in Section 5(b) and (c) within 1,000 feet of the property where the proposed sexually oriented business will be located.

(13) By submitting an application for a sexually oriented business license, the applicant agrees that it shall provide access to its inventory records for the business. These records shall be made available to the city pursuant to Section 34 of this ordinance.

(c) The applicant must be qualified according to the provisions of this ordinance. The application may request and the applicant shall provide such information (including fingerprints) as to enable the city to determine whether the applicant meets the qualifications in this ordinance. Each applicant shall request from the Federal Bureau of Investigations (FBI) an Identity History Summary available at <https://www.edo.cjis.gov> or another similar background check from other appropriate state and federal agencies. The applicant shall pay all fees and costs associated with such request for criminal history.

(d) An individual person who wishes to operate a sexually oriented business must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a 20 percent or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified under Section 31, and each applicant shall be considered a licensee if a license is granted.

(e) The fact that a person possesses other types of state or city permits does not exempt that person from the requirement of obtaining a license for a sexually oriented business.

(f) All applications for a license under this ordinance shall be accompanied by a nonrefundable application fee in the amount as established in the adopted fee schedule of the City. An application shall not be considered to have been received as administratively complete until the fee is paid and all information required by the application form has been submitted. The application fee shall not be prorated in the event an application is tendered before or during the licensing period. The application for a sexually oriented business license shall be approved or denied within the time frame, and in the manner, established by Section 32 of this ordinance. Such application for a sexually oriented business license shall be deemed denied if not approved or denied within such time period.

(g) Upon approval of a sexually oriented business license, an applicant for a sexually oriented business license must obtain a certificate of occupancy for a sexually oriented business from the building official. The building official shall issue or deny a certificate of occupancy to a sexually oriented business not more than 45 business days subsequent to the date of the applicant's submission of a completed and correct, including all required documentation, application for a certificate of occupancy to the city's building inspection department. Such application for a certificate of occupancy shall be deemed denied if not approved or denied within such time period.

(h) Upon approval of a sexually oriented business license, if an applicant for a sexually oriented business requires a building permit under applicable city ordinances, the building official shall cause all building, fire, health and other necessary permits to be issued within 30 business days subsequent to the date of the applicant's submission of a completed and correct application for a building permit, including all required documentation, [upon] application for said permit to the city's building inspection department. Upon receipt of administratively complete applications(s), the building official shall cause all necessary inspections to occur within three business days of the applicant's request for an inspection made to the building official. Such application(s) shall be deemed denied if not approved or denied within such time period. The applicant must specify on the face of its application that the proposed use is for a sexually oriented business and give the name and address of the applicant's contact for all communications and notices.

(i) Notwithstanding any other ordinance, an applicant for a sexually oriented business may appeal any decision of the building official by appealing to the zoning board of adjustment within 30 calendar days after receipt of a notice of decision or the expiration of the deadlines set forth in subsection (g) or (h) above. The applicant may appeal any decision of the zoning board of adjustment to the appropriate county court of record within ten calendar days of that decision. The filing of such suit will not have the effect of staying denial of such building permit or certificate of occupancy pending a judicial determination.

### **Sec. 32 License issuance and grounds for denial**

(a) The chief of police shall approve the issuance of a license to an applicant within 30 days after receipt of an application, unless the chief of police finds one or more of the following to be true:

(1) The location of the sexually oriented business is or would be in violation of Section 5 of this ordinance.

(2) The applicant failed to supply all of the information requested on the application.

(3) The applicant gave false, fraudulent or untruthful information on the application.

(4) An applicant is under 18 years of age.

(5) An applicant or an applicant's spouse is overdue in payment to the secretary of state or the city of taxes, fees, fines or penalties assessed against or imposed upon the applicant or the applicant's spouse in relation to a sexually oriented business.

(6) An applicant or an applicant's spouse has been convicted or placed on deferred disposition, probation or community supervision for a violation of a provision of this ordinance, within two years immediately preceding the application. The fact that a conviction is being appealed shall have no effect.

(7) The license fee required by the ordinance has not been paid.

(8) The applicant has not demonstrated that the owner of the sexually oriented business owns or holds a lease for the property or the applicable portion thereof upon which the sexually oriented business will be situated or has a legally enforceable right to acquire the same.

(9) An applicant or the proposed establishment in violation of or is not in compliance with Section 34 or Section 41, 102(h), 107(a)(1), 107(a)(5), 108(a)(1) and 108(a)(5), as applicable.

(10) An applicant or an applicant's spouse has been convicted or placed on deferred disposition, probation, or community supervision for:

(A) Any offense under the laws of the United States of America, another state or the Uniform Code of Military Justice for an offense described in this subsection (a)(10); or

(B) Any of the below offenses of the state or criminal attempt, conspiracy, or solicitation to commit same:

(i) Any of the following offenses as described in Texas Penal Code Ch. 43:

a. Prostitution;

- b. Promotion of prostitution;
  - c. Aggravated promotion of prostitution;
  - d. Compelling prostitution;
  - e. Obscenity;
  - f. Sale, distribution or display of harmful material to a minor;
  - g. Sexual performance by a child;
  - h. Possession or promotion of child pornography;
- (ii) Any of the following offenses as described in Penal Code Ch. 21:
- a. Public lewdness;
  - b. Indecent exposure;
  - c. Indecency with a child;
- (iii) Sexual assault or aggravated sexual assault as described in Texas Penal Code Ch. 22;
- (iv) Incest, solicitation of a child or harboring a runaway child as described in Penal Code Ch. 25; or
- (v) Those crimes defined as “drug-defined offenses” or “drug-related offenses” by the Bureau of Justice Statistics Drug and Crime Data Fact Sheet, 1994, for which punishment would be classified as a felony as set forth in Penal Code sec. 12.04;
- (C) For which (regarding subsections (a)(10)(A) and (B) of this section):
- (i) Less than two years have elapsed since the date of conviction, or the date of release from the terms of community supervision, probation, parole or deferred disposition or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is a misdemeanor offense;
  - (ii) Less than five years have elapsed since the date of conviction, or the date of release from the terms of community supervision, probation, parole or deferred disposition or the date of release from confinement for the conviction, whichever is the later date, if the conviction is a felony offense; or

(iii) Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.

(11) The applicant or the applicant's spouse is required to register as a sex offender under the provisions of chapter 62 of the Texas Code of Criminal Procedure.

(12) The applicant failed to comply with any of the requirements of Local Government Code Sec. 243.0075 regarding the posting of an outdoor sign.

(b) An applicant, or applicant's spouse, who has been convicted of or placed on deferred disposition, probation or community supervision for an offense listed in subsection (a)(10) of this section may qualify for a sexually oriented business license only when the time period required by subsection (a)(10)(C) of this section has elapsed.

(c) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date and the address of the sexually oriented business.

(d) The license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business, so that it is visible to the public at all times and may be easily read.

### **Sec. 33 Annual license fee**

(a) The annual fee for a sexually oriented business license shall be in an amount as established in the city's adopted fee schedule, as amended.

(b) The fact that a person possesses other types of state or city permits does not exempt that person from the requirement of obtaining a license for a sexually oriented business.

### **Sec. 34 Inspection of premises and maintenance of records**

(a) A licensee, owner, operator or employee of a sexually oriented business shall be subject to regulation under this ordinance and shall permit representatives of the police department, health department, fire department, building inspections department and code enforcement department to inspect all portions of the premises where customers are allowed and the records required to be maintained under this ordinance by the sexually oriented business for the purpose of ensuring compliance with this ordinance at any time it is occupied or open for business.

(b) A licensee, owner or operator of a sexually oriented business commits an offense if the establishment operates without maintaining a current list of all employees of the sexually oriented business, along with a complete updated employment application for each employee. A legible copy of a valid driver's license, state identification card, or passport, with a photograph, together with an original photograph accurately depicting the employee as the employee appears

at the time the employee is hired, shall be required and maintained on the premises with the employee application.

(c) A licensee, owner, operator or employee of a sexually oriented business commits an offense if a licensee, owner, operator or employee refuses to permit a lawful inspection of the records and premises by a representative of the police department, health department, fire department, building inspections department and code enforcement department at any time the sexually oriented business is occupied or open for business.

(d) The licensee, owner or operator of a sexually oriented business shall maintain all records required to be maintained under the provisions of this ordinance on the licensed premises.

(e) The licensee, owner or operator of a sexually oriented business commits an offense if the licensee, owner or operator does not maintain the required records on the premises of the establishment.

(f) A licensee, owner, operator or employee of a sexually oriented business shall permit representatives of the police department, health department, fire department, building inspections department and code enforcement department to take photographs of the licensee, owner, operator or employees of the sexually oriented business for the purpose of ensuring compliance with this ordinance at any time it is occupied or open for business.

(g) A licensee, owner, operator or employee of a sexually oriented business commits an offense if the licensee, owner, operator or employee does not permit representatives of the police department, health department, fire department, building inspections department and code enforcement department to take photographs of the licensee, owner, operator or employee of the sexually oriented business at any time it is occupied or open for business.

(h) The provisions of this section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.

### **Sec. 35 Expiration and renewal of license**

(a) Each license shall expire one year after the date of issuance.

(b) Renewal of a license may be applied for by submission to the chief of police of an application on the form prescribed by such official and payment of a nonrefundable renewal processing fee in such amount as established by the city's annual fee ordinance.

(c) Application for renewal shall be made at least 30 days before the expiration date of the current license, and when made less than 30 days before the expiration date, the license will still expire on its expiration date. The grounds for denial of a renewal license shall be the same as for an original license as provided in Section 32 of this ordinance. When the city denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the city finds that the basis for denial of the renewal license has been corrected or abated, the applicant may resubmit a complete and correct renewal application and

the applicant may be granted a license within 30 days as provided in Section 32 of this ordinance.

**Sec. 36 Grounds for suspension of license**

(a) Subject to subsection (b) of this section, the chief of police shall suspend a sexually oriented business license if the chief of police determines that a licensee, owner, operator or employee of a sexually oriented business (or any combination thereof) has:

(1) On five or more occasions within any 12-month period of time been cited for a violation of Sections 141, 142 and 143 or any of the provisions of Division 3 or 4 of this ordinance, and been convicted or placed on deferred disposition or probation for the violation(s);

(2) On five or more occasions within any 12-month period of time been cited for a violation of Section 34 of this ordinance, and been convicted or placed on deferred disposition or probation for the violation(s); or

(3) Been cited for any combination of offenses under subsection (1) or (2) above that total five within any 12-month period of time, and been convicted or placed on deferred disposition or probation for the violation(s).

(b) A period of suspension will begin the first day after the decision of the chief of police has been made. If appeal is taken under Section 40, the period of suspension begins the day after all appeals are final.

(c) Each day in which a violation is permitted to continue shall constitute a separate violation for purposes of suspension.

**Sec. 37 Grounds for revocation of license**

(a) The chief of police may revoke a sexually oriented business license:

(1) If a cause of suspension in Section 36 occurs and the license has been ordered suspended by the chief of police for a 30-day period pursuant to Section 39(b)(4) within the preceding year;

(2) If the chief of police determines that, on two or more occasions within any five-year time period, a licensee, owner, operator or employee (or any combination thereof) has/have been convicted of or placed on deferred disposition, probation or community supervision for conduct occurring on the premises of a sexually oriented business that constitutes any of the offenses of the state or criminal attempt, conspiracy, or solicitation to commit same for the following offenses (except the chief of police may, if he determines that the criminal offense of sexual performance of a child has occurred on a single occasion, revoke the sexually oriented business license):

(A) Any offenses as described in Texas Penal Code Ch. 43 including:

- (i) Prostitution;
- (ii) Promotion of prostitution;
- (iii) Aggravated promotion of prostitution;
- (iv) Compelling prostitution;
- (v) Obscenity;
- (vi) Sale, distribution or display of harmful material to a minor;
- (vii) Sexual performance by a child;
- (viii) Possession or promotion of child pornography;

(B) Any of the following offenses as described in Penal Code Ch. 21:

- (i) Public lewdness;
- (ii) Indecent exposure;
- (iii) Indecency with a child;

(C) Sexual assault or aggravated sexual assault as described in Texas Penal Code Ch. 22;

(D) Incest, solicitation of a child or harboring a runaway child and other offenses contained in Texas Penal Code Ch. 25; or

(E) Those crimes defined as “drug-defined offenses” or “drug-related offenses” by the Bureau of Justice Statistics Drug and Crime Data Fact Sheet, 1994, for which punishment would be classified as a felony as set forth in Texas Penal Code Sec. 12.04;

(3) If a licensee, owner or operator gave false or misleading information in the material submitted to the chief of police during the application process;

(4) If a licensee, owner or operator has knowingly allowed possession, use or sale of a controlled substance on the premises;

(5) If a licensee, owner or operator has on two (2) or more occasions knowingly allowed prostitution on the premises;

- (6) If a licensee, owner or operator knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;
  - (7) If a licensee, owner or operator has, on one or more occasions, knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or sexual contact to occur in or on the licensed premises. The term "sexual contact" shall have the same meaning as it is defined in Texas Penal Code Sec. 21.01;
  - (8) If a licensee is delinquent in payment to the city for hotel occupancy taxes, ad valorem taxes or sales taxes related to the sexually oriented business;
  - (9) If the licensee is required to register as a sex offender under the provisions of Texas Criminal Procedure Code Ch. 62;
  - (10) If a license is transferred in violation of Section 41(a).
- (b) The fact that a conviction is being appealed shall have no effect on the revocation of the license.
  - (c) Subsection (a)(7) of this section does not apply to adult motels as a ground for revoking the license, unless the licensee, owner, operator or employee knowingly allowed the act of sexual intercourse, sodomy, oral copulation, masturbation or sexual contact to occur in a public place or within public view.

**Sec. 38 Denial, suspension and revocation procedures**

- (a) A denial, suspension, or revocation is an administrative procedure. In any hearing relating to such actions under this section, the burden of proof shall be on the city (except for affirmative defenses), and shall be by a preponderance of the evidence.
- (b) If the chief of police is authorized to deny the issuance of a license, or suspend or revoke a license, the chief of police shall give written notice to the applicant or licensee of his intent to implement denial, suspension, or revocation procedures. The notice shall state:
  - (1) The reason for such denial, suspension, or revocation.
  - (2) The provisions of the code which have been violated.
  - (3) The person or office with which any request for a contested case hearing must be filed and the address at which any such request must be filed.
- (c) The notice shall provide that the denial of issuance, suspension or revocation shall take effect at the expiration of the tenth calendar day after notification. The applicant or licensee shall have ten calendar days from the date notice is received to request a hearing on the denial, suspension or revocation as provided in Section 40(a) of this ordinance.

(d) A written request for a hearing from the applicant, permit holder, or licensee received by the chief of police before the expiration of the tenth (10th) calendar day does not stay the denial, suspension or revocation of the license pending a hearing before the hearing officer.

(e) In making a determination as to the denial of a license, the chief of police shall consider whether the applicant has established the applicant's entitlement to a license under the requirements imposed by Section 32 of this ordinance and/or whether the city has established a disqualifying factor under the requirements imposed by Section 32 of this ordinance.

(f) In making a determination of the suspension of a license under Section 36 of this ordinance, the chief of police shall consider:

(1) Whether the required number of citations under Section 36(a)(1), (2), or (3) were issued to the licensee, owner, operator, or employee of the licensee within a 12-month period of time; and

(2) Whether the licensee, owner, operator or employee of the licensee was convicted or placed on deferred disposition or probation for the citations.

(g) In making a determination of the revocation of a license under Section 37(a)(1) of this ordinance, the chief of police shall consider:

(1) Whether the required number of citations under Section 36(a)(1), (2), or (3) were issued to the licensee, owner, operator or employee of the licensee within a 12-month period of time;

(2) Whether the licensee, owner, operator or employee of the licensee was convicted or placed on deferred disposition or probation for the citations; and

(3) Whether the license at issue has been ordered suspended for a 30-day period of time pursuant to Section 39(b)(4) of this ordinance within the preceding 12-month period of time.

(h) In making a determination of the revocation of a license under Section 37 of this ordinance, the chief of police shall consider whether the evidence shows that the specified convictions, events or actions occurred as set forth in those sections of this ordinance.

### **Sec. 39 Period of suspension or revocation**

(a) The revocation of a license as provided for in Section 37 of this ordinance shall be for a period of 12 months.

(b) The suspension of a license as provided for in Section 36 of this ordinance shall be as follows:

(1) The first suspension of a license shall be for a period of three calendar days. When the chief of police is authorized to suspend a license for three calendar days, he shall notify the licensee in the notice of decision of the licensee's opportunity to pay a reinstatement fee in the amount established in the fee schedule adopted by the city in lieu of the suspension. Payment of this administrative fee shall be considered, for the purposes of this subsection, the first suspension and an administrative admission of the violations. However, this shall not be used as an admission of guilt in a criminal prosecution under this ordinance. If the licensee does not pay the reinstatement fee before the expiration of the thirtieth (30th) calendar day after notification, the licensee loses the opportunity to pay for it.

(2) The second suspension of a license shall be for a period of seven calendar days.

(3) The third suspension of a license shall be for a period of 15 calendar days.

(4) The fourth suspension of a license shall be for a period of 30 calendar days. Except where grounds for revocation of a license exist under Section 37(a)(1), each subsequent suspension of a license shall be for a period of 30 calendar days.

#### **Sec. 40 Administrative hearings and appeals**

(a) An applicant, permit holder or licensee shall have ten (10) calendar days from the date notice is received to request a hearing on the denial, suspension or revocation; if a hearing on the denial, suspension or revocation is not timely requested, the denial, suspension or revocation becomes final. The request shall be in writing and delivered to applicant or licensee via personal delivery, or via U.S. Postal Service, certified mail, return receipt requested. If filed by mail, the request shall be considered timely filed if the green return receipt card shows the item was properly addressed and received by the applicant, permit holder or licensee on or before the tenth calendar day from the date the applicant, permit holder or licensee received notice of intention to deny/revoke/suspend. Upon receipt of the request for hearing, a hearing before the hearing officer shall be scheduled to take place within thirty (30) calendar days unless both parties agree to a certain date beyond the thirty (30) days. The hearing officer shall consider only the testimony and evidence admitted for consideration at the hearing. The hearing officer shall have five business days from the date of the hearing to notify the applicant or licensee of the decision.

(1) Standing. Only the chief of police and the licensee, permit holder, or applicant shall have standing in an administrative revocation, suspension, or denial proceeding.

(2) Representation by counsel. Each party is entitled to:

(A) The assistance of counsel, at the party's expense, before the hearing officer; or

(B) Expressly waive the right to assistance of counsel in writing or on the record before the hearing officer.

(3) Status of license/permit during hearing. While a case is pending, and prior to the final decision of the hearing officer regarding denial, revocation or suspension, a license or permit is neither valid nor effective.

(4) Additional rules. The following additional rules shall apply to any hearing pursuant to this ordinance:

(A) The city attorney, or his designated representative shall represent the chief of police.

(B) Except upon express written agreement of all parties to the hearing, or upon showing of good cause for a period not to exceed twenty (20) days, a hearing will not be continued.

(C) Ex parte communications in connection with any issue of fact or law between any party and the hearing officer are strictly prohibited, except on notice and opportunity for each party to participate.

(D) A party may request a court reporter to transcribe the hearing. The party requesting a transcript of the hearing shall bear the cost for production of the transcript.

(5) Record. The hearing record shall include the following:

(A) A file stamped copy of notice of intention to deny/revoke/suspend the license/permit;

(B) The request for a hearing and any written response to the notice of intention to deny/revoke/suspend the license or permit;

(C) A statement of matters officially noticed;

(D) Each decision, opinion, or report prepared by the hearing officer at the hearing;

(E) All documents, data, and other evidence submitted to or considered by the hearing officer used in making his or her decision; and

(F) The record shall be filed with the city administrator.

(6) Decision of hearing officer.

(A) If a request for a hearing has been timely filed, the hearing officer shall conduct a de novo hearing and shall make one of the following findings:

(i) If the hearing is one for which the permit or license is subject to suspension, the hearing officer shall determine that the alleged offense occurred, and determine the severity of the offense, and shall either order a suspension pursuant to the time periods in Section 39, or deny the suspension.

(ii) If the hearing officer finds that any of the conditions set forth in this ordinance exist that would make the permit or license subject to revocation, the hearing officer shall, on the basis of the severity of the offense, either revoke the permit or license, or order a suspension pursuant to Section 39.

(iii) If the hearing officer finds that any of conditions set forth in this ordinance exist that would be grounds for denial of the license and/or permit, the hearing officer shall deny the permit or license pursuant to Section 32.

(B) If the hearing officer does not make the requisite findings, then the decision of the police chief shall be affirmed.

(7) Notice of denial/revocation/suspension.

(A) A final decision or order by the hearing officer shall be issued in writing, and shall:

(i) Be provided to all parties via personal delivery or via United States Postal Service, certified mail, return receipt requested; and

(ii) Be considered timely if:

a. For personal delivery, a party receives the notice not later than three business days from the date on which the decision is rendered; or

b. For postal delivery, the decision or order is postmarked not later than three business days from the date on which the decision is rendered.

(B) The decision by the hearing officer is effective 30 calendar days after the applicant or licensee is notified of the decision, unless a reinstatement fee under Section 39(b)(1) of this ordinance is paid (if applicable), or an appeal is made to district court.

(C) Any act authorized by license or permit shall be unauthorized and in violation of this ordinance upon and after the effective date of any suspension of the permit or license until the suspension expires.

(D) Any act authorized by a permit shall be unauthorized and in violation of this ordinance upon and after the effective date of any revocation of the permit unless and until a new permit, if any, is applied for and granted pursuant to the terms of this ordinance. If a permit has been revoked because of crimes or activities occurring on the premises of a sexually oriented business, the owner/operator of the sexually oriented business is disqualified from receiving or holding any license or permit under this ordinance for a period of one calendar year from the effective date of the revocation.

(E) If a permit is suspended or revoked because of crimes or activities occurring on the premises of a sexually oriented business, each and every individual, person, or association which is an owner/operator of a sexually oriented business at the time of any suspension or revocation of the sexually oriented business for that establishment shall be considered to have had a permit suspended or revoked as if they held the permit or license in their own name for purposes of determining whether they are qualified to participate in another permit application under this ordinance. If a permit is suspended or revoked because of crimes or activities of one or more permit holders which did not occur on the licensed premises, then only those individuals shall be considered to have had a permit suspended or revoked for purposes of determining whether they are eligible to participate in another permit application.

(b) (1) Upon receipt of written notice of the denial, suspension or revocation of a license or permit, the applicant whose application for a license has been denied or whose license has been suspended or revoked shall have the right to appeal by filing suit in the appropriate district court within thirty (30) calendar days after the receipt of notice of the decision of the hearing officer, as applicable. The filing of such suit shall not have the effect of staying denial, suspension or revocation for the sexually oriented business license under this ordinance.

(2) If the hearing officer renders a decision adverse to the chief of police, then the chief of police shall have thirty (30) calendar days from which the notice of denial/revocation/suspension is issued in which to file suit in the appropriate district court.

(3) Failure to file suit shall waive and shall bar any appeal or cause of action if suit is not filed within thirty (30) calendar days.

#### **Sec. 41 Transfer of license; forging or altering license**

(a) A person commits an offense if the person transfers a license or permit to another person or operates a sexually oriented business under the authority of a license at any place other than the address designated on the license. A transfer of a license is deemed to have occurred if there is a transfer of more than fifty percent (50%) of the ownership or control of a sexually oriented business.

(b) A person commits an offense if the person counterfeits, forges, changes, defaces or alters a license.

**Secs. 42–70 Reserved**

**Division 3. Employees, Conduct and Operations**

**Sec. 71 Provisions cumulative**

The provisions of this ordinance are expressly made cumulative of other applicable laws including, without limitation, to the entire ordinance.

**Sec. 72 Permit required**

(a) It shall be unlawful for any person who does not hold a manager’s permit or temporary manager’s permit or to act as a manager of or in a sexually oriented business.

(b) It shall be unlawful for any person who does not hold an entertainer’s permit or temporary entertainer’s permit to act as an entertainer in a sexually oriented business.

(c) It shall be the duty of a licensee, operator and owner(s) of each sexually oriented business to ensure that no person acts as an entertainer or manager of or in the sexually oriented business unless that person holds a permit or temporary permit.

**Sec. 73 Issuance of permits**

(a) Any person who desires to obtain an original or renewal permit shall make application to the chief of police or his designee in person at the police department between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, city-observed holidays excepted. The application shall be made under oath upon a form prescribed by the chief of police and shall include:

(1) The name, home street address and mailing address (if different) of the applicant;

(2) Proof of the date of birth of the applicant and the identity of the applicant, including at least one photographic identity card issued by a governmental agency; and

(3) A list of any criminal charges pending, convictions, and time of service in jail or prison as related to any applicable offense that is specified in Section 32 of this ordinance.

(b) Each application shall be accompanied by a nonrefundable processing fee established by the fee schedule adopted by the city. Each applicant shall be required to obtain from the FBI or state department of public safety a copy of their Identity History Summary or similar criminal history report, and surrender it to the police department upon making application.

(c) The chief of police shall issue the permit within three (3) business days from the date of filing of the application unless he finds that the applicant has been convicted of or spent time in jail or prison for an offense specified in Section 32 of this ordinance within the time specified therein. If the application is not granted, then the applicant shall be mailed notice of the grounds and of their right to provide evidence and request a hearing as provided by Section 40 of this ordinance, within ten (10) calendar days from the date of filing of the application.

(d) Each permit issued by the chief of police shall consist of two photographic identification cards, a personal card and an on-site card.

(e) Any applicant whose application is denied and who requests a hearing on the denial shall be granted a hearing within thirty (30) calendar days following the receipt of the request by the chief of police. The hearing shall be conducted as provided in Section 40 of this ordinance.

(f) In the event that the chief of police fails to issue or deny a permit application within the time specified in subsection (c) or to provide a hearing within the time specified in subsection (e), then the applicant shall, upon written request, be immediately issued a temporary permit which shall be valid until the third day after the applicant is given notice of the decision of the chief of police or the hearing officer.

(g) If any personal card or on-site card is lost or stolen, the holder thereof shall immediately notify the police department and request a replacement, which shall be issued for a fee as established by the fee schedule adopted by the city within three (3) days following verification of the identity of the holder.

(h) No permit application shall be accepted nor shall a permit be issued to any person who does not provide proof that he is at least 18 years old. Any permit issued by virtue of any misrepresentation or error to any person under age 18 shall be void, and the holder of such permit shall be subject to criminal prosecution.

(i) A temporary manager's permit or temporary entertainer's permit shall be issued within 24 hours of the application when:

- (1) The application has been completed and submitted to the police department;
- (2) The applicant supplies a copy of a valid and lawful photographic identification card that was issued to the individual by a governmental authority of the United States of America or any state, possession, commonwealth, or territory thereof;
- (3) A preliminary investigation indicates that the applicant is otherwise qualified under this ordinance for the issuance of a temporary permit; and
- (4) The applicant has not applied for or been granted a temporary permit in the year preceding the application.

**Sec. 74 Term of permit; transfer; amendment**

- (a) A permit is valid for one (1) year from the date of its issuance.
- (b) A temporary entertainer's permit or temporary manager's permit shall be valid for thirty (30) calendar days.
- (c) A permit is personal to the named permit holder and is not valid for use by any other person.
- (d) Each permit holder shall notify the police department of his new address within ten (10) days following any change of address.
- (e) Permits shall be portable from location to location, so long as each such location is a validly licensed sexually oriented business.

**Sec. 75 Display of permit**

- (a) Each manager or entertainer shall conspicuously display his personal card upon his person at all times while acting as an entertainer or manager of or in a sexually oriented business.
- (b) Each manager or entertainer shall provide his on-site card to the manager or on-site manager in charge of the sexually oriented business to hold while the manager or entertainer is on the premises.
- (c) In any prosecution under this section, it shall be presumed that the actor did not have a permit unless the permit was on display as required under subsection (a) of this section.

**Sec. 76 Revocation of permit**

In the event that the chief of police has reasonable grounds to believe that any permit holder has been convicted of or has spent time in jail or prison for any offense as specified in the applicable provision of Section 32 of this ordinance within the time specified therein, then the chief of police may revoke the permit following a notice of the grounds pursuant to Section 38. The permit holder has a right to administrative hearing pursuant to Section 40. In the event that the hearing officer determines that the permit should be revoked, he or she shall then issue or render a decision pursuant to Section 40 following the mailing of notice of the decree to the permit holder in order to allow the permit holder an opportunity before the permit must be surrendered to seek an injunction or judicial review of the decision as authorized in Section 40 of this ordinance.

**Sec. 77 Nudity and semi-nudity prohibited; exceptions**

- (a) It shall be unlawful for an individual to intentionally or knowingly appear in a state of nudity or semi-nudity within fifty (50) feet of a public place or establishment that serves or permits the consumption of alcohol.

(b) It shall be unlawful for a person, individual, corporation, or association that manages or operates a sexually oriented business to intentionally or knowingly allow an individual to appear on the premises of said establishment in a state of nudity or semi-nudity.

(c) It shall be unlawful for an owner-operator of a sexually oriented business to intentionally or knowingly allow an individual to appear on the premises of said establishment in a state of nudity or semi-nudity.

(d) Exceptions. It is an exception to the application of this section that at the time of the state of nudity or semi-nudity the actor was:

(1) An individual, person, or in the case of subsections (b) or (c), an association, who manages, operates, or appears nude in a public place that is a business operated by or employing a licensed psychologist, licensed physical therapist, licensed athletic trainer, licensed cosmetologist, licensed massage therapist, or licensed barber engaged in performing functions authorized under the lawful license held;

(2) An individual, person, or, in the case of subsections (b) or (c), an association, who owns, manages, operates, or appears nude in a public place that is a business operated by or employing a licensed physician or chiropractor engaged in practicing the healing arts; or

(3) An individual, person, or in the case of subsections (b) or (c), an association, who owns, manages, operates, or appears nude in a public place that is a business licensed as a tattoo studio or a body piercing studio and was engaged in practices authorized under the license.

#### **Sec. 78 Loitering; monitoring of parking lot**

(a) It shall be the duty of the operator of a sexually oriented business to:

(1) Ensure that at least two conspicuous signs, visible from a public right-of-way, stating that no loitering is permitted on the premises, are posted on the exterior of the structure;

(2) Designate one or more employees to monitor the parking lot of the premises by the use of video cameras and monitors, which shall operate and record continuously at all times that the premises are open for business. The monitors shall be installed within a manager's station, and the operator of a sexually oriented business shall preserve the recordings of the parking lot of the premises for a period of not less than one week before the recording may be erased. Recordings maintained under this section are subject to the inspection requirements set forth in Section 34.

(b) No sexually oriented business shall erect a fence, wall, or similar barrier that prevents any portion of the parking lot(s) for the establishment from being visible from a public right-of-way.

(c) It shall be unlawful for a person having a duty under this section to intentionally or knowingly fail to fulfill that duty.

**Secs. 79–100 Reserved**

**Division 4. Additional Regulations for Other Sexually Oriented Businesses**

**Sec. 101 Escort agencies**

(a) A person commits an offense if the person employs at an escort agency any person under the age of 18 years.

(b) A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of 18 years.

(c) An employee of an escort agency must attend training given by the licensee concerning the requirements of this ordinance as they pertain to escort agencies, including but not limited to Sections 8(a), 34, 36, 37, 105, 141, 142, 143 and 144, before the employee receives any compensation for the employee's services. The licensee shall provide this training to all employees at the beginning of employment before the employee receives any compensation for services, and at least once a year thereafter. The licensee shall maintain written records of the training provided to each employee pursuant to this subsection. These records shall include a signed and dated statement from each employee verifying the employee's attendance at and participation in training provided by the licensee, identifying the date on which the training was provided, and the specific topics discussed.

(d) A licensee shall designate and appoint one or more individuals to manage, direct, and control the premises operations of the escort agency. At least one individual person so appointed shall be on the premises at any time the escort agency is open.

(e) An operator or an individual person appointed under subsection (d) above shall at all times have the duty to ensure that each employee in the escort agency has received the training required by subsection (c) above and each employee is instructed to commit no act which would constitute a violation of this ordinance or which would provide grounds, or part of the grounds, for suspension or revocation of a license issued under this ordinance.

**Sec. 102 Nude model studios**

(a) A person commits an offense if the person employs at a nude model studio any person under the age of 18 years.

(b) A person who is not an employee commits an offense if the person intentionally or knowingly appears in a state of nudity or semi-nudity in or on the premises of a nude model studio.

(c) A person commits an offense if the person intentionally or knowingly appears in a state of nudity or semi-nudity or intentionally or knowingly allows another to appear in a state of nudity or semi-nudity in an area of the nude model studio premises which can be viewed from the public right-of-way.

(d) A person commits an offense if the person intentionally or knowingly places or permits a bed, sofa or mattress in any room on the premises of a nude model studio, except that a sofa may be placed in a reception room open to the public.

(e) A licensee, owner, operator or employee commits an offense if the person intentionally or knowingly permits any customer access to an area of the premises not visible from the manager's station by direct line of sight or not visible by a walk-through of the premises without entering a private, exclusive, closed, curtained, or otherwise screened area, excluding restrooms. The view required in this subsection shall be by direct line of sight. The view shall be deemed insufficient if clear visibility of such line of sight must be attained by utilizing flashlights or spotlights in addition to overhead house lighting.

(f) An employee of a nude model studio, while appearing in a state of nudity, commits an offense if the employee intentionally or knowingly touches a customer or the clothing of a customer.

(g) A customer at a nude model studio commits an offense if the customer intentionally or knowingly touches an employee or the clothing of an employee while the employee is appearing in a state of nudity.

(h) A licensee commits an offense if the licensee fails to display the signs on the interior of the nude model studio premises as required in Section 144(a) and/or the floor markings required in Section 144(b).

(i) An employee of a nude model studio commits an offense if that employee allows, asks, directs, or suggests that a customer disrobe to a state of nudity.

(j) An employee of a nude model studio must attend training given by the licensee concerning the requirements of this ordinance as they pertain to nude model studios, including but not limited to Sections 8(a), 34, 36, 37, 105, 141, 142, 143 and 144, before the employee receives any compensation for the employee's services. The licensee or operator shall provide this training to all employees at the beginning of employment before the employee receives any compensation for services, and at least once a year thereafter. The licensee shall maintain written records of the training provided to each employee pursuant to this subsection. These records shall include a signed and dated statement from each employee verifying the employee's attendance at and participation in training provided by the licensee, identifying the date on which the training was provided, and the specific topics discussed.

(k) A licensee shall designate and appoint one or more individuals to manage, direct, and control the premises and operations of the nude model studio. At least one individual person so appointed shall be on the premises at any time the nude model studio is open.

(l) An operator or an individual person appointed under subsection (k) above shall at all times have the duty to ensure that each employee in the nude model studio has received the training required by subsection (j) above and each employee is instructed to commit no act which would constitute a violation of this ordinance or which would provide grounds, or part of the grounds, for suspension or revocation of a license issued under this ordinance.

### **Sec. 103 Adult theaters and adult motion picture theaters**

(a) A person commits an offense if the person employs at an adult theater or an adult motion picture theater any person under the age of 18 years.

(b) A person commits an offense if the person intentionally or knowingly appears in a state of nudity or semi-nudity in or on the premises of an adult theater or an adult motion picture theater.

(c) Adult theaters and adult motion picture theaters shall also comply with the requirements of Section 108 of this ordinance.

(d) An employee of an adult theater or adult motion picture theater must attend training given by the licensee concerning the requirements of this ordinance as they pertain to adult theaters or adult motion picture theaters, including but not limited to Sections 8(a), 34, 36, 37, 105, 141, 142, 143 and 144, before the employee receives any compensation for the person's services. The licensee shall provide this training to all employees at the beginning of employment before the employee receives any compensation for services, and at least once a year thereafter. The licensee shall maintain written records of the training provided to each employee pursuant to this subsection. These records shall include a signed and dated statement from each employee verifying the employee's attendance at and participation in training provided by the licensee, identifying the date on which the training was provided, and the specific topics discussed.

(e) A licensee shall designate and appoint one or more individuals to manage, direct, and control the premises and operations of the adult theater or adult motion picture theater. At least one person so appointed shall be on the premises at any time the adult theater or adult motion picture theater is open.

(f) An operator or a person appointed under subsection (e) above shall at all times have the duty to ensure that each employee in the adult theater or adult motion picture theater has received the training required by subsection (d) above and each employee is instructed to commit no act which would constitute a violation of this ordinance or which would provide grounds, or part of the grounds, for suspension or revocation of a license issued under this ordinance.

### **Sec. 104 Adult motels**

(a) Evidence that a sleeping room in a hotel, motel or similar commercial establishment has been rented and vacated two or more times in a period of time that is less than ten hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this ordinance.

(b) A person commits an offense if, as the person in control of a sleeping room in a hotel, motel or similar commercial establishment that does not have a sexually oriented business license, he rents or subrents a sleeping room to a person and, within ten hours from the time the room is rented, he rents or subrents the same sleeping room again.

(c) For purposes of subsection (b), the term “rent” or “subrent” means the act of permitting a room to be occupied for any form of consideration.

### **Sec. 105 Adult cabarets**

(a) A person commits an offense if the person employs at an adult cabaret any person under the age of 18 years.

(b) An employee of an adult cabaret, while appearing in a state of nudity or semi-nudity, commits an offense if the employee intentionally or knowingly touches a customer or the clothing of a customer.

(c) A customer at an adult cabaret commits an offense if the customer intentionally or knowingly touches an employee appearing in a state of nudity or semi-nudity or the clothing of an employee appearing in a state of nudity or semi-nudity.

(d) A licensee, owner, operator or employee commits an offense if the licensee, owner, operator or employee intentionally or knowingly allows, in a sexually oriented business, any person to appear in a state of nudity or semi-nudity, unless the person is an employee who, while in a state of nudity or semi-nudity, is on a stage (on which no customer is present) at least 18 inches above the floor, and is: (i) at least six feet from any customer (hereinafter called “unenclosed performance stage”), or (ii) physically separated from customers by a wall or partition composed of solid glass or light-transmitting plastic, or substantially equivalent material, extending from the floor of the performance stage to at least five feet above the level of the performance stage, but such that there are not openings in the wall or partition that would permit physical contact between customers and such employee (hereinafter “enclosed performance stage”).

(e) A licensee, owner, operator or employee commits an offense if the licensee, owner, operator or employee intentionally or knowingly permits any customer access to an area of the premises not visible from the manager’s station or not visible by a walk-through of the premises without entering a private, exclusive, closed, curtained, or otherwise screened area, excluding restrooms. The view required in this subsection shall be by direct line of sight. The view shall be deemed insufficient if clear visibility of such line of sight must be attained by utilizing flashlights or spotlights in addition to overhead house lighting.

(f) A licensee, owner, operator or employee commits an offense if the licensee, owner, operator or employee intentionally or knowingly appears in or allows another to appear in a state of nudity or semi-nudity in an area of the adult cabaret business premises which can be viewed from the public right-of-way.

(g) A licensee, owner or operator commits an offense if the licensee, owner or operator fails to display the signs on the interior of the adult cabaret business premises as required in Section 144(a) and/or the floor markings required in Section 144(b).

(h) An employee of an adult cabaret must attend training provided by the licensee, owner or operator concerning the requirements of this ordinance as they pertain to adult cabarets, including but not limited to Sections 8(a), 34, 36, 37, 105, 141, 142, 143 and 144, before the employee receives any compensation for the person's services. The licensee, owner or operator shall provide this training to all employees at the beginning of employment before the employee receives any compensation for services, and at least once a year thereafter. The licensee, owner or operator shall maintain written records of the training provided to each employee pursuant to this subsection. These records shall include a signed and dated statement from each employee verifying the employee's attendance at and participation in training provided by the licensee, owner or operator, identifying the date on which the training was provided, and the specific topics discussed.

(i) A licensee shall designate and appoint one or more individuals to operate, manage, direct, and control the premises and operations of the adult cabaret. At least one person so appointed shall be on the premises at any time the adult cabaret is open.

(j) An operator or a person appointed under subsection (i) above shall at all times have the duty to ensure that each employee in the adult cabaret has received the training required by subsection (h) above and each employee is instructed to commit no act which would constitute a violation of this ordinance or which would provide grounds, or part of the grounds, for suspension or revocation of a license issued under this ordinance.

#### **Sec. 106 Sexual encounter centers prohibited**

(a) Sexual encounter centers are prohibited. No license shall be issued for the operation of a sexual encounter center.

(b) A person commits an offense if the person owns, operates or causes to be operated a sexual encounter center. Any person in control or apparent control of the premises shall be presumed to be operating the sexual encounter center.

#### **Sec. 107 Adult bookstores, adult novelty stores and adult video stores**

(a) A person who operates or causes to be operated an adult bookstore, adult novelty store or adult video store shall comply with the following requirements:

(1) An application for a sexually oriented business license for an adult bookstore, adult novelty store or adult video store shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed 32 square feet of floor area. The diagram shall also designate the place at

which the license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north, or to some designated street or object, and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The building official may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since the previously submitted diagram was prepared.

(2) The application shall be sworn to be true and correct by the applicant.

(3) No alteration in the configuration or location of a manager's station may be made without the prior approval of the building official.

(4) A licensee, owner or operator commits an offense if the licensee, owner or operator permits a manager's station to be unattended by an employee at any time a customer is present on, in or about the premises.

(5) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any customer is permitted access for any purpose, excluding restrooms and fitting/dressing rooms (in stores that sell apparel). Restrooms and fitting/dressing rooms may not contain video reproduction equipment or any other equipment allowing for the viewing of film, videos, photographs or other video reproduction. Only one person shall be allowed in each restroom at any time, unless otherwise required by law. The operator shall insure that not more than one person is permitted to enter a restroom, unless otherwise required by law, and that no persons engage in any specified sexual activity in the restroom. If the premises have two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any customer is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

(6) A licensee, owner, operator or employee commits an offense if the licensee, owner, operator or employee intentionally or knowingly permits a customer access to any area of the premises that is not visible from the manager's station for any purpose, excluding restrooms and fitting/dressing rooms.

(7) Each and every licensee, owner, operator and employee present on the premises shall ensure that the view area specified in subsection (a)(5) of this section remains unobstructed by any doors, curtains, partitions, walls, blinds, locks or other control-type devices, merchandise, display racks or other materials at all times that any customer is present on, in or about the premises, and that no customer is permitted access to any area of the premises which has been designated as an area in which

customers will not be permitted in the application filed pursuant to subsection (a)(1) of this section.

(8) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than one footcandle as measured as the floor level.

(9) A licensee, owner, operator or employee commits an offense if the licensee, owner, operator or employee intentionally or knowingly permits illumination of any area of the premises to which customers have access to be less than one footcandle as measured at the floor level.

(10) No viewing room or reading room or booth, or fitting/dressing room, may be occupied by more than one person at any time.

(11) No licensee, owner, operator or employee shall allow openings or holes of any kind to exist between adjacent or adjoining viewing rooms, reading rooms or booths, or fitting/dressing rooms.

(12) No person shall make or attempt to make an opening or hole of any kind between adjacent or adjoining viewing rooms, reading rooms or booths, or fitting/dressing rooms.

(13) The licensee, owner, operator or employee shall, during each business day, regularly inspect the walls of all viewing rooms, reading rooms or booths, or fitting/dressing rooms, to determine if any openings or holes exist.

(14) The walls of any viewing room or reading room or booth shall be no more than 48 inches tall. At least one wall of any such viewing room or reading room or booth shall be visible in a direct unobstructed line of sight from the manager's station. Each wall or door of any such viewing room or reading room or booth shall be constructed of clear transparent glass, plastic or substantially equivalent materials that allow an unobstructed view of the entire interior of the viewing room or reading room or booth.

(15) Live entertainment is prohibited in any viewing room or reading room or booth, as well as any other room adjacent to or visible from any viewing room or reading room or booth.

(16) A licensee, owner, operator or employee commits an offense if the licensee, owner, operator or employee intentionally or knowingly allows a person to appear in a state of nudity or semi-nudity in, on or about the premises of an adult bookstore, adult novelty store or adult video store.

- (17) A person commits an offense if the person intentionally or knowingly appears in a state of nudity or semi-nudity in or on the premises of an adult bookstore, adult novelty store or adult video store.
- (18) It is a defense to prosecution under subsections (a)(16) and (17) of this section if the person was in a restroom or fitting/dressing room not open to public view or persons of the opposite sex.
- (b) A person having a duty under subsections (a)(1) through (17) herein commits a misdemeanor if he or she knowingly fails to fulfill that duty.
- (c) An employee of an adult bookstore, adult novelty store or adult video store must attend training provided by the licensee, owner or operator concerning the requirements of this ordinance as they pertain to such a business, including but not limited to Sections 8(a), 34, 36, 37, 105, 141, 142, 143 and 144, before the employee receives any compensation for the person's services. The licensee, owner or operator shall provide this training to all employees at the beginning of employment before the employee receives any compensation for services, and at least once a year thereafter. The licensee shall maintain written records of the training provided to each employee pursuant to this subsection. These records shall include a signed and dated statement from each employee verifying the employee's attendance at and participation in training provided by the licensee, owner or operator, identifying the date on which the training was provided, and the specific topics discussed.
- (d) A licensee, owner or operator shall designate and appoint one or more individuals to manage, direct, and control the premises and operations of the adult bookstore, adult novelty store or adult video store. At least one person so appointed shall be on the premises at any time the adult bookstore, adult novelty store or adult video store is open.
- (e) An operator or a person appointed under subsection (d) above shall at all times have the duty to ensure that each employee in the adult bookstore, adult novelty store or adult video store has received the training required by subsection (c) above and each employee is instructed to commit no act which would constitute a violation of this ordinance or which would provide grounds, or part of the grounds, for suspension or revocation of a license issued under this ordinance.

#### **Sec. 108 Exhibition of sexually explicit films, photographs, pictures or videos**

- (a) A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room, a film, photograph, picture, videocassette or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:
- (1) An application for a sexually oriented business license shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A

manager's station may not exceed 32 square feet of floor area. The diagram shall also designate the place at which the license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north, or to some designated street or object, and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The chief of police may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since the previously submitted diagram was prepared.

(2) The application shall be sworn to be true and correct by the applicant.

(3) No alteration in the configuration or location of a manager's station may be made without the prior approval of the chief of police.

(4) The licensee, owner or operator commits an offense if the licensee, owner or operator permits a manager's station to be unattended by an employee at any time a customer is present on, in or about the premises.

(5) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any customer is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment or any other equipment allowing for the viewing of film, videos, photographs or other video reproductions. If the premises have two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any customer is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

(6) The licensee, owner or operator commits an offense if the licensee, owner or operator permits a customer access to any area of the premises that is not visible from the manager's station for any purpose, excluding restrooms.

(7) The licensee, owner, operator or employee present on the premises shall ensure that the view area specified in subsection (5) of this section remains unobstructed by any doors, curtains, partitions, walls, blinds, locks or other control-type devices, merchandise, display racks or other materials at all times that any customer is present on, in or about the premises, and that no customer is permitted access to any area of the premises which has been designated as an area in which customers will not be permitted in the application filed pursuant to subsection (a)(1) of this section.

(8) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than one footcandle as measured as the floor level.

- (9) The licensee, owner or operator commits an offense if the licensee, owner or operator permits illumination of any area of the premises to which customers have access to be less than one footcandle as measured at the floor level.
- (10) No viewing room or booth of less than 150 square feet of floor space shall be occupied by more than one person at any time.
- (11) No licensee, owner or operator shall allow openings or holes of any kind to exist between adjacent or adjoining viewing rooms or booths.
- (12) No person shall make or attempt to make an opening or hole of any kind between adjacent or adjoining viewing rooms or booths.
- (13) The licensee, owner or operator shall, during each business day, regularly inspect the walls of all viewing rooms or booths to determine if any openings or holes exist.
- (14) In a viewing room or booth of less than 150 square feet of floor space, the walls shall be no more than 48 inches tall. At least one wall of any such viewing room or booth shall be visible in a direct unobstructed line of sight from the manager's station. Each wall or door of any such viewing room or booth shall be constructed of clear transparent glass, plastic or substantially equivalent materials that allow an unobstructed view of the entire interior of the viewing room or booth.
- (15) Live entertainment is prohibited in any viewing room or booth of less than 500 square feet of floor space, as well as any other room adjacent to or visible from any viewing room or booth.
- (16) The licensee, owner or operator commits an offense if the licensee, owner or operator intentionally or knowingly allows a person to appear in a state of nudity or semi-nudity in, on or about the premises of a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than 500 square feet of floor space, a film, photograph, picture, videocassette or other video reproduction which depicts specified sexual activities or specified anatomical areas.
- (17) A person commits an offense if the person intentionally or knowingly appears in a state of nudity or semi-nudity in or on the premises of a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than 500 square feet of floor space, a film, photograph, picture, videocassette or other video reproduction which depicts specified sexual activities or specified anatomical areas.
- (18) It is a defense to prosecution under subsections (a)(16) and (17) of this section if the person was in a restroom not open to public view or persons of the opposite sex.

(b) A person having a duty under subsections (a)(1) through (17) herein commits a misdemeanor if he or she knowingly fails to fulfill that duty.

(c) An employee of a sexually oriented business that exhibits sexually explicit films, photographs, pictures or videos must attend training given by the licensee concerning the requirements of this ordinance as they pertain to such a business, including but not limited to Sections 8(a), 34, 36, 37, 105, 141, 142, 143 and 144, before the employee receives any compensation for the person's services. The licensee, owner or operator shall provide this training to all employees at the beginning of employment before the employee receives any compensation for services, and at least once a year thereafter. The licensee, owner or operator shall maintain written records of the training provided to each employee pursuant to this subsection. These records shall include a signed and dated statement from each employee verifying the employee's attendance at and participation in training provided by the licensee, owner or operator, identifying the date on which the training was provided, and the specific topics discussed.

(d) A licensee, owner or operator shall designate and appoint one or more individuals to manage, operate, direct, and control the premises and operations of the sexually oriented business. At least one person so appointed shall be on the premises at any time the sexually oriented business as described in this section is open.

(e) An operator or a person appointed under subsection (d) above shall at all times have the duty to ensure that each employee in the sexually oriented business has received the training required by subsection (c) above and each employee is instructed to commit no act which would constitute a violation of this ordinance or which would provide grounds, or part of the grounds, for suspension or revocation of a license issued under this ordinance.

**Secs. 109–140 Reserved**

**Sec. 41 Transfer of license; forging or altering license**

(a) A person commits an offense if the person transfers a license or permit to another person or operates a sexually oriented business under the authority of a license at any place other than the address designated on the license. A transfer of a license is deemed to have occurred if there is a transfer of more than fifty percent (50%) of the ownership or control of a sexually oriented business.

(b) A person commits an offense if the person counterfeits, forges, changes, defaces or alters a license.

**Sec. 141 Hours of operation**

No sexually oriented business, except for an adult motel, may remain open at any time except between the hours of 12:00 p.m. (noon) and 9:00 p.m. on weekdays and Saturdays, and from 2:00 p.m. until 9:00 p.m. on Sundays.

**Sec. 142 Prohibition against children in sexually oriented business**

A licensee, owner, operator or employee commits an offense if the licensee, owner, operator or employee intentionally, knowingly, or recklessly allows a person under the age of 18 years on the premises of a sexually oriented business.

**Sec. 143 Employees in state of nudity or semi-nudity--Restrictions**

(a) A licensee, owner, operator or employee commits an offense if the licensee, owner, operator or employee intentionally or knowingly allows, in a sexually oriented business, a person to appear in a state of nudity or semi-nudity, unless the person is an employee who, while in a state of nudity or semi-nudity, is on a stage (on which no customer is present) at least 18 inches above the floor, and is (i) at least six feet from any customer (hereinafter called "unenclosed performance stage"), or (ii) physically separated from customers by a wall or partition composed of solid glass or light-transmitting plastic, or substantially equivalent material, extending from the floor of the performance stage to at least five feet above the level of the performance stage, but such that there are not openings in the wall or partition that would permit physical contact between customers and such employee (hereinafter "enclosed performance stage").

(b) It is an offense for an employee, while in a state of nudity or semi-nudity in a sexually oriented business, to receive directly any pay or gratuity from any patron or customer, or for any patron or customer to pay or give any gratuity directly to any employee, while that employee is in a state of nudity or semi-nudity in a sexually oriented business. Such gratuity or pay may be provided to such employee through a tip receptacle, located more than six feet from the nearest point of the performance stage where such employee is in a state of nudity, or may be paid to an employee that is not in a state of nudity or semi-nudity, as part of the customer's bill.

(c) It is an offense if an employee, while in a state of nudity or semi-nudity, touches a customer or the clothing of a customer.

(d) It is an offense if a customer touches an employee appearing in a state of nudity or semi-nudity or clothing of the employee.

**Sec. 144 Same--Conspicuous signage and markings required**

(a) A licensee, owner or operator commits an offense if the licensee, owner or operator fails to display a sign on the interior of the sexually oriented business premises notifying customers and employees of the prohibition prescribed by Section 143(a), (b), (c) and (d). The sign must be prominently and continuously displayed where customers enter the premises, and immediately adjacent to each stage, and must state in letters at least two inches high:

TOUCHING OR TIPPING AN EMPLOYEE WHO IS IN A STATE OF NUDITY OR SEMI-NUDITY IS A CRIME (MISDEMEANOR), PUNISHABLE BY FINE UP TO \$2,000. PATRONS SHALL REMAIN AT LEAST SIX (6) FEET FROM ALL UNENCLOSED PERFORMANCE STAGES WHILE A PERSON IS PERFORMING ON SAID PERFORMANCE STAGE.

The chief of police may require, at the time of issuance or renewal of the license, the licensee, owner or operator to also display the sign in a language other than English if he determines that a substantial portion of the expected customers speak the other language as their familiar language. Upon notification, a licensee, owner or operator commits an offense if the sign does not contain the language in the required language, in addition to English.

(b) A licensee, owner or operator commits an offense if the licensee, owner or operator fails to prominently and continuously display a two inches wide glow-in-the-dark line on the floor of the sexually oriented business marking a distance of six feet from each unenclosed stage on which an employee in a state of nudity may appear in accordance with Section 143(a).

#### **Sec. 145 Alcoholic beverage sales and consumption prohibited**

(a) It shall be an offense for any person to maintain, own or operate a sexually oriented business on any premises on which alcoholic beverages are served or offered for sale for consumption.

(b) It shall be an offense for any person who maintains, owns or operates any commercial establishment where alcoholic beverages are served or offered for sale for consumption on the premises to permit any person to appear in a state of nudity or semi-nudity.

#### **Secs. 046–170 Reserved**

### **Division 6. Sign Requirements**

#### **Sec. 171 Sign requirements**

(a) Posting of sign on intent to locate sexually oriented businesses.

(1) The following requirements apply for posting a sign concerning intent to locate a sexually oriented business:

(A) An applicant for a sexually oriented business license for a location for which a sexually oriented business license has not previously been issued shall post an outdoor sign at the location in compliance with Texas Local Government Code Sec. 243.0075, as amended, not later than the sixtieth (60<sup>th</sup>) day before submitting the application for a sexually oriented business license.

(B) The sign shall comply with Texas Local Government Code Sec. 243.0075, as amended.

(i) The sign must be at least 24 by 36 inches in size;

(ii) All letters must be at least two inches in height and one and one-half inches in width for each letter on the sign;

(iii) The sign shall state that a sexually oriented business is intended to be located on the premises;

(iv) The sign shall provide the name and business address of the owner and operator;

(v) All required information must be presented in both English and Spanish;

(vi) All required information must read horizontally from left to right; and

(vii) The sign shall be prominently posted such that it is clearly legible from the public right-of-way.

(C) The operator of a proposed sexually oriented business shall notify the chief of police, by certified mail or hand delivery, when a sign is posted at the intended location of the business in compliance with Texas Local Government Code Sec. 243.0075, as amended. The notification must be in the form of a sworn statement indicating the location of the sign and the date it was posted and must be received by the chief of police within five days after the posting of the sign. If the chief of police receives the notification within five days after the sign was posted, the 60-day posting period required by Texas Local Government Code Sec. 243.0075 shall be deemed to begin on the posting date. If the notification is received by the chief of police more than five days after the sign was posted, the 60-day posting requirement shall be deemed to begin on the date the chief of police verifies the sign has been posted.

(D) When a sign is posted at an intended location of a sexually oriented business and the intended location is not in violation of the distance requirements set out in this ordinance on the posting date, the sexually oriented business will qualify as a conforming use with regard to the distance requirements and will not be rendered nonconforming by any location, subsequent to the posting of the sign, of the use or location described in Section 5(b) and (c) within 1,000 feet of the posted location.

(E) Subsection (D) above does not apply if:

(i) A completed and correct application for a license for a proposed sexually oriented business is not filed with the chief of police within twenty (20) days after the expiration of the 60-day posting requirement under Texas Local Government Code Sec. 243.0075, as amended;

(ii) The application for a license is withdrawn or denied; or

(iii) The notification requirements of subsection (C) are not met.

(b) Primary and secondary signs.

(1) Notwithstanding any provision of the city's development code or any other city ordinance, code, or regulation to the contrary, the licensee, owner or operator of any sexually oriented business or any other person commits an offense if he erects, constructs, or maintains any sign for the establishment other than one primary sign and one secondary sign, as provided in this section.

(2) A primary sign may have no more than two display surfaces. Each display surface must:

- (A) Not contain any flashing lights;
- (B) Be a flat plane, rectangular in shape;
- (C) Not exceed seventy-five (75) square feet in area; and
- (D) Not exceed ten feet in height or ten feet in length.

(3) A secondary sign may have only one display surface. The display surface must:

- (A) Not contain any flashing lights;
- (B) Be a flat plane, rectangular in shape;
- (C) Not exceed twenty (20) square feet in area;
- (D) Not exceed five feet in height or four feet in length; and
- (E) Be affixed or attached to a wall or door of the establishment.

(4) A primary or secondary sign, including a temporary sign, must contain no photographs, silhouettes, drawings, or pictorial representations of any manner, and may contain only:

- (A) The name of the establishment; and/or
- (B) One or more of the following phrases:
  - (i) "Adult arcade."
  - (ii) "Adult bookstore, adult novelty store or adult video store."
  - (iii) "Adult cabaret."
  - (iv) "Adult motel."

- (v) "Adult motion picture theater."
- (vi) "Adult theater."
- (vii) "Escort agency."
- (viii) "Nude model studio."

(5) In addition to the phrases listed in subsection (b)(4)(B) of this section, a primary sign for an adult motion picture theater may contain the phrase "Movie Title Posted on Premises," and a primary sign of an adult bookstore, adult novelty store or adult video store may contain the word "DVDs."

(6) Each letter forming a word on a primary or secondary sign must be of a solid color, and each letter must be the same print-type, size, and color. The background behind the lettering on the display surface of a primary or secondary sign must be of a uniform and solid color.





# CITY OF LAVON CITY COUNCIL Agenda Brief

**MEETING:** March 20, 2018

**ITEM:** 7-G

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**Item:**

Discussion and action regarding a Request for Qualifications for city engineering services and to solicit responses for city council consideration.

**Background:**

As a matter of good business practice, the City Council has been reviewing some of the relationships with the City's professional consultants and service providers. A draft request for qualifications packet is provided for the Council's review.

As set out in the Texas Professional Services Procurement Act, cities are prohibited from using competitive bidding procedures to obtain the services of architects, engineers, certified public accounts and similar professional service providers. Instead, a city must first identify and select the most highly qualified provider and then attempt to negotiate a fair and reasonable price for the service.

The last two times an RFQ or RFP for professional services was done, the Council directed that the Mayor, city administrator and one additional council member serve as an informal committee to review the submissions and recommend the most qualified responder to the Council.

If the Council wishes to proceed, an advertisement soliciting qualifications submittals will be published. The proposed schedule for the process is:

- |  |                |
|--|----------------|
| - Advertisement of RFQ   | March 28, 2018 |
| - RFQ Deadline – Submittals DUE by 3:00 p.m.   | April 16, 2018 |
| - Evaluation of Qualifications Complete  | April 20, 2018 |
| - Interviews if needed   | April 23, 2018 |
| - Recommendation to City Council who selects Firm and authorizes Mayor to negotiate contract | May 1, 2018    |
| - Submit contract to Council for approval  | TBD            |

**Attachments:** Request for Qualifications Packet

March 16, 2018

# REQUEST FOR QUALIFICATIONS CITY ENGINEERING SERVICES



QUALIFICATION SUBMITTAL DATE:

Monday, April 16, 2018

RFQ Number 2018-01

City of Lavon  
120 School Road  
Lavon, Texas 75166  
972-843-4220

# CITY OF LAVON

## REQUESTS FOR QUALIFICATIONS CITY ENGINEERING SERVICES

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### PURPOSE AND OBJECTIVE

The City of Lavon, Texas (“City”) is issuing this Request for Qualifications (RFQ) to solicit interest from prospective qualified firms for city engineering services.

The City is issuing this RFQ in accordance with applicable laws that allow an agreement with a private entity that displays demonstrated competence and qualifications to perform city engineering services for the City.

On an on-going basis and as subject to contract renewal terms as defined by the City, the City intends to have the selected Firm function as the “City Engineer” to perform the services listed in the scope of services listed below. The services requested will require the Firm to be licensed to practice engineering in the State of Texas.

The City reserves the right to terminate this process or to cancel or modify this solicitation process at any time. In no event will the City or any of its respective agents, representatives, consultants, directors, officers or employees be liable for, or otherwise obligated to reimburse, the costs incurred in preparation of this RFQ or any other related costs. The prospective firms shall be fully responsible for all costs incurred in the preparation and/or presentation of the RFQ submittals. The RFQ submittals will become the property of the City.

All proposals shall be subject to the Texas Public Information Act unless the respondent clearly and prominently identifies a particular submittal item as proprietary and said item unequivocally qualifies for this exception under the Act as determined by the Texas Attorney General.

### TIME PERIOD

The contract term is anticipated to be a three-year period with renewal options.

### SCOPE OF SERVICES

Basic Services: Engineering firm (Firm) shall perform the following consulting city engineering services with the City of Lavon (City) as directed:

1. Assist the City in developing and administering maintenance programs for roadways, sanitary sewer and storm drainage facilities.
2. Assist the City in TCEQ compliance and reporting for sanitary sewer and storm water infrastructure.
3. Assist the City in preparation and administration of a Capital Improvements Plan.
4. Identify necessary capital improvements projects, contract for associated engineering design services, bid & award projects, and administer construction contracts.
5. Perform engineering reviews of civil plans submitted for new development and construction projects.
6. Perform engineering inspection services for new residential and commercial development as requested by City staff.
7. Prepare special studies and reports on a variety of subjects and activities for Mayor and City Council.

8. Update and maintain GIS mapping and data.
9. Attend City Council, Planning & Zoning Commission and other City board and commission meetings and pre-development meetings as requested by City staff.

**Additional Services:** Firm shall perform the following services, in addition to the Basic Services above, if authorized:

1. Prepare and/or amend Waste Water and Drainage Master Plans, Thoroughfare Plans, Engineering Studies and other plans and reports.
2. Assist City in the defense or prosecution of litigation claims including preparing data and reports for or appearing at litigation, mediation, arbitration, dispute review boards, or other legal and/or administrative proceedings before any regulatory agency, court, arbitration panel or mediator.
3. Provide basic or additional services as needed.

**SUBMITTAL DEADLINE AND DELIVERY LOCATION**

Sealed submittals must be received and time stamped by **3:00 P.M. local time, APRIL 16, 2018.** Sealed submittals will only be accepted at the following location:

CITY OF LAVON  
ATTN: CITY SECRETARY  
P.O. BOX 340, 120 SCHOOL RD.  
LAVON, TEXAS 75166

Four (4) hard copies and one (1) electronic version (on CD, DVD, or flash drive) of all proposals must be provided. The copies shall be sealed and clearly identified with 'RFQ #2018-01 - City Engineering Services'. Neither verbal nor electronic submittals will be accepted or considered valid. It is the sole responsibility of the Firm to ensure that the sealed submittal arrives at the above location by the specified deadline regardless of the method chosen by the Firm for delivery.

Each proposal shall be signed by an individual authorized to act on behalf of the Firm.

All submittals become the property of the City of Lavon upon receipt and will not be returned to the submitter.

Any cost or expense incurred by the Firm that is associated with the preparation or selection process of the submittal shall be borne solely by the Firm.

**Point of Contact** – The City of Lavon designates the following as its Point of Contact for this RFQ. Firms and all interested parties shall restrict all contact with City of Lavon staff and direct all questions regarding this RFQ in writing to the following Point of Contact:

Kim Dobbs, City Administrator  
P. O. Box 340, 120 School Rd.  
Lavon, TX 75166  
E-mail: [kim.dobbs@cityoflavon.org](mailto:kim.dobbs@cityoflavon.org)  
Phone: 972-843-4220 Fax: 972-843-0397

Respondents or their agents are prohibited from lobbying members of the Lavon City Council or its staff or consultants. Failure to comply with this clause shall be grounds for rejection of their submittal as non-responsive. All requests for information shall be made to the point of contact.

Because of the nature of this RFQ, no historically under-utilized business requirements are mandated.

<u>PROPOSED SCHEDULE</u>	<u>DATES</u>
- Advertisement of RFQ	March 28, 2018
- RFQ Deadline – Submittals DUE by 3:00 p.m.	April 16, 2018
- Evaluation of Qualifications Complete	April 20, 2018
- Interviews if needed	April 23, 2018
- Recommendation to City Council who selects Firm and authorizes Mayor to negotiate contract	May 1, 2018
- Submit contract to Council for approval	TBD

### STATEMENT OF QUALIFICATION REQUIREMENTS

The ideal Firm shall have extensive experience in municipal engineering as detailed in the Scope of Services. The qualifications and commitment of key personnel that would be assigned to this community is critically important in the selection of a Firm. Please provide the following:

#### Firm Information

1. Cover letter and introduction including the name, phone number and e-mail address of the person(s) authorized to represent the company regarding all matters related to the proposal. (1 page maximum)
2. An executive summary and an organizational chart identifying team members and their areas of responsibility. (2 pages maximum)
3. Key personnel qualifications and availability to City staff. (2 pages maximum, excluding resumes)
4. Information regarding the Firm's ability to meet project schedules and availability to City staff. (4 pages maximum)
5. A summary statement identifying your understanding of the scope of the services and the manner in which coordination and the exchange of information will be assured between all parties. (1 page maximum)
6. Describe the management and organizational approach to represent the interests of the City, including a description of how the Firm will organize to perform the services; how the Firm will solicit in the programming and design phases the interested stakeholders; procedures for assisting in project planning and scheduling, including coordination of consultants; communication approach; and approach to code analysis and jurisdictional approvals. (5 page maximum)
7. Three municipal client references (past or current clients) including contact information, address, services provided, contact person, and telephone number. (1 page maximum)
8. Qualifications and relevant municipal project experiences of the Firm, including at least three but not more than six projects completed within the last five years. (1 page per each project)

### Disclosure

1. Any responder shall disclose all potential conflicts of interest or representation of any firm that could be involved in the proposed program. (1 page maximum)
2. A listing / complete disclosure of any civil or criminal litigation or investigation pending which involves the responder or in which the responder has been judged guilty or liable. (1 page preferred)
3. All insurance coverage that the Firm has that would be applicable. (2 page maximum)
4. Completed Conflict of Interest form. (For more information or to obtain the form, please visit the Texas Ethics Commission web page at [www.ethics.state.tx.us/forms/CIQ.pdf](http://www.ethics.state.tx.us/forms/CIQ.pdf).)

The City reserves the right to request further documentation or information, and to discuss an RFQ submittal for any purpose in order to answer questions or to provide clarification.

An RFQ submittal may not be changed, amended or modified after such time as the City declares, in writing, that a particular stage or phase of its review of the responses has been completed or closed.

### EVALUATION OF PROPOSALS

Submissions will be reviewed and evaluated by the Mayor, City Council and/or City staff.

The City will evaluate all RFQ submittals and will select the Firm deemed most qualified and enter into a contract for City Engineering services. In making the determination, the City may schedule one-on-one interviews with the firms, if deemed necessary.

The City reserves the right to reject any or all RFQ submittals and to conduct studies and other investigations, as necessary, to evaluate the RFQ submittal and complete interviews with the firms, as part of the evaluation phase.

The most qualified and competent Firm will be recommended to be considered for selection by the City Council to negotiate and enter into a contract for city engineering services.

## RESERVATION OF RIGHTS

The City of Lavon reserves all rights, which rights may be exercised by the City in its sole discretion, available to it under applicable laws, including without limitation and with or without cause and with or without notice, the right to:

1. Cancel this RFQ, in whole or in part at any time before the execution of a contract by the City of Lavon, without incurring any cost, obligations or liabilities.
2. Issue addenda, supplements, and modifications to this RFQ.
3. Revise and modify, at any time before the RFQ submittal due date, the factors and/or weights of factors the City will consider in evaluating RFQ submittals and to otherwise revise or expand its evaluation methodology.
4. Extend the RFQ submittal due date.
5. Investigate the qualifications of any firm under consideration and require submittal confirmation of information furnished by a firm.
6. Require additional information from a firm concerning contents of its RFQ submittal and/or require additional evidence of qualifications.
7. Waive or permit corrections to data submitted with any response to this RFQ until such time as the City declares, in writing, that a particular stage or phase of its review of the responses has been completed or closed.
8. Reject at any time, any or all submittals, responses and RFQ submittals received.
9. Terminate, at any time, evaluations of responses received.
10. Appoint an evaluation committee to review RFQ submittals or responses, make recommendations and seek the assistance of outside technical experts and consultants in RFQ submittal evaluation.
11. Hold interviews and conduct discussions and correspondence with one or more of the firms responding to this RFQ to seek an improved understanding and evaluation of the responses to this RFQ.
12. Seek or obtain data from any source that has the potential to improve the understanding and evaluation of the responses to this RFQ.
13. Disclose information contained in an RFQ submittal to the public as required under the Texas Public Information Act.
14. Waive deficiencies in an RFQ submittal, accept and review a non-conforming RFQ submittal or seek clarifications or supplements to an RFQ submittal.
15. Disqualify any firm that changes its RFQ submittal without the City's authorization.
16. Exercise any other right reserved or afforded to the City of Lavon under this RFQ. The City reserves the right to modify the process, in its sole discretion, to address applicable law and/or the best interest of the City.





**CITY OF LAVON  
CITY COUNCIL  
Agenda Brief**

**MEETING: March 20, 2018**

**ITEM: 7-H**

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**Item:**

Discussion and action regarding recent Texas Transportation Commission action relating to the removal of the 42½ foot height restriction on billboards.

**Background:**

On February 15, 2018, the Texas Transportation Commission (TTC) who oversees the Texas Department of Transportation (TxDOT) removed the existing 42 ½-foot height restriction on certain billboards allowing a permitted height of 85 feet.

Scenic Texas sent a notification to cities regarding the TTC action and that communication was relayed to the City Council. Councilmember Wright asked that the City discuss and possibly respond to the action.

Although the height restriction, or removal thereof, does not apply to signs within the City governed by local sign regulations, the height limitation would be removed along federally-funded roadways. Roadways where the limitation would be removed include basically all of the roads with corridor entries into the City. These stretches of roadway will possibly be in the City in the future and the billboards along them would be grandfathered upon annexation.

**Attachments:**

- 1) Information regarding the TTC action
- 2) Draft Response provided by Scenic Texas

March 16, 2018



## New TxDOT Rule Will Allow 85' Billboards

Dear Scenic Texas Friends:

Last Thursday, the Texas Transportation Commission voted unanimously to double the height of the approximately 20,000 existing billboards along Texas' federally-funded roadways-that's an increase from 42.5 feet to 85 feet, effective as of September 9, 2019. Obviously Scenic Texas is disappointed by this action, but the delayed effective date is a glimmer of good news. The Commissioners said they wanted to give the Texas Legislature time to weigh in on the issue.

That means our focus now shifts to the Legislature and [persuading Texas State House and Senate members to support maintaining the existing billboard height of 42.5'](#). It is apparent that your voice did matter--you and thousands of other Texans created a public outcry in support of more scenic and safer roads. The delayed effective date was because [your voice was heard](#).

Most members of the Legislature do not have billboards on their watch lists, so please help Scenic Texas focus their attention on this issue. **TAKE ACTION:** Use the form [here](#) to tell your Senator and Representative how you feel about billboards along our highways, but specifically ask them to keep the billboard height where it is now --- at 42.5'. We encourage you to personalize the letter to make it even more effective. We can all be assured the well-funded billboard lobby will be applying pressure from the other side to go to 85 feet or even higher. Bigger is not always better in Texas!

Thank you for speaking up for the safety and beauty of Texas with letters to your legislators. Please share this Action Alert widely.

A handwritten signature in black ink that reads "Margaret Lloyd".

Margaret Lloyd  
President and Board Chair  
Scenic Texas

---

Thank you for

Online Submittal Form

TO:

Rep. Jodie Anne Laubenberg  
District: Texas Representative

Sen. Craig Estes  
District: Texas Senator

Subject: Please don't allow taller billboards in Texas

I just heard some shocking news -- last Thursday, the Texas Transportation Commission adopted a rule to allow approximately 20,000 billboards standing along Texas' federal highways to DOUBLE in height, from 42.5' to 85', on September 3, 2019. They said that the delayed effective date will give the Legislature time to weigh in.

I am writing today to ask that you put this on your radar screen and next session to author, co-author, or support any bill that maintains the height of billboards at a maximum of 42.5 feet (the standard that TxDOT has had in place since 1986).

In this case, everything bigger is not better in Texas! Please keep our scenic areas beautiful, support the rural eco-tourism that thrives off the beauty of our State, and oppose any rule that compromises highway safety (experts confirm that taller signs will take longer to view and read).

Please tell the billboard industry that we can read their advertisements just fine at four stories tall. As Senate Transportation Committee Chairman Robert Nichols told the Texas Transportation Commissioners last week, "I do not think McDonald's or Burger King will sell more hamburgers with taller signs . . . I do think it [Texas] will be much uglier."

Thank you for hearing my concerns and considering my request. I look forward to hearing how you will act on this matter.

Sincerely,



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## Update: New TxDOT rule will allow 85' billboards

The Texas Transportation Commission voted to double the height of the approximately 20,000 existing billboards along Texas' federally-funded roadways -- **an increase from 42.5 feet to 85 feet!**

There is one glimmer of good news—the Commissioners delayed the effective date until September 3, 2019. The Commissioners want to give the Texas Legislature time to weigh in on the issue. Our state House and Senate members **need to hear from you** that you want them to take action to maintain the existing billboard height of 42.5'.

**TAKE ACTION:** Use the form below to tell your Senator and Representative how you feel about billboards along our highways, but specifically ask them to keep the billboard height where it is now --- at 42.5'. **Please begin by entering your address so we can match you with your State Representative and Senator.**



*Take action to prevent 85 foot high billboards in Texas!*

In order to address your message to the appropriate recipient, we need to identify where you are.

Street Number and Name:\*

5 Digit Zip Code:\*





## Texas Transportation Commission Allows Billboards To Double In Size

*The Texas Transportation Commission agreed to remove an existing restriction on billboards, effective in September 2019, that will permit billboards to double in size from...*

The Texas Transportation Commission agreed to remove an existing restriction on billboards, effective in September 2019, that will permit billboards to double in size from 42-and-a-half feet and reach to 85 feet in height on state-controlled highways.

That action will allow legislators in 2019 to reconsider billboard heights and issue clearer rules governing billboard size, said Chairman J. Bruce Bugg. Restrictions on billboard size on rural roads in Texas began in 1985 under former Gov. Mark White and later expanded to state highways and freeways.

The billboard size restrictions eventually resulted in a legal challenge in 2016 claiming that hundreds of billboards do not satisfy state regulations because they pre-dated laws, road conditions had changed, or the billboard was not in compliance when erected.

Municipalities, however, will continue to have the authority to limit the size of billboards located within their city limits, Bugg said.

Billboards along rural roads maintained by the Texas Department of Transportation that are not eligible for federal funds for maintenance and improvements will maintain at the current height restriction.

This story originally published Strategic Partnership, Inc.

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# Texas billboards could grow taller as height limit rises

By Dug Begley | February 22, 2018 | Updated: February 23, 2018 9:28am

Some 25,000 billboards along certain stretches of Texas highways could soar in size under a regulatory change approved by state transportation officials.

The Texas Transportation Commission voted unanimously Thursday to eliminate the existing 42½-foot height restriction beginning September 2019, allowing the size limit to double. The ruling followed months of deliberation and discussion, including a write-in campaign that generated thousands of letters both against and in favor of taller billboards.

The action allows the 2019 Texas Legislature to revisit the matter and issue clearer rules, commission chairman J. Bruce Bugg said.

"We are trying to bring what I would call a fair balance to the deliberation," he said.

The commission was immediately criticized for giving lobbyists for outdoor advertising companies a stronger hand in dealing with legislators when they meet next year. Many sign companies are aggressively seeking to roll back limits on height and the brightness of electronic billboards.

"The industry has no incentive to participate in that, help in that, or do anything other than kill it," said Margaret Lloyd, president of Scenic Texas, which advocates for sign limits.

State Sen. Robert Nichols, R-Jacksonville, and chairman of the Texas Senate Transportation Committee, said lawmakers in 2017 made clear they intended to keep the 42½-foot ceiling in place, although the authority rested with the transportation commission.

"Billboards will go to 85 feet," Nichols said, warning of the consequences if lawmakers do not act.

Industry officials were more supportive of Thursday's action.

"We fully support industry regulations that balance private property rights with the need for beautification across the state of Texas and the revised rules do just that," said Lee Vela, president of the

Outdoor Advertising Association of Texas and vice president for public affairs at Clear Channel Outdoor-Houston.

Billboard height restrictions are not required under the Highway Beautification Act, passed in 1965 at the urging of the late Lady Bird Johnson, then the nation's first lady as President Lyndon Johnson's wife. Rather, the height restrictions date to the mid-1980s and the administration of then-Gov. Mark White.

In 1985, then-Gov. Mark White urged transportation officials to set a limit of 42½ feet on rural roads. One year later, White pressed for freeways and interstates to have the same restrictions.

Thus, the Texas Department of Transportation has had authority to regulate billboards erected along state-controlled highways for more than three decades. At last count, there were about 25,000 of them.

The rules do not apply in municipalities, like Houston, that already regulate signs or along rural roads maintained by TxDOT that are not eligible for federal funds for maintenance and improvements.

Billboards on those lesser-traveled roads will remain at 42½ feet.

Regulating the billboards is difficult for TxDOT, officials said, noting the number of signs and the development alongside highways over

the decades. Roads are also often redesigned, affecting heights of surrounding billboards.

As of October, there were enforcement issues with at least 159 signs. Others could exceed the 42½-foot standard but were erected prior to 1986.

The latest revisions to the billboard regulations were prompted by a court challenge to Texas' sign rules in 2016, and a need to address hundreds of billboards that do not satisfy state rules because they pre-date laws, road conditions changed or were simply installed out of compliance.

"Some of them were over 100 feet," Scenic Texas' Lloyd told transportation officials. "(Outdoor advertising companies) basically turned their backs to the agency that was regulating them."

Vela, the industry representative, said Texas has sufficient oversight of the outdoor advertising industry.

"We support robust enforcement of all regulations and believe that the department does a very good job of enforcement," he said.

Comments pro and con poured in when TxDOT first proposed some of the rule changes in October, with more than 4,700 comments on the height restriction dominating the mix.

Of the 2,010 in favor of increasing the limit to 85 feet or eliminating height rules altogether, many came from outdoor advertising companies, property owners with billboards on their land and companies that use the signs to advertise.

Another 2,694 commenters opposed raising the height limits. Most of those were from Scenic Texas and its supporters and concerned residents.

Lawmakers who commented were divided, with some backing no height restrictions while others, including Nichols, stressing the need for beautification.

With lawmakers for and against the 42½-foot standard, a bill proposing that as a cap is likely.

But its passage is less certain, roughly a year before lawmakers reconvene.

What's clear, Nichols said, is inaction with the new rules in place will lead to taller signs.

"If one billboard goes to 85, the next one will and the next," he said. He said he understood the need to balance property rights, economic development and highway beautification, noting the current height doesn't lessen salesmanship.

"I do not think McDonald's or Burger King will sell more hamburgers" with taller signs, Nichols said. "... I do think it will be much uglier."

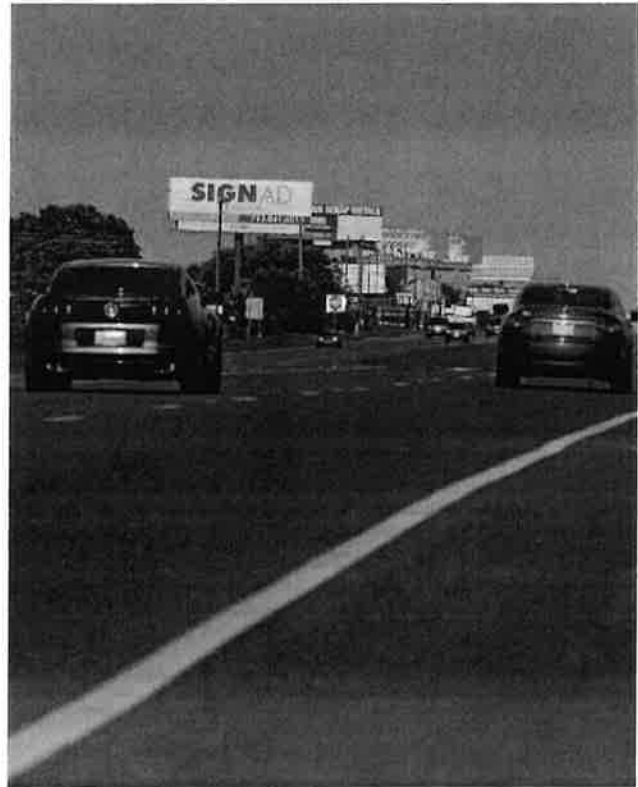


Photo: James Nielsen, Staff

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Billboards clutter the side of U.S. 290 near Hempstead. A proposal would raise the maximum height of Texas highway signs to 65 feet, taller than a six-story building.

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# CITY OF LAVON

## City Council

### Agenda Brief

MEETING: March 20, 2018

ITEM: 7-I

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**Item:**

Discussion and action regarding the disposition of surplus police vehicles.

**Background Information:**

Last year the Texas 85th Legislature passed H.B. 3223. The stated intent of the law was to reduce instances of impersonation of a police officer. A perhaps unanticipated consequence of the law is that it makes it very difficult to dispose of surplus police vehicles. In addition to the cost of removing all police equipment, the city must remove the “outline of an emblem”. Public Works estimated that proper removal of the police equipment and graphics would likely exceed the value of the surplus vehicle. No vender we found could remove the shadow outline of graphics created by the difference in aging of paint due to exposure to the sun, without repainting the vehicle. No agency we spoke to has found a solution to the problem.

We contacted TML Legal and learned that they were not aware of a solution to the problem. They did agree that because police officers are authorized to have this type of equipment in their personally-owned vehicles, selling surplus police vehicles to current Lavon police employees would not likely be considered selling the vehicle to the general public. The Department is making changes to the police vehicle graphics so that future purchases (2018 model or later) will not contain discernable shadows of police emblems or wording and can be disposed of by auction to the general public.

***Code Excerpt:***

**TEXAS LOCAL GOVERNMENT CODE**

**Sec. 272.006. SALE OR TRANSFER OF LAW ENFORCEMENT VEHICLE.**

- (b) A political subdivision may not sell or transfer a marked patrol car or other law enforcement motor vehicle to the public unless the political subdivision first removes any equipment or insignia that could mislead a reasonable person to believe that the vehicle is a law enforcement motor vehicle, including any police light, siren, amber warning light, spotlight, grill light, antenna, emblem, outline of an emblem, or emergency vehicle equipment.
- (d) A political subdivision that sells or transfers a marked patrol car or other law

enforcement motor vehicle to the public in violation of this section is liable:

(1) for damages proximately caused by the use of that vehicle during the commission of a crime; and

(2) to this state for a civil penalty of \$1,000.

(f) Governmental immunity to suit and from liability is waived and abolished to the extent of liability created by Subsection (d).

**Staff Notes:**

The staff respectfully requests the City Council authorize the City Administrator to dispose of surplus police vehicles by sale to sworn law enforcement employees of the City through a competitive auction/bid process. If there are any questions regarding this item, please contact Police Chief Mike Jones at [mike.jones@cityoflavon.org](mailto:mike.jones@cityoflavon.org).

**Attachments:** None

March 15, 2018



**CITY OF LAVON  
CITY COUNCIL  
Agenda Brief**

**MEETING: March 20, 2018**

**ITEM: 7-J**

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**Item:**

Discussion and action regarding board and commission appointments – Parks & Recreation Board.

**Background:**

In addition to the elected City Council, several appointed boards and commissions provide invaluable contributions to the City through their service. The members of these boards are appointed by the City Council for specific terms of service. Parks and Recreation Board Member Danette McCrary recently resigned her Place 3 position.

A worksheet listing the members of the boards and commissions is provided for your convenience. Volunteer Applications are also enclosed.

**Attachments:**            Spreadsheet – Boards & Commissions  
                                  Volunteer Applications

March 15, 2018

**City of Lavon Boards & Commissions**  
**March 2018**

Place	Elected / Appointed	Name	Term Expires	Appointment Notes
<b>City Council Members</b>				Elected
Mayor	11/7/2017	Chuck Teske	11/2019	
Place One	11/21/2016	Vicki Sanson	11/2018	
Place Two	11/7/2017	Mike Cook	11/2019	
Place Three	11/21/2016	Kay Wright	11/2018	
Place Four	11/7/2017	Tim Davis	11/2019	
Place Five	11/21/2016	Mindi Serkland	11/2018	
<b>Economic Development Corp Board of Directors</b>				* LEDC Board has 7 members
Place 1, Chair		Kay Wright	7/15/2018	Up to 4 may be Council /staff
Place 2		Chris Kane	7/15/2019	apptd by Council, county resident
Place 3	9/19/2017	Vicki Sanson	7/15/2018	
Place 4		Jimmie Catravas	7/15/2019	
Place 5	1/2/2018	Felipe Molina	7/15/2018	
Place 6	7/18/2017	John Kell	7/15/2019	
Place 7		David Piekarski	7/15/2018	
Council Liaison	ex officio			
<b>Planning &amp; Zoning Commission</b>				* per LCR, P&Z Commission
Seat 1	1/17/2017	Brad Tiegs	6/1/2019	has 5 members, residency is
Seat 2	7/19/2016	Deborah Nabors	6/1/2018	a requirement
Seat 3	9/6/2016	Cynthia Coker	6/1/2019	
Seat 4	11/3/2015	Tom Ormsby	6/1/2018	
Seat 5, Chair		David Rosenquist	6/1/2019	
	ex officio	Vicki Sanson	6/1/2019	<i>Council Liaison</i>
<b>Parks &amp; Recreation Board</b>				
Seat 1		Mike Gulino	1/1/2019	
Seat 2	1/16/2018	Kelly Turk	1/1/2020	
Seat 3			1/1/2019	<i>Danette McCrary resigned</i>
Seat 4, Chair		Bradley Tiegs	1/1/2020	
Seat 5	1/17/2017	Chuck Teske	1/1/2019	<i>Council Liaison</i>
First Alternate	1/16/2018	David Hawkins	1/1/2020	
				Council member; city resident
<b>TIF</b>				* TIF Board has 5 members
Seat 1	1/2/2009	David Hawkins	1/1/2020	Mayor appoints with
Seat 2	10/18/2016	Ryan Lisko	1/1/2019	Council consent and approval
Seat 3, Chair	1/6/2015	Chris Kane	1/1/2020	
Seat 4	1/17/2017	Chuck Teske	1/1/2019	
Seat 5	1/2/2009	Darlene Hurth	1/1/2020	

# Volunteer/Board & Commission Application



### Contact Information

Name	
Street Address	
City ST ZIP Code	
Home Phone	
Work Phone	
E-Mail Address	

### Occupational Information

Current Occupation	
Company Name	
Work Phone	
Work Email Address	

### Educational Information

High School/Ged	
Higher Education	
Organization or Group Memberships	

### Special Skills or Qualifications

Summarize special skills and qualifications you have acquired from employment, previous volunteer work, or through other activities, including hobbies or sports and community activities.

Please complete front and back of this form

**Previous Volunteer Experience**

Summarize your previous volunteer experience. Please include Boards or Commissions on which you previously served.

**Board Interest**

Thank you for your interest in serving the City of Lavon. Please indicate below your area of interest and carefully consider your obligation before making a selection. If possible, attach a resume and/or other information to assist with the selection process. In addition to regular scheduled board meetings, members may be required to attend training, work sessions and joint meetings.

Economic Development	
Planning & Zoning	
Parks & Recreation	
Any Sub Committee	

**Agreement and Signature**

By submitting this application, I affirm that the facts set forth in it are true and complete. I understand that if I am accepted as a volunteer, any false statements, omissions, or other misrepresentations made by me on this application may result in my immediate dismissal. Appointees and incumbents may be required to file a Statement of Economic Interest, as required by the City Council or the Mayor. The statement may require a declaration that you have no interest in conflict with the City of Lavon.

If selected as a board member, I understand that information on this application is subject to the Texas Public Information Act and may be disclosed to anyone requesting this information. I understand that the act does not allow a governmental body to choose whether to allow public access to the information in the custody of the body that relates to the home address, home phone number, or that reveals whether the board member has family members.

If selected as a board member of the City of Lavon I choose to \_\_\_\_\_allow \_\_\_\_\_not allow public access to my home address, home phone number or whether I have family members.

Name (printed)	
Signature	
Date	

**Additional Information**

It is the policy of this organization to provide equal opportunities without regard to race, color, religion, national origin, gender, sexual preference, age, or disability.

Thank you for completing this application form and for your interest in volunteering with The City of Lavon.

Please return completed application to the City Secretary, City of Lavon, 120 School Road, Lavon, TX 75166. (All applications will be retained by the City of Lavon for a period of one year.)

**Please complete front and back of this form**



# CITY OF LAVON CITY COUNCIL Agenda Brief

**MEETING: March 20, 2018**

**ITEM: 9A - 9D**

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**Item:**

**1. STAFF REPORTS**

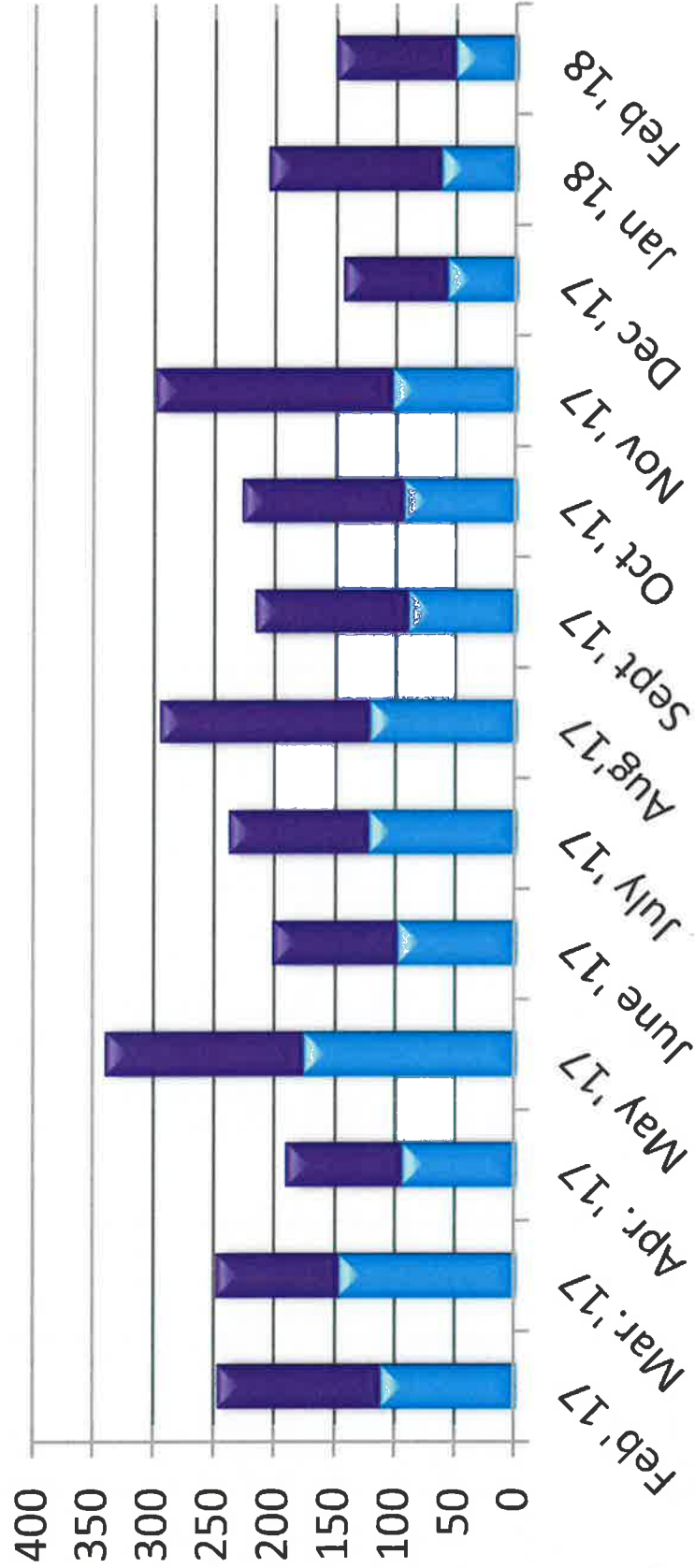
*The City Council may receive and discuss the reports.*

- A. Police Department – 1) Monthly Reports for traffic stops, calls for service, call breakout and consolidated activity and 2) monthly reserve participation report.
- B. Fire Marshal's Office – 1) IFC advisory group update and potential Board of Appeals; 2) Emergency Preparedness at NeSmith; 3) Code enforcement training and 4) Ambulance Services, changes and run times report.
- C. Public Works Department – 1) General public works and street maintenance report including mowing and trash collection; 2) TxDOT projects report; 3) public works facility update; 4) sanitary sewer system maintenance and 5) CWD X-treme Green Household Hazardous Waste Collection Event report.
- D. Administration – 1) Financial Outlook; 2) Building Permits Report; 3) Collin County Monthly Tax Collection Report; 4) Sales Tax Report, 5) Recycling Report and 6) Municipal Court warrant roundup summary report.

Feb. '18

# Traffic Enforcement

■ Citations ■ Warnings

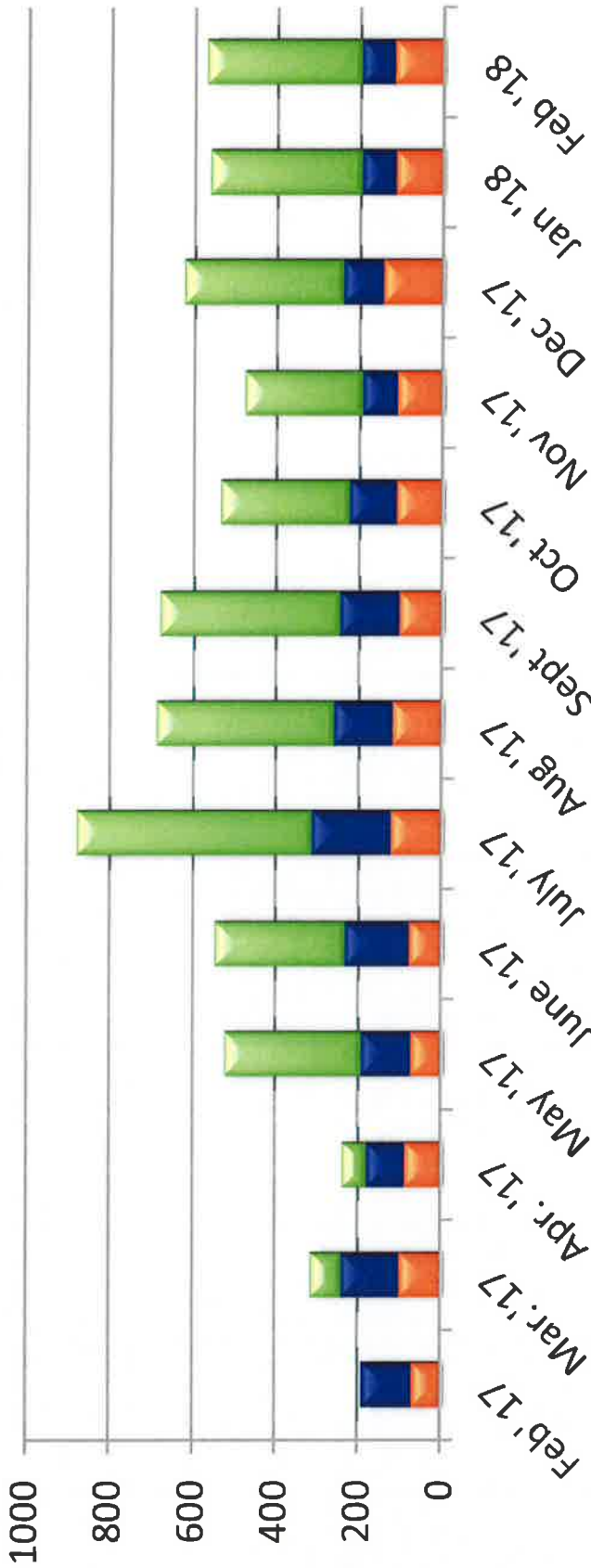


Feb. '18

# Calls for Service

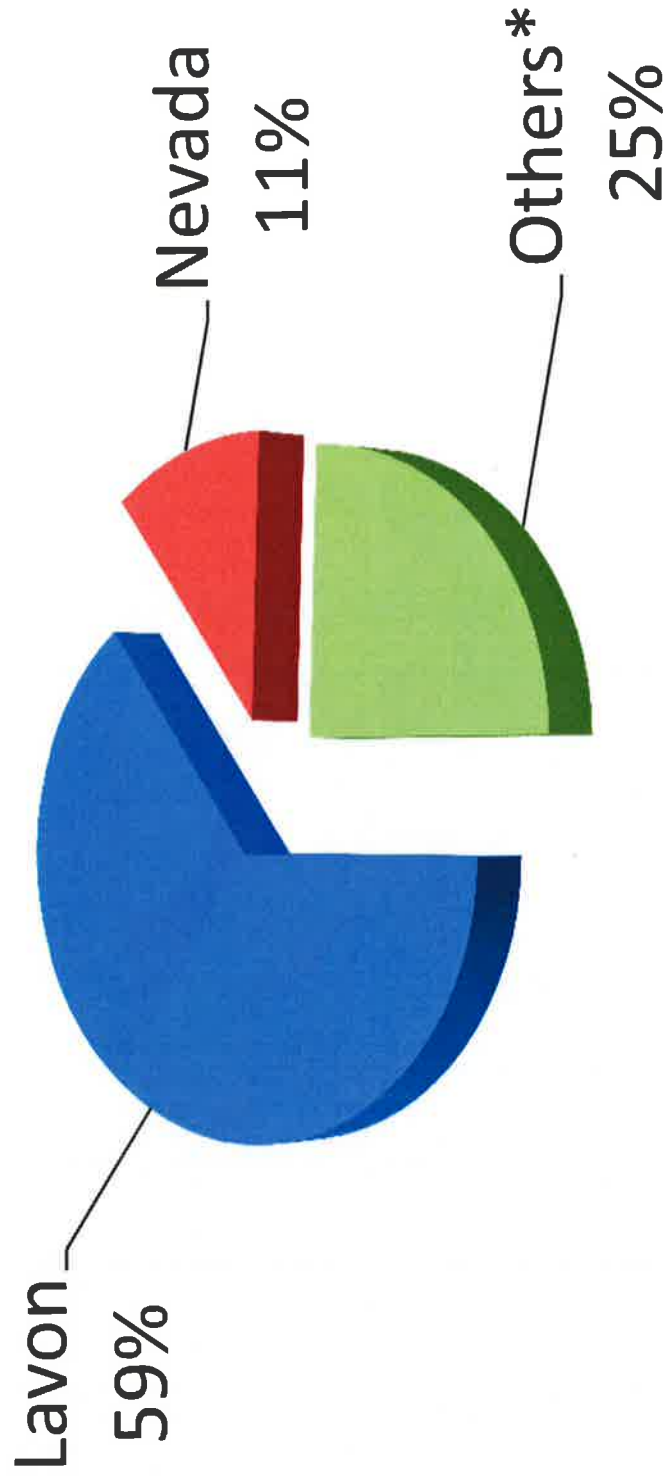
LE Calls    General Calls\*    Security Checks\*\*

\*Does not include LE Calls  
\*\* Formerly included in General Calls



Jan. '18

## Call Breakout

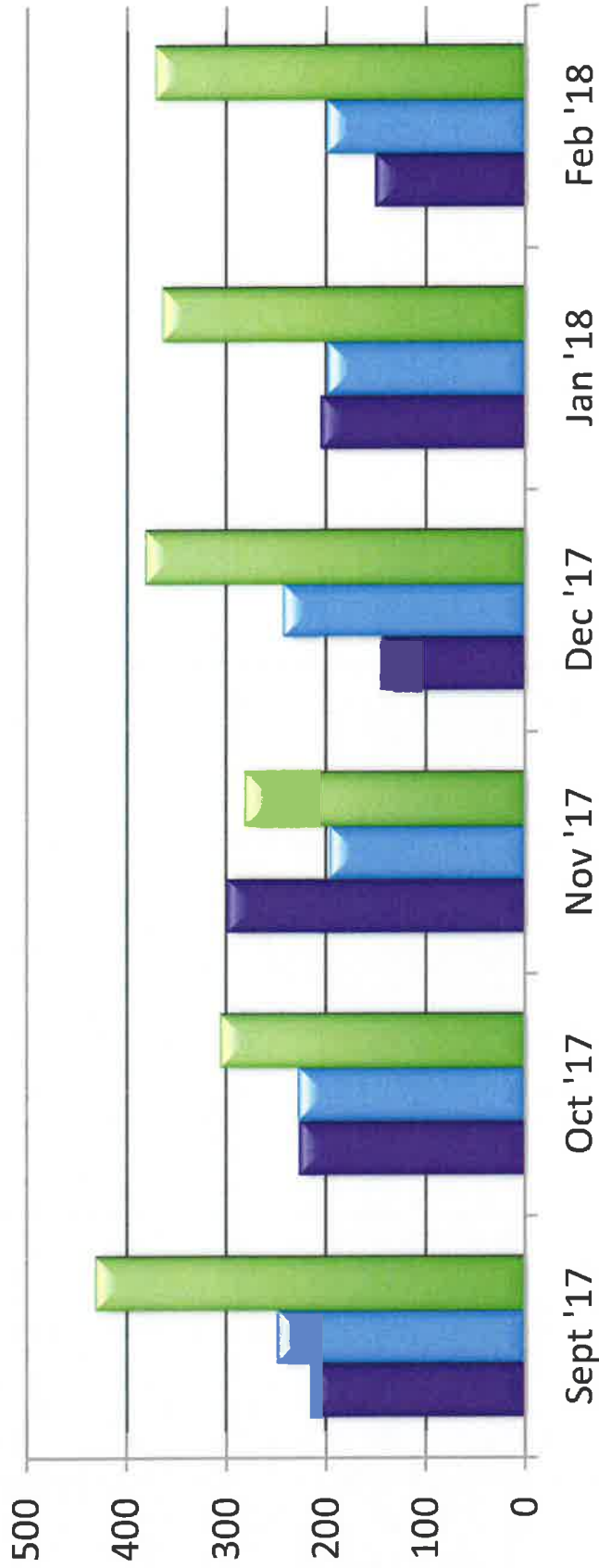


\* May include other cities and /or unincorporated areas of the County

# Activity Levels

Feb. '18

■ Traffic Contacts ■ Total Calls ■ Security Checks\*\*







# Southeast Collin County EMS Coalition Meeting Agenda

**Wylie Public Safety Building  
2000 N. Hwy. 78  
Wylie, TX 75098**

**Type of meeting:** Coalition                      **Facilitator:** Rick White  
**Note taker:** Cheryl Smith                      **Date:** March 1, 2018

## Attendees:

Brandon Blythe-Wylie	Brent Parker-Wylie	Todd Loper, ETMC
Bob London, Town of St. Paul	Rick White, Chairman	Kevin Scott, ETMC
Jason Browning, Collin County	Bill Moore-ETMC	T.C. Howard-Paramedics Plus
Jon Scott-Lavon	Mark Barnaby-Parker	Cheryl Smith-Wylie

**Recap from our meeting in 2017:** Chief Parker announced Neal Franklin retired as of April 26, 2017 and introduced the new Director of Operations, Jimmy Zednick. Mr. Zednick proceeded to give his background and explain the upcoming changes of ETMC-EMS:

- ETMC Hospital owns ETMC-EMS and Paramedics Plus. Paramedics Plus is an outside of Texas, for profit, entity, while ETMC-EMS has been a not for profit entity.
- ETMC Hospital and ETMC-EMS started the break-up within the last year or two and ETMC-EMS began its endeavor as a for profit entity.
- ETMC-EMS and Paramedics Plus will be merging. Once combined the two will become “Paramedics Plus” and are currently seeking investors through Provident Healthcare.
- A selected buyer is hoped to be selected by November 1, 2017.
- The contract the Coalition currently has with ETMC-EMS will need to be updated to reflect the assignment of “Paramedics Plus” but should not reflect any other changes. This will be a similar change to the last re-assignment to “ETMC-EMS”.
- Ambulances under Paramedics Plus will maintain the current look and design with only a name change.
- ETMC Hospital is also making an announcement today, 4/27/17, that it is seeking new investors for the hospital.

**Today’s meeting 3-1-18:**

- T.C. Howard explained ETMC will become UT Health East Texas sometime today. Within the next 20 days, the legal formalities will be finalized and ETMC-EMS will formally become Paramedics Plus. Todd Loper will remain with UT Health East Texas and T.C. Howard will become an employee of Paramedics Plus assuming Mr. Loper’s current roll. In the future, our primary contact for any ambulance issues will go directly to Mr. Howard. His email address is



# Southeast Collin County EMS Coalition Meeting Agenda

**Wylie Public Safety Building  
2000 N. Hwy. 78  
Wylie, TX 75098**

[tchoward@paramedicsplus.com](mailto:tchoward@paramedicsplus.com) and he can be reached by phone at 903-752-2742. Dr. Moore will remain under UT Health East Texas but will continue as medical director for Paramedics Plus.

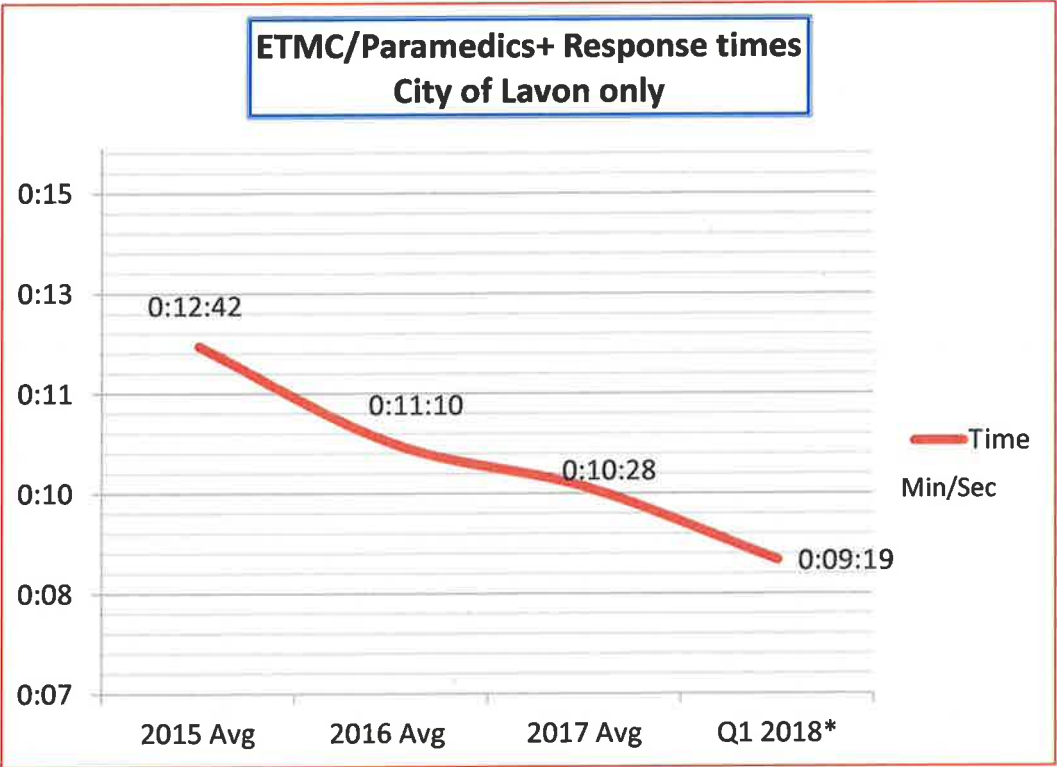
- Paramedics Plus has purchased the paramedic training school in Carrollton called EMTS and the school will now proceed under the name School of EMS.
- Paramedics Plus and its investors have a 100% commitment to maintain the relationship between the Coalition and themselves and work towards improvement. They understand the “uneasiness” during the transition and the fact that they have lost their bid for Waco but they have no desire to end the relationship. Chief Parker reiterated that should Paramedics Plus choose to disband the area, Paramedics Plus should provide as much notice as possible to the Coalition. Additionally, he asked that the contract not be sold to other vendors as the City of Wylie is capable of running an ambulance service of its own.
- Paramedics Plus stated:
  - Subscription service would continue.
  - There would be no change to the EMD program.
  - Medical director would remain the same.
- The City of Wylie has been approached by several ambulance providers recently; however, none of them have been willing to discuss and conform to the Coalition’s way of doing business in regards to ambulance service.
- The Coalition’s contract with ETMC/Paramedics Plus will go up for renewal in 2019. Members agreed service has been solid and consistent and are interested in renewing the current contract. Items mentioned in the meeting that will be addressed during the renewal process are listed below; however, it may not be a full and complete list:
  - Replacement of the reserve ambulance.
  - Supplemental agreement regarding the back-up ambulance.
  - 1115 Waiver abolishment

# EMS Response Wylie/ETMC

2015 Avg 2016 Avg 2017 Avg Q1 2018\*  
0:12:42 0:11:10 0:10:28 0:09:19

WFR in city target= 8:00

\* as of 2/18





Custom v Jan 1, 2015 - Dec 31, 2015

12:42

MM:SS  
Average Response Time

5%

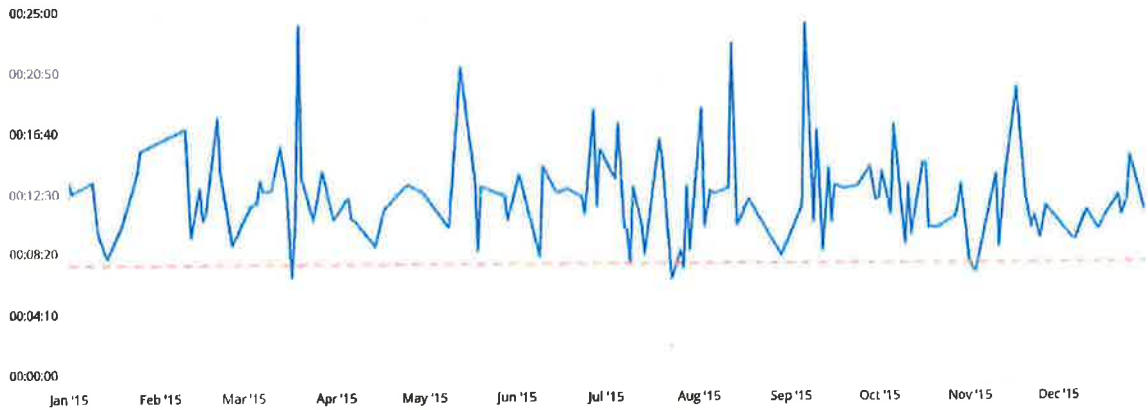
OF RESPONSES  
Response time > 08:00

365

DAYS  
In Selected Time Slice

158

UNIT RESPONSES  
In Selected Time Slice



Counts	% Rows		% Columns		% All								Total	
	Jan '15	Feb '15	Mar '15	Apr '15	May '15	Jun '15	Jul '15	Aug '15	Sep '15	Oct '15	Nov '15	Dec '15		Jan '16
00:00 - 04:59														
05:00 - 07:59			2				3				2			7
08:00 - 08:59	1	1			1	1	3	3	2	1				13
09:00 - 09:59	1	3	1	1	1				1	3	2	4		17
10:00 - 11:59	3	1	3	3	2	2	3	4	3	5	4	4		37
12:00 - 14:59	3	6	10	3	3	6	3	4	8	8	3	2		59
15:00 - 16:59	1	1	2			1	2	1	1	1				10
17:00 - 17:59	1						1			1	1			4
18:00 - 19:59		2				1		1						4
20:00 - 29:59			1		1			1	2		1	1		7
30:00 - 1:29:59														
Total	10	14	19	7	8	11	15	14	17	19	13	11		158
Exceptions														5



Custom v Jan 1, 2016 - Dec 31, 2016

11:10

MMSS  
Average Response Time

11%

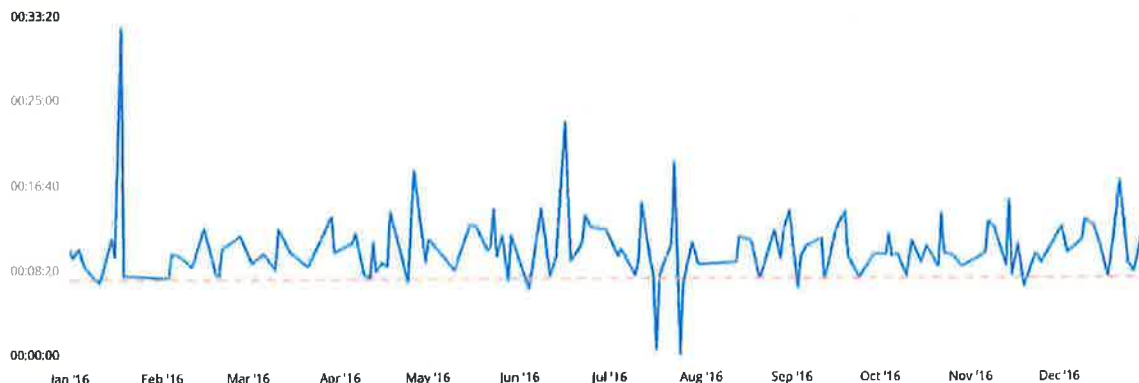
OF RESPONSES  
Proportion above 09:00

366

DAYS  
In Selected Time Slice

171

UNIT RESPONSES  
In Selected Time Slice



Counts	% Rows												% All	
	Jan '16	Feb '16	Mar '16	Apr '16	May '16	Jun '16	Jul '16	Aug '16	Sep '16	Oct '16	Nov '16	Dec '16		Jan '17
00:00 - 04:59		1		1			2							4
05:00 - 07:59	1			1	1	1	1	1	4	2	1			13
08:00 - 08:59	1	2	2	4	1	2	3	1	1	2	1	3		23
09:00 - 09:59	1	1	2	4	2	3	4	4	1	3	2	1		28
10:00 - 11:59	4	3	2	4	7	4	4	2	3	10	5	4		52
12:00 - 14:59		3	3	2	3	4	1	3	4	4	1	7		35
15:00 - 16:59				1		1					2			4
17:00 - 17:59					1			1				1		3
18:00 - 19:59				1		1	1					1		4
20:00 - 29:59					1	2	1							4
30:00 - 1:29:59	1													1
<b>Total</b>	<b>8</b>	<b>10</b>	<b>9</b>	<b>18</b>	<b>16</b>	<b>18</b>	<b>17</b>	<b>12</b>	<b>13</b>	<b>21</b>	<b>12</b>	<b>17</b>		<b>171</b>
Exceptions														11



Custom v Jan 1, 2017 - Dec 31, 2017

10:28

NMSS

Non-Auth Response Time

18%

OF RESPONSES

Response Time < 08:00

365

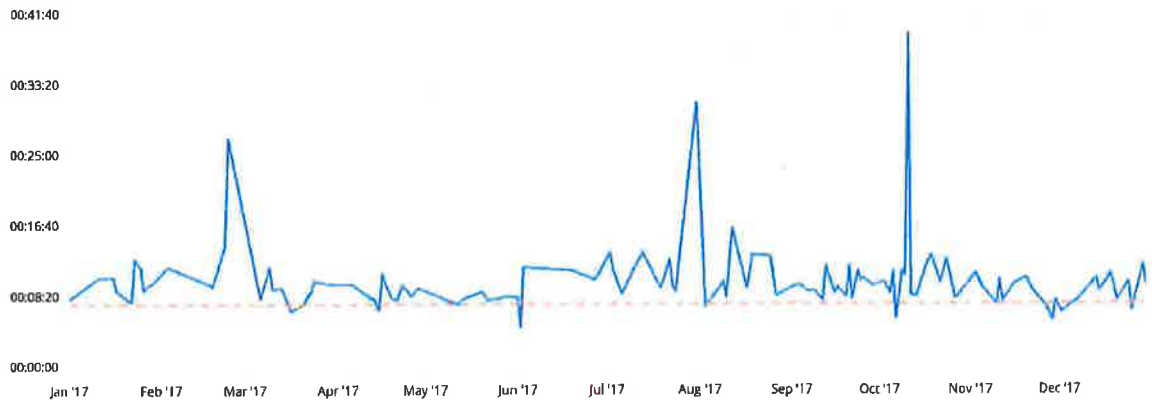
DAYS

In Selected Time Slice

199

UNIT RESPONSES

In Selected Time Slice



Counts	% Rows		% Columns		% All								Total	
	Jan '17	Feb '17	Mar '17	Apr '17	May '17	Jun '17	Jul '17	Aug '17	Sep '17	Oct '17	Nov '17	Dec '17		Jan '18
00:00 - 04:59														
05:00 - 07:59			6	1	3	2	2	2	1	8	6	5		36
08:00 - 08:59	1		3	6	3	1	2	2	5	3	4	2		32
09:00 - 09:59	2		3	3	3		6		3	4	1			25
10:00 - 11:59	6	3	4	5	1	1	3	4	12	11	7	6		63
12:00 - 14:59	2	2	3			3	7	2	4	11	1	2		37
15:00 - 16:59							1							1
17:00 - 17:59								1		1				2
18:00 - 19:59														
20:00 - 29:59		1												1
30:00 - 1:29:59							1			1				2
<b>Total</b>	11	6	19	15	10	7	22	11	25	39	19	15		199
<b>Exceptions</b>														5



Custom ▾ Dec 31, 2017 - Feb 20, 2018

09:19

MM:SS  
Average Response Time

38%

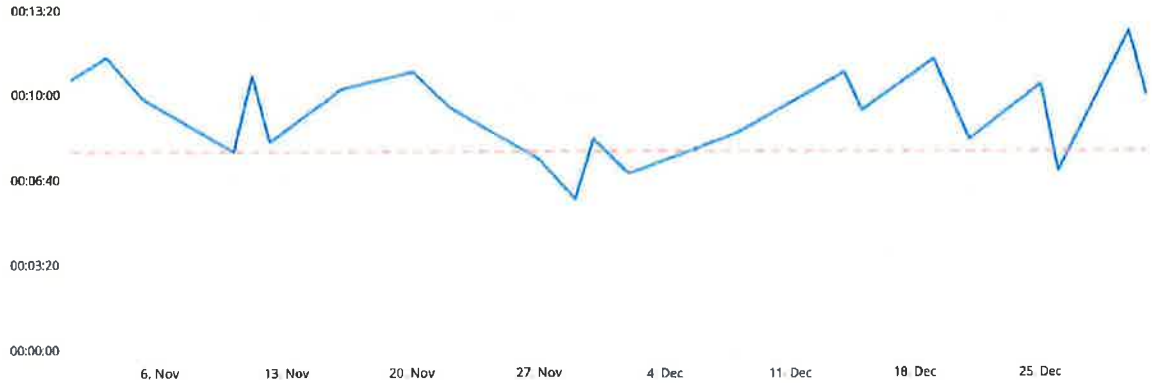
OF RESPONSES  
Prepared time - 0.8.00

52

DAYS  
In Selected Time Slice

21

UNIT RESPONSES  
In Selected Time Slice



Counts	% Rows	% Columns	% All											
Week Ending	11/5/17	11/12/17	11/19/17	11/26/17	12/3/17	12/10/17	12/17/17	12/24/17	12/31/17	1/7/18	1/14/18	1/21/18	1/28/18	Total
00:00 - 04:59														
05:00 - 07:59		2			7		1		1					11
08:00 - 08:59		3			1	1		1						6
09:00 - 09:59				1										1
10:00 - 11:59	3	1	1	2			3	1	2					13
12:00 - 14:59	1							1	1					3
15:00 - 16:59														
17:00 - 17:59														
18:00 - 19:59														
20:00 - 29:59														
30:00 - 1:29:59														
<b>Total</b>	<b>4</b>	<b>6</b>	<b>1</b>	<b>3</b>	<b>8</b>	<b>1</b>	<b>4</b>	<b>3</b>	<b>4</b>					<b>34</b>
Exceptions														0

Account	Ordinary Income/Expense	Oct 2017 Actual	Nov 2017 Actual	Dec 2017 Actual	Jan 2018 Actual	Feb 2018 Actual	Mar 2018 Outlook	Apr 2018 Outlook	May 2018 Outlook	June 2018 Outlook	July 2018 Outlook	Aug 2018 Outlook	Sept 2018 Outlook	FY 2017-2018 TOTAL	FY 2017-2018 Budget
	Income														
10 1200	Solid Waste Fund Transfer	14,333.00	14,333.00	14,333.00	14,333.00	14,333.00	14,333.00	14,333.00	14,333.00	14,333.00	14,333.00	14,333.00	14,337.00	172,000.00	172,000.00
10 1201	Sanitary Sewer Fund Trans	0.00	0.00	0.00	40,000.00	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00	120,000.00	120,000.00
	Total Utility Income	14,333.00	14,333.00	14,333.00	54,333.00	24,333.00	24,333.00	24,333.00	24,333.00	24,333.00	24,333.00	24,333.00	24,337.00	292,000.00	292,000.00
	Judicial Branch														
10 1301	Court Fees	270.00	485.00	0.00	250.00	150.00	368.43	368.43	368.43	368.43	368.43	368.43	368.42	3,700.00	3,700.00
	Total Judicial Branch	270.00	485.00	0.00	250.00	150.00	368.43	368.43	368.43	368.43	368.43	368.43	368.42	3,700.00	3,700.00
	Legislative Branch														
10 1400	Administrative Fee	2,050.00	1,200.00	1,370.00	1,200.00	1,950.00	1,747.15	1,747.15	1,747.15	1,747.15	1,747.15	1,747.15	1,747.10	20,000.00	20,000.00
10 1401	Banking Interest	9.56	6.97	21.76	0.00	40.00	74.53	74.53	74.53	74.53	74.53	74.53	74.50	600.00	600.00
10 1403	Latte Fees	2,226.84	2,108.52	2,090.24	2,035.59	1,943.44	1,513.62	1,513.62	1,513.62	1,513.62	1,513.62	1,513.62	1,513.65	21,000.00	21,000.00
10 1404	Photocopies	5.70	0.00	0.00	0.00	0.00	19.30	0.00	0.00	0.00	0.00	0.00	25.00	50.00	50.00
10 1408	Return of Equity Insurance	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
10 1408	Restitution	0.00	1,200.00	1,171.01	0.00	75.00	329.14	329.14	329.14	329.14	329.14	329.14	329.15	4,750.00	4,750.00
10 1410	Community Center/Pavillion Ren	730.00	1,825.00	810.00	1,480.00	1,055.00	157.15	157.15	157.15	157.15	157.15	157.15	157.10	7,000.00	7,000.00
	Total Legislative Branch	5,022.13	6,340.49	5,463.01	4,715.59	5,063.44	3,840.89	3,821.59	3,821.59	3,821.59	3,821.59	3,848.59	3,821.50	53,400.00	53,400.00
	Operations Division														
10 3675	EDC Reimb - Tax Note	0.00	0.00	0.00	12,832.81	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	13,466.00	13,466.00
10 1500	Food Service Inspection Permit	0.00	50.00	1,850.00	1,230.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	4,000.00	4,000.00
10 1501	General Permit Fees	4,943.12	2,015.80	1,353.05	6,458.13	2,458.50	2,967.35	2,967.35	2,967.35	2,967.35	2,967.35	2,967.35	2,967.30	38,000.00	38,000.00
10 1502	New Building Permit Fees	11,913.25	27,002.20	106,531.60	4,893.20	18,811.81	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	179,832.08	150,000.00
10 1504	OSSF Permit Fees	0.00	0.00	0.00	0.00	400.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	2,000.00	2,000.00
10 1504	PD Fines / Fees	5,078.20	5,760.69	5,385.63	9,237.77	6,516.91	8,288.68	8,288.68	8,288.68	8,288.68	8,288.68	8,288.68	8,288.72	90,000.00	90,000.00
10 1505	PD Warrant Fines / Fees	101.90	470.10	0.00	589.70	698.00	448.62	448.62	448.62	448.62	448.62	448.62	448.58	5,000.00	5,000.00
10 1506	Sale of Property	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
10 1508	PD Contract	0.00	0.00	0.00	0.00	0.00	6,000.00	6,000.00	6,000.00	6,000.00	6,000.00	6,000.00	6,000.00	42,000.00	42,000.00
	Total Operations Division	22,036.47	35,298.79	115,120.28	35,241.81	28,865.22	19,804.65	19,204.65	19,204.65	19,804.65	19,204.65	20,237.84	20,074.60	374,118.06	344,466.00
	Prior Year Carryover														
10 1570	Unenc Funds	243,698.98	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	243,698.98	208,564.00
	Total Carryover	243,698.98	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	243,698.98	208,564.00
	Taxes														
10 1600	Franchise Tax	36.86	5,418.01	0.00	80,296.28	18,514.26	3,000.00	2,000.00	3,000.00	2,500.00	8,000.00	5,000.00	2,234.59	130,000.00	130,000.00
10 1601	Property Tax	21,801.22	64,422.47	939,060.87	183,254.26	53,132.83	2,700.00	2,700.00	2,700.00	2,700.00	2,700.00	2,000.00	126.32	1,277,298.00	1,277,298.00
10 1602	Sales & Use Tax	15,908.70	15,690.55	15,773.28	19,932.83	22,092.91	16,169.09	8,655.76	8,655.76	8,655.76	8,655.76	8,655.76	8,655.76	157,500.00	157,500.00
	Total Taxes	37,744.78	65,531.03	954,834.13	283,483.50	93,740.00	21,869.09	13,355.76	14,355.76	13,855.76	19,355.76	15,655.76	11,016.67	1,564,798.00	1,564,798.00
	Total Income	323,105.36	141,968.31	1,089,750.42	378,023.70	152,171.66	70,214.06	61,081.43	62,081.43	62,181.43	87,081.43	84,439.62	59,616.19	2,531,715.04	2,466,928.00
	Expense														
	Judicial Branch														
20 8001	Credit Card Fees	268.51	276.16	179.41	0.00	465.71	187.17	187.17	187.17	187.17	187.17	187.17	187.17	2,500.00	2,500.00
20 8006	Jury Panel	0.00	0.00	0.00	0.00	0.00	75.00	0.00	0.00	0.00	0.00	0.00	75.00	150.00	150.00
20 8007	Health Insurance	711.20	707.39	707.39	711.05	707.39	707.39	707.39	707.39	707.39	707.39	707.39	712.24	8,501.00	8,501.00
20 8250	Office Supplies	76.85	139.96	0.00	100.86	224.93	136.83	136.83	136.83	136.83	136.83	136.83	136.82	1,500.00	1,500.00
20 8300	Payroll - Municipal Court Staff	4,109.64	6,211.26	4,278.05	6,460.32	4,239.47	5,439.47	5,439.47	5,439.47	5,439.47	5,439.47	5,439.47	5,439.44	63,373.00	63,373.00
20 8302	Payroll - Judge	337.50	150.00	0.00	412.50	300.00	328.57	328.57	328.57	328.57	328.57	328.57	328.58	3,500.00	3,500.00
20 8303	Payroll - Prosecutor	337.50	150.00	0.00	300.00	300.00	344.64	344.64	344.64	344.64	344.64	344.64	344.86	3,500.00	3,500.00
20 8400	Postal Fees	49.00	0.00	0.00	0.00	0.00	57.29	57.29	57.29	57.29	57.29	57.29	57.26	450.00	450.00
20 8600	Training	0.00	0.00	0.00	0.00	100.00	200.00	200.00	200.00	300.00	200.00	200.00	200.00	1,000.00	1,000.00
	Total Judicial Branch	5,890.00	7,634.79	5,162.85	7,984.53	6,337.50	7,476.36	7,201.36	7,201.36	7,501.36	7,401.36	7,201.36	7,481.17	84,474.00	84,474.00

Account	Oct 2017 Actual	Nov 2017 Actual	Dec 2017 Actual	Jan 2018 Actual	Feb 2018 Actual	Mar 2018 Outlook	Apr 2018 Outlook	May 2018 Outlook	June 2018 Outlook	July 2018 Outlook	Aug 2018 Outlook	Sept 2018 Outlook	FY 2017-2018 TOTAL	FY 2017-2018 Budget
Administration														
30 6010 Advertising & Notices	1,928.20	327.54	0.00	0.00	182.31	365.99	365.99	365.99	365.99	365.99	365.99	366.01	5,000.00	5,000.00
30 6011 Automobile Allowance	200.00	200.00	200.00	300.00	100.00	300.00	100.00	100.00	200.00	200.00	200.00	200.00	2,400.00	2,400.00
30 6015 Building Supplies	58.23	218.84	67.46	145.36	48.99	209.02	209.02	209.02	209.02	209.02	209.01	209.01	2,000.00	2,000.00
30 6021 Cell Phone - Staff	16.19	71.62	71.62	75.62	88.93	88.93	88.93	88.93	88.93	88.93	88.93	88.93	1,000.00	1,000.00
30 6060 Computer (Server/Software)	0.00	16.23	628.23	16.23	16.23	329.84	329.84	329.84	329.84	329.84	329.84	329.85	3,000.00	3,000.00
30 6065 Council Events	450.00	450.00	450.00	450.00	450.00	450.00	450.00	450.00	450.00	450.00	450.00	450.00	800.00	800.00
30 6070 Cleaning	0.00	0.00	0.00	500.00	0.00	500.00	0.00	1,000.00	0.00	0.00	0.00	250.00	5,640.00	5,640.00
30 6080 CPA	15.00	0.00	0.00	10.00	12.50	0.00	0.00	0.00	0.00	0.00	0.00	0.00	2,250.00	2,250.00
30 6081 Drinking Water/Gatorade All	310.00	246.04	233.00	962.15	1,118.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1,000.00	1,000.00
30 6100 Dues & Fees	0.00	0.00	1,055.72	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	2,869.19	2,500.00
30 6101 Elections	2,844.80	2,166.38	2,166.38	2,166.38	2,166.38	3,211.29	3,211.29	3,211.29	3,211.29	3,211.29	3,211.29	3,211.30	34,004.00	34,004.00
30 6103 Health Insurance	805.92	541.50	339.36	0.00	0.00	0.00	1,000.00	0.00	0.00	1,000.00	0.00	1,313.22	5,000.00	5,000.00
30 6104 Community Events	773.02	-339.29	322.56	277.89	157.84	329.71	329.71	329.71	329.71	329.71	329.71	329.72	3,500.00	3,500.00
30 6105 Mileage & Meals	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	500.00	500.00
30 6250 Office Supplies	15,317.30	16,134.22	15,971.14	23,958.71	15,950.40	15,789.89	15,789.89	15,789.89	15,789.89	15,789.89	15,789.89	15,789.89	197,859.00	197,859.00
30 6251 Office Furniture	540.00	550.00	865.00	845.00	1,180.00	488.57	488.57	488.57	488.57	488.57	488.57	488.58	7,500.00	7,500.00
30 6252 Office Equipment	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	250.00	250.00
30 6324 Comm Center Events Coord	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	7,500.00	7,500.00
30 6400 Postal Fees	138.00	138.00	138.00	138.00	154.00	139.14	139.14	139.14	139.14	139.14	139.14	139.14	1,680.00	1,680.00
30 6450 Sales Tax Rebate	0.00	0.00	0.00	7,053.51	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	7,500.00	7,500.00
30 6415 Records Storage	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	3,500.00	3,500.00
30 6500 Website	210.00	0.00	15.00	65.00	30.00	311.43	311.43	311.43	311.43	311.43	311.43	311.43	2,500.00	2,500.00
30 6800 Training	615.01	518.11	399.86	520.64	356.14	356.14	356.14	356.14	356.14	356.14	356.14	356.13	5,000.00	5,000.00
30 7000 Electric	20.53	297.23	20.53	1,480.98	60.43	60.43	60.43	60.43	60.43	60.43	60.43	60.43	3,200.00	3,200.00
30 7002 Natural Gas	521.76	507.35	521.29	505.98	509.77	519.12	519.12	519.12	519.12	519.12	519.12	519.12	6,200.00	6,200.00
30 7003 Telephone	48.22	35.50	37.16	84.73	70.56	70.56	70.56	70.56	70.56	70.56	70.56	70.57	750.00	750.00
30 7004 Water	24,893.58	21,878.32	24,422.36	39,238.47	24,326.35	25,076.22	24,376.22	25,726.22	23,476.22	28,076.22	23,938.71	32,233.30	315,852.19	315,283.00
Total Administration														
Operations Division														
Fire Services														
40 5000 ALS medical Supplies	0.00	0.00	0.00	0.00	0.00	650.00	0.00	0.00	0.00	650.00	0.00	0.00	1,300.00	1,300.00
40 5001 Apparatus Upgrades/Repairs	0.00	0.00	0.00	0.00	130.00	1,250.00	0.00	0.00	1,250.00	0.00	0.00	1,120.00	5,000.00	5,000.00
40 5010 Computer/IT/Printer	0.00	0.00	0.00	0.00	0.00	800.00	0.00	0.00	0.00	0.00	0.00	0.00	1,600.00	1,600.00
40 5002 Equipment Maint and Repair	0.00	794.37	10.00	22.00	0.00	173.63	0.00	0.00	0.00	0.00	0.00	0.00	1,000.00	1,000.00
40 6010 Fuel	313.12	230.44	147.75	303.46	121.75	554.78	554.78	554.78	554.78	554.78	554.78	554.80	5,000.00	5,000.00
40 6120 Fire Marshal Dues & Fees	105.96	106.08	108.08	106.08	106.08	158.53	158.53	158.53	158.53	158.53	158.53	158.54	575.00	575.00
40 6145 Office Furniture	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	250.00	250.00
40 6147 Postal Fees	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	75.00	75.00
40 6148 PPE/Bunker gear	49.98	62.50	0.00	0.00	1,475.02	0.00	0.00	0.00	1,475.02	0.00	0.00	0.00	3,175.00	3,175.00
40 6200 Safety Fire Equipment	0.00	178.60	234.03	0.00	0.00	765.97	0.00	0.00	0.00	0.00	0.00	0.00	2,050.00	2,050.00
40 6201 Fire Hose	0.00	0.00	0.00	0.00	0.00	1,000.00	0.00	1,000.00	0.00	0.00	0.00	250.00	2,250.00	2,250.00
40 6204 NFPA Pump/Ladder EZ	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	500.00	500.00
40 6205 Payroll - Fire/Safety Manager	4,842.16	4,862.16	4,842.16	7,263.24	4,842.16	5,335.59	5,335.59	5,335.59	5,335.59	5,335.59	5,335.59	5,335.58	64,101.00	64,101.00
40 6206 Health Insurance	711.20	707.39	707.39	711.05	707.39	707.39	707.39	707.39	707.39	707.39	707.39	712.24	8,501.00	8,501.00
40 6207 PT Personnel Stipend	1,825.00	1,325.00	0.00	0.00	0.00	6,121.43	6,121.43	6,121.43	6,121.43	6,121.43	6,121.43	6,121.42	46,000.00	46,000.00
40 6208 Uniforms/Graphics	0.00	152.90	76.98	0.00	127.90	223.02	0.00	300.00	0.00	0.00	19.20	0.00	900.00	900.00
40 6209 Cell Phone	52.57	72.27	62.56	38.84	38.84	91.27	91.27	91.27	91.27	91.27	91.27	91.27	900.00	900.00
40 6250 FD Office Supplies	61.24	35.59	33.52	0.00	25.95	274.44	0.00	400.00	106.22	106.22	106.22	106.18	800.00	800.00
40 6261 Travel/Conferences/Meals	21.04	65.81	97.26	211.87	200.79	411.89	411.89	411.89	411.89	411.89	411.89	411.89	1,350.00	1,350.00
40 7000 Electric	46.72	73.91	46.72	73.91	67.82	67.82	67.82	67.82	67.82	67.82	67.82	67.83	3,500.00	3,500.00
40 7001 Natural Gas	29.42	34.40	34.73	28.05	29.86	99.06	99.06	99.06	99.06	99.06	99.06	99.06	800.00	800.00
40 7002 Water	8,114.91	8,794.23	6,399.18	8,909.57	6,559.90	20,266.08	13,654.00	17,275.40	16,566.50	16,329.00	13,673.20	15,573.03	850.00	850.00
Total Fire Service													152,117.00	152,117.00
Police Department														
40 6015 Audio Visual	0.00	0.00	0.00	0.00	482.91	0.00	600.00	0.00	0.00	0.00	107.09	0.00	1,800.00	1,800.00
40 6018 Body Armor	0.00	0.00	0.00	0.00	0.00	1,250.00	0.00	0.00	0.00	1,250.00	0.00	0.00	2,500.00	2,500.00
40 6019 Ballistic Helmet	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	500.00	0.00	0.00	0.00	500.00	500.00
40 6021 Cell Phone Staff	660.19	537.36	558.96	503.17	452.80	512.59	512.59	512.59	512.59	512.59	512.59	512.59	6,300.00	6,300.00
40 6050 Child Abuse Interfocal	0.00	1,500.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1,500.00	1,500.00
40 6055 Cleaning	350.00	350.00	350.00	350.00	350.00	350.00	350.00	350.00	350.00	350.00	350.00	350.00	4,200.00	4,200.00
40 6061 Computers	0.00	0.00	0.00	0.00	220.25	182.82	182.82	182.82	182.82	182.82	182.82	182.83	1,500.00	1,500.00
40 6070 Crime Prevention	0.00	108.64	0.00	0.00	108.64	227.86	227.86	227.86	227.86	227.86	227.86	227.86	1,800.00	1,800.00
40 6071 Database Services	30.00	30.00	30.00	30.00	30.00	307.14	307.14	307.14	307.14	307.14	307.14	307.16	2,300.00	2,300.00

Account	Oct 2017 Actual	Nov 2017 Actual	Dec 2017 Actual	Jan 2018 Actual	Feb 2018 Actual	Mar 2018 Outlook	Apr 2018 Outlook	May 2018 Outlook	June 2018 Outlook	July 2018 Outlook	Aug 2018 Outlook	Sept 2018 Outlook	FY 2017-2018 TOTAL	FY 2017-2018 Budget
40 6072	0.00	10,032.85	0.00	10,032.85	0.00	0.00	10,032.85	0.00	0.00	10,032.85	0.60	0.00	40,132.00	40,132.00
40 6102	0.00	0.00	0.00	0.00	0.00	85.71	85.71	85.71	85.71	85.71	85.71	85.71	600.00	600.00
40 6140	0.00	598.00	0.00	0.00	18.94	340.15	340.15	340.15	340.15	340.15	340.15	340.16	3,000.00	3,000.00
40 6141	50.36	54.95	0.00	472.00	0.00	278.00	0.00	0.00	0.00	0.00	0.00	0.00	1,500.00	1,500.00
40 6143	4,289.83	4,305.94	4,305.94	4,342.54	4,305.94	7,849.83	7,849.83	7,849.83	7,849.83	7,849.83	7,849.83	7,849.83	76,509.00	76,509.00
40 6150	0.00	0.00	0.00	346.95	0.00	64.43	64.43	64.43	64.43	64.43	64.43	64.43	800.00	800.00
40 6146	0.00	11.12	0.00	0.00	0.00	200.00	0.00	0.00	0.00	0.00	200.00	138.88	750.00	750.00
40 6160	380.08	278.87	278.87	278.91	278.91	213.47	213.47	213.47	213.47	213.47	213.47	213.47	3,000.00	3,000.00
40 6252	2.82	39.82	17.24	99.40	279.98	80.10	80.10	80.10	80.10	80.10	80.10	80.13	1,000.00	1,000.00
40 6253	108.99	235.12	72.13	161.83	250.22	310.24	310.24	310.24	310.24	310.24	310.24	310.27	3,000.00	3,000.00
40 6255	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	500.00	500.00
40 6300	35,237.50	37,735.64	34,337.61	52,729.48	37,755.89	38,480.27	38,480.27	38,480.27	38,480.27	38,480.27	38,480.27	38,480.26	467,158.00	467,158.00
40 6350	0.00	0.00	0.00	0.00	0.00	357.14	357.14	357.14	357.14	357.14	357.14	357.16	2,500.00	2,500.00
40 6400	6.48	33.72	68.93	9.91	100.00	54.42	54.42	54.42	54.42	54.42	54.42	54.44	600.00	600.00
40 6451	0.00	0.00	0.00	0.00	0.00	2,500.00	0.00	0.00	0.00	2,500.00	0.00	0.00	5,000.00	5,000.00
40 6453	1,800.00	0.00	0.00	0.00	1,500.00	0.00	0.00	0.00	0.00	0.00	0.00	200.00	3,500.00	3,500.00
40 6501	641.48	0.00	0.00	0.00	0.00	1,500.00	0.00	0.00	1,358.52	0.00	0.00	0.00	3,500.00	3,500.00
40 6502	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	500.00	500.00
40 6650	9,600.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	9,600.00	9,600.00
40 6801	1,407.50	0.00	4.43	200.00	57.23	547.26	547.26	547.26	547.26	547.26	547.26	547.26	5,000.00	5,000.00
40 6850	106.43	0.00	0.00	0.00	0.00	699.08	699.08	699.08	699.08	699.08	699.08	699.09	5,000.00	5,000.00
40 6900	50.00	25.00	25.00	10.00	30.00	51.43	51.43	51.43	51.43	51.43	51.43	51.42	500.00	500.00
40 6903	1,764.20	1,482.30	1,679.82	2,840.60	1,538.16	1,242.13	1,242.13	1,242.13	1,242.13	1,242.13	1,242.13	1,242.13	18,000.00	18,000.00
40 6904	117.73	566.00	978.91	340.72	129.00	428.57	428.57	428.57	428.57	428.57	428.57	428.58	10,000.00	10,000.00
40 6950	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	3,000.00	3,000.00
40 7025	2.66	320.41	308.66	429.24	401.32	362.39	362.39	362.39	362.39	362.39	362.39	362.38	4,000.00	4,000.00
40 7027	457.05	457.05	457.05	456.46	456.46	602.28	602.28	602.28	602.28	602.28	602.28	602.25	6,500.00	6,500.00
40 7028	37.37	28.65	28.65	29.26	28.65	35.23	35.23	35.23	35.23	35.23	35.23	35.27	400.00	400.00
Total Police Department	57,120.67	58,724.21	43,500.96	73,985.32	48,773.05	60,236.20	65,143.05	55,110.20	57,213.41	68,793.05	54,817.88	54,849.30	698,449.00	698,349.00
Public Works														
40 5980	0.00	0.00	0.00	0.00	0.00	42.86	42.86	42.86	42.86	42.86	42.86	42.84	300.00	300.00
40 6022	150.74	134.07	150.90	138.55	137.58	184.02	184.02	184.02	184.02	184.02	184.03	184.03	2,000.00	2,000.00
40 6051	3,269.24	3,269.24	3,269.24	4,903.86	3,269.24	3,502.74	3,502.74	3,502.74	3,502.74	3,502.74	3,502.74	3,502.74	42,500.00	42,500.00
40 6104	0.00	0.00	0.00	0.00	0.00	142.86	142.86	142.86	142.86	142.86	142.86	142.84	1,000.00	1,000.00
40 6105	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	2,500.00	2,500.00
40 6106	0.00	0.00	0.00	0.00	0.00	142.86	142.86	142.86	142.86	142.86	142.86	142.84	1,000.00	1,000.00
40 6155	1,350.00	78.00	0.00	0.00	0.00	1,581.71	1,581.71	1,581.71	1,581.71	1,581.71	1,581.71	1,581.71	12,500.00	12,500.00
40 6156	1,069.34	112.63	182.86	1,089.34	0.00	800.77	800.77	800.77	800.77	800.77	800.77	800.73	7,000.00	7,000.00
40 6200	2,126.41	2,114.98	2,114.98	2,125.96	2,114.98	2,129.38	2,129.38	2,129.38	2,129.38	2,129.38	2,129.38	2,129.41	25,503.00	25,503.00
40 6265	0.00	37.35	0.00	52.36	0.00	300.00	0.00	0.00	0.00	287.13	0.00	0.00	1,000.00	1,000.00
40 6267	0.00	0.00	100.00	82.97	417.62	0.00	500.00	0.00	0.00	0.00	399.41	0.00	1,500.00	1,500.00
40 6270	42.00	0.00	15.49	0.00	51.55	127.28	127.28	127.28	127.28	127.28	127.28	127.28	1,000.00	1,000.00
40 6302	8,232.00	8,432.00	8,232.00	12,305.70	8,684.42	9,020.70	9,020.70	9,020.70	9,020.70	9,020.70	9,020.69	9,020.69	109,031.00	109,031.00
40 6306	0.00	0.00	0.00	0.00	0.00	285.71	285.71	285.71	285.71	285.71	285.71	285.74	2,000.00	2,000.00
40 6545	0.00	0.00	0.00	0.00	0.00	100.00	0.00	0.00	0.00	100.00	0.00	0.00	500.00	500.00
40 6550	0.00	0.00	0.00	0.00	0.00	981.58	981.58	981.58	981.58	981.58	981.58	981.57	7,100.00	7,100.00
40 6700	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	300.00	300.00
40 6701	477.63	3,968.84	3,725.19	3,725.19	5,473.78	4,147.05	4,147.05	4,147.05	4,147.05	4,147.05	4,147.05	4,147.07	48,000.00	48,000.00
40 6703	0.00	0.00	0.00	1,996.00	0.00	1,480.00	1,480.00	1,480.00	1,480.00	1,480.00	1,480.00	1,480.00	33,750.00	33,750.00
40 6749	0.00	0.00	0.00	0.00	0.00	313.83	313.83	313.83	313.83	313.83	313.83	313.83	11,100.00	11,100.00
40 6750	0.00	315.79	235.25	785.00	3.10	720.72	720.72	720.72	720.72	720.72	720.72	720.68	3,500.00	3,500.00
40 6802	300.00	0.00	0.00	0.00	0.00	88.49	88.49	88.49	88.49	88.49	88.49	88.49	7,000.00	7,000.00
40 6851	0.00	464.93	169.85	264.76	495.00	66.49	66.49	66.49	66.49	66.49	66.49	66.49	2,000.00	2,000.00
40 6905	231.16	348.59	263.89	540.82	633.37	633.37	633.37	633.37	633.37	633.37	633.37	633.34	6,000.00	6,000.00
40 6906	176.97	103.70	25.00	61.72	9.68	517.53	517.53	517.53	517.53	517.53	517.53	517.55	4,000.00	4,000.00
40 6901	650.00	650.00	650.00	650.00	650.00	650.00	650.00	650.00	650.00	650.00	650.00	650.00	7,800.00	7,800.00
40 6911	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	3,000.00	3,000.00
40 6914	0.00	0.00	0.00	0.00	0.00	500.00	500.00	500.00	500.00	500.00	500.00	500.00	500.00	500.00
Total Public Works	16,105.49	20,500.12	19,134.47	28,406.79	22,516.39	32,427.75	33,397.75	36,327.75	32,127.75	32,784.88	33,427.75	32,227.70	341,384.00	330,284.00
Other Expenses														
Multi-year Commitments														
EDC Tax Note	0.00	0.00	0.00	0.00	12,832.81	0.00	0.00	0.00	0.00	0.00	632.94	0.00	13,465.75	13,465.75
Fire Engine 2013 Spartan	0.00	0.00	0.00	22,501.41	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	22,502.00	22,502.00
Fire Marshal Vehicle	0.00	0.00	0.00	12,802.67	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	12,803.00	12,803.00
Copier Maint Contract	299.38	278.31	365.17	295.35	416.50	449.32	449.32	449.32	449.32	449.32	449.32	449.37	4,600.00	4,600.00

Account	Oct 2017 Actual	Nov 2017 Actual	Dec 2017 Actual	Jan 2018 Actual	Feb 2018 Actual	Mar 2018 Outlook	Apr 2018 Outlook	May 2018 Outlook	June 2018 Outlook	July 2018 Outlook	Aug 2018 Outlook	Sept 2018 Outlook	FY 2017-2018 TOTAL	FY 2017-2018 Budget
50 8013	476.46	0.00	0.00	476.46	0.00	0.00	476.00	0.00	0.00	475.48	0.00	0.00	1,904.40	1,904.00
50 8015	0.00	0.00	0.00	8,694.87	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.13	8,695.00	8,695.00
50 8016	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
40 8608	0.00	0.00	0.00	0.00	0.00	4,993.00	0.00	0.00	0.00	0.00	0.00	0.00	4,993.00	4,993.00
50 8014	0.00	0.00	6,338.14	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	6,338.14	6,338.00
50 8019	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	16,693.00	0.00	16,693.00	16,693.00
50 8017	0.00	0.00	0.00	4,377.42	0.00	0.00	0.00	0.00	0.00	0.00	0.00	13,622.59	18,000.00	18,000.00
50 8014	0.00	0.00	0.00	2,365.36	0.00	0.00	0.00	0.00	0.00	0.00	0.00	7,634.64	10,000.00	10,000.00
50 8018	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	18,042.00	0.00	18,042.00	18,042.00
	775.84	278.31	6,703.31	51,503.54	13,249.31	5,412.32	925.32	449.32	449.32	924.80	35,817.26	21,707.64	138,196.29	138,196.00
50 8112	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	5,800.00	5,800.00
50 8113	0.00	0.00	0.00	0.00	337.64	0.00	0.00	0.00	0.00	0.00	0.00	10,692.16	11,000.00	11,000.00
50 8114	0.00	9,750.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	38,250.00	48,000.00	48,000.00
50 8100	375.00	148.48	94.45	321.34	1,123.29	1,133.92	1,133.92	1,133.92	1,133.92	1,133.92	1,133.92	1,133.92	10,000.00	10,000.00
50 8101	0.00	308.00	513.34	60.89	0.00	0.00	0.00	0.00	0.00	0.00	0.00	9,117.77	10,000.00	10,000.00
	375.00	10,206.48	607.79	382.23	1,481.13	1,133.92	1,133.92	1,133.92	1,133.92	1,133.92	1,133.92	64,963.85	84,800.00	84,800.00
50 8200	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	150,000.00	0.00	150,000.00	150,000.00
50 8203	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	87,417.00	87,417.00	87,417.00
50 8204	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	48,909.00	0.00	48,909.00	48,909.00
50 8207	0.00	0.00	0.00	0.00	0.00	20,000.00	0.00	0.00	0.00	0.00	0.00	0.00	20,000.00	20,000.00
	0.00	0.00	0.00	0.00	0.00	20,000.00	0.00	0.00	0.00	0.00	198,909.00	87,417.00	306,326.00	306,326.00
50 8300	442.33	442.33	442.33	442.33	442.33	748.33	748.33	748.33	748.33	748.33	748.33	748.37	7,450.00	7,450.00

Account	Oct 2017 Actual	Nov 2017 Actual	Dec 2017 Actual	Jan 2018 Actual	Feb 2018 Actual	Mar 2018 Outlook	Apr 2018 Outlook	May 2018 Outlook	June 2018 Outlook	July 2018 Outlook	Aug 2018 Outlook	Sept 2018 Outlook	FY 2017-2018 TOTAL	FY 2017-2018 Budget
50 8301	236.67	236.67	236.67	236.67	236.67	236.67	236.67	236.67	236.67	236.67	236.67	716.63	3,320.00	3,320.00
50 8302	159.67	159.67	159.67	159.67	159.67	159.67	159.67	159.67	159.67	159.67	159.67	159.63	1,915.00	1,915.00
50 8303	80.75	80.75	80.75	80.75	80.75	80.75	80.75	80.75	80.75	80.75	80.75	121.75	1,010.00	1,010.00
50 8305	597.00	597.00	597.00	597.00	597.00	597.00	597.00	597.00	597.00	597.00	597.00	987.00	7,564.00	7,564.00
50 8306	42.42	42.42	42.42	42.42	42.42	42.42	42.42	42.42	42.42	42.42	42.42	133.38	600.00	600.00
50 8307	321.08	321.08	321.08	321.08	321.08	321.08	321.08	321.08	321.08	321.08	321.08	1,468.12	5,000.00	5,000.00
50 8308	1,715.50	1,715.50	1,715.50	1,715.50	1,715.50	1,715.50	1,715.50	1,715.50	1,715.50	1,715.50	1,715.50	2,574.90	21,500.00	21,500.00
	3,595.42	3,595.42	3,595.42	3,595.42	3,650.02	3,901.42	3,901.42	3,901.42	3,901.42	3,901.42	3,901.42	6,918.76	48,359.00	48,359.00
50 8400	3,341.59	0.00	0.00	3,341.59	0.00	0.00	3,341.59	0.00	0.00	3,341.59	0.00	479.64	13,846.00	13,846.00
50 8401	1,562.50	0.00	0.00	1,562.50	0.00	0.00	1,562.50	0.00	0.00	1,562.50	0.00	0.00	6,250.00	6,250.00
50 8402	0.00	4,100.00	0.00	0.00	1,864.00	4,100.00	0.00	4,936.00	0.00	0.00	0.00	0.00	15,000.00	15,000.00
50 8403	0.00	2,114.00	0.00	0.00	2,114.00	0.00	0.00	1,999.00	0.00	0.00	1,769.00	0.00	7,986.00	7,986.00
50 8404	1,404.80	5,169.23	5,047.75	2,404.29	2,288.34	3,383.65	3,383.65	3,383.65	3,383.65	3,383.65	3,383.65	3,383.69	40,000.00	40,000.00
50 8405	712.50	-700.14	652.50	290.00	907.50	2,591.09	2,591.09	2,591.09	2,591.09	2,591.09	2,591.09	2,591.10	20,000.00	20,000.00
50 8406	0.00	0.00	0.00	194.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	6.00	200.00	200.00
50 8407	1,527.77	1,527.77	1,704.51	1,704.51	1,787.00	1,964.06	1,964.06	1,964.06	1,964.06	1,964.06	1,964.06	1,964.08	22,000.00	22,000.00
50 8408	0.00	0.00	1,218.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	282.00	1,500.00	1,500.00
50 8409	2,800.00	7,100.00	0.00	1,300.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	11,200.00	4,000.00
50 9410	107.37	108.35	108.35	225.63	219.66	90.09	90.09	90.09	90.09	90.09	90.09	80.10	1,400.00	1,400.00
50 8412	0.00	0.00	0.00	0.00	0.00	3,571.43	3,571.43	3,571.43	3,571.43	3,571.43	3,571.43	3,571.42	25,000.00	25,000.00
50 8414	0.00	0.00	0.00	0.00	5,002.50	0.00	0.00	0.00	0.00	0.00	0.00	0.00	5,002.50	5,000.00
50 8415	0.00	0.00	0.00	0.00	0.00	2,000.00	3,015.00	0.00	0.00	0.00	0.00	0.00	5,015.00	5,015.00
50 8416	0.00	0.00	0.00	0.00	0.00	8,000.00	8,000.00	8,000.00	8,000.00	8,000.00	8,000.00	8,000.00	16,000.00	16,000.00
	11,456.53	19,419.21	8,731.11	11,022.52	14,183.00	25,700.32	19,519.41	18,535.32	11,800.32	24,504.41	13,369.32	12,388.03	190,409.50	183,207.00
Payroll Taxes														
50 6500	4,136.00	4,488.42	4,087.56	6,232.98	4,414.85	4,730.31	4,730.31	4,730.31	4,730.31	4,730.31	4,730.31	4,730.33	56,452.00	56,452.00
50 8501	967.34	1,045.01	955.93	1,457.72	1,032.50	1,106.35	1,106.35	1,106.35	1,106.35	1,106.35	1,106.35	1,106.40	13,203.00	13,203.00
50 8502	3,722.31	3,891.33	3,714.40	5,819.30	4,119.96	4,430.10	4,430.10	4,430.10	4,430.10	4,430.10	4,430.10	4,430.10	52,378.00	52,378.00
50 8503	6.74	5.22	2.07	100.83	49.04	476.58	476.58	476.58	476.58	476.58	476.58	476.62	3,500.00	3,500.00
	8,632.39	9,506.98	8,759.96	13,610.83	9,616.35	10,743.34	10,743.34	10,743.34	10,743.34	10,743.34	10,743.34	10,743.45	125,533.00	125,533.00
Total Expenses	139,149.83	160,541.07	127,017.11	238,319.22	150,673.00	212,375.93	179,985.79	176,404.25	164,713.56	192,592.40	996,532.57	346,495.25	2,485,699.98	2,485,699.98
Estimated Bank Balance					1,260,357.47	1,118,195.60	999,261.24	884,958.42	762,426.29	656,916.32	324,423.37	37,553.31		

**CITY OF LAVON  
BUILDING PERMITS  
CALENDAR YEAR 2017-2018**

PERMITS	February - 18	Calendar Year 2018	February - 17	Calendar Year 2017
	NUMBER	NUMBER	NUMBER	NUMBER
COMMERCIAL	1	2	0	2
SINGLE FAMILY	7	9	1	13
POOLS	0	1	0	0
OTHERS	7	36	9	13
<b>TOTAL</b>	<b>26</b>	<b>48</b>	<b>10</b>	<b>28</b>

**Kenneth L. Maun  
Tax Assessor Collector  
Collin County  
2300 Bloomdale Rd  
P.O. Box 8046  
McKinney, Texas 75070  
972- 547-5020  
Metro 424-1460 Ext.5020  
Fax 972-547-5040**

**March 12, 2018**

**Mayor Chuck Teske  
City of Lavon  
P. O. Box 340  
Lavon, Texas 75166**

**Dear Mayor Teske,**

**Enclosed is the Monthly Collection Report for:  
The City of Lavon tax collections for the month were:**

**February 2018  
\$41,886.54**

**Sincerely,**



**Kenneth L. Maun  
Tax Assessor Collector**

**Attachment**

**cc: Kim Dobbs, City Administrator/City Secretary**

**KM:ds**

**RECEIVED  
MAR 13 2018  
CITY OF LAVON**

Kenneth L Maun  
 Tax Assessor/Collector  
 Collin County  
 P O Box 8046  
 McKinney Tx 75070

Monthly Collection Status Report  
 February 2018

City of Lavon #18

	Collections Month of February	Cumulative Total 10/1/17 thru 2/28/18	% of Collections
<b>Current Tax Year Collections</b>			
Base M&O	\$37,200.38	\$1,195,446.40	99.04%
Base I&S	1,977.38	\$63,543.75	
Late Rendition Penalty	21.74	\$130.29	
P&I M&O	503.50	\$503.50	
P&I I&S	26.75	\$26.75	
P&I I&S Bond			
Attorney Fee	0.00	\$0.00	
<b>Subtotal</b>	<b>\$39,729.73</b>	<b>\$1,259,650.89</b>	<b>99.10%</b>
<b>Delinquent Tax Years Collections</b>			
Base M&O	\$1,222.71	\$1,735.58	
Base I&S	42.51	\$74.90	
Late Rendition Penalty	0.00	\$0.00	
P&I M&O	870.80	\$1,067.93	
P&I I&S	20.79	\$34.37	
P&I I&S Bond			
Attorney Fee	492.02	\$635.98	
		0.00	
<b>Subtotal</b>	<b>\$2,648.83</b>	<b>\$3,548.78</b>	<b>0.28%</b>
<b>Combined Current &amp; Delinquent:</b>			
Base M&O	\$38,423.09	\$1,197,181.98	
Base I&S	\$2,019.87	\$63,618.65	
Late Rendition Penalty	21.74	130.29	
P&I M&O	1,374.30	1,571.43	
P&I I&S	47.54	61.12	
P&I I&S Bond			
Attorney Fee	492.02	635.98	
		0.00	
<b>Total Collections</b>	<b>\$42,378.56</b>	<b>\$1,263,199.45</b>	<b>99.38%</b>
<b>Original 2017 Tax Levy</b>		<b>\$1,271,141.41</b>	<b>100.00%</b>

Kenneth L Maun  
 Tax Assessor/Collector  
 Collin County  
 P O Box 8046  
 McKinney Tx 75070

Cumulative Comparative Collection Status Report  
 February 2018

City of Lavon #18

	Collections thru February 2018		Collections thru February 2017	
		% Collections		% Collections
<b>Current Tax Year Collections</b>				
Base M&O	\$1,258,990.15	99.04%	\$1,128,193.13	97.56%
Late Renditon Penalty	130.29		75.16	
P&I M&O	530.25		637.43	
Attorney Fee	0.00		0.00	
Subtotal	<u>\$1,259,650.69</u>	99.10%	<u>\$1,128,905.72</u>	97.62%
<b>Delinquent Tax Years Collections</b>				
Base M&O	\$1,810.48		\$466.65	
Late Renditon Penalty	0.00		0.00	
P&I M&O	1,102.30		200.87	
Attorney Fee	635.98		145.99	
Other Fees	0.00		0.00	
Subtotal	<u>\$3,548.76</u>	0.28%	<u>\$813.51</u>	0.07%
<b>Combined Current &amp; Delinquent:</b>				
Base M&O	\$1,260,800.63		\$1,128,659.78	
P&I M&O	1,632.55		638.30	
Late Rendition Penalty	130.29		75.16	
Attorney Fee	635.98		145.99	
Total Collections	<u>\$1,263,199.45</u>	99.38%	<u>\$1,129,719.23</u>	97.69%
Adjusted 2016 Tax Levy			<u>\$1,156,398.66</u>	100.00%
Original 2017 Tax Levy	<u>\$1,271,141.41</u>	100.00%		

Kenneth L. Maun  
 Tax Assessor/Collector  
 Collin County  
 P O Box 8046  
 McKinney Tx 75070

Levy Outstanding Status Report  
 February 2018

City of Lavon #18

	Current Tax Year	Delinquent Tax Years
<b>Current Month:</b>		
Tax Levy Remaining as of 1/31/18	\$71,887.07	13,113.50
Base M&O Collections	39,177.74	1,265.22
Supplement/Adjustments	-\$546.84	-\$352.46
Write-Off	0.00	0.00
<b>Remaining Levy as of 2/28/18</b>	<b><u>\$31,942.49</u></b>	<b><u>\$11,495.82</u></b>
<b>Cumulative (From 10/01/17 thru 2/28/18)</b>		
Original 2017 Tax Levy (as of 10/01/17)	\$1,271,141.41	14,047.11
Base M&O Collections	1,258,990.15	1,810.48
Supplement/Adjustments	19,791.23	-740.81
Write-Off	0.00	0.00
<b>Remaining Levy as of 2/28/18</b>	<b><u>\$31,942.49</u></b>	<b><u>\$11,495.82</u></b>

Kenneth L. Maun  
 Tax Assessor/Collector  
 Collin County  
 P O Box 8048  
 McKinney Tx 75070

Monthly Distribution Report  
 February 2018

City of Lavon #18

	Distribution Month of February	Distribution 10/1/17 thru 2/28/18
<b>Weekly Remittances:</b>		
Week Ending 2/2/18	\$11,459.81	\$60,425.86
Week Ending 2/9/18	\$22,245.37	\$101,714.17
Week Ending 2/15/18	\$0.00	\$734,305.95
Week Ending 2/23/18	\$5,304.30	\$296,196.23
Week Ending 2/28/18	\$2,676.98	\$79,711.62
<b>Total Weekly Remittances</b>	<b>\$41,885.46</b>	<b>\$1,262,353.83</b>
Overpayment from Prior Month	\$0.00	\$203.13
Manual Adjustment Refund	\$0.00	\$0.00
Commission Paid Delinquent Attorney	\$482.02	\$635.98
Entity Collection Fee	\$0.00	\$0.00
Judgement Interest	\$0.00	\$0.00
5% CAD Rendition Penalty	\$1.06	\$6.51
<b>Total Disbursements</b>	<b>\$42,378.56</b>	<b>\$1,263,199.45</b>
Carryover to Next Month	\$0.00	\$0.00

**2833 - Lavon, City of (General Obligation Debt)**  
**Report - Lavon, City of (General Obligation Debt) / Sales Tax Data**

The Charts below contain sales tax revenue allocated each month by the State Comptroller. For example, the February allocations reflect December sales, collected in January and allocated in February.  
 \*Excludes any sales tax retained by the municipality and not remitted to the Comptroller.

- View Grid Based on Fiscal Year
- View Grid With All Years

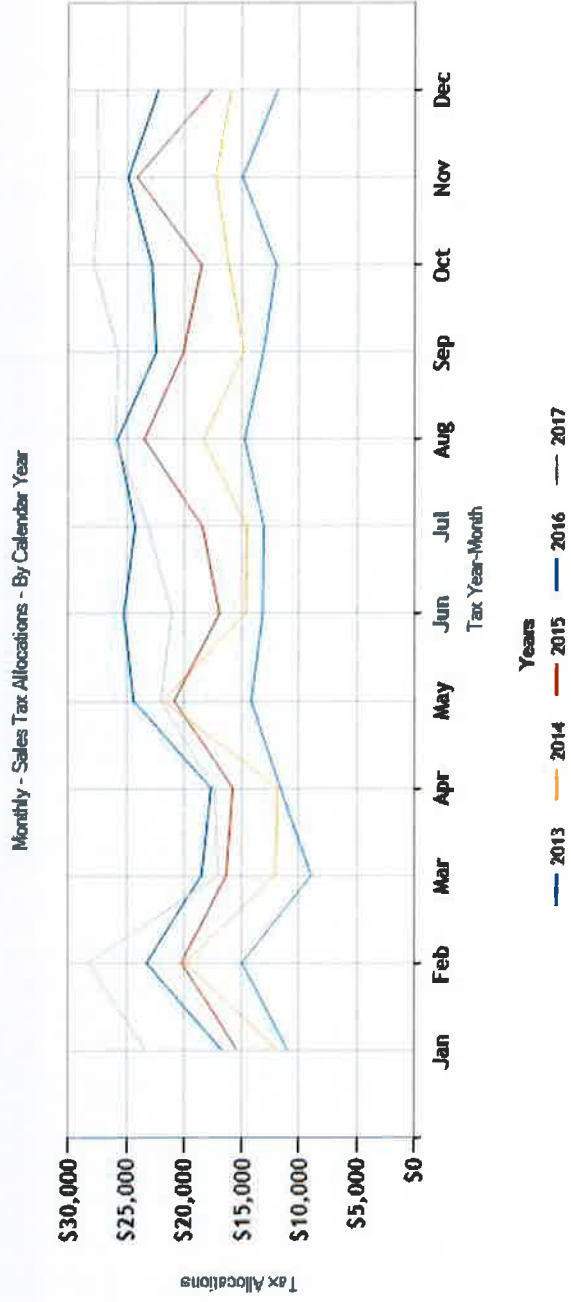
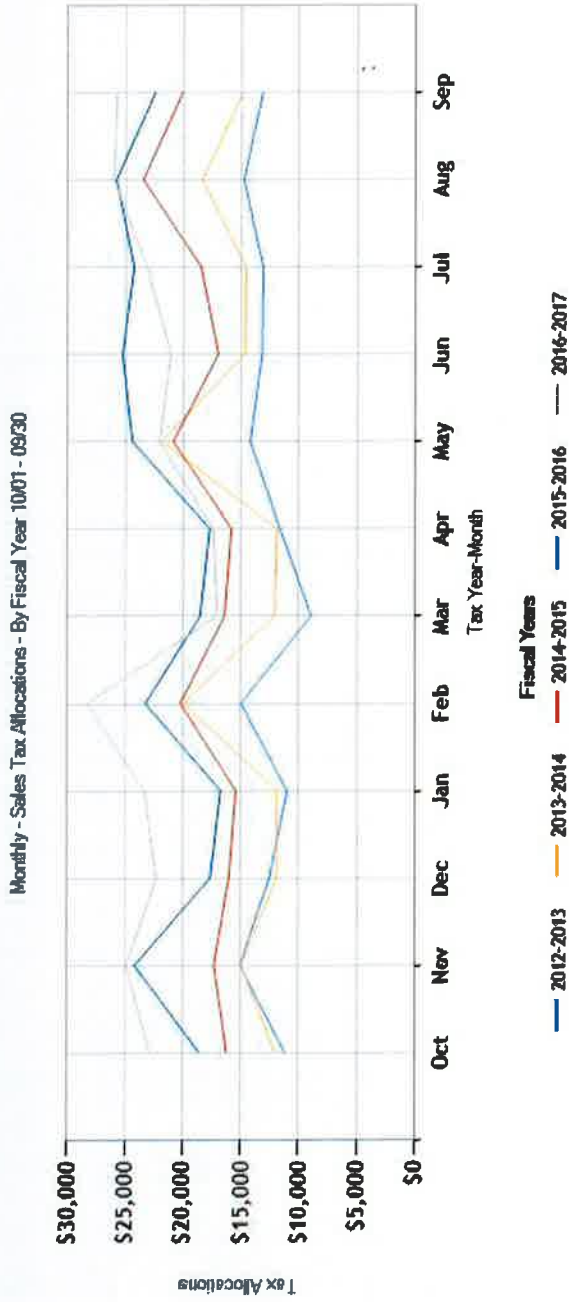
 Download to Excel

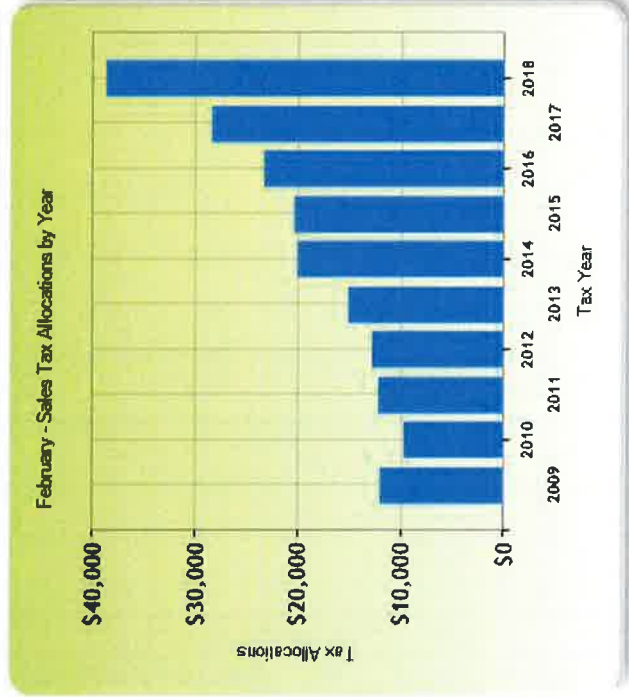
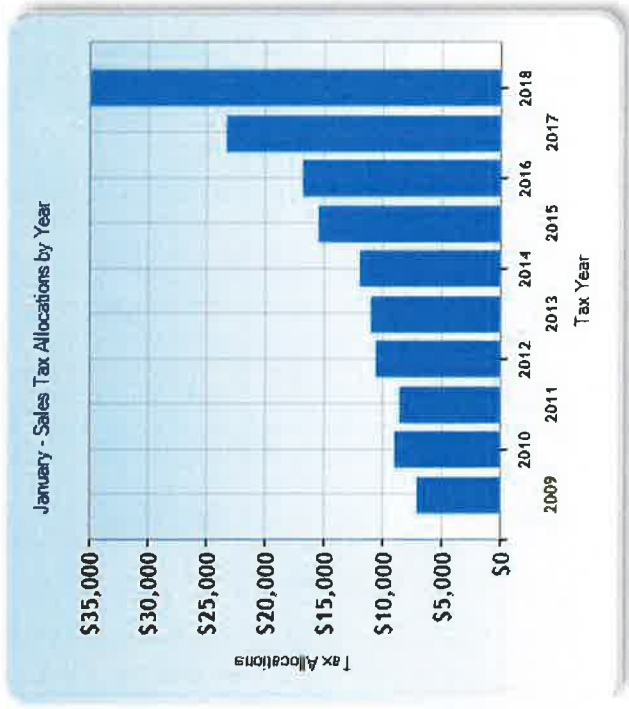
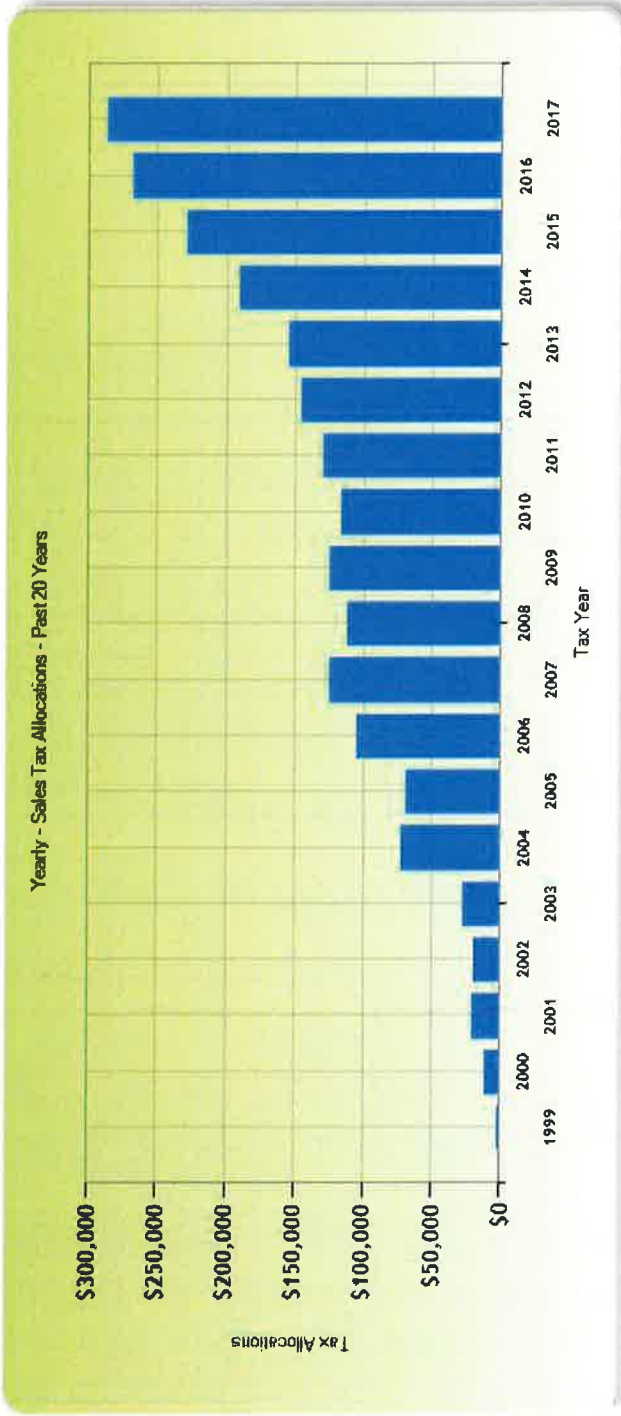
**By Calendar Year**

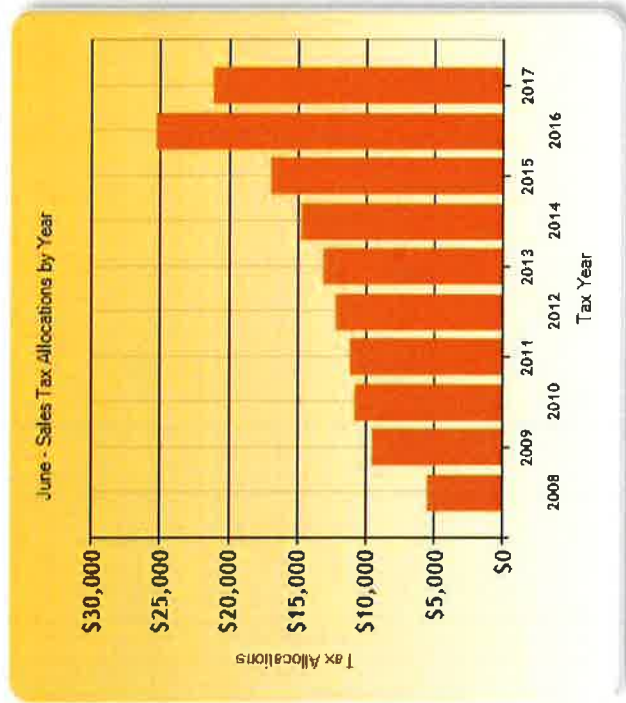
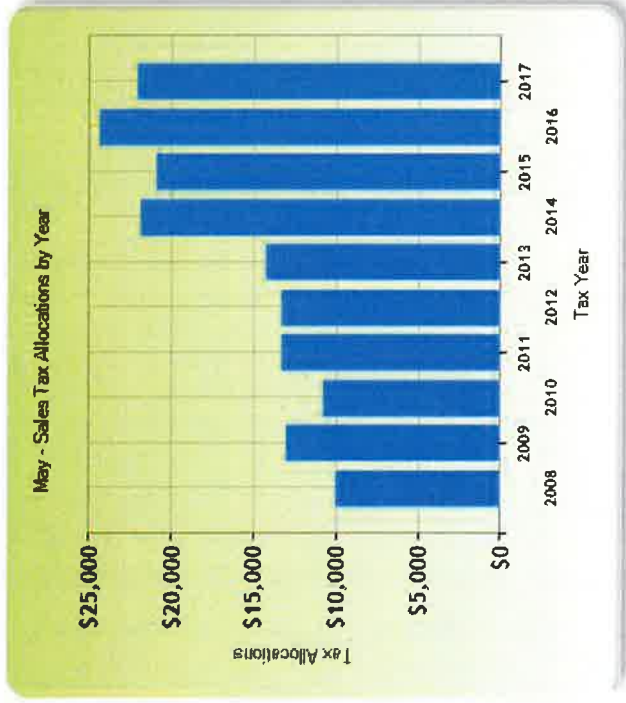
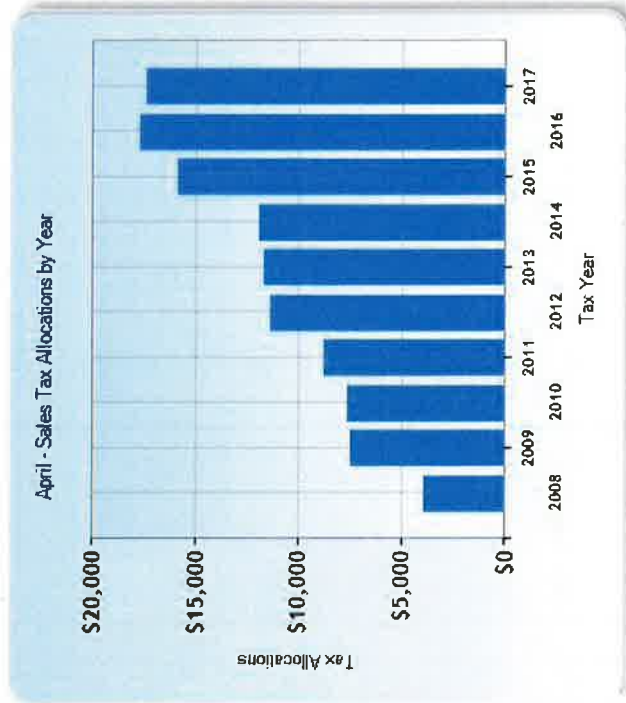
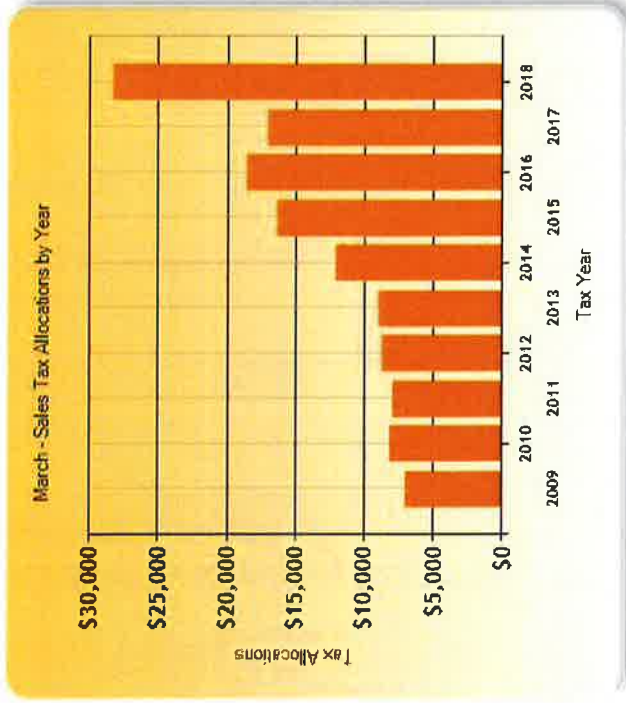
Year	January	February	March	April	May	June	July	August	September	October	November	December	Total
2018	\$34,883	\$38,663	\$28,296	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$101,841
2017	\$23,334	\$28,270	\$17,054	\$17,410	\$22,051	\$21,074	\$23,146	\$25,990	\$25,733	\$27,837	\$27,458	\$27,603	\$286,962
2016	\$16,738	\$23,265	\$18,517	\$17,691	\$24,381	\$25,242	\$24,250	\$25,789	\$22,468	\$22,849	\$24,877	\$22,304	\$268,372
2015	\$15,458	\$20,264	\$16,418	\$15,845	\$20,890	\$16,999	\$18,497	\$23,514	\$20,100	\$18,554	\$24,151	\$17,624	\$228,313
2014	\$11,898	\$19,981	\$12,109	\$11,920	\$21,846	\$14,703	\$14,625	\$18,397	\$14,846	\$16,213	\$17,336	\$16,025	\$189,898
2013	\$10,998	\$14,996	\$8,945	\$11,649	\$14,195	\$13,186	\$13,097	\$14,801	\$13,139	\$12,032	\$14,975	\$11,935	\$153,947
2012	\$10,525	\$12,667	\$8,695	\$11,343	\$13,292	\$12,186	\$12,749	\$13,134	\$11,847	\$11,166	\$15,054	\$12,518	\$145,177
2011	\$8,568	\$12,089	\$7,877	\$8,777	\$13,275	\$11,177	\$9,920	\$13,226	\$10,718	\$9,075	\$15,224	\$9,414	\$129,340
2010	\$8,985	\$9,570	\$8,152	\$7,584	\$10,791	\$10,820	\$10,174	\$12,293	\$8,167	\$8,990	\$10,146	\$10,217	\$115,889
2009	\$7,074	\$12,022	\$7,044	\$7,416	\$13,001	\$9,537	\$9,769	\$10,693	\$13,639	\$11,983	\$12,813	\$9,335	\$124,325

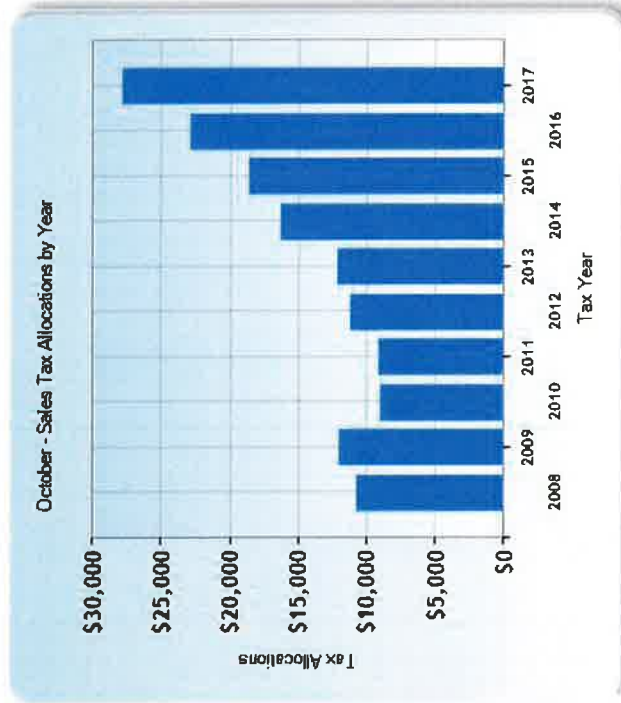
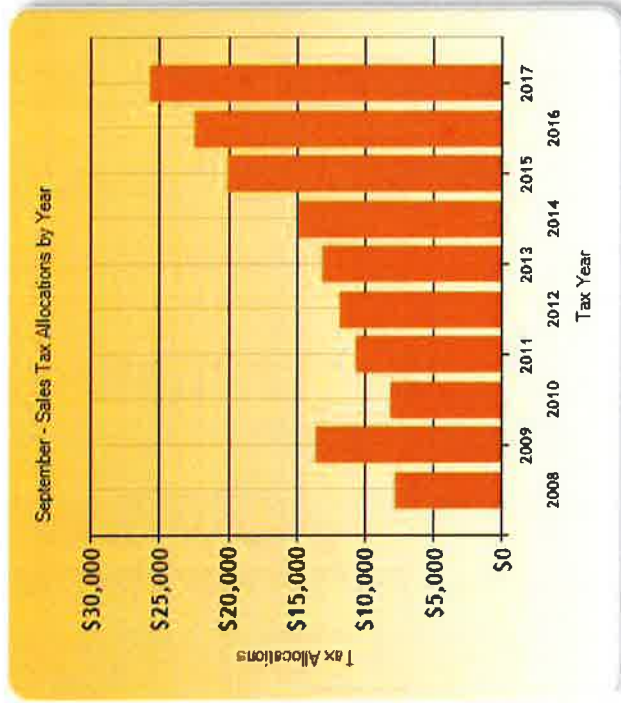
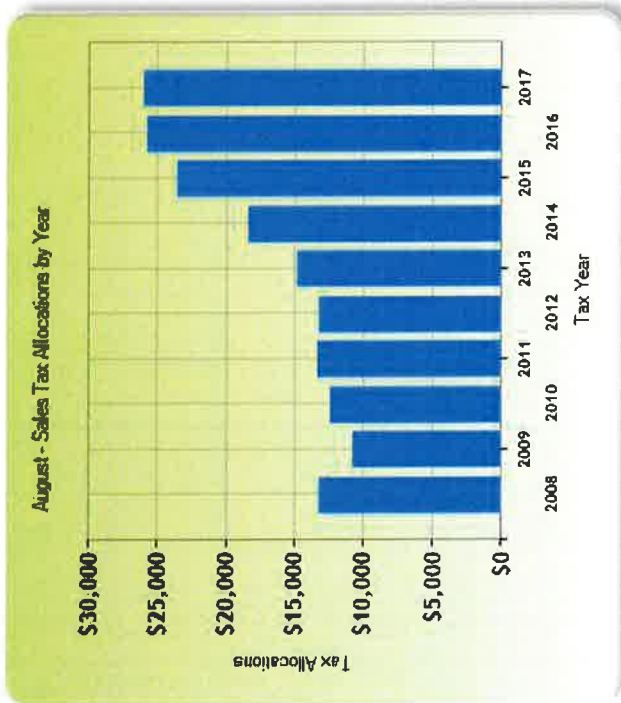
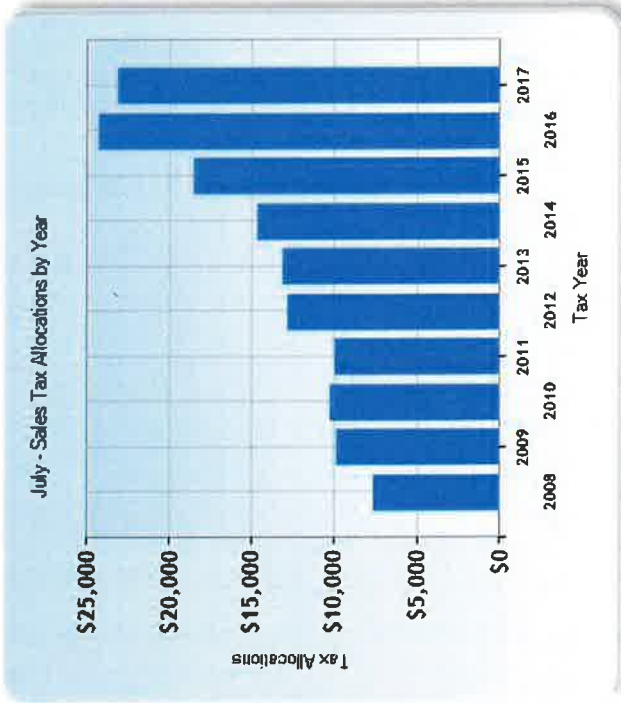
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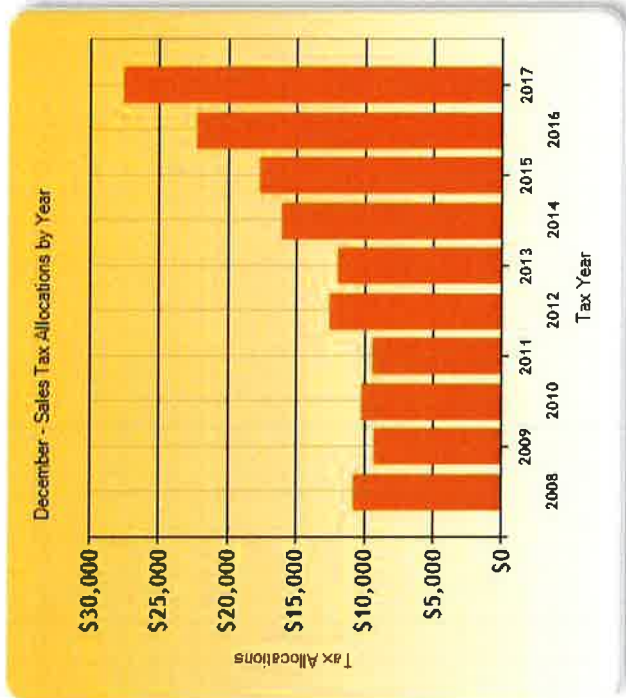
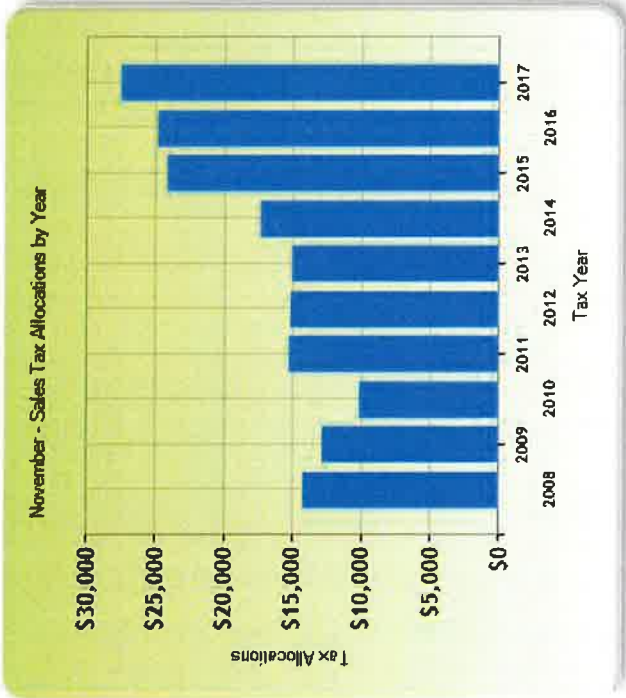
Sales Tax Charts - Lavon, City of (General Obligation Debt)











# MUNICIPAL RECYCLING PROGRAM

For  
**LAVON, TEXAS**

2018	Homes	Total Tonnage	PPH
January	1,291	22.56	34.95
February			
March			
April			
May			
June			
July			
August			
September			
October			
November			
December			

Previous Years	Average Homes	Total Tons	PPH per Month
2014 * Started July	1,063	102.08	32.00
2015	1,142	260.12	37.96
2016	1,219	287.19	39.27
2017	1,262	307.74	40.65

**Wash It "N" Toss It**  
*a service provided by*

**Community Waste Disposal.com**

2010 California Crossing

Dallas, TX 75220-2310

*telephone*

972.392.9300 - 817.795.9300

*facsimile*

972.392.9301

### Municipal Service Inquiries

<u>January, 2018</u>		
<u>Service Opportunities</u>	<u>Service Inquiries</u>	<u>Per 1,000 Service Opportunities</u>
11,189	0	0.00

PRB  
Reviewed

**Emailed to:**  
[kim.dobbs@cityoflavon.org](mailto:kim.dobbs@cityoflavon.org)

**RECEIVED**  
**FEB 20 2018**  
**CITY OF LAVON**



Feb 2018

# Community Waste Disposal Monthly Report to the City of Lavon

Nicole Roemer *Municipal Coordinator*





# Municipal Recycling Program



## Single Stream Recycling

Participation in the Residential Curbside Recycling Program continues to demonstrate that residents of the City of Lavon are dedicated to the preservation of the Texas environment for future generations.

The chart below details the statistics of the CWD Residential Curbside Recycling Program.

	Feb-18	Jan-18	Dec-17	Nov-17	Oct-17	Sep-17	Aug-17	Jul-17	Jun-17	May-17	Apr-17	Mar-17
Homes	1,296	1,291	1,286	1,282	1,276	1,273	1,287	1,246	1,248	1,252	1,250	1,251
Total Tonnage	30.04	22.56	36.44	25.39	21.03	53.10	56.82	36.92	72.00	51.62	45.06	87.58
PPH	46.36	34.95	56.67	39.61	32.96	83.42	88.30	59.26	115.38	82.46	72.10	140.02



# Municipal Service Inquiries



## Residential Solid Waste Services

The Solid Waste Industry has a standard service inquiry ratio of 1.0 inquiries per 1,000 service opportunities.

	Feb-18	Jan-18	Dec-17	Nov-17	Oct-17	Sep-17	Aug-17	Jul-17	Jun-17	May-17	Apr-17	Mar-17
<b>Service Opportunities</b>			11,145	11,111	11,059	11,037	11,158	10,803	10,820	10,855	10,838	10,846
<b>Service Inquiries</b>	0	0	0	1	0	1	1	1	5	0	3	0
<b>Per 1,000 Service Opps</b>	0	0	0	0.09	0	0.09	0.09	0.09	0.46	0	0.28	0



# Customer Service Inquiries - Detail



## Good Service is Good Business

CWD's Customer Service Community is available to provide solutions via phone or online. Our efficient team is here to support the City of Lavon and we continually strive for top-notch performance to ensure residents receive the most value out of their waste and recycling services.

### City Account Complaints for the Period of 02/01/2018 - 02/28/2018

Account	Address	Service Type	Service Code
---------	---------	--------------	--------------

Total

No Complaints this period

Grand Total

**Kim Dobbs**

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**From:** S Johnson  
**Sent:** Tuesday, March 06, 2018 2:56 PM  
**To:** Mike Jones; R Myers; Andrew Leonie; Kim Dobbs  
**Subject:** Warrant Roundup

Hi All,

The stats are in for our 2018 Warrant Roundup!

We started with 66 people with 194 warrants valued at \$58,441.95.

We cleared 20 people with 55 warrants valued at \$16,498.00 and took in \$7,723.00 so far. Some people are now on payment plans and others are scheduled on the April docket.

As a comparison, in 2017, we had 32 people (156 warrants); we cleared 13 people, 40 warrants (valued at \$12,554.00) and took in \$3,466.00.

Thanks for all your help!

*Sue Johnson*  
*Court/Police Clerk*  
*Lavon Police Department*  
*972-843-4219*  
*Fax 972-843-0945*  
*[SJohnson@cityoflavon.org](mailto:SJohnson@cityoflavon.org)*