



**MEETING OF THE
TEMPLE CITY COUNCIL**

NEW CENTRAL FIRE STATION

2nd FLOOR - CONFERENCE ROOM

210 NORTH 3RD STREET

THURSDAY, JANUARY 6, 2011

2:30 P.M.

WORKSHOP AGENDA

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, January 6, 2011.
2. Executive Session: Chapter 551, Government Code, §551.074 – Personnel Matter – The City Council will meet in executive session to discuss the employment, evaluation, duties and work plan of the City Manager. No final action will be taken.

The work session will adjourn at 4:00 p.m. to allow the City Council to participate in the Ribbon Cutting Ceremony and tour of the new Central Fire Station & Administrative Offices.

5:00 P.M.
MUNICIPAL BUILDING
2 NORTH MAIN STREET
CITY COUNCIL CHAMBERS – 2ND FLOOR
TEMPLE, TX
REGULAR MEETING AGENDA

I. CALL TO ORDER

1. Invocation
2. Pledge of Allegiance

II. PUBLIC COMMENTS

Citizens who desire to address the Council on any matter may sign up to do so prior to this meeting. Public comments will be received during this portion of the meeting. Please limit comments to 3 minutes. No discussion or final action will be taken by the City Council.

III. CONSENT AGENDA

All items listed under this section, Consent Agenda, are considered to be routine by the City Council and may be enacted by one motion. If discussion is desired by the Council, any item may be removed from the Consent Agenda at the request of any Councilmember and will be considered separately.

3. Consider adopting a resolution approving the Consent Agenda items and the appropriate resolutions for each of the following:

Minutes:

- (A) [December 16, 2010 Special Called and Regular Meeting](#)

Contracts, Leases & Bids

- (B) [2011-6212-R](#): Consider adopting a resolution authorizing a contract with Controls International of Dallas for the replacement of lagoon actuators at the Conventional Water Treatment Plant in the amount of \$44,250.

- (C) [2011-6213-R](#): Consider adopting a resolution authorizing the purchase of 30 upgrade telemetry chips and repair parts for Self-Contained Breathing Apparatus (SCBA) from Casco Industries, Inc. of Shreveport, Louisiana, the sole source provider, for the total amount of \$28,857.
- (D) [2011-6214-R](#): Consider adopting a resolution approving a farm lease with Albert Brenek for approximately 40 acres located to the west of Hilliard Road.
- (E) [2011-6215-R](#): Consider adopting a resolution approving a farm lease with Ray Davis for approximately 170 acres at Pegasus Drive and Moores Mill Road.
- (F) Consider adopting a resolution approving the following farm leases with Carl Grisham:
 - 1. [2011-6216-R](#): 164 acres located on Old Howard Road, and
 - 2. [2011-6217-R](#): 191 acres located at McLane Blvd and Old Howard Road.
- (G) [2011-6218-R](#): Consider adopting a resolution approving a farm lease with Monique Rincones for approximately 3.7 acres at the southeast corner of the Service Center property on East Avenue H.

Ordinances – Second and Final Reading

- (H) [2010-4415](#): SECOND READING – Z-FY-11-13: Consider adopting an ordinance amending Ordinance No. 2010-4413, the City of Temple Unified Development Code, to amend Article 2; Development Review Bodies, to establish the TMED Review Committee; amend Article 3, Development Review Procedures, to establish the TMED Site Plan Review procedure; amend Article 6, Special Purpose and Overlay Zoning Districts, to establish Section 6.3 TMED, Temple Medical and Education Districts; and amend Article 11, Definitions, to add applicable definitions for the TMED zoning district.
- (I)
 - 1. [2010-4416](#): SECOND READING – Consider adopting an ordinance designating a certain area as City of Temple Tax Abatement Reinvestment Zone Number Seventeen for commercial/industrial tax abatement.
 - 2. [2011-6219-R](#): Consider adopting a resolution authorizing a tax abatement agreement with Fikes Wholesale, Inc., for a tract of land located at 6261 Central Pointe Parkway.
- (J)
 - 1. [2010-4417](#): SECOND READING – Consider adopting an ordinance designating North 3rd Street Strategic Investment Zone as Tax Abatement Reinvestment Zone Numbers Eighteen and Nineteen for Commercial/Industrial Tax Abatement and authorizing a number of other SIZ economic development incentives for property redevelopment.
 - 2. [2010-4418](#): SECOND READING – Consider adopting an ordinance amending the City's Economic Development Policy ordinance to establish new criteria and guidelines for tax abatement in the North 3rd Street Strategic Investment Zone to promote local economic development and to stimulate business and commercial activity.

Plats

- (K) **2011-6220-R:** P-FY-11-06: Consider adopting a resolution authorizing the Final Plat for Hicks-Milligan Estates, a 2.97± acre, three-lot residential subdivision on the west side of Bendle Road, north of Luther Curtis Road in Temple's northern ETJ with developer requested exceptions to Sec. 8.2.7.E of the Unified Development Code requiring hydrants to comply with the City's Fire Code and Sec. 8.3.2 of the Unified Development Code requiring a payment of \$225 per dwelling unit in lieu of park land dedication.

IV. REGULAR AGENDA

ORDINANCES

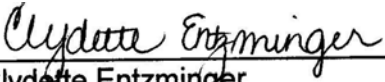
4. **2011-4419:** FIRST READING – PUBLIC HEARING - Consider adopting an ordinance amending the City of Temple Code of Ordinances, Chapter 7, "Buildings", to reflect changes to the definition of a "health hazard" as it relates to irrigation systems, and adding new language to Section 7-84 of the International Plumbing Code exempting certain irrigation systems from annual testing.

PUBLIC HEARINGS

5. **PUBLIC HEARING** – Receive Municipal Service Plan and conduct a public hearing to receive comments on the possible annexation of approximately 3,394.9 acres located in the City's western extraterritorial jurisdiction including a portion of Lake Belton and surrounding property.

***The City Council reserves the right to discuss any items in executive (closed) session
Whenever permitted by the Texas Open Meetings Act.***

I hereby certify that a true and correct copy of this Notice of Meeting was posted in a public place at 11:05 AM, on December 30, 2010.


Clydette Entzminger
City Secretary

I certify that this Notice of Meeting Agenda was removed by me from the outside bulletin board in front of the City Municipal Building at _____ on the _____ day of _____ 2011. _____



COUNCIL AGENDA ITEM MEMORANDUM

01/06/11
Item #3(A)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Clydette Entzminger, City Secretary

ITEM DESCRIPTION: Approve Minutes:

(A) December 16, 2011 Special Called and Regular Meeting

STAFF RECOMMENDATION: Approve minutes as presented in item description.

ITEM SUMMARY: Copies of minutes are enclosed for Council review.

FISCAL IMPACT: N/A

ATTACHMENTS:

[December 16, 2011 Special Called and Regular Meeting](#)

TEMPLE CITY COUNCIL

DECEMBER 16, 2010

The City Council of the City of Temple, Texas conducted a Special Meeting on Thursday, December 16, 2010 at 3:30 P.M., in the Staff Conference Room, 3rd Floor, Municipal Building, 2 North Main Street.

Present:

Councilmember Danny Dunn
Mayor Pro Tem Patsy E. Luna
Councilmember Russell Schneider
Mayor William A. Jones III

Absent:

Councilmember Marty Janczak

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, December 16, 2010.

Regular Agenda Item 9 - Vehicle purchases: Belinda Mattke, Purchasing Director, discussed these proposed vehicle purchases. Eight vendors submitted bids on November 23rd for these nine vehicles. Mrs. Mattke reviewed the recommendations for purchase from the vendors submitting the low bids. She explained the Council has the option to award the bids based on local preference since these purchases are less than \$100,000. If the local bidder is within 5% of the lowest bid the Council can determine whether the local bidder offers the best combination of price and economic development opportunities, including employment of residents and increased tax revenues. Four of the bids are eligible for local preference consideration and Mrs. Mattke reviewed those bids. If the local preference option is awarded for all four eligible bids, the cost would be \$5,382.80 more than the low bids.

2. Receive information related to proposed modifications to the existing Landscape Irrigation Ordinance, Chapter 7, "Buildings," of the Code of Ordinances.

Nicole Torralva, Director of Public Works, presented this information to the City Council. She explained the existing landscape irrigation ordinance was adopted in December 2008 and defined all irrigation systems as health hazards. This required installation of RPZ's (reduced pressure zone) or PVB's (pressure vacuum breaker) devices above ground on all new irrigation systems and annual inspections. Staff is proposing the definition of a health hazard be amended to be an irrigation system that utilizes chemicals or serves a property that is also served by a septic system. This will reduce the number of irrigation systems that require annual inspections but maintain the annual testing requirement for defined health hazard systems. No inspections are being performed at this time, with the exception of commercial systems that are being monitored and inspected by third party firms. No changes are proposed in the type of devices that are required.

Mrs. Torralva stated the goal of this ordinance is to protect the City's potable water

supply. The proposed amendment will strike a balance between what the State requires and the practical concerns expressed by our residents.

3. Discuss economic development incentives proposed for the North 3rd Street Strategic Investment Zone.

Sarah Gardner-Cox, Deputy City Attorney, presented this item to the City Council. She stated the incentives being proposed are similar to those adopted for the South 1st and Avenue G/H corridors to encourage redevelopment in the area. Mrs. Cox displayed a map of the area proposed for the North 3rd Street Strategic Investment Zone (SIZ), noting that incentives apply to only commercial or industrial development. The area on the map between areas A and B is primarily single family and is not included in the SIZ.

The proposed ordinance contains two elements, the provision of tax abatement for commercial and industrial property and matching grant incentives. Mrs. Cox explained each of these elements and how they could be applied. She explained the abatement of taxes would only be on the increased value. There was \$85,000 budgeted in the current year for incentives in all the SIZ corridors and only \$7,563 remains for future agreements at this time. There may be a need to review and revise the criteria for accepting incentive applications in the future due to the limited funding available. Staff will continue to make Council aware of the pending applications that cannot be funded and seek direction. Mrs. Cox noted there is a companion item to this one which amends the City's criteria and guidelines for tax abatements to establish parameters for granting tax abatements within this area.

4. Executive Session: Chapter 551, Government Code, §551.074 - Personnel Matter - The City Council will meet in executive session to discuss the employment, evaluation, duties and work plan of the City Manager. No final action will be taken.

The executive session was not conducted.

The City Council of the City of Temple, Texas conducted a Regular Meeting on Thursday, December 16, 2010 at 5:00 PM in the Council Chambers, Municipal Building, 2nd Floor, 2 North Main Street.

Present:

Mayor Pro Tem Patsy E. Luna
Councilmember Russell Schneider
Mayor William A. Jones, III
Councilmember Danny Dunn

Absent:

Councilmember Marty Janczak

I. CALL TO ORDER

1. Invocation

Councilmember Russell Schneider voiced the Invocation.

2. Pledge of Allegiance

The Bella Sona Choir, Holy Trinity Catholic High School, led the Pledge of Allegiance.

II. SPECIAL PRESENTATIONS

3. Holiday performance by the Bella Sona Choir from Holy Trinity Catholic High School.

Mr. John Bandas, representing Holy Trinity High School, stated their new High School is now open. As a way of thanking the Temple City Council and the City Staff for all of their assistance, the Bella Sona Choir performed a short holiday program.

4. Receive presentation by Jon Burrows, Bell County Judge, and Sharon Long, Tax Assessor/ Collector, of Child Safety Funds collected in the amount of \$77,287.91.

Judge Jon Burrows, accompanied by Commissioner Eddy Lange, presented the City of Temple with a check in the amount of \$77,287.91 for its share of Child Safety Funds collected by Bell County. The City of Temple has received \$658,524.58 in Child Safety Funds since the program's inception.

III. PUBLIC COMMENTS

There were no public comments made at this meeting.

IV. CONSENT AGENDA

5. Consider adopting a resolution approving the Consent Agenda items and the appropriate resolutions for each of the following:

(A) December 2, 2010 Special Called and Regular Meeting

(B) Consider adopting resolutions authorizing contracts with the following:

- 1. 2010-6197-R: Bassco Services, Inc., from Dallas for the purchase of Veeder-Root EMR3 wireless fuel monitoring system and professional installation for two avgas trucks, two jet trucks, three fuel tanks, antenna, and software in the amount of \$30,384; and**
- 2. 2010-6198-R: Wellington-Royce Corporation from Atlanta, Georgia, for professional services associated with the integration and interface of the fuel inventory system with the BASE accounting system installed in 2009 in the amount of \$8,000 for the Draughon-Miller Central Texas Regional Airport.**

(C) 2010-6199-R: Consider adopting a resolution authorizing the purchase

of a John Deere 6115D cab tractor (\$39,637.48) with a John Deere CX20 foot commercial rotary cut shredder (\$22,110.46) from John Deere, (dba Coufal-Prater Equipment, Ltd. Temple) off the BuyBoard in the amount of \$61,747.94 for the Draughton-Miller Central Texas Regional Airport.

(D) 2010-6200-R: Consider adopting a resolution authorizing a purchase agreement with Daktronics through the BuyBoard, to replace the electronic marquee at the Mayborn Convention Center in the amount of \$68,788.

(E) 2010-6201-R: Consider adopting a resolution authorizing a contract with Scott & White Health Plan and establishing rates for substitute Medicare supplement insurance for City of Temple retirees and the City's contribution thereto for calendar year 2011.

(F) 2010-6202-R: Consider adopting a resolution authorizing a contract amendment to a professional services agreement with Kasberg, Patrick & Associates, LP (KPA), for survey, design, and construction phase services required to integrate the TMED South First Street design with proposed Temple College improvements in an amount not to exceed \$93,200.

(G) 2010-6203-R: Consider adopting a resolution authorizing an interlocal agreement with the City of Fort Worth to allow for the utilization of Fort Worth's commercial card (procurement card) agreement with JP Morgan Chase.

(H) 2010-6204-R: Consider adopting a resolution approving a one year lease contract with the Bell County HELP Center for 4,917 square feet in the Public Services Annex, (102 E. Central Avenue).

(I) 2010-4410: SECOND READING - Z-FY-11-02: Consider adopting an ordinance authorizing a zoning change from Two Family District (2F) to Office One District (O1) on the South 65 feet of Lot 19, Block 4, Tal-Coe Place Addition, located at 1119 South 25th Street.

(J) 2010-4411: SECOND READING - Z-FY-11-03: Consider adopting an ordinance authorizing a zoning change from Agricultural District (A) to General Retail District (GR) on 0.727 ± acres of land out of the George W. Lindsey Survey, Abstract No. 513, located at 11922 FM 2305.

(K) 2010-4412: SECOND READING - Z-FY-11-04: Consider adopting an ordinance authorizing a zoning change from Agricultural District (A) to Commercial District (C) on 10.18 ± acres of land with 5.18± acres out of the S. P. Terry Survey, Abstract No. 812, and 5.0± acres of land out of the George W. Lindsey Survey, Abstract No. 523, located at the southeast corner of Oak Trail and West Adams Avenue across from the entrance to Eagle Oaks At The Lake Subdivision.

(L) 2010-4413: SECOND READING - Z-FY-10-09: Consider adopting an ordinance repealing Chapter 33 of the City Code, "Subdivisions," the Appendix to Chapter 32, "Streets," and Appendix A of the City Code,

"Zoning Ordinance," and replacing Appendix A of the City Code with a Unified Development Code.

(M) 2010-4414: SECOND READING - Consider adopting an ordinance electing for the City to make current service and prior service contributions to the City's account in the Municipal Accumulation Fund of the Texas Municipal Retirement System at the actuarially determined rate of total employee compensation.

(N) 2010-6205-R: Consider adopting a resolution authorizing a Memorandum of Understanding adopting the Texas Department of Transportation's federally-approved Disadvantaged Business Enterprise Program.

(O) 2010-6206-R: Consider adopting a resolution approving the annual report of the Tax Increment Financing Reinvestment Zone No. 1 for fiscal year 2009-2010.

(P) 2010-6207-R: Consider adopting a resolution accepting the 2009-2010 Risk Management Annual Report.

(Q) 2010-6208-R: Consider adopting a resolution authorizing budget amendments for fiscal year 2010-2011.

Motion by Councilmember Danny Dunn to adopt resolution approving Consent Agenda, seconded by Mayor Pro Tem Patsy E. Luna.

Motion passed unanimously.

V. REGULAR AGENDA

ORDINANCES

- 6. 2010-4415: FIRST READING - PUBLIC HEARING - Z-FY-11-13: Consider adopting an ordinance amending Ordinance No. 2010-4413, the City of Temple Unified Development Code, to amend Article 2; Development Review Bodies, to establish the TMED Review Committee; amend Article 3, Development Review Procedures, to establish the TMED Site Plan Review procedure; amend Article 6, Special Purpose and Overlay Zoning Districts, to establish Section 6.3 TMED, Temple Medical and Education Districts; and amend Article 11, Definitions, to add applicable definitions for the TMED zoning district.**

Autumn Speer, Director of Community Services, presented this item to the City Council. This item was presented in some detail at a City Council work session on November 18th. Mrs. Speer made an abbreviated presentation, explaining the purpose of the Temple Medical and Education District, known as TMED. The public input process was quite extensive, kicking off in March, 2010. Mrs. Speer displayed a map of the entire TMED area, noting Phase 1 which is being addressed with this ordinance.

The zoning categories include T4 - General Urban; T5-e - Neighborhood Edge Zone; T5-c - Urban Center Zone and 4 Special Districts - Scott & White and Texas A&M Health Science Center, Central Texas Veterans Health Care System, Temple College and Temple Independent School District.

Mrs. Speer reviewed the TMED requirements. These standards apply to all new construction, some increases in floor area or value, and non-residential restorations. The standards do not apply to interior only renovations. Site plan review will occur with administrative approval, with the TMED Review Committee to consider warrant requests only and the Zoning Board of Adjustment to consider variances. The Planning and Zoning Commission recommended approval as presented. After Council approval, the rezoning of the properties will be brought forward for consideration.

Mayor Jones declared the public hearing open with regard to agenda item 6 and asked if anyone wished to address this item.

There being no comments, Mayor Jones closed the public hearing.

Motion by Mayor Pro Tem Patsy E. Luna to adopt ordinance, with second reading and final adoption set for for January 6, 2011, seconded by Councilmember Russell Schneider.

Motion passed unanimously.

7. 2010-4416: FIRST READING - PUBLIC HEARING - Consider adopting an ordinance designating a certain area as City of Temple Tax Abatement Reinvestment Zone Number Seventeen for commercial/industrial tax abatement.

Sarah Gardner-Cox, Deputy City Attorney, presented this item to the City Council. The property to be designated as tax abatement reinvestment zone number 17 is located at 6261 Central Point Parkway in Airport Park. This tax abatement reinvestment zone would have a 5 year life span and provide up to 100% tax abatement for future commercial and industrial abatements only. A property must be part of a tax abatement reinvestment zone or enterprise zone before tax abatement can be considered. This tract meets all state and city requirements for designation of a tax abatement reinvestment zone, including creation of new jobs or retention of existing jobs. Fikes is proposing to construct a 44,000 sq ft two- story office building, the first in Airport Park, at a total cost of over \$7 million. The tax abatement agreement will be presented with the second reading of this ordinance, Mrs. Cox explained.

Mayor Jones declared the public hearing open with regard to agenda item 7 and asked if anyone wished to address this item.

There being no comments, Mayor Jones closed the public hearing.

Motion by Councilmember Russell Schneider to adopt ordinance, with

second reading and final adoption set for January 6, 2011, seconded by Councilmember Danny Dunn.

Motion passed unanimously.

8. **(A) 2010-4417: FIRST READING - PUBLIC HEARING - Consider adopting an ordinance designating North 3rd Street Strategic Investment Zone as Tax Abatement Reinvestment Zone Numbers Eighteen and Nineteen for Commercial/Industrial Tax Abatement and authorizing a number of other SIZ economic development incentives for property redevelopment.**

(B) 2010-4418: FIRST READING -PUBLIC HEARING - Consider adopting an ordinance amending the City's Economic Development Policy ordinance, to establish new criteria and guidelines for tax abatement in the North 3rd Street Strategic Investment Zone to promote local economic development and to stimulate business and commercial activity.

Sarah Gardner-Cox, Deputy City Attorney, presented items 8(A) and (B) to the City Council. She explained this is an implementation of a Strategic Investment Zone (SIZ) incentive area and is similar to what has been done on the South 1st and Avenue G/H corridors. Mrs. Cox displayed a map showing areas A and B, with a residential area between the two that is not included in the ordinance. The ordinance includes two elements, one being the provision of tax abatement agreements for commercial and industrial property and Mrs. Cox explained the requirements that must be met to qualify in this particular area. The ordinance also provides for matching grant incentives, in the form of Chapter 380 development agreements. Mrs. Cox summarized the improvements in the incentive grant matrix, noting the maximum grant matches by the City. \$85,000 has been budgeted for incentives this year, with only \$7,563 remaining. Item B amends the City's economic development policy to include these proposed incentives for the North 3rd Street Strategic Investment Zone.

Mayor Jones declared the public hearing open with regard to agenda items 8(A) and (B) and asked if anyone wished to address these items.

There being no comments, Mayor Jones closed the public hearing closed.

Motion by Councilmember Danny Dunn to adopt ordinances (A) and (B), with second reading and final adoption set for January 6, 2011, seconded by Mayor Pro Tem Patsy E. Luna.

Motion passed unanimously.

RESOLUTIONS

9. **2010-6209-R: Consider adopting a resolution authorizing the purchase of the following vehicles:**

- A. One (1) five-passenger mid-size sedan from Caldwell Country Ford of Rockdale, in the amount of \$14,488*;**
- B. Four (4) ½-ton light duty full-size pickups from Caldwell Country Ford of Rockdale, in the amount of \$74,364;**
- C. One (1) ½-ton super crew/quad cab pickup from Caldwell Country Ford of Rockdale, in the amount of \$20,142;**
- D. One (1) 1-ton diesel cab and chassis dual rear wheels with aerial lift and utility body from Philpott Motors of Port Neches, utilizing the BuyBoard in the amount of \$61,063*;**
- E. 3One (1) 1-ton diesel crew/quad cab and chassis dual rear wheel pickup with utility body from Caldwell Country Ford of Rockdale, in the amount of \$49,892*; and**
- F. One (1) 1-ton light duty diesel cab and chassis with steel floor stake body from Grande Truck Center of San Antonio, in the amount of \$32,286*. * Local Preference Policy applies to these purchases.**

Belinda Mattke, Purchasing Director, presented this item to the City Council. She stated 8 vendors submitted bids for these 9 vehicles. She presented the staff recommendations for purchase from the vendors submitting low bids. Mrs. Mattke also explained the local preference option available to the City Council on 4 of the bids, items A, D, E and F, for which Johnson Brothers Ford submitted bids within 5% of the lowest bid.

Motion by Councilmember Russell Schneider to adopt resolution, authorizing local preference option on items A, D, E, and F, seconded by Councilmember Danny Dunn.

Motion passed unanimously.

- 10. 2010-6210-R: Consider adopting a resolution authorizing a utility cost sharing agreement for Lago Terra Subdivision in an amount not to exceed \$145,020.**

Sarah Gardner-Cox, Deputy City Attorney, presented this item to the City Council. She displayed a plat showing the proposed subdivision. The proposal is to extend an 8" wastewater line 1,250 ft. along FM 2305 through private property to the southwest corner of the Lago Terra Subdivision. This is a typical developer participation agreement, with a not to exceed amount of \$145,020. The City will pay 100% of all estimated eligible costs of this extension, up to the not to exceed amount, because of the short length of the proposed extension. For every 100 ft. of utility extension one house must be constructed and the proposal meets that requirement.

Motion by Mayor Pro Tem Patsy E. Luna to adopt resolution, seconded by

Councilmember Russell Schneider.

Motion passed unanimously.

11. 2010-6211-R: Consider adopting a resolution designating the Chair of the Tax Increment Financing Reinvestment Zone No. 1 Board of Directors for 2011.

Mayor Jones stated Bob Browder has served in this capacity for the past year and wishes to continue serving. He has provided great leadership and led the Zone through many projects.

Motion by Councilmember Danny Dunn to adopt resolution designating Bob Browder as Chair of the Tax Increment Financing Reinvestment Zone No. 1 Board of Directors for 2011, seconded by Mayor Pro Tem Patsy E. Luna.

Motion passed unanimously.

William A. Jones, III, Mayor

ATTEST:

Clydette Entzminger
City Secretary



COUNCIL AGENDA ITEM MEMORANDUM

01/06/11
Item #3(B)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Nicole Torralva, P.E., Director of Public Works
Johnnie Reisner, Superintendent of Water Production

ITEM DESCRIPTION: Consider adopting a resolution authorizing a contract with Controls International of Dallas for the replacement of lagoon actuators at the Conventional Water Treatment Plant in the amount of \$44,250.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: As a part of normal water treatment processes at the conventional water treatment plant, water moves through a series of filters which require regular backwashes to clean the media, ensuring that contaminated particles and debris are removed from the system before water enters the final disinfection and storage stage. During the filter backwash process, backwash water travels down a 30" pipe to its designated lagoon, to be held for storage, disposal or recirculation back through the system.

In order for the backwash water to travel to its designated lagoon, an actuator (a mechanical device that accepts a signal and converts it to a physical action) must be used to open or close the valve. Existing actuators are old and are not keeping their calibrations, which results in operational process issues. These units cannot be repaired because they are obsolete and the parts are no longer available. New actuators are necessary to keep the water flowing into the lagoons.

On December 28, 2010, one bid was received for this project. Per the attached bid tabulation, Controls International submitted the low bid on the project in the amount of \$44,250. This contract will allow for the replacement of six actuators, to include removal of old, installation of new, and startup requirements necessary for the project.

FISCAL IMPACT: Funding in the amount of \$80,000 was appropriated in the FY 2011 operating budget in account 520-5100-535-63-10, project #100665 for the replacement of these lagoon actuators.

ATTACHMENTS:

[Bid Tabulation](#)
[Resolution](#)

Tabulation of Bids Received
on December 28, 2010 at 10:00 a.m.
Replacement of Lagoon Actuators

		Bidders
		Controls International Dallas, TX
Description		
Total Bid Price		\$44,250.00
Exceptions		None
Local Preference		No
Credit Check Authorization		Yes

I hereby certify that this is a correct and true tabulation of all bids received.

Belinda Mattke

28-Dec-10

Belinda Mattke, Director of Purchasing

Date

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONTRACT WITH CONTROLS INTERNATIONAL OF DALLAS, TEXAS, FOR THE REPLACEMENT OF LAGOON ACTUATORS AT THE CONVENTIONAL WATER TREATMENT PLANT, IN THE AMOUNT OF \$44,250; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on December 28, 2010, the City received one bid for the replacement of lagoon actuators at the Conventional Water Treatment Plant;

Whereas, the Staff recommends accepting the bid (\$44,250) submitted by Controls International of Dallas, Texas;

Whereas, funding is available in Account No. 520-5100-535-6310, project # 100665, for this project; and

Whereas, the City Council has considered the matter and deems it in the public interest to authorize this action.

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

Part 1: The City Council authorizes the City Manager, or his designee, to execute a contract, after approval as to form by the City Attorney, with Controls International of Dallas, Texas, for the replacement of lagoon actuators at the Conventional Water Treatment Plant, in the amount of \$44,250.

Part 2: It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the 6th day of **January**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

01/06/11
Item #3(C)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Lonzo Wallace, Fire Chief

ITEM DESCRIPTION: Consider adopting a resolution authorizing the purchase of 30 upgrade telemetry chips and repair parts for Self-Contained Breathing Apparatus (SCBA) from Casco Industries, Inc. of Shreveport, Louisiana, the sole source provider, for the total amount of \$28,857.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: In FY 2006-07, Council approved the purchase of 28 telemetry chips to upgrade our SCBA equipment, which allowed us to upgrade all of our frontline breathing apparatus. An additional purchase of 30 telemetry chips will ensure all of our reserve SCBA's have the same upgraded capabilities as the frontline breathing apparatus, including the SCBA on new Engine-8. In lieu of buying all new SCBA's for Engine-8, we will use the newly upgraded SCBA inventory to equip the new engine.

The upgrade is a very important part for our accountability system. Without upgrading the additional 30 SCBA's with the telemetry capabilities, we will not be able to account for the personnel wearing air packs on reserve apparatus while operating on the fire ground. Our reserve units are used when our frontline units are in for mechanical repair or in the event of multiple or large incidents.

Casco Industries, Inc. is the sole source provider of MSA air packs, parts, and maintenance for the fire service in this region. Temple Fire & Rescue has standardized its SCBAs in an attempt to reduce costs and increase safety for personnel and has been using MSA air packs since 1974. In addition, the fire department has personnel certified to repair MSA air packs, and has an extensive inventory of repair parts and spare air bottles.

FISCAL IMPACT: There is \$21,900 appropriated in account 363-2200-522-68-56, project #100708 to purchase the upgrade for 30 SCBA's. There is \$7,047 available in account 110-2231-522-23-31 from our FY 2011 operating budget for MSA repair on SCBA equipment.

Casco Industries is honoring old pricing, if we order these upgrades now. Current and future pricing of this upgrade is an additional \$500.00 per unit, which will save \$15,000.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF 30 UPGRADE TELEMETRY CHIPS FOR EXISTING SELF-CONTAINED BREATHING APPARATUS (SCBA) IN THE AMOUNT OF \$21,810, AND FOR THE REPAIR PARTS FOR SCBA IN THE AMOUNT OF \$7,047, FROM CASCO INDUSTRIES, INC., OF SHREVEPORT, LOUISIANA, THE SOLE SOURCE PROVIDER, FOR THE TOTAL AMOUNT OF \$28,857; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, Temple Fire & Rescue needs to purchase upgrade telemetry chips and repair parts for existing Self-Contained Breathing Apparatus (SCBA);

Whereas, Staff recommends purchasing these items from Casco Industries, Inc., of Shreveport, Louisiana, the sole source provider, for a total expenditure of \$28,857;

Whereas, funds are available for this purchase in Account No. 363-2200-522-6856, project #100708, and Account Number 110-2231-522-2331; and

Whereas, the City Council has considered the matter and deems it in the public interest to authorize this action.

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

Part 1: The City Council authorizes the purchase of 30 upgrade telemetry chips for existing Self-Contained Breathing Apparatus (SCBA) for Temple Fire & Rescue, in the amount of \$21,810, and for the repair parts for SCBA in the amount of \$7,047 from Casco Industries, Inc., of Shreveport, Louisiana, the sole source provider, for the total amount of \$28,857.

Part 2: The City Council authorizes the City Manager, or his designee, to execute any documents, after approval as to form by the City Attorney, that may be necessary for this purchase.

Part 3: It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the 6th day of **January**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

Clydette Entzminger
City Secretary

APPROVED AS TO FORM:

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

01/06/11
Item #3(D)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution approving a farm lease with Albert Brenek for approximately 40 acres located to the west of Hilliard Road.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Albert Brenek is requesting a 12-month pasture lease of approximately 40 acres, located to the west of Hilliard Road, for \$480 per year.

Albert Brenek would like to continue leasing the property for cattle grazing. Mr. Brenek will not be cultivating crops for harvesting or grazing. He will be responsible for any fence repair needed to contain his cattle. He proposes to pay \$480 per year, which equates to \$12 per acre. The property does not have coastal or other improved grasses, or barns, or pens.

Neither the City nor TEDC foresees using the property in the near future. If a need arises, the lease may be terminated for any reason by giving the tenant 30 days' notice. The grazing lease will eliminate mowing expense.

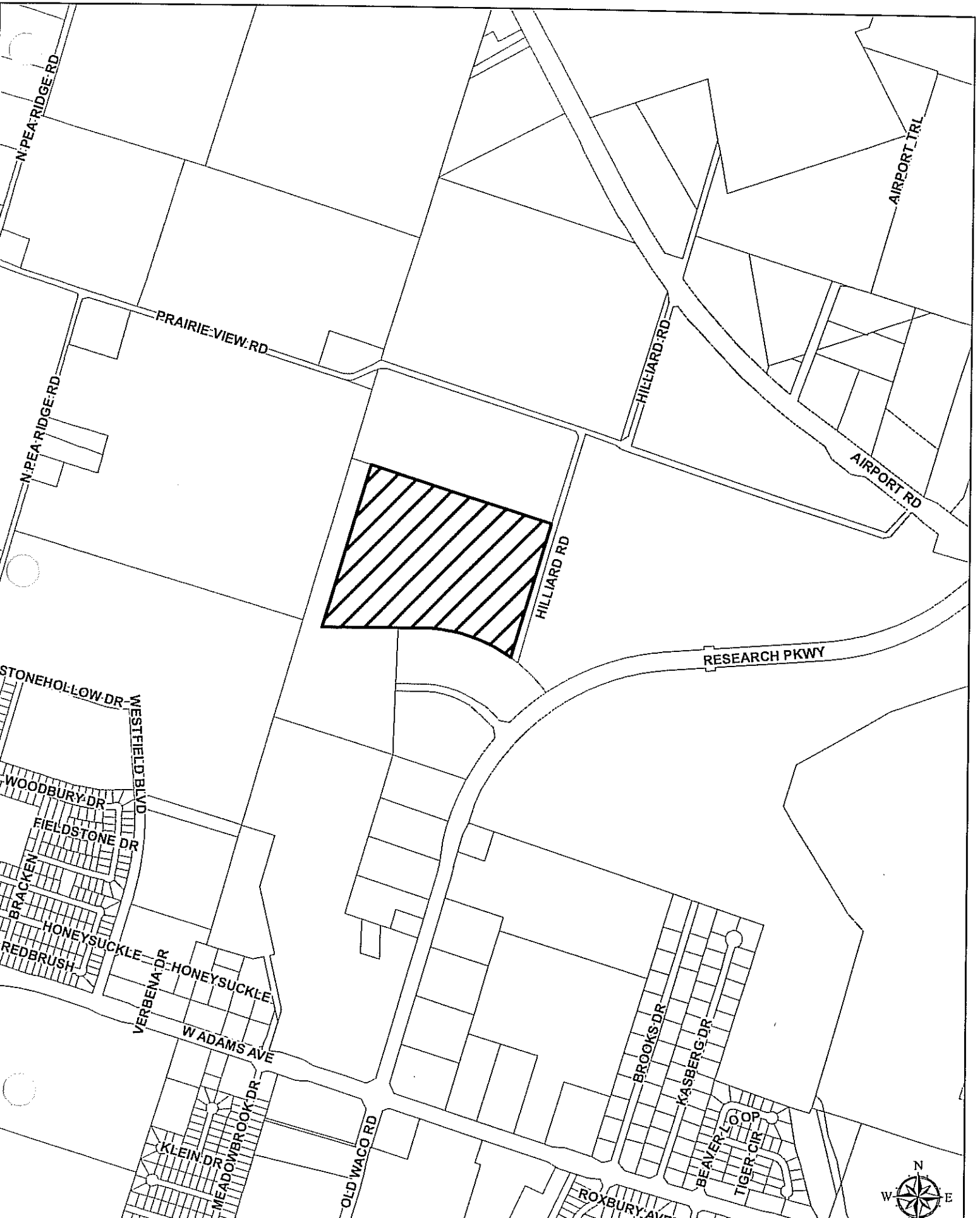
Staff recommends approval of a 12-month lease, from January 1, 2011 to December 31, 2011, and rent of \$480 per year.

FISCAL IMPACT: Compensation to City for 12-month lease will be \$480.

ATTACHMENTS:

[Location map](#)
[Resolution](#)

Exhibit 'A'



RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A FARM LEASE FOR APPROXIMATELY 40 ACRES OF CITY-OWNED LAND LOCATED TO THE WEST OF HILLIARD ROAD; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City has had a request to renew a lease with Albert Brenek to continue leasing approximately 40 acres of City-owned land located to the west of Hilliard Road for cattle grazing purposes;

Whereas, the annual lease amount will be \$480, and the lease term will be from January 1, 2011, through December 31, 2011, and will provide that the City can terminate the lease with a thirty (30) day notice; and

Whereas, the City Council has considered the matter and deems it in the public interest to authorize this action.

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

Part 1: The City Council authorizes the City Manager, or his designee, to execute a farm lease for an annual amount of \$480, between the City of Temple and Albert Brenek, after approval as to form by the City Attorney, for lease of approximately 40 acres of City-owned land located to the west of Hilliard Road.

Part 2: It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the 6th day of **January**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

01/06/11
Item #3(E)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution approving a farm lease with Ray Davis for approximately 170 acres at Pegasus Drive and Moores Mill Road.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Ray Davis is requesting a 6-month pasture lease of approximately 170 acres, located at Pegasus Drive and Moore's Mill Road. His father, Harvey Davis, leased the land for many years from the Dowell family, 6 months at a time, for \$2,800 per year.

Ray Davis would like to continue leasing the property for cattle grazing. He is also seeking to renew his family's grazing lease with the owner of adjoining land at 1700 Moores Mill Road. Mr. Davis will not be cultivating crops for harvesting or grazing. He will be responsible for any fence repair needed to contain his cattle. He proposes to pay \$1,400 per 6-month term, which equates to \$16.47 per acre. The property does not have coastal or other improved grasses, or barns, or pens.

Neither the City nor TEDC foresees using the property in the near future. If a need arises, the lease may be terminated for any reason by giving the tenant 30 days' notice. The grazing lease will eliminate mowing expense.

Staff recommends approval of a 6-month lease, from January 1, 2011 to June 30, 2011, with an extension to December 31, 2011 at the tenant's option, and rent of \$1,400 per 6-month term.

FISCAL IMPACT: Compensation to City for 6-month lease will be \$1,400. If the lease is extended for an additional 6-months at the tenant's option the City will receive an additional \$1,400.

ATTACHMENTS:

[Location map](#)
[Resolution](#)

This sketch to accompany a notes and
bands description of the person shown
IT7.45 Accr. 1001.

The following statements filed on the title comment supplied by Candelero Title Company, 67, No. CO20045, effective date March 20, 2007, have been reviewed by this surveyor and based upon what is visible on the ground and not can be plotted from their descriptions, do not affect the property.

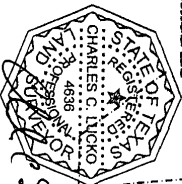
(Vol. /Pg.) = 873/228

[illegible]

CALLUO 1000 ACRES
SCOT H. HEDBACK and wife
JILL K. HEDBACK

**This Drawing is a
REDUCED COPY
Not to a convenient or standard
All County Surveying, Inc.**

The sketch represents a survey made on the ground. During the performance of this survey persons working under my supervision observed conditions within and along the boundaries and to the best of my knowledge they are as shown. This document is not valid for any purpose unless signed and sealed by a Professional Professional Land Surveyor.



4-29-2008

MOORE'S HILL ROAD
PUBLIC MAINTAINED ROADWAY

THIRTY-SEVEN OF LAND

OLD U. S. HIGHWAY 81
RTE. 10 MARGARET ROADWAY

Surveyor's Sketch showing 177.45
ACRES, situated in the WILLIAM
GILMORE SURVEY, ABSTRACT 339,
Bell County, Texas.

20

Alle County

Survey completed 04-23-2008
Scale: P = 100
Job No. 998024
Draw No. 998172/dwg
Drawn by JLM
Server: 001_998024

ALL COUNTY SURVEYING, INC.

1303 South 2nd Street, Temple, Texas 76504
(254) 778-2272 FAX (254) 774-7608

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A FARM LEASE FOR APPROXIMATELY 170 ACRES OF CITY-OWNED LAND AT PEGASUS DRIVE AND MOORES MILL ROAD; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City has had a request from Ray Davis to renew a lease for approximately 170 acres of City-owned land on Little Flock Road for grazing purposes;

Whereas, the lease term will be from January 1, 2011, through June 30, 2011, with an extension to December 31, 2011, at the tenant's option, and will provide that the City can terminate the lease with a thirty (30) day notice;

Whereas, Mr. Davis will pay \$1,400 per 6-month term, which equates to \$16.47 per acre; and

Whereas, the City Council has considered the matter and deems it in the public interest to authorize this action.

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

Part 1: The City Council authorizes the City Manager, or his designee, to execute a farm lease for a 6-month term of \$1,400, between the City of Temple and Ray Davis, after approval as to form by the City Attorney, for lease of approximately 170 acres of City-owned land at Pegasus Drive and Moores Mill Road.

Part 2: It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the **6th** day of **January**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydetta Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

01/06/11
Item #3(F)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution approving the following farm leases with Carl Grisham:

1. 164 acres located on Old Howard Road, and
2. 191 acres located at McLane Blvd and Old Howard Road.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Carl Grisham is requesting the renewal of two farming and grazing leases. One being a 12-month farming and grazing lease of 164 acres located on Old Howard Road for \$1,968 per year, or \$13.67 per acre. The other is a 12-month farming and grazing lease of 191 acres located at McLane Blvd and Old Howard Road for \$1,910 per year, or \$10 per acre.

Neither the City nor TEDC foresees using the property in the near future. If a need arises, the lease may be terminated for any reason by giving the tenant 30 days' notice.

Staff recommends approval of both 12-month leases, from January 1, 2011 to December 31, 2011, and rents of \$1,968 and \$1,910 per year respectively.

FISCAL IMPACT: Compensation to City for the 12-month leases will be \$1,968 per year for the 164 acres on Old Howard Road and \$1,910 per year for the 191 acres at McLane Blvd and Old Howard Road.

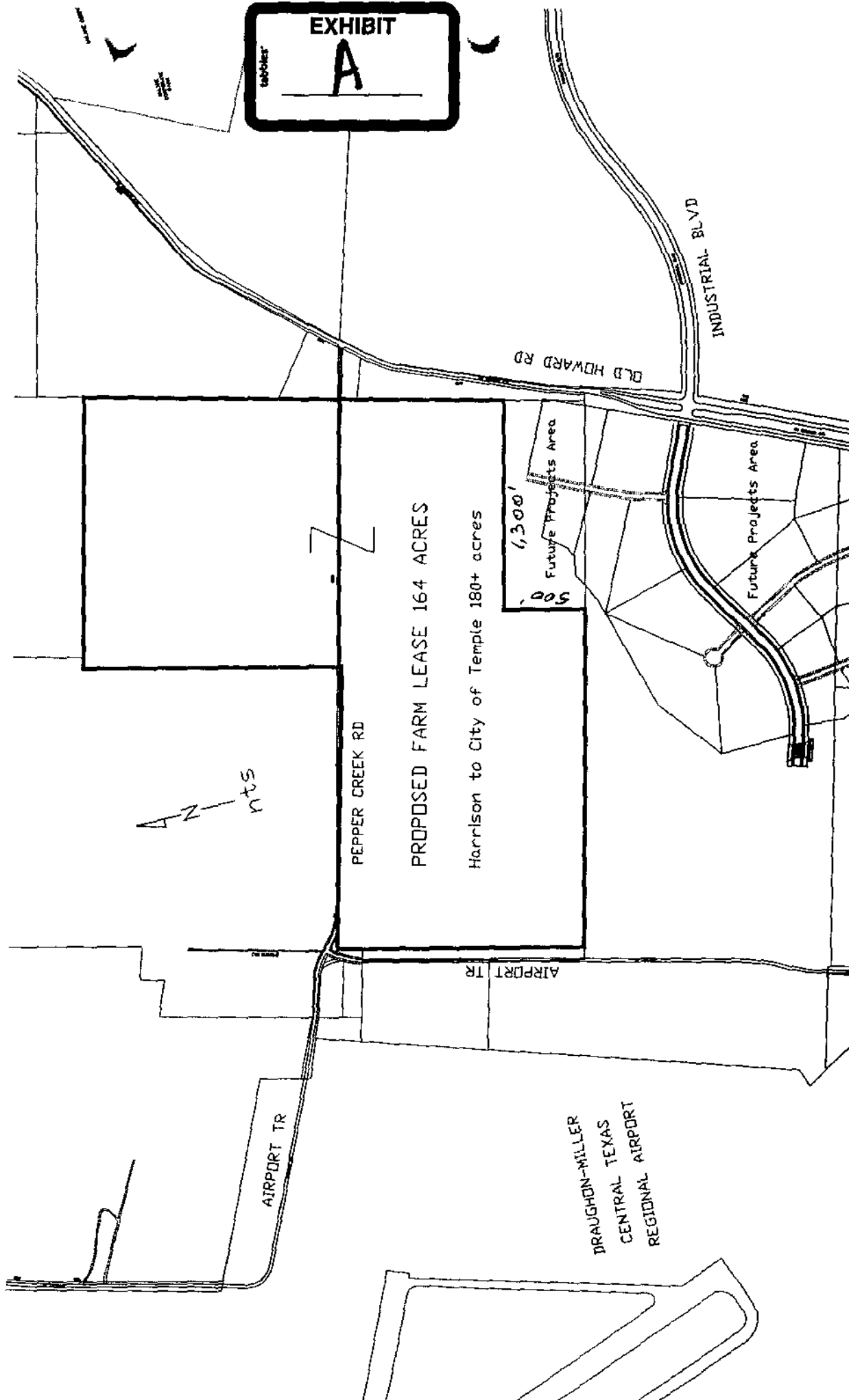
ATTACHMENTS:

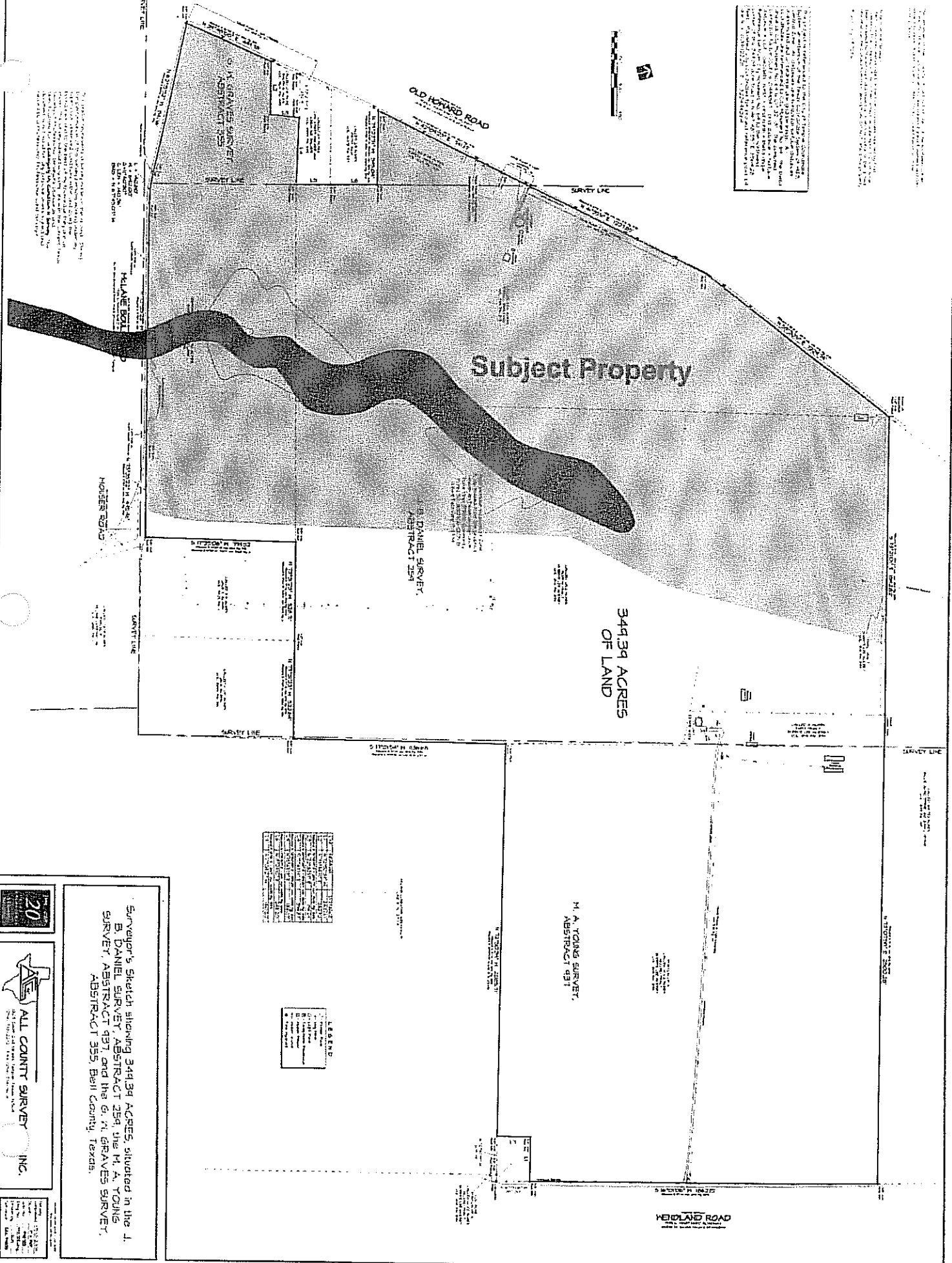
[Location map](#)
[Resolution](#)

EXHIBIT

A

tabbles





RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A FARM LEASE WITH CARL GRISHAM FOR 164 ACRES OF CITY-OWNED LAND LOCATED ON OLD HOWARD ROAD; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City has had a request to renew a lease with Carl Grisham to continue leasing approximately 164 acres of City-owned land located on Old Howard Road;

Whereas, the annual lease amount will be \$1,968, and the lease term will be from January 1, 2011, through December 31, 2011, and the lease will provide that the City can terminate the lease with a 30 day notice; and

Whereas, the City Council has considered the matter and deems it in the public interest to authorize this action.

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

Part 1: The City Council authorizes the City Manager, or his designee, to execute a farm lease for an annual amount of \$1,968, between the City of Temple and Carl Grisham, after approval as to form by the City Attorney, for lease of 164 acres of City-owned land located on Old Howard Road for farming and grazing purposes.

Part 2: It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the 6th day of **January**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydetta Entzminger
City Secretary

Jonathan Graham
City Attorney

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A FARM LEASE WITH CARL GRISHAM FOR 191 ACRES OF CITY-OWNED LAND LOCATED AT MCLANE BOULEVARD AND OLD HOWARD ROAD; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City has had a request to renew a lease with Carl Grisham to continue leasing approximately 191 acres of City-owned land located at McLane Boulevard and Old Howard Road;

Whereas, the annual lease amount will be \$1,910, and the lease term will be from January 1, 2011, through December 31, 2011, and the lease will provide that the City can terminate the lease with a 30 day notice; and

Whereas, the City Council has considered the matter and deems it in the public interest to authorize this action.

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

Part 1: The City Council authorizes the City Manager, or his designee, to execute a farm lease for an annual amount of \$1,910, between the City of Temple and Carl Grisham, after approval as to form by the City Attorney, for lease of 191 acres of City-owned land located at McLane Boulevard and Old Howard Road for farming and grazing purposes.

Part 2: It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the 6th day of **January**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

01/06/11
Item #3(G)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution approving a farm lease with Monique Rincones for approximately 3.7 acres at the southeast corner of the Service Center property on East Avenue H.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: For the past 6 years, Monique Rincones has leased the southeast corner of the Service Center property on East Avenue H, east of the drainage channel. She is requesting a new lease for the 2011 calendar year. Ms. Rincones lives on the property to the west and uses the leased area to graze a few horses. She fenced the area at her own expense in 2003.

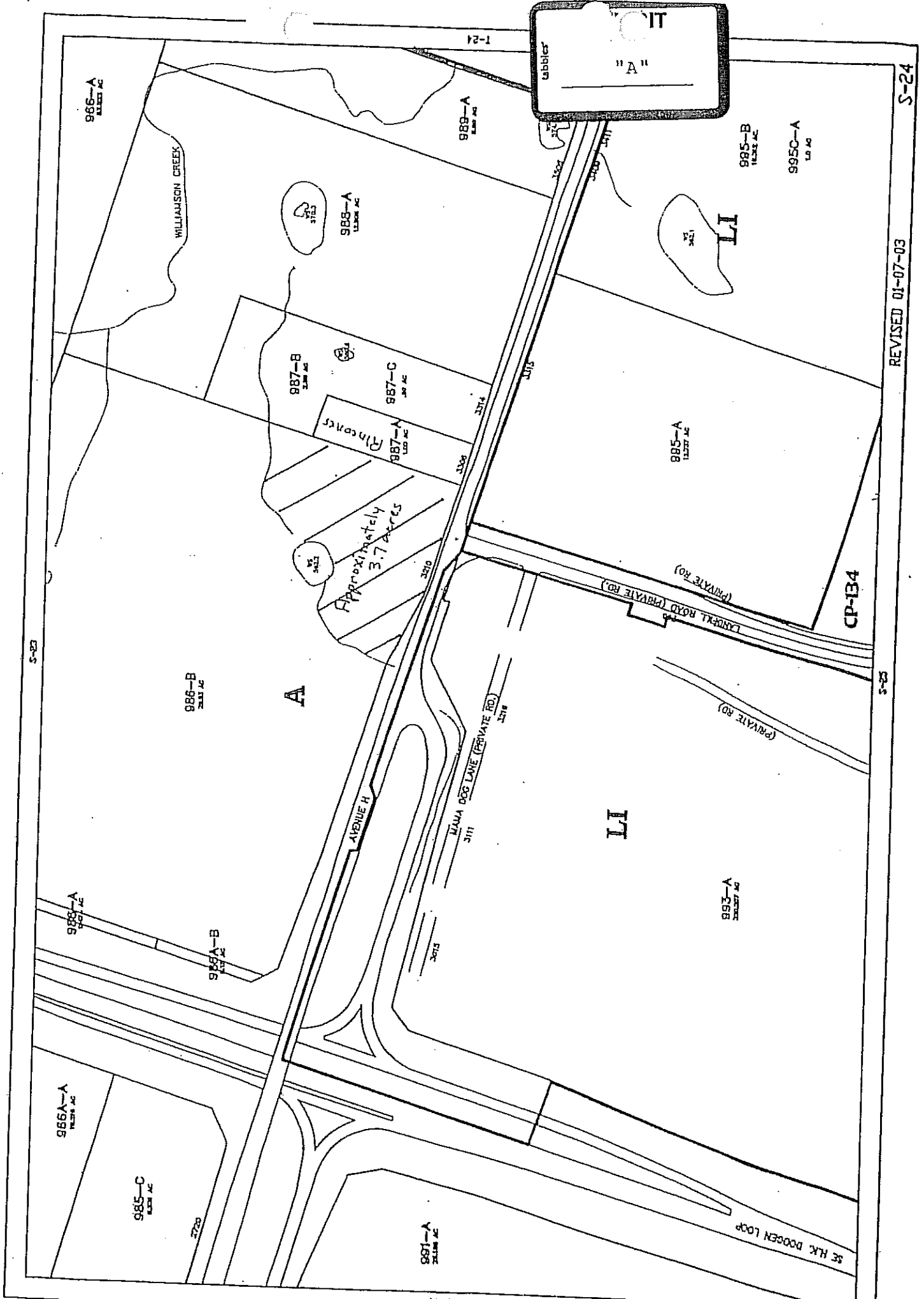
The City does not have immediate plans for using the lease area. If a need arises, the lease may be terminated for any reason by giving the tenant 30 days' notice. The grazing lease will eliminate mowing expense.

Staff recommends approval of a 12-month lease, from January 1, 2011 to December 31, 2011, and rent of \$37 per year.

FISCAL IMPACT: Compensation to City for 12-month lease will be \$37.

ATTACHMENTS:

[Location map](#)
[Resolution](#)



RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS,
AUTHORIZING A FARM LEASE FOR APPROXIMATELY 3.7 ACRES OF CITY-
OWNED LAND LOCATED AT THE SOUTHEAST CORNER OF THE SERVICE
CENTER PROPERTY ON EAST AVENUE H; AND PROVIDING AN OPEN
MEETINGS CLAUSE.

Whereas, the City has had a request to renew a lease of approximately 3.7 acres of City-owned land located at the southeast corner of the Service Center property on East Avenue H;

Whereas, the lease term will be from January 1, 2011, through December 31, 2011, and the lease will provide that the City can terminate the lease with a 30 day notice;

Whereas, the Staff recommends approval of the lease for \$37 per year for 3.7 acres; and

Whereas, the City Council has considered the matter and deems it in the public interest to authorize this action.

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

Part 1: The City Council authorizes the City Manager, or his designee, to execute a farm lease for an annual amount of \$37, between the City of Temple and Monique Rincones, after approval as to form by the City Attorney, for lease of approximately 3.7 acres of City-owned land located at the southeast corner of the Service Center property on East Avenue H.

Part 2: It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the 6th day of **January**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

01/06/11
Item #3(H)
Consent Agenda
Page 1 of 5

DEPT./DIVISION SUBMISSION & REVIEW:

Autumn Speer, Director of Community Services

ITEM DESCRIPTION: SECOND READING – Z-FY-11-13: Consider adopting an ordinance amending Ordinance No. 2010-4413, the City of Temple Unified Development Code, to amend Article 2; Development Review Bodies, to establish the TMED Review Committee; amend Article 3, Development Review Procedures, to establish the TMED Site Plan Review procedure; amend Article 6, Special Purpose and Overlay Zoning Districts, to establish Section 6.3 TMED, Temple Medical and Education Districts; and amend Article 11, Definitions, to add applicable definitions for the TMED zoning district.

P&Z COMMISSION RECOMMENDATION: At its December 7, 2010 meeting, the Planning and Zoning Commission voted 5/0 in accordance with staff recommendation to recommend approval of the proposed ordinance to create the TMED Zoning District and necessary amendments to other articles in the Unified Development Code.

STAFF RECOMMENDATION: Adopt ordinance as presented in item description, on second and final reading.

ITEM SUMMARY: In February 2008, the City entered into a Letter of Understanding (LOU) with Scott & White Memorial Hospital, Central Texas Veterans Healthcare System, Temple Health & Bioscience Economic Development District, Texas A&M Health Science Center College of Medicine, and Temple College. The sponsoring entities entered into the LOU as a cooperative and collaborative relationship to jointly promote education and medical activities of Scott & White, the VA, Temple College, the Bioscience District, and Texas A&M Health Science Center and to advance the redevelopment of both residential and commercial neighborhoods surrounding the campuses. This community-wide redevelopment effort, entitled “TMED”, is aimed at ensuring the long term economic vitality of a critical area in our City.

The vision for the TMED is to enhance and protect the existing opportunities for medical, educational, research-related activity in the area, while identifying new public and private sector investment for the area. To accomplish these goals, the sponsoring entities are implementing redevelopment tools and funding sources to benefit the TMED.

One such tool is the creation of the TMED zoning district. The purpose of the zoning district and related specifications is to assist the City of Temple and owners to create the unique environment for TMED by providing criteria that will coordinate the character and quality of the entire district. This coordination creates identity, quality of place and an enhanced value that will attract and retain a vibrant mixed use environment. It is a result of detailed attention to the form and the feel of buildings and landscape design that anchors a project in its local and regional environmental setting. These development plans assist in communicating the intent and requirements in implementing this vision of TMED.

TMED ZONING DISTRICT BOUNDARY PHASE 1 :

The TMED zoning ordinance boundary is the area bounded by Avenue M on the north side, South 31st Street on the west side (and including property owned by Scott & White on the west side of, and adjacent to 31st Street), Loop 363 to the south; and Martin Luther King Street to the east.

The area includes, but is not limited to, the campuses of Temple College, the Central Texas Veterans Healthcare System Temple campus, the Scott & White main campus as well as the Temple campus of the Texas A&M Health Science Center College of Medicine, a City of Temple Parks and Recreation Center, Temple Civic Theatre, Travis Middle School owned by the Temple Independent School District, and a number of commercial and residential properties that are privately held.

Staff has received direction to develop a Phase 2 of the TMED zoning district to include the areas inside the remaining residential area, the area south of Loop 363, and the area between the railroad and Martin Luther King Jr. Boulevard.

COORDINATING GROUP:

To carry out the purposes of the TMED, the sponsoring entities each have an appointed official to sit on a nine member Coordinating Group. In addition, the City Council appointed three residents who have or maintain a residence or commercial property interest within the boundaries of the TMED.

The following activities led up to the creation of the draft TMED zoning district:

- Kick-Off Meeting - 3/24/2010
- Informational and Design Workshops - April 2010
 - Avenue M (31st - 1st) 4/7/2010
 - TISD Shared Facilities 4/7/2010
 - Bioscience District and S&W & Health Science Group 4/8/2010
 - Veterans Administration Group 4/8/2010
 - Temple College & Blackland Group 4/8/2010
 - East Side Group 4/8/2010
 - West Side Group 4/8/2010
 - TMED Coordinating Group 4/8/2010
- Review of Detailed Ordinance (TMED Coordinating Group) - 5/5/2010
- Review of Detailed Ordinance (General Public) - 5/5/2010
- City Council Presentation - 7/1/2010

- P&Z Presentation - 7/6/2010
- Review - TMED Coordinating Group - 7/7/2010

On November 15, 2010, staff provided a presentation of the proposed ordinance to the Planning and Zoning Commission during work session. Staff also presented the same information to the City Council in their work session on November 18, 2010. At both work sessions, comments were made addressing concerns over landscaping and staff has proposed a minimal reduction in landscaping from the original draft version.

Staff sent the draft TMED zoning district out for final review to the coordinating group and received comments addressing specific uses on 31st Street and the minimum height required for T5. Staff has addressed the use concerns by allowing for fuel station uses with limitations in T5-e on 31st street only and allowing drive-thru use for financial institutions.

The creation of the TMED zoning district is a two part process, this being the first which is the creation of the district. The second part of the process is the rezoning of the property in the TMED zoning district boundaries. The first public hearing for the zoning will take place at the Planning and Zoning Commission on January 3, 2010.

The development of the TMED zoning district Phase 2 will begin in January 2011.

DISTRICT FORMAT:

The TMED zoning district includes three transect zones and four special districts. Each of the transect zones represent greater intensity of use and density permitted. The four special districts include the land owned by Scott and White Hospital and Texas A&M Health Science Center, Central Texas Veterans Health Care System, Temple College and Temple ISD.

Applicability: Applicability of the various sections of the ordinance is defined based on the development and or redevelopment on each property as well as specific applicability to districts stated in each section.

General Regulations: General regulations define all setback and lot dimensions required in each district. Impervious lot coverage, primary and secondary frontage build-out is also defined. Permitted encroachments are addressed as well as structure height and minimum residential density.

Use Standards: Uses are addressed for each of the TMED zoning districts and specific limitations are included. This section also addresses prohibited uses, outside storage and display and home occupations.

Circulation Standards: This section includes thoroughfare standards such as block perimeter maximums for new streets and access and connectivity requirements.

*Access and connectivity does not apply to Special Districts.

Parking and Loading Standards: This section includes parking requirements, which are a 25% reduction from standard parking requirements, off-street loading requirements, shared parking ratios,

parking location, on-street parking, as well as an excess parking penalty. This section also includes a provision unique to First Street which allows one row of 'teaser' parking between the street and building. All other parking is limited to the side or rear of the building.

*Required parking ratios and excess parking penalty does not apply to Special Districts.

Bicycle Facility Standards: The requirement for bicycle facility spaces is based on the amount of parking required.

Private Property Landscape Standards: This section addresses minimum landscape area and the amount of trees and shrubs required on private property. Landscaping is based on zoning district and the type of use. Landscaping is required in the parking lot and for screening parking, mechanical, loading areas and refuse containers. These requirements count towards the minimum site landscaping required. Types of permitted fence materials are also addressed in this section.

Public Frontage Standards: This section deals with the areas in public ROW, or the areas between back of curb and property line. Five public frontage types are defined and assigned to applicable streets in the TMED. Public frontage includes planting bed and street trees, sidewalks and amenities.

General Planting Criteria: This section provides the list for specific trees, shrubs and groundcover required, as well as installation, maintenance and irrigation requirements.

Architectural Standards: The architectural standards section includes requirements for masonry and accent materials and building design elements. Articulation, windows, doors and entries are addressed. Parking and garage requirements are also addressed for residential uses.

Private Property Common Open Space Standards: This section includes requirements for usable open space and amenity areas for non-residential and mixed use structures. Multi-family and mixed use structures are also required to provide complex amenities based on the number of residential units provided.

*This section does not apply to Special Districts or single family uses.

Sign Standards: Sign standards state which types of signs are required in the TMED Districts. Monument signs, multi-tenant signs and direction signs are only permitted in T5-e with warrant approval. Monument signs are not permitted in T5-c.

*This section does not apply to Special Districts-Veterans (SD-v).

Street Light Standards: This section refers to the City policy for street lights.

Utility Standards: This section states that new utilities must be underground.

UDC ARTICLE 2 AMENDMENT – TMED REVIEW COMMITTEE:

The TMED Review Committee (TRC) is established to review warrant requests.

UDC ARTICLE 3 AMENDMENT – SITE PLAN REVIEW AND APPROVAL PROCESS:

All development in the TMED zoning district will follow a site plan review and approval process. The district also establishes two types of deviations from the requirements of the TMED zoning district requirements; warrants and variances. Deviations that are allowed through the warrant and variance process are clearly stated.

UDC ARTICLE 11 AMENDMENT – DEFINITIONS:

Seventeen definitions applicable to the TMED zoning district are added.

PUBLIC NOTICE: The newspaper printed notice of the Planning and Zoning Commission public hearing on November 26, 2010 in accordance with state law and local ordinance.

FISCAL IMPACT: As development occurs in the TMED, there will be an expense incurred to maintain enhanced public ROW such as sidewalks, planting beds and pedestrian amenities. It is anticipated the cost for this maintenance will be incurred by the reinvestment zone and the work will be contracted out as required. The standards for reduced front yard setbacks and requiring additional items in the ROW will require long-term planning for potential relocation of water and wastewater lines in the future as existing infrastructure ages.

ATTACHMENTS:

[P&Z Staff Report \(December 7, 2010\)](#)
[P&Z Minutes \(December 7, 2010\)](#)
[Ordinance](#)



PLANNING AND ZONING COMMISSION AGENDA ITEM

12/07/10
Item #4
Regular Agenda
Page 1

APPLICANT: City of Temple

CASE MANAGER: Autumn Speer, Director of Community Services

ITEM DESCRIPTION: Z-FY-11-01 Hold a public hearing and recommend action on an amendment to the City of Temple Unified Development Code to amend Article 2 Development Review Bodies, to establish the TMED Review Committee; amend Article 3, Development Review Procedures, to establish the TMED Site Plan Review procedure; amend Article 6 Special Purpose and Overlay Zoning Districts, to establish Section 6.3 TMED, Temple Medical and Educational Districts; and amend Article 11 Definitions, to add applicable definitions for the TMED zoning district.

BACKGROUND:

In February 2008, the City entered into a Letter of Understanding (LOU) with Scott & White Memorial Hospital, Central Texas Veterans Healthcare System, Temple Health & Bioscience Economic Development District, Texas A&M Health Science Center College of Medicine, and Temple College. The sponsoring entities entered into the LOU as a cooperative and collaborative relationship to jointly promote education and medical activities of Scott & White, the VA, Temple College, the Bioscience District, and Texas A&M Health Science Center and to advance the redevelopment of both residential and commercial neighborhoods surrounding the campuses. This community-wide redevelopment effort, entitled "TMED", is aimed at ensuring the long term economic vitality of a critical area in our City.

The vision for the TMED is to enhance and protect the existing opportunities for medical, educational, research-related activity in the area, while identifying new public and private sector investment for the area. To accomplish these goals, the sponsoring entities are implementing redevelopment tools and funding sources to benefit the TMED.

One such tool is the creation of the TMED zoning district. The purpose of the zoning district and related specifications is to assist the City of Temple and owners to create the unique environment for TMED by providing criteria that will coordinate the character and quality of the entire district. This coordination creates identity, quality of place and an enhanced value that will attract and retain a vibrant mixed use environment. It is a result of detailed attention to the form and the feel of buildings and landscape design that anchors a project in its local and regional environmental setting. These development plans assist in communicating the intent and requirements in implementing this vision of TMED.

TMED ZONING DISTRICT BOUNDARY PHASE 1 :

The TMED zoning ordinance boundary is the area bounded by Avenue M on the north side, South 31st Street on the west side (and including property owned by Scott & White on the west side of, and adjacent to 31st Street), Loop 363 to the south; and Martin Luther King Street to the east.

The area includes, but is not limited to, the campuses of Temple College, the Central Texas

Veterans Healthcare System Temple campus, the Scott & White main campus as well as the Temple campus of the Texas A&M Health Science Center College of Medicine, a City of Temple Parks and Recreation Center, Temple Civic Theatre, Travis Middle School owned by the Temple Independent School District, and a number of commercial and residential properties that are privately held.

Staff has received direction to develop a Phase 2 of the TMED zoning district to include the areas inside the remaining residential area, the area south of Loop 363, and the area between the railroad and Martin Luther King Jr. Boulevard.

COORDINATING GROUP:

To carry out the purposes of the TMED, the sponsoring entities each have an appointed official to sit on a nine member Coordinating Group. In addition, the City Council appointed three residents who have or maintain a residence or commercial property interest within the boundaries of the TMED.

The following activities led up to the creation of the draft TMED zoning district:

- Kick-Off Meeting - 3/24/2010
- Informational and Design Workshops - April 2010
 - Avenue M (31st - 1st) 4/7/2010
 - TISD Shared Facilities 4/7/2010
 - Bioscience District and S&W & Health Science Group 4/8/2010
 - Veterans Administration Group 4/8/2010
 - Temple College & Blackland Group 4/8/2010
 - East Side Group 4/8/2010
 - West Side Group 4/8/2010
 - TMED Coordinating Group 4/8/2010
- Review of Detailed Ordinance (TMED Coordinating Group) - 5/5/2010
- Review of Detailed Ordinance (General Public) - 5/5/2010
- City Council Presentation - 7/1/2010
- P&Z Presentation - 7/6/2010
- Review - TMED Coordinating Group - 7/7/2010

On November 15, 2010, staff provided a presentation of the proposed ordinance to the Planning and Zoning Commission during work session. Staff also presented the same information to the City Council in their work session on November 18, 2010. At both work sessions, comments were made addressing concerns over landscaping and staff has proposed a minimal reduction in landscaping from the original draft version.

Staff sent the draft TMED zoning district out for final review to the coordinating group and received comments addressing specific uses on 31st Street and the minimum height required for T5. Staff has addressed the use concerns by allowing for fuel stations uses with limitations in T5-e on 31st street only and allowing drive-thru use for financial institutions.

The creation of the TMED zoning district is a two part process, this being the first which is the creation of the district. The second part of the process is the rezoning of the property in the TMED zoning district boundaries. The first public hearing for the zoning will take place on January 3, 2010.

The development of the TMED zoning district Phase 2 will begin in January 2011.

DISTRICT FORMAT:

The TMED zoning district includes three transect zones and four special districts. Each of the transect zones represent greater intensity of use and density permitted. The four special districts include the land owned by Scott and White Hospital and Texas A&M Health Science Center, Central Texas Veterans Health Care System, Temple College and Temple ISD.

Applicability: Applicability of the various sections of the ordinance is defined based on the development and or redevelopment on each property as well as specific applicability to districts stated in each section.

General Regulations: General regulations define all setback and lot dimensions required in each district. Impervious lot coverage, primary and secondary frontage build-out is also defined. Permitted encroachments are addressed as well as structure height and minimum residential density.

Use Standards: Uses are addressed for each of the TMED zoning districts and specific limitations are included. This section also addresses prohibited uses, outside storage and display and home occupations.

Circulation Standards: This section includes thoroughfare standards such as block perimeter maximums for new streets and access and connectivity requirements.

*Access and connectivity does not apply to Special Districts.

Parking and Loading Standards: This section includes parking requirements, which are a 25% reduction from standard parking requirements, off-street loading requirements, shared parking ratios, parking location, on-street parking, as well as an excess parking penalty. This section also includes a provision unique to First Street which allows one row of 'teaser' parking between the street and building. All other parking is limited to the side or rear of the building.

*Required parking ratios and excess parking penalty does not apply to Special Districts.

Bicycle Facility Standards: The requirement for bicycle facility spaces is based on the amount of parking required.

Private Property Landscape Standards: This section addresses minimum landscape area and the amount of trees and shrubs required on private property. Landscaping is based on zoning district and the type of use. Landscaping is required in the parking lot and for screening parking, mechanical, loading areas and refuse containers. These requirements count towards the minimum site landscaping required. Types of permitted fence materials are also addressed in this section.

Public Frontage Standards: This section deals with the areas in public ROW, or the areas between back of curb and property line. Five public frontage types are defined and assigned to applicable streets in the TMED. Public frontage includes planting bed and street trees, sidewalks and amenities.

General Planting Criteria: This section provides the list for specific trees, shrubs and groundcover required, as well as installation, maintenance and irrigation requirements.

Architectural Standards: The architectural standards section includes requirements for masonry and accent materials and building design elements. Articulation, windows, doors and entries are addressed. Parking and garage requirements are also addressed for residential uses.

Private Property Common Open Space Standards: This section includes requirements for usable open space and amenity areas for non-residential and mixed use structures. Multi-family and

mixed use structures are also required to provide complex amenities based on the number of residential units provided.

*This section does not apply to Special Districts or single family uses.

Sign Standards: Sign standards state which types of signs are required in the TMED Districts. Monument signs, multi-tenant signs and direction signs are only permitted in T5-e with warrant approval. Monument signs are not permitted in T5-c.

*This section does not apply to Special Districts-Veterans (SD-v).

Street Light Standards: This section refers to the City policy for street lights.

Utility Standards: This section states that new utilities must be underground.

UDC ARTICLE 2 AMENDMENT – TMED REVIEW COMMITTEE:

The TMED Review Committee (TRC) is established to review warrant requests.

UDC ARTICLE 3 AMENDMENT – SITE PLAN REVIEW AND APPROVAL PROCESS:

All development in the TMED zoning district will follow a site plan review and approval process. The district also establishes two types of deviations from the requirements of the TMED zoning district requirements; warrants and variances. Deviations that are allowed through the warrant and variance process are clearly stated.

UDC ARTICLE 11 AMENDMENT – DEFINITIONS:

Seventeen definitions applicable to the TMED zoning district are added.

PUBLIC NOTICE: The newspaper printed notice of the Planning and Zoning Commission public hearing on November 26, 2010 in accordance with state law and local ordinance.

STAFF RECOMMENDATION: Staff recommends approval of Z-FY-11-09, an amendment to the Unified Development Code to adopt standards for the TMED zoning districts.

FISCAL IMPACT:

As development occurs in the TMED, there will be an expense incurred to maintain enhanced public ROW such as sidewalks, planting beds and pedestrian amenities. It is anticipated the cost for this maintenance will be incurred by the reinvestment zone and the work will be contracted out as required. The standards for reduced front yard setbacks and requiring additional items in the ROW will require long-term planning for potential relocation of water and wastewater lines in the future as existing infrastructure ages.

ATTACHMENTS:

Proposed TMED Ordinance

Proposed Additional Sections

**EXCERPTS FROM THE
PLANNING & ZONING COMMISSION MEETING**

TUESDAY, DECEMBER 7, 2010

ACTION ITEMS

Item 4: Z-FY-11-13: Hold a public hearing and recommend action on an amendment to the City of Temple Unified Development Code to amend Article 2 Development Review Bodies, to establish the TMED Review Committee; amend Article 3, Development Review Procedures, to establish the TMED Site Plan Review procedure; amend Article 6 Special Purpose and Overlay Zoning Districts, to establish Section 6.3 TMED, Temple Medical and Educational Districts; and amend Article 11 Definitions, to add applicable definitions for the TMED zoning district. (City of Temple)

Ms. Autumn Speer, Director of Community Services, stated the purpose of the TMED zoning district was to create a unique multi-model community geared toward pedestrians, mixed use, and to take advantage of Scott & White, VA, Temple College, etc., located within the area.

The public input process began in March 2010 and several meetings have occurred over the year. A workshop was presented to P&Z in July and another in November. City Council also had a work session in November. A stakeholder group meeting would take place in the near future and finalization of the public hearing process would hopefully be completed by the end of 2010.

The TMED district was shown and boundaries given. Phase II of the process would begin in Spring 2011. Zoning categories and Special Districts were briefly described.

Applicability would be similar to the I35 applicability for requirements.

A Review and Approval Process have been created for the site plan and review for TMED.

Warrants and Variances were discussed and the process involved. Warrants were administrative and would go through the TRC (TMED Review Committee) comprised of DRC Staff, two members of coordinating group, and a citizen at large. True variances would continue to be processed through ZBA.

General Provisions described various requirements such as setbacks, minimum and maximum lights, minimum and maximum densities, etc.

Use Standards describe specific standards dependent upon the various districts. Financial institutions, such as banks, have been permitted and could have drive

thrus, and fuel sales, with limitations, would be permitted but only in T5c along 31st Street since some already exist.

District T5c contains the majority of green field land. Currently multi-family is allowed by right but a limitation for multi-family would state it would not be permitted on the first floor of a structure facing a collector or an arterial, without warrant approval, to limit multi-family development in that specific area.

Circulation, Parking and Loading were outlined. S&W had some concerns about bike facilities and Staff recommended a cap: one bike rack per 10 parking spaces and the cap would not exceed 25 per project. S&W agreed with this recommendation.

Private Property Landscaping, dependent on use, had specific requirements. Private frontage street trees were removed from previous presentations since sufficient space was not available.

Screening was geared more for parking lots, mechanical, and dumpsters and fence materials were outlined.

Public Frontage Types and Public Frontage Elements included were defined.

General Planting Criteria includes the types of trees, groundcover, and shrubs that could be planted and installation specifications.

Building materials and accent materials were outlined. The 10% max for accent materials increased to 20%.

Architectural features were briefly described. Orientation of the structure should be to the street, not the parking lot.

Common Open Space only applied to multi-family, mixed use and non-residential uses.

Signs were not changed from previous presentations.

Additional items were the Site Plan Permit Application and the Design Criteria Manual that will go with the information.

Staff recommended approval of the Ordinance as presented with the exception of a maximum cap of 25 bicycle racks per development project in the SD districts and multi-family uses in T5c, not allowing multi-family uses on the first floor of structures facing collectors or arterials, without warrant approval.

Chair Talley opened the public hearing. There being no speakers, the public hearing was closed.

Commissioner Pope made a motion to approve the amendment to the City of Temple Unified Development Code to amend Article 2 Development Review Bodies, to establish the TMED Review Committee; amend Article 3, Development Review Procedures, to establish the TMED Site Plan Review procedure; amend Article 6 Special Purpose and Overlay Zoning Districts, to establish Section 6.3 TMED, Temple Medical and Educational Districts; and amend Article 11 Definitions, to add applicable definitions for the TMED zoning district including the two additional items regarding bike racks and T5c prohibited multi-family use on first floor. Commissioner Sears made a second.

Motion passed: (5:0)

Commissioners Staats, Williams, Barton, and Hurd absent

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING ORDINANCE NO. 2010-4413, THE “UNIFIED DEVELOPMENT CODE,” TO CREATE THE TMED ZONING DISTRICT AND MAKE THE NECESSARY AMENDMENTS TO OTHER ARTICLES IN THE CODE FOR THIS PURPOSE; PROVIDING A REPEALER; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on December 16, 2010, the City of Temple adopted Ordinance No. 2010-4413, the “Unified Development Code,” which is a consolidated set of land development regulations related to zoning, platting and site design;

Whereas, at its December 7, 2010, meeting the Planning and Zoning Commission voted to make certain amendments to the Unified Development Code to create the TMED Zoning District, and the Staff recommends this action; and

Whereas, the City Council has considered the matter and deems it in the public interest to approve this action.

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

Part 1: The City Council approves an amendment to Ordinance No. 2010-4413, the “Unified Development Code,” to create the TMED Zoning District by amending Article 2, “Development Review Bodies,” to establish the TMED Review Committee; Article 3, “Development Review Procedures,” to establish the TMED Site Plan Review procedure; Article 6, “Special Purpose and Overlay Zoning Districts,” to establish Section 6.3, “TMED, Temple Medical and Education Districts;” and Article 11, “Definitions,” to add applicable definitions for the TMED zoning District, said amendments being more fully described in Exhibit A and Exhibit B, attached hereto for all purposes.

Part 2: All ordinances or parts of ordinances in conflict with the provisions of this ordinance are to the extent of such conflict hereby repealed.

Part 3: It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such invalid phrase, clause, sentence, paragraph or section.

Part 4: This ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

Part 5: It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on First Reading and Public Hearing on the **16th** day of **December**, 2010.

PASSED AND APPROVED on Second Reading on the **6th** day of **January**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, MAYOR

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney

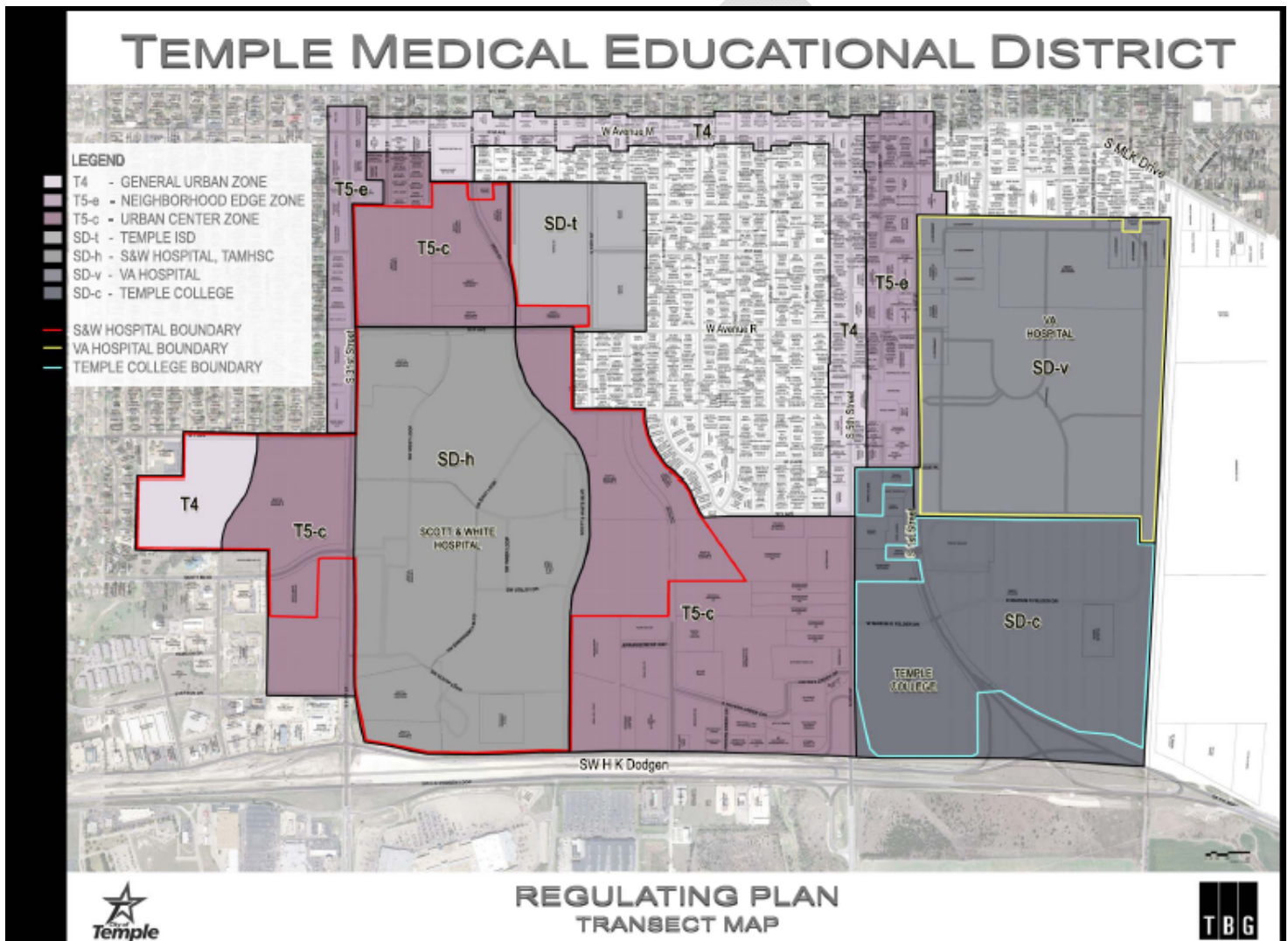
Temple Medical and Educational Zoning District (TMED)

GENERAL PURPOSE AND DESCRIPTION

The purpose of the TMED zoning district is to develop a unique community which requires multi-modal, pedestrian oriented development in the form of compact neighborhoods and mixed-use centers. Attention is placed on providing a meaningful variety of housing options and distinct physical environments.

BOUNDARY

The TMED zoning district is defined as:



ESTABLISHMENT OF TRANSECT ZONES

The TMED zoning district includes two Transect Zones plus Special Districts (SD) as defined below. The T5 zone contains two subsets, which are denoted by the T5 abbreviation in this document when referencing both subsets. Four institutional Special Districts are created and denoted by the SD abbreviation in this document when referencing all four Special Districts.

T4 General Urban Zone: consists of a mixed-use but primarily residential urban fabric. It may have a wide range of building types: single, side yard and row houses. Setbacks and landscaping are variable. Streets with curbs and sidewalks define medium-sized blocks.

T5-e Neighborhood Edge Zone: consists of a mid-density mixed-use but primarily commercial, retail and office urban fabric. It typically has a single row of teaser parking located in front of the principal building, with strong vehicular cross-connection among adjacent properties. It primarily has attached buildings with wide sidewalks, rhythmic street tree planting and buildings set close to the sidewalks.

T5-c Urban Center Zone: consists of higher-density, mixed-use buildings that accommodate retail, offices, row houses and apartments. It has a tight network of streets with wide sidewalks, rhythmic street tree planting and buildings set close to the sidewalks.

Special Districts: consist of institutions with buildings that by their current function, disposition or configuration cannot, or should not, conform to one or more of the six normative Transect Zones. The referencing to a particular institution in a Special District is as follows:

- S&W Memorial Hospital and Texas A&M Health Science Center (SD-h)
- The Central Texas Veterans Health Care System (SD-v)
- Temple College (SD-c)
- Temple Independent School District (SD-t)

APPLICABILITY

The provisions of the TMED zoning district apply to all development as stated in Table 1.

Table 1: Applicability

Development Type	Review Process	General Standards	Use Standards	Circulation Standards	Parking and Loading Standards	Bicycle Facility Standards	Private Property Landscaping Standards	Screening Standards	Public Frontage Standards	General Planting Criteria	Architectural Standards	Common Area	Sign Standards	Lighting Standards	Utility Standards
New construction (all types)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Increase in gross floor area of 50% or more or modifications with a cost equal to or greater than 50% of the assessed value of improvements per the current tax roll	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
Increase in gross floor area of 25%-49% or modifications with a cost equal to 25%-49% of the assessed value of improvements per the current tax roll	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓		
Increase in gross floor area of 10%-24% or modifications with a cost equal to 10%-24% of the assessed value of improvements per the current tax roll	✓	✓	✓		✓	✓	✓	✓		✓	✓		✓		
Restoration or rehabilitation of existing structure with no increase in gross floor area (non-residential and multi-family)	✓					✓					✓		✓		

Development Type	Review Process	General Standards	Use Standards	Circulation Standards	Parking and Loading Standards	Bicycle Facility Standards	Private Property Landscaping Standards	Screening Standards	Public Frontage Standards	General Planting Criteria	Architectural Standards	Common Area	Sign Standards	Lighting Standards	Utility Standards
Interior only restoration or rehabilitation of existing structure with no increase in gross floor area (non-residential and multi-family)															
Restoration or rehabilitation of existing structure with no increase in gross floor area (single family residential only)															

SITE PLAN REVIEW PROCESS

All development in TMED must follow the site plan review process as defined in Article 3, Development Review Procedures, TMED Site Plan Review.

GENERAL REGULATIONS

Applicability. General Regulations apply to all districts.

General to all Districts.

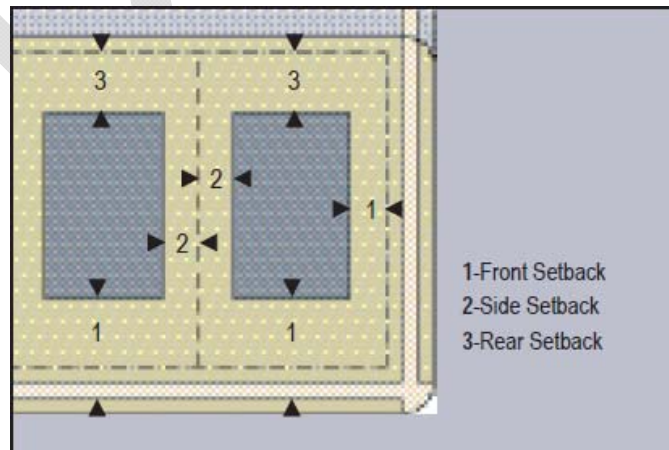
Table 2 outlines the general requirements for the TMED districts as they relate to lot dimensions, setbacks, structure configuration and type permitted.

Table 2: General Requirements Lot Dimensional Standards	T4	T5-e	T5-c	SD	
				SD-C; SD-t	SD-v; SD-h
Min. Lot Area	NA	NA	NA	NA	NA
Min. Lot Width	18'	18'	18'	NA	NA
Max. Lot Width	120'	700'	700'	NA	NA
Min. Lot Depth	NA	NA	NA	NA	NA
Max. Lot Depth	NA	NA	NA	NA	NA

Max. Impervious Lot Coverage – Residential Uses	70%	70%	80%	NA	NA
Max. Impervious Lot Coverage – Non-Residential Uses	80%	80%	80%	NA	NA
Principal Street Frontage Build out	60%	80%	80%	60%	NA
Secondary Street Frontage Build out	30%	40%	40%	30%	NA

Table 3: Setback Requirements

Setback Requirements	T4	T5-e	T5-c	SD	
				SD-C; SD-t	SD-v; SD-h
Min. Front Yard Setback	6'	4'	4'	6'	NA
Min. Front Yard Private Landscape Area (see Table 11)	6'	4'	4'	6'	NA
Max. Front Yard Setback	16'	12'	12'	18'	NA
Min. Side Yard Setback	0'	0'	0'	12'	NA
Max. Side Yard Setback	NA	30'	24'	12'	NA
Min. Side Yard Setback at Street	6'	2'	2'	6'	NA
Max. Side Yard Setback at Street	10'	12'	12'	18'	NA
Min. Rear Yard Setback	3'	3'	3'	12'	NA
Min. Rear Yard Setback - Rear Entry Garage Only	20'	20'	20'	20'	20'



Permitted Encroachments into Setbacks. The following are permitted in required yard areas provided that they comply with all other standards of this and other applicable codes:

Table 4: Permitted Encroachment

Type of Encroachment	T4			T5 and SD		
	Front	Rear	Side	Front	Rear	Side
Main Entry Stairways (single-family)	50%	100%	Not Permitted	100%	100%	Not Permitted
Main Entry Stairways (multi-family)	Not Permitted	100%	Not Permitted	Not Permitted	100%	Not Permitted
Balconies (8' ground clearance required)	50%	100%	Not Permitted	100%	100%	Not Permitted
Awnings, Arcades, Galleries (8' ground clearance required)	50%	100%	Not Permitted	100%	100%	Not Permitted
Covered Porches	50%	100%	Not Permitted	100%	100%	Not Permitted
Bay Windows	50%	100%	50%	100%	100%	50%
Fire Escapes	Not Permitted	100%	Not Permitted	Not Permitted	100%	Not Permitted
Dining Areas (non-residential)	100% outside of required front yard private landscape area	100%	Not Permitted	100% outside of required front yard private landscape area	100%	Not Permitted

Buildings are not permitted to overlap property lines.

Table 5: Structure Configuration

Structure Configuration	T4	T5-e	T5-c	SD	
				SD-C; SD-t	SD-v; SD-h
Min. Building Height	1 story	1 story Except 1st Street requires 2 stories	2 stories	NA	NA
Max. Building Height	3 stories	3 stories	5 stories	NA	NA
Minimum Story Height	12'	12'	14'		
Minimum Density (residential units per acre)	NA	8 units per acre	24 units per acre	NA	NA
Maximum Density (residential units per acre)	14 units per acre	24 units per acre	40 units per acre	NA	NA
Maximum Density by Warrant (residential units per acre)	24 units per acre	30 units per acre	60 units per acre	NA	NA
Maximum Residential Units Per Attached Structure	6	10	10	NA	NA
Maximum Accessory Structure	1 per residential lot	1 per residential lot	Not Permitted		

Story Height. In TMED height is defined as the measurement from finished floor to the top plate.

USE STANDARDS

Applicability. TMED Use Standards apply to all districts.

Legend for Interpreting Use Table. Table 4 establishes the meaning of the symbols used in the table below.

Table 6: Land Use Interpretation

Symbol	Meaning
P	Permitted by right in district indicated
L	Permitted by right subject to limitations in district indicated
C	Requires Conditional Use Permit in district indicated
Blank Cell	Prohibited in district indicated

Use Table. The following principal uses are permitted by right, permitted subject to limitations or require a Conditional Use Permit approved in accordance with Section 3.5

Table 7: Use Table

RESIDENTIAL USES	T4	T5- e	T5- c	SD				Standards
				SD-t	SD-h	SD-v	SD-c	
Multi-family		L	L				P	T5-e – 3 T5-c - 12
Live/Work Unit	P	P	P					
Row house/ Townhouse (3 or more attached units)	P	P	P				P	
Duplex								
Single Family Detached	P	P						
Accessory Dwelling Unit	L	L	L					7

LODGING USES	T4	T5- e	T5- c	SD				Standards
				SD-t	SD-h	SD-v	SD-c	
Hotel		L	L		L			4
Bed and Breakfast (max 5 sleeping rooms)	P							
School Dormitory			P		P	P	P	
OFFICE & RETAIL USES	T4	T5- e	T5- c	SD				Standards
				SD-t	SD-h	SD-v	SD-c	
Office	L	P	P	P	P	P	P	1
Retail Sales (no drive- thru permitted)	L	P	P		P	P	P	1
Retail Service (no drive-thru permitted)	L	P	P		P	P	P	1
Financial Institutions (drive-thru permitted)	L	L	L		L	L	L	T4 – 1, 10 T5 – 10 SD - 10
Fuel Sales		L						11
Auto Parts Sales								
Vehicle Sales and Service								
Restaurant (no drive- thru permitted)	L	P	P		P	P	P	1
Alcoholic Beverage Sales for On-Premise Consumption – Less than 50% Revenue		C	C					
Alcoholic Beverage Sales for On-Premise Consumption – Less than 75% Revenue			C					
Bar - Alcoholic Beverage Sales for			C					

On-Premise Consumption – More than 75% Revenue								
Kiosk								
Package Store								
CIVIC USES	T4	T5-e	T5-c	SD				Standards
				SD-t	SD-h	SD-v	SD-c	
Bus Shelter	P	P	P	P	P	P	P	
Convention, Conference or Exhibition Center		P	P	P	P	P	P	
Fountain or Public Art	P	P	P	P	P	P	P	
Library		P	P	P	P	P	P	
Museum	L	P	P	P	P	P	P	1
Gallery	L	P	P	P	P	P	P	1
Parking Structure		L	L	L	L	L	L	8
Commercial Surface Parking Lot					L	L	L	5
Park, Playground, Open Space	P	P	P	P	P	P	P	
Religious Assembly	P	P	P	P	P	P	P	
Governmental Use	P	P	P	P	P	P	P	
MEDICAL USES	T4	T5-e	T5-c	SD				Standards
				SD-t	SD-h	SD-v	SD-c	
Medical Office/Lab	L	P	P		P	P	P	1
Medical Clinic		P	P		P	P	P	
Hospital			P		P	P		
Research Facility		L	P	P	P	P	P	6
Drug Store or Pharmacy (drive-thru permitted)	L	L	L		P	P		T4 - 1,2 T5 - 2
CHILDCARE AND EDUCATION USES	T4	T5-e	T5-c	SD				Standards
				SD-t	SD-h	SD-v	SD-c	
Childcare: Family Home	L	L	L					9
Childcare: Group Day Care Home	L	L	L					9
Childcare: Group Day Care Center	L	L	L	L	L	L	L	9
Pre-School	L	L	L	L	L	L	L	9
Public or Private Education Facility	P	P	P	P	P	P	P	
Trade or Vocational School		P	P	P	P	P	P	
College		P	P	P	P	P	P	

ENTERTAINMENT USES	T4	T5- e	T5- c	SD				Standards
				SD-t	SD-h	SD-v	SD-c	
Live Theatre (outdoor)		P	P	P	P	P	P	
Live Theatre (indoor)		P	P	P	P	P	P	
Movie Theatre			P	P	P	P	P	
Outdoor Auditorium/Stadium			P	P	P	P	P	

Limitations. The following specific limitations apply to all uses with the designation in the use table.

1. Uses shall not be permitted to inhabit space larger than 10,000 sq ft.
2. In addition to vehicle space in front of drive-thru window, three spaces are required for stacking in drive-thru. Drive-thru must only be permitted in rear or side of building.
3. Multi-family is permitted only if part of a mixed use development in which 40% of the non-residential uses must be constructed with or prior to multi-family construction.
4. Hotels are permitted in accordance with the following provisions:
 - External balconies and walkways must be set back 200 feet from any residential zoning district.
 - Must provide staff on-site 24 hours a day.
 - All room units must be accessed through an internal hallway, lobby, or courtyard. Exterior entrances to individual rooms are prohibited.
 - Must provide at least three amenities from the list below:
 - Indoor/Outdoor Pool
 - Spa/Sauna
 - Weight Room/Fitness Center
 - Playground
 - Sports Court
 - Plaza/Atrium
 - Game Room
 - Conference Room (1,000 square foot minimum)
 - Full Service Restaurant (minimum seating capacity of 35)
5. All commercial surface parking lots must adhere to screening requirements.
6. Overhead doors are prohibited.
7. Accessory dwelling units are only permitted on lots with single family detached structures. Accessory dwelling units are not permitted in the required garage. Accessory dwelling units must comply with all setback and coverage requirements. Accessory dwelling units shall count toward maximum one accessory structure per lot.
8. Parking structures must integrate commercial uses on the first floor on primary and secondary frontages. Parking structures must be treated the same as non-residential structures for the application of TMED standards.
9. Article 5 Section 5.3 Special Use Standards apply to use.
10. Drive-thru must only be permitted in rear or side of building and be screened in accordance with parking lot screening requirements.
11. Fuel stations are only permitted on 31st Street. Fuel pumps must be located in the rear or side of the primary structure and be screened in accordance with

parking lot screening requirements. The number of pumps is limited to 8 fueling stations.

12. Multi-family uses are not permitted on the first floor of structures fronting on collectors or arterials without warrant approval.

Uses Not Addressed. Uses not specifically addressed in the above table are prohibited unless determined by the Planning Director to fall into a permitted category.

Prohibited Uses. The following uses are prohibited in the City:

- Mobile home; and
- Tattoo parlor

Outside Storage. Outside storage is not permitted in TMED. Prohibited outside storage includes open storage, portable containers, portable buildings, or any other structure not fixed onto a permanent slab and that adheres to the architectural standards defined in Table 16.

Outside Retail Display. Commodities must not be displayed for sale in a zoning district where such sale is not an allowed land use.

Commodities must not be displayed for sale outside a building in the TMED zoning district, except as exempted below:

Temporary display for a sidewalk sale that does not extend more than five feet from front façade and reserves at least five feet of sidewalk or walkway for pedestrian use

Home Occupations. Home Occupations are permitted in accordance with Article 5 Use Standards, Section 5.5.4 Home Occupations in its entirety.

CIRCULATION STANDARDS

Applicability. Circulation Standards apply to all districts unless otherwise stated in individual sections.

Thoroughfare Standards.

Cul-de-sacs are prohibited in the TMED zoning district.
New thoroughfares must follow Design and Development Standards Manual for construction.

Block Perimeter. Maximum block perimeter must be in accordance with Table 8 for all newly constructed streets in the TMED zoning district.

Table 8: Block Perimeter

Maximum Block Perimeter	T4	T5-e	T5-c	SD
	2,500 ft	2,500 ft	2,000 ft	NA

Access and Connectivity. Access and Connectivity does not apply to Special Districts.

Non-residential driveway connections to adjacent property must be provided.

All driveway connections must be constructed and stubbed or connected to any existing stub.

Driveway spacing must be based on Design and Development Standards Manual and the appropriate alignment with any existing or proposed median breaks as approved by the City Engineer.

The requirement for a driveway connection may be waived by the Planning Director when unusual topography or site conditions would make such a driveway or access easement useless to adjoining properties.

Specific to Zone T5-e First Street. In order to reduce the number of pedestrian and vehicular conflicts at sidewalk and driveway intersections, driveway cuts must be limited to a maximum of two per block face, regardless of currently allotted driveway cuts.

PARKING AND LOADING STANDARDS

Applicability. Parking and Loading Standards apply to all districts unless otherwise stated in individual sections.

Required Parking Ratios. Required Parking Ratios do not apply to Special Districts.

Article 7 General Development Standards, Section 7.4.4 applies in its entirety with the following exceptions:

Minimum requirements for all non-residential uses and multi-family uses shall be reduced by 25%.

If parking in excess of 100 percent of the minimum parking spaces required is provided, additional landscaping area and planting equivalent to 2 percent of the parcel's impervious cover must be provided per each additional parking space.

Parking Space Dimensions. Article 7, Section 7.4.5 applies in its entirety.

Parking Requirements for New or Unlisted Uses. Article 7 General Development Standards, Section 7.4.6 shall apply in its entirety for uses that are determined to be permitted by the Planning Director.

Off-Street Loading Regulations. Article 7 General Development Standards, Section 7.4.7 shall apply in its entirety with the following exceptions:

Common or shared loading and delivery entrances must be provided between adjacent buildings or developments.

Off-street loading areas and truck staging areas must be located in the rear yard and not visible from public right of way.

Table 9: Shared Parking Factor

Parking Location. All surface parking shall be constructed on site in accordance with the following standards:

Surface parking areas must be constructed with curb and gutter.

- All parking areas and garages must be located at the second or third layer of the principal frontage, and must be accessed by rear alleys.

- Non-residential driveways at frontages must be no wider than 24 feet in the first layer.
- All parking areas and garages must be located at the second or third layer of the principal frontage, and must be accessed by rear alleys.



- Alleys. When alleys are not in existence, right of way must be dedicated and access drive constructed as part of development. Alleys must be constructed in accordance to Design and Development Standards Manual.

Parking Location Specific to Zone T5-e First Street.

A single row of teaser parking not exceeding 40 feet in pavement depth is permitted parallel to 1st Street.

Parking Lot Setback. Where parking is located in the front of the building there must be a minimum setback of ten feet from the right-of-way line to the parking area.

In order to reduce the number of pedestrian and vehicular conflicts at sidewalk and driveway intersections, driveway cuts must be limited to a maximum of two per block face, regardless of currently allotted driveway cuts.

On-Street Parking. On-street parking spaces may be located on streets as identified in Table 120.

On-street parking may be used to satisfy 50% of the off-street parking standards for non-residential uses excluding multi-family.

On-street parking may only be achieved through parallel parking.

BICYCLE FACILITY STANDARDS

Applicability. Bicycle Facility Standards apply to all districts.

Bicycle Facilities. Bicycle facilities are required in accordance with Table 10:

Table 10: Bicycle Facilities

District	Bicycle Rack Space
T4	1 per 8 non-residential spaces
T5-e	1 per 15 required parking spaces
T5-c	1 per 10 required parking spaces
SD	1 per 10 required parking spaces (not to exceed 25 per project)

Bicycle facilities must be placed in clearly designated, safe, and convenient locations, so that no tenant entrance is greater than 200 feet from a bike facility.

Bike facilities must be separated from motor vehicle parking in order to protect both bicycles and vehicles from accidental damage. Facilities must be separated from the building or other walls, landscaping, other features a minimum of three (3') feet to make such facilities easy to use.

Specific bicycle facilities are permitted in the TMED zoning district. Refer to TMED Design Criteria Manual

PRIVATE PROPERTY LANDSCAPE STANDARDS

Applicability. Private Property Landscape Standards apply to all districts.

General Site Landscape.

A minimum percentage of the total area of the private property on which development, construction, or reconstruction is proposed must be dedicated to landscape area including trees, shrubs, groundcover, sod or other living plant material.

The minimum site landscape requirements for TMED Districts are defined in Table 11 based upon use:

Table 11: Private Landscape Requirements

District	Minimum Landscape Area	Minimum Trees and Shrubs Per Lot	
		Single Family Attached or Detached Residential	Multi-family, Mixed Use or Other Uses
T4	30%	2 Trees per lot 2 Shrubs per 10' front foundation	NA
T4	20%	NA	1 Tree and 4 shrubs per 500 sq ft landscape area
T5-e	20%	2 Trees per lot 2 Shrubs per 10' front foundation	1 Tree and 4 shrubs per 600 sq ft landscape area ft
T5-c	20%	2 Trees per lot 2 Shrubs per 10' front foundation	1 Tree and 4 shrubs per 600 sq ft landscape area ft
SD	NA	NA	1 Tree and 4 shrubs per 1,000 sq ft landscape area ft

Tree Mix.

Private property trees must be selected from Table 14 Approved Tree List.

Minimum 50% required trees must be selected from the medium or large size tree list.

Minimum 50% required trees must be evergreen species.

Parking Lot Landscaping.

Landscaped parking islands are required in all parking lots.

One landscape island must be provided for every 10 parking spaces. Islands may be located throughout the parking lot except all parking rows must begin and terminate in a curbed landscape island.

Islands must be a minimum of 170 square feet in area and 8 feet in width back of curb to back of curb. One small or medium tree from the approved planting list is required in each island.

All islands must be raised at least six inches, curbed and planted with approved landscaping materials.

Parking islands shrubs, trees and landscape area may be counted towards the overall landscaping requirements established in Table 11: Private Landscape Requirements.

Parking Lot Screen. This subsection is applicable to non-residential and multi-family development and uses in TMED.

All parking must be screened from public rights-of-way at least 36 inches in height, through one of the following methods:

- Planting screen of evergreen shrubs
- Masonry wall
- Combination of evergreen shrubs and berm
- Combination of evergreen shrubs and wall

Planted screening must be capable of providing a solid, opaque 36-inch screen within two (2) years, and must be planted in a prepared bed that is at least three feet (3') in width.

Parking lot screening shrubs and landscape area may be counted towards the overall landscaping requirements established in Table 11: Private Landscape Requirements.

Screening of Mechanical Equipment. This subsection is applicable to all non-residential and multi-family development and uses in TMED.

All roof, ground and wall-mounted mechanical equipment (e.g., air handling equipment, compressors, duct work, transformers and elevator equipment) must be screened from view or isolated so as not to be visible from any residential districts or uses, streets, rights-of-way or public park areas within 150 feet of the property line of the subject lot or tract, measured from a point five (5') feet above grade in accordance with this section.

Roof-mounted mechanical equipment must be shielded from view on all sides using parapet walls.

Wall or ground-mounted equipment screening must be constructed of:

- Vegetative screens; or
- Brick, stone, architecturally finished concrete, or other similar masonry materials;
- and
- All fence or wall posts must be concrete-based masonry or concrete pillars.

Exposed conduit, ladders, utility boxes and drain spouts must be painted to match the color of the building.

Mechanical equipment screening shrubs and landscape area may be counted towards the overall landscaping requirements established in Table 11: Private Landscape Requirements.

Screening of Waste Containers. This subsection is applicable to all non-residential and multi-family development and uses in TMED.

Waste containers must be located on the rear of the building and screened from public view to minimize visibility. If the property has two public frontages the waste container must be placed on the side of the structure.

Waste containers must be located at least 50 feet away from any residential use or District's property lines with the exception of multi-family.

Waste containers must be screened on all four (4) sides, using an enclosure that screens the waste container from view at the property line.

Screening must be at least as tall as the waste container(s) and comprised of materials and color schemes that are visually and aesthetically compatible with the overall project that incorporate the following:

- i. Brick;
- ii. Stone;
- iii. Stucco;
- iv. Architecturally finished concrete; or
- v. Other similar masonry materials.

Waste containers with fence posts must be rust-protected metal, concrete based, masonry or concrete pillars; and waste containers must have six-inch concrete filled steel pipes (bollards) that are located to protect the enclosure from truck operations and not obstruct operations associated with the waste container.

Waste container enclosures must have steel gates with spring-loaded hinges or the equivalent and fasteners to keep them closed. When in use, tie-backs must be used to secure the steel gates in the open position.

Waste container screening must be maintained by the owner at all times.

The ingress, egress, and approach to all waste container pads must conform to fire lane requirements.

Waste container pad and aprons requirements must be constructed in accordance with Design and Development Standards Manual.

Waste container screening shrubs and landscape area may be counted towards the overall landscaping requirements established in Table 11: Private Landscape Requirements.

Screening of Loading Docks. This subsection is applicable to all non-residential development and uses in TMED.

Loading and service areas must be located on the rear of the building and screened from public view to minimize visibility. If the property has two public frontages the waste container must be placed on the side of the structure.

Loading areas must not be located closer than 50 feet to any single-family lot, unless wholly within an enclosed building.

Off-street loading areas must be screened from view from any street or adjacent property of differing land use.

All loading areas must be enclosed on three sides by a wall or other screening device not less than eight (8') feet tall.

Loading areas that are visible from any public right-of-way must also include a combination of evergreen trees and shrubs that will result in solid opaque vegetative screening at least 8 feet in height within two (2) years. Planting area must be planted in a prepared bed that is at least three feet (3') in width.

Loading dock screening shrubs and landscape area may be counted towards the overall landscaping requirements established in Table 11: Private Landscape Requirements.

Fence and Wall Standards – All Uses. This subsection is applicable to all development and uses in TMED.

Fences and walls on the primary and secondary frontage must only be three feet in height.

Fences and walls to the rear of the structure must not be more than six feet, unless they are required for loading dock screening.

Fencing and walls must not be placed within the required line of sight as determined by the sight triangle.

Chain link, barbed wire, razor wire, and metal or corrugated panels are prohibited.

Non-residential and Multi-Family Uses. This subsection is applicable to all non-residential and multi-family development and uses in TMED.

Fences and walls must be constructed of decorative blocks, brick, stone, vinyl, woodcrete and wrought iron. Alternative materials may be requested by warrant.

Breaks in the fence or wall must be made to provide for required pedestrian connections to the perimeter of the site and to adjacent developments.

Single Family Uses. This subsection is applicable to all single family detached and attached development and uses in TMED.

Fences and walls must be constructed of decorative blocks, brick, stone, vinyl, wood, woodcrete and wrought iron. Alternative materials may be requested by warrant.

PUBLIC FRONTAGE STANDARDS

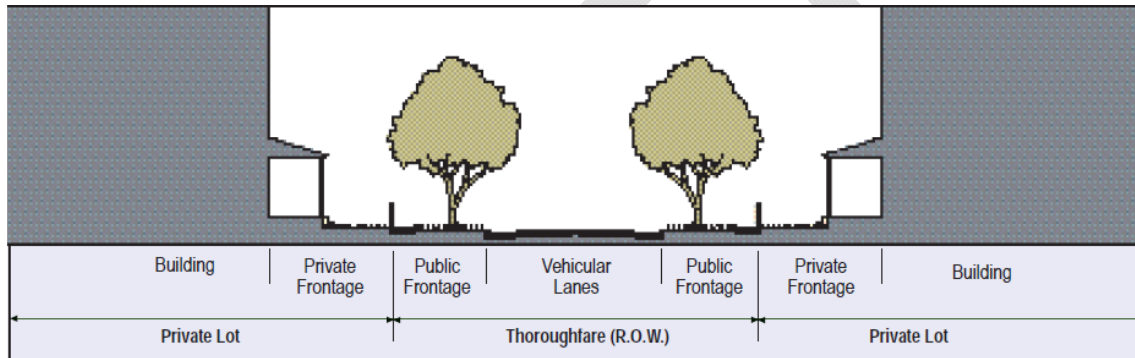
Applicability. Public Frontage Standards apply to all districts in TMED.

Public Frontage. Public frontage is the space between existing or proposed back of curb and property line.

Total public frontage depth is measured from back of curb. If existing right of way does not accommodate all requirements, private property must be used to account for the additional required depth.

Refer to the TMED Design Criteria Manual for examples of Public Frontage requirements.

Curb and gutter installation is required.



Five types of public frontages are defined and assigned to applicable streets in TMED as shown in Table 12.

Table 12. Public Frontage Types

Public Frontage Type	On-Street Parking Permitted	Total Public Frontage Depth	Street Yard Planting Strip	Sidewalk Width
Type A (Arterial)	No	20.5'	10.5'	10'
Type B (Urban 1)	No	12'	6'	6'
Type C (Urban 2)	Yes	14'	6'	8'
Type D (Urban 3)	No	14'	6'	8'
Type E (Collector/Local)	Yes	12'	6'	6'

Public Frontage Implementation.

Public frontage requirements for all streets in TMED must follow Table 13:

Table 13: Public Frontage Implementation

Street Name	Type A	Type B	Type C	Type D	Type E
New Streets in T4			✓		✓
New Streets in T5-c			✓		
New Streets in SD		✓	✓		✓
1st Street	✓				
5 th Street from Friar's Creek to Avenue V	✓				
5 th Street North of Avenue V		✓			
25 th Street		✓			
S 31 st Street (trail on west side)				✓	
13 th Street				✓	
17 th Street				✓	
West Avenue R (trail on north side)				✓	
West Avenue M					✓
All others					✓

Public Frontage Landscape Standards.**Street Trees.**

One tree per 25' linear frontage is required. Trees must be planted in a regularly spaced pattern. Spacing of trees may be offset to allow a view corridor into the primary entry of a non-residential use.

- Type A, B, C and D Public Frontage. Street trees must be a single species selected from Table 14 Approved Tree List.
- Type E Public Frontage. Street trees must be an alternating species selected from Table 14 Approved Tree List.

Public frontage trees must be planted within the required street yard planting strip adjacent to the back of curb.

- Type A Public Frontage - Trees must be planted 7.5' from back of curb in the required planting strip.
- Type B, C, D, and E Public Frontage – Trees must be planted a minimum 3' from back of curb in the required planting strip.

Large canopy trees must be planted if overhead utilities are not present. Medium canopy trees must be planted if overhead utilities are present.

Planting Area.

Type A, B, C and D Public Frontage. The street yard planting strip must be planted in evergreen groundcover as shown on Table 15 Approved Groundcover List at a rate of 1 - one gallon container per 4 square feet of street yard planting area.

Type E Public Frontage. The street yard planting strip must be planted in living evergreen groundcover as shown on approved plant material list at a rate of 1 - one gallon container per 5 square feet of street yard planting area or approved sod material as listed in General Planting Criteria.

Public Frontage Sidewalk Standards.

Sidewalks must extend the entire length of the development's frontage on a public street and must be constructed in accordance with Design and Development Standards Manual and provisions herein.

Sidewalks must be constructed before a Certificate of Occupancy is issued.

Sidewalks must connect to existing adjacent sidewalks, or be designed and placed to allow connection to future adjacent.

Sidewalks of different widths must be transitioned within a length of sidewalk by two expansion joints not less than six feet apart as required by Texas Accessibility Standards.

Sidewalks must connect to parking within the lot and to primary entrances of each commercial building.

Pedestrian walkways must also connect primary building entrances to all associated outdoor amenities, such as courtyards and other outdoor gathering places.

Residential sidewalks must be installed from the primary entrance of the residence to the perimeter street sidewalk system.

Public Frontage Amenities. In addition to required landscaping and sidewalks, pedestrian amenities are required as follows:

Benches must be provided at 50% of all intersections within the public ROW surrounding the development.

- Specific benches are permitted in the TMED zoning district. Refer to TMED Design Criteria Manual

Trash receptacles must be placed next to required seating areas.

- Specific trash receptacles are permitted in the TMED zoning district. Refer to TMED Design Criteria Manual

Pedestrian scale lighting must be provided at all intersections and at 100' intervals along all public and private roadways within the development.

- Specific pedestrian scale lighting is permitted in the TMED zoning district. Refer to TMED Design Criteria Manual

Public Frontage Hike and Bike Trail Implementation. Dedication is required for implementation of the Citywide Trails Master Plan.

GENERAL PLANTING CRITERIA.

Applicability. General Planting Criteria shall apply to all districts in TMED.

Approved Tree List. The table below constitutes the tree species that are eligible to fulfill the tree planting requirements in TMED.

Table 14: Approved Tree List

Large Canopy Trees		
Common Name	Scientific Name	Type
American Sycamore	<i>Platanus occidentalis</i>	Deciduous
Cypress, Bald	<i>Taxodium distichum</i>	Deciduous
Cypress, Arizona	<i>Cupressus arizonica</i>	Evergreen
Elm, Cedar	<i>Ulmus crassifolia</i>	Deciduous
Oak, Chinquapin	<i>Quercus muhlenbergii</i>	Deciduous
Oak, Live	<i>Quercus virginiana</i>	Evergreen
Pecan	<i>Carya illinoensis</i>	Deciduous
Southern Magnolia	<i>Magnolia grandiflora</i>	Evergreen
Medium Canopy Trees		
Common Name	Scientific Name	Type
Chinese Pistache	<i>Pistacia chinensis</i>	Deciduous
Oak, Lacey	<i>Quercus laceyi</i>	Deciduous
Oak, Mexican White	<i>Quercus polymorpha</i>	Deciduous
Oak, Texas Red	<i>Quercus texana</i>	Deciduous
Small Trees		
Common Name	Scientific Name	Type
Buckeye, Mexican	<i>Ungradiad speciosa</i>	Deciduous
Crape Myrtle	<i>Lagerstroemia indica</i>	Deciduous
Holly, Yaupon	<i>Ilex vomitoria</i>	Evergreen
Laurel, Texas Mountain	<i>Sophora secundiflora</i>	Evergreen
Persimmon, Texas	<i>Diospyros texana</i>	Deciduous
Pistache, Texas	<i>Pistacia texana</i>	Deciduous
Plum, Mexican	<i>Prunus mexicana</i>	Deciduous
Possumhaw Holly	<i>Ilex decidua</i>	Deciduous
Southern Wax Myrtle	<i>Myrica cerifera</i>	Evergreen
Vitex (Chaste Tree)	<i>Vitex agnus castus</i>	Deciduous
Willow, Desert	<i>Chilopsis linearis</i>	Deciduous

Approved Groundcover List. The table below constitutes the groundcover species that are eligible to fulfill the planting requirements in TMED.

Table 15: Approved Groundcover List

Groundcover		
Common Name	Scientific Name	Type
Asian Jasmine	Trachelospermum asiaticum	Evergreen
English Ivy	Hedera helix	Evergreen
Liriope	Liriope muscari	Evergreen
Monkey Grass (Mondo Grass)	Ophiopogon japonicus	Evergreen

Approved Shrubs. Shrubs must be appropriate perennial and evergreen species for the Central Texas region.

Landscape Installation.

Trees.

All required large trees must be a minimum of three (3) inches in caliper width at chest height and/or 65 gallons at planting.

All required medium trees must be a minimum of three (2.5) inches in caliper width at chest height at planting.

All required small trees must be a minimum of three (2) inches in caliper width at chest height at planting.

Shrubs.

All required shrubs must be a minimum three (3) gallon container size at planting.

Ground Cover.

All required ground cover must be a minimum one (1) gallon container size at planting.

Lawn Grass.

Grass areas must be planted with drought resistant species normally grown as permanent lawns, such as Bermuda, Zoysia, or Buffalo.

Grass areas must be sodded, plugged, sprigged, or seeded. However, solid sod must be used in swales, berms or other areas subject to erosion.

Landscape Maintenance.

All new plant material must be planted and maintained in accordance with the latest edition of the American National Standards Institute requirements for Tree, Shrub, and Other Woody Plant Maintenance (ANSI A300 Parts 1 through 6).

All required Public Frontage and Private Frontage landscaping must be maintained in good condition after installation. Any plant material that ever becomes diseased deteriorates or dies must be replaced by the owner within 30 days.

Irrigation. Permanent irrigation is required for all landscape. City Code Chapter 7 Buildings, Article 7 Landscape Irrigation Standards applies in its entirety.

ARCHITECTURAL STANDARDS

Applicability. Architectural Standards apply to all districts unless otherwise stated in individual sections.

Materials Required.

The exterior finish material on all facades must be limited to brick, stone, cementitious siding and stucco.

- Cementitious siding is limited to a maximum 20% per façade plane for multi-family and non-residential applications

Minimum of two distinct materials are required on all facades. Materials may be combined on each facade only horizontally, with the heavier below the lighter.

Balconies and porches must be made of painted wood, concrete or metal.

Accent materials. The following may be permitted as accent materials for a maximum of 20% of each façade face:

- Tile
- EIFS
- Wood Siding or shingles
- Architecturally finished concrete block
- Architectural metal
- Other materials may be approved by warrant.

Building Design. Building Design does not apply to Special Districts. Building design requirements are based on the type of use in T4 and T5 Districts.

Table 16: Building Design

Design Element	Single Family Detached	Single Family Attached (2 or more units)	Multi-Family and Mixed Use Structures	Non-Residential Structures
Roof Pitch	Pitch roof – minimum 5:12 Flat roof – require parapet screening minimum of 42 inches high, or as required to conceal mechanical equipment Shed roof, porch roof and arcade roofs - minimum 2:12.			
Permitted Roof Materials	30 year asphalt shingles Standing seam metal Tile Other materials as approved by the Planning Director			

Design Element	Single Family Detached	Single Family Attached (2 or more units)	Multi-Family and Mixed Use Structures	Non-Residential Structures
Roof Articulation (does not apply to flat roofs)	1 Elements from the following: <ul style="list-style-type: none">• 2 roof materials:• Masonry chimneys• Dormers along public façade (1/20')• Eaves that overhang a minimum of 24" with a minimum fascia depth of 8"			
Vertical Articulation	No more than 20 linear feet (horizontally) without a minimum 5' offset	No more than 50 linear feet (horizontally) without a minimum 5' offset	No more than 50 linear feet (horizontally) without a minimum 5' offset	
Horizontal Articulation	No more than 20 linear feet (horizontally) without a minimum 5' offset Minimum one horizontal offset per building	No more than 50 linear feet (horizontally) without a minimum 5' offset Minimum one horizontal offset per building		
Transparency (windows and doors)	Minimum 30% of all public facades must be doors and windows Burglar bars or other exterior coverings are prohibited Overhead or roll up doors are prohibited on primary or secondary frontages.			
Window and Door Treatment	Minimum 4" trim required on all windows and doors appropriate to style of structure			NA
Window Articulation	50% of all public façade windows must include one of the following: <ul style="list-style-type: none">• Balcony (accessible for single units) minimum 2' deep• Trellis• Shed roof awning• 20" projection• Bay window• Transom Windows• Shutters	25% of all public façade windows must include one of the following: <ul style="list-style-type: none">• Balcony (accessible for single units) minimum 2' deep• Trellis• Shed roof awning• 20" projection• Bay window• Transom Windows• Shutters	NA	

Design Element	Single Family Detached	Single Family Attached (2 or more units)	Multi-Family and Mixed Use Structures	Non-Residential Structures
Façade Repetition	No elevation shall be repeated on the same block	All units must be designed to have distinct characteristics	Residential units must be designed to appear as townhome units with entries onto the public façade	NA
Top Floor Articulation	Shall contain a distinctive finish, consisting of cornice, banding or other architectural termination			
Building Orientation	All buildings must be oriented towards the public right of way or public open space			
Primary Entry Location	Main entrances must be from a public sidewalk or common open space (if not adjacent to Public ROW)			
Entry Articulation	Entry must be covered or inset with distinct architectural detail such as: Porch, portico, arcade or other similar element			
Building Access – Ground Floor Residential Units	50% of residential entrances must be raised from the finished ground floor level of the sidewalk a minimum of 15"		50% of all ground floor units adjacent to a public ROW must have exterior entrances from a public sidewalk or common open space. Entrances must be raised from the finished ground floor level of the sidewalk a minimum of 15"	NA

Design Element	Single Family Detached	Single Family Attached (2 or more units)	Multi-Family and Mixed Use Structures	Non-Residential Structures
Building Access – Above Ground Floor Residential Units	NA		Multi-family uses above the ground floor shall have interior unit entrances from a centralized corridor except: Exterior stairs are permitted for access to second and third floor units only if they are oriented towards a central courtyard not visible from any street	NA

Parking and Garage Requirements. Parking and Garage Requirements do not apply to Special Districts.

Table 17: Parking and Garage Requirements

Design Element	Single Family Detached	Single Family Attached (2 or more units)	Multi-Family and Mixed Use Structures
Enclosed Garage Required	1 (20x20) space per unit	1 (10x20) space per unit	1 (10x20) space per 2 units
Minimum Driveway Width	20'	10'	
Garage Integration	Detached is permitted	50% of all required garages must be integrated into primary structures	
Garage Location general	Garages are not permitted to front onto Public ROW		
Garage Materials	Same materials and mix as primary structures		

PRIVATE PROPERTY COMMON AREA REQUIREMENTS

Applicability. Private property Common Area requirements do not apply to Special Districts or single family detached and single family attached residential uses in T4 and T5.

Common Area requirements are in addition to required public and private landscaping.

Multiple open space areas may be created, however all open space areas must contain a minimum of 100 sq ft.

Common Areas must have defined edges, either through grade change, perimeter edging, or the integration of buildings as perimeter edging.

Table 18: Common Area Requirements Multi-Family and Mixed Use Structures

Design Element	Multi-Family and Mixed Use Structures
Minimum Common Area Size	Minimum 500 sq ft and additional 100 sq ft per 1000 sq ft gross building area
Common Area Amenities	<p>For each 5,000 sq ft of open space required a minimum of 1 amenity from the following:</p> <ul style="list-style-type: none"> • 1 Water feature • 1 Pavilion, gazebo, or other covered outdoor space (minimum 144 sq ft) • Sculpture garden <p>For each 200 sq ft of open space provided a minimum of 1 amenities from the following:</p> <ul style="list-style-type: none"> • 1 Bench or seating area (4 seats minimum) • 1 Dining area (4 seats minimum) • 1 Tree (3" caliper at the time of planting) • 2 Large Planters • Decorative paving (2 locations) (minimum 64 sq ft) • Decorative lighting (2 locations) (above ground)
Complex Amenities Required	<p>Required Community Amenities:</p> <ul style="list-style-type: none"> • Washer and dryer hookup in every unit <p>For every 50 units provided a minimum of 1 amenity from the following:</p> <ul style="list-style-type: none"> • Resident Clubhouse • Community Garden Area • Swimming Pool • Tennis Court • Basketball Court • Volleyball Court • Billiards Room • Amphitheatre • Gazebo or other covered shelter • Exercise Facility • Office Center • Media Room – Theatre • Sauna • Racquetball Court • Other amenity as approved by Planning Director

Table 19: Common Area Requirements Non-Residential Structures

Design Element	Non-Residential Structures
Minimum Common Area Size	Minimum 100 sq ft and additional 50 sq ft per 1000 sq ft gross building area
Common Area Amenities	<p>For each 5,000 sq ft of open space required a minimum of 1 amenity from the following:</p> <ul style="list-style-type: none"> • 1 Water feature • 1 Pavilion, gazebo, or other covered outdoor space (minimum 144 sq ft) • Sculpture garden <p>For each 200 sq ft of open space provided a minimum of 1 amenity from the following:</p> <ul style="list-style-type: none"> • 2 Benches or seating area (4 seats minimum) • 1 Dining areas (4 seats minimum) • 1 Tree (3" caliper at the time of planting) • 2 Large Planters • Decorative paving (2 locations) (minimum 64 sq ft) • Decorative Lighting (2 locations) (above ground)

SIGN STANDARDS

Applicability. Sign Standards apply to all districts with the exception of SD-v.

Signs in the TMED zoning district are permitted in accordance with Table 20:

Table 20: Sign Standards

Sign Type	T4	T5-e	T5-c	SD
Sandwich Board	✓	✓	✓	See TMED Design Criteria Manual
Projecting Sign	✓	✓	✓	
Wall Sign	✓	✓	✓	
Monument Sign	✓	Warrant		
Multi-Tenant	✓	Warrant		
Directional Signage		Warrant	Warrant	

Sandwich Board Sign. One sandwich board sign may be used during normal operating hours for each business. The sign must be placed on private property and not interfere with pedestrian access. Sandwich board signs must not exceed a total of 6 square feet.

Projecting Sign. One projecting sign for each business may be permanently installed perpendicular to the façade within the first layer. Projecting signs must not exceed a total of 4 square feet in T4 and 6 square feet in T5. Projecting signs must clear 8 feet above the sidewalk.

Wall Sign. A single permanent attached band sign, board sign, window sign, or painted wall sign may be applied to the Facade of each building. Attached signs must be no more than 3 feet in height by 50% of the total length of the use or building. Signs must be more than 12 feet above the sidewalk. Attached signs must not extend past the top of the structure.

Monument Sign. Monument signs may be requested by warrant only. If approved, they must be limited to one per lot and a maximum of 50 square feet per sign face, 6 feet in height and 2 feet in width.

Such sign must not interrupt the required tree planting and spacing or be located within 3 feet of a Hike and Bike Trail.

Signage material must consist of limestone or brick base and columns that are architecturally compatible to the Principal Building. Other materials must be approved by warrant if architecturally compatible.

Multi-Tenant Sign. Multi-tenant signs may be requested by warrant only. If approved they must be limited to one per lot and a maximum of 60 square feet per sign face, 8 feet in height and 2 feet in width.

Such sign must not interrupt the required tree planting and spacing or be located within 3 feet of a Hike and Bike Trail.

Signage material must consist of limestone or brick that is architecturally compatible to the Principal Building. Other materials must be approved by warrant if architecturally compatible.

Directional Sign. Directional signage may be requested by warrant only. Directional signage must not be located off-site. If approved they must be limited to a maximum of 8 square feet per sign face, 4 feet in height and 2 feet in width. Directional signage must not interfere with Traffic Manual of Uniform Control Devices.

Exceptions. Entertainment businesses (i.e. movie theaters, bowling alleys, etc.) may have neon or specially designed sign if approved by warrant.

Lighting. Monument Signs must be externally illuminated, except signage within the shop front windows, which may be neon-lit.

Prohibited Signs. Signs other than those stated in Table 20 are prohibited.

STREET LIGHT STANDARDS

Applicability. Lighting Standards apply to all districts.

Street light requirements and installation must comply with the City's Streetlight Policy.

UTILITY STANDARDS

Applicability. Utility Standards apply to all districts.

Underground Utilities Required. All proposed new electric, telephone and cable television wires along the public street right of way must be located underground.

DRAFT

Amending Article 2 Development Review Bodies

2.5 Development Review Committee

2.5.3 Review and Recommendation

H. TMED Site Plan.

2.6 TMED Review Committee

Establishment. Temple hereby creates a TMED Review Committee (TRC) comprised of the Development Review Committee membership and an at-large citizen representative located within the District as well as two TMED Coordinating Group members, who will be appointed by the TMED Coordinating Group; these three representatives will be appointed to two-year terms.

Powers and Duties. The following powers and duties are assigned to the TRC:

Final Action. The TRC must review and take final action on Warrant requests.

2.9 Planning Director

2.9.1. B Final Action

C. TMED Site Plan;

Article 3 Development Review Procedures

3.11 TMED Site Plan Review

Applicability. This Section establishes a site plan review process to ensure that all development within the entire TMED zoning district meets requirements set forth in the TMED design standards. The review covers site planning, architecture, landscaping, exterior lighting and exterior signage, as well as any changes, additions or renovations to any development on the site.

Site Plan Review. In addition to the platting process required in this UDC, the Planning Director must review and approve a site development plan prior to application for building permit for all developments within the TMED zoning district as required by this Section.

Review Process.

Planning Director Determination of Completeness

The Planning Director must determine whether an application is complete and satisfies the initial submittal requirements within five working days of the application being properly submitted and received by the City.

If the application is determined incomplete, the Planning Director must notify the applicant in writing. The notification must list all missing or incomplete items.

The Planning Director may request additional information not specifically stated on the application submittal requirements if such information is required for the accurate review of the proposal.

Upon receipt of a complete application, the Planning Director must distribute the application to the DRC, to review the site plan for compliance with the provisions of this Article.

DRC Review

The Development Review Committee must review the submitted application and make a recommendation to the Planning Director.

Planning Director Final Action

The Planning Director must approve, approve with conditions or deny the application based on the criteria below.

Criteria for Approval.

Projects that require no variances or warrants, or only warrants, are processed administratively.

The Planning Director must determine whether to grant a site development permit based on the following criteria:

The application exhibits conformance with the standards of the TMED zoning district, the Comprehensive Plan and other adopted planning policies; and

The extent to which utilities and services, including, but not limited to, sewer, water service, police and fire protection and are available and adequate to serve the proposed use;

The application exhibits no substantial negative impacts on the historic, cultural or architectural nature of the site or surrounding area, or successfully mitigates such impacts.

Application Life. A TMED Site Plan application shall expire after 180 days if not approved. If an applicant wishes to continue, new plans must be resubmitted and current fees are required.

Site Plan Permit Expiration and Extension.

All Site Plan Permits are valid for two years from the date the permit is issued.

A modification to an approved Site Plan Permit replaces the previous Site Plan Permit and is valid two years from the date the latest permit modification is approved.

The Planning Director may approve a one-time, 180-day extension application if the site development permit remains valid under the existing TMED standards at the time of the request.

The Planning Director may deny any extension request. If denied, the applicant may appeal the decision to City Council.

Any subsequent extension request requires a separate application to be forwarded to the City Council for consideration. At no time may an extension request be greater than 180-days.

Warrants and Variances. There are two types of deviation from the requirements of the TMED zoning district requirements, warrants and variances.

The request for a warrant or variance does not subject the entire application to public hearing, but only that portion necessary to rule on the specific issue requiring the relief.

Whether a deviation requires a warrant or variance shall be determined by the Planning Director in accordance with the following standards:

Warrants. A warrant is a ruling that would permit a practice that is not consistent with a specific provision of this Code but is justified by the purpose of the TMED zoning district. The TRC has the authority to approve or disapprove a request for a warrant pursuant to regulations established by the TRC.

Warrant requests are permitted for the following:

Maximum residential density
Increase in maximum height
Alternative fence materials
Alternative materials for hike and bike trails
Alternative building materials
Monument sign in T5-e
Multi-tenant sign in T5-e
Signs for entertainment businesses

Variances. “Article 3 Development Review Procedures, Section 3.14 Variances” applies in its entirety with the exception of height, signage and landscaping.

Variance requests are permitted for the following:

- Yard and setbacks
- Lot area
- Maximum lot coverage
- Secondary street frontage build out
- Permitted encroachment into setbacks

Warrants and variances may not be requested for the following:

- Primary street frontage build out
- Minimum residential density
- Permitted uses in a district
- Maximum dimensions of traffic lanes
- Required provision of rear alleys
- Maximum requirements for parking
- Requirements of parking location
- Public frontage requirements
- Type of sign permitted in T4 or T5-c

Amending Article 11 Definitions to add:

Arcade: an attached and covered passageway running along the exterior wall of a building.

Block Face: the aggregate of all the building facades on one side of a block.

Configuration: the form of a building, based on its massing, private frontage and height.

Density: the number of dwelling units within a standard measure of land area.

Disposition: the placement of a building on its lot.

Driveway: a vehicular lane within a lot, often leading to a garage.

Effective Parking: the amount of parking required for a mixed-use development after adjustment by the shared parking factor in TMED.

Encroachment: any structural element that breaks the plane of a vertical or horizontal regulatory limit, extending into a setback, into the public frontage or above a height limit.

Frontage: the area between a building facade and the vehicular lanes, inclusive of its built and planted components. Frontage is divided into private frontage and public frontage.

Layer: a range of depth of a lot within which certain elements are permitted.

Live/Work Unit: a mixed-use unit consisting of both commercial and residential functions. The commercial function may be anywhere in the unit. It is intended to be occupied by a business operator who lives in the same structure that contains the commercial activity or industry.

Mixed-Use: multiple residential and nonresidential functions within the same building or in multiple adjacent buildings.

Principal Building: the main building on a lot, usually located toward the frontage.

Principal Entrance: the main point of access for pedestrians into a building.

Principal Frontage: on corner lots, the side of the lot facing the larger of the streets or the designated principal side. The other side facing the street will be secondary frontage.

Secondary Frontage: on corner lots, the private frontage that is not the principal frontage. The First Layer is regulated since it affects the public realm.

Teaser Parking: a technique to include a few parking spaces located in front of a business to lure customers with their apparent convenience. Teaser parking acts as a visual cue, leading drivers to the access points for larger parking lots or Parking Structures that provide the remaining required parking to be placed behind or below buildings, with the option of a small amount of “teaser” parking visible from the street in more automobile-oriented areas.



COUNCIL AGENDA ITEM MEMORANDUM

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Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: SECOND READING – Consider adopting an ordinance designating a certain area as City of Temple Tax Abatement Reinvestment Zone Number Seventeen for commercial/industrial tax abatement.

STAFF RECOMMENDATION: Adopt ordinance as indicated in item description, on second and final reading.

ITEM SUMMARY: The proposed ordinance designates the area described as Lot 1, Block 2, Airport Park at Central Pointe, Phase 1, a subdivision in the City of Temple, Bell County, Texas, according to a plat of record in Cabinet D, Slide 222-A, Plat Records of Bell County, Texas, and located at 6261 Central Point Parkway, Temple, Bell County, Texas, as a commercial/industrial tax abatement reinvestment zone. The designation of a tax abatement reinvestment zone lasts for five years and is a prerequisite for entering into a tax abatement agreement with a future economic development prospect.

Chapter 312 of the Texas Tax Code requires that property be within a tax abatement reinvestment zone (or an enterprise zone) to be eligible for tax abatement. The designation of a tax abatement reinvestment zone requires an ordinance, two readings and a public hearing. We are also required to give seven days prior notice to the other taxing entities before final approval of the ordinance, which will be done.

The proposed tax abatement reinvestment zone as described above, is proposed for commercial or industrial tax abatement (the property is currently zoned Commercial). Chapter 312 requires that the City make the following findings when it adopts an ordinance creating a tax abatement reinvestment zone: (1) that the creation of the tax abatement reinvestment zone will result in benefits to the City and to the land included in the zone after the term of any agreement, and that the improvements being sought are feasible; and (2) that the tax abatement reinvestment zone meets the criteria for creation of a zone under State law and the City's own criteria and guidelines for tax abatement. I have reviewed both the State law and our criteria and guidelines, and believe that the creation of the proposed reinvestment zone and subsequent approval of a tax abatement agreement with the

property owner will lead to the retention of primary employment in the area, and the creation of new real and personal property improvements in the area—as contemplated by our State and local criteria. The Staff recommends approval of the ordinance for the above reasons.

FISCAL IMPACT: None at this time.

ATTACHMENTS:

[Ordinance](#)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, DESIGNATING A CERTAIN AREA AS TAX ABATEMENT REINVESTMENT ZONE NUMBER SEVENTEEN FOR COMMERCIAL/INDUSTRIAL TAX ABATEMENT; ESTABLISHING THE BOUNDARIES THEREOF AND OTHER MATTERS RELATING THERETO; DECLARING FINDINGS OF FACT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

WHEREAS, the City Council of the City of Temple, Texas (the "City"), desires to promote the development or redevelopment of a certain contiguous geographic area within its jurisdiction by creation of a reinvestment zone for commercial/industrial tax abatement, as authorized by Section 312.201 of the Texas Tax Code (hereinafter the "Code");

WHEREAS, the City held such public hearing after publishing notice of such public hearing, and giving written notice to all taxing units overlapping the territory inside the proposed reinvestment zone;

WHEREAS, the City at such hearing invited any interested person, or his attorney, to appear and contend for or against the creation of the reinvestment zone, the boundaries of the proposed reinvestment zone, whether all or part of the territory described in the ordinance calling such public hearing should be included in such proposed reinvestment zone, the concept of tax abatement; and

WHEREAS, the proponents of the reinvestment zone offered evidence, both oral and documentary, in favor of all of the foregoing matters relating to the creation of the reinvestment zone, and opponents of the reinvestment zone appeared to contest creation of the reinvestment zone.

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

Part 1: The facts and recitations contained in the preamble of this ordinance are hereby found and declared to be true and correct.

Part 2: The City, after conducting such hearings and having heard such evidence and testimony, has made the following findings and determinations based on the testimony presented to it:

A. That a public hearing on the adoption of the reinvestment zone has been properly called, held and conducted and that notices of such hearings have been published as required

by law and mailed to all taxing units overlapping the territory inside the proposed reinvestment zone;

B. That the boundaries of the reinvestment zone (hereinafter "REINVESTMENT ZONE NUMBER SEVENTEEN") should be Lot 1, Block 2, Airport Park at Central Pointe, Phase 1, a subdivision in the City of Temple, Bell County, Texas, according to a plat of record in Cabinet D, Slide 222-A, Plat Records of Bell County, Texas, and located at 6261 Central Point Parkway, Temple, Bell County, Texas, as described in the drawing attached as Exhibit "A."

C. That creation of REINVESTMENT ZONE NUMBER SEVENTEEN will result in benefits to the City and to the land included in the zone after the term of any agreement executed hereunder, and the improvements sought are feasible and practical;

D. That REINVESTMENT ZONE NUMBER SEVENTEEN meets the criteria for the creation of a reinvestment zone as set forth in Section 312.202 of the Code in that it is "reasonably likely as a result of the designation to contribute to the retention or expansion of primary employment or to attract major investment in the zone that would be a benefit to the property and that would contribute to the economic development of the City;" and

E. That REINVESTMENT ZONE NUMBER SEVENTEEN meets the criteria for the creation of a reinvestment zone as set forth in the City of Temple Guidelines and Criteria for granting tax abatement in reinvestment zones.

Part 3: Pursuant to Section 312.201 of the Code, the City hereby creates a reinvestment zone for commercial/industrial tax abatement encompassing Lot 1, Block 2, Airport Park at Central Pointe, Phase 1, a subdivision in the City of Temple, Bell County, Texas, according to a plat of record in Cabinet D, Slide 222-A, Plat Records of Bell County, Texas, and located at 6261 Central Point Parkway, Temple, Bell County, Texas, described by the drawing in Exhibit "A" attached hereto and such REINVESTMENT ZONE is hereby designated and shall hereafter be officially designated as Tax Abatement Reinvestment Zone Number Seventeen, City of Temple, Texas.

Part 4: The REINVESTMENT ZONE shall take effect on January 6, 2011, or at an earlier time designated by subsequent ordinance.

Part 5: To be considered for execution of an agreement for tax abatement the commercial/industrial project shall:

A. Be located wholly within the Zone as established herein;

B. Not include property that is owned or leased by a member of the City Council of the City of Temple, Texas, or by a member of the Planning and Zoning Commission;

C. Conform to the requirements of the City's Zoning Ordinance, the CRITERIA governing tax abatement previously adopted by the City, and all other applicable laws and regulations; and

D. Have and maintain all land located within the designated zone, appraised at market value for tax purposes.

Part 6: Written agreements with property owners located within the zone shall provide identical terms regarding duration of exemption and share of taxable real property value exempted from taxation.

Part 7: Written agreements for tax abatement as provided for by Section 312.205 of the Code shall include provisions for:

A. Listing the kind, number and location of all proposed improvements of the property;

B. Access to and inspection of property by municipal employees to ensure that the improvements or repairs are made according to the specification and conditions of the agreements;

C. Limiting the use of the property consistent with the general purpose of encouraging development or redevelopment of the zone during the period that property tax exemptions are in effect; and

D. Recapturing property tax revenue lost as a result of the agreement if the owner of the property fails to make the improvements as provided by the agreement.

Part 8: If any provision of this ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

Part 9: This ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

Part 10: Sunset provision. The designation of Tax Abatement Reinvestment Zone Number Seventeen shall expire five years from the effective date of this ordinance. The designation of a tax abatement reinvestment zone may be renewed for periods not exceeding five years. The expiration of a reinvestment zone designation does not affect an existing tax abatement agreement authorized by the City Council.

Part 11: It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meeting Act.

PASSED AND APPROVED on First Reading and Public Hearing on the **16th** day of **December**, 2010.

PASSED AND APPROVED on Second Reading on the **6th** day of **January**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

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DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution authorizing a tax abatement agreement with Fikes Wholesale, Inc., for a tract of land located at 6261 Central Pointe Parkway.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The proposed resolution authorizes the City Manager to execute an agreement with Fikes Wholesale, Inc., which if approved gives the company five years of 100% tax abatement on the increased taxable value of real and personal property improvements on a tract of land described as Lot 1, Block 2, Airport Park at Central Pointe, Phase 1, located at 6261 Central Pointe Parkway, Temple, Texas. The tax abatement applies only to *new* real and personal property improvements with a useful life of ten or more years.

Fikes Wholesale, Inc., timely filed an application to receive tax abatement on improvements to real and personal property proposed for a facility to be constructed at 6261 Central Pointe Parkway. A separate, related item on this agenda is an ordinance designating the property on which the improvements will be located as a tax abatement reinvestment zone. Tax abatement is being sought for real and personal property improvements consisting of construction of a new 44,000 sq.ft. two story office building in the newly created Central Pointe Business Park. The taxable value of real and personal property with a useful life of ten or more years at the facility will be increased by an estimated \$8.5 million.

The City's Economic Development Policy sets out the criteria and guidelines for granting tax abatement. The renovations proposed meet the minimum criteria established for tax abatement consideration. The proposed improvements fall within the definition of "eligible facilities" in the criteria. The application indicates real and personal property improvements which meet the criteria for granting a 100% tax abatement for five years.

The Staff has provided the other taxing entities involved with notice and a copy of the proposed agreement. Under State law, the other taxing entities will have 90 days to elect to enter into an agreement with identical terms. The proposed agreement is drafted for the signature of each taxing entity, but will be effective between Fikes Wholesale, and any of the taxing entities which sign the agreement even if not all sign. Under State law, taxes on supplies and inventory are not eligible for tax abatement.

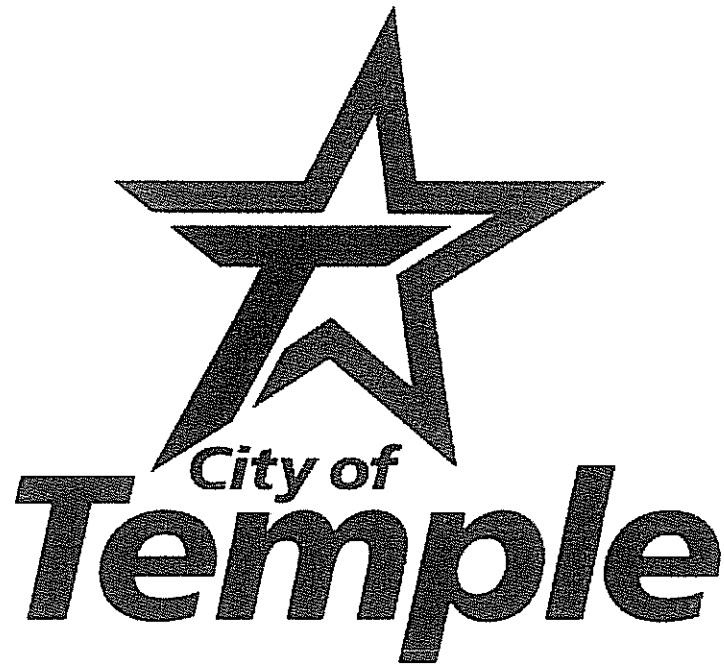
Additionally, the agreement has all of the other terms required by Chapter 312 of the Texas Tax Code for tax abatement agreements, including provisions: (1) listing the kind and number of improvements; (2) providing for inspections of the facility by the taxing entities; (3) requiring compliance with State and local laws; (4) recapturing abated taxes in the event of a default under the agreement; and (5) requiring Fikes Wholesale to annually certify to all the taxing entities that it is in compliance with all of the terms and conditions of the agreement.

Fikes Wholesale's application meets the standards for granting tax abatement on the increase in real and personal property improvements established by the City's Criteria and Guidelines for tax abatement. The City Council has discretion whether to approve an application for tax abatement and to increase the percentage of tax abatement over the recommended percentage specified in the matrix in the City's Criteria and Guidelines for tax abatement. The agreement should add to the continued development of the City's industrial growth, which would not have occurred in the absence of tax abatement.

FISCAL IMPACT: The tax abatement agreement would have the potential of abating approximately \$241,355 in City taxes over the 5 year life of the agreement assuming the FY 2011 tax rate of \$0.5679 per \$100 value over the 5 years.

ATTACHMENTS:

[Application](#)
[Resolution](#)



Application for

City of Temple

Tax Abatement Program

Instructions for Completing the Application Form

1. The application form consists of three parts: (1) general information regarding your proposal and the property in question; (2) the objective criteria worksheet; and (3) questions relating to minimum standards. **Please complete all three parts.** Please review the City of Temple's *Guidelines and Criteria* for tax abatement prior to completing the application form.

2. **Part One:** Questions 1-9 request basic information relating to your proposal.

Questions 3 & 4 are applicable only if you are not the current owner of the property. If you are leasing property for which you are requesting tax abatement, the City of Temple will also require your lessor to execute a tax abatement agreement.

Question 7: Describe in detail, the long term improvements you will make to the property, the proposed use you will make of the property, and your long range plans for the property.

Question 9: Tax abatement is available only on the increase in ad valorem taxes attributable to the improvements to the property you propose to make. Please indicate the percentage of abatement you are requesting, and the number of years of abatement you are requesting.

3. **Part Two:** Questions 1-14 relate to the objective criteria established by the City of Temple for granting tax abatement. Answer each question as fully as possible using additional sheets of paper where necessary. The City Staff will review your responses to assist them in making a recommendation to the City Council on whether tax abatement *should* be granted, and if so, under what terms.

Question 2: Note that under the City's *Guidelines & Criteria*, the City will grant tax abatement only on permanent improvements to real property and personal property with a useful life of at least ten years (e.g., buildings, permanently installed equipment, site improvements, fixtures, equipment). Specifically excluded from tax abatement are inventory, supplies, and the underlying real property. Personal property already on the property prior to the execution of a tax abatement agreement or transferred from another site owned or operated by the applicant are also excluded from tax abatement.

Question 3: Eligible personal property must have a useful life of ten years to be eligible.

Question 9: Note that the City of Temple has established a minimum threshold of \$500,000 (\$25,000 in the Downtown Development Area) in permanent improvements (w/ 10 year useful life) before tax abatement will be considered.

4. **Part 3:** To be eligible for consideration under the tax abatement program, the applicant must satisfy at least two of the minimum standards. We recommend that you provide detail information regarding each of the minimum standards that may apply to your proposed project.

Part One -- General Information

1. Applicant: FIKES WHOLESALE, INC.
Mailing Address: P.O. BOX 1287, TEMPLE, TEXAS 76503

E-mail Address: RWSMITH@FIKESINC.COM
Telephone Number: 254-791-0009
Fax Number: 254-778-5309

2. Contact Person or Agent: (if different) RAYMOND W. SMITH
Mailing Address: SAME AS ABOVE

E-mail Address:] SAME AS ABOVE
Telephone Number:] SAME AS ABOVE
Fax Number:] SAME AS ABOVE

3. Current Property Owner:] SAME AS ABOVE
Mailing Address:] SAME AS ABOVE

Telephone Number:] SAME AS ABOVE

4. Property Owner's Representative: (if different)] SAME AS ABOVE
Mailing Address:] SAME AS ABOVE

Telephone Number:] SAME AS ABOVE
Fax Number:] SAME AS ABOVE

5. Property Street Address: 6261 CENTRAL POINTE PARKWAY
TEMPLE, TEXAS 76504

(Please also attach a legal description and a map/plat of the property for which you seek abatement.)

6. Is the property located within City of Temple? Yes ~~No~~
In the City=s extraterritorial jurisdiction (ETJ)? Yes ~~No~~
Inside the City=s Tax Increment Financing Reinvestment Zone? Yes ~~No~~

Temple ISD? ☒ Yes ☐ No Belton ISD? Yes ☐ No ☒ Troy ISD? Yes ☒ No

7. Description of Project. (Describe the *kind* of business (e.g., manufacturing or distribution) that will be created or expanded. For purposes of drafting an agreement we will need a detailed description of the proposed real and personal property improvements that you expect to make including **square footage, construction materials**, etc.) *Fikes Wholesale, Inc. proposes to build a 44,000 sq. ft. two story office building in the newly created Central Pointe business park.*
8. Date projected for (a) initiation of project: (m/d/y) *01/10/2011*
(b) completion of project: *12/15/2011*

9. Percentage and duration of tax abatement requested: (See Section I.D.2(b) of the City's Criteria and Guidelines for Tax Abatement) Note: that tax abatement is generally limited to 5 years except for very large projects.

BASED ON THE SIZE OF THE PROPOSED PROJECT FIKES WHOLESALE, INC. REQUESTS A 100% TAX ABATEMENT FOR A FIVE YEAR PERIOD.

Part Two -- Objective Criteria

1. What is the existing appraised value of the real property and improvements? (Contact the Bell County Appraisal District at (254) 939-5841.)
THE EXISTING APPRAISED VALUE OF THE REAL PROPERTY FOR 2010 IS \$125,000 UNDER ACCOUNT # 402299.
2. What are the type and value of proposed improvements (broken down to separately show the kind and dollar value of real and personal property improvements)?

	Type	Estimated Expenditure	Useful Life
Real Property	OFFICE BUILDING	\$ 7.5M	30+ YEARS
Personal Property	FF&E	\$ 1.0 M	10+ YEARS

3. How many existing jobs, if any, will be *retained* by proposed improvements?
~ 75 EXISTING JOBS WILL REMAIN IN TEMPLE
4. What number, job type, and estimated payroll of *new* jobs will be created by the proposed project?

Job Type	Number of Jobs	Est. Annual Salary	Total Salary
10 PROFESSIONAL		\$ 65,000	\$ 650,000

5. Will the newly created jobs be filled by persons residing or projected to reside within the City? ☒ Yes ☐ No ☐ ___% Temple/Belton/Troy (circle one) Independent

2

School District? Yes G No G 2 % Bell County? Yes G No G %

6. What is the estimated amount of annual local sales taxes for the City of Temple to be generated directly? (Assume a 12% city sales tax on applicable purchases within the City)

UNKNOWN

7. By what amount do you estimate the valuation of the affected property increase after your real and personal property improvements are completed? Will the increase in appraised value attributable to your improvements be at least \$500,000 (\$25,000 in the Downtown Development Area)?

FIRES WHOLESALE, INC. ESTIMATES AN \$8.0M APPRAISED
VALUE INCREASE.

8. What expenditures, if any, will you request be incurred by the City of Temple to provide facilities or services to your proposed improvements?

NONE

9. What is the amount of ad valorem taxes to be paid the City of Temple during the Abatement period considering: (a) the existing values; (b) your proposed real and personal property improvements; and (c) the percentage of new value abated; and (c) the Abatement period (assume a City tax rate of .5745).

10. What population growth, if any, in the City of Temple do you expect to occur as a direct result of your proposed improvement?

11. What, if any, are the types and values of public improvements (e.g., streets, railroad spurs) you intend to make?

N/A

12. Will the proposed improvements compete with existing businesses to the detriment of the local economy? Which businesses, if any, are likely to be impacted?

NONE

13. Is your proposed use of the underlying real property in compliance with the City's Comprehensive Zoning and Subdivision Ordinances? Have you discussed your plans with the City's Planning or Engineering Departments? YES / YES

Part Three -- Minimum Standards

1. Will the project involve a minimum increase in property value of 300% for construction of a new facility; 50% for expansion of existing facility; or an investment of at least \$1 million in taxable assets? (If outside the Downtown Area) Explain.

THE PROPOSED OFFICE BUILDING WILL COST \$7.5M TO CONSTRUCT AND IS WELL OVER THE MINIMUM INCREASE NEEDED FOR A BATEMENT.

2. Will the project make a substantial contribution to redevelopment efforts or special area plans by enhancing either functional or visual characteristics, e.g., historical structures, traffic circulation, parking, facades, materials, signs, etc.? Explain.

3. Will the project have high visibility, image impact, or is it a significantly higher level of development quality? Explain.

YES

4. Is the project an area which might not otherwise be developed because of constraints of topography, ownership patterns, site configuration, etc.? Explain.

NO

5. Will the project serve as a prototype and catalyst for other development of a higher standard? Explain.

YES. THIS OFFICE BUILDING WILL BE THE FIRST DEVELOPMENT LOCATED IN THE CENTRAL POINTE BUSINESS PARK AND SHOULD SPUR DEVELOPMENT INTEREST IN THIS AREA.

6. Will the project stimulate desirable concentrations of employment or commercial activity? Explain.

7. Will the project generate greater employment than would otherwise be achieved, e.g., commercial/industrial versus residential or manufacturing versus warehousing? Explain.

THE PROPOSED PROJECT MEETS CENTRAL POINTE BUSINESS PARK DEVELOPMENT REQUIREMENTS.

Surveyor's Sketch showing LOT ONE (1), BLOCK TWO (2), AIRPORT PARK AT CENTRAL POINTE, PHASE I, a subdivision in the City of Temple, Bell County, Texas, according to the plat of record in Cabinet D, Slide 222-A, Plat Records of Bell County, Texas.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE,
TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE A TAX
ABATEMENT AGREEMENT WITH FIKES WHOLESAL, INC., FOR
REAL AND PERSONAL PROPERTY ON A TRACT OF LAND LOCATED
AT 6261 CENTRAL POINTE PARKWAY; AND PROVIDING AN OPEN
MEETINGS CLAUSE.

Whereas, the City adopted a Resolution dated June 15, 1989, stating that it elects to be eligible to participate in tax abatement;

Whereas, on March 5, 2009, the City Council adopted Ordinance No. 2009-4284, establishing a comprehensive economic development policy for the City of Temple, which policy includes criteria and guidelines for granting tax abatement within the City of Temple in accordance with Chapter 312 of the Tax Code;

Whereas, Fikes Wholesale, Inc., is the owner of property within the City's Tax Abatement Reinvestment Zone Number Seventeen, and has requested that the City consider granting tax abatement for proposed improvements to said real and personal property;

Whereas, the contemplated use by Fikes Wholesale, Inc., of the property, as hereinafter described, and the contemplated improvements to said property in the form and amounts set forth in the agreement, are consistent with encouraging economic development, and in accordance with the criteria and guidelines for tax abatement in the City's Economic Development Policy;

Whereas, as required by law the City has notified the other taxing entities of its intent to enter into the agreement; and

Whereas, the City Council has considered the matter and finds that the proposed tax abatement with Fikes Wholesale, Inc., is in compliance with State law and the City's *Guidelines and Criteria* governing tax abatement, and that the proposed improvements said company are feasible and likely to attract major investment and expand employment within the City.

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

Part 1: The City Manager, or his designee, is authorized to execute a tax abatement agreement on eligible real and personal property between the City of Temple and Fikes Wholesale, Inc., after approval as to form by the City Attorney, governing a tract of land described as Lot 1, Block 2, Airport Park at Central Pointe, Phase 1, located at 6261 Central Pointe Parkway.

Part 2: It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the **6th** day of **January**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

01/06/11
Item #3(J-1)
Consent Agenda
Page 1 of 3

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: SECOND READING – Consider adopting an ordinance designating North 3rd Street Strategic Investment Zone as Tax Abatement Reinvestment Zone Numbers Eighteen and Nineteen for Commercial/Industrial Tax Abatement and authorizing a number of other SIZ economic development incentives for property redevelopment.

STAFF RECOMMENDATION: Adopt ordinance as presented in item description, on second and final reading.

ITEM SUMMARY: This ordinance, if adopted, will create the City's third SIZ incentive zone. The City Council previously adopted incentive zones for the South 1st Street SIZ and the Avenue G/H SIZ. As with the two previously adopted ordinances, this proposed ordinance is designed to encourage redevelopment of the North 3rd SIZ corridor that might otherwise not occur in the absence of incentives. The North 3rd Street SIZ corridor is unique in that it consists of two parts (Area A and Area B), where most of the commercial property is located. Areas A and B are separated by a portion of North 3rd Street that is primarily single family residential and NOT proposed for inclusion in the SIZ incentive zone or the tax abatement reinvestment zone associated with it.

The condition of property in both Area A and Area B of the North 3rd Street SIZ corridor is likely to substantially arrest or impair sound growth because of the number of deteriorating structures, inadequate streets and sidewalks, lack of accessibility or usefulness of lots, unsanitary and unsafe conditions, the deterioration of site or other improvements, or conditions that endanger life or property by fire or other cause. These conditions justify the use of tax abatement and SIZ-type Chapter 380 incentive agreements.

The proposed ordinance encourages redevelopment in Areas A and B of the North 3rd Street SIZ corridor primarily through two means: (1) the availability of agreements that provide tax abatement for commercial and industrial property on the *increased* value of eligible real and personal property; and (2) through the availability of matching grant incentives (Chapter 380) where the City participates with dollars or in-kind services to encourage redevelopment. The proposed ordinance creates enabling authority, but is subject to the availability of funds that may be appropriated from year to year by the City Council as part of the annual budget process.

As the City's adopted SIZ report recommended, the City is employing a 'combined-arms' approach to redevelopment in our Strategic Investment Zones. On one hand we have sought voluntary compliance with existing codes and standards and backed that up with a willingness to compel compliance through enforcement proceedings before the City's Building and Standards Commission. We've also tried a "carrot" incentive through a willingness to assist property owners with the demolition of substandard buildings and signs in our corridors. As we have previously reported to the City Council, the City has demolished a number of dilapidated buildings and signs in the past four years, both within and near our ten SIZ corridors.

The proposed ordinance extends those efforts by offering tax abatement and economic development incentives in the North 3rd Street SIZ corridor. The tax abatement we are proposing is similar to what has been successfully offered in the Downtown area, the South 1st SIZ corridor and the Avenue G/H corridor: 100% tax abatement for five years on the *increased* value of eligible real and personal property constructed in accordance with a tax abatement agreement.

Eligible property improvements for tax abatement in this SIZ corridor would include only commercial or industrial redevelopment (real and personal property). The tax abatement area and SIZ incentive is broken down into two areas North 3rd Street Area A and North 3rd Street Area B.

North 3rd Street Area A

North 3rd Street **Area A** is an irregular shaped area (depicted on the map attached to this Narrative) centered on North 3rd Street running north-south roughly from Central Avenue to Houston Avenue. **Area A** is bounded on the west by North 7th Street [from Central to French] and on the east from Adams—where it adjoins the South 1st SIZ incentive corridor—north to French Avenue. As shown on the map, the shape is irregular, widest at Adams . . . and stepping down (narrowing) as it moves north towards French Avenue. The design of North 3rd Street **Area A** is to include most of the commercial property from Central/Adams to French Avenue to a depth of two blocks on either side of North 3rd Street. The majority of the property in **Area A** is zoned Central Area (CA). CA is the zoning that covers much of the Downtown area and allows a broad range of uses that include retail, office, residential and some (but not all) commercial activities. There is also a small amount of Neighborhood Service (NS), General Retail (GR) and multifamily (MF2) zoning in **Area A**.

North 3rd Street Area B

North 3rd Street Area B is also an irregular shaped area (again depicted on the map attached to this Narrative) centered on North 3rd Street running north-south roughly from Monroe Avenue to Industrial Boulevard. **Area B** does include a commercial/industrial area north of Industrial and west of North 3rd Street (an area that includes a former nursing home and an apartment building). For most of the north/south length of **Area B**, the area is one or two blocks on either side of North 3rd Street though the blocks vary greatly in size and depth. The design of North 3rd Street **Area B** is to include most of

the commercial property on either side of North 3rd Street in this area. The majority of the property in **Area B** is either zoned General Retail (GR) or Commercial (C).

The proposed Chapter 380 matching grants for economic development and in-kind services are similar to those employed in the South 1st Street SIZ and the Avenue G/H SIZ corridors. The grant matrix includes funds or services related to façade replacement or upgrading, sign improvements, landscaping improvements, asbestos surveys and abatements, demolitions and sidewalk replacement. Availability of these matching funds would be on a first-come/first-served basis for eligible projects. A limited amount of funds are available in the current fiscal year, and if the City Council approves this ordinance we will likely seek additional funds in future budget years. A more detailed description of the matching grants will be made during our presentation before the City Council.

Providing adequate funding for the City matching funds will pose a fiscal challenge for the City, but the proposed incentives are tied to private investment in these SIZs that will help the City to recover its investment.

A companion ordinance to this ordinance is also on your agenda, #3(J-2). That ordinance amends the City's criteria and guidelines for tax abatement to establish parameters for granting tax abatement for commercial and industrial property within the North 3rd Street SIZ corridor.

FISCAL IMPACT: The City Council authorized \$85,000 in fiscal year 2011 for economic development incentives in Strategic Investment Zone corridors. Of that amount, \$10,847 is remaining to fund future agreements. Tax abatement agreements, if entered into in the future on property in this corridor, would rebate taxes on the increase value of eligible real and personal property in the area and would not require a financial outlay by the City.

ATTACHMENTS:

[Map](#)
[Ordinance](#)



ORDINANCE NO. 2010-4417

DESIGNATING THE NORTH 3RD STREET CORRIDOR (FROM CENTRAL AVENUE TO INDUSTRIAL BOULEVARD) AS TAX ABATEMENT REINVESTMENT ZONE NUMBERS EIGHTEEN AND NINETEEN FOR COMMERCIAL, INDUSTRIAL OR RESIDENTIAL TAX ABATEMENT AND AS THE "NORTH 3RD STREET STRATEGIC INVESTMENT ZONE;" ESTABLISHING THE BOUNDARIES THEREOF AND OTHER MATTERS RELATING THERETO; ESTABLISHING CERTAIN ECONOMIC DEVELOPMENT INCENTIVES IN THE NORTH 3RD STREET STRATEGIC INVESTMENT ZONE; ESTABLISHING A SUNSET PROVISION; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR PENALTIES; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City Council of the City of Temple, Texas (the "City"), desires to promote the development or redevelopment of a certain contiguous geographic area within its jurisdiction by creation of a reinvestment zone for commercial/industrial tax abatement, as authorized by Section 312.201 of the Texas Tax Code;

WHEREAS, the City held such public hearing after publishing notice of such public hearing, and giving written notice to all taxing units overlapping the territory inside the proposed reinvestment zone;

WHEREAS, the City at such hearing invited any interested person, or his attorney, to appear and contend for or against the creation of the reinvestment zone, the boundaries of the proposed reinvestment zone, whether all or part of the territory described in the ordinance calling such public hearing should be included in such proposed reinvestment zone, the concept of tax abatement; and

WHEREAS, the proponents of the reinvestment zone offered evidence, both oral and documentary, in favor of all of the foregoing matters relating to the creation of the reinvestment zone, and opponents of the reinvestment zone appeared to contest creation of the reinvestment zone.

WHEREAS, the City finds that the condition of property adjoining North 3rd Street (from Central Avenue to Industrial Boulevard) is likely to substantially arrest or impair the sound growth of the municipality, because of the presence of one or more of the conditions: a substantial number of substandard, slum, deteriorated, or deteriorating structures; the predominance of defective or inadequate sidewalks or streets; faulty size, adequacy, accessibility, or usefulness of lots; unsanitary or unsafe conditions; the

deterioration of site or other improvements; or conditions that endanger life or property by fire or other cause;

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

Part 1: The facts and recitations contained in the preamble of this ordinance are hereby found and declared to be true and correct.

Part 2: (a) **Designation of North 3rd Street Corridor Tax Abatement Reinvestment Zones “A” and “B.”** Pursuant to Section 312.201 of the Code, the City hereby creates reinvestment zones for commercial or industrial tax abatement consisting of property within the area described as follows:

North 3rd Street Area A Tax Increment Financing Reinvestment Zone (Number 18) is an irregular shaped area (depicted on the map attached as Exhibit A) centered on North 3rd Street running north-south roughly from Central Avenue to Houston Avenue. **Area A** is bounded on the west by North 7th Street [from Central to French] and on the east from Adams—where it adjoins the South 1st SIZ incentive corridor—north to French Avenue.

North 3rd Street Area B Tax Increment Financing Reinvestment Zone (Number 19) is also an irregular shaped area (depicted on the map attached as Exhibit A) centered on North 3rd Street running north-south roughly from Monroe Avenue to Industrial Boulevard. **Area B** does include a commercial/industrial area north of Industrial and west of North 3rd Street (an area that includes a former nursing home and an apartment building).

Such reinvestment zones are hereby designated and shall hereafter be officially designated as Tax Abatement Reinvestment Zones Numbers 18 & 19, respectively, City of Temple, Texas. The City Council specifically finds that the boundaries of the reinvestment zones (collectively referred to hereinafter as the "NORTH 3RD STREET STRATEGIC INVESTMENT ZONE") should be as shown in the map attached hereto as Exhibit "A."

(b) **Findings Relative to Creation of Tax Abatement Reinvestment Zone.** The City Council, after conducting a public hearing and hearing evidence and testimony, makes the following findings and determinations based on the testimony presented to it:

1. That a public hearing on the adoption of the reinvestment zone has been properly called, held and conducted and that notices of such hearings have been published as required by law and mailed to all taxing units overlapping the territory inside the proposed reinvestment zone;

2. That creation of the NORTH 3RD STREET STRATEGIC INVESTMENT ZONE will result in benefits to the City and to the land included in the zone after the term of any agreement executed hereunder, and the improvements sought are feasible and practical;

3. That the NORTH 3RD STREET STRATEGIC INVESTMENT ZONE meets the criteria for the creation of a reinvestment zone as set forth in Section 312.202 of the Code in that it is "reasonably likely as a result of the designation to contribute to the retention or expansion of primary employment or to attract major investment in the zone that would be a benefit to the property and that would contribute to the economic development of the City;" and

4. That the NORTH 3RD STREET STRATEGIC INVESTMENT ZONE meets the criteria for the creation of a reinvestment zone as set forth in the City of Temple Guidelines and Criteria for granting tax abatement in reinvestment zones.

(c): The NORTH 3RD STREET STRATEGIC INVESTMENT ZONE shall take effect on January 7, 2011, and continue in effect until January 7, 2016.

(d) To be considered for execution of an agreement for tax abatement the commercial or residential project shall:

1. Be located wholly within the NORTH 3RD STREET STRATEGIC INVESTMENT ZONE as established herein;

2. Not include property that is owned or leased by a member of the City Council of the City of Temple, Texas, or by a member of the Planning and Zoning Commission;

3. Conform to the requirements of the City's Zoning Ordinance, all other City codes and regulations, City of Temple Guidelines and Criteria for granting tax abatement in reinvestment zones previously adopted by the City Council, and all other applicable laws and regulations; and

4. Have and maintain all land located within the NORTH 3RD STREET STRATEGIC INVESTMENT ZONE, appraised at market value for tax purposes.

(e) Written agreements with property owners located within the NORTH 3RD STREET STRATEGIC INVESTMENT ZONE shall provide identical terms regarding duration of exemption and share of taxable real property value exempted from taxation.

(f) Written agreements for tax abatement as provided for by Section 312.205 of the Tax Code shall include provisions for:

1. Listing the kind, number and location of all proposed improvements of the property;

2. Access to and inspection of property by municipal employees to ensure that the improvements or repairs are made according to the specification and conditions of the agreements;

3. Limiting the use of the property consistent with the general purpose of encouraging development or redevelopment of the NORTH 3RD STREET STRATEGIC INVESTMENT ZONE during the period that property tax exemptions are in effect; and

4. Recapturing property tax revenue lost as a result of the agreement if the owner of the property fails to make the improvements as provided by the agreement.

(g) Applications. Applications for tax abatement in the NORTH 3RD STREET STRATEGIC INVESTMENT ZONE are available in the City Attorney's Office, Suite 308, Municipal Building, 2 North Main Street, Temple, TX 76504 or from the City's website, ci.temple.tx.us.

Part 3: (a) Additional Economic Development Incentives for the North 3rd Street Strategic Investment Zone. Pursuant to Article 3, Section 52-a of the Texas Constitution, Chapter 380 of the Texas Local Government Code, and Section III.B of the City's Economic Development Policy ordinance, the City will consider offering additional economic incentives for development in the North 3rd Street Investment Zone as provided below. If property is located within the North 3rd Street Strategic Investment Zone and another investment zone offering similar incentives by the City, the applicant may apply under either program, subject to the rules of eligibility. *To be eligible for any of the grants in Part 3 of this Ordinance, the applicant must propose and complete real property improvements on property located within the North 3rd Street Strategic Investment Zone with a minimum investment of not less than \$50,000 for commercial or industrial development.*

- (1) **Façade Improvement Grants.** (commercial only) The City will consider making grants of up to **\$15,000** on a 1:1 matching basis for the replacement of an existing façade with an eligible masonry product to an eligible property, or to remove an existing façade to expose the original façade. Eligible masonry materials for a replacement façade under this subsection include brick, stone, stucco, EIFS, rough-faced block, fiber cement siding products, such as HardiPlank® and such other materials that the City may approve from time to time. A list of eligible materials for the North 3rd Street Corridor Strategic Investment Zone is maintained in the Construction Safety Office, 1st Floor, the Municipal Building, 2 North Main Street. Façade improvement costs eligible for reimbursement with a façade improvement grant include demolition costs (including labor), landfill costs, and material and construction (including labor) costs, but specifically *exclude* design costs.
- (2) **Sign Improvement Grants.** (commercial only) The City will consider making grants of up to **\$2,500** on a 1:1 matching basis for the installation of new ground-mounted, monument type signs on eligible properties or the replacement of a dilapidated sign. To be eligible, the base or footing of the sign must be concrete or metal. Sign improvement costs eligible for reimbursement with a sign improvement grant include demolition costs (including labor), landfill costs, and material and construction (including labor) costs, but specifically *exclude* design costs.
- (3) **Landscaping Improvement Grants.** (commercial only) The City will consider making grants of up to **\$5,000** on a 1:1 matching basis for the installation of new or additional landscaping to an eligible property. To be eligible the landscaping must meet or exceed the City's landscaping requirements for the area, as the same may be established from time to time. If

an irrigation system is installed, or already exists, and will be maintained by the applicant, the maximum amount of the landscaping grant is **\$10,000** on a 1:1 matching basis. Landscaping improvement costs eligible for reimbursement with a landscaping improvement grant include ground preparation costs (including labor), materials (trees, shrubs, soil and amendments thereto and other decorative hardscape such as arbors, art, and walls or fences) and material and construction (including labor) costs, but specifically *exclude* design costs. The City will also consider making grants of trees from the City's tree farm if requested by the applicant as part of a landscaping improvement grant application.

(4) **Asbestos Survey or Abatement Grants.** (commercial only) The City will consider a grant of up to **\$1,000** on a 1:1 matching basis for owner-initiated asbestos survey of a building and up to **\$3,000** on a 1:1 matching basis for asbestos abatement for a building on eligible property. Asbestos survey and abatement grant eligible costs include professional fees, labor costs, and replacement materials.

(5) **Demolition Grants.** (commercial only) When requested by an applicant the City will consider in its sole discretion, demolishing buildings, signs or parking lots, and disposing of the same at the City's cost, when the City has the capacity and equipment to do so. The City will not demolish buildings where the City in its sole discretion determines that there is a reasonable probability that the building contains asbestos, unless the applicant has obtained an asbestos survey and abated asbestos, where necessary, prior to demolition of the structure. In lieu of doing the demolition work with its own crews, the City will also consider a grant of up to **\$2,500** on a 1:1 matching basis for the demolition of existing buildings, signs, or parking lots on eligible property. Where the applicant is performing the demolition and seeking a demolition grant, eligible costs include the labor and landfill costs, and equipment rental, but exclude any design costs.

(6) **Sidewalk Improvement Grants.** (commercial only) The City will consider grants of up to **\$10,000** on a 1:1 matching basis for the construction of new sidewalks within the NORTH 3RD STREET CORRIDOR STRATEGIC INVESTMENT ZONE, curb and guttering or the replacement of existing sidewalks or curb and guttering on eligible property. Sidewalk improvement costs eligible for reimbursement with a sidewalk improvement grant include demolition costs (where applicable) (including labor), landfill costs, and material and construction (including labor) costs and equipment rental, but specifically *exclude* design costs.

(7) **Waiver of Platting, Zoning and Permit Fees.** (commercial only) The City will consider waiving up to \$2,000 in platting, zoning, water and wastewater tap fees, and building permit fees for eligible projects.

(b) **Eligible Property.** To be eligible for a grant under Part 3(a)(1)-(8) above, the applicant must be the owner or lessee of property lying within the boundaries of the

North 3rd Street Corridor Strategic Investment Zone (Area A or Area B). Eligible property improvements are as described in Part 3(a)(1)-(7) above.

(c) **Application Form.** To be eligible for the grants described in Part 3(a), an applicant must submit an application and received approval from the City prior to commencing the work for which a grant or assistance by the City is sought. Applications must be submitted on a form provided by the City, be fully and accurately completed, and signed by the owner(s) (and the lessee(s), where applicable) of the property. Forms are available in the **City Manager's Office** (c/o of the Assistant City Manager) and in the office of **Keep Temple Beautiful**, 100 West Adams, Suite 302, Temple, TX 76501, and must be submitted to the City Manager's office for review and potential approval by the City. A completed application must contain a rendering of all proposed improvements and a written description of the same. Where the proposed scope of work requires professional work by an engineer or architect, the plans must be sealed by an engineer or architect, as applicable.

(d) **Evaluation of Applications.** In evaluating whether to approve an application for a grant under Part 3(a), the City Council will consider: (1) the extent to which the property for which a grant is sought is blighted or fails to meet City codes or regulations in one or more aspect; (2) whether the proposed redevelopment is at a higher level than which exists on other properties in the North 3rd Street Corridor Strategic Investment Zone at the time of adoption of this ordinance; (3) whether the applicant has the financial resources to complete the described in the application; (4) whether the property is unlikely to redevelop without an incentive by the City; (5) whether the proposed use of the property is in keeping with the future uses of property identified in the City's Comprehensive Plan or a master plan adopted by the City Council. Upon receipt of an application for a grant under Part 3(a), the City Manager shall cause the application to be evaluated using the criteria established in Part 3(d) above, and submit the application and the Staff's recommend to approve or deny the request, in whole or part, to the City Council for their consideration.

(e) **Approval of grants.** The City Council may approve a request for a grant under Part 3(a) in whole or in part, or deny the same.

(f) **No Vested Right to Receive a Grant.** The existence of the grant program established in Section 3(a) does not create any vested rights to receive a grant or convey a property interest to any person to receive a grant. The award or denial of a grant under this Ordinance shall be at the sole discretion of the City Council. The City Council shall annually appropriate funds for the administration of the grant program in this ordinance, and the granting of funds under the programs established by this ordinance are subject to the availability of funds appropriated for that purpose in any given fiscal year.

(g) **Compliance with Terms of a Grant; payment to recipient.** A recipient of a grant from the City must enter into a development agreement with the City prior to receiving any grant funds or in-kind services by the City. The agreement shall provide that the applicant agrees to: (1) complete the work described in the application in a timely fashion; (2) give the City the right to inspect the work described in the development agreement and the financial records associated with the same during reasonable business hours; (3) perform all of the work described in the grant application in accordance with

all applicable City codes and regulations; and (4) to maintain those improvements in the future. The failure by an applicant for a grant to satisfy all of the terms and conditions of the development agreement shall relieve the City of any obligation to provide grants funds under this Ordinance or as described in the development agreement. Payment to grantees shall be made within thirty (3) days of the work described in the development agreement being completed, inspected and accepted by the City.

Part 4: Severance clause. If any provision of this ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

Part 5: Effective date. This ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

Part 6: Sunset provision. The designation of Tax Abatement Reinvestment Zone Number Fifteen shall expire five years from the effective date of this ordinance. The designation of a tax abatement reinvestment zone may be renewed for periods not exceeding five years. The expiration of a reinvestment zone designation does not affect an existing tax abatement agreement authorized by the City Council.

Part 7: Open Meeting Act. It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meeting Act.

PASSED AND APPROVED on First Reading and Public Hearing on the **16th** day of **December**, 2010.

PASSED AND APPROVED on Second and Final Reading on the **6th** day of **January**, 2011.

THE CITY OF TEMPLE, TEXAS

William A. Jones, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

01/06/11
Item #3(J-2)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: SECOND READING – Consider adopting an ordinance amending the City's Economic Development Policy ordinance to establish new criteria and guidelines for tax abatement in the North 3rd Street Strategic Investment Zone to promote local economic development and to stimulate business and commercial activity.

STAFF RECOMMENDATION: Adopt ordinance as presented in item description, on second and final reading.

ITEM SUMMARY: The proposed ordinance amends the City's comprehensive economic development ordinance to add new criteria and guidelines for authorizing tax abatement agreements on *commercial or industrial* property in the proposed tax abatement reinvestment zone for the North 3rd Street Strategic Investment Zone. This is a companion item to the ordinance creating the North 3rd Street Strategic Investment Zone—which designates the North 3rd Street corridor (roughly Street) as a tax abatement reinvestment zone and also authorizes other match grant incentives from the City.

The matrix proposed to be considered for 5 year, 100% tax abatement on the *increased* value of eligible commercial or industrial real and personal property (useful life of at least 10 years) in the North 3rd Street Strategic Investment Zone Corridor is as follows:

Percentage of increased value To be abated	Inside the North 3 rd Street Strategic Investment Zone Minimum Required Real or Personal Property Investment or Job Creation		
	Eligible Real Property Improvements	Eligible Personal Property*	Full Time Job Creation
100%	\$50,000 or more	\$100,000 or more	10-25 full time jobs

Under the proposed amendment, commercial or industrial projects involving an investment in real property in excess of \$500,000, more than \$2,000,000 in eligible personal property, or the creation of more than 25 new full time jobs would be individually negotiated.

FISCAL IMPACT: N/A. The proposed ordinance creates a mechanism for the City Council to consider approving future tax abatements for commercial or industrial redevelopment in the North 3rd Street Strategic Investment Zone corridor. Approval of individual tax abatement agreements would, of course, generate a fiscal impact on the City.

ATTACHMENTS:

[Ordinance](#)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF TEMPLE, TEXAS, ESTABLISHING A COMPREHENSIVE ECONOMIC DEVELOPMENT POLICY FOR THE CITY OF TEMPLE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City of Temple is committed to establishing long-term economic vitality, an essential key to the growth of any community, by responding and preparing for challenges and changes in an environment characterized by ongoing competition for sustained economic advantage and identity;

Whereas, in an effort to enrich an already substantial diversity of economic activity, the City of Temple desires to establish an *Economic Development Policy* consolidating the City's existing and newly-proposed economic development policies into one comprehensive document;

Whereas, the City has established criteria and guidelines governing tax abatement within the City pursuant to Chapter 312 of the Tax Code, and by ordinance has designated two tax abatement reinvestment zones;

Whereas, the City has by ordinance created a tax increment financing reinvestment zone pursuant to Chapter 311 of the Tax Code, and used the tax increments accrued in said zone to construct public improvements intended to spur economic development of the zone;

Whereas, the City has nominated an area of the City for designation by the State, acting through its Department of Commerce, as an enterprise zone pursuant to Tex. Rev. Civ. Stat. Ann. art 5190.7;

Whereas, Article 3, Section 52-a of the State Constitution, authorizes the Legislature to provide for the creation of programs for the making of loans and grants of public money for the public purposes of development and diversification of the economy of the State;

Whereas, the Legislature, in Tex. Rev. Civ. Stat. Ann. art. 835s, has authorized home rule cities to acquire land and buildings for the purpose of leasing the land or improvements thereto to private companies for use in manufacturing or other commercial activity;

Whereas, the Legislature, in Chapter 380 of the Local Government Code, has authorized home rule cities to establish programs for making loans and grants of public money to promote State or local economic activity within their boundaries; and

Whereas, the City Council has considered the matter and deems it in the public interest to authorize this action.

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

Part 1: That a comprehensive *Economic Development Policy* is hereby adopted by the City of Temple, Texas, to read as follows:

ECONOMIC DEVELOPMENT POLICY

FOR THE CITY OF TEMPLE, TEXAS

ADOPTED JANUARY 6, 2011

I. Criteria and Guidelines Governing Tax Abatement.

A. Definitions.

1. "**Abatement**" means the full or partial exemption from ad valorem taxes of certain real property in a reinvestment zone designated by the City for economic development purposes.

2. "**Agreement**" means a contract between a property owner or lessee and the City.

3. "**Base year value**" means the assessed value of eligible property on January 1st of the year of the execution of the tax abatement Agreement, plus the agreed upon value of eligible property improvements made after January 1 but before the execution of the Agreement.

4. "**Deferred Maintenance**" means those improvements necessary for continued operation but which do not improve productivity or alter any process technology. Exterior improvements (e.g., painting, installing, repairing, removing or replacing a facade) to the exteriors of buildings in the Downtown Development Area which are designed to improve visual appearance of property are not deferred maintenance.

5. "**Downtown Development Area**" is an approximately 43 block area of downtown Temple as shown by the map and description attached hereto as Exhibit "A."

6. "**Eligible Facilities**" means those new, expanded or modernized buildings and structures, including fixed machinery and equipment, which are reasonably likely as a result of granting abatement, to contribute to the retention or expansion of primary employment or to attract major investment in the reinvestment zone that would be a benefit to the property and that would contribute to the economic development within the City Eligible Facilities in all commercial/industrial tax abatement reinvestment zones include manufacturing, distribution and storage facilities, office buildings, transportation facilities, and entertainment complex. Additional Eligible Facilities in reinvestment zones established in the Downtown Development Area include retail stores, apartment buildings, restaurants and entertainment facilities (excluding sexually oriented businesses) facilities.

7. "**Expansion**" means the addition of buildings, structures, machinery, equipment or payroll for purposes of increasing production capacity.

8. "**Facility**" means property improvements completed or in the process of construction which together comprise an integral whole.

9. **"Modernization"** means a complete or partial demolition of Facilities and the complete or partial reconstruction or installation of a Facility of similar or expanded production capacity. Modernization may result from the construction, alteration, or installation of buildings, structures, machinery or equipment, or both. Modernization in the Downtown Development area includes painting of exterior walls, restoring, removing or installing a facade and related exterior improvements designed to visually improve the exterior of a building or block.

10. **"New Facility"** means a property previously undeveloped which is placed into service by means other than or in conjunction with Expansion and Modernization.

11. **"Productive Life"** means the number of years a property improvement is expected to be in service for a facility.

12. **"South 1st Street Corridor"** is an area comprised of approximately a 74 block area, which includes South 1st Street from Adams Avenue to South Loop 363 and portions of several adjacent streets including portions of South 2nd Street, South 3rd Street and South 5th Street, as shown by the map and description attached hereto as Exhibit "B."

13. **"Avenue H Strategic Investment Zone"** is an area consisting of Avenue F, G, H & I from South 1st Street to South 25th Street, as shown by the map and description attached hereto as Exhibit "C."

B. Statement of Purpose.

The City is committed to the promotion of high quality commercial and industrial development in all parts of the City, and an ongoing improvement of the quality of life of its citizens. These objectives may be served by the enhancement and expansion of the local economy. The City will consider, on a case-by-case basis granting property tax abatement as a stimulus for economic development in accordance with the criteria and guidelines established herein. Nothing herein shall imply or suggest that the City is under any obligation to provide tax abatement to any applicant, that any applicant has a property right or interest in tax abatement, or that the City is precluded from considering other options which may be in the best interest of the City.

C. Designation of Tax Abatement Reinvestment Zones.

The City will consider designating areas within the City limits or extraterritorial jurisdiction of the City as commercial-industrial tax abatement reinvestment zones which meet one or more of the criteria for designation of a reinvestment zone under Section 312.202 of the Tax Code, and where the property owner meets the minimum qualifications to qualify for a tax abatement under Part I.D. 1.b. of this Policy. Designation of an area as a tax abatement reinvestment zone is a prerequisite to entering into a tax abatement agreement with the owner of the property in a particular area. Property located within a City created (and State-approved) Enterprise Zone is eligible for consideration for tax abatement agreements without the necessity of separate designation as a tax abatement reinvestment zone.

D. Abatement Authorized.

1. **Eligible Facilities.** Upon application, the City will consider granting tax abatement on Eligible Facilities as hereinafter provided.

a. Creation of New Value. The City will consider granting tax abatement only for the additional value of eligible property improvements made subsequent to, and specified in, an abatement agreement between the City and the property owner or lessee, subject to such limitations as the City may require.

b. New and Existing Eligible Facilities. The City will consider granting abatement for new Eligible Facilities and for improvements to existing Eligible Facilities for purposes of Modernization and Expansion.

c. Eligible Property. The City will consider granting abatement to the value of real property improvements (buildings, structures, fixed [permanently attached] machinery and equipment, site improvements, related fixed improvements necessary to the operation and administration of the Facility), and personal property (excluding inventory or supplies) with a Productive Life of ten years or more.

d. Ineligible Property. The following types of property shall remain fully taxable and ineligible for tax abatement: land, supplies, inventory, housing, Deferred Maintenance, property to be rented or leased except as provided in subpart (5) below, and other property which has a Productive Life of less than ten years.

e. Owned/Leased Facilities. If a Leased Facility is granted abatement, the agreement shall be executed with the lessor and the lessee.

2. Standards for Tax Abatement.

a. Minimum Standards. The City will consider tax abatement only on eligible facilities which meet at least two of the following criteria.

(1) The project involves a minimum increase in property value of three hundred percent (300%) for construction of a new facility, or fifty percent (50%) for expansion of an existing facility, with an overall new investment of at least \$1 million in taxable assets. For eligible facilities in any reinvestment zone within the Downtown Development Area or within the South 1st Street Corridor, the project must involve either a minimum increase in property value of one hundred and fifty percent (150%) for construction of a new facility, or twenty-five percent (25%) for expansion of an existing facility, with an overall new investment of at least \$50,000 in taxable assets.

(2) The project makes a substantial contribution to redevelopment efforts, special area plans, or strategic economic development programs by enhancing either functional or visual characteristics, e.g., historical structures, traffic circulation, parking facades, materials, signs.

(3) The project has high visibility, image impact, or is of a significantly higher level of development quality.

(4) The project is an area which might not otherwise be developed because of constraints of topography, ownership patterns, site configuration, etc.

(5) The project can serve as a prototype and catalyst for other development of a higher standard.

(6) The project stimulates desired concentrations of employment or commercial activity.

(7) The project generates greater employment than would otherwise be achieved, e.g., commercial/industrial versus manufacturing versus warehousing.

(8) For eligible facilities in any reinvestment zone within the Downtown Development Area, the project improves the aesthetic appearance of the neighborhood, brings new jobs to the Downtown area, increases the availability of public parking, or increases the amount of green space (landscaping).

b. Minimum Required Investment. An applicant requesting tax abatement shall agree as a condition of any tax abatement ultimately approved by the City Council to expend a certain minimum amount of funds on real or personal property improvements, or to provide a certain number of jobs, as provided below:

Percentage of increased value to be abated	Minimum Required Real or Personal Property Investment or Job Creation		
	Eligible Real Property Improvements	Eligible Personal Property*	Job Creation [†]
25%	\$250,000-\$400,000	\$1,000,000-\$1,600,000	25-30 jobs
30%	400,001-550,000	1,600,001-2,200,000	31-35 jobs
35%	550,001-700,000	2,200,001-2,800,000	36-40 jobs
40%	700,001-850,000	2,800,001-3,400,000	41-45 jobs
45%	850,001-1,000,000	3,400,001-4,000,000	46-50 jobs
50%	1,000,001-1,300,000	4,000,001-5,200,000	51-55 jobs
55%	1,300,001-1,600,000	5,200,001-6,400,000	56-60 jobs
60%	1,600,001-1,900,000	6,400,001-7,600,000	61-65 jobs
65%	1,900,001-2,200,000	7,600,001-8,800,000	66-70 jobs
70%	2,200,001-2,500,000	8,800,001-10,000,000	71-75 jobs
75%	2,500,001-3,500,000	10,000,001-14,000,000	76-85 jobs
80%	3,500,001-4,500,000	14,000,001-18,000,000	86-95 jobs

Percentage of increased value to be abated	Minimum Required Real or Personal Property Investment or Job Creation		
	Eligible Real Property Improvements	Eligible Personal Property*	Job Creation [†]
85%	4,500,001-5,500,000	18,000,001-22,000,000	96-105 jobs
90%	5,500,001-6,500,000	22,000,001-26,000,000	106-115 jobs
95%	6,500,001-7,500,000	26,000,001-30,000,000	116-125 jobs
100%	7,500,001-10,000,000	30,000,001-40,000,000	126-175 jobs

Percentage of increased value To be abated	Inside the Downtown Development Area or the South 1 st Street Corridor Minimum Required Real or Personal Property Investment or Job Creation		
	Eligible Real Property Improvements	Eligible Personal Property*	Job Creation
100%	\$50,000 or more	\$100,000 or more	5-25 jobs

Percentage of increased value To be abated	Inside the Avenue H Strategic Investment Zone Minimum Required Real or Personal Property Investment or Job Creation		
	Eligible Real Property Improvements	Eligible Personal Property*	Job Creation
100%	\$35,000 or more	\$60,000 or more	5-25 jobs

Percentage of increased value To be abated	Inside the North 3 rd Street Strategic Investment Zone Area A and Area B Minimum Required Real or Personal Property Investment or Job Creation		
	Eligible Real Property Improvements	Eligible Personal Property*	Full Time Job Creation
100%	\$50,000 or more	\$100,000 or more	10-25 full time jobs

Projects involving an investment in real property in excess of \$10,000,000 (\$250,000 in the Downtown Development Area, or the South 1st Street and Avenue H Strategic Investment Zones) in eligible personal property of more than \$40,000,000 (\$1,000,000 in the Downtown Development Area or the South 1st Street and Avenue H Strategic Investment Zones), or the creation of more than 175 (25 in the Downtown Development Area or the South 1st Street and Avenue H Strategic Investment Zones) new full time jobs, or requests for tax abatement for more than 5 years, will be individually negotiated.

If a request for tax abatement is justified on the basis of the purchase and maintenance of eligible personal property or on the creation of jobs, the applicant must agree to maintain the personal property or jobs for a period of not less than twice the period for which tax abatement is granted. For example, if an applicant requests and receives 75% tax abatement for five years based on the purchase and maintenance of eligible personal property, the applicant must agree in the tax abatement agreement, subject to recapture of all abated taxes, to maintain the personal property on the property tax roll for not less than ten years.

*Personal property with a useful life of less than ten years is not eligible for tax abatement.

Personal property on site prior to the effective date of the tax abatement agreement is not eligible. Supplies and inventory are ineligible for tax abatement under this policy and State law.

[†] As used herein, the creation of jobs refers to the creation of a job paying not less than \$10 per hour, the approximate median salary for employees in Bell County. To qualify for a level of tax abatement, e.g., 25%, based on the creation of a specific number of jobs, you must commit to hiring the required effective number of employees by the end of year 2 of the agreement. To calculate the effective number of jobs created: (1) calculate the total annual payroll created (based on the number of employees you will hire at various annual salaries); (2) divide this annual payroll by \$20,640 (our calculated annual salary for a \$10/hr employee); and (3) round this figure to the nearest whole integer.

c. Additional or Enhancement Factors. In addition to the minimum investment or job creation criteria listed in (2) above, the following factors, among others, shall be considered in determining whether to grant Tax Abatement, and if so, in what percentage of value to be abated and the duration:

- (1) value of land and existing improvements, if any;
- (2) type and value of proposed improvements;
- (3) productive life of proposed improvements;
- (4) number of existing jobs to be retained by proposed improvements;
- (5) number, salary, and type of new jobs to be created by proposed improvements;
- (6) amount of local payroll to be created;
- (7) whether the new jobs to be created will be filled by persons residing or projected to reside within the City;
- (8) amount of local sales taxes to be generated directly;
- (9) the costs, if any, to be incurred by the City to provide facilities or services directly resulting from the new improvements;
- (10) the amount of ad valorem taxes to be paid the City during the Abatement period considering the existing values, the percentage of new value abated, the Abatement period, and the projected property value after expiration of the Abatement period;
- (11) population growth that occurs directly as a result of new improvements;
- (12) the types and value of public improvements, if any, to be constructed and paid for by the applicant seeking Abatement;
- (13) the extent to which the proposed improvements compete with existing businesses;
- (14) the positive or negative impact on the opportunities of existing businesses;
- (15) the attraction of other new businesses to the area;
- (16) the overall compatibility with the City's zoning and subdivision regulations, and over-all comprehensive plan; and
- (17) whether the project is environmentally compatible with the community (no appreciable negative impact on quality-of-life perceptions).

Each Eligible Facility shall be reviewed on its merits utilizing the factors provided above. After such review, abatement may be denied entirely or may be granted to the extent deemed appropriate after full evaluation.

3. Abatement barred in certain circumstances. Neither a reinvestment zone nor an abatement agreement shall be authorized, if the City Council determines that:

- a. there would be a substantial adverse effect on the provision of government service or tax base;
- b. the applicant has insufficient financial capacity to meet the requirements of the proposed abatement agreement;
- c. planned or potential use of the property would constitute a hazard to public safety, health, or morals;
- d. approval of a reinvestment zone or abatement agreement would violate State or Federal laws or regulations; or
- e. there exists any other valid reason for denial deemed appropriate by the City.

4. Property subject to Taxation. From the execution of an Abatement Agreement to the end of the effective abatement period under the Agreement, taxes shall be payable as follows:

- a. the value of ineligible property (Part I.D.1.d.) shall be fully taxable;
- b. the base year value of existing eligible property as determined each year shall be fully taxable;
- c. the additional value of new eligible property shall be taxed in the manner and for the period provided for in the Abatement Agreement; and
- d. the additional value of new, eligible property shall be fully taxable at the end of the Abatement period.

5. Application for Tax Abatement.

a. Any present or potential owner of taxable property in the City of Temple, Texas, may request the creation of a tax abatement reinvestment zone and tax abatement by filing a written request with the City. The application shall then be forwarded to the City Manager for review. After processing the application, the City Manager shall make a recommendation to the City Council of the City for final disposition.

b. The application shall consist of a completed application form, which shall provide detailed information on the items described in Part I.D.2. above; a map and property description; and a time schedule for undertaking and completing the planned improvements. In the case of Modernization, a statement of the assessed value of the facility, separately stated for real and personal property, shall be given for the tax year immediately proceeding the application. The application form may require such

financial and other information as may be deemed appropriate for evaluating the financial capacity and other factors of the applicant.

c. The City shall give notice as provided by the Tax Code, i.e., written notice to the presiding officer of the governing body of each taxing unit in which the property to be subject to the agreement is located, no later than the seventh day before the date the City Council considers approval of a tax abatement agreement.

d. The City shall not establish a reinvestment zone for the purpose of Abatement if it finds that the request for the abatement was filed after the commencement of construction of a New Facility, or alteration, Modernization, Expansion of an existing Facility.

6. Tax Abatement Agreements

a. After preliminary approval of an application, the City shall formally pass a resolution authorizing an Agreement with the owner (and lessee, where applicable) of the Facility, which Agreement shall include, but not be limited to:

- (1) The kind, number, and location of all proposed improvements of the property;
- (2) A provision for access to and authorize inspection of the property by municipal employees to ensure that the improvements or repairs are made according to the specifications and conditions of the Agreement;
- (3) Limits for the uses of the property consistent with the general purpose of encouraging development or redevelopment of the zone during the period the property tax exemptions are in effect;
- (4) Provide for recapturing property tax revenue lost as a result of the Agreement if the owner of the property fails to make the improvements or repairs as provided by the Agreement;
- (5) Each term agreed to by the owner of the property;
- (6) A requirement that the owner of the property annually certify to the governing body of each taxing unit that the owner is in compliance with each applicable term of the Agreement;
- (7) Provide that the City Council may cancel or modify the Agreement if the property fails to comply with the Agreement;
- (8) The percentage of value to be abated each year; and
- (9) The commencement date and the termination date of Abatement.

b. To be effective, a tax abatement agreement must be approved by the affirmative vote of a majority of the members of the City Council at a regularly scheduled meeting of the City Council.

c. Agreements shall normally be approved or disapproved within sixty (60) days from the date the applicant filed a properly completion application for tax abatement with the City Manager.

7. Recapture of Abated Taxes Upon Default.

a. In the event that the company or individual:

(1) allows its ad valorem taxes owed the City to become delinquent and fails to timely and properly follow the legal procedures for their protest or contest, or

(2) violates any of the terms and conditions of the Abatement Agreement, and fails to cure during the Cure Period hereinafter described,

(3) the Agreement then may be terminated, and the company or individual whose Agreement is terminated shall repay, as liquidated damages, all taxes previously abated by virtue of the Agreement to the City within thirty (30) days of the termination.

b. Should the City determine that the company or individual is in default according to the terms and conditions of its Agreement, the City shall notify the company or individual of such default in writing at the address stated in the Agreement, and if such is not cured within thirty (30) days from the date of such notice ("Cure Period"), then the Agreement may be terminated.

8. Administration.

a. The Chief Appraiser of the Bell County Appraisal District will annually determine an assessment of the real and personal property comprising the reinvestment zone. Each year, the company or individual receiving abatement shall furnish the Appraiser with such information as may be necessary for the Abatement. Once value has been established, the Chief Appraiser will notify the City of the amount of the assessment.

b. An abatement agreement shall stipulate that employees or designated representatives of the City will have access to the reinvestment zone during the term of the Abatement to inspect the Facility to determine if the terms and conditions of the agreement are being met. All inspections will be made only after the giving of twenty-four (24) hours prior notice and will only be conducted in such manner as to not unreasonably interfere with the construction or operation of the Facility. All inspections will be made with one or more representatives of the company or individual and in accordance with its safety standards.

c. Upon completion of construction, the designated representative of the City shall annually evaluate each Facility receiving Abatement to insure compliance with the agreement, and a formal report shall then be made to the City Council of Temple regarding the findings of the evaluation.

9. Assignment of Tax Abatement Agreements.

Abatement may be transferred and assigned by the holder to a new owner or lessee of the same Facility upon the approval by resolution of the City subject to the financial capacity of the assignee and provided that all conditions and obligations in the Abatement Agreement are guaranteed by the execution of a new contractual Agreement with the City. No assignment or transfer shall be approved if the parties to the existing Agreement, the new owner or new lessee, are liable to any jurisdiction for outstanding taxes or other obligations. Approval of assignments will not be unreasonably withheld.

10. Sunset Provision.

These tax abatement criteria and guidelines are effective upon the date of their adoption and will remain in force for two years, unless amended by three-quarters vote of the City Council, at which time all reinvestment zones and tax abatement agreements created pursuant to these provisions will be reviewed to determine whether the goals have been achieved. Based on that review, the criteria and guidelines may be modified, renewed or eliminated.

II. Availability of Tax Increment Financing of Public Improvements.

A. Existence of tax increment financing district.

The City of Temple has previously created Tax Increment Financing District Number One. To be designated as a tax increment financing reinvestment zone (TIFRZ), an area must meet the criteria established for reinvestment zones under Section 311.005 of the Tax Code. Designation of an area of the City as an enterprise zone under Tex. Rev. Civ. Stat. Ann. art. 5190.7, the Texas Enterprise Zone Act, qualifies an area automatically for designation as a tax increment financing reinvestment zone.

B. Development agreements.

The City will consider entering into development agreements with the owners of property within a TIFRZ where construction of a public improvement(s), e.g., a street, sewer or water line, bridge, railroad spur, or drainage project, using tax increment funds is likely to result in the significant expansion or modernization of an existing facility, the construction of a major new facility, the creation of a significant number of new jobs, or otherwise accomplishes one of the major goals of Chapter 311 of the Tax Code. The City Council may by ordinance or resolution, with the advise and recommendation of the Board of Directors of Tax Increment Financing Reinvestment Zone Number One, may establish minimum criteria for consideration of development agreements.

III. Additional Economic Incentives within the City

A. Designation of Enterprise Zone.

The City has nominated an area of the City for designation as an enterprise zone by the State of Texas, acting through its Department of Commerce, under Tex. Rev. Civ. Stat. Ann. art. 5190.7 (the Texas Enterprise Zone Act). Pending approval of the area as an enterprise zone by the State, the City will consider granting several types of economic incentives with the enterprise zone.

1. Sales and use tax refunds.

a. Minimum qualifications. To encourage development of the Enterprise Zone, the City will consider granting sales and use tax rebates to businesses within the Enterprise Zone which:

- (1) meet the definition of "qualified businesses" for purposes of Section 3(a)(11) of the Enterprise Zone Act;
- (2) meet the qualifications for, and receive designation by the State as an enterprise project as an enterprise project as provided for in Section 10 of the Enterprise Zone Act.

b. Eligible taxes. The City may agree to a refund of its sales and use taxes paid by qualified business designated as a enterprise project on the purchase, lease, or rental of equipment or machinery for use in an enterprise zone or on the purchase of material for use in remodeling, rehabilitating, or constructing a structure in the Enterprise Zone.

c. Agreement required. The City will, by development agreement, consider refunding up to one-half (1/2) of the *eligible* sales and use tax paid by a qualified business and enterprise project for a period of up to three (3) years.

d. Documentation required. A qualified business and enterprise project entitled to a refund of sales and use tax under this Section by agreement shall pay the entire amount of State and local sales and use taxes at the time of purchase. A qualified business and enterprise project entitled to a refund of sales and use tax by agreement may request a refund once each year in writing. A qualified business and enterprise project entitled to a refund of sales and use tax by agreement must provide documentation necessary to support a refund claim in a form prescribed by the City's Director of Finance.

2. Waiver of permit fees.

By resolution, the City Council may adopt a policy to waive certain building, permit, license or development fees to qualified businesses which have been designated as enterprise projects within the Enterprise Zone.

B. Other economic incentives within the City.

1. Pursuant to authority delegated by the Legislature to cities under Chapter 380 of the Local Government Code, and as authorized by Article 3, Section 52-a of the Texas Constitution, the City will consider making loans or grants of public funds or property, or the selling or leasing City property at or below the fair market value of said property, to promote State or local economic development and to stimulate business and commercial activity within the City.

2. Upon application, the City may consider one or more of the following economic tools to encourage economic development:

- (a) The City may purchase tracts of land in the City to encourage economic development if it determines that assembly of smaller tracts into larger tracts will promote the sale or development of property over the long term. The City may also purchase land to sell or lease to a qualified business in the City, if it determines that a qualified business meets the minimum requirements for additional incentives set out below
- (b) As further authorized by Tex. Rev. Civ. Stat. Ann. art. 5190.7 § 20(b), the City may sell or lease City-owned property to private developers, if the City Council determines that the property is not needed for any other public purpose, and that sale of the property to a private developer will result in capital improvements or the creation of new jobs within the City. The City will generally sell or lease public property at its fair market value, but will consider making a one-time grant to an applicant, or selling or leasing property at less than fair market value, according to the following formula:

Additional Incentives within the City
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Value of grant, or value of reduction in lease payments or sale price	To qualify for additional incentive, a qualified business must agree to the following minimum investment in <u>both</u> improvements to real property (new construction or expansion of existing facility) <u>and</u> the creation of new jobs	
Not to exceed \$150,000	Not less than \$7.5 million	Not less than 125 new jobs
Not to exceed \$300,000	Not less than \$15 million	Not less than 250 new jobs
Not to exceed \$450,000	Not less than \$22.5 million	Not less than 375 new jobs
Not to exceed \$600,000	Not less than \$28 million	Not less than 500 new jobs

Incentives under Chapter 380 of the Local Government Code where the investment and number of jobs exceed the chart above will be individually negotiated.

C. Additional economic incentives in Downtown Development Area.

1. Pursuant to authority delegated by the Legislature to cities under Chapter 380 of the Local Government Code, and as authorized by Article 3, Section 52-a of the Texas Constitution, the City will consider making loans or grants of public funds or property, or the selling or leasing City property at or below the fair market value of said property, to promote State or local economic development and to stimulate business and commercial activity in the Downtown Development Area (as shown on Exhibit "A").

2. Upon application, the City of Temple will consider one or more of the following economic tools to encourage economic development in the Downtown Development Area:

- (a) The City may purchase tracts of land in the Downtown Development Area to encourage economic development if it determines that assembly of smaller tracts into larger tracts will promote the sale or development of property over the long term. The City may also purchase land to sell or lease to a qualified business in the Downtown Development Area, if it determines that a qualified business meets the minimum requirements for additional incentives set out below.
- (b) As further authorized by Tex. Rev. Civ. Stat. Ann. art. 5190.7 § 20(b), the City may sell or lease City-owned property to private developers, if the City Council determines that the property is not needed for any other public purpose, and that sale of the property to a private developer will result in capital improvements or the creation of new jobs in the Downtown Development Area. The City will generally sell or lease public property at its fair market value, but will consider making a one-time grant to an applicant, or selling or leasing property at less than fair market value, according to the following formula:

Additional Incentives in the Downtown Development Area	

Value of grant, or value of reduction in lease payments or sale price or surplus property	To qualify for additional incentive, a qualified business must agree to the following minimum investment in <u>either</u> improvements to real property (new construction or expansion of existing facility) <u>or</u> the creation of new jobs (25% of the holders of which must be residents of zone or economically disadvantaged).	
Not to exceed \$6,000	Not less than \$70,000	Not less than 3 new jobs
Not to exceed \$8,000	Not less than \$100,000	Not less than 5 new jobs
Not to exceed \$10,000	Not less than \$175,000	Not less than 10 new jobs
Not to exceed \$15,000	Not less than \$225,000	Not less than 15 new jobs
Not to exceed \$18,000	Not less than \$300,000	Not less than 20 new jobs

3. In order for a proposal to be considered for the Additional Incentives under this subsection, an applicant is required to submit a Business Plan detailing sufficient information to evaluate the development and the opportunities for success. A development agreement will provide clauses that insure the return of monetary or real incentives granted for a project in the event that the project is not undertaken within a specified time.

Part 2: If any provision of this ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

Part 3: This ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

Part 4: It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on First Reading and Public Hearing on the **16th** day of **December**, 2010.

PASSED AND APPROVED on Second and Final Reading on the **6th** day of **January**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger

Jonathan Graham

City Secretary

City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

01/06/11
Item #3(K)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Brian Mabry, AICP, Planning Director

ITEM DESCRIPTION: P-FY-11-06: Consider adopting a resolution authorizing the Final Plat for Hicks-Milligan Estates, a 2.97± acre, a three-lot residential subdivision on the west side of Bendle Road, north of Luther Curtis Road in Temple's northern ETJ with developer requested exceptions to Sec. 8.2.7.E of the Unified Development Code requiring hydrants to comply with the City's Fire Code and Sec. 8.3.2 of the Unified Development Code requiring a payment of \$225 per dwelling unit in lieu of park land dedication.

P&Z RECOMMENDATION: At its December 20, 2010 meeting the Planning and Zoning Commission approved P-FY-11-06, the Final Plat for Hicks-Milligan Estates with the developer-requested exceptions, in accordance with Staff recommendation.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The subject property is a 2.97 acre site located in City's Extraterritorial Jurisdiction (ETJ) and fronting on Bendle Road. The applicant proposes to subdivide the property into three residential lots. There is no zoning in the ETJ so no City-related dimensional, use or site design requirements exist for the property.

The Development Review Committee reviewed the Final Plat on November 30, 2010 and deemed the Final Plat administratively complete on December 16, 2010. Except for the exceptions requested, the plat meets the minimum requirements of the Subdivision Regulations. The City Council is the final decision making authority since exceptions have been requested.

The applicant requests the following exceptions to the subdivision requirements in Article 8 of the Unified Development Code (UDC).

UDC Citation	Requirement	Applicant's Justification	Staff Support?*
Sec. 8.2.7.E	Fire hydrants spaced 600 feet apart with no structure more than 500 feet from the fire hydrant	Troy Volunteer Fire Department uses pumper vehicles and is adequately equipped to fight fires from the existing hydrant 930' away	Yes
Sec. 8.3.2	Payment of \$225 in park fees per dwelling unit	Distance from City limits and no existing or future parks in area.	Yes

*See explanations below

Staff checked with the Chief of the Troy Volunteer Fire Department and he confirmed that the department has two pumper vehicles so additional hydrants are not essential for fighting potential fires on the subject property. In addition, they have hose apparatus of adequate length to use the existing hydrant 930 feet away. Staff supports the requested exception.

Park fees in the sum of \$225 per lot are required for this proposed subdivision. Staff supports the requested exception since the subject property is less than nine lots, not expected to be annexed soon and is over a mile into the City's ETJ

ATTACHMENTS:

[Plat](#)
[P&Z Excerpts](#)
[Resolution](#)

FINAL PLAT OF
HICKS - MILLIGAN ESTATES

WITHIN THE E. T. J. OF THE CITY OF TEMPLE, BELL COUNTY, TEXAS

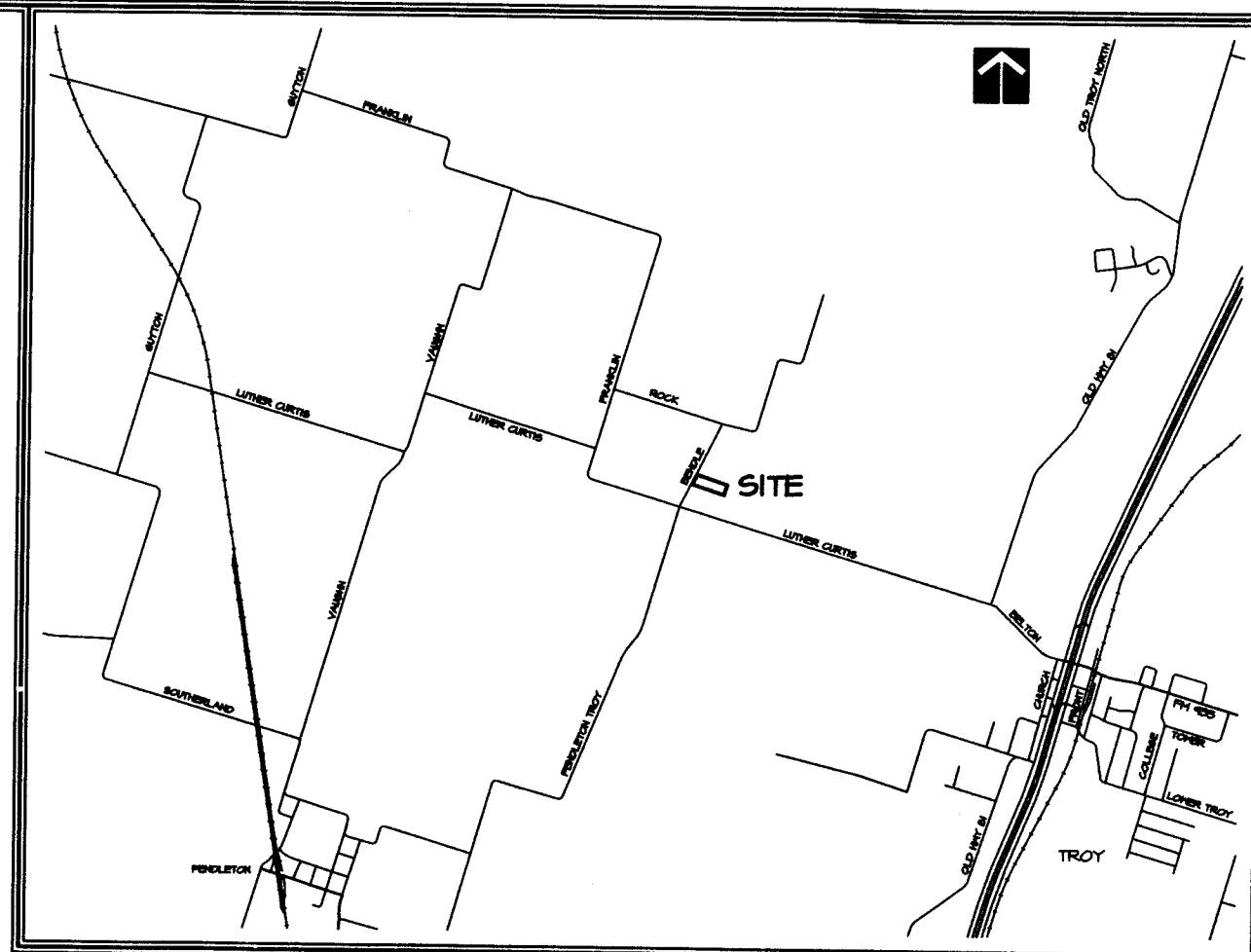
Being part of the Christopher Bendle Survey,
Abstract No. 86, Bell County, Texas.

This plat is to accompany a metes and bounds
description of the herein shown 2.970 acre tract.

OWNERS:

Cunigan, Mary & Marion Garner
P. O. Box 331424
Houston TX 77233-1424

LOTS - THREE (3)
BLOCKS - ONE (1)
AREA - 2.970 ACRES



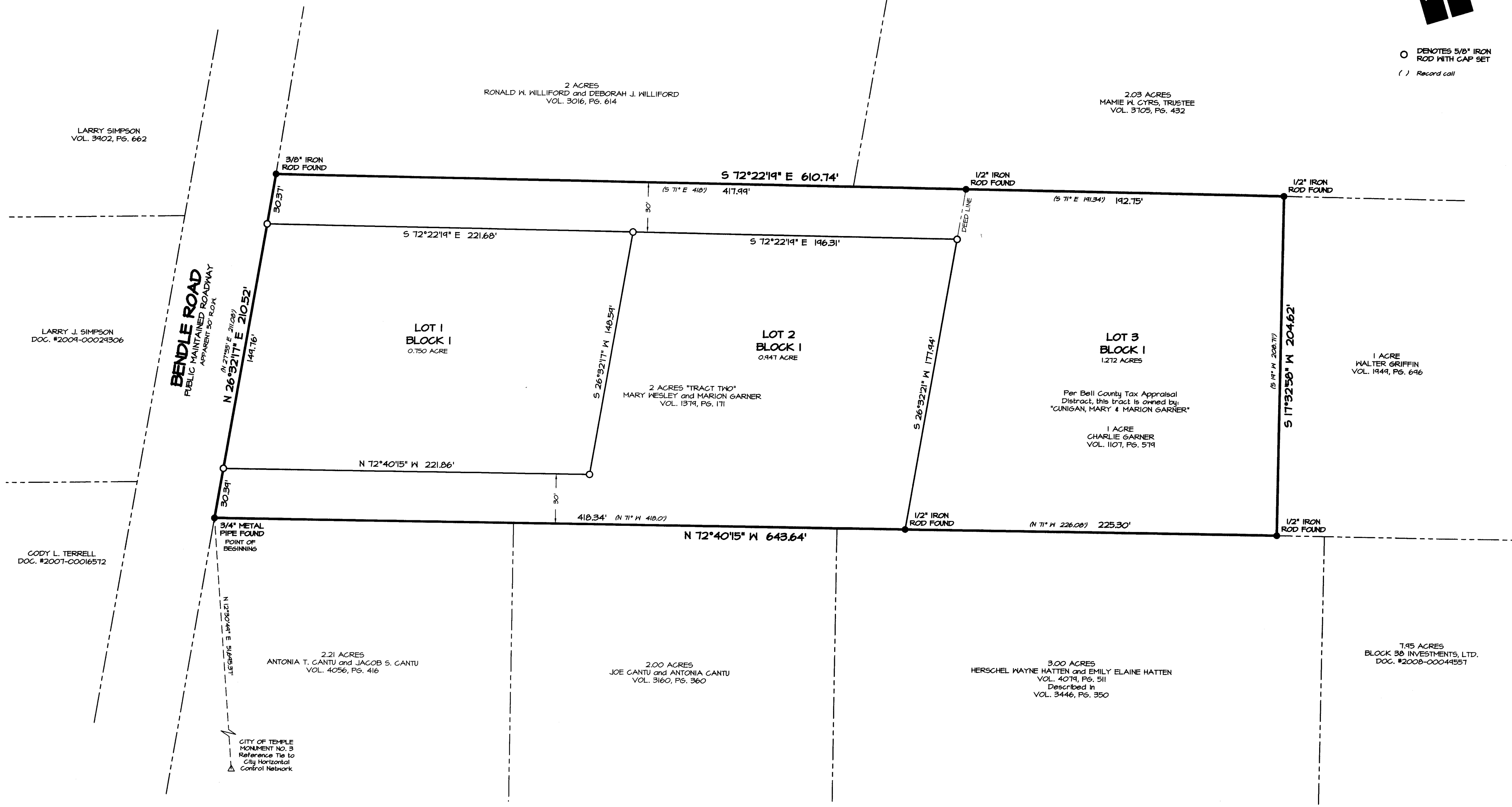
VICINITY MAP



O DENOTES 5/8" IRON
ROD WITH CAP SET
(/) Record call

Based upon what can be scaled from the graphics shown on FEMA Flood Insurance Rate Map (FIRM), Map No. 48021C0200E, effective date September 26, 2008, the above shown property does not appear within the "Special Flood Hazard Area", and appears to be situated in Zone X. This Flood statement does not imply that this tract will never flood, nor does it create any liability in such event on the part of this surveyor or company.

This project is referenced to the City of Temple Coordinate System, an extension of the Texas State Plane Coordinate System, Central Zone, NAD83. All distances are horizontal surface distances and all bearings are grid bearings. All coordinates are referenced to City Monument No. 3. The theta angle at City Monument No. 3 is 01°31'42". The combined correction factor (CCF) is 0.999847. Grid distance = Surface distance X CCF. Geodetic north = Grid north + theta angle. Published City coordinates for City Monument No. 3 are N= 10368.408.89 E= 3225.958.17. Reference line from City Monument No. 3 to the southwest corner of said 2.970 acre tract is N 12°30'44" E, 51.645.31 feet.



STATE OF TEXAS
COUNTY OF BELL

MARY CUNIGAN AND MARION GARNER, OWNERS OF THE LAND SHOWN ON THIS PLAT AND DESIGNATED HEREIN AS HICKS - MILLIGAN ESTATES, WITHIN THE EXTRATERRITORIAL JURISDICTION OF THE CITY OF TEMPLE, BELL COUNTY, TEXAS, AND WHOSE NAMES ARE SUBSCRIBED HERETO, HEREBY DEDICATE THE USE OF THE PUBLIC FOREVER ALL STREETS, ALLEYS, PARKS, WATERCOURSES, DRAINS, EASEMENTS, AND PUBLIC PLACES SHOWN HEREON WITHIN THE PLAT BOUNDARIES OF THIS SUBDIVISION.

BY: _____ BY: _____
MARY CUNIGAN MARION GARNER

STATE OF TEXAS
COUNTY OF BELL

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED MARY CUNIGAN, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT SHE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATION THEREIN STATED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE _____ DAY OF _____ 20____.

NOTARY PUBLIC, STATE OF TEXAS

STATE OF TEXAS
COUNTY OF BELL

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED MARION GARNER, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATION THEREIN STATED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE _____ DAY OF _____ 20____.

NOTARY PUBLIC, STATE OF TEXAS

I, THE UNDERSIGNED, DIRECTOR OF PLANNING OF THE CITY OF TEMPLE, HEREBY CERTIFY THAT THIS SUBDIVISION PLAT CONFORMS TO ALL REQUIREMENTS OF THE CITY OF TEMPLE, IT QUALIFIES FOR ADMINISTRATIVE PLAT APPROVAL AS PROVIDED IN THIS ORDINANCE, AND IT IS HEREBY APPROVED.

DIRECTOR OF PLANNING _____ DATE _____

I, THE UNDERSIGNED, A REGISTERED SANITARIAN IN THE STATE OF TEXAS, HEREBY CERTIFY THAT THIS SUBDIVISION, AND ITS WASTEWATER UTILITY SYSTEM, HAS BEEN REVIEWED FOR COMPLIANCE WITH APPLICABLE STATE AND OTHER REGULATIONS GOVERNING SUCH SYSTEMS AND IS HEREBY APPROVED FOR INSTALLATION AS INDICATED.

APPROVED: _____ DATE _____

TITLE: _____ BCH _____

STATE OF TEXAS
COUNTY OF BELL

I, THE UNDERSIGNED, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF TEXAS, HEREBY CERTIFY, TO THE BEST OF MY KNOWLEDGE AND BELIEF, THAT THIS PLAT IS TRUE AND CORRECT, THAT IT WAS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY MADE UNDER MY SUPERVISION ON THE GROUND, AND THAT ALL NECESSARY SURVEY MONUMENTS ARE CORRECTLY SHOWN THEREON.

CHARLES C. LUCKO, R.P.L.S. DATE SURVEYED: November 2, 2010
REGISTRATION NO. 4636

AFFIDAVIT:

The Tax Appraisal District of Bell County, the taxing authority for all taxing entities in Bell County, Texas, does hereby certify that there are currently no delinquent taxes due or owing on the property described by this plat.

Dated this the _____ day of _____, 20____ A. D.

By: _____
Bell County Tax Appraisal District

RECORDATION INFORMATION:

PLAT RECORDED IN CABINET _____, SLIDE _____
PLAT RECORDS OF BELL COUNTY, TEXAS

DEDICATION RECORDED IN VOLUME _____, PAGE _____
OFFICIAL PUBLIC RECORDS OF REAL PROPERTY OF BELL COUNTY, TEXAS

FILED THIS THE _____ DAY OF _____, 20____.

I hereby certify that this plat was approved this the _____ day of _____ 20____ by the Bell County Commissioners Court and may be filed for record in the Plat Records of Bell County, Texas.

County Judge _____

Witness my hand this the _____ day of _____, 20____.

Notary Public, State of Texas _____

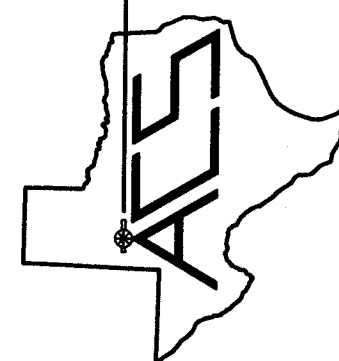
FINAL PLAT OF

HICKS - MILLIGAN ESTATES

WITHIN THE E. T. J. OF THE CITY OF TEMPLE, BELL COUNTY, TEXAS

ALL COUNTY SURVEYING, INC.

1303 South 21st Street, Temple, Texas 76504
(254) 718-2272 FAX (254) 714-1608



Plot date: 12-15-10

Job No: 100697
Date: 11-2-10
Scale: 1" = 40'
Drawing No: 100697P
Drawn By: JMB
Checked By: CCL

Copyright 2010 All County Surveying, Inc.

**EXCERPTS FROM THE
PLANNING & ZONING COMMISSION MEETING**

MONDAY, DECEMBER 20, 2010

ACTION ITEMS

Item 3: **P-FY-11-06** - Discuss and make a recommendation on the Final Plat for Hicks-Milligan Estates, a 2.97± acre, a three-lot residential subdivision on the west side of Bendle Road, north of Luther Curtis Road in Temple's northern ETJ with developer requested exceptions to Sec. 8.2.7.E of the Unified Development Code requiring hydrants to comply with the City's Fire Code and Sec. 8.3.2 of the Unified Development Code requiring a payment of \$225 per dwelling unit in lieu of park land dedication. (Applicant: All County Surveying for Mary Cunigan & Marion Garner)

Mr. Brian Mabry, Planning Director, stated the lots were one standard and two flat lots, all having access to Bendle Road. The subject property is approximately 3.4 miles from the closest City limit line along I35 (west of Troy). This final plat is three lots on 2.97 acres and the purpose is to relocate three existing family dwellings being impacted by I35 expansion. DRC deemed plat complete on December 16, 2010 and City Council is the final authority due to the exceptions being requested for the fire hydrant spacing and park fees.

Mr. Mabry stated the justification for the fire hydrant exception request is the Troy Volunteer Fire Department (TVFD) uses two pumper vehicles and are adequately equipped to use the nearest hydrant 530 feet away. The Chief of the TVFD confirmed this information with Mr. Mabry.

The park fees exception request (\$225 per unit, 3 units, and equaling \$675) is due to the property being less than nine lots, not expected to be annexed any time soon, and a mile into the City's ETJ. Staff supports both exception requests.

Staff recommends approval of final plat, P-FY-11-06, Hicks-Milligan Estates, with the exceptions to the fire hydrant and park fee per unit requirements.

Commissioner Hurd made a motion to approve P-FY-11-06 with the requested exceptions and Commissioner Pilkington made a second.

Motion passed: (5:0)

Commissioners Williams, Pope and Barton absent
Commissioner Staats abstained

RESOLUTION NO. _____

(PLANNING NO. P-FY-11-06)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING THE FINAL PLAT FOR HICKS-MILLIGAN ESTATES, AN APPROXIMATELY 2.97 ACRE, THREE-LOT RESIDENTIAL SUBDIVISION ON THE WEST SIDE OF BENDLE ROAD, NORTH OF LUTHER CURTIS ROAD IN TEMPLE'S NORTHERN EXTRATERRITORIAL JURISDICTION (ETJ), SUBJECT TO THE DEVELOPER'S REQUESTED EXCEPTIONS TO THE UNIFIED DEVELOPMENT CODE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on December 20, 2010, the Planning and Zoning Commission approved the Final Plat for Hicks-Milligan Estates, an approximately 2.97 acre, three-lot residential subdivision on the west side of Bendle Road, north of Luther Curtis Road in Temple's northern extraterritorial jurisdiction, subject to the developer's requested exceptions to Sec. 8.2.7.E of the Unified Development Code requiring hydrants to comply with the City's Fire Code and Sec. 8.3.2 of the Unified Development Code requiring a payment of \$225 per dwelling unit in lieu of park land dedication; and

Whereas, the City Council has considered the matter and deems it in the public interest to approve the Final Plat for Hicks-Milligan Estates.

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

Part 1: The City Council approves the Final Plat for Hicks-Milligan Estates, an approximately 2.97 acre, three-lot residential subdivision on the west side of Bendle Road, north of Luther Curtis Road in Temple's northern extraterritorial jurisdiction, more fully shown on the Plat which is on file in the City's Planning Department, incorporated herein and referred to by reference, and including the following exceptions to the Unified Development Code:

- (1) **Sec. 8.2.7.E** requiring hydrants to comply with the City's Fire Code; and
- (2) **Sec. 8.3.2** requiring a payment of \$225 per dwelling unit in lieu of park land dedication.

Part 2: It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the **6th** day of **January**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, MAYOR

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

01/06/11

Item #4

Regular Agenda

Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Nicole Torralva, PE, Director of Public Works

Jonathan Graham, City Attorney

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Consider adopting an ordinance amending the City of Temple Code of Ordinances, Chapter 7, “Buildings”, to reflect changes to the definition of a “health hazard” as it relates to irrigation systems, and adding new language to Section 7-84 of the International Plumbing Code exempting certain irrigation systems from annual testing.

STAFF RECOMMENDATION: Conduct a public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading and final adoption for January 20, 2011.

ITEM SUMMARY: To protect potable water supply systems from contamination, the Texas Commission on Environmental Quality (TCEQ) requires that certain protections be placed upon various components of the water distribution system. This particular ordinance modification relates to backflow devices required to be installed on irrigation systems.

In December 2008, the TCEQ mandated that cities enact regulations addressing landscape irrigation systems. At that time, the City of Temple adopted the current ordinance which defines all irrigation systems as health hazards, requiring installation of reduced pressure zone (RPZ) or pressure vacuum breaker (PVB) devices on all new irrigation systems. These devices require that property owners have these devices inspected annually, with necessary paperwork submitted to the City for review and filing. In this manner, City staff can ensure protection of the potable water supply through proper management activities.

This ordinance modification redefines irrigation systems as health hazards that utilize chemicals or serve a property that is also served by a septic system. Refinement of this definition will exclude irrigation systems that utilize potable water serving properties tied into the City’s wastewater collection system. While installation of RPZ’s and PVB’s will still be required for all new irrigation systems, or systems undergoing major modifications, the number of irrigation systems that will require annual inspections will be greatly reduced. Annual testing requirements remain in place for systems continuing to meet the definition of a defined health hazard (chemical feed or septic tank properties).

Staff recommends modification of this definition, as it will ease the financial burden to property owners of these lower hazard systems. City staff reserves the right to perform inspections as necessary at any facility at any time to ensure that the potable water system is protected from contamination.

A workshop presentation was presented for Council discussion on December 16, 2010. The City Council is the final authority to approve language changes to ordinances.

FISCAL IMPACT: No fiscal impact to City funds.

ATTACHMENTS:

[Proposed Article VII – Landscape Irrigation Standards](#)
[Proposed International Plumbing Code - Revisions](#)
[Ordinance](#)

ARTICLE VII. LANDSCAPE IRRIGATION STANDARDS

Section 7-100. Definitions.

The following words and terms, when used in this ordinance, have the following meanings, unless the context clearly indicates otherwise.

- (1) **Air gap**--A complete physical separation between the free flowing discharge end of a potable water supply pipeline and an open or non-pressure receiving vessel.
- (2) **Backflow prevention**--The mechanical prevention of reverse flow, or back siphonage, of nonpotable water from an irrigation system into the potable water source.
- (3) **Backflow prevention assembly**--Any assembly used to prevent backflow into a potable water system. The type of assembly used is based on the existing or potential degree of health hazard and backflow condition.
- (4) **Completion of irrigation system installation**--When the landscape irrigation system has been installed, all minimum standards met, all tests performed, and the irrigator is satisfied that the system is operating correctly.
- (5) **Consulting**--The act of providing advice, guidance, review or recommendations related to landscape irrigation systems.
- (6) **Cross-connection**--An actual or potential connection between a potable water source and an irrigation system that may contain contaminants or pollutants or any source of water that has been treated to a lesser degree in the treatment process.
- (7) **Design**--The act of determining the various elements of a landscape irrigation system that will include, but not be limited to, elements such as collecting site specific information, defining the scope of the project, defining plant watering needs, selecting and laying out emission devices, locating system components, conducting hydraulics calculations, identifying any local regulatory requirements, or scheduling irrigation work at a site. Completion of the various components will result in an irrigation plan.
- (8) **Design pressure**--The pressure that is required for an emission device to operate properly. Design pressure is calculated by adding the operating pressure necessary at an emission device to the total of all pressure losses accumulated from an emission device to the water source.
- (9) **Emission device**--Any device that is contained within an irrigation system and that is used to apply water. Common emission devices in an irrigation system include, but are not limited to, spray and rotary sprinkler heads, and drip irrigation emitters.
- (10) **Employed**--Engaged or hired to provide consulting services or perform any activity relating to the sale, design, installation, maintenance, alteration, repair, or service to irrigation systems. A person is employed if that person is in an employer-employee relationship as defined by Internal Revenue Code, 26 United States Code Service,

§3212(d) based on the behavioral control, financial control, and the type of relationship involved in performing employment related tasks.

(11) **Head-to-head spacing**--The spacing of spray or rotary heads equal to the manufacturers published radius of the head.

(12) **Health hazard**--A cross-connection or potential cross-connection with an irrigation system that involves any substancechemical additives that may, if introduced into the potable water supply, cause death or illness, spread disease, or have a high probability of causing such effects; or when irrigation system services property that is also served by an on-site sewage facility (septic system).

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(13) **Hydraulics**--The science of dynamic and static water; the mathematical computation of determining pressure losses and pressure requirements of an irrigation system.

~~(14) **Inspector** A licensed plumbing inspector, water district operator, other governmental entity, or irrigation inspector who inspects irrigation systems and performs other enforcement duties for a municipality or water district as an employee or as a contractor.~~

~~(15)~~(14) **Installer**--A person who actually connects an irrigation system to a private or public raw or potable water supply system or any water supply, who is licensed according to Title 30, Texas Administrative Code, Chapter 30 (relating to Occupational Licenses and Registrations).

~~(16)~~15) **Irrigation inspector**--A person who inspects irrigation systems and performs other enforcement duties for a municipality or water district as an employee or as a contractor and is required to be licensed under Title 30, Texas Administrative Code, Chapter 30 (relating to Occupational Licenses and Registrations).

~~(17)~~16) **Irrigation plan**--A scaled drawing of a landscape irrigation system which lists required information, the scope of the project, and represents the changes made in the installation of the irrigation system.

~~(18)~~17) **Irrigation services**--Selling, designing, installing, maintaining, altering, repairing, servicing, permitting, providing consulting services regarding, or connecting an irrigation system to a water supply.

~~(19)~~18) **Irrigation system**--An assembly of component parts that is permanently installed for the controlled distribution and conservation of water to irrigate any type of landscape vegetation in any location, and/or to reduce dust or control erosion. This term does not include a system that is used on or by an agricultural operation as defined by Texas Agricultural Code, §251.002.

~~(20)~~19) **Irrigation technician**--A person who works under the supervision of a licensed irrigator to install, maintain, alter, repair, service or supervise installation of an irrigation system, including the connection of such system in or to a private or public, raw or

potable water supply system or any water supply, and who is required to be licensed under Title 30, Texas Administrative Code, Chapter 30 (relating to Occupational Licenses and Registrations).

| **(2120) Irrigation zone**--A subdivision of an irrigation system with a matched precipitation rate based on plant material type (such as turf, shrubs, or trees), microclimate factors (such as sun/shade ratio), topographic features (such as slope) and soil conditions (such as sand, loam, clay, or combination) or for hydrological control.

| **(2221) Irrigator**--A person who sells, designs, offers consultations regarding, installs, maintains, alters, repairs, services or supervises the installation of an irrigation system, including the connection of such system to a private or public, raw or potable water supply system or any water supply, and who is required to be licensed under Title 30, Texas Administrative Code, Chapter 30.

| ~~**(23) Irrigator-in-Charge** The irrigator responsible for all irrigation work performed by an exempt business owner, including, but not limited to obtaining permits, developing design plans, supervising the work of other irrigators or irrigation technicians, and installing, selling, maintaining, altering, repairing, or servicing a landscape irrigation system.~~

| **(24(22) Landscape Irrigation** – The science of applying the necessary amount of water to promote or sustain healthy growth of plant material or turf.

| **(2523) License**--An occupational license that is issued by the Texas Commission on Environmental Quality under Title 30, Texas Administrative Code, Chapter 30 to an individual that authorizes the individual to engage in an activity that is covered by Title 30, Texas Administrative Code, Chapter 30.

| **(2624) Mainline**--A pipe within an irrigation system that delivers water from the water source to the individual zone valves.

| **(2725) Maintenance checklist**--A document made available to the irrigation system's owner or owner's representative that contains information regarding the operation and maintenance of the irrigation system, including, but not limited to: checking and repairing the irrigation system, setting the automatic controller, checking the rain or moisture sensor, cleaning filters, pruning grass and plants away from irrigation emitters, using and operating the irrigation system, the precipitation rates of each irrigation zone within the system, any water conservation measures currently in effect from the water purveyor, the name of the water purveyor, a suggested seasonal or monthly watering schedule based on current evapotranspiration data for the geographic region, and the minimum water requirements for the plant material in each zone based on the soil type and plant material where the system is installed.

| **(2826) Major maintenance, alteration, repair, or service**--Any activity that involves opening to the atmosphere the irrigation main line at any point prior to the discharge side of any irrigation zone control valve. This includes, but is not limited to, repairing or

connecting into a main supply pipe, replacing a zone control valve, or repairing a zone control valve in a manner that opens the system to the atmosphere.

- | ~~(2927)~~ **Master valve**--A remote control valve located after the backflow prevention device that controls the flow of water to the irrigation system mainline.
- | ~~(3028)~~ **Matched precipitation rate**--The condition in which all sprinkler heads within an irrigation zone apply water at the same rate.
- | ~~(3129)~~ **New installation**--An irrigation system installed at a location where one did not previously exist .
- | ~~(3230)~~ **Pass-through contract**--A written contract between a contractor or builder and a licensed irrigator or exempt business owner to perform part or all of the irrigation services relating to an irrigation system.
- | ~~(3331)~~ **Potable water**--Water that is suitable for human consumption.
- | ~~(34)~~—~~(32)~~ **Pressure Vacuum Breaker**—An assembly containing an independently operating internally loaded check valve and an independently operating loaded air inlet valve located on the discharge side of the check valve. Also known as a Pressure Vacuum Breaker Back-siphonage Prevention Assembly.
- | ~~(3533)~~ **Reclaimed water**--Domestic or municipal wastewater which has been treated to a quality suitable for beneficial use, such as landscape irrigation.
- | ~~(3634)~~ **Records of landscape irrigation activities**—The irrigation plans, contracts, warranty information, invoices, copies of permits, and other documents that relate to the installation, maintenance, alteration, repair, or service of a landscape irrigation system.
- | ~~(3735)~~ **Reduced Pressure Principle Backflow Prevention Assembly**--An assembly containing two independently acting approved check valves together with a hydraulically operating mechanically independent pressure differential relief valve located between the two check valves and below the first check valve.
- | ~~(3836)~~ **Static water pressure**--The pressure of water when it is not moving.
- | ~~(3937)~~ **Supervision**--The on-the-job oversight and direction by a licensed irrigator who is fulfilling his or her professional responsibility to the client and/or employer in compliance with local or state requirements. Also a licensed installer working under the direction of a licensed irrigator or beginning January 1, 2009, an irrigation technician who is working under the direction of a licensed irrigator to install, maintain, alter, repair or service an irrigation system.
- | ~~(4038)~~ **Water conservation**--The design, installation, service, and operation of an irrigation system in a manner that prevents the waste of water, promotes the most

efficient use of water, and applies the least amount of water that is required to maintain healthy individual plant material or turf, reduce dust, and control erosion.

| **(4139) Zone flow**--A measurement, in gallons per minute or gallons per hour, of the actual flow of water through a zone valve, calculated by individually opening each zone valve and obtaining a valid reading after the pressure has stabilized. For design purposes, the zone flow is the total flow of all nozzles in the zone at a specific pressure.

| **(4240) Zone valve**--An automatic valve that controls a single zone of a landscape irrigation system.

Section 7-101. Valid License Required.

Any person who connects an irrigation system to the water supply within the City or the City's extraterritorial jurisdiction, commonly referred to as the ETJ, must hold a valid license, as defined by Title 30, Texas Administrative Code, Chapter 30 and required by Chapter 1903 of the Texas Occupations Code, or as defined by Chapter 365, Title 22 of the Texas Administrative Code and required by Chapter 1301 of the Texas Occupations Code.

Exemptions

A property owner is not required to be licensed in accordance with Texas Occupations Code, Title 12, §1903.002(c)(1) if he or she is performing irrigation work in a building or on a premises owned or occupied by the person as the person's home. A home or property owner who installs an irrigation system must meet the standards contained in Title 30, Texas Administrative Code, Chapter 344 regarding spacing, water pressure, spraying water over impervious materials, rain or moisture shut-off devices or other technology, backflow prevention and isolation valves. A home or property owner must obtain a permit from the City, submit an irrigation plan, use an individual with a valid license to install backflow prevention devices, and submit test results of the backflow prevention device to the City. The City may, at any point, adopt more stringent requirements for a home or property owner who installs an irrigation system. See Texas Occupations Code §1903.002 for other exemptions to the licensing requirement.

Section 7-102. Permit Required.

Any person installing an irrigation system within the territorial limits or extraterritorial jurisdiction of the City is required to obtain a permit from the City. Any applicant must submit a plan with the application demonstrating that the plan and irrigation system meet the requirements of this chapter. Any plan approved for a permit must be in compliance with the requirements of this chapter. Construction Safety administers the permit program in conjunction with the Water Department's approval of tested systems. Permit formats and processes are amended from time to time by the Construction Safety Department.

Exemptions

- (1) An irrigation system that is an on-site sewage disposal system, as defined by Section 355.002, Health and Safety Code; or
- (2) An irrigation system used on or by an agricultural operation as defined by Section 251.002, Agriculture Code; or
- (3) An irrigation system connected to a groundwater well used by the property owner for domestic use.

Section 7-103. Backflow Prevention Methods and Devices.

(a) Any irrigation system that is connected to the potable water supply must be connected through a backflow prevention method approved by the Texas Commission on Environmental Quality (TCEQ). The backflow prevention device must be approved by the American Society of Sanitary Engineers; or the Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California; or the Uniform Plumbing Code; or any other laboratory that has equivalent capabilities for both the laboratory and field evaluation of backflow prevention assemblies. The backflow prevention device must be installed in accordance with the laboratory approval standards or if the approval does not include specific installation information, the manufacturer's current published recommendations.

(b) ~~If conditions that present a health hazard exist,~~In new installations of landscape irrigation systems one of the following methods must be used to prevent backflow;

~~(1) An air gap may be used if:~~

~~a. there is an unobstructed physical separation; and~~

~~b. the distance from the lowest point of the water supply outlet to the flood rim of the fixture or assembly into which the outlet discharges is at least one inch or twice the diameter of the water supply outlet, whichever is greater.~~

~~—(2)~~ (1) Reduced pressure principle backflow prevention assemblies may be used if:

a. the device is installed at a minimum of 12 inches above ground in a location that will ensure that the assembly will not be submerged; and

b. drainage is provided for any water that may be discharged through the assembly relief valve.

~~(3)~~ (2) Pressure vacuum breakers may be used if:

a. no back-pressure condition will occur; and

b. the device is installed at a minimum of 12 inches above any sprinklers are measured from the retracted position from the top of the sprinkler.

~~(c)~~ Existing irrigation systems which are not of the type listed in 7-103(b) may remain, however upon replacement, homeowner must comply with the required devices listed in 7-103(b).

(d) Backflow prevention devices used in applications designated as health hazards must be tested upon installation and annually thereafter.- The following situations have been deemed by the City to create a health hazard:

~~(d)~~

(1) When chemicals are added to an irrigation system which is connected to the potable water supply; and

(2) When an irrigation system services property that is also served by an on-site sewage facility (septic system).

(e) If an irrigation system is connected to a potable water supply through a pressure vacuum breaker or reduced pressure principle backflow assembly and includes an automatic master valve on the system, the automatic master valve must be installed on the discharge side of the backflow prevention assembly.

~~(e)~~ The irrigator shall ensure the backflow prevention device is tested by a licensed Backflow Prevention Assembly Tester prior to being placed in service and the test results provided to the local water purveyor and the irrigation system's owner or owner's representative within ten business days of testing of the backflow prevention device.

Section 7-104. Specific Conditions and Cross-Connection Control.

(a) Before any chemical is added to an irrigation system connected to the potable water supply, the irrigation system must be connected through a reduced pressure principle backflow prevention assembly ~~or air gap~~.

(b) Connection of any additional water source to an irrigation system that is connected to the potable water supply can only be done if the irrigation system is connected to the potable water supply through a reduced-pressure principle backflow prevention assembly ~~or an air gap~~.

(c) Irrigation system components with chemical additives induced by aspiration, injection, or emission system connected to any potable water supply must be connected through a reduced pressure principle backflow device.

(d) If an new irrigation system is designed or installed on a property that is served by an on-site sewage facility, as defined in Title 30, Texas Administrative Code, Chapter 285, then:

(1) all irrigation piping and valves must meet the separation distances from the On-Site Sewage Facilities system as required for a private water line in Title 30, Texas Administrative Code, Section 285.91(10);

(2) any connections using a private or public potable water source that is not the City's potable water system must be connected to the water source through a reduced pressure principle backflow prevention assembly as defined in Title 30, Texas Administrative Code, Section 344.50; and

(3) any water from the irrigation system that is applied to the surface of the area utilized by the On-Site Sewage Facility system must be controlled on a separate irrigation zone or zones so as to allow complete control of any irrigation to that area so that there will not be excess water that would prevent the On-Site Sewage Facilities system from operating effectively.

Section 7-105. Water Conservation.

All irrigation systems shall be designed, installed, maintained, altered, repaired, serviced, and operated in a manner that will promote water conservation as defined in the Definitions section of this ordinance.

Section 7-106. Irrigation Plan Design: Minimum Standards.

(a) An irrigator shall prepare an irrigation plan for each site where a new irrigation system will be installed. A paper or electronic copy of the irrigation plan must be on the job site at all times during the installation of the irrigation system. A drawing showing the actual installation of the system is due to each irrigation system owner after all new irrigation system installations. During the installation of the irrigation system, variances from the original plan may be authorized by the licensed irrigator if the variance from the plan does not:

(1) diminish the operational integrity of the irrigation system;

(2) violate any requirements of this ordinance; and

(3) go unnoted in red on the irrigation plan.

(b) The irrigation plan must include complete coverage of the area to be irrigated. If a system does not provide complete coverage of the area to be irrigated, it must be noted on the irrigation plan.

(c) All irrigation plans used for construction must be drawn to scale. The plan must include, at a minimum, the following information:

- (1) the irrigator's seal, signature, and date of signing;
- (2) all major physical features and the boundaries of the areas to be watered;
- (3) a North arrow;
- (4) a legend;
- (5) the zone flow measurement for each zone;
- (6) location and type of each:
 - a. controller; and
 - b. sensor (for example, but not limited to, rain, moisture, wind, flow, or freeze);
- (7) location, type, and size of each:
 - a. water source, such as, but not limited to a water meter and point(s) of connection;
 - b. backflow prevention device;
 - c. water emission device, including, but not limited to, spray heads, rotary sprinkler heads, quick-couplers, bubblers, drip, or micro-sprays;
 - d. valve, including but not limited to, zone valves, master valves, and isolation valves;
 - e. pressure regulation component; and
 - f. main line and lateral piping.
- (8) the scale used; and
- (9) the design pressure.

Section 7-107. Design and Installation: Minimum Requirements.

(a) No irrigation design or installation shall require the use of any component, including the water meter, in a way which exceeds the manufacturer's published performance limitations for the component.

(b) Spacing.

(1) The maximum spacing between emission devices must not exceed the manufacturer's published radius or spacing of the device(s). The radius or spacing is determined by referring to the manufacturer's published specifications for a specific emission device at a specific operating pressure.

(2) New irrigation systems shall not utilize above-ground spray emission devices in landscapes that are less than 48 inches not including the impervious surfaces in either length or width and which contain impervious pedestrian or vehicular traffic surfaces along two or more perimeters. If pop-up sprays or rotary sprinkler heads are used in a new irrigation system, the sprinkler heads must direct flow away from any adjacent surface and shall not be installed closer than four inches from a hardscape, such as, but not limited to, a building foundation, fence, concrete, asphalt, pavers, or stones set with mortar.

(3) Narrow paved walkways, jogging paths, golf cart paths or other small areas located in cemeteries, parks, golf courses or other public areas may be exempted from this requirement if the runoff drains into a landscaped area.

(c) Water pressure. Emission devices must be installed to operate at the minimum and not above the maximum sprinkler head pressure as published by the manufacturer for the nozzle and head spacing that is used. Methods to achieve the water pressure requirements include, but are not limited to, flow control valves, a pressure regulator, or pressure compensating spray heads.

(d) Piping. Piping in irrigation systems must be designed and installed so that the flow of water in the pipe will not exceed a velocity of five feet per second for polyvinyl chloride (PVC) pipe.

(e) Irrigation Zones. Irrigation systems shall have separate zones based on plant material type, microclimate factors, topographic features, soil conditions, and hydrological requirements.

(f) Matched precipitation rate. Zones must be designed and installed so that all of the emission devices in that zone irrigate at the same precipitation rate.

(g) Irrigation systems shall not spray water over surfaces made of concrete, asphalt, brick, wood, stones set with mortar, or any other impervious material, such as, but not limited to, walls, fences, sidewalks, streets, etc.

(h) Master valve. When provided, a master valve shall be installed on the discharge side of the backflow prevention device on all new installations.

(i) PVC pipe primer solvent. All new irrigation systems that are installed using PVC pipe and fittings shall be primed with a colored primer prior to applying the PVC

cement in accordance with the Uniform Plumbing Code (Section 316) or the International Plumbing Code (Section 605).

(j) Rain or moisture shut-off devices or other technology. All new automatically controlled irrigation systems must include sensors or other technology designed to inhibit or interrupt operation of the irrigation system during periods of moisture or rainfall. Rain or moisture shut-off technology must be installed according to the manufacturer's published recommendations. Repairs to existing automatic irrigation systems that require replacement of an existing controller must include a sensor or other technology designed to inhibit or interrupt operation of the irrigation system during periods of moisture or rainfall.

(k) Isolation valve. All new irrigation systems must include an isolation valve between the water meter and the backflow prevention device.

(l) Depth coverage of piping. Piping in all irrigation systems must be installed according to the manufacturer's published specifications for depth coverage of piping.

(1) If the manufacturer has not published specifications for depth coverage of piping, the piping must be installed to provide minimum depth coverage of six inches of select backfill, between the top of the pipe and the natural grade of the topsoil. All portions of the irrigation system that fail to meet this standard must be noted on the irrigation plan. If the area being irrigated has rock at a depth of six inches or less, select backfill may be mounded over the pipe. Mounding must be noted on the irrigation plan and discussed with the irrigation system owner or owner's representative to address any safety issues.

(2) If a utility, man-made structure, or roots create an unavoidable obstacle, which makes the six-inch depth coverage requirement impractical, the piping shall be installed to provide a minimum of two inches of select backfill between the top of the pipe and the natural grade of the topsoil.

(3) All trenches and holes created during installation of an irrigation system must be backfilled and compacted to the original grade.

(m) Wiring irrigation systems.

(1) Underground electrical wiring used to connect an automatic controller to any electrical component of the irrigation system must be listed by Underwriters Laboratories as acceptable for burial underground.

(2) Electrical wiring that connects any electrical components of an irrigation system must be sized according to the manufacturer's recommendation.

(3) Electrical wire splices which may be exposed to moisture must be waterproof as certified by the wire splice manufacturer.

(4) Underground electrical wiring that connects an automatic controller to any electrical component of the irrigation system must be buried with a minimum of six inches of select backfill.

(n) Water contained within the piping of an irrigation system is deemed to be non-potable. No drinking or domestic water usage, such as, but not limited to, filling swimming pools or decorative fountains, shall be connected to an irrigation system. If a hose bib (an outdoor water faucet that has hose threads on the spout) is connected to an irrigation system for the purpose of providing supplemental water to an area, the hose bib must be installed using a quick coupler key on a quick coupler installed in a covered purple valve box and the hose bib and any hoses connected to the bib must be labeled "non potable, not safe for drinking." An isolation valve must be installed upstream of a quick coupler connecting a hose bib to an irrigation system.

(o) Beginning January 1, 2010, either a licensed irrigator or a licensed irrigation technician shall be on-site at all times while the landscape irrigation system is being installed. When an irrigator is not onsite, the irrigator shall be responsible for ensuring that a licensed irrigation technician is on-site to supervise the installation of the irrigation system.

Section 7-108. Completion of Irrigation System Installation.

Upon completion of the irrigation system, the irrigator or irrigation technician who provided supervision for the on-site installation shall be required to complete four items:

(1) a final "walk through" with the irrigation system's owner or the owner's representative to explain the operation of the system;

(2) The maintenance checklist on which the irrigator or irrigation technician shall obtain the signature of the irrigation system's owner or owner's representative and shall sign, date, and seal the checklist. If the irrigation system's owner or owner's representative is unwilling or unable to sign the maintenance checklist, the irrigator shall note the time and date of the refusal on the irrigation system's owner or owner's representative's signature line. The irrigation system owner or owner's representative will be given the original maintenance checklist and a duplicate copy of the maintenance checklist shall be maintained by the irrigator. The items on the maintenance checklist shall include but are not limited to:

a. the manufacturer's manual for the automatic controller, if the system is automatic;

b. a seasonal (spring, summer, fall, winter) watering schedule based on either current/real time evapotranspiration or monthly historical reference evapotranspiration (historical ET) data, monthly effective rainfall estimates, plant landscape coefficient factors, and site factors;

c. a list of components, such as the nozzle, or pump filters, and other such components that require maintenance and the recommended frequency for the service; and

d. the statement, "This irrigation system has been installed in accordance with all applicable state and local laws, ordinances, rules, regulations or orders. I have tested the system and determined that it has been installed according to the Irrigation Plan and is properly adjusted for the most efficient application of water at this time."

(3) A permanent sticker which contains the irrigator's name, license number, company name, telephone number and the dates of the warranty period shall be affixed to each automatic controller installed by the irrigator or irrigation technician. If the irrigation system is manual, the sticker shall be affixed to the original maintenance checklist. The information contained on the sticker must be printed with waterproof ink and include:

(4) The irrigation plan indicating the actual installation of the system must be provided to the irrigation system's owner or owner representative.

Section 7-109. Maintenance, Alteration, Repair, or Service of Irrigation Systems.

(a) The licensed irrigator is responsible for all work that the irrigator performed during the maintenance, alteration, repair, or service of an irrigation system during the warranty period. The irrigator or business owner is not responsible for the professional negligence of any other irrigator who subsequently conducts any irrigation service on the same irrigation system.

(b) All trenches and holes created during the maintenance, alteration, repair, or service of an irrigation system must be returned to the original grade with compacted select backfill.

(c) Colored PVC pipe primer solvent must be used on all pipes and fittings used in the maintenance, alteration, repair, or service of an irrigation system in accordance with the Uniform Plumbing Code (Section 316) or the International Plumbing Code (Section 605).

(d) When maintenance, alteration, repair or service of an irrigation system involves excavation work at the water meter or backflow prevention device, an isolation valve shall be installed, if an isolation valve is not present.

Section 7-110. Reclaimed Water.

Reclaimed water may be utilized in landscape irrigation systems if:

(1) there is no direct contact with edible crops, unless the crop is pasteurized before consumption;

- (2) the irrigation system does not spray water across property lines that do not belong to the irrigation system's owner;
- (3) the irrigation system is installed using purple components;
- (4) the domestic potable water line is connected using an air gap or a reduced pressure principle backflow prevention device, in accordance with Title 30, Texas Administrative Code, Section 290.47(i) (relating to Appendices);
- (5) a minimum of an eight inch by eight inch sign, in English and Spanish, is prominently posted on/in the area that is being irrigated, that reads, "RECLAIMED WATER – DO NOT DRINK" and "AGUA DE RECUPERACIÓN – NO BEBER"; and
- (6) backflow prevention on the reclaimed water supply line shall be in accordance with the regulations of the City's water provider.

Section 7-111. Advertisement Requirements.

(a) All vehicles used in the performance of irrigation installation, maintenance, alteration, repair, or service must display the irrigator's license number in the form of "LI_____" in a contrasting color of block letters at least two inches high, on both sides of the vehicle.

(b) All forms of written and electronic advertisements for irrigation services must display the irrigator's license number in the form of "LI_____." Any form of advertisement, including business cards, and estimates which displays an entity's or individual's name other than that of the licensed irrigator must also display the name of the licensed irrigator and the licensed irrigator's license number. Trailers that advertise irrigation services must display the irrigator's license number.

(c) The name, mailing address, and telephone number of the commission must be prominently displayed on a legible sign and displayed in plain view for the purpose of addressing complaints at the permanent structure where irrigation business is primarily conducted and irrigation records are kept.

Section 7-112. Contracts.

(a) All contracts to install an irrigation system must be in writing and signed by each party and must specify the irrigator's name, license number, business address, current business telephone numbers, the date that each party signed the agreement, the total agreed price, and must contain the statement, "Irrigation in Texas is regulated by the Texas Commission on Environmental Quality (TCEQ), MC-178, P.O. Box 13087, Austin, Texas 78711-3087. TCEQ's website is: www.tceq.state.tx.us." All contracts must include the irrigator's seal, signature, and date.

(b) All written estimates, proposals, bids, and invoices relating to the installation or repair of an irrigation system(s) must include the irrigator's name, license number, business address, current business telephone number(s), and the statement: "Irrigation in Texas is regulated by the Texas Commission On Environmental Quality (TCEQ) (MC-

178), P.O. Box 13087, Austin, Texas 78711-3087. TCEQ's web site is: www.tceq.state.tx.us."

(c) An individual who agrees by contract to provide irrigation services as defined in Title 30, Texas Administrative Code, Section 344.30 (relating to License Required) shall hold an irrigator license issued under Title 30, Texas Administrative Code, Chapter 30 (relating to Occupational Licenses and Registrations) unless the contract is a pass-through contract as defined in Title 30, Texas Administrative Code, Section 344.1(36) (relating to Definitions). If a pass-through contract includes irrigation services, then the irrigation portion of the contract can only be performed by a licensed irrigator. If an irrigator installs a system pursuant to a pass-through contract, the irrigator shall still be responsible for providing the irrigation system's owner or through contract, the irrigator shall still be responsible for providing the irrigation system's owner or owner's representative a copy of the warranty and all other documents required under this chapter. A pass-through contract must identify by name and license number the irrigator that will perform the work and must provide a mechanism for contacting the irrigator for irrigation system warranty work.

(d) The contract must include the dates that the warranty is valid.

Section 7-113. Warranties for Systems.

(a) On all installations of new irrigation systems, an irrigator shall present the irrigation system's owner or owner's representative with a written warranty covering materials and labor furnished in the new installation of the irrigation system. The irrigator shall be responsible for adhering to terms of the warranty. If the irrigator's warranty is less than the manufacturer's warranty for the system components, then the irrigator shall provide the irrigation system's owner or the owner's representative with applicable information regarding the manufacturer's warranty period. The warranty must include the irrigator's seal, signature, and date. If the warranty is part of an irrigator's contract, a separate warranty document is not required.

(b) An irrigator's written warranty on new irrigation systems must specify the irrigator's name, business address, and business telephone number(s), must contain the signature of the irrigation system's owner or owner's representative confirming receipt of the warranty and must include the statement: "Irrigation in Texas is regulated by the Texas Commission on Environmental Quality (TCEQ), MC-178, P.O. Box 130897, Austin, Texas 78711-3087. TCEQ's website is: www.tceq.state.tx.us."

(c) On all maintenance, alterations, repairs, or service to existing irrigation systems, an irrigator shall present the irrigation system's owner or owner's representative a written document that identifies the materials furnished in the maintenance, alteration, repair, or service. If a warranty is provided, the irrigator shall abide by the terms. The warranty document must include the irrigator's name and business contact information.

Section 7-114. Duties and Responsibilities of City Irrigation Inspectors.

A licensed irrigation inspector shall enforce the ordinance of the City, and shall be responsible for:

- (1) verifying that the appropriate permits have been obtained for an irrigation system and that the irrigator and installer or irrigation technician, if applicable, are licensed;
- (2) inspecting the irrigation system;
- (3) determining that the irrigation system complies with the requirements of this chapter;
- (4) determining that the appropriate backflow prevention device was installed, tested, and test results provided to the City;
- (5) investigating complaints related to irrigation system installation, maintenance, alteration, repairs, or service of an irrigation system and advertisement of irrigation services; and
- (6) maintaining records according to this chapter.

Section 7-115. Items not covered by this ordinance.

Any item not covered by their ordinance and required by law shall be governed by the Texas Occupations Code, the Texas Water Code, Title 30 of the Texas Administrative Code, and any other applicable state statute or Texas Commission on Environmental Quality rule.

Section 7-116. Fees.

The City Council may create a schedule of fees for obtaining and renewing an irrigation permit. These fees will be in amounts sufficient to cover the City's costs in issuing and renewing the permits, including, but not limited to, staff time and other overhead costs. The City Council shall adopt by resolution a schedule of the permit fees required or authorized. This schedule of fees is entitled Construction Permit Fees and is updated from time to time by Resolution. It is kept at City offices and also available online.

Section 7-117. Enforcement.

(a) The City shall have the power to administer and enforce the provisions of this chapter as may be required by governing law. Any person, firm, corporation or agent who shall violate a provision of this code, or fails to comply therewith, or with any of the requirements thereof, is subject to suit for injunctive relief as well as prosecution for

criminal violations. Any violation of the ordinance codified in this chapter is declared to be a nuisance.

(b) Any person violating any provision of chapter shall, upon conviction, be fined a sum not exceeding \$2000.00. Each day that a provision of this chapter is violated shall constitute a separate offense. An offense under this chapter is a Class C misdemeanor, punishable by a fine of up to \$2000.00.

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

- (1) Injunctive relief to prevent specific conduct that violates the ordinance or to require specific conduct that is necessary for compliance with the ordinance; and
- (2) Other available relief.

ALL NEW LANGUAGE

Sec. 7-?. Inspection of backflow prevention assemblies.

International Plumbing Code, Section 312.9, “Inspection and testing of backflow prevention assemblies” is amended to include the following language:

312.9.3. Landscape irrigation systems are exempted from the annual testing and inspection requirement except where the following occurs:

(1) When chemicals are added to an irrigation system which is connected to the potable water supply; and

(2) When an irrigation system services property that is also served by an on-site sewage facility (septic system).

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING CHAPTER 7, "BUILDINGS," OF THE CODE OF ORDINANCES BY MODIFYING ARTICLE VII, ENTITLED, "LANDSCAPE IRRIGATION STANDARDS," TO REFLECT CHANGES TO THE DEFINITION OF A "HEALTH HAZARD" AS IT RELATES TO IRRIGATION SYSTEMS; AMENDING ARTICLE V, ENTITLED, "PLUMBING CODE," BY ADDING A NEW SECTION 7-84, ENTITLED, "INSPECTION OF BACKFLOW PREVENTION ASSEMBLIES;" PROVIDING FOR A CRIMINAL PENALTY, CLASS C MISDEMEANOR NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000.00) FOR VIOLATION OF THE CODE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

Part 1: The City Council amends Chapter 7, "Buildings," of the Code of Ordinances of the City of Temple, Texas, by modifying Article VII, entitled, "Landscape Irrigation Standards," to reflect changes to the definition of a "health hazard," as it relates to irrigation systems, to read as follows:

ARTICLE VII. LANDSCAPE IRRIGATION STANDARDS

Section 7-100. Definitions.

The following words and terms, when used in this ordinance, have the following meanings, unless the context clearly indicates otherwise.

- (1) **Air gap**--A complete physical separation between the free flowing discharge end of a potable water supply pipeline and an open or non-pressure receiving vessel.
- (2) **Backflow prevention**--The mechanical prevention of reverse flow, or back siphonage, of nonpotable water from an irrigation system into the potable water source.
- (3) **Backflow prevention assembly**--Any assembly used to prevent backflow into a potable water system. The type of assembly used is based on the existing or potential degree of health hazard and backflow condition.

(4) **Completion of irrigation system installation**--When the landscape irrigation system has been installed, all minimum standards met, all tests performed, and the irrigator is satisfied that the system is operating correctly.

(5) **Consulting**--The act of providing advice, guidance, review or recommendations related to landscape irrigation systems.

(6) **Cross-connection**--An actual or potential connection between a potable water source and an irrigation system that may contain contaminants or pollutants or any source of water that has been treated to a lesser degree in the treatment process.

(7) **Design**--The act of determining the various elements of a landscape irrigation system that will include, but not be limited to, elements such as collecting site specific information, defining the scope of the project, defining plant watering needs, selecting and laying out emission devices, locating system components, conducting hydraulics calculations, identifying any local regulatory requirements, or scheduling irrigation work at a site. Completion of the various components will result in an irrigation plan.

(8) **Design pressure**--The pressure that is required for an emission device to operate properly. Design pressure is calculated by adding the operating pressure necessary at an emission device to the total of all pressure losses accumulated from an emission device to the water source.

(9) **Emission device**--Any device that is contained within an irrigation system and that is used to apply water. Common emission devices in an irrigation system include, but are not limited to, spray and rotary sprinkler heads, and drip irrigation emitters.

(10) **Employed**--Engaged or hired to provide consulting services or perform any activity relating to the sale, design, installation, maintenance, alteration, repair, or service to irrigation systems. A person is employed if that person is in an employer-employee relationship as defined by Internal Revenue Code, 26 United States Code Service, §3212(d) based on the behavioral control, financial control, and the type of relationship involved in performing employment related tasks.

(11) **Head-to-head spacing**--The spacing of spray or rotary heads equal to the manufacturers published radius of the head.

(12) **Health hazard**--A cross-connection or potential cross-connection with an irrigation system that involves any ~~substance~~chemical additives that may, if introduced into the

potable water supply, cause death or illness, spread disease, or have a high probability of causing such effects, or when irrigation system services property that is also served by an on-site sewage facility (septic system).

(13) **Hydraulics**--The science of dynamic and static water; the mathematical computation of determining pressure losses and pressure requirements of an irrigation system.

~~(14) **Inspector**--A licensed plumbing inspector, water district operator, other governmental entity, or irrigation inspector who inspects irrigation systems and performs other enforcement duties for a municipality or water district as an employee or as a contractor.~~

~~(15)~~(14) **Installer**--A person who actually connects an irrigation system to a private or public raw or potable water supply system or any water supply, who is licensed according to Title 30, Texas Administrative Code, Chapter 30 (relating to Occupational Licenses and Registrations).

~~(16)~~(15) **Irrigation inspector**--A person who inspects irrigation systems and performs other enforcement duties for a municipality or water district as an employee or as a contractor and is required to be licensed under Title 30, Texas Administrative Code, Chapter 30 (relating to Occupational Licenses and Registrations).

~~(17)~~(16) **Irrigation plan**--A scaled drawing of a landscape irrigation system which lists required information, the scope of the project, and represents the changes made in the installation of the irrigation system.

~~(18)~~(17) **Irrigation services**--Selling, designing, installing, maintaining, altering, repairing, servicing, permitting, providing consulting services regarding, or connecting an irrigation system to a water supply.

~~(19)~~(18) **Irrigation system**--An assembly of component parts that is permanently installed for the controlled distribution and conservation of water to irrigate any type of landscape vegetation in any location, and/or to reduce dust or control erosion. This term does not include a system that is used on or by an agricultural operation as defined by Texas Agricultural Code, §251.002.

~~(20)~~(19) **Irrigation technician**--A person who works under the supervision of a licensed irrigator to install, maintain, alter, repair, service or supervise installation of an irrigation system, including the connection of such system in or to a private or public, raw or

potable water supply system or any water supply, and who is required to be licensed under Title 30, Texas Administrative Code, Chapter 30 (relating to Occupational Licenses and Registrations).

(2120) Irrigation zone--A subdivision of an irrigation system with a matched precipitation rate based on plant material type (such as turf, shrubs, or trees), microclimate factors (such as sun/shade ratio), topographic features (such as slope) and soil conditions (such as sand, loam, clay, or combination) or for hydrological control.

(2221) Irrigator--A person who sells, designs, offers consultations regarding, installs, maintains, alters, repairs, services or supervises the installation of an irrigation system, including the connection of such system to a private or public, raw or potable water supply system or any water supply, and who is required to be licensed under Title 30, Texas Administrative Code, Chapter 30.

~~**(23) Irrigator-in-Charge** The irrigator responsible for all irrigation work performed by an exempt business owner, including, but not limited to obtaining permits, developing design plans, supervising the work of other irrigators or irrigation technicians, and installing, selling, maintaining, altering, repairing, or servicing a landscape irrigation system.~~

(24(22) Landscape Irrigation – The science of applying the necessary amount of water to promote or sustain healthy growth of plant material or turf.

(2523) License--An occupational license that is issued by the Texas Commission on Environmental Quality under Title 30, Texas Administrative Code, Chapter 30 to an individual that authorizes the individual to engage in an activity that is covered by Title 30, Texas Administrative Code, Chapter 30.

(2624) Mainline--A pipe within an irrigation system that delivers water from the water source to the individual zone valves.

(2725) Maintenance checklist--A document made available to the irrigation system's owner or owner's representative that contains information regarding the operation and maintenance of the irrigation system, including, but not limited to: checking and repairing the irrigation system, setting the automatic controller, checking the rain or moisture sensor, cleaning filters, pruning grass and plants away from irrigation emitters, using and operating the irrigation system, the precipitation rates of each irrigation zone within the system, any water conservation measures currently in effect from the water purveyor, the name of the water purveyor, a suggested seasonal or monthly watering schedule based on

current evapotranspiration data for the geographic region, and the minimum water requirements for the plant material in each zone based on the soil type and plant material where the system is installed.

| **(2826) Major maintenance, alteration, repair, or service**--Any activity that involves opening to the atmosphere the irrigation main line at any point prior to the discharge side of any irrigation zone control valve. This includes, but is not limited to, repairing or connecting into a main supply pipe, replacing a zone control valve, or repairing a zone control valve in a manner that opens the system to the atmosphere.

| **(2927) Master valve**--A remote control valve located after the backflow prevention device that controls the flow of water to the irrigation system mainline.

| **(3028) Matched precipitation rate**--The condition in which all sprinkler heads within an irrigation zone apply water at the same rate.

| **(3129) New installation**--An irrigation system installed at a location where one did not previously exist .

| **(3230) Pass-through contract**--A written contract between a contractor or builder and a licensed irrigator or exempt business owner to perform part or all of the irrigation services relating to an irrigation system.

| **(3331) Potable water**--Water that is suitable for human consumption.

| **(34)—32) Pressure Vacuum Breaker**—An assembly containing an independently operating internally loaded check valve and an independently operating loaded air inlet valve located on the discharge side of the check valve. Also known as a Pressure Vacuum Breaker Back-siphonage Prevention Assembly.

| **(3533) Reclaimed water**--Domestic or municipal wastewater which has been treated to a quality suitable for beneficial use, such as landscape irrigation.

| **(3634) Records of landscape irrigation activities**—The irrigation plans, contracts, warranty information, invoices, copies of permits, and other documents that relate to the installation, maintenance, alteration, repair, or service of a landscape irrigation system.

| **(3735) Reduced Pressure Principle Backflow Prevention Assembly**--An assembly containing two independently acting approved check valves together with a hydraulically

operating mechanically independent pressure differential relief valve located between the two check valves and below the first check valve.

| **(3836) Static water pressure**--The pressure of water when it is not moving.

| **(3937) Supervision**--The on-the-job oversight and direction by a licensed irrigator who is fulfilling his or her professional responsibility to the client and/or employer in compliance with local or state requirements. Also a licensed installer working under the direction of a licensed irrigator or beginning January 1, 2009, an irrigation technician who is working under the direction of a licensed irrigator to install, maintain, alter, repair or service an irrigation system.

| **(4038) Water conservation**--The design, installation, service, and operation of an irrigation system in a manner that prevents the waste of water, promotes the most efficient use of water, and applies the least amount of water that is required to maintain healthy individual plant material or turf, reduce dust, and control erosion.

| **(4139) Zone flow**--A measurement, in gallons per minute or gallons per hour, of the actual flow of water through a zone valve, calculated by individually opening each zone valve and obtaining a valid reading after the pressure has stabilized. For design purposes, the zone flow is the total flow of all nozzles in the zone at a specific pressure.

| **(4240) Zone valve**--An automatic valve that controls a single zone of a landscape irrigation system.

Section 7-101. Valid License Required.

Any person who connects an irrigation system to the water supply within the City or the City's extraterritorial jurisdiction, commonly referred to as the ETJ, must hold a valid license, as defined by Title 30, Texas Administrative Code, Chapter 30 and required by Chapter 1903 of the Texas Occupations Code, or as defined by Chapter 365, Title 22 of the Texas Administrative Code and required by Chapter 1301 of the Texas Occupations Code.

Exemptions

A property owner is not required to be licensed in accordance with Texas Occupations Code, Title 12, §1903.002(c)(1) if he or she is performing irrigation work in a building or on a premises owned or occupied by the person as the person's home. A home or property owner who installs an irrigation system must meet the standards contained in Title 30, Texas Administrative Code, Chapter 344 regarding spacing,

water pressure, spraying water over impervious materials, rain or moisture shut-off devices or other technology, backflow prevention and isolation valves. A home or property owner must obtain a permit from the City, submit an irrigation plan, use an individual with a valid license to install backflow prevention devices, and submit test results of the backflow prevention device to the City. The City may, at any point, adopt more stringent requirements for a home or property owner who installs an irrigation system. See Texas Occupations Code §1903.002 for other exemptions to the licensing requirement.

Section 7-102. Permit Required.

Any person installing an irrigation system within the territorial limits or extraterritorial jurisdiction of the City is required to obtain a permit from the City. Any applicant must submit a plan with the application demonstrating that the plan and irrigation system meet the requirements of this chapter. Any plan approved for a permit must be in compliance with the requirements of this chapter. Construction Safety administers the permit program in conjunction with the Water Department's approval of tested systems. Permit formats and processes are amended from time to time by the Construction Safety Department.

Exemptions

- (1) An irrigation system that is an on-site sewage disposal system, as defined by Section 355.002, Health and Safety Code; or
- (2) An irrigation system used on or by an agricultural operation as defined by Section 251.002, Agriculture Code; or
- (3) An irrigation system connected to a groundwater well used by the property owner for domestic use.

Section 7-103. Backflow Prevention Methods and Devices.

(a) Any irrigation system that is connected to the potable water supply must be connected through a backflow prevention method approved by the Texas Commission on Environmental Quality (TCEQ). The backflow prevention device must be approved by the American Society of Sanitary Engineers; or the Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California; or the Uniform Plumbing Code; or any other laboratory that has equivalent capabilities for both the laboratory and field evaluation of backflow prevention assemblies. The backflow prevention device must be installed in accordance with the laboratory approval standards or if the approval does not include specific installation information, the manufacturer's current published recommendations.

~~(b) If conditions that present a health hazard exist,~~In new installations of landscape irrigation systems one of the following methods must be used to prevent backflow;

~~(1) An air gap may be used if:~~

~~a. there is an unobstructed physical separation; and~~

~~b. the distance from the lowest point of the water supply outlet to the flood rim of the fixture or assembly into which the outlet discharges is at least one inch or twice the diameter of the water supply outlet, whichever is greater.~~

~~—(2)~~ (1) Reduced pressure principle backflow prevention assemblies may be used if:

a. the device is installed at a minimum of 12 inches above ground in a location that will ensure that the assembly will not be submerged; and

b. drainage is provided for any water that may be discharged through the assembly relief valve.

~~(32)~~ (2) Pressure vacuum breakers may be used if:

a. no back-pressure condition will occur; and

b. the device is installed at a minimum of 12 inches above any sprinklers are measured from the retracted position from the top of the sprinkler.

~~(c) Existing irrigation systems which are not of the type listed in 7-103(b) may remain, however upon replacement, homeowner must comply with the required devices listed in 7-103(b).~~

(d) Backflow prevention devices used in applications designated as health hazards must be tested upon installation and annually thereafter.— The following situations have been deemed by the City to create a health hazard:

~~(d)~~

(1) When chemicals are added to an irrigation system which is connected to the potable water supply; and

(2) When an irrigation system services property that is also served by an on-site sewage facility (septic system).

(e) If an irrigation system is connected to a potable water supply through a pressure vacuum breaker or reduced pressure principle backflow assembly and includes

an automatic master valve on the system, the automatic master valve must be installed on the discharge side of the backflow prevention assembly.

(ef) The irrigator shall ensure the backflow prevention device is tested by a licensed Backflow Prevention Assembly Tester prior to being placed in service and the test results provided to the local water purveyor and the irrigation system's owner or owner's representative within ten business days of testing of the backflow prevention device.

Section 7-104. Specific Conditions and Cross-Connection Control.

(a) Before any chemical is added to an irrigation system connected to the potable water supply, the irrigation system must be connected through a reduced pressure principle backflow prevention assembly ~~or air gap~~.

(b) Connection of any additional water source to an irrigation system that is connected to the potable water supply can only be done if the irrigation system is connected to the potable water supply through a reduced-pressure principle backflow prevention assembly ~~or an air gap~~.

(c) Irrigation system components with chemical additives induced by aspiration, injection, or emission system connected to any potable water supply must be connected through a reduced pressure principle backflow device.

(d) If an new irrigation system is designed or installed on a property that is served by an on-site sewage facility, as defined in Title 30, Texas Administrative Code, Chapter 285, then:

(1) all irrigation piping and valves must meet the separation distances from the On-Site Sewage Facilities system as required for a private water line in Title 30, Texas Administrative Code, Section 285.91(10);

(2) any connections using a private or public potable water source that is not the City's potable water system must be connected to the water source through a reduced pressure principle backflow prevention assembly as defined in Title 30, Texas Administrative Code, Section 344.50; and

(3) any water from the irrigation system that is applied to the surface of the area utilized by the On-Site Sewage Facility system must be controlled on a separate irrigation zone or zones so as to allow complete control of any irrigation to that area so that there will not be excess water that would prevent the On-Site Sewage Facilities system from operating effectively.

Section 7-105. Water Conservation.

All irrigation systems shall be designed, installed, maintained, altered, repaired, serviced, and operated in a manner that will promote water conservation as defined in the Definitions section of this ordinance.

Section 7-106. Irrigation Plan Design: Minimum Standards.

(a) An irrigator shall prepare an irrigation plan for each site where a new irrigation system will be installed. A paper or electronic copy of the irrigation plan must be on the job site at all times during the installation of the irrigation system. A drawing showing the actual installation of the system is due to each irrigation system owner after all new irrigation system installations. During the installation of the irrigation system, variances from the original plan may be authorized by the licensed irrigator if the variance from the plan does not:

- (1) diminish the operational integrity of the irrigation system;
- (2) violate any requirements of this ordinance; and
- (3) go unnoted in red on the irrigation plan.

(b) The irrigation plan must include complete coverage of the area to be irrigated. If a system does not provide complete coverage of the area to be irrigated, it must be noted on the irrigation plan.

(c) All irrigation plans used for construction must be drawn to scale. The plan must include, at a minimum, the following information:

- (1) the irrigator's seal, signature, and date of signing;
- (2) all major physical features and the boundaries of the areas to be watered;
- (3) a North arrow;
- (4) a legend;
- (5) the zone flow measurement for each zone;
- (6) location and type of each:

a. controller; and

b. sensor (for example, but not limited to, rain, moisture, wind, flow, or freeze);

(7) location, type, and size of each:

a. water source, such as, but not limited to a water meter and point(s) of connection;

b. backflow prevention device;

c. water emission device, including, but not limited to, spray heads, rotary sprinkler heads, quick-couplers, bubblers, drip, or micro-sprays;

d. valve, including but not limited to, zone valves, master valves, and isolation valves;

e. pressure regulation component; and

f. main line and lateral piping.

(8) the scale used; and

(9) the design pressure.

Section 7-107. Design and Installation: Minimum Requirements.

(a) No irrigation design or installation shall require the use of any component, including the water meter, in a way which exceeds the manufacturer's published performance limitations for the component.

(b) Spacing.

(1) The maximum spacing between emission devices must not exceed the manufacturer's published radius or spacing of the device(s). The radius or spacing is determined by referring to the manufacturer's published specifications for a specific emission device at a specific operating pressure.

(2) New irrigation systems shall not utilize above-ground spray emission devices in landscapes that are less than 48 inches not including the impervious surfaces in either length or width and which contain impervious pedestrian or vehicular traffic surfaces along two or more perimeters. If pop-up sprays or rotary sprinkler heads are used in a new irrigation system, the sprinkler heads must direct flow away from any adjacent surface and shall not be installed closer than four inches from a hardscape, such as, but not limited to, a building foundation, fence, concrete, asphalt, pavers, or stones set with mortar.

(3) Narrow paved walkways, jogging paths, golf cart paths or other small areas located in cemeteries, parks, golf courses or other public areas may be exempted from this requirement if the runoff drains into a landscaped area.

(c) Water pressure. Emission devices must be installed to operate at the minimum and not above the maximum sprinkler head pressure as published by the manufacturer for the nozzle and head spacing that is used. Methods to achieve the water pressure requirements include, but are not limited to, flow control valves, a pressure regulator, or pressure compensating spray heads.

(d) Piping. Piping in irrigation systems must be designed and installed so that the flow of water in the pipe will not exceed a velocity of five feet per second for polyvinyl chloride (PVC) pipe.

(e) Irrigation Zones. Irrigation systems shall have separate zones based on plant material type, microclimate factors, topographic features, soil conditions, and hydrological requirements.

(f) Matched precipitation rate. Zones must be designed and installed so that all of the emission devices in that zone irrigate at the same precipitation rate.

(g) Irrigation systems shall not spray water over surfaces made of concrete, asphalt, brick, wood, stones set with mortar, or any other impervious material, such as, but not limited to, walls, fences, sidewalks, streets, etc.

(h) Master valve. When provided, a master valve shall be installed on the discharge side of the backflow prevention device on all new installations.

(i) PVC pipe primer solvent. All new irrigation systems that are installed using PVC pipe and fittings shall be primed with a colored primer prior to applying the PVC

cement in accordance with the Uniform Plumbing Code (Section 316) or the International Plumbing Code (Section 605).

(j) Rain or moisture shut-off devices or other technology. All new automatically controlled irrigation systems must include sensors or other technology designed to inhibit or interrupt operation of the irrigation system during periods of moisture or rainfall. Rain or moisture shut-off technology must be installed according to the manufacturer's published recommendations. Repairs to existing automatic irrigation systems that require replacement of an existing controller must include a sensor or other technology designed to inhibit or interrupt operation of the irrigation system during periods of moisture or rainfall.

(k) Isolation valve. All new irrigation systems must include an isolation valve between the water meter and the backflow prevention device.

(l) Depth coverage of piping. Piping in all irrigation systems must be installed according to the manufacturer's published specifications for depth coverage of piping.

(1) If the manufacturer has not published specifications for depth coverage of piping, the piping must be installed to provide minimum depth coverage of six inches of select backfill, between the top of the pipe and the natural grade of the topsoil. All portions of the irrigation system that fail to meet this standard must be noted on the irrigation plan. If the area being irrigated has rock at a depth of six inches or less, select backfill may be mounded over the pipe. Mounding must be noted on the irrigation plan and discussed with the irrigation system owner or owner's representative to address any safety issues.

(2) If a utility, man-made structure, or roots create an unavoidable obstacle, which makes the six-inch depth coverage requirement impractical, the piping shall be installed to provide a minimum of two inches of select backfill between the top of the pipe and the natural grade of the topsoil.

(3) All trenches and holes created during installation of an irrigation system must be backfilled and compacted to the original grade.

(m) Wiring irrigation systems.

(1) Underground electrical wiring used to connect an automatic controller to any electrical component of the irrigation system must be listed by Underwriters Laboratories as acceptable for burial underground.

(2) Electrical wiring that connects any electrical components of an irrigation system must be sized according to the manufacturer's recommendation.

(3) Electrical wire splices which may be exposed to moisture must be waterproof as certified by the wire splice manufacturer.

(4) Underground electrical wiring that connects an automatic controller to any electrical component of the irrigation system must be buried with a minimum of six inches of select backfill.

(n) Water contained within the piping of an irrigation system is deemed to be non-potable. No drinking or domestic water usage, such as, but not limited to, filling swimming pools or decorative fountains, shall be connected to an irrigation system. If a hose bib (an outdoor water faucet that has hose threads on the spout) is connected to an irrigation system for the purpose of providing supplemental water to an area, the hose bib must be installed using a quick coupler key on a quick coupler installed in a covered purple valve box and the hose bib and any hoses connected to the bib must be labeled "non potable, not safe for drinking." An isolation valve must be installed upstream of a quick coupler connecting a hose bib to an irrigation system.

(o) Beginning January 1, 2010, either a licensed irrigator or a licensed irrigation technician shall be on-site at all times while the landscape irrigation system is being installed. When an irrigator is not onsite, the irrigator shall be responsible for ensuring that a licensed irrigation technician is on-site to supervise the installation of the irrigation system.

Section 7-108. Completion of Irrigation System Installation.

Upon completion of the irrigation system, the irrigator or irrigation technician who provided supervision for the on-site installation shall be required to complete four items:

(1) a final "walk through" with the irrigation system's owner or the owner's representative to explain the operation of the system;

(2) The maintenance checklist on which the irrigator or irrigation technician shall obtain the signature of the irrigation system's owner or owner's representative and shall sign, date, and seal the checklist. If the irrigation system's owner or owner's representative is unwilling or unable to sign the maintenance checklist, the irrigator shall note the time and date of the refusal on the irrigation system's owner

or owner's representative's signature line. The irrigation system owner or owner's representative will be given the original maintenance checklist and a duplicate copy of the maintenance checklist shall be maintained by the irrigator. The items on the maintenance checklist shall include but are not limited to:

- a. the manufacturer's manual for the automatic controller, if the system is automatic;
- b. a seasonal (spring, summer, fall, winter) watering schedule based on either current/real time evapotranspiration or monthly historical reference evapotranspiration (historical ET) data, monthly effective rainfall estimates, plant landscape coefficient factors, and site factors;
- c. a list of components, such as the nozzle, or pump filters, and other such components that require maintenance and the recommended frequency for the service; and
- d. the statement, "This irrigation system has been installed in accordance with all applicable state and local laws, ordinances, rules, regulations or orders. I have tested the system and determined that it has been installed according to the Irrigation Plan and is properly adjusted for the most efficient application of water at this time."

(3) A permanent sticker which contains the irrigator's name, license number, company name, telephone number and the dates of the warranty period shall be affixed to each automatic controller installed by the irrigator or irrigation technician. If the irrigation system is manual, the sticker shall be affixed to the original maintenance checklist. The information contained on the sticker must be printed with waterproof ink and include:

(4) The irrigation plan indicating the actual installation of the system must be provided to the irrigation system's owner or owner representative.

Section 7-109. Maintenance, Alteration, Repair, or Service of Irrigation Systems.

(a) The licensed irrigator is responsible for all work that the irrigator performed during the maintenance, alteration, repair, or service of an irrigation system during the warranty period. The irrigator or business owner is not responsible for the professional

negligence of any other irrigator who subsequently conducts any irrigation service on the same irrigation system.

(b) All trenches and holes created during the maintenance, alteration, repair, or service of an irrigation system must be returned to the original grade with compacted select backfill.

(c) Colored PVC pipe primer solvent must be used on all pipes and fittings used in the maintenance, alteration, repair, or service of an irrigation system in accordance with the Uniform Plumbing Code (Section 316) or the International Plumbing Code (Section 605).

(d) When maintenance, alteration, repair or service of an irrigation system involves excavation work at the water meter or backflow prevention device, an isolation valve shall be installed, if an isolation valve is not present.

Section 7-110. Reclaimed Water.

Reclaimed water may be utilized in landscape irrigation systems if:

- (1) there is no direct contact with edible crops, unless the crop is pasteurized before consumption;
- (2) the irrigation system does not spray water across property lines that do not belong to the irrigation system's owner;
- (3) the irrigation system is installed using purple components;
- (4) the domestic potable water line is connected using an air gap or a reduced pressure principle backflow prevention device, in accordance with Title 30, Texas Administrative Code, Section 290.47(i) (relating to Appendices);
- (5) a minimum of an eight inch by eight inch sign, in English and Spanish, is prominently posted on/in the area that is being irrigated, that reads, "RECLAIMED WATER – DO NOT DRINK" and "AGUA DE RECUPERACIÓN – NO BEBER"; and
- (6) backflow prevention on the reclaimed water supply line shall be in accordance with the regulations of the City's water provider.

Section 7-111. Advertisement Requirements.

(a) All vehicles used in the performance of irrigation installation, maintenance, alteration, repair, or service must display the irrigator's license number in the form of "LI_____" in a contrasting color of block letters at least two inches high, on both sides of the vehicle.

(b) All forms of written and electronic advertisements for irrigation services must display the irrigator's license number in the form of "LI_____." Any form of advertisement, including business cards, and estimates which displays an entity's or individual's name other than that of the licensed irrigator must also display the name of the licensed irrigator and the licensed irrigator's license number. Trailers that advertise irrigation services must display the irrigator's license number.

(c) The name, mailing address, and telephone number of the commission must be prominently displayed on a legible sign and displayed in plain view for the purpose of addressing complaints at the permanent structure where irrigation business is primarily conducted and irrigation records are kept.

Section 7-112. Contracts.

(a) All contracts to install an irrigation system must be in writing and signed by each party and must specify the irrigator's name, license number, business address, current business telephone numbers, the date that each party signed the agreement, the total agreed price, and must contain the statement, "Irrigation in Texas is regulated by the Texas Commission on Environmental Quality (TCEQ), MC-178, P.O. Box 13087, Austin, Texas 78711-3087. TCEQ's website is: www.tceq.state.tx.us." All contracts must include the irrigator's seal, signature, and date.

(b) All written estimates, proposals, bids, and invoices relating to the installation or repair of an irrigation system(s) must include the irrigator's name, license number, business address, current business telephone number(s), and the statement: "Irrigation in Texas is regulated by the Texas Commission On Environmental Quality (TCEQ) (MC-178), P.O. Box 13087, Austin, Texas 78711-3087. TCEQ's web site is: www.tceq.state.tx.us."

(c) An individual who agrees by contract to provide irrigation services as defined in Title 30, Texas Administrative Code, Section 344.30 (relating to License Required) shall hold an irrigator license issued under Title 30, Texas Administrative Code, Chapter 30 (relating to Occupational Licenses and Registrations) unless the contract is a pass-through contract as defined in Title 30, Texas Administrative Code, Section 344.1(36) (relating to Definitions). If a pass-through contract includes irrigation services, then the irrigation portion of the contract can only be performed by a licensed irrigator. If an irrigator installs a system pursuant to a pass-through contract, the irrigator shall still be responsible for providing the irrigation system's owner or through contract, the irrigator shall still be responsible for providing the irrigation system's owner or owner's representative a copy of the warranty and all other documents required under this chapter. A pass-through contract must identify by name and license number the irrigator that will perform the work and must provide a mechanism for contacting the irrigator for irrigation system warranty work.

(d) The contract must include the dates that the warranty is valid.

Section 7-113. Warranties for Systems.

(a) On all installations of new irrigation systems, an irrigator shall present the irrigation system's owner or owner's representative with a written warranty covering materials and labor furnished in the new installation of the irrigation system. The irrigator shall be responsible for adhering to terms of the warranty. If the irrigator's warranty is less than the manufacturer's warranty for the system components, then the irrigator shall provide the irrigation system's owner or the owner's representative with applicable information regarding the manufacturer's warranty period. The warranty must include the irrigator's seal, signature, and date. If the warranty is part of an irrigator's contract, a separate warranty document is not required.

(b) An irrigator's written warranty on new irrigation systems must specify the irrigator's name, business address, and business telephone number(s), must contain the signature of the irrigation system's owner or owner's representative confirming receipt of the warranty and must include the statement: "Irrigation in Texas is regulated by the Texas Commission on Environmental Quality (TCEQ), MC-178, P.O. Box 130897, Austin, Texas 78711-3087. TCEQ's website is: www.tceq.state.tx.us."

(c) On all maintenance, alterations, repairs, or service to existing irrigation systems, an irrigator shall present the irrigation system's owner or owner's representative a written document that identifies the materials furnished in the maintenance, alteration, repair, or service. If a warranty is provided, the irrigator shall abide by the terms. The warranty document must include the irrigator's name and business contact information.

Section 7-114. Duties and Responsibilities of City Irrigation Inspectors.

A licensed irrigation inspector shall enforce the ordinance of the City, and shall be responsible for:

(1) verifying that the appropriate permits have been obtained for an irrigation system and that the irrigator and installer or irrigation technician, if applicable, are licensed;

(2) inspecting the irrigation system;

(3) determining that the irrigation system complies with the requirements of this chapter;

(4) determining that the appropriate backflow prevention device was installed, tested, and test results provided to the City;

(5) investigating complaints related to irrigation system installation, maintenance, alteration, repairs, or service of an irrigation system and advertisement of irrigation services; and

(6) maintaining records according to this chapter.

Section 7-115. Items not covered by this ordinance.

Any item not covered by their ordinance and required by law shall be governed by the Texas Occupations Code, the Texas Water Code, Title 30 of the Texas Administrative Code, and any other applicable state statute or Texas Commission on Environmental Quality rule.

Section 7-116. Fees.

The City Council may create a schedule of fees for obtaining and renewing an irrigation permit. These fees will be in amounts sufficient to cover the City's costs in issuing and renewing the permits, including, but not limited to, staff time and other overhead costs. The City Council shall adopt by resolution a schedule of the permit fees required or authorized. This schedule of fees is entitled Construction Permit Fees and is updated from time to time by Resolution. It is kept at City offices and also available online.

Section 7-117. Enforcement.

(a) The City shall have the power to administer and enforce the provisions of this chapter as may be required by governing law. Any person, firm, corporation or agent who shall violate a provision of this code, or fails to comply therewith, or with any of the requirements thereof, is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of the ordinance codified in this chapter is declared to be a nuisance.

(b) Any person violating any provision of chapter shall, upon conviction, be fined a sum not exceeding \$2000.00. Each day that a provision of this chapter is violated shall constitute a separate offense. An offense under this chapter is a Class C misdemeanor, punishable by a fine of up to \$2000.00.

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

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

- (2) Other available relief.

Part 2: The City Council amends Chapter 7, “Buildings,” of the Code of Ordinances of the City of Temple, Texas, by modifying Article V, entitled, “Plumbing Code,” by adding a new Section 7-84, entitled, “Inspection of Backflow Prevention Assemblies,” exempting certain irrigation systems from annual testing, to read as follows:

Sec. 7-84. Inspection of backflow prevention assemblies.

International Plumbing Code, Section 312.9, “Inspection and testing of backflow prevention assemblies” is amended to include the following language:

312.9.3. Landscape irrigation systems are exempted from the annual testing and inspection requirement except where the following occurs:

- (1) When chemicals are added to an irrigation system which is connected to the potable water supply; and
- (2) When an irrigation system services property that is also served by an on-site sewage facility (septic system).

Part 3: If any provision of this ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

Part 4: This ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

Part 5: The Code of Ordinances of the City of Temple, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

Part 6: It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on First Reading and Public Hearing on the 6th day of **January**, 2011.

PASSED AND APPROVED on Second Reading on the 20th day of **January**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

01/06/11
Item #5
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Brian Mabry, Planning Director

ITEM DESCRIPTION: PUBLIC HEARING – Receive Municipal Service Plan and conduct a public hearing to receive comments on the possible annexation of approximately 3,394.9 acres located in the City's western extraterritorial jurisdiction including a portion of Lake Belton and surrounding property.

STAFF RECOMMENDATION: Receive staff presentation on the Municipal Service Plan, as required by State law, hold public hearing and take no action at this time. **The second hearing is scheduled as a special meeting of the City Council, Friday, January 7, 2011 8:00 a.m.**

ITEM SUMMARY: On December 2, 2010, the City Council adopted a resolution directing City staff to create a Municipal Service Plan and public hearing schedule in anticipation of the annexation of the subject property. The property is located west of the existing City limits and contains approximately 3,394.9 acres. The property includes a portion of Lake Belton and surrounding property that the Army Corps of Engineers owns. If approved, the annexation would extend the City's ETJ to the west so that it would become contiguous with the ETJ of the City of Killeen.

The annexation schedule calls for two public hearings on the proposed Municipal Service Plan — this being the first, with the second scheduled for January 7, 2011. The public hearing today is to receive a first set of public comments on the proposed annexation and proposed service plan from anyone that might wish to speak. There are no residents on the 3,394.9 acre property.

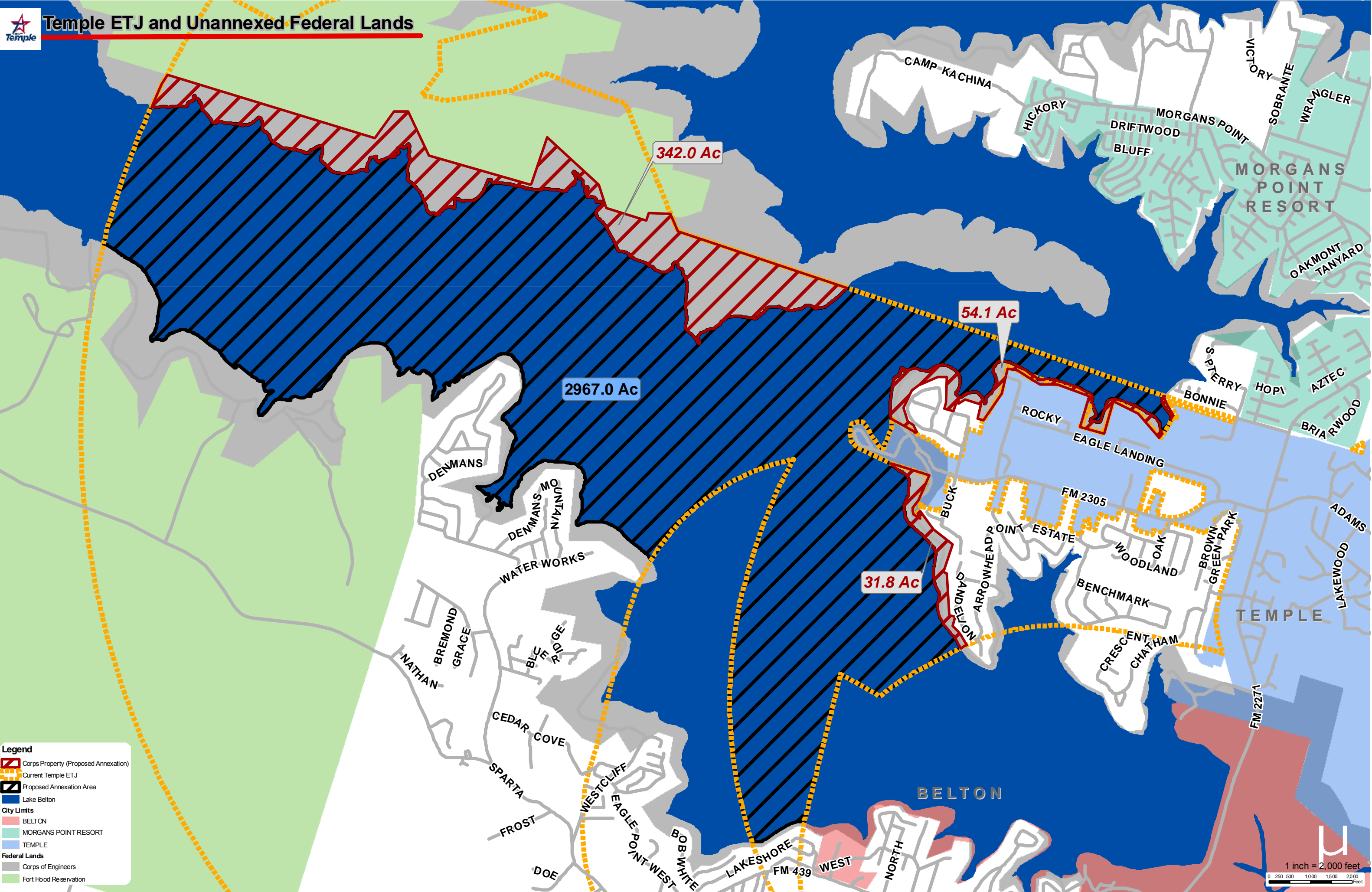
FISCAL IMPACT: Police and fire services to the proposed annexation area will be provided in accordance with existing service and interlocal agreements between the US Army Corps of Engineers, Texas Parks & Wildlife, Ft. Hood, Bell County, Temple Police Department, and Temple Fire and Rescue. Interlocal agreements between these entities are already in place for the area and the City has no intention of replacing or modifying the existing service agreements for the provision of public safety services to the area. The Municipal Service Plan does not contain any proposal to extend water or wastewater services or any other new physical facilities to serve this property.

ATTACHMENTS:

[Annexation Area Map](#)
[Municipal Service Plan](#)



Temple ETJ and Unannexed Federal Lands



Legend

- Corps Property (Proposed Annexation)
- Current Temple ETJ
- Proposed Annexation Area
- Lake Belton
- City Limits**
- BELTON
- MORGANS POINT RESORT
- TEMPLE
- Federal Lands**
- Corps of Engineers
- Fort Hood Reservation

1 inch = 2,000 feet

0 250 500 1,000 1,500 2,000 Feet

CITY OF TEMPLE ANNEXATION SERVICE PLAN

For approximately 3,394.9 acres situated in Bell County, Texas, located west of the current City limits in the City's western extraterritorial jurisdiction (ETJ) including a portion of Lake Belton and surrounding property and being depicted on Exhibit "B" of the Annexation Ordinance (2011-XXXX).

SERVICES TO BE PROVIDED ON THE EFFECTIVE DATE OF ANNEXATION

1. POLICE PROTECTION

The City will continue to provide police protection to the newly-annexed area in accordance with existing service and interlocal agreements between the US Army Corps of Engineers, Texas Parks & Wildlife, Ft. Hood and Bell County. The nearest Temple Police station is located at Fire Station 7 on West Adams Avenue.

2. FIRE PROTECTION AND EMERGENCY MEDICAL SERVICE

The City will continue to provide fire protection from Fire Station 8 and emergency medical service to the newly-annexed area in accordance with existing service and interlocal agreements between the US Army Corps of Engineers, Texas Parks & Wildlife, Ft. Hood and Bell County.

3. SOLID WASTE COLLECTION

Upon payment of any required deposits and the agreement to pay lawful service fees and charges, solid waste collection will be provided to citizens in the newly-annexed area to the extent that the City has access to the area to be serviced. Private contractors currently providing sanitation collecting services on Federally-owned land in the area may continue to do so. If land is sold to a private entity, then the City will become the solid waste collection provider.

4. MAINTENANCE OF WATER AND WASTEWATER FACILITIES

Any and all water or wastewater facilities owned or maintained by the City at the time of the proposed annexation shall continue to be maintained by the City. Any and all water or wastewater facilities which may be acquired subsequent to the annexation of the proposed area shall be maintained by the City, to the extent of its ownership, to the same degree that it maintains water or wastewater facilities in other areas of the City with the same or similar topography, land use and population density. Any and all water or wastewater facilities outside the extent of the ownership of the City, and owned by other water or wastewater providers shall continue to be allowed to provide those services to the newly-annexed area.

5. MAINTENANCE OF ROADS, STREETS, ALLEYWAYS AND STREET LIGHTING

The City Council is not aware of the existence of City-owned or maintained public roads, streets or alleyways in the area proposed for annexation. Any and all public roads, streets or alleyways which may be acquired subsequent to the proposed annexation of the area shall

be maintained by the City, to the extent of its ownership, to the same degree that it maintains public roads, streets or alleyways in other areas of the City with the same or similar topography, land use and population density. Any and all lighting of roads, streets and alleyways which may be positioned in a right-of-way, roadway or utility company easement shall be maintained by the applicable utility company servicing the City, pursuant to the rules, regulations and fees of such utility.

6. MAINTENANCE OF PUBLIC PARKS, PLAYGROUNDS AND SWIMMING POOLS

The City Council is not aware of the existence of City-owned or maintained public parks, playgrounds or swimming pools now located in the area proposed for annexation. Any and all public parks, playgrounds and swimming pools which may be acquired subsequent to the proposed annexation of the area shall be maintained by the City, to the extent of its ownership, to the same degree that it maintains parks, playgrounds and swimming pools in other areas of the City with the same or similar topography, land use and population density.

7. MAINTENANCE OF CITY-OWNED FACILITY, BUILDING OR MUNICIPAL SERVICE

The City Council is not aware of the existence of any City-owned or maintained facility, building or other municipal service now located in the area proposed for annexation. In the event any such City-owned or maintained facility, building or municipal service does exist and is a public facility, the City will maintain the facility, building or service to the same degree that it maintains City -owned or maintained facilities, buildings or municipal services in other areas of the City with the same or similar topography, land use and population density.

8. CONSTRUCTION SAFETY

The City will provide building inspection services upon City approval of building permits in the newly-annexed area at the same or similar level of service now being provided to other areas of the City with the same or similar topography, land use and population density.

9. CODE ENFORCEMENT

The City will provide code enforcement services to the newly-annexed area at the same or similar level of service now being provided to other areas of the City with the same or similar topography, land use and population density.

CAPITAL IMPROVEMENTS

1. POLICE PROTECTION, FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES

The City Council finds and determines it to be unnecessary to acquire or construct any capital improvements for the purposes of providing police protection, fire protection, or emergency medical services. The City Council finds and determines that it has at the present time adequate facilities to provide the same type, kind and level of protection and service which is presently being administered to other areas already incorporated in the City with the same or similar topography, land use and population density.

2. ROADS AND STREETS

The City will undertake to provide the same degree of road and street lighting as is provided in areas of similar topography, land use and population density within the present corporate limits of the City. Maintenance of properly dedicated roads and streets will be consistent with the maintenance provided by the City to other roads and streets in areas of the City with similar topography, land use and development of the annexed property. Developers will be required, pursuant to the ordinances of the City to provide internal and peripheral streets and to construct those streets in accordance with the specifications required by the City for the properly dedicated street. City participation in capital expenditures will be in accordance with City policies.

3. WATER AND WASTEWATER FACILITIES

The area is currently adequately served by a rural water supply corporation and septic tanks. Extension of water lines internally within the area proposed to be annexed will be the responsibility of developers of property or individual property owners, conforming to the City's policies.

4. CAPITAL IMPROVEMENTS

Notwithstanding any other provision of this service plan, a landowner within the newly annexed area will not be required to fund capital improvements as necessary for municipal services in a manner inconsistent with Chapter 395 of the Local Government Code, unless otherwise agreed to by the landowner.

SPECIFIC FINDINGS

The City Council finds and determines that this proposed Service Plan will not provide any fewer services, and it will not provide a lower level of service in the area proposed to be annexed than were in existence in the proposed area at the time immediately preceding the annexation process. Because of the differing characteristics of topography, land utilization and population density, the service levels which may ultimately be provided in the newly-annexed area may differ somewhat from services provided in other areas of the City. These differences are specifically dictated because of differing characteristics of the property and the City will undertake to perform consistent with this contract so as to provide the newly-annexed area with the same type, kind and quality of service presently enjoyed by the citizens of the City who reside in areas of the same or similar topography, land use and population density.

APPROVED ON THIS _____ DAY OF _____, 2011.

City of Temple, Texas

Mayor

ATTEST:

City Secretary