



**MEETING OF THE  
TEMPLE CITY COUNCIL**

**MUNICIPAL BUILDING  
2 NORTH MAIN STREET  
3<sup>rd</sup> FLOOR – CONFERENCE ROOM**

**THURSDAY, SEPTEMBER 5, 2019**

**2:30 P.M.**

**AGENDA**

**I. PUBLIC COMMENTS**

Citizens who desire to address the Council on any matter listed on the Workshop Agenda 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 three minutes. No discussion or final action will be taken by the City Council.

**II. WORK SESSION**

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, September 5, 2019.
2. Discuss the extension of the Second Hand Rose SIZ Agreement.
3. Receive a presentation regarding the Ferguson Park Neighborhood Plan.
4. Receive a presentation on a talent and investment attraction brand and marketing study conducted in conjunction with the Temple Economic Development Corporation.
5. The City Council will meet in executive session to seek the advice of its attorney on pending or contemplated litigation or a settlement offer pursuant to Texas Government Code Section 551.071 and will conduct a private consultation with the City Attorney on a matter in which the duty of the attorney to the Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Texas Local Government Code Chapter 551.

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

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**5:00 P.M.**  
**MUNICIPAL BUILDING**  
**2 NORTH MAIN STREET**  
**CITY COUNCIL CHAMBERS – 2<sup>ND</sup> FLOOR**  
**TEMPLE, TX**  
**TEMPLE CITY COUNCIL**  
**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 three minutes. No discussion or final action will be taken by the City Council.

**III. PUBLIC APPEARANCE**

3. Receive comments from Keith Gaines and Shirley Gaines regarding utility construction in alley between Wickersham and Canyon Oaks Court.

**IV. BUDGET ITEMS**

4. **PUBLIC HEARING** – PUBLIC HEARING – Conduct the first of two public hearings to receive comments on the proposed tax rate of 67.27 cents per \$100 valuation for fiscal year 2020 (2019 tax year) and announce meeting to adopt the proposed tax rate on September 19, 2019.
5. **2019-4981: FIRST READING – PUBLIC HEARING** – Consider adopting an ordinance approving the tax roll and authorizing calculation of the amount of tax that can be determined for all real and personal property in the City for the tax year 2019 (fiscal year 2020).
6. **2019-4982: FIRST READING – PUBLIC HEARING** – Consider adopting an ordinance setting a tax rate \$0.6727 per \$100 valuation, comprised of \$0.3097 for maintenance and operations and \$0.3630 for debt service, for Fiscal Year 2020 (Tax Year 2019), making the appropriation for the regular operation of the City.

**V. 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.

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



## **Minutes**

- (A) [July 11, 2019 Special & Regular Called Meeting](#)
- (B) [July 18, 2019 Special & Regular Called Meeting](#)
- (C) [July 25, 2019 Special Meeting](#)
- (D) [August 1, 2019 Special & Regular Called Meeting](#)
- (E) [August 9, 2019 Special Meeting](#)
- (F) [August 15, 2019 Special & Regular Called Meeting](#)
- (G) [August 26, 2019 Special Meeting](#)

## **Contracts, Leases, & Bids**

- (H) [2019-9762-R](#): Consider adopting a resolution authorizing an interlocal agreement between the City of Temple and the Texas Department of Motor Vehicles for participation in the Department's "Scofflaw Program" which provides for the marking of motor vehicle registration records in an effort to resolve delinquent court fines and fees.
- (I) [2019-9763-R](#): Consider adopting a resolution authorizing an agreement with Turley Associates, Inc., of Temple, for professional services required for preliminary design of the North Pea Ridge Road Phase 2 Improvements from Prairie View Road to Airport Road in the amount of \$198,610.47.
- (J) [2019-9764-R](#): Consider adopting a resolution authorizing a Memorandum of Understanding with the City of Killeen and Bell County to establish the rights, duties, administration and division of funds received under the 2019 Edward Byrne Memorial Justice Assistance Grant program Award.
- (K) [2019-9765-R](#): Consider adopting a resolution approving the Ferguson Park Neighborhood Plan.
- (L) [2019-9766-R](#): Consider adopting a resolution ratifying an interlocal agreement with the Temple Independent School District to provide standby medical services at Varsity home football games for the 2019 football season.
- (M) [2019-9767-R](#): Consider adopting a resolution authorizing approval of a Street Use License to allow for the encroachment of two new subdivision entry signs and landscaping and irrigation improvements, located in South Pointe Subdivision, Phase I, Temple, Bell County, Texas, addressed as 3100 Alton Road, 1600 Lummus Drive, and 1950 Lummus Drive.
- (N) [2019-9768-R](#): Consider adopting a resolution approving a negotiated settlement between the Atmos Cities Steering Committee and Atmos Energy Corp., Mid-Tex Division regarding the Company's 2019 Rate Review Mechanism Filings.
- (O) [2019-9769-R](#): Consider adopting a resolution authorizing the payments of an annual invoice from Brazos River Authority for operation and maintenance costs associated with the City's portion of raw water storage in Lake Belton in the amount of \$106,436.78.

## **Ordinances – Second & Final Reading**

- (P) [2019-4986](#): SECOND & FINAL READING – FY-19-17-ZC: Consider adopting an ordinance approving a Conditional Use Permit with a Site Plan to allow a motorcycle sales and repair facility (Indian Motorcycles) on Lot 1, Block 1, Luby's Subdivision, addressed as 3925 South General Bruce Drive, and located within the I-35 Corridor Overlay Gateway sub-district.

**Misc.**

- (Q) [2019-9770-R](#): Consider adopting a resolution designating the *Temple Daily Telegram* as the official newspaper for the City for fiscal year 2019-2020, in accordance with Section 4.18 of the Charter of the City of Temple.
- (R) [2019-9771-R](#): Consider adopting a resolution authorizing budget amendments for fiscal year 2018-2019.

**VI. REGULAR AGENDA**

**ORDINANCES**

8. [2019-4988](#): FIRST READING – PUBLIC HEARING – FY-19-21-ZC: Consider adopting an ordinance authorizing a rezoning from Neighborhood Services zoning district to Planned Development-General Retail zoning district, with a Site Development Plan, to allow a microbrewery with outdoor seating and play areas, on 2.239 +/- acres, located at 3508 South 5th Street.
9. [2019-4989](#): FIRST READING – PUBLIC HEARING – FY-19-20-ZC: Consider adopting an ordinance authorizing a Conditional Use Permit with a Site Plan to allow a microbrewery for alcohol sales, with a waiver for distance to residential property, on 2.239 +/- acres, situated in the Maximo Moreno Survey, Abstract No. 14, Bell County, Texas, located at 3508 South 5th Street.
10. [2019-4990](#): FIRST READING – PUBLIC HEARING – FY-19-18-ZC: Consider adopting an ordinance authorizing a rezoning from Agricultural zoning to Light Industrial zoning for 146.852 +/- acres, addressed as 5200 Old Howard Road.
11. [2019-4991](#): FIRST READING – PUBLIC HEARING – FY-19-19-ZC: Consider adopting an ordinance authorizing a rezoning from Single Family One zoning district to Commercial zoning district on 5.92 +/- acres, addressed as 3308 and 3310 South 5th Street, Temple, Texas.
12. [2019-4992](#): FIRST READING – PUBLIC HEARING – FY-19-22-ZC: Consider adopting an ordinance amending Ordinance 2016-4810 to add 35 +/- acres to the existing 42.066 +/- acres and rezoning all 77.066 acres, located at 8015 West Adams Avenue, to Planned Development General Retail, Multi-Family Two, and Single Family Two districts.
13. [2019-4993](#): FIRST READING – PUBLIC HEARING: Consider adopting an ordinance repealing the City's Code of Ordinances, Chapter 34, "Swimming Pools."
14. [2019-4994](#): FIRST READING – PUBLIC HEARING: Consider adopting an ordinance amending the City's Code of Ordinances, Chapter 7, "Buildings," to adopt updated model codes, specify amendments to the adopted model codes, and simplify and clarify language and terms contained therein.

15. [2019-4987](#): SECOND & FINAL READING: Consider adopting an ordinance amending the City's Code of Ordinances, Chapter 38, "Water, Sewers, and Sewage Disposal," to bring this Chapter into compliance with state regulations and current City regulations, policies, and practices, simplify and clarify language and terms, provide more effective enforcement tools, and make non-substantial modifications to the City's Pretreatment Ordinance and Program.

## **BOARD APPOINTMENTS**

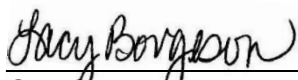
16. [2019-9772-R](#): Consider adopting a resolution appointing one alternate member to fill an unexpired term through March 1, 2021 to the Building & Standards Commission.

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

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I hereby certify that a true and correct copy of this Notice of Meeting was posted in a public place at 9:20 AM, September 2, 2019. This notice was published to the City of Temple's website at 9:19 AM, this same day.



City Secretary, TRMC

***SPECIAL ACCOMMODATIONS:*** *Persons with disabilities who have special communication or accommodation needs and desire to attend this meeting should notify the City Secretary's Office by mail or telephone 48 hours prior to the meeting date.*

I certify that this Notice of Meeting Agenda was removed by me from the outside bulletin board in front of the City Municipal Building on \_\_\_\_\_ day of \_\_\_\_\_ 2019.  
\_\_\_\_\_  
Title \_\_\_\_\_



## COUNCIL AGENDA ITEM MEMORANDUM

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09/05/19  
Item #3  
Regular Agenda  
Page 1 of 1

### **DEPT./DIVISION SUBMISSION & REVIEW:**

Timothy A. Davis, Mayor

**ITEM DESCRIPTION:** Receive comments from Keith Gaines and Shirley Gaines regarding utility construction in alley between Wickersham and Canyon Oaks Court.

**STAFF RECOMMENDATION:** Receive comments as presented in item description.

**ITEM SUMMARY:** Mr. Gaines and Ms. Gaines submitted a Request for Placement on the City Council Agenda, please see the attached form.

**FISCAL IMPACT:** None

### **ATTACHMENTS:**

[Keith Gaines request for placement on agenda](#)  
[Shirley Gaines request for placement on agenda](#)



CITY OF TEMPLE, TEXAS

CITY COUNCIL MEETINGS

REQUEST FOR PLACEMENT ON AGENDA

\_\_Priority

NAME OF PRESENTER: Keith Gaines

ADDRESS: 2707 CANYON OAKS CT

TELEPHONE NO. (254) 674-3564

DATE REQUESTED TO APPEAR BEFORE THE COUNCIL: (Note - The City Council meets the first and third Thursdays of each month.) SEPT. 5

SUBJECT TO BE PRESENTED: (Your description must identify the subject matter of your appearance in sufficient detail to alert the public what topic you will discuss and what action you are requesting by the Council.)

1) UTILITY CONSTRUCTION IN ALLEY BETWEEN  
WICKERHART & CANYON OAKS COURT

Note: Separate requests must be completed for each subject presented.

I, the above identified presenter, have read the procedures for public appearances before the City Council of the City of Temple, Texas, and will abide by these procedures.

KGaines  
SIGNATURE OF PRESENTER

8/12/19  
DATE

For Office Use:

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CITY OF TEMPLE, TEXAS  
CITY COUNCIL MEETINGS

RECEIVED  
AUG 09 2019  
CITY OF TEMPLE  
CITY SECRETARY

REQUEST FOR PLACEMENT ON AGENDA

\_\_\_ Priority

NAME OF PRESENTER:

Shirley Gaines

ADDRESS:

2707 Canyon Oaks Ct Temple

TELEPHONE NO.

254 771-3935

DATE REQUESTED TO APPEAR BEFORE THE COUNCIL: (Note – The City Council meets the first and third Thursdays of each month.)

Next available time

SUBJECT TO BE PRESENTED: (Your description must identify the subject matter of your appearance in sufficient detail to alert the public what topic you will discuss and what action you are requesting by the Council.)

I need help getting Oncoz to finish work on their electrical wires behind my house.

They started 5 weeks ago and have left broken sprinkler pipes as well as ~~an~~ wire from their box

Note: Separate requests must be completed for each subject presented. that is going across the alley without being buried, I need help!

I, the above identified presenter, have read the procedures for public appearances before the City Council of the City of Temple, Texas, and will abide by these procedures.

Shirley Gaines

SIGNATURE OF PRESENTER

8/9/19

DATE

For Office Use:

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## COUNCIL AGENDA ITEM MEMORANDUM

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09/05/19  
Item #4  
Regular Agenda  
Page 1 of 5

**DEPT./DIVISION SUBMISSION & REVIEW:**

Brynn Myers, City Manager  
Traci L. Barnard, Director of Finance

**ITEM DESCRIPTION:** PUBLIC HEARING – Conduct the first of two public hearings to receive comments on the proposed tax rate of 67.27 cents per \$100 valuation for fiscal year 2020 (2019 tax year) and announce meeting to adopt the proposed tax rate on September 19, 2019.

**STAFF RECOMMENDATION:** Conduct a public hearing but no action is required.

**BACKGROUND:** At the August 26, 2019 special council meeting, Council discussed the proposed tax rate of 67.27 cents per \$100 valuation and adopted a resolution scheduling the adoption of the proposed tax rate for September 19, 2019 and setting public hearings for September 5, 2019 and September 9, 2019 on the proposed tax rate for FY 2019-2020.

The proposed meeting dates and publication schedules comply with the Truth-In-Taxation requirements set forth by State Law and the City Charter.

The FY 2019-2020 budget was prepared with a preliminary total tax rate of 68.88 cents per \$100 valuation and a preliminary tax base of \$4,760,420,369 (an estimated 8.25% increase from prior year). On July 16, 2019, the Chief Appraiser certified the tax roll of \$4,882,056,874 (a 11.02% increase from prior year) and has completed the effective tax rate calculation. The effective tax rate is 59.50 cents. Comparing the proposed tax rate of 67.27 cents to the *current FY 2019 adopted* tax rate of 66.12 cents:

	PROPOSED		
	FY 2019	FY 2020	Increase (Decrease)

**Proposed Tax Rate**

M&O (Maintenance & Operation)	\$ 0.2982	\$ 0.3097	\$ 0.0115
I&S (Interest & Sinking - Debt)	0.3630	0.3630	-
	<u>\$ 0.6612</u>	<u>\$ 0.6727</u>	<u>\$ 0.0115</u>

**Example 1 – Annual Property Tax - \$100,000 Taxable Value:**

With the proposed tax rate of 67.27 cents per \$100 valuation, the cost to a homeowner with a taxable value of \$100,000 would increase by \$11.50 per year (\$0.96 per month) if there was no change in taxable value from the prior year.

**Example 2 – Annual Property Tax - Average Taxable Value for City of Temple:**

The preceding tax year's average taxable value of a residence homestead in Temple was \$116,935. In the current tax year, the average taxable value a residence homestead in Temple is \$125,412. With the proposed tax rate of 67.27 cents per \$100 valuation, there would be an annual increase of \$70.48 in taxes (\$5.87 per month).

**FISCAL IMPACT:**

Changes from the preliminary tax rate and base used to calculate the filed budget on June 28, 2019 to the proposed rate with the certified tax roll as presented September 5, 2019 are as follows:

	<b>Filed Budget 06/28/19</b>	<b>Proposed Budget 09/05/19</b>	<b>Increase/ (Decrease)</b>
<b><i>Tax Base*</i></b>	\$4,760,420,369	\$4,882,056,874	\$121,636,505
<b><i>Tax Rate:</i></b>			
(General) M&O	32.58¢	30.97¢	(1.61¢)
(Debt) I&S	36.30¢	36.30¢	0.00¢
<b>Total Tax Rate</b>	<b>68.88¢</b>	<b>67.27¢</b>	<b>(1.61¢)</b>
<b><i>Tax Levy:</i></b>			
(General) M&O	\$13,909,671	\$13,486,233	(\$423,438)
Frozen Taxes	2,529,644	2,658,038	128,394
(Debt) I&S	15,497,884	15,807,241	309,357
<b>Total Tax Levy*</b>	<b>\$31,937,199</b>	<b>\$31,951,512</b>	<b>(\$14,313)</b>
<b><i>Budget:</i></b>			
Projected Revenues	\$82,009,031	\$81,609,702	(\$399,329)
Proposed Expenditures	84,620,149	84,220,820	(\$399,329)



**FY 2020**  
**GENERAL FUND PROPOSED BUDGET**  
**SCHEDULE OF ADJUSTMENTS AFTER FILING PROPOSED BUDGET**

	Proposed Budget		Increase (Decrease)
	Filed Copy as of 06-28-19	Current as of 09-05-19	
<b>Projected Revenues</b>	\$ 82,009,031	\$ 81,609,702	\$ (399,329) <sup>A</sup>
<b>Proposed Budget Expenditures</b>	82,899,594	82,500,265	(399,329) <sup>B</sup>
<b>Excess Revenues Over (Under) Expenditures</b>	<b>(890,563)</b>	<b>(890,563)</b>	-
<b>Transfers In (Out):</b>			
Less: Transfer Out To Debt Service Fund -			
LTN 2013 - Sanitation Vehicles, CNG Facility and Recycling Containers	(989,400)	(989,400)	-
CO 2017 - Sanitation Vehicles	(273,250)	(273,250)	-
CO 2017 - PS P25 Radios	(249,250)	(249,250)	-
LTN 2019 - Sanitation Vehicles & Software, Street Equipment	(208,655)	(208,655)	-
<b>Total Transfer In (Out)</b>	<b>(1,720,555)</b>	<b>(1,720,555)</b>	-
<b>Excess Revenues Over (Under) Expenditures for FY 2020</b>	<b>\$ (2,611,118)</b>	<b>\$ (2,611,118)</b>	<b>\$ -</b>
<b>Recommended Use of Undesignated Fund Balance:</b>			
- Strategic Investment Zone Funding	\$ 100,000	\$ 100,000	\$ -
- Capital Funded with Fund Balance	1,988,618	1,988,618	-
- Capital Replacement - Sanitation Vehicles	273,250	273,250	-
- Capital Replacement - PS P25 Radios	249,250	249,250	-
	<b>\$ 2,611,118</b>	<b>\$ 2,611,118</b>	<b>\$ -</b>

**Explanation of Changes from Filed Budget to Proposed Budget @ 09/05/2019:**

<sup>A</sup> **Revenue Changes:**

Required adjustment from preliminary to certified tax roll	\$ (292,094)
Adjusted revenue estimates	(107,235)
<b>Total Revenue Changes</b>	<b>\$ (399,329)</b>

<sup>B</sup> **Expenditure Changes:**

Various operational adjustments	\$ (229,384)
Proration of new HR software based on revised implantation date	(169,945)
<b>Total Expenditures Changes</b>	<b>\$ (399,329)</b>

<b>Net Revenue Over (Under) Expenditures</b>	<b>\$ -</b>
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**FY 2020  
DEBT SERVICE FUND PROPOSED BUDGET  
SCHEDULE OF ADJUSTMENTS AFTER FILING PROPOSED BUDGET**

	Proposed Budget		Increase (Decrease)
	Filed Copy as of 06-28-19	Current as of 09-05-19	
<b>Projected Revenues</b>	\$ 16,884,084	\$ 17,193,441	\$ 309,357 <sup>A</sup>
<b>Proposed Budget Expenditures</b>	19,200,905	19,510,262	309,357 <sup>B</sup>
<b>Excess Revenues Over (Under) Expenditures</b>	<b>\$ (2,316,821)</b>	<b>\$ (2,316,821)</b>	<b>-</b>
<b>Transfers In (Out):</b>			
Plus: Transfer In From General Fund -			
LTN 2013 - Sanitation Vehicles, CNG Facility and Recycling Containers	989,400	989,400	-
CO 2017 - Sanitation Vehicles	273,250	273,250	-
CO 2017 - PS P25 Radios	249,250	249,250	-
LTN 2019 - Sanitation Vehicles & Software, Street Equipment	208,655	208,655	-
Plus: Transfer In From Drainage Fund -			
CO 2017 - Drainage CIP	262,919	262,919	-
CO 2020 - Drainage CIP	177,500	177,500	-
<b>Total Transfer In (Out)</b>	<b>2,160,974</b>	<b>2,160,974</b>	<b>-</b>
<b>Excess Revenues Over (Under) Expenditures for FY 2020</b>	<b>\$ (155,847)</b>	<b>\$ (155,847)</b>	<b>\$ -</b>
Recommended Use of Undesignated Fund Balance	155,847	155,847	-
	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>

**Explanation of Changes from Filed Budget to Proposed Budget @ 09/05/2019:**

<sup>A</sup> **Revenue Changes:**

Required adjustment from preliminary to certified tax roll	\$ 309,357
<b>Total Revenue Changes</b>	<b>\$ 309,357</b>

<sup>B</sup> **Expenditure Changes:**

Adjustment to debt service	\$ 309,357
<b>Total Expenditures Changes</b>	<b>\$ 309,357</b>

<b>Net Revenue Over (Under) Expenditures</b>	<b>\$ -</b>
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**FY 2020**  
**WATER & WASTEWATER FUND PROPOSED BUDGET**  
**SCHEDULE OF ADJUSTMENTS AFTER FILING PROPOSED BUDGET**

	Proposed Budget		Increase (Decrease)
	Filed Copy as of 06-28-19	Current as of 09-05-19	
Projected Revenues	\$ 46,543,982	\$ 45,547,087	\$(996,895) <sup>A</sup>
Proposed Budget Expenses	46,543,982	45,547,087	(996,895) <sup>B</sup>
Excess Revenues Over (Under) Expenditures for FY 2020	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>

Explanation of Changes from Filed Budget to Proposed Budget @ 09/05/2019:

<sup>A</sup> **Revenue Changes:**

Adjusted wastewater revenue estimates	\$ (996,895)
<b>Total Revenue Changes</b>	<u>\$ (996,895)</u>

<sup>B</sup> **Expense Changes:**

Reduced intergovernmental expense	\$ (106,414)
Reduced franchise fee	(50,673)
Proration of new HR software based on revised implantation date	(24,600)
Adjusted O&M capital	(524,871)
Reduced debt service	(290,337)
<b>Total Expense Changes</b>	<u>\$ (996,895)</u>
<b>Net Revenue Over (Under) Expenses</b>	<u>\$ -</u>

**ATTACHMENTS:**

None



## COUNCIL AGENDA ITEM MEMORANDUM

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09/05/19  
Item #5  
Regular Agenda  
Page 1 of 2

### **DEPT./DIVISION SUBMISSION & REVIEW:**

Traci L. Barnard, Director of Finance

**ITEM DESCRIPTION:** FIRST READING – PUBLIC HEARING: Consider adopting an ordinance approving the tax roll and authorizing calculation of the amount of tax that can be determined for all real and personal property in the City for the tax year 2019 (fiscal year 2020).

**STAFF RECOMMENDATION:** Conduct public hearing, adopt ordinance as presented in item description on first reading and schedule second reading, public hearing, and final adoption for September 19, 2019.

**BACKGROUND:** The proposed ordinance will adopt the ad valorem property tax roll certified by the Tax Appraisal District of Bell County, in the amount of \$5,363,305,586. The total 2019 taxable value is as follows:

Taxable Value –

	Certified Taxable Value	% of +/- from Prior Year
City of Temple	\$ 4,354,611,733	10.89%
Freeze Taxable*	527,445,141	12.06%
Total Adjusted Value	\$ 4,882,056,874	11.02%
Tax Increment District (Reinvestment Zone No. 1)	481,248,712	9.25%
Total Taxable Value	<u>\$ 5,363,305,586</u>	10.86%

**FISCAL IMPACT:** The tax levy at the proposed tax rate of \$0.6727 in the 2019-2020 fiscal year is:

TAX RATE			TAX LEVY		
	FY 2020	FY 2019		FY 2020	FY 2019
Maintenance & Operations	\$ 0.3097	\$ 0.2982	Maintenance & Operations	\$ 13,486,233	\$ 11,710,076
Debt Service	0.3630	0.3630	Debt Service	15,807,241	14,254,720
	--	--	Frozen Taxes*	2,658,038	2,424,899
Total Tax Rate	<u>\$ 0.6727</u>	<u>\$ 0.6612</u>	Total Tax Levy	<u>\$ 31,951,512</u>	<u>\$ 28,389,695</u>
			Budget w/M&O at 99% Collection and I&S at 100% Collection	<u>\$ 31,790,069</u>	<u>\$ 28,248,345</u>
Tax Increment District (Reinvestment Zone No. 1)			Tax Increment District (Reinvestment Zone No. 1)		
Total Tax Rate	<u>\$ 0.6727</u>	<u>\$ 0.6612</u>	Total Tax Levy	<u>\$ 3,237,360</u>	<u>\$ 2,912,525</u>

\* - Frozen value = \$527,445,141

**ATTACHMENTS:**

2019 Certified Tax Roll  
Ordinance – to be provided

# Tax Appraisal District of Bell County

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July 16, 2019

City of Temple  
Tim Davis, Mayor  
2 North Main Street, Ste 103  
Temple TX 76501

Dear Mayor Davis

The enclosed information contains the certified values for the 2019 tax year for your entity. The Appraisal Review Board of Bell County certified the appraisal roll on the 11<sup>th</sup> of July 2019. The Appraisal District has certified a total net taxable value for your entity as \$5,363,305,586.

Sincerely

A handwritten signature in blue ink, appearing to read 'BW/WH', is written over the word 'Sincerely'.

Billy White  
Chief Appraiser

BW/lh

## 2019 CERTIFIED TOTALS

Property Count: 38,695

TTE - CITY OF TEMPLE  
Grand Totals

7/15/2019

9:15:27AM

Land		Value			
Homesite:		375,466,044			
Non Homesite:		425,388,790			
Ag Market:		76,796,708			
Timber Market:		271,086	Total Land	(+)	877,922,628
Improvement		Value			
Homesite:		2,852,942,198			
Non Homesite:		2,226,042,110	Total Improvements	(+)	5,078,984,308
Non Real		Count	Value		
Personal Property:	2,769		1,138,600,143		
Mineral Property:	0		0		
Autos:	969		10,861,725	Total Non Real	(+)
				Market Value	=
					1,149,461,868
					7,106,368,804
Ag	Non Exempt	Exempt			
Total Productivity Market:	76,345,919	721,875			
Ag Use:	2,681,478	24,689	Productivity Loss	(-)	73,659,723
Timber Use:	4,718	0	Appraised Value	=	7,032,709,081
Productivity Loss:	73,659,723	697,186			
			Homestead Cap	(-)	49,890,121
			Assessed Value	=	6,982,818,960
			Total Exemptions Amount	(-)	1,619,513,374
			(Breakdown on Next Page)		
			Net Taxable	=	5,363,305,586

Freeze	Assessed	Taxable	Actual Tax	Ceiling	Count		
DP	49,606,767	28,508,135	147,436.86	166,489.35	470		
DPS	523,973	160,863	787.25	1,526.18	6		
OV65	737,073,950	498,776,143	2,509,813.54	2,594,332.58	5,090		
Total	787,204,690	527,445,141	2,658,037.65	2,762,348.11	5,566	Freeze Taxable	(-) 527,445,141
Tax Rate	0.661200						
Transfer	Assessed	Taxable	Post % Taxable	Adjustment	Count		
OV65	3,087,097	2,447,162	1,762,633	684,529	16		
Total	3,087,097	2,447,162	1,762,633	684,529	16	Transfer Adjustment	(-) 684,529
						Freeze Adjusted Taxable	= 4,835,175,916

APPROXIMATE LEVY = (FREEZE ADJUSTED TAXABLE \* (TAX RATE / 100)) + ACTUAL TAX  
 34,628,220.81 = 4,835,175,916 \* (0.661200 / 100) + 2,658,037.65

Tif Zone Code	Tax Increment Loss
TETIF1	388,478,081
TETIF2	92,770,631
Tax Increment Finance Value:	481,248,712
Tax Increment Finance Levy:	3,182,016.48

**2019 CERTIFIED TOTALS**

Property Count: 38,695

TTE - CITY OF TEMPLE  
Grand Totals

7/15/2019

9:15:41AM

**Exemption Breakdown**

Exemption	Count	Local	State	Total
AB	16	343,043,375	0	343,043,375
CH	47	22,455,872	0	22,455,872
CHODO	1	9,588,586	0	9,588,586
DP	492	4,340,917	0	4,340,917
DPS	10	80,000	0	80,000
DV1	249	0	2,052,000	2,052,000
DV1S	37	0	175,000	175,000
DV2	225	0	1,959,329	1,959,329
DV2S	14	0	97,500	97,500
DV3	289	0	2,772,000	2,772,000
DV3S	25	0	220,000	220,000
DV4	738	0	5,827,022	5,827,022
DV4S	103	0	840,000	840,000
DVHS	759	0	134,917,286	134,917,286
DVHSS	74	0	11,413,211	11,413,211
EX-XG	3	0	198,253	198,253
EX-XI	2	0	283,890	283,890
EX-XJ	6	0	9,979,288	9,979,288
EX-XL	29	0	2,487,508	2,487,508
EX-XR	5	0	202,846	202,846
EX-XV	2,821	0	536,050,136	536,050,136
EX-XV (Prorated)	14	0	474,210	474,210
EX366	50	0	13,511	13,511
FR	3	0	0	0
HS	14,768	441,090,138	0	441,090,138
LIH	2	0	5,746,097	5,746,097
MASSS	3	0	829,847	829,847
OV65	5,392	50,917,963	0	50,917,963
OV65S	343	3,135,028	0	3,135,028
PC	23	28,322,561	0	28,322,561
<b>Totals</b>		<b>902,974,440</b>	<b>716,538,934</b>	<b>1,619,513,374</b>



**2019 CERTIFIED TOTALS**

Property Count: 38,695

TTE - CITY OF TEMPLE  
Grand Totals

7/15/2019 9:15:41AM

**State Category Breakdown**

State Code	Description	Count	Acres	New Value	Market Value	Taxable Value
A	SINGLE FAMILY RESIDENCE	22,799		\$102,564,848	\$3,238,664,691	\$2,544,920,807
B	MULTIFAMILY RESIDENCE	1,039		\$1,417,298	\$389,808,719	\$389,093,354
C1	VACANT LOTS AND LAND TRACTS	3,223		\$35,402	\$88,532,286	\$88,433,758
D1	QUALIFIED AG LAND	492	12,058.1370	\$0	\$76,345,919	\$2,588,924
D2	IMPROVEMENTS ON QUALIFIED OP	51		\$130,839	\$876,128	\$826,751
E	FARM OR RANCH IMPROVEMENT	542	4,518.7229	\$872,867	\$75,012,437	\$61,205,587
F1	COMMERCIAL REAL PROPERTY	1,807		\$15,484,456	\$727,082,559	\$722,743,391
F2	INDUSTRIAL REAL PROPERTY	130		\$0	\$715,794,331	\$367,551,406
J1	WATER SYSTEMS	2		\$0	\$82,907	\$82,907
J2	GAS DISTRIBUTION SYSTEM	7		\$0	\$12,567,772	\$12,567,772
J3	ELECTRIC COMPANY (INCLUDING C	29		\$0	\$70,255,543	\$70,255,543
J4	TELEPHONE COMPANY (INCLUDI	16		\$0	\$7,076,244	\$7,076,244
J5	RAILROAD	28		\$0	\$40,978,284	\$40,978,284
J6	PIPELAND COMPANY	56		\$0	\$4,190,840	\$3,729,622
J7	CABLE TELEVISION COMPANY	4		\$0	\$20,390,511	\$20,390,511
L1	COMMERCIAL PERSONAL PROPE	3,133		\$286,000	\$326,862,798	\$326,855,298
L2	INDUSTRIAL PERSONAL PROPERT	310		\$0	\$615,977,990	\$597,462,039
M1	TANGIBLE OTHER PERSONAL, MOB	401		\$420,207	\$4,062,296	\$3,214,853
O	RESIDENTIAL INVENTORY	2,008		\$32,076,543	\$68,513,939	\$67,516,122
S	SPECIAL INVENTORY TAX	56		\$0	\$35,812,413	\$35,812,413
X	TOTALLY EXEMPT PROPERTY	2,980		\$1,923,381	\$587,480,197	\$0
<b>Totals</b>			<b>16,576.8599</b>	<b>\$155,211,841</b>	<b>\$7,106,368,804</b>	<b>\$5,363,305,586</b>

**2019 CERTIFIED TOTALS**

Property Count: 38,695

TTE - CITY OF TEMPLE  
Effective Rate Assumption

7/15/2019

9:15:41AM

**New Value**

TOTAL NEW VALUE MARKET:	\$155,211,841
TOTAL NEW VALUE TAXABLE:	\$134,967,747

**New Exemptions**

Exemption	Description	Count		
EX-XV	Other Exemptions (including public property, r	57	2018 Market Value	\$2,167,271
EX366	HOUSE BILL 366	18	2018 Market Value	\$39,034
ABSOLUTE EXEMPTIONS VALUE LOSS				\$2,206,305

Exemption	Description	Count	Exemption Amount
DP	DISABILITY	8	\$80,000
DPS	DISABLED Surviving Spouse	1	\$10,000
DV1	Disabled Veterans 10% - 29%	34	\$247,000
DV1S	Disabled Veterans Surviving Spouse 10% - 29%	3	\$15,000
DV2	Disabled Veterans 30% - 49%	27	\$225,000
DV3	Disabled Veterans 50% - 69%	44	\$464,000
DV3S	Disabled Veterans Surviving Spouse 50% - 69%	1	\$10,000
DV4	Disabled Veterans 70% - 100%	105	\$1,152,000
DV4S	Disabled Veterans Surviving Spouse 70% - 100	6	\$48,000
DVHS	Disabled Veteran Homestead	61	\$7,805,047
HS	HOMESTEAD	953	\$34,742,706
OV65	OVER 65	368	\$3,514,517
OV65S	OVER 65 Surviving Spouse	1	\$10,000
PARTIAL EXEMPTIONS VALUE LOSS		1,612	\$48,323,270
NEW EXEMPTIONS VALUE LOSS			\$50,529,575

**Increased Exemptions**

Exemption	Description	Count	Increased Exemption Amount
INCREASED EXEMPTIONS VALUE LOSS			
TOTAL EXEMPTIONS VALUE LOSS			\$50,529,575

**New Ag / Timber Exemptions****New Annexations****New Deannexations****Average Homestead Value**

Category A and E

Count of HS Residences	Average Market	Average HS Exemption	Average Taxable
14,616	\$158,946	\$33,534	\$125,412
Category A Only			

Count of HS Residences	Average Market	Average HS Exemption	Average Taxable
14,452	\$158,174	\$33,139	\$125,035

**2019 CERTIFIED TOTALS**

TTE - CITY OF TEMPLE  
Lower Value Used

Count of Protested Properties	Total Market Value	Total Value Used
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## COUNCIL AGENDA ITEM MEMORANDUM

09/05/19  
Item #6  
Regular Agenda  
Page 1 of 2

### DEPT./DIVISION SUBMISSION & REVIEW:

Traci L. Barnard, Director of Finance

**ITEM DESCRIPTION:** FIRST READING – PUBLIC HEARING: Consider adopting an ordinance setting a tax rate \$0.6727 per \$100 valuation, comprised of \$0.3097 for maintenance and operations and \$0.3630 for debt service, for Fiscal Year 2020 (Tax Year 2019), making the appropriation for the regular operation of the City.

**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 September 19, 2019.

**ITEM SUMMARY:** The proposed property tax rate to support the Fiscal 2019-2020 Budget is \$0.6727 per \$100 of taxable assessed property value. The proposed tax rate will generate \$29,293,474 of property tax levy when applied to an ad valorem tax base of \$4,882,056,874 less \$527,445,141 of freeze taxable value. In addition, there will be \$2,658,038 in frozen tax levy for a total property tax levy of \$31,951,512. The proposed tax rate of \$0.6727 represents a 13.06% increase over the effective tax rate of \$0.5950.

The fiscal year 2019-2020 tax rate is comprised of the Maintenance and Operation rate and the Debt Service rate. These two components are as follows:

TAX RATE			TAX LEVY		
	FY 2020	FY 2019		FY 2020	FY 2019
Maintenance & Operations	\$ 0.3097	\$ 0.2982	Maintenance & Operations	\$ 13,486,233	\$ 11,710,076
Debt Service	0.3630	0.3630	Debt Service	15,807,241	14,254,720
	--	--	Frozen Taxes*	2,658,038	2,424,899
Total Tax Rate	<u>\$ 0.6727</u>	<u>\$ 0.6612</u>	Total Tax Levy	<u>\$ 31,951,512</u>	<u>\$ 28,389,695</u>
			Budget w/M&O at 99% Collection and I&S at 100% Collection	<u>\$ 31,790,069</u>	<u>\$ 28,248,345</u>
Tax Increment District (Reinvestment Zone No. 1)			Tax Increment District (Reinvestment Zone No. 1)		
Total Tax Rate	<u>\$ 0.6727</u>	<u>\$ 0.6612</u>	Total Tax Levy	<u>\$ 3,237,360</u>	<u>\$ 2,912,525</u>

\* - Frozen value = \$527,445,141

The residential homestead exemption for property owners is \$5,000 or 20% of the assessed value whichever is greater. In addition to the homestead exemption, property owners 65 years of age or older will continue to receive an additional \$10,000 exemption and all disabled individual property owners will receive an exemption of \$10,000 in accordance with Texas Tax Code Section 11.13.

The ad valorem tax freeze on the residence homestead of a person who is disabled or sixty-five (65) years of age or older (as approved in an election held in the City of Temple on May 7, 2005) applies to Tax Year 2006 (FY 2007). The amount of the qualifying homeowners tax ceiling was determined on the Tax Year 2005 (FY 2006). Future city taxes on that homestead cannot exceed the 2005 tax amount (but may be less). The tax limitation, however, may be adjusted higher for an increase in improvements to the homestead, other than repairs and those improvements made to comply with governmental regulations.

The motion to adopt an ordinance setting a tax rate that exceeds the effective tax rate must be made in the following form: **“I move that the property tax rate be increased by the adoption of a tax rate of \$0.6727, which is effectively a 13.06 percent increase in the tax rate.”**

Pursuant to Section 11.20 of the City Charter, all taxpayers shall be allowed discounts for the payment of taxes due to the City if such taxes are paid in the year for which such taxes are due as follows: 3% in October; 2% in November; and 1% in December.

#### **FISCAL IMPACT:**

##### **Example – Annual Property Tax - \$100,000 Taxable Value:**

With the proposed tax rate of \$0.6727 per \$100 valuation, the cost to a homeowner with a taxable value of \$100,000 would increase by \$11.50 per year (\$0.96 per month) if there was no change in taxable value from the prior year.

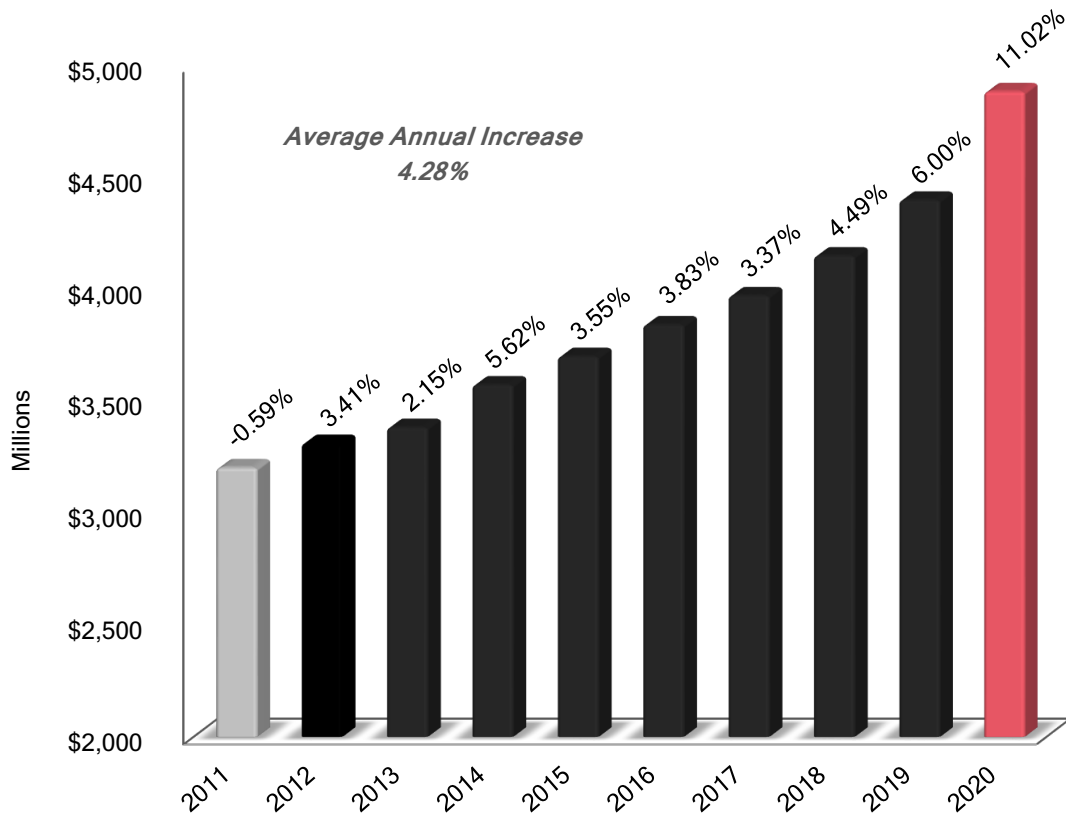
#### **ATTACHMENTS:**

Assessed Value of Taxable Property  
Ordinance - to be provided

**CITY OF TEMPLE, TEXAS**  
**Assessed Value of Taxable Property**  
**Last Ten Fiscal Years**

<b>Fiscal Year Ending September 30,</b>	<b>Taxable Property Valuation</b>	<b>Percent (%) Increase (Decrease)</b>
2011	\$ 3,201,978,908	-0.59%
2012	3,311,259,863	3.41%
2013	3,382,401,984	2.15%
2014	3,572,423,141	5.62%
2015	3,699,245,668	3.55%
2016	3,840,746,157	3.83%
2017	3,970,340,738	3.37%
2018	4,148,669,011	4.49%
2019	4,397,616,969	6.00%
<b>2020</b>	<b>4,882,056,874</b>	<b>11.02%</b>

<b>Average Annual Increase</b>	<b>4.28%</b>
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## **COUNCIL AGENDA ITEM MEMORANDUM**

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09/05/19  
Item #7(A-G)  
Consent Agenda  
Page 1 of 1

### **DEPT./DIVISION SUBMISSION & REVIEW:**

Lacy Borgeson, City Secretary

### **ITEM DESCRIPTION:** Approve Minutes:

- (A) July 11, 2019 Special & Regular Called Meeting
- (B) July 18, 2019 Special & Regular Called Meeting
- (C) July 25, 2019 Special Meeting
- (D) August 1, 2019 Special & Regular Called Meeting
- (E) August 9, 2019 Special Meeting
- (F) August 15, 2019 Special & Regular Called Meeting
- (G) August 26, 2019 Special 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:**

[July 11, 2019 Special & Regular Meeting Minutes / Video](#)  
[July 18, 2019 Special & Regular Meeting Minutes / Video](#)  
[July 25, 2019 Special Meeting Minutes](#)  
[August 1, 2019 Special & Regular Meeting Minutes / Video](#)  
[August 9, 2019 Special Meeting Minutes](#)  
[August 15, 2019 Special & Regular Meeting Minutes / Video](#)  
[August 26, 2019 Special Meeting Minutes](#)

## TEMPLE CITY COUNCIL

**JULY 11, 2019**

The City Council of the City of Temple, Texas and the City of Temple Employee Benefits Trust conducted a joint meeting on Thursday, July 11, 2019 a 2:00 PM, at the Municipal Building, 2 North Main Street, in the 3rd Floor Conference Room.

### **COUNCILMEMBERS PRESENT:**

Councilmember Susan Long  
Councilmember Jessica Walker  
Councilmember Wendell Williams  
Mayor Pro Tem Judy Morales  
Mayor Timothy A. Davis

### **EMPLOYEE BENEFITS TRUST PRESENT:**

Ms. Susan Long  
Ms. Jessica Walker  
Mr. Wendell Williams  
Ms. Judy Morales  
Mr. Timothy A. Davis

1. **2019-9704-R: Consider adopting a resolution authorizing the purchase of employee insurance policies from the following vendors for FY2020:**

**(A) Medical & Pharmacy Insurance Plans from Scott and White Health Plan of Temple;**

**(B) Dental Insurance Plans from United Concordia Companies, Inc. of Harrisburg, Pennsylvania;**

**(C) Vision Fully Insured Policy from Standard Insurance Company of Portland, Oregon;**

**(D)Flexible Spending Account (FSA), Dependent Spending Account, Cafeteria 125 Plan, and Health Savings Account (HSA) administrative services from Discovery Benefits, LLC of Fargo, North Dakota;**

**(E)Consolidated Omnibus Budget Reconciliation Act (COBRA) administrative services from Discovery Benefits, LLC of Fargo, North Dakota;**



**(F) Basic Life, Voluntary Life and Accidental Death and Dismemberment (AD&D) policies from Standard Insurance Company of Portland, Oregon;**

**(G) Short-Term and Long-Term Disability insurance from Standard Insurance Company of Portland, Oregon; and**

**(H) Accident, Critical Illness, Hospital Indemnity and Cancer insurance plans from The Guardian Life Insurance Company of America of New York, New York.**

Tara Raymore, Director of Human Resources provided an overview of the proposed offerings for the next fiscal year to include plans for medical/prescription; dental; vision; basic life/AD&D; Long-Term and Short-Term disability; FSA, HSA, & COBRA; as well as accidental, critical illness, hospital indemnity, and cancer plans.

RFPs were sent out in April 2019, and staff is recommending the following:

**Medical & Pharmacy Insurance Plans** from Scott and White Health Plan of Temple; with four plans (two high deductible HSA Plans, and two PPO Plans) including two nationwide provider network plans, and two Scott & White preferred network plans; reduced deductibles and office visit co-pays; reduced premiums; and a one-year rate maximum 6% rate cap guarantee.

**Dental Insurance Plans** from United Concordia Companies, Inc. of Harrisburg, Pennsylvania; with two plans (a Base and Buy-Up). The benefits are similar to the current plans; additional in-network providers, with a two-year rate guarantee.

**Vision Fully Insured Policy** from Standard Insurance Company of Portland, Oregon, with the benefits similar to the current plans; reduced costs to the employees, and with a two-year rate guarantee.

**Basic Life, Voluntary Life and Accidental Death and Dismemberment (AD&D) policies** from Standard Insurance Company of Portland, Oregon with one plan paid for by the City, with three-year rate guarantee.

**Short-Term and Long-Term Disability insurance** from Standard Insurance Company of Portland, Oregon with no pre-existing condition clause for Short Term, and reduced Long-Term cost to the City; and a three-year rate guarantee.

**Flexible Spending Account (FSA), Dependent Spending Account, Cafeteria 125 Plan, Consolidated Omnibus Budget Reconciliation Act (COBRA) and Health Savings Account (HSA) administrative services** from Discovery Benefits, LLC of Fargo, North Dakota using the same process as this year, with a three-year rate guarantee.

The additional benefits offered went out for RFP in 2018. Staff is recommending that the **Accident, Critical Illness, Hospital Indemnity and Cancer** insurance plans be renewed with The Guardian Life Insurance Company of America of New York, New York with no changes being proposed.

Ms. Raymore explained that this is a reduction in medical cost of approximately \$441,000 with the majority of those savings being applied to the employee's premiums. Overall there is a savings of \$458,000 among all benefits offered in 2020, with the employee savings of \$472,000.

Mayor Davis thank staff for their efforts and commitment to getting the best product for the employees.

Ms. Myers added, this was a significant effort on both the staff side, as well as Baylor Scott and White. This is a meaningful product with reduced costs to the employees.

Motion by Ms. Susan Long, and seconded by Ms. Judy Morales to approve as presented.

Mr. Davis adjourned the joint meeting of the Council and the Employee Benefits Trust; and Mayor Davis called to order the workshop of The City Council of the City of Temple, Texas for Thursday, July 11, 2019 at approximately 2:10 PM, at the Municipal Building, 2 North Main Street, in the 3rd Floor Conference Room.

**1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, July 11, 2019.**

Ms. Landeros, City Attorney discussed item 7 on the regular agenda as it related to amendments to Chapter 6, "Animals and Fowl". She explained that a full presentation was provided to the Council in June and since then Staff removed the Ferrell Cat Colony Program. Administration and enforcement of this proposed program would be too tricky on staff. Individuals that wish to own more than the allowed three cats, may apply for an annual multi-pet permit through Animal Services.

The proposed amendments were also presented to the Animal Services Advisory Board in June. A Animal Services Board meeting was held on July 9th where they voted to recommend the proposed amendments. All were approved, with an additional amendment to section 6.54 to allow for the keeping of miniature swine within the City limits of Temple. The general rules is that swine are only allowed in the City if they are kept in a pen or enclosure on a tract of land at least 10-acres in size that is zone agriculture. The proposed exception is that miniature pigs would be allowed in all parts of the City if:

(1) The person obtains a miniature swine permit from the City and pays the permit fee; (2) The swine weighs no more than 150 pounds; (3) The swine

is kept indoors; (4) No more than 2 swine per household; (5) Swine may not be kept on the premises of any public business; (6) Swine must be sterilized; (7) No breeding allowed; (8) Areas where swine is kept are clean; (9) Swine is vaccinated against erysipelas; and (10) Swine may not have access to public body of water.

Councilmember Williams asked how the weight of 150lbs was established.

Ms. Landeros explained there is no magical process, but that in 2014 the council was asked to consider a similar amendment that suggested 75lbs as the allowed weight. When the amendments were heard at the 2nd reading (which did not pass) Councilmember Schneider requested that the weight limit be increased to 200lbs.

On Tuesday at the ASAB meeting, Dr. Crews felt like 200lbs too much, and suggested 150lbs.

Mayor Davis asked if we really knew how large these animals would grow to be.

Ms. Landeros explained that this part of the concern. Staff's concerns are that people may not always know what they are being sold. This has been an issue for several years according to a recent National Geographic article. Enforcement will be difficult as the animal grows and becomes a member of the family, how do you remove it. Vaccination records could be incorporated as part of the permitting process to monitor the weight.

Lt. Hunt also expressed his concerns with regards to enforcement and removal of the animal if it exceeds the weight limit.

Councilmember Long asked if Staff was not in favor of this amendment.

Lt. Hunt stated yes, there are concerns from both staff and citizens.

Councilmember Long asked if language could be incorporated into the ordinance allowing staff to evaluate the program at a late date; and grandfather any swine.

Ms. Landeros explained that any regulation can be reviewed at any time; but if you remove it, you would need to grandfather any that had been allowed.

Councilmember Long asked if the City has received complaints about people having miniature pigs now.

Lt. Hunt stated that Animal Services receives about 3-4 for a year.

Councilmember Williams asked how that is currently being dealt with by Staff.

Lt. Hunt noted it is prohibited so the owner must remove the pig.

Councilmember Long asked Mr. Myers what her recommendation is.

Ms. Myers replied it is staff's recommendation to prohibit miniature swine within the City. However, the advisory board that is tasked with making these recommendations has done so, and you would certainly want to take that into consideration as well.

Councilmember Long asked Ms. Landeros as to why the Animal Advisory Board was in favor of this amendment.

Ms. Landeros explained that a citizen, Ms. Hawley, came and spoke at their meeting and provided some information that may have swayed the decision of the ASAB. Dr. Crews was also passionate about his position and advocated the changes.

Councilmember Long noted that she really didn't want to support the recommendation of an advisory board. Will this increase Staff's workload?

Ms. Myers replied no.

Mayor Davis also noted that item 3(F) on the Consent Agenda. He stated there appears to be a concern from the citizens that they have been left out of this process. Mayor asked the Council if they felt it necessary to remove from the Consent Agenda for discussion and separate vote at the Regular Meeting.

Don Bond, Director of Public Works explained that the construction contract for the Pepper Creek elevated storage tank had been awarded. This item on tonight's agenda, 3(F), is to award the construction testing services. To pull item 3(F) would not impact the delivered services for the completed product. Plans have been submitted to TCEQ for approval and staff has received a verbal approval. Later, complaints were received by TCEQ, and then TCEQ send the City an email response stating it was in conflict with one of TCEQ's rules. The email was worded to assume that it was underground tank, and therefore the City believes TCEQ's email response was sent in error. Staff has since contacted TCEQ requesting clarification.

That same response indicated that the conflict would require the City of Temple to apply for an exception to that rule. Mr. Bond noted that Staff believes they will clarify that this is not in conflict. If they do not, the City will submit a request for exception, and strongly believe that TCEQ will grant the request for the proposed tank. If the tank is in conflict with a TCEQ rule, then the existing tank is in conflict as well.

Ms. Landeros, clarified that what is noticed on the agenda is to increase the amount of the contract for testing services.

Mayor Davis noted the item would not need to be removed for separate consideration.

**2. Receive a presentation regarding the fiscal year 2020 Proposed Business Plan including a proposed strategic plan, financial plan, annual budget, capital improvement program, and annual work plan.**

Ms. Myers reviewed the proposed budget and business plan and process with the Board. We all want to have an exceptional community; and to have an exceptional community, that requires strategic and intentional actions and thoughts from the leaders. Our goal is to be able to identify strategic decisions today that will ensue success for future generations. To do so, we must have master plans. The City currently has \$240M in capital projects that are being implemented. We are very busy, but through Council's support, Staff has taken this year as a planning year.

The City's Strategic Plan was developed in 2002; and last updated in 2008 and has served its life and is no longer driving the decisions we're making to move the community forward. But it is time to update the Plan. To be successful you need a plan that is worked. The Downtown Master Plan of 2013 is a great plan, that has allowed the City to have great success. Through the Downtown Master Plan there were five districts identified, (1) Santa Fe Plaza Area; (2) MLK Festival Grounds; (3) 1<sup>st</sup> Street District; (4) Town Center/City Center; and (5) Connectivity from Downtown to the surrounding neighborhoods.

Ms. Myers continued with stating our commitment is to have a plan that is active and worked. In order to do this, we will need to allocate resources that are aligned with the Strategic Plan. We have approached our budget a bit different this year. We are preparing and submitting a 1+5 year plan that will be resource constrained. The Business Plan will incorporate the following five items, (1) a Proposed Strategic Plan that covers FY 20 – FY 25; (2) a Proposed Financial Plan to resource the Strategic Plan through the entire planning period; (3) a Proposed Annual Budget to formally adopt the resource allocation plan for the first fiscal year (FY 2020); (4) a Proposed Capital Improvement Plan to align capital projects in support of the Strategic Plan; (5) a Proposed Annual Work Plan that details the priority actions items that will be implemented in support of the Strategic Plan for FY 2020.

Ms. Myers noted that we are committed to being focused. We are committed to challenging ourselves to look into the future and approach our planning from a longer-term view and to set an intentional direction for the organization for the next six years. We will plan for those things that are critical to maintain and enhance the Temple we all love. We will consider the need for growth, change, and innovation so that the City of Temple will be a city where the next generations will also love to call home. We are a service-based organization, and should strive to provide the best service

possible. Ms. Myers explained the framework is critical to the process.

**The Vision:** Temple, a place you'll love to call home.

**The Mission:** Exceptional service, without exception.

**Values:** Commitment, Innovation, Integrity, Accountability; and Collaboration.

**Focus Areas:** High-Performing Organization; Places and Spaces; Public Safety; and Infrastructure and Utilities.

Staff's **Focus Areas** are the priorities. **Goals** is what we want to achieve. **Commitments** is what we are going to do; and **Initiatives** is how are we going to do it. Ms. Myers noted the nine identified goals, (1) An organization committed to performance excellence; (2) Community leaders with a bold vision and intentional direction; (3) Talented and dedicated employees who have a heart for service; (4) An open, responsive, and accountable government; (5) A City that supports well-managed growth and development to promote a thriving economy; (6) Beautiful spaces and unique experiences; (7) Neighborhoods where people love to live; (8) Infrastructure and systems that support exceptional services and community growth; and (9) A safe and healthy community.

Public Safety. The primary goal is to ensure that we have the necessary resources to maintain a safe community as we grow and develop.

Ms. Myers reviewed some of the initiatives within the public safety area of the plan. Increase the patrol districts from 8 districts to 10 districts. This is due to the growth of our community. The far west district (district 8) is geographically large, the plan proposes to reduce the geographic boundaries of that district to allow for a great presence. The core of our community (district 3) has the highest volume of calls and is densely developed. The goal in the plan is to split the current district into a small geographic area which will enhance the performance throughout.

Implementing the Violet Crime Enforcement Squad has been a priority of the Council's for several years. We have been working on this program in phases. This squad is intended to be proactive in addressing some of the more serious violent crimes in our community to really put resources on a problem and solve the crime. This is the final phase necessary (two additional officers) to complete this squad and bring it to full staffing capacity.

A robust Neighborhood & District Community Policing Program is also recommended in the Business Plan. This involves a couple different things to include, the addition of another Community Oriented Policing Unit, but also an Ambassador Program with civilian personnel. The Safety Ambassador will work with and under the Police Department and would partner with the sworn officers to expand the public safety presence within the parks, neighborhoods, as well as the downtown area. This will allow us to have greater impact on the downtown area. The Zone has taken an

incredible leadership role in our neighborhood planning efforts and this is part of the effort.

Adding an additional detective unit known as the Property Crimes Criminal Investigations Unit to focus on property crimes. Property crimes is the most common in our community and as we grow and develop the case load will as well. This is important so that we can respond to these crimes.

Within in the plan it is recommended that we add Civilian Support Staff, an additional non-emergency call-taker at the Police Department as well as an additional records technician to help keep up with the case load.

As it relates to Fire, the Chief and Ms. Myers spent an abundant amount of time discussing whether or not a new station would need to be constructed in this six-year planning period. It was determined not to construct a facility at this time, but it may be prudent to start identifying the location of a new station. Ms. Myers felt confident that we could provide the necessary services with current stations.

In this plan it is recommended that we additional Squad Units + Staffing. An engine is your traditional response apparatus, which is made up of a three-man company (Captain, Driver, and Firefighter). A squad is smaller response vehicle, and we currently have two squads in our fleet. This vehicle is extremely effective and helpful in supporting emergency medical calls, which is the vast majority of calls received by the Fire Department. Therefore, the recommendation is to add a squad to Station 4, which is the southern most station of the City. This will offer us added response capacity at that station without having to immediately build another station.

The plan recommends the addition of Two Replacement Ladder Trucks/One Replacement Engine. There are currently three-ladder trucks in the fleet.

The plan also contemplates the possibility of a \$15M Public Safety Bond. The focus and needs revolve around the training capacity for our first responders. Currently, the police officers train at a gun range located near the landfill that is essentially an earth and berm facility. The facility is 36-years old and does not have the equipment or technology needed for adequate training. The heart of the bond package is for a new gun range and shoot house.

As part of the bond package it is proposed to help with the expansion of the animal shelter. We have a great Animal Services Department, with 95+ percent of the adoptable animals are adopted out but the limiting factor for us is space. As our community grows, so will the pet population. It is prudent that additional kennel space is added to ensure we are able to continue providing the same level of service.

The plan also recommends adding a pet adoption center onto the Shelter.

The plan provides funding for an additional Animal Services Field Officers to keep up with the growth of the community and responding to animal services calls. Also funds additional staffing for the Pet Adoption Center.

Over the last few years, the City has taken on a desire to be very proactive in what we do with code compliance, but really geared more toward solution oriented. The focus has shifted from writing citations to finding a resolution. This is a complicated and complex program; but yet successful with positive results. There is a lot more work to be done, and we'd like to focus on our core neighborhoods. The plan recommends additional Code Compliance Resources to help build upon the current program.

Places & Spaces Recommendation is to create a Neighborhood Planning program that will look at each neighborhood district one at a time and develop a strategic master plan specific to that area. The program will also (1) identify capital improvements, programs, and / or initiatives to meet resident's needs and maintain the City's high quality of life; (2) develop neighborhood-specific zoning ordinances to ensure design standards and land use regulations align with the neighborhood master plans; and (3) develop a comprehensive neighborhood engagement and leadership program.

Housing Reinvestment Strategy is also necessary in the plan. It is critical to invest in the housing stock, particularly in East Temple. The City is a recipient of the Community Development Block Grant, which is a Department of Housing and Urban Development Program that is intended to ensure safe housing and living environments for the low to moderate income population. This program was established in the 1970's and over the years the regulations have become more tangled. It is frustrating to implement the goals of the program to improve housing, while being faced with barriers of regulations. What we've done is hire a consultant that is very familiar with the CDBG program to help develop a housing strategy that works within the parameters of that program. The plan recommends that we implement the strategy based on findings and recommendations of the consultant.

The Business Plan also recommends the expansion of the Transform Temple Program. This is an initiative of the Reinvestment Zone. We started with one crew that is funded by the Reinvestment Zone and focuses efforts primarily in the downtown area. The task is to ensure the cleanliness of downtown (weeds, litter, washing sidewalks, and benches). The recommendation is to add an additional daytime Transform Temple Crew and consider a third crew to the evening hours. This will allow a constant presence in the downtown area.

This recommendation is in support of the process we've been working on with TEDC to make sure that we are positioning and elevating Temple as a place. It is to update our Downtown branding & wayfinding as well as create a new Downtown website.



The next initiative is the Community Events Team. We currently have two event planners in the City, but they report to two different people. The first recommendation is that we consolidate the positions into an Event Team. The second recommendation is that we add an additional event planner as well as other resources to help us plan and carryout more community events. The goal is to have lots of vibrancy throughout the community through special events.

In terms of destinations, the Business Plan recommends that we develop and updated strategy for Temple as a destination. This will help us identify who we are, what we can be, and what steps we need to take to get there, as well as what are brand is for a destination and how we market. The second part to this is to identify the physical assets that we have in our community such as the Mayborn Convention Center, and The Railroad and Heritage Museum.

The Business Plan also recommends that we consider a \$33M Parks Bond. The City is currently underway with an update to the Parks Master Plan. That is scheduled to be completed later this calendar year (2019). The recommendation is that once that update is completed, that staff review the recommendations in the plan and determine whether or not a Parks Bond is needed in order to implement the Parks Master Plan projects.

As it relates to the Library, the focus is primarily for the facility's infrastructure and exterior in conjunction with a project of the Reinvestment Zone. We want to also wrap around that plan, the operations of the Library. This is an important asset within our community. It has been and will always be. The services that have been offered need to be reviewed and determine the need. Any new services needed most in the community need to be identified. A master plan will look at the programmatic part as well as the physical building.

Ms. Myers explained that the Plan also recommends looking at a strategy for homelessness. Ultimately, it will be incredible if we could do this county wide by working with our partners, but at a minimum we need to do tackle this at a city level. What strategies can we implement to help support our most vulnerable population, to connect them to the resources that already exist.

Next area of focus is utilities and infrastructure. The plan proposes that we develop a Transportation/Mobility Master Plan that covers vehicular traffic, sidewalks, and bike lanes. Really looking at our system comprehensively and identifying where investments need to be made as it relates to transportation. We currently have a successful, robust Capital Improvement Plan that contains over \$140M in projects that focus on obvious needs. What we lack is a mobility master plan so we can stay ahead of our growth. The plan recommends the successor plan for the current Transportation Capital Improvement Plan. In 2024 the Plan identifies another \$50M for a

specific project identified within the Mobility Plan.

With regards to the operation side of Transportation, we are recommending additional resources to include three street maintenance crews, (1) a street reconstruction crew to support the utility crews; (2) a patch crew; and (3) a right-of-way crew to help maintain right-of-ways.

A concrete crew is also recommended. The City and community has made significant investments to the sidewalks and trails, with millions of dollars being spent with those efforts. Unfortunately, we don't have a maintenance program to support that effort. As the sidewalks become in a state of repair, this crew will be able to provide the maintenance necessary to continue the mobility connectivity through the community.

There is a need for a robust program around sewer overflow reduction. Investments have been made in this area in the past, but there's much more work to be done. This will be a huge undertaking, with some done as part of major capital projects. For example, the Bird Creek Interceptor project which is a multi-million dollar project that has spanned over a decade to upgrade and repair the trunk line. There are other major interceptors in our system that need to also be upgraded and repaired that include the Williamson Creek Trunk and the Knob Creek Trunk. There are hundreds of lateral lines that feed into those pipes that need to be addressed. The recommendation is that we break this initiative up and study each basin on at a time and perform a comprehensive evaluation in order to identify capital projects need to be done in that basin. We are also recommending that a place holder be approved to allow staff to address any projects that may be identified. We anticipate this project to extend beyond the six-year planning period.

An additional recommendation as it relates to utilities is water leak repairs. Ms. Myers noted she her concern with the waterline repair capacity. We currently resource what we have available to respond to a non-emergency water leak. The recommendation is to add resources in the water department to address the leaks faster and in a timely manner.

The Business Plan contemplates/recommends the expansion of the Water Treatment Plant. Currently we are underway with the design of the expansion of the membrane treatment plant, which will add an additional 11+ million gallons of treatment capacity to our system. This capacity is needed as we continue to grow. Ms. Myers noted that the community has been excited to welcome Niagara to the Industrial Park, and they will be a major water user. The need for the water treatment plant expansion predates the Niagara project. The revenues associated with Niagara will help support the expansion of the water treatment plant, will only use a portion of the capacity.

The City currently has two waste water treatment plants, Temple-Belton Waste Water Treatment Plant and Doisher Farms. The City partners with

the City of Belton who owns 25% of the TBWWTP and Temple with 75%. Unlike the water treatment plant expansion, the waste water treatment plant expansion is regulatory with triggers set by TCEQ. Staff has planned for the likely-hood of meeting the required triggers that will require us to expand the waste water treatment plant within the six-year planning period; therefore, the Business Plan recommends providing the funding necessary to do that.

Ms. Myers then discussed solid waste. She noted the Plan recommends developing a Solid Waste Master Plan; implementation of technology to help manage and provide services in the most efficient manner; as well as the addition of routes that include (1) a commercial route; (2) a roll-off route; and (3) two residential routes.

The Plan suggests looking at the recycling center and efforts. Currently we use a leased space for the city's transfer facility for the recycling efforts. It is recommended that we relocate to an area most likely next to the current Service Center.

The Plan contemplates the expansion of the current Service Center building to provide necessary space for existing operations and for future growth of staffing and resources.

Lastly, is the Utility System Modeling. This is done as part of the Master Plans for Water, Sewer, and Drainage. The consulting engineer is developing a model for each of those utilities. The Plan recommends software and staff support necessary to keep those models up to date, as development occurs in our community, so that we'll be able to better respond to inquiries from potential development partners. There are many benefits to this model.

High Performing Organization relates to the internal operations of the city. The City of Temple is a service-based organization, and we provide services to our community and want to be committed to having the absolute highest level of performance in customer service. It is recommended that we pursue the Baldrige Performance in Excellence framework as we a way to make sure we are intentionally evaluating and focusing on continued improvement and implementing best practices.

It is recommended that we also pursue accreditation for our Parks Department, Public Works Department, Police, and Fire. Community Service is also a huge priority with our Council. The goal and desire is to provide exceptional customer service to our citizens.

The recommendation within the Plan is that we have an intentional and specific program around customer service so that we are training, and equipping all of our employees, but especially the frontline to provide exceptional customer service and be held accountable for it as well.

Another recommendation related to the work with DCI and in partnering with the Economic Development Corporation is to consolidate a lot of the work as it relates to marketing and communications into one department. To move from a house of brands to a branded house to project a professional image that reflects what we are as a community and organization; but to also add a host of tools and resources to provide a robust communications program for our community. This effort also includes a new website.

In terms of Development Services, the plan recommends in support of the community growth, that we have the resources available to continue the current high level of service. Ms. Myers noted the Plan recommends the position of a Business Navigator to help small businesses navigate throughout the process.

The Reinvestment Zone has been working on the potential additions to the Airport, one being the Airport Executive Terminal. The Business Plan recommends that we add professional FBO customer service staffing. Currently the Airport staff wears multiple hats; with no dedicated customer service personnel.

We have a credible need to invest in technology. This is important to many, and we are able to meet the performance standards, as well as the commitment to provide services efficiently and effectively when we are appropriately using technology. Some of the investment is to update our legacy systems, but also for new technology to include solid waste Management software, agenda management software, and boards and commissions software.

Lastly, the commitment and goal to be the employer of choice. It is not just about compensation and benefits. We provide services through our employees, and they are the delivery point of those services. If we want exceptional service, we also need exceptional employees. How do we go about attracting, retaining, and developing those talented employees to choose Temple as the place they want to build their careers? It is about making sure our employees feel like they are connected to the vision and mission of the organization. We have an incredible opportunity as a public agency. Public services is a calling and many are attracted to it because they have an opportunity to make a difference.

As the Plan relates to the specific budget for 2020, the recommended proposed budget for all funds total a little more than \$176M, which is inclusive of the RZ Fund as well. The general fund is a \$84.6M in expenditures. This budget is supported by a proposed estimated tax rate of 68.88 cents, which is based on preliminary values. When the proposed budget was filed at the end of June, we did not have the certified roll. So the tax rate could change once the roll is released; but it recommends an increase to the tax rate on the operational side of 2.76 cents.

Mr. Myers continued, noting that seniors 65+ who have the homestead

exemption will not be impacted. For the average homeowner, the monthly impact is \$2.30 per \$100,000 of taxable valuation. This Plan is based on moving the funding source of the TEDC to the RZ fund. Traditionally TEDC has been funded within the City's general fund. Ms. Myers explained that her recommendation is based on the fact that the City is a partner with the Economic Development for promotion of economic development in our community, specifically marketing for businesses to choose Temple, as well as negotiations and incentives for those businesses to locate or expand in the City of Temple. Over a very short period of time, we have experienced a lot of success, and a significant investment in that program with the vast majority of the investment occurring in the Reinvestment Zone. This is by design, as the Reinvestment Zone is an economic development program covering the Industrial Park area, Downtown, and TMED. Because the investments are physically within the Zone, the vast majority of the tax revenue associated with those investments are Reinvestment Zone funds and not general funds. We are also starting to see, for the first time, a lot of residential development within the boundaries of the Zone, such as North Gate and Prairie Ridge. We are also doing master planning work in the south TMED area which is encouraging residential development in the Reinvestment Zone. As this occurs, the RZ fund cannot pay for police and fire services.

The goal is that the entire Plan that is proposed is able to be implemented with the financial feasibility in mind.

From staff's perspective, this Plan is one that we are committed to and will implement. Everything we do as an organization will be driven by the adopted Strategic Plan, and the annual budget. We will develop annual work plans for departments and individuals as part of this implementation of the Strategic Plan. The Plan will be tracked and reported on.

Mayor Davis announced that the Council would enter into an executive session at approximately 3:47 pm.

**3. Discuss the employment, duties, and work plans of the City Manager, City Attorney, and the Finance Director.**

***Texas Government Code § 551.074 – The City Council will meet in executive session to discuss the hiring process, appointment, employment, and duties of the City Manager, City Attorney, and the Finance Director. No final action will be taken.***

Mayor Davis adjourned the executive session at approximately 5:00 pm, with no final action.

The City Council of the City of Temple, Texas conducted a Regular Meeting on Thursday, July 11, 2019 at 5:00 PM in the Council Chambers, Municipal Building, 2nd Floor, 2 North Main Street.

**Present:**

Councilmember Susan Long  
Councilmember Jessica Walker  
Mayor Pro Tem Judy Morales  
Councilmember Wendell Williams  
Mayor Timothy A. Davis

## **I. CALL TO ORDER**

### **1. Invocation**

Brandon Baker, with Impact Temple voiced the Invocation.

### **2. Pledge of Allegiance**

Doree Collins with the Youth, Impact Temple led the Pledge of Allegiance.

## **II. PUBLIC COMMENTS**

Robert Beamon, 611 W Royal Avenue thanked the City of Temple for hosting the first Fellowship Gathering in June which included 40-45 churches. It was a great event.

Chris Flor, 358 GreenPark Dr. explained that he moved here seven years ago to the North Cliff Subdivision. He was originally attracted to the spirit of partnership within the community. Pepper Creek water tower project is the opposite of partnership. There has been little to no communication of this happening. There is now a lack of trust amongst the residents in this area and the City. Mr. Flor noted the agenda posted was not clear; and every time the items have been on the consent agenda with no discussion from council. The Consent agenda should be used for routine items only. He also added that the residents are receiving conflicting information related to the tower.

Kevin Koonce, 353 Claremount Drive, also discussed issues with the Pepper Creek water tower project. This is a great community, but sadly this has been a nightmare. There has been no cooperation with city staff and citizens to keep information out there related to the project. Mr. Koonce believed that this was a violation of Open Meetings Act since the item was on Consent and non-descript. He suggested that liability has been created, and asked the Council to take extra time and do the right thing.

Pam Bass, 451 Green Park Drive, explained the Pepper Creek water tower would be directly in front of her home. They would not have purchased this home if they had known a tower would be there. Concerned that the City of Temple has coerced Mr. George. She asked the Council to do research, and see how it will impact the neighborhood before going forward.

Corey Preuninger, 128 Claremount Drive, also expressed concerns with

regards to the Pepper Creek water tower. He feels that the City of Temple is creating a project that will lower the investment for many in this neighborhood. No one was noticed or had say in the process. Mr. Preuninger added that he submitted an open records request and had not received a response from the City.

Richard Krusen, 268 Claremont Drive, noted there are significant concerns with the Pepper Creek water tower. Property value would decline, and become unsalable. How did this come about since there was no notice on project. Mr. Krusen asked that the project be put on hold to get more information and the impact it would have on the neighborhood. He suggested moving the project to the land across the street, since that will not impact the neighborhood.

Burt Bass, 451 Green Park Drive, stated he is in the construction business, and understands there is a process for zoning. Why did this not have to go through that process? This is an unacceptable location and will negatively impact those in the neighborhood. Why not sure the place across the street near the main and lessen the cost of the project.

Rick Hoefert, 502 North Cliff, applauded the council for taking action and doing something positive in the neighborhood. He explained that there is a need for the tower. It will provide consistent stable water source and he didn't believe it would have a negative impact on property values. Currently, there is poor water pressure in the neighborhood. The Public Works Staff have been very open with details regarding the project, as this was not a hidden item. He added that in February / March there were geotechnical surveys, and this was known throughout the neighborhood. He noted that if it is decided not to go forward with this project, it would add additional cost and time to resolve. The proposed site is unsightly, and this will help that issue as well.

Shawn Luce, 323 Green Park Dr., stated he appreciates the work and how the city is led. The impact of this project would be negative to those in the neighborhood. How can we see eye to eye on this issue. He noted that he was unopposed to the current project as it is proposed.

Mark Mahler, 209 E. 11th Belton, lived in North Cliff for ten years. He explained that material facts related to the project were not disclosed. There are two lots adjacent to the proposed location for the tower. Why wasn't there a notice mailed out to the residents, knowing this would significantly impact the properties? This will negatively impact values and lives of so many. Please find a reasonable solution to fix this problem.

Julie Mahler, 209 E. 11th Street, Belton, read a letter from Dr. Curtis Fort and wife Kim. The letter requests that the council and city reconsider the project, as it will impact the property values; and will not increase water pressure. There are other better suitable lots available to place this tower

on.

Ms. Mahler asked the council if they had even driven by the proposed site. She suggested that they do, and stay for a minute to access the impact. Ms. Mahler requested the council reconsider this project site.

RaeAnn Flor, 358 Green Park Dr., noted that she was disappointed and disgusted with leadership and those that find this acceptable. This was not obvious to anyone in the neighborhood. This project will add extra lights and sounds that will be a nuisance. She stated she was told this tower will have little impact on Norht Cliff. She was also told that a water bottling plat (Niagara) that will pull from water and this tower, and that is the reason the tower is coming on-line. This is for the benefit of the City of Temple, and for the citizens. This will most definitley impact the communtiy and values. There was an on-line survey with more than 300 signatures in opposition of this project.

### **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 and ordinances for each of the following:**

**(A) June 6, 2019 Special & Regular Called Meeting**

**(B) June 7, 2019 Special Meeting**

**(C) June 20, 2019 Special & Regular Called Meeting**

**(D) 2019-9705-R: Consider adopting a resolution authorizing a contract for the asbestos abatement and demolition of the old airport terminal building with Garrett Demolition, Inc. of Burleson in the amount of \$79,715.**

**(E) 2019-9706-R: Consider adopting a resolution authorizing a contract with Brockway, Gersbach, Franklin and Niemeier, P.C. to perform the annual City of Temple audit for an amount not to exceed \$77,900.**

**(F) 2019-9707-R: Consider adopting a resolution authorizing an increase of \$26,023 to the estimated spending under the annual contract for construction material testing with Langerman Foster Engineering Company, LLC of Waco, for the construction of a**



**new Pepper Creek elevated storage tank, as well as, declare an official intent to reimburse the expenditures with the issuance of the 2019 Utility Revenue Bonds.**

**(G) 2019-9708-R: Consider adopting a resolution authorizing contract amendment #1 to the professional services agreement with Kimley-Horn and Associates, Inc., of Austin, for professional services required to design South Pea Ridge Road from Hogan Road to Poison Oak Road in an amount of \$82,840.**

**(H) 2019-9709-R: Consider adopting a resolution authorizing acceptance of grant funding in the estimated amount of \$1,917,000 from the Texas Department of Transportation, Aviation Division, Airport Project Participation Grant Fund, for the design and construction of the Airfield Lighting Improvements project at the Draughon-Miller Central Texas Regional Airport, with an estimated City match of 10% or \$213,000 for a total project cost of \$2,130,000.**

**(I) 2019-9710-R: Consider adopting a resolution authorizing the Temple Police to submit an application and accept funding through the Bureau of Justice Assistance Bulletproof Vest Partnership Program of 2019 for the purchase of ballistic vests and replacements for the Police Department in the amount of \$26,406.73, with \$13,203.36 of required City matching funds.**

**(J) 2019-9711-R: Consider adopting a resolution authorizing a grant application and acceptance of services from the University of North Texas Rescuing Texas History Mini-Grants 2019 Program in the amount of \$1,000.**

**(K) 2019-9712-R: Consider adopting a resolution ratifying change order #4 to a contract with Choice Builders, LLC, of Temple, for construction of the Conner Park drainage channel improvements, in the amount of \$32,036.**

**(L) 2019-9713-R: Consider adopting a resolution authorizing the purchase of solid waste fleet automation hardware, implementation and software subscription services with Routeware Inc., of Portland, Oregon, in the amount of \$222,251, as well as, declare an official intent to reimburse a portion the expenditures with the issuance of 2019 Limited Tax Notes.**

**(M) 2019-9714-R: Consider adopting a resolution authorizing the purchase of a sealing melter from Crafc0, Inc., in Chandler, Arizona, in the amount of \$50,267.12, as well as, declare an official intent to reimburse the expenditure with the issuance of 2019 Limited Tax Notes.**

**(N) 2019-9715-R: Consider adopting a resolution authorizing the purchase of a 16-foot cutting width mower from Professional Turf Products, L.P. of Euless in the amount of \$99,697.85.**

**(O) 2019-9716-R: Consider adopting a resolution authorizing the purchase of a property necessary for the Poison Oak Road Expansion Project and authorizing closing costs and relocation benefits associated with the purchase in an estimated amount of \$163,000.**

**(P) 2019-9717-R: Consider adopting a resolution accepting the donation of 1.280 acres of land located to the west of the Leon River and to the east of Interstate 35 from Kasberg, Patrick & Associates, LP to the City of Temple. Ordinances – Second & Final Reading**

**(Q) 2019-4973: SECOND READING – FINAL HEARING – FY-19-14-ZC: Consider adopting an ordinance authorizing a Conditional Use Permit with a Site Plan to allow a restaurant where less than 50% of the gross revenue will be from the sales of all alcoholic beverages with on-premise consumption on Lot 1, Block 1, Los Tres Maguelles Subdivision, located at 2801 South General Bruce Drive within the I-35 Corridor Overlay Retail sub-district.**

**(R) 2019-4974: SECOND READING – FINAL HEARING – FY-19-15-ZC: Consider adopting an ordinance authorizing a Conditional Use Permit with a Site Plan to allow for a child care facility in Moore's Knight Addition, Block 10, Lot 7, 8, Pt 6, addressed as 109 South General Bruce Drive, and located within the I-35 Corridor Overlay Retail sub-district.**

**(S) 2019-9718-R: Consider adopting a resolution setting the date, time and place of public hearings on the proposed FY 2019-2020 Budget for August 1, 2019 at 5:00 p.m. and August 23, 2019 at 8:30 a.m. in the City Council Chambers.**

**(T) 2019-9719-R: Consider adopting a resolution authorizing budget amendments for fiscal year 2018-2019.**

Motion by Councilmember Jessica Walker approve consent agenda as presented, seconded by Councilmember Wendell Williams.

Motion passed unanimously.

#### **IV. REGULAR AGENDA**

## ORDINANCES

4. **2019-4975: FIRST READING – PUBLIC HEARING – FY-19-16-ZC: Consider an ordinance adopting a rezoning from Agricultural to Single Family Attached Three zoning district on 2.089 +/- acres, situated in the Baldwin Robertson Survey, Abstract No. 17, Bell County, Texas, addressed as 8355 Tarver Drive.**

Tammy Lyerly, City Planner provided a presentation to the Council. The applicant is Turley Associates for Kiella Family LTD. The request for rezoning is to allow for a single-family residential development on 2.089 acres 8355 Tarver Drive. The proposed site front Tarver Drive, which is a major arterial, and is adjacent to properties that are currently zoned as Single-Family-Two, Agriculture, and Office-Two and therefore is in compliance with the zoning. There is partial compliance with regards to the Future Land Use Map, because the project's Single-Family-Attached-Three district can have a greater residential density than what is characterized for Suburban Residential. The area is characterized as Suburban Residential which is mid-sized single family lots, to allow for greater separation between dwellings and more emphasis on green space. Ms. Lyerly noted that next to the property is Auto-Urban Residential which allows for greater residential density.

Tarver Drive and South Pea Ridge Road are both classified as a Collectors, which is appropriate for residential subdivisions. This is in compliance with the Thoroughfare Map. There is existing water and sewer along Tarver Drive and South Pea Ridge Road.

Ms. Lyerly provided some photos of the surrounding property. She noted there is a 50-foot wide drainage easement along the west property.

Standards for the Single-Family-Attached-Three include a minimum lot size of 2,300 square feet; a minimum lot width of 20-feet; a minimum lot depth of 100-feet; front setback of 15-feet; side setback of 5/0-feet; side setback (corner) of 15-feet; rear setback of 10-feet; and max building height of 2-1/2 stories. Residential uses include a single family residence (attached and detached); townhouses; and patio homes and zero lot line dwellings. Uses that are prohibited in the SFA-3 districts include duplex, triplex, multi-family dwelling (apartments), HUD-Code manufactured homes and land lease communities, most commercial and industrial uses.

Ms. Lyerly added that there were 20 notices mailed to the

surrounding property owners within 200 feet of the subject property. There were two returned in disagreement and zero in agreement. A verbal conversation was had with surrounding property owner, that had concerns regarding the drainage.

At their June 3, 2019, meeting, the Planning and Zoning Commission vote 7 to 0 (with one abstention) to approve the rezoning from Agricultural to Single-Family-Attached-Three per staff's recommendation.

Mayor Davis declared the public hearing open with regard to item 4, and asked if anyone wished to address either item. There being no comments, Mayor Davis declared the public hearing closed.

Motion by Mayor Pro Tem Judy Morales adopt ordinance as presented on first reading, and set second and final reading for August 1, 2019, seconded by Councilmember Jessica Walker.

Motion passed unanimously.

**5. 2019-4976: FIRST READING – PUBLIC HEARING – FY-19-3-ANX: Consider adopting an ordinance authorizing the voluntary annexation of 89.373 acres of land out of the Maximo Moreno Survey, Abstract No. 14, located on the east side of Old State Highway 95, and 3.950 acres of right-of-way of Old Highway 95 in the extraterritorial jurisdiction of the City of Temple, Bell County, Texas.**

Tammy Lyerly, City Planner provided a single presentation for both items 5 and 6. She noted that case FY-19-4-ANX was located at the intersection of Barnhardt Road and Old Highway 95, and consisted of approximately 2.371 acres of Barnhardt Road (0.41 miles), and 47.655 +/- acres of privately owned land (property owner TISD); and case FY19-3-ANX which is located to the south, consisting of approximately 3.950 acres of Old Highway 95 (0.51 miles) and 89.373 +/- acres of privately owned land (property owner Short-Term Lending GP). Both of these cases include a portion of the roadway to be annexed as well. The applicant proposes to have a rezoning in the future for both cases.

Ms. Lyerly reviewed the annexation schedule, noting that on May 2nd the petitions were approved by the City Council to develop the Municipal Service Plans on these properties. The service plan has been reviewed by all relevant departments; and there are no issues noted. The first public hearing is tonight, June 6th; with the second public hearing set for Friday, June 7th

at 10:00 am. The second and final readings for the annexations is scheduled for July 18th.

The Municipal Service Plan is required to ensure the same level of city services for this property upon annexation as other properties within the City of Temple. TISD is the requestor for the northern piece (Barnhardt and Old Highway 95), and both TISD and the City are working together to extend Blackland Road and utilities to accommodate future schools. All relevant departments have reviewed the plan and do not see any issues.

Mayor Davis declared the public hearing open with regard to items 5 and 6, and asked if anyone wished to address either item.

Scott Kiella, 20 Richland Drive, was available for questions. He thanked the City and Council for their professionalism throughout the process. There is a lot of growth in this area, and we've worked closely with TISD and City staff on this project.

Councilmember Long expressed her appreciation to Mr. Kiella for working closely with staff and the school district to ensure the best project.

Mr. Kevin Koonce, 353 Claremont Drive (ETJ), thanked the council for good governance. These two items were handled very well providing plenty of notification, pictures, and discussion.

There being no further comments, Mayor Davis declared the public hearing closed.

Motion by Mayor Pro Tem Judy Morales adopt ordinance as presented on first reading, and set second and final reading for August 1, 2019, seconded by Councilmember Susan Long.

Motion passed unanimously.

- 6. 2019-4977: FIRST READING – PUBLIC HEARING – FY-19-4-ANX: Consider adopting an ordinance authorizing the voluntary annexation of 47.655 acres of land out of the Maximo Moreno Survey, Abstract No. 14, located on the east side of Old State Highway 95 and the south side of Barnhardt Road, and 2.371 acres of right-of-way of Barnhardt Road in the extraterritorial jurisdiction of the City of Temple, Bell County, Texas.**

Motion by Councilmember Jessica Walker adopt ordinance as presented on first reading, and set second and final reading for August 1, 2019, seconded by Councilmember Wendell Williams.

Motion passed unanimously.

**7. 2019-4978: FIRST READING – PUBLIC HEARING – Consider adopting an ordinance amending City Code of Ordinances, Chapter 6, "Animals and Fowl," to bring this chapter into compliance with state regulations, simplify and clarify language and terms, and provide more effective enforcement tools.**

Kayla Landeros, City Attorney presented this item to the Council. She stated much of this is the same as what was discussed on June 20th at the Council's workshop; but with a few changes. This is the Chapter that regulates the keeping and care of animals in the City of Temple; and covers various topic to include at-large animals, animal cruelty, impounded animals, the adoption of animals, dangerous animals, as well as rabies regulations.

The goals as with all of our Codes, the desire is to bring the chapter into compliance with state regulations; simplify and clarify language and terms; provide a more effective enforcement tools; and to ensure that citizen receive due process.

Ms. Landeros noted that much of the chapter was a re-write. Some of the proposed amendments are to establish the Animal Services Division as a division of the Police Department. This is a recent change within the structure, now under the management of the Police Department. It gives enforcement authority to both Animal Services as well as the Police Department; and also provides a comprehensive and updated list of definitions.

It is recommend that we amend the definition of "at-large" animals to include any animal not under "restraint" of its person. Our current chapter has some conflicting sections with regards to at-large. One of the current definitions in Chapter 6 would allow an animal to be off the leash, so long as they are with a person that is physically capable of restraining them. The proposal is to define at-large as an animal that is not under restraint; and define "restraint" as an animal that is either in a secure enclosure or under the direct physical control of a person by a leash. So in public, animals will need to be on a leash or some type of secured enclosure. There are exceptions to that

restraint requirement, this includes an animal is not considered at-large if they are on the premises of their owner's property and under the immediate personal supervision their owner or responsible person. Also an animal would not be considered at-large if they are wearing an electronic collar or device; a dog in a designated dog park or area; attending an animal show; a service animal; or an animal being used for law enforcement purposes.

Staff is proposing a definition for "prohibited animal" that is in line with state law by referencing a definition that is in state law which includes animals such as lions and tigers, as well as adding venomous snakes.

Define "public nuisances" involving animals. We ask that owners of animals be responsible for the behavior of their animals, and to make sure they are not destroying other people's property, or creating unreasonable noise that disturbs the surrounding neighbors. Animals should be restrained while in heat; prevent their animals from attacking or chasing pedestrians or vehicle. Another addition to these amendments, is to give authority to the Animal Services to issue orders to owners whose animals are creating a public nuisance, allowing the owner to take remedial measures and provide a hearing process for an appeal to the order.

Staff has also drafted language to align our animal cruelty regulations with state law. In the current Chapter, Animal Cruelty is considered a Class C misdemeanor. Depending on the type of action, it could be more than a Class C under state law.

We have provided a section that would restrict the tethering of dogs. Currently the City has no restrictions for this. In discussions with Animal Services and Animal Services Advisory Board, tethering can be very unsafe for the animal if not done correctly. Staff is proposing several restrictions for the type of chain or rope that can be used if tethering an animal on your property; the weight of the device; as well as weather conditions. Also proposed are regulations with regards to transportation of animals. The animal must be safely contained in a vehicle to prevent it from falling or jumping out of the vehicle. That said, if it is an open vehicle (truck, jeep, etc) the animal must be in a cage, enclosed container, or a multi-point harness.

Within the proposed amendments, we have clarified the impoundment and reclamation process, as well as adoption process and fees. It is proposed that we align the rabies control

regulations with state law. Currently our Ordinance requires annual rabies vaccinations. State law requires that the rabies vaccinations be done in the amount of time that the manufacturer recommends for the vaccination the animal is receiving. This will give the veterinarians some flexibility dependent on the product used.

The number of dogs and cats allowed, will remain at three and three. You may also keep a litter of each until that litter is three-month of age. Staff has clarified the multi-pet permit process. Currently, individuals that want to own more than the allowed three cats and/or dogs may apply for a multi-pet permit. Ms. Landeros pointed out that at workshop it was discussed to add regulations for a feral cat program. After further discussion, staff felt that it would be difficult to regulate/manage that type of program.

Staff has aligned the dangerous dog regulations with state law, this includes the definition and process. Part of the proposal is to implement an aggressive dog regulations. The appear process for dangerous and aggressive dogs will be set forth within the new chapter. It is recommended that we establish the various fee to cover the operations and administration of the regulations. There will be an item (resolution) on the July 18th meeting setting those fees.

Ms. Landeros noted there was an Animal Services Advisory Board meeting on July 9, 2019, and the Board voted to recommend approval of the amendments. The Board also voted to recommend amendments to Section 6.54 to allow the keeping of miniature pigs in the city limits with certain restrictions.

The current rule is that swine are only allowed in the City if they are kept in a pen or enclosure on a tract of land at least 10 acres in size that is zoned agriculture. The proposed exception is that miniature pigs would be allowed in all parts of the City if: (1) the person obtains a miniature swine permit from the City and pays the permit fee; (2) the swine weighs no more than 150 pounds; (3) the swine is kept indoors; (4) no more than 2 swine per household; (5) swine may not be kept on the premises of any public business; (6) swine must be sterilized; (7) no breeding allowed; (8) areas where swine is kept are clean; (9) swine is vaccinated against erysipelas; and (10) swine may not have access to public body of water.

Mayor Davis declared the public hearing open with regard to items 7, and asked if anyone wished to address either item.



Milton Hensley, 301 Mitchell Drive expressed his concerns and opposition for the keeping of miniature swine in the City of Temple. Approximately five to six years ago a similar item was presented to the Council and was not approved. Why now?

Ms. Landeros replied, yes it was in 2014 and did not pass. Since the amendments were presented to the Council a few weeks ago, a citizen requested to both the ASAB and the Council, a request to consider including the amendments related to the keeping of miniature swine.

Mr. Hensley noted he was opposed to this particular amendment, and asked if he could obtain a copy of the rules/regulations.

Ms. Landeros invited Mr. Hensley to visit her office.

There being no comments, Mayor Davis declared the public hearing closed.

Motion by Councilmember Susan Long adopt ordinance as presented by staff, with the addition of amendments to allow the keeping of miniature swine in the city limits with the restrictions approved by the Animal Services Advisory Board and presented on first reading, with the second and final reading set for July 18, 2019, seconded by Mayor Pro Tem Judy Morales.

Mayor Timothy A. Davis voted nay. The other Councilmembers voted aye. The motion passed.

## RESOLUTIONS

8. **2019-9720-R: Consider adopting a resolution authorizing proceeding with the issuance of City of Temple, Texas Combination Tax and Revenue Certificates of Obligation, Series 2019 and further directing the Publication of Notice of intention to issue Certificates of Obligation in an amount not to exceed \$19,500,000 and other matters related to the issuance.**

Traci Barnard, Director of Finance presented this item to the Council. She explained that this is to begin the process for the issuance of bonds. Prior to the issuance of Certificates of Obligations (COs) the City is required to publish notice of intent to issue COs in the newspaper of general circulation with (1) the time and place of the ordinance authorizing the issuance; (2) the maximum amount and purpose; and (3) the manner in which the COs will be paid.

The purpose for the CO bonds is to fund construction of Poison Oak Road and Kegley Road improvements, and also purchase 9.1 acres, a main office building with 14,520 square feet of space, several multi-use buildings totaling 11,737 square feet located at 1701 North General Bruce Drive. This building will house the centralized Parks Administration offices. Council authorized the purchase on June 20th.

Ms. Barnard noted the maximum amount will not exceed \$19,500,000, and will be paid back through our current I&S (Interest & Sinking) tax rate. No additional tax rate would be necessary to support the payment.

FY 2019 is year seven of the 10 year TCIP (Transportation Capital Improvement Program) in amount of \$140,258,343. This program began in FY 2013 to improve existing infrastructure and to add new capacity and connectivity through certain road improvement projects.

The financing was a phased approach with design and ROW acquisitions funded first, and then construction was funded later with other bonds. This approach allowed us to minimize and stabilize the tax rate impact; maximize the tax base growth; balance debt amortization; and align funding with project readiness.

Ms. Barnard noted the I&S Tax rate impact to support the \$140M program has been done with 6.75 cents (2013 with 1.25 cents; 2017 3.50 cents; 2018 a 2.00 cent increase). Based on current growth assumptions no additional tax rate increase is required to support the remaining \$55.4M through 2023.

Timeline of bond issues is as follows:

July 11 - adopt a resolution directing the publication of the notice of intent to issue.

July 12 - first notice of intent is published in the newspaper

July 15 - second notice of intent is published in the newspaper

August 5 - rating is received and published.

August 6 - preliminary official statement is distributed.

August 15 - ordinance to award the sale of bonds

September 10 - delivery date and city receives the funds.

Mayor Davis added the TCIP is something that we can all be proud of. There are many communities that don't want to take care of pot holes and fix roads. The Council has always viewed that area as priority and the citizens have always supported that initiative. Again, our road infrastructure is something to be very proud of.

Motion by Councilmember Wendell Williams adopt resolution as presented by staff, seconded by Councilmember Jessica Walker.

Motion passed unanimously.

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Timothy A. Davis, Mayor

ATTEST:

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Lacy Borgeson  
City Secretary



## **COUNCIL AGENDA ITEM MEMORANDUM**

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09/05/19  
Item #7(H)  
Consent Agenda  
Page 1 of 2

### **DEPT./DIVISION SUBMISSION & REVIEW:**

Kayla Landeros, Interim City Attorney  
Charla Thomas, Assistant City Attorney

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing an interlocal agreement between the City of Temple and the Texas Department of Motor Vehicles for participation in the Department's "Scofflaw Program" which provides for the marking of motor vehicle registration records in an effort to resolve delinquent court fines and fees.

**STAFF RECOMMENDATION:** Adopt resolution as presented in item description.

**ITEM SUMMARY:** In 2015, the City entered into an Interlocal Agreement with the Texas Department of Motor Vehicles (the TxDMV) regarding Scofflaw services for marking vehicle registration records. The TxDMV has terminated that Interlocal Agreement as a result of the passage of House Bill 1631 during the 86<sup>th</sup> Texas Legislature in which Section 707.017 of the Texas Transportation Code was repealed.

The TxDMV has provided a new Interlocal Agreement which removes reference to the repealed section of the Transportation Code. This Agreement allows the City to have "flags" placed on vehicle registrations in an effort to collect delinquent municipal court fines and fees.

The "Scofflaw Program" allows a City to submit data to the Technology Support Branch of the TxDMV relating to defendants who have outstanding warrants after failing to appear or failing to pay a fine on a traffic citation. Once the data is received from the City, a Scofflaw "flag" is placed on the defendant's vehicle registration by the TxDMV, and registration renewal will not be permitted until the case is resolved.

The term of the interlocal agreement is five years and a deposit of at least \$500 must be maintained in a non-interest-bearing escrow account which is used to cover estimated service use. The escrow account must be established with TxDMV prior to submission of probes (inquiries) or placing or removing "flags" from motor vehicle records for the Local Government. Payment of the deposit must be made by check or warrant, payable to the "Texas Department of Motor Vehicles" and is due upon execution of the interlocal agreement. The \$500 minimum balance, to be maintained in the escrow account, may increase depending on established monthly usage by the Local Government. This additional funding is payable within 15 days from receipt of notification from TxDMV.

The City currently contracts with McCreary, Veselka, Bragg and Allen, P.C. ("MVBA") for assistance in collecting delinquent court fines and fees. The City is currently under a Memorandum of Understanding with MVBA for administration of the Scofflaw program for the City. MVBA will provide the funds and pay all costs associated with the Scofflaw program. MVBA will submit the necessary information to DMV to match defendants to the appropriate vehicles. MVBA will provide the City with information concerning successful submissions to DMV.

**FISCAL IMPACT:** MVBA will provide the funds and pay all costs associated with the Scofflaw program. This is another collection tool to be used by MVBA at no expense to the City.

**ATTACHMENTS:**  
[Resolution](#)

RESOLUTION NO. 2019-9762-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF TEMPLE AND THE TEXAS DEPARTMENT OF MOTOR VEHICLES FOR PARTICIPATION IN THE DEPARTMENT'S "SCOFFLAW PROGRAM" WHICH PROVIDES FOR THE MARKING OF MOTOR VEHICLE REGISTRATION RECORDS IN AN EFFORT TO RESOLVE DELINQUENT COURT FINES AND FEES; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, in 2015, the City entered into an Interlocal Agreement with the Texas Department of Motor Vehicles (TxDMV) regarding Scofflaw services for marking vehicle registration records - the TxDMV has terminated that Interlocal Agreement as a result of the passage of House Bill 1631 during the 86th Texas Legislature in which Section 707.017 of the Texas Transportation Code was repealed;

**Whereas**, the TxDMV has provided a new Interlocal Agreement which removes reference to the repealed section of the Transportation Code - this Agreement allows the City to have "flags" placed on vehicle registrations in an effort to collect delinquent municipal court fines and fees;

**Whereas**, the "Scofflaw Program" allows a City to submit data to the Technology Support Branch of the TxDMV relating to defendants who have outstanding warrants after failing to appear or failing to pay a fine on a traffic citation - once the data is received from the City, a Scofflaw "flag" is placed on the defendant's vehicle registration by the TxDMV and registration renewal will not be permitted until the case is resolved;

**Whereas**, the term of the interlocal agreement is five years and a deposit of at least \$500 must be maintained in a non-interest-bearing escrow account which is used to cover estimated service use - the escrow account must be established with TxDMV prior to submission of probes (inquiries), or placing or removing "flags" from motor vehicle records for the Local Government;

**Whereas**, payment of the deposit must be made by check or warrant, payable to the "Texas Department of Motor Vehicles" and is due upon execution of the interlocal agreement - the \$500 minimum balance, to be maintained in the escrow account, may increase depending on established monthly usage by the Local Government;

**Whereas**, this additional funding is payable within fifteen (15) days from receipt of notification from TxDMV;

**Whereas**, the City currently contracts with McCreary, Veselka, Bragg and Allen, P.C. ("MVBA") for assistance in collecting delinquent court fines and fees - the City is currently under a Memorandum of Understanding (MOU) with MVBA for administration of the Scofflaw program for the City;

**Whereas,** MVBA will provide the funds and pay all costs associated with the Scofflaw program and will submit the necessary information to DMV to match defendants to the appropriate vehicles - MVBA will provide the City with information concerning successful submissions to DMV;

**Whereas,** Staff recommends Council approve an Interlocal Agreement with the Texas Department of Motor Vehicles for participation in the “Scofflaw Program;” 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: Findings.** All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

**Part 2:** The City Council authorizes the execution of an Interlocal Agreement with the Texas Department of Motor Vehicles for participation in the “Scofflaw Program.”

**Part 3:** It is hereby officially found and determined that the meeting at which this Resolution was 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 5<sup>th</sup> day of **September**, 2019.

THE CITY OF TEMPLE, TEXAS

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TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

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Lacy Borgeson  
City Secretary

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Kayla Landeros  
Interim City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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09/05/19  
Item #7(I)  
Consent Agenda  
Page 1 of 2

**DEPT./DIVISION SUBMISSION & REVIEW:**

Don Bond, P.E., CFM, Public Works Director  
Richard Wilson, P.E., CFM, City Engineer

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing an agreement with Turley Associates, Inc., of Temple, for professional services required for preliminary design of the North Pea Ridge Road Phase 2 Improvements from Prairie View Road to Airport Road in the amount of - \$198,610.47.

**STAFF RECOMMENDATION:** Adopt resolution as presented in item description.

**ITEM SUMMARY:** This project consists of roadway improvements to North Pea Ridge Road from Prairie View Road to Airport Road (SH 36). Improvements include an expanded pavement section with continuous left-turn lane, pedestrian facilities, drainage conveyance, and water utilities. See attached project map for more details and project limits.

Consultant services recommended under this professional services agreement include:

Road/Drainage Engineering Services (30%)	\$ 149,064.50
Water Main Engineering Services (30%)	\$ 23,065.42
Archeological	\$ 3,551.68
Environmental	\$ 7,428.87
Geotechnical	\$ 15,500.00
<b>Total</b>	<b><u>\$ 198,610.47</u></b>

Time required for preliminary design is 180 calendar days. The Engineer's preliminary opinion of probable cost for construction is \$5,216,058.

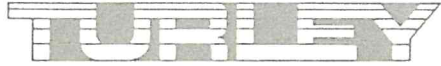


**FISCAL IMPACT:** Funding for the agreement with Turley Associates, Inc in the amount of \$198,610.47 for professional services required for preliminary design of the North Pea Ridge Road Phase 2 Improvements from Prairie View Road to Airport Road is available in project #102142 as follows:

	<u>365-3400-531-6985</u>	<u>520-5900-535-6985</u>	<u>Total</u>
Budget	\$ 175,546	\$ 23,065	\$ 198,611
Encumbered/Committed to Date	-	-	-
Turley Associates, Inc.	(175,546)	(23,065)	(198,611)
<b>Remaining Project Funds</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>

**ATTACHMENTS:**

[Engineer's Proposal](#)  
[Project Map](#)  
[Resolution](#)



## **TURLEY ASSOCIATES, INC.**

301 NORTH THIRD STREET • TEMPLE, TEXAS 76501 • (254) 773-2400  
F-1658 TBPLS No. 10056000

August 21, 2019

City of Temple  
Attn: James Billeck, PE  
Deputy City Engineer  
3210 East Avenue H, Bldg. A  
Temple, TX 76501

**RE: Professional Services Scope of Work for North Pea Ridge Rd. Reconstruction and Extension, Phase I Design Services**

Dear Mr. Billeck,

Turley Associates, Inc. appreciates the opportunity to submit a Scope of Work to the City of Temple for the above referenced project. This project will develop 30% final design services for the reconstruction and extension of North Pea Ridge Rd. north of Prairie View Rd. to Airport Rd (Hwy 36) as well as an 8" waterline. The final design will include 30% plans for construction, specifications, Opinion of Probable Cost (OPC) and budgets for 100% plans, bidding and construction administration services. Based on current bidding for projects of this nature, we believe the preliminary Opinion of Probable Construction Cost to be \$5,216,058.00 which contains a contingency of 10%. We have included an exhibit and OPCC breakdown for your reference.

Turley Associates, Inc. shall perform all work and prepare all deliverables in accordance with the latest version of AASHTO and City of Temple specifications, standards and manuals. All traffic control will be in accordance with the Texas Manual on Uniform Traffic Control Devices (TMUTCD).

Turley Associates, Inc. will perform quality control and quality assurance on all deliverables associated with the project.

The following services will be included as a part of this project:

**30% Complete Plan Set**

- A. Data Collection
  - 1. Review property ownerships, deeds, easements, etc.
  - 2. Determine if additional easements are necessary.
  - 3. Prepare right of entry exhibits and field notes as necessary.
  - 4. Prepare field notes and exhibits for additional Right-of-Way acquisition as necessary.
- B. Topographic Surveys for Engineering Design and Hydraulic Analysis
  - 1. Verify existing utilities and existing ground conditions.
  - 2. Contact One-Call System to flag any existing utilities.

3. Survey crew to shoot in existing utilities, power poles, flagging and all improvements within right-of-way.
  4. Establish control and survey cross sections at a 100' minimum for topography.
  5. Reasonable efforts will be made to compare and merge previous as-built surveys (by Turley Associates, Inc.) with new data.
  6. Prepare survey and topographic maps for design use.
- C. Geotech
1. Roadway – Turley Associates, Inc. will engage Langerman Foster Engineering Company to gather field data for the length of the project, boring a minimum of 7' into the subsurface and provide boring logs with a final report.
  2. Develop geometric design for the length of the project. All designs shall be in accordance with the City of Temple design guidelines and criteria.
  3. Determine pavement and subgrade design for the length of the project based on City of Temple traffic loading criteria.
- D. Environmental
1. Turley Associates, Inc. will engage Baer Engineering & Environmental Consulting, Inc. to complete a Phase 1 Environmental Site Assessment.
- E. Archaeological
1. Turley Associates, Inc. will engage Baer Engineering & Environmental Consulting, Inc. to complete a site archeological assessment (records search and THC coordination) and report.
- F. Drainage
1. Develop drainage areas, hydrology and hydraulics as it pertains to the proposed roadway and surrounding watershed.
  2. Determine size of box culverts.
  3. Determine optimal flowline for box culverts.
  4. Begin development of drainage infrastructure design in accordance with the City of Temple's drainage criteria for collector streets.
- G. Roadway
1. Develop the horizontal and vertical alignments, typical sections and resultant design cross sections. Discuss potential deficiencies or conflicts with City of Temple Public Works Department.
  2. Prepare preliminary plan and profile sheets for the project with existing topography and proposed alignments.
  3. Incorporate existing utilities into plan and profile drawings.
- H. TxDOT
1. Coordinate with TxDOT location of new connection.
- I. Utility Design
1. Develop layout for the extension of water lines.
  2. Develop layouts for hydrants.
  3. Coordinate with Oncor for streetlight design and placement.
  4. Determine if any utilities will need relocation.
  5. Determine location of conduit and crossings.
- J. Miscellaneous
1. Prepare preliminary OPCC.
  2. Prepare, attend and document progress meetings with City staff.
  3. Design Coordination with the City of Temple.



Our professional fee to complete 30% design as listed above will be: \$198,610.47.  
Completion of 30% design per this scope of work will be 6 months after award of contract.

Per the engineering proposal, specific tasks are broken down as follows for the project:

Preliminary Design Roadway and Drainage (30%):	\$ 149,064.50
Preliminary Design Water (30%):	\$ 23,065.42
Archeological:	\$ 3,551.68
Environmental:	\$ 7,428.87
Geotechnical:	\$ 15,500.00

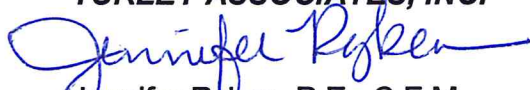
Turley Associates, Inc. will coordinate with the City of Temple staff during each stage of the design process. Once all parties have agreed on a layout and design, Turley Associates, Inc. will proceed with the next step. If changes are requested after approval from both parties, these will be completed on an hourly basis.

Additional items are not shown above but can be provided at an hourly rate are shown below:

- Final Design (100% plans)
- Detention pond design
- Bidding
- Construction Administration
- Sewer line design
- Wetland assessment
- Endangered species assessment
- Acquisition services
- Trench safety plan
- SWPPP
- Irrigation design
- Landscaping design
- Construction surveying
- Inspection services
- TIA and Warrant Study
- Additional archeological investigation beyond agency coordination

Turley Associates, Inc. appreciates the opportunity to submit this proposal and is available at your convenience to meet and discuss this scope of work. We look forward to working with the City of Temple on this project.

Sincerely,  
**TURLEY ASSOCIATES, INC.**

  
Jennifer Ryken, P.E., C.F.M.  
Senior Project Engineer



**TURLEY ASSOCIATES, INC.**301 NORTH THIRD STREET • TEMPLE, TEXAS 76501 • (254) 773-2400  
F-1658 TBPLS No. 10056000

August 20, 2019

Engineer's Opinion of Probable Cost for:  
**N PEA RIDGE ROAD**  
**6174 LF, 3-12' LANES, 40' B-B & 10' SIDEWALK**

Item	Description	Quantity	Units	Unit Cost	Item Cost
<b>A.</b>	<b>ROADWAY</b>				
(1)	Mobilization, Bonds, and Insurance	100%	LS	\$200,000.00	\$200,000.00
(2)	Preparation of Right-of-Way Including Tree Removal & Disposal	100%	LS	\$40,000.00	\$40,000.00
(3)	Traffic Control Plan for Vehicular and Pedestrian Traffic	100%	LS	\$3,500.00	\$3,500.00
(4)	Traffic Control Plan Implementation	100%	LS	\$20,000.00	\$20,000.00
(5)	24" Standard Curb and Gutter	14000	LF	\$18.00	\$252,000.00
(6)	16" Crushed Limestone Base	28000	SY	\$20.00	\$560,000.00
(7)	3" HMAC	28000	SY	\$17.00	\$476,000.00
(8)	Unclassified Roadway Excavation	21600	CY	\$8.00	\$172,800.00
(9)	Roadway Compacted Fill	15000	CY	\$6.00	\$90,000.00
(10)	6" Concrete Valley Gutter	5	EA	\$2,500.00	\$12,500.00
(11)	6" Concrete Driveway, Includes Removal, Disposal, Excavation, Base, etc.	16	SY	\$4,000.00	\$64,000.00
(12)	10' Concrete Sidewalk	6200	LF	\$45.00	\$279,000.00
(13)	Modified TxDOT Type 1 ADA Ramp 10'	4	EA	\$2,500.00	\$10,000.00
(14)	Cross Walk Marking	200	LF	\$15.00	\$3,000.00
(15)	Turn Only Arrows	16	EA	\$450.00	\$7,200.00
(16)	24" Wide Stop Bar	5	EA	\$500.00	\$2,500.00
(17)	Solid Yellow Striping	13000	LF	\$2.50	\$32,500.00
(18)	4' Yellow Broken Striping	13000	LF	\$2.60	\$33,800.00
(19)	Sawcut, Remove and Dispose of Existing Asphalt	4650	LF	\$20.00	\$93,000.00
(20)	Loaming, Seeding & Stabilization of Right-of-Way	22500	SY	\$4.00	\$90,000.00
(21)	SWPPP, Including Installation, Maintenance and Removal of all Erosion Control Devices & Best Management Practices (Silt Fence, Rock Berm, Inlet Protection, Construction Entrance, etc.)	100%	LS	\$35,000.00	\$35,000.00
	10% CONTINGENCY				\$247,680.00
	CONSTRUCTION TOTAL TO USE				\$2,724,480.00
	<b>TOTAL TO USE ROADWAY</b>				<b>\$2,972,160.00</b>



Item Description	Quantity	Units	Unit Cost	Item Cost
<b>B. DRAINAGE</b>				
(1) 10' Recessed and Depressed Concrete Curb Inlet	20	EA	\$5,000.00	\$100,000.00
(2) 18" RCP Class III	420	LF	\$55.00	\$23,100.00
(3) 24" RCP Class III	2700	LF	\$65.00	\$175,500.00
(4) 30" RCP Class III	1000	LF	\$120.00	\$9,200.00
(5) 36" RCP Class III	1300	LF	\$135.00	\$175,500.00
(6) 3' x 7' RCBC	560	LF	\$650.00	\$364,000.00
(7) 36" Concrete Headwall	1	EA	\$3,500.00	\$3,500.00
(8) North Entrance 2-3' x 7' RCBC Flared Wingwall with Cross Pipes	2	EA	\$30,000.00	\$60,000.00
(9) South 3-3' x 7' RCBC Flared Wingwall with Cross Pipes	2	EA	\$40,000.00	\$80,000.00
(10) Traffic Rated Guard Rail	70	LF	\$150.00	\$10,500.00
(11) Trench Safety Plan & Implementation in Conformance with State Law and OSHA	100%	LS	\$2,500.00	\$2,500.00
(12) TXDOT Handrails Type PR1 across Headwalls	80	LF	\$205.00	\$16,400.00
(13) Channel Grading for North Box Culverts	100%	LS	\$10,000.00	\$10,000.00
(14) Channel Grading for South Box Culverts	100%	LS	\$15,000.00	\$15,000.00
(15) 24" Ø Rock-Rip-Rap	1500	SF	\$11.00	\$16,500.00
10% CONTINGENCY				\$106,170.00
CONSTRUCTION TOTAL TO USE				\$1,167,870.00
<b>TOTAL TO USE DRAINAGE</b>				<b>\$1,274,040.00</b>

Item Description	Quantity	Units	Unit Cost	Item Cost
<b>C. WATERLINE</b>				
(1) 8" CL 150/C900 PVC Waterline	7750	L.F.	\$45.00	\$348,750.00
(2) 12" CL 150/C900 PVC Waterline	100	L.F.	\$56.00	\$5,600.00
(3) Fire Hydrant Assemblies	7	EACH	\$4,500.00	\$31,500.00
(4) Remove Existing Fire Hydrant Assembly	8	EA	\$1,500.00	\$12,000.00
(5) Install Refurbished Fire Hydrant Assembly	8	EA	\$2,300.00	\$18,400.00
(6) 1" Long Single Water Service	18	EACH	\$2,500.00	\$45,000.00
(7) Connect New Water Service to Existing Service	18	EACH	\$750.00	\$13,500.00
(8) 8" x 8" Tee w/ Blocking	4	EACH	\$1,000.00	\$4,000.00
(9) 8" x 12" Tapping Sleeve w/ Valve & Cap	1	EACH	\$2,000.00	\$2,000.00
(10) 8" 45° Bend w/ Blocking	10	EACH	\$1,000.00	\$10,000.00
(11) 8" Flush Assembly	3	EACH	\$1,250.00	\$3,750.00
(12) 8" Gate Valve w/ Blocking	11	EACH	\$1,500.00	\$16,500.00
(13) Remove & dispose of existing 8" waterline	4750	L.F.	\$15.00	\$71,250.00
10% CONTINGENCY				\$58,225.00
CONSTRUCTION TOTAL TO USE				\$640,475.00
<b>TOTAL TO USE WATERLINE</b>				<b>\$698,700.00</b>


Item Description	Quantity	Units	Unit Cost	Item Cost
<b>D. GATE/FENCING &amp; MISCELLANEOUS</b>				
(1) Remove & Dispose of Existing Fence: 5 Strand Barbed Wire on Cedar/T-Post	3475	LF	\$3.50	\$12,162.50
(2) Remove & Dispose of Existing Fence: Wire Mesh/2 Strands Barbed Wire on Cedar/T-Posts	315	LF	\$3.50	\$1,102.50
(3) Proposed New Fence: 5 Strand Barbed Wire on T-Posts	6600	LF	\$7.00	\$46,200.00
(4) Remove & Dispose of Existing Gate	3	LF	\$500.00	\$1,500.00
(5) Proposed New Gate	3	LF	\$2,500.00	\$7,500.00
(6) Temporary Mail Boxes & Final Mailboxes	1	LS	\$16,000.00	\$16,000.00
10% CONTINGENCY				\$8,446.50
CONSTRUCTION TOTAL TO USE				\$92,911.50
<b>TOTAL TO USE GATE /FENCING &amp; MISCELLANEOUS</b>				<b>\$101,358.00</b>

Item Description	Quantity	Units	Unit Cost	Item Cost
<b>E. ELECTRICAL</b>				
(1) Concrete Light Pole Foundations	16	EA	\$2,000.00	\$32,000.00
(2) Schedule 40 3" Electric Conduit	6500	LF	\$13.00	\$84,500.00
(3) Oncor Miscellaneous	1	LS	\$25,000.00	\$25,000.00
10% CONTINGENCY				\$14,150.00
CONSTRUCTION TOTAL TO USE				\$155,650.00
<b>TOTAL TO USE ELECTRICAL</b>				<b>\$169,800.00</b>

#### SUMMARY

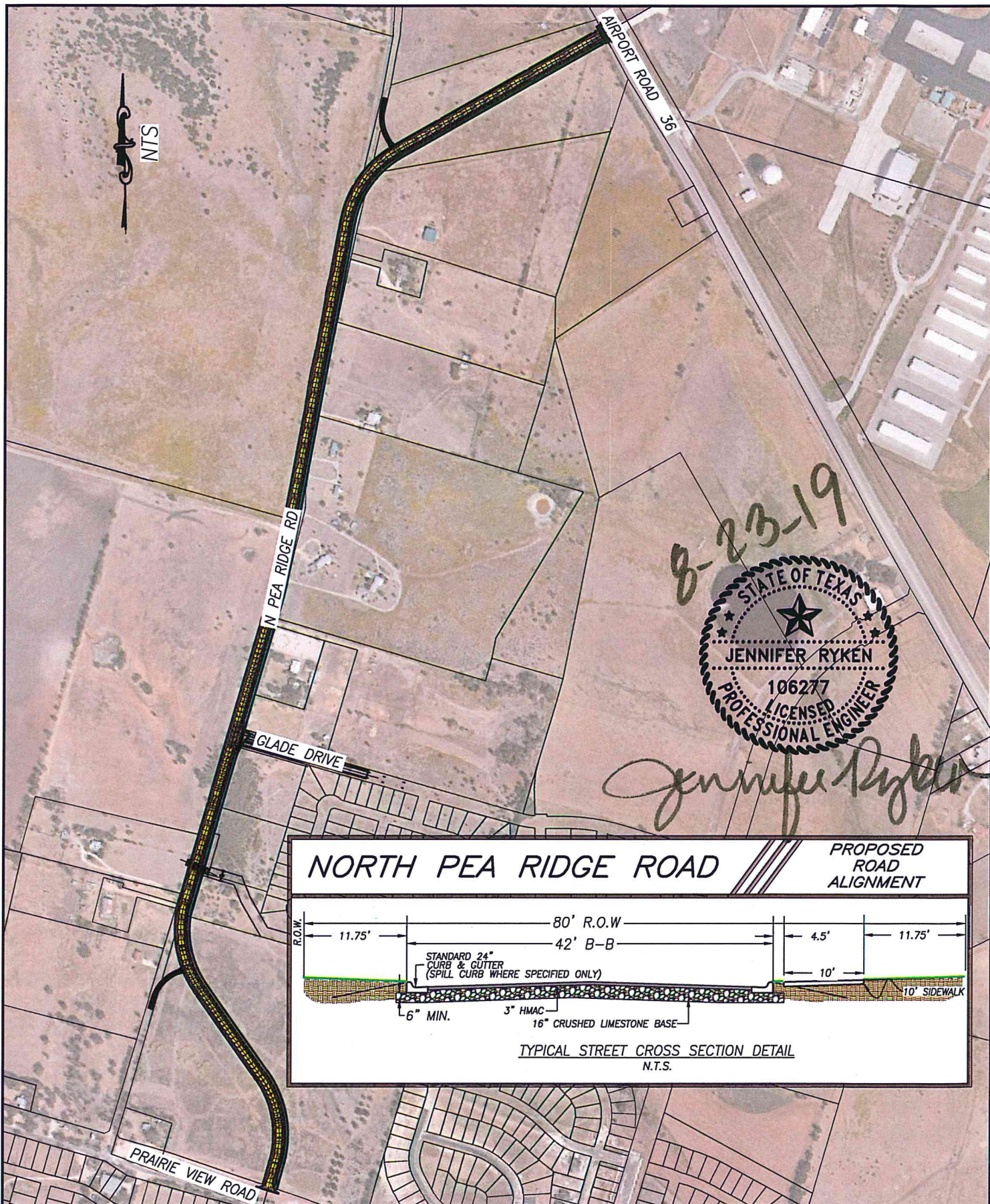
A. ROADWAY	\$2,972,160.00
B. DRAINAGE	\$1,274,040.00
C. WATERLINE	\$698,700.00
D. FENCE/GATE & MISCELLANEOUS	\$101,358.00
E. ELECTRICAL	\$169,800.00
<b>PROJECT TOTAL</b>	<b>\$5,216,058.00</b>

8/20/19



*Jennifer Ryken*







RESOLUTION NO. 2019-9763-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT WITH TURLEY ASSOCIATES, INC., OF TEMPLE, TEXAS IN THE AMOUNT OF \$198,610.47, FOR PRELIMINARY DESIGN OF THE NORTH PEA RIDGE ROAD PHASE 2 IMPROVEMENTS FROM PRAIRIE VIEW ROAD TO AIRPORT ROAD; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, this project consists of roadway improvements to North Pea Ridge Road from Prairie View Road to Airport Road (SH 36) - improvements include an expanded pavement section with continuous left-turn lane, pedestrian facilities, drainage conveyance, and water utilities;

**Whereas**, Staff recommends Council authorize a professional services agreement with Turley Associates, Inc., of Temple, Texas in the amount of \$198,610.47, for preliminary design of the North Pea Ridge Road Phase 2 Improvements from Prairie View Road to Airport Road;

**Whereas**, funding is available for this professional services agreement in Account No. 365-3400-531-6985 and Account No. 520-5900-535-6985, Project No. 101713; 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: Findings.** All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

**Part 2:** The City Council authorizes the City Manager, or her designee, after approval as to form by the Interim City Attorney, to execute a professional services agreement with Turley Associates, Inc., of Temple, Texas, in the amount of \$198,610.47, for preliminary design of the North Pea Ridge Road Phase 2 Improvements from Prairie View Road to Airport Road.

**Part 3:** It is hereby officially found and determined that the meeting at which this Resolution was 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 **5<sup>th</sup>** day of **September**, 2019.

THE CITY OF TEMPLE, TEXAS

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TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

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Lacy Borgeson  
City Secretary

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Kayla Landeros  
Interim City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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09/05/19  
Item #7(J)  
Consent Agenda  
Page 1 of 1

### **DEPT./DIVISION SUBMISSION & REVIEW:**

Floyd Mitchell, Chief of Police

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing a Memorandum of Understanding with the City of Killeen and Bell County to establish the rights, duties, administration and division of funds received under the 2019 Edward Byrne Memorial Justice Assistance Grant program Award.

**STAFF RECOMMENDATION:** Adopt resolution as presented in item description.

**ITEM SUMMARY:** The Department of Justice has made a grant award of \$86,434. The City of Killeen will administer the grant and will accept an administration fee of 10% of the grant award in the amount of \$8,643.40. The remaining \$77,790.60 will be allocated to Bell County, Killeen, and Temple as follows:

Bell County - 30%	\$ 23,337
City of Killeen - 45%	35,005
City of Temple - 25%	19,449
<b>TOTAL</b>	<b>\$ 77,791</b>

These funds are to be used to fund state and local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, and information systems for criminal justice for any or more of the following purposes: law enforcement programs; prosecution and court programs; prevention and education programs; corrections and community corrections programs; drug treatment programs; and/or planning evaluation and technology improvement programs.

Pursuant to the terms of the grant, the parties agree to expend the \$86,434 from the 2019 Edward Byrne Memorial Justice Assistance Grant Program by a date not later than 48 months after the project start date of October 1, 2019.

**FISCAL IMPACT:** A budget adjustment is being presented to Council for approval to appropriate funding in the amount of \$19,449 in account 260-2000-521-6211, project 102140, for the purchase of crime and traffic reconstruction equipment. There are no City matching funds required for the grant.

**ATTACHMENTS:**  
[Budget Adjustment](#)  
[Resolution](#)

FY **2019****BUDGET ADJUSTMENT FORM**

Use this form to make adjustments to your budget. All adjustments must balance within a Department.  
Adjustments should be rounded to the nearest \$1.

			+	-
ACCOUNT NUMBER	PROJECT #	ACCOUNT DESCRIPTION	INCREASE	DECREASE
260-0000-431-01-63		Federal Grants	\$ 19,449	
260-2000-521-62-11	102140	Instruments/Special Eqmt	19,449	
<b>TOTAL.....</b>			<b>\$ 38,898</b>	<b>\$ -</b>

**EXPLANATION OF ADJUSTMENT REQUEST-** Include justification for increases AND reason why funds in decreased account are available.

Appropriate funds to purchase crime and traffic reconstruction equipment for \$19,449 available from the FY 2019 Edward Byrne Justice Assistance Grant (JAG).

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒ Yes

☐ No

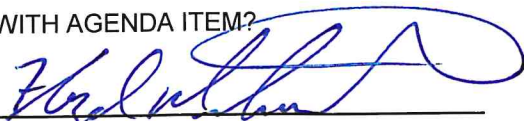
DATE OF COUNCIL MEETING

9/5/2019

WITH AGENDA ITEM?

☒ Yes

☐ No



Department Head/Division Director

8-27-19  
Date

☒ Approved  
☐ Disapproved

Finance

Date

☐ Approved  
☐ Disapproved

City Manager

Date

☐ Approved  
☐ Disapproved

RESOLUTION NO. 2019-9764-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A MEMORANDUM OF UNDERSTANDING WITH THE CITY OF KILLEEN AND BELL COUNTY TO ESTABLISH THE RIGHTS, DUTIES, ADMINISTRATION AND DIVISION OF FUNDS RECEIVED UNDER THE 2019 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT PROGRAM AWARD; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, the Department of Justice has made a grant award of \$86,434 and the City of Killeen will administer the grant and will accept an administration fee of 10% of the grant award in the amount of \$8,643.40 - the remaining \$77,790.60 will be allocated to Bell County, Killeen, and Temple as follows:

Bell County - 30%	\$ 23,337
City of Killeen - 45%	\$ 35,005
City of Temple - 25%	\$ 19,449
<b>TOTAL</b>	<b>\$ 77,791</b>

**Whereas**, these funds are to be used to fund state and local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, and information systems for criminal justice for any or more of the following purposes: law enforcement programs; prosecution and court programs; prevention and education programs; corrections and community corrections programs; drug treatment programs; and/or planning evaluation and technology improvement programs;

**Whereas**, pursuant to the terms of the grant, the parties agree to expend the \$86,434 from the 2019 Edward Byrne Memorial Justice Assistance Grant Program by a date not later than forty-eight (48) months after the project start date of October 1, 2019;

**Whereas**, a budget adjustment is being presented to Council for approval to appropriate funding in the amount of \$19,449 in Account No. 260-2000-521-6211, Project No. 102140, for the purchase of crime and traffic reconstruction equipment - there are no City matching funds required for the grant; 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: Findings.** All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

**Part 2:** The City Council approves a Memorandum of Understanding with the City of Killeen and Bell County to establish the rights, duties, administration and division of funds received under the 2019 Edward Byrne Memorial Justice Assistance Grant Program award.

**Part 3:** The City Council authorizes an amendment to the fiscal year 2019 budget, substantially in the form of the copy attached hereto as Exhibit ‘A.’

**Part 4:** It is hereby officially found and determined that the meeting at which this Resolution was 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 **5<sup>th</sup>** day of **September**, 2019.

THE CITY OF TEMPLE, TEXAS

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TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

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Lacy Borgeson  
City Secretary

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Kayla Landeros  
Interim City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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09/05/19  
Item #7(K)  
Consent Agenda  
Page 1 of 3

### **DEPT./DIVISION SUBMISSION & REVIEW:**

Erin Smith, Assistant City Manager

**ITEM DESCRIPTION:** Consider adopting a resolution approving the Ferguson Park Neighborhood Plan.

**STAFF RECOMMENDATION:** Adopt resolution as presented in item description.

**ITEM SUMMARY:** City of Temple staff began working with Kasberg, Patrick & Associates, LP and Covey Landscape Architects in September 2018 to develop the Ferguson Park Neighborhood Plan. Staff identified the Ferguson Park neighborhood as the area from Adams Avenue to Avenue H and 14<sup>th</sup> Street to 34<sup>th</sup> Street. Contract services provided by KPA and Covey also included a proposal to develop schematic design for the water and wastewater utilities in the Ferguson Park District.

Development of the Ferguson Park Neighborhood Plan began with an extensive community engagement process to obtain feedback from residents, business owners, and community stakeholders. On October 27, 2018, the City of Temple held a community engagement event at Ferguson Park to receive feedback from residents and business owners with property in the Ferguson Park Neighborhood. There was a total of seven stations that were covered by staff to receive feedback from the public regarding the following topics:

- Code Enforcement Issues
- Housing Issues
- Transportation and Pedestrian Improvements
- Park Improvements
- Why do you like your neighborhood?
- Neighborhood Wish List
- This or That

A community survey was also created and distributed in both English and Spanish to solicit feedback from the public. Three focus group meetings were held with area builders, non-profits, and religious leaders to receive feedback regarding proposed improvements needed within the Ferguson Park District. A workshop was then held in May 2019 to receive feedback from Reinvestment Zone Project Committee members regarding the recommended improvements.

The Ferguson Park Neighborhood Plan includes recommendations related to the following sections.

### Street Network

The Ferguson Park Neighborhood Plan identifies proposed improvements for collector and neighborhood streets. The Plan identifies improvements to the following street sections:

- Avenue C – 100' of Right-of-Way
- Central Avenue – 80' of Right-of-Way
- 24<sup>th</sup> Street – 60' of Right-of-Way
- Typical Neighborhood Street – 60' of Right-of-Way
- 14<sup>th</sup> Street – 54' of Right-of-Way
- Neighborhood Side Streets – 50' of Right-of-Way

Each street section includes proposed improvements to include items such as bike lanes, sidewalks, buffer landscaping, roadway width, and on-street parking.

### Neighborhood Identity

Gateways and place making are an important part of creating a unified and unique neighborhood. From identifiers on the edges of the neighborhood to special colors or markers on street signs, small, unique elements that are carried across the entire district create a sense of place and community. These elements allow residents to have a sense of identity and pride in where they live and inform visitors they have entered into a special district and set a tone for what they will experience. Recommendations for neighborhood identity include gateway signage, supplemental elements, and street signs.

### Paint and Material Standards

Recommendations for new plantings, such as trees and shrubs are included in the Ferguson Park Neighborhood Plan. This section also proposes exterior materials and siding color examples that will compliment this neighborhood as infill development occurs.

### Lighting Standards

For the Ferguson Park district, safety is a major priority for both residents and users of the parks and open spaces. With the proposed trail network and streetscape enhancements, the need for quality lighting is a necessity from a usability and safety standpoint. Lighting should be subtle and evenly spaced along major pedestrian connectors while not producing an obtrusive amount of light for the adjoining residences. Other lighting concerns are to provide a sturdy and durable light pole resistant to potential vandalism. The example shown is an efficient and cost-effective light standard that could be used throughout Ferguson Park in many applications.



### Architectural Standards

The standards included in this section apply to new development, infill development, and exterior renovations on existing structures. The intent of this section is to ensure the exterior of new and recently constructed businesses and homes complement the existing homes in the Ferguson Park District. Examples of architectural standards includes driveway access, sidewalks, landscaping, contrast siding, shutter, structure depths, and other recommendations.

Proposed visioning is included in the Ferguson Park Neighborhood Plan within the following areas:

- Southeast District
- Southwest
- District Center and Avenue C
- Avenue A
- Emerson S.S.C. Tract

A project phasing plan with opinion of probable construction costs (OPC) was also created for the Ferguson Park Neighborhood Plan and includes the following:

- 14<sup>th</sup> Street Trail from Avenue C to Avenue F – \$500,000 OPC
- 14<sup>th</sup> Street Connection to Luna and 16<sup>th</sup> Street – \$3 million OPC
- Area between Avenue E to Avenue H – \$2.4 million OPC
- Avenue D Connections and Alley – \$5.2 million OPC
- Wastewater at MHMR – \$325,000 OPC
- Wastewater at the Cottages – \$150,000 OPC
- 24<sup>th</sup> Street (Avenue C to Central Avenue) – \$2.8 million OPC
- Central Avenue (14<sup>th</sup> Street to 24<sup>th</sup> Street) – \$3.5 million OPC
- Ferguson Park Parking Lot and Trail to Wilson Park – \$2.2 million OPC
- Waterline Rehabilitation – \$1.7 million

**FISCAL IMPACT:** There is no financial impact at this time.

### **ATTACHMENTS:**

[Ferguson Park Neighborhood Plan Resolution](#)



**FERGUSON PARK DISTRICT**  
**CONCEPTUAL DESIGN PACKAGE**  
PREPARED FOR THE CITY OF TEMPLE

*Ferguson Park is a centrally located neighborhood in downtown Temple. Bordered with multiple city parks and the revitalized downtown core, the neighborhood is primed for redevelopment.*

*With new infrastructure opportunities that include expanded Right of Ways with pedestrian connections, new bike lanes, new water lines, and neighborhood lighting, Ferguson Park will become an example of a successful transition of a once forgotten corner of downtown to a vital part of the health of the entire City of Temple.*





COMMUNITY



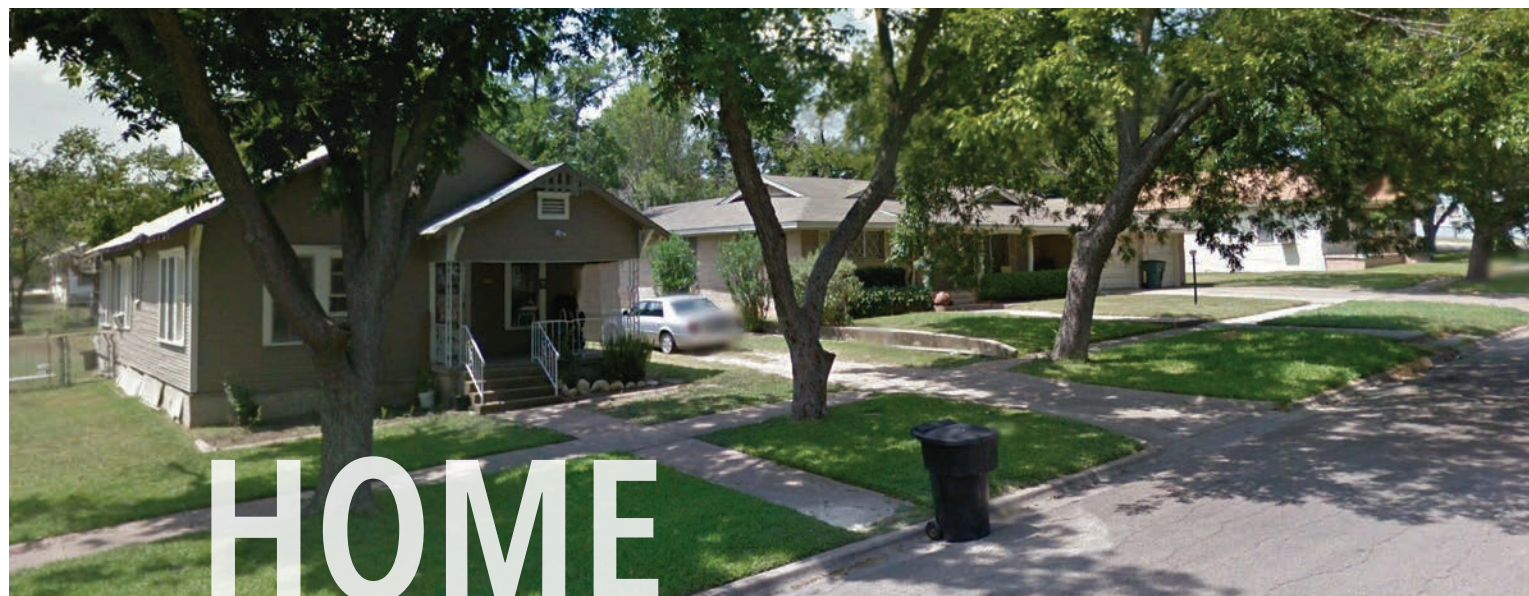
HISTORY



PARKS



NEGLECTED



HOME



PROXIMITY





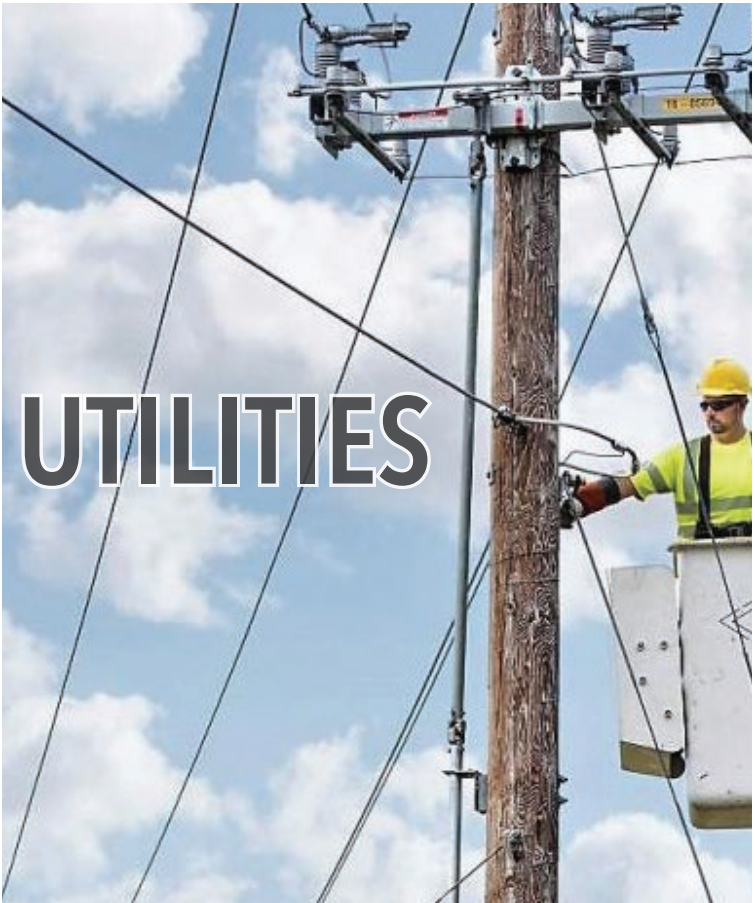
**MASTER PLAN**



**IMPROVE  
SAFETY**



**NEIGHBORING  
IMPROVEMENTS**



**UTILITIES**



**PARK INTEGRATION**



**IMPROVE HOUSING**





## SAFETY

- SAFETY THROUGH NEW STREETSCAPES
- NEW PEDESTRIAN FACILITIES
- NEIGHBORHOOD LIGHTING
- DEAD-END ROAD REMOVAL
- NATURAL SURVEILLANCE "EYES ON THE STREET"



## HOUSING

- IMPROVE HOUSING STOCK
- IMPROVE PROPERTY VALUE
- CREATE SIMPLE GUIDELINES
- CONTROL CORNERS

## CONNECTING

- PEDESTRIAN CONNECTIONS TO NEIGHBORHOOD SERVICES
- BIKE AND PEDESTRIAN CONNECTIONS TO DOWNTOWN
- CREATE CENTRAL HUB OF NEIGHBORHOOD SERVICES
- CONNECT TO CHURCHES AND PARKS
- CONNECTION OF PEOPLE THROUGH IMPROVED 'COMMUNITY'



## OPEN SPACE

- INTEGRATE NEIGHBORING PARKS
- UNIFY FERGUSON PARK
- CREATE TRAIL SYSTEM TO PARKS
- CONNECT TRAIL SYSTEM TO DOWNTOWN AND REGIONAL PARKS

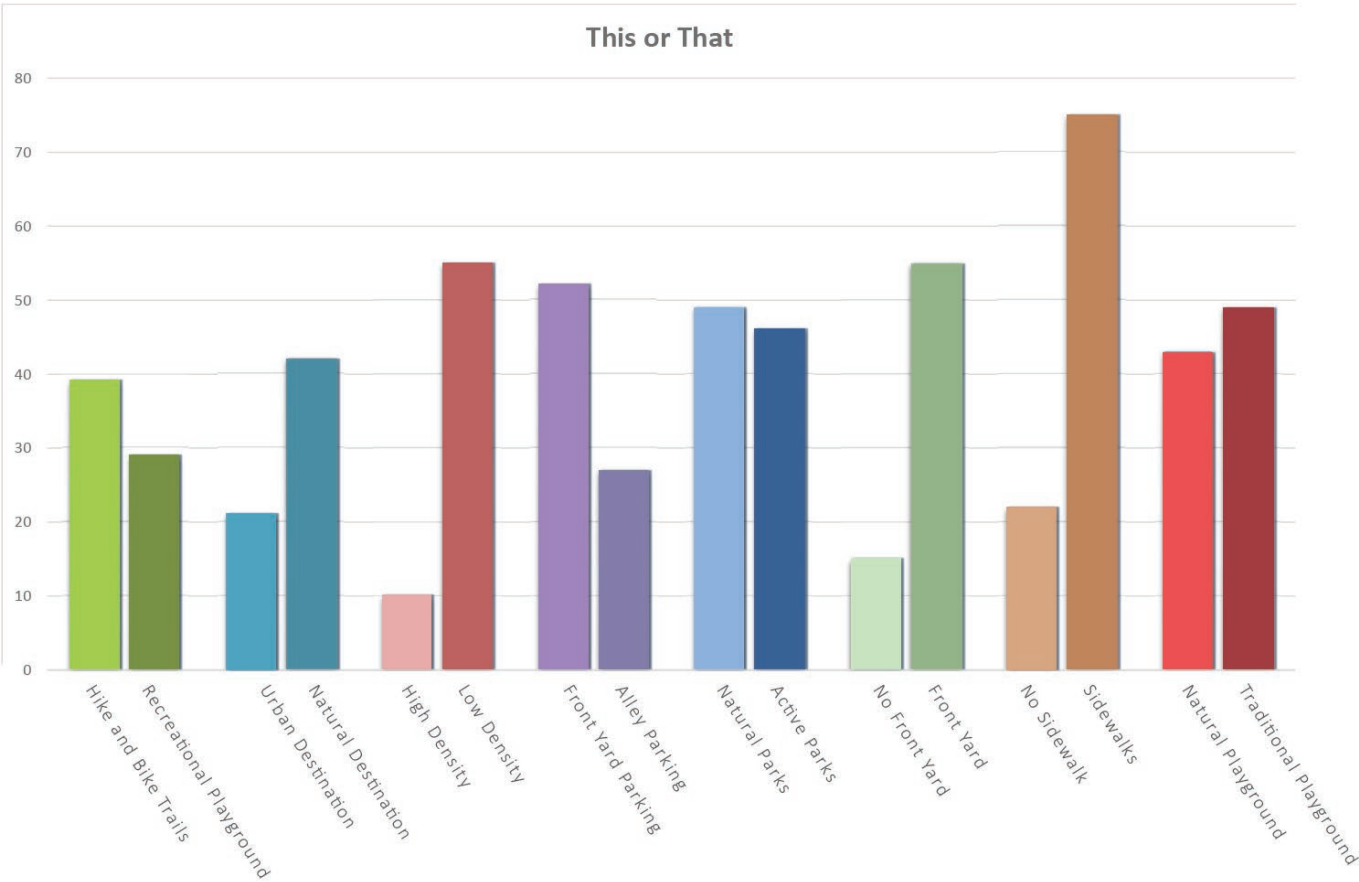
# COMMUNITY ENGAGEMENT



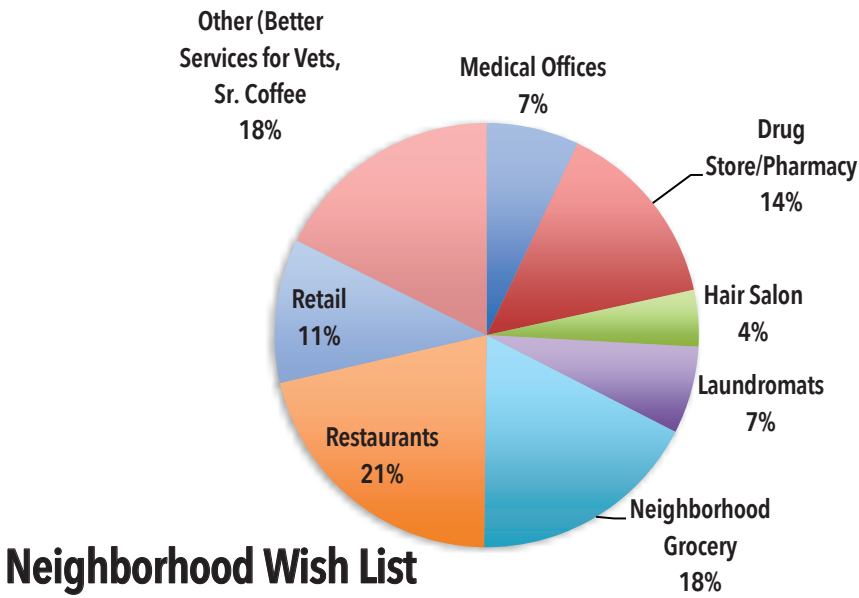




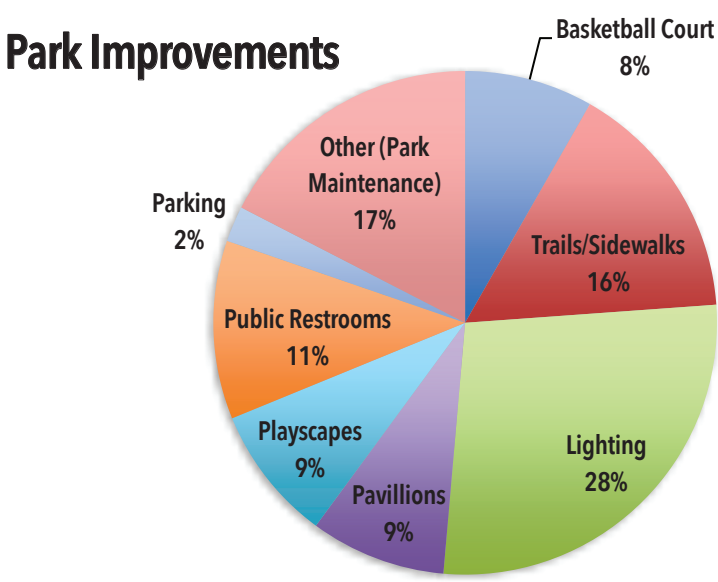
THIS OR THAT				
	Resident	Non-Resident	Total	PROBABILITIES
Hike & bike Trails	34	5	39	6.20%
Urban Destination	18	3	21	3.34%
High Density	10	0	10	1.59%
Front Yard Parking	42	10	52	8.27%
Natural Parks	41	8	49	7.79%
No Front Yard	14	1	15	2.38%
No Sidewalk	18	4	22	3.50%
Natural Playground	36	7	43	6.84%
Recreational Playground	21	8	29	4.61%
Natural Destination	34	8	42	6.68%
Low Density	43	12	55	8.74%
Ally Parking	23	4	27	4.29%
Active Parks	36	10	46	7.31%
Front Yard	45	10	55	8.74%
Sidewalk	64	11	75	11.92%
Traditional Playground	44	5	49	7.79%
TOTAL	523	106	629	1.00
PROBABILITIES	83.15%	16.85%	1	



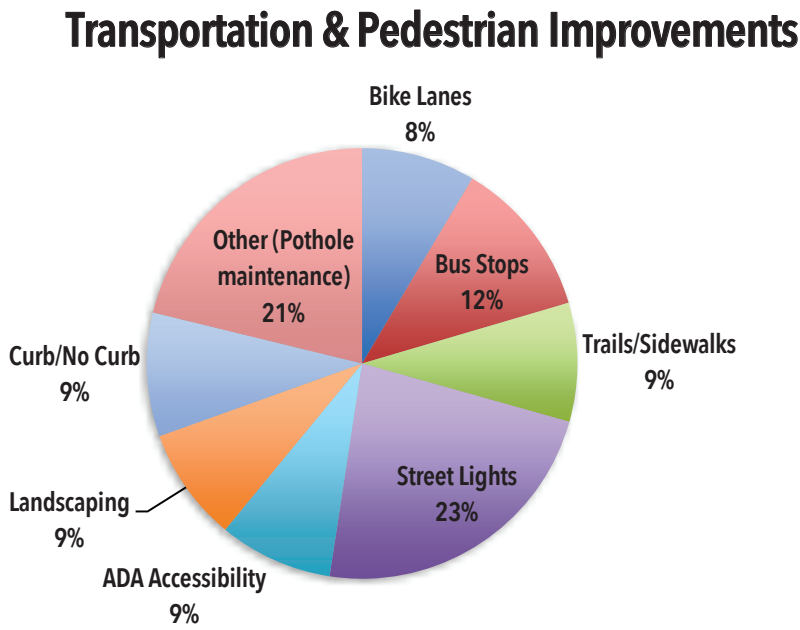
Board with Votes				
Neighborhood Wish List				
	Resident	Non-Resident	Total	PROBABILITIES
Medical Offices	14	4	18	7.06%
Drug Store/Pharmacy	29	8	37	14.51%
Hair Salon	10	1	11	4.31%
Laundromats	12	5	17	6.67%
Neighborhood Grocery	34	11	45	17.65%
Restaurants	42	12	54	21.18%
Retail	22	6	28	10.98%
Other (Better Services for Vets, Sr. Coffee	39	6	45	17.65%
TOTAL	202	53	255	1
PROBABILITIES	79.22%	20.78%	1	



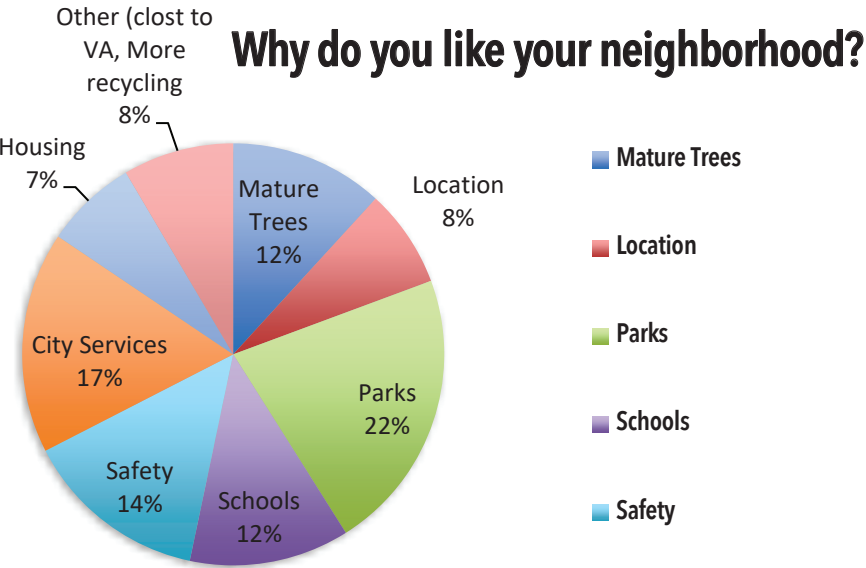
Board with Votes				
Park Improvements				
	Resident	Non-Resident	Total	PROBABILITIES
Basketball Court	15	3	18	8.26%
Trails/Sidewalks	28	6	34	15.60%
Lighting	48	12	60	27.52%
Pavillions	13	6	19	8.72%
Playscapes	14	5	19	8.72%
Public Restrooms	17	8	25	11.47%
Parking	3	2	5	2.29%
Other (Park Maintenance)	31	7	38	17.43%
TOTAL	169	49	218	1
PROBABILITIES	77.52%	22.48%	1	



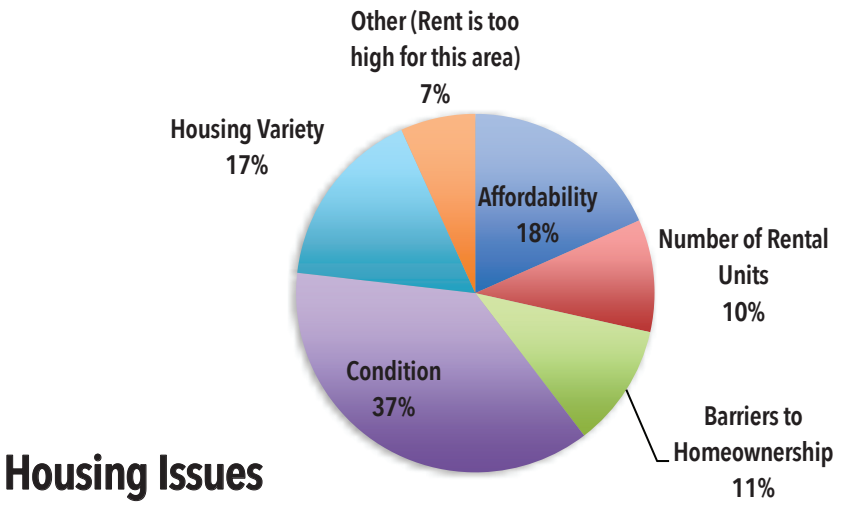
Board with Votes				
Transportation & Pedestrian Improvements				
	Resident	Non-Resident	Total	PROBABILITIES
Bike Lanes	19	4	23	8.55%
Bus Stops	24	8	32	11.90%
Trails/Sidewalks	23	1	24	8.92%
Street Lights	57	5	62	23.05%
ADA Accessibility	12	11	23	8.55%
Landscaping	11	12	23	8.55%
Curb/No Curb	19	6	25	9.29%
Other (Pothole maintenance)	51	6	57	21.19%
TOTAL	216	53	269	1
PROBABILITIES	80.30%	19.70%	1	



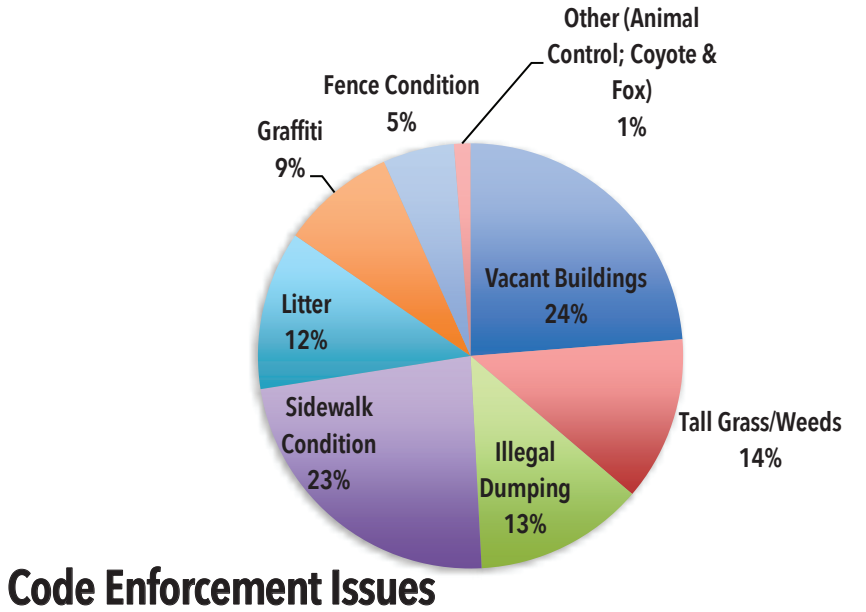
Board with Votes				
Why do you like your neighborhood?				
	Resident	Non-Resident	Total	PROBABILITIES
Mature Trees	15	10	25	11.79%
Location	15	1	16	7.55%
Parks	40	6	46	21.70%
Schools	24	2	26	12.26%
Safety	23	7	30	14.15%
City Services	28	8	36	16.98%
Housing	11	4	15	7.08%
Other (clost to VA, More recycling	14	4	18	8.49%
TOTAL	170	42	212	1
PROBABILITIES	80.19%	19.81%	1	



Board with Votes				
Housing Issues				
	Resident	Non-Resident	Total	PROBABILITIES
Affordability	33	5	38	18.36%
Number of Rental Units	19	2	21	10.14%
Barriers to Homeownership	21	2	23	11.11%
Condition	61	16	77	37.20%
Housing Variety	28	6	34	16.43%
Other (Rent is too high for this area)	13	1	14	6.76%
TOTAL	175	32	207	1
PROBABILITIES	84.54%	15.46%	1	



Code Enforcement Issues				
	Resident	Non-Resident	Total	PROBABILITIES
Vacant Buildings	42	15	57	23.75%
Tall Grass/Weeds	24	6	30	12.50%
Illegal Dumping	23	8	31	12.92%
Sidewalk Condition	43	13	56	23.33%
Litter	23	6	29	12.08%
Graffiti	17	4	21	8.75%
Fence Condition	8	5	13	5.42%
Other (Animal Control; Coyote & Fox)	3	0	3	1.25%
TOTAL	183	57	240	1
PROBABILITIES	76.25%	23.75%	1	



# INPUT

- *WRITTEN SURVEY*
- *DISTRIBUTED IN ENGLISH AND SPANISH*
- *RESPONSES AFTER THE COMMUNITY ENGAGEMENT EVENT*

## Ferguson Park District Community Survey

The current year budget includes an allocation of funding to begin a strategic plan for the redevelopment of the Ferguson Park District Neighborhood. As part of our Neighborhood Revitalization Program, this project will develop a concept design for improvements to the Ferguson Park District to enhance the neighborhood.

The City of Temple held a Ferguson Park Community Engagement Event on Saturday, October 27, 2018 to receive feedback from residents and owners that will assist us in developing the concept design for the Ferguson Park District Neighborhood. If you were unable to attend this event, you still have an opportunity to provide feedback.

Please fill out the survey below and select the option that you prefer. We value and appreciate your time. When you complete the survey, please return it to Transform Temple at 101 N. Main Street or the City Manager's Office in City Hall at 2 North Main Street, Suite 306 by Friday, November 23, 2018.

1. Do you own or rent properties in the Ferguson Park District Neighborhood?

- ☐ Yes
- ☐ No

2. What are the code enforcement issues that affect your neighborhood? Please circle the option(s) of your choice. If your answer is not provided below, please fill out the "Other" portion.

Vacant Buildings



Tall Grass/Weeds



Illegal Dumping



Sidewalk Condition



Litter



Graffiti



Fence Condition



Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



# INPUT

- COMMUNITY INPUT

- » *ENGAGEMENT EVENT*
- » *SURVEY*
- » *COMPILATION*

- FOCUS GROUPS

- » *BUILDERS*
- » *NON-PROFITS*
- » *RELIGIOUS LEADERS*

- TEMPLE REINVESTMENT  
ZONE WORKSHOP



# FOCUS GROUPS

- BUILDERS
- NON-PROFITS
- RELIGIOUS LEADERS

## NON-PROFITS - 1/9/19

- CURB AND GUTTER ON STREETS IS NEEDED
- CLEAR TITLE ON AVAILABLE LOTS NEEDED
- HOUSING CHOICE VOUCHER PROGRAM – CTCOG TO ADMINISTER
- CITY TAX ABATEMENTS COULD BE HELPFUL
- NEIGHBORHOOD MARKET
- REVITALIZE EXISTING BUSINESSES
- WALKABLE NEIGHBORHOOD; CONNECTION TO DOWNTOWN
- ACCESSIBLE BUS STOPS
- GRANTS TO REVITALIZE EXISTING HOMES/STRUCTURES

# FOCUS GROUPS

- BUILDERS
- NON-PROFITS
- RELIGIOUS LEADERS

## BUILDERS – 1/29/19

- IDENTIFY STREETS WITH WATER, SEWER AND DRAINAGE IMPROVEMENTS
- INCENTIVE PROGRAM WOULD BE VERY HELPFUL
  - *CLEAR TITLE ON LOTS*
  - *WATER, SEWER AND DRAINAGE IMPROVEMENTS*
  - *POSSIBLE TAX ABATEMENTS*
  - *OTHER*
- MARKETING PLAN IS NEEDED TO ADVERTISE EXISTING INCENTIVES THAT EXIST LIKE DOWN PAYMENT ASSISTANCE PROGRAM
- PURCHASE POCKETS OF AREAS WITHIN FERGUSON PARK
- ISSUES: AVAILABLE LOTS AND DOWN PAYMENT
- HOMES WITH SMALLER FOOTPRINT ARE HELPFUL – REDUCED LOT SIZES
- OPPORTUNITY ZONE AREA
- REDUCTION IN LOT COST; REDUCTION IN BUILDING CODE REQUIREMENTS
- IMPROVEMENTS TO STREETScape – TREES, LIGHTING, SIDEWALKS

# FOCUS GROUPS

- BUILDERS
- NON-PROFITS
- RELIGIOUS LEADERS

## RELIGIOUS LEADERS – 3/2/19

- RECOMMEND CURB APPEAL IN NEIGHBORHOODS AND GATEWAYS
- CONCERNS WITH MLK DRIVE AS GATEWAY GOING EAST – SUGGEST IMPROVEMENTS ALONG THIS CORRIDOR (NOT IN FERGUSON PARK)
- RECOMMEND INCENTIVES FOR THE FOLLOWING:
  - PROGRAMS FOR NEW DEVELOPMENT
  - PROGRAMS FOR EXISTING BUSINESSES AND RESIDENCES TO IMPROVE THEIR PROPERTIES
- MORE JOBS AND BUSINESSES NEEDED IN EAST TEMPLE
- FARMERS MARKET
  - LOW INCOME POPULATION IN EAST TEMPLE CANNOT GET TO THE LOCATION ON WEST ADAMS.
  - SUGGEST FARMERS MARKET BE LOCATED IN EAST TEMPLE, CLOSE TO LOW-INCOME NEIGHBORHOODS.



# RESEARCH

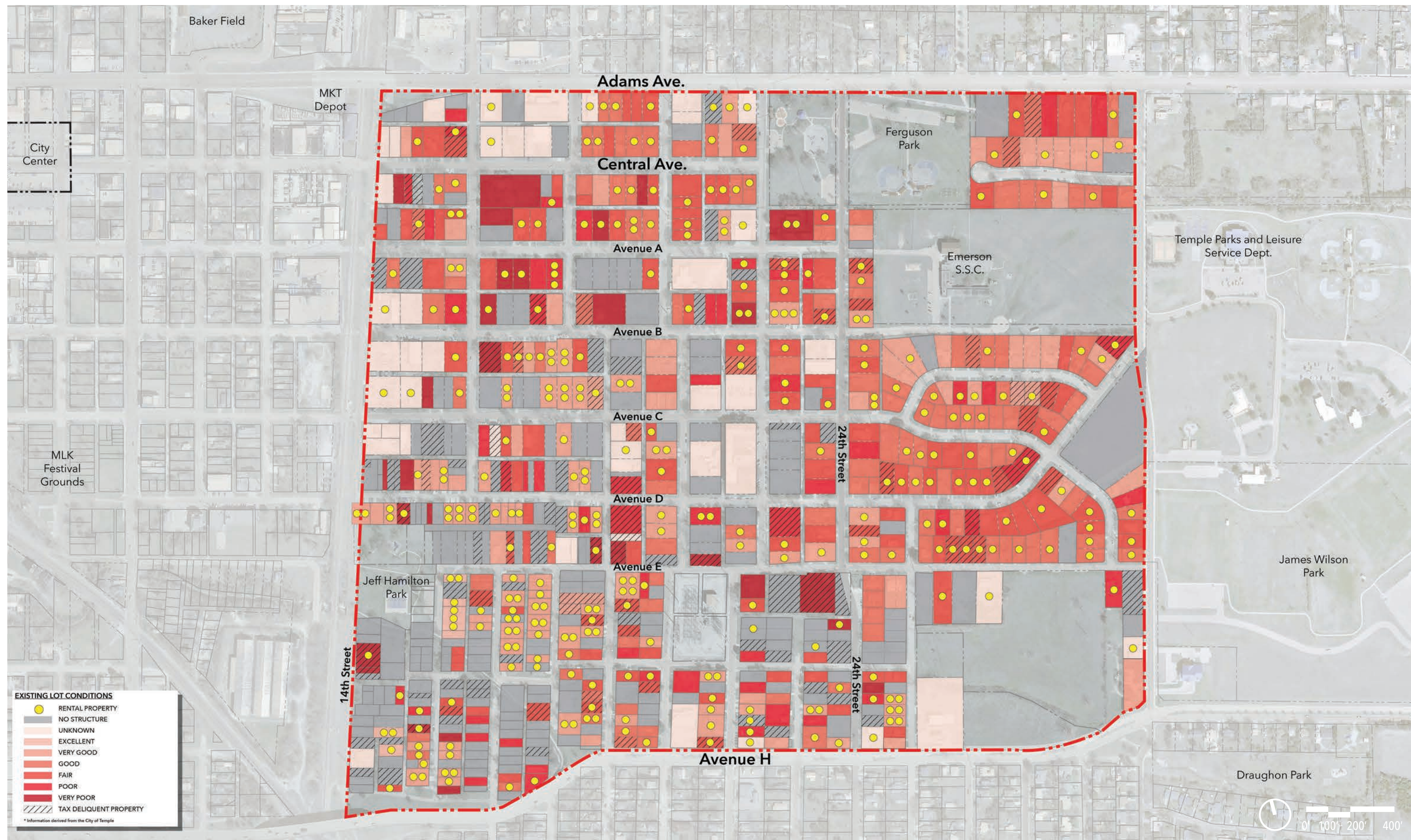
- CHARTING OWNERSHIP

- » OWNER
- » STRUCTURE
- » RENTAL?
- » OCCUPIED
- » TAXES
- » VALUE
- » LIENS

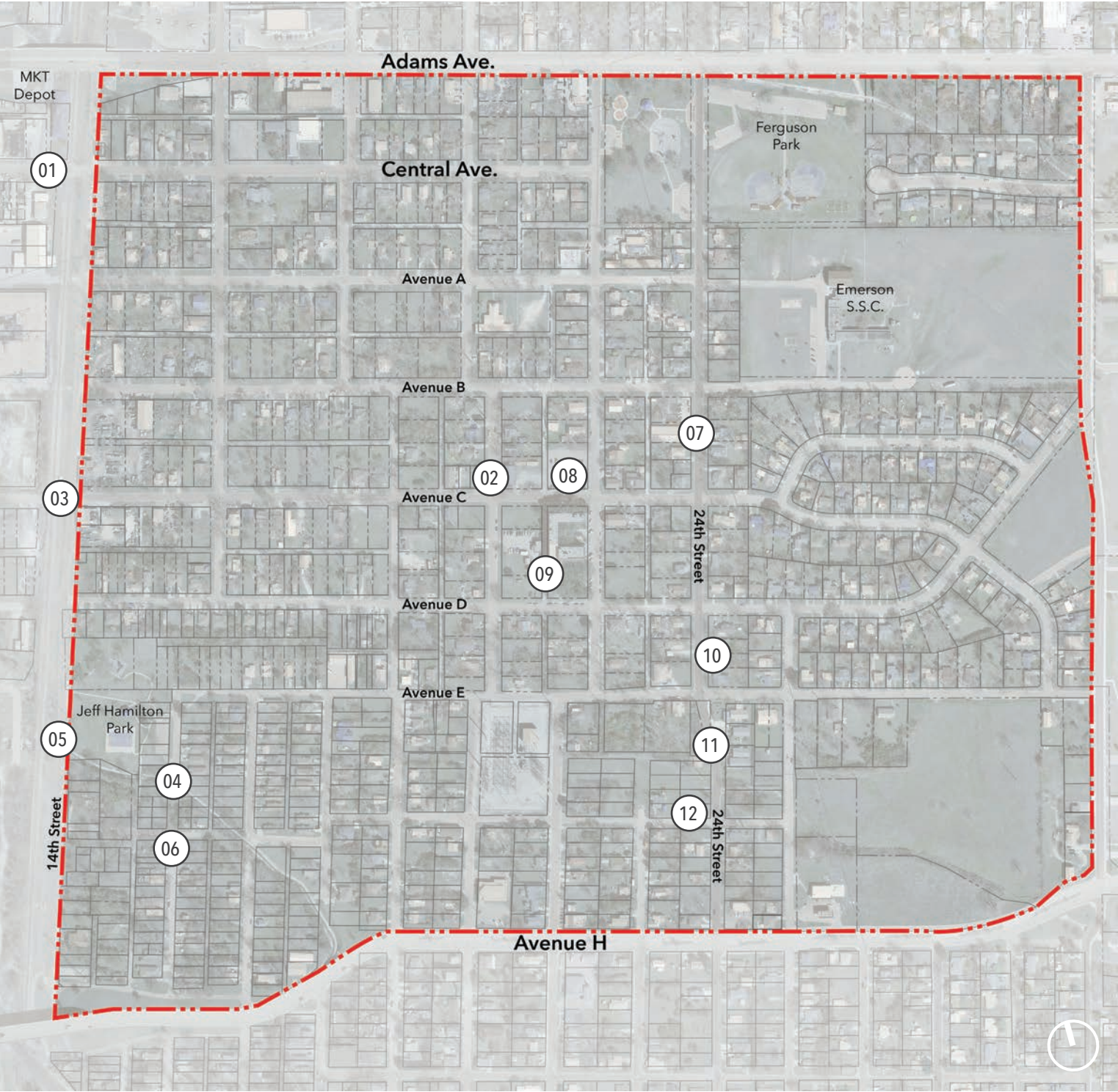


PROP_ID	PRIMARY_ADD	OWNERNAME	VACANT LOT
15508	605 S 14TH ST	HERNANDEZ, ALEJANDRO	X
127290	603 S 14TH ST	DAVIS, DORIS JEWEL	X
96968	705 E F AVE	RAY, LARRY E	X
105887	709 E F AVE	LOYA-MESA, BLANCA L ETAL	X
74355	606 LUNA LN	PEREZ, DAISY HAYDEE SANTOS	X
37628	607 S 14TH ST	FRANKLIN, JOHN W	X
74354	610 LUNA LN	PEREZ, DAISY HAYDEE SANTOS	X
23289	609 S 14TH ST	BRACKINS, CHUCKIE	X
26263	515 S 14TH ST	CRUMB, ALFRED ETAL	
26264	515 A S 14TH ST	CRUMB, ALFRED ETUX CAROLYN & ANTHONY NIKITA CRUMB	X
26264	515 B S 14TH ST	CRUMB, ALFRED ETUX CAROLYN & ANTHONY NIKITA CRUMB	X
55847	513 S 14TH ST	MAYES, ALBERTA	X
1550	511 S 14TH ST	ALDRIDGE, WILLIAM, JOHN ALDRIDGE	X
9160	520 LUNA LN	PATCO CONSTRUCTION LLC	X
46348	504 S 18TH ST	CHURCH OF THE LIVING GOD	X
92060	505 S KNOB ST	PEOPLES, ARTHUR L SR	X
46346	501 S KNOB ST	CHURCH OF THE LIVING GOD	X
46347	502 S 18TH ST	CHURCH OF THE LIVING GOD	X
99404	507 S KNOB ST	ARROYO, FELIX C ETUX ALEXANDRA	
21042	703 A E D AVE	RAY, CURTIS INVESTMENTS LTD	
21042	703 B E D AVE	RAY, CURTIS INVESTMENTS LTD	
39550	707 A E D AVE	PATCO LLC C/O W C PATTERSON, MANAGER	
39550	707 B E D AVE	PATCO LLC C/O W C PATTERSON, MANAGER	
68695	709 A E D AVE	DACYN INVESTMENTS LTD	
68695	709 B E D AVE	DACYN INVESTMENTS LTD	
2662	713 E D AVE	HOLT, C L & LOGAN	
70485	721 E D AVE	HAWK, GARFIELD III	
21043	715 E D AVE	CITY OF TEMPLE ATTN: CITY OF TEMPLE FINANCE DEPT	X
17617	717 E D AVE	HAWK, GARFIELD III	X
70329	719 E D AVE	CITY OF TEMPLE ATTN: CITY OF TEMPLE FINANCE DEPT	X
128892	723 E D AVE	RODRIGUEZ, GERARDO ETUX JENNY	X
21044	727 A E D AVE	RAY, CURTIS INVESTMENTS LTD	
21044	727 B E D AVE	RAY, CURTIS INVESTMENTS LTD	
21045	725 A E D AVE	RAY, CURTIS INVESTMENTS LTD	
21045	725 B E D AVE	RAY, CURTIS INVESTMENTS LTD	
46241	801 A E D AVE	CURTIS, DAVID INVESTMENTS LTD	
46241	801 B E D AVE	CURTIS, DAVID INVESTMENTS LTD	

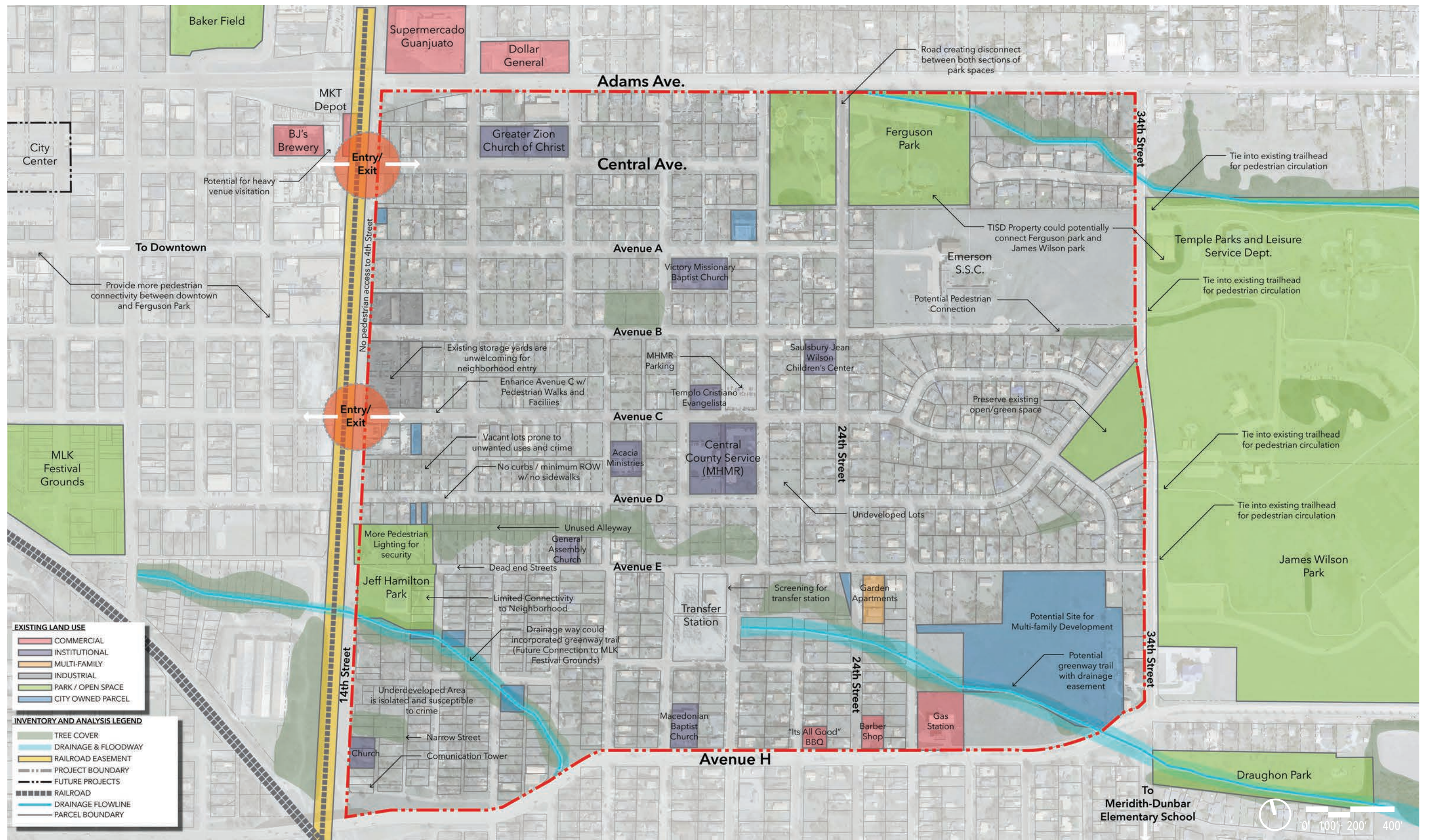




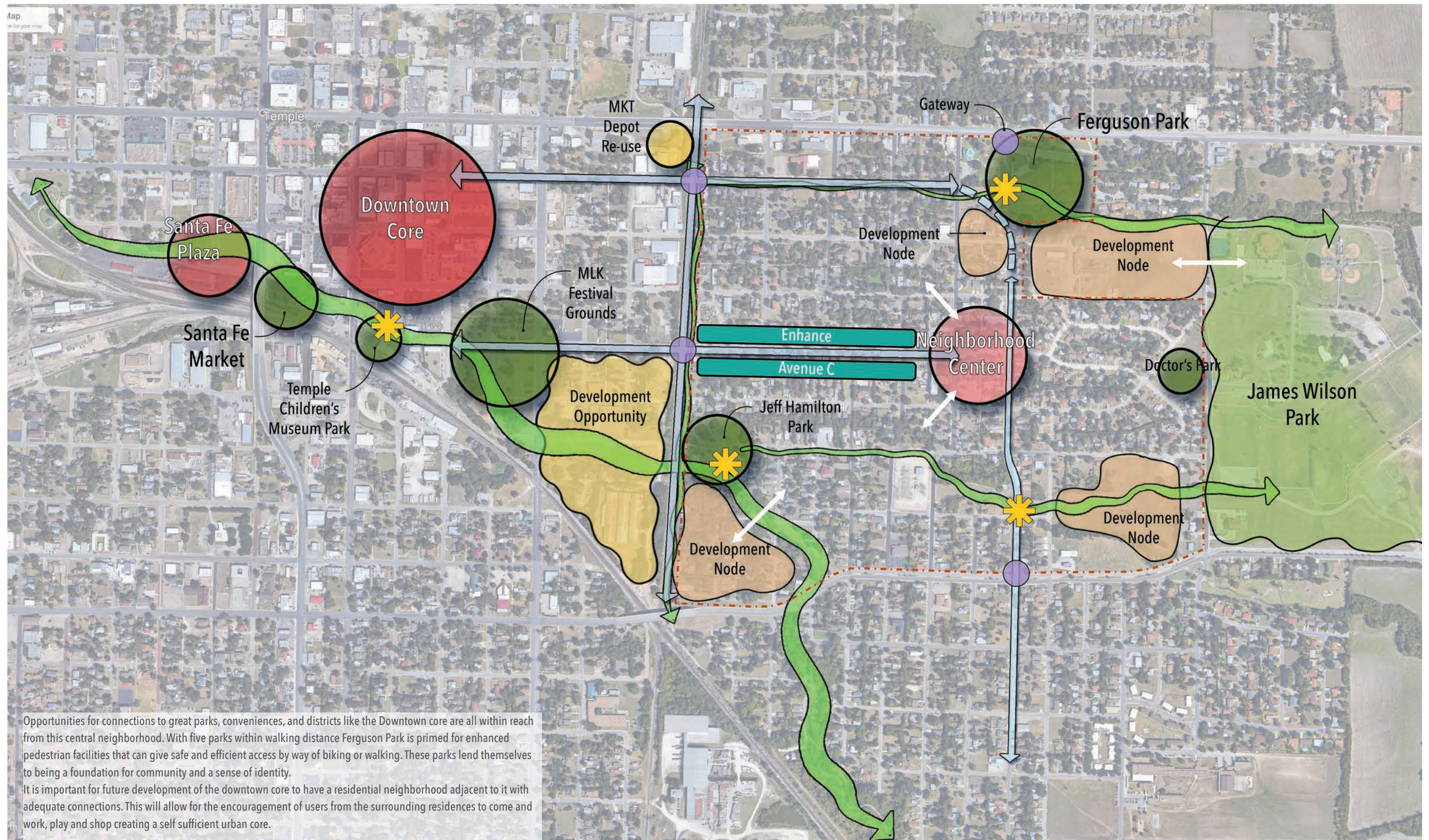




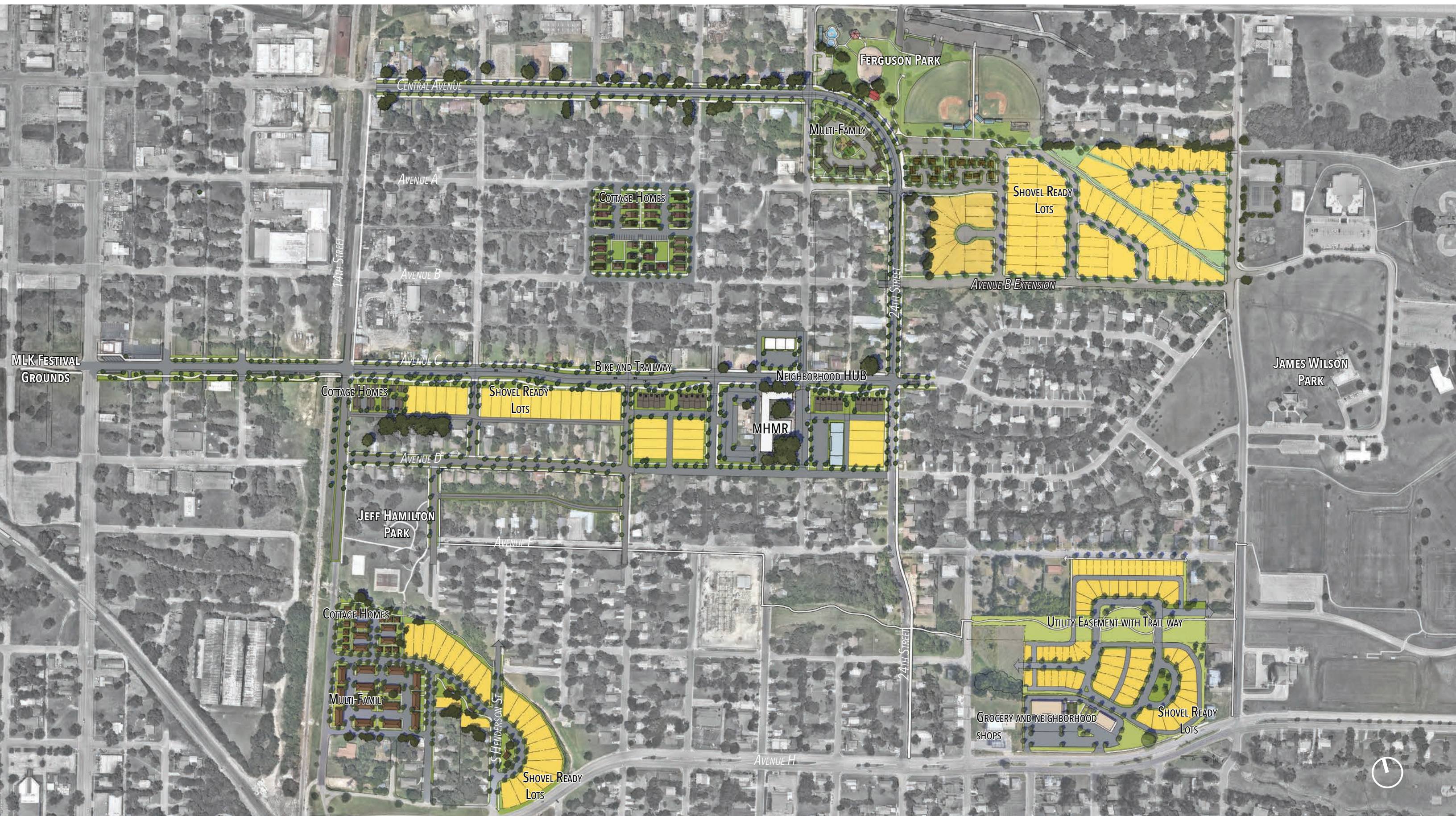




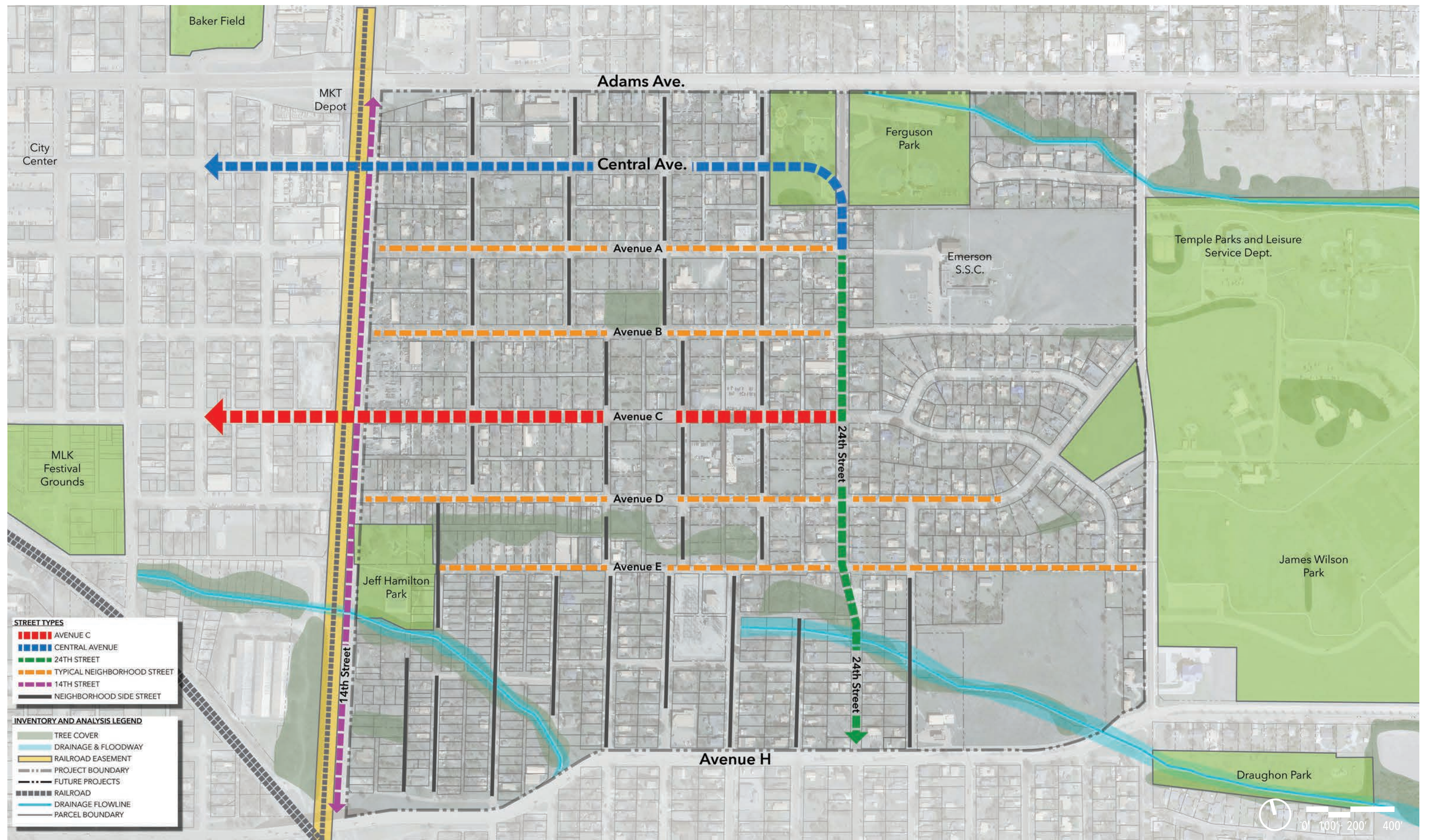




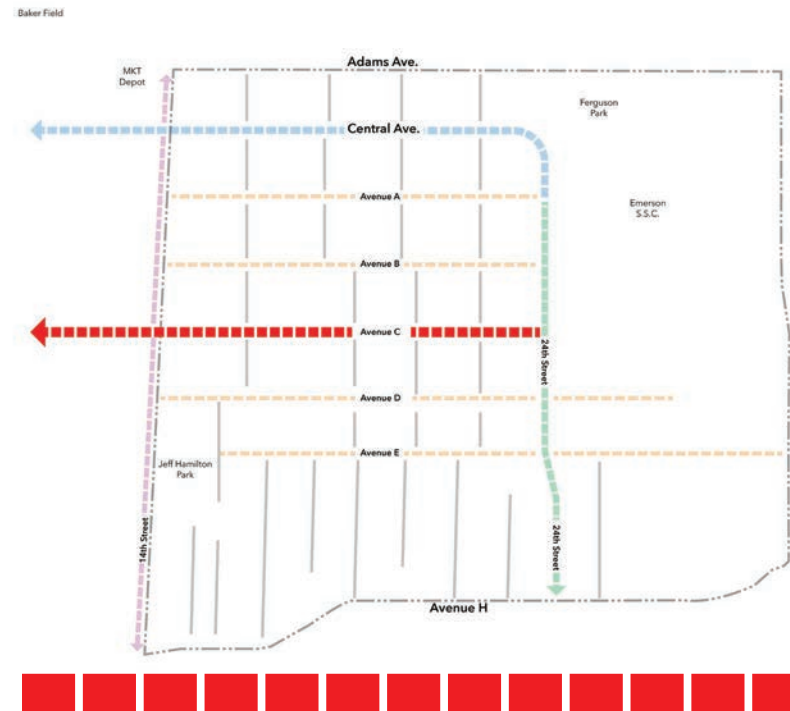




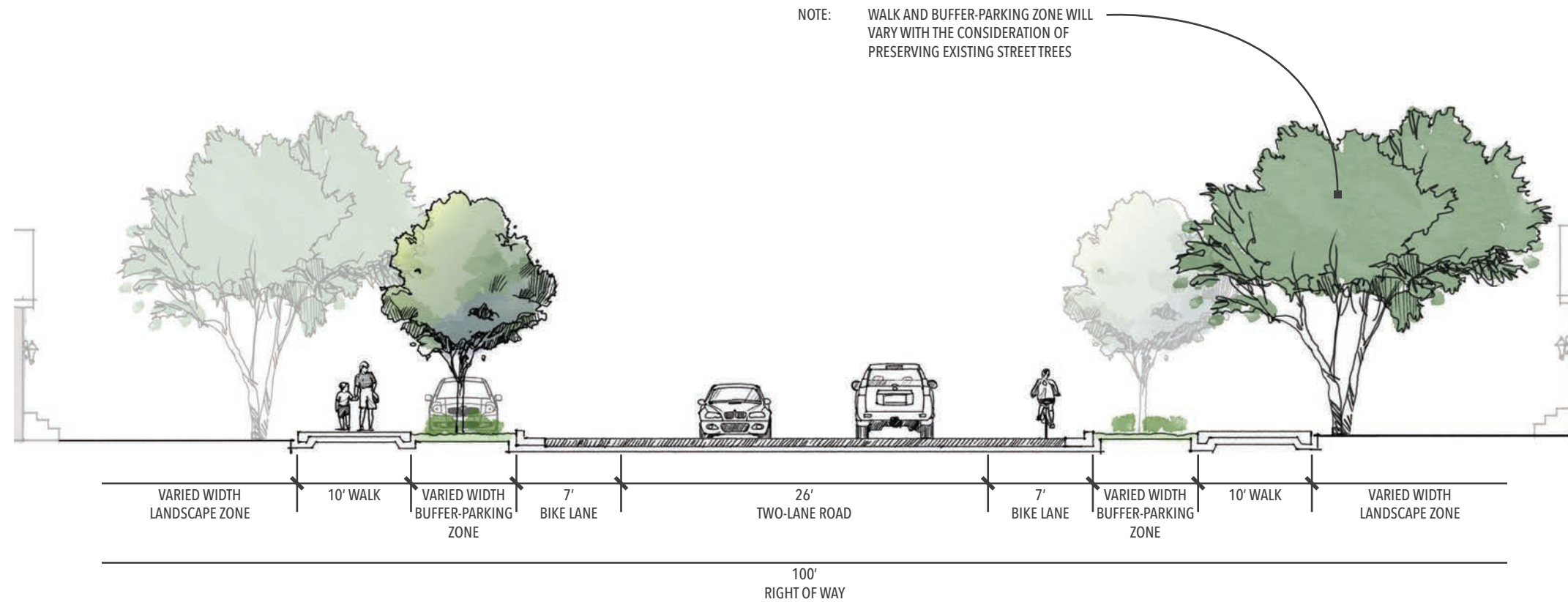




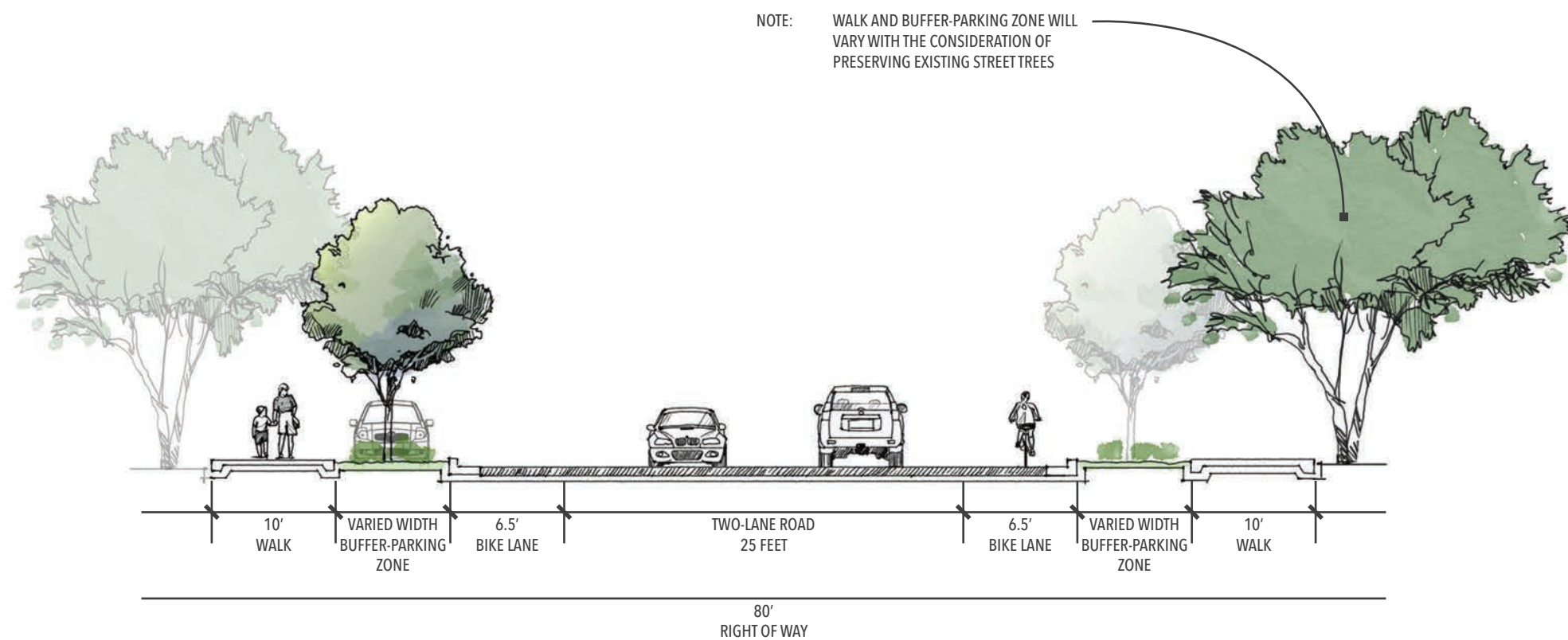




AVENUE C (100 FOOT R.O.W)  
STREET SECTION



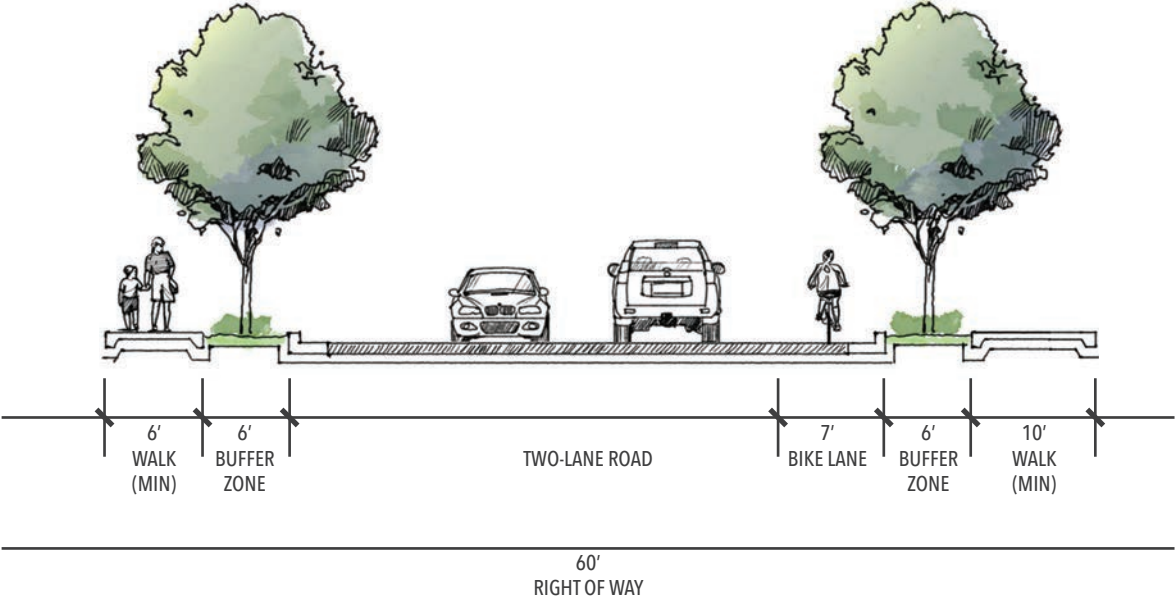
CENTRAL AVENUE (80 FOOT R.O.W)  
STREET SECTION



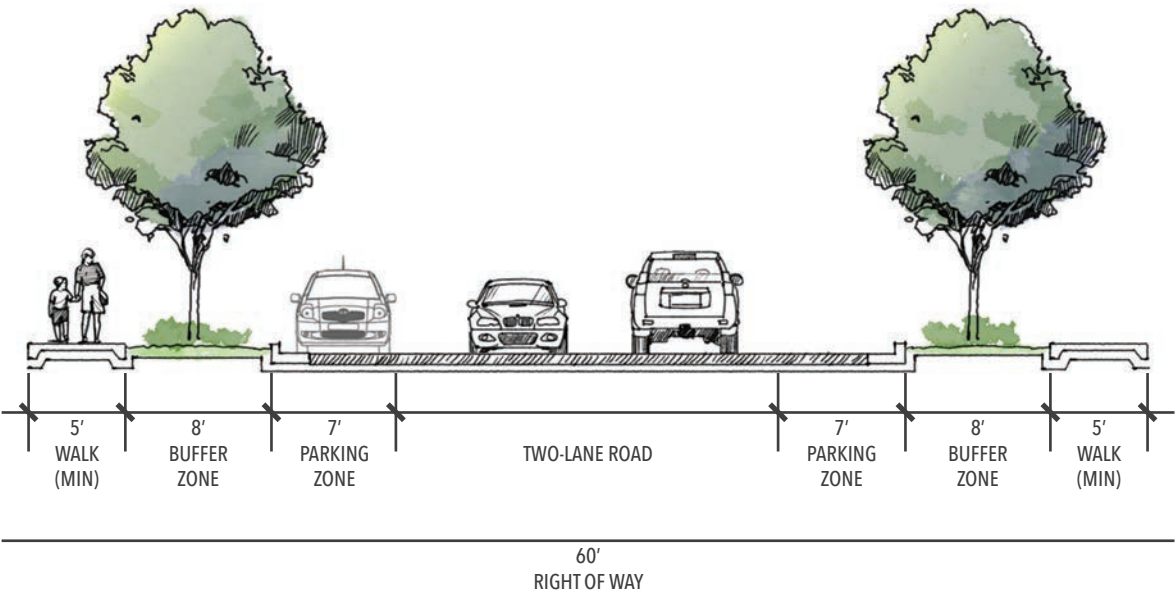




24TH STREET (60 FOOT R.O.W)  
STREET SECTION

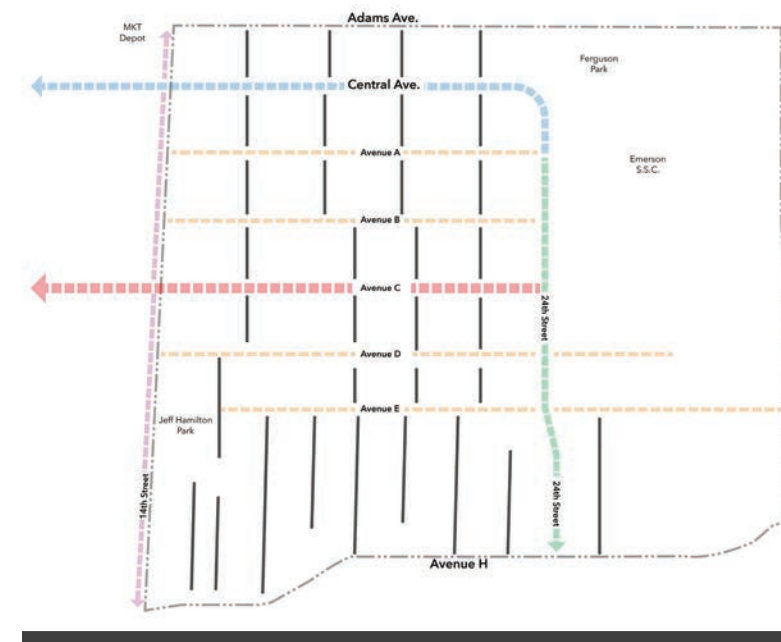
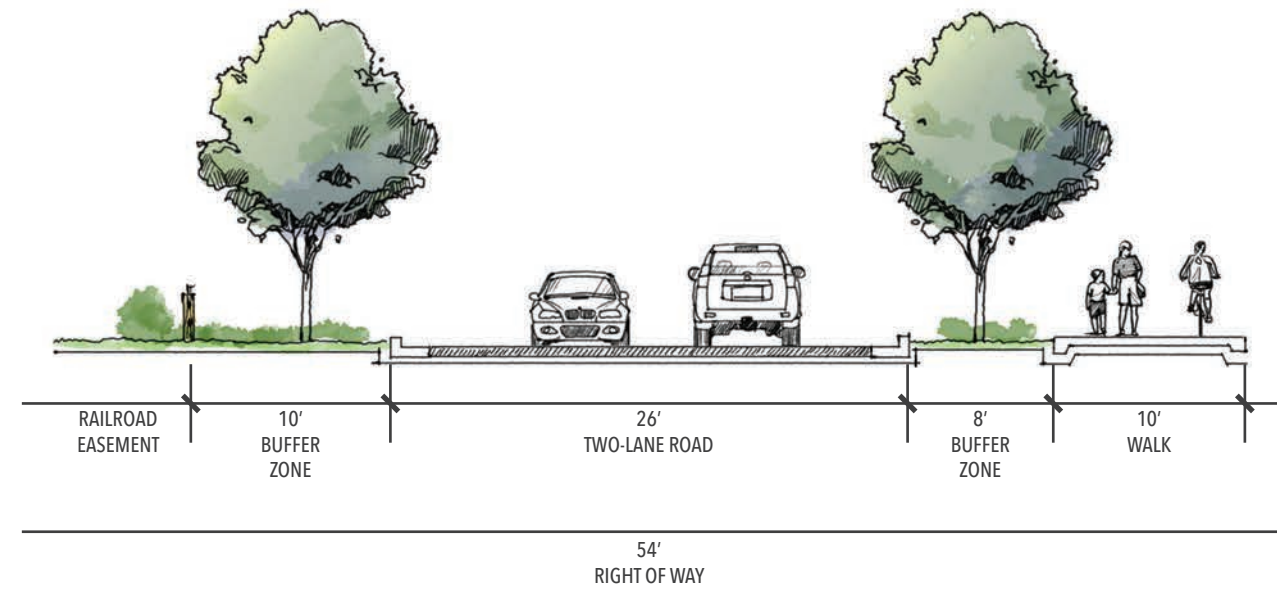


TYPICAL NEIGHBORHOOD STREETS (60 FOOT R.O.W)  
STREET SECTION

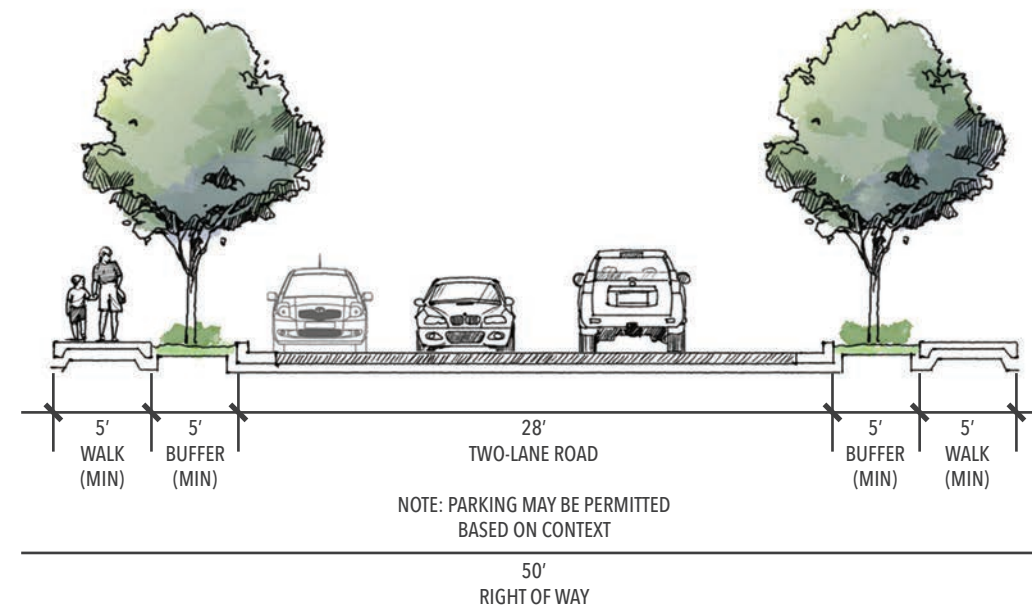




14TH STREET (54 FOOT R.O.W)  
STREET SECTION



NEIGHBORHOOD SIDE STREETS (50 FOOT R.O.W)  
STREET SECTION







BEFORE

Central Avenue is a minor arterial running West to East through the downtown core and transitioning to a two way collector at MLK Blvd. This roadway is limited in expansion of its R.O.W due to churches, mature street trees, and respectable housing stock along its length through Ferguson Park. Pedestrian and bicycle connections can still be improved through strategic lot by lot conditions  
Central Avenue will be a pedestrian and bicycle connector to parks and the downtown core with expansive sidewalks winding through mature street trees and a bike lane that will connect to Avenue A.



SUPPLEMENTAL IMAGES



AFTER





SUPPLEMENTAL IMAGES



BEFORE



AFTER

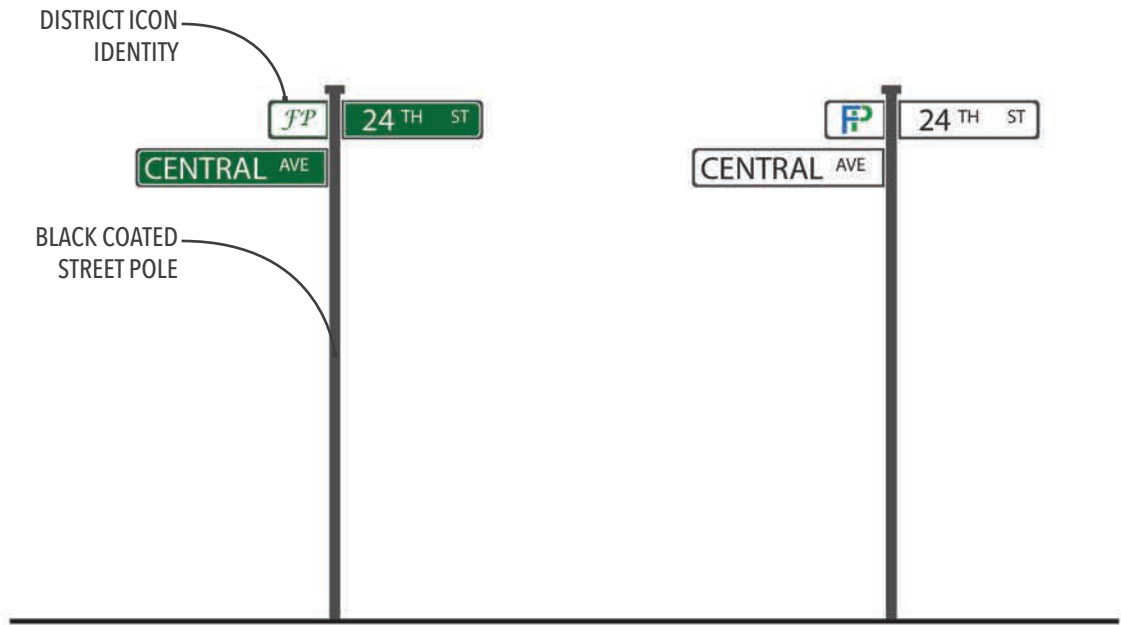
14th street runs north and south along the Union Pacific rail line through Ferguson Park. Without any curb, gutter, lighting, or sidewalk, this street is very rural in nature. Screening between the road and the rail could be done with a natural split rail fence and street trees which would help buffer the rail from the neighborhood and pedestrians.

A pedestrian connection north and south along 14th street will tie Avenue C and Central Avenue improvements together as well as give a safe and efficient connection to the grocery store off Adams Avenue.





STREET SIGN EXAMPLES



STREET SIGN PROFILES

Gateways and place making are an important part of creating a unified and unique neighborhood. From identifiers on the edges of the neighborhood to special colors or markers on street signs, small, unique elements that are carried across the entire district create a sense of place and community. These elements allow residents to have a sense of identity and pride in where they live and inform visitors they have entered into a special district and set a tone for what they will experience.







EXISTING PECAN TREES



CHINQUAPIN OAK



CEDAR ELM



TEXAS ROSEBUD



KNOCKOUT ROSE



RED YUCCA



LIRIOPE



TEXAS SAGE



CAST IRON PLANT



BOXWOOD



PURPLE HEART



ASIAN JASMINE



TREATED LUMBER



HARDIPLANK



BRICK VENEER



HARDIPLANK AND TRIM TO HAVE CONTRASTING COLORS



SIDING COLOR EXAMPLES



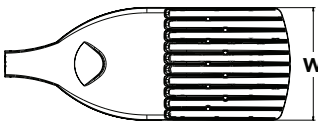


# D-Series Size 1 LED Area Luminaire



### Specifications

**EPA:** 1.01 ft<sup>2</sup>  
(0.09 m<sup>2</sup>)  
**Length:** 33"  
(83.8 cm)  
**Width:** 13"  
(33.0 cm)  
**Height H1:** 7-1/2"  
(19.0 cm)  
**Height H2:** 3-1/2"  
**Weight (max):** 27 lbs  
(12.2 kg)



Catalog Number

Notes

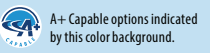
Type

Hit the Tab key or mouse over the page to see all interactive elements.

### Introduction

The modern styling of the D-Series is striking yet unobtrusive - making a bold, progressive statement even as it blends seamlessly with its environment. The D-Series distills the benefits of the latest in LED technology into a high performance, high efficacy, long-life luminaire.

The outstanding photometric performance results in sites with excellent uniformity, greater pole spacing and lower power density. It is ideal for replacing up to 750W metal halide in pedestrian and area lighting applications with typical energy savings of 65% and expected service life of over 100,000 hours.



A+ Capable options indicated by this color background.

### Ordering Information

EXAMPLE: DSX1 LED P7 40K T3M MVOLT SPA NLTAIR2 PIRHN DDBXD

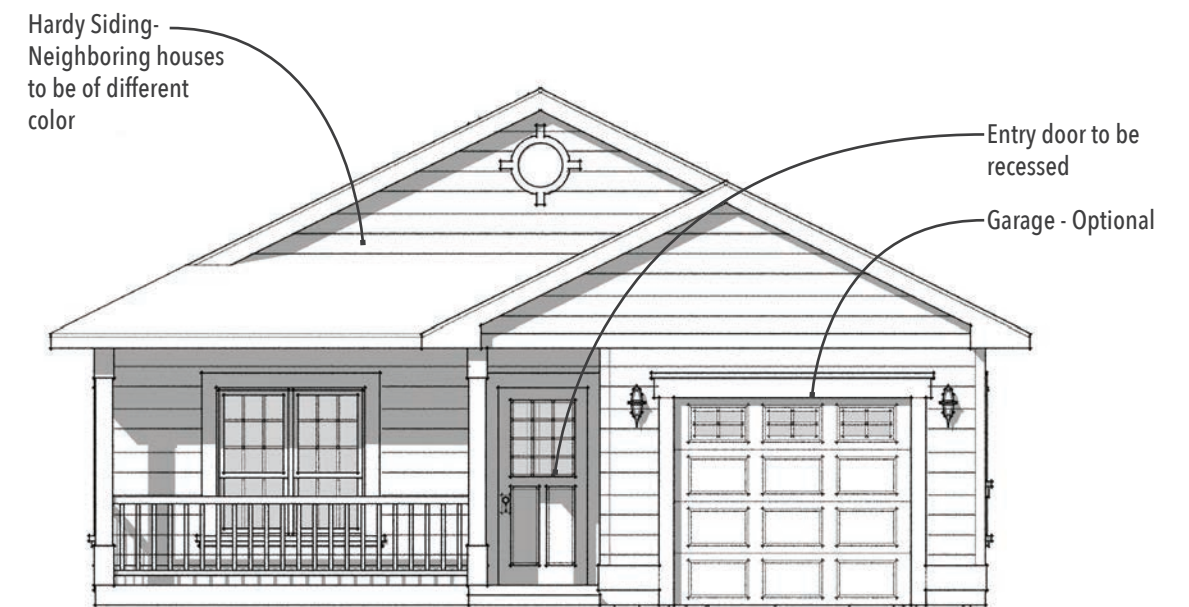
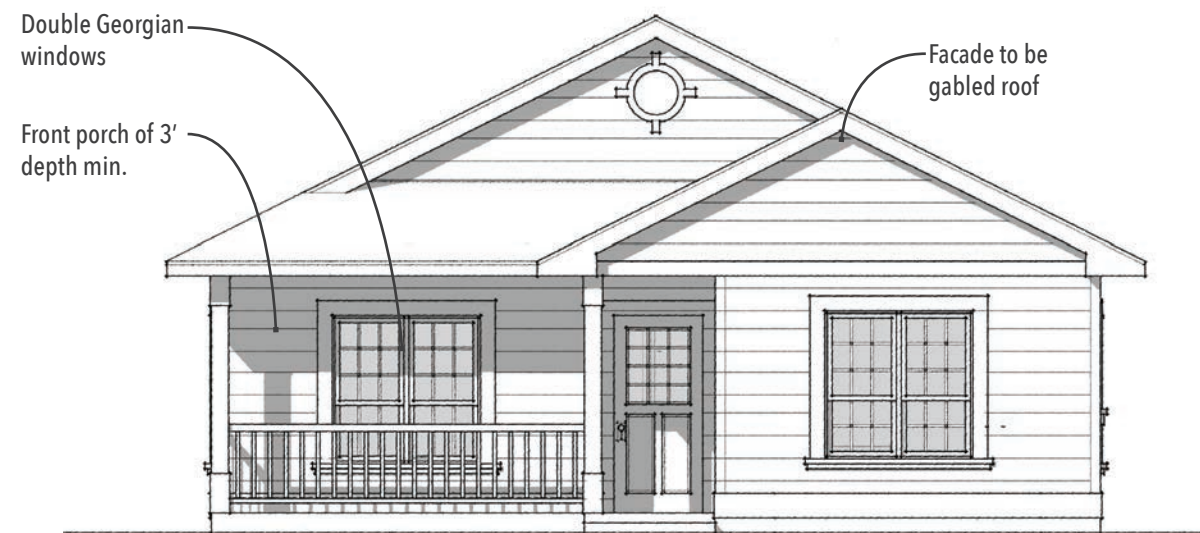
DSX1 LED					
Series	LEDs	Color temperature	Distribution	Voltage	Mounting
DSX1 LED	<b>Forward optics</b> P1 P4 P7 P2 P5 P8 P3 P6 P9 <b>Rotated optics</b> P10 <sup>1</sup> P12 <sup>1</sup> P11 <sup>1</sup> P13 <sup>1</sup>	30K 3000 K 40K 4000 K 50K 5000 K	T1S Type I short T2S Type II short T2M Type II medium T3S Type III short T3M Type III medium T4M Type IV medium TFTM Forward throw medium TSVS Type V very short TSS Type V short TSM Type V medium TSW Type V wide BLC Backlight control <sup>2</sup> LCCO Left corner cutoff <sup>2</sup> RCCO Right corner cutoff <sup>2</sup>	MVOLT <sup>3</sup> 120 <sup>4</sup> 208 <sup>4</sup> 240 <sup>4</sup> 277 <sup>4</sup> 347 <sup>4,5</sup> 480 <sup>4,5</sup>	<b>Shipped included</b> SPA Square pole mounting RPA Round pole mounting WBA Wall bracket SPUMBA Square pole universal mounting adaptor <sup>6</sup> RPUMBA Round pole universal mounting adaptor <sup>6</sup> <b>Shipped separately</b> KMA8 DDBXD U Mast arm mounting bracket adaptor (specify finish) <sup>7</sup>

Control options	Other options	Finish (required)
<b>Shipped installed</b> NLTAIR2 nLight AIR generation 2 enabled <sup>8</sup> PIRHN Network, high/low motion/ambient sensor <sup>9</sup> PER NEMA twist-lock receptacle only (controls ordered separately) <sup>10</sup> PERS Five-pin receptacle only (controls ordered separately) <sup>10,11</sup> PER7 Seven-pin receptacle only (controls ordered separately) <sup>10,11</sup> DMG 0-10v dimming wires pulled outside fixture (for use with an external control, ordered separately) <sup>12</sup> DS Dual switching <sup>12,13,14</sup>	<b>Shipped installed</b> HS House-side shield <sup>17</sup> SF Single fuse (120, 277, 347V) <sup>4</sup> DF Double fuse (208, 240, 480V) <sup>4</sup> L90 Left rotated optics <sup>1</sup> R90 Right rotated optics <sup>1</sup> <b>Shipped separately</b> BS Bird spikes <sup>18</sup> EGS External glare shield <sup>18</sup>	DDBXD Dark bronze DBLXD Black DNAXD Natural aluminum DWHXD White DDBTXD Textured dark bronze DBLBXD Textured black DNATXD Textured natural aluminum DWHGXD Textured white

For the Ferguson Park district, safety is a major priority for both residents and users of the parks and open spaces. With the proposed trail network and streetscape enhancements, the need for quality lighting is a necessity from a usability and safety standpoint. Lighting should be subtle and evenly spaced along major pedestrian connectors while not producing an obtrusive amount of light for the adjoining residences.

Other lighting concerns are to provide a sturdy and durable light pole resistant to potential vandalism. The example shown is an efficient and cost effective light standard that could be used throughout Ferguson Park in many applications.

### STREET LIGHTS



500 sf. FOUNDATION LAYOUT EXAMPLES





BEFORE

- Eaves to contrast siding
- Siding colors to alternate from house to house
- Shutters of contrasting color
- Facade to have multiple depths
- Facade to have multiple depths
- Front porch

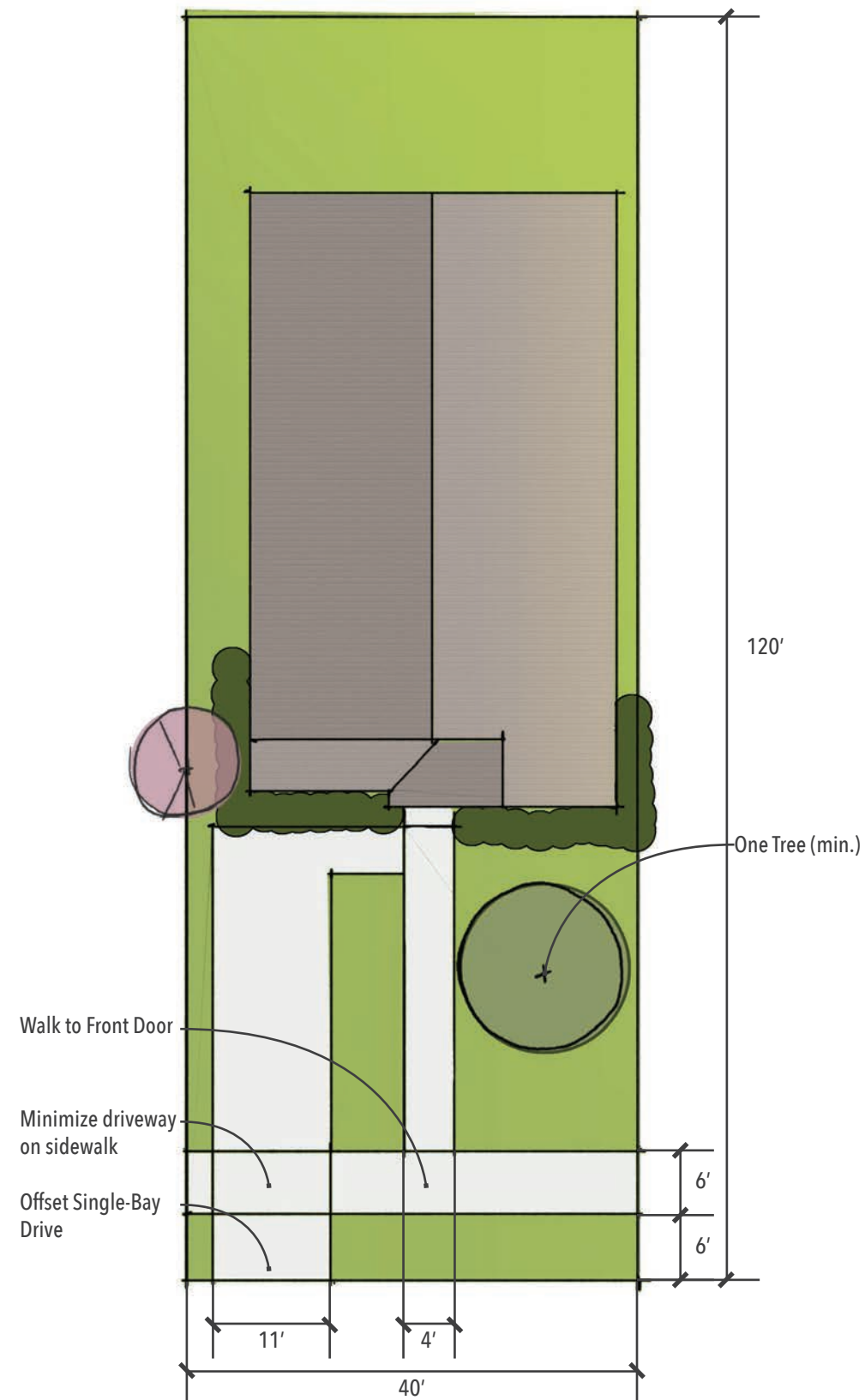


AFTER

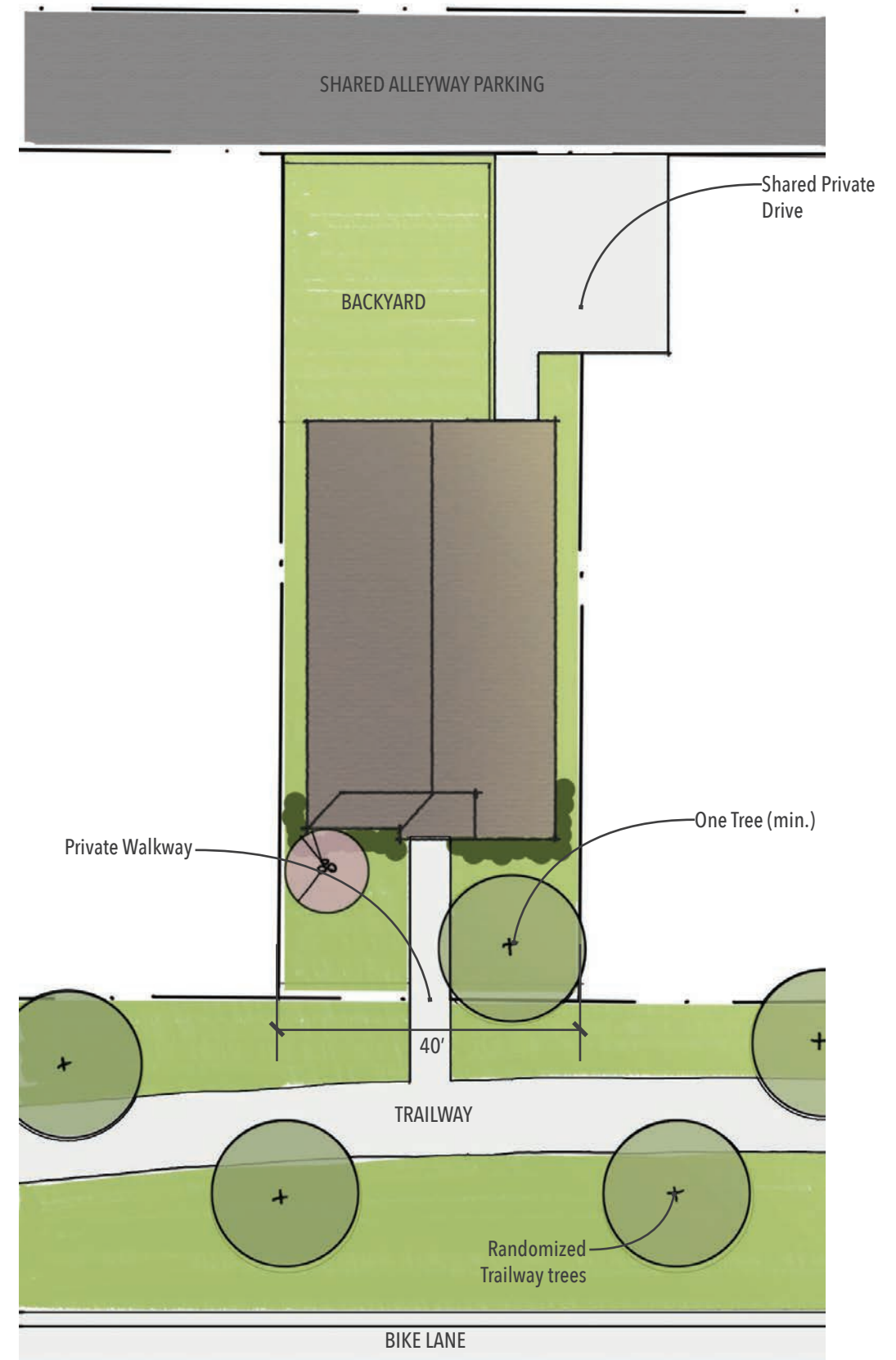
Minimize curb cuts with single car width driveway

- Walk to Front Door
- Single shade tree (1 min)
- Sidewalk with landscape buffer





PLAN VIEW



PLAN VIEW





KEY MAP



SITE PLAN  
NOT TO SCALE

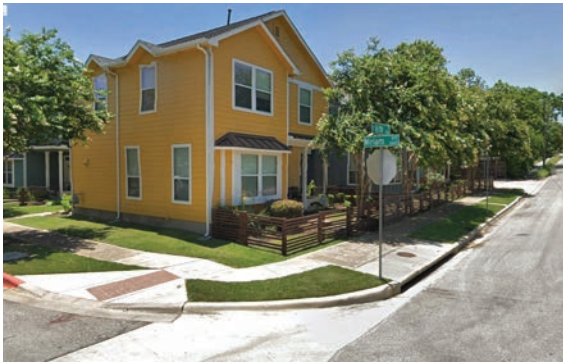




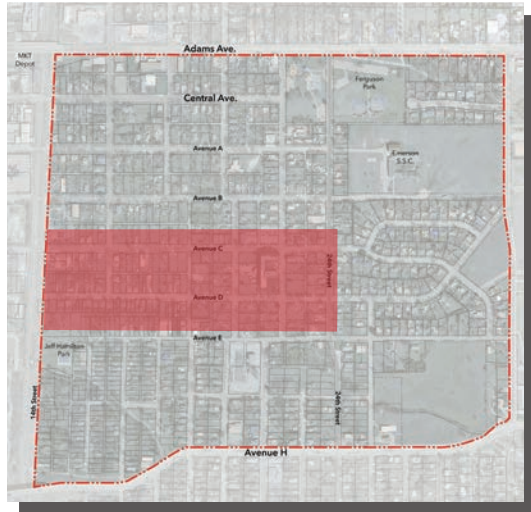
SITE PLAN  
NOT TO SCALE



KEY MAP







SITE PLAN  
NOT TO SCALE







KEY MAP



SITE PLAN  
NOT TO SCALE



HOUSING EXAMPLES









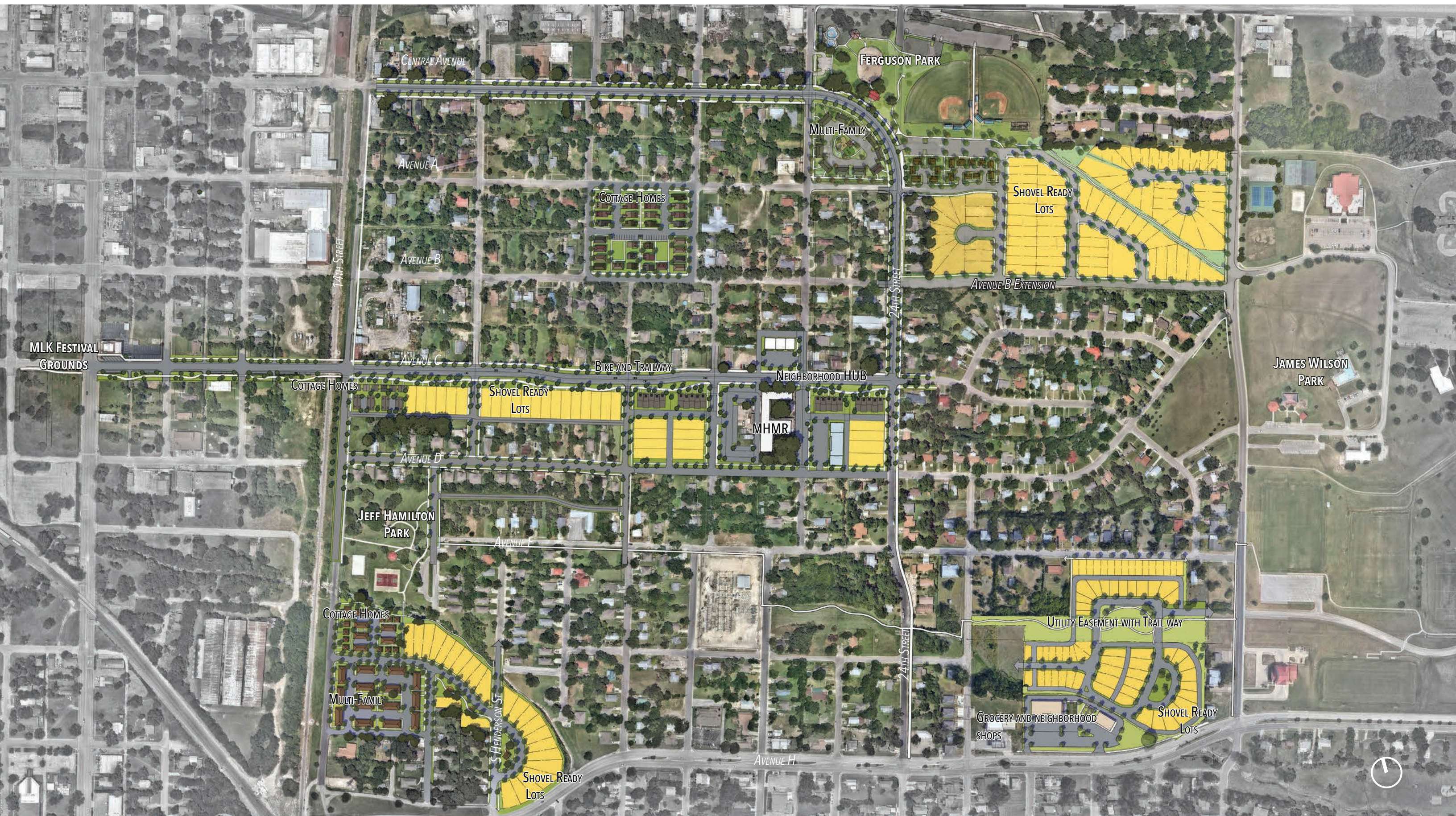
KEY MAP



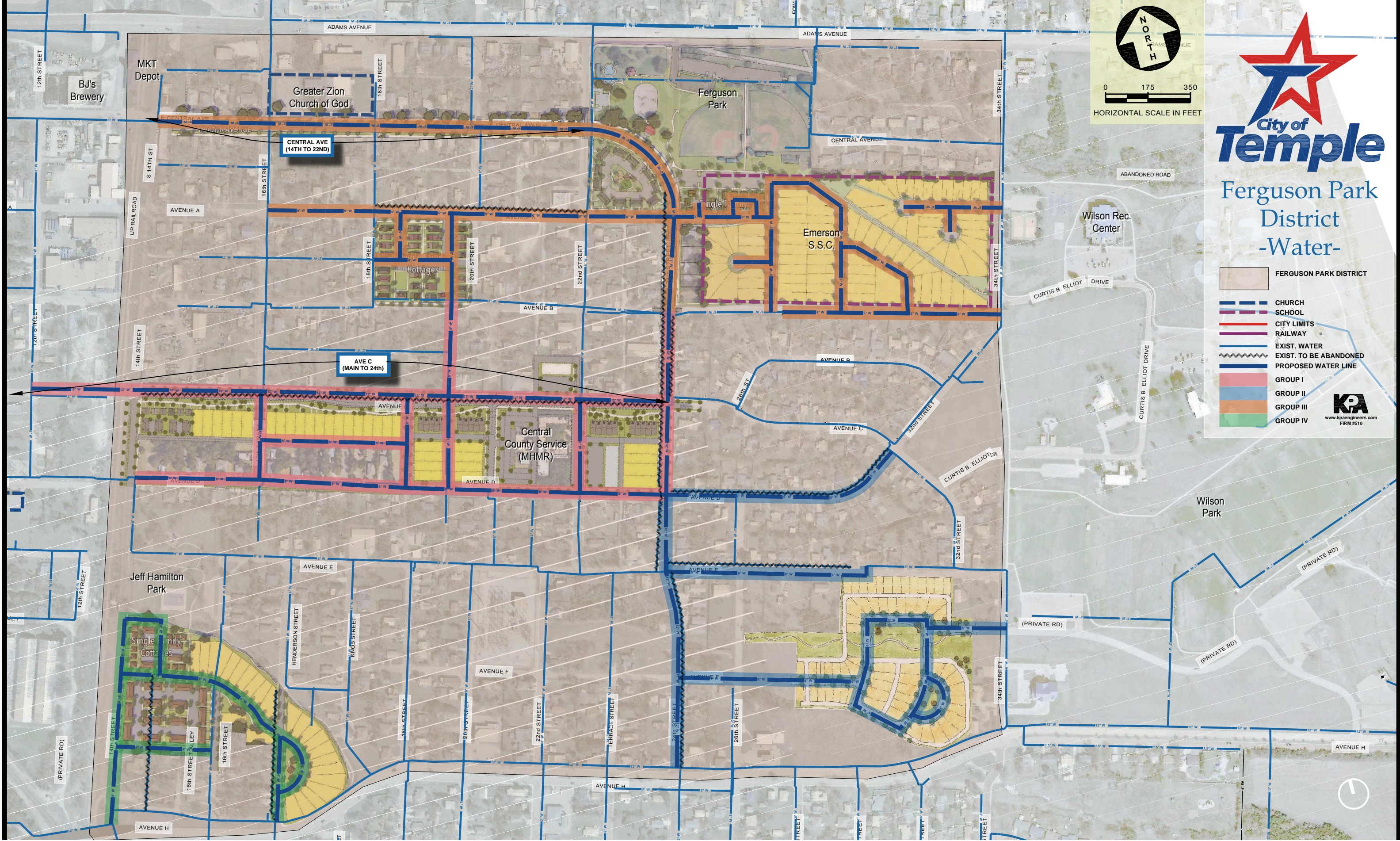
SITE PLAN  
NOT TO SCALE











# Ferguson Park District -Water-

FERGUSON PARK DISTRICT

CHURCH

SCHOOL

CITY LIMITS

RAILWAY

EXIST. WATER

EXIST. TO BE ABANDONED


PROPOSED WATER LINE

GROUP I

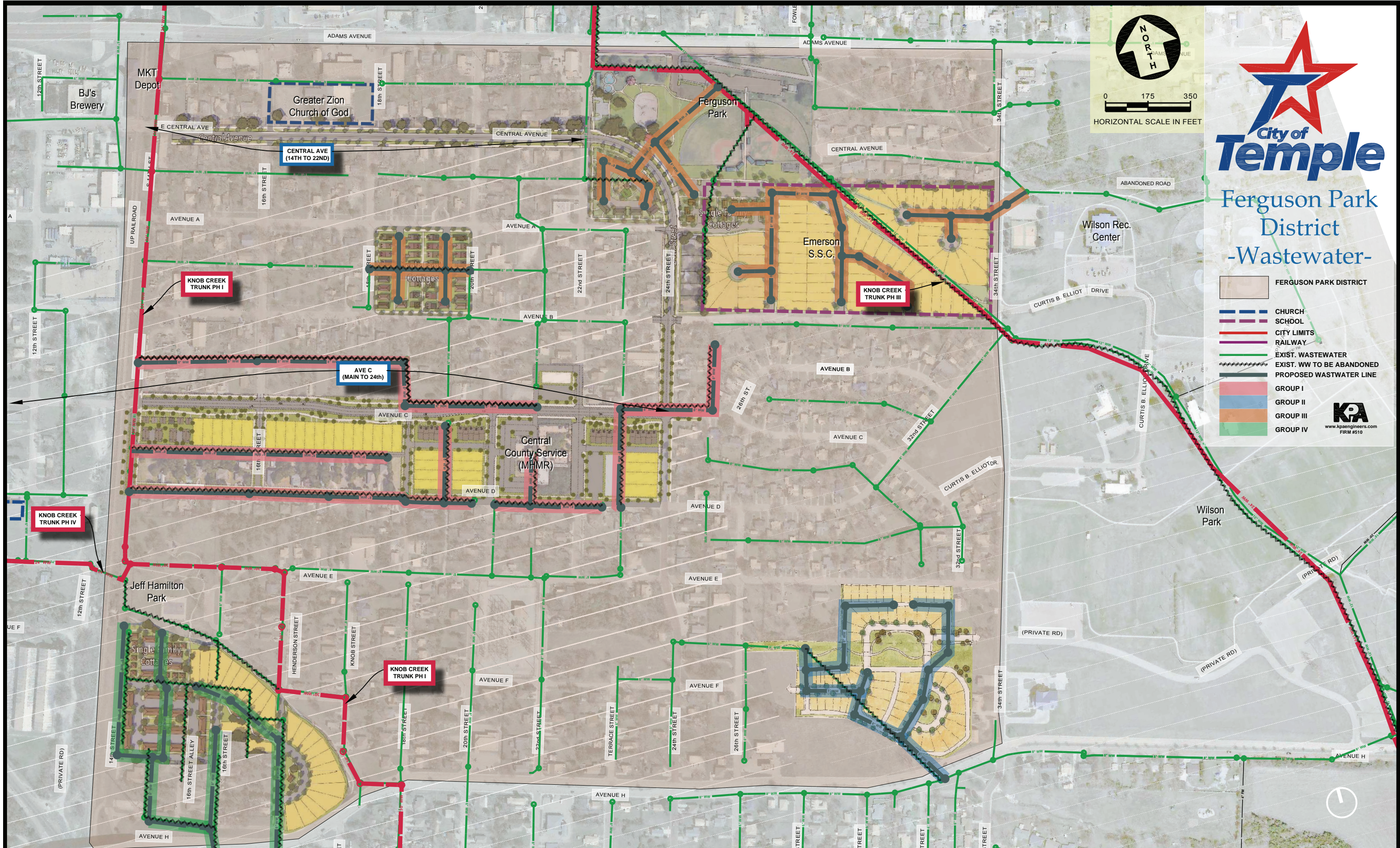
GROUP II

GROUP III

GROUP IV

  
www.kpaengineers.com  
FIRM #510







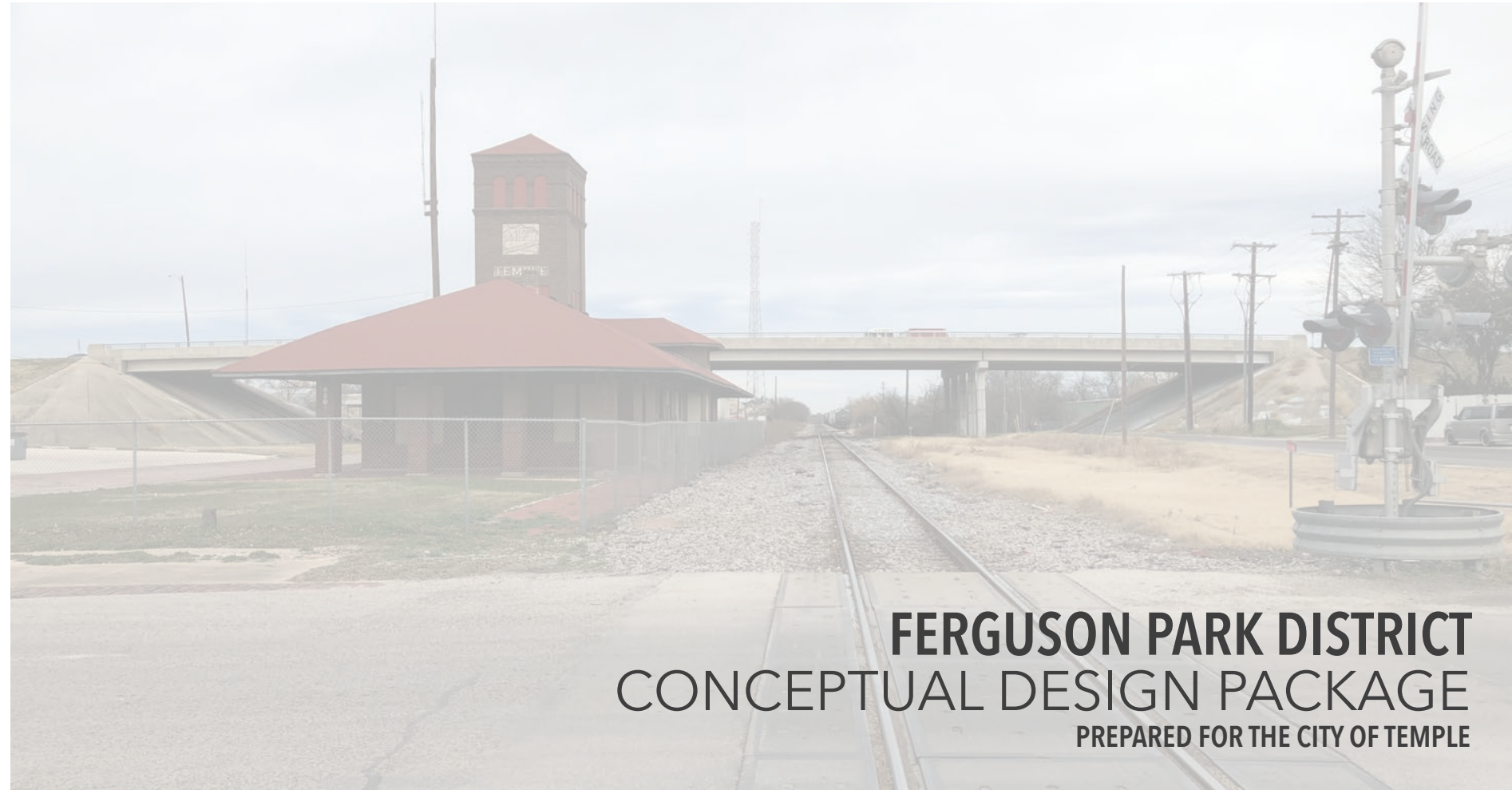
TEMPLE REINVESTMENT ZONE  
WATER LINE REHABILITATION III  
PRELIMINARY OPINION OF PROBABLE COST

Item No.	Description	Estimated Quantity		Unit Price	Extension Total	
1	Mobilization, Bonds and Insurance	100%	LS	\$ 125,000.00	\$	125,000.00
2	Right-of-Way Preparation	9,500	LF	\$ 2.00	\$	19,000.00
3	Trench Safety Plan	100%	LS	\$ 3,000.00	\$	3,000.00
4	Storm Water Pollution Prevention Plan (SW3P)	100%	LS	\$ 4,000.00	\$	4,000.00
5	SW3P Implementation	100%	LS	\$ 25,000.00	\$	25,000.00
6	Preparing Traffic Control Plan	100%	LS	\$ 10,000.00	\$	10,000.00
7	Traffic Control Plan Implementation	100%	LS	\$ 12,000.00	\$	12,000.00
8	Provide Record Drawings (AS-BUILTS)	100%	LS	\$ 5,000.00	\$	5,000.00
9	Trench Safety Plan Implementation (Pipe)	9,500	LF	\$ 1.00	\$	9,500.00
10	12" Water Line	2,500	LF	\$ 42.00	\$	105,000.00
11	6" Gate Valves	165	EA	\$ 950.00	\$	156,750.00
12	8" Water Line	7,000	LF	\$ 50.00	\$	350,000.00
13	8" Gate Valves	45	EA	\$ 1,200.00	\$	54,000.00
14	Water Meter Connection	300	EA	\$ 900.00	\$	270,000.00
15	Standard Fire Hydrant Installation	24	EA	\$ 4,000.00	\$	95,000.00
16	Fittings	100%	LS	\$ 50,000.00	\$	50,000.00
17	Asphalt Replacement	9,500	LF	\$ 16.00	\$	152,000.00
18	Miscellaneous/Contingencies	100%	LS	\$ 250,000.00	\$	250,000.00
					Construction Cost \$	1,695,250.00
					PROJECT CONSTRUCTION COST TOTAL TO USE \$	1,700,000.00









**FERGUSON PARK DISTRICT**  
**CONCEPTUAL DESIGN PACKAGE**  
PREPARED FOR THE CITY OF TEMPLE



RESOLUTION NO. 2019-9765-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE,  
TEXAS, APPROVING THE FERGUSON PARK NEIGHBORHOOD PLAN;  
AND PROVIDING AN OPEN MEETINGS CLAUSE.

---

**Whereas**, City of Temple staff began working with Kasberg, Patrick & Associates, LP (“KPA”) and Covey Landscape Architects (“Covey”) in September 2018 to develop the Ferguson Park Neighborhood Plan - Staff identified the Ferguson Park neighborhood as the area from Adams Avenue to Avenue H, and 14th Street to 34th Street;

**Whereas**, contract services provided by KPA and Covey also included a proposal to develop schematic design for the water and wastewater utilities in the Ferguson Park District;

**Whereas**, development of the Ferguson Park Neighborhood Plan began with an extensive community engagement process to obtain feedback from residents, business owners, and community stakeholders - on October 27, 2018, the City of Temple held a community engagement event at Ferguson Park to receive feedback from residents and business owners with property in the Ferguson Park Neighborhood;

**Whereas**, there were a total of seven stations that were covered by staff to receive feedback from the public regarding the following topics:

- Code Enforcement Issues;
- Housing Issues;
- Transportation& Pedestrian Improvements;
- Park Improvements;
- Why do you like your neighborhood?;
- Neighborhood Wish List; and
- This or That;

**Whereas**, a community survey was also created and distributed in both English and Spanish to solicit feedback from the public - three focus group meetings were held with area builders, non-profits, and religious leaders to receive feedback regarding proposed improvements needed within the Ferguson Park District;

**Whereas**, a workshop was then held in May 2019 to receive feedback from Reinvestment Zone Project Committee members regarding the recommended improvements;

**Whereas**, the Ferguson Park Neighborhood Plan includes recommendations related to the following sections:



- Street Network

The Ferguson Park Neighborhood Plan identifies proposed improvements for collector and neighborhood streets. The Plan identifies improvements to the following street sections:

- Avenue C – 100-foot of Right-of-Way
- Central Avenue – 80-foot of Right-of-Way
- 24th Street – 60-foot of Right-of-Way
- Typical Neighborhood Street – 60-foot of Right-of-Way
- 14th Street – 54-foot of Right-of-Way
- Neighborhood Side Streets – 50-foot of Right-of-Way

Each street section includes proposed improvements to include items such as bike lanes, sidewalks, buffer landscaping, roadway width, and on-street parking.

- Neighborhood Identity

Gateways and place making are an important part of creating a unified and unique neighborhood. From identifiers on the edges of the neighborhood to special colors or markers on street signs, small, unique elements that are carried across the entire district create a sense of place and community. These elements allow residents to have a sense of identity and pride in where they live and inform visitors they have entered into a special district and set a tone for what they will experience. Recommendations for neighborhood identity include gateway signage, supplemental elements, and street signs.

- Paint and Material Standards

Recommendations for new plantings, such as trees and shrubs are included in the Ferguson Park Neighborhood Plan. This section also proposes exterior materials and siding color examples that will compliment this neighborhood as infill development occurs.

- Lighting Standards

For the Ferguson Park District, safety is a major priority for both residents and users of the parks and open spaces. With the proposed trail network and streetscape enhancements, the need for quality lighting is a necessity from a usability and safety standpoint. Lighting should be subtle and evenly spaced along major pedestrian connectors while not producing an obtrusive amount of light for the adjoining residences. Other lighting concerns are to provide a sturdy and durable light pole resistant to potential vandalism. The example shown in the plan is an efficient and cost-effective light standard that could be used throughout Ferguson Park in many applications.

- Architectural Standards

The standards included in this section apply to new development, infill development, and exterior renovations on existing structures. The intent of this section is to ensure the exterior of new and recently constructed businesses and homes complement the

existing homes in the Ferguson Park District. Examples of architectural standards includes driveway access, sidewalks, landscaping, contrast siding, shutter, structure depths, and other recommendations.

**Whereas**, proposed visioning is included in the Ferguson Park Neighborhood Plan within the following areas:

- Southeast District;
- Southwest;
- District Center and Avenue C;
- Avenue A; and
- Emerson S.S.C. Tract;

**Whereas**, a project phasing plan with opinion of probable construction costs (OPC) was also created for the Ferguson Park Neighborhood Plan and includes the following:

- 14th Street Trail from Avenue C to Avenue F – \$500,000 OPC;
- 14th Street Connection to Luna and 16th Street – \$3 million OPC;
- Area between Avenue E to Avenue H – \$2.4 million OPC;
- Avenue D Connections and Alley – \$5.2 million OPC;
- Wastewater at MHMR – \$325,000 OPC;
- Wastewater at the Cottages – \$150,000 OPC;
- 24th Street (Avenue C to Central Avenue) – \$2.8 million OPC;
- Central Avenue (14th Street to 24th Street) – \$3.5 million OPC;
- Ferguson Park Parking Lot and Trail to Wilson Park – \$2.2 million OPC; and
- Waterline Rehabilitation – \$1.7 million; 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: Findings.** All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

**Part 2:** The City Council adopts the Ferguson Park Neighborhood Plan.

**Part 3:** It is hereby officially found and determined that the meeting at which this Resolution was 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 **5<sup>th</sup>** day of **September**, 2019.

THE CITY OF TEMPLE, TEXAS

---

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

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Lacy Borgeson  
City Secretary

---

Kayla Landeros  
Interim City Attorney



## **COUNCIL AGENDA ITEM MEMORANDUM**

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09/05/19  
Item #7(L)  
Consent Agenda  
Page 1 of 1

### **DEPT./DIVISION SUBMISSION & REVIEW:**

Mitchell D. Randles, Fire Chief

**ITEM DESCRIPTION:** Consider adopting a resolution ratifying an interlocal agreement with the Temple Independent School District to provide standby medical services at Varsity home football games for the 2019 football season.

**STAFF RECOMMENDATION:** Adopt resolution as presented in item description.

**ITEM SUMMARY:** Pursuant to Chapter 791 of the Texas Government Code, Temple Fire and Rescue (TFR) has entered into an interlocal agreement with Temple Independent School District ("TISD") to provide standby medical services at Varsity home football games for the 2019 football season. TFR will provide two personnel, at the minimum level of one paramedic and one EMT, from 7:00 pm through the duration of each home football game. This is estimated at approximately three hours of staff time per TFR personnel assigned, per game. TISD will reimburse the City for each of TFR personnel's overtime as follows:

- For a paramedic assigned to provide standby medical services, at an hourly rate not to exceed \$75;
- For an EMT assigned to provide standby medical services, at an hourly rate not to exceed \$70;
- Charges for employee benefits to be calculated per TFR personnel assigned and added to the base hourly rate.

**FISCAL IMPACT:** Based on the estimated number of hours worked during each of the seven home games, it is estimated that the City could be reimbursed by TISD approximately \$3,150 for overtime plus benefits associated with the overtime during FY 2019 and FY 2020.

### **ATTACHMENTS:**

[Interlocal Agreement  
Resolution](#)



**INTERLOCAL AGREEMENT  
BETWEEN  
TEMPLE INDEPENDENT SCHOOL DISTRICT  
AND  
THE CITY OF TEMPLE**

**STATE OF TEXAS**

§ **Description of  
Services: Provide medical services at Varsity  
home football games for 2019 season**

**COUNTY OF BELL**

§

This Interlocal Agreement is made and entered into by and between the Temple Independent School District (TISD) and the City of Temple, Texas (City), a Texas home rule City, acting by and through its duly authorized agent, Brynn Myers, City Manager, who agree as follows:

**1. PURPOSE OF THE AGREEMENT**

The parties enter into this agreement pursuant to Chapter 791 of the Texas Government Code for the provision of medical services by Temple Fire and Rescue certified paramedics and emergency medical technicians at TISD Varsity football home games for the 2019 football season.

The City will provide two (2) Temple Fire and Rescue personnel, at the minimum level of one (1) paramedic and one (1) emergency medical technician (EMT) at each TISD Varsity football home game. TFR personnel will arrive at the football field by 7:00 pm and will remain throughout the duration of the football game. TISD agrees to compensate the City for personnel's overtime in carrying out the services pursuant to this Agreement.

**2. TERM OF AGREEMENT; TERMINATION**

2.1. This Agreement shall be effective beginning **September 6, 2019** and shall terminate after the last home football game for the 2019 Varsity football season. ***Either party may terminate this agreement for any reason by providing 15 days written notice to the other party.***

2.2 In the event of breach or default of any provision of this Agreement, the Parties reserve the right to enforce the performance of this Agreement in any manner prescribed by law or deemed to be in the best interest of the non-breaching Party, including immediate termination of this Agreement.

**3. ENTIRE AGREEMENT**

This Agreement represents the entire agreement between TISD and the City, and no prior or contemporaneous oral or written agreement shall be construed to alter its terms. No additional terms shall become part of this Agreement without the written consent of both parties and compliance with relevant state law.

**4. ASSIGNMENT**

Neither party shall assign or subcontract its obligations under this Agreement without the prior written consent of the other party.

**5. INDEMNITY**

**IT IS AGREED FOR ALL PURPOSES HEREUNDER, THAT THE CITY IS AND SHALL BE AN INDEPENDENT CONTRACTOR AND SHALL NOT, WITH RESPECT TO ITS ACTS OR OMISSIONS, BE DEEMED AN AGENT OR EMPLOYEE OF TISD.**

**THE INDEMNITY OBLIGATIONS HEREIN SHALL SURVIVE THE TERMINATION OF THE AGREEMENT FOR ANY REASON AND SHALL SURVIVE THE COMPLETION OF THE WORK.**

**TO THE MAXIMUM EXTENT ALLOWABLE BY LAW, TISD AGREES TO INDEMNIFY AND HOLD HARMLESS AND DEFEND THE CITY, ITS OFFICERS, AGENTS AND EMPLOYEES, FROM AND AGAINST LIABILITY FOR ANY AND ALL CLAIMS, LIENS, SUITS, DEMANDS AND/OR ACTIONS FOR DAMAGES, INJURIES TO PERSONS (INCLUDING DEATH), PROPERTY DAMAGE (INCLUDING DEATH), AND THIRD PARTY PROPERTY DAMAGE (INCLUDING LOSS OF USE), AND RELATED EXPENSES, INCLUDING COURT COSTS, REASONABLE ATTORNEYS' FEES, AND OTHER REASONABLE COSTS TO THE EXTENT ARISING OUT OF OR RESULTING FROM TISD'S NEGLIGENCE OR WILLFUL MISCONDUCT UNDER THIS AGREEMENT, INCLUDING ALL SUCH CAUSES OF ACTION BASED UPON THE NEGLIGENT ACTS OR OMISSIONS OR WILLFUL MISCONDUCT OF TISD, INCLUDING, BUT NOT LIMITED TO, ITS STUDENTS, OFFICERS, AGENTS, EMPLOYEES, SUBCONTRACTORS, LICENSEES, AND INVITEES.**

**TISD FURTHER AGREES THAT IT SHALL AT ALL TIMES EXERCISE REASONABLE PRECAUTIONS ON BEHALF OF, AND BE SOLELY RESPONSIBLE FOR, THE SAFETY OF ITS STUDENTS, OFFICERS, AGENTS, EMPLOYEES, SUBCONTRACTORS, LICENSEES, AND INVITEES, AS WELL AS ITS PROPERTY. IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT THE CITY SHALL NOT BE LIABLE OR RESPONSIBLE FOR THE NEGLIGENCE OF TISD, INCLUDING BUT NOT LIMITED TO ITS STUDENTS, OFFICERS, AGENTS, EMPLOYEES, SUBCONTRACTORS, LICENSEES, AND INVITEES.**

**TO THE EXTENT ALLOWABLE BY LAW, THE CITY AGREES TO INDEMNIFY AND HOLD HARMLESS AND DEFEND TISD, ITS STUDENTS, AFFILIATES, SUBCONTRACTORS, LICENSEES, INVITEES, AGENTS AND EMPLOYEES, FROM AND AGAINST LIABILITY FOR ANY AND ALL CLAIMS, LIENS, SUITS, DEMANDS AND/OR ACTIONS FOR INJURIES TO THIRD PERSONS (INCLUDING DEATH), AND THIRD PARTY PROPERTY DAMAGE (INCLUDING LOSS OF USE), AND RELATED EXPENSES, INCLUDING COURT COSTS, REASONABLE ATTORNEYS' FEES, AND OTHER REASONABLE COSTS TO THE EXTENT ARISING OUT OF OR RESULTING FROM THE CITY'S NEGLIGENCE OR WILLFUL MISCONDUCT UNDER THIS AGREEMENT, INCLUDING ALL SUCH CAUSES OF ACTION BASED UPON THE NEGLIGENT ACTS OR OMISSIONS OR WILLFUL MISCONDUCT OF THE CITY, INCLUDING BUT NOT LIMITED TO ITS OFFICERS, AGENTS AND EMPLOYEES.**

**THE CITY FURTHER AGREES THAT IT SHALL AT ALL TIMES EXERCISE REASONABLE PRECAUTIONS ON BEHALF OF, AND BE SOLELY RESPONSIBLE FOR THE SAFETY OF ITS OFFICERS, AGENTS AND EMPLOYEES, AS WELL AS THEIR PROPERTY. IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT TISD SHALL NOT BE LIABLE OR RESPONSIBLE FOR THE NEGLIGENCE OF THE CITY, INCLUDING BUT NOT LIMITED TO, ITS OFFICERS, AGENTS AND EMPLOYEES.**



***IT IS FURTHER AGREED WITH RESPECT TO THE ABOVE INDEMNITIES, THAT THE CITY AND TISD WILL PROVIDE THE OTHER PROMPT AND TIMELY NOTICE OF ANY EVENT COVERED WHICH IN ANY WAY, DIRECTLY OR INDIRECTLY, CONTINGENTLY OR OTHERWISE, AFFECTS OR MIGHT AFFECT TISD, INDIVIDUALLY OR JOINTLY, OR THE CITY, AND THE CITY AND TISD SHALL HAVE THE RIGHT TO COMPROMISE AND DEFEND THE SAME TO THE EXTENT OF THEIR OWN INTERESTS.***

## **6. OBLIGATIONS OF TISD**

### **6.1 Medical Services**

TISD will reimburse the City for the actual overtime salary and benefits of TFR personnel carrying out the scheduled medical services provided. TFR will provide two (2) personnel at each game at the minimum level of one (1) paramedic and one (1) EMT.

- a. Hourly Rate. The Parties agree that the base hourly rate that TISD may be charged:

For the period of September 6, 2019 to September 30, 2019:

1. A not to exceed amount of \_\_\_\_\_ per hour for a paramedic assigned to provide medical services.
2. A not to exceed amount of \_\_\_\_\_ per hour for an EMT assigned to provide medical services.

For the period of October 1, 2019 through the last home game of the 2019 football season:

1. A not to exceed amount of \_\_\_\_\_ per hour for a paramedic assigned to provide medical services.
2. A not to exceed amount of \_\_\_\_\_ per hour for an EMT assigned to provide medical services.

- b. Charges for Employee Benefits. The base hourly rate does not include amounts required to cover the payment of employee benefits; such amounts will be calculated per TRF personnel assigned and added to the base hourly rate.

## **7. OBLIGATIONS OF CITY**

The City will provide the TFR personnel necessary to carry out the medical services at the home football games. However, the City is not required to provide such services if, in the sole discretion of the City, it determines the resources are required to carry out other City business. The schedule for such services shall be determined by mutual agreement between the Parties.

## **8. SUPERVISION OF TFR PERSONNEL**

The TFR personnel providing medical services under this Agreement will work under the direct supervision and control of Temple Fire and Rescue through their direct supervisor and the Fire Chief or his designee.

## **9. INSURANCE**

The TFR personnel utilized under this Agreement for the provision of medical services will be covered under the City's general liability and worker's compensation policies.

## **10. VENUE; RECOVERY OF FEES; DISPUTE RESOLUTION; CHOICE OF LAW**

Venue and jurisdiction for any suit, claim, or cause of action regarding this Agreement shall be brought in Bell County, Texas. The prevailing party in such an action may recover reasonable costs, including costs of court and attorney's fees. The parties are encouraged to enter into mediation should a dispute arise during the term of this Agreement, the costs of which are to be shared equally between the Parties. The Parties further agree that the law of the State of Texas shall govern any interpretation of the terms of this Agreement without regard to conflicts of law provisions therein.

#### **11. ETHICAL CERTIFICATION**

TISD certifies that neither it nor any of its students, agents, or employees have or will offer or accept gifts or anything of value, or enter into any business arrangement, with any employee, official, or agent of the City.

#### **12. NOTICES**

Any written notice provided under this Agreement or required by law shall be deemed to have been given and received on the next day after such notice has been deposited by Registered or Certified Mail with sufficient postage affixed thereto, and addressed to the other party to the Agreement; provided, that this shall not prevent the giving of actual notice in any manner.

Notice to TISD may be sent to the following address:

Temple Independent School District

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(Signatory)

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(Address)

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(City, State, Zip Code)

#### **13. NO WAIVER OF SOVEREIGN IMMUNITY**

The City and TISD do not waive any statutory or common law right to sovereign immunity by virtue of the execution of this Agreement.

#### **14. CONTRACT ADMINISTRATOR**

This Agreement shall be administered on the City's behalf by Mitchell D. Randles, and all notices, questions, or documentation, arising under this Agreement shall be address to the contract administrator at:

Mitchell D. Randles  
Fire Chief  
Temple Fire and Rescue  
210 North 3<sup>rd</sup> Street  
Temple, TX 76501

#### **15. MODIFICATION**



This Agreement may be amended or modified by the mutual agreement of both Parties hereto in writing, such writing being attached hereto and incorporated into this Agreement.

**16. SEVERABILITY**

In case any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such fact shall not affect any other provision thereof and this Agreement shall be construed as if the stricken provision had never been contained herein.

**17. EXECUTION OF AGREEMENT**

The execution of this Agreement shall proceed as follows: signature of TISD (and the Corporate Secretary and seal, if applicable) shall be affixed hereto, whereupon the Agreement shall be submitted to the City Attorney's Office for review and approval. After such approval, the Agreement shall then be signed by the City Manager. After such approval, an executed original of this Agreement shall be kept on file in the City Secretary's Office.

THE CITY OF TEMPLE, TEXAS

TEMPLE INDEPENDENT SCHOOL DISTRICT

\_\_\_\_\_  
Brynn Myers, City Manager

\_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Lacy Borgeson  
City Secretary

\_\_\_\_\_  
City Attorney's Office

RESOLUTION NO. 2019-9766-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, RATIFYING AN INTERLOCAL AGREEMENT WITH THE TEMPLE INDEPENDENT SCHOOL DISTRICT TO PROVIDE STANDBY MEDICAL SERVICES AT VARSITY HOME FOOTBALL GAMES FOR THE 2019 FOOTBALL SEASON; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, pursuant to Chapter 791 of the Texas Government Code, Temple Fire and Rescue (“TFR”) has entered into an Interlocal Agreement with Temple Independent School District (“TISD”) to provide standby medical services at Varsity home football games for the 2019 football season;

**Whereas**, TFR will provide two personnel, at the minimum level of one paramedic and one EMT, from 7:00 pm through the duration of each home football game which is estimated to be approximately three hours of Staff time per TFR personnel assigned, per game;

**Whereas**, TISD will reimburse the City for each TFR personnel overtime as follows:

- a paramedic assigned to provide standby medical services, at an hourly rate not to exceed \$75;
- an EMT assigned to provide standby medical services, at an hourly rate not to exceed \$70;
- charges for employee benefits to be calculated per TFR personnel assigned and added to the base hourly rate;

**Whereas**, Staff recommends Council ratify an Interlocal Agreement with TISD to provide standby medical services at Varsity home football games for the 2019 football season;

**Whereas**, based on the estimated number of hours worked during each of the seven home games, it is estimated that the City could be reimbursed by TISD approximately \$3,150 for overtime plus benefits during fiscal year 2019 and fiscal year 2020; 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: Findings.** All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.



**Part 2:** The City Council ratifies the execution of an Interlocal Agreement with TISD to provide standby medical services at Varsity home football games for the 2019 football season.

**Part 3:** It is hereby officially found and determined that the meeting at which this Resolution was 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 **5<sup>th</sup>** day of **September**, 2019.

THE CITY OF TEMPLE, TEXAS

---

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

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Lacy Borgeson  
City Secretary

---

Kayla Landeros  
Interim City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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09/05/19

Item #7(M)

Consent Agenda

Page 1 of 1

### **DEPT. / DIVISION SUBMISSION & REVIEW:**

Christina Demirs, Deputy City Attorney

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing approval of a Street Use License to allow for the encroachment of two new subdivision entry signs and landscaping and irrigation improvements, located in South Pointe Subdivision, Phase I, Temple, Bell County, Texas, addressed as 3100 Alton Road, 1600 Lummus Drive, and 1950 Lummus Drive.

**STAFF RECOMMENDATION:** Approve a SUL as presented in the Item Description.

**ITEM SUMMARY:** The applicant and property owner, Kiella Development, Inc., submitted this request for a street use license.

Per City Charter Section 10.8: Street Use License, City Council approval is required for an encroachment on public property for a term not to exceed 15 years so long as the use is not inconsistent with the rights of the public.

The Applicant proposes an approximately 10-foot by 20-foot entry sign, as well as landscaping and irrigation improvements in the median of Alton Road at its intersection of Southeast HK Dodgen Loop and addressed is as 3100 Alton Road. An approximately 5-foot by 10-foot entry sign is proposed, as well as landscaping and irrigation improvements, in the median of Lummus Drive at its intersection of South Martin Luther King, Jr. Drive and is addressed as 1600 Lummus Drive. Landscaping and irrigation improvements are proposed in the roundabout intersection of Lummus Drive and Alton Road, and is addressed as 1950 Lummus Drive.

Staff has contacted all public and private utility service providers and no objections to the street use license were received.

Staff has received an application for a beautification memorandum of agreement (MOA) from Kiella Development, Inc. for these locations within the South Pointe Subdivision.

**FISCAL IMPACT:** The cost of landscaping and irrigation improvements is the responsibility of the developer. If the beautification MOA is approved, the City will be responsible for providing water to the property and will cover the cost of water needed to maintain the proposed improvements. The term of any beautification MOA will not be longer than 15 years and at the end of the term, the parties may agree to extend the MOA.

### **ATTACHMENTS:**


[Exhibits A, B, C, D, E](#)  
[Resolution](#)





**1** ELEVATION

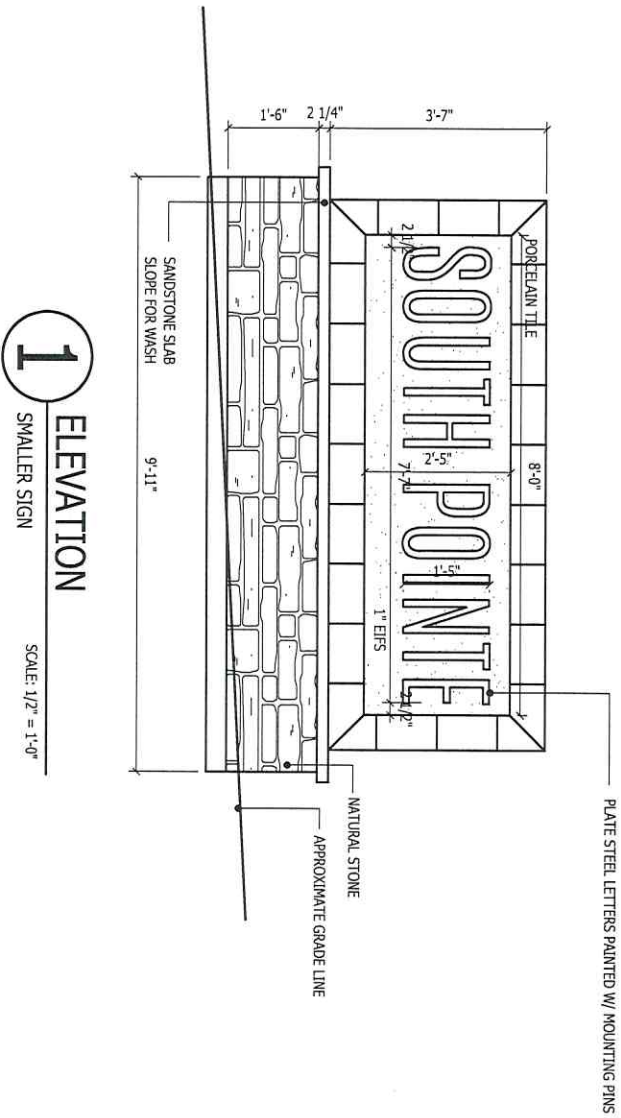
SCALE: 1/2" = 1'-0"



**KIELLA**  
COMMERCIAL

This drawing is not to be reproduced or used for contracting any building without the written authorization of Kiella Commercial DFB

7482 W. Adams Ave.  
Tempe, AZ 85283  
(480) 778-0085





1 of 1  
SHEET:  
1" = 10'  
SCALE:  
Chris Armour  
CHECKED BY:  
Enc S Archer  
DRAWN BY:  
032519.2  
JOB NUMBER:  
03/25/19  
DATE:  
04/18/19  
REVISIONS:

PROJECT:  
SouthPointe Medians  
HK Dodgen Loop Entry  
Temple, Texas 76501

SHEET DESCRIPTION:  
Irrigation

Heart of Texas Landscape  
& Irrigation  
P.O. Box 1236  
Belton, Texas 76513



Alton Dr



Landscape			
Quantity	Symbol	Description	Part Number
<b>Animals-Perennials</b>			
3		New gold banana 1g	
7		Pink star Caps. 1g	
6		Red tuberosa 1g	
3		Red tuberosa 1g	
6		Russian Sage 3g	
5		Red tuberosa 1g	
<b>grasses</b>			
12		golf molly 3g	
<b>Palms</b>			
3		blue agave 3g	
18		White's tongue agave 5g	
<b>Shrubs Under 4 Feet</b>			
9		Texas Sage 5 Gallon	
<b>Trees</b>			
2		Crabo Myrtle Tree 30g	
4		Live Oak 2 to 3 1/2	
2		Mock 30g	

04/18/19

HK Dodgen Loop Entry

High of Texas Landscape  
5/1/2010  
10000 1200  
Belton, Texas 76513

SHEET DESCRIPTION:  
Irrigation

PROJECT:  
South Pointe Meadows  
MLK Entry  
Belton, Texas 76513

DATE:  
03/25/10

DATE:  
03/25/10

DATE:  
03/25/10

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03/25/10

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03/25/10

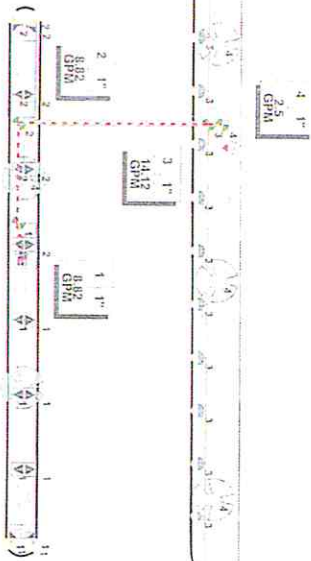
DATE:  
03/25/10

DATE:  
03/25/10

DATE:  
03/25/10

DATE:  
03/25/10

South M.L.K. Jr Dr



Lummas Dr

04/18/19

### Irrigation

Quantity	Symbol	Description	Pressure	Flow	Radius
9		Rain Bird 101 - 1804	30 psi	0.79 gpm	10 ft
3		Rain Bird 10-VAN 180 - 1804	30 psi	1.45 gpm	10 ft
1		Rain Bird 10-VAN 90 - 1804	30 psi	0.75 gpm	10 ft
5		Rain Bird 1402	30 psi	0.5 gpm	0 ft
2		Rain Bird 15LCS - 1961	30 psi	0.49 gpm	15 x 3 ft
2		Rain Bird 15RCS - 1804	30 psi	0.49 gpm	15 x 3 ft
12		Rain Bird 15SS1 - 1804	30 psi	1.21 gpm	30 x 4 ft
4		Rain Bird 4-VAN 90 - 1804	30 psi	0.29 gpm	4 ft
1		Rain Bird 8-VAN 180 - 1804	30 psi	1.15 gpm	8 ft
1		Rain Bird 8-VAN 90 - 1804	30 psi	0.72 gpm	8 ft
1		Meters			
1		Backflow Assemblies			
1		Watts 009M201 - 1"			
1		Control Valves			
4		Rain Bird 100-DV-SS			
1		Irrigation Accessories			
1		Hunter RAIN-CLICK			
1		Hunter XCH 400			
1		Spears 1" White PVC - Socket			
1		Lateral Line Pipe			
426 ft		Class 315 1/2"			
54 ft		Class 200 3/4"			
64 ft		Class 180 1"			
31 ft		Schedule 40 3"			
117 ft		14 Gauge - Control			
62 ft		14 Gauge - Common			

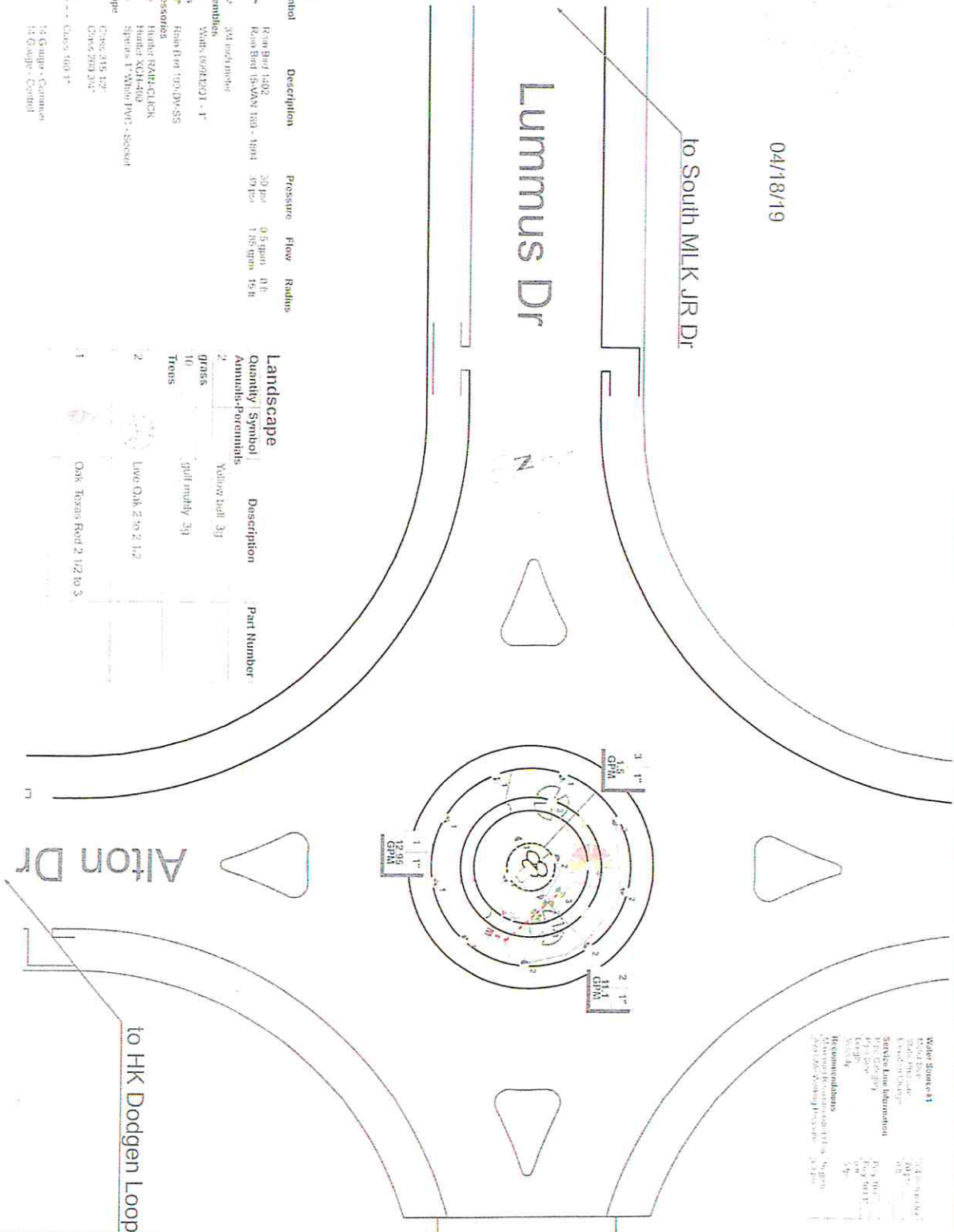
### Landscape

Quantity	Symbol	Description	Part Number
3		Crape Myrtle, Tuscany Joy	
5		Live Oak 2 to 2 1/2	



[illegible][illegible]

Landscape		Quantity	Symbol	Description	Part Number
			Animals-Perennials		
2			grass	Yellow bell 3g	
		10		gulf muhly 3g	
2			Trees		
				Live Oak 2' to 2 1/2'	
1				Oak Texas Red 2 1/2 to 3'	



RESOLUTION NO. 2019-9767-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING APPROVAL OF A STREET USE LICENSE TO ALLOW FOR THE ENCROACHMENT OF TWO NEW SUBDIVISION ENTRY SIGNS, LANDSCAPING AND IRRIGATION IMPROVEMENTS, LOCATED IN SOUTH POINTE SUBDIVISION, PHASE I, TEMPLE, BELL COUNTY, TEXAS, ADDRESSED AS 3100 ALTON ROAD, 1600 LUMMUS DRIVE, AND 1950 LUMMUS DRIVE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, the applicant and property owner, Kiella Development, Inc., submitted a request for a street use license - per City Charter Section 10.8: Street Use License, City Council approval is required for an encroachment on public property for a term not to exceed 15 years so long as the use is not inconsistent with the rights of the public;

**Whereas**, the applicant proposes an approximately 10-foot by 20-foot entry sign, as well as landscaping and irrigation improvements in the median of Alton Road at its intersection of Southeast HK Dodgen Loop and addressed is as 3100 Alton Road, an approximately 5-foot by 10-foot entry sign is proposed, as well as landscaping and irrigation improvements, in the median of Lummus Drive at its intersection of South Martin Luther King, Jr. Drive and is addressed as 1600 Lummus Drive, and landscaping and irrigation improvements are proposed in the roundabout intersection of Lummus Drive and Alton Road, and is addressed as 1950 Lummus Drive;

**Whereas**, Staff has contacted all public and private utility service providers and no objections to the street use license were received – Staff has received an application for a beautification memorandum of agreement (MOA) from Kiella Development, Inc. for these locations within the South Pointe Subdivision;

**Whereas**, the cost of landscaping and irrigation improvements is the responsibility of the developer and once the MOA is approved, the City will be responsible for providing water to the property and will cover the cost of water needed to maintain the proposed improvements - the term of any beautification MOA will not be longer than 15 years and at the end of the term, the parties may agree to extend the MOA; 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: Findings.** All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.



**Part 2:** The City Council approves a street use license to allow for the encroachment of two new subdivision entry signs, landscaping and irrigation improvements, located in South Pointe Subdivision, Phase I, Temple, Bell County, Texas, addressed as 3100 Alton Road, 1600 Lummus Drive, and 1950 Lummus Drive.

**Part 3:** It is hereby officially found and determined that the meeting at which this Resolution was 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 **5<sup>th</sup>** day of **September**, 2019.

THE CITY OF TEMPLE, TEXAS

---

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

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Lacy Borgeson  
City Secretary

---

Kayla Landeros  
Interim City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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09/05/19  
Item #7(N)  
Consent Agenda  
Page 1 of 2

### **DEPT./DIVISION SUBMISSION & REVIEW:**

Kayla Landeros, Interim City Attorney

**ITEM DESCRIPTION:** Consider adopting a resolution approving a negotiated settlement between the Atmos Cities Steering Committee and Atmos Energy Corp., Mid-Tex Division regarding the Company's 2019 Rate Review Mechanism Filings.

**STAFF RECOMMENDATION:** Adopt resolution as presented in item description.

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

Since 2007, there have been several modifications to the original RRM Tariff. The most recent iteration of the RRM Tariff was reflected in an ordinance adopted by ACSC members in 2018. On or about April 1, 2019, the Company filed a rate request pursuant to the RRM Tariff adopted by ACSC members. The Company claimed that its cost-of-service in a test year ending December 31, 2018, entitled it to additional system-wide revenues of \$70 million. Application of the standards set forth in ACSC's RRM Tariff required Atmos to reduce its request to \$54 million, \$39.3 million of which would be applicable to ACSC members. ACSC's consultants concluded the system-wide deficiency under the RRM regime should be \$38.7 million instead of the claimed \$54 million. The amount of the \$38.7 million deficiency applicable to ACSC members would be \$28.2 million. After the Company reviewed the consultants' report, the ACSC's Executive Committee and the Company negotiated a settlement whereby the Company would receive an increase of \$35.4 million from ACSC Cities. The Executive Committee recommends a settlement at this amount. The Effective Date for new rates is October 1, 2019.

Atmos generated proof that the rate tariffs attached to the Memorandum will generate \$35.4 million in additional revenues from ACSC Cities. That proof is attached as Attachment 1. ACSC consultants have agreed that Atmos' Proof of Revenues is accurate.



The impact of the settlement on average residential rates is an increase of \$2.05 on a monthly basis, or 3.7 percent. The increase for average commercial usage will be \$6.18 or 2.31 percent. A bill impact comparison is attached as Attachment 2.

ACSC strongly opposed the GRIP process because it constitutes piecemeal ratemaking by ignoring declining expenses and increasing revenues while rewarding the Company for increasing capital investment on an annual basis. The GRIP process does not allow any review of the reasonableness of capital investment and does not allow cities to participate in the Railroad Commission's review of annual GRIP filings or allow recovery of Cities' rate case expenses. The Railroad Commission undertakes a mere administrative review of GRIP filings (instead of a full hearing) and rate increases go into effect without any material adjustments. In ACSC's view, the GRIP process unfairly raises customers' rates without any regulatory oversight. In contrast, the RRM process has allowed for a more comprehensive rate review and annual evaluation of expenses and revenues, as well as capital investment.

While residents outside municipal limits must pay rates governed by GRIP, there are some cities served by Atmos Mid-Tex that chose to remain under GRIP rather than adopt RRM. Additionally, the City of Dallas adopted a variation of RRM which is referred to as DARR. When new rates become effective on October 1, 2019, ACSC residents will have a slight economic monthly advantage over comparable GRIP and comparable DARR rates (see Attachment 3).

The Legislature's GRIP process allowed gas utilities to receive annual rate increases associated with capital investments. The RRM process has proven to result in a more efficient and less costly (both from a consumer rate impact perspective and from a ratemaking perspective) than the GRIP process. Given Atmos Mid-Tex's claim that its historic cost of service should entitle it to recover \$70 million in additional system-wide revenues, or \$54 million from ACSC Cities, the RRM settlement at \$35.4 million for ACSC Cities reflects substantial savings to ACSC Cities in the amount of \$18.6 million. ACSC's consultants produced a report indicating that Atmos had justified increased revenues for ACSC Cities of at least \$32.7 million. Settlement at \$35.4 million is fair and reasonable. The ACSC Executive Committee consisting of city employees of 18 ACSC members urges all ACSC members to pass the Ordinance/Resolution before September 30, 2019. New rates become effective October 1, 2019.

**FISCAL IMPACT:** The City spent \$92,136 for gas utilities in FY 2018. The budget for gas utilities for FY 2019 is \$97,496 and for FY 2020 is \$98,825. It is estimated that the rate increase impact to the City will be approximately 2.31% of the total amount spent for gas utilities.

**ATTACHMENTS:**

[Attachment 1 – Proof of Revenues](#)

[Attachment 2 – Bill Impact](#)

[Attachment 3 – RRM Monthly Savings Over GRIP and DARR Rates Resolution](#)

**Attachment 1**

**Proof of Revenues**



**ATMOS ENERGY CORP., MID-TEX DIVISION  
RRM CITIES RATE REVIEW MECHANISM  
PROOF OF REVENUES - SYSTEMWIDE  
TEST YEAR ENDING DECEMBER 31, 2018**

Line No.	Customer Class	Current	Proposed	Bills	Ccf/MmBtu
	(a)	(b)	(c)	(d)	(e)
1	<b>Residential</b>				
2	Customer Charge	\$ 18.85	\$ 19.55	18,572,400	
3	Consumption Charge	0.14846	0.17423		876,575,629
4	Revenue Related Taxes				
5	Total Class Revenue				
6					
7	<b>Commercial</b>				
8	Customer Charge	\$ 43.50	\$ 46.50	1,492,740	
9	Consumption Charge	0.09165	0.09924		576,758,305
10	Revenue Related Taxes				
11	Total Class Revenue				
12					
13	<b>Industrial &amp; Transportation</b>				
14	Customer Charge	\$ 784.00	\$ 845.50	9,804	
15	Consumption Charge Tier 1	\$ 0.3312	\$ 0.3572		10,724,328
16	Consumption Charge Tier 2	\$ 0.2425	\$ 0.2616		12,346,302
17	Consumption Charge Tier 3	\$ 0.0520	\$ 0.0561		22,335,700
18	Revenue Related Taxes				
19	Total Class Revenue				
20					
21	<b>Total Excluding Other Revenue</b>				
22					
23					
24	<b>Revenue Related Tax Factor</b>	6.7078%			

Current Revenues	Proposed Revenues	Increase
(f)	(g)	(h)
\$ 350,089,740	\$ 363,090,420	
130,136,418	152,725,772	
32,212,790	34,600,111	
<u>\$ 512,438,948</u>	<u>\$ 550,416,303</u>	<u>\$ 37,977,356</u>
\$ 64,934,190	\$ 69,412,410	
52,859,899	57,237,494	
7,901,436	8,495,470	
<u>\$ 125,695,525</u>	<u>\$ 135,145,374</u>	<u>\$ 9,449,849</u>
\$ 7,686,336	\$ 8,289,282	
3,551,897	3,830,730	
2,993,978	3,229,793	
1,161,456	1,253,033	
1,032,582	1,113,691	
<u>\$ 16,426,250</u>	<u>\$ 17,716,529</u>	<u>\$ 1,290,278</u>
<u>\$ 654,560,722</u>	<u>\$ 703,278,206</u>	<u>\$ 48,717,483</u>



## **Attachment 2**

### **Bill Impact**

**ATMOS ENERGY CORP., MID-TEX DIVISION  
AVERAGE BILL COMPARISON - BASE RATES  
TEST YEAR ENDING DECEMBER 31, 2018**

Line						CURRENT	PROPOSED	CHANGE
1	<b>Rate R @ 47.5 Ccf</b>							
2	Customer charge					\$ 18.85		
3	Consumption charge	47.5	CCF	X \$ 0.14846	=	7.05		
4	Rider GCR Part A	47.5	CCF	X \$ 0.27375	=	13.00		
5	Rider GCR Part B	47.5	CCF	X \$ 0.27485	=	13.06		
6	Subtotal					\$ 51.96		
7	Rider FF & Rider TAX		\$ 51.96	X 0.06708	=	3.49		
8	Total					\$ 55.45		
9								
10	Customer charge						\$ 19.55	
11	Consumption charge	47.5	CCF	X \$ 0.17423	=	8.28		
12	Rider GCR Part A	47.5	CCF	X \$ 0.27375	=	13.00		
13	Rider GCR Part B	47.5	CCF	X \$ 0.27485	=	13.06		
14	Subtotal					\$ 53.89		
15	Rider FF & Rider TAX		\$ 53.89	X 0.06708	=	3.61		
16	Total					\$ 57.50	\$ 2.05	
17								3.70%
18								
19	<b>Rate C @ 367.6 Ccf</b>							
20	Customer charge					\$ 43.50		
21	Consumption charge	367.6	CCF	X \$ 0.09165	=	33.69		
22	Rider GCR Part A	367.6	CCF	X \$ 0.27375	=	100.62		
23	Rider GCR Part B	367.6	CCF	X \$ 0.19927	=	73.25		
24	Subtotal					\$ 251.06		
25	Rider FF & Rider TAX		\$ 251.06	X 0.06708	=	16.84		
26	Total					\$ 267.90		
27								
28	Customer charge						\$ 46.50	
29	Consumption charge	367.6	CCF	X \$ 0.09924	=	36.48		
30	Rider GCR Part A	367.6	CCF	X \$ 0.27375	=	100.62		
31	Rider GCR Part B	367.6	CCF	X \$ 0.19927	=	73.25		
32	Subtotal					\$ 256.85		
33	Rider FF & Rider TAX		\$ 256.85	X 0.06708	=	17.23		
34	Total					\$ 274.08	\$ 6.18	
35								2.31%



**ATMOS ENERGY CORP., MID-TEX DIVISION  
AVERAGE BILL COMPARISON - BASE RATES  
TEST YEAR ENDING DECEMBER 31, 2018**

Line						CURRENT	PROPOSED	CHANGE
36	<b>Rate I @ 4066 MMBTU</b>							
37	Customer charge					\$ 784.00		
38	Consumption charge	1,500	MMBTU	X \$ 0.3312 =		496.80		
39	Consumption charge	2,566	MMBTU	X \$ 0.2425 =		622.14		
40	Consumption charge	0	MMBTU	X \$ 0.0520 =		-		
41	Rider GCR Part A	4,066	MMBTU	X \$ 2.6733 =		10,868.51		
42	Rider GCR Part B	4,066	MMBTU	X \$ 0.4491 =		1,825.85		
43	Subtotal					\$ 14,597.30		
44	Rider FF & Rider TAX					979.16		
45	Total					<u>\$ 15,576.46</u>		
46								
47	Customer charge						\$ 845.50	
48	Consumption charge	1,500	MMBTU	X \$ 0.3572 =			535.80	
49	Consumption charge	2,566	MMBTU	X \$ 0.2616 =			671.14	
50	Consumption charge	0	MMBTU	X \$ 0.0561 =			-	
51	Rider GCR Part A	4,066	MMBTU	X \$ 2.6733 =			10,868.51	
52	Rider GCR Part B	4,066	MMBTU	X \$ 0.4491 =			1,825.85	
53	Subtotal					\$ 14,746.80		
54	Rider FF & Rider TAX					989.19		
55	Total					<u>\$ 15,735.99</u>	\$ 159.53	
56								1.02%
57	<b>Rate T @ 4066 MMBTU</b>							
58	Customer charge					\$ 784.00		
59	Consumption charge	1,500	MMBTU	X \$ 0.3312 =		496.80		
60	Consumption charge	2,566	MMBTU	X \$ 0.2425 =		622.14		
61	Consumption charge	0	MMBTU	X \$ 0.0520 =		-		
62	Rider GCR Part B	4,066	MMBTU	X \$ 0.4491 =		1,825.85		
63	Subtotal					\$ 3,728.79		
64	Rider FF & Rider TAX					250.12		
65	Total					<u>\$ 3,978.91</u>		
66								
67	Customer charge						\$ 845.50	
68	Consumption charge	1,500	MMBTU	X \$ 0.3572 =			535.80	
69	Consumption charge	2,566	MMBTU	X \$ 0.2616 =			671.14	
70	Consumption charge	0	MMBTU	X \$ 0.0561 =			-	
71	Rider GCR Part B	4,066	MMBTU	X \$ 0.4491 =			1,825.85	
72	Subtotal					\$ 3,878.29		
73	Rider FF & Rider TAX					260.15		
74	Total					<u>\$ 4,138.44</u>	\$ 159.53	
75								4.01%

## **Attachment 3**

### **RRM Monthly Savings Over GRIP and DARR Rates**



ACSC Margin Advantage Over GRIP and DARR Residential Customers  
Effective October 1, 2019

<b>Group</b>	<b>Average Monthly Consumption</b>	<b>Customer Charge</b>	<b>Consumption Charge</b>	<b>Average Bill</b>	<b>Average Monthly Savings</b>
ACSC/RRM	47.5 CCF	\$19.55	\$0.17423	\$27.83	X
Environs GRIP	47.5 CCF	\$19.84	\$0.18653	\$28.70	\$0.87
ATM GRIP	47.5 CCF	\$21.69	\$0.14846	\$28.74	\$0.92
DARR	47.5 CCF	\$21.25	\$0.14924	\$28.34	\$0.51

RESOLUTION NO. 2019-9768-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A NEGOTIATED SETTLEMENT BETWEEN THE ATMOS CITIES STEERING COMMITTEE (“ACSC”) AND ATMOS ENERGY CORP., MID-TEX DIVISION REGARDING THE COMPANY’S 2019 RATE REVIEW MECHANISM FILING; DECLARING EXISTING RATES TO BE UNREASONABLE; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT; FINDING THE RATES TO BE SET BY THE ATTACHED SETTLEMENT TARIFFS TO BE JUST AND REASONABLE AND IN THE PUBLIC INTEREST; APPROVING AN ATTACHED EXHIBIT ESTABLISHING A BENCHMARK FOR PENSIONS AND RETIREE MEDICAL BENEFITS; APPROVING AN ATTACHED EXHIBIT REGARDING AMORTIZATION OF REGULATORY LIABILITY; REQUIRING THE COMPANY TO REIMBURSE ACSC’S REASONABLE RATEMAKING EXPENSES; DETERMINING THAT THIS RESOLUTION WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; ADOPTING A SAVINGS CLAUSE; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS RESOLUTION TO THE COMPANY AND THE ACSC’S LEGAL COUNSEL.

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

**Whereas**, the City is a member of the Atmos Cities Steering Committee (“ACSC”), a coalition of similarly-situated cities served by Atmos Mid-Tex (“ACSC Cities”) that have joined together to facilitate the review of, and response to, natural gas issues affecting rates charged in the Atmos Mid-Tex service area;

**Whereas**, ACSC and the Company worked collaboratively to develop a new Rate Review Mechanism (“RRM”) tariff that allows for an expedited rate review process by ACSC Cities as a substitute to the Gas Reliability Infrastructure Program (“GRIP”) process instituted by the Legislature, and that will establish rates for the ACSC Cities based on the system-wide cost of serving the Atmos Mid-Tex Division;

**Whereas**, the current RRM tariff was adopted by the City in a rate ordinance in 2018;

**Whereas**, on about April 1, 2019, Atmos Mid-Tex filed its 2019 RRM rate request with ACSC Cities based on a test year ending December 31, 2018;



**Whereas**, ACSC coordinated its review of the Atmos Mid-Tex 2019 RRM filing through its Executive Committee, assisted by ACSC's attorneys and consultants, to resolve issues identified in the Company's RRM filing;

**Whereas**, the Executive Committee, as well as ACSC's counsel and consultants, recommend that ACSC Cities approve an increase in base rates for Atmos Mid-Tex of \$35.4 million applicable to ACSC Cities;

**Whereas**, the attached tariffs (Exhibit A) implementing new rates are consistent with the recommendation of the ACSC Executive Committee, are agreed to by the Company, and are just, reasonable, and in the public interest;

**Whereas**, the settlement agreement sets a new benchmark for pensions and retiree medical benefits (Exhibit B);

**Whereas**, the settlement agreement establishes an amortization schedule for regulatory liability (Exhibit C);

**Whereas**, the RRM Tariff contemplates reimbursement of ACSC's reasonable expenses associated with RRM applications;

**Whereas**, the City spent \$92,136 for gas utilities in fiscal year 2018 and the budget for gas utilities for fiscal year 2019 is \$97,496 and for fiscal year 2020 is \$98,825 - it is estimated that the rate increase impact to the City will be approximately 2.31% of the total amount spent for gas utilities; 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: Findings.** All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

**Part 2:** That, without prejudice to future litigation of any issue identified by ACSC, the City Council finds that the settled amount of an increase in revenues of \$35.4 million for ACSC Cities represents a comprehensive settlement of gas utility rate issues affecting the rates, operations, and services offered by Atmos Mid-Tex within the municipal limits arising from Atmos Mid-Tex's 2019 RRM filing, is in the public interest, and is consistent with the City's authority under Section 103.001 of the Texas Utilities Code.

**Part 3:** That the existing rates for natural gas service provided by Atmos Mid-Tex are unreasonable. The new tariffs attached hereto and incorporated herein as Exhibit A, are just and reasonable, and are designed to allow Atmos Mid-Tex to recover annually an additional \$35.4 million from customers in ACSC Cities, over the amount allowed under currently approved rates. Such tariffs are hereby adopted.

**Part 4:** That the ratemaking treatment for pensions and retiree medical benefits in Atmos Mid-Tex's next RRM filing shall be as set forth on Exhibit B, attached hereto and incorporated herein.

**Part 5:** That amortization of regulatory liability shall be consistent with the schedule found in attached Exhibit C attached hereto and incorporated herein.

**Part 6:** That Atmos Mid-Tex shall reimburse the reasonable ratemaking expenses of the ACSC in processing the Company's 2019 RRM filing.

**Part 7:** That to the extent any resolution or ordinance previously adopted by the Council is inconsistent with this Resolution, it is hereby repealed.

**Part 8:** That the meeting at which this Resolution was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

**Part 9:** That if any one or more sections or clauses of this Resolution is adjudged to be unconstitutional or invalid, such judgment shall not affect, impair, or invalidate the remaining provisions of this Resolution, and the remaining provisions of the Resolution shall be interpreted as if the offending section or clause never existed.

**Part 10:** That consistent with the City Resolution that established the RRM process, this Resolution shall become effective from and after its passage with rates authorized by attached tariffs to be effective for bills rendered on or after October 1, 2019.

**Part 11:** That a copy of this Resolution shall be sent to Atmos Mid-Tex, care of Chris Felan, Vice President of Rates and Regulatory Affairs Mid-Tex Division, Atmos Energy Corporation, 5420 LJB Freeway, Suite 1862, Dallas, Texas 75240, and to Geoffrey Gay, General Counsel to ACSC, at Lloyd Gosselink Rochelle & Townsend, P.C., 816 Congress Avenue, Suite 1900, Austin, Texas 78701.

**Part 12:** It is hereby officially found and determined that the meeting at which this Resolution was 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 **5<sup>th</sup>** day of **September**, 2019.

THE CITY OF TEMPLE, TEXAS

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TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

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Lacy Borgeson  
City Secretary

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Kayla Landeros  
Interim City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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09/05/19  
Item #7(O)  
Consent Agenda  
Page 1 of 1

**DEPT./DIVISION SUBMISSION & REVIEW:**

Don Bond, P.E., Director of Public Works  
Kenton Moffett, Assistant Director of Public Works

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing the payments of an annual invoice from Brazos River Authority for operation and maintenance costs associated with the City's portion of raw water storage in Lake Belton in the amount of \$106,436.78.

**STAFF RECOMMENDATION:** Adopt resolution as presented in item description.

**ITEM SUMMARY:** Pursuant to the Water Storage Contract between the Brazos River Authority ("BRA") and the City, dated July 16, 1962, the City is responsible for 22.13% of the BRA's operation and maintenance costs associated with Lake Belton and Belton Dam.

Staff is seeking authorization to make this payment to BRA.

**FISCAL IMPACT:** Funding in the amount of \$106,437 is appropriated in the FY 2019 Operating Budget, account 520-5100-535-2651.

**ATTACHMENTS:**

[BRA invoice number FR00008756](#)  
[Resolution](#)





**Brazos**  
RIVER AUTHORITY

DEVELOP ★ MANAGE ★ PROTECT  
WATER RESOURCES OF THE BRAZOS RIVER BASIN



4600 COBBS DRIVE ★ P.O. BOX 7555 ★ WACO, TEXAS 76714-7555  
(254) 761-3100

Customer No. 7801  
Invoice No. FR00008697  
Invoice Date: 08/15/2019  
Due Date: 09/15/2019

City of Temple  
Attn: Purchasing-Accts Payable  
3210 E. Avenue H - Bldg C  
Temple, TX 76501

## INVOICE

Vendor # 1318

Item/Description	Qty	UOM	Price	Amount
7801-03 SYSTEM WATER AVAILABILITY AGRT	2,500.00	AF	79.00	197,500.00

RECEIVED

AUG 19 2019

Purchasing  
City of Temple, TX

520-5100-535-2651



**Fast & Easy Pay Option**



Total Amount Due: \$197,500.00

**Save Postage & Time:** Brazos River Authority now offers our customers an on-line payment option. Visit our website at [www.brazos.org](http://www.brazos.org) and click on 'Doing Business' then select 'Make an Online Payment' to pay by ACH (electronic check) via our secure website.

**Please remit by due date to prevent additional late fees and finance charges.**

**Important Notice:** There is a security flap on the back of this form showing your name, address, and customer account number. Please remove this security flap and return with your payment to the mailing address below. If unable to include this remittance flap, your customer account number must be written legibly on the check to ensure proper credit.

**Remit to: Brazos River Authority  
P.O. Box 7555  
Waco, Texas 76714-7555**



## COUNCIL AGENDA ITEM MEMORANDUM

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09/06/18  
Item #3(Z)  
Consent Agenda  
Page 1 of 1

**DEPT./DIVISION SUBMISSION & REVIEW:**

Nicole Torralva, P.E., Public Works Director  
Damon Boniface, Utility Director

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing payment of an annual invoice from Brazos River Authority in the amount of \$191,250 to secure the availability of 2,500 acre-feet of water per year to the City for FY 2019.

**STAFF RECOMMENDATION:** Adopt resolution as discussed in item description.

**ITEM SUMMARY:** Pursuant to the System Water Availability Agreement between the Brazos River Authority ("BRA") and the City, dated October 1, 2008, the City is allocated 2,500 acre-feet of water per year. This water is then treated at the City's treatment plant and pumped throughout the City. Staff is seeking authorization to make this payment to BRA.

**FISCAL IMPACT:** Funding in the amount of \$191,250 is appropriated in the FY 2019 Operating Budget, account 520-5100-535-2651.

**ATTACHMENTS:**

Resolution



RESOLUTION NO. 2019-9769-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING PAYMENT OF AN ANNUAL INVOICE IN THE AMOUNT OF \$106,436.78, FROM BRAZOS RIVER AUTHORITY FOR OPERATION AND MAINTENANCE COSTS ASSOCIATED WITH THE CITY'S PORTION OF RAW WATER STORAGE IN LAKE BELTON; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, pursuant to the Water Storage Contract between the Brazos River Authority and the City of Temple dated July 16, 1962, the City of Temple is responsible for 22.013% of the Brazos River Authority's operation and maintenance costs associated with Lake Belton and the Belton Dam;

**Whereas**, Staff has received the annual invoice from Brazos River Authority, and recommends Council authorize payment in the amount of \$106,436.78;

**Whereas**, funding for this annual invoice is available in Account No. 520-5100-535-2651; 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: Findings.** All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

**Part 2:** The City Council authorizes payment of the annual invoice in the amount of \$106,436.78, from Brazos River authority for operation and maintenance costs associated with the City's portion of raw water storage in Lake Belton.

**Part 3:** It is hereby officially found and determined that the meeting at which this Resolution was 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 **5<sup>th</sup>** day of **September**, 2019.

THE CITY OF TEMPLE, TEXAS

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TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

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Lacy Borgeson  
City Secretary

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Kayla Landeros  
Interim City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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09/05/19  
Item #7(P)  
Consent Agenda  
Page 1 of 3

### **DEPT./DIVISION SUBMISSION & REVIEW:**

Tammy Lyerly, Senior Planner

**ITEM DESCRIPTION:** SECOND & FINAL READING – FY-19-17-ZC: Consider adopting an ordinance approving a Conditional Use Permit with a Site Plan to allow a motorcycle sales and repair facility (Indian Motorcycles) on Lot 1, Block 1, Luby's Subdivision, addressed as 3925 South General Bruce Drive, and located within the I-35 Corridor Overlay Gateway sub-district.

**PLANNING AND ZONING COMMISSION RECOMMENDATION:** At its August 5, 2019 meeting, the Planning and Zoning Commission voted 5/1 (Commissioner Ward voted nay) to recommend approval of the requested Conditional Use Permit (CUP) with a Site Plan to allow a motorcycle sales and repair facility (Indian Motorcycles), per staff recommendation.

**STAFF RECOMMENDATION:** Staff recommends approval of the requested Conditional Use Permit (CUP) with a Site Plan to allow a motorcycle sales and repair facility, for the following reasons:

1. The request is in compliance with the Future Land Use and Character Map;
2. The request is compatible with existing adjacent properties;
3. The request is in compliance with the Thoroughfare Plan;
4. Public facilities are available to the subject property; and
5. The request has demonstrated compliance with the specific standards in Unified Development Code (UDC) Section 3.5 – Conditional Use Permit

And subject to the following condition:

1. That the property be subject to the CUP site plan exhibits

**ITEM SUMMARY:** The applicants request this Conditional Use Permit to allow a motorcycle sales and repair facility (Indian Motorcycles) on Lot 1, Block 1, Luby's Subdivision, addressed as 3925 South General Bruce Drive. The subject property is zoned Commercial District and located within the I-35 Corridor Overlay Gateway sub-district.

The applicants are pursuing a Conditional Use Permit (CUP) for motorcycle sales and repair because the use, while allowed in the property's existing Commercial (C) zoning district, is not allowed by right within the property's I-35 Corridor Overlay Gateway sub-district.

The CUP site plan meets the Conditional Use Permit criteria of UDC Section 3.5.4 – Review Criteria. Please see the attached CUP Review Criteria table. The subject property is the former site of a restaurant with an existing building and an established parking lot with adequate vehicle circulation.



The applicants propose a traffic flow re-route at the south boundary line of the subject parking lot to the parking lot to the east, as shown in the attached CUP site plan exhibits.

During the Planning and Zoning meeting, Commissioners Ward and Wright had questions regarding the applicant's proposed traffic re-route from Government Drive, a private street, to the adjacent parking lot to the east. Commissioner Ward expressed concerns of whether the subject parking lot was adequate for the applicant's proposed traffic flow re-route to the adjacent parking lot leading to General Bruce Drive. No one spoke during the public hearing.

As a reminder in authorizing a CUP, the Planning and Zoning Commission may recommend, and the City Council may impose additional reasonable conditions necessary to protect the public interest and welfare of the community, per UDC Section 3.5.5 – Additional Conditions.

Per UDC Section 3.5.6 – Revocation and Modification, a CUP may be revoked or modified, after notice to the property owner and a hearing before the City Council, for any of the following reasons:

- A. The CUP was obtained or extended by fraud or deception;
- B. One or more of the conditions imposed by the permit has not been met or has been violated, or
- C. The CUP previously authorized is determined to be detrimental to the public health, safety and / or welfare.

**DEVELOPMENT REVIEW COMMITTEE (DRC):** The DRC reviewed this Conditional Use Permit (CUP) request on July 1, 2019. DRC staff studied the various access points into the subject property from the adjacent parking lots of properties to the south and west. No issues were identified during the review.

**COMPREHENSIVE PLAN COMPLIANCE:** The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan:

Future Land Use and Character Plan (FLUP) (CP Map 3.1)

The subject property is within the Auto-Urban Commercial character district of the *Choices '08* City of Temple Comprehensive Plan. The subject property and proposed uses complies with this recommendation.

Thoroughfare Plan (CP Map 5.2) and Temple Trails Master Plan Map and Sidewalk Ordinance

The subject property has an entrance along General Bruce Drive, the frontage road along I-35. The rear parking lot has an additional west access point from South General Bruce Drive. Additional access into the subject property is from the adjacent parking lot to the south through Government Drive, a private road, as well as a private drive to the adjacent retail center to the east.

Availability of Public Facilities (CP Goal 4.1)

There are existing water and wastewater facilities available to the subject property.

**PUBLIC NOTICE:** Nine property owners within 200 feet of the subject property were sent notification letters for the Planning and Zoning Commission public hearing on August 5, 2019, for this requested Conditional Use Permit, as required by State law and City Ordinance. As of Tuesday, August 6, 2019 at 11:26 AM, no new notices have been received and none in opposition to the request.

The newspaper printed notice of the public hearing on July 25, 2019, in accordance with state law and local ordinance.

Staff initially sent out notification letters to nine property owners within 200 feet of the subject property for the Planning and Zoning Commission public hearing previously scheduled on July 15, 2019. But staff then determined that page one of the public notices sent out was missing. Therefore, staff recommended tabling the public hearing until August 5, 2019, to allow for reposting and sending out new notices. One notice from Cross Church was returned in favor of the requested CUP during this initial mailing.

**FISCAL IMPACT:** Not Applicable




**ATTACHMENTS:**

[Site and Surrounding Property Photos](#)  
[Maps](#)  
[Conditional Use Permit Criteria Table](#)  
[CUP Site Plan Exhibits](#)  
[Notification Response Letter](#)  
[Ordinance](#)






**SURROUNDING PROPERTY AND USES:**

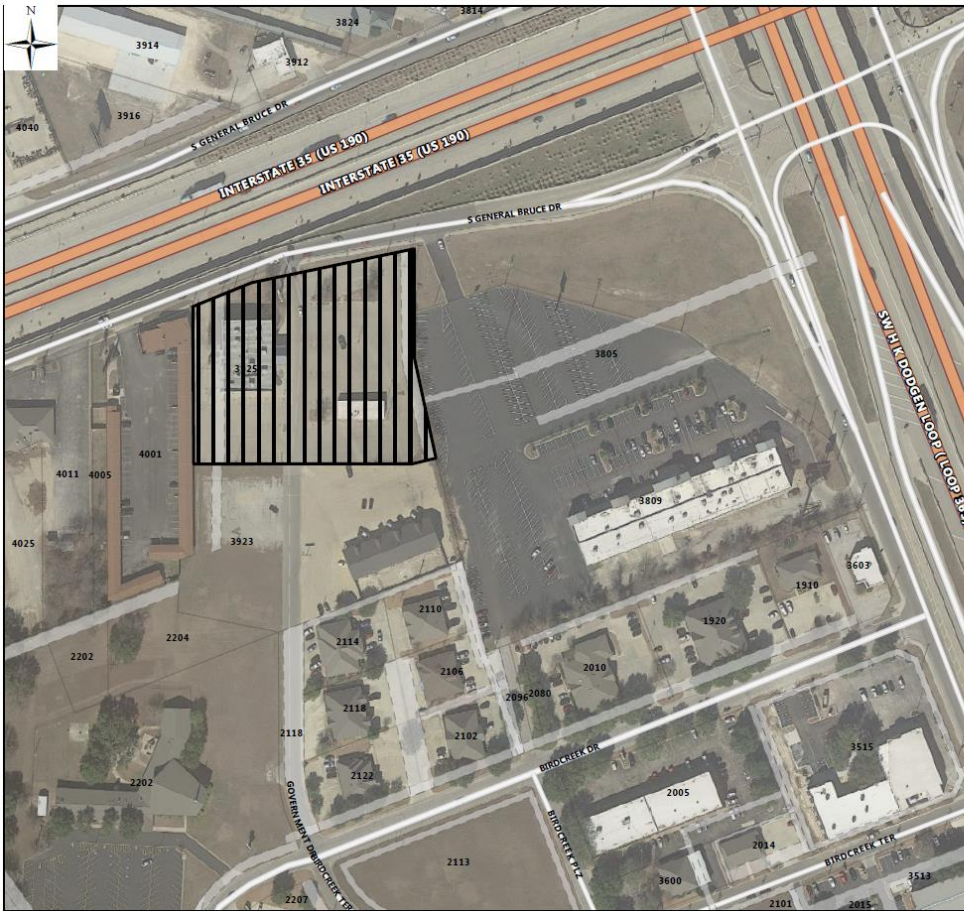
The following table shows the subject property, existing zoning and current land uses:

Direction	Zoning	Current Land Use	Photo
Subject Property	C	Vacant Restaurant	
			
			

Direction	Zoning	Current Land Use	Photo
East	LI	Retail	
West	GR	Motel	



Direction	Zoning	Current Land Use	Photo
South	C	Offices, Undeveloped land, & Place of Worship	 <p>Government Drive (Private)</p> <p>Subject Parking Lot</p>
			
North	C	I-35	 <p>S. General Bruce Dr</p>



C.U.P. for Motorcycle  
Sales & Repairs

AERIAL MAP

Zoning Case :  
FY-19-17-ZC

Address :  
3925 S General Bruce

#### Transportation

##### Streets

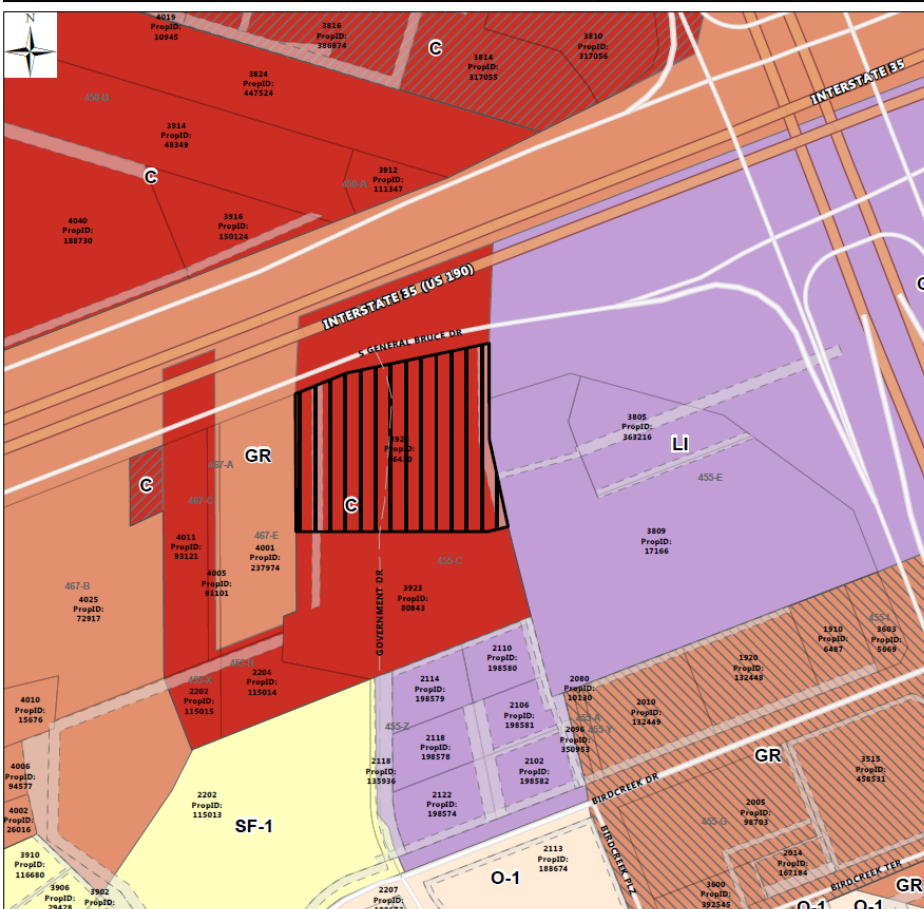
- EXPRESSWAY
- COLLECTOR
- LOCAL STREET
- PRIVATE
- RAMP
- Temple Municipal Boundary

#### Parcel Features

- Parcels
- Production.SDE.Easement

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legal, engineering, or surveying purposes. They  
do not represent an on-the-ground survey and  
represent only the approximate relative location  
of property boundaries and other features.

tylerly  
Date: 7/1/2019



C.U.P. for Motorcycle  
& Repairs

Zoning Case :  
FY-19-17-ZC  
3925 S General Bruce Dr

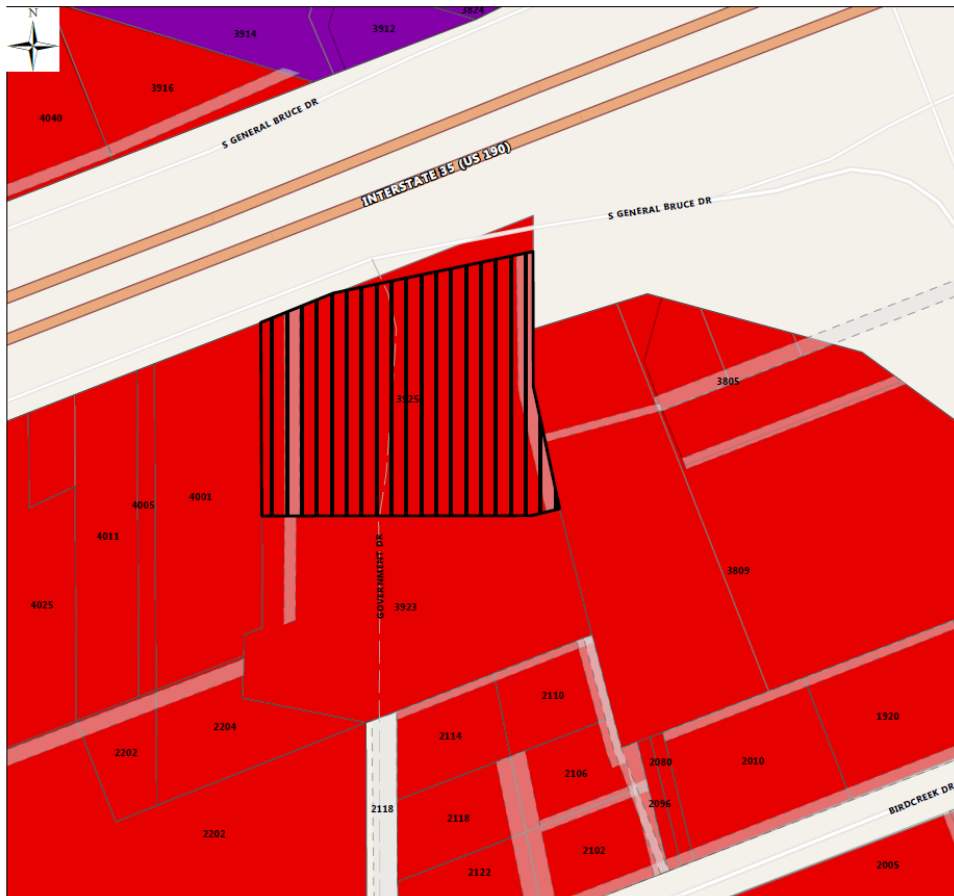
- |                |              |
|----------------|--------------|
| Current Zoning | CA           |
| CA             | CA - CLP     |
| LI             | LI - CLP     |
| LI-1           | LI-1 - CLP   |
| LI-2           | LI-2 - CLP   |
| LI-3           | LI-3 - CLP   |
| LI-4           | LI-4 - CLP   |
| LI-5           | LI-5 - CLP   |
| LI-6           | LI-6 - CLP   |
| LI-7           | LI-7 - CLP   |
| LI-8           | LI-8 - CLP   |
| LI-9           | LI-9 - CLP   |
| LI-10          | LI-10 - CLP  |
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| LI-97          | LI-97 - CLP  |
| LI-98          | LI-98 - CLP  |
| LI-99          | LI-99 - CLP  |
| LI-100         | LI-100 - CLP |

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tylerly  
Date: 7/1/2019







C.U.P. for Motorcycle Sales  
& Repairs

## FUTURE LAND USE MAP

Zoning Case :

FY-19-17-ZC

Address :

3925 S General Bruce Dr

### Transportation

- EXPRESSWAY
- MAJOR ARTERIAL
- COLLECTOR
- LOCAL STREET
- MINOR ARTERIAL
- PRIVATE
- RAMP

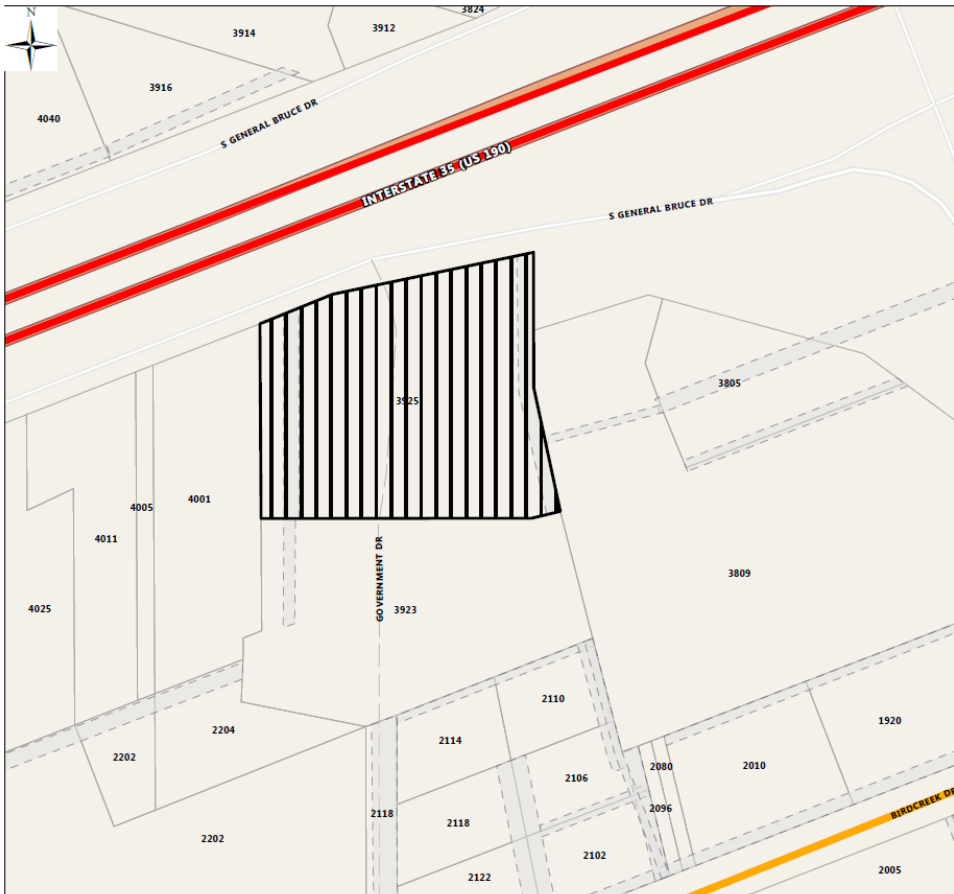
### Parcel Features

- Parcels
- Future LUP
- Agricultural/Rural
- Auto-Urban Commercial
- Auto-Urban Mixed Use
- Auto-Urban Multi-Family
- Auto-Urban Residential
- Business Park
- Estate Residential
- Industrial
- Neighborhood Conservation
- Parks & Open Space
- Public Institutional
- Suburban Commercial
- Suburban Residential
- Temple Medical Education District
- Urban Center
- Production SDE/Easement

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tlyerly

Date: 7/1/2019



C.U.P. for Motorcycle Sales  
& Repairs

## THOROUGHFARE AND TRAILS MAP

Zoning Case :

FY-19-17-ZC

Address :

3925 S General Bruce Dr

### Parcel Features

- Parcels
- Thoroughfare Plan
- Expressway
- Major Arterial
- Proposed Major Arterial
- Minor Arterial
- Proposed Minor Arterial
- Collector
- Proposed Collector
- EXISTING, COMMUNITY WIDE CONNECTOR
- EXISTING, LOCAL CONNECTOR
- PROPOSED, CITY WIDE SPINE
- PROPOSED, COMMUNITY WIDE CONNECTOR
- PROPOSED, LOCAL CONNECTOR
- Production SDE

### Trails Master Plan

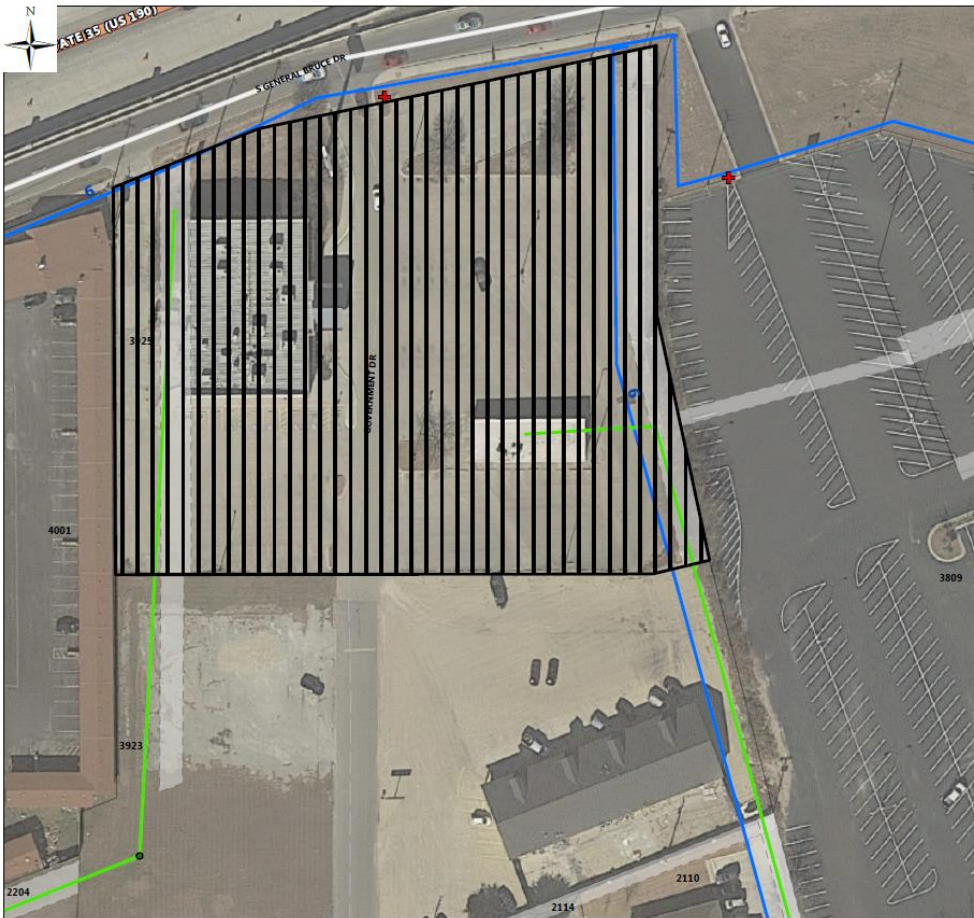
- EXISTING, CITY WIDE SPINE

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tlyerly

Date: 7/1/2019





C.U.P. for Motorcycle Sales & Repairs

### UTILITY MAP

Zoning Case :  
FY-19-17-ZC

#### Sewer

- Manhole
- Gravity Main

#### WaterDistribution

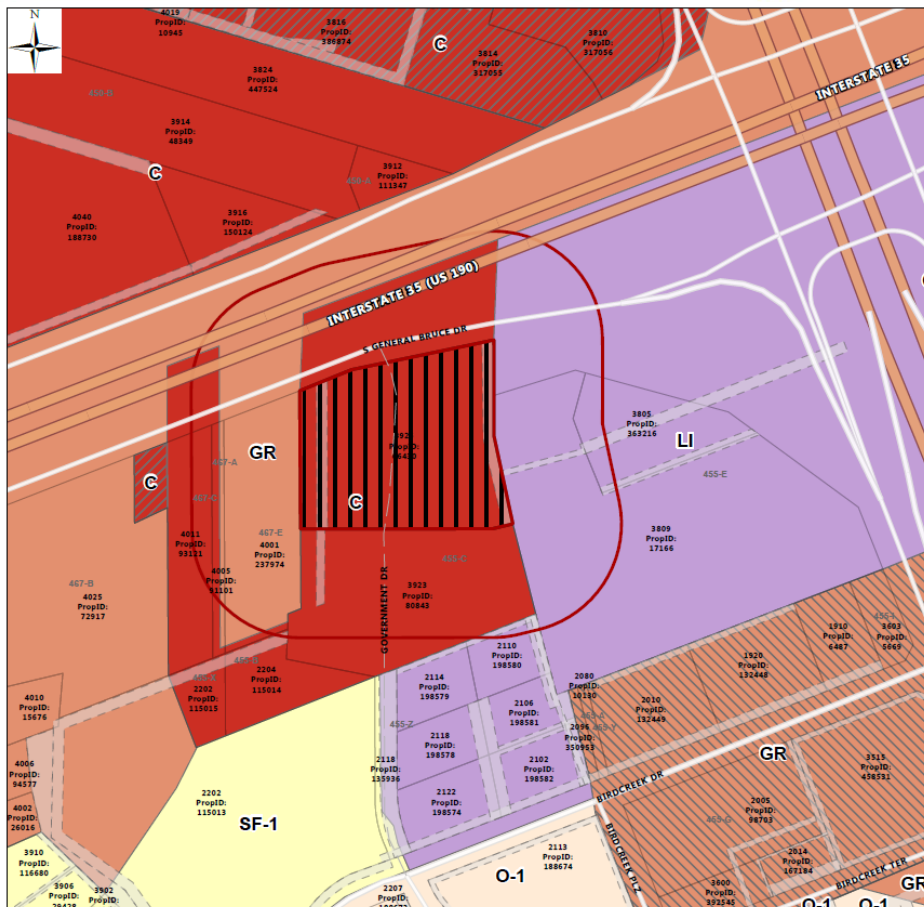
- Hydrant
- Main

#### Parcel Features

- Parcels
- Production,SDE,Easement

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tylerly  
Date: 7/1/2019



C.U.P. for Motorcycle Sales & Repairs

### 200' NOTIFICATION MAP

Zoning Case :  
FY-19-17-ZC  
3925 S General Bruce Dr

- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li>■ C-1</li> <li>■ C-2</li> <li>■ C-3</li> <li>■ C-4</li> <li>■ C-5</li> <li>■ C-6</li> <li>■ C-7</li> <li>■ C-8</li> <li>■ C-9</li> <li>■ C-10</li> <li>■ C-11</li> <li>■ C-12</li> <li>■ C-13</li> <li>■ C-14</li> <li>■ C-15</li> <li>■ C-16</li> <li>■ C-17</li> <li>■ C-18</li> <li>■ C-19</li> <li>■ C-20</li> <li>■ C-21</li> <li>■ C-22</li> <li>■ C-23</li> <li>■ C-24</li> <li>■ C-25</li> <li>■ C-26</li> <li>■ C-27</li> <li>■ C-28</li> <li>■ C-29</li> <li>■ C-30</li> <li>■ C-31</li> <li>■ C-32</li> <li>■ C-33</li> <li>■ C-34</li> <li>■ C-35</li> <li>■ C-36</li> <li>■ C-37</li> <li>■ C-38</li> <li>■ C-39</li> <li>■ C-40</li> <li>■ C-41</li> <li>■ C-42</li> <li>■ C-43</li> <li>■ C-44</li> <li>■ C-45</li> <li>■ C-46</li> <li>■ C-47</li> <li>■ C-48</li> <li>■ C-49</li> <li>■ C-50</li> <li>■ C-51</li> <li>■ C-52</li> <li>■ C-53</li> <li>■ C-54</li> <li>■ C-55</li> <li>■ C-56</li> <li>■ C-57</li> <li>■ C-58</li> <li>■ C-59</li> <li>■ C-60</li> <li>■ C-61</li> <li>■ C-62</li> <li>■ C-63</li> <li>■ C-64</li> <li>■ C-65</li> <li>■ C-66</li> <li>■ C-67</li> <li>■ C-68</li> <li>■ C-69</li> <li>■ C-70</li> <li>■ C-71</li> <li>■ C-72</li> <li>■ C-73</li> <li>■ C-74</li> <li>■ C-75</li> <li>■ C-76</li> <li>■ C-77</li> <li>■ C-78</li> <li>■ C-79</li> <li>■ C-80</li> <li>■ C-81</li> <li>■ C-82</li> <li>■ C-83</li> <li>■ C-84</li> <li>■ C-85</li> <li>■ C-86</li> <li>■ C-87</li> <li>■ C-88</li> <li>■ C-89</li> <li>■ C-90</li> <li>■ C-91</li> <li>■ C-92</li> <li>■ C-93</li> <li>■ C-94</li> <li>■ C-95</li> <li>■ C-96</li> <li>■ C-97</li> <li>■ C-98</li> <li>■ C-99</li> <li>■ C-100</li> </ul> | <ul style="list-style-type: none"> <li>■ C-101</li> <li>■ C-102</li> <li>■ C-103</li> <li>■ C-104</li> <li>■ C-105</li> <li>■ C-106</li> <li>■ C-107</li> <li>■ C-108</li> <li>■ C-109</li> <li>■ C-110</li> <li>■ C-111</li> <li>■ C-112</li> <li>■ C-113</li> <li>■ C-114</li> <li>■ C-115</li> <li>■ C-116</li> <li>■ C-117</li> <li>■ C-118</li> <li>■ C-119</li> <li>■ C-120</li> <li>■ C-121</li> <li>■ C-122</li> <li>■ C-123</li> <li>■ C-124</li> <li>■ C-125</li> <li>■ C-126</li> <li>■ C-127</li> <li>■ C-128</li> <li>■ C-129</li> <li>■ C-130</li> <li>■ C-131</li> <li>■ C-132</li> <li>■ C-133</li> <li>■ C-134</li> <li>■ C-135</li> <li>■ C-136</li> <li>■ C-137</li> <li>■ C-138</li> <li>■ C-139</li> <li>■ C-140</li> <li>■ C-141</li> <li>■ C-142</li> <li>■ C-143</li> <li>■ C-144</li> <li>■ C-145</li> <li>■ C-146</li> <li>■ C-147</li> <li>■ C-148</li> <li>■ C-149</li> <li>■ C-150</li> <li>■ C-151</li> <li>■ C-152</li> <li>■ C-153</li> <li>■ C-154</li> <li>■ C-155</li> <li>■ C-156</li> <li>■ C-157</li> <li>■ C-158</li> <li>■ C-159</li> <li>■ C-160</li> <li>■ C-161</li> <li>■ C-162</li> <li>■ C-163</li> <li>■ C-164</li> <li>■ C-165</li> <li>■ C-166</li> <li>■ C-167</li> <li>■ C-168</li> <li>■ C-169</li> <li>■ C-170</li> <li>■ C-171</li> <li>■ C-172</li> <li>■ C-173</li> <li>■ C-174</li> <li>■ C-175</li> <li>■ C-176</li> <li>■ C-177</li> <li>■ C-178</li> <li>■ C-179</li> <li>■ C-180</li> <li>■ C-181</li> <li>■ C-182</li> <li>■ C-183</li> <li>■ C-184</li> <li>■ C-185</li> <li>■ C-186</li> <li>■ C-187</li> <li>■ C-188</li> <li>■ C-189</li> <li>■ C-190</li> <li>■ C-191</li> <li>■ C-192</li> <li>■ C-193</li> <li>■ C-194</li> <li>■ C-195</li> <li>■ C-196</li> <li>■ C-197</li> <li>■ C-198</li> <li>■ C-199</li> <li>■ C-200</li> </ul> |
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tylerly  
Date: 7/1/2019





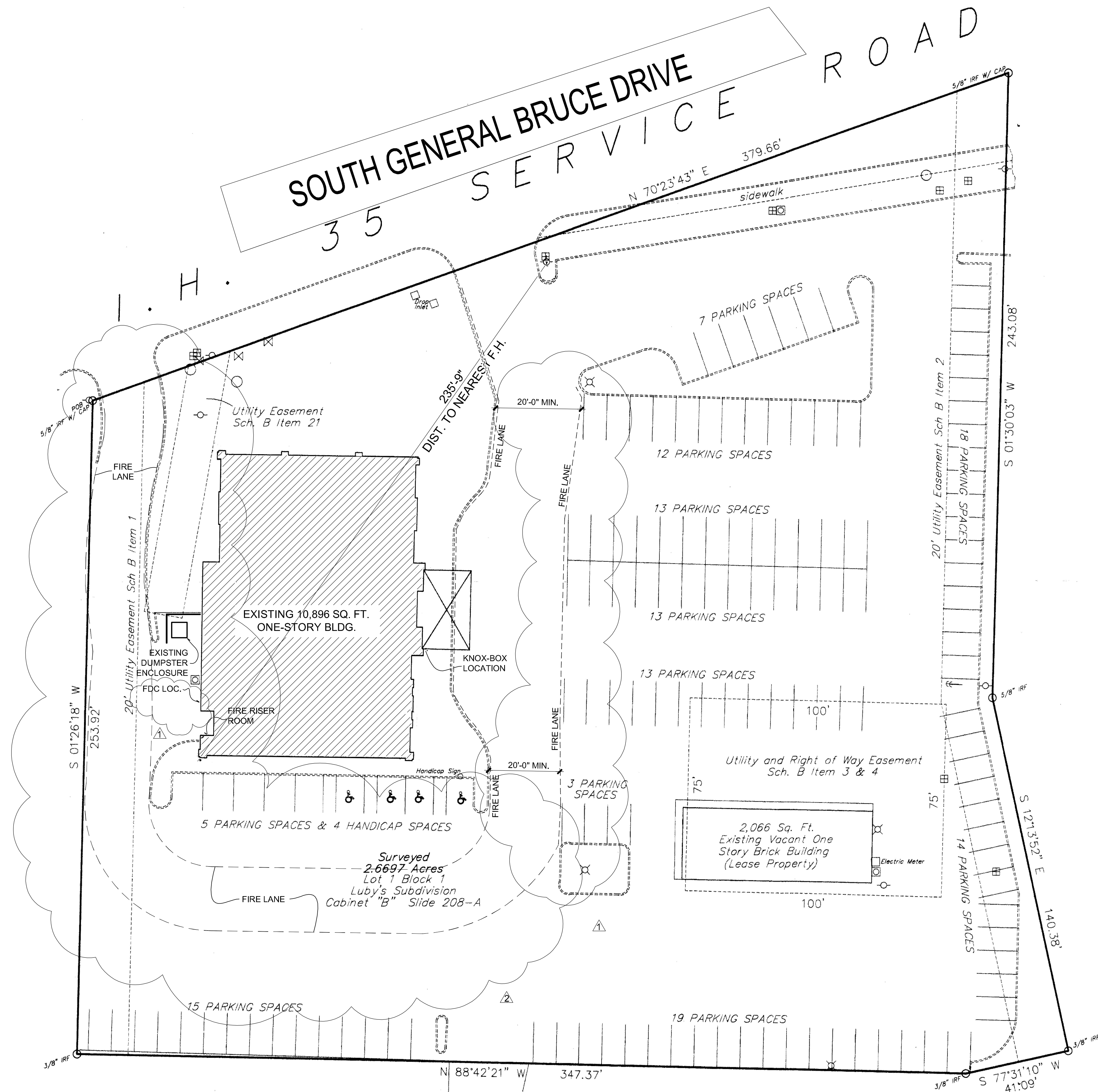
### **Conditional Use Permit Criteria:**















<b>UDC Code Section 3.5.4</b>	<b>Criteria met?</b>
<b>A.</b> The conditional use is compatible with and not injurious to the use and enjoyment of the property and does not significantly diminish or impair property values within the immediate area.	Yes
<b>B.</b> The establishment of the conditional use does not impede normal and orderly development and improvement of surrounding vacant property.	Yes
<b>C.</b> Adequate utilities, access roads, drainage, and other necessary support facilities have been or will be provided.	Yes
<b>D.</b> The design, location and arrangement of all driveways and parking spaces provide for the safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent development.	Yes
<b>E.</b> Adequate nuisance prevention measures have been or will be taken to prevent or control offensive odors, fumes, dust, noise, and vibration.	Yes
<b>F.</b> Directional lighting is provided so as not to disturb or adversely affect neighboring properties.	Yes
<b>G.</b> There is sufficient landscaping and screening to insure harmony and compatibility with adjacent property.	Yes

Reference: City of Temple Unified Development Code

---





LEGEND		
	Guy Wire	
	Tree	
	Water Meter	
	Light Pole	
	Electric Meter	
	Ballard	
	Fire Hydrant	
	Irrigation Control Valve	
	Gas Meter	
	Cleanout	
	Sanitary Sewer Manhole	
	Telephone Manhole	
	Storm Sewer Manhole	
	Powerpole	
W ————— W	Waterline	
X ————— X	Fence	
-----	Curb Line	
_____	Parking	
P ————— P	Powerline	
	Parallel Parking	
	Handicap Parking	



# ASC/Bearcreek Properties, LLC.

3724 Jefferson St., Suite 210 • Austin, Texas 78731 • Phone: (512) 452-9902 • Fax: (512) 453-8412

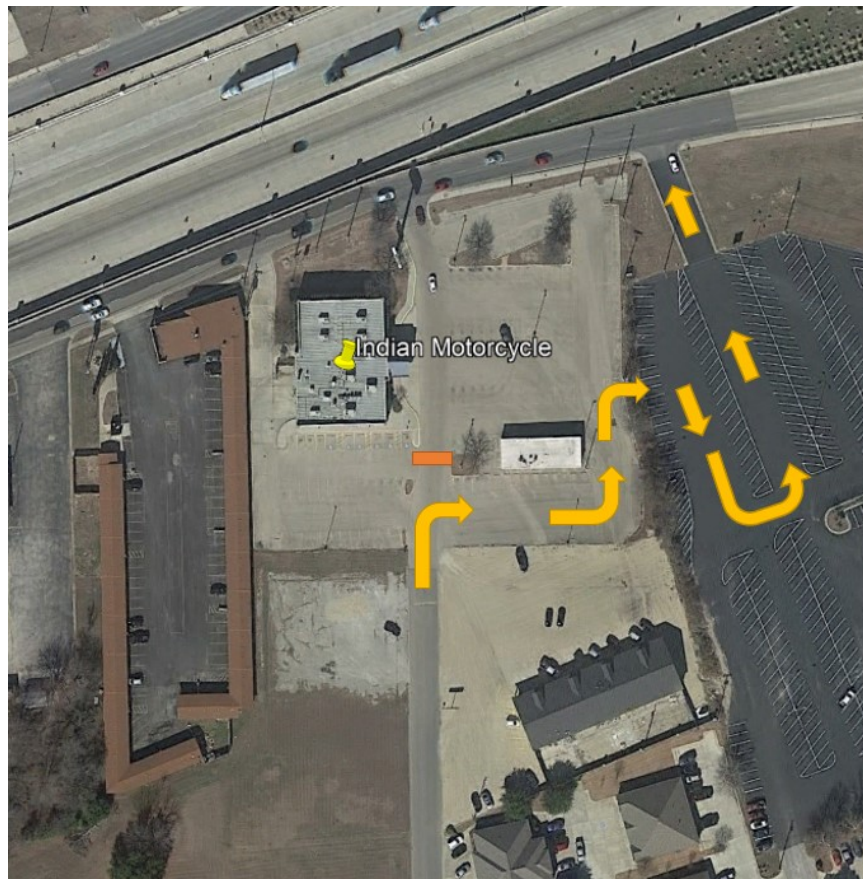
## Traffic Flow Proposal

Dear Ms. Lyerly,

In reference to Conditional Use Permit request for Indian Motorcycle to be located at 3925 S. General Bruce Drive, we ask that you kindly consider the traffic flow re-routing proposals by either the Tenant, Indian Motorcycle, or Property Owner, ASC/Bearcreek Properties:

### **Tenant's Proposal:**

Indian Motorcycle proposes the ability to block off through-traffic during business hours. This should not create any hardship for the offices to the south of the parking lot as the landlord has provided a ramp from this parking lot to its adjacent property, allowing exiting to General Bruce.

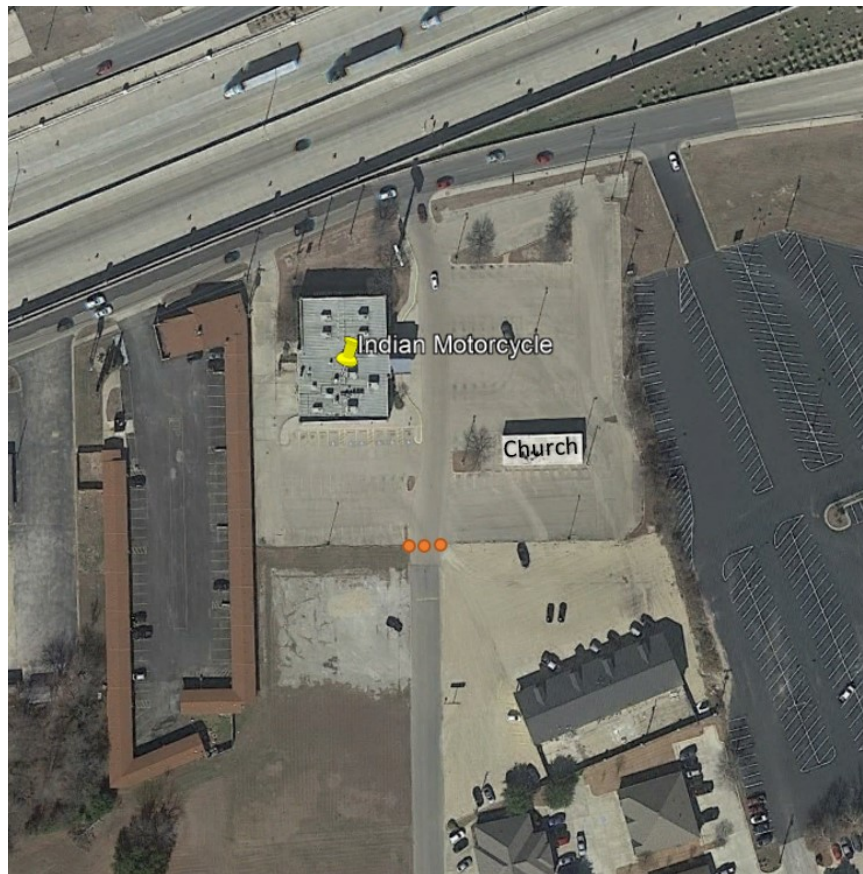


# ASC/Bearcreek Properties, LLC.

3724 Jefferson St., Suite 210 • Austin, Texas 78731 • Phone: (512) 452-9902 • Fax: (512) 453-8412

## Owner's Proposal:

ASC/Bearcreek Properties prefers to not have its parking lot used as a cut-through to S. General Bruce Drive. Therefore, it proposes to install bollards at the end of the drive to re-establish quiet enjoyment of its property. ASC/Bearcreek further proposes to delay the installation of said bollards until after the Church has moved out of the smaller building, shown below, in February of 2020 to avoid inconveniencing any church members that currently use this route as their means of travel to and from Church.



Please do not hesitate to contact me with any questions or concerns.

Sincerely,

A handwritten signature in black ink that reads 'Mani Mashhoon'. The signature is fluid and cursive, with a long horizontal stroke at the end.

Mani Mashhoon





RESPONSE TO PROPOSED  
REZONING REQUEST  
CITY OF TEMPLE

115014

TEMPLE BRETHREN CHURCH / *Cross Church on Birdcreek*  
2202 BIRDCREEK DR  
TEMPLE, TX 76502-1031

**Zoning Application Number:** FY-19-17-ZC

**Case Manager:** Tammy Lyerly

**Location:** 3925 South General Bruce Drive, Temple, TX

The proposed rezoning is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I ☒ agree

( ) disagree with this request

**Comments:**

*See attached 6 (six) pages.*

**Signature**

*Gayle Farrow*

**Print Name**

*Gayle Farrow*

*7 pages total*

(Optional)

**Provide email and/or phone number if you want Staff to contact you**

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, [tllyerly@templetx.gov](mailto:tllyerly@templetx.gov) or mail or hand-deliver this comment form to the address below, no later than **July 15, 2019**.

City of Temple  
Planning Department  
2 North Main Street, Suite 102  
Temple, Texas 76501

Number of Notices Mailed: 9

Date Mailed: July 3, 2019

**OPTIONAL:** Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.

Cross Church on Birdcreek (formerly Temple Brethren Church) is very agreeable to have this new business come into the area.

The attached portion of a Deed dated August 16, 1991 allows for the Cross Access Agreement to continue between the I35 Frontage Road and Birdcreek Drive. Filed in Vol. 2753, Page 473. This Cross Access is necessary for safe travel between these two streets by avoiding excess traffic through the nearby residential area. We respectfully ask that site planning allow for this traffic flow.

Gayle Farrow

Cross Church on Birdcreek

Church: 254-778-8759

Personal cell: 254-718-2683

Email: [tbc@hot.rr.com](mailto:tbc@hot.rr.com)



CROSS ACCESS AGREEMENT

THIS AGREEMENT is made as of August 16, 1991 between CARPARKING, INC., a Georgia corporation (herein called "Carparking"); LUBY'S CAFETERIAS, INC., a Texas corporation (herein called "Luby's"), SHIRLEY RICHARDS and wife, GLENNIE RICHARDS (herein called "Richards"); SHIRLEY RICHARDS ENTERPRISES, INC., a Texas corporation (herein called "Richards Enterprises"); and FIRST CITY, TEXAS - LAKE JACKSON, a state banking association (herein called "First City"), in consideration of the mutual covenants herein contained as follows:

1. First City's Ownership:

First City represents and warrants that First City owns the parcel of land containing 2.469 acres, more or less, described by metes and bounds as Parcel "B" attached hereto and made a part hereof for all purposes.

2. Carparking Ownership:

Carparking represents and warrants that Carparking owns the parcel of land containing 7.475 acres, more or less, described by metes and bounds as Parcel "C" attached hereto and made a part hereof for all purposes; and a non-exclusive easement for public parking and passage of pedestrian and vehicular traffic over and across the parcel of land containing 2.489 acres, more or less, described by metes and bounds as Parcel "B".

3. Luby's Ownership:

Luby's represents and warrants that Luby's owns the parcel of land containing 2.670 acres, more or less, described by metes and bounds as Parcel "D" attached hereto and made a part hereof for all purposes.

4. Richards Ownership:

Richards represent and warrant that Richards owns the following described parcels of land:

a. a parcel of land containing 2.785 acres, more or less, described by metes and bounds as Parcel "A" attached hereto and made a part hereof for all purposes.

b. an interest (together with Richards Enterprises only) in and to that certain parcel of land containing 0.431 acres and generally known as Government Drive described by metes and bounds as Parcel "F" attached hereto and made a part hereof for all purposes.

c. non-exclusive passageway easement between Shirley Richards and Clark Development Company recorded in Volume 1386, page 623, of the Deed Records of Bell County, Texas.

5. Richards Enterprises Ownership:

Richards Enterprises represents and warrants that it owns the following described parcels of land:

a. an interest (together with Richards only) in and to that parcel of land described as Parcel "F" attached hereto.

b. a parcel of land containing 0.122 acres of land generally known as Bird Creek Terrace, a private street and



described by metes and bounds as Parcel "E" attached hereto and made a part hereof for all purposes.

That parcel of land of 0.122 acres also known as Bird Creek Terrace and described in as Parcel "E" is the subject of a private Non-Exclusive Passageway Easement Agreement between Shirley Richards and Clark Development Company recorded in Volume 1386, Page 623 of the Deed Records of Bell County, Texas.

That parcel of land described as Parcel "F" and also known as Government Drive (0.431 acres thereof) is the subject of a Non-Exclusive Passageway Easement from Shirley Richards Enterprises, Inc. to Temple Brethren Church recorded in Volume 2405, Page 322 of the Deed Records of Bell County, Texas. The south end of those two particular Parcels "E" and "F", also known as Government Drive and Bird Creek Terrace, serves to join Parcels "A", "B", "C" and "D" with road access to Bird Creek Drive, in the City of Temple, Bell County, Texas, which is a public right of way, 60 foot width, dedicated and conveyed to the City of Temple by document recorded in Volume 2436, Page 692, of the Deed Records of Bell County, Texas.

There presently exists certain non-exclusive passageway and and/or access agreements by and between either the owners stated above or their predecessors in title with the other owners stated above and between the related parcels.

The purpose and intention of this document is to clarify and establish the rights of the above-named present owners, their heirs, successors and assigns to common access over, upon and across all of the parcels described herein and attached hereto.

VOL. 2753 PAGE 476

In this connection, each owner named hereinabove, as Grantor, does hereby grant and convey to each other owner named hereinabove, as Grantee, a perpetual nonexclusive easement for ingress, egress and the passage of motor vehicles over, upon and across each parcel of land described as Parcels "A", "B", "C", "D", "E", and "F" attached hereto for the purpose of allowing motor vehicle traffic between the various parcels, Interstate Highway 35, South Loop 363, and Bird Creek Drive. Such easements shall relate to all of the parcels and shall run with the land and be binding upon each respective parcel and future owners thereof and inure to the benefit of the customers, invitees, employees, agents, and tenants of each such parcel, subject, however, to the following:

1. This granting shall be subject to any existing restrictions of record affecting each respective parcel.
2. The owner of each of the parcels described as Parcels "A", "B", "C" and "D" shall have the unrestricted right to place buildings and other improvements anywhere on such parcel so long as an adequate passageway remains open to accommodate motor vehicles utilizing the easements herein granted; provided, however, that the owner of that parcel described as Parcel "A" shall not have the right to place buildings or other improvements on that portion of Parcel "F" which also is a portion of Parcel "A".
3. It is fully understood and agreed that the easements herein granted are for the passage of motor vehicles only and no parking rights are intended to be granted under this agreement



with only the owner of each respective parcel having the right to designate parking upon such parcel, provided, however, that Parcel "E" (Bird Creek Terrace) and Parcel "F" (Government Drive) shall have parking rights granted upon same only as may be provided and designated by the appropriate departments of the City of Temple, Bell County, Texas.

Each of the undersigned lienholders and/or tenants hereby acknowledges receipt of a copy of this agreement and agrees to and does hereby subordinate its respective lien rights and/or leasehold interests to the terms and conditions of this Cross Access Agreement and the perpetual rights of ingress and egress granted herein.

A PLAT identifying the location of Parcels "A", "B", "C", "D", "E" and "F" and the related public thoroughfares is attached hereto.

This document may be executed in one or more counterparts with each originally signed document binding the signatory effective on the date of each such signature or upon this the 16th day of August, 1991, which shall be deemed the effective date of this agreement, whichever such date is first.

CARPARKING, INC.

By: Stanley D. Elmer, Pres. (6/13/91)

LUBY'S CAFETERIAS, INC.

By: J. A. Finch (8/16/91)  
John A. Finch, Vice President

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agr.lubysacc.agr(0291)

VOL. 2753 PAGE 477

ORDINANCE NO. 2019-4986  
(FY-19-17-ZC)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONDITIONAL USE PERMIT WITH A SITE PLAN TO ALLOW A MOTORCYCLE SALES AND REPAIR FACILITY (INDIAN MOTORCYCLES) ON LOT 1, BLOCK 1, LUBY'S SUBDIVISION, ADDRESSED AS 3925 SOUTH GENERAL BRUCE DRIVE, AND LOCATED WITHIN THE I-35 CORRIDOR OVERLAY GATEWAY SUB-DISTRICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, the applicant has requested a Conditional Use Permit (CUP) to allow a motorcycle sales and repair facility (Indian Motorcycles) on Lot 1, Block 1, Luby's Subdivision, addressed as 3925 South General Bruce Drive, and located within the I-35 Corridor Overlay Gateway sub-district;

**Whereas**, the Planning and Zoning Commission of the City of Temple, Texas, after due consideration to the planned development conditions, recommends approval of the requested Conditional Use Permit, subject to the following condition:

- The property be subject to the CUP site plan exhibits, attached as Exhibit A;

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

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

**Part 1: Findings.** All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

**Part 2:** The City Council approves a Conditional Use Permit with a Site Plan to allow a motorcycle sales and repair facility (Indian Motorcycles) on Lot 1, Block 1, Luby's Subdivision, addressed as 3925 South General Bruce Drive, and located within the I-35 Corridor Overlay Gateway sub-district and subject to the following condition:

The property be subject to the CUP site plan exhibits, attached as Exhibit A.

**Part 3:** The City Council approves the Site Development Plan which is made a part hereof for all purposes.

**Part 4:** The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map.



**Part 5:** 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 or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such phrase, clause, sentence, paragraph or section.

**Part 6:** 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 7:** It is hereby officially found and determined that the meeting at which this Ordinance was 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 **15<sup>th</sup>** day of **August**, 2019.

PASSED AND APPROVED on Second Reading on the **5<sup>th</sup>** day of **September**, 2019.

THE CITY OF TEMPLE, TEXAS

\_\_\_\_\_  
TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Lacy Borgeson  
City Secretary

\_\_\_\_\_  
Kayla Landeros  
Interim City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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09/05/19  
Item #7(Q)  
Consent Agenda  
Page 1 of 1

### **DEPT./DIVISION SUBMISSION & REVIEW:**

Lacy Borgeson, City Secretary

**ITEM DESCRIPTION:** Consider adopting a resolution designating the *Temple Daily Telegram* as the official newspaper for the City for fiscal year 2019-2020, in accordance with Section 4.18 of the Charter of the City of Temple.

**STAFF RECOMMENDATION:** Adopt resolution as presented in item description.

**ITEM SUMMARY:** Section 4.18 of the City Charter requires the City to designate an official newspaper for the publication of City ordinances, legal descriptions, and notices for each fiscal year, and enter into a contract with the designated paper. The proposed resolution will accomplish this Charter requirement.

Reference: City Charter

*Section 4.18 OFFICIAL NEWSPAPER: The City Council must declare annually an official newspaper of general circulation in the City. All captions of ordinances, notices and other matters required by Charter, City ordinance, or State law must be published in the official newspaper and on the City's official website.*

**FISCAL IMPACT:** N/A

### **ATTACHMENTS:**

[Resolution](#)



RESOLUTION NO. 2019-9770-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, DESIGNATING THE TEMPLE DAILY TELEGRAM AS THE OFFICIAL NEWSPAPER FOR THE CITY OF TEMPLE FOR FISCAL YEAR 2019-2020, IN ACCORDANCE WITH SECTION 4.18 OF THE CHARTER OF THE CITY OF TEMPLE, AND AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH THE DESIGNATED PAPER; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, Section 4.18 of the City Charter requires the City to designate an official newspaper for the publication of City Ordinances, legal descriptions, and notices for each fiscal year, as well as enter into a contract with the designated paper; and

**Whereas**, the City Council has considered the matter and deems the Temple Daily Telegram as the newspaper of most general circulation in Temple.

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

**Part 1: Findings.** All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

**Part 2:** The City Council designates the Temple Daily Telegram as the official newspaper for the City of Temple for fiscal year 2019-2020.

**Part 3:** The City Manager, or her designee, after approval as to form by the City Attorney, is authorized to execute documentation, as needed, with the Temple Daily Telegram affirming the designation of the Temple Daily Telegram as the City's official newspaper.

**Part 4:** It is hereby officially found and determined that the meeting at which this Resolution was 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 **5<sup>th</sup>** day of **September**, 2019.

THE CITY OF TEMPLE, TEXAS

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ANYSE SUE MAYBORN

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TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

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Lacy Borgeson  
City Secretary

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Kayla Landeros  
Interim City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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09/05/19  
Item #7(R)  
Consent Agenda  
Page 1 of 1

**DEPT./DIVISION SUBMISSION & REVIEW:**

Traci Barnard, Director of Finance

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing budget amendments for fiscal year 2018-2019.

**STAFF RECOMMENDATION:** Adopt resolution as presented in item description.

**ITEM SUMMARY:** This item is to recommend various budget amendments, based on the adopted FY 2018-2019 budget. The amendments will involve transfers of funds between contingency accounts, department and fund levels.

**FISCAL IMPACT:** The total amount of budget amendments is \$171,492.

**ATTACHMENTS:**

[Budget Amendments](#)  
[Resolution](#)



**CITY OF TEMPLE**  
**BUDGET AMENDMENTS FOR FY 2019 BUDGET**  
**September 5, 2019**

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
110-3500-552-2516		Other Services / Judgments & Damages	\$ 3,370	
110-0000-461-0554		Insurance Claims / Insurance Claims		\$ 3,370
To appropriate insurance proceeds from TML related to vandalism at Wet Temple Park on or about 05/10/19.				
110-3700-524-1111		Salaries / Supervisory	\$ 305	
110-3700-524-1220		Personnel Benefits / Retirement/Pension	\$ 2,675	
110-1200-515-1115		Salaries / Skilled		\$ 2,980
To reallocate funding from Grant Coordinator position previously housed in Finance to cover forecasted over budget accounts due to reorganization and salary adjustments that became effective 10/05/19.				
110-2800-532-1111		Salaries / Supervisory	\$ 13,791	
110-2800-532-1220		Personnel Benefits / Retirement/Pension	\$ 1,077	
110-3400-531-1115		Salaries / Skilled		\$ 14,868
To reallocate funding to salaries and benefits to cover forecasted over budget accounts due to Temporary Assignment Pay (TAP) still being received by the Street & Drainage Services Manager and the Traffic Control Manager. The FY 2019 Budget only included their base salary not TAP.				
110-1300-515-2623		Contracted Services / Other Contract Services	\$ 4,267	
110-0000-461-0424		Sale of Fixed Assets / Sale of Assets		\$ 4,267
To appropriate revenue and expenditures related to online auction sales of assets.				
520-5200-535-2516		Other Services / Judgments & Damages	\$ 1,925	
520-0000-443-3054		Other Charges / Insurance Claims		\$ 1,925
To appropriate insurance proceeds received from Geico County Mutual Insurance Company for damages to asset 13132 that occurred on 06/19/19.				
110-2031-521-2516		Other Services / Judgments & Damages	\$ 1,159	
110-0000-461-0554		Insurance Claims / Insurance Claims		\$ 1,159
To appropriate insurance proceeds received from Progressive for damages to asset 14050 that occurred on 03/21/19.				
520-5100-535-2516		Other Services / Judgments & Damages	\$ 5,731	
520-0000-443-3054		Other Charges / Insurance Claims		\$ 5,731
To appropriate final insurance proceeds from TML for replacement equipment that was damaged from a lightening strike that occurred on 05/03/19 at the Water Treatment Plant. The initial insurance proceeds received from TML in the amount of \$27,641 was presented to Council on 07/18/19. The second insurance proceeds received from TML in the amount of \$1,750 was presented to Council on 08/01/19.				
110-2330-540-2516		Other Services / Judgments & Damages	\$ 622	
110-0000-461-0554		Insurance Claims / Insurance Claims		\$ 622
To appropriate insurance proceeds received from Farmers Texas County Mutual Insurance Company for damages to asset 14275 that occurred on 04/30/19.				
110-2370-540-2516		Other Services / Judgments & Damages	\$ 2,500	
110-0000-461-0554		Insurance Claims / Insurance Claims		\$ 2,500
To appropriate insurance proceeds received from Agricultural Workers Mutual Auto Insurance Company for damages to a roll off container that occurred on 04/30/19.				

**CITY OF TEMPLE**  
**BUDGET AMENDMENTS FOR FY 2019 BUDGET**  
**September 5, 2019**

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
110-0000-461-0830		Other / Other Revenue - Developer Fees	\$ 251	
110-3500-552-6332	101864	Capital Buildings & Grounds / Park Fee Expenditures - West Temple Park		\$ 251
To unappropriate funding due to project savings related to new park amenities for West Temple Park.				
351-0000-490-2582		Transfer In / Transfer In	\$ 7,349	
351-1100-513-6310	101984	Capital Buildings & Grounds / Buildings & Grounds - 1st South 1st Street		\$ 7,349
110-0000-352-1345		Designated for Capital Projects - Unallocated	\$ 7,349	
110-9100-591-8151		Operating Transfers Out / Transfers Out - Designated Capital Projects		\$ 7,349
<p>To unappropriate funding for the purchase of property located at 1 South 1st Street authorized by Council on 10/04/18. The purchase price was \$271,293.75 which also included the furniture in the building. This purchase was split as follows between the different funds:</p> <p style="padding-left: 40px;">* General Fund - 84.20% - \$228,429.34  * Hotel/Motel Fund - 1.90% - \$5,154.58  * Drainage Fund - 1.80% - \$4,883.29  * Water/Wastewater Fund - 12.10% - \$32,826.54</p> <p>This budget adjustment is to appropriate General Fund's portion of the purchase price and closing costs.</p>				
110-2385-540-2623		Contracted Services / Other Contracted Services	\$ 60,000	
110-0000-444-1052		Solid Waste Residential / Residential Recycling		\$ 32,000
110-0000-444-2054		Solid Waste / Recycling - Fixed Route		\$ 20,000
110-0000-444-2058		Solid Waste / Recycling - Roll Off		\$ 8,000
To appropriate anticipated Solid Waste revenues and expenditures related to Recycling for the remainder of FY 2019.				
110-2052-521-6213	102139	Capital Equipment / Automotive - PD Evidence Truck	\$ 27,448	
110-0000-461-0554		Insurance Claims / Insurance Claims		\$ 11,356
110-0000-442-0720		Police Revenue / Police Revenue		\$ 16,092
To appropriate funding for the purchase of a Ford 1/2 Ton Pickup for Evidence in Police. Funding is from insurance proceeds received due to the total of asset 13871 that occurred on 03/27/19, as well as excess revenues related to vehicle charges received from James Construction I-35 project.				
561-5400-535-6905	101475	Capital - Bonds / Lift Station Improvements - WWTP Shallowford Lift Station	\$ 15,830	
561-5100-535-6954	101613	Capital - Bonds / WTP Improvements 1-3		\$ 4,967
561-5100-535-6989	101834	Capital - Bonds / Scott Elevated Storage Tank Rehab		\$ 10,863
To reallocate funding for change order # 4 with SSP Industries, LP for PLC modifications (installation of card to meet existing BRA system requirements) and installation of two 8" isolation valves prior to surge relief valve for the Shallowford Lift Station.				
561-5500-535-6938	101774	Capital - Bonds / Temple-Belton WWTP Expansion, Phase I Construction	\$ 15,843	
561-5100-535-6954	101613	Capital - Bonds / WTP Improvements 1-3		\$ 15,843
To reallocate funding for contract amendment # 1 with MRB to provide an additional 5 weeks of construction observation support at approximately 20 hours per week for completion of the construction improvements for the Temple-Belton WWTP, Phase I construction.				
<b>TOTAL AMENDMENTS</b>			<b>\$ 171,492</b>	<b>\$ 171,492</b>



**CITY OF TEMPLE**  
**BUDGET AMENDMENTS FOR FY 2019 BUDGET**  
**September 5, 2019**

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
		<b>GENERAL FUND</b>		
		Beginning <b>Contingency</b> Balance	\$	100,000
		Added to Contingency Sweep Account		-
		Carry forward from Prior Year		-
		Taken From Contingency		(96,000)
		Net Balance of Contingency Account	\$	4,000
		Beginning <b>Judgments &amp; Damages</b> Contingency	\$	279,725
		Added to Contingency Judgments & Damages from Council Contingency		-
		Taken From Judgments & Damages		(268,109)
		Net Balance of Judgments & Damages Contingency Account	\$	11,616
		Beginning <b>Compensation</b> Contingency	\$	285,000
		Added to Compensation Contingency		-
		Taken From Compensation Contingency		(285,000)
		Net Balance of Compensation Contingency Account	\$	-
		<b>Net Balance Council Contingency</b>	\$	15,616
		Beginning Balance <b>Budget Sweep</b> Contingency	\$	-
		Added to Budget Sweep Contingency		-
		Taken From Budget Sweep		-
		Net Balance of Budget Sweep Contingency Account	\$	-
		<b>WATER &amp; WASTEWATER FUND</b>		
		Beginning <b>Contingency</b> Balance	\$	219,446
		Added to Contingency Sweep Account		-
		Taken From Contingency		(116,392)
		Net Balance of Contingency Account	\$	103,054
		Beginning <b>Compensation</b> Contingency	\$	54,000
		Added to Compensation Contingency		-
		Taken From Compensation Contingency		(54,000)
		Net Balance of Compensation Contingency Account	\$	-
		<b>Net Balance Water &amp; Wastewater Fund Contingency</b>	\$	103,054
		<b>HOTEL/MOTEL TAX FUND</b>		
		Beginning <b>Contingency</b> Balance	\$	-
		Added to Contingency Sweep Account		-
		Carry forward from Prior Year		-
		Taken From Contingency		-
		Net Balance of Contingency Account	\$	-
		Beginning <b>Compensation</b> Contingency	\$	16,500
		Added to Compensation Contingency		-
		Taken From Compensation Contingency		(13,279)
		Net Balance of Compensation Contingency Account	\$	3,221
		<b>Net Balance Hotel/Motel Tax Fund Contingency</b>	\$	3,221
		<b>DRAINAGE FUND</b>		
		Beginning <b>Contingency</b> Balance	\$	336,406
		Added to Contingency Sweep Account		-
		Carry forward from Prior Year		-
		Taken From Contingency		(120,190)
		Net Balance of Contingency Account	\$	216,216
		Beginning <b>Compensation</b> Contingency	\$	10,500
		Added to Compensation Contingency		-
		Taken From Compensation Contingency		(9,520)
		Net Balance of Compensation Contingency Account	\$	980
		<b>Net Balance Drainage Fund Contingency</b>	\$	217,196

CITY OF TEMPLE  
BUDGET AMENDMENTS FOR FY 2019 BUDGET  
September 5, 2019

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
		FED/STATE GRANT FUND		
		Beginning <b>Contingency</b> Balance		\$ -
		Carry forward from Prior Year		34,641
		Added to Contingency Sweep Account		9,024
		Taken From Contingency		(43,665)
		<b>Net Balance Fed/State Grant Fund Contingency</b>		<b>\$ -</b>



RESOLUTION NO. 2019-9771-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING BUDGET AMENDMENTS TO THE 2018-2019 CITY BUDGET; AND PROVIDING AN OPEN MEETINGS CLAUSE.

---

**Whereas**, on the 24<sup>th</sup> day of August, 2018, the City Council approved a budget for the 2018-2019 fiscal year; and

**Whereas**, the City Council deems it in the public interest to make certain amendments to the 2018-2019 City Budget.

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

**Part 1: Findings.** All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

**Part 2:** The City Council hereby amends the 2018-2019 City Budget by adopting the budget amendments which are more fully described in Exhibit 'A,' attached hereto and made a part hereof for all purposes.

**Part 3:** It is hereby officially found and determined that the meeting at which this Resolution was 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 5<sup>th</sup> day of **September**, 2019.

THE CITY OF TEMPLE, TEXAS

---

TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

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Lacy Borgeson  
City Secretary

---

Kayla Landeros  
Interim City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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09/05/19  
Item #8  
Regular Agenda  
Page 1 of 3

### **DEPT. / DIVISION SUBMISSION REVIEW:**

Jason Deckman, Planner

**ITEM DESCRIPTION:** FIRST READING – PUBLIC HEARING – FY-19-21-ZC: Consider adopting an ordinance authorizing a rezoning from Neighborhood Services zoning district to Planned Development-General Retail zoning district, with a Site Development Plan, to allow a microbrewery with outdoor seating and play areas, on 2.239 +/- acres, located at 3508 South 5th Street.

**PLANNING & ZONING COMMISSION RECOMENDATION:** At its August 5, 2019 Planning & Zoning Commission meeting, the Planning & Zoning Commission voted 6 to 0 to recommend approval of the Planned Development, per staff's recommendation.

**STAFF RECOMMENDATION:** Based on the following, staff recommends approval to rezone approximately 2.239 +/- acres from Neighborhood Services (NS) to Planned Development-General Retail (PD-GR):

1. Through agreed upon conditions between the applicant and staff to minimize and mitigate any possible impacts to neighboring residential properties;
2. The proposed GR base zoning designation will allow the proposed alcohol sales to be in compliance with Section 5 of the Unified Development Code (UDC);
3. The request complies with the Thoroughfare Plan; and
4. Public facilities are available to serve the subject property.
5. The request is compatible with adjacent zoning districts.

Staff Recommends approval of the proposed Planned Development Rezoning, subject to the following conditions:

1. Consistent with Site Development Plan attached as Exhibit A;
2. To specifically allow brewing to take place on the property;
3. Requiring a minimum 15-foot wide landscape buffer and 8-foot tall privacy fence along the common boundary with existing single-family residential uses.
4. Requiring preservation of existing trees on the City's approved tree list with an estimated 8-inch diameter at breast height (dbh) in the outdoor seating area as shown on the attached site plan, in the 15-foot landscape buffer areas, and where possible in the landscaped areas around the parking lot.



The original staff recommendation for the August 5<sup>th</sup> Planning & Zoning meeting included a condition requiring an easement to provide access to the brewhouse parking lot from entrance drive into Bell Tower Apartments. The applicant was in agreement and had begun discussions with Bell Tower prior to applying for rezoning. Since that meeting, the bank providing financing for Bell Tower has refused to allow the easement to go forward, and staff has removed that requirement from the list of recommended conditions. The brewhouse will have a driveway onto South 5<sup>th</sup> Street as the sole entrance.

**ITEM SUMMARY:** The applicant, Jesse Stelzer, requests a rezoning from NS to PD-GR for construction of the Friars Creek Brewhouse. Mr. Stelzer proposes to brew beer for consumption in the taproom or in the outdoor seating area. The existing NS zoning does not permit any establishment to operate where more than 75% of the gross revenue comes from sales of alcohol for consumption on the premises. GR zoning does permit the sale of alcohol for on-premise consumption subject to approval of a Conditional Use Permit. The brewhouse will have an indoor taproom as well as a fenced outdoor seating area. Mr. Stelzer intends to have food trucks on site as an additional attraction to the customers.

The Planned Development will specifically allow brewing to take place on the property. UDC Sec. 5.1 allows for establishments that sell alcohol but does not clearly define a small-scale brewing operation. The applicant plans to produce less than 1,000 barrels of beer annually, in batches not larger than five barrels. The product will be for purchase on-site with no plans for external distribution. In comparison, BJ's Brewery on East Central Avenue is a commercial-scale brewery, located in Light Industrial (LI) zoning that produces approximately 1,300 barrels per month for distribution. The proposed GR zoning for the Friars Creek Brewhouse is more compatible with neighboring residential uses, with PD conditions to mitigate any potential impacts or conflicts.

**COMPREHENSIVE PLAN (CP) COMPLIANCE:** The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan.

Future Land Use Map (CP Map 3.1)

The subject property is within the Suburban Commercial land use district and a strip of Parks and Open Space. The Suburban Commercial district is intended to promote greater aesthetic value along gateways, emphasizes landscaping, and building designs that are residential in appearance. The Park and Open Space designates land to be available for the public use and enjoyment. Given the nature of the proposed development and its location adjacent to the Friars Creek Trail, the request is in compliance with the Future Land Use Map.

Thoroughfare Plan (CP Map 5.2)

The subject property takes access from South 5<sup>th</sup> Street, shown as a minor arterial. Access will be from a driveway directly onto South 5<sup>th</sup> Street. The request is in compliance with the Thoroughfare Plan.

Availability of Public Facilities (CP Goal 4.1)

Water is available through an existing 3-inch water line on South 5<sup>th</sup>. Water is also available through the anticipated extension of a 12-inch water line across South 5<sup>th</sup> and into Bell Tower. Sewer is available from an 8-inch sewer line that runs through the center of the subject property.

Temple Trails Master Plan Map and Sidewalks Ordinance

Trails Master Plan depicts an existing City-Wide Spine Trail, Friars Creek Trail, that ends immediately to the west of the subject property, and a planned extension of said trail to the north. The attached site plan shows a 6-foot sidewalk to be constructed along South 5<sup>th</sup> Street, with sidewalks connecting to the trail to be constructed along the Bell Tower Apartments driveway.

**DEVELOPMENT REGULATIONS:** The attached site plan shows appropriate setbacks for the base GR zoning in addition to the proposed landscaping. The Planned Development conditions will enhance and strengthen the standard requirements for buffering, screening, landscaping, and tree preservation. The applicant is agreeable to the conditions as the trees and natural surroundings will provide for a shaded, pleasant area in which customers may relax while consuming food and beverages sold in the proposed brewhouse.

**DEVELOPMENT REVIEW COMMITTEE (DRC):** The Development Review Committee reviewed the case on July 25, 2019 and found no significant issues. Public Works has determined that water and wastewater service to the property will be adequate to serve the business and won't be negatively impacted.

**PUBLIC NOTICE:** Fourteen notices were sent to property owners within 200-feet of the subject property containing notice of the public hearing as required by State law and City Ordinance. As of Thursday August 1, 2019, at 12:00 PM, one notice in agreement has been received. An update regarding late notices, will be provided at the Planning & Zoning Commission meeting, if necessary.

The newspaper printed notice of the public hearing on July 25, 2019, in accordance with state law and local ordinance.

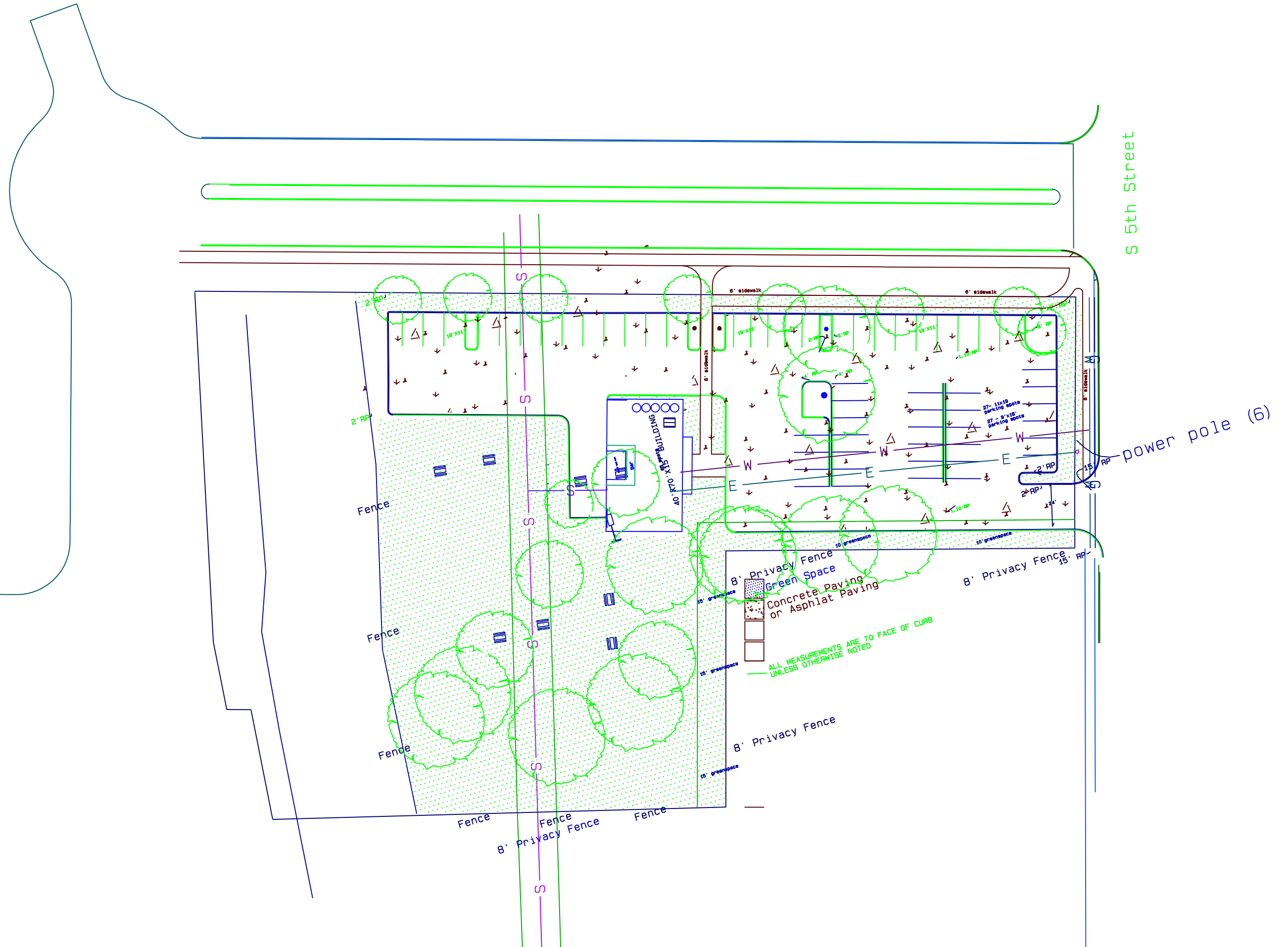
**FISCAL IMPACT:** Not Applicable

**ATTACHMENTS:**

[Friars Creek Brewhouse Site Plan \(Exhibit A\)](#)  
[Site and Surrounding Property Photos](#)  
[Maps](#)  
[Current Plat](#)  
[Returned Property Notices](#)  
[Ordinance](#)



# SITE PLAN - EXHIBIT A







Facing west from S. 5<sup>th</sup> Street



Facing northwest from S. 5<sup>th</sup> Street





Facing southwest towards adjacent residential property



Large tree located within subject property



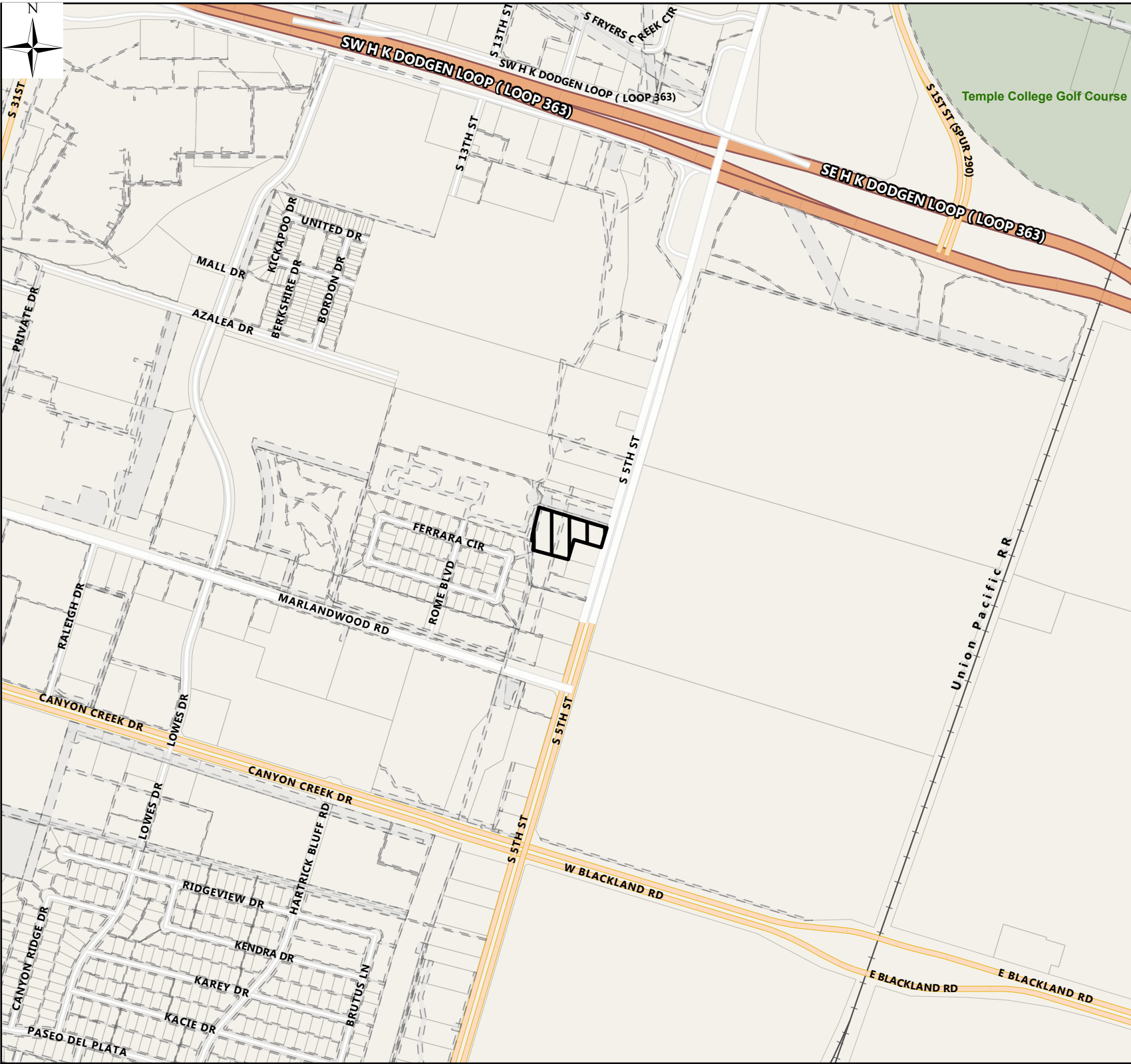


Friars Creek Trail – adjacent to subject property



Friars Creek as it enters the subject property





NS to PD-GR

## VICINITY MAP

Zoning Case:  
FY-19-21-ZC

Address :  
3508 S. 5th ST

### Transportation

Streets

- EXPRESSWAY
- MAJOR ARTERIAL
- COLLECTOR
- LOCAL STREET
- MINOR ARTERIAL
- PRIVATE
- RAMP
- Railroad

Temple Municipal Boundary

### Parcel Features

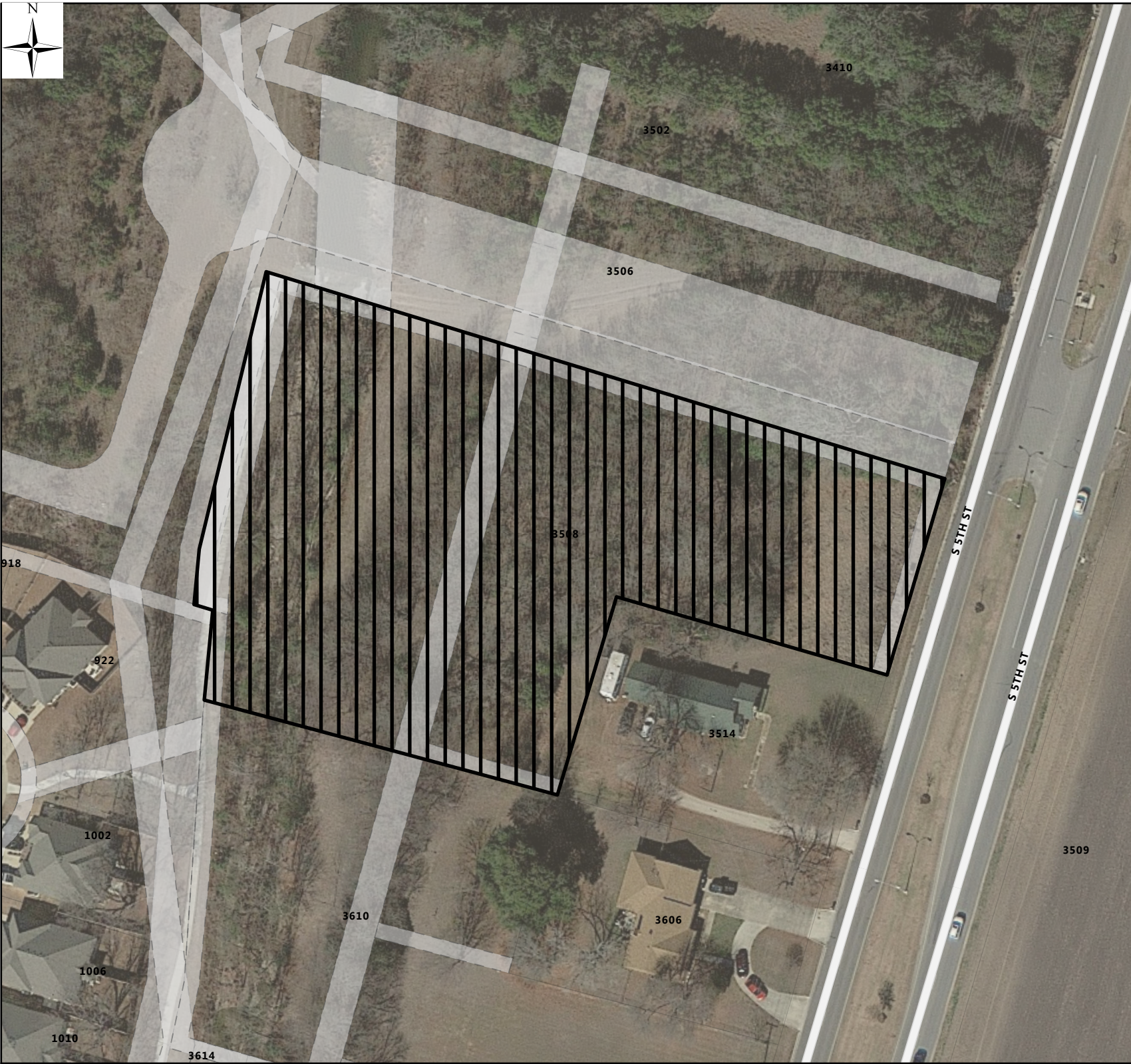
- Parcels
- Production.SDE.Easement

GIS products are for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. They do not represent an on-the-ground survey and represent only the approximate relative location of property boundaries and other features.

jdeckman  
Date: 7/16/2019







NS to PD-GR

## AERIAL MAP

Zoning Case:  
FY-19-21-ZC

Address :  
3508 S. 5th ST

## Transportation

Streets

— MINOR ARTERIAL

— Temple Municipal Boundary

## Parcel Features

— Parcels

— Production.SDE.Easement

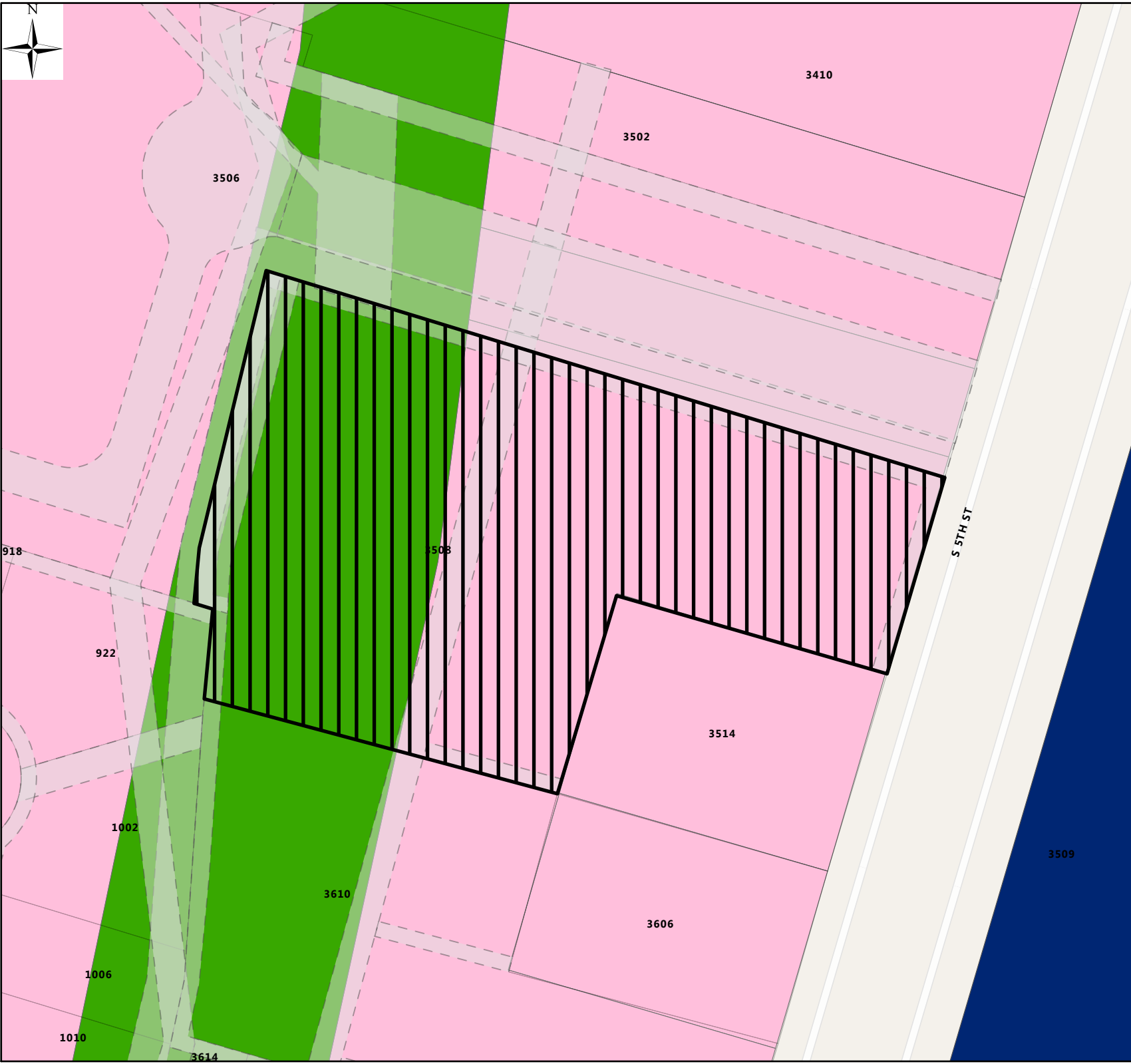
GIS products are for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. They do not represent an on-the-ground survey and represent only the approximate relative location of property boundaries and other features.

jdeckman

Date: 7/16/2019







# NS to PD-GR FUTURE LAND USE MAP

Zoning Case:  
FY-19-21-ZC

Address :  
3508 S. 5th ST

## Transportation

- EXPRESSWAY
- MAJOR ARTERIAL
- COLLECTOR
- LOCAL STREET
- MINOR ARTERIAL
- PRIVATE
- RAMP

## Parcel Features

- Parcels
- Future LUP
  - Agricultural/Rural
  - Auto-Urban Commercial
  - Auto-Urban Mixed Use
  - Auto-Urban Multi-Family
  - Auto-Urban Residential
  - Business Park
  - Estate Residential
  - Industrial
  - Neighborhood Conservation
  - Parks & Open Space
  - Public Institutional
  - Suburban Commercial
  - Suburban Residential
  - Temple Medical Education District
  - Urban Center
  - Easement

GIS products are for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. They do not represent an on-the-ground survey and represent only the approximate relative location of property boundaries and other features.

jdeckman  
Date: 7/16/2019

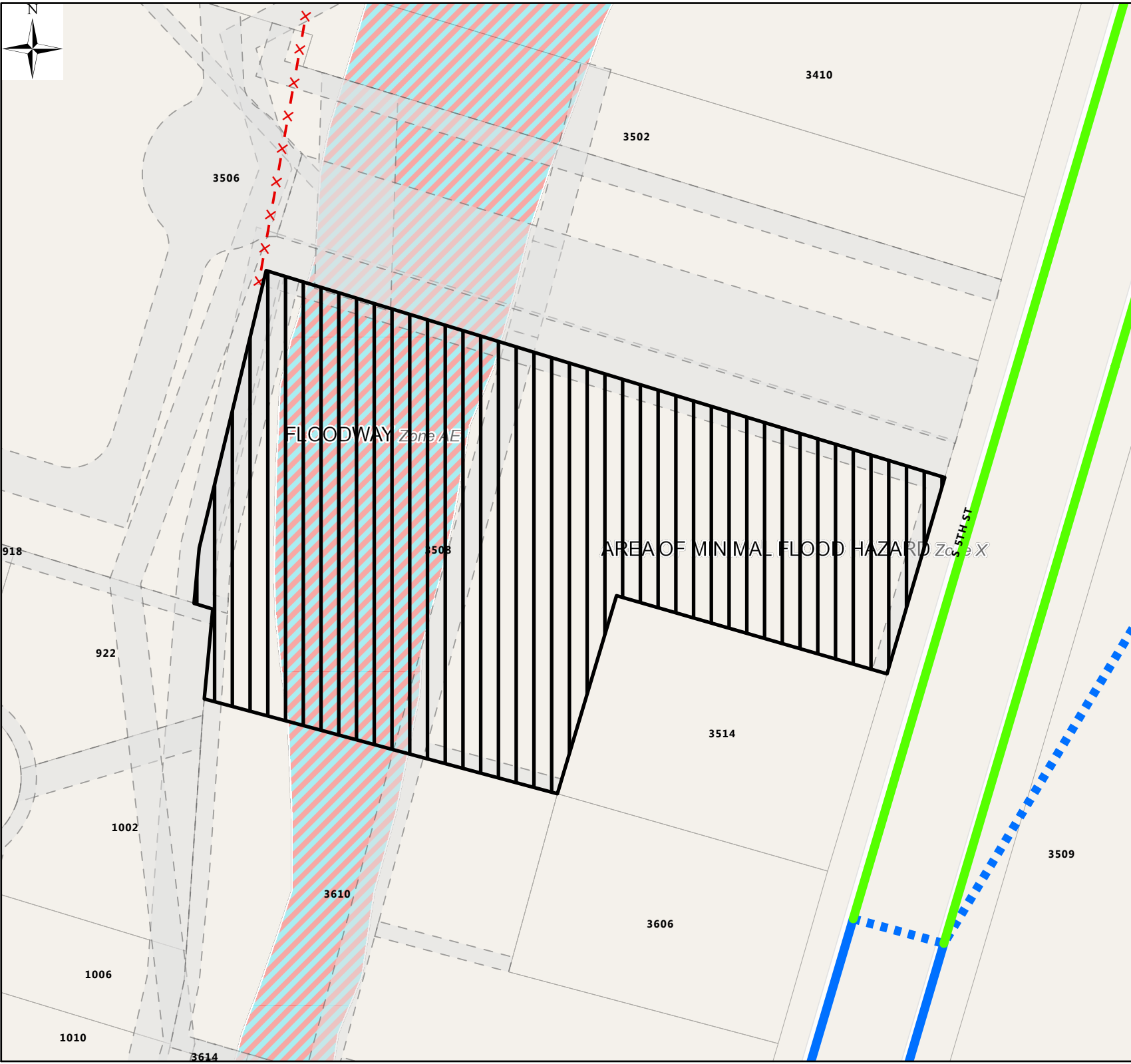




NS to PD-GR  
**THOROUGHFARE  
AND TRAILS MAP**

Zoning Case:  
FY-19-21-ZC

Address :  
3508 S. 5th ST



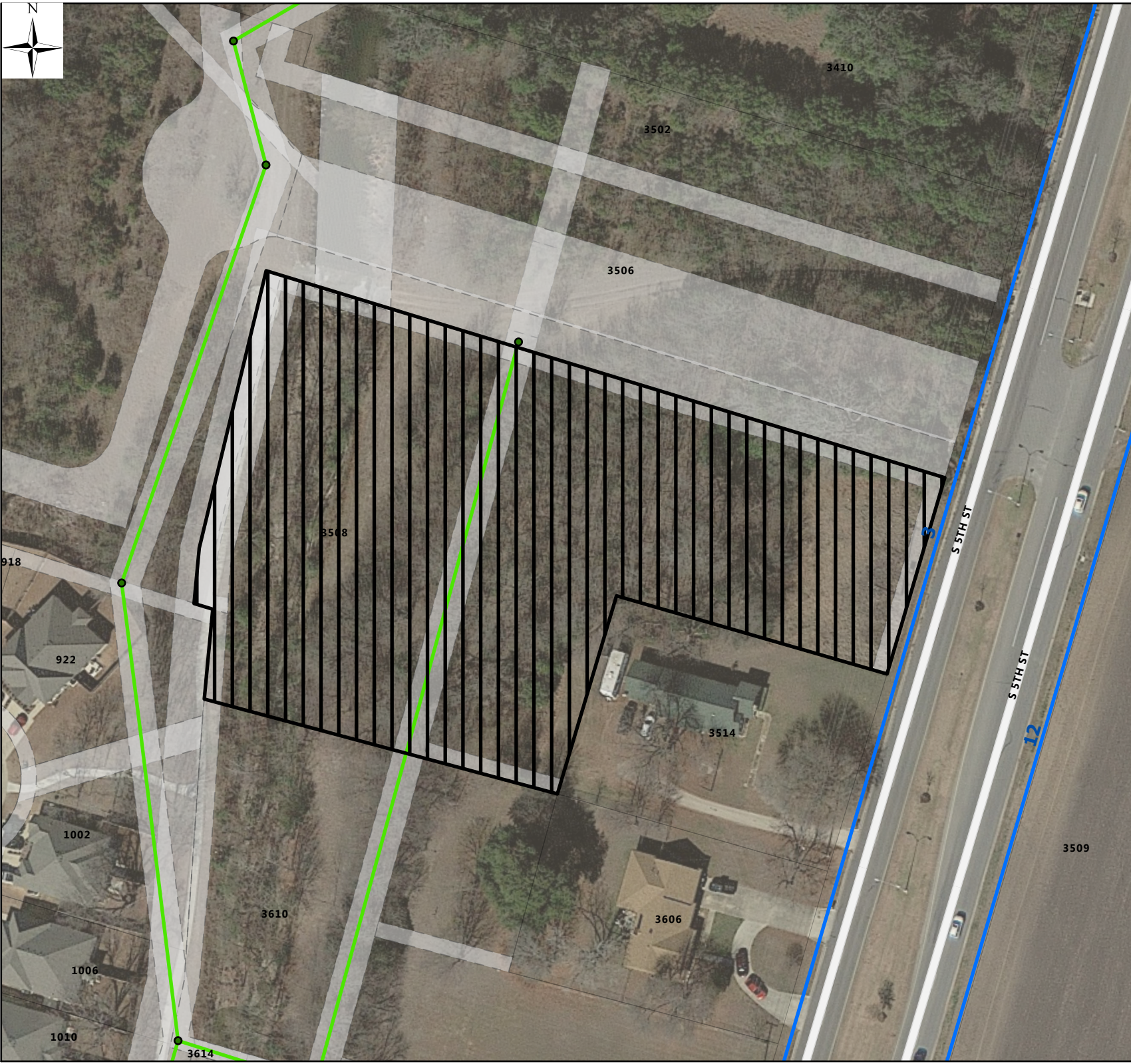
- Parcel Features**
- Parcels
- Thoroughfare Plan**
- Expressway
  - Major Arterial
  - Proposed Major Arterial
  - Minor Arterial
  - Proposed Minor Arterial
  - Collector
  - Proposed Collector
- Trails Master Plan**
- EXISTING, CITY WIDE SPINE
- Other Features**
- EXISTING, COMMUNITY WIDE CONNECTOR
  - EXISTING, LOCAL CONNECTOR
  - PROPOSED, CITY WIDE SPINE
  - PROPOSED, COMMUNITY WIDE CONNECTOR
  - PROPOSED, LOCAL CONNECTOR
  - Easement

GIS products are for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. They do not represent an on-the-ground survey and represent only the approximate relative location of property boundaries and other features.

jdeckman  
Date: 7/16/2019







NS to PD-GR

UTILITY MAP

Zoning Case:  
FY-19-21-ZC

Address :  
3508 S. 5th ST

Sewer

- Manhole
- Gravity Main

WaterDistribution

- ⊕ Hydrant
- Main

Parcel Features

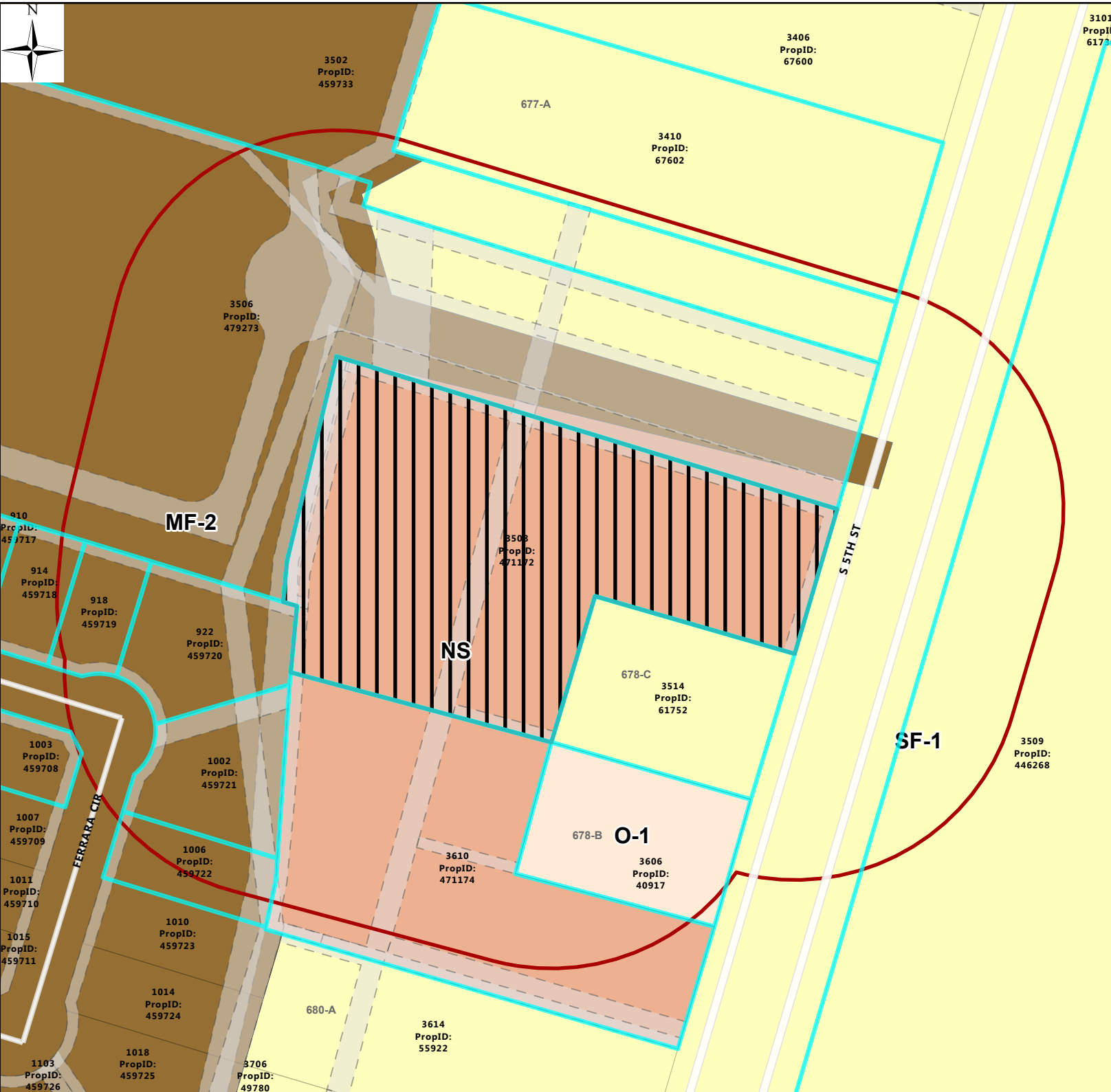
- Parcels
- Easement

GIS products are for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. They do not represent an on-the-ground survey and represent only the approximate relative location of property boundaries and other features.

jdeckman  
Date: 7/16/2019







NS to PD-GR

## 200' NOTIFICATION MAP

Zoning Case:  
FY-19-21-ZC

Address :  
3508 S. 5th ST

CurrentZoning	O-1	AG - CUP
HI - CUP	O-1 - CUP	MH
UE	O-1 - PD	MH - CUP
UE - PD	O-2	MH - PD
SF-1	O-2 - CUP	MU
SF-1 - CUP	O-2 - PD	MU - CUP
SF-1 - PD	NS	SD-C
SF-2	NS - CUP	SD-C - CUP
SF-2 - PD	NS - PD	SD-H
SF-3	GR	SD-H - CUP
SF-3 - PD	GR - CUP	SD-T
SF-3 - CUP, PD	GR - PD	SD-V
SFA	GR - CUP, PD	T4
SFA-2	CA	T4 - PD
SFA-2 - PD	CA - CUP	T4 - CUP
SFA-3	CA - PD	T5-C
SFA-3 - PD	C	T5-C - CUP
2F	C - CUP	T5-C - PD
2F - CUP	C - PD	T5-E
2F - PD	C - CUP, PD	T5-E - CUP
MF-1	LI	T5-E - PD
MF-1 - CUP	LI - CUP	NO BASE
MF-1 - PD	LI - PD	CUP
MF-2	LI - CUP, PD	PD
MF-2 - CUP	HI	Easement
MF-2 - PD	HI - PD	
MF-3 - PD	AG	

GIS products are for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. They do not represent an on-the-ground survey and represent only the approximate relative location of property boundaries and other features.

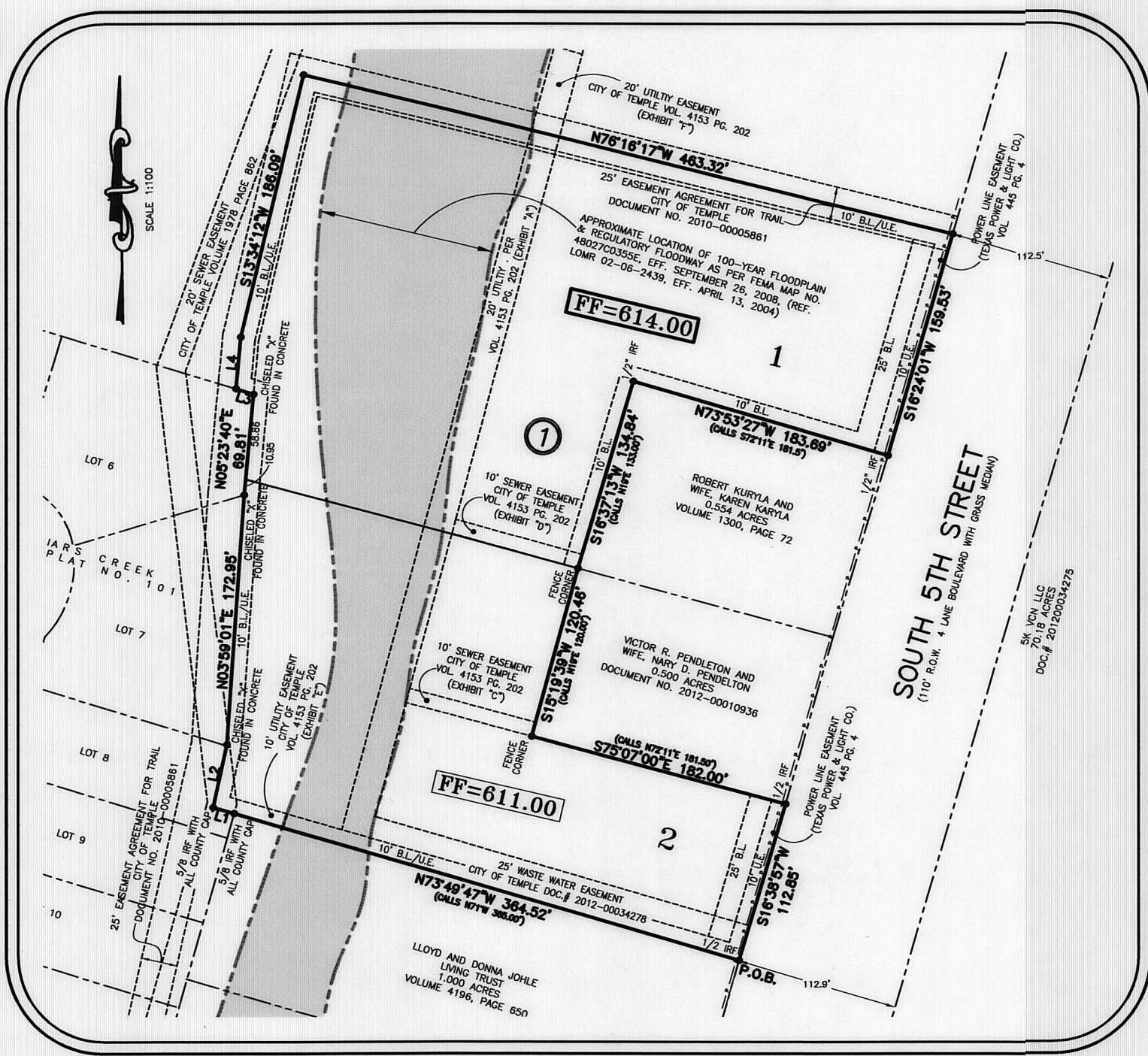
jdeckman

Date: 7/16/2019

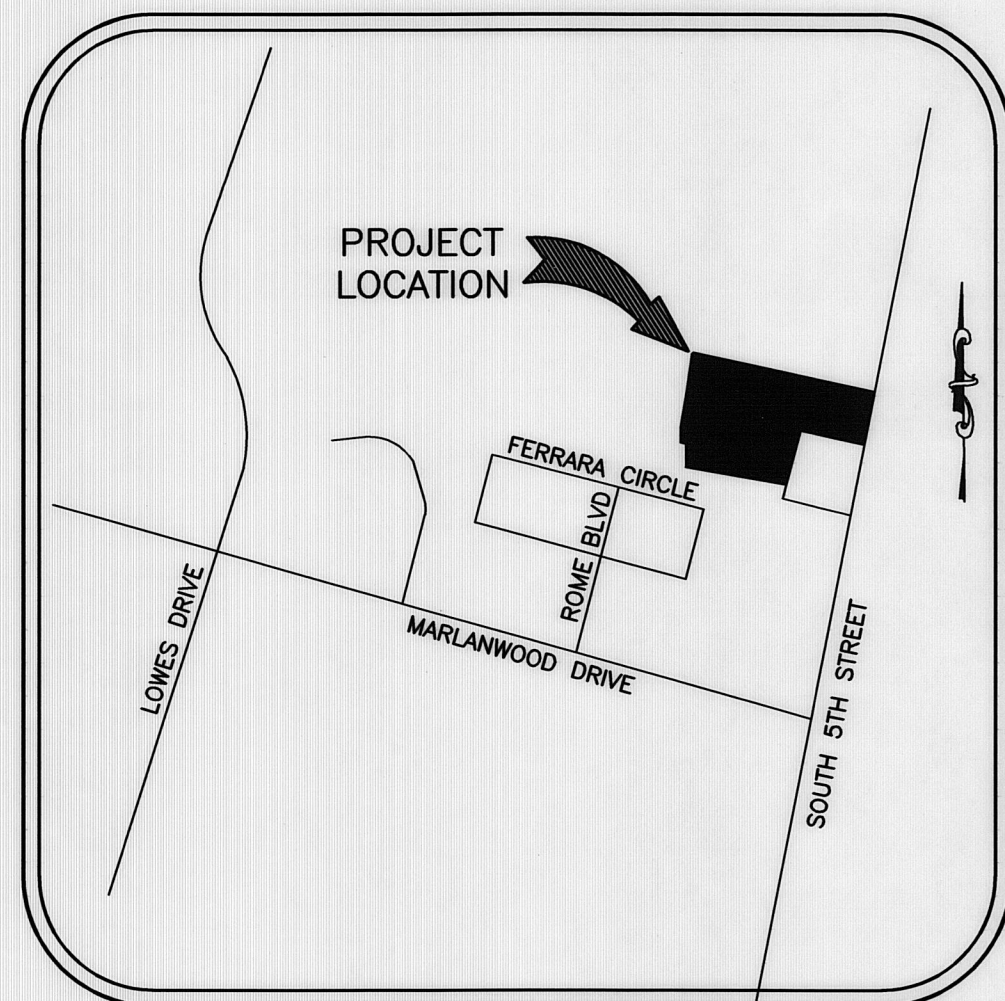




2017  
11/21



ORIGINAL CONFIGURATION OF LOTS 1 AND 2 AKINS PLAT, YEAR 2016 PLAT NUMBER 85, PLAT RECORDS OF BELL COUNTY, TEXAS.



VICINITY MAP  
N.T.S.

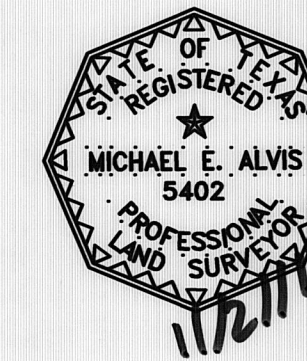
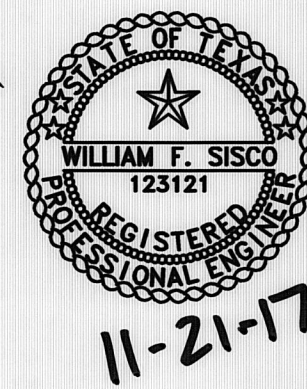
#### NOTES:

1. ALL BOUNDARY CORNERS ARE 1/2" IRON ROD WITH CAP MARKED "RPLS 2475" SET UNLESS NOTED OTHERWISE.
2. BUILDING SET BACK LINES ARE AS SHOWN.
3. PUBLIC UTILITY EASEMENTS ARE AS SHOWN.
4. FF=MINIMUM FINISHED FLOOR ELEVATION FOR LOTS DESIGNATED HEREON.
5. THIS PROJECT IS REFERENCED IN NAD 1983, CENTRAL TEXAS STATE PLANE. ALL DISTANCES ARE HORIZONTAL SURFACE DISTANCES UNLESS NOTED AND ALL BEARINGS ARE GRID BEARINGS.
6. ALL COORDINATE VALUES ARE REFERENCED TO CITY MONUMENT NUMBER 909; THE THETA ANGLE AT SAID CITY MONUMENT IS 01° 31' 56"; THE COMBINED CORRECTION FACTOR (CCF) IS 0.999853; PUBLISHED CITY COORDINATES ARE X = 3,227,892.21, Y = 10,361,166.86, THE TIE FROM THE ABOVE CITY MONUMENT TO THE POINT OF BEGINNING (POB) IS N. 16° 18' 15" E., 1263.85 FEET.
7. THIS PROPERTY IS WITHIN THE SPECIAL FLOOD HAZARD AREA AS PER THE FEDERAL EMERGENCY MANAGEMENT AGENCY FEDERAL INSURANCE ADMINISTRATION MAP NO. 48027C0355E, AND 48027C0365E DATED SEPTEMBER 26, 2008.
8. A 6 FOOT WIDE SIDEWALK SHALL BE REQUIRED ALONG SOUTH 5TH STREET.



- TE - TRAIL EASEMENT  
BL - BUILDING LINE  
UE - UTILITY EASEMENT  
POB - POINT OF BEGINNING  
① - BLOCK DESIGNATION

Parcel Line Table		
Line #	Length	Direction
L3	12.77	N73° 02' 30"W
L4	36.30	N5° 22' 44"E



STATE OF TEXAS  
COUNTY OF Dallas

AMERICAN REALTY SERVICES INC., OWNER OF THE LAND SHOWN ON THIS PLAT, AND DESIGNATED HEREIN AS AKINS PLAT, A SUBDIVISION IN THE CITY OF TEMPLE, TEXAS AND WHOSE NAME IS SUBSCRIBED HERETO, HEREBY DEDICATE TO THE USE OF THE PUBLIC FOREVER ALL STREETS, ALLEYS, WATERCOURSES, DRAINS, EASEMENTS AND PUBLIC PLACES AS SHOWN HEREON.

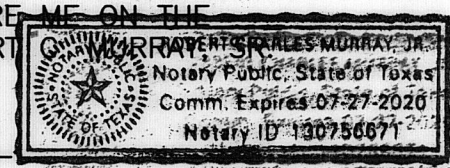
AMERICAN REALTY SERVICES INC.  
A TEXAS CORPORATION

Robert C. Murray, Sr., President

STATE OF TEXAS  
COUNTY OF Dallas

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON THE 27 DAY OF Nov., 2017 BY ROBERT C. MURRAY, SR., PRESIDENT

Robert C. Murray, Sr.  
NOTARY PUBLIC



THIS PLAT HAS BEEN SUBMITTED TO AND CONSIDERED BY THE PLANNING & ZONING COMMISSION OF THE CITY OF TEMPLE, TEXAS AND IS HEREBY APPROVED BY SUCH COMMISSION.

DATED THIS THE 5th DAY OF December, 2017.

Bruce P. Chamberlain  
SECRETARY TO PLANNING & ZONING COMMISSION

THIS PLAT HAS BEEN SUBMITTED TO AND CONSIDERED BY THE PLANNING & ZONING COMMISSION OF THE CITY OF TEMPLE, TEXAS, AND IS HEREBY APPROVED BY SUCH COMMISSION.

DATED THIS THE 5th DAY OF December, 2017.

William F. Sisco  
CHAIRPERSON

STATE OF TEXAS  
COUNTY OF BELL

I, THE UNDERSIGNED, A REGISTERED PROFESSIONAL ENGINEER IN THE STATE OF TEXAS, HEREBY CERTIFY, THAT PROPER ENGINEERING CONSIDERATION HAS BEEN GIVEN TO THIS PLAT.

William F. Sisco, P.E. NO. 123121

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.

Michael E. Alvis, R.P.L.S., NO. 5402

#### TAX CERTIFICATE

THE TAX APPRAISAL DISTRICT OF BELL COUNTY DOES HEREBY CERTIFY THERE ARE CURRENTLY NO DELINQUENT TAXES DUE TO THE TAX APPRAISAL DISTRICT OF BELL COUNTY ON THE PROPERTY DESCRIBED BY THIS PLAT.

DATED THIS THE 30th DAY OF December, 2017.

Meagan Brown  
BELL COUNTY TAX APPRAISAL DISTRICT

#### RECORDATION

FILED FOR RECORD THIS THE 5 DAY OF December, 2017.

IN YEAR 2017 PLAT # 1164 PLAT RECORDS OF BELL COUNTY, TEXAS.

DEDICATION INSTRUMENT #2017-50714 OFFICIAL RECORDS OF BELL COUNTY, TEXAS.

## FINAL PLAT: AKINS PLAT REPLAT NO. 1

BEING A REPLAT OF LOT 1 BLOCK 1 OF AKINS PLAT  
YEAR 2016, PLAT NUMBER 85

2.239 ACRES

OUT OF AND PART OF THE MAXIMO MORENO SURVEY, ABSTRACT NO. 14  
A SUBDIVISION IN THE CITY OF TEMPLE, BELL COUNTY, TEXAS

2.239 ACRES MORE FULLY DESCRIBED BY METES & BOUNDS BY SEPARATE FIELD NOTES.

THE PURPOSE OF THIS REPLAT IS TO ADJUST THE NORTH LOT LINE OF LOT 1, BLOCK 1 TO ACCOMMODATE PROPOSED IMPROVEMENTS ON THE ADJACENT TRACT.



**TURLEY ASSOCIATES, INC.**  
ENGINEERING • PLANNING • SURVEYING  
www.turley-inc.com  
301 N. 3rd St. Temple, Texas 76701  
254.773.2400 fax 254.773.3998  
SURVEY FIRM NO. 10056000 • ENGINEERING FIRM NO. 1658

© TURLEY ASSOCIATES, INC.

THIS DRAWING IS THE PROPERTY OF TURLEY ASSOCIATES INC. AND MUST BE SURRENDERED UPON REQUEST. THE INFORMATION THEREON MAY NOT BE REPRODUCED WITHOUT THE WRITTEN PERMISSION OF TURLEY ASSOCIATES INC.

AKINS PLAT  
REPLAT NO. 1  
5TH STREET  
MAXIMO MORENO SURVEY, ABSTRACT NO. 14  
CITY OF TEMPLE, BELL COUNTY, TEXAS  
PREPARED FOR:  
AMERICAN REALTY SERVICES INC.  
3603 HIGH MESA DRIVE  
DALLAS TX, 75234

#### REVISIONS

DATE	DESCRIPTION	DFTR

DRAFTSMAN:  
MRG  
DATE:  
10/13/2017  
COMPUTER FILE NAME:  
16-206 REPLAT  
REFERENCE DRAWING NUMBERS:

JOB NUMBER:  
16-206  
DRAWING NUMBER:  
13178-D  
PAGE #  
01

Inst# 2017-50714





**RESPONSE TO PROPOSED  
REZONING REQUEST  
CITY OF TEMPLE**

61752  
KURYLA, ROBERT C  
3514 S 5TH ST  
TEMPLE, TX 76502-1911

**Zoning Application Number:** FY-19-21-ZC

**Case Manager:** Jason Deckman

Location: 3508 S. 5th Street

The proposed rezoning is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I ☒ agree


( ) disagree with this request

**Comments:**

---

---

---

  
Signature

ROBERT C. KURYLA  
Print Name

(Optional)

**Provide email and/or phone number if you want Staff to contact you**

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, [jdeckman@templetx.gov](mailto:jdeckman@templetx.gov) or mail or hand-deliver this comment form to the address below, no later than **August 5, 2019**.

City of Temple  
Planning Department  
2 North Main Street, Suite 102  
Temple, Texas 76501



Number of Notices Mailed: 14

Date Mailed: July 23, 2019

**OPTIONAL:** Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.



ORDINANCE NO. 2019-4988  
(FY-19-21-ZC)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A REZONING FROM NEIGHBORHOOD SERVICES ZONING DISTRICT TO PLANNED DEVELOPMENT-GENERAL RETAIL ZONING DISTRICT, WITH A SITE DEVELOPMENT PLAN, TO ALLOW A MICROBREWERY WITH OUTDOOR SEATING AND PLAY AREAS, ON APPROXIMATELY 2.239 ACRES, LOCATED AT 3508 SOUTH 5TH STREET; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

---

**Whereas**, the applicant, Jesse Stelzer, requests this rezoning from Neighborhood Services zoning district to Planned Development-General Retail zoning district, with a Site Development Plan, for the construction of the Friars Creek Brewhouse, on approximately 2.239 acres, located at 3508 South 5th Street;

**Whereas**, Mr. Stelzer proposes to brew beer for consumption in the taproom or in the outdoor seating area and the existing NS zoning does not permit any establishment to operate where more than 75% of the gross revenue comes from sales of alcohol for consumption on the premises;

**Whereas**, General Retail zoning does permit the sale of alcohol for on-premise consumption subject to approval of a Conditional Use Permit - the brewhouse will have an indoor taproom as well as a fenced outdoor seating area and Mr. Stelzer intends to have food trucks on site as an additional attraction to the customers;

**Whereas**, the Planned Development will specifically allow brewing to take place on the property – Unified Development Code Sec. 5.1 allows for establishments that sell alcohol but does not clearly define a small-scale brewing operation;

**Whereas**, the applicant plans to produce less than 1,000 barrels of beer annually, in batches no larger than 5 barrels - the product will be for purchase on-site with no plans for external distribution;

**Whereas**, the proposed General Retail zoning for the Friars Creek Brewhouse is more compatible with neighboring residential uses, with Planned Development conditions to mitigate any potential impacts or conflicts;

**Whereas**, the Planning and Zoning Commission of the City of Temple, Texas, recommends approval of the rezoning from Neighborhood Services zoning district to Planned Development-General Retail zoning district, with a Site Development Plan, to allow a microbrewery with outdoor seating and play areas, on approximately 2.239 acres, located at 3508 South 5th Street, as outlined in the map attached hereto as Exhibit 'A,' and made a part hereof for all purposes, and subject to the following conditions:

- Consistent with Site Development Plan attached as Exhibit A;
- To allow brewing to take place on the property, but the sale of alcohol for on-premise consumption will only be allowed with the approval of a Conditional Use Permit;
- Requiring a minimum 15-foot wide landscape buffer and 8-foot tall privacy fence along the common boundary with existing single-family residential uses; and
- Requiring preservation of existing trees on the City's approved tree list with an estimated 8-inch diameter at breast height in the outdoor seating area as shown on the attached site plan, in the 15-foot landscape buffer areas, and where possible in the landscaped areas around the parking lot; 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, THAT:**

**Part 1: Findings.** All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

**Part 2:** The City Council approves of the rezoning from Neighborhood Services zoning district to Planned Development-General Retail zoning district, with a Site Development Plan, to allow a microbrewery with outdoor seating and play areas, on approximately 2.239 acres, located at 3508 South 5th Street, as outlined in the map attached hereto as Exhibit 'A,' and made a part hereof for all purposes, and subject to the following conditions:

- Consistent with Site Development Plan attached as Exhibit A;
- To allow brewing to take place on the property, but the sale of alcohol for on-premise consumption will only be allowed with the approval of a Conditional Use Permit;
- Requiring a minimum 15-foot wide landscape buffer and 8-foot tall privacy fence along the common boundary with existing single-family residential uses; and
- Requiring preservation of existing trees on the City's approved tree list with an estimated 8-inch diameter at breast height in the outdoor seating area as shown on the attached site plan, in the 15-foot landscape buffer areas, and where possible in the landscaped areas around the parking lot.

**Part 3:** The City Council approves the Site Development Plan which is made a part hereof for all purposes.

**Part 4:** The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map.



**Part 5:** 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 or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such phrase, clause, sentence, paragraph or section.

**Part 6:** 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 7:** It is hereby officially found and determined that the meeting at which this Ordinance was 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 **5<sup>th</sup>** day of **September, 2019.**

PASSED AND APPROVED on Second Reading on the **19<sup>th</sup>** day of **September, 2019.**

THE CITY OF TEMPLE, TEXAS

\_\_\_\_\_  
TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Lacy Borgeson  
City Secretary

\_\_\_\_\_  
Kayla Landeros  
Interim City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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09/05/19  
Item #9  
Regular Agenda  
Page 1 of 3

### **DEPT. / DIVISION SUBMISSION REVIEW:**

Jason Deckman, Planner

**ITEM DESCRIPTION:** FIRST READING – PUBLIC HEARING – FY-19-20-ZC: Consider adopting an ordinance authorizing a Conditional Use Permit with a Site Plan to allow a microbrewery for alcohol sales, with a waiver for distance to residential property, on 2.239 +/- acres, situated in the Maximo Moreno Survey, Abstract No. 14, Bell County, Texas, located at 3508 South 5th Street.

**PLANNING & ZONING COMMISSION RECOMMENDATION:** During its August 5, 2019 meeting, the Planning & Zoning Commission voted 6 to 0 to recommend approval per staff's recommendation.

**STAFF RECOMMENDATION:** Based on the following analysis that:

1. The project has demonstrated compliance with the specific standards in Unified Development Code (UDC) Section 5.3.15; and
2. The project has demonstrated compliance to Chapter 4 of the City of Temple Code of Ordinances related to alcoholic beverages.

Staff recommends approval of the requested Conditional Use Permit and associated distance waiver to allow establishments where greater than 75% of the gross revenue is from the sale of all alcoholic beverages for on-premise consumption, subject to the following conditions:

1. Sale of all alcoholic beverages for on-premise consumption be contained within the developed site of Lot 1, Block 1, Aikins Plat Replat No. 1 subdivision, located at 3508 South 5<sup>th</sup> Street;
2. Approval by City Council of a waiver from the distance requirement for alcohol sales.
3. Compliance with Chapter 4 of the City Code of Ordinances related to alcoholic beverages; and
4. Compliance with UDC Section 5.3.15 related to all alcoholic beverage sales with on-premise consumption.
5. Requiring closing time to be set not later than 11:00pm with any outside entertainment to cease by 10:00pm in order to prevent any disturbance to adjacent properties.

**ITEM SUMMARY:** The applicant, Jesse Stelzer, requests a Conditional Use Permit to allow the sale of alcoholic beverages at Friars Creek Brewhouse, with a waiver for distance to residential property. Mr. Stelzer proposes to brew beer for consumption in the taproom or in the outdoor seating area.



**BACKGROUND:** An establishment with over 75% gross revenue derived from the sale of all alcoholic beverages in the GR zoning district is subject to approval of a Conditional Use Permit. This CUP is contingent on approval of a proposed Planned Development Rezoning. The CUP is compatible with requested PD-GR zoning, with the necessary conditions to mitigate possible impacts on neighboring properties. The proposed brewhouse will be in compliance with UDC Section 5.3.15, as well as Chapter 4 of the City Code.

UDC Section 5.3.15 provides for multiple performance standards related to the provision of a Conditional Use Permit for the on-premise sale of alcoholic beverages.

- The permittee must demonstrate that the granting of the permit would not be detrimental to the public welfare of the Citizens of the City,
- The permittee must, at all times, provide an adequate number of employees for security purposes to adequately control the establishment to prevent incidents of drunkenness, disorderly conduct and raucous behavior. The permittee must consult with the Chief of Police, who acts in an advisory capacity, to determine the number of qualified employees necessary to meet such obligations.
- *The establishment must not be within 300 feet of a public park or any residentially zoned or developed lot. (UDC 5.3.15.B)*

The applicant is requesting a waiver from the 300-foot distance in UDC 5.3.15.B. As shown on the attached map, the subject property is located next to both residential and non-residential uses and zoning districts in a corridor designated on the Future Land Use Map as Suburban Commercial. South 5<sup>th</sup> is designated as a minor arterial with a divided median to accommodate future commercial traffic.

The separation requirement of 300-feet is identified by Section 109.33 of the Texas Alcoholic Beverage Code, codified locally by the City of Temple in Chapter 4, Alcoholic Beverages, of the Code of Ordinances. In addition, while relief from this distance requirement is provided for as a *variance* by state law, the determination is made locally by the City Council by a separate resolution.

The applicant has provided a letter explaining why the distance requirement should be waived. The letter can be summarized as follows:

- Will be a family-friendly environment (as opposed to a bar or night-club)
- Will provide fenced outdoor seating with games, food trucks, and a play area for children
- Will be an attractive destination located along Friars Creek Trail
- Will provide a community gathering place along a developing corridor

Additionally, the UDC states:

*The City Council may deny or revoke a Conditional Use Permit in accordance with UDC Section 3.5 if it affirmatively determines that the issuance of the permit is:*

- Incompatible with the surrounding uses of property; or*
- Detrimental or offensive to the neighborhood or contrary to the health, safety and general welfare of the City and its inhabitants, and*
- Per UDC Section 3.5.5, the Planning & Zoning Commission may recommend, and the City Council may impose additional conditions of approval.*

Further, Chapter 4 of the City Code requires that all establishments with alcoholic beverage sales with on-premise consumption are not within a straight-line distance of 300 feet of a place of worship, public school or public hospital. None of the identified uses are within 300 feet of the proposed brewhouse. The closest is the existing Silverstone Park on Waters Dairy Road, located approximately 4,200 +/- feet to the south. Compliance to Chapter 4 standards are required and are included as a condition.

Adherence to both UDC Section 5.3.15 & Chapter 4 in their entirety is included by reference in the Ordinance as conditions of approval. A Conditional Use Permit runs with the property and a change in ownership or change in the lessee does not affect the Conditional Use Permit.

**SUBDIVISION / SITE DEVELOPMENT:** The attached site plan includes provisions for an eight-foot privacy fence and 15-foot landscape buffer facing the residential property. The entire outdoor seating area will be enclosed by a fence for safety. The site plan shows adequate parking and access with an entrance on South 5<sup>th</sup> Street as well as through an easement on the entrance to the planned Bell Tower Apartments.

**DEVELOPMENT REVIEW COMMITTEE (DRC):** The DRC reviewed the proposed conditional use permit on July 25, 2019. Engineering noted that construction of the Friars Creek Brewhouse will be dependent on construction of the Bell Tower Apartments and extension of the water line across South 5<sup>th</sup> Street. The applicant is working closely with Bell Tower staff.

**PUBLIC NOTICE:** Fourteen properties within 200-feet of the subject property, were sent notice of the public hearing as required by State law and City Ordinance. As of Thursday August 1, 2019, at 12:00 PM, one notice in disagreement has been received. Staff will provide an update regarding late responses, if necessary.

The newspaper printed notice of the public hearing on July 25, 2019, in accordance with state law and local ordinance.

**FISCAL IMPACT:** Not Applicable

**ATTACHMENTS:**

[Friars Creek Brewhouse Site Plan \(Exhibit A\)](#)

[Compliance Table](#)

[Applicant letter](#)

[UDC Section 5.3.15 – Alcoholic Beverage Sales with On-Site Consumption](#)

[Chapter 4 – Code of Ordinances – Alcoholic Beverages](#)

[Site and Surrounding Property Photos](#)

[Notification Map](#)

[Aerial Map](#)

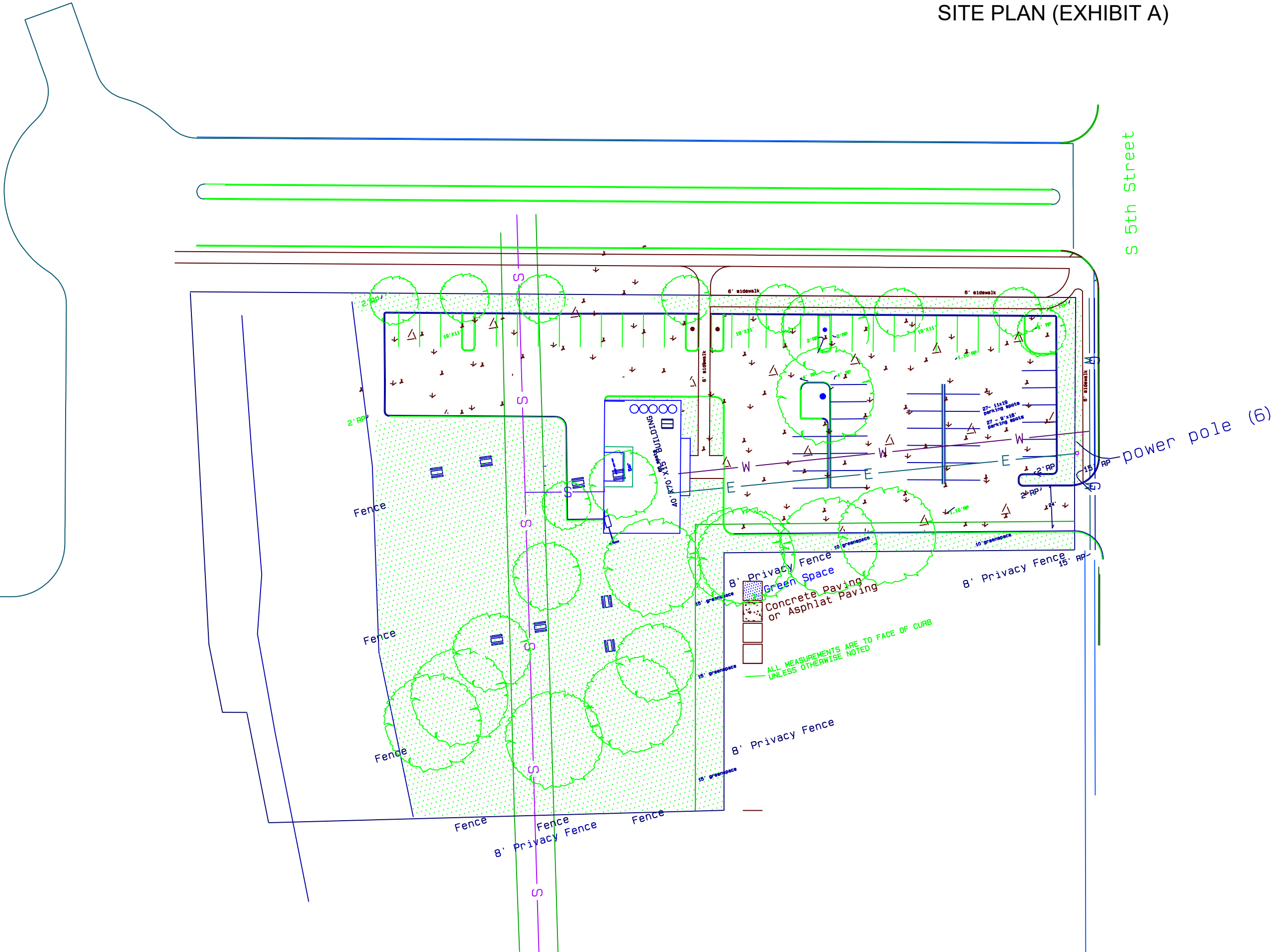
[Current Plat](#)

[Returned Property Notices](#)

[Ordinance](#)



SITE PLAN (EXHIBIT A)



UDC Code Section 3.5.4	Criteria met?	Discussion
<b>A.</b> The conditional use is compatible with and not injurious to the use and enjoyment of the property and does not significantly diminish or impair property values within the immediate area.	Yes	The previous building renovation and proposed site development will continue to enhance the aesthetics of this property. The development of a microbrewery will be an attraction throughout the immediate area.
<b>B.</b> The establishment of the conditional use does not impede normal and orderly development and improvement of surrounding vacant property.	Yes	Operation of a microbrewery will will not impede development or improvements on the surrounding properties.
<b>C.</b> Adequate utilities, access roads, drainage, and other necessary support facilities have been or will be provided.	Yes	Public Works has determined that water and wastewater service to the property will be adequate and won't be negatively impacted. The property fronts onto a minor arterial street and has access to the adjacent trail.
<b>D.</b> The design, location and arrangement of all driveways and parking spaces provide for the safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent development.	Yes	The property will have driveway connection to S. 5 <sup>th</sup> Street, and adequate parking is shown on the site plan. Driveway will be right-turn in and right-turn out due to the divided median on S. 5 <sup>th</sup> Street. No issues with circulation were noted during review of the conditional use permit.
<b>E.</b> Adequate nuisance prevention measures have been or will be taken to prevent or control offensive odors, fumes, dust, noise, and vibration.	Yes	Staff does not anticipate that the proposed microbrewery will create offensive odors, fumes, dust, noise, or vibration.
<b>F.</b> Directional lighting is provided so as not to disturb or adversely affect neighboring properties.	Yes	Any exterior lighting proposed will be required to meet the provisions of UDC 7.1.8 with regard to glare. Compliance for exterior lighting will be addressed during review of the building plans.
<b>G.</b> There is sufficient landscaping and screening to insure harmony and compatibility with adjacent property.	Yes	Conditions to the rezoning will preserve existing trees and add landscape buffers. Compliance with UDC Section 7.4 will be confirmed during review of the building permit.



To Whom It May Concern:

Concerning Friar's Creek Brewhouse obtaining a waiver to sell beer within 300' of a residence. I believe that Friar's Creek Brewhouse will bring a fun and safe environment for families to spend time together and with the community around them. This will not be a place where people come to get drunk. This will be a place where someone can come in have one of our craft beers, sodas, a coffee or tea, and eat some food from one of the food trucks. They can also enjoy the activities on the property such as corn hole, indoor games, children's playscape, and mini dog park. I believe the community could benefit from having a location to meet, play games, let their pets play and socialize. Right now, there is no other establishment of this kind in south Temple. Friar's Creek Brewhouse will bring people to this area to help support not only my business but all the businesses that will be and are in this area.

I want a community atmosphere at my establishment. Enforcing this regulation would cause me to move my location away from the community in south Temple and would hurt my business. People like the feeling of being part of something as seen by the popularity of establishments like Barrow Brewing, Bold Republic, and Hat Creek Burgers. I want to bring this same community minded type establishment to the city of Temple.

I also talked to two of the residences next to the property. The owner of the property next to Friar's Creek didn't really have an opinion or comment about a brewery opening next door. The owner of the second property so the south thought it was a great idea and sounded excited about it. I also talked to some walkers on Friar's Creek trail and they thought it was a good idea and also thought the area needed something like this.

1. Commission means the City of Temple.
2. Executive Director and Chief Clerk means the Director of Public Works.
3. Permit, when referring to City's administration of Registration requirements, means Conditional Use Permit.

#### **5.3.14 Recycling Collection Location or Operation**

A recycling operation inside a building, recycling operation outside a building and recycling collection location may be permitted in accordance with the use table in Sec. 5.1 subject to the following standards.

- A. The buying and receiving area must be set back a minimum of 50 feet from the public street right-of-way.
- B. A minimum separation of 75 feet is required between any processing operation and the property line of any adjacent property zoned for residential purposes.
- C. The internal circulation area within a tract used for a recycling collection location must consist of a non-permeable surface of either asphalt or concrete.

#### **5.3.15 Alcoholic Beverage Sales for On-Premise Consumption**

An establishment with alcoholic beverage sales for on-premise consumption may be permitted in accordance with the use table in Sec. 5.1 subject to the following standards.

- A. The following standards apply to all establishments with on-premise consumption of alcoholic beverages.
  1. The permittee must design and operate the establishment in such a manner that the use of the premises does not substantially increase traffic congestion or create overcrowding in the establishment or the immediately surrounding area.
  2. The permittee must comply with applicable licensing and permit provisions of the Alcoholic Beverage Code within six months from the date of the issuance of the Conditional Use Permit, such limitation in time being subject to City review and possible extension. Nothing in this Section herein permits the sale of



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## Article 5: Use Standards

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### Sec. 5.3. Specific Use Standards

alcoholic beverages prior to the issuance of an applicable permit or license issued by the Texas Alcoholic Beverage Commission.

3. The permittee bears the burden of showing that the establishment does not exceed the limitation on gross receipts from sales of alcoholic beverages applicable to its Conditional Use Permit. The permittee must maintain accounting records of the sources of its gross revenue and allow the City to inspect such records during reasonable business hours.
4. The permittee must demonstrate that the granting of the permit would not be detrimental to the public welfare of the citizens of the City.
5. The permittee must, at all times, provide an adequate number of employees for security purposes to adequately control the establishment to prevent incidents of drunkenness, disorderly conduct and raucous behavior. The permittee must consult with the Chief of Police, who acts in an advisory capacity, to determine the number of qualified employees necessary to meet such obligations.
6. The establishment must provide adequate parking spaces in accordance with the standards in Sec. 7.5.
7. The permittee must operate the establishment in such a manner as to prevent excessive noise, dirt, litter and odors in the establishment or in the surrounding area and operate the establishment in such a manner as to minimize disturbance to surrounding property owners.
8. The City Council may deny or revoke a Conditional Use Permit in accordance with Sec. 3.5 if it affirmatively determines that the issuance of the permit is:
  - a. Incompatible with the surrounding uses of property; or
  - b. Detrimental or offensive to the neighborhood or contrary to the health, safety and general welfare of the City and its inhabitants.

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**Article 5: Use Standards**

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**Sec. 5.3. Specific Use Standards**

9. A Conditional Use Permit runs with the property and a change in the owner or lessee of a permitted establishment does not affect the Conditional Use Permit.
  10. All Conditional Use Permits must be further conditioned that the permit may be canceled, suspended or revoked in accordance with the revocation clause set forth in paragraph 8 above.
  11. The use must comply with City of Temple Code of Ordinances, Chapter 4, "Alcoholic Beverages."
- B.** In addition to the standards in subsection A above, the following standards apply to all establishments where the gross revenue from the sale of alcoholic beverages for on-premise consumption is 75% or more of the total gross revenue of the establishment.
1. The establishment must not be within 300 feet of a public park or any residentially zoned or developed lot.
  2. The distance between the establishment where alcoholic beverages are sold and a protected use listed in (B)(1) must be measured in a straight, direct line from the property line of the establishment to the nearest property line of a property where a protected use is located.
  3. An establishment in a multi-storied building on other than the ground floor must be treated as though it were on the ground floor for purpose of the measurement between property lines.

[Ord. 2017-4830 Chapter 4 & Ord. 2017-4829]

**5.3.16 Outdoor Shooting Range**

An outdoor shooting range may be permitted in accordance with the use table in Sec. 5.1 subject to the following standards.

- A.** Only handguns (pistols and revolvers) are permitted to be used at the outdoor shooting range. No shotguns, rifles or automatic weapons are permitted at the range.
- B.** No armor piercing or incendiary ammunition is allowed.
- C.** Ammunition larger than 0.460 caliber is not allowed.



## **Chapter 4**

### **ALCOHOLIC BEVERAGES**

**State law reference -- Alcoholic Beverage Code § 1.01 et seq.**

#### **ARTICLE I. IN GENERAL**

##### **Sec. 4-1. Definitions.**

“City” means the City of Temple, Texas, the City Council of Temple, Texas, or its representatives, employees, agents, or designees.

“City Council” means the City’s elected governing body.

“City Manager” means the City’s city manager or their designee.

“License or permit” means a license or permit granted by the Texas Alcoholic Beverage Commission.

“Licensee or permittee” means a person holding a license or permit granted by the Texas Alcoholic Beverage Commission.

“Private school” means a private school, including a parochial school, that:

- (a) offers a course of instruction for students in one or more grades from kindergarten through grade 12; and
- (b) has more than 100 students enrolled and attending courses at a single location.

#### **ARTICLE II. EXTENDED HOURS**

##### **Sec. 4-2. Extended hours.**

- (a) Pursuant to Sections 105.03(d) and 105.05(d) of the V.C.T.A., Alcoholic Beverage Code, as amended, the City adopts extended hours sales of alcoholic beverages in any part of the City as follows:

- (1) A holder of a mixed beverage late hours permit may sell and offer for sale mixed beverages between midnight and 2 a.m. on any day.
- (2) A holder of a retail dealer's on-premise late hours license may sell, offer for sale, and deliver beer between midnight and 2 a.m. on any day.

State law reference -- V.T.C.A., Alcoholic Beverage Code § § 105.03, 105.05, and 105.06.

### **ARTICLE III. ALCOHOLIC BEVERAGE SALES NEAR SCHOOL, CHURCH, OR HOSPITAL**

#### **Sec. 4-3. Sales near school, church, or hospital.**

- (a) The sale of alcoholic beverages is prohibited at a place of business that is located within:
  - (1) 300 feet of a church, public or private school, or public hospital;
  - (2) 1,000 feet of a private school if City Council receives a request from the governing body of the private school.
- (b) Subsection (a)(1) does not apply to the holder of:
  - (1) a license or permit who also holds a food and beverage certificate issued by the Texas Alcoholic Beverage Commission covering a premise that is located within 300 feet of a private school; or
  - (2) a license or permit covering a premise where minors are prohibited from entering under V.T.C.A., Alcoholic Beverage Code § 109.53, as amended, (i.e. a package store) and that is located within 300 feet of a private school.
- (c) Subsection (a)(2) does not apply to the holder of:
  - (1) a retail on-premises consumption permit or license if less than 50% of the gross receipts for the premises is from the sale or service of alcoholic beverages;
  - (2) a retail off-premises consumption permit or license if less than 50% of the gross receipts for the premises, excluding the sale of items subject to the motor fuels tax, is from the sale or service of alcoholic beverages;



- (3) a wholesaler's, distributor's, brewer's, distiller's and rectifier's, winery, wine bottler's or manufacturer's permit or license, or any other license or permit held by a wholesaler or manufacturer as those words are ordinarily used and understood in V.T.C.A., Alcoholic Beverage Code Chapter 102, as amended;
- (4) a license or permit issued under V.T.C.A., Alcoholic Beverage Code Chapters 27 (Temporary and Special Wine and Beer Retailer's Permit), 31 (Caterer's Permit), or 72 (Temporary Licenses), all as amended, who is operating on the premises of a private school; or
- (5) a license or permit covering a premise where minors are prohibited from entering under V.T.C.A., Alcoholic Beverage Code § 109.53, as amended, (i.e. a package store) and that is located within 1,000 feet of a private school.

(Prior Code, § 4-2; Ord. No. 2017-4830)

State law reference -- V.T.C.A., Alcoholic Beverage Code § 109.33.

#### **Sec. 4-4. Measurement of distances for church and public hospital.**

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

(Prior Code, § 4-3; Ord. No. 2009-4323)

State law reference -- Similar provisions, V.T.C.A., Alcoholic Beverage Code § 109.33(b).

#### **Sec. 4-5. Measurement for public and private school.**

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

- (a) in a direct line from the property line of the public or private school to the property line of the place of business, and in a direct line across intersections; or
- (b) if the permit or license holder is located on or above the fifth story of a multistory building, in a direct line from the property line of the public or private school to the property line of the place of business, in a direct line across intersections, and vertically up the building at the property line to the base of the floor on which the permit or license holder is located.
- (c) As to any business who held a license or permit on September 1, 1983, the measurement of the

distance between the place of business of the dealer and a public or private school will be along the property lines of the street fronts and from front door to front door, and in direct line across intersections.

(Prior Code, § 4-4; Ord. No. 2017-4830)

State law reference -- Similar provisions, V.T.C.A., Alcoholic Beverage Code § 109.33(b), (d).

**Sections 4-6--4-10. Reserved.**

#### **ARTICLE IV. MUNICIPAL FEES AND REGISTRATION**

State law reference -- Authority to require licenses and permits and fees, V.T.C.A., Alcoholic Beverage Code § § 11.38; 61.36.

##### **Sec. 4-11. Municipal fees and City registration.**

- (a) A municipal fee is levied in the amount of one-half the state fee for each license or permit issued for premises located within the City, except as otherwise provided by state law. The municipal fees must be paid to the City when the license or permit fees are paid to the state.
- (b) The City will issue a certificate of registration under this Section to a licensee or permittee authorizing the sale of alcoholic beverages under this Chapter and a license or permit, if the licensee or permittee:
  - (1) pays the fees established by Subsection (a); and
  - (2) provides the City with a copy of the license or permit.
- (c) A person who sells an alcoholic beverage at a business location before the person receives a certificate of registration from the City as provided by this Section commits a Class C misdemeanor.
- (d) The City's certificate of registration must be displayed in a conspicuous place at all times on the licensed or permitted premises. It is unlawful for a person in charge of such premises to fail to display this certificate of registration.

(Prior Code, § 4-11; Ord. No. 2009-4323)



State law reference -- Authority for license and permit fees, V.T.C.A. Alcoholic Beverage Code § 11.38; § 61.36.

**Sections 4-12--4-20. Reserved.**

## **ARTICLE V. SALE OF ALCOHOLIC BEVERAGES ON CITY PROPERTY**

### **Sec. 4-21. Sale of alcoholic beverages on City property prohibited except where specially permitted.**

- (a) City Property. It is unlawful for any person to sell alcoholic beverages in any public park of the City, or on or in other publicly owned property, save and except that the City and concessionaires or caterers having a contract with the City to sell alcoholic beverages at the Frank W. Mayborn Civic and Convention Center, Santa Fe Depot, and at Sammons Park, if properly licensed or permitted by the state, may sell alcoholic beverages upon the premises of the civic and convention center, depot, and within the Sammons Park Restaurant, Clubhouse, and deck exclusively. The City Manager may authorize a special event permit for the sale of alcoholic beverages on City property other than a City park.
- (b) Criteria for Permits. The City Council may from time to time by resolution establish criteria for special event permit applications and approvals under this Section.

(Prior Code, § 4-21; Ordinance No. 2009-4323)

## **ARTICLE VI. ENFORCEMENT**

### **Sec. 4-22. Criminal offense.**

- (a) A person violating a provision of this Chapter commits a Class C misdemeanor for each separate violation for each day, or part of a day, during which the violation is committed, continued, or permitted. Each offense is punishable by a fine not to exceed five hundred dollars (\$500.00).
- (b) A culpable mental state is hereby not required to prove an offense under this Chapter.



Facing west from S. 5<sup>th</sup> Street



Facing northwest from S. 5<sup>th</sup> Street





Facing southwest towards adjacent residential property



Large tree located within subject property



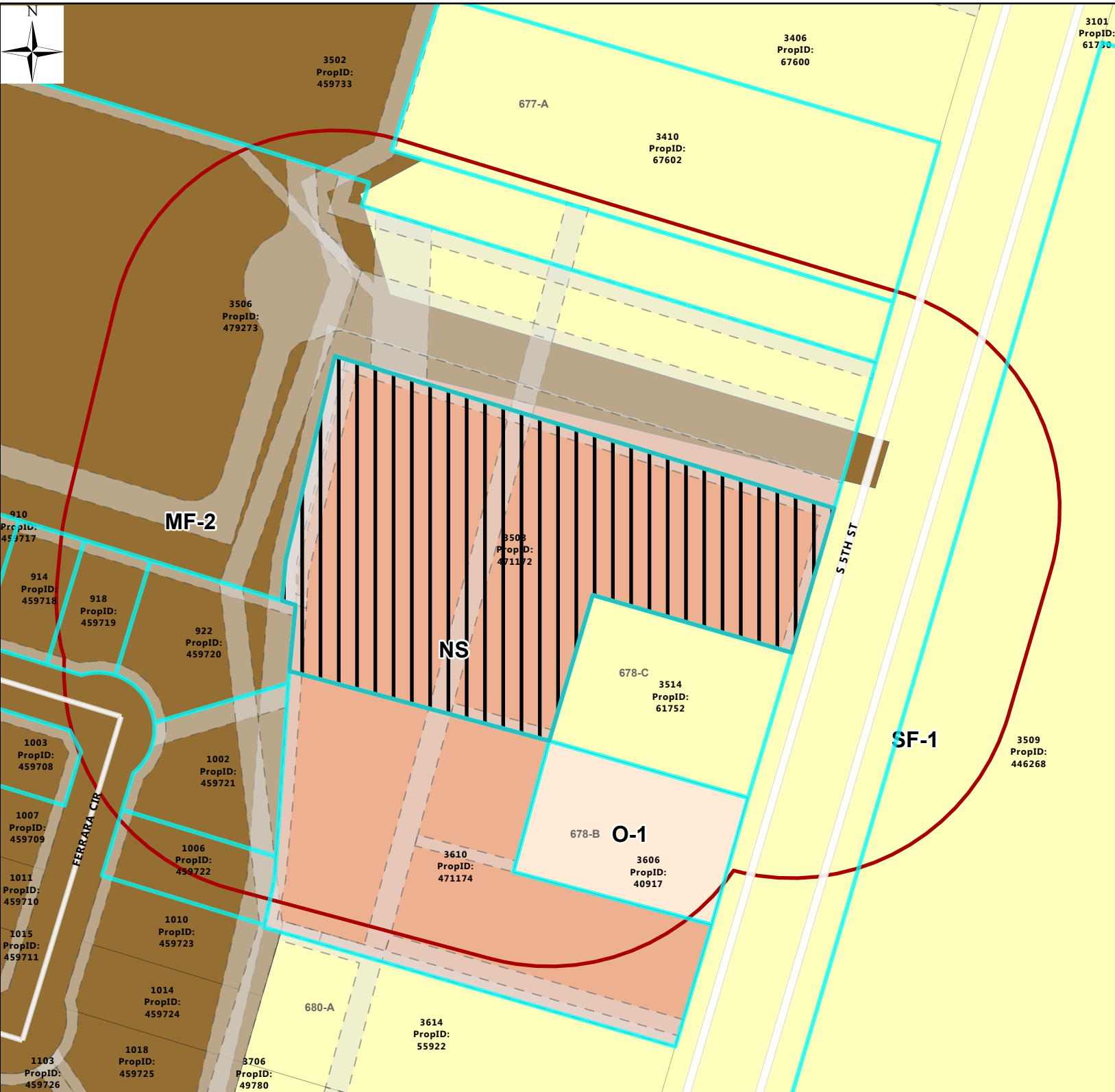


Friars Creek Trail – adjacent to subject property



Friars Creek as it enters the subject property





Address :  
3508 S. 5th ST

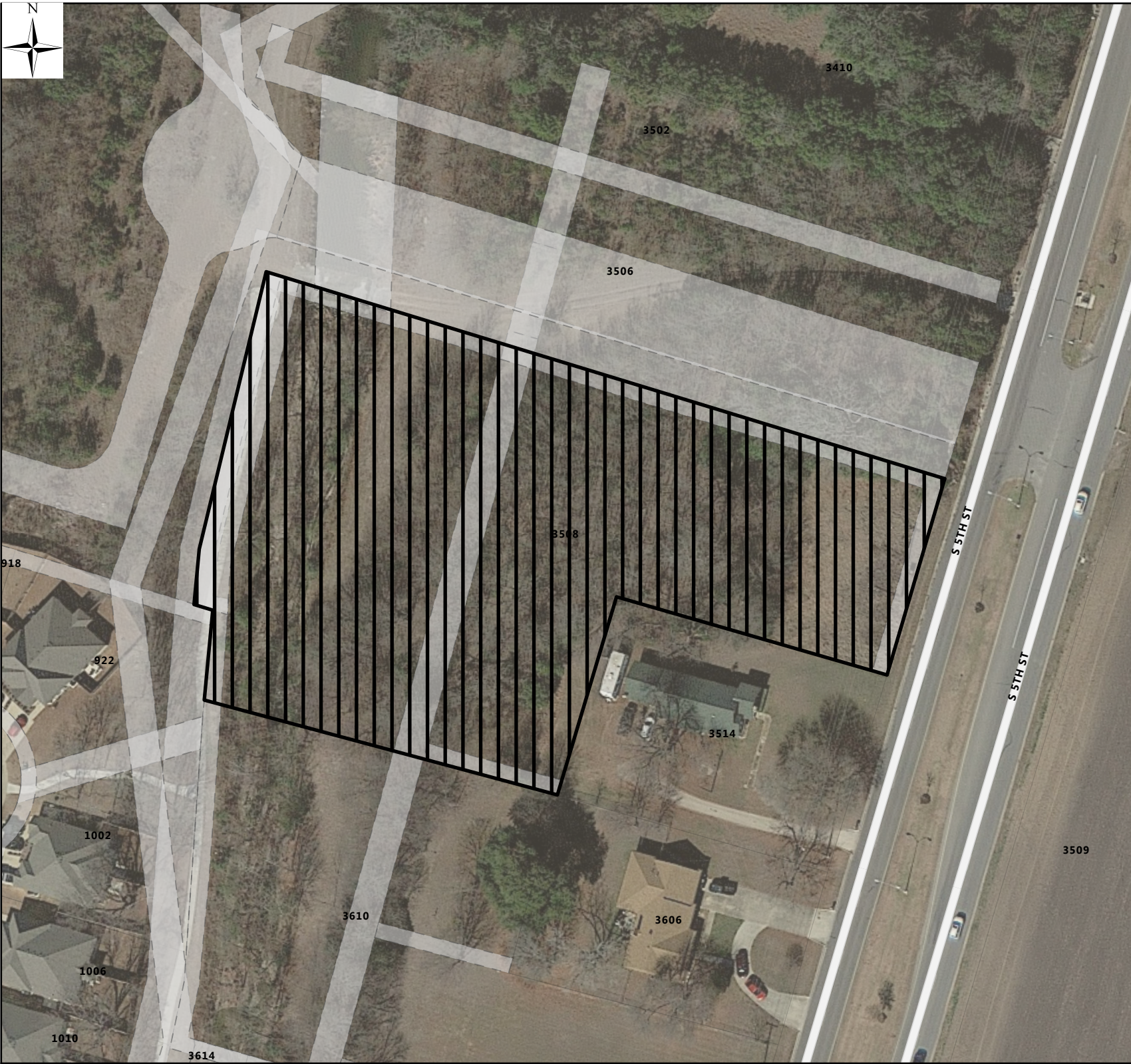
CurrentZoning			
HI - CUP	O-1	AG - CUP	
UE	O-1 - CUP	MH	
UE - PD	O-1 - PD	MH - CUP	
SF-1	O-2	MH - PD	
SF-1 - CUP	O-2 - CUP	MU	
SF-1 - PD	O-2 - PD	MU - CUP	
SF-2	NS	SD-C	
SF-2 - PD	NS - CUP	SD-C - CUP	
SF-3	NS - PD	SD-H	
SF-3 - PD	GR	SD-H - CUP	
SF-3 - CUP, PD	GR - CUP	SD-T	
SFA	GR - PD	SD-V	
SFA-2	GR - CUP, PD	T4	
SFA-2 - PD	CA	T4 - PD	
SFA-3	CA - CUP	T4 - CUP	
SFA-3 - PD	CA - PD	T5-C	
2F	C	T5-C - CUP	
2F - CUP	C - CUP	T5-C - PD	
2F - PD	C - PD	T5-E	
MF-1	C - CUP, PD	T5-E - CUP	
MF-1 - CUP	LI	T5-E - PD	
MF-1 - PD	LI - CUP	NO BASE	
MF-2	LI - PD	CUP	
MF-2 - CUP	LI - CUP, PD	PD	
MF-2 - PD	HI	Easement	
MF-3 - PD	HI - PD		
MF-3 - PD	AG		

GIS products are for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. They do not represent an on-the-ground survey and represent only the approximate relative location of property boundaries and other features.

jdeckman  
Date: 7/16/2019







Conditional Use  
Permit - Alcohol

## AERIAL MAP

Zoning Case:  
FY-19-20-ZC

Address :  
3508 S. 5th ST

## Transportation

Streets

MINOR ARTERIAL

Temple Municipal Boundary

## Parcel Features

Parcels

Production.SDE.Easement

GIS products are for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. They do not represent an on-the-ground survey and represent only the approximate relative location of property boundaries and other features.

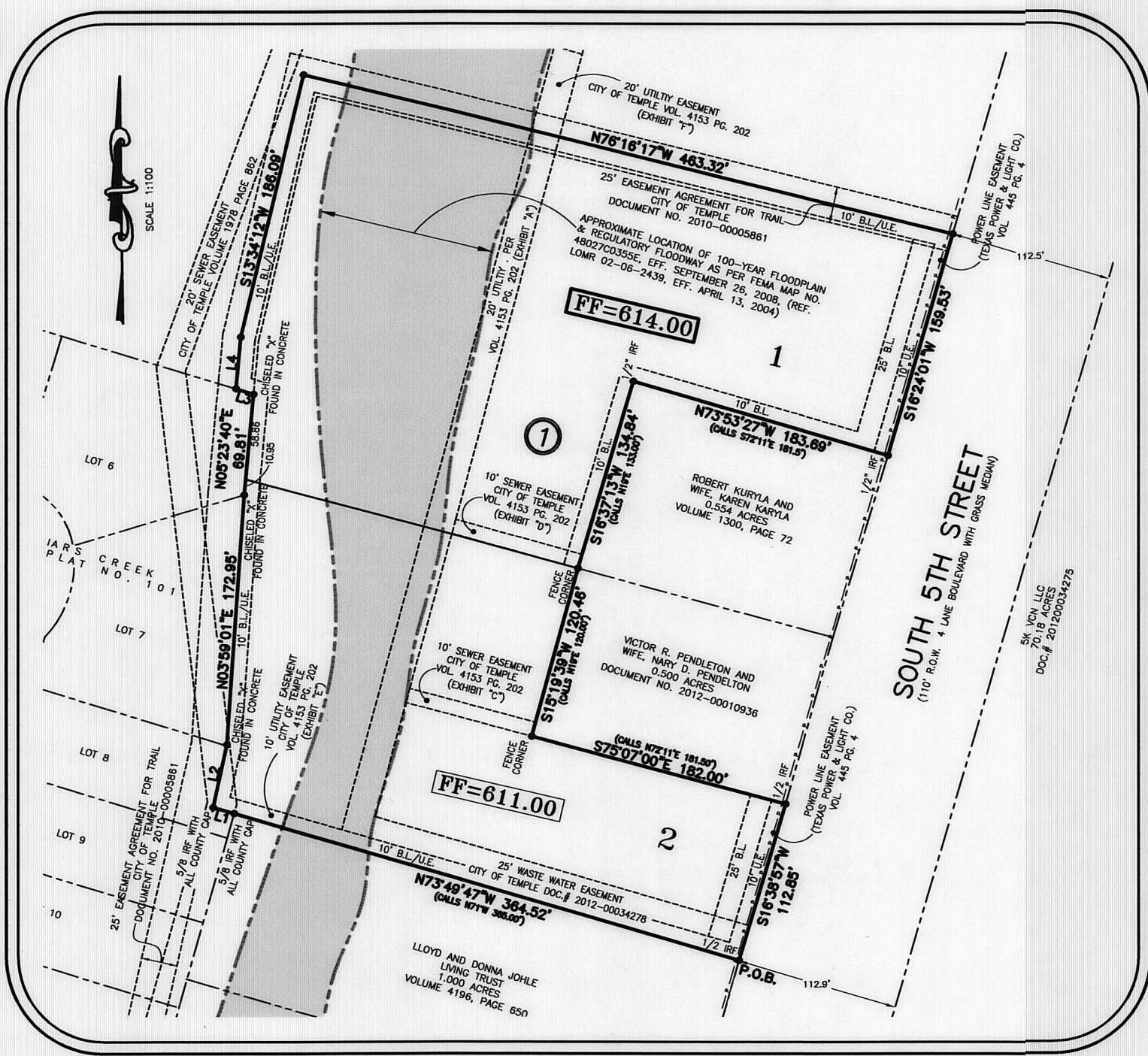
jdeckman

Date: 7/16/2019

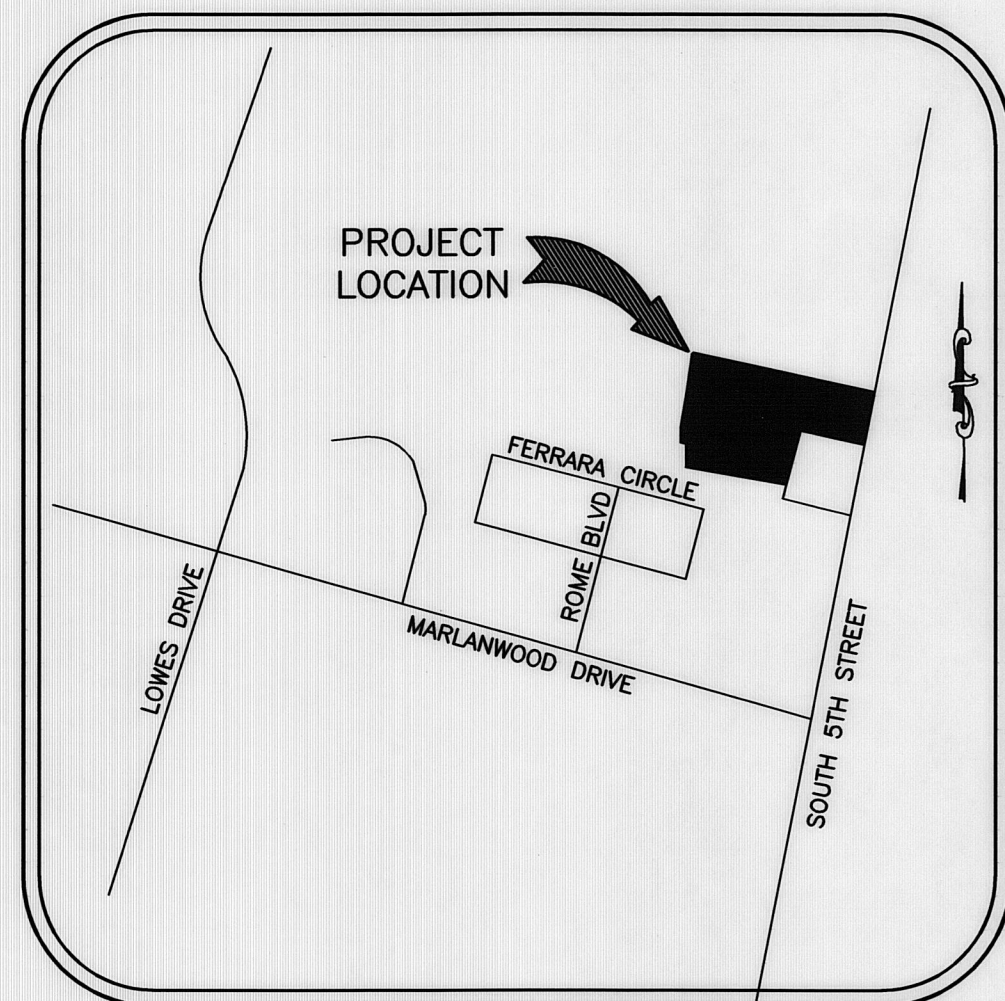




2017  
11/21



ORIGINAL CONFIGURATION OF LOTS 1 AND 2 AKINS PLAT, YEAR 2016 PLAT NUMBER 85, PLAT RECORDS OF BELL COUNTY, TEXAS.



VICINITY MAP  
N.T.S.

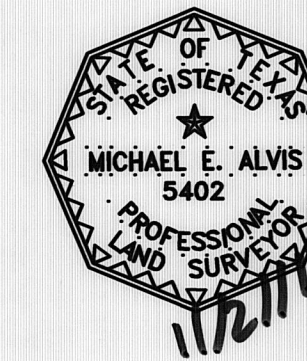
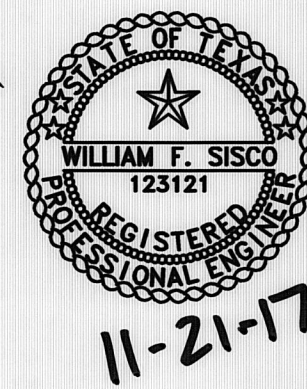
NOTES:

1. ALL BOUNDARY CORNERS ARE 1/2" IRON ROD WITH CAP MARKED "RPLS 2475" SET UNLESS NOTED OTHERWISE.
2. BUILDING SET BACK LINES ARE AS SHOWN.
3. PUBLIC UTILITY EASEMENTS ARE AS SHOWN.
4. FF=MINIMUM FINISHED FLOOR ELEVATION FOR LOTS DESIGNATED HEREON.
5. THIS PROJECT IS REFERENCED IN NAD 1983, CENTRAL TEXAS STATE PLANE. ALL DISTANCES ARE HORIZONTAL SURFACE DISTANCES UNLESS NOTED AND ALL BEARINGS ARE GRID BEARINGS.
6. ALL COORDINATE VALUES ARE REFERENCED TO CITY MONUMENT NUMBER 909; THE THETA ANGLE AT SAID CITY MONUMENT IS 01° 31' 56"; THE COMBINED CORRECTION FACTOR (CCF) IS 0.999853; PUBLISHED CITY COORDINATES ARE X = 3,227,892.21, Y = 10,361,166.86, THE TIE FROM THE ABOVE CITY MONUMENT TO THE POINT OF BEGINNING (POB) IS N. 16° 18' 15" E., 1263.85 FEET.
7. THIS PROPERTY IS WITHIN THE SPECIAL FLOOD HAZARD AREA AS PER THE FEDERAL EMERGENCY MANAGEMENT AGENCY FEDERAL INSURANCE ADMINISTRATION MAP NO. 48027C0355E, AND 48027C0365E DATED SEPTEMBER 26, 2008.
8. A 6 FOOT WIDE SIDEWALK SHALL BE REQUIRED ALONG SOUTH 5TH STREET.



- TE - TRAIL EASEMENT  
BL - BUILDING LINE  
UE - UTILITY EASEMENT  
POB - POINT OF BEGINNING  
① - BLOCK DESIGNATION

Parcel Line Table		
Line #	Length	Direction
L3	12.77	N73° 02' 30"W
L4	36.30	N5° 22' 44"E



STATE OF TEXAS  
COUNTY OF Dallas

AMERICAN REALTY SERVICES INC., OWNER OF THE LAND SHOWN ON THIS PLAT, AND DESIGNATED HEREIN AS AKINS PLAT, A SUBDIVISION IN THE CITY OF TEMPLE, TEXAS AND WHOSE NAME IS SUBSCRIBED HERETO, HEREBY DEDICATE TO THE USE OF THE PUBLIC FOREVER ALL STREETS, ALLEYS, WATERCOURSES, DRAINS, EASEMENTS AND PUBLIC PLACES AS SHOWN HEREON.

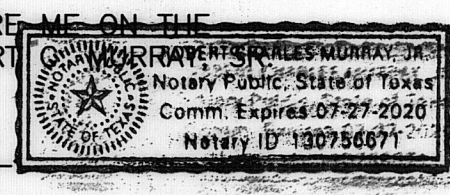
AMERICAN REALTY SERVICES INC.  
A TEXAS CORPORATION

Robert C. Murray, Sr., President

STATE OF TEXAS  
COUNTY OF Dallas

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON THE 27 DAY OF Nov., 2017 BY ROBERT C. MURRAY, SR., PRESIDENT

Robert C. Murray, Sr.  
NOTARY PUBLIC



THIS PLAT HAS BEEN SUBMITTED TO AND CONSIDERED BY THE PLANNING & ZONING COMMISSION OF THE CITY OF TEMPLE, TEXAS AND IS HEREBY APPROVED BY SUCH COMMISSION.

DATED THIS THE 5th DAY OF December, 2017.

Bruce P. Chamberlain  
SECRETARY TO PLANNING & ZONING COMMISSION

THIS PLAT HAS BEEN SUBMITTED TO AND CONSIDERED BY THE PLANNING & ZONING COMMISSION OF THE CITY OF TEMPLE, TEXAS, AND IS HEREBY APPROVED BY SUCH COMMISSION.

DATED THIS THE 5th DAY OF December, 2017.

William F. Sisco  
CHAIRPERSON

STATE OF TEXAS  
COUNTY OF BELL

I, THE UNDERSIGNED, A REGISTERED PROFESSIONAL ENGINEER IN THE STATE OF TEXAS, HEREBY CERTIFY, THAT PROPER ENGINEERING CONSIDERATION HAS BEEN GIVEN TO THIS PLAT.

William F. Sisco, P.E. NO. 123121

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.

Michael E. Alvis, R.P.L.S., NO. 5402

TAX CERTIFICATE

THE TAX APPRAISAL DISTRICT OF BELL COUNTY DOES HEREBY CERTIFY THERE ARE CURRENTLY NO DELINQUENT TAXES DUE TO THE TAX APPRAISAL DISTRICT OF BELL COUNTY ON THE PROPERTY DESCRIBED BY THIS PLAT.

DATED THIS THE 30th DAY OF November, 2017.

Meagan Brown  
BELL COUNTY TAX APPRAISAL DISTRICT

RECORDATION

FILED FOR RECORD THIS THE 5 DAY OF December, 2017.

IN YEAR 2017 PLAT # 1164 PLAT RECORDS OF BELL COUNTY, TEXAS.

DEDICATION INSTRUMENT #2017-50714 OFFICIAL RECORDS OF BELL COUNTY, TEXAS.

FINAL PLAT:  
AKINS PLAT  
REPLAT NO. 1

BEING A REPLAT OF LOT 1 BLOCK 1 OF AKINS PLAT YEAR 2016, PLAT NUMBER 85

2.239 ACRES

OUT OF AND PART OF THE MAXIMO MORENO SURVEY, ABSTRACT NO. 14 A SUBDIVISION IN THE CITY OF TEMPLE, BELL COUNTY, TEXAS

2.239 ACRES MORE FULLY DESCRIBED BY METES & BOUNDS BY SEPARATE FIELD NOTES.

THE PURPOSE OF THIS REPLAT IS TO ADJUST THE NORTH LOT LINE OF LOT 1, BLOCK 1 TO ACCOMMODATE PROPOSED IMPROVEMENTS ON THE ADJACENT TRACT.



TURLEY ASSOCIATES, INC.  
ENGINEERING • PLANNING • SURVEYING  
www.turley-inc.com  
301 N. 3rd St. Temple, Texas 76701  
254.773.2400 fax 254.773.3998  
SURVEY FIRM NO. 10056000 • ENGINEERING FIRM NO. 1658

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AKINS PLAT  
REPLAT NO. 1  
5TH STREET  
MAXIMO MORENO SURVEY, ABSTRACT NO. 14  
CITY OF TEMPLE, BELL COUNTY, TEXAS  
PREPARED FOR:  
AMERICAN REALTY SERVICES INC.  
3603 HIGH MESA DRIVE  
DALLAS TX, 75234

REVISIONS

DATE	DESCRIPTION	DFTR

DRAFTSMAN:  
MRG  
DATE:  
10/13/2017  
COMPUTER FILE NAME:  
16-206 REPLAT  
REFERENCE DRAWING NUMBERS

JOB NUMBER:  
16-206  
DRAWING NUMBER:  
13178-D  
PAGE #  
01





**RESPONSE TO PROPOSED  
REZONING REQUEST  
CITY OF TEMPLE**

471174  
PENDLETON, VICTOR R & NARY D  
5415 SOUTHERN CROSSING DR  
TEMPLE, TX 76502

**Zoning Application Number:** FY-19-20-ZC

**Case Manager:** Jason Deckman

Location: 3508 South 5<sup>th</sup> Street

The proposed rezoning is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I ☐ agree

☒ disagree with this request

**Comments:**

I own property that borders this proposal on the south side: ID 471174. My property is used as a mental health treatment facility. Activities are often conducted outside. The proposal as stated does not contain an 8' privacy fence on the south side to provide privacy to my clients. I cannot approve of this proposal without consideration for the privacy of my patients. I want to avoid having mental health patients receiving treatment in plain view of people drinking alcohol.

Victor Pendleton  
**Signature**

Dr. Victor Pendleton, Psychologist  
**Print Name**

Feel free to contact me if needed \_\_\_\_\_ **(Optional)**

**Provide email and/or phone number if you want Staff to contact you**

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, [jdeckman@templetx.gov](mailto:jdeckman@templetx.gov) or mail or hand-deliver this comment form to the address below, no later than **August 5, 2019**.

**City of Temple  
Planning Department  
2 North Main Street, Suite 102  
Temple, Texas 76501**

Number of Notices Mailed: 14

Date Mailed: July 23, 2019

**OPTIONAL:** Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.



ORDINANCE NO. 2019-4989  
(FY-19-20-ZC)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONDITIONAL USE PERMIT WITH A SITE PLAN TO ALLOW A MICROBREWERY FOR ALCOHOL SALES, WITH A WAIVER FOR DISTANCE TO RESIDENTIAL PROPERTY, ON APPROXIMATELY 2.239 ACRES, SITUATED IN THE MAXIMO MORENO SURVEY, ABSTRACT NO. 14, BELL COUNTY, TEXAS, LOCATED AT 3508 SOUTH 5TH STREET; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

---

**Whereas**, the applicant, Jesse Stelzer, requests a Conditional Use Permit (CUP) to allow the sale of alcoholic beverages at Friars Creek Brewhouse with a waiver for distance to residential property - Mr. Stelzer proposes to brew beer for consumption in the taproom or in the outdoor seating area;

**Whereas**, the Planning and Zoning Commission of the City of Temple, Texas, after due consideration to the planned development conditions, recommends approval of the requested Conditional Use Permit, subject to the following conditions:

- Sale of all alcoholic beverages for on-premise consumption be contained within the developed site of Lot 1, Block 1, Aikins Plat Replat No. 1 subdivision, located at 3508 South 5th Street;
- Approval by City Council of a waiver from the distance requirement for alcohol sales;
- Compliance with Chapter 4 of the City Code of Ordinances related to alcoholic beverages;
- Compliance with UDC Section 5.3.15 related to all alcoholic beverage sales with on-premise consumption;
- Requiring closing time to be set not later than 11:00pm with any outside entertainment to cease by 10:00pm in order to prevent any disturbance to adjacent properties;

**Whereas**, UDC Section 5.3.15 provides for multiple performance standards related to the provision of a Conditional Use Permit for the on-premise sale of alcoholic beverages, including that the establishment must not be within 300 feet of a public park or any residentially zoned or developed lot;

**Whereas**, the property which is the subject of this Conditional Use Permit is within 300 feet of residentially zoned property, therefore the applicant is requesting a variance from the distance requirement;

**Whereas**, The Texas Alcoholic Beverage Code (TABC) establishes procedures for granting a variance to adopted distancing requirements under Section 109.33(e) which states that Council may allow a variance if the Council determines that enforcement of the distance requirement is not in the best interest of the public, constitutes waste or inefficient use of land or other resources, creates an undue hardship on an applicant for a license or permit, does not serve its intended purpose, is not effective or necessary, or for any other reason the Council, after consideration of the health, safety, and welfare of the public and the equities of the situation, determines is in the best interest of the community;

**Whereas,** the applicant has provided a letter to Staff explaining why the distance requirement should be waived – the letter can be summarized as follows:

- The establishment will be a family-friendly environment and not a bar or night-club;
- The establishment will provide fenced outdoor seating with games, food trucks, and a play area for children;
- The establishment is intended to be an attractive destination located along Friars Creek Trail; and
- The establishment will provide a community gathering place along a development corridor.

**Whereas,** Staff is supportive of the distance waiver request as long as the CUP conditions proposed above are met; 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, THAT:**

**Part 1: Findings.** All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

**Part 2:** The City Council approves a Conditional Use Permit with a Site Plan to allow a microbrewery for alcohol sales, with a waiver for distance to residential property, on approximately 2.239 acres, situated in the Maximo Moreno Survey, Abstract No. 14, Bell County, Texas, located at 3508 South 5th Street and subject to the following conditions:

- Sale of all alcoholic beverages for on-premise consumption be contained within the developed site of Lot 1, Block 1, Aikins Plat Replat No. 1 subdivision, located at 3508 South 5th Street;
- Compliance with Chapter 4 of the City Code of Ordinances related to alcoholic beverages;
- Compliance with UDC Section 5.3.15 related to all alcoholic beverage sales with on-premise consumption; and
- Requiring closing time to be set not later than 11:00pm with any outside entertainment to cease by 10:00pm in order to prevent any disturbance to adjacent properties.

**Part 3:** The City Council approves the Site Development Plan which is made a part hereof for all purposes.

**Part 4:** The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map.



**Part 5:** 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 or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such phrase, clause, sentence, paragraph or section.

**Part 6:** 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 7:** It is hereby officially found and determined that the meeting at which this Ordinance was 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 **5<sup>th</sup>** day of **September**, 2019.

PASSED AND APPROVED on Second Reading on the **19<sup>th</sup>** day of **September**, 2019.

THE CITY OF TEMPLE, TEXAS

\_\_\_\_\_  
TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Lacy Borgeson  
City Secretary

\_\_\_\_\_  
Kayla Landeros  
Interim City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

---

09/05/19  
Item #10  
Regular Agenda  
Page 1 of 3

### **DEPT. / DIVISION SUBMISSION REVIEW:**

Mark Baker, Principal Planner

**ITEM DESCRIPTION:** FIRST READING – PUBLIC HEARING – FY-19-18-ZC: Consider adopting an ordinance authorizing a rezoning from Agricultural zoning to Light Industrial zoning for 146.852 +/- acres, addressed as 5200 Old Howard Road.

**PLANNING & ZONING COMMISSION RECOMENDATION:** At its August 5, 2019 meeting, the Planning & Zoning Commission voted 6 to 0 to recommend approval of the rezoning per staff's recommendation.

**STAFF RECOMMENDATION:** Staff recommends approval for a rezoning from AG to LI district for the following reasons:

1. The proposed LI zoning is compatible with surrounding zoning, existing and anticipated uses as well as future growth trends in the area;
2. The property is bordered on the east by the Northwest Industrial Park;
3. The proposal is in compliance with the Thoroughfare Plan; and
4. Public facilities are available to serve the subject property.

**ITEM SUMMARY:** The applicant, Aldrich-Thomas Group, on behalf of the Byrne Family Trust, requests rezoning of 146.852 +/- acres from Agricultural (AG) zoning district to Light Industrial (LI) zoning district. The subject property is currently unplatted and undeveloped.

While no end-user has been formally identified, the property is proposed to be developed with industrial uses. There are a number of residential and non-residential uses that are permitted by-right or with a conditional use permit (CUP). A comparison between the existing and proposed zoning districts, is shown in the attached table.

**COMPREHENSIVE PLAN (CP) COMPLIANCE:** Compliance to goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan are summarized by the attached Comprehensive Plan Compliance table but further described below:



Future Land Use Map (CP Map 3.1)

The subject property is within both the Suburban Commercial Future Land Use Map (FLUM) designation and the Industrial FLUM designation. Although, the Suburban Commercial designation is appropriate for office and retail service zoning districts, the property is largely within the Industrial designation, which is appropriate for the community's manufacturing, warehousing/ distribution and light industrial areas. The subject property is not within the Northwest Industrial Park, as defined by UDC section 8.2.3D.2a, since the western boundary of the park ends at Wendland Road and Moores Mill Road, but it is adjacent to it. However, the area's anticipated land uses are likely to remain industrial in nature. The area should be evaluated with the new Comprehensive Plan, in the event the request is approved by City Council. Therefore, the request is in partial compliance with the FLUM.

Thoroughfare Plan (CP Map 5.2)

The subject property fronts along Moores Mill Road and follows the Old Howard Road alignment toward the south, both of which are proposed major arterials. This is the alignment for Phase 3 of the proposed Outer Loop and is scheduled for improvements under the Transportation Capital Improvement Program (TCIP) starting in 2023. Access can also be taken from Wendland Road, a proposed minor arterial on the eastern boundary of the property.

Availability of Public Facilities (CP Goal 4.1)

Waste water is available from an existing 8-inch sewer line in Wendland Road. Water is available from an existing 12-inch water line in Wendland Road.

Temple Trails Master Plan Map and Sidewalks Ordinance

A proposed City-wide spine trail is shown on the Trails Master Plan along Moores Mill Road. The proposed trail follows the Old Howard alignment toward the south. The proposed trail requires a minimum 6-foot sidewalk. Compliance with the Trails Master Plan and sidewalks will be addressed at the platting stage.

**SUBDIVISION PLAT:** A subdivision plat will be required for this property prior to development. The plat will address needed connection to public facilities, right-of-way and trail development.

**DEVELOPMENT REGULATIONS:** The attached tables compare and contrast, the current development standards for AG with the proposed LI standards as provided for in UDC Sections 4.2, 4.5 and 4.5.1

**PUBLIC NOTICE:** Sixteen notices, were sent to property owners within 200-feet of the subject property containing notice of the public hearing as required by State law and City Ordinance. As of Tuesday August 27, 2019, at 9:00 AM, two notices in agreement and one notice in disagreement have been received.

The newspaper printed notice of the public hearing on July 25, 2019, in accordance with state law and local ordinance.

**FISCAL IMPACT:** Not Applicable

**ATTACHMENTS:**

Surveyor Boundary Maps (Exhibit A)

Photos

Tables

Maps

Outer Loop Schedule

Returned Property Notices

P&Z Excepts (August 5, 2019)

Ordinance



RIGHT OF WAY PARCEL  
Byrne Family Revocable Living Trust  
John L. Byrne and Billie G. Byrne, Co-Trustees

Survey showing 15.858 ACRE, situated in the M. A. YOUNG SURVEY, ABSTRACT 937, the J. B. DANIEL SURVEY, ABSTRACT 259 and the HENRY MILLARD SURVEY, ABSTRACT 552, Bell County, Texas, being a portion of a called 164.732 acre tract conveyed to the Byrne Family Revocable Living Trust, John L. Byrne and Billie G. Byrne, Co-Trustees, in Document Number 2007-00048897, Official Public Records of Real Property, Bell County, Texas, Bell County, Texas.

This sketch to accompany a metes and bounds description of the hereon shown 15.858 Acre tract.



• Denotes 5/8" Iron Rod with "ACS" Cap Set, unless otherwise noted.

OLD HOWARD ROAD  
(Rec. N 55°50'34" E 141.45')  
S 51°59'11" W 154.75'

17.5' Temporary Easement

JOHN L. BYRNE and BILLIE G. BYRNE  
CO-TRUSTEES OF THE BYRNE FAMILY REVOCABLE LIVING TRUST  
CALLED 164.732 ACRES  
(DOC # 2007-00048897)

JOHN L. BYRNE and BILLIE G. BYRNE  
CO-TRUSTEES OF THE BYRNE FAMILY REVOCABLE LIVING TRUST  
CALLED 164.732 ACRES  
(DOC # 2007-00048897)

MOORES MILL ROAD  
(Rec. S 73°05'15" E 1658.93')  
S 73°05'15" E 1658.93'

17.5' Temporary Construction Easement

WENDLAND ROAD  
N 31°21'06" W 101.44'

POINT OF BEGINNING  
5/8" Iron Rod w/ "ACS" Cap Set

(Rec. S 16°56'01" N 215.50')  
S 14°43'06" N 215.50'

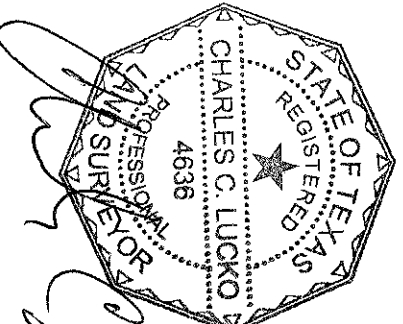
1 1/4" Metal Pipe Found  
(Rec. N 73°12'56" W 145.28')  
(Rec. N 70°52'19" N)

CITY OF TEMPLE  
CALLED 344.34 ACRES  
(DOC # 2008-00025128)

LINE	BEARING	DISTANCE	RECORD CALL
L1	N 34°17'44" E	70.64'	
L2	N 05°42'11" N	44.92'	
L3	S 73°05'15" E	66.13'	S 70°52'19" E
L4	S 05°42'11" E	44.92'	
L5	S 30°42'11" E	70.64'	

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	2425.00'	630.88'	624.10'	N 74°53'41" E	145°54'21"
C2	382.50'	76.11'	75.45'	N 00°51'17" E	13°08'57"
C3	267.50'	50.32'	50.24'	S 00°18'52" E	10°46'34"
C4	2425.00'	461.85'	461.15'	S 28°17'52" E	10°54'44"

This project is referenced to the City of Temple Coordinate System, an extension of the Texas Coordinate System of 1983, Central Zone. All distances are horizontal surface distances unless noted and all bearings are grid bearings. All coordinates are referenced to City Monument No. III. The theta angle at City Monument No. III is 01° 32' 04". The combined correction factor (CCF) is 0.949844. Grid distance = Surface distance X CCF. Geodetic north = Grid north + theta angle. Reference line from City monument No. III to the northeast corner of this 15.858 acre tract is N 64°43'32" W 40.24 feet. Published City coordinates for project reference point III are N 103°47'46.252" E = 3228.216.66.



1303 South 21st Street  
Temple, Texas 76504  
254-718-2212 Killen 254-634-4636  
Fax 254-714-7608  
Tx. Firm Lic. No. 10023600

Survey showing 15.858 ACRE, situated in the M. A. YOUNG SURVEY, ABSTRACT 937, the J. B. DANIEL SURVEY, ABSTRACT 259 and the HENRY MILLARD SURVEY, ABSTRACT 552, Bell County, Texas, being a portion of a called 164.732 acre tract conveyed to the Byrne Family Revocable Living Trust, John L. Byrne and Billie G. Byrne, Co-Trustees, in Document Number 2007-00048897, Official Public Records of Real Property, Bell County, Texas, Bell County, Texas.

Copyright 2015 All County Surveying, Inc.  
Plot Date: 11-14-2015  
Survey completed: 04-22-2014  
Scale: 1" = 500'  
Job No.: B071412  
Drawn by: MDH  
Surveyor: CCL #4636

www.allcountysurveying.com

CELEBRATING

A C S

1988 2018

30 YEARS

Tx. Firm No. 10023600

4330 South 5th Street  
Temple, Texas 76502  
254-718-2272 Killeen 254-634-4636  
Fax 254-714-7608



Survey showing 0.742 ACRES, situated in the  
M. A. YOUNG SURVEY, ABSTRACT No. 937,  
Bell County, Texas

This sketch to accompany a metes and bounds  
description of the hereon shown 0.742 Acre tract.

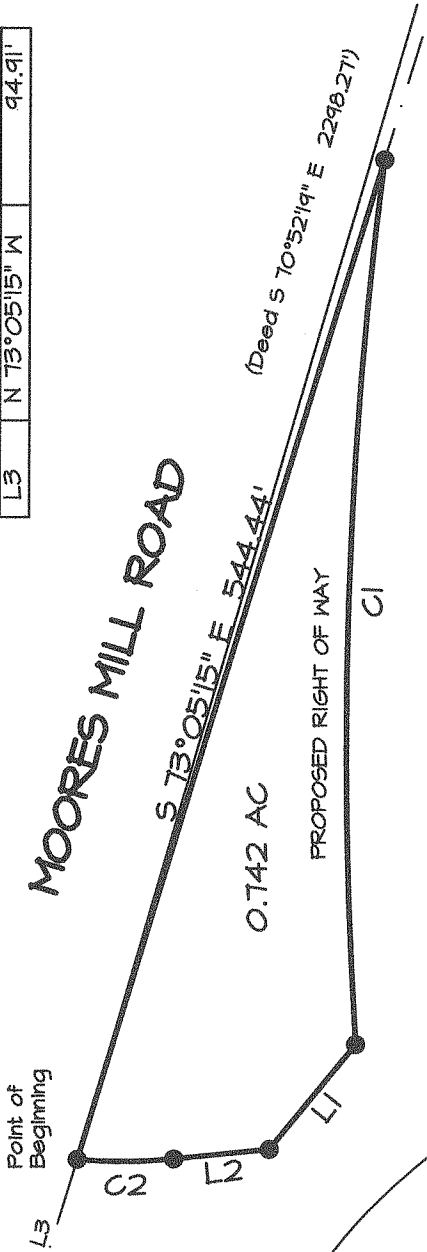


- Denotes 3/8" Iron Rod with "ACS" Cap  
Found, unless otherwise noted.
- Denotes 3/8" Iron Rod with "ACS" Cap  
Set.

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	2425.00'	461.85'	461.15'	N 88°17'52" W	10°54'44"
C2	261.50'	50.32'	50.24'	N 00°18'52" W	10°46'39"

LINE	BEARING	DISTANCE
L1	N 50°42'11" W	70.69'
L2	N 05°42'11" W	49.92'
L3	N 73°05'15" W	94.91'

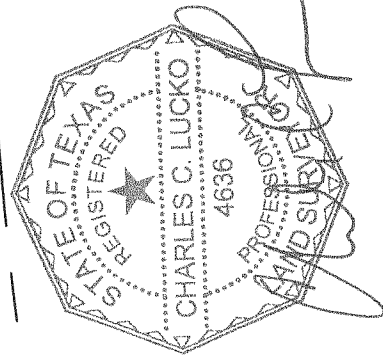
OLD ROAD  
NW Corner  
164.732  
Acres



THE BILLIE G. BYRNE TRUST  
DATED DECEMBER 12, 2017  
CALLED 164.732 ACRES  
(DOC.# 2018-00001797)

PROPOSED RIGHT OF WAY

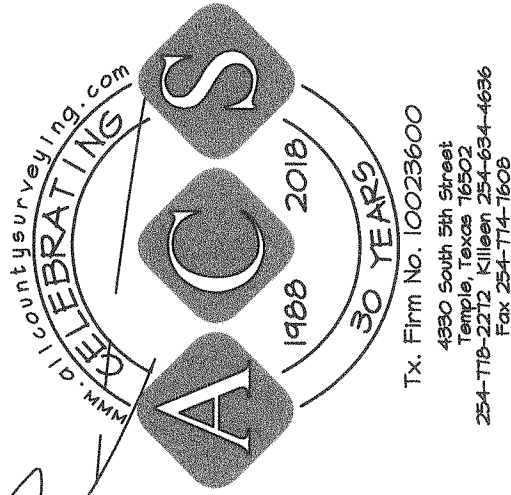
PROPOSED RIGHT OF WAY



This project is referenced to the City of Temple Coordinate System, an extension of the Texas Coordinate System of 1983, Central Zone. All distances are horizontal surface distances unless noted and all bearings are grid bearings. All coordinates are referenced to City Monument No. III. The theta angle at City Monument No. III is 01° 32' 04". The combined correction factor (CCF) is 0.999849. Grid distance = Surface distance x CCF. Geodetic north = Grid north + theta angle. Reference tie from City monument No. III to the northwest corner of this 0.742 acre tract is N 73°46'51" W 2233.34 feet. Published City coordinates for project reference point III are N= 10,397,962.52 E= 3,228,216.66.

Survey completed: 09-23-2015  
Scale: 1" = 100'  
Job No.: 182006  
Dwg No.: 182006 Parcel 1  
Drawn by: MDH  
Surveyor: CCL # 4636  
Copyright 2018 All County Surveying, Inc.

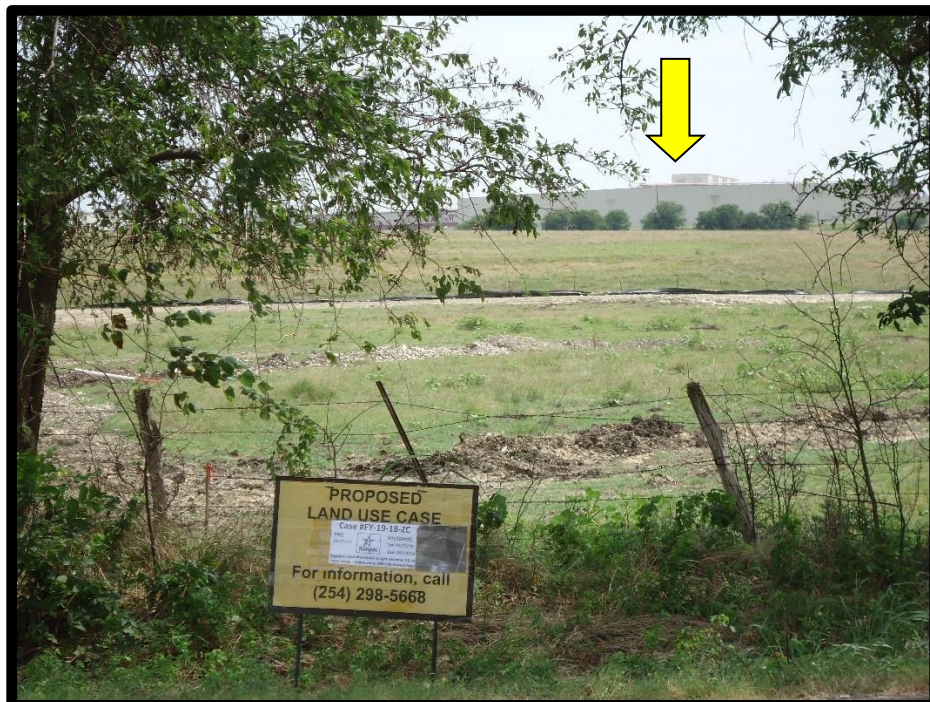
Plot Date: 08-22-2018



# Site & Surrounding Property Photos



**Site: Undeveloped (AG)**



**South – Looking Across Site toward HEB Distribution Center (Arrow) (LI)**





**East – Undeveloped & Scattered Single Family Residences on Acreage (AG)**



**North – Undeveloped (Intersection of Old Howard Rd & Moores Mill) (AG)**



**West – Undeveloped (Along Old Howard Rd) (AG)**



# Tables

Permitted & Conditional Uses Table  
Comparison between AG & LI

Use Type	Agricultural (AG)	Light Industrial (LI)
Agricultural Uses	Farm, Ranch or Orchard	Farm, Ranch or Orchard
Residential Uses	Single Family Residence (Detached & Attached) Industrialized Housing Family or Group Home Home for the Aged (CUP)	Family or Group Home Home for the Aged Recreational Vehicle Park (CUP)
Retail & Service Uses	None	Most Retail & Service Uses Alcoholic Beverage Sales, Off-premise Consumption, Package Store (CUP)
Office Uses	None	Offices
Commercial Uses	None	Most Commercial Uses Mini Storage Warehouse
Industrial Uses	Temporary Asphalt & Concrete Batching Plat (CUP)	Temporary Asphalt & Concrete Batching Plat (CUP) Light Manufacturing Distribution Center Slaughterhouse or Meat Packing Plant Wholesale Storage and Sales Recycling Collection Location
Recreational Uses	None	Park or Playground Beer & Wine - On Premise Consumption < 75% from revenue All Alcohol - On Premise Consumption >75% from Revenue (CUP)
Vehicle Service Uses	None	Auto Leasing, Rental Auto Sales - New & Used (Outside Lot) Car Wash Vehicle Servicing (Minor & Major)
Restaurant Uses	None	With & Without Drive-In
Overnight Accommodations	RV Park (CUP)	Hotel or Motel

### Surrounding Property Uses

	<u>Surrounding Property &amp; Uses</u>		
<u>Direction</u>	<u>FLUP</u>	<u>Zoning</u>	<u>Current Land Use</u>
Site	Suburban Commercial & Industrial	AG	Undeveloped
North	Industrial	AG & ETJ	Scattered SF Residential Uses
South	Industrial	LI	H*E*B Distribution & Retail Support Center
East	Industrial	LI	Northwest Industrial Park
West	Suburban Commercial	AG & ETJ	Scattered SF Residential Uses

### Comprehensive Plan Compliance

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use Map	PARTIAL
CP	Map 5.2 - Thoroughfare Plan	YES
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	YES
STP	Temple Trails Master Plan Map and Sidewalks Ordinance	YES
CP = Comprehensive Plan    STP = Sidewalk and Trails Plan		

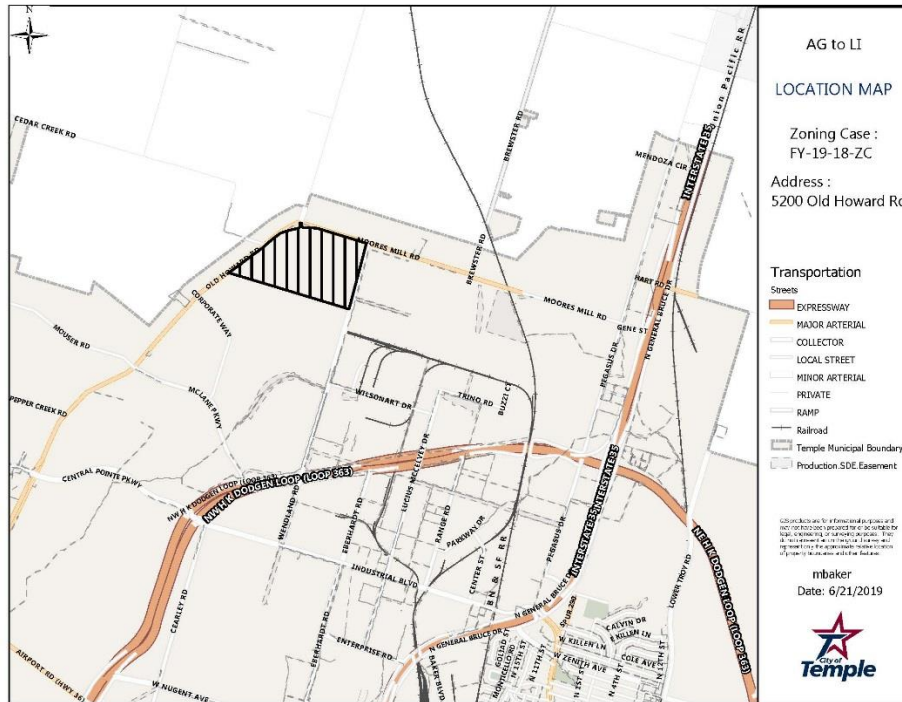
### Dimensional Standards

	<u>Current</u> <u>(AG)</u> <u>Non-Residential</u>	<u>Proposed</u> <u>(LI)</u> <u>Non-Residential</u>
Minimum Lot Size	N/A	N/A
Minimum Lot Width	N/A	N/A
Minimum Lot Depth	N/A	N/A
Front Setback	50 Feet	30 Feet from Centerline
Side Setback	20 Feet	0 Feet
Side Setback (corner)	15 Feet	10 Feet
Rear Setback	10 Feet	0 Feet
Max Building Height	3 Stories	ALH

ALH – Any Legal Height not prohibited by other laws



# Maps



Location Map



Aerial Map



Zoning Map

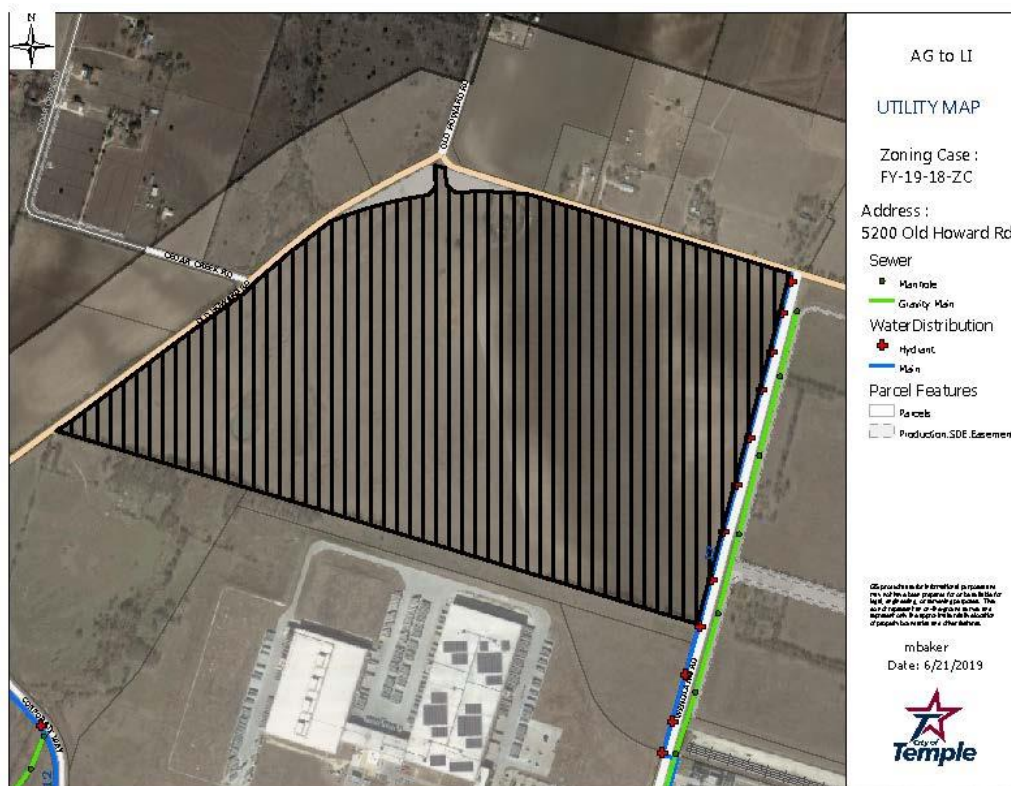


Future Land Use Map





Thoroughfare & Trails Map



Utility Map

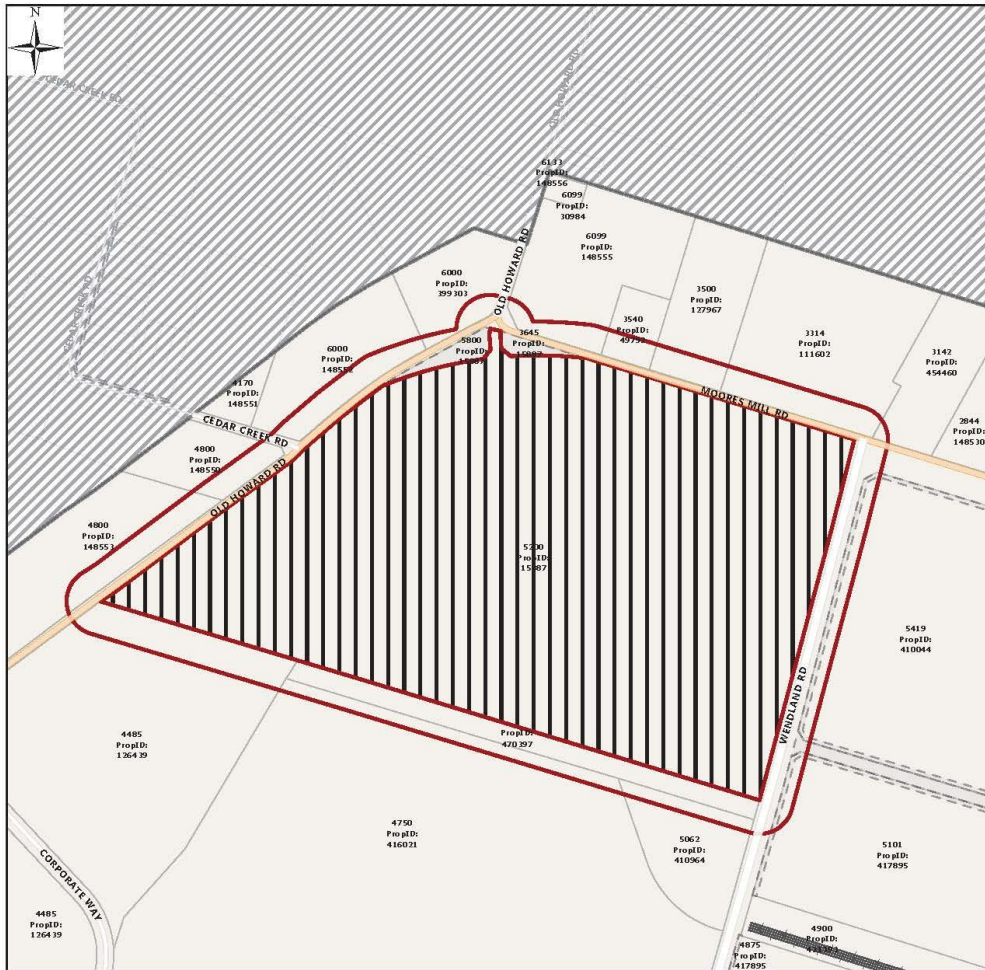
The map illustrates the Outer Loop project area, highlighting several key segments and their associated planning documents:

- OL-S 3b** (Blue arrow pointing right): CIP 2018, CIP C, CIP C.
- OL-S 4** (Orange arrow pointing right): CIP 2018, CIP 2018, MPO 2021.
- OL-S 5** (Green arrow pointing right): RZ 2018, RZ 2018, MPO 2022.
- OL-N 1** (Green arrow pointing up): RZ C, RZ 2018, RZ.
- OL-N 3** (Yellow arrow pointing up): RZ C, RZ 2018, RZ.
- OL-N 2** (Blue arrow pointing up): RZ C, RZ C, RZ C, RZ.
- OL-S 6** (Blue arrow pointing down): RZ 2018, RZ 2018, MPO 2025.

**OUTER LOOP 2025**

### Outer Loop (TCIP) Schedule





AG to LI  
200'  
NOTIFICATION MAP

Zoning Case :  
FY-19-18-ZC  
Address :  
5200 Old Howard Rd

GIS products are for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. They do not represent an on-the-ground survey and represent only the approximate relative location of property boundaries and other features.

mbaker  
Date: 6/21/2019



Notification Map





RESPONSE TO PROPOSED  
REZONING REQUEST  
CITY OF TEMPLE

399303  
NOWAK, DONNA MARIE  
1103 WHITEWATER DR  
BERTRAM, TX 78605-4182

Zoning Application Number: FY-19-18-ZC

Case Manager: Mark Baker

Location: 5200 Old Howard Road

The proposed rezoning is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I ( ) agree

☒ disagree with this request

Comments: After much consideration, I disagree for the following reasons.

- 1) Unknown type of industrial businesses that might purchase the property having a direct impact on my property value. 2) No weight limitation on structures. 3) Heavy traffic that would restrict access to my property. (Prop ID 399303) Would a traffic light be installed at Old Howard and Moores Mill Rd?

Donna Nowak  
Signature

Donna Nowak  
Print Name

lady.dnowak@gmail.com

(Optional)

Provide email and/or phone number if you want Staff to contact you

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, [mbaker@templetx.gov](mailto:mbaker@templetx.gov), or mail or hand-deliver this comment form to the address below, no later than **August 5, 2019**.

City of Temple  
Planning Department  
2 North Main Street, Suite 102  
Temple, Texas 76501

RECEIVED

AUG 5 2019

CITY OF TEMPLE  
PLANNING & DEVELOPMENT

Number of Notices Mailed: 16

Date Mailed: July 23, 2019

**OPTIONAL:** Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.





**RESPONSE TO PROPOSED  
REZONING REQUEST  
CITY OF TEMPLE**

148552  
JUDD, MARCIA ANN  
102 KINGSBURY WAY  
HEWITT, TX 76643-4215

**Zoning Application Number:** FY-19-18-ZC

**Case Manager:** Mark Baker

**Location:** 5200 Old Howard Road

The proposed rezoning is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I ☒ agree

( ) disagree with this request

**Comments:**

---

---

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*Marcia Judd*  
Signature

Marcia Judd  
Print Name

(Optional)

**Provide email and/or phone number if you want Staff to contact you**

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, [mbaker@templetx.gov](mailto:mbaker@templetx.gov), or mail or hand-deliver this comment form to the address below, no later than **August 5, 2019**.

City of Temple  
Planning Department  
2 North Main Street, Suite 102  
Temple, Texas 76501

RECEIVED  
AUG 05 2019  
CITY OF TEMPLE  
PLANNING & DEVELOPMENT

Number of Notices Mailed: 16

Date Mailed: July 23, 2019

**OPTIONAL:** Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.



**RESPONSE TO PROPOSED  
REZONING REQUEST  
CITY OF TEMPLE**

**RECEIVED**  
AUG 05 2019  
CITY OF TEMPLE  
PLANNING & DEVELOPMENT

15887  
BYRNE, BILLIE G TRUST  
3510 E 32ND ST APT 4  
TULSA, OK 74135-4422

**Zoning Application Number:** FY-19-18-ZC

**Case Manager:** Mark Baker

Location: 5200 Old Howard Road

The proposed rezoning is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I ☒ agree

( ) disagree with this request

**Comments:**

---

---

---

John K. Byrne - Trustee  
Signature

JOHN K. BYRNE -  
Print Name TRUSTEE

(Optional)

**Provide email and/or phone number if you want Staff to contact you**

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, [mbaker@templetx.gov](mailto:mbaker@templetx.gov), or mail or hand-deliver this comment form to the address below, no later than **August 5, 2019**.

City of Temple  
Planning Department  
2 North Main Street, Suite 102  
Temple, Texas 76501

Number of Notices Mailed: 16

Date Mailed: July 23, 2019

**OPTIONAL:** Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.



**EXCERPTS FROM THE  
PLANNING & ZONING COMMISSION MEETING  
MONDAY, AUGUST 5, 2019**

**ACTION ITEMS**

**Item 6: FY-19-18-ZC** – Hold a public hearing to discuss and recommend action on a rezoning request from Agricultural (AG) zoning to Light Industrial (LI) zoning for 146.852 +/- acres, addressed as 5200 Old Howard Road.

Mr. Baker stated this item is scheduled to go forward to City Council for first reading on September 5, 2019 and second reading on September 19, 2019.

Aerial and Vicinity Map shown.

Mr. Baker stated that a subdivision plat is required prior to construction.

Zoning Map shown and found to be in compliance.

Future Land Use Map is shown and found to be in partial compliance.

Existing Water and Sewer map shown and found to be in compliance.

Water is supplied through 12-inch lines within Wendland Road, and sewer is supplied with eight-inch lines within Wendland Road.

Thoroughfare Plan and Trails Map are shown and found to be in compliance.

Site Photos shown.

Agricultural (AG) and Light Industrial (LI) Developmental standards comparison table shown.

Comparison table between AG and LI uses shown.

Sixteen notices were mailed in accordance with all state and local regulations with one response returned in agreement and one notice returned in disagreement.

Compliance Summary table shown.

Staff recommends approval of the request for a rezoning from AG to LI District.

Chair Langley opened the public hearing.

Mr. Matt Stephens, 5200 Old Howard Road, Temple, Texas, stated he is concerned over future projects coming to his area and his lack of understanding concerning these. Mr. Stephens brought his response forms to the meeting tonight and denies the applicant's his approval for this rezoning.

Mr. Jeffer Ware, 2600 Moore's Mill Road, Temple, Texas, discussed his concerns regarding destroying our neighborhoods, public communication, and his desire not to see Temple turn into Austin.

There being no further speakers, the public hearing was closed.

Vice Chair Ward made a motion to approve Item 6, **FY-19-18-ZC**, per Staff recommendation and Commissioner Castillo made a second.

*Motion passed: (6:0)*

Commissioners Armstrong, Jeanes, and Marshall absent.

DRAFT



ORDINANCE NO. 2019-4990  
(FY-19-18-ZC)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE,  
TEXAS, AUTHORIZING A REZONING FROM AGRICULTURAL ZONING  
DISTRICT TO LIGHT INDUSTRIAL ZONING DISTRICT ON  
APPROXIMATELY 146.852 ACRES, ADDRESSED AS 5200 OLD HOWARD  
ROAD; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN  
EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

---

**Whereas**, the applicant, Aldrich-Thomas Group, on behalf of the Byrne Family Trust, requests rezoning of approximately 146.852 acres from Agricultural zoning district to Light Industrial zoning district, addressed as 5200 Old Howard Road - the subject property is currently unplatted and undeveloped;

**Whereas**, while no end-user has been formally identified, the property is proposed to be developed with industrial uses - there are a number of residential and non-residential uses that are permitted by-right or with a Conditional Use Permit (CUP);

**Whereas**, at its August 5, 2019 meeting, the Planning and Zoning Commission recommended approval of the rezoning from Agricultural zoning district to Light Industrial zoning district on approximately 146.852 acres, addressed as 5200 Old Howard Road, as outlined in the map attached hereto as Exhibit 'A,' and made a part hereof for all purposes; 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, THAT:**

**Part 1: Findings.** All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

**Part 2:** The City Council approves of the rezoning from Agricultural zoning to Light Industrial zoning for approximately 146.852 acres, addressed as 5200 Old Howard Road, as outlined in the map attached hereto as Exhibit 'A,' and made a part hereof for all purposes.

**Part 3:** The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map.

**Part 4:** 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 or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such phrase, clause, sentence, paragraph or section.

**Part 5:** 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:** It is hereby officially found and determined that the meeting at which this Ordinance was 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 **5<sup>th</sup>** day of **September**, 2019.

PASSED AND APPROVED on Second Reading on the **19<sup>th</sup>** day of **September**, 2019.

THE CITY OF TEMPLE, TEXAS

\_\_\_\_\_  
TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Lacy Borgeson  
City Secretary

\_\_\_\_\_  
Kayla Landeros  
Interim City Attorney





## COUNCIL AGENDA ITEM MEMORANDUM

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09/05/19  
Item #11  
Regular Agenda  
Page 1 of 3

### **DEPT. / DIVISION SUBMISSION REVIEW:**

Jason Deckman, Planner

**ITEM DESCRIPTION:** FIRST READING – PUBLIC HEARING – FY-19-19-ZC: Consider adopting an ordinance authorizing a rezoning from Single Family One zoning district to Commercial zoning district on 5.92 +/- acres, addressed as 3308 and 3310 South 5th Street, Temple, Texas.

**PLANNING & ZONING COMMISSION RECOMMENDATION:** During their August 5, 2019 Planning & Zoning Commission meeting, impacts of the more intense uses allowed in Commercial zoning were discussed. The applicant concurred with staff's recommendation and agreed to modify his request. The Planning & Zoning Commission voted 6 to 0 to recommend rezoning to General Retail (GR).

**STAFF RECOMMENDATION:** Staff recommends approval for a rezoning from SF-1 to General Retail (GR) district for the following reasons:

1. The applicant has agreed to modify the request from C to GR, based on discussion with staff.
2. The proposed GR zoning is compatible with surrounding zoning, existing and anticipated uses as well as future growth trends in the area;
3. The proposal is in compliance with the Thoroughfare Plan; and
4. Public facilities are available to serve the subject property.

**ITEM SUMMARY:** The applicant, Jeremy Jirasek, requested rezoning of 5.92 +/- acres from Single Family One (SF-1) zoning district to Commercial (C) zoning district. A single unoccupied outbuilding is the only existing structure. Staff has identified that GR zoning will support less intense uses than the C zoning would allow. The types of uses allowed in GR will be more compatible with existing and anticipated development on the surrounding properties.

The subject property was previously developed for residential and has not been platted. While no end-user has been formally identified, the property is proposed to be developed for retail uses. There are various residential and non-residential uses that may be permitted in GR zoning. A comparison between the existing and proposed zoning districts is shown in the attached table.

**COMPREHENSIVE PLAN (CP) COMPLIANCE:** Compliance to goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan are summarized by the attached Comprehensive Plan Compliance table but further described below:

Future Land Use Map (CP Map 3.1)

The subject property is within both the Suburban Commercial Future Land Use Map (FLUM) designation with a strip of Parks and Open Space designation where Friars Creek crosses the property. The Suburban Commercial district is intended to promote greater aesthetic value along gateways, emphasizes landscaping, and building designs that are residential in appearance. This designation is appropriate for office and retail service zoning districts, and supports future development being discussed for both sides of South 5<sup>th</sup> Street. Therefore, this request is in compliance with the FLUM.

Thoroughfare Plan (CP Map 5.2)

The subject property fronts along South 5<sup>th</sup> Street which is shown as a minor arterial. Future access may come when Azalea Drive is extended to South 5<sup>th</sup> Street. The new road segment is under consideration for addition to the Thoroughfare Plan as a collector and is listed on the KTMPO Metropolitan Transportation Plan. The GR zoning supports the type of retail uses that would be appropriate on a corner lot located at the junction of two primary roads. This request is in compliance with the Thoroughfare Plan.

Availability of Public Facilities (CP Goal 4.1)

Waste water is available from an existing 10-inch sewer line on the property. Water is available from an existing 3-inch water line running along the west side of South 5<sup>th</sup> Street.

Temple Trails Master Plan Map and Sidewalks Ordinance

A proposed City-wide spine trail is shown on the Trails Master Plan along Friars Creek. The proposed extension of Azalea Drive may reflect the completed section to include bike lanes and meandering sidewalks to encourage residents to make shorter trips on foot or by bicycle. Compliance with the Trails Master Plan and sidewalks will be addressed at the platting stage.

**SUBDIVISION PLAT:** A subdivision plat will be required for this property prior to development. The plat will address needed connection to public facilities, right-of-way and trail development.

**DEVELOPMENT REGULATIONS:** The attached tables compare and contrast, the current development standards for SF-1 with the proposed GR standards as provided for in UDC Sections 4.2, 4.5 and 4.5.1

**PUBLIC NOTICE:** Eleven notices, were sent to property owners within 200-feet of the subject property containing notice of the public hearing as required by State law and City Ordinance. As of Thursday August 1, 2019, at 12:00 PM, one notice in agreement has been received. An update regarding late notices, will be provided at the Planning & Zoning Commission meeting, if necessary.

The newspaper printed notice of the public hearing on July 25, 2019, in accordance with state law and local ordinance.



**FISCAL IMPACT:** Not Applicable

**ATTACHMENTS:**

[Survey \(Exhibit A\)](#)

[Use Tables](#)

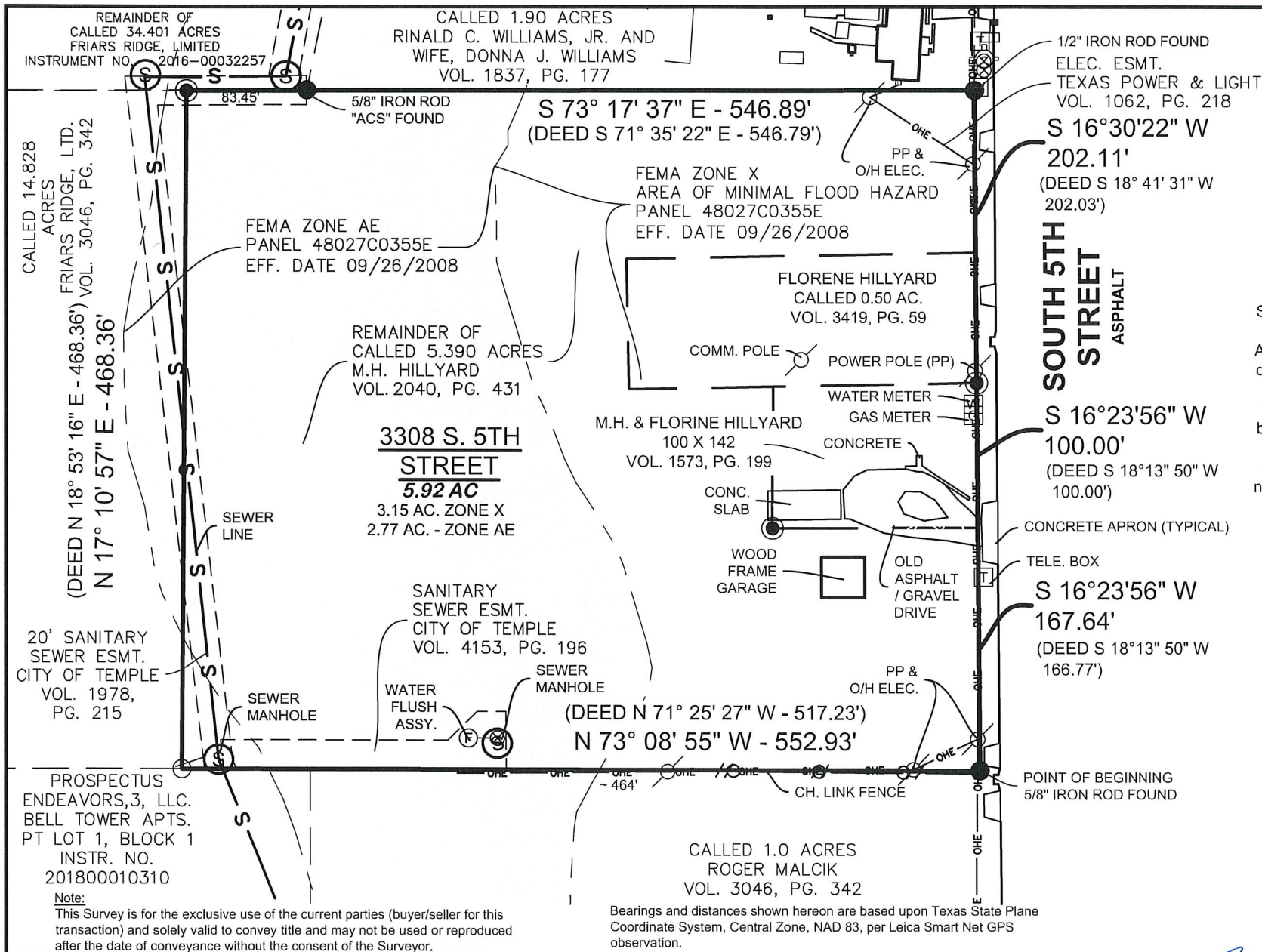
[Maps](#)

[Site Photos](#)

[KTMPO Azalea Drive Summary Sheet](#)

[Returned Property Notice](#)

[Ordinance](#)



## LEGEND

- 1-1/2" IRON PIPE FOUND
- 5/8" IRON ROD FOUND
- 1/2" IRON ROD SET W/ CAP STAMPED "QUINTERO 10194110"

SCALE: 1" = 100'

\*\*UNLESS OTHERWISE NOTED\*\*

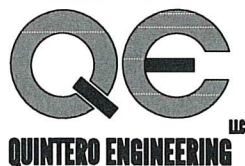
Note:  
FEMA Floodplain data is shown per FEMA Map Panel 48027C0355E, effective date 09/26/2008, a publicly available map on the FEMA website. No certification is made by this firm as to the accuracy of the location of the Floodplain delineation shown hereon or that updated information has not been published by FEMA.

\*\* SEE METES AND BOUNDS ATTACHED "EXHIBIT A" \*\*

SURVEYOR'S SKETCH of a survey made on the ground on May 23, 2019, of that certain 5.92 acre tract of land situated in the Maximo Moreno Survey, Bell County, Texas, Abstract No. 14, and being all that remainder of a called 5.390 acre TRACT described in a deed to M.H. Hillyard, recorded in Volume 2040, Page 431, Deed Records of Bell County, Texas, all that called 0.50 acre tract described in a deed to Florene Hillyard recorded in Volume 3419, Page 59, Deed Records of Bell County, Texas and all that called 100 foot by 142 foot tract described in a deed to M.H. & Florine Hillyard, recorded in Volume 1573, Page 199, Deed Records of Coryell County, Texas. There are no shortages of areas, visible encroachments, protrusion, or overlapping of improvements, except as shown or noted hereon. Only the information shown on the recorded deed and title commitment was considered for this survey. **THIS SURVEY DOES NOT IMPLY ALL EASEMENTS AND SETBACK LINES HAVE BEEN RESEARCHED.** A review of all title records may find additional information.

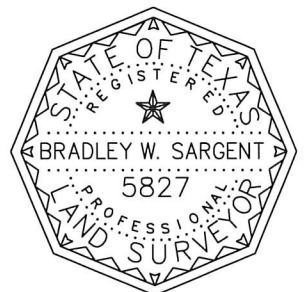
## SURVEYOR'S NOTES & CERTIFICATION:

- To: Todd W. Kurio, Centraland Title Co.: This is to certify that this map or plat and the survey on which it is based substantially complies with the current Texas Society of Professional Surveyors Standards and Specifications for a Category 1A, Urban Condition II Land Survey.
- This survey was performed with the benefit of Title Commitment GF No. C1983293, with an issue date of May 28, 2019, provided by Centraland Title Company, Temple, Texas and based on the review of the Schedule B of the same, it is the Surveyor's limited opinion:  
Item 10  
a. Easement granted to Texas Power & Light Company by instrument recorded in Volume 1062, Page 218, Deed Records of Bell County, Texas. **AFFECTS SHOWN**  
b. Easements to City of Temple, as recorded in Volume 1978, Page 215, Deed Records of Bell County, Texas and Volume 4153, Page 196, Official Public Records of Real Property of Bell County, Texas Records of Bell County, Texas. **AFFECTS - SHOWN**
- All buildings setback lines, easements, etc. established by the City of Temple codes or ordinances, or restrictive covenants, may not be shown hereon.



**QUINTERO ENGINEERING, LLC**  
CIVIL ENGINEERING • LAND SURVEYING • PLANNING • CONSTRUCTION MANAGEMENT  
415 E. AVENUE D, KILLEEN, TEXAS (254) 493-9962  
T.B.P.E. FIRM REGISTRATION NO. 14709  
T.B.P.L.S. REGISTRATION NO. 10194110

*Bradley W. Sargent* 06/03/2019  
Bradley W. Sargent, R.P.L.S.  
Registered Professional Land Surveyor  
R.P.L.S. No. 5827, Texas





# Tables

**Permitted & Conditional Uses Table  
Comparison between SF-1 & GR**

<b>Use Type</b>	<b>Single-Family 1 (SF-1)</b>	<b>General Retail (GR)</b>
<b>Residential Uses</b>	<ul style="list-style-type: none"> <li>• Single Family Residence (Detached) Family or Group Home</li> <li>• Industrialized Housing</li> </ul>	<ul style="list-style-type: none"> <li>• Single Family Residence (Detached or Attached)</li> <li>• Family or Group Home Home for the Aged</li> <li>• Recreational Vehicle Park (CUP)</li> <li>• Two-Family Dwelling</li> </ul>
<b>Retail &amp; Service Uses</b>	<ul style="list-style-type: none"> <li>• None</li> </ul>	<ul style="list-style-type: none"> <li>• Most Retail &amp; Service Uses</li> <li>• Alcoholic Beverage Sales, Off-premise Consumption, Package Store (CUP)</li> </ul>
<b>Office Uses</b>	<ul style="list-style-type: none"> <li>• None</li> </ul>	<ul style="list-style-type: none"> <li>• Offices</li> </ul>
<b>Commercial Uses</b>	<ul style="list-style-type: none"> <li>• None</li> </ul>	<ul style="list-style-type: none"> <li>• Print shop</li> <li>• Plumbing shop</li> <li>• Upholstery shop</li> </ul>
<b>Industrial Uses</b>	<ul style="list-style-type: none"> <li>• None</li> </ul>	<ul style="list-style-type: none"> <li>• Laboratory (Manufacturing, Medical, Dental, Scientific, or Research)</li> <li>• Recycling Collection (with Limitations)</li> </ul>
<b>Recreational Uses</b>	<ul style="list-style-type: none"> <li>• Park or Playground</li> <li>• Playfield or Stadium (CUP)</li> </ul>	<ul style="list-style-type: none"> <li>• Park or Playground</li> <li>• Beer &amp; Wine, On-Premise Consumption &lt; 75% from revenue</li> <li>• All Alcohol, On-Premise Consumption &gt;75% from Revenue (CUP)</li> </ul>
<b>Vehicle Service Uses</b>	<ul style="list-style-type: none"> <li>• None</li> </ul>	<ul style="list-style-type: none"> <li>• Auto Leasing, Rental</li> <li>• Car Wash</li> <li>• Minor Vehicle Servicing, with Limitations)</li> </ul>
<b>Restaurant Uses</b>	<ul style="list-style-type: none"> <li>• None</li> </ul>	<ul style="list-style-type: none"> <li>• With &amp; Without Drive-In</li> </ul>
<b>Overnight Accommodations</b>	<ul style="list-style-type: none"> <li>• None</li> </ul>	<ul style="list-style-type: none"> <li>• Hotel or Motel</li> <li>• RV Park (CUP)</li> </ul>



SF-1 to C

## VICINITY MAP

Zoning Case :  
FY-19-19-ZC

Address:  
3308 S. 5th St

### Transportation

- Streets
- EXPRESSWAY
  - MAJOR ARTERIAL
  - COLLECTOR
  - LOCAL STREET
  - MINOR ARTERIAL
  - PRIVATE
  - RAMP
  - Railroad
- Temple Municipal Boundary

### Parcel Features

- Parcels
- Production.SDE.Easement

GIS products are for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. They do not represent an on-the-ground survey and represent only the approximate relative location of property boundaries and other features.

jdeckman  
Date: 7/16/2019







SF-1 to C

## AERIAL MAP

Zoning Case :  
FY-19-19-ZC

Address:  
3308 S. 5th ST

## Transportation

Streets

MINOR ARTERIAL

Temple Municipal Boundary

## Parcel Features

Parcels

Production.SDE.Easement

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jdeckman

Date: 7/16/2019







# SF-1 to C FUTURE LAND USE MAP

Zoning Case :  
FY-19-19-ZC

Address:  
3308 S. 5th ST

## Transportation

- EXPRESSWAY
- MAJOR ARTERIAL
- COLLECTOR
- LOCAL STREET
- MINOR ARTERIAL
- PRIVATE
- RAMP

## Parcel Features

- Parcels
- Future LUP
  - Agricultural/Rural
  - Auto-Urban Commercial
  - Auto-Urban Mixed Use
  - Auto-Urban Multi-Family
  - Auto-Urban Residential
  - Business Park
  - Estate Residential
  - Industrial
  - Neighborhood Conservation
  - Parks & Open Space
  - Public Institutional
  - Suburban Commercial
  - Suburban Residential
  - Temple Medical Education District
  - Urban Center
- Easement

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jdeckman  
Date: 7/16/2019







# SF-1 to C THOROUGHFARE AND TRAILS MAP

Zoning Case :  
FY-19-19-ZC

Address:  
3308 S. 5th ST

## Parcel Features

Parcels

Thoroughfare Plan

Expressway

Major Arterial

Proposed Major  
Arterial

Minor Arterial

Proposed Minor  
Arterial

Collector

Proposed  
Collector

Trails Master Plan

EXISTING, CITY  
WIDE SPINE

EXISTING,  
COMMUNITY  
WIDE  
CONNECTOR

EXISTING,  
LOCAL  
CONNECTOR

PROPOSED,  
CITY WIDE  
SPINE

PROPOSED,  
COMMUNITY  
WIDE  
CONNECTOR

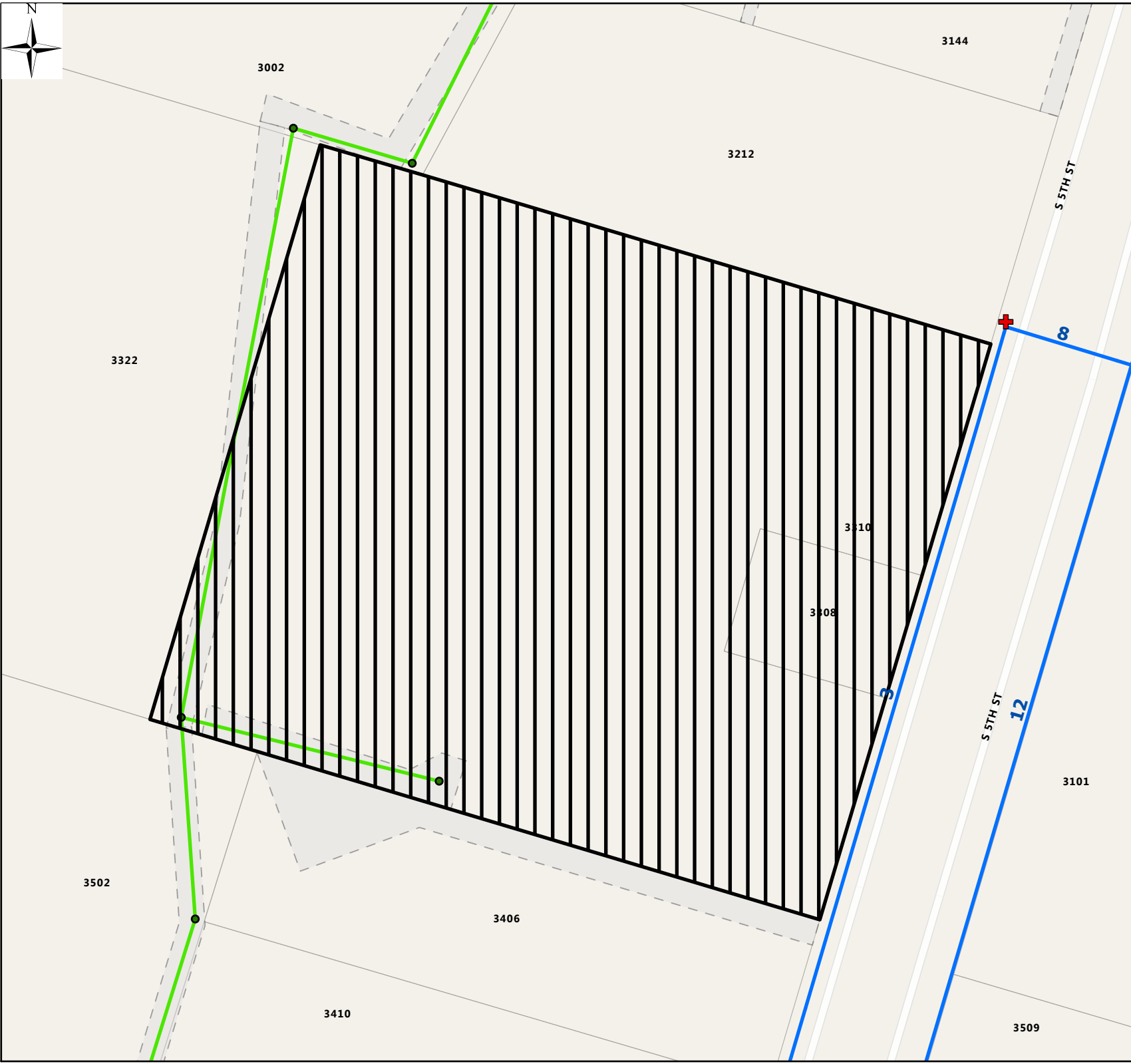
PROPOSED,  
LOCAL  
CONNECTOR

Easement

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do not represent an on-the-ground survey and  
represent only the approximate relative location  
of property boundaries and other features.

jdeckman  
Date: 7/16/2019





SF-1 to C

## UTILITY MAP

Zoning Case :  
FY-19-19-ZC

Address:  
3308 S. 5th ST

### Sewer

- Manhole
- Gravity Main

### Water Distribution

- ✚ Hydrant
- Main

### Parcel Features

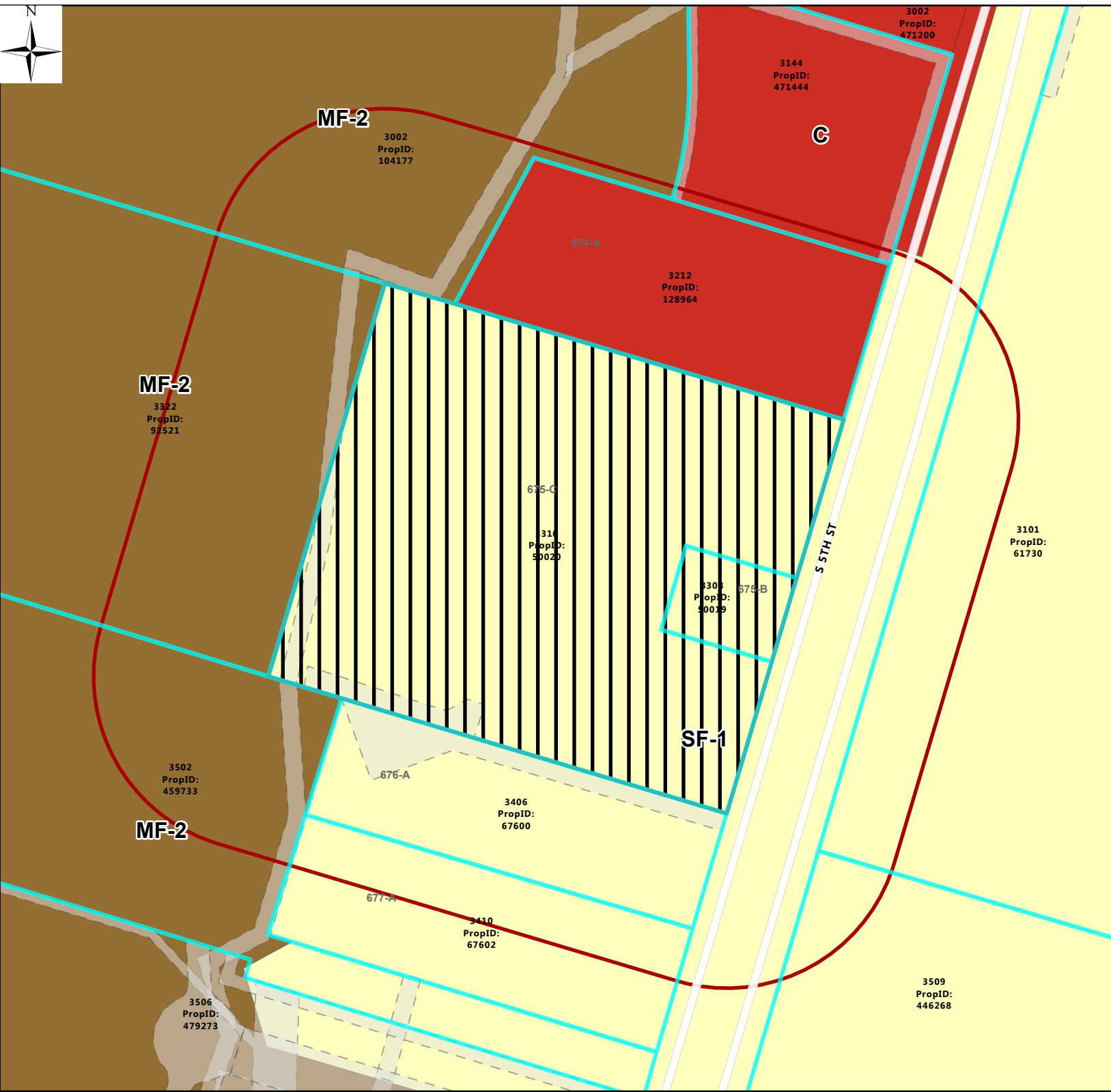
- Parcels
- Easement

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jdeckman  
Date: 7/16/2019







Address:  
3308 S. 5th ST

CurrentZoning			
HI - CUP		O-1	
UE		O-1 - CUP	
UE - PD		O-1 - PD	
SF-1		O-2	
SF-1 - CUP		O-2 - CUP	
SF-1 - PD		O-2 - PD	
SF-2		NS	
SF-2 - PD		NS - CUP	
SF-3		NS - PD	
SF-3 - PD		GR	
SF-3 - CUP, PD		GR - CUP	
SFA		GR - PD	
SFA-2		GR - CUP, PD	
SFA-2 - PD		CA	
SFA-3		CA - CUP	
SFA-3 - PD		CA - PD	
2F		C	
2F - CUP		C - CUP	
2F - PD		C - PD	
MF-1		C - CUP, PD	
MF-1 - CUP		LI	
MF-1 - PD		LI - CUP	
MF-2		LI - PD	
MF-2 - CUP		LI - CUP, PD	
MF-2 - PD		HI	
MF-3 - PD		HI - PD	
		AG	
		AG - CUP	
		MH	
		MH - CUP	
		MH - PD	
		MU	
		MU - CUP	
		SD-C	
		SD-C - CUP	
		SD-H	
		SD-H - CUP	
		SD-T	
		SD-V	
		T4	
		T4 - PD	
		T4 - CUP	
		T5-C	
		T5-C - CUP	
		T5-C - PD	
		T5-E	
		T5-E - CUP	
		T5-E - PD	
		NO BASE	
		CUP	
		PD	
		Easement	

GIS products are for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. They do not represent an on-the-ground survey and represent only the approximate relative location of property boundaries and other features.

jdeckman  
Date: 7/16/2019





Facing west from S. 5<sup>th</sup> Street



Facing west along southern property line





Facing west along northern property line



Facing east across S. 5<sup>th</sup> Street





Facing north on frontage along S. 5<sup>th</sup> Street



Facing south on frontage along S. 5<sup>th</sup> Street



# Azalea Drive

Lowes Dr to S 1st St

## Project Highlights

**Description** Construct new two-lane major collector with continuous center-turn lane, 5' bike lanes and 6' sidewalks.

**Scope** Provide a convenient east-west connection near dense retail, planned residential growth and future mixed-use development in TMED-South.

<b>Traffic Volume</b>	Marlandwood	5,847
	Canyon Creek:	5,013
	S. 5th Street:	11,954
	Azalea Estimated:	<b>8,522</b>



## Purpose and Needs

This road will support provide an east-west connection in a rapidly developing area of the city that includes four special generators: Temple Mall, Baylor-Scott & White, Temple College, and the VA. New high-rise apartments and subdivisions adjacent to dense retail area will add to existing congestion. Azalea Drive will allow local traffic to disperse across the road network, while restricting the design to two lanes is expected to create a traffic-calming effect. Including meandering sidewalks will provide multi-modal capability to and from the mixed-use development proposed in the new TMED-South District. A Developer Cost-share agreement will construct the first 0.25 miles.



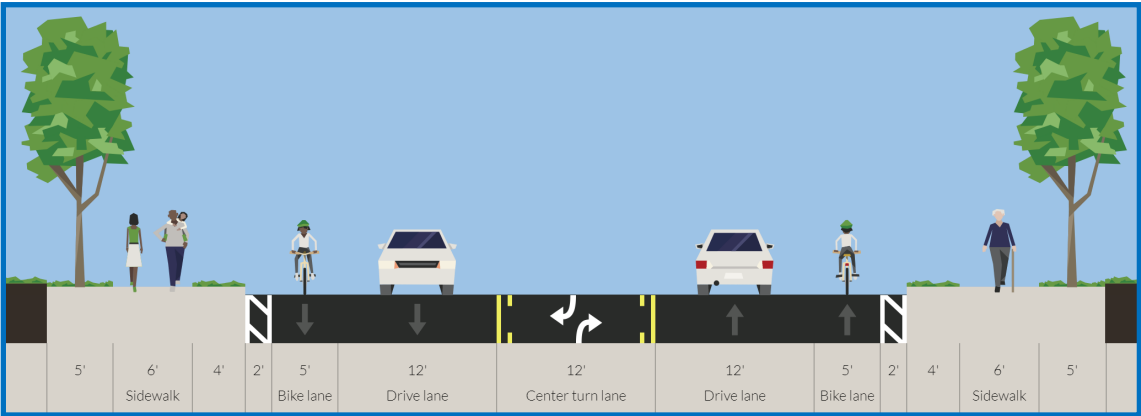
## Project Cost

\$4,975,000

## Local Priority

## Project Readiness

Engineering	25%
Right of Way	25%
Environmental	0%
Utilities	0%



## KTMPO Goals and Planning Factors

<b>Mobility</b>	Provide multiple options to access education and medical facilities	Provides additional connection between retail zones, residential areas and north-south arterials
<b>Livability</b>	Including bike lanes and sidewalks encourages alternate modes of transport	Connection to city trail along Friars Creek lets residents exercise in a natural environment
<b>Safety</b>	Continuous center-turn lane allows safe travel to and from the adjacent neighborhoods Limiting driveway access reduces points of conflict where vehicles enter and exit the roadway	Striped, dedicated bike lanes encourage motorists to share the road with bicycles Meandering sidewalks designed to be used by pedestrians of all ages and abilities
<b>Economic Vitality</b>	Facilitates development of previously land-locked properties, stimulating growth	Creates a key entrance from 31st Street retail corridor into the innovative TMED-South development
<b>Regional Coordination</b>	The city has leveraged a developer participation agreement to share the costs of designing and constructing the new roadway concurrent with development of a neighboring residential subdivision.	



**RESPONSE TO PROPOSED  
REZONING REQUEST  
CITY OF TEMPLE**

67600  
MALCIK, ROGER  
3406 S 5TH ST  
TEMPLE, TX 76502-1910

**Zoning Application Number:** FY-19-19-ZC

**Case Manager:** Jason Deckman

**Location:** 3308 and 3310 South 5th Street, Temple, Texas

The proposed rezoning is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I ☒ agree

( ) disagree with this request

**Comments:**

I agree with the possible rezoning from SF-1  
to Commercial C as long as no Trump Branded  
Tower is planned

Roger Malcik  
Signature

Roger Malcik  
Print Name

(Optional)

**Provide email and/or phone number if you want Staff to contact you**

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, [jdeckman@templetx.gov](mailto:jdeckman@templetx.gov) or mail or hand-deliver this comment form to the address below, no later than **August 5, 2019**.

City of Temple  
Planning Department  
2 North Main Street, Suite 102  
Temple, Texas 76501

Number of Notices Mailed: 11

Date Mailed: July 23, 2019

**OPTIONAL:** Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.





**RESPONSE TO PROPOSED  
REZONING REQUEST  
CITY OF TEMPLE**

128964  
WILLIAMS, RINALDA C  
2002 N HIGHWAY 95  
LITTLE RIVER ACADEMY, TX 76554-2726

**Zoning Application Number:** FY-19-19-ZC

**Case Manager:** Jason Deckman

**Location:** 3308 and 3310 South 5th Street, Temple, Texas

The proposed rezoning is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I ☒ agree

( ) disagree with this request

**Comments:**

---

---

---

Rinalda C. Williams  
Signature

Rinalda C. Williams  
Print Name

254-913-9589

(Optional)

**Provide email and/or phone number if you want Staff to contact you**

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, [jdeckman@templetx.gov](mailto:jdeckman@templetx.gov) or mail or hand-deliver this comment form to the address below, no later than **August 5, 2019**.

City of Temple  
Planning Department  
2 North Main Street, Suite 102  
Temple, Texas 76501



Number of Notices Mailed: 11

Date Mailed: July 23, 2019

**OPTIONAL:** Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.

ORDINANCE NO. 2019-4991  
(FY-19-19-ZC)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A REZONING FROM SINGLE FAMILY ONE ZONING DISTRICT TO COMMERCIAL ZONING DISTRICT ON APPROXIMATELY 5.92 ACRES, ADDRESSED AS 3308 AND 3310 SOUTH 5TH STREET, TEMPLE, TEXAS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

---

**Whereas**, the applicant, Jeremy Jirasek, has requested rezoning of approximately 5.92 acres from Single Family One zoning district to Commercial zoning district - a single unoccupied outbuilding is the only existing structure;

**Whereas**, Staff has identified that General Retail zoning will support less intense uses than the Commercial zoning would allow - the types of uses allowed in General Retail will be more compatible with existing and anticipated development on the surrounding properties;

**Whereas**, the subject property was previously developed for residential and has not been platted - no end-user has been formally identified, however, the property is proposed to be developed for retail uses;

**Whereas**, the Planning and Zoning Commission recommends approval of the rezoning from Single Family One zoning district to General Retail zoning district on approximately 5.92 acres, addressed as 3308 and 3310 South 5<sup>th</sup> Street, Temple, Texas, as outlined in the map attached hereto as Exhibit 'A,' and made a part hereof for all purposes; 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, THAT:**

**Part 1: Findings.** All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

**Part 2:** The City Council approves the rezoning from Single Family One zoning district to Commercial zoning district on approximately 5.92 acres, addressed as 3308 and 3310 South 5th Street, Temple, Texas, as outlined in the map attached hereto as Exhibit 'A,' and made a part hereof for all purposes.

**Part 3:** The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map.



**Part 4:** 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 or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such phrase, clause, sentence, paragraph or section.

**Part 5:** 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:** It is hereby officially found and determined that the meeting at which this Ordinance was 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 **5<sup>th</sup>** day of **September**, 2019.

PASSED AND APPROVED on Second Reading on the **19<sup>th</sup>** day of **September**, 2019.

THE CITY OF TEMPLE, TEXAS

\_\_\_\_\_  
TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Lacy Borgeson  
City Secretary

\_\_\_\_\_  
Kayla Landeros  
Interim City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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09/05/19  
Item #12  
Regular Agenda  
Page 1 of 4

### **DEPT. / DIVISION SUBMISSION REVIEW:**

Mark Baker, Principal Planner

**ITEM DESCRIPTION:** FIRST READING – PUBLIC HEARING – FY-19-22-ZC: Consider adopting an ordinance amending Ordinance 2016-4810 to add 35 +/- acres to the existing 42.066 +/- acres and rezoning all 77.066 acres, located at 8015 West Adams Avenue, to Planned Development General Retail, Multi-Family Two, and Single Family Two districts.

**PLANNING & ZONING COMMISSION RECOMENDATION:** At its August 5, 2019 Planning & Zoning Commission meeting, the Planning & Zoning Commission voted 6 to 0 to recommend approval of the Planned Development, per staff's recommendation.

Public comments were made related to increased traffic on Tanglehead Drive, increased construction activity in the area and suggested uses of the property for recreation or preservation of open space.

**STAFF RECOMMENDATION:** Based on the following, staff recommends approval to rezone approximately 35 +/- acres from Agricultural (AG) and to amend Ordinance 2016-4810 for the following reasons:

1. Through agreed upon conditions between the applicant and staff for the three base-zoning districts, proposed land use will have reduced impacts upon the existing Hills of Westwood and Meadows neighborhoods;
2. The proposed zoning designations provide for a better compatibility and the MF-2 portion will be buffered from the existing single family uses by the proposed SF-2 portion;
3. The request complies with the Thoroughfare Plan upon future extensions of Westfield Boulevard and Tanglehead Drive; and
4. Public facilities are available to serve the subject property.



Staff recommends approval of the proposed rezoning and amendment to Ordinance 2016-4810, subject to the following conditions:

1. Substantial compliance with Site Development Plan attached as Exhibit A;
2. Substantial compliance to the proposed Westfield Boulevard extension and Tanglehead Drive alignment and descriptive cross-sections attached as Exhibit B;
3. Compliance with the Planned Development Standards and specific General Retail (GR), Multi-Family (MF-2) and Single-Family (SF-2) standards as described by Exhibit C
4. Site / Development Plan review by the Planning & Zoning Commission and approval by City Council for the MF-2 portion will be required prior to the issuance of a building permit
5. A 25-foot wide landscape buffer is required along the common boundary of the Planned Development and the MF-2 zoned portion, where adjacent to existing single-family residential uses; and
6. Preservation of existing trees with a minimum 8-inch diameter at breast height (dbh) or greater in coordination with the City of Temple for determination of which trees to preserve (including removal of invasive species) and whether additional landscaping is needed in conjunction with other buffering and screening requirements.

**ITEM SUMMARY:** The applicant, Turley Associates, on behalf of the First Baptist Church – Temple, requests rezoning approximately 35 +/- acres, of land from Agricultural (AG) and amending Ordinance 2016-4810 consisting of approximately 42 +/- acres for a new Planned Development, consisting collectively of 77.450 +/- acres within the First Baptist Church West

If approved by City Council, the Planned Development ordinance will contain the Site Development Plan (Exhibit A), the roadway alignment plan (Exhibit B) and mutually-agreed upon Planned Development conditions (Exhibit C). While Exhibit A shows the proposed district locations, the exhibit also contains a maximum percentage of its related land use. A summary breakdown is as follows:

1. **General Retail GR** (10.556 +/- Ac)
  - a. As allowed per UDC Section 5.1
  - b. Maximum-16% of total 77 Ac.
2. **Multi-Family MF-2** (9.309 +/- Ac.)
  - a. Age restricted (55 and Older),
  - b. Various single family residential and assisted living uses, (two stories Maximum)
  - c. Single story Maximum within 50-feet of existing residential use
  - d. Maximum 14% of total 77 Ac.
3. **Single Family Residential SF-2** (57.585 +/- Ac.)
  - a. Proposed for approximately 270 single family homes
  - b. 70% or more of total 77 Ac.

A table showing the proposed Planned Development land uses for the two zoning districts as well as a range of permitted uses in the GR district has been attached.

**COMPREHENSIVE PLAN (CP) COMPLIANCE:** The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan. A table summarizing the following discussion is attached.

Future Land Use Map (CP Map 3.1)

The subject property is entirely within the Suburban Residential land use district. The Suburban Residential district is intended for mid-sized single family lots with an emphasis on green spaces and a separation between dwelling units. While General Retail and Multi-Family zoning is supported by other Future Land Use Map designations, it can be interpreted that collectively the three districts provide support to each other and therefore, the request is in partial compliance with the Future Land Use Map.

Thoroughfare Plan (CP Map 5.2)

The subject property takes access from West Adams Avenue (FM2305), an arterial which will only provide immediate access to the GR-zoned portion. Access to the multi-family and single-family portions would be from the proposed extension of Westfield Boulevard, which will ultimately connect to Iron Gate Drive. While this section of Westfield Boulevard is a proposed minor arterial, according to the Thoroughfare Plan, it is anticipated to be renamed and will be addressed with the forthcoming subdivision plat. Additionally, access will be provided by the extension of Tanglehead Drive and terminating with the Westfield Boulevard.

Circulation from the extension of Westfield Boulevard into the Hills of Westwood, subdivision to the south of the subject property, is proposed to connect through an undeveloped lot at Iron Gate Drive and ultimately connect to Tarver Road. Exhibit B reflects design for Westfield Boulevard to be extended south of West Adams Avenue as a minor arterial (92-foot ROW) reducing down to 60-foot ROW as an oversized collector at its connection with Iron Gate Drive on the southern boundary of the development.

Westfield Boulevard Extension:

- 92-foot ROW – 71-feet (back of curb to back of curb), then reduces down
- 60-foot ROW – 36-feet (back of curb to back of curb)
- Extension of 2,750 Lineal Feet of roadway length

The proposed extension of Tanglehead Drive, a local street, is the proposed boundary between the multi-family and single-family segments of the planned development. Increased circulation will be provided by the extension of Tanglehead Drive with the through access to Old Waco Road. The extension of Tanglehead is required due to connectivity and projection of street requirements (UDC Section 8.2.1D.4). Reclassification to a collector requires a Thoroughfare Plan amendment and may be consideration with the current Comprehensive Plan update. In the cases of both Westfield Boulevard and Tanglehead Drive, the timing of improvements will be tied to Certificate of Occupancy for each segment of the Planned Development in order to ensure timely construction.

As a result of the applicant's commitment to extensions of Westfield Boulevard and Tanglehead Drive, which are required by both the Thoroughfare Plan and the subdivision plat process related to connectivity, the proposed Planned Development is in compliance with the Thoroughfare Plan.

Availability of Public Facilities (CP Goal 4.1)

Water is available through an existing 3-inch water line along West Adams Avenue and an 8-inch water line along Tanglehead Drive. Sewer is available through the extension of a 12-inch sewer line along West Adams Avenue and an 8-inch sewer line that would need to be extended from Tanglehead Drive.



**Temple Trails Master Plan Map and Sidewalks Ordinance**

Trails Master Plan depicts an existing City-Wide Spine Trail on the north side of West Adams Avenue. However, arterial streets require a 6-foot sidewalk on both sides. Similar to the timing of the extension of Westfield Boulevard and Tanglehead Drive, timing of improvements is tied to the issuance of Certificate of Occupancy to ensure construction, see Exhibit C.

**SUBDIVISION PLAT:** A master preliminary subdivision plat was reviewed by the Development Review Committee on August 19, 2019. The plat proposes the following:

- 270 Single Family (SF-2) lots (Approximately 70% of the 77.45 +/- Acres)
- Five General Retail (GR) lots (10.556 +/- Acres)
- One Multi-Family (MF-2) lot – Variety of age-restricted senior housing styles and related assisted senior living facilities, (9.309 +/- Acres)

**DEVELOPMENT STANDARDS:** While both residential and non-residential setbacks are provided for in UDC Section 4.5, the attached table compares the Planned Development residential setbacks in the SF-2 and MF-2 districts. GR standards are base standards provided for in UDC Section 4.6. Additional Development standards are provided in Exhibit C.

**PUBLIC NOTICE:** One-Hundred and One (101) notices, were sent to property owners within 200-feet of the subject property containing notice of the public hearing as required by State law and City Ordinance. As of Tuesday August 27, 2019, at 9:00 AM, four notices in disagreement and 12 notices in agreement, multiple properties include the same property owner, have been received.

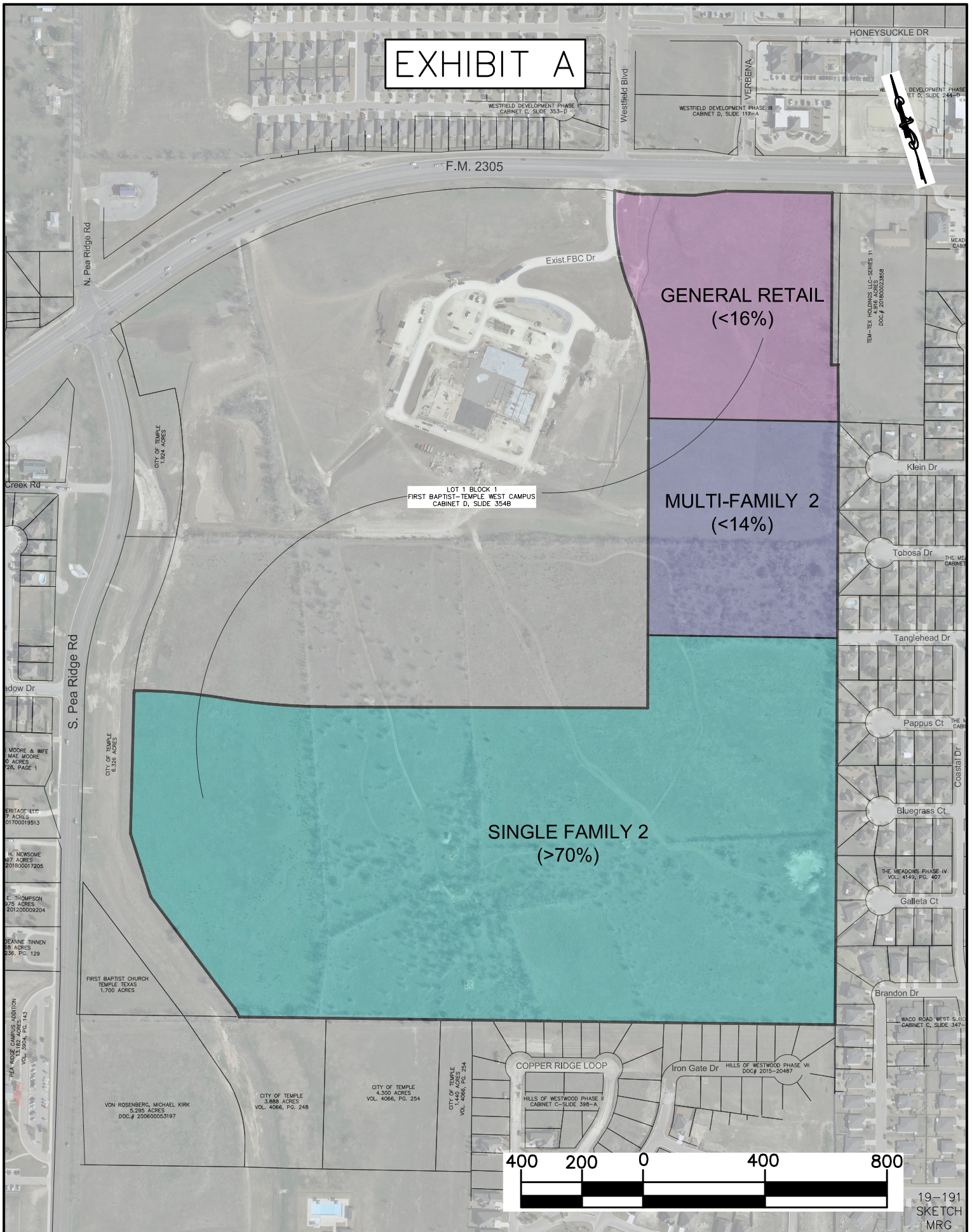
The newspaper printed notice of the public hearing on July 25, 2019, in accordance with state law and local ordinance.

**FISCAL IMPACT:** Not Applicable

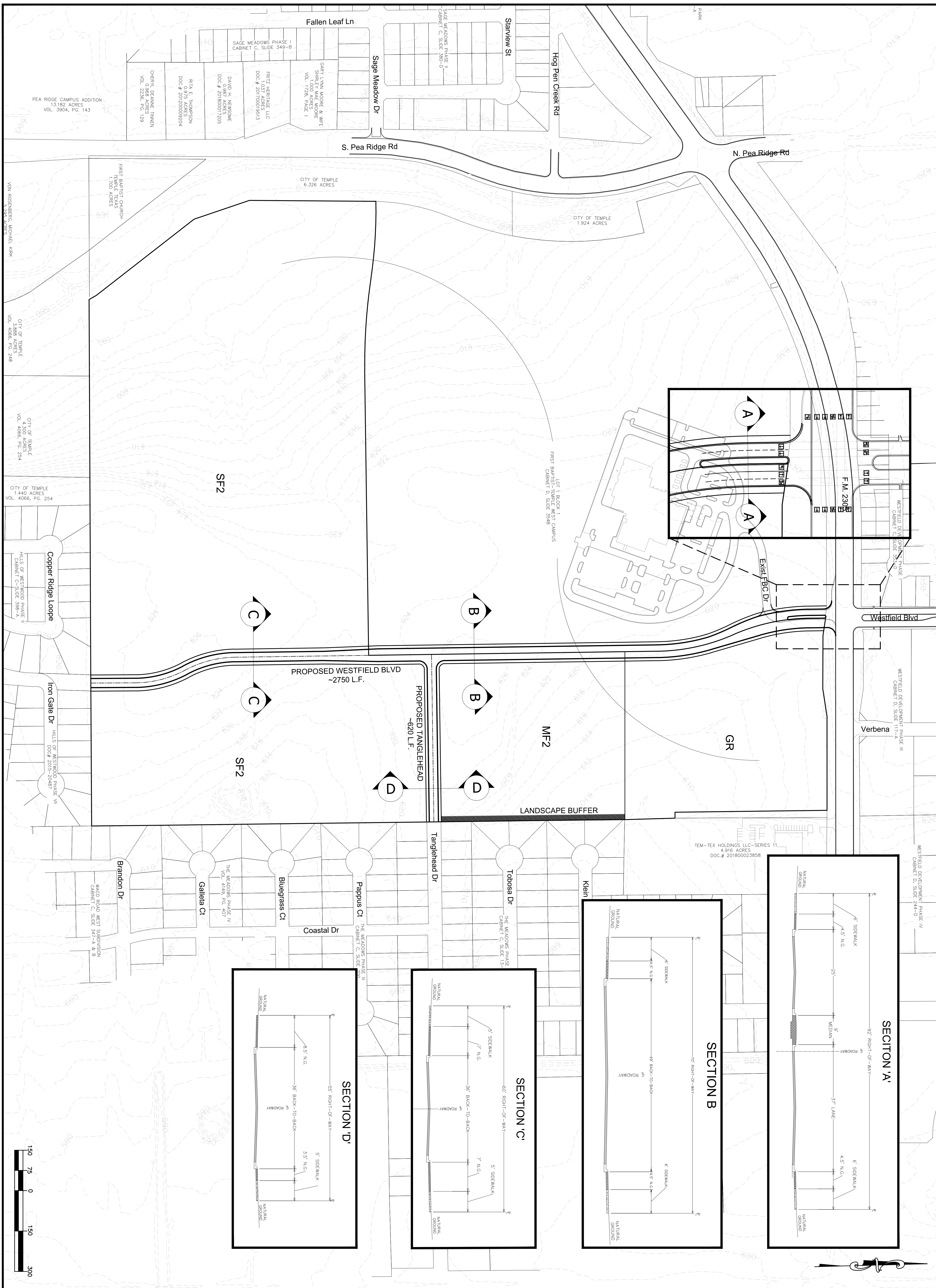
**ATTACHMENTS:**

[Planned Development/ Site Development Plan \(Exhibit A\)](#)  
[Alignment Cross Sections for Westfield Blvd extension & Tanglehead Dr \(Exhibit B\)](#)  
[Planned Development and Zoning District Conditions of Approval \(Exhibit C\)](#)  
[Photos](#)  
[Tables](#)  
[Maps](#)  
[Ordinance 2016-4810](#)  
[Returned Property Notices](#)  
[P&Z Excerpts \(August 5, 2019\)](#)  
[Ordinance](#)









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ENGINEERING • PLANNING • SURVEYING

301 N. 3rd St.  
TEMPLE, TEXAS 76501

254.773.2400  
[www.turley-inc.com](http://www.turley-inc.com)

TBPE No. F-1658 • TBPLS No. 10056000

EXHIBIT B:  
WESTFIELD BLVD. &  
TANGLEHEAD DRIVE  
CITY OF TEMPLE, BELL COUNTY, TEXAS

# Exhibit B

<p><i>7-3-19</i></p> <p><i>G.H. J. K.</i></p>		
<b>REVISIONS</b>		
DATE	DESCRIPTION	DFT#
DRAFTSMAN:		
MISC:		
DATE: 7-3-2019		
COMPUTER FILE NAME: 19-191_Zoning Exhibit 1.dwg		
REFERENCE DRAWING NUMBERS:		
REF DWGS NO.s		
19-191 DRAWING NUMBER: 19191-D		<b>PAGE #</b>  <b>B</b>



# EXHIBIT C

## Planned Development – General Retail

- Single Family Dwelling 2 – at least 70% of 77.45 acres
- Multiple-Family Dwelling 2 (Age Restricted) – no more than 14% of 77.45 acres
- General Retail – no more than 16% of 77.45 acres

## PD Conditions:

1. See Exhibit A for approximate site distributions.
2. See Exhibit B for approximate Westfield Boulevard and Tanglehead Drive alignment and cross sections.
3. Base zoning on at least 70% of area to be SF 2.
4. Base zoning on no more than 14% of area to be MF 2 with an age restriction to 55 years with additional site plan approval required prior to development.
5. Base zoning on no more than 16% of area to be GR
6. PD must comply with all other UDC code requirements unless exceptions are requested at platting.
7. Westfield Boulevard shall be substantially complete from West Adams to the southern edge of each phase of development prior to issuance of Certificate of Occupancy for corresponding phase.
8. Westfield Boulevard shall be constructed to the design standards as follows:
  - a. Between West Adams and Tanglehead – Arterial Street with 6-foot sidewalks on both sides
  - b. Between Tanglehead and South Property Line – Transition from Arterial to Collector Street with 5-foot sidewalks on both sides
  - c. No single-family driveways shall directly access Westfield Boulevard
9. Tanglehead Drive shall be constructed to the design standards as follows:
  - a. Between Westfield Boulevard and East Property Line – Collector street with a 5-foot sidewalk on one side
  - b. No single-family driveways shall directly access Tanglehead Boulevard

## SF-2 Conditions:

1. Streets (other than Westfield Boulevard and Tanglehead Drive) to be 55-feet right of way with 31-feet back of curb to back of curb, and with a 5-foot sidewalk on one side of non-cul-de-sac streets and a 7-foot landscaped strip between the curb and sidewalk.
2. Trees (2-inch diameter at breast height) planted, two per lot, one located in the public frontage on the front and one located in the rear between the building lines.
3. Each front yard shall be sodded to include public frontage adjacent to each lot. The homeowner shall maintain the landscape including in the adjacent right of way up to the curb line. The HOA shall have general oversight and enforcement ability regarding said maintenance.
4. Sidewalks and landscaping shall be installed when homes are constructed and prior to issuance of Certificate of Occupancy.



5. A landscape subdivision entryway with monument sign will be provided at the intersection of Westfield Boulevard and Tanglehead Drive. The HOA shall maintain the entryway and monument sign.
6. Privacy or decorative fences on all boundary perimeters except Westfield Boulevard and Tanglehead Drive (see note 7) to be installed no later than at the time of home construction.
7. Fencing along Tanglehead Drive and Westfield Boulevard shall consist of decorative fencing to complement the aesthetics of the landscaped entryway to be built by the developer with development of each adjacent phase of the subdivision. Examples of perimeter fencing include wrought iron style fencing, wood privacy fence with masonry columns at lot corners, etc. Decorative fencing must be constructed prior to first issuance of Certificate of Occupancy in each phase. The HOA shall maintain perimeter fencing along Tanglehead and Westfield Boulevard.
8. Where space allows along Tanglehead Drive and Westfield Boulevard, trees (2-inch diameter at breast height) shall be planted between the property line and the curb on 50-foot spacing. The HOA shall maintain trees and landscaping along Tanglehead Drive and Westfield Boulevard between the property line and the back of curb.
9. Minimum setbacks shall be as follows:
  - a. 20-foot front setbacks
  - b. 5-foot standard side setbacks
  - c. 10-foot side setbacks adjacent to streets

MF-2 Conditions:

1. MF-2 zoning is restricted to uses intended for occupants 55-year and older uses. Proposed uses include, but are not limited to, assisted living, independent living, home for the aged, attached and detached living units, multiple unit townhomes/garden homes/etc., dining, health, recreation and shared community center type facilities.
2. Total unit count is limited to 20 units per acres (according to MF-2 guidelines).
3. Building height is limited to 2 stories with an additional limitation of 1-story within 50 feet of an existing single family residential primary structure.
4. Any fencing along Tanglehead and Westfield Boulevard to consist of decorative fencing to complement the aesthetics of the site development plan and the adjacent single-family fence and landscaping aesthetics. The perimeter fence must be constructed prior to issuance of Certificate of Occupancy. The owner shall maintain perimeter fencing along Tanglehead and Westfield Boulevard.
5. Where space allows along Tanglehead Drive and Westfield Boulevard, trees (2-inch diameter at breast height) shall be planted between the property line and the curb on 50-foot spacing. The adjacent owner shall maintain trees and landscaping along Tanglehead Drive and Westfield Boulevard between the property line and the back of curb.

6. An enhanced landscape buffer is required along common boundaries with single family as described below (excludes proposed single family south of Tanglehead Drive and west of Westfield Boulevard):
  - a. 15-foot minimum width
  - b. Required planting per 250 square feet
    - i. 1 canopy tree
    - ii. 2 small trees (50% evergreen)
    - iii. 5 supplemental shrubs (50% evergreen)
  - c. Plantings shall be selected from the approved planting list per the UDC
  - d. The required landscaping may be reduced by 30% when used in combination with a masonry wall or fence that is a minimum 6 feet in height, constructed of wood, wrought iron or galvanized ornamental steel and located behind the landscape area.
  - e. Existing trees located within the enhanced landscape buffer shall be protected and incorporated into the buffer if they are a Large Canopy or Median Canopy Tree species as identified in the UDC and are at least 8" diameter at breast height. Protected existing trees shall reduce the required planting trees one for one.
7. Site landscape design and layout shall incorporate existing trees, to the extent possible, if they are a Large Canopy or Medium Canopy Tree species as identified in the UDC and are at least 8" diameter at breast height. For this purpose, "to the extent possible" generally means trees that fall within proposed landscape areas that can be protected and incorporated into the landscape design without unreasonable efforts by the site developer. It does not intend to mean that existing trees shall dictate the location of structures, drives, etc.

GR Conditions:

1. Unless otherwise indicated in the UDC, fencing is not required along Westfield Boulevard; however, any fencing that is provided along Westfield Boulevard shall consist of decorative fencing (as described above). Said fencing must be constructed prior to issuance of Certificate of Occupancy for adjacent uses. The adjacent owner shall maintain fencing along Westfield Boulevard.
2. Where space allows along Westfield Boulevard, trees (2-inch diameter at breast height) shall be planted between the property line and the curb on 50-foot spacing. The adjacent owner shall maintain trees and landscaping along Westfield Boulevard between the property line and the back of curb.
3. No common boundaries are anticipated between GR and SF uses; however, if a common boundary is present then an enhanced landscape buffer is required as described above.
4. Free standing signage bases to primarily consist of masonry and/or decorative metal elements.
5. A 6-foot sidewalk shall be constructed along West Adams prior to issuance of Certificates of Occupancy.



# Site & Surrounding Property Photos



**Site: Undeveloped (Looking East) (PD)**



**Site: Undeveloped (Looking East) (PD)**



**South: Undeveloped – Proposed Iron Gate Drive Access Point,  
Hills of Westwood, subdivision (SF-3)**



**South: Iron Gate Drive  
Hills of Westwood, subdivision (Circa 2016) (SF-3)**





**South: Existing Single-Family Residential Uses  
Hills of Westwood, subdivision (Circa 2016) (SF-3)**



**East: Future Tanglehead Drive Access Point  
The Meadows, subdivision (SF-3)**



**East: Existing Single-Family Residential Uses on Tanglehead Drive  
The Meadows, subdivision (Circa 2016) (SF-3)**



**North: Existing Retail and Service Uses along West Adams Ave  
(Circa 2016) (GR & PD)**



# Tables

## Planned Development Proposed Uses (Comparison between GR, SF2 & MF-2)

Use Type	General Retail (GR)
Agricultural Uses	Farm, Ranch or Orchard
Residential Uses	Single Family Residence (Detached & Attached) Industrialized Housing Family or Group Home Duplex Townhouse Home for the Aged (No CUP)
Retail & Service Uses	Most Retail & Service Uses Alcoholic Beverage Sales, off-premise consumption, package Store (CUP)
Commercial Uses	Plumbing Shop Upholstery Shop Kennel without Veterinary Hospital (CUP) Indoor Flea Market
Industrial Uses	Temporary Asphalt & Concrete Batching Plat (CUP) Laboratory, medical, dental, scientific or research Recycling collection location
Recreational Uses	Park or Playground Beer & Wine (On Premise Consumption) < 75%
Educational & Institutional Uses	Social Svc. Shelter (CUP) Child Care (No CUP) Place of Worship Hospital
Vehicle Service Uses	Auto Leasing, Rental Auto Sales - New & Used (Outside Lot) Car Wash Vehicle Servicing (Minor)
Restaurant Uses	With & Without Drive-In
Overnight Accommodations	Hotel or Motel
Transportation Uses	Emergency Vehicle Service Helistop

Use Type	Single-Family 2 (SF2)	Multi-Family Two (MF-2)
Agricultural Uses	Farm, Ranch or Orchard	Same as SF-2
Residential Uses	Single Family Residence (Detached) Industrialized Housing	Age-Restricted (> 55 Yrs.) Single Family (detached and attached) Triplex Family or Group Home Assisted Living Home for the Aged Townhomes
Retail & Service Uses	None	None
Commercial Uses	None	None
Industrial Uses	Temporary Asphalt & Concrete Batching Plant (CUP)	None
Recreational Uses	None	None
Vehicle Service Uses	None	None
Residential Uses	None	None
Overnight Accommodations	None	None
Transportation Uses	None	None

### Surrounding Property Uses

Surrounding Property & Uses			
Direction	FLUP	Zoning	Current Land Use
Site	Suburban Residential	AG, GR, SFA-3 & MF-2	Undeveloped
North	Auto-Urban Residential	GR & SF-2 (PD)	SF Residential & Retail / Service Uses
South	Auto-Urban Residential	SF-3	Undeveloped & SF Residential Uses
East	Auto-Urban Residential	NS (PD) & SF-1 & SF-3	Retail Service & SF Residential Uses
West	Suburban Residential	AG, GR & SF-2	Church, SF Residential Uses & Undeveloped Land



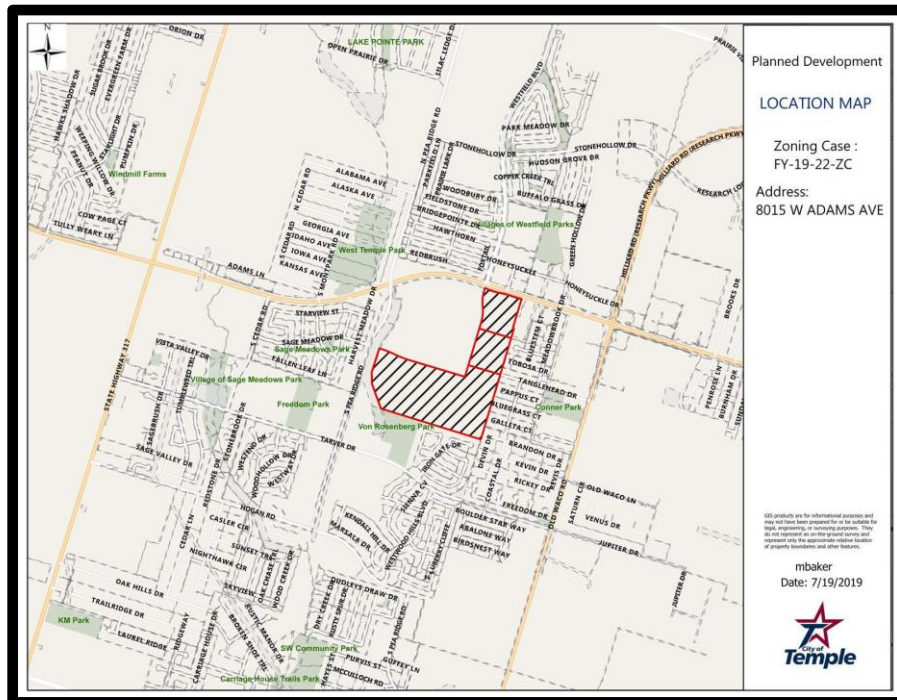
## Comprehensive Plan Compliance

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use Map	PARTIAL
CP	Map 5.2 - Thoroughfare Plan	YES
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	YES
STP	Temple Trails Master Plan Map and Sidewalks Ordinance	YES
CP = Comprehensive Plan      STP = Sidewalk and Trails Plan		

## Proposed PD Development Standards (GR, MF-2 & SF-2)

	<u>Proposed (GR)</u>	<u>Proposed (MF-2)</u>	<u>Proposed (SF-2)</u>
Minimum Lot Size	N/A	Maximum 20 Dwelling Units Per Acre (DUAC)	5,000 SF
Minimum Lot Width	N/A	60 Feet	50 Feet
Minimum Lot Depth	N/A	120 Feet	100 Feet
Front Setback	15 Feet	15 Feet	<b>20 Feet</b> <i>Reduced from 25</i>
Side Setback	10 Feet	10 Feet	5 Feet
Side Setback (corner)	10 Feet	10 Feet	<b>10-feet</b> <i>Reduced from 15</i>
Rear Setback	0 Feet	0 Feet	10 Feet
Max Building Height	3 Stories	2 Stories	2 ½ Stories

# Maps

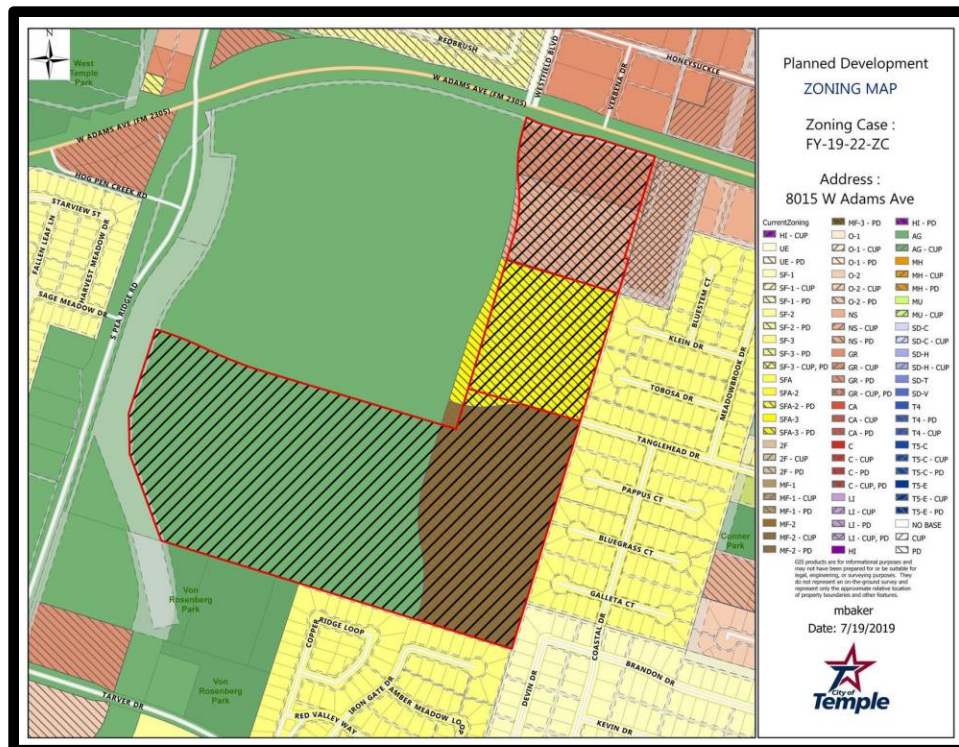


## Location Map

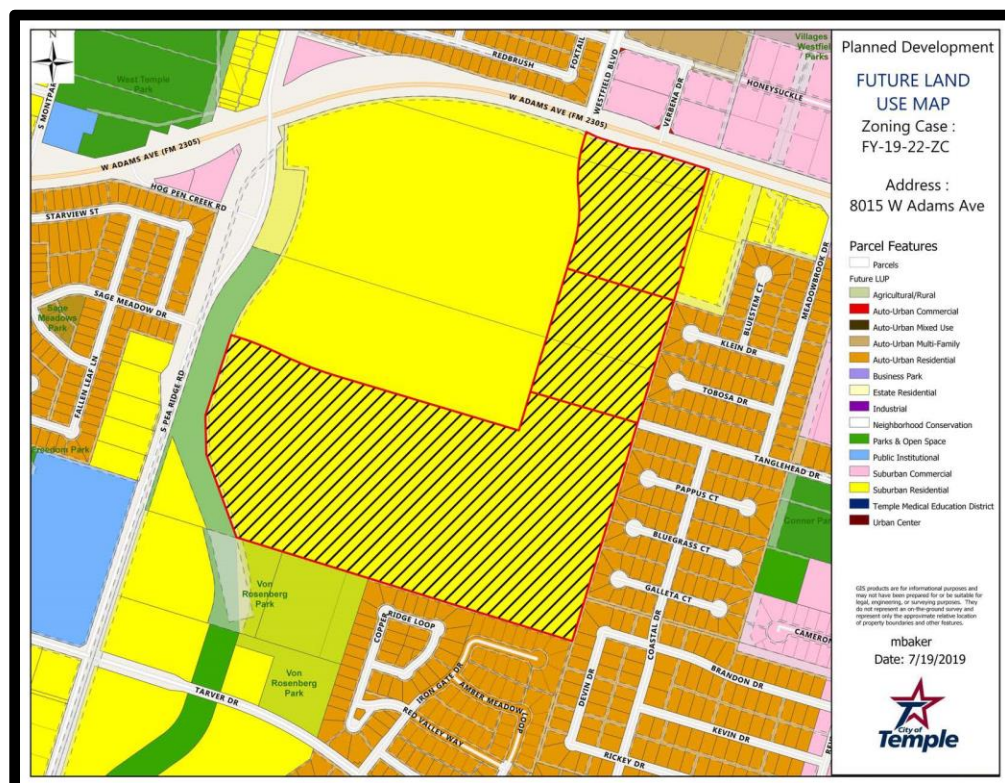


## Aerial Map



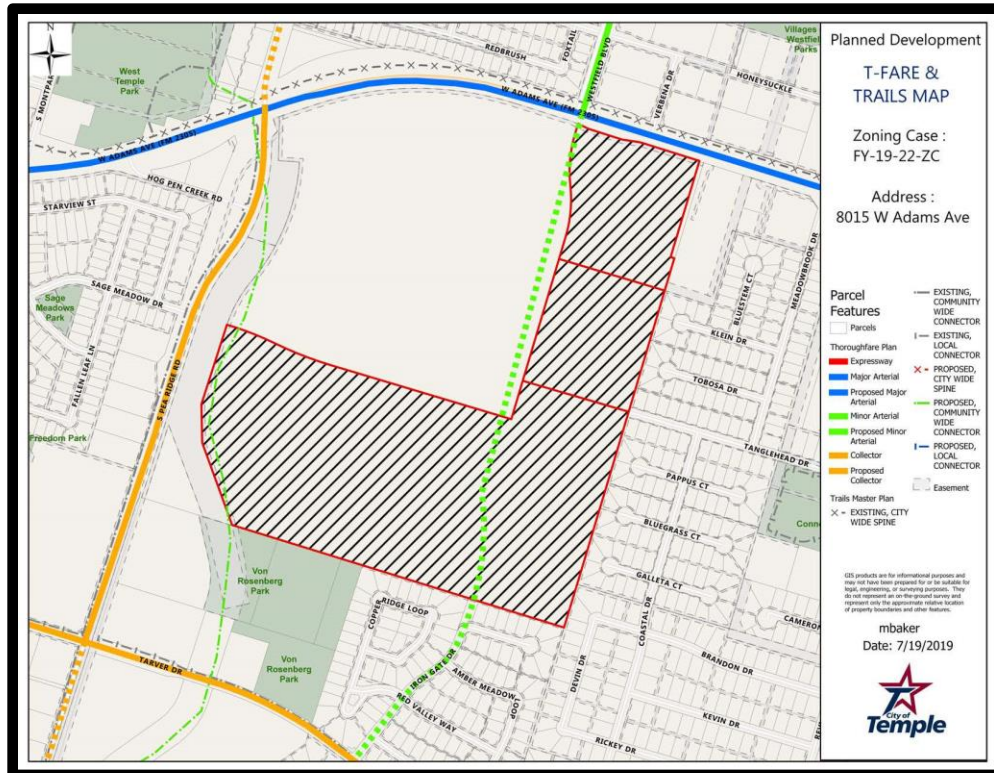


## Zoning Map



## Future Land Use Map



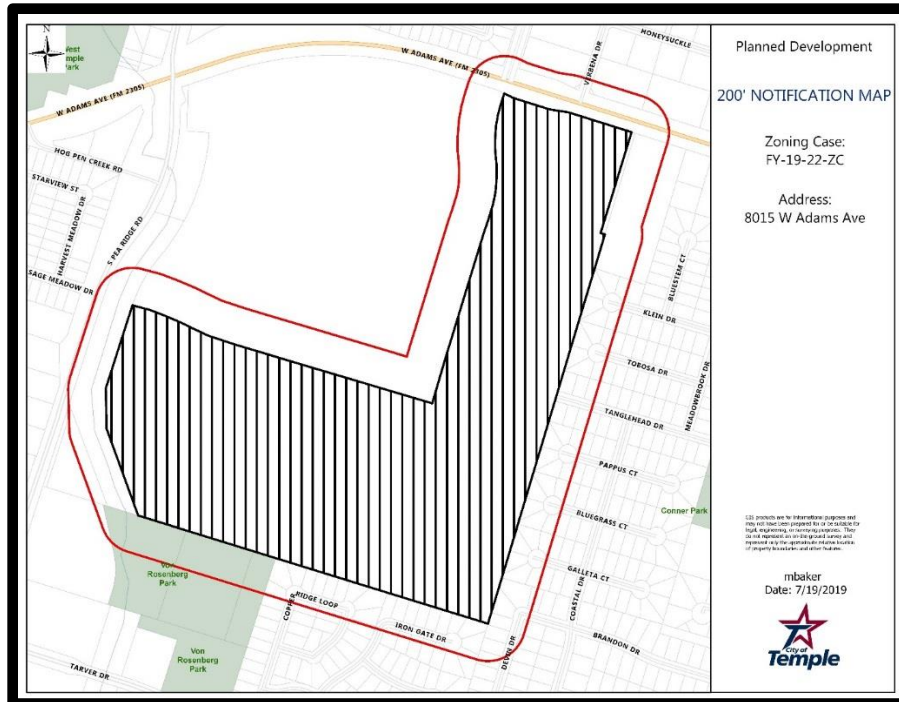


**Thoroughfare & Trails Map**

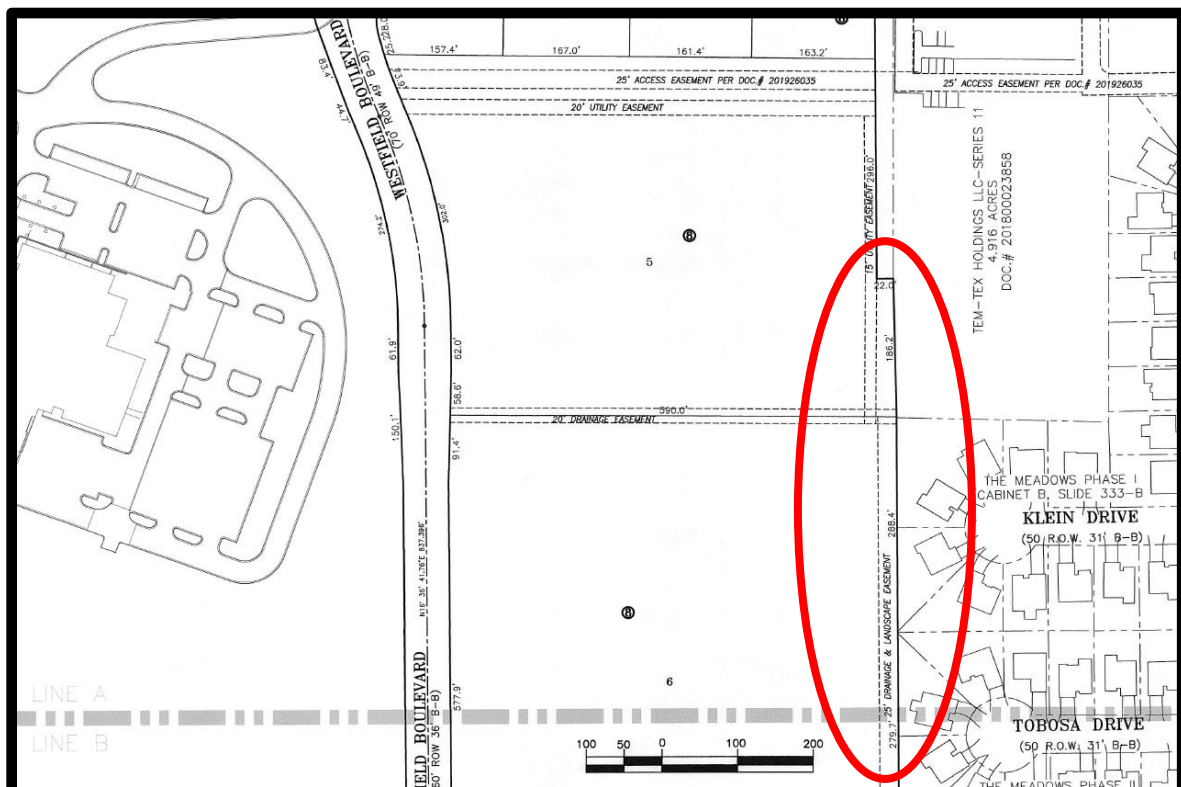


**Utility Map**





Notification Map



Localized Inset Map of 25-foot Drainage & Landscape Easement  
Proposed Preliminary Master Plat (Currently in Review)

ORDINANCE NO. 2016-4810

(PLANNING NO. Z-FY-16-43)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A REZONING FROM AGRICULTURAL DISTRICT TO PLANNED DEVELOPMENT – SINGLE FAMILY ATTACHED-THREE, MULTI-FAMILY-TWO, NEIGHBORHOOD SERVICE AND GENERAL RETAIL DISTRICTS ON APPROXIMATELY 42.066 ACRES, LOT 1, BLOCK 1, FIRST BAPTIST-TEMPLE WEST CAMPUS, LOCATED AT 8015 WEST ADAMS AVENUE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

**Part 1:** The City Council approves a rezoning from Agricultural District to Planned Development - Single Family Attached-Three (PD-SFA-3), Multi-Family-Two (PD-MF-2), Neighborhood Service (PD-NS) and General Retail (PD-GR) Districts on approximately 42.066 acres, lot 1, Block 1, First Baptist-Temple West Campus, located at 8015 West Adams Avenue, as outlined in the map and field notes attached hereto as Exhibit 'A,' and made a part hereof for all purposes.

**Part 2:** The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map.

**Part 3:** The Planned development will be subject to the following conditions:

1. Enhanced landscape standards are required. There must be a continuous landscape buffer along the common boundary between non-residential or multiple-family uses or zoning districts and residential uses or zoning districts in accordance with the following table:

TYPE	MINIMUM WIDTH	MINIMUM PLANTING PER 100 SQUARE FEET
I	30 feet	3 canopy trees 10 small trees (50% evergreen) 14 Supplemental shrubs (50%
II	20 feet	3 canopy trees 13 small trees (50% evergreen) 16 Supplemental shrubs (50% evergreen)
III	15 feet	3 canopy trees 16 small trees (50% evergreen) 18 Supplemental shrubs (50% evergreen)



- a. The required landscaping may be reduced by 30% when used in combination with a masonry wall or fence that is a minimum of 6 feet in height, constructed of wood, wrought iron or galvanized ornamental steel and located behind the landscape area;
2. A detailed development plan and/or subdivision plat must be submitted for review and consideration to the Planning & Zoning Commission and City Council prior to submittal for a building permit: and,
3. Building height is limited to 3 stories at the landscape buffer of the multi-family-zoned (MF-2) tract, nearest to the existing single family residential uses.

**Part 4:** 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 or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such phrase, clause, sentence, paragraph or section.

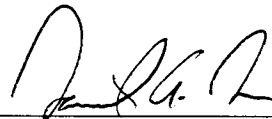
**Part 5:** This ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

**Part 6:** It is hereby officially found and determined that the meeting at which this Ordinance was 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 6<sup>th</sup> day of October, 2016.

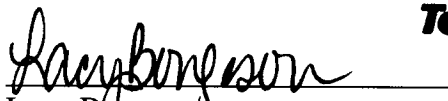
PASSED AND APPROVED on Second Reading on the 20<sup>th</sup> day of October, 2016.

THE CITY OF TEMPLE, TEXAS

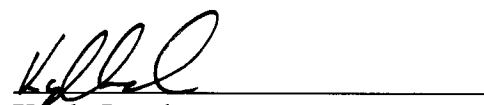


DANIEL A. DUNN, Mayor

ATTEST:

  
Lacy Borgeson  
City Secretary

APPROVED AS TO FORM:

  
Kayla Landeros  
City Attorney

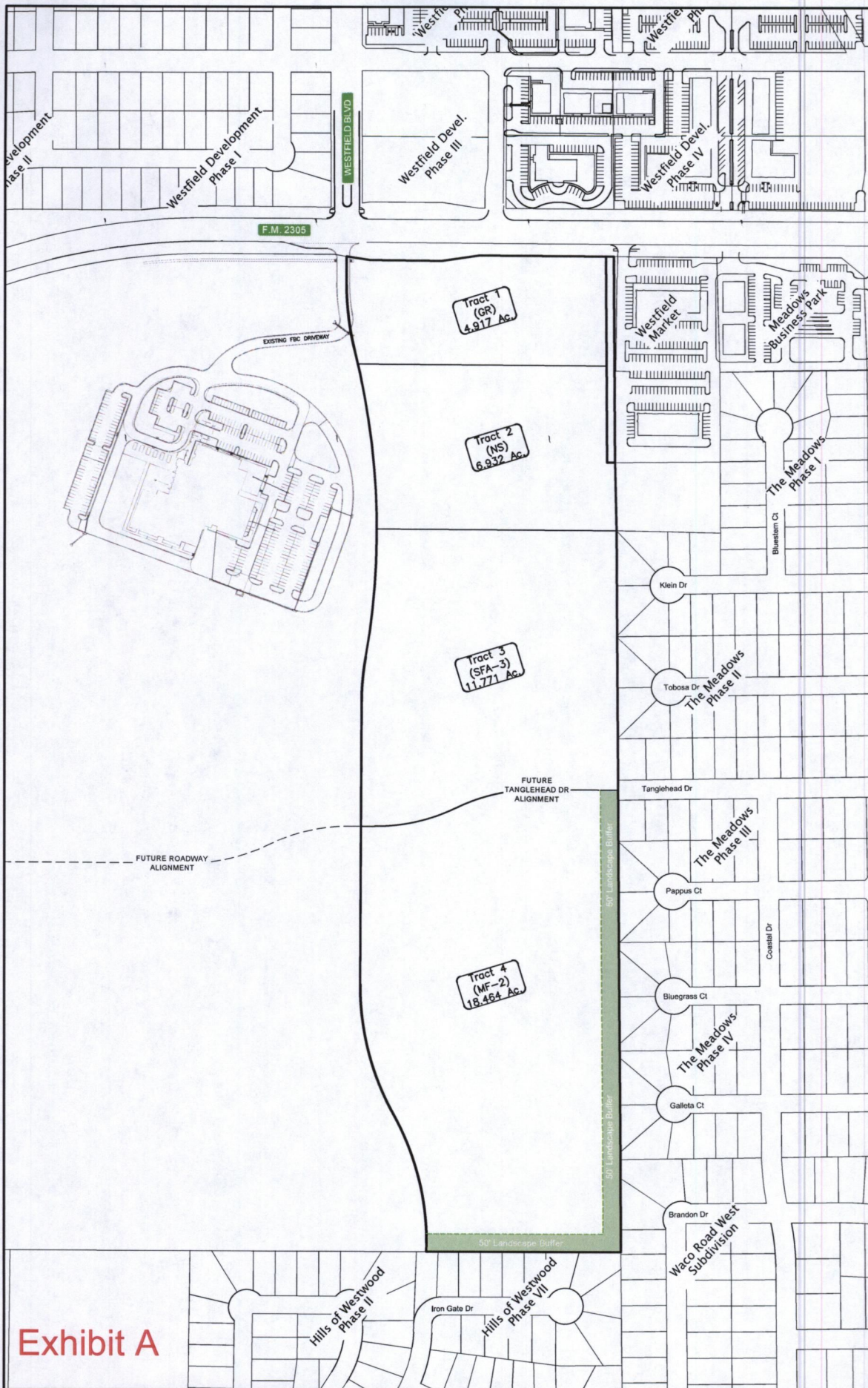


Exhibit A

**TURLEY**  
**TURLEY ASSOCIATES, INC.**  
 ENGINEERING • PLANNING • SURVEYING  
 501 N. 3rd St. 78501 254.773.2400  
 TEMPLE, TEXAS 78501 www.turley-inc.com fax 254.773.3998  
 SURVEY FIRM NO. 10064000 • ENGINEERING FIRM NO. 1006

FIRST BAPTIST TEMPLE  
 ZONING EXHIBIT

ADDRESS: 8015 WEST ADAMS AVE	LOT: 01	BLOCK: 01	DATE: 08/29/16
SUBDIVISION: FIRST BAPTIST-TEMPLE, WEST	PH:	SCALE: 1:300	JOB NO.: 16-676
CITY: TEMPLE	STATE: TX	PLAN:	DWN. BY: T.JAHOS





**RESPONSE TO PROPOSED  
REZONING REQUEST  
CITY OF TEMPLE**

231179  
WARE, RITA ETVIR DESMOND  
7316 GALLETA CT  
TEMPLE, TX 76502

**Zoning Application Number:** FY-19-22-ZC

**Case Manager:** Mark Baker

**Location:** 8015 W. Adams Ave

The proposed rezoning is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please complete this form to indicate whether you are in favor of the possible rezoning of the property described in the attached notice, and provide any additional comments you may have.

I ☒ agree

( ) disagree with this request

**Comments:**

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---

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Rita Ware  
Signature

RITA WARE  
Print Name

(Optional)

**Provide email and/or phone number if you want Staff to contact you**

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, [mbaker@templetx.gov](mailto:mbaker@templetx.gov) or mail or hand-deliver this completed form to the address below, no later than **August 5, 2019.**

City of Temple  
Planning Department  
2 North Main Street, Suite 102  
Temple, Texas 76501

**RECEIVED**

JUL 26 2019

CITY OF TEMPLE  
PLANNING & DEVELOPMENT

Number of Notices Mailed: 101

Date Mailed: July 23, 2019

**OPTIONAL:** Please feel free to email questions or comments directly to the Case Manager at 254.298.5668.



**RESPONSE TO PROPOSED  
REZONING REQUEST  
CITY OF TEMPLE**

363161  
BRADFORD, JACOB BRETT ETUX BAILEY, MCKENNA  
620 COPPER RIDGE LP  
TEMPLE, TX 76502

**Zoning Application Number:** FY-19-22-ZC

**Case Manager:** Mark Baker

**Location:** 8015 W. Adams Ave

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I ☐ agree

☒ disagree with this request

**Comments:**

I purchased this home only 3 months ago. One of the major selling points and the reason the price was higher was due to the view in my back yard. Was told at time of purchase that there was no plans to develop the land. This would lessen the value of my home right after purchasing it.

**Signature**

Mr JB Bradford@gmail.com

**Print Name**

Jacob Bradford

(Optional)

**Provide email and/or phone number if you want Staff to contact you**

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City of Temple  
Planning Department  
2 North Main Street, Suite 102  
Temple, Texas 76501

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JUL 29 2019

CITY OF TEMPLE  
PLANNING & DEVELOPMENT

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RESPONSE TO PROPOSED  
REZONING REQUEST  
CITY OF TEMPLE

135076  
RODRIGUEZ, GRACIELA  
7320 TOBOSA DR  
TEMPLE, TX 76502-8503

**Zoning Application Number:** FY-19-22-ZC

**Case Manager:** Mark Baker

**Location:** 8015 W. Adams Ave

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I ☒ agree

( ) disagree with this request

**Comments:**

I agree based on mature trees next to our property line will not be removed and only single story buildings will be within 50 ft. of property line. ~~two story within 100' of property line if possible~~. (NO)

**Signature**

**Print Name**

Grace Rodriguez  
512-470-2630 marod46@yahoo.com (Optional)  
**Provide email and/or phone number if you want Staff to contact you**

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, [mbaker@templetx.gov](mailto:mbaker@templetx.gov) or mail or hand-deliver this comment form to the address below, no later than **August 5, 2019**.

City of Temple  
Planning Department  
2 North Main Street, Suite 102  
Temple, Texas 76501

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JUL 29 2019  
CITY OF TEMPLE  
PLANNING & DEVELOPMENT

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**OPTIONAL:** Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.





**RESPONSE TO PROPOSED  
REZONING REQUEST  
CITY OF TEMPLE**

363165  
MARTINEZ, ARAMIS ETUX LIDUVINA  
712 COPPER RIDGE LOOP  
TEMPLE, TX 76502



**Zoning Application Number:** FY-19-22-ZC

**Case Manager:** Mark Baker

Location: 8015 W. Adams Ave


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I ☐ agree

☒ disagree with this request

**Comments:**

This proposal will eliminate the view for which we  
paid our property and we are paying over inflated taxes.

  
Signature

ARAMIS MARTINEZ  
Print Name

(Optional)

**Provide email and/or phone number if you want Staff to contact you**

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, [mbaker@templetx.gov](mailto:mbaker@templetx.gov) or mail or hand-deliver this comment form to the address below, no later than **August 5, 2019.**

City of Temple  
Planning Department  
2 North Main Street, Suite 102  
Temple, Texas 76501

Number of Notices Mailed: 101

Date Mailed: July 23, 2019

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1126

**RESPONSE TO PROPOSED  
REZONING REQUEST  
CITY OF TEMPLE**

408816  
WESTFIELD CAPITAL LLC & KIELLA DEVELOPMENT INC  
15 N MAIN ST  
TEMPLE, TX 76501-7629

**Zoning Application Number:** FY-19-22-ZC

**Case Manager:** Mark Baker

**Location:** 8015 W. Adams Ave

The proposed rezoning is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I ☒ agree

( ) disagree with this request

**Comments:**

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Bob Branch

**Signature**

WESTFIELD CAPITAL LLC  
By: Bob Branch

**Print Name**

(Optional)

**Provide email and/or phone number if you want Staff to contact you**

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City of Temple  
Planning Department  
2 North Main Street, Suite 102  
Temple, Texas 76501

**RECEIVED**

**JUL 31 2019**

**CITY OF TEMPLE  
PLANNING & DEVELOPMENT**

Number of Notices Mailed: 101

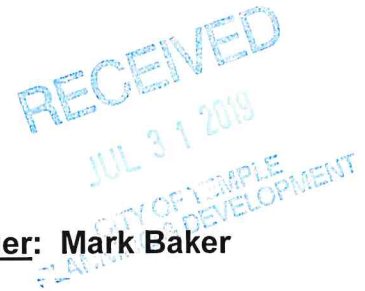
Date Mailed: July 23, 2019

**OPTIONAL:** Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.



**RESPONSE TO PROPOSED  
REZONING REQUEST  
CITY OF TEMPLE**

363163  
SODEK, JOHNNY R JR ETUX KIM L  
704 COPPER RIDGE LP  
TEMPLE, TX 76502-5098



**Zoning Application Number:** FY-19-22-ZC

**Case Manager:** Mark Baker

**Location:** 8015 W. Adams Ave

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I ☐ agree

☒ disagree with this request

**Comments:**

If this rezoning takes place we will be selling our house and moving. We thought this would be the place we would retire in.  
Kim Sodek (house) Kim Sodek  
Signature Print Name

(Optional)

**Provide email and/or phone number if you want Staff to contact you**

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Planning Department  
2 North Main Street, Suite 102  
Temple, Texas 76501

Number of Notices Mailed: 101

Date Mailed: July 23, 2019

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**RESPONSE TO PROPOSED  
REZONING REQUEST  
CITY OF TEMPLE**

463413  
KIELLA DEVELOPMENT INC  
PO BOX 1344  
TEMPLE, TX 76503-1344

**Zoning Application Number:** FY-19-22-ZC

**Case Manager:** Mark Baker

**Location:** 8015 W. Adams Ave

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I ☒ agree

( ) disagree with this request

**Comments:**

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**Signature**

**Print Name**

(Optional)

**Provide email and/or phone number if you want Staff to contact you**

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**City of Temple  
Planning Department  
2 North Main Street, Suite 102  
Temple, Texas 76501**

**RECEIVED**

AUG 01 2019

CITY OF TEMPLE  
PLANNING & DEVELOPMENT

**Number of Notices Mailed:** 101

**Date Mailed:** July 23, 2019

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**RESPONSE TO PROPOSED  
REZONING REQUEST  
CITY OF TEMPLE**

392972  
KIELLA DEVELOPMENT INC  
PO BOX 1344  
TEMPLE, TX 76503-1344

**Zoning Application Number:** FY-19-22-ZC

**Case Manager:** Mark Baker

**Location:** 8015 W. Adams Ave

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I ☒ agree

( ) disagree with this request

**Comments:**

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**Signature**

**Print Name**

(Optional)

**Provide email and/or phone number if you want Staff to contact you**

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2 North Main Street, Suite 102  
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PLANNING & DEVELOPMENT

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**RESPONSE TO PROPOSED  
REZONING REQUEST  
CITY OF TEMPLE**

385948  
TEM-TEX INVESTMENTS LTD  
PO BOX 1344  
TEMPLE, TX 76503-1344

**Zoning Application Number:** FY-19-22-ZC

**Case Manager:** Mark Baker

**Location:** 8015 W. Adams Ave

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I ☒ agree

( ) disagree with this request

**Comments:**

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---

**Signature**

**Print Name**

(Optional)

**Provide email and/or phone number if you want Staff to contact you**

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PLANNING & DEVELOPMENT

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**RESPONSE TO PROPOSED  
REZONING REQUEST  
CITY OF TEMPLE**

115118  
TEM-TEX HOLDINGS LLC - SERIES 11  
PO BOX 1344  
TEMPLE, TX 76503

**Zoning Application Number:** FY-19-22-ZC

**Case Manager:** Mark Baker

**Location:** 8015 W. Adams Ave

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I ☒ agree

( ) disagree with this request

**Comments:**

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**Signature**

**Print Name**

(Optional)

**Provide email and/or phone number if you want Staff to contact you**

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City of Temple  
Planning Department  
2 North Main Street, Suite 102  
Temple, Texas 76501

RECEIVED

AUG 01 2019

CITY OF TEMPLE  
PLANNING & DEVELOPMENT

Number of Notices Mailed: 101

Date Mailed: July 23, 2019

**OPTIONAL:** Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.





**RESPONSE TO PROPOSED  
REZONING REQUEST  
CITY OF TEMPLE**

473248  
TEM-TEX HOLDINGS LLC - SERIES 11  
C/O TEM-TEX HOLDINGS LLC  
PO BOX 1344  
TEMPLE, TX 76503

**Zoning Application Number:** FY-19-22-ZC

**Case Manager:** Mark Baker

Location: 8015 W. Adams Ave

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I ☒ agree

( ) disagree with this request

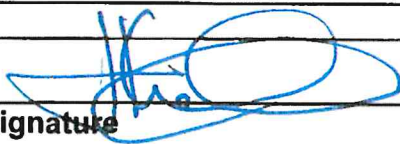
**Comments:**

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**Signature**

**Print Name**

(Optional)

**Provide email and/or phone number if you want Staff to contact you**

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City of Temple  
Planning Department  
2 North Main Street, Suite 102  
Temple, Texas 76501

**RECEIVED**

AUG 01 2019

CITY OF TEMPLE  
PLANNING & DEVELOPMENT

Number of Notices Mailed: 101

Date Mailed: July 23, 2019

**OPTIONAL:** Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.



**RESPONSE TO PROPOSED  
REZONING REQUEST  
CITY OF TEMPLE**

392974  
KIELLA DEVELOPMENT INC  
PO BOX 1344  
TEMPLE, TX 76503-1344

**Zoning Application Number:** FY-19-22-ZC

**Case Manager:** Mark Baker

**Location:** 8015 W. Adams Ave

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I ☒ agree

( ) disagree with this request

**Comments:**

---

---

---

---

**Signature**

**Print Name**

\_\_\_\_\_**(Optional)**

**Provide email and/or phone number if you want Staff to contact you**

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Temple, Texas 76501

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Number of Notices Mailed: 101

Date Mailed: July 23, 2019

**OPTIONAL:** Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.





**RESPONSE TO PROPOSED  
REZONING REQUEST  
CITY OF TEMPLE**

167231  
TETZLAFF LIVING TRUST  
C/O TETZLAFF, ALFRED & NANCY JO TRUSTEES  
1011 PRENTISS  
BELTON, TX 76513

**Zoning Application Number:** FY-19-22-ZC

**Case Manager:** Mark Baker

**Location:** 8015 W. Adams Ave

The proposed rezoning is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I ☒ **agree**

( ) **disagree with this request**

**Comments:**

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*Nancy Jo Tetzlaff Trustee*  
**Signature** *Tetzlaff Living Trust*

*NANCY Jo TETZLAFF TRUSTEE*  
**Print Name** *TETZLAFF LIVING TRUST*

(Optional)

**Provide email and/or phone number if you want Staff to contact you**

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, [mbaker@templetx.gov](mailto:mbaker@templetx.gov) or mail or hand-deliver this comment form to the address below, no later than **August 5, 2019.**

City of Temple  
Planning Department  
2 North Main Street, Suite 102  
Temple, Texas 76501

RECEIVED  
AUG 02 2019  
CITY OF TEMPLE  
PLANNING & DEVELOPMENT

Number of Notices Mailed: 101

Date Mailed: July 23, 2019

**OPTIONAL:** Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.



**RESPONSE TO PROPOSED  
REZONING REQUEST  
CITY OF TEMPLE**

RECEIVED  
AUG 02 2019  
CITY OF TEMPLE  
PLANNING DEPARTMENT

441150  
FIRST BAPTIST CHURCH TEMPLE TEXAS  
8015 W ADAMS AVE UNIT A  
TEMPLE, TX 76501-5510

**Zoning Application Number:** FY-19-22-ZC

**Case Manager:** Mark Baker

Location: 8015 W. Adams Ave

The proposed rezoning is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I ☒ agree

( ) disagree with this request

**Comments:**

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Marianne Barrett  
Signature

Marianne Barrett FBC  
Print Name Financial Asst

(Optional)

**Provide email and/or phone number if you want Staff to contact you**

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, [mbaker@templetx.gov](mailto:mbaker@templetx.gov) or mail or hand-deliver this comment form to the address below, no later than **August 5, 2019.**

City of Temple  
Planning Department  
2 North Main Street, Suite 102  
Temple, Texas 76501

Number of Notices Mailed: 101

Date Mailed: July 23, 2019

**OPTIONAL:** Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.





**RESPONSE TO PROPOSED  
REZONING REQUEST  
CITY OF TEMPLE**

RECEIVED  
AUG 12 2019  
PLANNING DEPARTMENT  
CITY OF TEMPLE

441149  
FIRST BAPTIST CHURCH TEMPLE TEXAS  
8015 W ADAMS AVE UNIT A  
TEMPLE, TX 76501-5510

**Zoning Application Number:** FY-19-22-ZC

**Case Manager:** Mark Baker

Location: 8015 W. Adams Ave

The proposed rezoning is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I ☒ agree

( ) disagree with this request

**Comments:**

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Marianne Barrett  
Signature

Marianne Barrett-FBC Financial Asst  
Print Name

(Optional)

**Provide email and/or phone number if you want Staff to contact you**

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, [mbaker@templetx.gov](mailto:mbaker@templetx.gov) or mail or hand-deliver this comment form to the address below, no later than **August 5, 2019.**

City of Temple  
Planning Department  
2 North Main Street, Suite 102  
Temple, Texas 76501

Number of Notices Mailed: 101

Date Mailed: July 23, 2019

**OPTIONAL:** Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.



**RESPONSE TO PROPOSED  
REZONING REQUEST  
CITY OF TEMPLE**

135077  
MOORE, DYLAN G ETUX KATHERINE L  
7324 TOBOSA DR  
TEMPLE, TX 76502

**Zoning Application Number:** FY-19-22-ZC

**Case Manager:** Mark Baker

Location: 8015 W. Adams Ave

The proposed rezoning is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I ☐ agree

☒ disagree with this request

**Comments:**

Rezone request poses unwanted construction, neighborhood congestion, destruction of natural habitat and wildlife, levels current watershed, which threatens homes, eliminates future green space for public use. I strongly disagree with rezoning and current zoning for residential housing.

Dylan Moore  
Signature

Dylan Moore  
Print Name

Dylangmoore@gmail.com 254-541-8486 (Optional)

**Provide email and/or phone number if you want Staff to contact you**

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, [mbaker@templetx.gov](mailto:mbaker@templetx.gov) or mail or hand-deliver this comment form to the address below, no later than **August 5, 2019.**

City of Temple  
Planning Department  
2 North Main Street, Suite 102  
Temple, Texas 76501



Number of Notices Mailed: 101

Date Mailed: July 23, 2019

**OPTIONAL:** Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.



**EXCERPTS FROM THE  
PLANNING & ZONING COMMISSION MEETING  
MONDAY, AUGUST 5, 2019**

**ACTION ITEMS**

**Item 10: FY-19-22-ZC** – Hold a public hearing to discuss and recommend action to rezone 38 +/- acres of Agricultural (AG) zoned land and amend Ordinance 2016-4810 by rezoning the 42.066 +/- acres currently zoned General Retail (PD-GR), Neighborhood Service (PD-NS), Single Family Attached Three (SFA-3) and Multi-Family Two (MF-2) to Planned Development General Retail (PD-GR), Multi-Family Two (MF-2) and Single Family Two (SF-2) districts, with limitations on the MF-2 portion to senior housing and assisted living not exceeding 2 stories within the First Baptist Church West Campus, accompanied by a corresponding site development plan and addressed as 8015 West Adams Avenue.

Mr. Baker stated this item is scheduled to go forward to City Council for first reading on September 5, 2019 and second reading on September 19, 2019.

Aerial Site Plan Shown.

Ordinance No. 2016-4810 is shown authorizing rezoning from AG District to a Planned Development-Single Family Attached-Three (PD-SFA-3), Multi-Family Two (MF-2), Neighborhood Service (NS), and General Retail (GR) District for the subject property.

Binding Site Plan and Exhibits A and B are shown.

Zoning Map shown and found to be in compliance.

Future Land Use Map shown and found to be in partial compliance.

Existing Water and Sewer Map is shown and found to be in compliance.

Thoroughfare Plan and Trails Map shown and found to be in compliance.

Proposed Roadway Extension Map and 25-foot landscape buffer site plan shown.

Final design of “Project-Related Improvements” to be addressed by subdivision plat.

Developer efforts for Westfield Boulevard Extension provide compliance to Thoroughfare Plan.

Buffering and Screening Considerations are:

- Landscape standards for single family residential lots
- Street landscaping
- Walls and privacy fencing

- Twenty-five-foot landscape buffer including preservation of eight-inch diameter or larger trees along eastern boundary of Multi-Family-Two portion

Buffering Aerial Map shown.

On-Site photos shown.

General Retail allowed uses table shown.

Single-Family Two and Multi-Family-Two allowed uses table shown.

Proposed Planned Development Standards table is shown.

One Hundred and one notices were mailed in accordance with all state and local regulations with eleven responses returned in agreement and four responses returned in disagreement.

Compliance Summary table is shown.

Staff recommends approval of the combined requested rezoning from AG and Amendment Ordinance No. 2016-4810 to Planned Development General Retail (PD-GR), Multi-Family Two (MF-2) and Single-Family-Two (SF-2) with the following Conditions of Approval:

1. Consistent with Site Development Plan attached as Exhibit A;
2. Substantial compliance to the proposed Westfield Boulevard extension and Tanglehead Drive alignment and descriptive cross-sections attached as Exhibit B;
3. Compliance to Planned Development Standards and specific General Retail (GR), Multi-Family (MF-2) and Single-Family (SF-2) standards as described by Exhibit C
4. Site / Development Plan review by the P&Z and approval by City Council for the MF-2 portion will be required prior to the issuance of a building permit
5. A 25-foot wide landscape buffer is required along the common boundary of the PD and the MF-2 zoned portion, where adjacent to existing single-family residential uses.
6. Preservation of existing trees with a minimum eight-inch diameter at breast height (DBH) or greater in coordination with the City of Temple for determination of which trees to preserve (including removal of invasive species) and whether additional landscaping is needed in conjunction with other buffering and screening requirements.

Agreed Upon Planned Development Conditions of Approval (Exhibit C):

- Percentages of land development devoted to GR, MF-2 & SF-2;
- Extensions to Westfield Boulevard and Tanglehead Drive (ROW, sidewalk and timing of improvements);
- Individual single-family lot landscaping;
- Buffering and screening (25-foot drainage and landscape easement);
- Privacy fencing;
- ROW landscaping - plant numbers and spacing;
- MF-2 portion with land use for age restricted senior housing and assisted living facilities;
- Building height limits on the MF-2 portion (two story and one story within 50-feet of eastern boundary of MF-2)



- MF-2 portion with land use for age restricted senior housing and assisted living facilities;
- Building height limits on the MF-2 portion (two story and one story within 50-feet of eastern boundary of MF-2)

Chair Langley opened the public hearing.

Mr. David Barrows, 7317 Tanglehead Drive, Temple, Texas, expressed concern for traffic changes this rezoning could result in as well as the decrease in “green space” for this area. Mr. Barrows requested a traffic study be conducted for Tanglehead Drive and requested this rezoning case be tabled until the traffic study can be completed and reviewed. Mr. Barrows also suggested construction of a cul-de-sac at the west end of Tanglehead Drive and explained the advantages of having an access at Pea Ridge Road.

Mr. Dylan Moore, 7324 Tobosa Drive, Temple, Texas, discussed flooding issues, wildlife transformation, and traffic changes, and suggested a better use of this property as a walking/bike trail or park. Mr. Moore expressed displeasure of the disturbance this construction will create with his property.

Ms. Christina Rodriguez, 7321 Tanglehead, Drive, Temple, Texas, expressed concern for the possible increase in traffic on Tanglehead in relation to the safety of her three small children and suggested an access be opened to Pea Ridge Road.

Mr. Michael Rodriguez, 7320 Tobosa Drive, Temple, Texas, discussed concern regarding the height/type of fence proposed as construction will be close to his property and discussed the number of stories to be allowed for this construction.

Mr. Victor Turley, applicant’s engineer, 301 North Third Street, Temple, Texas, explained that the fence and building plans will be designed as a part of the development plans that will be determined at a later time. He stated the two-story construction will be 50-feet from the property line and these development plans will come back to the P&Z for approval at a later time.

Mr. Baker reviewed Condition No. 4 again of Exhibit C.

Mr. David Barrows, reaffirmed that this is a rezoning case and would like Mr. Turley to consider access from Pea Ridge Road.

Chair Langley discussed the easement issue of this property.

Mr. Barrows, further stated that a bridge could be build over this easement area.

There being no further speakers, the public hearing was closed.

Vice Chair Ward made a motion to approve Item 10, **FY-19-22-ZC**, per Staff recommendation and Commissioner Fetting made a second.

*Motion passed: (6:0)*

Commissioners Armstrong, Jeanes, and Marshall absent

ORDINANCE NO. 2019-4992  
(FY-19-22-ZC)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING ORDINANCE 2016-4810 TO ADD APPROXIMATELY 35 ACRES TO THE EXISTING 42.066 ACRES AND REZONING ALL 77.066 ACRES, LOCATED AT 8015 WEST ADAMS AVENUE, TO PLANNED DEVELOPMENT GENERAL RETAIL, MULTI-FAMILY TWO, AND SINGLE FAMILY TWO DISTRICTS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, the applicant, Turley Associates, on behalf of the First Baptist Church – Temple has requested an amendment to Ordinance 2016-4810 to add approximately 35 acres to the existing 42.066 acres and to rezone all 77.066 acres, located at 8015 West Adams Avenue, to Planned Development General Retail, Multi-Family Two, and Single Family Two districts;

**Whereas**, once approved by City Council, the Planned Development Ordinance will contain the Site Development Plan (Exhibit A), the roadway alignment plans (Exhibit B) and mutually-agreed upon Planned Development conditions (Exhibit C) - Exhibit ‘A’ shows the proposed district locations and contains a maximum percentage of its related land use - a summary breakdown is as follows:

1. **General Retail GR** (approximately 10.556 acres)
  - a. As allowed per UDC Section 5.1; and
  - b. Maximum 16% of total 77 acres;
2. **Multi-Family MF-2** (approximately 9.309 acres)
  - a. Age restricted (55 and older);
  - b. Various single family residential and assisted living uses, (2 stories maximum);
  - c. Single story maximum within 50 feet of existing residential use;
  - d. Maximum 14% of total 77 acres;
3. **Single Family Residential SF-2** (approximately 57.585 acres)
  - a. Proposed for approximately 270 single family homes; and
  - b. 70% or more of a total 77 acres;

**Whereas**, the Planning and Zoning Commission of the City of Temple, Texas, recommends approval of the rezoning of approximately 77.066 acres, addressed as 8015 West Adams Avenue, currently zoned Agricultural zoning district, General Retail zoning district, Neighborhood Service zoning district, Single Family Attached Three zoning district, and Multi-Family Two zoning district, to Planned Development General Retail zoning district, Multi-Family Two zoning district, and Single Family Two zoning district, as outlined in the map attached hereto as Exhibit ‘A,’ and made a part hereof for all purposes, and subject to the following conditions:



- Substantial compliance with Site Development Plan attached as Exhibit A;
- Substantial compliance with the proposed Westfield Blvd extension and Tanglehead Drive alignment and descriptive cross-sections attached as Exhibit B;
- Compliance with the Planned Development Standards and specific General Retail, Multi-Family, and Single-Family standards as described by Exhibit C;
- Site / Development Plan review by the Planning & Zoning Commission and approval by Council for the Multi-Family Two portion will be required prior to the issuance of a building permit;
- A 25-foot wide landscape buffer is required along the common boundary of the Planned Development and the Multi-Family Two zoned portion, which are adjacent to existing single-family residential uses;
- Preservation of existing trees with a minimum 8-inch diameter at breast height or greater in coordination with the City for determination of which trees to preserve (including removal of invasive species), and whether additional landscaping is needed in conjunction with other buffering and screening requirements; 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, THAT:**

**Part 1: Findings.** All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

**Part 2:** The City Council approves an amendment to Ordinance 2016-4810 to add approximately 35 acres to the existing 42.066 acres and to rezone all 77.066 acres, located at 8015 West Adams Avenue, to Planned Development General Retail, Multi-Family Two, and Single Family Two districts, as outlined in the map attached hereto as Exhibit 'A,' and made a part hereof for all purposes.

**Part 3:** The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map.

**Part 4:** 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 or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such phrase, clause, sentence, paragraph or section.

**Part 5:** 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:** It is hereby officially found and determined that the meeting at which this Ordinance was 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 **5<sup>th</sup>** day of **September**, 2019.

PASSED AND APPROVED on Second Reading on the **19<sup>th</sup>** day of **September**, 2019.

THE CITY OF TEMPLE, TEXAS

\_\_\_\_\_  
TIMOTHY A. DAVIS, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Lacy Borgeson  
City Secretary

\_\_\_\_\_  
Kayla Landeros  
Interim City Attorney





## COUNCIL AGENDA ITEM MEMORANDUM

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09/05/19  
Item #13  
Regular Agenda  
Page 1 of 2

**DEPT./DIVISION SUBMISSION & REVIEW:**

David Olson, Assistant City Manager  
Amanda Rice, Deputy City Attorney  
Brian Kosel, Building Official

**ITEM DESCRIPTION:** FIRST READING – PUBLIC HEARING: Consider adopting an ordinance repealing the City's Code of Ordinances, Chapter 34, "Swimming Pools."

**STAFF RECOMMENDATION:** Adopt ordinance on first reading as presented in the item description and conduct a public hearing. Second reading will be scheduled for September 19, 2019.

**ITEM SUMMARY:** In a continuing effort to review and update the City's Code of Ordinances, Staff is proposing to repeal the City's Code of Ordinances, Chapter 34, "Swimming Pools," for the reasons outlined below:

Chapter 34 adopted the 1985 edition of the Standard Swimming Pool Code, which was published by the Southern Building Code Congress International, Inc., as it existed at the time and as later revised. The last year the Standard Swimming Pool Code was updated was 1999. The Standard Swimming Pool Code regulates the minimum requirements for the design, construction, alteration, repair, and maintenance of swimming pools, spas, and other aquatic facilities. Chapter 34 includes several local amendments to the Standard Swimming Pool Code, including setting a fee schedule for the installation of swimming pools and specifying barrier heights.

On May 1, 2019, the Texas Legislature passed HB 2858, which amended Chapter 214 of the Texas Local Government Code and adopted the *International Swimming Pool and Spa Code* (ISPSC) as the uniform swimming pool and spa code for use in municipalities in Texas. The ISPSC applies to all construction, alteration, remodeling, enlargement, and repair of swimming pools and spas in a municipality that elects to regulate pools and spas. The ISPSC is more comprehensive than the Standard Swimming Pool Code and includes up-to-date regulations related to swimming pool and spa construction and safety measures to protect the public health and safety.

HB 2858 takes effect on September 1, 2020. Municipalities may choose to adopt the ISPSC and make local amendments to this code prior to the effective date. After September 1, 2020, Chapter 34 of the City's Code would be preempted.

Staff recommends moving forward with the adoption of the 2015 *International Swimming Pool and Spa Code* with local amendments at this time as part of the proposed amendments to Chapter 7 of the City's Code of Ordinances, which is also set for first reading by City Council at this September 5, 2019 council meeting and repealing the current swimming pool regulations contained in Chapter 34. As part of the adoption of the 2015 *International Swimming Pool and Spa Code* in Chapter 7, proposed local amendments include a section allowing City Council to set permit fees by resolution, specifying allowable swimming pool locations and barrier heights, and setting the maximum depth for an on-ground residential pool.

If Council approves, Chapter 34 will be repealed and retitled, "Chapter 34 - Reserved."

**FISCAL IMPACT:** Not Applicable

**ATTACHMENTS:**

[Current Chapter 34](#)

[Ordinance to repeal Chapter 34 – to be provided](#)

[Ordinance](#)





## **Chapter 34**

# **SWIMMING POOLS**

**Sec. 34-1. Adoption of Standard Swimming Pool Code.**

**Sec. 34-2. Additional provisions.**

## Chapter 34

### SWIMMING POOLS

#### Sec. 34-1. Adoption of Standard Swimming Pool Code.

The City of Temple, Texas, hereby adopts as Chapter 34 of the City Code, entitled, "Swimming Pools," as part of its building regulations, the Standard Swimming Pool Code, 1985 Edition, of the Southern Building Code Congress International, Inc., as it now exists and as it may be revised from time to time, save and except Sections 105.1.4, 105.6, 106.1, 107.1, 304.1, 308.2, 309 and 315. Additions to the Standard Swimming Pool Code, Southern Building Code International, Inc., 1985 Edition, shall be incorporated in the Code, including Sections 105.3.7, 304.1.1, 304.1.2, 304.1.3, 308.2.1, 308.2.2 and 318.

#### Sec. 34-2. Additional provisions.

The following be, and hereby are, adopted as Sections 105.1.4, 105.3.7, 105.6, 106.1, 304.1, 304.1.1, 304.1.2, 304.1.3, 308.2, 308.2.1, 308.2.2, 309, 315 and 318 to be used in conjunction with the Standard Swimming Pool Code, Southern Building Code Congress International, Inc., 1985 Edition, as adopted hereinabove, as it applies within the City of Temple, Texas:

(a) *105.1.4.* No person shall permit any other person to do or cause or permit to be done any swimming pool work under any permit secured by such persons.

(b) *105.3.7.* No portion of a swimming pool outside a building shall be located at a distance of less than five (5) feet from any side or rear property line, measured from the property line to the outside wall of the pool. Pumps, filters and pool water disinfection equipment installations shall be located in conformity with the zoning regulations controlling accessory buildings.

(c) *105.6. Schedule of fees.* For each swimming pool:

Public ..... \$40.00

Private ..... 25.00

Electrical and plumbing fees will be in accordance with ordinances implemented by the building official.

(d) *106.1. Inspection required.* All swimming pool installations or alterations, including equipment, piping and appliances, shall be subject to inspection by the administrative authority to ensure compliance with all the requirements of this code.

(e) *304.1. Materials.* Swimming pool walls and floors shall be constructed of any impervious material which will provide a tight tank with white or light-colored finish and easily cleaned surfaces. The floor or bottom surfaces of the pool shall have a nonslip finish



as smooth as possible.

304.1.1. Underground swimming pools shall be designed to withstand pressure from without the pool of two thousand two hundred (2,200) pounds per square foot.

304.1.2. The pool wall may be vertical for thirty (30) inches from the water level, below which the wall may be curved to the bottom with a radius at any point equal to the difference between the depth at that point and thirty (30) inches.

304.1.3. All swimming pools shall be of the recirculation type in which circulation of the water is maintained through the pool by pumps; the water drawn from the pool being clarified and disinfected before returned to the pool.

(f) 308.2. *Disposal:*

308.2.1. Swimming pool water may be disposed of through either the public sanitary sewer or the storm drain system, provided a storm drain is located within five hundred (500) feet of the pool and no point of water collection is located at any point along the five hundred (500) feet.

308.2.2. Wastewater (backwash) from a swimming pool shall be disposed of through a public sanitary sewer. A deep seal trap shall be installed on the lower terminus of the building drain and the tall piece from the trap shall extend a minimum of three (3) inches above finished grade and below finished floor grade. This trap need not be vented if within ten (10) feet of the building drain. The connection between the filter waste discharge piping and the trap shall be made by means of an indirect connection.

(g) 309. *Separation tank.* A separation tank of an approved type may be used in lieu of the aforementioned means of wastewater disposal when connected as a reclamation system only when swimming pool water is disposed of through the storm drain system.

(h) 315. *Enclosure required.* All outdoor private swimming pools shall be enclosed by a fence at least five (5) feet high. All outdoor public swimming pools shall be enclosed by a fence at least six (6) feet high. All gates shall be equipped with a self-closing and self-latching device. The fence and gates shall be constructed of weather-resistant material. If wire is to be used, such wire shall be of a size of at least nine (9) gauge. If the fence is constructed in the form of a mesh, one side of the mesh shall be not more than six (6) inches long. Fence posts shall be decay- or weather-resistant and shall be set in concrete bases. It shall not be necessary to construct a fence if a pool is to be located in an area already closed by a fence and gates meeting the above requirements.

These provisions shall apply to all swimming pools constructed or installed after the effective date of this section as provided in the Charter of the City of Temple, Texas; swimming pools constructed or installed prior to the effective date of this section shall be governed by the swimming pool fence regulations as they existed at the time of construction or installation.

(i) *318. Safety equipment.* Every swimming pool shall be equipped with one or more throwing ring buoys (U.S. Coast Guard approved) not more than fifteen (15) inches in diameter and having sixty (60) feet of three-sixteenths-inch line attached, and one or more light but strong poles with "shepherd's hook" ends and not less than twelve (12) feet in length, for making reach assists or rescues.



ORDINANCE NO. 2019-4993

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, REPEALING CHAPTER 34 “SWIMMING POOLS” OF THE CITY OF TEMPLE’S CODE OF ORDINANCES; PROVIDING A REPEALER; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, in a continuing effort to review and update the City's Code of Ordinances, Staff recommends Council repeal Chapter 34 – Swimming Pools of the Code of Ordinances;

**Whereas**, Chapter 34 adopted the 1985 edition of the Standard Swimming Pool Code, which was published by the Southern Building Code Congress International, Inc., as it existed at the time and as later revised - the last year the Standard Swimming Pool Code was updated was 1999;

**Whereas**, the Standard Swimming Pool Code regulates the minimum requirements for the design, construction, alteration, repair, and maintenance of swimming pools, spas, and other aquatic facilities - Chapter 34 includes several local amendments to the Standard Swimming Pool Code, including setting a fee schedule for the installation of swimming pools and specifying barrier heights;

**Whereas**, on May 1, 2019, the Texas Legislature passed House Bill 2858, which amended Chapter 214 of the Texas Local Government Code and adopted the International Swimming Pool and Spa Code (ISPSC) as the uniform swimming pool and spa code for use in municipalities in Texas - the ISPSC applies to all construction, alteration, remodeling, enlargement, and repair of swimming pools and spas in a municipality that elects to regulate pools and spas;

**Whereas**, the ISPSC is more comprehensive than the Standard Swimming Pool Code and includes up-to-date regulations related to swimming pool and spa construction and safety measures to protect the public health and safety;

**Whereas**, House Bill 2858 takes effect on September 1, 2020 and municipalities may choose to adopt the ISPSC and make local amendments to this Code prior to the effective date - after September 1, 2020, Chapter 34 of the City's Code would be preempted;

**Whereas**, Staff recommends moving forward with the adoption of the 2015 International Swimming Pool and Spa Code with local amendments at this time as part of the proposed amendments to Chapter 7 of the City’s Code of Ordinances, which is also set for first reading by City Council at this September 5, 2019 Council meeting, and repealing the current swimming pool regulations contained in Chapter 34;

**Whereas**, as part of the adoption of the 2015 International Swimming Pool and Spa Code in Chapter 7, proposed local amendments include a section allowing City Council to set permit fees by resolution, specifying allowable swimming pool locations and barrier heights, and setting the maximum depth for on-ground residential pools;

**Whereas**, once repealed, Chapter 34 will be retitled “Chapter 34 – Reserved”; 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, THAT:**

**Part 1: Findings.** All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

**Part 2:** The City Council repeals Chapter 34 – Swimming Pools of the Code of Ordinances.

**Part 3:** All Ordinances or parts of Ordinances in conflict with the provisions of this ordinance are to the extent of such conflict hereby repealed.

**Part 4:** 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 5:** 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:** It is hereby officially found and determined that the meeting at which this Ordinance was 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 **5<sup>th</sup>** day of **September**, 2019.

PASSED AND APPROVED on Second Reading on the **19<sup>th</sup>** day of **September**, 2019.

THE CITY OF TEMPLE, TEXAS

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TIMOTHY A. DAVIS, MAYOR

ATTEST:

APPROVED AS TO FORM:

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Lacy Borgeson  
City Secretary

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Kayla Landeros  
Interim City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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09/05/19  
Item #14  
Regular Agenda  
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### **DEPT./DIVISION SUBMISSION & REVIEW:**

David Olson, Assistant City Manager  
Amanda Rice, Deputy City Attorney  
Brian Kosel, Building Official

**ITEM DESCRIPTION:** FIRST READING – PUBLIC HEARING: Consider adopting an ordinance amending the City's Code of Ordinances, Chapter 7, "Buildings," to adopt updated model codes, specify amendments to the adopted model codes, and simplify and clarify language and terms contained therein.

**STAFF RECOMMENDATION:** Adopt ordinance on first reading as presented in the item description and conduct a public hearing. Second reading will be scheduled for September 19, 2019.

**ITEM SUMMARY:** In a continuing effort to review and update the City's Code of Ordinances, Staff is proposing amendments to Chapter 7, "Buildings." The amendments include the adoption of the 2015 *International Building Code*, 2015 *International Existing Building Code*, 2015 *International Residential Code*, 2015 *International Plumbing Code*, 2015 *International Mechanical Code*, 2015 *International Fuel Gas Code*, 2015 *International Energy Conservation Code*, and 2015 *International Swimming Pool and Spa Code* along with the necessary local amendments to each.

Generally, proposed amendments to Chapter 7, broken down by article, include:

- Article I – Authority:
  - Establishing the model codes used by the City of Temple.
- Article II – Building Board of Appeals:
  - Establishing the Building Board of Appeals, its policies and procedures.
- Article III – Building Code:
  - Adopting the 2015 *International Building Code* (IBC).
  - Amending the IBC to align with current local standards including:
    - Replacing ICC Electrical Code references with the 2017 National Electrical Code and City of Temple Electrical Code, Chapter 10.
    - Deleting certain permit exemptions.
- Article IV – Existing Building Code:
  - Adopting the 2015 *International Existing Building Code* (IEBC).
  - Amending the IEBC to align with current local standards including:
    - Inserting the City of Temple name where necessary.
    - Deleting certain sections pertaining to annual permit records and work exempt from permitting.



- Article V – Mechanical Code:
  - Adopting the 2015 *International Mechanical Code* (IMC)
  - Amending the IMC to align with local standards including:
    - Inserting the City of Temple as the jurisdiction name.
- Article VI – International Residential Code
  - Adopting the 2015 *International Residential Code* (IRC).
  - Amending the IRC to align with local standards including:
    - Replacing ICC Electrical Code references with the 2017 National Electrical Code and City of Temple Electrical Code, Chapter 10
    - Deleting certain exemptions from permitting.
    - Removing the requirement for masonry inspections.
    - Clarifying handrail and window fall protection requirements.
    - Removing mandatory requirement for residential fire sprinkler systems.
    - Amending foundation anchorage requirements.
    - Modifying the acceptable material insulation values.
    - Modifying air leakage requirements.
    - Modifying energy efficiency requirements.
- Article VII – Plumbing Code:
  - Adopting the 2015 *International Plumbing Code* (IPC).
  - Amending the IPC to align with local standards including:
    - Requiring the installation of a sewer yard line cleanout.
    - Referring landscape irrigation requirements to Article XI, “Landscape Irrigation Standards,” of this Chapter.
    - Clarifying sewer venting requirements.
    - Specifying persons eligible to apply for plumbing permits.
- Article VIII – Swimming Pool Code:
  - Adopting the 2015 *International Swimming Pool and Spa Code* (ISPSC)
  - Amending the ISPSC to align with local standards including:
    - Specifying allowable swimming pool locations.
    - Specifying appropriate barrier heights.
    - Specifying maximum depth for an onground residential pool.
- Article IX – Gas Code:
  - Adopting the 2015 *International Fuel Gas Code* (IFGC).
  - Amending the IFGC to incorporate minor administrative changes.
- Article X – Energy Code:
  - Adopting the 2015 *International Energy Conservation Code* (IECC)
  - Amending the IECC to align with local standards including:
    - Clarifying residential energy efficiency installation and testing requirements.
- Article XI – Landscape Irrigation Standards:
  - Modifying certain sections to allow for the use of double-check valve backflow prevention assemblies.
- Article XII – Enforcement:
  - No changes other than the article number.

**FISCAL IMPACT:** Not Applicable

**ATTACHMENTS:**

[Current Chapter 7](#)

[Clean copy of amended Chapter 7](#)

[Ordinance](#)

# CHAPTER 7

## BUILDINGS

### ARTICLE I - ADMINISTRATION

#### **Sec. 7-1. Building official.**

Whenever reference is made to the duties of “certain officials” named within the 2009 International Building Code, the 2009 International Residential Code, the 2009 International Plumbing Code, 2009 International Mechanical Code, 2009 International Fuel Gas Code, and the 2009 International Energy Conservation Code, adopted in this Chapter, that designated official of Temple, Texas, who has duties corresponding to those of the named official in said Codes shall be deemed to be the responsible official insofar as enforcing the provisions of said Codes are concerned.

#### **Sec. 7-2. Building Board of Appeals.**

(a) *Creation and Appointment.* A Board is hereby established to be called the Building Board of Appeals (referred to in the 2009 International Building Code as the *Building Board of Adjustments and Appeals*), which will consist of 13 members. The City Council must appoint all Board members. The City Council must appoint, when possible, two architects or engineers, one person from the mechanical or air conditioning trade, two master plumbers, two persons from the building industry which may include a general contractor, engineer or other person at large from the building industry, two licensed master electricians, one licensed journeyman electrician, one representative of the electric distributor, and two persons at large representing no specific trade.

(b) *Term of Office.* All members shall be appointed for four year terms, except that the two licensed master electricians, one licensed journeyman electrician, and one representative of the electric distributor appointed in 2014 shall have an initial term of one year. After their initial one year term, those Board members will be appointed for four year terms. The City Council will fill vacancies by appointment. When any member of the Board has been absent from the regular meeting of such Board for three (3) or more consecutive times, without just cause, as determined by the Board or the City Council, the member’s office shall become vacant, and the chairman or acting chairman of the Board must certify such record of absence and vacancy to the City Council which will appoint a new member to fill the vacancy.

(c) *Procedures and Quorum.* Seven members of the Board constitute a quorum. In varying the application of any provisions of this Code or in modifying an order of the Building Official, Plumbing Official, or Electrical Official, affirmative votes of the majority present, but not less than five affirmative votes, are required. A Board member is prohibited from taking any action in a case in which he has a conflict of interest as that term may be defined in the City Charter, in Chapter 171 of the Local Government Code, or in other applicable laws or statutes.



(d) *Records.* The Building Official will act as secretary of the Building Board of Appeals and make a detailed record of all its proceedings. The record must set forth the reasons for the Board's decisions, the vote for each participating member, the absence of a member and any failure of a member to vote.

(e) *Procedure.* The Board must establish rules and regulations for its own procedures not inconsistent with the provisions of this Chapter. The Board shall meet at regular intervals to be determined by the chairman, or, in any event, the Board shall meet within ten (10) days after notice of appeal has been received.

(f) *Advisory Responsibility of the Board.* The Board shall submit to the City Council such recommendations for the improvement and revision of the 2009 *International Building Code*, the 2009 *International Mechanical Code*, the 2009 *International One and Two Family Dwelling Code*, the 2009 *International Plumbing Code*, the 2009 *International Gas Code*, 2009 *International Energy Code* or the 2009 *International Fire Code* as it may deem necessary and proper in light of the development of new materials, methods or techniques which would result in better and more economical installations, and to keep abreast of new developments in applicable portions of the 2009 *International Building Code*, the 2009 *Mechanical Code*, the 2009 *One and Two Family Dwelling Code*, the 2009 *International Plumbing Code*, the 2009 *International Gas Code*, the 2009 *International Energy Code* and the 2009 *International Fire Code*. All requests for use of materials or methods not covered in this Code must be fully supported by factual evidence, or prior approval from a recognized testing agency or such other impartial qualified authority acceptable to the Board.

(g) The Building Board of Appeals must carry out all functions and responsibilities assigned to the Board in Chapter 10 of the City Code. The process for appealing a decision of the Electrical Official to the Building Board of Appeals is set forth in Chapter 10.

(h) All of the functions of the Historic Preservation Board as set forth in Chapter 17 of the City Code are hereby assigned and must be performed by the Building Board of Appeals.

### **Sec. 7-3. Appeals; Time limit.**

(a) Whenever the Building Official, or his designee, rejects or refuses to approve the mode or manner of construction purposed to be followed, or materials to be used in the erection or alteration of a building or structure, or when it is claimed that the provisions of this Code do not apply, or that an equally good more desirable form of construction can be employed in any specific case, or when it is claimed that the true intent and meaning of this Code, or any of the regulations thereunder have been misconducted or wrongly interpreted, the owner of such building or structure, or his duly authorized agent, may appeal from the decision of the Building Official or his designee to the Building Board of Appeals. Notice of appeal shall be in writing and filed with the Building Official within ninety (90) days after decision is rendered by the Building Official. A fee of ten dollars (\$10.00) must accompany the notice of appeal.

(b) In case of a building or structure, which, in the opinion of the Building Official is unsafe or dangerous, the Building Official may, in his order, limit the time for such appeal to a shorter period. The Building Official will provide notice of appeal forms for use by the public.

#### **Sec. 7-4. Decisions of the Building Board of Appeals.**

(a) *Variances and Modifications.*

(1) The Building Board of Appeals, when so appealed to and after hearing, may grant a variance to the application of any provision of the 2009 *International Building Code*, the 2009 *International Residential Code*, the 2009 *International Plumbing Code*, the 2009 *International Mechanical Code*, the 2009 *International Fuel Gas Code*, and the 2009 *Energy Conservation Code* to any particular case when, in its opinion, the enforcement thereof would do manifest injustice, and the interpretation of the Building Official or his designee should be modified or reversed.

(2) A decision of the Building Board of Appeals to vary the application of any provision of this Code or to modify an order the Building Official or his designee must specify the manner in which the variance or modification is made, the conditions upon which it is made and the reason for the variance or modification.

(b) *Decisions.*

(1) Every decision of the Building Board of Appeals is final, subject, however, to such remedy as any aggrieved party might have at law or in equity. The decision must be in writing and must indicate the record vote of the Board members. Every decision must be promptly filed in the Office of the Building Official, and will be open to public inspection; a certified copy must be sent by mail or otherwise to the appellant and a copy kept publicly posted in the Office of the Building Official for two (2) weeks after filing.

(2) The Building Board of Appeals shall, in every case, reach a decision without unreasonable or unnecessary delay.

(3) If a decision of the Building Board of Appeals reverses or modifies a refusal, order or disallowance of the Building Official or his designee, or varies the application of any provisions of this Code, the Building Official or his designee must immediately take action in accordance with such decision.

#### **Sec. 7-5 – 7-20. Reserved.**

## ARTICLE II - ADMINISTRATION

### Sec. 7-21. Building Code.

The City of Temple adopts, as part of its Building Regulations, the 2009 *International Building Code*, as it now exists and as it may be revised from time to time, including appendices. A copy of the *International Building Code* is maintained in the office of the Building Official.

### Sec. 7-22. Amendments.

What follows are additions, deletions and amendments to the 2009 *International Building Code*.

- (a) *Permits*. Chapter 1, "Scope and Administration," Section 105, "Permits," Subsection 105.2 "Work exempt from a permit" is amended as follows:

Delete sections 1, 2, and 6.

- (b) *Temporary Structures and Uses*. Chapter 1, "Scope and Administration," Section 108 "Temporary Structures and Uses," Subsection 108.3 "Temporary Power" is amended as follows:

Delete the "ICC Electrical Code" and replace with 2008 *National Electrical Code* and City of Temple Electrical Code.

- (c) *Fees*. Chapter 1, "Scope and Administration," Section 109 "Fees," Subsection 109.1 "Permit Fees" shall be amended as follows:

109. Permit Fees.

The City Council must adopt by resolution a schedule of the permit fees required or authorized by the 2009 *International Building Code*, a copy of which shall be maintained in the office of the Building Official.

- (d) *Board of Appeals*. Chapter 1, "Scope and Administration," Section 113 "Board of Appeals," shall be deleted and replaced with Section 7-2, "Building Board of Appeals" found within this document.

- (e) *Private garages*. Chapter 4, "Special Detailed Requirements Based on Use and Occupancy," Section 406, "Motor-Vehicle-Related Occupancies," Subsection 406.1 "Private garages and carports," 406.1.2 (2) shall be amended as follows:

The fire separation distance shall be changed from 5 to 10 feet.

### Sec. 7-23 – 7-40. Reserved



### **ARTICLE III - MECHANICAL CODE**

#### **Sec. 7-41. Adopted.**

The City of Temple adopts as part of its buildings regulations the 2009 *International Mechanical Code* as it now exists and as it may be revised from time to time. A copy of the 2009 *International Mechanical Code* is maintained in the office of the Building Official.

#### **Sec. 7-42 – 7-60. Reserved.**

### **ARTICLE IV - 2009 INTERNATIONAL RESIDENTIAL CODE FOR ONE AND TWO FAMILY DWELLINGS**

#### **Sec. 7-61. Adopted.**

The City of Temple adopts as part of its building regulations the 2009 *International Residential Code for One and Two Family Dwellings* as it now exists and as it may be revised from time to time. A copy of the 2009 *International Residential Code for One and Two Family Dwellings* is maintained in the office of the Building Official.

#### **Sec. 7-62. Amendments.**

The City of Temple adopts certain amendments to the 2009 *International Residential Code for One and Two Family Dwellings* which amendments are maintained in the office of the Building Official.

- (a) *Work exempted from permits.* Chapter 1, “Scope and Administration,” Section R105, “Permits,” R105.2 “Work exempt from permit” shall be amended as follows:

(1) Sections 1, 2, 3, 4, 5 and 10 shall be deleted.

(2) R105.2(3) be amended as follows:

The reference to four feet shall be replaced with two feet.

(3) Any reference to the “ICC Electrical Code” is deleted and replaced with 2008 *National Electrical Code* and City of Temple Electrical Code, Chapter 10.

- (b) *Manufacturers installation instructions.* Chapter 1, “Scope and Administration,” Section R106, “Construction Documents,” R106.1.2. Manufacturer’s installation instructions shall be amended by deleting the words “on the job site.”

- (c) *Manufacturer’s installation instructions.* Chapter 1, “Scope and Administration,” Section R106, “Construction Documents,” R106.3.1 “Approval of construction documents” shall be amended to read as follows:

When the building official issues a permit, the construction documents shall be made available and shall be open to inspection by the Building Official or his or her authorized representative.

- (d) *Frame and Masonry Inspection*. Chapter 1, "Scope and Administration," Section R109 "Inspections," R109.1.4 "Frame and masonry inspection" shall be amended by deleting the word masonry throughout the entire section.
- (e) *Certificate of Occupancy*. Chapter 1, "Scope and Administration," Section R110, "Certificate of Occupancy," shall be amended by deleting Sections R110.1; R110.3; R110.4; and R110.5
- (f) *Board of Appeals*. Chapter 1, "Scope and Administration," Section R112 "Board of Appeals," shall be deleted and replaced with Section 7-2, "Building Board of Appeals" found within this document.
- (g) *Attics*. Chapter 2, "Definitions," "Attic, Habitable," shall be amended by deleting the reference to "unfinished."
- (h) *Handrails*. Chapter 3, "Building Planning," Section R311, "Means of Egress," Subsection R311.8.3, "Handrails required," R311.8.3.1, "Height," shall be amended to delete 34 and 38 inches and replace with 28 and 36 inches respectively.
- (i) *Foundation Anchorage*. Chapter 4, "Foundations," Section R403, "Footings," Subsection R403.1. "General," R403.1.6, "Foundation anchorage," shall be amended as follows:

Shall extend a minimum of 8" inches in length (178mm) into concrete or grouted cells of concrete masonry units.
- (j) *Foundation Elevation*. Chapter 4, "Foundations," Section R403, "Footings," Subsection R403.1, "General," R403.1.7 "Footing on or adjacent to slope," R403.1.7.3, "Foundation elevation," shall be deleted and individuals must comply with the City's drainage ordinance.
- (k) *Truss design drawings*. Chapter 5, "Floors," Section R502, "Wood floor framing," Subsection R502.11, "Wood Trusses," R502.11.4 "Truss design drawings," shall be amended by deleting the words "and approved," and replaced with "on request."
- (l) *Weepholes*. Chapter 7, "Wall Covering," Section R703, "Exterior Covering," Subsection R703.7, "Stone and masonry veneer, generally," 703.7.6, "Weepholes" shall be amended so as to delete the reference to "33 inches" and replace with "a maximum of 48 inches."
- (m) *Energy Efficiency*. Chapter 11, "Energy Efficiency," Section N1104, "Lighting System," Subsection N1104.1, "Lighting Equipment," shall be deleted until enforcement is mandated by the State.

- (n) *Plumbing generally.* Chapter 29, “Water Supply and Distribution,” In all instances, only copper or pex-al-pex shall be used under a concrete slab.
- (o) *Water distribution pipe.* Chapter 29 “Water Supply and Distribution,” Section P2905, “Materials, joints and connections,” Subsection P2905.5, “Water Distribution Pipe” shall be amended by deleting “Brass pipe, Polybutylene (PB) plastic pipe and tubing, Polypropylene (PP) plastic pipe or tubing to be used for both hot and cold water,” and adding “Aluminum Shielded pex pipe.”
- (p) *Electrical.* Chapters 34-41 shall be deleted and all references shall be replaced with Chapter 10, Electrical Code, of the City of Temple Code of Ordinances.

**Sec. 7-63 – 7-80. Reserved.**

## **ARTICLE V - PLUMBING CODE**

**Sec. 7-81. Adopted.**

The City of Temple adopts as part of its building regulations the 2009 *International Plumbing Code* as it now exists and as it may be revised from time to time. A copy of the 2009 *International Plumbing Code* is maintained in the office of the Building Official.

**Sec. 7-82. Amendments.**

The City of Temple adopts certain amendments to the 2009 *International Plumbing Code*, which amendments are maintained in the Office of the Building Official.

(a) Appendix A. Plumbing Fees.

The City Council must adopt by resolution a schedule of the permit fees required or authorized by the 2009 *International Plumbing Code*, a copy of which will be maintained in the office of the Building Official.

(b) Table 906.1. The distance from water closet to vent stack is five feet (5'). If the depth of the flow line of sewer yard is more than 24" at any point, double wyes or combination wyes & 1/8 bends are to be used. A sewer yard line clean out is to be installed at junction of sewer yard line and City sewer.

**TABLE 906.1 DISTANCE OF FIXTURE TRAP FROM VENT**

Size of Fixture	Size of Trap	Falls Per Foot	Distance from Trap
1 1/4"	1 1/4"	1/4"	4'



1 ½"	1 ¼"	¼"	4'
1 ½"	1 ½"	¼"	4'
2"	1 ½"	¼"	5'
2"	2"	¼"	5'
*3"	3"	1/8"	5'
*4"	4"	1/8"	5'

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\* Floor Drains Only 10' & 12' on 3" and 4"

(c) Chapter 6, "Water Supply and Distribution," Chapter 7, "Sanitary Drainage," and Chapter 9, "Vents," shall be amended as follows:

- (1) All references to air admittance valves shall be deleted.
- (2) All sinks and washer connections to have a cleanout at or near the foot of each vented waste or soil stack.
- (3) A dishwashing machine shall not be directly connected to a drainage system.
- (4) Cold water distribution ASTM D3309-85B may be used in readily accessible places only, not in walls, in or under slab foundations, or in attics.

#### **Sec. 7-83. Plumbing Installation or Maintenance by Homeowner.**

Nothing in this Chapter shall prevent a homeowner from installing or maintaining plumbing within his own property boundaries, providing such plumbing work is done by himself and is used exclusively by him or his family. Such privilege does not convey the right to violate any of the provisions of this Chapter, nor is it to be construed as exempting any such property owner from obtaining a permit and paying the required fees thereof.

#### **Section 7-84. Who May Obtain a Permit.**

Permits may be issued *only* to the following:

- (a) Master plumber licensed by the State of Texas of Plumbing Examiners;
- (b) Property owner, for plumbing work to be done by him in a building owned and occupied by him as his home;
- (c) Appliance dealer or dealer's employee, for connecting appliances to existing piping installation;
- (d) Licensed landscape architects and irrigators.

#### **Sec. 7-85 – 7-93. Reserved.**

## ARTICLE VI - GAS CODE

### **Sec. 7-94. Adopted.**

The City of Temple adopts as part of its Building regulations, the 2009 *International Fuel Gas Code* as it exists now and as it may be revised from time to time. A copy of the 2009 *International Fuel Gas Code* is maintained in the office of the Building Official.

### **Sec. 7-95. Amendments.**

The City of Temple adopts certain amendments to the 2009 *International Fuel Gas Code*, which amendments are maintained in the Office of the Building Official.

(a) The City Council shall adopt by resolution a schedule of the permit fees required or authorized by the 2009 *International Fuel Gas Code*, a copy of which shall be maintained in the office of the Building Official.

(b) *Air Testing Lines*. Chapter 4, “Gas Piping Installations,” Section 406, “Inspection, testing and purging,” Subsection 406.4 “Test pressure measurement,” shall be amended as follows:

The test with a diaphragm gage on gas house piping and service lines shall be made by closing all openings and subjecting the pipes to an air pressure of 3 to 5 ounces for at least fifteen (15) minutes under a constant temperature, the piping shall be considered sufficiently tight.

## ARTICLE VII - ENERGY CODE

### **Sec. 7-96. Adopted.**

The City of Temple adopts as part of its building regulations the 2009 *International Energy Code* as it now exists and as it may be revised from time to time. A copy of the 2009 *International Energy Code* is maintained in the office of the Building Official.

### **Sec. 7-97 Amendments.**

The City of Temple adopts certain amendments to the 2009 *International Energy Code*, which amendments are maintained in the Office of the Building Official.

(a) Chapter 4, “Residential Energy Code,” Table 402.1.1, “Insulation and Fenestration Requirements by Components,” shall be amended by deleting requirements found in the “Glazed Fenestration SHGC” in “Climate Zone 2,” until the state mandates these requirements.

### **Sec. 7-98 – 7-99. Reserved.**

## ARTICLE VIII - LANDSCAPE IRRIGATION STANDARDS

### Sec. 7-100. Definitions.

The following words and terms, when used in this ordinance, have the following meanings, unless the context clearly indicates otherwise.

(a) *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.

(b) *Backflow prevention* - The mechanical prevention of reverse flow, or back siphonage, of nonpotable water from an irrigation system into the potable water source.

(c) *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.

(d) *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.

(e) *Consulting* - The act of providing advice, guidance, review or recommendations related to landscape irrigation systems.

(f) *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.

(g) *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.

(h) *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.

(i) *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.

(j) *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 U.S.C., §3212(d) based on the behavioral control, financial control, and the type of relationship involved in performing employment related tasks.

(k) *Head-to-head spacing* - The spacing of spray or rotary heads equal to the manufacturer's published radius of the head.

(l) *Health hazard* - A cross-connection or potential cross-connection with an irrigation system that involves any 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 an irrigation system services property that is also served by an on-site sewage facility (septic system).

(m) *Hydraulics* - The science of dynamic and static water; the mathematical computation of determining pressure losses and pressure requirements of an irrigation system.

(n) *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).

(o) *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).

(p) *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.

(q) *Irrigation services* - Selling, designing, installing, maintaining, altering, repairing, servicing, permitting, providing consulting services regarding, or connecting an irrigation system to a water supply.

(r) *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.

(s) *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).

(t) *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.

(u) *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.

(v) *Landscape Irrigation* - The science of applying the necessary amount of water to promote or sustain healthy growth of plant material or turf.

(w) *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.

(x) *Mainline* - A pipe within an irrigation system that delivers water from the water source to the individual zone valves.

(y) *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.

(z) *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.

(aa) *Master valve* - A remote control valve located after the backflow prevention device that controls the flow of water to the irrigation system mainline.

(bb) *Matched precipitation rate* - The condition in which all sprinkler heads within an irrigation zone apply water at the same rate.

(cc) *New installation* - An irrigation system installed at a location where one did not previously exist.

(dd) *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.

(ee) *Potable water* - Water that is suitable for human consumption.

(ff) *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.

(gg) *Reclaimed water* - Domestic or municipal wastewater which has been treated to a quality suitable for beneficial use, such as landscape irrigation.

(hh) *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.

(ii) *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.

(jj) *Static water pressure* - The pressure of water when it is not moving.

(kk) *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.

(ll) *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.

(mm) *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.

(nn) *Zone valve* - An automatic valve that controls a single zone of a landscape irrigation system.



#### **Sec. 7-101. Valid license required.**

(a) 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 Title 22 of the Texas Administrative Code, Chapter 365 and required by Chapter 1301 of the Texas Occupations Code.

(b) **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.

#### **Sec. 7-102. Permit required.**

(a) 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.

(b) A person is exempt from the requirement set forth in subsection (a) if the person is installing any of the following:

- (1) An irrigation system that is an on-site sewage disposal system, as defined by Section 366.002, Health and Safety Code;
- (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.

#### **Sec. 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, the Foundation for Cross-Connection Control and Hydraulic Research,

University of Southern California, 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) In new installations of landscape irrigation systems one of the following methods must be used to prevent backflow:

(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.

(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 as 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:

- (1) When chemicals are added to an irrigation system which is connected to the potable water supply; or
- (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.

(f) 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.

**Sec. 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.

(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.

(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 any 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.

**Sec. 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 Section 7-100.

**Sec. 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.

**Sec. 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.

#### **Sec. 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:

(a) a final "walk through" with the irrigation system's owner or the owner's representative to explain the operation of the system;

(b) 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:

- (1) the manufacturer's manual for the automatic controller, if the system is automatic;
- (2) 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;
- (3) 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
- (4) 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."

(c) 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.

(d) The irrigation plan indicating the actual installation of the system must be provided to the irrigation system's owner or owner representative.

#### **Sec. 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.

### **Sec. 7-110. Reclaimed water.**

Reclaimed water may be utilized in landscape irrigation systems if:

- (a) there is no direct contact with edible crops, unless the crop is pasteurized before consumption;
- (b) the irrigation system does not spray water across property lines that do not belong to the irrigation system's owner;
- (c) the irrigation system is installed using purple components;
- (d) 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);
- (e) 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
- (f) backflow prevention on the reclaimed water supply line shall be in accordance with the regulations of the City's water provider.

### **Sec. 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 TCEQ 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.

### **Sec. 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](http://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](http://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 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](http://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.

**Sec. 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:

- (a) 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;
- (b) inspecting the irrigation system;
- (c) determining that the irrigation system complies with the requirements of this chapter;
- (d) determining that the appropriate backflow prevention device was installed, tested, and test results provided to the City;
- (e) investigating complaints related to irrigation system installation, maintenance, alteration, repairs, or service of an irrigation system and advertisement of irrigation services; and
- (f) maintaining records according to this chapter.

**Sec. 7-115. Items not covered by this ordinance.**

Any item not covered by this 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.

**Sec. 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.

**ARTICLE IX - ENFORCEMENT**

**Sec. 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 this 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.



# CHAPTER 7

## BUILDINGS

### ARTICLE I - AUTHORITY

#### **Sec. 7-1. Building official.**

Whenever reference is made to the duties of “officials” named within the 2015 *International Building Code*, 2015 *International Existing Building Code*, 2015 *International Residential Code*, 2015 *International Plumbing Code*, 2015 *International Mechanical Code*, 2015 *International Fuel Gas Code*, 2015 *International Energy Conservation Code*, and 2015 *International Swimming Pool and Spa Code* adopted in this Chapter or within this Chapter, that designated official of Temple, Texas, who has duties corresponding to those of the named official shall be deemed to be the responsible official to enforce the provisions of the applicable code.

### ARTICLE II - BUILDING BOARD OF APPEALS

#### **Sec. 7-2. Building Board of Appeals.**

- (a) *Creation and Appointment.* A Board is hereby established to be called the Building Board of Appeals, which will consist of 13 members. The City Council must appoint all Board members. The City Council must appoint, when possible, two architects or engineers, one person from the mechanical or air conditioning trade, two master plumbers, two persons from the building industry which may include a general contractor, engineer or other person at large from the building industry, two licensed master electricians, one licensed journeyman electrician, one representative of the electric distributor, and two persons at large representing no specific trade.
- (b) *Term of Office.* All members shall be appointed for four year terms, except that the two licensed master electricians, one licensed journeyman electrician, and one representative of the electric distributor appointed in 2014 shall have an initial term of one year. After their initial one year term, those Board members will be appointed for four year terms. The City Council will fill vacancies by appointment. When any member of the Board has been absent from the regular meeting of such Board for three (3) or more consecutive times, without just cause, as determined by the Board or the City Council, the member’s office shall become vacant, and the chairman or acting chairman of the Board must certify such record of absence and vacancy to the City Council which will appoint a new member to fill the vacancy.
- (c) *Procedures and Quorum.* Seven members of the Board constitute a quorum. In varying the application of any provisions of this Code or in modifying an order of the Building Official, Plumbing Official, or Electrical Official, affirmative votes of the majority present, but not less than five affirmative votes, are required. A Board member is prohibited from taking any action in a case in which he has a conflict of interest as that term may be defined in the

City Charter, in Chapter 171 of the Texas Local Government Code, as amended, or in other applicable laws or statutes.

- (d) *Records.* The Building Official will act as secretary of the Building Board of Appeals and make a detailed record of all its proceedings. The record must set forth the reasons for the Board's decisions, the vote for each participating member, the absence of a member, and any failure of a member to vote.
- (e) *Procedure.* The Board must establish rules and regulations for its own procedures not inconsistent with the provisions of this Chapter. The Board shall meet at regular intervals to be determined by the chairman, or, in any event, the Board shall meet within ten (10) days after notice of appeal has been received.
- (f) *Advisory Responsibility of the Board.* The Board shall submit to the City Council such recommendations for the improvement and revision of the 2015 *International Building Code*, 2015 *International Existing Building Code*, 2015 *International Mechanical Code*, 2015 *International Residential Code*, 2015 *International Plumbing Code*, 2015 *International Fuel Gas Code*, 2015 *International Energy Conservation Code*, 2015 *International Swimming Pool and Spa Code*, and the City's currently adopted fire code as it may deem necessary and proper in light of the development of new materials, methods, or techniques which would result in better and more economical installations and to keep abreast of new developments in applicable portions of the same. All requests for use of materials or methods not covered in this Code must be fully supported by factual evidence or prior approval from a recognized testing agency or such other impartial qualified authority acceptable to the Board.
- (g) The Building Board of Appeals must carry out all functions and responsibilities assigned to the Board in Chapter 10 of the City Code. The process for appealing a decision of the Electrical Official to the Building Board of Appeals is set forth in Chapter 10.
- (h) All of the functions of the Historic Preservation Board as set forth in Chapter 17 of the City Code are hereby assigned and must be performed by the Building Board of Appeals.

### **Sec. 7-3. Appeals; Time limit.**

- (a) Whenever the Building Official, or his designee, rejects or refuses to approve the mode or manner of construction purposed to be followed, or materials to be used in the erection or alteration of a building or structure, or when it is claimed that the provisions of this Code do not apply, or that an equally good more desirable form of construction can be employed in any specific case, or when it is claimed that the true intent and meaning of this Code, or any of the regulations thereunder have been misconstrued or wrongly interpreted, the owner of such building or structure, or his duly authorized agent, may appeal from the decision of the Building Official or his designee to the Building Board of Appeals. Notice of appeal shall be in writing and filed with the Building Official within ninety (90) days after decision is rendered by the Building Official. A fee of ten dollars (\$10.00) must

accompany the notice of appeal. The Building Official will provide notice of appeal forms for use by the public.

- (b) In case of a building or structure, which, in the opinion of the Building Official is unsafe or dangerous, the Building Official may, in his order, limit the time for such appeal to a shorter period.

#### **Sec. 7-4. Decisions of the Building Board of Appeals.**

##### **(a) *Variances and Modifications.***

- (1) The Building Board of Appeals, when so appealed to and after hearing, may grant a variance to the application of any provision of the 2015 *International Building Code*, 2015 *International Existing Building Code*, 2015 *International Residential Code*, 2015 *International Plumbing Code*, 2015 *International Mechanical Code*, 2015 *International Fuel Gas Code*, 2015 *International Energy Conservation Code*, 2015 *International Swimming Pool and Space Code*, and the City's currently adopted fire code to any particular case when, in its opinion, the enforcement thereof would do manifest injustice, and the interpretation of the Building Official or his designee should be modified or reversed.
- (2) A decision of the Building Board of Appeals to vary the application of any provision of this Code or to modify an order the Building Official or his designee must specify the manner in which the variance or modification is made, the conditions upon which it is made, and the reason for the variance or modification.

##### **(b) *Decisions.***

- (1) Every decision of the Building Board of Appeals is final, subject, however, to such remedy as any aggrieved party might have at law or in equity. The decision must be in writing and must indicate the record vote of the Board members. Every decision must be promptly filed in the Office of the Building Official and will be open to public inspection; a certified copy must be sent by mail or otherwise to the appellant and a copy kept publicly posted in the Office of the Building Official for two (2) weeks after filing.
- (2) The Building Board of Appeals must, in every case, reach a decision without unreasonable or unnecessary delay.
- (3) If a decision of the Building Board of Appeals reverses or modifies a refusal, order, or disallowance of the Building Official or his designee or varies the application of any provisions of this Code, the Building Official or his designee must immediately act in accordance with such decision.

#### **Sec. 7-5 – 7-20. Reserved.**



## ARTICLE III - BUILDING CODE

### Sec. 7-21. Building Code.

The City of Temple adopts, as part of its Building Regulations, the 2015 *International Building Code*, as it now exists and as it may be revised from time to time, including appendices. A copy of the 2015 *International Building Code* is maintained in the office of the Building Official.

### Sec. 7-22. Amendments.

The City of Temple adopts the following amendments to the 2015 *International Building Code*, which amendments are maintained in the office of the Building Official:

- (a) *Electrical Code references.* All references to the "ICC Electrical Code" found within the 2015 *International Building Code* shall be deleted and replaced with references to the 2017 *National Electrical Code* and the City of Temple, Electrical Code, Chapter 10.
- (b) *Title.* Chapter 1, "Scope and Administration," Section 101, "General," Subsection 101.1, "Title," shall be amended by inserting the phrase, "The City of Temple," as the name of jurisdiction.
- (c) *Permits.* Chapter 1, "Scope and Administration," Section 105, "Permits," Subsection 105.2, "Work exempt from a permit," is amended as follows:

Delete sections 1, 2, 4, and 6.

- (d) *Fees.* Chapter 1, "Scope and Administration," Section 109, "Fees," Subsection 109.2, "Schedule of permit fees," shall be amended as follows:

#### **109.2. Schedule of permit fees.**

- (1) On buildings, structures, electrical, gas, mechanical, and plumbing systems or alterations requiring a permit, a fee for each permit shall be paid as required, in accordance with the schedule as established by the City Council.
  - (2) The City Council will adopt by resolution a schedule of the permit fees required or authorized by the 2015 *International Building Code*, a copy of which shall be maintained in the office of the Building Official.
- (e) *Board of Appeals.* Chapter 1, "Scope and Administration," Section 113, "Board of Appeals," shall be deleted and replaced with Article II, "Building Board of Appeals," found within this Chapter.

- (f) *Electrical.* Chapter 27, "Electrical," shall be deleted in its entirety and all references shall be replaced with the 2017 National Electrical Code and Chapter 10, Electrical Code, of the City of Temple Code of Ordinances.

## **ARTICLE IV - EXISTING BUILDING CODE**

### **Sec. 7-23. Adopted.**

The City of Temple adopts as part of its building regulations the 2015 *International Existing Building Code* as it now exists and as it may be revised from time to time. A copy of the 2015 *International Existing Building Code* is maintained in the office of the Building Official.

### **Sec. 7-24. Amendments.**

The City of Temple adopts the following amendments to the *International Existing Building Code*, which amendments are maintained in the office of the Building Official:

- (a) *Title.* Chapter 1, "Scope and Administration," Section 101, "General," Subsection 101.1, "Title," shall be amended by inserting the phrase, "The City of Temple," as the name of jurisdiction.
- (b) *Annual permit records.* Chapter 1, "Scope and Administration," Section 105, "Permits," Subsection 105.1.1, "Annual permit," shall be deleted in its entirety.
- (c) *Annual permit records.* Chapter 1, "Scope and Administration," Section 105, "Permits," Subsection 105.1.2, "Annual permit records," shall be deleted in its entirety.
- (d) *Work exempt from permit.* Chapter 1, "Scope and Administration," Section 105, "Permits," Section 105.2, "Work exempt from permit," Subsection "Building" shall be amended as follows:
  - (1) Subsection 1 shall be deleted.
- (e) *Fees.* Chapter 1, "Scope and Administration," Section 108, "Fees," Subsection 108.2, "Schedule of permit fees," shall be amended as follows:

#### **108.2. Schedule of permit fees.**

- (1) On buildings, structures, electrical, gas, mechanical, and plumbing systems or alterations requiring a permit, a fee for each permit shall be paid as required, in accordance with the schedule as established by the City Council.
- (2) The City Council will adopt by resolution a schedule of the permit fees required or authorized by the 2015 *International Existing Building Code*, a copy of which shall be maintained in the office of the Building Official.

(f) *Board of Appeals.*

Chapter 1, "Scope and Administration," Section 112, "Board of Appeals," shall be deleted and replaced with Article II, "Building Board of Appeals," found within this Chapter.

**Sec. 7-25 – 7-40. Reserved**

**ARTICLE V - MECHANICAL CODE**

**Sec. 7-41. Adopted.**

The City of Temple adopts as part of its building regulations the 2015 *International Mechanical Code* as it now exists and as it may be revised from time to time. A copy of the 2015 *International Mechanical Code* is maintained in the office of the Building Official.

**Sec. 7-42. Amendments.**

The City of Temple adopts the following amendments to the 2015 *International Mechanical Code*, which amendments are maintained in the office of the Building Official:

- (a) *Title.* Chapter 1, "Scope and Administration," Section 101, "General," Subsection 101.1, "Title," shall be amended by inserting the phrase, "The City of Temple," as the name of jurisdiction.
- (b) *Fee schedule.* Chapter 1, "Scope and Administration," Section 106, "Permits," Subsection 106.5, "Fees," Subsection, 106.5.2, "Fee schedule," shall be amended by removing the subsection in its entirety and replacing it with the following language:

**106.5.2 Fee schedule.**

The City Council shall adopt by resolution a schedule of the permit fees required or authorized by the 2015 *International Mechanical Code*, a copy of which shall be maintained in the office of the Building Official.

- (c) *Board of Appeals.* Chapter 1, "Scope and Administration," Section 109, "Means of Appeal," shall be deleted and replaced with Article II, "Building Board of Appeals," found within this Chapter.

**Sec. 7-43 – 7-60. Reserved.**

**ARTICLE VI - INTERNATIONAL RESIDENTIAL CODE**

**Sec. 7-61. Adopted.**



The City of Temple adopts as part of its building regulations the 2015 *International Residential Code* as it now exists and as it may be revised from time to time. A copy of the 2015 *International Residential Code* is maintained in the office of the Building Official.

#### **Sec. 7-62. Amendments.**

The City of Temple adopts the following amendments to the 2015 *International Residential Code*, which amendments are maintained in the office of the Building Official:

- (a) *Electrical code references.* All references to the "ICC Electrical Code" and the 2014 *National Electrical Code* found within the 2015 *International Residential Code* shall be deleted and replaced with references to the 2017 *National Electrical Code* and the City of Temple, Electrical Code, Chapter 10.
- (b) *Title.* Chapter 1, "Scope and Administration," Section R101, "General," Subsection R101.1, "Title," shall be amended by inserting the phrase, "The City of Temple," as the name of jurisdiction.
- (c) *Work exempted from permits.* Chapter 1, "Scope and Administration," Section R105, "Permits," Subsection R105.2, "Work exempt from permit," Subsection "Building" shall be amended as follows:

- (1) Subsections 1, 2, 4, 5, and 10 shall be deleted.

- (2) Subsection (3) shall be amended as follows:

- The reference to four feet shall be replaced with two feet (609.6 mm).

- (d) *Manufacturer's installation instructions.* Chapter 1, "Scope and Administration," Section R106, "Construction Documents," Subsection R106.1.2, "Manufacturer's installation instructions," shall be amended by deleting the words "on the job site."
- (e) *Construction documents available.* Chapter 1, "Scope and Administration," Section R106, "Construction Documents," Subsection R106.3.1, "Approval of construction documents," shall be amended to read as follows:

- When the Building Official issues a permit, the construction documents shall be made available and shall be open to inspection by the Building Official or his or her authorized representative.

- (f) *Fees.* Chapter 1, "Scope and Administration," Section R108, "Fees," Subsection R108.2, "Schedule of permit fees," shall be amended as follows:

#### **R108.2. Schedule of permit fees.**

- (1) On buildings, structures, electrical, gas, mechanical, and plumbing systems or alterations requiring a permit, a fee for each permit shall be paid as required, in accordance with the schedule as established by the City Council.
  - (2) The City Council will adopt by resolution a schedule of the permit fees required or authorized by the 2015 *International Residential Code*, a copy of which shall be maintained in the office of the Building Official.
- (g) *Frame and Masonry Inspection.* Chapter 1, “Scope and Administration,” Section R109 “Inspections,” Subsection R109.1.4, “Frame and masonry inspection,” shall be amended to read as follows:
- R109.1.4 Frame inspection.**
- Inspection of framing shall be made after the roof, framing, firestopping, draftstopping, and bracing are in place and after the plumbing, mechanical, and electrical rough inspections are approved.
- (h) *Certificate of Occupancy.* Chapter 1, “Scope and Administration,” Section R110, “Certificate of Occupancy,” shall be amended by deleting Subsections R110.1; R110.3; R110.4; and R110.5
- (i) *Board of Appeals.* Chapter 1, “Scope and Administration,” Section R112, “Board of Appeals,” shall be deleted and replaced with Article II, “Building Board of Appeals,” found within this Chapter.
- (j) *Attics.* Chapter 2, "Definitions," Section R202, “Definitions,” “Attic, Habitable,” shall be amended by deleting the phrase “or unfinished area.”
- (k) *Self-closing devices.* Chapter 3, "Building Planning," Section R302, "Fire-resistant Construction," Subsection R302.5, "Dwelling-garage opening and penetration protection," Subsection R302.5.1, "Opening protection," shall be amended by deleting the phrase, "equipped with a self-closing device."
- (l) *Handrails.* Chapter 3, “Building Planning,” Section R311, “Means of Egress,” Subsection R311.8.3, “Handrails required,” Subsection R311.8.3.1, “Height,” shall be amended to delete 34 inches (864 mm) and 38 inches (965 mm) and replace with 28 inches (711.2 mm) and 36 inches (914.4 mm) respectively.
- (m) *Guard Requirement.* Chapter 3, "Building Planning," Section R312, "Guards and Window Fall Protection," Subsection R312.1, "Guards," Subsection R312.1.1, "Where required," shall be amended to read as follows:

*Guards* shall be located along open-side walking surfaces of all decks, porches, and balconies, including stairs, ramps, and landings, that are located more than 30 inches (762

mm) measured vertically to the floor or *grade* below. Insect screening shall not be considered as a *guard*.

- (n) *Window Fall Protection Devices*. Chapter 3, "Building Planning," Section R312, "Guards and Window Fall Protection," Subsection R312.2, "Window fall protection," shall be amended to read as follows:

### **R312.2 Window fall protection.**

Where window fall protection devices are provided, the devices shall be installed in accordance with Section R312.2.1.

#### **R312.2.1 Window opening control devices.**

Window opening control devices shall comply with ASTM F2090. The window opening control device, after operation to release the control device allowing the window to fully open, shall not reduce the net clear opening area of the window unit to less than the area required by Section R310.2.1.

- (o) *Residential fire sprinkler systems*. Chapter 3, "Building Planning," Section R313, "Automatic Fire Sprinkler Systems," shall be deleted in its entirety.
- (p) *Exceptions to mezzanine openness*. Chapter 3, "Building Planning," Section R325, "Mezzanines," Subsection R325.5, "Openness," shall be amended by deleting the exceptions to the Subsection R325.5.
- (q) *Foundation Anchorage*. Chapter 4, "Foundations," Section R403, "Footings," Subsection R403.1, "General," Subsection R403.1.6, "Foundation anchorage," shall be amended as follows:
- (1) The sentence, "Bolts shall extend a minimum of 7 inches (178 mm) into concrete or grouted cells of concrete masonry units," shall be deleted and replaced with the sentence: "Bolts shall extend a minimum of eight inches (203.2 mm) in length into concrete or grouted cells of concrete masonry units."
  - (2) An exception shall be added to the list of exceptions and shall read as follows:
    3. Where the basic wind speed in accordance with Figure R301.2(4)A does not exceed 115 miles per hour (51 m/s), the seismic design category is A or B and Method GB in accordance with Section R602.10 is used for a braced wall line on the interior of the dwelling, anchor bolts shall not be required for the wood sole plates of the braced wall panels. In these cases, positive anchorage with approved fasteners must be used.
- (r) *Foundation Elevation*. Chapter 4, "Foundations," Section R403, "Footings," Subsection R403.1, "General," Subsection R403.1.7, "Footings on or adjacent to slopes," Subsection



R403.1.7.3, “Foundation elevation,” shall be deleted and persons must comply with the City’s drainage ordinance.

- (s) *Truss design drawings.* Chapter 5, “Floors,” Section R502, “Wood Floor Framing,” Subsection R502.11, “Wood trusses,” Subsection R502.11.4, “Truss design drawings,” shall be amended by deleting the words “and approved” and replacing it with the phrase “on request.”
- (t) *Weepholes.* Chapter 7, “Wall Covering,” Section R703, “Exterior Covering,” Subsection R703.8, “Anchored stone and masonry veneer, general,” Subsection R703.8.6, “Weepholes” shall be amended so as to delete the phrase, “33 inches (838 mm),” and replace with phrase “48 inches (1219.2 mm).”
- (u) *Insulation and Fenestration Requirements by Component.* Chapter 11, "Energy Efficiency," Section N1102 (R402), "Building Thermal Envelope," Subsection N1102.1 (R402.1), "General (Prescriptive)," Subsection N1102.1.2 (R402.1.2), "Insulation and fenestration criteria," Table N1102.1.2 (R402.1.2), "Insulation and Fenestration Requirements by Component," shall be amended by:

- (1) Deleting the value "38" from the cell located in the Climate Zone 2 Row (Row 3) and the Ceiling *R*-Value Column (Column 5) and replacing it with the value "30."
- (2) Adding a Climate Zone row named, "2 Compliance Path #2" below the Climate Zone 2 Row to read as follows:

2 Compliance Path #2 <sup>j</sup>	0.40	0.65	0.25	30	13	4/6	13	0	0	0
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- (3) Deleting the Wood Frame Wall *R*-Value column and replacing it with the following column:

WOOD FRAME WALL <i>R</i> -VALUE
13
13
20 or 13 + 5 <sup>h,i</sup>
20 or 13 + 5 <sup>h,i</sup>
20 or 13 + 5 <sup>h,i</sup>
20+5 or 13+10 <sup>h,i</sup>
20+5 or 13+10 <sup>h,i</sup>

- (4) Adding a footnote "j" to the table's footnote section to read as follows:

- j. When using Climate Zone 2 Compliance Path #2, the following requirements must also be met:

1. Maximum duct leakage of 6 CFM/100ft<sup>2</sup> at 25 Pa
2. Maximum building leakage of 6 ACH50 at 50 Pa
3. Minimum A/C SEER rating of 16 for all cooling systems

(v) *Air leakage.* Chapter 11, "Energy Efficiency," Section N1102 (R402), "Building Thermal Envelope," Subsection N1102.4 (R402.4), "Air leakage (Mandatory) shall be amended by:

- (1) Deleting the wording, "(Mandatory)," from the Subsection N1102.4 (R402.4).
- (2) Removing the references to "Sections N1102.4.1 through N1102.4.5" and replacing them with references to "Sections N1102.4.1 through N1102.4.4."
- (3) Adding the following exception before N1102.4.1 (R402.4.1), "Building thermal envelope:"

**Exception.** Two-family dwelling units and townhouses shall be permitted to comply with the 2015 *International Energy Conservation Code* Subsection C402.5.

(w) *Equivalent U-factors.* Chapter 11, "Energy Efficiency," Section N1102 (R402), "Building Thermal Envelope," Subsection N1102.1 (R402.1), "General (Prescriptive)," Subsection N1102.1.4 (R402.1.4), "U-Factor alternative," Table N1102.1.4 (R402.1.4), "Equivalent U-Factors" shall be amended by:

- (1) Deleting the value "0.030" from the cell located in the Climate Zone 2 Row (Row 3) and the Ceiling U-Factor Column (Column 4) and replacing it with the value "0.035."
- (2) Adding a Climate Zone row named, "2 Compliance Path #2" below the Climate Zone 2 Row to read as follows:

2 Compliance Path #2 <sup>d</sup>	0.40	0.65	0.035	0.084	0.165	0.064	0.360	0.477
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- (3) Deleting the value "0.050" from the cell located in the Climate Zone 5 and Marine 4 Row (Row 6) and the Basement Wall U-Factor column (Column 8) and replacing it with the value "0.059."
- (4) Adding a footnote "d" to the table's footnote section to read as follows:

- d. when using Climate Zone 2 Compliance Path #2, the following requirements must also be met:
  1. Maximum duct tightness of 6 CFM/100ft<sup>2</sup> at 25 Pa
  2. Maximum building tightness of 6 ACH50 at 50 Pa
  3. Minimum A/C SEER rating of 16 for all systems

(x) *Installation.* Chapter 11, "Energy Efficiency," Section N1102 (R402), "Building Thermal Envelope," Subsection N1102.4 (R402.4), "Air leakage (Mandatory), Subsection

N1102.4.1 (R402.4.1), "Building thermal envelope," Subsection N1102.4.1.1 (R402.4.1.1) shall be amended by adding the wording, "(Mandatory)," after the word "Installation" in the title of Subsection N1102.4.1.1 (R402.4.1.1).

- (y) *Testing for air leakage.* Chapter 11, "Energy Efficiency," Section N1102 (R402), "Building Thermal Envelope," Subsection N1102.4 (R402.4), "Air leakage (Mandatory), Subsection N1102.4.1 (R402.4.1), "Building thermal envelope," Subsection N1102.4.1.2 (R402.4.1.2), "Testing," shall be amended by deleting the first sentence of Subsection N1102.4.1.2 (R402.4.1.2) and replacing it with a sentence that reads as follows:

The building or dwelling unit shall be tested and verified as having an air leakage rate of not exceeding six air changes per hour in Climate Zones 1 through 8.

- (z) *Leakage rate.* Chapter 11, "Energy Efficiency," Section N1102 (R402), "Building Thermal Envelope," Subsection N1102.4 (R402.4), "Air leakage (Mandatory), Subsection N1102.4.1 (R402.4.1), "Building thermal envelope," shall be amended by adding an additional subsection to read as follows:

**N1102.4.1.3 (R402.4.1.3) Leakage rate (Prescriptive).**

The building or dwelling unit shall have an air leakage rate not exceeding six air changes per hour in Climate Zones 1 through 8 when tested in accordance with Subsection N1102.4.1.2.

- (aa) *Energy Efficiency.* Chapter 11, "Energy Efficiency," Section N1104 (R404), "Electrical Power and Lighting Systems," Subsection N1104.1 (R404.1), "Lighting Equipment (Mandatory)," shall be deleted in its entirety unless mandated by state law or regulations.

- (bb) *Specifications for the Standard Reference and Proposed Designs.* Chapter 11, "Energy Efficiency," Section N1105 (R405), "Simulated Performance Alternative (Performance)," Subsection N1105.5 (R405.5), "Calculation procedure," Table N1105.5.2(1) [R405.5.2(1)], "Specifications for the Standard Reference and Proposed Designs," shall be amended by changing the below specified rows of the table to read as follows:

BUILDING COMPONENT	STANDARD REFERENCE DESIGN	PROPOSED DESIGN
Vertical fenestration other than opaque doors	Total area <sup>h</sup> =	
	(a) 15% of the conditioned floor area	As proposed
	Orientation: equally distributed to four cardinal compass orientations (N, E, S, & W)	As proposed
	U-factor: as specified in Table N1102.1.4	As proposed



	SHGC: as specified in Table N1102.1.2 except that for climates with no requirement (NR) SHGC = 0.40 shall be used.	As proposed
Heating systems <sup>d,e</sup>	Fuel type: same as proposed designed efficiencies	As proposed
	Electric: air-source heat pump with prevailing federal minimum standards	As proposed
	Non-electric furnaces: natural gas furnace with prevailing federal minimum standards	As proposed
	Non-electric boilers: natural gas boiler with prevailing federal minimum standards	As proposed
Cooling systems <sup>d,f</sup>	Fuel type: Electric	
	Efficiency: in accordance with prevailing federal minimum standards	As proposed
	Capacity: sized in accordance with Section N1103.7	As proposed
Service water heating <sup>d,e,f</sup>	Fuel type: same as proposed design	As proposed
	Efficiency: in accordance with prevailing federal minimum standards	Same as standard reference
	Use: gal/day = 30 + 10 x Nbr	Same as standard reference
	Tank temperature: 120°F	
Air exchange rate	<p>Air leakage rate of 6 air changes per hour in Climate Zones 1 through 8 at a pressure of 0.2 inches w.g. (50 Pa). The mechanical ventilation rate shall be in addition to the air leakage rate and the same as in the proposed design, but no greater than:</p> $0.01 \times \text{CFA} + 7.5 \times (\text{Nbr} + 1)$ <p>Where CFA = conditioned floor area NBR = number of bedrooms</p>	<p>For residences that are not tested the same air leakage rate as the standard reference design.</p> <p>For tested residences, the measured air exchange rate.<sup>a</sup></p> <p>The mechanical ventilation rate shall be in addition to the air leakage rate and shall be as proposed.</p>

	Energy recovery shall not be assumed for mechanical ventilation	
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(cc) *Mandatory requirement for code programs.* Chapter 11, "Energy Efficiency," Section N1101, "General," Subsection N1101.4 (R102.1.1), "Above code programs," shall be amended by deleting the following sentence, "The requirements identified as "mandatory" in this chapter, as applicable, shall be met."

(dd) *Projection factor.* Chapter 11, "Energy Efficiency," Section N1101, "General," Subsection N1101.6 (R202), "Defined terms," shall be amended by adding the definition of "Projection Factor" as follows:

**PROJECTION FACTOR.** The ratio of the horizontal depth of an overhang, eave, or permanently attached shading device, divided by the distance measured vertically from the bottom of the fenestration glazing to the underside of the overhang, eave, or permanently attached shading device.

(ee) *Glazed fenestration SHGC exception.* Chapter 11, "Energy Efficiency," Section N1102 (R402), "Building Thermal Envelope," Subsection N1102.3 (R402.3), "Fenestration (Prescriptive)," Subsection N1102.3.2 (R402.3.2), "Glazed fenestration SHGC," shall be amended by adding the following language and table at the end of section after the "Exception" paragraph:

**N1102.3.2.1 (R402.3.2.1) Glazed fenestration SHGC exception.**

In Climate Zones 1 through 4, permanently shaded vertical fenestration shall be permitted to satisfy the SHGC requirements. The projection factor of an overhang, eave, or permanently attached shading device shall be greater than or equal to the value listed in Table N1102.3.2.1 (R402.3.2.1) for the appropriate orientation. The minimum projection shall extend beyond each side of the glazing a minimum of 12 inches (304.8 mm). Each orientation shall be rounded to the nearest cardinal orientation (+/-45 degrees or 0.79 rad) for purposes of calculations and demonstrating compliance.

<b>Table N1102.3.2.1 (R402.3.2.1)</b> <b>MINIMUM PROJECTION FACTOR REQUIRED BY ORIENTATION FOR SHGC EXCEPTION</b>	
<b>ORIENTATION</b>	<b>PROJECTION FACTOR</b>
North	$\geq 0.40$
South	$\geq 0.20$
East	$\geq 0.50$
West	$\geq 0.50$

*a. For the north orientation, a vertical projection located on the west-edge of the fenestration with equivalent PF  $\geq 0.15$  shall also satisfy the minimum projection factor requirement.*

(ff) *Maximum Energy Rating Index.* Chapter 11, "Energy Efficiency," Section N1106 (R406), "Energy Rating Index," Subsection N1106.4 (R406.4), "ERI-based compliance," Table N1106.4 (R406.4), "Maximum Energy Rating Index," shall be amended by:

(1) Deleting the value "52" from the cell located in the Climate Zone 2 Row (Row 3) and the Energy Rating Index Column (Column 2) and replacing it with the values, "65, 63, 59<sup>a</sup>."

(2) Adding a footnote "a" to the table's footnote section to read as follows:

a. Up to August 31, 2019, an Energy Rating Index (ERI) of 65 or lower is required, from September 1, 2019 to August 31, 2022, an ERI of 63 or lower is required, and on or after September 1, 2022, an ERI of 59 or lower is required.

(gg) *Private garages.* Chapter 24, "Fuel Gas," Section G2408 (305), "Installation," Subsection G2408.3 (305.5), "Private garages," shall be amended by deleting the subsection in its entirety.

(hh) *Electrical.* Part VIII, "Electrical," shall be deleted in its entirety and all references shall be replaced with the 2017 National Electrical Code and Chapter 10, Electrical Code, of the City of Temple Code of Ordinances.

**Sec. 7-63 – 7-80. Reserved.**

## **ARTICLE VII - PLUMBING CODE**

**Sec. 7-81. Adopted.**

The City of Temple adopts as part of its building regulations the 2015 *International Plumbing Code* as it now exists and as it may be revised from time to time. A copy of the 2015 *International Plumbing Code* is maintained in the office of the Building Official.

**Sec. 7-82. Amendments.**

The City of Temple adopts the following amendments to the 2015 *International Plumbing Code*, which amendments are maintained in the Office of the Building Official:

(a) *Title.* Chapter 1, "Scope and Administration," Section 101, "General," Subsection 101.1, "Title," shall be amended by inserting the phrase, "The City of Temple," as the name of jurisdiction.



- (b) *Fee schedule.* Chapter 1, "Scope and Administration," Section 106, "Permits," Subsection 106.6, "Fees," Subsection, 106.6.2, "Fee schedule," shall be amended by removing the subsection in its entirety and replacing it with the following language:

**106.6.2 Fee schedule.**

The City Council shall adopt by resolution a schedule of the permit fees required or authorized by the 2015 *International Plumbing Code*, a copy of which shall be maintained in the office of the Building Official.

- (c) *Board of Appeals.* Chapter 1, "Scope and Administration," Section 109, "Means of Appeal," shall be deleted and replaced with Article II, "Building Board of Appeals," found within this Chapter.
- (d) *Multi-chapter amendments.* Chapter 6, "Water Supply and Distribution," Chapter 7, "Sanitary Drainage," and Chapter 9, "Vents," shall be amended as follows:
- (1) All sinks and washer connections must have a cleanout at or near the foot of each vented waste or soil stack.
  - (2) A dishwashing machine must not be directly connected to a drainage system.
  - (3) Cold water distribution ASTM D3309-85B may be used in readily accessible places only and may not be used in walls, in or under slab foundations, or in attics.
- (e) *Connections to lawn irrigation systems.* Chapter 6, "Water Supply and Distribution," Section 608, "Protection of Potable Water Supply," Subsection 608.16, "Connections, to the potable water system," Subsection 608.16.5, "Connections to lawn irrigation systems," shall be amended by deleting this Subsection in its entirety.
- (1) All irrigation systems shall be governed by Article XI, "Landscape Irrigation Standards," of this Chapter.
- (f) *Sewer yard line cleanouts.* Chapter 7, "Sanitary Drainage," Section 708, "Cleanouts," Subsection 708.1, "Cleanouts required," shall be amended by adding the following sentence at the end of the section:
- A sewer yard line cleanout must be installed at the junction of a sewer yard line and the City sewer.
- (g) *Sewer yards.* Chapter 9, "Vents," Section 909, "Fixture Vents," Subsection 909.1, "Distance of trap from vent," shall be amended by adding the following language after the first paragraph in the subsection:

The distance from water closet to vent stack shall be 5 feet. If the depth of the flow line of sewer yard is more than 24 inches at any point, double wyes or combination wyes & 1/8

bends are to be used. A sewer yard line cleanout shall be installed at junction of sewer yard line and City sewer.

- (h) *Fixture Vents.* Chapter 9, "Vents," Section 909, "Fixture Vents," Subsection 909.1, "Distance of trap from vent," Table 909.1, "Maximum Distance of Fixture Trap from Vent," shall be amended by deleting the table in its entirety and replacing it with the table below:

**TABLE 909.1**

**MAXIMUM DISTANCE OF FIXTURE TRAP FROM VENT**

<b>SIZE OF FIXTURE (inches)</b>	<b>SIZE OF TRAP (inches)</b>	<b>SLOPE (inch per foot)</b>	<b>DISTANCE FROM TRAP (feet)</b>
1 ¼	1 ¼"	¼	4
1 ½	1 ¼	¼	4
1 ½	1 ½	¼	4
2	1 ½	¼	5
2	2	¼	5
*3	3	1/8	5
*4	4	1/8	5

For SI: 1 inch = 25.4mm, 1 foot = 304.8 mm, 1 inch per foot = 83.3 mm/m.

**Sec. 7-83. Plumbing Installation or Maintenance by Homeowner.**

Nothing in this Chapter shall prevent a homeowner from installing or maintaining plumbing within his own property boundaries, providing such plumbing work is done by himself and is used exclusively by him or his family. Such privilege does not convey the right to violate any of the provisions of this Chapter, nor is it to be construed as exempting any such property owner from obtaining a permit and paying the required fees thereof.

**Section 7-84. Persons Who May Obtain a Permit.**

Permits may be issued *only* to the following persons:

- (a) A master plumber licensed by the State of Texas of Plumbing Examiners;
- (b) A property owner, for plumbing work to be done by the owner in a building owned and occupied by the owner as owner's homestead;
- (c) An appliance dealer or their employee, for the purpose of connecting appliances to existing piping installation; and
- (d) A licensed landscape architect or irrigator.

## ARTICLE VIII - SWIMMING POOL CODE

### Sec 7-85. Adopted.

The City of Temple adopts as part of its building regulations, the 2015 *International Swimming Pool and Spa Code* as it exists now and as it may be revised from time to time. A copy of the 2015 *International Swimming Pool and Spa Code* is maintained in the office of the Building Official.

### Sec. 7-86. Amendments.

The City of Temple adopts the following amendments to the 2015 *International Swimming Pool and Spa Code*, which amendments are maintained in the Office of the Building Official:

- (a) *Title.* Chapter 1, "Scope and Administration," Section 101, "General," Subsection 101.1, "Title," shall be amended by inserting the phrase, "The City of Temple," as the name of jurisdiction.
- (b) *Fee schedule.* Chapter 1, "Scope and Administration," Section 105, "Permits," Subsection 105.6, "Fees," Subsection, 105.6.2, "Fee schedule," shall be amended by removing the subsection in its entirety and replacing it with the following language:

#### **106.6.2 Fee schedule.**

The City Council shall adopt by resolution a schedule of the permit fees required or authorized by the 2015 *International Swimming Pool and Spa Code*, a copy of which shall be maintained in the office of the Building Official.

- (c) *Building Board of Appeals.* Chapter 1, "Scope and Administration," Section 108, "Means of Appeal," shall be deleted and replaced with Article II, "Building Board of Appeals," found within this Chapter.
- (d) *Location of pool.* Chapter 3, "General Compliance," Section 301, "General," shall be amended by adding a Subsection 301.2 that shall read as follows:

#### **301.2 Location.**

No portion of a swimming pool outside a building shall be located at a distance of less than five (5) feet from any side or rear property line, measured from the property line to the outside wall of the pool. Pumps, filters, and pool water disinfection equipment installations shall be located in conformity with the zoning regulations controlling accessory buildings.

- (e) *Subsection title change.* Chapter 3, "General Compliance," Section 305, "Barrier Requirements," Subsection 305.2, "Outdoor swimming pools and spas," shall be amended by the amending the title of Subsection 305.2 to read:



**"305.2 Outdoor swimming pools and spas and indoor swimming pools."**

- (f) *Barrier heights.* Chapter 3, "General Compliance," Section 305, "Barrier Requirements," Subsection 305.2, "Outdoor swimming pools and spas," Subsection 305.2.1, "Barrier height and clearances," Paragraph 1 (regarding height requirements) shall be amended to read as follows:

1. The top of the barrier shall be not less than 72 inches (1,830 mm) above grade where measured on the side of the barrier that faces away from a public pool or spa. The top of the barrier shall not be less than 60 inches (1,524 mm) above grade where measured on the side of the barrier that faces away from a residential pool or spa. Such heights shall exist around the entire perimeter of the barrier and for a distance of 36 inches (914 mm) measured horizontally from the outside of the required barrier.

- (g) *Onground residential pool structure.* Chapter 3, "General Compliance," Section 305, "Barrier Requirements," Subsection 305.5, "Onground residential pool structure as a barrier," Paragraph 1, shall be amended to read as follows:

1. Where only the pool wall serves as the barrier, the bottom of the wall is on grade, the top of the wall is not less than 60 inches (1,524 mm) above grade for the entire perimeter of the pool, the wall complies with the requirements of Section 305.2 and the pool manufacturer allows the wall to serve as a barrier.

**Sec. 7-85 – 7-93. Reserved.**

**ARTICLE IX - GAS CODE**

**Sec. 7-94. Adopted.**

The City of Temple adopts as part of its building regulations, the 2015 *International Fuel Gas Code* as it exists now and as it may be revised from time to time. A copy of the 2015 *International Fuel Gas Code* is maintained in the office of the Building Official.

**Sec. 7-95. Amendments.**

The City of Temple adopts the following amendments to the 2015 *International Fuel Gas Code*, which amendments are maintained in the Office of the Building Official:

- (a) *Title.* Chapter 1, "Scope and Administration," Section 101, "General," Subsection 101.1, "Title," shall be amended by inserting the phrase, "The City of Temple," as the name of jurisdiction.
- (b) *Fee schedule.* Chapter 1, "Scope and Administration," Section 106 (IFCG), "Permits," Subsection 106.6, "Fees," Subsection, 106.6.2, "Fee schedule," shall be amended by removing the subsection in its entirety and replacing it with the following language:

### **106.6.2 Fee schedule.**

The City Council shall adopt by resolution a schedule of the permit fees required or authorized by the 2015 *International Fuel Gas Code*, a copy of which shall be maintained in the office of the Building Official.

- (c) *Building Board of Appeals*. Chapter 1, "Scope and Administration," Section 109 (IFGC), "Means of Appeal," shall be deleted and replaced with Article II, "Building Board of Appeals," found within this Chapter.
- (d) *Air Testing Lines*. Chapter 4, "Gas Piping Installations," Section 406 (IFGS), "Inspection, Testing and Purging," Subsection 406.4 "Test pressure measurement," shall be amended by adding the following language after the first paragraph of the section:

The test with a diaphragm gage on gas piping and service lines shall be made by closing all openings and subjecting the pipes to an air pressure of 3 to 5 pounds per a square inch (psi) for at least fifteen (15) minutes under a constant temperature. After this test, if the test was successful, the piping shall be considered sufficiently tight.

## **ARTICLE X - ENERGY CODE**

### **Sec. 7-96. Adopted.**

The City of Temple adopts as part of its building regulations the 2015 *International Energy Conservation Code* as it now exists and as it may be revised from time to time. A copy of the 2015 *International Energy Conservation Code* is maintained in the office of the Building Official.

### **Sec. 7-97 Amendments.**

The City of Temple adopts the following amendments to the 2015 *International Energy Conservation Code*, which amendments are maintained in the Office of the Building Official:

- (a) *Title*. Chapter 1, "Scope and Administration," Section C101, "Scope and General Requirements," Subsection C101.1, "Title," shall be amended by inserting the phrase, "The City of Temple," as the name of jurisdiction.
- (b) *Fee schedule*. Chapter 1, "Scope and Administration," Section C107, "Fees," Subsection C107.2, "Schedule of permit fees," shall be amended by removing the subsection in its entirety and replacing it with the following language:

#### **C107.2 Schedule of permit fees.**

The City Council shall adopt by resolution a schedule of the permit fees required or authorized by the 2015 *International Energy Conservation Code*, a copy of which shall be maintained in the office of the Building Official.

- (c) *Board of Appeals*. Chapter 1, “Scope and Administration,” Section C109, “Board of Appeals,” shall be deleted and replaced with Article II, “Building Board of Appeals,” found within this Chapter.
- (d) Chapter 4 (RE), “Residential Energy Efficiency,” Section R402, "Building Thermal Envelope," Subsection R402.4, "Air leakage (Mandatory)," Subsection R402.4.1, "Building thermal envelope," Subsection, "R402.4.1.2, "Testing," shall be amended by adding the following exception after the first full paragraph of the section:

Building envelope tightness and installed insulation shall be considered acceptable when the items listed in Table R402.4.1.1, applicable to the method of construction, are field inspected by the City. Where approved or required by the Building Official, an approved third party, independent from the installer, shall inspect and approve the air barrier, thermal envelope, and insulation installation per this section.

**Sec. 7-98 – 7-99. Reserved.**

## **ARTICLE XI - LANDSCAPE IRRIGATION STANDARDS**

### **Sec. 7-100. Definitions.**

The following words and terms, when used in this Article, have the following meanings, unless the context clearly indicates otherwise:

- (a) *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.
- (b) *Backflow prevention* - The mechanical prevention of reverse flow, or back siphonage, of non-potable water from an irrigation system into the potable water source.
- (c) *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.
- (d) *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.
- (e) *Consulting* - The act of providing advice, guidance, review, or recommendations related to landscape irrigation systems.
- (f) *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.



- (g) *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.
- (h) *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.
- (i) *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.
- (j) *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 U.S.C., §3212(d) based on the behavioral control, financial control, and the type of relationship involved in performing employment related tasks.
- (l) *Health hazard* - A cross-connection, potential contamination hazard, or other situation involving any substance that can cause death, illness, spread of disease, or has a high probability of causing such effects if introduced into the potable water supply, including an irrigation system that involves any 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 and an irrigation system that is also served by an on-site sewage facility (septic system).
- (m) *Hydraulics* - The science of dynamic and static water; the mathematical computation of determining pressure losses and pressure requirements of an irrigation system.
- (n) *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).
- (o) *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).

- (p) *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.
- (q) *Irrigation services* - Selling, designing, installing, maintaining, altering, repairing, servicing, permitting, providing consulting services regarding, or connecting an irrigation system to a water supply.
- (r) *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, 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.
- (s) *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).
- (t) *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.
- (u) *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.
- (v) *Landscape Irrigation* - The science of applying the necessary amount of water to promote or sustain healthy growth of plant material or turf.
- (w) *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.
- (x) *Mainline* - A pipe within an irrigation system that delivers water from the water source to the individual zone valves.
- (y) *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.

- (aa) *Master valve* - A remote control valve located after the backflow prevention assembly that controls the flow of water to the irrigation system mainline.
- (bb) *Matched precipitation rate* - The condition in which all sprinkler heads within an irrigation zone apply water at the same rate.
- (cc) *New installation* - An irrigation system installed at a location where one did not previously exist.
- (dd) *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.
- (ee) *Potable water* - Water that is suitable for human consumption.
- (ff) *Pressure Vacuum Breaker* - A backflow prevention 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
- (gg) *Reclaimed water* - Domestic or municipal wastewater which has been treated to a quality suitable for beneficial use, such as landscape irrigation.
- (hh) *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.
- (ii) *Reduced Pressure Principle Backflow Prevention Assembly* - A backflow prevention 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.
- (kk) *Supervision* - The on-the-job oversight and direction by a licensed irrigator who is fulfilling his or her professional responsibility to the client 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, 2015, an irrigation technician who is working



under the direction of a licensed irrigator to install, maintain, alter, repair, or service an irrigation system.

- (ll) *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.
- (mm) *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.
- (nn) *Zone valve* - An automatic valve that controls a single zone of a landscape irrigation system.

#### **Sec. 7-101. Valid license required.**

- (a) 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 Title 22 of the Texas Administrative Code, Chapter 365 and required by Chapter 1301 of the Texas Occupations Code, all as amended.
- (b) **Exemptions.** A property owner is not required to be licensed in accordance with Texas Occupations Code, Title 12, §1903.002(c)(1), as amended, 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 property owner who installs an irrigation system must meet the standards contained in Title 30, Texas Administrative Code, Chapter 344, as amended, regarding spacing, water pressure, spraying water over impervious materials, rain or moisture shut-off devices or other technology, backflow prevention, and isolation valves. A property owner must obtain a permit from the City, submit an irrigation plan, use an individual with a valid license to install backflow prevention assemblies, and submit test results of the backflow prevention assembly to the City. The City may, at any point, adopt more stringent requirements for a property owner who installs an irrigation system. A person may also be exempt from the licensing requirements of this Section if they meet another exemption under Texas Occupations Code §1903.002, as amended.

#### **Sec. 7-102. Permit required.**

- (a) 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. The City will administer the permit program and

approve tested systems. Permit formats and processes may be amended from time-to-time by the City.

(b) A person is exempt from the requirement set forth in subsection (a) if the person is installing any of the following:

(1) an on-site sewage disposal system, as defined by Section 366.002, Texas Health and Safety Code; or

(2) an irrigation system:

a. used on or by an agricultural operation as defined by Section 251.002, Texas Agriculture Code; or

b. connected to a groundwater well used by the property owner for domestic use.

#### **Sec. 7-103. Backflow prevention methods and assemblies.**

(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 assembly must be approved by the American Society of Sanitary Engineers, the Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California, 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 assembly 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) In new installations of landscape irrigation systems one of the following methods must be used to prevent backflow:

(1) Double-check-valve backflow prevention assemblies (DCVAs) may only be used where no health hazards exist;

a. DCVAs may not be used on premises containing an on-site sewage facility or an irrigation system that uses injectors or pumps to apply fertilizer or other agricultural chemicals.

b. If a DCVA is installed below ground:

(i) the DCVA must be in a secure enclosure;

(ii) test cocks must be plugged, except when the double check valve is being tested;

- (iii) test cock plugs must be threaded, water-tight, and made of non-ferrous material;
  - (iv) a y-type strainer is installed on the inlet side of the double check valve;
  - (v) there must be a clearance between any fill material and the bottom of the double check valve to allow space for testing and repair; and
  - (vi) there must be space on the side of the double check valve to test and repair the double check valve.
- (2) Reduced pressure principle backflow prevention assemblies may be used if:
- a. the assembly 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) Pressure vacuum breakers may be used if:
- a. no back-pressure condition will occur; and
  - b. the assembly is installed at a minimum of 12 inches above any sprinklers as measured from the retracted position from the top of the sprinkler.
- (c) 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.
- (d) Existing irrigation systems that have backflow assemblies installed that are not in compliance with Subsection 7-103(b) may remain on a premises; however, when replacement is required, property owners must replace the assembly with a backflow assembly that complies with Subsection 7-103(b).
- (e) Backflow prevention assemblies used in irrigation systems must be tested in accordance with the testing requirements under Chapter 38 of the City's Code of Ordinance, Article VI, Cross Connection Control.
- (f) The irrigator must ensure the backflow prevention assembly is tested by a person holding a current Backflow Prevention Assembly Tester (BPAT) license issued by TCEQ prior to being placed in service and provide the test results to the local water purveyor and the irrigation system's owner or owner's representative within ten business days of the assembly's testing.



**Sec. 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.
- (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.
- (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 prevention assembly.
- (d) If any 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, as amended, then:
  - (1) all irrigation piping and valves must meet the separation distances from the on-site sewage facility system as required for a private water line in Title 30, Texas Administrative Code, Section 285.91(10), as amended;
  - (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 344.1, as amended; 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 to ensure that there is no excess water that would prevent the on-site sewage facility system from operating effectively.

**Sec. 7-105. Water conservation.**

All irrigation systems must be designed, installed, maintained, altered, repaired, serviced, and operated in a manner that will promote water conservation as defined in Section 7-100.

**Sec. 7-106. Irrigation plan design: minimum standards.**

- (a) An irrigator must 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. An irrigator must provide a drawing showing the actual installation of the irrigation system to the 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 Chapter; 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 assembly;
    - c. water emission device, including, but not limited to, spray heads, rotary sprinkler heads, quick-couplers, bubblers, drip, and 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.

**Sec. 7-107. Design and installation: minimum requirements.**

- (a) Manufacturer's published performance limitations. No irrigation design or installation may 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 devices. 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 must 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) Impervious materials. Irrigation systems may 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 must be installed on the discharge side of the backflow prevention assembly on all new installations.
- (i) PVC pipe primer solvent. All new irrigation systems that are installed using PVC pipe and fittings must be primed with a colored primer prior to applying the PVC cement in accordance with the *Uniform Plumbing Code* (Section 316) or the 2015 *International Plumbing Code* (Section 605, Materials, Joints and Connections).
- (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 assembly.
- (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 must 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 pipes or connections used for drinking or domestic water use, such as, but not limited to, filling swimming pools or decorative fountains, may 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 must be on-site at all times while the landscape irrigation system is being installed. When an irrigator is not on-site, the irrigator is responsible for ensuring that a licensed irrigation technician is on-site to supervise the installation of the irrigation system.

#### **Sec. 7-108. Completion of irrigation system installation.**

- (a) Upon completion of the irrigation system installation, the irrigator or irrigation technician who provided supervision for the on-site installation must:
- (1) perform a final "walk through" with the irrigation system's owner or the owner's representative to explain the operation of the system;
  - (2) obtain the signature of the irrigation system's owner or owner's representative on the maintenance checklist, if feasible, and 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 must note the time and date of the refusal on the irrigation system's owner or owner's representative's signature line. The irrigator must give the irrigation system owner or owner's representative the original maintenance checklist and maintain a duplicate copy of the maintenance checklist in the irrigator's records. The items on the maintenance checklist must 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, and 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 like 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, and 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) affix a permanent sticker to each automatic controller installed that contains the irrigator's name, license number, company name, telephone number, and the dates of the warranty period. If the irrigation system is manual, the sticker must be affixed to the original maintenance checklist. The information contained on the sticker must be printed with waterproof ink; and
- (4) provide the irrigation plan indicating the actual installation of the system to the irrigation system's owner or owner's representative.

**Sec. 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 performs any maintenance, alterations, repairs, or 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, and service of an irrigation system in accordance with the Uniform Plumbing Code (Section 316) or the 2015 *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 assembly, an isolation valve must be installed if an isolation valve is not present.



**Sec. 7-110. Reclaimed water.**

Reclaimed water may be utilized in landscape irrigation systems if:

- (a) there is no direct contact with edible crops, unless the crop is pasteurized before consumption;
- (b) the irrigation system does not spray water across property lines onto land that does not belong to the irrigation system's owner;
- (c) the irrigation system is installed using purple components;
- (d) the domestic potable water line is connected using an air gap or a reduced pressure principle backflow prevention assembly, in accordance with Title 30, Texas Administrative Code, Section 290.47(f), as amended;
- (e) a minimum of an eight inch by eight inch sign, in English and Spanish, is prominently posted on or in the area that is being irrigated, that reads, "RECLAIMED WATER – DO NOT DRINK" and "AGUA DE RECUPERACIÓN – NO BEBER;" and
- (f) backflow prevention on the reclaimed water supply line is in accordance with the regulations of the City.

**Sec. 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 that display 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 TCEQ 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.

**Sec. 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 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](http://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](http://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), as amended, must hold an irrigator license issued under Title 30, Texas Administrative Code, Chapter 30 (relating to Occupational Licenses and Registrations), as amended, unless the contract is a pass-through contract as defined in Title 30, Texas Administrative Code, Section 344.1(36) (relating to Definitions), as amended. 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 will 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 must 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 will 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 must 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](http://www.tceq.state.tx.us)."

- (c) On all maintenance, alterations, repairs, or service to existing irrigation systems, an irrigator must 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 must abide by the terms. The warranty document must include the irrigator's name and business contact information.

**Sec. 7-114. Duties and responsibilities of the City designees.**

Persons designated by the City to inspect irrigation systems or enforce this article have the authority to:

- (a) verify that the appropriate permits have been obtained for irrigation systems and that the irrigators, irrigation system installers, or irrigation technicians, as applicable, are licensed;
- (b) inspect irrigation systems;
- (c) determine that irrigation systems comply with the requirements of this Chapter;
- (d) determine that the appropriate backflow prevention assemblies were installed, tested, and the test results were provided to the City;
- (e) investigate complaints related to irrigation system installation, maintenance, alteration, repairs, or service of irrigation systems, and advertisement of irrigation services; and
- (f) maintain records according to this Chapter.

**Sec. 7-115. Items not covered by this ordinance.**

Any item not covered by this Chapter and required by law will be governed by the Texas Occupations Code, the Texas Water Code, Title 30 of the Texas Administrative Code, both as amended, and any other applicable state statute or regulation or TCEQ rule.

**Sec. 7-116. Fees.**

The City Council may create a schedule of fees for obtaining and renewing an irrigation system 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 may adopt by resolution a schedule of the permit fees required or authorized and update this schedule from time-to-time. All schedules of permit fees will be kept by the City.

**ARTICLE XII - ENFORCEMENT**

**Sec. 7-117. Enforcement.**

- (a) A person who violates any provision of this Chapter by performing an act prohibited or by failing to perform an act required, or causing the same to be done, is guilty of a Class C



misdemeanor or a civil violation. Each day or portion of a day the violation continues will be a separate offense.

(b) Criminal prosecution.

- (1) If this Chapter does not prescribe a culpable mental state for the commission of an offense, then a culpable mental state is not required to be alleged. Such offense will be punishable by a fine not to exceed five hundred dollars (\$500.00). Although not required, if a culpable mental state is alleged in the complaint of the offense and the offense relates to fire safety, zoning, or public health or sanitation, the offense will be punishable by a fine not to exceed two thousand dollars (\$2000.00).
- (2) If this Chapter does prescribe a culpable mental state for the commission of the offense and the offense relates to fire safety, zoning, or public health or sanitation, then a culpable mental state is required and the offense will be punishable by a fine not exceed two thousand dollars (\$2000.00).

(c) Civil remedies.

- (1) Nothing in this Chapter may 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 and equity, including, but not limited to the following:
  - a. Injunctive relief to prevent specific conduct that violates this Chapter or to require specific conduct that is necessary for compliance with this Chapter; and
  - b. Any other available relief, including civil penalties.
- (d) If any section, subsection, sentence, clause, or phrase of this Chapter is for any reason held to be unconstitutional, such holding will not affect the validity of the remaining portions of this Chapter.

ORDINANCE NO. 2019-4994

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING THE CITY'S CODE OF ORDINANCES CHAPTER 7, "BUILDINGS," TO ADOPT UPDATED MODEL CODES, SPECIFY AMENDMENTS TO THE ADOPTED MODEL CODES, SIMPLIFY AND CLARIFY LANGUAGE AND TERMS CONTAINED THEREIN; PROVIDING A REPEALER; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, in a continuing effort to review and update the City's Code of Ordinances, Staff recommends amendments to Chapter 7, "Buildings" that includes the adoption of the 2015 *International Building Code*, 2015 *International Existing Building Code*, 2015 *International Residential Code*, 2015 *International Plumbing Code*, 2015 *International Mechanical Code*, 2015 *International Fuel Gas Code*, 2015 *International Energy Conservation Code*, and 2015 *International Swimming Pool and Spa Code*, along with the necessary local amendments to each;

**Whereas**, generally, proposed amendments to Chapter 7, broken down by article, include:

- Article I – Authority:
  - Establishing the model codes used by the City of Temple;
- Article II – Building Board of Appeals:
  - Establishing the Building Board of Appeals, its policies and procedures;
- Article III – Building Code:
  - Adopting the 2015 *International Building Code* (IBC);
  - Amending the IBC to align with current local standards including:
    - Replacing ICC Electrical Code references with the 2017 National Electrical Code and City of Temple Electrical Code, Chapter 10;
    - Deleting certain permit exemptions;
- Article IV – Existing Building Code:
  - Adopting the 2015 *International Existing Building Code* (IEBC);
  - Amending the IEBC to align with current local standards including:
    - Inserting the City of Temple name where necessary;
    - Deleting certain sections pertaining to annual permit records and work exempt from permitting;

- Article V – Mechanical Code:
  - Adopting the 2015 *International Mechanical Code* (IMC);
  - Amending the IMC to align with local standards including:
    - Inserting the City of Temple as the jurisdiction name;
- Article VI – International Residential Code:
  - Adopting the 2015 *International Residential Code* (IRC);
  - Amending the IRC to align with local standards including:
    - Replacing ICC Electrical Code references with the 2017 National Electrical Code and City of Temple Electrical Code, Chapter 10;
    - Deleting certain exemptions from permitting;
    - Removing the requirement for masonry inspections;
    - Clarifying handrail and window fall protection requirements;
    - Removing mandatory requirement for residential fire sprinkler systems;
    - Amending foundation anchorage requirements;
    - Modifying the acceptable material insulation values;
    - Modifying air leakage requirements;
    - Modifying energy efficiency requirements;
- Article VII – Plumbing Code:
  - Adopting the 2015 *International Plumbing Code* (IPC);
  - Amending the IPC to align with local standards including:
    - Requiring the installation of a sewer yard line cleanout;
    - Referring landscape irrigation requirements to Article XI, “Landscape Irrigation Standards,” of this Chapter;
    - Clarifying sewer venting requirements;
    - Specifying persons eligible to apply for plumbing permits;
- Article VIII – Swimming Pool Code:
  - Adopting the 2015 *International Swimming Pool and Spa Code* (ISPSC);
  - Amending the ISPSC to align with local standards including:
    - Specifying allowable swimming pool locations;
    - Specifying appropriate barrier heights;
    - Specifying maximum depth for an on-ground residential pool;
- Article IX – Gas Code:
  - Adopting the 2015 *International Fuel Gas Code* (IFGC);
  - Amending the IFGC to incorporate minor administrative changes;



- Article X – Energy Code:
  - Adopting the 2015 *International Energy Conservation Code* (IECC);
  - Amending the IECC to align with local standards including:
    - Clarifying residential energy efficiency installation and testing requirements;
- Article XI – Landscape Irrigation Standards:
  - Modifying certain sections to allow for the use of double-check valve backflow prevention assemblies;
- Article XII – Enforcement:
  - No changes other than the article number; 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, THAT:**

**Part 1: Findings.** All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

**Part 2:** The City Council amends the Code of Ordinances Chapter 7, “Buildings” as outlined in Exhibit ‘A,’ attached hereto and incorporated herein for all purposes.

**Part 3:** All Ordinances or parts of Ordinances in conflict with the provisions of this ordinance are to the extent of such conflict hereby repealed.

**Part 4:** 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 5:** 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:** It is hereby officially found and determined that the meeting at which this Ordinance was 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 **5<sup>th</sup>** day of **September**, 2019.

PASSED AND APPROVED on Second Reading on the **19<sup>th</sup>** day of **September**, 2019.

THE CITY OF TEMPLE, TEXAS

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TIMOTHY A. DAVIS, MAYOR

ATTEST:

APPROVED AS TO FORM:

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Lacy Borgeson  
City Secretary

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Kayla Landeros  
Interim City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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09/05/19  
Item #15  
Regular Agenda  
Page 1 of 3

**DEPT./DIVISION SUBMISSION & REVIEW:**

Kayla Landeros, Interim City Attorney  
Amanda Rice, Deputy City Attorney  
Carrie Weir, Deputy Utility Director

**ITEM DESCRIPTION:** SECOND & FINAL READING – Consider adopting an ordinance amending the City's Code of Ordinances, Chapter 38, "Water, Sewers, and Sewage Disposal," to bring this Chapter into compliance with state regulations and current City regulations, policies, and practices, simplify and clarify language and terms, provide more effective enforcement tools, and make non-substantial modifications to the City's Pretreatment Ordinance and Program.

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

**ITEM SUMMARY:** In a continuing effort to review and update the City's Code of Ordinances, Staff is proposing amendments to Chapter 38, "Water, Sewers, and Sewage Disposal." The amendments include a general clean-up of the language and changes to formatting. For example, Staff suggests changing the spacing and general formatting of the Chapter to conform with other City Code chapters and correcting minor spelling errors.

Other proposed amendments to Chapter 38, broken down by article, include:

- Article I, Definitions:
  - Moving all Chapter 38 article definitions to the top of the Chapter, with the exception of the definitions in Article V, Industrial Wastes Standards, and two definitions in Article IV, Billing and Customer Service.
- Article II, Pollution of Water Sources:
  - Establishing restricted zones within a 200-foot radius of raw water intake and prohibiting recreational activities and trespassing within these zones as required by state law.
- Article III, Water and Sanitary Sewer Connection Regulations:
  - Adding City of Temple Public Works Department's (PW) required permit and inspection process for connection to the City's water and wastewater services.
  - Prohibiting private water or sewer systems from being connected to the City's publicly owned treatment works (POTW) without authorization from the City.
  - Codifying the City's policy for imposing water fees for commercial and residential construction.
- Article IV, Billing and Customer Service:
  - Aligning Article with the Utility Business Office's (UBO) current practices and procedures, including UBO's current billing structure.



- Requiring notice and an opportunity to dispute charges prior to disconnection, except in certain circumstances, such as an imminent or actual threat to the public's health, safety, or welfare.
- Imposing a fee for missed water reconnection appointments.
- Creating offenses for unlawful use of water and utility service diversion and allowing the City to collect payment for water unlawfully used or diverted and the costs of any City equipment damaged by a person.
- Article V, Industrial Wastes Standards:
  - Incorporating TCEQ approved Non-Substantial Modifications into Article V and City's Pretreatment Program.
    - Article V Amendments:
      - Reallocation - Increasing the current allowable limit of bio-chemical oxygen demand (BOD) to contributing industrial users discharging to the **Doshier Farm Wastewater Treatment Plant**.
        - Takes "unused" BOD of non-contributing users and enables contributing users to discharge higher limits of these constituents without permit violations.
      - Incorporating chemical oxygen demand (COD) limit as outlined in local limit study from 1991 for industrial users discharging to the Doshier Farm Wastewater Treatment Plant.
    - Pretreatment Program Amendments:
      - Updating industrial user permit templates to incorporate reallocation of BOD and increased COD limit.
      - Updating SOP for assessing local limit for BOD using Contributory Flow Method.
- Article VI, Cross Connection Control:
  - Adding a reference to Chapter 7, Plumbing Code, which would allow double-check assemblies to be used on non-health hazard irrigation systems if proposed Chapter 7 amendments are passed.
    - Double-check assemblies are not permitted on irrigation systems where a health hazard exists; this includes properties serviced by on-site septic systems and those that use chemical injection.
  - Specifying frequency of required backflow assembly testing as follows:
    - Annually for backflow assemblies that are installed at cross connections where a health hazard exists;
    - Every five years for backflow assemblies that are installed at cross connections where a health hazard does not exist;
    - Immediately after installation;
    - Whenever the backflow assembly is moved;
    - When the City deems it necessary to protect the health and safety of the public;
    - When an irrigation system is installed; and
    - Immediately after any backflow assembly repair.
  - Clarifying when the City is authorized to perform a customer service inspection in response to changes in occupancy or construction or renovation of a premises.
    - Authorizing the City to perform a customer service inspection:
      - Prior to the certificate of occupancy being issued for a premises; and
      - After a City permit is issued for the premises.

- Updating civil remedies for violations from a maximum amount a person could be found liable to the City from \$2000 to \$5000 in accordance with Sec. 54.017, Texas Local Gov't Code.
- Article VII, Liquid Waste:
  - Updating civil remedies for violations from a maximum amount a person could be found liable to the City from \$2000 to \$5000 in accordance with Sec. 54.017, Texas Local Gov't Code.
- Article VIII, Water Wells:
  - Removing an outdated permit process for the drilling of water wells located within the City.
  - Establishing a City approval process for the drilling of water wells that works in conjunction with the Clearwater Underground Water Conservation District's permitting and registration standards for the drilling of water wells.
  - Allowing the City to create a policy related to drilling, maintenance, and abandonment of water wells.
- Article IX, Enforcement:
  - Adding a general enforcement article to provide civil remedies and criminal penalties for violations of sections or articles in Chapter 38 that do not provide for specific enforcement tools.
  - Adding a severability clause to the chapter.

**FISCAL IMPACT:** As stated above, the proposed amendments include imposing a trip fee for missed water reconnection appointments and increasing maximums for code violations.

**ATTACHMENTS:**

[Current Chapter 38](#)

[Clean copy of amended Chapter 38](#)

[Ordinance](#)

## **Chapter 38**

### **WATER, SEWERS AND SEWAGE DISPOSAL**

#### **ARTICLE I. IN GENERAL**

##### **Sec. 38-1. Water wells--Drilling Permit.**

It shall be unlawful for any person to drill or commence to drill a water well in the city limits without first obtaining a water well drilling permit from the water superintendent.

##### **Sec. 38-2. Same--Covering.**

Each person owning a water well or hereafter owning or drilling a water well in the city shall enclose such well with a cement covering or other covering equally as good and of sufficient quality and construction to keep mosquitoes, flies, rats and all other animals, insects and foreign matter from entering such well, and sufficient to prevent the well from becoming unsanitary for any reason whatsoever.

##### **Sec. 38-3. Same--Not to be connected with public water system.**

It shall be unlawful for any person to connect any private water well with any pipe, water main or any other portion of the public water system of the city. The city shall have the right to disconnect any connection in violation of this section.

##### **Sec. 38-4. When sewer connections required.**

Each property owner owning a lot or plot of ground in the city on which there is located a house or dwelling occupied or capable of being occupied by human beings, which lot or plot of ground is located within two hundred (200) feet of a city sewer line, is hereby required to connect such house or dwelling with the sewer line at his expense, if the sewer line is lower than such residence or dwelling connection, and toilet facilities and keep the same connected at all times with the city sewer line so that the occupants of the house, or dwelling shall at all times use the sewer facilities of the city.

##### **Sec. 38-5. Construction and use of septic tanks and cesspools.**

It shall be unlawful for any person to construct, use, keep, maintain, or allow to be constructed, used, kept or maintained, a septic tank or cesspool used for toilet purposes by human beings on any lot or plot of ground where a sewer connection is required by section 38-4. If such lot or plot of ground is so located that such sewer connection is not required, the owner or occupant thereof may construct and use, for toilet purposes, a septic tank or cesspool of a type and design approved by the state health department, but the construction or use of any other type of septic tank or cesspool on such lot or plot of ground is hereby declared to be unlawful.

##### **Sec. 38-6. Pit toilets prohibited.**



It shall be unlawful for any person to construct, use, keep, maintain, or to allow to be constructed, used, kept or maintained, a pit toilet for toilet purposes of human beings on any lot or plot of ground located within the city limits.

**Sec. 38-7. Unlawful deposit of sewage.**

It shall be unlawful for any person to deposit or place any human excreta upon the ground or in any other way so as to expose it to the air or to flies on any lot or plot of ground within the city. It shall likewise be unlawful for the owner or controller of any premises, or for any other person to permit or allow any foul or unwholesome fluid, fecal or urinal matter, fluid or substance, or washings or slops from any kitchen, laundry, or private or public house or place, to run into or be deposited in any excavation, pit, sink or well.

**Sec. 38-8. Connections to city systems to be made by water and sewer departments.**

All connections with water and sewer mains and laterals in the city shall be done by employees of the water and sewer department of the city, and under the supervision of the water and sewer superintendent, and it shall be unlawful for any other person to make any connection with any water or sewer main or lateral in the city.

**Sec. 38-9. Applicants and work order for connections with city systems.**

Any person who desires a connection with the water and sewer mains and laterals of the city shall make application therefore to the water and sewer department, on forms prescribed by it, at least two (2) days in advance of the time such connection is desired to be in effect; whereupon the work order shall be issued and all laying of pipes from such main or lateral to the property line shall be done by the city.

**Sec. 38-10. Same--New construction.**

(a) *Terms defined.* The term "new user" when used in this section shall mean any landowner, developer or other person who connects to a newly constructed sewer trunk main, water distribution main or similar facility which is a part of the city's water and sanitary sewer system or part of a system which is managed or operated by the city when that landowner, developer or other person is either not presently served in that particular area by the city water and sanitary sewer system or who receives upgraded service. The term "upgraded service" shall mean service in the form of increased capacity due to an increase in the size of the line or other improvement which is a part of the new construction.

(b) *Authorization for one-time charge for new users.* The following charge shall be made and collected by the water and sewer department for each water and sewer tap connection demanded by a "new user" resulting from newly constructed sewer trunk mains, water distribution mains, lift stations and similar facilities:

- (1) A one-time connection fee of thirty-one cents (\$0.31) per gallon of daily flow for connections by a new user into or onto the Fryers Creek Trunk Sewer Project.

- (2) A one-time connection fee per gallon of daily flow determined by dividing the cost of the improvements by the total daily capacity of the line to be charged to all new users of newly constructed or improved sewer trunk mains, water distribution mains, lift stations and other similar facilities. Provided, however, the exact connection fee to be charged for each project shall be determined by the superintendent of water utilities and approved by the city council taking into consideration the above mentioned formula and any factors which may be reasonably considered in determining the exact connection fee.
- (3) Nothing herein shall prevent the city through its superintendent of water utilities from utilizing the water and sewer extension and rebate procedures set forth in Article III of this chapter as an alternative to the connection fee set forth herein.

#### **Sec. 38-11. Interfering with or injuring water equipment or apparatus.**

It shall be unlawful for any person to interfere with or injure in any manner any reservoir, tank, fountain, pipe, stop cock, valve or other apparatus pertaining to any water system in the city, or to turn on or off, without authority, the water in any street hydrant or other water fixture.

#### **Sec. 38-12. Pollution of water sources generally.**

It shall be unlawful for any person in this city to bathe his hands, face, feet or any other portion of his body in, or pollute or make foul the water of any public or private cistern, tank, spring or well, or to water any animal in any spring. Likewise, any person who shall place, throw or deposit in any well, cistern, tank, fountain, spring or other place containing water in this city, any substance or liquid whatever, calculated to pollute, poison or render unwholesome the water therein, shall be deemed guilty of a misdemeanor.

#### **Sec. 38-13. Pollution of Knob Creek.**

It shall be unlawful for any person within the corporate limits of the city to throw, place, put, conduct or deposit into Knob Creek, or any tributary, ditch, drain, gutter, gulley, pipe receptacle or conduit leading into Knob Creek or any tributary thereof, any filth, foul matter, offal, refuse, slops, vegetable matter, human or animal excrement, alvine or fecal matter or any carcass or any part of any dead animal, fish or fowl, or soapy water, suds, dishwater, soapsuds or any water impregnated with soap, pearline, washing powder or any substance or preparation of any nature whatever used in water to aid in its cleansing effect, or any liquid or substance of any nature, kind, class or character whatever that may pollute the waters of Knob Creek or that may be calculated to rot or decay or cause to become putrid or foul or make the water of Knob Creek putrid or foul. It shall be unlawful for any person within the corporate limits of the city to cause, suffer or permit any violation of this section upon any premises owned or occupied by him or controlled by him as agent, lessee, manager or otherwise.

#### **Sec. 38-14. Leon River Reservoir--Swimming and fishing prohibited at certain**

## **location.**

It shall be unlawful for any person to swim or fish in or on the waters of the Leon River Reservoir, located on the Leon River between the cities of Temple and Belton, at any place between the banks of the reservoir and between the dam located just south of the highway bridge across the reservoir on U.S. Highway No. 81, and a point two thousand eight hundred (2,800) feet up the river from the location of the water intake pipe of the city, located on the East bank of the reservoir.

## **Sec. 38-15. Same--Boating prohibited at certain location.**

It shall be unlawful for any person to ride in a boat, on a raft or any other conveyance placed in or on the waters of the Leon River Reservoir between the dam and a point two thousand eight hundred (2,800) feet up the river from the water intake pipe of the city.

## **Sec. 38-16. Same--Deposit of foreign substances.**

It shall be unlawful for any person to place any boat, log, stick, can, bucket, trash, debris or foreign substance of any kind in the water of the Leon River Reservoir between the dam and a point two thousand eight hundred (2,800) feet up the river from the location of the water intake pipe of the city.

## **Sec. 38-17. Polyvinyl chloride (PVC) pipe; minimum specifications.**

(a) Four (4) inch through twelve (12) inch polyvinyl chloride (PVC) pipe which meets the minimum specifications set out in paragraph (b) hereof may be used for the Temple municipal water main distribution system under the guidelines set out herein.

(b) Material specifications for four (4) inch through twelve (12) inch polyvinyl chloride (PVC) pipe for use in the Temple municipal water main distribution system shall be as follows:

### *(1) Scope and product:*

- a. Requirements for unplasticized polyvinyl chloride (PVC) pipe for municipal distribution systems. There shall be a minimum pressure classification of one hundred fifty (150) pounds per square inch (psi) and dimension ration (DR) of eighteen (18). The pipe class and DR will be indicated on plans.
- b. The pipe shall meet or exceed requirements of AWWA C-900, PVC pipe with cast iron outside dimensions and with rubber ring gaskets. PVC water pipe shall be listed by Underwriters' Laboratories and approved for use in cities and towns of Texas by the state board of insurance. The rigid PVC pipe shall bear the seal of approval (or "NSF" mark) of the National Sanitation Foundation Testing Laboratory for potable water pipe. Provisions must be made for the contraction and expansion at each joint with a rubber ring, and an integral thickened bell, twin-gasketed coupling, or integral sleeve as part of each joint. Pipe and fittings



- must be assembled with a nontoxic lubricant. Laying lengths shall nominally be twenty (20) feet plus or minus ( $\pm$ ) one inch (Laying lengths of ten (10) feet or thirteen (13) feet may be utilized for pipe lines laid on a curve when deemed appropriate by the city engineer.)
- c. Pipe shall be made in nominal size of four (4) to twelve (12) inches, and shall meet the dimension ratios (DR's) and physical dimensions as shown in Table 2, save and except that the minimum pressure class shall be one hundred fifty (150) pounds per square inch (psi) and minimum DR shall be eighteen (18).

TABLE 2

Dimensions and Pressure Classes for Dimension Ratio (DR) for PVC 1120 Pipe With Cast-Iron Pipe-Equivalent OD's

Nominal Size--in.	Pressure Class* at 73.4F(23C) --psi	DR	Average OD--in.	Tolerance	Wall Min.	Thickness--in. Tolerance
4	150	18	4,800	$\pm 0.0090$	0.267	+0.032
4	200	14	4,800	$\pm 0.0090$	0.343	+0.041
6	150	18	6,900	$\pm 0.0110$	0.383	+0.046
6	200	14	6,900	$\pm 0.0110$	0.493	+0.059
8	150	18	9,050	$\pm 0.0150$	0.503	+0.060
8	200	14	9,050	$\pm 0.0150$	0.646	+0.078
10	150	18	11,100	$\pm 0.0150$	0.617	+0.074
10	200	14	11,100	$\pm 0.0150$	0.793	+0.095
12	150	18	13,200	$\pm 0.0150$	0.733	+0.088
12	200	14	13,200	$\pm 0.0150$	0.943	+0.113

(2) *Materials.* Pipe shall be made from NSF-approved Class 1245-4A or B PVC compound, conforming to ASTM resin specification D1784.

(3) *Hydrostatic routine test.* Each length of pipe shall be tested to four (4) times the class pressure of the pipe for a minimum dwell of five (5) seconds. Field testing shall be done under a separate specification.

(4) *Service taps:*

- a. All corporation cocks shall be installed using the proper service clamp or saddle for PVC pipe that:
  1. Provides full support around the circumference of the pipe;
  2. Provides a bearing area of sufficient width (two (2) inches minimum) along the axis of the pipe;

3. Is constructed of bronze, stainless steel or epoxy coated cast iron.

- b. All taps will be made with an approved bit/cutter for PVC pipe designed to remove/retain the shavings and plug. Any tap larger than two (2) inches will require use of a tapping sleeve and valve.

(5) *Certification.* When requested, the manufacturer will furnish certification that pipe meets all requirements of this specification.

**Secs. 38-18--38-29. Reserved.**

## **ARTICLE II. CUSTOMER SERVICE**

### **Sec. 38-30. Definitions.**

The following definitions shall be applicable to this article:

*Business days.* All days, other than Saturday, Sunday and holidays on which the Utility Business Office is closed under authority of the City Council, are declared to be "business days."

*Class A service* means water, sewer service, or both provided for a dwelling designed and constructed for occupancy by one family, including mobile and HUD-code manufactured homes which are used as dwellings and which are not located in a mobile home or recreational vehicle park.

*Class B service* means water, sewer service, or both provided for any location except a dwelling designed and constructed for occupancy by one (1) family. Class B sewer service includes but is not limited to service for office, church, retail, business, commercial, industrial, governmental and manufacturing users; mobile and HUD-code manufactured homes not used as dwellings, or located in mobile home parks and recreational vehicle parks; and dwellings designed and constructed for occupancy by more than one family, such as apartments, duplexes and four-plexes.

*Good payment history* means that for the previous twelve (12) consecutive months, service has been maintained in the customers' name (including transfers, new meters and address changes) without having service disconnected for non-payment and without having more than two penalties assessed for late payment.

*Office hours.* The Utility Business Office shall be open for all purposes on all business days from 8:00 a.m. to 5:00 p.m., Monday through Friday.

### **Sec. 38-31. Rates, deposits, penalties and service charges.**

The Utility Business Office is hereby authorized to charge and collect monthly service charges for water and sewer service, security deposits, penalties and other charges

established by ordinance or resolution. The amounts to be charged shall be established by Resolution of the City Council and adjusted from time to time as necessary to sustain efficient utility services and comply with laws and regulations.

**Sec. 38-32. City divided into zones for billing purposes.**

The Utility Business Office may divide utility service areas into geographical zones for billing purposes. A current map of billing zones shall be maintained and made available for public inspection in the Utility Business Office.

**Sec. 38-33. When bills due.**

The minimum monthly billing cycle for utility services shall be as follows:

- (a) The invoice date is the date that payment becomes due.
- (b) The penalty date, which shall never be less than 16 days from date invoice issued, is the date that penalty for late payment becomes due.
- (c) The disconnect date, which shall never be less than 10 days after the penalty date, is the date that utility service may be disconnected for non-payment.

For purposes of scheduling services of the Utility Business Office, billing cycles may be staggered by billing zones.

**Sec. 38-34. Contents of invoice.**

Utility invoices are due on the date the invoice for service is issued. Invoices shall provide the following information:

- (a) Customer information
  - (1) Account number
  - (2) Customer number
  - (3) Date invoice issued
  - (4) Water meter reading in 100 gallons
  - (5) Winter water average, if applicable
- (b) Consumption information
  - (1) Meter read date
  - (2) Billing period
  - (3) Present reading
  - (4) Previous reading
- (c) Customer charges
  - (1) Previous balance
  - (2) Water
  - (3) Sewer
  - (4) Sanitation



- (5) Drainage
- (6) Cost sharing fees
- (7) Sales tax
- (8) New connect fee
- (9) Re-read charge
- (10) Transfer fee
- (11) Miscellaneous charges
- (12) Disconnect charge
- (13) Amount due on date invoice issued
- (14) Amount due late charge
- (15) Date on which service may be disconnected for non-payment

**Sec. 38-35. Failure to receive bill does not excuse nonpayment.**

A customer's failure to receive a utility bill shall not excuse failure to pay the same before it becomes delinquent.

**Sec. 38-36. When deposit required-Class A service.**

(a) *Deposits required.* Customers requesting new Class A service or requesting reconnection following disconnection for non-payment shall be required to post a deposit if the customer's utility service at any address has been disconnected for nonpayment or the customer has not established good payment history.

(b) *Deposits not required.* Customers requesting new Class A service or an additional meter at the same service address shall be exempt from posting a deposit when the following conditions are met:

- (1) The customer has established good payment history; or
- (2) A letter of reference citing good payment history from another utility is submitted to the Business Office; or
- (3) For persons employed in the U. S. armed forces, a Base Authorization Quarters (BAQ) certificate is submitted; or
- (4) Any owner or manager of rental property who has a utility account that is not overdue requests 10-day cleanup service for the rental property. A flat fee covers water and sewer service for a maximum of ten (10) days and two thousand (2,000) gallons of water. Consumption exceeding 2,000 gallons of water is billed at the regular rate.
- (5) The City Manager is authorized to waive utility deposits for service in the event of a state or federal emergency declaration, when he determines it is in the best interest of the City to do so.

(c) *Deposits refunded.* Deposits posted to secure Class A service accounts shall be refunded whenever the customer establishes good payment history. Months for which

service was temporarily disconnected at the customer's request are counted. Refunds of deposits shall be paid by check. Checks shall be mailed monthly to eligible customers.

**Sec. 38-37. When deposit required-Class B service.**

(a) *Deposits required for certain categories of businesses.* Customers requesting new Class B service for property used as a restaurant, tavern, private club, apartment, hotel, or motel shall post a deposit in an amount established by resolution of the City Council.

(b) *Deposits required-generally.* Customers requesting new Class B service or requesting reconnection following disconnection for non-payment shall be required to post a deposit if the customer's utility service at any address has been disconnected for nonpayment or the customer has not established good payment history.

(c) *Deposits not required.* Customers-other than the categories excluded in part (a) of this section-requesting new Class B service or an additional meter at the same service address shall be exempt from posting a deposit when the following conditions are met:

- (1) The customer has established good payment history; or
- (2) A letter of reference citing good credit history from another utility is submitted to the Business Office; or
- (3) Any owner or manager of rental property who has a utility account that is current requests 10-day cleanup service for the rental property. A flat fee covers water and sewer service for a maximum of ten (10) days and two thousand (2,000) gallons of water. Consumption exceeding 2,000 gallons of water is billed at the regular rate.
- (4) Deposits shall not be required for service provided to federal, state or local government entities; or
- (5) The Temple Economic Development Corporation requests waiver of the deposit as an economic development incentive.
- (6) The City Manager is authorized to waive utility deposits for service in the event of a state or federal emergency declaration, when he determines it is in the best interest of the City to do so.

(d) *Deposits refunded.* Deposits for service to categories listed in part (a) of this section are not refundable until the account is closed. Deposits posted to secure Class B service accounts shall be refunded whenever the customer has established good payment history. Months for which service was temporarily disconnected at the customer's request are counted. Refunds of deposits shall be paid by check. Checks shall be mailed monthly to eligible customers.

**Sec. 38-38. Delinquencies-penalties.**

A utility service accounts becomes delinquent if payment is not received by the Utility Business Office before 5:00 p.m. on the penalty date shown on the customer's invoice. A check or bank draft that is dishonored by the customer's bank does not constitute payment of a utility service account.

A late charge or penalty shall be applied only to current monthly charges of fifteen dollars (\$15.00) or more. Late charges shall not be assessed against federal, state or local governmental entities.

#### **Sec. 38-39. Delinquencies-reminder notices.**

Prior to disconnection of service for non-payment of any customer charges shown on the invoice, the Utility Business Office will send a reminder notice to customers whose accounts have become delinquent. Utility service shall be disconnected when delinquent charges equaling or exceeding the minimum utility services billing rate are not paid *before* the Disconnect Date shown on the customer's invoice. Failure to receive a reminder notice shall not excuse non-payment or prevent disconnection.

Service will not be disconnected for failure to pay the current penalty. Failure to pay penalties assessed in prior months will result in disconnection.

#### **Sec. 38-40. Delinquencies-Application of Deposit to Unpaid Charges.**

Deposits shall be applied to unpaid charges when an account is closed for any reason. When the deposit is insufficient to satisfy the unpaid charges, the Utility Business Office will bill the customer for any deficiency greater than two dollars (\$2.00).

#### **Sec. 38-41. Returned check policy.**

A fee shall be charged for processing each check or bank draft given in payment for utility services which is dishonored by the customer's bank for any reason. On or after the disconnect date shown on the customer's invoice, utility service is subject to immediate disconnection when the City's bank notifies the City that the customer's check or bank draft has been dishonored.

The Utility Business Office will not accept payments made by check or bank draft for charges owed on any utility accounts of a customer who has had three (3) or more checks dishonored within a period of one (1) year. Payments must be made by cash, cashier's check or money order until the customer has maintained service in the name (including transfers, new meters and address changes) for at least twelve (12) consecutive months, without having service disconnected for non-payment or two or more penalties assessed for late payment.

#### **Sec. 38-42. Reconnection after disconnection for non-payment.**



Utility customers whose service has been disconnected for non-payment are entitled to have service reconnected upon payment of the following charges:

- (a) utility charges which are due or delinquent;
- (b) reconnect-disconnect fee;
- (c) service charges incurred for tampering with or damaging meters, padlocks and locking devices; and
- (d) deposit in the amount which would be required to institute new service.

A Base Authorization Quarters (BAQ) certificate shall not be accepted in lieu of a deposit following disconnection for non-payment.

Persons requesting new service at an address where service has been disconnected for non-payment must present evidence of a lease, rental agreement or other real property transaction, for purposes of verifying that service is not being restored to the customer whose non-payment precipitated disconnection. Persons who reside with a customer whose service has been disconnected for non-payment are not eligible for new service at that residence until all conditions for reconnection are met.

#### **Sec. 38-43. Liens for delinquent utility bills.**

The Utility Business Office may impose a lien against property that is not protected by the Texas Constitution as a homestead, for delinquent bills for municipal utility service to the property. Liens for delinquent utility bills shall be perfected by recording in the real property records of the county where the property is located a notice of lien containing a legal description of the property and the account number for the delinquent charges. Liens may include penalties, interest and collection costs. A lien for utility service is inferior to a bona fide mortgage lien that is recorded before the recording of the City's lien in the real property records of the county where the property is located. The City's lien is superior to all other liens, including previously recorded judgment liens and any liens recorded after the City's lien.

A lien shall not apply to bills for service connected to a tenant's name after notice by the property owner to the municipality that the property is rental property. A lien shall not apply to bills for service connected in a tenant's name prior to March 4, 1993.

#### **Sec. 38-44. Voluntary disconnection.**

A disconnect fee is charged for temporary disconnection. The Utility Business Office shall disconnect water utility service on request of a customer, by telephone, for Class A or Class B service, when the customer can provide proper account information for purposes of identification. The requirement for identification is intended to protect customers from disconnection initiated by unauthorized persons.

#### **Sec. 38-45. Separate water meter for each residence or apartment.**

The City shall install a separate water meter for each separate residence which is not divided into apartments. The City shall also install a separate water meter for each apartment of each residence and apartment building, except when the owner of such residence or apartment building assumes all liability for water and sewer services furnished such residence or apartment building.

**Sec. 38-46. Water charge when meter fails or becomes defective.**

A service charge will be charged for meter testing requested by a customer if testing shows that meter was not out of tolerance in either direction. Whenever a water meter installed by the city fails or becomes defective, the meter shall be replaced and such customer shall be charged a monthly fee equal to the average of the last three (3) normal months' consumption. This average fee shall be assessed for each month the meter was defective.

**Sec. 38-47. Re-reading of water meters.**

A fee shall be charged for rereading a water meter at the customer's request, unless it is found that the prior reading was in error.

**Sec. 38-48. Fire hydrant meters.**

After March 4, 1993, a fire hydrant meter will be installed and relocated only by service personnel of the Water Department. Fire hydrant meters rented by customers prior to March 4, 1993, must be returned to the Water Department by June 1, 1993, for processing in accordance with this section.

Requests for installation of a fire hydrant meters shall be made by written application in the Utility Business Office. Payment of the required security deposit for installation of a fire hydrant meter must be made in advance of installation. The service charge for relocation of a fire hydrant meter assigned to a customer will be billed to the customer's account. Customers requesting use of a fire hydrant meter agree to be financially responsible for any damage to the locking device or gate valve on the meter which occurs while the meter is assigned to them.

The Water Department shall be responsible for reading fire hydrant meters, billing for consumption obtained through fire hydrant meters, recalibrating meters prior to re-assignment, and notifying the Temple Fire Department of all installations and relocations of fire hydrant meters. Meters which have not been used for a period of one (1) month may be removed by service personnel, to lessen risks of damage or misappropriation and to make the meter available to other customers.

**Sec. 38-49. Temple Shares program.**

The Temple Shares program is hereby established for the purpose of aiding customers who need assistance to pay utility bills owed to the City of Temple. Customers may

contribute to Temple Shares by submitting an application to the Utility Business Office. The minimum contribution which can be billed is one dollar (\$1.00) per month. The Utility Business Office will maintain records of all contributions. Letters acknowledging customers' contributions will be sent annually during January. The Director of Utilities shall have authority to suspend collection of contributions whenever adequate funding is established.

A board consisting of the Utility Business Manager, a member of a benevolent organization appointed by the Mayor, and a city employee appointed by the City Manager, will meet as needed to review requests for assistance. Appointed members of the board serve terms of two years and rotate off board in alternate years.

Funds may be expended only with approval of the board. When disconnection of service for non-payment is imminent, an extension of time for payment may be granted by the Utility Business Manager or deputy of the Manager.

Criteria for assistance will be based on individual need as determined by the board, giving consideration to emergencies presented by events such as unemployment, illness and death. Assistance will be granted one time per year except in cases of extreme circumstances.

#### **Sec. 38-50. Director of utilities-rule-making authority.**

(a) The director of utilities shall promulgate such rules and regulations as are necessary to administer this article and shall make such interpretations of the various provisions of this chapter as are necessary to ensure proper administration and enforcement. All rules and regulations promulgated by the director of utilities shall be in writing and shall be adopted by the city council.

(b) The director of utilities shall from time to time make interpretations of the various provisions of this article and in doing so shall seek the advice of the city manager and the city attorney. Any such interpretations shall be in writing, shall be distributed to the affected departments and a copy of such interpretation shall be provided to any citizen who may request a copy thereof.

(c) Any utility customer of the City of Temple who is adversely affected by an interpretation of the provisions of this article made by the director of the public utilities shall have the right to appeal such interpretation or ruling to the city council of the City of Temple. Provided, that such appeal is made within ten (10) days of the time when the appellant received notice of said rule or regulation or should have known of said rule or regulation. Any such appeal shall be in writing and the city council shall set a date for a hearing of said appeal within thirty (30) days of the appellant's filing of a written request for such hearing with the city manager.

(d) All hearings of the city council shall be public, and the appellant, his representative, the director of utilities and any other person whose interest may be



affected by the matter on appeal shall be given an opportunity to be heard. The mayor, or in his absence, the mayor pro-tem, may administer oaths and compel the attendance of witnesses. Upon hearing, the board may reverse, or modify, the interpretation of the director of utilities, but may not actually change or alter the provisions of this article without passing a duly adopted ordinance. Any decision of the city council shall be recorded in the minutes and shall be in writing. Such record, immediately following the board's decision, shall be filed in the office of the director of utilities, who, upon request, shall promptly furnish a copy to the appellant, his representative, and any person who has filed a written entry of appearance.

(e) Every decision of the board shall be final, except when such decision shall affect vested rights of the appellant to the extent that appellant may have a legal right to pursue a remedy in a court of competent jurisdiction. In such a case, the decision of the city council shall only become final if no appeal of that decision is made by filing a suit in a court of competent jurisdiction within thirty (30) days of the date of their ruling.

**Secs. 38-51--38-70. Reserved.**

### **ARTICLE III. WATER SERVICE OUTSIDE CITY**

**Sec. 38-71. City authorized to sell water, outside city limits.**

The City of Temple, Texas, may sell water, may participate in the construction and maintenance of water mains, and may permit connections to be made to such water mains outside the city limits; provided that the terms and conditions hereinafter set out are met.

**Sec. 38-72. Application for authority to sell water; contents; hearing; final action by city council.**

Authority to sell water and permission to construct water mains and/or make connections to such mains outside the city limits may be granted by resolution of the city council upon application and hearing. The application may be made by any interested party or parties and shall be made in writing addressed to and filed with the secretary of the city council.

The application shall consist of an original and two (2) copies and shall set out the names of the parties requesting permission to purchase water, install water mains, or make a tap; the use to which the water is to be put; the size and type of pipe proposed to be used; the estimated cost of construction; the estimated daily average amount of water which such use would consume; a plat, map or sketch showing the location of the proposed use, the location of adjoining properties and names of owners, adjacent streets, the location of the line or main proposed to be tapped, the proposed location of the line to be installed, any other information that would be helpful or of assistance; and a short statement of the reasons why the city council should grant such application, whichever is applicable.

Upon receipt thereof, the secretary shall transmit the copies to the secretary of the planning commission agenda, provided that the application shall have been received at least ten (10) days prior to such next regular meeting in the name of such applicants. At the planning commission meeting the applicants and all interested parties may appear and be heard. The planning commission shall vote either to accept, conditionally accept, or deny such application.

For final action, the applicant shall appeal the decision of the planning commission to the city council. It shall require a four-fifths (4/5) vote of the city council to overrule or modify the decision of the planning commission.

### **Sec. 38-73. Prerequisites for securing permission to sell water.**

Before permission to sell water, install a main or make a tap is granted, the following terms and conditions shall be met:

- (1) The pipe and installation thereof shall meet city specifications.
- (2) The superintendent of the water department shall calculate the average daily amount of water that the use proposed by the applicants would consume and certify that the City of Temple has the capability of supplying such an amount in addition to that used by the residents and businesses of the city.
- (3) The city engineer shall calculate the main size which is necessary to furnish the amount of water to be used by such applicants, the water main deemed desirable to meet the future needs of the area surrounding the location of the proposed use, and the acreage that should be served in the future by a main located in the proposed location. If a main size larger than that needed to serve the applicants is deemed necessary to meet the future needs of the area, the additional expense of materials and installation caused thereby shall be borne by the city as follows: By an agreement refunding thirty (30) percent of the revenue derived from such main for a period of twelve (12) years from the date of completion of the line, the total initial cost to be borne by the applicant.
- (4) Should others thereafter desire to tap the main, the owner, other than the City of Temple, may charge for the tap a pro rata amount of the cost of the main based on the following formula:

$$\frac{\text{proposed acreage to be served}}{\text{acreage to be served by tap}} = \frac{\text{original cost of main} - (\text{depreciation and amount rebated})}{\text{charge for tap}}$$

- (5) The owner will not allow taps onto such a main without prior approval from the City of Temple. the city shall make such taps at the expense set out in the appropriate ordinance, and the person desiring the tap shall pay to the City of Temple the charge, if any, for the tap in addition to the payment set out in (4). If a tap is allowed or permitted on the main without prior approval of the city, the

city may cease selling water to applicant.

- (6) The City of Temple reserves the right to make periodic inspections of the main or mains and, if such mains do not meet city specifications in any particular, the City of Temple may cease transporting and/or selling water through such line.
- (7) A meter shall be placed at the point where such main branches off from the city water system, or at the intersection of such main and the then existing city limits, or as near thereto as may be practicable, whichever location is, in the judgment of the city, best suited. Such meter will be read periodically and the owner will be billed for the amount of water which has passed through the meter at a rate not more than or in excess of double the amount paid by users within the city.
- (8) If the city limits are extended to take in a part or all of such mains, the City of Temple may by resolution assume the title and maintenance of that part of the line taken over. The price to be paid shall be the original pro rata cost of that portion of the main to which title is assumed less the pro rata amount of depreciation, rebate under subsection (3) above, and charge to subsequent users. In such event the meter, if located at the city limits line shall be moved at the expense of the city and the pro rata portion of the rebate, if any, as to the acquired mains would cease to be paid. As to properties which are subsequently brought into the city limits, the rate charged shall become that charged to users within the city. Nothing herein shall obligate the city to assume or pay any debts outstanding and owing from the applicant to any person because of such main; but such obligation shall be and remain that of the applicant or owner.
- (9) If applicants cannot or will not install the main size determined to be desirable, then such applicants must request that they be brought into the city limits. In such cases, the installation of mains shall be controlled by the applicable state statutes and city ordinances.

#### **Sec. 38-74. Contract; required; contents.**

A contract setting out the agreement of the parties shall be executed and shall contain the agreement of the parties concerning the following items:

- (1) Purpose of contract.
- (2) Quantity of water to be supplied. In no case shall the obligation of the City of Temple to supply water be absolute, but the obligation shall be conditioned on the availability of water.
- (3) Term of agreement.
- (4) The rates to be charged shall be not more than twice the rate charged users within the city limits. The rate will increase or decrease in proportion to the increase or



decrease of the charge to users within the city.

- (5) Point of delivery of water.
- (6) Quality of water.
- (7) Air-gap reservoirs.
- (8) Inspections.
- (9) Title to the water and to the mains and appurtenances.
- (10) Indemnity. The purchaser shall agree to indemnify and hold harmless the city from any liability whatsoever.
- (11) Resale of water is to be prohibited.
- (12) Forfeiture.
- (13) Provisions relating to emergencies.
- (14) Any other matter which the parties deem desirable or necessary to include in the contract.

**Sec. 38-75. Discontinuance of water service--In cases of emergency.**

In cases of emergency only, the city shall have the right to discontinue water service to users outside of the limits of the city without notice.

**Sec. 38-76. Same--When city water supply becomes inadequate.**

Upon thirty (30) days notice, the city shall have the right to discontinue service to users outside of the limits of the city in the event the water supply of the city becomes inadequate. In such events, service to users outside of the limits of the city shall be resumed when the supply becomes adequate for the needs of the residents of the city and users outside of the limits of the city.

**Sec. 38-77. State department of health approval of plans and specifications required.**

The plans and specifications of the line proposed to be installed must be approved by the department of health of the State of Texas prior to their becoming binding.

**Secs. 38-78--38-89. Reserved.**

**ARTICLE V. INDUSTRIAL WASTES STANDARDS**

## **Sec. 38-90. General provisions, purpose and policy.**

This ordinance sets forth uniform requirements for users of the publicly owned treatment works for the city and enables the city to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code § 1251 *et seq.*) and the General Pretreatment Regulations (40 Code of Federal Regulations (CFR) Part 403). The objectives of this ordinance are:

(a) To prevent the introduction of pollutants into the publicly owned treatment works that will interfere with its operation;

(b) To prevent the introduction of pollutants into the publicly owned treatment works that will pass through the publicly owned treatment works, inadequately treated, into receiving waters, or otherwise be incompatible with the publicly owned treatment works;

(c) To protect both publicly owned treatment works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

(d) To promote reuse and recycling of industrial wastewater and sludge from the publicly owned treatment works;

(e) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the publicly owned treatment works; and

(f) To enable the city to comply with its Texas Pollutant Discharge Elimination System (TPDES) permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the publicly owned treatment works is subject.

This ordinance shall apply to all users of the publicly owned treatment works. The ordinance authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

## **Sec. 38-91. Administration.**

Except as otherwise provided herein, the director of public works shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the director of public works may be delegated by the director to a duly authorized representative.

## **Sec. 38-92. Abbreviations.**

The following abbreviations and or definitions, when used in this ordinance, shall have the designated meanings:

- BOD - Biochemical Oxygen Demand
- BMP - Best Management Practice
- BMR - Baseline Monitoring Report

- CFR - Code of Federal Regulations
- CIU - Categorical Industrial User
- COD - Chemical Oxygen Demand
- EPA - U.S. Environmental Protection Agency
- gpd - gallons per day
- IU - Industrial User
- mg/l - milligrams per liter
- POTW - publicly owned treatment works
- RCRA - Resource Conservation and Recovery Act
- SIC - Standard Industrial Classification
- SIU - Significant Industrial User
- SNC - Significant Noncompliance
- TCEQ - Texas Commission on Environmental Quality
- TPDES - Texas Pollutant Discharge Elimination System
- TSS - Total Suspended Solids
- TTO - Total Toxic Organics
- U.S.C. - United States Code

### **Sec. 38-93. Definitions.**

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated.

*“Act or The Act”* shall mean the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251.

*Administrative fine* shall mean a punitive monetary charge unrelated to actual treatment costs which are assessed by the control authority rather than a court.

*Approval authority* shall mean the Texas Commission on Environmental Quality (TCEQ).

*Authorized or duly authorized representative of the industrial user* shall mean the person authorized to represent, sign, and submit documents in accordance with the following criteria:

(a) If the user is a corporation:

1. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
2. The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management



decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(c) If the user is a Federal, State, or local governmental facility, a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(d) The individuals described in paragraphs (a) through (c), above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City of Temple.

*Best management practices or BMPs* shall mean the schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in section 38-95 (a)[40 CFR 403.5(a)(1) and (b)]. BMPs include treatment procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

*Biochemical oxygen demand or BOD* shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20° centigrade, usually expressed as a concentration (e.g., mg/l).requirements, operating

*Building drain* shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning three (3) feet outside the inner face of the building wall.

*Building sewer* shall mean the extension from the building drain to the public sewer or other place of disposal.

*Bypass* shall mean the intentional diversion of wastestreams from any portion of an industrial user's treatment facility.

*Categorical industrial user* shall mean an industrial user subject to categorical standards as established by the U. S. Environmental Protection Agency.

*Categorical standard or pretreatment standard.* Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. § 1317) which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

*Cease and desist order* shall mean an administrative order directing an industrial user to immediately halt illegal or unauthorized discharges.

*Chemical oxygen demand or COD* shall mean a measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

*City* shall mean the city of Temple, the city council of Temple or the duly authorized representatives of the city.

*Compliance order* shall mean an administrative order directing a noncompliant industry to achieve or restore compliance by a date specified in the order.

*Composite sample* shall mean a sampling method consisting of either discrete or continuous samples collected in equal amounts and over equal time intervals. For discrete sampling, at least 12 aliquots shall be composited. Where a 24 hour composite sample is not feasible, four (4) grab samples may be collected in equal amounts and equal time intervals. All samples must be representatives of normal daily operations.

*Consent order* shall mean an administrative order embodying a legally enforceable agreement between the control authority and the noncompliant industrial user designed to restore the user to compliance status.

*Control authority* shall mean the city or duly authorized representatives of the city.

*Daily limit or daily maximum limit* shall mean the maximum allowable discharge of a pollutant over a calendar day or equivalent representative 24-hour period. Where daily maximum limits are expressed in units of mass and the daily discharge is calculated by multiplying the daily average concentration and total flow volumes in the same 24-hour period by a conversion factor to get the desired units. Where daily limits are expressed in terms of a concentration, the daily discharge is the composite sample value, or flow weighted average if more than one discrete sample was collected. Where flow weighting is infeasible, the daily average is the arithmetic average of all samples if analyzed separately, or the same value if samples are composited prior to analysis.

*Direct discharge* shall mean the discharge of untreated wastewater directly to the waters of the State of Texas.

*Environmental Protection Agency or EPA* shall mean the U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division director, or other duly authorized official of said agency.

*Existing source* shall mean any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

*Garbage* shall mean solid wastes from the preparation, cooking, and dispensing food, and from the handling, storage, and sale of produce.

*Grab sample* shall mean a sample which is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

*Indirect discharge or discharge* shall mean the introduction of pollutants into the

POTW from any nondomestic source regulated under Section 307(b), (c), or (4) of the Act, as amended.

*Industrial user* shall mean a source of indirect discharge which does not constitute a “discharge of pollutants” under regulations issued pursuant to Section 402 of the Act, (33 USC 1317) into the wastewater system (including holding tank waste discharged into the system).

*Industrial wastes* shall mean the liquid wastes from industrial processes as distinct from sanitary sewer.

*Instantaneous maximum allowable discharge limit* shall mean the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

*Interference* shall mean a discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and therefore, is a cause of a violation of the TPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued there under, or any more stringent State or local regulations:

Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

*Local limit* shall mean a specific discharge limits developed and enforced by the city upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

*Medical waste* shall mean isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

*Monthly average* shall mean the arithmetic mean of the effluent samples collected during a calendar month or specified 30-day period. Where the control authority has taken a sample during the period, it must be included in the monthly average if provided in time. However, where composite samples are required, grab samples taken for process control or by the control authority are not to be included in a monthly average.

*National pollution discharge elimination system or NPDES Permit* shall mean a permit pursuant to section 402 of the Act.

*National pretreatment standards, pretreatment standard, or standard* (i.e. prohibitive discharge standards, categorical pretreatment standards, and local limits) shall mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act, which applies to Industrial users. This



term includes prohibitive discharge limits established pursuant to 403.5.

*New source*

(a) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

1. The building, structure, facility, or installation is constructed at a site at which no other source is located; or
2. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
3. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

(b) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of section (a) (2) or (3) above but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

1. Begun, or caused to begin, as part of a continuous on site construction program:
  - i. any placement, assembly, or installation of facilities or equipment; or
  - ii. significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
2. Entered into a binding contractual obligation for the purchase of facilities or equipment which is intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

*Noncontact cooling water* shall mean water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished

*Pass through* shall mean a discharge which exits the POTW into waters of the

United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the city's TPDES permit, including an increase in the magnitude or duration of a violation.

*Person* shall mean any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.

*pH* shall mean a measure of the acidity or alkalinity of a solution, expressed in standard units.

*Pollutant* shall mean dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

*Pretreatment or treatment* shall mean the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

*Pretreatment requirements* shall mean any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

*Pretreatment standard or standard* shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.

*Process wastewater* shall mean any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by product, or waste product.

*Prohibited discharge standards or prohibited discharge* shall mean absolute prohibitions against the discharge of certain substances; these prohibitions appear in section 38-95(a) of this ordinance.

*Properly shredded garbage* shall mean the wastes from the preparation, cooking and dispensing of food that have been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch in any dimension.

*Publicly owned treatment works or POTW* shall mean "treatment works," as defined by section 212 of the Act (33 U.S.C. \*1292). This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

*Sanitary sewer* shall mean a sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

*Septic tank waste* shall mean any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

*Sewage* shall mean human excrement and gray water (household showers, dish washing operations, etc.).

*Sewage treatment plant* shall mean an arrangement of devices and structures used for treating sewage.

*Sewage works* shall mean all facilities for collecting, pumping, treating and disposing of sewage.

*Sewer* shall mean a pipe or conduit for carrying sewage.

*Shall* is mandatory; may is permissive or discretionary.

*Significant industrial user* shall mean:

(a) An industrial user subject to categorical pretreatment standards; or

(b) An industrial user that:

1. Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blow down wastewater);
2. Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
3. Is designated as such by the city on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

(c) Upon a finding that a user meeting the criteria in subsection (b), has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the city may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403((f) (6), determine that such user should not be considered a significant industrial user.

*Slug load or slug* shall mean any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in section 38-95(a) of this ordinance. A slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits or permit conditions.

*Standard industrial classification code or SIC code* shall mean a classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

*Storm water* shall mean any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

*Suspended solids* shall mean the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by



laboratory filtering.

*System* shall mean all facilities for collecting, pumping, treating and disposing of sewage.

*TBRSS pretreatment program* shall mean the approved Temple-Belton Regional Sewerage System pretreatment program as amended.

*Temple pretreatment program* shall mean the approved city of Temple pretreatment program as amended.

*Texas Commission on Environmental Quality (TCEQ)* shall mean the State agency of that title, or where appropriate, the term may also be used as a designation for the director or other duly authorized official of said agency.

*Upset* shall mean an exceptional incident in which there is unintentional and temporary noncompliance with pretreatment regulations because of factors beyond the reasonable control of the industrial user. This does not include noncompliance caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

*User* shall mean any person who contributes, causes, or permits the contribution of wastewater into city's wastewater system.

*User permit* shall mean permits issued to significant industrial users and categorical industrial users by the city as set forth in section 38-99 of this ordinance.

*Wastewater* shall mean liquid and any water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

*Wastewater treatment plant or treatment plant* shall mean the portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

#### **Sec. 38-94. Duties of the director of public works.**

It shall be the duty of the director to see that certain provisions of this article as pertaining to the use of public sewers are carried out, to determine if the sewage collected by the sewer collection system is treatable, and to supervise the treatment of the sewage.

#### **Sec. 38-95. General sewer use requirements for the Temple-Belton Regional Sewerage System.**

##### *(a) Prohibited Discharge Standards.*

##### **1. General prohibitions.**

- i. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any

other National, State, or local pretreatment standards or requirements.

- ii. If in the opinion of the director, the character of the sewage from any manufacturer or industrial plant, building or other premises is such that it will (1) injure or interfere with wastewater treatment processes or facilities, (2) constitute a hazard to humans or animals, (3) create a hazard in receiving waters of the wastewater treatment plant effluent, or (4) violate appropriate Federal, State or local regulations, the city manager shall have the right to require such user to dispose of such waste otherwise, and prevent it from entering the system.
  - iii. The city shall require industrial users to control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards and local limits upon reduction, loss, or failure of its treatment facility. In the event of a plant/system upset, provisions outlined in 40 CFR 403.16 shall prevail.
2. Specific Prohibitions. Except as hereinafter provided, no user shall introduce or cause to be introduced into the sewerage system of the city, directly or indirectly, any of the following pollutants, substances, or wastewater:
- i. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21;
  - ii. Wastewater having a pH less than 5.5 or more than 10.5 or otherwise causing corrosive material damage to the POTW or equipment;
  - iii. Solid or viscous substances in amounts which will cause obstruction resulting in interference to the flow in the POTW or interference with the proper operation of the sewage works,
  - iv. Wastewater with twenty-four (24) hour composite samples containing biochemical oxygen demand and/or total suspended solids in excess of eight (800) milligram per liter (mg/l).
  - v. Wastewater having a temperature greater than 40°C (104°F), or which will inhibit biological activity in the treatment plant resulting in interference,
  - vi. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
  - vii. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;

- viii. Trucked or hauled pollutants, except at discharge points designated by the director in accordance with section 38-97 (c) of this ordinance;
- ix. Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewer for maintenance;
- x. Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, inks, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the city's TPDES permit;
- xi. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;
- xii. Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, contact cooling water, and unpolluted wastewater, unless specifically authorized by the city;
- xiii. Sludges, screenings, or other residues from the pretreatment of industrial wastes;
- xiv. Medical wastes, except as specifically authorized by the city in a wastewater discharge permit;
- xv. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
- xvi. Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;
- xvii. Any water or waste which may contain more than ninety-six (96.0) milligrams per liter of fat, oil or grease or other substances which may solidify or become viscous at temperatures between 32 degrees Fahrenheit and 150 degrees Fahrenheit.
- xviii. Any garbage that has not been properly shredded;
- xix. Any feathers, entrails, feet, bones, paunch manure, hair, fleshings or eggshells, whole blood or other liquids in quantities which exert an unusual oxygen or chlorine requirement or which result in a discoloration of the treatment plant influent.
- xx. Wastewater taken as a grab sample which contains total phenols and/or formaldehyde in concentrations greater than 15.7 parts per million.
- xxi. Wastewater which contains hydrogen sulfide measured as H<sub>2</sub>S or Fluoride that is discharged in an amount that would cause the levels of H<sub>2</sub>S or Fluoride to increase in the treated effluent from the sewage treatment plant.



Hazardous wastes that are prohibited by Regulatory Agencies shall not be discharged to the sewer system.

Pollutants, substances, or wastewater prohibited by this Section shall not be processed or stored in such a manner that they could be discharged to the POTW.

*(b) National Categorical pretreatment standards.*

Users must comply with the categorical Pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471.

1. When the limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the director may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual industrial users.
2. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same Standard, the director shall impose an alternate limit in accordance with 40 CFR 403.6(e).
3. A CIU may obtain a net/gross adjustment to a categorical Pretreatment standard in accordance with the following paragraphs of this Section.40 CFR 403.15:
  - i. Categorical Pretreatment standards may be adjusted to reflect the presence of pollutants in the Industrial user's intake water in accordance with this section. Any Industrial user wishing to obtain credit for intake pollutants must make application to the city. Upon request of the Industrial user, the applicable standard will be calculated on a "net" basis (i.e., adjusted to reflect credit for pollutants in the intake water) if the requirements of paragraph (ii) of this section are met.
  - ii. Criteria.
    - a. Either (i) the applicable categorical Pretreatment standards contained in 40 CFR subchapter N specifically provide that they shall be applied on a net basis; or (ii) The Industrial user demonstrates that the control system it proposes or uses to meet applicable categorical Pretreatment standards would, if properly installed and operated, meet the Standards in the absence of pollutants in the intake waters.
    - b. Credit for generic pollutants such as biochemical oxygen demand, total suspended solids and oil and grease should not be granted unless the Industrial user demonstrates that the constituents of the generic measure in the user's effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.

- c. Credit shall be granted only to the extent necessary to meet the applicable categorical Pretreatment standard(s), up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with standard(s) adjusted under this section.
- d. Credit shall be granted only if the user demonstrates that the intake water is drawn from the same body of water as that into which the POTW discharges. The city may waive this requirement if it finds that no environmental degradation will result.

*(c) State pretreatment standards.*

Users must comply with TCEQ pretreatment standards codified at 30 TAC 315.

*(d) Local limits.*

1. The director is authorized to establish local limits pursuant to 40 CFR 403.5(c).
2. The following pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following daily maximum limit.

10.688 mg/l	Aluminum
0.121 mg/l	Arsenic
0.145 mg/l	Cadmium
1.478 mg/l	Chromium (T)
0.282 mg/l	Copper
0.524 mg/l	Cyanide
0.836 mg/l	Lead
0.001 mg/l	Mercury
0.207 mg/l	Molybdenum
0.662 mg/l	Nickel
96.00 mg/l	Oil and grease (T)
15.7 mg/l	Phenols/Formaldehyde combined
0.017 mg/l	Selenium
1.820 mg/l	Silver (T)
0.849 mg/L	TTO
0.661 mg/L	Zinc

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for total metal unless indicated otherwise.

3. The city may develop best management practices by ordinance or in individual wastewater discharge permits to implement categorical standards only.

*(e) Right of revision.*

The city and/or TBRSS reserve the right to establish, by ordinance, or in wastewater discharge permits, more stringent Standards or Requirements on discharges to the POTW consistent with the purpose of this ordinance.

*(f) Dilution.*

No user shall ever increase the use of process water, or in any way attempt to dilute discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement.

**Sec. 38-96. General sewer use requirements for the Temple Sewerage System.**

*(a) Prohibited discharge standards.*

1. General prohibitions.

- i. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, State, or local pretreatment standards or requirements.
- ii. If in the opinion of the director, the character of the sewage from any manufacturer or industrial plant, building or other premises is such that it will (1) injure or interfere with wastewater treatment processes or facilities, (2) constitute a hazard to humans or animals, (3) create a hazard in receiving waters of the wastewater treatment plant effluent, or (4) violate appropriate Federal, State or local regulations, the city manager shall have the right to require such user to dispose of such waste otherwise, and prevent it from entering the system.
- iii. The city shall require industrial users to control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards and local limits upon reduction, loss, or failure of its treatment facility. In the event of a plant/system upset, provisions outlined in 40 CFR 403.16 shall prevail.

2. Specific Prohibitions. Except as hereinafter provided, no user shall introduce or cause to be introduced into the sewerage system of the city, directly or indirectly, any of the following pollutants, substances, or wastewater:

- i. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup



flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21;

- ii. Wastewater having a pH less than 5.5 or more than 10.5 or otherwise causing corrosive material damage to the POTW or equipment;
- iii. Solid or viscous substances in amounts which will cause obstruction resulting in interference to the flow in the POTW or interference with the proper operation of the sewage works;
- iv. Wastewater with twenty-four (24) hour composite samples containing biochemical oxygen demand (BOD) and/or total suspended solids (TSS) in excess of eight (800) milligram per liter (mg/l);
- v. Wastewater having a temperature greater than 40°C (104°F), or which will inhibit biological activity in the treatment plant resulting in interference;
- vi. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
- vii. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
- viii. Trucked or hauled pollutants, except at discharge points designated by the director in accordance with section 38-97(c) of this ordinance;
- ix. Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewer for maintenance;
- x. Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the city's TPDES permit;
- xi. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;
- xii. Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, contact cooling water, and unpolluted wastewater, unless specifically authorized by the city;
- xiii. Sludges, screenings, or other residues from the pretreatment of industrial wastes;
- xiv. Medical wastes, except as specifically authorized by the city in a wastewater discharge permit;
- xv. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;

- xvi. Concentrations exceeding one hundred seventy-five (175) milligrams per liter of oil and grease, wax, fats and plastic or other substances which will solidify or become discernibly viscous at any temperature between thirty-two (32) degrees Fahrenheit and one hundred fifty (150) degrees Fahrenheit.
- xvii. Any garbage that has not been properly shredded;
- xviii. Detergents, surface-active agents, or other substance which that might cause excessive foaming in the POTW;
- xix. Wastewater containing chemical oxygen demand in excess of fifty-three hundred (5300) milligrams per liter; or
- xx. Any feathers, entrails, feet, bones, paunch manure, hair, fleshings or eggshells, whole blood or other liquids in quantities which exert an unusual oxygen or chlorine requirement or which result in a discoloration of the treatment plant influent;
- xxi. Wastewater taken as a grab sample which contains total phenols and/or formaldehyde in concentrations greater than 7 parts per million;
- xxii. Wastewater which contains Hydrogen Sulfide measured as H<sub>2</sub>S, Chlorides, or Fluoride that is discharged in an amount that would cause the levels of H<sub>2</sub>S or Fluoride to increase in the treated effluent from the sewage treatment plant.

Hazardous wastes are prohibited by regulatory agencies shall not be discharged to the sewer system;

Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

*(b) National categorical pretreatment standards.*

The categorical pretreatment standards found at 40 CFR Chapter 1, Subchapter N, Part 405-471 are hereby incorporated.

1. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the director shall impose an alternate limit in accordance with 40 CFR 403.6(e).
2. A CIU may obtain a net/gross adjustment to a categorical pretreatment standard in accordance with the following paragraphs of this section.40 CFR 403.15.
  - i. Categorical pretreatment standards may be adjusted to reflect the presence of pollutants in the Industrial user's intake water in accordance with this section. Any industrial user wishing to obtain credit for intake pollutants must make application to the city. Upon request of the industrial user, the applicable standard will be calculated on a "net" basis (i.e., adjusted to reflect credit for

pollutants in the intake water) if the criteria found in paragraph (ii) of this section are met:

ii. Criteria:

- a. Either (i) the applicable categorical pretreatment standards contained in 40 CFR subchapter N specifically provide that they shall be applied on a net basis; or (ii) The industrial user demonstrates that the control system it proposes or uses to meet applicable categorical pretreatment standards would, if properly installed and operated, meet the standards in the absence of pollutants in the intake waters.
- b. Credit for generic pollutants such as biochemical oxygen demand, total suspended solids, and oil and grease should not be granted unless the Industrial user demonstrates that the constituents of the generic measure in the user's effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.
- c. Credit shall be granted only to the extent necessary to meet the applicable categorical pretreatment standard(s), up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with standard(s) adjusted under this section.
- d. Credit shall be granted only if the user demonstrates that the intake water is drawn from the same body of water as that into which the POTW discharges. The city may waive this requirement if it finds that no environmental degradation will result.

*(c) State pretreatment standards.*

Users must comply with TCEQ codified at 30 TAC 315.

*(d) Local Limits.*

1. The director is authorized to establish local limits pursuant to 40 CFR 403.5(c).
2. The following pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following daily maximum limit.

0.03 mg/l	Arsenic
0.36 mg/l	Cadmium
9.14 mg/l	Chromium (T)
1.05 mg/l	Chromium (Hex)
0.50 mg/l	Copper



0.60 mg/l	Cyanide (Grab)
7.30 mg/l	Lead
0.08 mg/l	Mercury
1.75 mg/l	N-Ammonia
1.00 mg/l	Nickel
0.12 mg/l	Silver
7.03 mg/l	Zinc

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for total metal unless indicated otherwise.

3. The city may develop best management practices by ordinance or in individual wastewater discharge permits to implement categorical standards only.

*(e) Right of Revision.*

The city reserves the right to establish, by ordinance, or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW consistent with the purpose of this ordinance.

*(f) Dilution.*

No user shall ever increase the use of process water, or in any way attempt to dilute discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement.

**Sec. 38-97. Pretreatment of wastewater.**

*(a) Pretreatment facilities.*

Users shall provide wastewater treatment as necessary to comply with this ordinance and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in section 38-95 for industries discharging to the TBRSS system and section 38-96 for industries discharging to the Temple sewerage system, of this ordinance within the time limitations specified by EPA, the State, or the city, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. When required by the director of public works, the owner of any property served by a building sewer carrying industrial wastes, shall install a suitable control manhole in the building sewer to facilitate observation, sampling and measurement of the industrial wastes. Such manhole, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the city. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times. Detailed plans describing such facilities and operating procedures shall be submitted to the city for review, and shall be acceptable to the director before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve

the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the city under the provisions of this ordinance.

*(b) Accidental discharge/slug control plans.*

The city shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control slug discharges. The city may require any user to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control slug discharges. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:

1. Description of discharge practices, including non-routine batch discharges;
2. Description of stored chemicals;
3. Procedures for immediately notifying the director of any accidental or slug discharge, as required by section 38-100 (f) of this ordinance; and
4. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

The results of such activities shall be available to the approval authority upon request. All documentation associated with BMP's shall be included.

The city will evaluate each SIU within one year of being designated an SIU to determine whether each such SIU needs a plan or other action to control slug discharges.

*(c) Hauled wastewater.*

1. Septic tank waste may be introduced into the POTW only at locations designated by the city, and at such times as are established by the city. Such waste shall not violate section 38-95 for the TBRSS system or 38-96 for the Temple system of this ordinance or any other requirements established by the city. The city may require septic tank waste haulers to obtain individual wastewater discharge permits.
2. Septic tank waste haulers may discharge loads only at locations designated by the director. No load may be discharged without prior consent of the chief operator at the POTW. The director may collect samples of each hauled load to ensure compliance with applicable standards. The director may require the septic tank waste hauler to provide a waste analysis of any load prior to discharge.
3. No industrial, hazardous waste is allowed to be discharged to the POTW.
4. Septic tank haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the

type of business the waste originated from, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

**Sec. 38-98. Wastewater discharge permits.**

*(a) Wastewater analysis.*

When requested by the city, a user must submit information on the nature and characteristics of its wastewater within (60) days of the request. The director is authorized to prepare a form for this purpose and may periodically require users to update this information.

*(b) Wastewater discharge permit requirement.*

1. No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the city, except that significant industrial user that has filed a timely application pursuant to section 38-98 (c) of this ordinance may continue to discharge for the time period specified therein.
2. The city may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this ordinance.
3. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in sections 38-104 and 38-105 of this ordinance. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirements of Federal, State, and local law.

*(c) Wastewater discharge permitting: Existing connections.*

Any user required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall, within 60 days after said date, apply to the director for a wastewater discharge permit in accordance with section 38-98 (e) of this ordinance, and shall not cause or allow discharges to the POTW to continue after 90 days of the effective date of this ordinance except in accordance with a wastewater discharge permit issued by the city. For existing permitted user reapplication, see requirements in Section 38-99 (f).

*(d) Wastewater discharge permitting: New connections.*

Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with section 38-98 (e) of this ordinance, must be filed at least 90 days prior to the date upon which any discharge will begin or recommence.

*(e) Wastewater discharge permit application contents.*

All users required to obtain a wastewater discharge permit must submit a permit



application. The city may require all users to submit all or some of the following information as part of a permit application:

1. Identifying Information.
  - i. The name and address of the facility, including the name of the operator, owner, and facility contact person; and
  - ii. Contact information, description of activities, facilities, and plant production processes on the premises;
2. Environmental Permits. A list of any environmental control permits held by or for the facility.
3. Description of Operations.
  - i. A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated process(es);
  - ii. Number and type of employees, hours of operation, and proposed or actual hours of operation;
  - iii. Each product produced by type, amount, process or processes, and rate of production;
  - iv. Type and amount of raw materials processed and chemicals used (average and maximum per type);
  - v. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;
4. Time and duration of discharges;
5. The location for monitoring all wastes covered by the permit;
6. Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in section 38-95 (b)(1) [40 CFR 403.6(e)];
7. Measurement of pollutants.
  - i. The categorical pretreatment standards applicable to each regulated process and any new categorically regulated process for existing sources.
  - ii. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the city, of regulated pollutants in the discharge from each regulated process.

- iii. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.
  - iv. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in section 38-100 (i) of this ordinance. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the city or the applicable standards to determine compliance with the standard.
  - v. Sampling must be performed in accordance with procedures set out in section 38-100 (j) of this ordinance.
8. Any requests for a monitoring waiver, or a renewal of an approved monitoring waiver, for a pollutant neither present nor expected to be present in the discharge based on section 38-100 (d) (3) [40 CFR 403.12(e)(2)];
  9. Any other information as may be deemed necessary by the director to evaluate the wastewater discharge permit application.
  10. Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

*(f) Application signatories and certification.*

1. All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

*“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, to be, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”*

2. If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this section must be submitted to the director prior to or together with any reports to be signed by an authorized representative.

*(g) Wastewater discharge permit decision.*

After receipt of a complete wastewater discharge permit application, the director will determine whether or not to issue a wastewater discharge permit. The director may deny any application for a wastewater discharge permit or require additional safeguards, reports or information. For users not meeting the criteria of significant industrial users, the director may also waive or defer a permit, or allow discharges in the interim while a permit is being prepared.

*(h) Extraterritorial users.*

No discharge originating in areas outside the territorial limits of the city shall be made into any sanitary sewer of the city without first obtaining a special permit, which shall be subject to and incorporate by reference the terms of this ordinance.

**Sec. 38-99. Wastewater discharge permit issuance.**

*(a) Permit Duration.*

A wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the director. Each wastewater discharge permit will indicate a specific date upon which it will expire.

*(b) Permit Contents.*

A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the city to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

1. Permits must contain:

- i. A statement that indicates wastewater discharge permit issuance date, expiration date and effective date;
- ii. A statement that the wastewater discharge permit is nontransferable without prior notification to the city in accordance with Section 38-99(d) of this ordinance, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
- iii. Effluent limits, including best management practices, based on applicable pretreatment standards;
- iv. Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants or best management practice to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law;
- v. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law;
- vi. Requirements to control slug discharge, if determined by the city to be necessary; and

2. Wastewater discharge permits may contain, but need not be limited to, the following conditions:



- i. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
- ii. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
- iii. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;
- iv. Requirements for installation and maintenance of inspection and sampling facilities and equipment;
- v. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and
- vi. Other conditions as deemed appropriate by the city to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

*(c) Permit modification.*

1. The city may modify an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:
  - i. To incorporate any new or revised Federal, State, and local pretreatment standards or requirements;
  - ii. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of the individual wastewater discharge permit issuance;
  - iii. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
  - iv. Information indicating that the permitted discharge poses a threat to the POTW, city personnel, or the receiving waters;
  - v. Violation of any terms or conditions of the individual wastewater discharge permit;
  - vi. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
  - vii. Revision of or a grant of variance from categorical Pretreatment standards pursuant to 40 CFR 403.13;
  - viii. To correct typographical or other errors in the wastewater discharge permit; or

- ix. To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with section 38-99 (d).

*(d) Permit Transfer.*

Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least 30 days advance notice to the city and the director approves the wastewater discharge permit transfer. The notice to the city must include a written certification by the new owner or operator which:

1. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
2. Identifies the specific date on which the transfer is to occur; and
3. Acknowledges full responsibility for complying with the existing wastewater discharge permit.

Upon approval by the city of the permit transfer, a copy of the new permit will be provided to the new owner(s).

*(e) Permit Revocation.*

The city may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

1. Failure to notify the director of significant changes to the wastewater prior to the changed discharge;
2. Failure to provide prior notification to the director of changed conditions pursuant to Section 38-100 (e) of this ordinance;
3. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
4. Falsifying self-monitoring reports;
5. Tampering with monitoring equipment;
6. Refusing to allow the director timely access to the facility premises and records;
7. Failure to meet effluent limitations;
8. Failure to pay fines;
9. Failure to pay sewer charges;
10. Failure to meet compliance schedules;
11. Failure to complete a wastewater survey or the wastewater discharge permit application;
12. Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
13. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this ordinance.

Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership with the exception for transfer provisions outlined in Section 38-99 (d). All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

*(f) Permit reissuance.*

A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Section 38-98 (e) of this ordinance, a minimum of 60 days prior to the expiration of the user's existing wastewater discharge permit.

**Sec. 38-100. Reporting requirements.**

*(a) Baseline Monitoring Reports.*

1. Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a) (4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the director a report which contains the information listed in paragraph 2., below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the city a report which contains the information listed in paragraph (2), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.
2. Users described above shall submit the information set forth below.
  - i. All information required in section 38-98 (e) (1)(i), section 38-98 (e) (2), section 38-98 (e) (3) (i), and section 38-98 (e) (6).
  - ii. Measurement of pollutants.
    - a. The user shall provide the information required in section 38-98 (e) (7) (i) through (iv).
    - b. The user shall take a minimum of one representative sample of daily operations to compile that data necessary to comply with the requirements of this paragraph.
    - c. Samples should be taken immediately downstream from the pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the user should measure the flows and concentrations necessary to allow use of the combined



wastestream formula in 40 CFR 403.6(e) to evaluate compliance with the pretreatment standards.

- d. Sampling and analysis shall be performed in accordance with section 38-100 (i) and 40 CFR Part 136.
  - e. The director may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.
  - f. The baseline report shall indicate the time, date and place of sampling and methods of analysis and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.
- iii. Compliance certification. A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether Pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance and/or additional pretreatment is required to meet the pretreatment standards and requirements.
  - iv. Compliance schedule. If additional pretreatment and/or operation and maintenance will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or operations and maintenance must be provided. The completion date in this schedule shall not be later than the compliance due established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirement set out in section 38-100(b) of this ordinance.
  - v. All baseline monitoring reports must be certified in accordance with section 38-100(m) (1) of this ordinance and signed by an authorized representative.

*(b) Compliance schedule progress reports.*

The following conditions shall apply to the compliance schedule required by section 38-100 (a) (2) (iv) of this ordinance:

1. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
2. The user shall submit a progress report to the city no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of

progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

3. In no event shall more than nine (9) months elapse between increments or progress reports to the director.

*(c) Reports on compliance with categorical pretreatment standard deadline.*

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source, 90 days following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the city a report containing the information described in section 38-98 (e) (6) and (7) and section 38-100 (a) (2) (ii) of this ordinance. All compliance reports must be signed and certified in accordance with section 38-98 (f) of this ordinance.

*(d) Periodic Compliance Reports.*

1. All significant industrial users shall, at a frequency determined by the city but in no case less than twice per year (in June and December or dates specified by the control authority), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a best management practice or pollution prevention alternative, the user must submit documentation required by the city or the pretreatment standard necessary to determine the compliance status of the user.
2. All periodic compliance reports must be signed and certified in accordance with section 38-98 (f) of this ordinance.
3. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
4. If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the director, using the procedures prescribed in section 38-100 (j) of this ordinance, the results of this monitoring shall be included in the report.
5. User shall report the average and maximum daily flows for the reporting period and identify where flow estimates are used.
6. All periodic compliance reports must be signed and certified in accordance with section 38-100 (m) (1) of this ordinance.

*(e) Reports of changed conditions.*

Each user must notify the director of any significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least 30 days before the change.

1. The director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under section 38-98 (e) of this ordinance.
2. The director may issue a wastewater discharge permit under section 38-99 (f) of this ordinance or modify an existing wastewater discharge permit under section 38-99 (c) of this ordinance in response to changed conditions or anticipated changed conditions.

*(f) Reports of Potential Problems.*

1. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately notify the director of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
2. Within five (5) days following such discharge, the user shall, unless waived by the director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.
3. A notice shall be permanently posted in a prominent place advising employees who to call in the event of a discharge described in paragraph (1) above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.
4. Significant Industrial users are required to notify the city immediately of any changes at its facility affecting the potential for a slug discharge.

*(g) Reports from unpermitted users.*

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the director as the city may required.

*(h) Notice of Violation/Repeat Sampling and Reporting.*

If sampling performed by a user indicates a violation, the user must notify the director within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the director within thirty (30) days after becoming aware of the violation. Resampling by the



industrial user is not required if the city performs sampling at the user's facility at least once a month, or if the city performs sampling at the user's facility between the time when the initial sampling was conducted and the time when the user or the city receives the results of this sampling. If the city has performed sampling, the user will repeat the sampling and analysis and submit the results of the repeat analysis to the director within thirty (30) days upon being notified by the city of any violations.

*(i) Analytical Requirements.*

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable categorical Pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures. The tests shall be performed on the samples taken at the location designated in each industry's Permit.

*(j) Sample Collection.*

1. Except as indicated in Section 2 and 3 below, the user must collect wastewater samples using 24-hour flow proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the city. Where time-proportional composite sampling or grab sampling is authorized by the city, the samples must be representative of the discharge. Using protocols specified in 40 CFR part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the city, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.
2. Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
3. For sampling required in support of baseline monitoring and 90-day compliance reports required in section 38-100 (a) and (c) [40 CFR 403.12 (b) and (d)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data is available, the city may authorize a lower minimum. For the reports required by paragraphs section

38-100 (d) [40 CFR 403.12(e) and 403.12(h)] the IU is required to collect the number of grab samples necessary to assess and assure compliance by with applicable pretreatment standards and requirements.

*(k) Date of receipt of reports.*

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

*(l) Record keeping.*

Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with best management practices established under sections 38-95 (d) (3) and 38-96 (d) (3). Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the city, or where the user has been specifically notified of a longer retention period by the director.

*(m) Certification Statements.*

1. Certification of permit applications, user reports and initial monitoring waiver. The following certification statement is required to be signed and submitted by users submitting permit applications in accordance with section 38-98 (f); users submitting baseline monitoring reports under section 38-100 (a) (2) (v); users submitting reports on compliance with the categorical pretreatment standard deadlines under section 38-100 (c); and users submitting periodic compliance reports required by section 38-100 (d) (1) through (6). The following certification statement must be signed by an Authorized Representative as defined in Section 38-93:

***I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.***

**Sec. 38-101. Compliance monitoring.**

*(a) Right of entry: inspection and sampling.*

The city, or its representative(s), TBRSS representative(s), TCEQ representative(s), and EPA's representative(s) shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this ordinance and any wastewater discharge permit or order issued hereunder. Users shall allow the representatives from the city, TBRSS, TCEQ and/or EPA, ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

1. Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the director will be permitted to enter without delay for the purposes of performing specific responsibilities.
2. The city, T-BRSS, TCEQ, and/or EPA shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.
3. The director may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated, annually to ensure their accuracy.
4. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the director and shall not be replaced. The costs of clearing such access shall be born by the user.
5. Unreasonable delays in allowing the director access to the user's premises shall be a violation of this ordinance.
6. When monitoring facility is constructed in the public right-of-way or easement, in an unobstructed location, the IU shall provide ample room in or near the monitoring facility to allow accurate sampling and preparation of samples and analysis and whether constructed on public or private property, the monitoring facilities should be provided in accordance with the city's requirements and all applicable local construction standards and specifications, and such facilities shall be constructed and maintained in such manner so as to enable the director to perform independent monitoring activities.
7. Search Warrant: If the city has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the city, designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the director may seek issuance of a search warrant from the appropriate County or District Court.



### **Sec. 38-102. Confidential information.**

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the city's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the city, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user by furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the TPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

### **Sec. 38-103. Publication of user in significant noncompliance.**

- (a) The city shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the municipality where the POTW is located, a list of the users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements.
- (b) The term significant noncompliance shall be applicable to all significant industrial users (or any other industrial user that violates paragraphs (3), (4), or (8) of this section) and shall mean:
  - 1. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the sampled pollutant parameter taken during a six (6) month period exceed by any magnitude, a numeric pretreatment standard or requirement, including instantaneous limits as defined in section 38-93;
  - 2. Technical review criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limit, as defined by section 98-93 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease; and 1.2 for all other pollutants except pH);
  - 3. Any other violation of a pretreatment standard or requirement as defined in section 38-93 (daily maximum, long-term average, instantaneous limit, or narrative standard) that the city determines has caused, alone or in

combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;

4. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the city's exercise of its emergency authority to halt or prevent such a discharge;
5. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
6. Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical Pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
7. Failure to accurately report noncompliance; or
8. Any other violation(s), which may include a violation of best management practices, which the director determines will adversely affect the operation or implementation of the local pretreatment program.

#### **Sec. 38-104. Administrative enforcement remedies and administrative orders.**

All enforcement actions shall follow the TCEQ approved enforcement response plan (ERP) and the enforcement response guide (ERG). This plan contains detailed procedures indicating how the control authority will investigate and respond to instances of industrial user noncompliance.

##### *(a) Notification of Violation.*

When the city finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the director may serve upon that user a written notice of violation. Within thirty (30) days of receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the director. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the director to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

##### *(b) Consent Orders.*

The city may enter into consent orders, assurances of voluntary compliance or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents shall include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such

documents shall have the same force and effect as the administrative orders issued pursuant to sections 38-104 (d) and (e) of this ordinance and shall be judicially enforceable.

*(c) Show Cause Hearing.*

The city may order a user which has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the director and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least fifteen (15) business days prior to the hearing. Such notice may be served on any authorized representative of the user as defined in section 38-93 and required by section 38-98 (f) (1). A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

*(d) Compliance Orders.*

When the director finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the director may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

*(e) Cease and Desist Orders.*

When the director finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the director may issue an order to the user directing it to cease and desist all such violations and directing the user to:

1. Immediately comply with all requirements; and
2. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.



*(f) Emergency Suspensions.*

The director may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The director may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

1. Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the director may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The director may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the director that the period of endangerment has passed, unless the termination proceedings in section 38-104 (g) of this ordinance are initiated against the user.
2. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the director prior to the date of any show cause or termination hearing under sections 38-104 (c) or 38-104 (g) of this ordinance.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

*(g) Termination of Discharge.*

In addition to the provisions in section 38-99 (e) of this ordinance, any user who violates the following conditions is subject to discharge termination:

1. Violation of wastewater discharge permit conditions;
2. Failure to accurately report the wastewater constituents and characteristics of its discharge;
3. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
4. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or
5. Violation of the pretreatment standards in section 38-95 for TBRSS or 38-96 for the Temple Sewerage System, of this ordinance.
6. Problems existing at the headworks.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under section 38-104 (c) of this ordinance why the proposed

action should not be taken. Exercise of this option by the director shall not be a bar to, or a prerequisite for, taking any other action against the user.

### **Sec. 38-105. Judicial enforcement remedies.**

#### *(a) Injunctive Relief.*

When the director finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment standard or Requirement, the director may petition the district court through the city's attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this ordinance on activities of the user. The director may also seek such other action as is appropriate for legal and or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

#### *(b) Civil Penalties.*

1. A user who has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the city for a maximum civil penalty of \$2000 but not less than \$1000 per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.
2. The director may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the city.
3. In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.
4. Filing a suit for civil penalties shall not be a bar against or a prerequisite for, taking any other action against a user.

#### *(c) Criminal Prosecution.*

1. A user who willfully or negligently violates any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$2000 per violation, per day, or not more than one year imprisonment, or both.

2. A user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty up to \$2000, or be subject to not more than one year imprisonment, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.
3. A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this ordinance, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be punished by a fine of not more than \$2000 per violation, per day, or not more than one year imprisonment or both.
4. In the event of a second conviction, a user shall be punished by a fine of not more than \$2000 per violation, per day, or not more than one year imprisonment, or both.

*(d) Remedies Nonexclusive.*

The remedies provided for in this ordinance are not exclusive. The city may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the city's enforcement response plan. However, the city may take other action against any user when the circumstances warrant. Further, the city is empowered to take more than one enforcement action against any noncompliant user.

**Sec. 38-106. Affirmative defenses to discharge violations.**

*(a) Upset.*

1. In an action brought in federal court and for the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
2. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (3), below, are met.
3. A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed contemporaneous operating logs or other relevant evidence that:
  - i. An upset occurred and the user can identify the cause(s) of the upset;



- ii. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
- iii. The user has submitted the following information to the director within twenty-four (24) hours of becoming aware of the upset. If this information is provided orally, a written submission must be provided within five (5) days:
  - a. A description of the indirect discharge and cause of noncompliance;
  - b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
  - c. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- 4. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
- 5. Users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
- 6. Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

*(b) Act of God.*

- 1. The Act of God defense constitutes a statutory affirmative defense [Texas Water Code Section 7.25] in an action brought in municipal or state court. If a person can establish that an event that would otherwise be a violation of a pretreatment ordinance, or a permit issued under the ordinance, was caused solely by an act of God, war, strike, riot, or other catastrophe, the event is not a violation of the ordinance or permit.
- 2. An industrial user who wishes to establish the Act of God affirmative defense shall demonstrate, through relevant evidence that:
  - i. An event that would otherwise be a violation of a pretreatment ordinance or a permit issued under the ordinance occurred, and the sole cause of the event was an act of God, war, strike, riot or other catastrophe; and
  - ii. The industrial user has submitted the following information to the POTW and the city within 24 hours of becoming aware of the event that would otherwise be a violation of a pretreatment ordinance or a

permit issued under the ordinance (if this information is provided orally, a written submission must be provided within five days):

- a. A description of the event, and the nature and cause of the event;
  - b. The time period of the event, including exact dates and times or, if still continuing, the anticipated time the event is expected to continue; and
  - c. Steps being taken or planned to reduce eliminate and prevent recurrence of the event.
- iii. Burden of proof. In any enforcement proceeding, the industrial user seeking to establish the act of God affirmative defense shall have the burden of proving by a preponderance of the evidence that an event that would otherwise be a violation of a pretreatment ordinance, or a permit issued under the ordinance, was caused solely by an act of God, war, strike, riot or other catastrophe.

*(c) Prohibited Discharge Standards.*

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in section 38-95 (a) (1) (i) through (iii) for industries discharging to the TBRSS system or section 38-96 (a) (1) (i) through (iii) for industries discharging to the Temple sewerage system of this ordinance or the specific prohibitions in sections 38-95 (a) (2) (i) through (xxi). for TBRSS industries or sections 38-96 (a) (2) (i) through (xxii) for Temple industries of this ordinance if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

1. A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference;
2. No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the city was regularly in compliance with its TPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

*(d) Bypass.*

1. For the purposes of this section:
  - i. Bypass means the intentional diversion of wastestreams from any portion of a user's treatment facility; and
  - ii. Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

2. A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (3) and (4) of this section.
3. Any other bypass must meet the following requirements:
  - i. If a user knows in advance of the need for a bypass, it shall submit prior notice to the director, at least ten (10) days before the date of the bypass, if possible.
  - ii. A user shall submit oral notice to the director of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The director may waive the written report on a case-by-case basis if the report has been received within twenty-four (24) hours.
4. Bypass is prohibited, and the director may take an enforcement action against a user for a bypass, unless:
  - i. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  - ii. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
  - iii. The user submitted notices as required under paragraph (3) of this section.
5. The director may approve an anticipated bypass, after considering its adverse effects, if the director determines that it will meet the three conditions listed in paragraph (4) of this section.

#### **Sec. 38-107. Miscellaneous provisions.**

##### *(a) Review and approval; preliminary treatment; required facilities.*

1. The admission into the public sewers of any waters or wastes having (1) a five-day biochemical oxygen demand greater than three hundred (300) parts



per million (ppm) by weight, or (2) containing more than four hundred (400) parts per million by weight of total suspended solids, or (3) containing any quantity of substances having the characteristics described in section 38-95 for the TBRSS or section 38-96 for the city of Temple, or (4) having an average daily flow greater than five per cent (5%) of the average daily sewage flow of the city, shall be subject to the review and approval of the director. Where the director has approved the admission of (1) or (2) above into the public sewer, that discharge may be subject to a surcharge as determined by the director.

2. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the director and no construction of such facilities shall be commenced until said approvals are obtained in writing.

*(b) Pretreatment Charges and Fees.*

The city may adopt reasonable fees for reimbursement of costs of setting up and operating the city's pretreatment program which may include:

1. Fees for wastewater discharge permit applications including the cost of processing such applications;
2. Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users;
3. Fees for reviewing and responding to accidental discharge procedures and construction;
4. Fees for filing appeals; and
5. Fees to recover administrative and legal costs [not included in section 38-107 (a) (2) associated with the enforcement activity taken by the director to address IU noncompliance; and
6. Other fees as the city may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this ordinance and are separate from all other fees, fines, and penalties chargeable by the city.
7. Surcharges. After a review by the director, if a determination is made that the discharge is of such unusual strength and/or character that increased treatment within the sewer treatment plant would be required accompanied by increased treatment costs to the POTW, the discharge shall be subject to a surcharge. In no case will a discharge be accepted that will prevent the POTW from meeting its permit limits. The surcharge will be automatic beginning the third month for a user who has had two previous consecutive months with discharges of BOD or TSS which exceed the limits provided in 38-107 (a) (1) above. A surcharge is an additional charge by the POTW for the increased cost of handling discharge of unusual strength and character, and shall not serve as a variance to the requirements of this ordinance, nor shall it serve to bar the

POTW from bringing a criminal action or civil action under section 38-105 for violations of the provisions of this ordinance.

Surcharges for the treatment of discharges shall be determined as follows:

- i. A basic sewer charge of two hundred fifty dollars (\$250.00) per million gallons times the monthly volume discharged in millions of gallons.
- ii. A BOD surcharge of one dollar (\$1.00) per million gallons times the difference between the BOD expressed in milligrams per liter, and three hundred (300) milligrams per liter; all multiplied times the monthly volume discharged expressed in millions of gallons.
- iii. A TSS surcharge of one dollar (\$1.00) per million gallons times the difference between the TSS expressed in milligrams per liter, and four hundred (400) milligrams per liter; all multiplied times the monthly volume discharged in millions of gallons.
- iv. The basic sewer charge, BOD, and TSS surcharges will be reviewed at periodic intervals as determined by the director. Changes in the aforementioned surcharges shall be authorized by resolution of the city council and shall be binding on all city agreements for the treatment of industrial wastes.

*(c) Gender.*

As used in this Chapter, whenever the context so indicates, the masculine, feminine, or neuter gender and the singular or plural number, shall be deemed to include the others.

*(d) Headings.*

The headings above the various provisions of this Chapter have been included only in order to make it easier to locate the subject covered by each provision and are not to be used in construing the said provisions.

*(e) Amendments of Statutes.*

Reference made to any State or Federal statutes or to any local ordinances includes and is intended to refer to those statutes and/or ordinances as they presently exist or as they may hereafter be amended to read.

**Sec. 38-108. Effective date.**

This ordinance shall be in full force and effect immediately following its passage, approval, and publication, as provided by law.

**Sec. 38-109 - 38-125. Reserved.**

## **ARTICLE VI. CROSS CONNECTION CONTROL**

## Sec. 38-130. General Provisions.

(a) **Title.** These regulations shall hereinafter be known, cited, and referred to as the Cross Connection Control Ordinance of the City of Temple, Texas, and shall be included as part of the Code of Ordinances of the City of Temple, Texas.

(b) **Definition of Terms.** For the purposes of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning. If a word or term used in this ordinance is not contained in the following list, its definition or other technical term used, shall have the meaning or definitions listed in the most recent edition of the Manual of Cross Connection Control published by the Foundation for Cross Connection Control and Hydraulic Research, University of Southern California.

1. ***Approved Backflow Prevention Assembly or Backflow Assembly or Assembly*** shall mean an assembly to counteract backpressure or prevent backsiphonage. This assembly must appear on the list of approved assemblies issued by the City of Temple Utilities Department.
  - a. ***Reduced Pressure Principle Backflow Prevention Assembly or Reduced Pressure Principle Assembly or RP Assembly or RP*** shall mean an assembly containing two independently acting approved check valves together with a hydraulically operated, mechanically independent pressure differential relief valve located between the valves and at the same time below the first check valve. The assembly shall include properly located resiliently seated test cocks and tightly closing resiliently seated shut-off valves at the end of the assembly.
  - b. ***Reduced Pressure Principle Detector Backflow Prevention Assembly or Reduced Pressure Detector or RPDA*** shall mean an assembly composed of line-size approved reduced pressure principle assembly with a bypass containing a specific water meter and an approved reduced pressure principle backflow prevention assembly. The meter shall register accurately for very low rates of flow.
  - c. ***Double Check Valve Backflow Prevention Assembly or Double Check Assembly or Double Check or DC*** shall mean an assembly which consists of two independently operating check valves which are spring loaded or weighted. The assembly comes complete with a gate



valve on each side of the checks, as well as test cocks to test the checks for tightness.

- d. ***Double Check Detector Backflow Prevention Assembly or Double Check Detector or DCDA*** shall mean an assembly composed of line-size approved double check assembly with bypass containing a specific water meter and an approved double check valve assembly. The meter shall register accurately for very low rates of flow.
- e. ***Pressure Vacuum Breaker Backflow Prevention Assembly or Pressure Vacuum Breaker or PVB*** shall mean an assembly which protects against backsiphonage, but does not provide adequate protection against backpressure backflow. The assembly is a combination of a single check valve with an AVB and can be used with downstream shutoff valves. In addition, the assembly has suction and discharge gate valves and test cocks which allows the full testing of the assembly.
- f. ***Spill-Resistant Pressure Vacuum Breaker or SVB*** shall mean an assembly containing an independently operating, internally loaded check valve and independently operating, loaded air inlet valve located on the discharge side of the check valve. This assembly is to be equipped with a properly located test cock and shutoff valves on the suction and discharge ports of the assembly.
- g. ***Atmospheric Vacuum Breaker Backflow Prevention Device or Atmospheric Vacuum Breaker or AVB*** shall mean that this device cannot be tested and cannot prevent back pressure backflow, but is used to prevent backsiphonage in nonhealth hazard conditions.
- h. ***Air Gap*** shall mean a physical separation between the free flowing discharge end of a potable water supply piping and/or appurtenance and an open or nonpressure receiving vessel, plumbing fixture or other device. An "approved air gap separation" shall be at least double the diameter of the supply pipe measured vertically above the overflow rim of the vessel, plumbing fixture or other device, in no case less than one inch. Air gaps can be used to protect against backpressure or backsiphonage of a high health or nonhealth hazard.

2. ***Auxiliary Supply*** shall mean any water source or system other than the public water system, that may be available in the building or on the property, including ground water or surface water used for industrial, irrigation or any other purpose.
3. ***AWWA*** shall mean American Water Works Association.
4. ***Backflow*** shall mean the undesirable reversal of flow of water or mixtures of water and other liquid, gaseous, or other substances into the distribution pipes of the potable supply of water from any source or sources.
5. ***Backpressure*** shall mean any elevation of pressure in the downstream piping system (by any means) above the supply pressure at the point of consideration which would cause, or tend to cause, a reversal of the normal direction of flow and the introduction of fluids, mixtures or substances from any source other than the intended source.
6. ***Backsiphonage*** shall mean a form of backflow due to a reduction in system pressure which causes a subatmospheric pressure to exist at a site in the water system.
7. ***Boresight or Boresight to Daylight*** shall mean providing adequate drainage for backflow prevention assemblies installed vaults through the use of an unobstructed drain pipe.
8. ***City*** shall mean the City of Temple, Texas.
9. ***Commercial Establishment*** shall mean any property or location which is primarily used for the manufacture, production, storage, wholesaling or rebuilding of any goods or wares which is or may be placed in the flow of commerce or any property or location which is used primarily for the provision of any service.
10. ***Commission*** shall mean the Texas Natural Resource Conservation Commission (TNRCC).
11. ***Containment*** shall mean the installation of appropriate type or method of backflow protection at the service connection.
12. ***Contaminants*** shall mean any foreign material, solid or liquid, not common to the potable water supply which makes or may make the water unfit or undesirable for human consumption.
13. ***Contamination*** shall mean the entry into or presence in a public water

supply system of any substance which may be deleterious to health and/or the quality of the water.

14. **Cross Connection** means any physical arrangement where a potable water supply is connected, directly or indirectly (actual or potential), with any other non-drinkable water system, used water system, or auxiliary water supply, sewer, drain conduit, swimming pool, storage reservoir, plumbing fixture, swamp coolers, air condition units, fire protection system, or any other assembly which contains, or may contain, contaminated water, sewage, or other liquid of unknown or unsafe quality which may be capable of importing contamination into the public water system as a result of backflow. Bypass arrangements, jumper connections, removable sections, swivel or changeover assemblies, or other temporary or permanent assemblies through which, or because of which, backflow may occur are considered to be cross connections.
15. **Customer** shall mean the person, company or entity contracting with the City of Temple through the Utility Department to receive potable water service.
16. **Customer Potable Water System** shall mean that portion of the privately owned potable water system lying between the point of delivery and the point of use. This system will include all pipe, conduits, tanks, receptacles, fixtures, equipment, and appurtenances used to produce, convey, store or utilize the potable water.
17. **Customer Service Inspection** shall mean a detailed inspection of a location and disposition of the water lines, including without limitation, establishing water lines on the premises, the existence of cross connections, the availability of auxiliary or used water supplies, the use or availability of pollutants, contaminants and other liquid, solid or gaseous substances which may be used for stabilization of water supplies and such other processes necessary to determine degree of hazard. Inspection may include review of records required by this ordinance. The inspection may only be conducted by: (i) plumbing inspectors and water supply protection specialist licensed by the State Board of Plumbing Examiners; (ii) Certified waterworks operators and members of other water related professional groups holding an endorsement by the commission or its designated agent; (iii) licensed plumbers (for single-family residential services only).
18. **Degree of Hazard** shall mean the low or high hazard classification that shall be attached to all actual or potential cross connections.
  - a. **High Hazard** shall mean the classification assigned to an



actual or potential cross connection that potentially can allow a substance to backflow into the potable water supply that may cause illness or death.

- b. **Low Hazard** shall mean the classification assigned to an actual or potential cross connection that potentially could allow a substance that may be objectionable but not hazardous to a human's health to backflow into the potable water supply.
  - c. **Health Hazard** shall mean an actual or potential threat of contamination of a physical or toxic nature to the public potable water system or the consumer's potable water system that would be a danger to health.
  - d. **Plumbing Hazard** shall mean an internal or plumbing-type cross connection in a consumers potable water system that may be either a pollution or a contamination hazard.
  - e. **Pollution Hazard** shall mean an actual or potential threat to the physical properties of the water system or the potability of the public or consumer's potable water system but which would not constitute a health or system hazard, as defined. The maximum degree of intensity of the pollution to which the potable water system could be degraded under this definition would cause a nuisance or be aesthetically objectionable or could cause minor damage to the system or its appurtenances.
  - f. **System Hazard** shall mean an actual or potential threat of severe danger to the physical properties of the public or consumer's potable water supply or of a pollution or contamination that would have a detrimental effect on the quality of the potable water in the system.
19. **Director** shall mean the City's Director of Utilities Department who is vested with the authority and responsibility for the implementation of an effective cross connection control program for the City and for the enforcement of the provisions of this ordinance.
20. **Non-Potable Water** shall mean water that does not comply with the commission's rules and regulations governing drinking water.
21. **Non-Residential Uses** shall include all users not specifically included in residential uses defined under Residential Use.

22. ***Point-of-Use Isolation*** shall mean the appropriate backflow prevention within the consumer's water system at the point at which the actual or potential cross connection exists.
23. ***Pollution*** shall mean an impairment of the quality of the public water supply to a degree which does not create a hazard to the public health but does adversely and unreasonably affect the aesthetic qualities of such potable water for domestic use.
24. ***Potable Water Supply*** shall mean any water supply intended or used for human consumption or other domestic use.
25. ***Premises*** shall mean any piece of property to which water is provided, including all improvements, mobile structures, and structures located on it.
26. ***Premises Isolation*** shall mean the appropriate backflow prevention at the service connection between the public water system and the water user.
27. ***Public Water System or System*** shall mean any public or privately owned water system, which supplies water for public domestic use. The system must meet all the health requirements set forth by the TNRCC. The system will include all services, reservoirs, facilities, and any equipment used in the process of producing, treating, storing or conveying water for public consumption.
28. ***Recognized Tester*** shall mean a person that is a State certified backflow prevention assembly tester.
  - a. ***General Tester*** shall mean qualified to test backflow prevention assemblies on any domestic, commercial, industrial or irrigation service except firelines.
  - b. ***Fireline Tester*** shall mean qualified to test backflow prevention assemblies on firelines only. The State Fire Marshall's office requires that a person performing maintenance on firelines must be employed by an Approved Fireline Contractor.
29. ***Representative of the Water System*** shall mean a person designated by the City of Temple to perform cross connection control duties that shall include, but are not limited to, cross connection inspections and water use surveys.
30. ***Residential Use*** shall include single family dwellings, duplexes,

multiplex, housing and apartments where the individual units are each on a separate meter or the units are full-time dwellings in cases where two or more units are served by one meter.

31. ***Service Connection*** shall mean the terminal end of a service line from the public potable water system, i.e., where the water purveyor loses jurisdiction and sanitary control over the water at its point of delivery to the consumer's potable water system. If a meter is installed at the end of the service connection, then the service connection shall mean the downstream end of the meter.
32. ***Thermal Expansion*** shall mean heated water that does not have the space to expand.
33. ***TNRCC*** shall mean the Texas Natural Resource Conservation Commission.
34. ***Used Water*** shall mean water supplied by a public water system to a water user's system after it has passed through the service connection.
35. ***Utility*** shall mean the City of Temple Utilities Department.
36. ***Water Supply Protection Specialist*** shall mean any person who holds a license endorsement issued by the Texas State Board of Plumbing Examiners to engage in the inspection, in connection with health and safety laws and ordinances, of the plumbing work or installation of a public water system distribution facility or of customer owned plumbing connected to that system's water distribution lines.

(c) **Authority of Requirements.**

This ordinance is adopted under the authority of the Constitution and laws of the State of Texas, as promulgated by Chapter 212 of the Texas Local Government Code, as heretofore, or hereinafter amended. This ordinance is adopted pursuant to the provisions of the Charter for the City of Temple, Texas.

(d) **Purpose of Ordinance.**

The regulations contained herein are adopted to achieve the following purposes and shall be administered to achieve the following objectives:

1. Promote the health, safety and general welfare of the city;
2. Promote and encourage the proper use and control of the City's water distribution system;



3. To protect the City's potable water supply from the possibility of contamination or pollution by isolating within the customer's internal distribution system(s) or the customer's private water system(s) such contaminants or pollutants that could backflow into the public water system;
4. Promote the elimination or control of existing cross connections, actual or potential, between the customer's potable water system(s), and nonpotable water systems, plumbing fixtures, and process piping systems in conjunction with the currently adopted plumbing code;
5. To provide for the maintenance of a continuing program of cross connection control that will systematically and effectively prevent this contamination or pollution of the City's potable water by requiring the certification and operational testing of all testable backflow prevention assemblies located on a premises, and requiring the installation of approved backflow prevention assemblies as required by the currently adopted plumbing code; and
6. To comply with the TNRCC rules and regulations for Public Water Systems.

(e) **Policy.**

It is hereby declared the policy of the City to promote the public health safety and welfare by;

1. Implementing the rules for drinking water standards governing drinking water quality and reporting requirements for public water supply systems promulgated by the Texas Natural Resource Conservation Commission, 31 Texas Administrative Code 290.44 and 290.46, Texas Health and Safety Code, Chapter 341, Subchapter C and the Federal Safe Drinking Water Act, 42 US.CA §§300 f et seq;
2. Establish a cross connection control program of uniform regulations governing the installation, testing and certification of backflow prevention assemblies and technicians;
3. Establishing requirements to permit and control the installation, routine maintenance and inspection of backflow prevention assemblies.

(f) **Jurisdiction and Applicability.**

These rules and regulation contained herein shall apply to the utility water service area and all cross connections and installations of backflow prevention assemblies within:

1. Any service area of the City of Temple Utility;
2. Areas where water is purchased from the City of Temple Utility for the purpose of resale; and
3. Any plumbing outside the City requiring plumbing inspection pursuant to a interlocal agreement between the City and a political subdivision, a water sales contract or applicable ordinance.

(g) **Rulemaking.**

The Director of Utilities is hereby authorized to promulgate reasonable regulations to achieve the purposes of the ordinance that are not in conflict with this chapter, the currently adopted plumbing code, the City charter, the TNRCC, the laws of the State of Texas, Texas Health and Safety Code, §§341.031 et seq., as amended, and the Federal Safe Drinking Water Act, 42. USCA § 300 f et. seq., as amended.

(h) **Conflicts with Public and Private Provisions.**

Except where indicated, these regulations are not intended to:

1. Interfere with, abrogate, or annul any other public ordinance, rule or regulation statute, or other provision of law.
2. Abrogate any easement, deed restriction, covenant or any other private agreement or deed restriction.

(i) **Conformance with Rules and Regulations.**

These regulations herein shall be held to be the minimum requirements concerning cross connections and backflow prevention. In addition to the requirements, each water customer of the City shall be in conformance with all applicable County, State and Federal laws.

**Sec. 38-131. Backflow and Siphonage Prevention Program.**

(a) **Cross Connection Prohibited.**

1. No installation of potable water supply piping or part thereof shall be made in such a manner that allows used, polluted or contaminated water, mixtures, gases, or other substances to enter any portion of such piping by reason of backsiphonage, backpressure or any other cause.
2. No person shall install any water operated equipment or mechanism or use any water treating chemical or substance. If it is found that such equipment, mechanism, chemical or substance may cause pollution or contamination of the public potable water supply system, such equipment or mechanism may be permitted only when equipped with an approved backflow prevention assembly.
3. No person shall connect to the public potable water supply/system any mechanism(s) or system(s) designed to return used water to the public potable water supply/system through any measures.
4. No person shall connect any auxiliary water system to the public potable water supply/system except as allowed by the ordinance and by the currently adopted plumbing code, as amended.

**(b) Installation Provisions.**

1. No water connection from a public drinking water supply system shall be made to any establishment where an actual or potential contamination or system hazard exists without an air gap separation between the drinking water supply and the source of potential contamination. The containment air gap is sometimes impractical and instead reliance must be placed on individual air gaps or mechanical backflow prevention devices. Under these conditions, additional protection shall be required at the meter in the form of a backflow prevention device (in accordance with AWWA Standard C510 and C511, and AWWA Manual M14) on those establishments handling substances deleterious or hazardous to the public health. The City need not require backflow protection at the water service entrance (meter) if an adequate cross connection control program is in effect that includes annual inspection and testing by a certified backflow prevention device tester. It will be the responsibility of the City to ensure that the requirements are met. It is the water customer's responsibility to coordinate and pay for any required annual test(s) and inspection(s).



2. No water connection from any public drinking water supply system shall be made to any condensing, cooling or industrial process or any other system of nonpotable usage over which the public water supply system official does not have sanitary control, unless the said connection is made in accordance with the requirements of paragraph one (1) of this section. Water from such systems cannot be returned to the potable water supply.
3. Overhead bulk water dispensing stations must be provided with an air gap between the filling outlet hose and the receiving tank to protect against backsiphonage and cross contamination.
4. The use of a backflow prevention device at the service connection shall be considered as additional backflow protection and shall not negate the use of backflow protection or internal hazards as outlined and enforced by the current adopted plumbing code.
5. **New Installation.**

- a. New, replacement, or reconditioned backflow prevention assemblies shall be installed in accordance with the currently adopted plumbing code, as amended.
- b. Prior to installation, the person must obtain a plumbing permit.
- c. Prior to issuance of a certificate of occupancy, a completed test and maintenance report must be submitted to the Utility Department for any connection requiring a testable backflow prevention assembly. Documentation of an approved air gap can be substituted where applicable and is subject to annual inspection.

**6. High Health Hazard Installation.**

- a. Only approved backflow prevention assemblies installed at the meter can be used at high health hazard applications unless a variance is obtained from Director of Utilities. Variances will be based on conditions such as type of hazards(s), complexity of facility plumbing, potential for future plumbing connections and others as deemed appropriate.
- b. The Director of Utilities may require a secondary assembly if deemed necessary to protect the public water supply from the failure of the primary backflow prevention assembly or to allow maintenance of the primary backflow prevention assembly.

**7. Other Installations.**

- a. An approved backflow prevention assembly shall be installed to protect the potable water system from contamination or pollution when such system is connected to any automatic fire protection system, standpipe systems or privately owned fire hydrants.
- b. Installation of a reduced pressure backflow

prevention assembly shall be required on any meter connected to the potable water system for water appropriation from fire hydrants unless an approved air gap is authorized. Only meters and backflow prevention assemblies approved by the Director of Utilities can be used to obtain water from a fire hydrant.

8. **Wholesale Customers.** Any Customer purchasing water for the purpose of resale or distribution shall:
  - a. Install an air gap separation or a reduced pressure backflow prevention assembly at the service connection; or
  - b. Implement a plumbing inspection and cross connection control program that is approved by the Director of Utilities which is not less restrictive than that of the City and provide annual program records to the Director for review and audit.
9. **Government Customers.** Any premises owned, operated, or occupied by a state, federal, county, city or foreign government or agency refusing to comply with the provisions of this chapter shall install a reduced pressure backflow prevention assembly at each service connection.
10. **Water Hauling Vehicles.** Water hauling vehicles obtaining water from a connection to the City's potable water supply system shall have an approved air gap separation or a reduced pressure backflow prevention assembly installed permanently on the vehicle, or if connected by a fire hydrant meter, installed on the fire hydrant meter. The assembly shall be registered with the City and certified for operation annually.
11. **Compliance for Existing Customers.**
  - a. The premise owner, customer or the designated representative of any facility which is determined to have an unprotected or improperly installed high health hazard connection (s) must comply with this section within 60 days upon written



notification by the Director unless the Director determines that circumstances exist which require installation within a shorter time frame. Documentation of the installation and testing shall be submitted as outlined in Section 220.

- b. The premise owner, customer, or designated representative of any facility which is determined to have an unprotected nonhealth hazard connections must install an approved assembly immediately downstream of the City's meter on a schedule determined by the Director. Documentation of the installation and testing shall be submitted as outlined in Section 220.
- c. The premise owner, customer or designated representative shall have all testable backflow prevention assemblies which are currently installed certified for operation by a certified backflow prevention assembly tester on an annual basis. If the assembly has not been certified for operation within the last year, the assembly must be tested and, if required, repaired and the documentation submitted to the director within 60 days upon written notification by the Director or on a schedule approved by the Director.

**(c) Inspection and Testing Requirements.**

- 1. All backflow prevention assemblies shall be inspected and tested in each of the following circumstances:
  - a. Immediately after installations;
  - b. Whenever the assembly is moved;
  - c. A minimum of once a year;
  - d. Premises that have been vacated and unoccupied for one year, prior to re-occupancy; and
  - e. Immediately after repairs.
- 2. All assembly testing shall be performed by a state certified backflow prevention assembly tester, approved by the regulatory authority and registered with the City of Temple.

3. Duly authorized employees of the city bearing proper credentials and identification are entitled to enter any public or private property at any reasonable time for the purpose of enforcing this ordinance. Persons and occupants of premises which are provided water service by the city, either directly or indirectly, shall allow the city or its representatives ready access at all reasonable times to all parts of the premises for the purposes of inspection, testing, records examination or in the performance of any of their duties. Where persons or occupants of premises have security measures in force which would require proper identification and clearance before entry into their premises, the persons and occupants of the premises shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the city will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.
4. The City is not liable for damage to a backflow prevention assembly, which may occur during testing, fluctuation in the distribution system pressure or interruption to the water supply.
5. A water use survey may be conducted at any establishment located in the city which is served by a public water supply or which provides water to the public. Upon determination that the establishment falls under the provisions of this ordinance and requires a backflow prevention assembly, a notice to abate the condition or to install the proper backflow prevention assembly shall be issued.
6. Gauges used in the testing of backflow prevention assemblies shall be tested for accuracy annually and calibrated in accordance with the Manual of Cross Connection Control published by the Foundation of Cross Connection Center, Hydraulic Research, University of Southern California and/or the AWWA Manual of Cross Connection Control (Manual M-14). Testers shall include test gauge serial numbers on "Test and Maintenance" report forms.
7. **Test and Maintenance Report.**

A Backflow Prevention Assembly Test and Maintenance Report must be completed by the recognized backflow prevention assembly test for each assembly tested. The signed

and dated original must be submitted to the City Utility Department within 10 working days for record keeping purposes. Should the tester choose to use a report format which differs from that found in this Section, it must minimally contain all information required by the report form.

Test and maintenance reports shall be retained for a minimum of three years. The public water supplier must provide these records to commission staff for inspection upon request.

**(d) Customer Responsibility.**

1. It is the responsibility of the person who owns or controls property to have all assemblies tested in accordance with this ordinance. Assemblies may be required to be tested more frequently if the regulatory authority deems necessary.
2. The customer shall be responsible for all costs associated with the installation, general maintenance, testing, upkeep, record keeping, and replacement of the approved backflow prevention assembly.
3. Where an owner of property leases or rents the same to any person as tenant or lessee, the owner or tenant or both may be held financially responsible for any of the requirements of this ordinance.
4. The customer shall be responsible for ensuring that the backflow prevention assembly tester is registered with the utility and the gauges used by the tester have been calibrated within one year of the testing date. Failure to comply with the requirements of this section will be grounds to reject the testing of the backflow prevention assembly and require retesting at the customer's expense.

**(e) Thermal Expansion.**

It is the responsibility of any person who owns or controls property to eliminate the possibility of thermal expansion, if a closed system has been created by the installation of a backflow assembly.

**(f) Pressure Loss.**

Any reduction in water pressure caused by the installation of a backflow



assembly is not the responsibility of the City.

**Sec. 38-132. Customer Service Inspection Program.**

(a) **Inspection Requirements.** A customer service inspection certification shall be completed prior to providing continuous water service to new construction, on any existing service when the water purveyor has reason to believe that cross connections or other unacceptable plumbing practices exist, or after any material improvement, correction, or addition to the private plumbing facilities.

(b) **Inspector Qualifications.** Individuals with the following credentials shall be recognized as capable of conducting a customer service inspection certification:

1. Plumbing Inspectors and Water Supply Protection Specialists licensed by the Texas State Board of Plumbing Examiners.
2. Certified Waterworks Operators and members of other water related professional groups who have completed a training course, passed an examination administered by the Commission or its designated agent, and hold an endorsement granted by the Commission or its designated agent.
3. Licensed Plumbers may perform customer service inspections on single family residential services.
4. Registered Professional Engineers.
5. Registered Sanitarian.

(c) **Inspection Certification Report.**

Copies of properly completed Water Service Inspection Certifications will be kept on file by the City and made available, upon request, for Commission review. The certifications shall be retained for a minimum of ten years. If the certification form included in this Section is not used, the Inspection Certifications must minimally include the name and registration number of the inspector, the type of registration (Plumbing Inspectors, Water Supply Protection Specialists, Certified Operator, etc.) and be dated and signed. It must also certify that:

1. No direct connection between the public drinking water supply and a potential source of contamination exists. Potential sources of contamination are isolated from the public water system by an air-gap or an appropriate backflow prevention assembly in accordance with

state plumbing regulation. Additionally, all pressure relief valves and the thermal expansion devices are in compliance with state plumbing codes.

2. No cross connection between the public drinking water supply and a private water source exists. Where an actual air gap is not maintained between the public water supply and private water supply, an approved reduced pressure-zone backflow prevention assembly is properly installed and a service agreement exists for annual inspection and testing by a recognized backflow prevention assembly tester.
3. No connection exists which would allow the return of water used for condensing, cooling, or industrial processes back to the public water supply.
4. No pipe or pipe fitting which contains more than 8.0% percent lead exists in private plumbing facilities installed on or after July 1, 1988.
5. No solder or flux which contains more than 0.02% percent lead exists in private plumbing facilities installed on or after July 1, 1988.
6. No plumbing fixture is installed which is not in compliance with the state-approved plumbing code.

**(d) Inspection Fees.**

Any inspection completed within the city limits shall be charged according to the normal permit fees established. The City Council shall set the fee for inspection systems outside the city limits by resolution.

**Sec. 38-133. Closing Provisions.**

**(a) Responsibilities.**

It is the responsibility of all property owners and their tenants and occupants to abide by the conditions of this ordinance. In the event of any changes to the plumbing system, it is the responsibility of the property owners to notify the City. All costs associated with this ordinance and the purchase, installation, testing and repair of devices is the responsibility of the property owner and their tenants.

**(b) Enforcement and Penalties.**

1. The Director and the City Attorney, and each of them, are hereby authorized to enforce the provisions of this ordinance

by any one or more of the enforcement mechanisms set forth in this ordinance.

2. The representatives of the water system or agents of the City charged with enforcement of this ordinance shall be deemed to be performing a governmental function for the benefit of the general public and neither the City, the Director nor representative of the water system or agent of the City engaged in inspection or endorsement activities under this ordinance when acting in good faith and without malice shall ever be held liable for any loss or damage, whether real or asserted, caused, or alleged to have been caused, as a result of the performance of such governmental function.
3. Failure on the part of any customer to discontinue the use of all cross connections and to physically separate cross connections is sufficient cause for the immediate discontinuance of public water service to the premises.
4. Violations. A person commits an offense if:
  - a. He fails to maintain backflow prevention assemblies in compliance with this section.
  - b. He fails to comply with a repair order issued by the regulatory authority or the City.
  - c. Any backflow from premises he owns, operates or manages enters the public water supply system.
  - d. Fails to pay any fees required by this article.
  - e. He violates any section of this article.
  - f. He reinstates water service to premises discontinued or disconnected under this article, except as directed by the regulatory authority.
  - g. He allows an unregistered tester to perform testing work at their establishment.

- h. He tests a backflow prevention assembly within the City without being registered with the regulatory authority and the City.
  - i. He tests a backflow prevention assembly within the City without being certified by the TNRCC.
- 5. **Temporary disconnection of water service.** When the Director believes that an emergency affecting public health or safety exists, the director may immediately discontinue water service. It shall be an emergency affecting public health and safety, if an approved backflow prevention assembly is not installed as required by this chapter or an actual cross connection between the public and private water system exists. The temporary disconnection will continue until the cross connection is eliminated as required by this chapter. Reasonable advance notice and an opportunity to be heard shall be provided to the customer if it is not an emergency. If it is an emergency, notice and an opportunity to be heard shall be provided to the customer as soon as possible after the disconnection of such water service.
- 6. **Refusal of water service.** Failure to obtain and comply with the appropriate plumbing or building permits shall result in placement of a hold on the issuance of certificate of occupancy and termination of water service provided during construction.
- 7. Failure to comply with this ordinance is a criminal offense.
- 8. Any person, firm or corporation who violates, disobeys, omits, neglects, or refuses to comply with, or who resists the enforcement of any of the provisions of this ordinance and this code shall be fined not more than two thousand dollars (\$2000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.
- 9. Any persons violating any of the provisions of this ordinance shall become civilly liable to the City for any expense, loss or damage occasioned by the City by reason of such violation.

In addition to the penalties provided herein, the City may recover reasonable attorney's fees, court costs, court reporter fees and other expenses of litigation by appropriate suit against the person found to have violated this ordinance or the orders, rules, regulations,



and permits issued hereunder.

## **Article VII. LIQUID WASTE**

### **DIVISION I. GENERALLY**

#### **38-140. Purpose and Policy.**

- 1) This Article sets forth uniform requirements for liquid waste generators and liquid waste transporters operating in the City of Temple, Texas, to ensure that the City of Temple complies with all applicable State and Federal laws and regulations, including the Clean Water Act (33 United States Code § 1251 et seq.)
- 2) The objectives of this Article are:
  - a) To aid in the prevention of wastewater overflows resulting from blockages and obstructions due to the accumulation of fats, oils, and greases from commercial and industrial facilities;
  - b) To promote the proper maintenance of grease interceptors and grit traps/oil separators; and,
  - c) To ensure the proper handling, disposal, transport, and tracking of trap waste and other liquid waste.

#### **38.141. Definitions.**

- 1) The definitions set forth in Section 38-93 of this Chapter are incorporated herein.
- 2) **Approved** - means accepted as satisfactory under the terms of this Article and given formal and official sanction by the City of Temple.

**Car Wash** – means establishments primarily engaged in cleaning, washing, and/or waxing automotive vehicles, such as passenger cars, trucks, vans, and trailers and are categorized by North American Industry Classification System Number 811192 and by Standard Industrial Classification Number 7542.

**Director** - means the Public Works Director of the City of Temple, or his/her authorized representative.

**Disposal** – means the discharge, deposit, release, injection, dumping, spilling, leaking, or placing of any liquid waste into or on any land or water, intentionally or unintentionally, so that such waste or any constituent thereof may enter the environment, be emitted into the air, or discharged to any wastewaters or waters, including ground waters.

**Disposal Site** – means a permitted site or part of a site at which liquid waste is processed, treated, and/or intentionally placed into or on any land and at which the waste will remain.

**Disposer** – means a person who receives, stores, retains, processes, or disposes of liquid waste.

**Fats, Oils, and Grease (FOG)** - means organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. These substances are detectable and measurable using analytical test procedures established in 40 CFR § 136, as may be amended from time to time. All are sometimes collectively referred to herein as “grease” or “greases.”

**Food Processing Facility** – means every commercial or industrial establishment where raw ingredients are transformed, by physical or chemical means into food, or of food into other forms to produce marketable food products that can be easily prepared and served by the

consumer.

**Food Service Facility** - means every food preparation and food service establishment including, but not limited to bakeries, bars, butcher shops, cafes, clubhouses, delicatessens, ice cream parlors, hospitals, hotels, restaurants, schools, or similar places where meat, poultry, seafood, dairy products, or fried foods are prepared, served, or offered for sale, but shall not apply to any single-family residence or dwelling not used for the commercial preparation and/or sale of food items.

**Generator** - means any person who causes, creates, generates, or otherwise produces liquid waste, or a person who, for any reason, has liquid waste removed from his property by a transporter of liquid waste.

**Grease Interceptor (or “Grease Trap”)** - means a device designed to separate and retain light density liquids, waterborne fats, oils, and greases by their specific gravity, prior to the wastewater entering the POTW. These devices also serve to collect settleable solids, generated by and from food preparation activities, prior to the water exiting the trap and entering the POTW.

**Grease Interceptor Waste** - means any organic, inorganic, greasy or fatty liquid, semi-liquid, and/or solid wastes collected by and removed from a grease trap.

**Grit Trap/Oil Separator (or “Grit Trap”)** – means a watertight receptacle designed and constructed to intercept and prevent the passage of petroleum based oil, grease wastes and solids into the POTW to which the receptacle is directly or indirectly connected.

**Grit Trap Waste** - means oil and grease waste, and/or inorganic solids generated by a commercial facility that are collected by and removed from a grit trap/oil separator.

**Hazardous Waste** – means any liquid, semi-liquid or solid waste (or combination of wastes), which because of its quantity, concentration, physical, chemical or infectious characteristics may:

- a. Be toxic, corrosive, and irritant, a strong sensitizer, flammable or combustible, explosive or otherwise capable of causing substantial personal injury or illness;
- b. Pose a substantial hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise improperly managed, and is identified or listed as a hazardous waste as defined by the Texas Solid Waste Disposal Act or the administrator, U.S. Environmental Protection Agency (EPA) pursuant to the Federal “Solid Waste Disposal Act”, as amended by the “Resource Conservation and Recovery Act of 1976” (RCRA), and as it may be amended in the future.

**Immediately** – means within 24 hours.

**Liquid Waste** – means water-borne solids and liquids containing dissolved or suspended waste material including but not limited to septage and wastes from grease traps and grit traps.

**Manifest** – means the written multi-part documentation required to be in the possession of the transporter enabling disposal of hauled grit trap waste, grease trap waste, and septage at a permitted or registered disposal site.

**Manifest System** - means a system consisting of a five-part trip ticket used to document the generation, transportation, and disposal of liquid waste.

**Septage** – means liquid waste and sludge containing sufficient liquid content, which is removed from a portable toilet, chemical toilet, septic tank, or cesspool. Septage does not include non-domestic wastes from commercial or industrial facilities.

**Storm Water System** – means a conveyance or system of conveyances (including roads with

drainage systems, municipal streets, catch basins, curbs, inlets, gutters, ditches, natural and human-made or altered drainage channels, or storm drains) owned or operated by the City and designed or used for collecting or conveying storm water, and which is not used for collecting or conveying sewage and which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 C.F.R § 403.3.

**Transporter** – means any person who is registered with and authorized by the TCEQ to transport sewage sludge, water treatment sludge, domestic septage, chemical toilet waste, grit trap waste, or grease trap waste in accordance with 30 Texas Administrative Code, Chapter 312, Subchapter G, § 312.142.

**Trip Ticket** – means the shipping document originated and signed by the transporter that contains the information required by the City.

**Washwater** – means the water-borne solids, liquids, gaseous substances, or other residue and debris resulting from a washing or cleaning process.

**Washwater operation** – means any cleaning process generally conducted outdoors, such as washing vehicles, equipment, structures, or paved surfaces which generates washwater and does not drain to a grease trap or grit trap. Examples include cleaning of petroleum products from parking lots or service station drives, mobile washing operations, or equipment/vehicle washing, which do not drain to a grit trap.

**Wastestream** – means the aggregate flow of waste materials from generation to treatment to final disposition.

### **38-142. Applicability and Prohibitions.**

- 1) This Article applies to all Users, as defined in Section 38-93 of this Chapter, of the POTW and transporters as defined by this Article.
- 2) Grease traps or grease interceptors are not required for residential users.
- 3) Facilities generating fats, oils, or grease as a result of food manufacturing, processing, preparation, or food service must install, use, and maintain appropriate grease interceptors as required in Section 38-143 of this Article. These facilities include but are not limited to restaurants, food manufacturers, food processors, hospitals, hotels, motels, schools, nursing homes, and any other facility preparing, serving, or otherwise making any foodstuff available for consumption. Failure to install, maintain, or use grease traps in accordance with this Article is unlawful.
- 4) It is unlawful for a User to intentionally or unintentionally allow the discharge of any petroleum oil, non-biodegradable cutting oil, mineral oil, or any fats, oils, or grease of animal or vegetable origin into the POTW in concentrations greater than those permitted and set forth in Article V, Chapter 38, of the City of Temple Code of Ordinances, as may be amended from time to time.
- 5) It shall be unlawful to discharge transported liquid waste, except as set forth in this Article and in compliance with all federal, state, and local law and at discharge points designated by the City.
- 6) It shall be unlawful for a person to discharge or expose grease, wastewater, or other organic waste in such way as to be a potential instrument or medium of disease transmission to a person or between persons.

- 7) It shall be unlawful to discharge washwater to the storm water system or POTW; washwater may require pretreatment before being discharged to the POTW.

## **DIVISION 2. LIQUID WASTE GENERATORS**

### **38-143. Installations.**

#### **1) New Facilities.**

- a) Food processing facilities or food service facilities, which are newly proposed or constructed, or existing facilities, which will be expanded or renovated to include a food service facility where such facility did not previously exist, shall be required to design, install, operate, and maintain a grease interceptor in accordance with locally adopted plumbing codes or other applicable ordinances. Grease interceptors must be installed and inspected prior to issuance of a certificate of occupancy.
- b) Facilities that perform washing, cleaning, or servicing of automobiles, trucks, buses, or similar equipment, which are newly proposed or constructed with floor drains in areas of operation, shall be required to design, install, operate, and maintain a grit trap/oil separator in accordance with locally adopted plumbing codes or other applicable ordinances and guidelines as required by the City. Grit traps/oil separators shall be installed and inspected prior to issuance of a certificate of occupancy.
- c) A generator shall install a sample port to allow access to sample the wastestream as close as possible to the connection with the City wastewater collection main within the bounds of the facility property. The port shall be installed according to the specifications of the City. The port shall be installed and maintained at the generator's expense. The port shall be installed perpendicular to the effluent flow to allow visual observation and sampling.

#### **2) Existing Facilities.**

- a) Existing grease interceptor or grit trap/oil separator must be operated and maintained in accordance with the manufacturer's recommendations and in accordance with these standards referenced herein, unless otherwise specified in writing and approved by the City. The City may require some users to install an approved grease interceptor or grit trap/oil separator when the concentration of oil, grease waste, or suspended solids is greater than concentrations permitted and set forth in Article V, Chapter 38 of the City of Temple Code of Ordinances or when discharges may cause blockages in the POTW.
- b) Existing food processing or food service facilities that change in ownership, existing facilities which will be expanded or renovated to include a food service facility, where such facility did not previously exist, and facilities with a lack of, or an inadequately sized, grease interceptor, are required to design, install, operate, and maintain a grease interceptor in accordance with locally adopted plumbing codes, or other applicable ordinances. Grease interceptors shall be installed and inspected prior to the issuance of a certificate of occupancy and prior to issuance of a permit under Chapter 14, City of Temple Code of Ordinances.
- c) Existing facilities which perform washing, cleaning, or servicing of automobiles, trucks, buses, or similar equipment with floor drains in the areas of operation that change in



ownership, are expanded or renovated to include floor drains in areas of operation, or where there is a lack of, or inadequately sized, grit trap/oil separator shall be required to design, install, operate, and maintain a grit trap/oil separator in accordance with locally adopted plumbing codes, or other applicable ordinances. Grit traps/oil separators shall be installed and inspected prior to the issuance of a certificate of occupancy.

- 3) Grease interceptors and grit traps/oil separators shall be installed pursuant to a single certificate of occupancy. No person or persons shall allow the use of an interceptor or trap by more than one business as covered by a certificate of occupancy without prior written approval from the Director.

### **38-144. Responsibilities.**

- 1) A generator of liquid waste must have all liquid waste material removed from their premises by a liquid waste transporter, which holds a valid permit from the City, and the liquid waste must be transported to an approved site for disposal.
- 2) Cleaning Schedule
  - a) All grease interceptors shall be maintained in an efficient operating condition at all times. Grease interceptors shall be cleaned as often as necessary to ensure that:
    - i) Sediment and floating materials do not accumulate and impair the efficiency of the grease interceptor;
    - ii) The discharge is in compliance with local wastewater discharge limits; and
    - iii) No visible grease is observed in the discharge.
  - b) Grease interceptors shall be completely evacuated at a minimum of every ninety (90) days, or more frequently when:
    - i) Twenty-five percent (25%) or more of the wetted height of the grease interceptor, as measured from the bottom of the device to the invert of the outlet pipe, contains floating materials, sediment, oils, or greases;
    - ii) The discharge exceeds BOD, COD, TSS, FOG, pH, or other pollutant levels established by the City; or
    - iii) The Public Works Department determines that more frequent evacuations are needed for public safety.
- 3) Grit traps/oil separators shall be completely evacuated at a minimum of every 180 days unless an exception is granted by the Director.
- 4) Any person who owns or operates a grease interceptor may submit to the City a request in writing for an exception to the required pumping frequency of the grease interceptor. The City may grant an extension for required cleaning frequency on a case-by-case basis when:
  - a) The grease interceptor owner/operator has demonstrated the specific interceptor will produce an effluent with no visible grease, and, based on defensible analytical results, can demonstrate consistent compliance with established local discharge limits such as BOD, TSS, FOG, or other parameters as determined by the POTW; and
  - b) Less than twenty-five percent (25%) of the wetted height of the grease interceptor, as measured from the bottom of the device to the invert of the outlet pipe, contained floating materials, sediment, oils, or greases.
- 5) The City may also require interceptors or traps to be serviced on a single-event basis or scheduled basis if deemed necessary for the proper operation of the grease interceptor or grit trap/oil separator. Such determination will be at the Director's discretion.

- 6) In the event that an establishment ceases operation, the establishment is required to pump the interceptor or trap before abandoning the property. If the owner of the business or his/her agent fail to empty the interceptor or trap, it will become the responsibility of the property owner.
- 7) A generator of liquid waste must not have hazardous waste, or liquid waste in combination with hazardous waste, removed from their premises by a liquid waste hauler operating under a City permit.
- 8) When a load is picked up by a permitted transporter, the generator shall verify the accuracy of the trip ticket and then certify the statements contained therein by legibly completing and signing the trip ticket. The generator must keep a copy of all trip tickets for a period of three years at the site of generation, unless otherwise approved. The City may inspect and copy these records at any time.
- 9) A generator must:
  - a) Provide equipment and facilities of a type and capacity approved by the City;
  - b) Position the grease interceptor or grease trap/oil separator in a manner that provides ready and easy accessibility for cleaning and inspection;
  - c) Maintain the trap in effective operating condition;
  - d) Not install or utilize any system, process or pretreatment involving the use of enzymes, bacteria, or other additives, nor alter the design or function of the grease interceptor or grit trap/oil separator unless approved in writing by the City;
  - e) Supervise proper cleaning and removal of the contents of the trap;
  - f) Maintain the grease interceptor or grit trap/oil separator and its surrounding areas in sanitary conditions, free of litter and odors;
  - g) Immediately report spills and accidents involving liquid waste to the City; and
  - h) Clean up all spills and abate all unsanitary conditions immediately and have material used for abatement, such as absorbent materials, disposed of by approved means and in a timely manner. If immediate clean-up is not feasible, the generator must provide to the City a written, detailed explanation of the circumstances and the plan for clean-up and abatement, including a request for additional time.
- 10) A generator of washwater or other liquid waste must:
  - a) Contain, collect, and dispose of liquid waste by approved means;
  - b) Protect the storm water system, the POTW, and the environment from discharges of liquid waste or other contaminants;
  - c) Use approved methods for on-site or mobile treatment of liquid waste; and
  - d) Accurately measure, by approved means, the volume of liquid waste collected and disposed of by the transporter.
- 2) **Rates for sampling and/or analysis.** Should any sampling and/or analysis be required by the City pursuant to any provision in this Article, the payment of such fees incurred for sampling and analysis will be the responsibility of the generator.

### **DIVISION 3. LIQUID WASTE TRANSPORTERS**

#### **38-145. Permit Required.**

- 1) **Permit Required.** All persons owning or operating a vacuum truck, cesspool pump truck, liquid waste transport truck, or other vehicle must not service any septic tank, seepage pit,

grease interceptor, grit trap/oil separator, or cesspool without first having received a valid transport truck discharge (TTD) permit.

- 2) **Permit Application and Fee.** TTD permits will be issued by the City upon proper application and payment of a fee established by the City Council and on file in the City Secretary's office. All TTD permits will be valid for one (1) year, running from January 1 through December 31.
  - a) The City may deny a permit, deny the renewal of a permit, revoke a permit in its entirety, suspend the permit for a stated period of time, place the permit holder on terms of probation, or place other conditions thereon as the City deems necessary and appropriate if the City finds that any requirement of the permit has been violated or that false statements were made on any application, agreement, or any required submittal.
- 3) **Unloading or discharge of waste or wastewater.** It is unlawful for any person to unload or discharge waste or wastewater within the City except in a manner and at a place specified by the City. All transporters must discharge waste in an approved facility and provide an approved manifest for said discharge.

### **38.146. Manifest Requirements.**

- 1) Persons who generate, collect, and transport grease interceptor and grit trap/oil separator waste must maintain a record of each individual collection and deposit. Such records will be in the form of a manifest. The manifest must include:
  - a) Name, address, telephone, and TCEQ registration number of transporter;
  - b) Name, signature, address, and telephone of the person who generated the waste and the date collected;
  - c) Type and amount(s) of waste collected or transported;
  - d) Name and signature(s) of responsible person(s) collecting, transporting, and depositing the waste;
  - e) Date and place where the waste was deposited;
  - f) Identification (permit or site registration number, location, and operator) of the facility where the waste was deposited;
  - g) Name and signature of the facility on-site representative acknowledging receipt of the waste;
  - h) The volume of the waste received; and
  - i) A consecutive numerical tracking number to assist transporters, waste generators, and regulating authorities in tracking the volume of grease transported.
- 2) Transporters shall obtain manifests from the City of Temple.
- 3) Manifests must be divided into five parts and records shall be maintained as follows:
  - a) One part of the manifest must have the generator and transporter information completed and will be provided to the generator at the time of waste pickup.
  - b) The remaining four parts of the manifest must have all required information completely filled out and signed by the appropriate party before distribution of the manifest. The remaining four parts will be distributed as follows:
    - i) One part of the manifest must be provided to the receiving facility;
    - ii) One part must be kept by the transporter, who must retain a copy of all manifests showing the collection and disposition of waste;
    - iii) One part of the manifest must be returned by the transporter to the waste generator within fifteen (15) days after the waste is received at the disposal or processing facility; and

- iv) One part of the manifest must be returned by the transporter to the City of Temple Environmental Programs Office within fifteen (15) days after the waste is received at the disposal or processing facility.
- 4) Copies of manifests returned to the waste generator must be retained for three years and be readily available for review by the City.

### **38-147. Responsibilities.**

- 1) Each grease interceptor or grit trap/oil separator that is pumped must be fully evacuated unless the trap volume is greater than the tank capacity on the vacuum truck, in which case the transporter shall arrange for additional transportation capacity so that the trap is fully evacuated within a twenty four (24) hour period, in accordance with 30 Texas Administrative Code, Chapter 312, § 312.143.
- 2) The City, or its representative(s), will have the right to enter the premises of any generator or transporter to determine whether the generator or transporter is complying with all requirements of this Article and any wastewater discharge permit or order issued hereunder. The generator or transporter must allow the representatives from the City access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.
- 3) The City has the right to set up on the generator or transporter's property, or require installation of such devices as necessary to conduct sampling and/or investigation of the user's operations.

## **DIVISION 4. Abatement of Violations**

### **38-148. Enforcement actions.**

- 1) **Notice of Violation.**
  - a) If the City determines that a violation of this Article, a permit or order issued in accordance with this Article, or any other pretreatment standard or requirement has occurred, a written notice of violation may be issued to the person determined to be in violation.
  - b) Upon receipt of written notice and within the timeframe specified in the notice, the person must submit an explanation of the violation and detailed plan, including specific actions to be taken, for satisfactory remedy of the violation at issue and methods for prevention of repeat or future offenses.
  - c) Submitting a corrective action plan in response to a written notice does not relieve the person of liability for any violations occurring before or after receipt of the notice of violation.
  - d) Nothing contained in this section will be construed as to require the City to first issue a written notice of violation before taking any action, including emergency action, or pursuing other enforcement remedies.
- 2) **Administrative Orders.**
  - a) **Compliance Orders.**
    - i) If the City determines that a violation of this Article, a permit or order issued in accordance with this Article, or any other pretreatment standard or requirement has occurred, a compliance order may be issued to the person, as defined in 38-93 of this Chapter, responsible for the discharge directing that the person come into compliance within a specified time period.



- ii) If the person does not come into compliance within the time period provided in the compliance order, water or wastewater service may be discontinued and any permits issued by the City may be revoked.
  - iii) Compliance orders also may contain other requirements to address noncompliance, including, but not limited to, additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the POTW.
  - iv) A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the User of liability for any violation, including any continuing violation.
  - v) Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the User.
- b) **Cease and Desist Orders.**
- i) If the City determines that a violation of this Article, any permit or order issued by the City, or any other pretreatment standard or requirement has occurred or that the person's past violations are likely to reoccur, the City may issue an order to the person directing them to cease and desist all such violations and:
    - (1) Immediately comply with all requirements of this Article; and
    - (2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.
- 3) **Service of notice or order.** Any notice or order issued under this Article must be in writing and served in person or by registered or certified mail on the User or transporter of the liquid waste and/or any other persons determined to be responsible for such violation.
- 4) **Termination of service and revocation of permit.** The City may, if a violation is continuing or reoccurring or may reoccur, revoke any permit issued by the City to the person ordered to correct or abate such violation if such violation has not been corrected or abated within the time specified in a compliance order or cease and desist order.
- 5) **Emergency suspension of service.**
- a) **Suspension.** The City may, without prior notice, suspend water service, wastewater service and/or storm water access to a person discharging to the POTW or storm water system when such suspension is necessary in the opinion of the City to stop an actual or threatened discharge that:
    - i) Presents or may present imminent substantial danger to the environment or to the health or welfare of persons;
    - ii) Presents or may present imminent substantial danger to the POTW, storm water system, or waters of the state; or
    - iii) Will cause pass through or interference of the POTW.
  - b) **Notice of suspension.** As soon as is practicable after the suspension of service, the City shall notify the person discharging to the POTW or storm water system of the suspension, and order such person to cease the discharge immediately.

- c) **Reinstating service.** The City will reinstate a person's suspended water and/or wastewater services:
  - i) Upon proof by such person that the non-complying discharge has been eliminated;
  - ii) Upon payment by such person of any outstanding water and wastewater utility charges;
  - iii) Upon arrangement of payment by such person of all costs incurred by the City in responding to the discharge or threatened discharge; and
  - iv) Upon arrangement of payment by such person of all costs incurred by the City in reconnecting service.
- d) **Written statement.** Prior to reinstatement of service, the person must submit to the City a detailed written statement describing the cause of the discharge and the measures taken to prevent any future occurrence as instructed by the City.

### **38-149. Penalties.**

- 1) A person who violates any provision of this Article may be subject to civil and/or criminal penalties.
- 2) **Criminal Penalties.** Any person who violates any provision of this Article will be subject to criminal prosecution. Violation of any provision contained within this Article is a Class C Misdemeanor, to be punished by imposition of a fine upon conviction in the municipal court of up to \$2,000. Each day that the violation exists is a separate offense under this Article.
- 3) **Civil Penalties.** The City, its City Attorney, or authorized designee is authorized to commence a civil action for appropriate legal or equitable relief in a court of competent jurisdiction. Such relief may include, but is not limited to:
  - a) An injunction to prevent a violation of this Article;
  - b) Recovery for damages to the POTW or storm water system resulting from a violation of this Article; and/or
  - c) Recovery for expenses incurred by the City in responding to a violation of this Article.
- 4) **Penalties Cumulative.** Nothing contained in this Article will be construed as to limit the remedies available to the City or to prevent the City from seeking both civil and criminal penalties.

## Chapter 38

### WATER, SEWERS, AND SEWAGE DISPOSAL

#### ARTICLE I – DEFINITIONS

##### Sec. 38-1. Definitions.

Unless otherwise defined in this Chapter, the following definitions apply to this Chapter:

Approved means accepted as satisfactory under the terms of this Chapter and given formal and official sanction by the City.

Approved backflow prevention assembly or backflow assembly or assembly or backflow prevention means a method to counteract backpressure or prevent backsiphonage. All methods must be approved by the City of Temple Utilities Division of the Public Works Department and include the following:

- (a) Air Gap means a physical separation between the free flowing discharge end of a potable water supply piping or appurtenance and an open or nonpressure receiving vessel, plumbing fixture, or other device. An "approved air gap separation" must be at least double the diameter of the supply pipe measured vertically above the overflow rim of the vessel, plumbing fixture, or other device, in no case less than one inch. Air gaps can be used to protect against backpressure or backsiphonage of a health or non-health hazard;
- (b) Atmospheric Vacuum Breaker Backflow Prevention Device or Atmospheric Vacuum Breaker or AVB means that this device cannot be tested and cannot prevent back pressure backflow, but is used to prevent backsiphonage in non-health hazard conditions;
- (c) Double Check Detector Backflow Prevention Assembly or Double Check Detector or DCDA means an assembly composed of line-size approved double check assembly with bypass containing a specific water meter and an approved double check valve assembly. The meter must register accurately for very low rates of flow;
- (d) Double Check Valve Backflow Prevention Assembly or Double Check Assembly or Double Check or DC means an assembly which consists of two independently operating check valves which are spring loaded or weighted. The assembly comes complete with a gate valve on each side of the checks, as well as test cocks to test the checks for tightness;
- (e) Pressure Vacuum Breaker Backflow Prevention Assembly or Pressure Vacuum Breaker or PVB means an assembly which protects against backsiphonage but does not provide adequate protection against backpressure backflow. The assembly is a combination of a single check valve with an AVB and can be used with downstream shutoff valves. In addition, the assembly

has suction and discharge gate valves and test cocks which allows the full testing of the assembly;

- (f) Reduced Pressure Principle Backflow Prevention Assembly or Reduced Pressure Principle Assembly or RP Assembly or RP means an assembly containing two independently acting approved check valves together with a hydraulically operated, mechanically independent pressure differential relief valve located between the valves and at the same time below the first check valve. The assembly must include properly located resiliently seated test cocks and tightly closing resiliently seated shut-off valves at the end of the assembly;
- (g) Reduced Pressure Principle Detector Backflow Prevention Assembly or Reduced Pressure Detector or RPDA means an assembly composed of line-size approved reduced pressure principle assembly with a bypass containing a specific water meter and an approved reduced pressure principle backflow prevention assembly. The meter must register accurately for very low rates of flow; and
- (h) Spill-Resistant Pressure Vacuum Breaker or SVB means an assembly containing an independently operating, internally loaded check valve and independently operating, loaded air inlet valve located on the discharge side of the check valve. This assembly is to be equipped with a properly located test cock and shutoff valves on the suction and discharge ports of the assembly.

Backflow means the undesirable reversal of flow of water or mixtures of water and other liquid, gaseous, or other substances into the distribution pipes of the potable supply of water from any source.

Backsiphonage means a form of backflow due to a reduction in system pressure which causes a subatmospheric pressure to exist at a site in the water system.

Backpressure means any elevation of pressure in the downstream piping system (by any means) above the supply pressure at the point of consideration which would cause, or tend to cause, a reversal of the normal direction of flow and the introduction of fluids, mixtures, or substances from any source other than the intended source.

Business days means all days, other than Saturday, Sunday, and holidays on which the Utility Business Office is closed under authority of City Council.

Cease and desist order means an administrative order directing a user to immediately halt illegal or unauthorized discharges.

Cesspool means an underground container for the temporary storage of liquid waste and sewage.

City means the City of Temple, Texas, the City Council of Temple, Texas, or its representative, employee, agent, or designee.

City Council means the governing body of the City.

Compliance order means an administrative order directing a noncompliant person to achieve or restore compliance by a date specified in the order.



Containment means the installation of appropriate type or method of backflow protection at the service connection.

Contaminants means any foreign material, solid, or liquid, not common to a potable water supply, which makes or may make the water unfit or undesirable for human consumption.

Contamination means the entry into or presence in a public water system of any substance which may be deleterious to the public's health or the quality of the water.

Cross connection means an actual or potential connection to a public water system through which it is possible to introduce contamination or pollution. Bypass arrangements, jumper connections, removable sections, swivel or changeover assemblies, or other temporary or permanent assemblies through which, or because of which, backflow may occur are considered to be cross connections.

Customer means the person, company, or entity contracting with the City of Temple to receive potable water service.

Customer's water system means that portion of the privately owned potable water system lying beyond the point of delivery, which includes all pipes, conduits, tanks, receptacles, fixtures, equipment, and appurtenances used to produce, convey, store, or utilize the potable water.

Customer service inspection means a detailed inspection by the City of a location and layout of the water lines, including without limitation, water lines on the premises, cross connections, the availability of auxiliary or used water supplies, the use or presence of pollutants, contaminants, and other liquid, solid, or gaseous substances which may be used for stabilization of water supplies. Inspectors may perform processes necessary to determine degree of hazard. Inspection may include review of records required by this Chapter.

Disposal includes the discharge, deposit, release, injection, dumping, spilling, leaking, or placing of any liquid waste into or on any land or water, intentionally or unintentionally, so that such waste or any constituent thereof may enter the environment, be emitted into the air, or discharged to any wastewaters or waters, including ground waters.

Disposal site includes a permitted site or part of a site at which liquid waste is processed, treated, or intentionally placed into or on any land and on which the waste will remain.

Environmental Protection Agency or EPA means the U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division director, or other duly authorized official of said agency.

Fats, oils, and grease (FOG) means organic polar compounds derived from animal or plant sources that contain multiple carbon chain triglyceride molecules. These substances are detectable and measurable using analytical test procedures established in 40 CFR § 136, as may be amended from time to time. All are sometimes collectively referred to herein as "grease" or "greases."

Food service facility means every food preparation and food service establishment engaged primarily or incidentally in the preparation of food for human or animal consumption, except that the term does not include any person discharging domestic wastewater from premises used exclusively for residential purposes. The term includes, but is not limited to, restaurants, motels, hotels, cafeterias, hospitals, butcher shops, ice cream parlors, schools, bars, delicatessens, meat processing operations, bakeries, clubhouses, cafes, and similar operations.

Generator means any person who causes, creates, generates, or otherwise produces liquid waste, or a person who, for any reason, has liquid waste removed from their property by a transporter of liquid waste.

Good payment history means utility service that has been maintained in a person's name for 12 consecutive billing periods with the City without:

- (a) an assessment of a non-payment fee;
- (b) an assessment of more than two penalties for late payment;
- (c) a returned payment;
- (d) unlawful use of water service; or
- (e) utility service diversion.

Grease Interceptor (or "Grease trap") means a device designed to separate and retain light density liquids, waterborne fats, oils, and greases by their specific gravity, prior to the wastewater entering the POTW. These devices also serve to collect settleable solids, generated by and from food preparation activities, prior to the water exiting the trap and entering the POTW.

Grease interceptor waste means any organic, inorganic, greasy or fatty liquid, semi-liquid, or solid wastes collected by and removed from a grease trap.

Grit trap/oil separator (or "Grit trap") means a watertight receptacle designed and constructed to intercept and prevent the passage of petroleum based oil, grease wastes, and solids into the POTW to which the receptacle is directly or indirectly connected.

Grit trap waste means oil and grease waste, or inorganic solids generated by a commercial facility that are collected by and removed from a grit trap/oil separator.

Hazardous waste means any liquid, semi-liquid, or solid waste (or combination of wastes), which because of its quantity, concentration, physical, chemical, or infectious characteristics may:

- (a) be toxic, corrosive, and irritant, a strong sensitizer, flammable or combustible, explosive, or otherwise capable of causing substantial personal injury or illness; or

(b) pose a substantial hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise improperly managed, and is identified or listed as a hazardous waste as defined by the Texas Solid Waste Disposal Act or the administrator, U.S. Environmental Protection Agency (EPA) pursuant to the Federal "Solid Waste Disposal Act," as amended by the "Resource Conservation and Recovery Act of 1976" (RCRA), and as it may be amended in the future.

Health hazard means a cross-connection, potential contamination hazard, or other situation involving any substance that can cause death, illness, spread of disease, or has a high probability of causing such effects if introduced into the potable water supply.

Immediately means within twenty-four (24) hours.

Interrupt utility service means disconnecting water or wastewater service or stopping solid waste service.

Liquid waste means water-borne solids and liquids containing dissolved or suspended waste material including, but not limited to wastes from grease traps and grit traps.

Manifest means the written multi-part documentation used to document the generation, transportation, and disposal of grease trap and grit trap waste at a permitted or registered disposal site.

Non-health hazard means a cross-connection, potential contamination hazard, or other situation involving any substance that generally will not be a health hazard, but will constitute a nuisance, or be aesthetically objectionable, if introduced into the public water supply.

Non-potable water means water that does not comply with TCEQ's rules and regulations governing drinking water.

Non-residential use includes all users not specifically included in residential uses defined under Residential Use.

Person means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity or their legal representatives, agents, or assigns.

Potable water supply means any water supply intended or used for human consumption or other domestic use.

Premises means any piece of property to which potable water is provided, including all improvements, mobile structures, and structures located on such property.

Publicly owned treatment works or POTW means "treatment works," as defined by 33 U.S.C.S. §1292, which is owned or partly owned by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

Public Water System or System means any public or privately owned water system, which supplies water for public domestic use. The system must meet all the health requirements set forth by TCEQ. The system will include all services, reservoirs, facilities, and any equipment used in the process of producing, treating, storing, or conveying water for public consumption.

RCRA means the United States Environmental Protection Agency's Resource Conservation and Recovery Act.

Residential use includes single family dwellings, duplexes, multiplex housing, and apartments where the individual units are each on a separate meter or the units are full-time dwellings in cases where two or more units are served by one meter.

Returned payment means a payment returned for insufficient funds, a credit card payment that is charged back at the request of the customer, or any other form of payment that is dishonored in any way or for any reason.

Service address means a premises that receives a City utility service.

Service connection means the terminal end of a service line from the public potable water system, i.e., where the water purveyor loses jurisdiction and sanitary control over the water at its point of delivery to the customer's water system. If a meter is installed at the end of the service connection, then the service connection must mean the downstream end of the meter.

Sewage means human excrement and gray water (e.g. water from household showers, dish washing operations, etc.).

Sewer means a pipe or conduit for carrying sewage.

Storm water means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

Storm water system means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, inlets, gutters, ditches, natural and human-made or altered drainage channels, or storm drains) owned or operated by the City and designed or used for collecting or conveying storm water, and which is not used for collecting or conveying sewage and which is not part of a POTW.

System means all facilities for collecting, pumping, treating, and disposing of sewage.

System hazard means an actual or potential threat of severe danger to the physical properties of the public or customer's potable water supply or of a pollution or contamination that would have a detrimental effect on the quality of the potable water in the system.

Texas Commission on Environmental Quality (TCEQ) means the state agency of that title, or where appropriate, the term may also be used as a designation for the director or other duly authorized official of said agency.



Thermal expansion means heated water that does not have the space to expand.

Transporter means any person who is registered with and authorized by the TCEQ to transport liquid waste in accordance with Texas Administrative Code, Chapter 312, Subchapter G, § 312.142.

Used water means water supplied by a public water system to a customer's system after it has passed through a service connection.

Utility service diversion means a person's unauthorized action to divert utility service to:

(a) prevent accurate measurement of utility usage;

(b) alter metering equipment to prevent accurate meter readings and subsequent billings; or

(c) alter utility account records or computer data to prevent accurate billings.

Utility service diversion charge means a charge assessed by the City against a person who committed utility service diversion to recover any costs incurred by the City due to the utility service diversion, including the repair or replacement of any City equipment. Utility service diversion charges include, but are not limited to, unauthorized use of water fees, broken meter fees, and broken lock charges.

Washwater means the water-borne solids, liquids, gaseous substances, or other residue or debris resulting from a washing or cleaning process.

Wastestream means the aggregate flow of waste materials from generation to treatment to final disposition.

Wastewater means liquid and any water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial, and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

Water supply protection specialist means any person who holds a license endorsement issued by the Texas State Board of Plumbing Examiners to engage in the inspection, in connection with local, state, and federal laws, of the plumbing work or installation of a public water system or of customer owned plumbing connected to a public water system.

## **ARTICLE II – POLLUTION OF WATER SOURCES**

### **Sec. 38-2. Restricted intake areas.**

- (a) Recreational activities and trespassing are prohibited in a two hundred (200) feet radius from raw water intake works. These areas are restricted zones. Restricted zones will be designated by signs maintained in plain view of the public and visible from all parts of the restricted zone.
- (b) It is unlawful for a person to take part in a recreational activity or trespass in a restricted zone described in Subsection (a).
- (c) This section does not apply to a City employee or their agent or designee in the performance of an official duty.

### **ARTICLE III - WATER AND SANITARY SEWER CONNECTION REGULATIONS**

#### **Sec. 38-3. Permit required for work performed on water and sanitary sewer system.**

- (a) It is unlawful for any person other than the City to perform work on, make connection to, or alter in any manner any portion of the water or sanitary sewer system of the City without first having obtained a permit issued by the City for that purpose.
- (b) If a person wishes to perform work on, make connection to, or alter in any manner any portion of the water or sanitary sewer system of the City, they may contact the City and request the City to perform such work. If the City agrees to perform this work on behalf of the person, no permit need be obtained from the City for the requested work.
  - 1. The City is authorized to charge a fee for performance of requested work. Failure to pay a fee may result in the City refusing to perform the requested work.

#### **Sec. 38-4. Permit procedure.**

- (a) To secure a permit to perform work described in Sec. 38-3(a), above, the person responsible for the work (the “applicant”) must file with the Public Works Department a signed and completed application for a permit containing the following information:
  - 1. construction plans certified by a registered professional engineer, unless in the opinion of the Public Works Department construction plans are not necessary for the particular work proposed;
  - 2. the name and address of the owner of the property on which the work is to be performed;
  - 3. the name and business address of the person under whose supervision the work will be performed;
  - 4. the location at which the work is to be performed; and
  - 5. any other information required by the Public Works Department.

#### **Sec. 38-5. Issuance of permit and inspection.**

- (a) When the requirements of this article have been met and the proposed work plans meet City standards for materials and method of construction, the Public Works Department will issue a permit to the applicant.
- (b) The permit holder must comply with all schedules, orders, and requests issued by the Public Works Department related to the permitted work during performance of the work until final acceptance by the City. A person's failure or refusal to comply with the Public Works Department's schedules, orders, or requests related to the permitted work is unlawful.
- (c) All work performed on the City's water or sanitary sewer system by a permit holder must be accepted by the Public Works Department prior to use. If existing improvements of the City or any public utility are disturbed or affected in any manner by the work performed, the permit holder must obtain the approval of the work by the applicable department of the City and the public utility prior to covering the work or using the work and final acceptance of the work by the Public Works Department. A person's failure or refusal to obtain acceptance from the Public Works Department prior to use of the work related to the permit is unlawful. A person's failure to obtain approval by all applicable City departments and any applicable public utility prior to covering the work or using the work related to the permit is unlawful.

**Sec. 38-6. Sanitary sewer connections required.**

The owner or occupant of every building located on any lot or parcel of land within the City, the property line of which extends to within two hundred (200) feet of any sanitary sewer collection line adequate both as to size and grade to serve the property, must install or cause to be installed, a suitable flush toilet upon the property, and must connect or cause to be connected the toilet, and any other plumbing fixture, as applicable, with the sanitary sewer collection line in compliance with all provisions of this Code or other ordinances of the City. Failure to do so is unlawful.

**Sec. 38-7. Interfering with or injuring water equipment or apparatus.**

It is unlawful for any person to interfere with or injure in any manner any reservoir, tank, fountain, pipe, stop cock, valve, or other apparatus pertaining to any water system in the City or to turn on or off, without authority from the City, the water in any street hydrant or other water fixture.

**Sec. 38-8. Construction standards.**

All work to be performed on public water and sewer systems must be in compliance with the City's Design & Development Standards Manual, the City's Code of Ordinances, and all applicable state and federal regulations. Failure to comply with this manual and all applicable law is unlawful.

**Sec. 38-9. Disconnection of improperly constructed work.**

If a person's private water or sanitary sewer system fails to comply with applicable law and is not accepted by the City, no person may connect it to a public water system or POTW. The City is authorized to disconnect all connections made to its public water system or POTW in violation of applicable law. Failure to comply with this Section is unlawful.

**Sec. 38-10. Commercial and residential construction and water fees.**

- (a) The City may establish water fees for commercial and residential construction and charge these fees to customers as provided by City policy.
- (b) Water fees may include, but are not limited to, the fees for a water permit, water tap, water deposit, water meter, cost of water meter, bore, and cost of materials required to complete a water tap.

**Secs. 38-11--38-30. Reserved.**

**ARTICLE IV – BILLING AND CUSTOMER SERVICE**

**Sec. 38-31. Utility services rates and fees; classes of customers.**

- (a) The City is authorized to charge and collect monthly service charges and fees for City utility services, including, but not limited to, water, wastewater, and solid waste (garbage) services and drainage fees.
- (b) The City is authorized to create classes of City utility service customers, including, but not limited to, commercial, residential, and industrial classes.
- (c) The City, through its City Council, has the authority to set utility service rates, which may vary based on class of customer, and charges and fees related to City utility services by resolution and may adjust these rates, charges, and fees from time to time as necessary to sustain efficient service and comply with laws and regulations. The City may also set utility rates through contract.
- (d) For the purposes of this article, the following definitions apply:
  - (1) Customer means:
    - (A) an individual, partnership, association, firm, public or private corporation, governmental authority, or other legal entity that receives City utility service at a service address;
    - (B) an owner or tenant of a service address that receives City's utility service; or
    - (C) a person who receives the benefit of City utility service.



- (2) Residential means utility service provided to a service address used primarily for a single-family residence or as a multi-family unit dwelling with individual meters.

**Sec. 38-32. Continuity of Service.**

The City may interrupt a customer's utility service when necessary to repair, change, or relocate the City's equipment and facilities. The City is not liable for damage resulting from interrupted service for repair, change, or relocation.

**Sec. 38-33. Utility services required.**

The City has the authority to require customers to obtain City specified utility services depending on the customer's class, the premises served, and the location of the premises.

**Sec. 38-34. Requirements for starting utility services.**

- (a) A person may not use a City utility service without first making the proper application for the service with the City. The application must be made on forms provided by the City. The City is authorized to establish other procedures, not in conflict with this Chapter or state or federal laws or regulations, to process and accept customer applications and to collect and process deposits as necessary to secure customer accounts.
- (b) The application constitutes a contract to pay all charges for utility services and to abide by all provisions of this article, the provisions of this Chapter, and other local, state, and federal laws and regulations relating to the utility services.
- (c) An applicant must furnish proper identification and any other relevant information required by the City, including, but not limited to, verifiable proof of the applicant's right to occupy the service address, including the date of occupancy, and proof of ownership or agency. If any information required by the City is not furnished or is false, the application may be denied and utility service, where provided, may be interrupted. A person commits an offense if they knowingly make a false statement on an application for utility service under this article.
- (d) A person who occupies a service address and uses utility services without making application is responsible for all water used from the date of the last meter reading previous to that person occupying the service address.
- (e) If the City believes that an applicant is applying for utility service at a service address where the current customer is in arrears primarily to allow the current customer to avoid payment of a past due invoice, the City may deny the application for service.

**Sec. 38-35. Good payment history; deposits.**

(a) Deposits.

- (1) A person must pay a deposit to the City to receive new or additional utility services if the person does not have a good payment history with the City except as otherwise provided by this Section.
- (2) The City may refuse or interrupt utility service if a person fails to make a required deposit with their utility service application.
- (3) Deposits for applicants for utility services may be waived if the applicant provides to the City a letter from another utility provider indicating that the equivalent of the City's requirements for good payment history have been met or the applicant provides monthly bills from another utility provider stamped paid or paid on time (including a current or final bill).
- (4) A deposit may be required to reconnect service when service has been interrupted for non-payment.
- (5) Owners or managers of rental property who have a current City utility service billing account in their name may apply for and receive from the City ten (10) day water service ("make ready service") for a property for a one-time flat fee without paying a deposit.
- (6) The City may require a customer to pay a higher deposit than the set deposit for the customer's class, not to exceed three times the average bill at the premises served or to be served, when the City determines that there is a substantial risk of financial loss to the City.
- (7) Deposits for residential customers will be refunded when the customer establishes good payment history or when the customer's utility service account is closed. Refunds will be processed as follows:
  - (A) If a customer has an open account for City utility service after establishing good payment history with the City, the City will apply the customer's deposit as a credit on the customer's account.
  - (B) If a customer's utility service account is closed, any funds remaining from the deposit will be applied to the customer's final bill.
  - (C) The City will refund to the customer any funds remaining after the deposit is applied to the customer's final bill totaling more than five dollars (\$5.00). The City may retain any remaining funds in a customer's account under five dollars (\$5.00) after the customer's deposit is applied to their final bill.

- (D) Regardless of Subsections (a)(7)(A)-(C), above, at the City's sole discretion, a deposit refund to the customer may be authorized and refunded to the customer at any time.

(8) Non-residential customer deposits.

- (A) The City may refuse to refund a deposit for a non-residential customer when the City determines that there is a substantial risk of financial loss to the City regardless of whether the customer has established good payment history. In such cases, the customer's deposit will be returned to the customer when the customer's account is closed as provided by Subsections (a)(7)(B)-(C).

- (B) Other non-residential customer deposits will be refunded when the customer establishes good payment history or when the utility account is closed as provided for residential customers in Subsections (a)(7)(A)-(D), above.

**Sec. 38-36. Scheduled service connection appointments and trips fees.**

- (a) The City will schedule service connections according to service addresses' billing cycle.
- (b) If required, a person starting utility service must schedule a service connection appointment with the City. If the person is unable to be present at their scheduled appointment, they must notify the City at least 24 hours in advance of their scheduled appointment time and reschedule or cancel the appointment.
- (c) Persons who miss their scheduled appointment time without timely providing notice as required by this Section may be assessed a fee for each additional service connection trip made by the City.

**Sec. 38-37. Billing cycles.**

The City may divide utility service areas into geographical areas and develop billing cycles that apply to these geographical areas. Billing cycles may be changed as needed by the City.

**Sec. 38-38. Billing date.**

- (a) Utility service accounts will be billed on a monthly cycle. The billing date is the date when a bill is issued by the City. Billing dates may vary due to weekends and City holidays. A customer's billing date may be delayed for investigation of metering issues.
- (b) A customer's failure to receive a utility service bill or e-notification does not excuse failure to pay the same before it becomes delinquent or relieve a customer or other person liable for the charges under this article from liability for the service.

- (c) The City may, at its sole discretion, allow a customer to enter into a payment plan with the City for amounts due on City utility service accounts.
- (d) Any charge issued under this Section which is not paid when due will subject the customer to interruption of all utility services provided by the City and may be recovered in an action at law or in equity by the City, including fixture of a lien against the property as provided by the Tex. Loc. Gov't Code Ann. § 552.0025, as amended.

**Sec. 38-39. Estimated bill.**

- (a) The quantity of water delivered to a premises will be estimated under any of the following circumstances:
  - (1) the meter reader is unable to procure a reading of the meter because access to the meter is obstructed or made hazardous by an animal or otherwise;
  - (2) the meter does not properly function, or the equipment used to read the meter does not properly function;
  - (3) adverse weather or an act of God prevents the reading of the meter;
  - (4) no meter is in place at the premises; or
  - (5) for some other reason, a meter reading is not available to the billing section of the City at the time of preparing a bill for the customer.
- (b) An estimate of water delivered to a service address will be determined by the City using the best estimation method for the type of premises in question per City policy.

**Sec. 38-40. Re-reading meters.**

Customers may request the City have their water meter re-read to verify accuracy of billed consumption. A fee for this re-reading will be assessed to the customer's utility service account, unless it is found that the prior reading was incorrect.

**Sec. 38-41. Accuracy tests and defective meters.**

- (a) Customers may request the City have their water meter tested for accuracy. If the meter tests within AWWA standards, a fee will be assessed to the customer's utility service account.
- (b) If the water meter is found to be defective or inaccurate, the City will replace or repair the meter, as applicable, and estimate the customer's bill as provided by Sec. 38-39, above.



**Sec. 38-42. Leak policy.**

When a customer experiences a substantial increase in water or wastewater usage from a hidden water leak, the City may adjust the amount and bill the customer in accordance with the City's Leak Adjustment Policy.

**Sec. 38-43. Due date.**

The due date is the last day for a customer to pay a utility service bill in full before the customer's utility service account becomes delinquent. The due date will be no less than sixteen (16) days after the billing date. Full payment must be paid prior to 5:00 p.m., Central Standard Time, on the customer's due date, except if the customer's due date falls on a City holiday or weekend, the due date will be the next business day. If full payment is not received by the City before 5:00 p.m., Central Standard Time, on the due date, the customer's utility service account becomes delinquent, and the customer is subject to a penalty or fee. The due date on a utility service bill applies to the current billing charges for a billing cycle. Previous balances are due immediately. Returned payments do not constitute payment in satisfaction of an outstanding balance.

**Sec. 38-44. Disconnect date.**

The disconnect date is the last day to pay a delinquent account in full to prevent receiving additional fees or interruption of utility services. The disconnect date may not be less than ten (10) days after the due date. Full payment must be paid prior to 5:00 p.m., Central Standard Time, on the customer's disconnect date, except if the customer's disconnect date falls on a City holiday or weekend, the disconnect date is the next business day. When full payment of a delinquent account is not received by the City before 5:00 p.m., Central Standard Time, on the disconnect date, the customer's utility service account is subject to a non-payment fee, and utility service may be interrupted. Non-payment fees may be assessed regardless of whether payment is made at later time or date or utility service is interrupted. Returned payments do not constitute payment in satisfaction of an outstanding balance.

**Sec. 38-45. Authority to interrupt or refuse utility service; notice of interruption.**

(a) The City may refuse application for utility service, interrupt utility service, or refuse to resume utility service to:

(1) a customer who fails to pay any charges due under this article by the disconnect date;

(2) a person who:

(A) causes damage to a City water meter requiring adjustment, repair, or replacement due to any act, neglect, or carelessness of the customer or owner of the service address;

- (B) commits a violation under Sec. 38-49 (*Unlawful Use of Water Service*);
  - (C) benefits from utility service diversion;
  - (D) provides false information or fails to provide required information to the City; or
  - (E) applies for utility service to a premises, if the person has delinquent charges outstanding at another service address; or
- (3) a customer if the City determines that a substantial waste of water is occurring as a result of leaking, damaged, open, or disconnected private lines, pipes, or drains at the customer's service address.
- (b) The City may also interrupt utility service as otherwise provided by this Chapter or local, state, or federal laws or regulations or to protect public health, safety, or welfare.
- (c) The City must notify a customer in the following manner before interrupting service, except as otherwise provided by this Chapter:
- (1) The City must provide the customer a written notice of the pending utility service interruption at least ten (10) days before the disconnect date.
  - (2) The notice must provide a statement of reasons for the interruption of utility services and a statement of delinquent charges due, where applicable. The notice must also provide a time, place, and means by which the customer must cure delinquency or abate the violation or dispute the validity of the reasons for interruption.
- (d) In addition to required customer notice as provided in this Subsection (c), above, in cases of master-metered apartments or condominiums, the City must post or caused to be posted notice of pending utility service interruptions on the door of each dwelling unit known to be occupied and in a conspicuous place within the property manager's office or the common area of the premises.
- (e) The City does not have to provide notice prior to interruption as required by Subsection (c), above, if the City determines that there is an imminent or actual threat to the public's health, safety, or welfare or as otherwise provided by this Chapter.
- (f) Enforcement of this Section does not waive any additional remedies, civil or criminal, available to the City under law.

**Sec. 38-46. Service reconnection.**

- (a) Interrupted utility service may not be resumed until the customer or other person who is legally responsible for the unpaid charges or violations committed either pays all applicable charges due, makes arrangements for payment satisfactory to the City, or where, applicable, ceases all violations in question.
- (b) If the City decides to resume utility service, the City may require the customer to be present for a scheduled reconnection appointment. In such cases, the provisions related to scheduled service connection appointments under Section 38-36, including notice and assessment of trip fees for missed appointments, apply.
- (c) The City may resume utility service to a customer with delinquent charges or ongoing violations at its discretion.
- (d) The City may require a person requesting service at an address where utility service has been interrupted to produce verifiable proof of the person's right to occupy the service address, including a date of occupancy, before the City resumes service to the service address.
- (e) Where utility service has been interrupted, refused, or the customer has been notified that the utility service will be interrupted at a service address due to nonpayment of delinquent charges or a violation of this article, a new application will not be accepted from an applicant to resume or begin service at the same service address under another name if the City believes that the applicant is applying for service at the service address primarily to allow the current customer to avoid making payment or abating a violation unless the following conditions are met:
  - (1) all charges owed to the City are paid;
  - (2) arrangements for payment satisfactory to the City are made; or
  - (3) the violation is abated.
- (f) Where a person liable for delinquent charges at one address is found to have an account in their name at another address, the delinquent charges due at the previous address may be transferred to the account at the new address, and utility service interrupted at the new address until the delinquent charges are paid.

**Sec. 38-47. Termination of utility service accounts; requests to disconnect meters.**

- (a) A customer must contact the City to terminate their utility service account. The City may require verification of account information to terminate a customer's utility service account. A customer who does not terminate their utility service account will be held responsible for charges incurred while an active account is open in the customer's name.

- (b) Upon receipt of a customer's request to terminate their utility account, the City may remove the water meter and service connections at the customer's service address.
- (c) Where water service is furnished through more than one meter, the customer may request disconnection of one or more meters and thereafter will be billed on the basis of the remaining meter or meters. The City may remove the disconnected water meter or service connections.
- (d) The City may terminate a customer's utility service account after it has been interrupted for non-payment.

**Sec. 38-48. Returned payments.**

- (a) A fee will be assessed to a customer's utility service account when a payment is returned. If the payment is returned after the disconnect date for which the payment was given, utility services may be interrupted without notice.
- (b) The City may establish policies that prescribe how payment may be made by customers with returned payments.

**Sec. 38-49. Unlawful use of water service.**

- (a) A person commits an offense if, where water is furnished by the City to any service address, the person knowingly takes water from any faucet or water connection at the service address without first securing the consent of, and making arrangements with, the owner of the service address or the customer in whose name the account exists.
- (b) A person commits an offense if they knowingly divert or use water from any part of the City's water system without receiving the City's written consent to use the City's water service or having an application for water service approved by the City. Absence of an account for water service on file with the City constitutes prima facie proof of the lack of the City's consent to use the service.
- (c) The City may assess a charge against a person committing an offense under Subsections (a) and (b), above, to recover any costs incurred by the City due to the unlawful use, including the repair or replacement of any City equipment.
- (d) This Section does not apply to any official work performed by the City.

**Sec. 38-50. Charges for diversion of utility service; unlawful use of water service; and damage to City equipment.**



- (a) If a person commits, allows another person to commit, or benefits from utility service diversion, unlawful use of water service, or damage to City utility equipment, the City may collect payment from the person equal to:
  - (1) the estimated costs of water, wastewater, sewage, or other related water services used under the applicable rate schedule; and
  - (2) utility service diversion charges.
- (b) The City may impound equipment or property used by a person for utility service diversion or unlawful use of water service or to damage City utility equipment.

**Sec. 38-51. Fire hydrants.**

- (a) No person may use a fire hydrant connected to the City's water distribution system without written authorization from the City.
  - (1) Employees of the City and authorized emergency service providers in performance of their official duties are exempt from complying with Subsection (a).
- (b) All persons using a fire hydrant connected to the City's water distribution system must comply with the City's fire hydrant and fire hydrant meter policies and rules and regulations. Failure to comply with the City's policies or rules and regulations related to fire hydrants and fire hydrant meters is an offense under this article.

**Sec. 38-52. Enforcement.**

- (a) A violation of this article is a Class C misdemeanor for each day or portion of a day the violation continues. An offense under this article is punishable by a fine not to exceed:
  - (1) \$500, except as provided in Subsection (a)(2), below; or
  - (2) \$2,000 if the offense is a violation of regulation relating to fire safety, zoning, or public health or sanitation.
- (b) Proof of a culpable mental state is not required for conviction of an offense under this article for offenses unrelated to fire safety, zoning, or public health or sanitation.
- (c) A culpable mental state of intentionally, knowingly, or recklessly committing an offense is required for a conviction under this article for offenses related to fire safety, zoning, or public health or sanitation.

**Secs. 38-53--89. Reserved.**

## ARTICLE V - INDUSTRIAL WASTES STANDARDS

### **Sec. 38-90. General provisions, purpose and policy.**

This ordinance sets forth uniform requirements for users of the publicly owned treatment works for the city and enables the city to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code § 1251 *et seq.*) and the General Pretreatment Regulations (40 Code of Federal Regulations (CFR) Part 403). The objectives of this ordinance are:

(a) To prevent the introduction of pollutants into the publicly owned treatment works that will interfere with its operation;

(b) To prevent the introduction of pollutants into the publicly owned treatment works that will pass through the publicly owned treatment works, inadequately treated, into receiving waters, or otherwise be incompatible with the publicly owned treatment works;

(c) To protect both publicly owned treatment works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

(d) To promote reuse and recycling of industrial wastewater and sludge from the publicly owned treatment works;

(e) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the publicly owned treatment works; and

(f) To enable the city to comply with its Texas Pollutant Discharge Elimination System (TPDES) permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the publicly owned treatment works is subject.

This ordinance shall apply to all users of the publicly owned treatment works. The ordinance authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

### **Sec. 38-91. Administration.**

Except as otherwise provided herein, the director of public works shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the director of public works may be delegated by the director to a duly authorized representative.

### **Sec. 38-92. Abbreviations.**

The following abbreviations and or definitions, when used in this ordinance, shall have the designated meanings:

- BOD - Biochemical Oxygen Demand
- BMP - Best Management Practice
- BMR - Baseline Monitoring Report
- CFR - Code of Federal Regulations
- CIU - Categorical Industrial User
- COD - Chemical Oxygen Demand
- EPA - U.S. Environmental Protection Agency
- gpd - gallons per day
- IU - Industrial User
- mg/l - milligrams per liter
- POTW - publicly owned treatment works
- RCRA - Resource Conservation and Recovery Act
- SIC - Standard Industrial Classification
- SIU - Significant Industrial User
- SNC - Significant Noncompliance
- TCEQ - Texas Commission on Environmental Quality
- TPDES - Texas Pollutant Discharge Elimination System
- TSS - Total Suspended Solids
- TTO - Total Toxic Organics
- U.S.C. - United States Code

### **Sec. 38-93. Definitions.**

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated.

*“Act or The Act”* shall mean the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251.

*Administrative fine* shall mean a punitive monetary charge unrelated to actual treatment costs which are assessed by the control authority rather than a court.

*Approval authority* shall mean the Texas Commission on Environmental Quality (TCEQ).

*Authorized or duly authorized representative of the industrial user* shall mean the person authorized to represent, sign, and submit documents in accordance with the following criteria:

(a) If the user is a corporation:

1. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
2. The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(c) If the user is a Federal, State, or local governmental facility, a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(d) The individuals described in paragraphs (a) through (c), above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City of Temple.

*Best management practices or BMPs* shall mean the schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in section 38-95 (a)[40 CFR 403.5(a)(1) and (b)]. BMPs include treatment procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

*Biochemical oxygen demand or BOD* shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five



(5) days at 20° centigrade, usually expressed as a concentration (e.g., mg/l).requirements, operating

*Building drain* shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning three (3) feet outside the inner face of the building wall.

*Building sewer* shall mean the extension from the building drain to the public sewer or other place of disposal.

*Bypass* shall mean the intentional diversion of wastestreams from any portion of an industrial user's treatment facility.

*Categorical industrial user* shall mean an industrial user subject to categorical standards as established by the U. S. Environmental Protection Agency.

*Categorical standard or pretreatment standard.* Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. § 1317) which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

*Cease and desist order* shall mean an administrative order directing an industrial user to immediately halt illegal or unauthorized discharges.

*Chemical oxygen demand or COD* shall mean a measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

*City* shall mean the city of Temple, the city council of Temple or the duly authorized representatives of the city.

*Compliance order* shall mean an administrative order directing a noncompliant industry to achieve or restore compliance by a date specified in the order.

*Composite sample* shall mean a sampling method consisting of either discrete or continuous samples collected in equal amounts and over equal time intervals. For discrete sampling, at least 12 aliquots shall be composited. Where a 24 hour composite sample is not feasible, four (4) grab samples may be collected in equal amounts and equal time intervals. All samples must be representatives of normal daily operations.

*Consent order* shall mean an administrative order embodying a legally enforceable agreement between the control authority and the noncompliant industrial user designed to restore the user to compliance status.

*Control authority* shall mean the city or duly authorized representatives of the city.

*Daily limit or daily maximum limit* shall mean the maximum allowable discharge of a pollutant over a calendar day or equivalent representative 24-hour period. Where daily

maximum limits are expressed in units of mass and the daily discharge is calculated by multiplying the daily average concentration and total flow volumes in the same 24-hour period by a conversion factor to get the desired units. Where daily limits are expressed in terms of a concentration, the daily discharge is the composite sample value, or flow weighted average if more than one discrete sample was collected. Where flow weighting is infeasible, the daily average is the arithmetic average of all samples if analyzed separately, or the same value if samples are composited prior to analysis.

*Direct discharge* shall mean the discharge of untreated wastewater directly to the waters of the State of Texas.

*Environmental Protection Agency or EPA* shall mean the U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division director, or other duly authorized official of said agency.

*Existing source* shall mean any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

*Garbage* shall mean solid wastes from the preparation, cooking, and dispensing food, and from the handling, storage, and sale of produce.

*Grab sample* shall mean a sample which is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

*Indirect discharge or discharge* shall mean the introduction of pollutants into the POTW from any nondomestic source regulated under Section 307(b), (c), or (4) of the Act, as amended.

*Industrial user* shall mean a source of indirect discharge which does not constitute a “discharge of pollutants” under regulations issued pursuant to Section 402 of the Act, (33 USC 1317) into the wastewater system (including holding tank waste discharged into the system).

*Industrial wastes* shall mean the liquid wastes from industrial processes as distinct from sanitary sewer.

*Instantaneous maximum allowable discharge limit* shall mean the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

*Interference* shall mean a discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and therefore, is a cause of a violation

of the TPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued there under, or any more stringent State or local regulations:

Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

*Local limit* shall mean a specific discharge limits developed and enforced by the city upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

*Medical waste* shall mean isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

*Monthly average* shall mean the arithmetic mean of the effluent samples collected during a calendar month or specified 30-day period. Where the control authority has taken a sample during the period, it must be included in the monthly average if provided in time. However, where composite samples are required, grab samples taken for process control or by the control authority are not to be included in a monthly average.

*National pollution discharge elimination system or NPDES Permit* shall mean a permit pursuant to section 402 of the Act.

*National pretreatment standards, pretreatment standard, or standard* (i.e. prohibitive discharge standards, categorical pretreatment standards, and local limits) shall mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act, which applies to Industrial users. This term includes prohibitive discharge limits established pursuant to 403.5.

#### *New source*

(a) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

1. The building, structure, facility, or installation is constructed at a site at which no other source is located; or

2. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
3. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

(b) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of section (a) (2) or (3) above but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

1. Begun, or caused to begin, as part of a continuous on site construction program:
  - i. any placement, assembly, or installation of facilities or equipment; or
  - ii. significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
2. Entered into a binding contractual obligation for the purchase of facilities or equipment which is intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

*Noncontact cooling water* shall mean water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished

*Pass through* shall mean a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the city's TPDES permit, including an increase in the magnitude or duration of a violation.

*Person* shall mean any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.



*pH* shall mean a measure of the acidity or alkalinity of a solution, expressed in standard units.

*Pollutant* shall mean dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

*Pretreatment or treatment* shall mean the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

*Pretreatment requirements* shall mean any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

*Pretreatment standard or standard* shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.

*Process wastewater* shall mean any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by product, or waste product.

*Prohibited discharge standards or prohibited discharge* shall mean absolute prohibitions against the discharge of certain substances; these prohibitions appear in section 38-95(a) of this ordinance.

*Properly shredded garbage* shall mean the wastes from the preparation, cooking and dispensing of food that have been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch in any dimension.

*Publicly owned treatment works or POTW* shall mean "treatment works," as defined by section 212 of the Act (33 U.S.C. \*1292). This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

*Sanitary sewer* shall mean a sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

*Septic tank waste* shall mean any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

*Sewage* shall mean human excrement and gray water (household showers, dish washing operations, etc.).

*Sewage treatment plant* shall mean an arrangement of devices and structures used for treating sewage.

*Sewage works* shall mean all facilities for collecting, pumping, treating and disposing of sewage.

*Sewer* shall mean a pipe or conduit for carrying sewage.

*Shall* is mandatory; *may* is permissive or discretionary.

*Significant industrial user* shall mean:

(a) An industrial user subject to categorical pretreatment standards; or

(b) An industrial user that:

1. Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blow down wastewater);
2. Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
3. Is designated as such by the city on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

(c) Upon a finding that a user meeting the criteria in subsection (b), has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the city may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403(f) (6), determine that such user should not be considered a significant industrial user.

*Slug load or slug* shall mean any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in section 38-95(a) of this ordinance. A slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits or permit conditions.

*Standard industrial classification code or SIC code* shall mean a classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

*Storm water* shall mean any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

*Suspended solids* shall mean the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.

*System* shall mean all facilities for collecting, pumping, treating and disposing of sewage.

*TBRSS pretreatment program* shall mean the approved Temple-Belton Regional Sewerage System pretreatment program as amended.

*Temple pretreatment program* shall mean the approved city of Temple pretreatment program as amended.

*Texas Commission on Environmental Quality (TCEQ)* shall mean the State agency of that title, or where appropriate, the term may also be used as a designation for the director or other duly authorized official of said agency.

*Upset* shall mean an exceptional incident in which there is unintentional and temporary noncompliance with pretreatment regulations because of factors beyond the reasonable control of the industrial user. This does not include noncompliance caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

*User* shall mean any person who contributes, causes, or permits the contribution of wastewater into city's wastewater system.

*User permit* shall mean permits issued to significant industrial users and categorical industrial users by the city as set forth in section 38-99 of this ordinance.

*Wastewater* shall mean liquid and any water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

*Wastewater treatment plant or treatment plant* shall mean the portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

#### **Sec. 38-94. Duties of the director of public works.**

It shall be the duty of the director to see that certain provisions of this article as pertaining to the use of public sewers are carried out, to determine if the sewage collected by the sewer collection system is treatable, and to supervise the treatment of the sewage.

#### **Sec. 38-95. General sewer use requirements for the Temple-Belton Regional Sewerage System.**

*(a) Prohibited Discharge Standards.*

1. General prohibitions.

- i. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, State, or local pretreatment standards or requirements.
- ii. If in the opinion of the director, the character of the sewage from any manufacturer or industrial plant, building or other premises is such that it will (1) injure or interfere with wastewater treatment processes or facilities, (2) constitute a hazard to humans or animals, (3) create a hazard in receiving waters of the wastewater treatment plant effluent, or (4) violate appropriate Federal, State or local regulations, the city manager shall have the right to require such user to dispose of such waste otherwise, and prevent it from entering the system.
- iii. The city shall require industrial users to control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards and local limits upon reduction, loss, or failure of its treatment facility. In the event of a plant/system upset, provisions outlined in 40 CFR 403.16 shall prevail.

2. Specific Prohibitions. Except as hereinafter provided, no user shall introduce or cause to be introduced into the sewerage system of the city, directly or indirectly, any of the following pollutants, substances, or wastewater:

- i. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21;
- ii. Wastewater having a pH less than 5.5 or more than 10.5 or otherwise causing corrosive material damage to the POTW or equipment;
- iii. Solid or viscous substances in amounts which will cause obstruction resulting in interference to the flow in the POTW or interference with the proper operation of the sewage works,
- iv. Wastewater with twenty-four (24) hour composite samples containing biochemical oxygen demand and/or total suspended solids in excess of eight (800) milligram per liter (mg/l).
- v. Wastewater having a temperature greater than 40°C (104°F), or which will inhibit biological activity in the treatment plant resulting in interference,



- vi. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
- vii. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
- viii. Trucked or hauled pollutants, except at discharge points designated by the director in accordance with section 38-97 (c) of this ordinance;
- ix. Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewer for maintenance;
- x. Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, inks, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the city's TPDES permit;
- xi. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;
- xii. Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, contact cooling water, and unpolluted wastewater, unless specifically authorized by the city;
- xiii. Sludges, screenings, or other residues from the pretreatment of industrial wastes;
- xiv. Medical wastes, except as specifically authorized by the city in a wastewater discharge permit;
- xv. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
- xvi. Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;
- xvii. Any water or waste which may contain more than ninety-six (96.0) milligrams per liter of fat, oil or grease or other substances which may solidify or become viscous at temperatures between 32 degrees Fahrenheit and 150 degrees Fahrenheit.
- xviii. Any garbage that has not been properly shredded;
- xix. Any feathers, entrails, feet, bones, paunch manure, hair, fleshings or eggshells, whole blood or other liquids in quantities which exert an unusual oxygen or chlorine requirement or which result in a discoloration of the treatment plant influent.

- xx. Wastewater taken as a grab sample which contains total phenols and/or formaldehyde in concentrations greater than 15.7 parts per million.
- xxi. Wastewater which contains hydrogen sulfide measured as H<sub>2</sub>S or Fluoride that is discharged in an amount that would cause the levels of H<sub>2</sub>S or Fluoride to increase in the treated effluent from the sewage treatment plant.

Hazardous wastes that are prohibited by Regulatory Agencies shall not be discharged to the sewer system.

Pollutants, substances, or wastewater prohibited by this Section shall not be processed or stored in such a manner that they could be discharged to the POTW.

*(b) National Categorical pretreatment standards.*

Users must comply with the categorical Pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471.

1. When the limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the director may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual industrial users.
2. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same Standard, the director shall impose an alternate limit in accordance with 40 CFR 403.6(e).
3. A CIU may obtain a net/gross adjustment to a categorical Pretreatment standard in accordance with the following paragraphs of this Section. 40 CFR 403.15:
  - i. Categorical Pretreatment standards may be adjusted to reflect the presence of pollutants in the Industrial user's intake water in accordance with this section. Any Industrial user wishing to obtain credit for intake pollutants must make application to the city. Upon request of the Industrial user, the applicable standard will be calculated on a "net" basis (i.e., adjusted to reflect credit for pollutants in the intake water) if the requirements of paragraph (ii) of this section are met.
  - ii. Criteria.
    - a. Either (i) the applicable categorical Pretreatment standards contained in 40 CFR subchapter N specifically provide that they shall be applied on a net basis; or (ii) The Industrial user demonstrates that the control system it proposes or uses to meet

applicable categorical Pretreatment standards would, if properly installed and operated, meet the Standards in the absence of pollutants in the intake waters.

- b. Credit for generic pollutants such as biochemical oxygen demand, total suspended solids and oil and grease should not be granted unless the Industrial user demonstrates that the constituents of the generic measure in the user's effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.
- c. Credit shall be granted only to the extent necessary to meet the applicable categorical Pretreatment standard(s), up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with standard(s) adjusted under this section.
- d. Credit shall be granted only if the user demonstrates that the intake water is drawn from the same body of water as that into which the POTW discharges. The city may waive this requirement if it finds that no environmental degradation will result.

*(c) State pretreatment standards.*

Users must comply with TCEQ pretreatment standards codified at 30 TAC 315.

*(d) Local limits.*

1. The director is authorized to establish local limits pursuant to 40 CFR 403.5(c).
2. The following pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following daily maximum limit.

10.688 mg/l Aluminum

0.121 mg/l Arsenic

0.145 mg/l Cadmium

1.478 mg/l Chromium (T)

0.282 mg/l Copper

0.524 mg/l Cyanide

0.836 mg/l Lead

0.001 mg/l Mercury

0.207 mg/l	Molybdenum
0.662 mg/l	Nickel
96.00 mg/l	Oil and grease (T)
15.7 mg/l	Phenols/Formaldehyde combined
0.017 mg/l	Selenium
1.820 mg/l	Silver (T)
0.849 mg/L	TTO
0.661 mg/L	Zinc

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for total metal unless indicated otherwise.

3. The city may develop best management practices by ordinance or in individual wastewater discharge permits to implement categorical standards only.

*(e) Right of revision.*

The city and/or TBRSS reserve the right to establish, by ordinance, or in wastewater discharge permits, more stringent Standards or Requirements on discharges to the POTW consistent with the purpose of this ordinance.

*(f) Dilution.*

No user shall ever increase the use of process water, or in any way attempt to dilute discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement.

**Sec. 38-96. General sewer use requirements for the Temple Sewerage System.**

*(a) Prohibited discharge standards.*

1. General prohibitions.

- i. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, State, or local pretreatment standards or requirements.
- ii. If in the opinion of the director, the character of the sewage from any manufacturer or industrial plant, building or other premises is such that it will (1) injure or interfere with wastewater treatment processes



or facilities, (2) constitute a hazard to humans or animals, (3) create a hazard in receiving waters of the wastewater treatment plant effluent, or (4) violate appropriate Federal, State or local regulations, the city manager shall have the right to require such user to dispose of such waste otherwise, and prevent it from entering the system.

- iii. The city shall require industrial users to control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards and local limits upon reduction, loss, or failure of its treatment facility. In the event of a plant/system upset, provisions outlined in 40 CFR 403.16 shall prevail.
2. Specific Prohibitions. Except as hereinafter provided, no user shall introduce or cause to be introduced into the sewerage system of the city, directly or indirectly, any of the following pollutants, substances, or wastewater:
- i. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21;
  - ii. Wastewater having a pH less than 5.5 or more than 10.5 or otherwise causing corrosive material damage to the POTW or equipment;
  - iii. Solid or viscous substances in amounts which will cause obstruction resulting in interference to the flow in the POTW or interference with the proper operation of the sewage works;
  - iv. Wastewater with twenty-four (24) hour composite samples containing total suspended solids (TSS) in excess of eight (800) milligram per liter (mg/l);
  - v. Wastewater having a temperature greater than 40°C (104°F), or which will inhibit biological activity in the treatment plant resulting in interference;
  - vi. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
  - vii. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
  - viii. Trucked or hauled pollutants, except at discharge points designated by the director in accordance with section 38-97(c) of this ordinance;
  - ix. Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient

to create a public nuisance or a hazard to life, or to prevent entry into the sewer for maintenance;

- x. Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the city's TPDES permit;
- xi. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;
- xii. Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, contact cooling water, and unpolluted wastewater, unless specifically authorized by the city;
- xiii. Sludges, screenings, or other residues from the pretreatment of industrial wastes;
- xiv. Medical wastes, except as specifically authorized by the city in a wastewater discharge permit;
- xv. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
- xvi. Concentrations exceeding one hundred seventy-five (175) milligrams per liter of oil and grease, wax, fats and plastic or other substances which will solidify or become discernibly viscous at any temperature between thirty-two (32) degrees Fahrenheit and one hundred fifty (150) degrees Fahrenheit.
- xvii. Any garbage that has not been properly shredded;
- xviii. Detergents, surface-active agents, or other substance which that might cause excessive foaming in the POTW;
- xix. Wastewater containing chemical oxygen demand in excess of twenty thousand (20,000) milligrams per liter; or
- xx. Any feathers, entrails, feet, bones, paunch manure, hair, fleshings or eggshells, whole blood or other liquids in quantities which exert an unusual oxygen or chlorine requirement or which result in a discoloration of the treatment plant influent;
- xxi. Wastewater taken as a grab sample which contains total phenols and/or formaldehyde in concentrations greater than 7 parts per million;
- xxii. Wastewater which contains Hydrogen Sulfide measured as H<sub>2</sub>S, Chlorides, or Fluoride that is discharged in an amount that would

cause the levels of H<sub>2</sub>S or Fluoride to increase in the treated effluent from the sewage treatment plant.

Hazardous wastes are prohibited by regulatory agencies shall not be discharged to the sewer system;

Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

*(b) National categorical pretreatment standards.*

The categorical pretreatment standards found at 40 CFR Chapter 1, Subchapter N, Part 405-471 are hereby incorporated.

1. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the director shall impose an alternate limit in accordance with 40 CFR 403.6(e).
2. A CIU may obtain a net/gross adjustment to a categorical pretreatment standard in accordance with the following paragraphs of this section. 40 CFR 403.15.
  - i. Categorical pretreatment standards may be adjusted to reflect the presence of pollutants in the Industrial user's intake water in accordance with this section. Any industrial user wishing to obtain credit for intake pollutants must make application to the city. Upon request of the industrial user, the applicable standard will be calculated on a "net" basis (i.e., adjusted to reflect credit for pollutants in the intake water) if the criteria found in paragraph (ii) of this section are met:
  - ii. Criteria:
    - a. Either (i) the applicable categorical pretreatment standards contained in 40 CFR subchapter N specifically provide that they shall be applied on a net basis; or (ii) The industrial user demonstrates that the control system it proposes or uses to meet applicable categorical pretreatment standards would, if properly installed and operated, meet the standards in the absence of pollutants in the intake waters.
    - b. Credit for generic pollutants such as biochemical oxygen demand, total suspended solids, and oil and grease should not be granted unless the Industrial user demonstrates that the constituents of the generic measure in the user's effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.

- c. Credit shall be granted only to the extent necessary to meet the applicable categorical pretreatment standard(s), up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with standard(s) adjusted under this section.
- d. Credit shall be granted only if the user demonstrates that the intake water is drawn from the same body of water as that into which the POTW discharges. The city may waive this requirement if it finds that no environmental degradation will result.

*(c) State pretreatment standards.*

Users must comply with TCEQ codified at 30 TAC 315.

*(d) Local Limits.*

1. The director is authorized to establish local limits pursuant to 40 CFR 403.5(c).
2. The following pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following daily maximum limit.

0.03 mg/l	Arsenic
0.36 mg/l	Cadmium
9.14 mg/l	Chromium (T)
1.05 mg/l	Chromium (Hex)
0.50 mg/l	Copper
0.60 mg/l	Cyanide (Grab)
7.30 mg/l	Lead
0.08 mg/l	Mercury
1.75 mg/l	N-Ammonia
1.00 mg/l	Nickel
0.12 mg/l	Silver
7.03 mg/l	Zinc

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for total metal unless indicated otherwise.



3. All industrial users shall be prohibited from discharging industrial contributory flow-based concentrations from BOD<sub>5</sub> exceeding those normally found in domestic sewage, unless specifically allowed by the control authority in the industrial user's wastewater discharge permit. The daily maximum allowable concentration of industrial contributory flow-based BOD<sub>5</sub> limit is eight thousand (8,000) mg/L.

4. The city may develop best management practices by ordinance or in individual wastewater discharge permits to implement categorical standards only.

*(e) Right of Revision.*

The city reserves the right to establish, by ordinance, or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW consistent with the purpose of this ordinance.

*(f) Dilution.*

No user shall ever increase the use of process water, or in any way attempt to dilute discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement.

**Sec. 38-97. Pretreatment of wastewater.**

*(a) Pretreatment facilities.*

Users shall provide wastewater treatment as necessary to comply with this ordinance and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in section 38-95 for industries discharging to the TBRSS system and section 38-96 for industries discharging to the Temple sewerage system, of this ordinance within the time limitations specified by EPA, the State, or the city, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. When required by the director of public works, the owner of any property served by a building sewer carrying industrial wastes, shall install a suitable control manhole in the building sewer to facilitate observation, sampling and measurement of the industrial wastes. Such manhole, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the city. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times. Detailed plans describing such facilities and operating procedures shall be submitted to the city for review, and shall be acceptable to the director before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such

facilities as necessary to produce a discharge acceptable to the city under the provisions of this ordinance.

*(b) Accidental discharge/slug control plans.*

The city shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control slug discharges. The city may require any user to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control slug discharges. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:

1. Description of discharge practices, including non-routine batch discharges;
2. Description of stored chemicals;
3. Procedures for immediately notifying the director of any accidental or slug discharge, as required by section 38-100 (f) of this ordinance; and
4. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

The results of such activities shall be available to the approval authority upon request. All documentation associated with BMP's shall be included.

The city will evaluate each SIU within one year of being designated an SIU to determine whether each such SIU needs a plan or other action to control slug discharges.

*(c) Hauled wastewater.*

1. Septic tank waste may be introduced into the POTW only at locations designated by the city, and at such times as are established by the city. Such waste shall not violate section 38-95 for the TBRSS system or 38-96 for the Temple system of this ordinance or any other requirements established by the city. The city may require septic tank waste haulers to obtain individual wastewater discharge permits.
2. Septic tank waste haulers may discharge loads only at locations designated by the director. No load may be discharged without prior consent of the chief operator at the POTW. The director may collect samples of each hauled load to ensure compliance with applicable standards. The director may require the septic tank waste hauler to provide a waste analysis of any load prior to discharge.
3. No industrial, hazardous waste is allowed to be discharged to the POTW.

4. Septic tank haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of business the waste originated from, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

### **Sec. 38-98. Wastewater discharge permits.**

#### *(a) Wastewater analysis.*

When requested by the city, a user must submit information on the nature and characteristics of its wastewater within (60) days of the request. The director is authorized to prepare a form for this purpose and may periodically require users to update this information.

#### *(b) Wastewater discharge permit requirement.*

1. No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the city, except that significant industrial user that has filed a timely application pursuant to section 38-98 (c) of this ordinance may continue to discharge for the time period specified therein.
2. The city may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this ordinance.
3. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in sections 38-104 and 38-105 of this ordinance. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirements of Federal, State, and local law.

#### *(c) Wastewater discharge permitting: Existing connections.*

Any user required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall, within 60 days after said date, apply to the director for a wastewater discharge permit in accordance with section 38-98 (e) of this ordinance, and shall not cause or allow discharges to the POTW to continue after 90 days of the effective date of this ordinance except in accordance with a wastewater discharge permit issued by the city. For existing permitted user reapplication, see requirements in Section 38-99 (f).

*(d) Wastewater discharge permitting: New connections.*

Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with section 38-98 (e) of this ordinance, must be filed at least 90 days prior to the date upon which any discharge will begin or recommence.

*(e) Wastewater discharge permit application contents.*

All users required to obtain a wastewater discharge permit must submit a permit application. The city may require all users to submit all or some of the following information as part of a permit application:

1. Identifying Information.
  - i. The name and address of the facility, including the name of the operator, owner, and facility contact person; and
  - ii. Contact information, description of activities, facilities, and plant production processes on the premises;
2. Environmental Permits. A list of any environmental control permits held by or for the facility.
3. Description of Operations.
  - i. A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated process(es);
  - ii. Number and type of employees, hours of operation, and proposed or actual hours of operation;
  - iii. Each product produced by type, amount, process or processes, and rate of production;
  - iv. Type and amount of raw materials processed and chemicals used (average and maximum per type);
  - v. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;
4. Time and duration of discharges;
5. The location for monitoring all wastes covered by the permit;



6. Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in section 38-95 (b)(1) [40 CFR 403.6(e)];
7. Measurement of pollutants.
  - i. The categorical pretreatment standards applicable to each regulated process and any new categorically regulated process for existing sources.
  - ii. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the city, of regulated pollutants in the discharge from each regulated process.
  - iii. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.
  - iv. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in section 38-100 (i) of this ordinance. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the city or the applicable standards to determine compliance with the standard.
  - v. Sampling must be performed in accordance with procedures set out in section 38-100 (j) of this ordinance.
8. Any requests for a monitoring waiver, or a renewal of an approved monitoring waiver, for a pollutant neither present nor expected to be present in the discharge based on section 38-100 (d) (3) [40 CFR 403.12(e)(2)];
9. Any other information as may be deemed necessary by the director to evaluate the wastewater discharge permit application.
10. Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

*(f) Application signatories and certification.*

1. All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

*“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my*

*knowledge and belief, to be, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”*

2. If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this section must be submitted to the director prior to or together with any reports to be signed by an authorized representative.

*(g) Wastewater discharge permit decision.*

After receipt of a complete wastewater discharge permit application, the director will determine whether or not to issue a wastewater discharge permit. The director may deny any application for a wastewater discharge permit or require additional safeguards, reports or information. For users not meeting the criteria of significant industrial users, the director may also waive or defer a permit, or allow discharges in the interim while a permit is being prepared.

*(h) Extraterritorial users.*

No discharge originating in areas outside the territorial limits of the city shall be made into any sanitary sewer of the city without first obtaining a special permit, which shall be subject to and incorporate by reference the terms of this ordinance.

## **Sec. 38-99. Wastewater discharge permit issuance.**

*(a) Permit Duration.*

A wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the director. Each wastewater discharge permit will indicate a specific date upon which it will expire.

*(b) Permit Contents.*

A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the city to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

1. Permits must contain:
  - i. A statement that indicates wastewater discharge permit issuance date, expiration date and effective date;

- ii. A statement that the wastewater discharge permit is nontransferable without prior notification to the city in accordance with Section 38-99(d) of this ordinance, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
  - iii. Effluent limits, including best management practices, based on applicable pretreatment standards;
  - iv. Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants or best management practice to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law;
  - v. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law;
  - vi. Requirements to control slug discharge, if determined by the city to be necessary; and
2. Wastewater discharge permits may contain, but need not be limited to, the following conditions:
- i. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
  - ii. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
  - iii. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;
  - iv. Requirements for installation and maintenance of inspection and sampling facilities and equipment;
  - v. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and

- vi. Other conditions as deemed appropriate by the city to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

*(c) Permit modification.*

1. The city may modify an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:
  - i. To incorporate any new or revised Federal, State, and local pretreatment standards or requirements;
  - ii. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of the individual wastewater discharge permit issuance;
  - iii. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
  - iv. Information indicating that the permitted discharge poses a threat to the POTW, city personnel, or the receiving waters;
  - v. Violation of any terms or conditions of the individual wastewater discharge permit;
  - vi. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
  - vii. Revision of or a grant of variance from categorical Pretreatment standards pursuant to 40 CFR 403.13;
  - viii. To correct typographical or other errors in the wastewater discharge permit; or
  - ix. To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with section 38-99 (d).

*(d) Permit Transfer.*

Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least 30 days advance notice to the city and the director approves the wastewater discharge permit transfer. The notice to the city must include a written certification by the new owner or operator which:

1. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
2. Identifies the specific date on which the transfer is to occur; and
3. Acknowledges full responsibility for complying with the existing wastewater discharge permit.



Upon approval by the city of the permit transfer, a copy of the new permit will be provided to the new owner(s).

*(e) Permit Revocation.*

The city may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

1. Failure to notify the director of significant changes to the wastewater prior to the changed discharge;
2. Failure to provide prior notification to the director of changed conditions pursuant to Section 38-100 (e) of this ordinance;
3. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
4. Falsifying self-monitoring reports;
5. Tampering with monitoring equipment;
6. Refusing to allow the director timely access to the facility premises and records;
7. Failure to meet effluent limitations;
8. Failure to pay fines;
9. Failure to pay sewer charges;
10. Failure to meet compliance schedules;
11. Failure to complete a wastewater survey or the wastewater discharge permit application;
12. Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
13. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this ordinance.

Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership with the exception for transfer provisions outlined in Section 38-99 (d). All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

*(f) Permit reissuance.*

A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Section 38-98 (e) of this ordinance, a minimum of 60 days prior to the expiration of the user's existing wastewater discharge permit.

**Sec. 38-100. Reporting requirements.***(a) Baseline Monitoring Reports.*

1. Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a) (4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the director a report which contains the information listed in paragraph 2., below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the city a report which contains the information listed in paragraph (2), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.
2. Users described above shall submit the information set forth below.
  - i. All information required in section 38-98 (e) (1)(i), section 38-98 (e) (2), section 38-98 (e) (3) (i), and section 38-98 (e) (6).
  - ii. Measurement of pollutants.
    - a. The user shall provide the information required in section 38-98 (e) (7) (i) through (iv).
    - b. The user shall take a minimum of one representative sample of daily operations to compile that data necessary to comply with the requirements of this paragraph.
    - c. Samples should be taken immediately downstream from the pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the user should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR 403.6(e) to evaluate compliance with the pretreatment standards.
    - d. Sampling and analysis shall be performed in accordance with section 38-100 (i) and 40 CFR Part 136.
    - e. The director may allow the submission of a baseline report which utilizes only historical data so long as the data provides

information sufficient to determine the need for industrial pretreatment measures.

- f. The baseline report shall indicate the time, date and place of sampling and methods of analysis and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.
- iii. Compliance certification. A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether Pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance and/or additional pretreatment is required to meet the pretreatment standards and requirements.
- iv. Compliance schedule. If additional pretreatment and/or operation and maintenance will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or operations and maintenance must be provided. The completion date in this schedule shall not be later than the compliance due established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirement set out in section 38-100(b) of this ordinance.
- v. All baseline monitoring reports must be certified in accordance with section 38-100(m) (1) of this ordinance and signed by an authorized representative.

*(b) Compliance schedule progress reports.*

The following conditions shall apply to the compliance schedule required by section 38-100 (a) (2) (iv) of this ordinance:

1. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
2. The user shall submit a progress report to the city no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

3. In no event shall more than nine (9) months elapse between increments or progress reports to the director.

*(c) Reports on compliance with categorical pretreatment standard deadline.*

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source, 90 days following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the city a report containing the information described in section 38-98 (e) (6) and (7) and section 38-100 (a) (2) (ii) of this ordinance. All compliance reports must be signed and certified in accordance with section 38-98 (f) of this ordinance.

*(d) Periodic Compliance Reports.*

1. All significant industrial users shall, at a frequency determined by the city but in no case less than twice per year (in June and December or dates specified by the control authority), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a best management practice or pollution prevention alternative, the user must submit documentation required by the city or the pretreatment standard necessary to determine the compliance status of the user.
2. All periodic compliance reports must be signed and certified in accordance with section 38-98 (f) of this ordinance.
3. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
4. If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the director, using the procedures prescribed in section 38-100 (j) of this ordinance, the results of this monitoring shall be included in the report.
5. User shall report the average and maximum daily flows for the reporting period and identify where flow estimates are used.
6. All periodic compliance reports must be signed and certified in accordance with section 38-100 (m) (1) of this ordinance.



*(e) Reports of changed conditions.*

Each user must notify the director of any significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least 30 days before the change.

1. The director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under section 38-98 (e) of this ordinance.
2. The director may issue a wastewater discharge permit under section 38-99 (f) of this ordinance or modify an existing wastewater discharge permit under section 38-99 (c) of this ordinance in response to changed conditions or anticipated changed conditions.

*(f) Reports of Potential Problems.*

1. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately notify the director of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
2. Within five (5) days following such discharge, the user shall, unless waived by the director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.
3. A notice shall be permanently posted in a prominent place advising employees who to call in the event of a discharge described in paragraph (1) above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.
4. Significant Industrial users are required to notify the city immediately of any changes at its facility affecting the potential for a slug discharge.

*(g) Reports from unpermitted users.*

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the director as the city may required.

*(h) Notice of Violation/Repeat Sampling and Reporting.*

If sampling performed by a user indicates a violation, the user must notify the director within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the director within thirty (30) days after becoming aware of the violation. Resampling by the industrial user is not required if the city performs sampling at the user's facility at least once a month, or if the city performs sampling at the user's facility between the time when the initial sampling was conducted and the time when the user or the city receives the results of this sampling. If the city has performed sampling, the user will repeat the sampling and analysis and submit the results of the repeat analysis to the director within thirty (30) days upon being notified by the city of any violations.

*(i) Analytical Requirements.*

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable categorical Pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures. The tests shall be performed on the samples taken at the location designated in each industry's Permit.

*(j) Sample Collection.*

1. Except as indicated in Section 2 and 3 below, the user must collect wastewater samples using 24-hour flow proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the city. Where time-proportional composite sampling or grab sampling is authorized by the city, the samples must be representative of the discharge. Using protocols specified in 40 CFR part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the city, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

2. Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
3. For sampling required in support of baseline monitoring and 90-day compliance reports required in section 38-100 (a) and (c) [40 CFR 403.12 (b) and (d)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data is available, the city may authorize a lower minimum. For the reports required by paragraphs section 38-100 (d) [40 CFR 403.12(e) and 403.12(h)] the IU is required to collect the number of grab samples necessary to assess and assure compliance by with applicable pretreatment standards and requirements.

*(k) Date of receipt of reports.*

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

*(l) Record keeping.*

Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with best management practices established under sections 38-95 (d) (3) and 38-96 (d) (3). Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the city, or where the user has been specifically notified of a longer retention period by the director.

*(m) Certification Statements.*

1. Certification of permit applications, user reports and initial monitoring waiver. The following certification statement is required to be signed and submitted by users submitting permit applications in accordance with section 38-98 (f); users submitting baseline monitoring reports under section 38-100 (a) (2) (v); users submitting reports on compliance with the categorical pretreatment standard deadlines under section 38-100 (c); and users submitting periodic compliance reports required by section 38-100 (d) (1)

through (6). The following certification statement must be signed by an Authorized Representative as defined in Section 38-93:

*I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.*

### **Sec. 38-101. Compliance monitoring.**

#### *(a) Right of entry: inspection and sampling.*

The city, or its representative(s), TBRSS representative(s), TCEQ representative(s), and EPA's representative(s) shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this ordinance and any wastewater discharge permit or order issued hereunder. Users shall allow the representatives from the city, TBRSS, TCEQ and/or EPA, ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

1. Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the director will be permitted to enter without delay for the purposes of performing specific responsibilities.
2. The city, T-BRSS, TCEQ, and/or EPA shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.
3. The director may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated, annually to ensure their accuracy.
4. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the director and shall not be replaced. The costs of clearing such access shall be born by the user.



5. Unreasonable delays in allowing the director access to the user's premises shall be a violation of this ordinance.
6. When monitoring facility is constructed in the public right-of-way or easement, in an unobstructed location, the IU shall provide ample room in or near the monitoring facility to allow accurate sampling and preparation of samples and analysis and whether constructed on public or private property, the monitoring facilities should be provided in accordance with the city's requirements and all applicable local construction standards and specifications, and such facilities shall be constructed and maintained in such manner so as to enable the director to perform independent monitoring activities.
7. Search Warrant: If the city has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the city, designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the director may seek issuance of a search warrant from the appropriate County or District Court.

#### **Sec. 38-102. Confidential information.**

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the city's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the city, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user by furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the TPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

#### **Sec. 38-103. Publication of user in significant noncompliance.**

- (a) The city shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the municipality where the POTW is located, a list of the users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements.
- (b) The term significant noncompliance shall be applicable to all significant industrial users (or any other industrial user that violates paragraphs (3), (4), or (8) of this section) and shall mean:
1. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the sampled pollutant parameter taken during a six (6) month period exceed by any magnitude, a numeric pretreatment standard or requirement, including instantaneous limits as defined in section 38-93;
  2. Technical review criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limit, as defined by section 98-93 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease; and 1.2 for all other pollutants except pH);
  3. Any other violation of a pretreatment standard or requirement as defined in section 38-93 (daily maximum, long-term average, instantaneous limit, or narrative standard) that the city determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;
  4. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the city's exercise of its emergency authority to halt or prevent such a discharge;
  5. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
  6. Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical Pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
  7. Failure to accurately report noncompliance; or

8. Any other violation(s), which may include a violation of best management practices, which the director determines will adversely affect the operation or implementation of the local pretreatment program.

#### **Sec. 38-104. Administrative enforcement remedies and administrative orders.**

All enforcement actions shall follow the TCEQ approved enforcement response plan (ERP) and the enforcement response guide (ERG). This plan contains detailed procedures indicating how the control authority will investigate and respond to instances of industrial user noncompliance.

##### *(a) Notification of Violation.*

When the city finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the director may serve upon that user a written notice of violation. Within thirty (30) days of receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the director. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the director to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

##### *(b) Consent Orders.*

The city may enter into consent orders, assurances of voluntary compliance or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents shall include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to sections 38-104 (d) and (e) of this ordinance and shall be judicially enforceable.

##### *(c) Show Cause Hearing.*

The city may order a user which has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the director and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least fifteen (15) business days prior to the hearing. Such notice may be served on any authorized representative of the user as

defined in section 38-93 and required by section 38-98 (f) (1). A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

*(d) Compliance Orders.*

When the director finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the director may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

*(e) Cease and Desist Orders.*

When the director finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the director may issue an order to the user directing it to cease and desist all such violations and directing the user to:

1. Immediately comply with all requirements; and
2. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

*(f) Emergency Suspensions.*

The director may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The director may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.



1. Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the director may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The director may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the director that the period of endangerment has passed, unless the termination proceedings in section 38-104 (g) of this ordinance are initiated against the user.
2. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the director prior to the date of any show cause or termination hearing under sections 38-104 (c) or 38-104 (g) of this ordinance.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

*(g) Termination of Discharge.*

In addition to the provisions in section 38-99 (e) of this ordinance, any user who violates the following conditions is subject to discharge termination:

1. Violation of wastewater discharge permit conditions;
2. Failure to accurately report the wastewater constituents and characteristics of its discharge;
3. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
4. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or
5. Violation of the pretreatment standards in section 38-95 for TBRSS or 38-96 for the Temple Sewerage System, of this ordinance.
6. Problems existing at the headworks.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under section 38-104 (c) of this ordinance why the proposed action should not be taken. Exercise of this option by the director shall not be a bar to, or a prerequisite for, taking any other action against the user.

**Sec. 38-105. Judicial enforcement remedies.**

*(a) Injunctive Relief.*

When the director finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment standard or Requirement, the director may petition the district court through the city's attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this ordinance on activities of the user. The director may also seek such other action as is appropriate for legal and or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

*(b) Civil Penalties.*

1. A user who has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the city for a maximum civil penalty of \$2000 but not less than \$1000 per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.
2. The director may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the city.
3. In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.
4. Filing a suit for civil penalties shall not be a bar against or a prerequisite for, taking any other action against a user.

*(c) Criminal Prosecution.*

1. A user who willfully or negligently violates any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$2000 per violation, per day, or not more than one year imprisonment, or both.
2. A user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty up to \$2000, or be subject to not more than one year imprisonment, or both. This penalty shall be in

addition to any other cause of action for personal injury or property damage available under state law.

3. A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this ordinance, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be punished by a fine of not more than \$2000 per violation, per day, or not more than one year imprisonment or both.
4. In the event of a second conviction, a user shall be punished by a fine of not more than \$2000 per violation, per day, or not more than one year imprisonment, or both.

*(d) Remedies Nonexclusive.*

The remedies provided for in this ordinance are not exclusive. The city may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the city's enforcement response plan. However, the city may take other action against any user when the circumstances warrant. Further, the city is empowered to take more than one enforcement action against any noncompliant user.

**Sec. 38-106. Affirmative defenses to discharge violations.**

*(a) Upset.*

1. In an action brought in federal court and for the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
2. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (3), below, are met.
3. A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed contemporaneous operating logs or other relevant evidence that:
  - i. An upset occurred and the user can identify the cause(s) of the upset;

- ii. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
- iii. The user has submitted the following information to the director within twenty-four (24) hours of becoming aware of the upset. If this information is provided orally, a written submission must be provided within five (5) days:
  - a. A description of the indirect discharge and cause of noncompliance;
  - b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
  - c. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- 4. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
- 5. Users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
- 6. Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

*(b) Act of God.*

- 1. The Act of God defense constitutes a statutory affirmative defense [Texas Water Code Section 7.25] in an action brought in municipal or state court. If a person can establish that an event that would otherwise be a violation of a pretreatment ordinance, or a permit issued under the ordinance, was caused solely by an act of God, war, strike, riot, or other catastrophe, the event is not a violation of the ordinance or permit.
- 2. An industrial user who wishes to establish the Act of God affirmative defense shall demonstrate, through relevant evidence that:
  - i. An event that would otherwise be a violation of a pretreatment ordinance or a permit issued under the ordinance occurred, and the sole cause of the event was an act of God, war, strike, riot or other catastrophe; and



- ii. The industrial user has submitted the following information to the POTW and the city within 24 hours of becoming aware of the event that would otherwise be a violation of a pretreatment ordinance or a permit issued under the ordinance (if this information is provided orally, a written submission must be provided within five days):
  - a. A description of the event, and the nature and cause of the event;
  - b. The time period of the event, including exact dates and times or, if still continuing, the anticipated time the event is expected to continue; and
  - c. Steps being taken or planned to reduce eliminate and prevent recurrence of the event.
- iii. Burden of proof. In any enforcement proceeding, the industrial user seeking to establish the act of God affirmative defense shall have the burden of proving by a preponderance of the evidence that an event that would otherwise be a violation of a pretreatment ordinance, or a permit issued under the ordinance, was caused solely by an act of God, war, strike, riot or other catastrophe.

*(c) Prohibited Discharge Standards.*

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in section 38-95 (a) (1) (i) through (iii) for industries discharging to the TBRSS system or section 38-96 (a) (1) (i) through (iii) for industries discharging to the Temple sewerage system of this ordinance or the specific prohibitions in sections 38-95 (a) (2) (i) through (xxi). for TBRSS industries or sections 38-96 (a) (2) (i) through (xxii) for Temple industries of this ordinance if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

- 1. A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference;
- 2. No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the city was regularly in compliance with its TPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

*(d) Bypass.*

- 1. For the purposes of this section:
  - i. Bypass means the intentional diversion of wastestreams from any portion of a user's treatment facility; and

- ii. Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- 2. A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (3) and (4) of this section.
- 3. Any other bypass must meet the following requirements:
  - i. If a user knows in advance of the need for a bypass, it shall submit prior notice to the director, at least ten (10) days before the date of the bypass, if possible.
  - ii. A user shall submit oral notice to the director of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The director may waive the written report on a case-by-case basis if the report has been received within twenty-four (24) hours.
- 4. Bypass is prohibited, and the director may take an enforcement action against a user for a bypass, unless:
  - i. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  - ii. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
  - iii. The user submitted notices as required under paragraph (3) of this section.

5. The director may approve an anticipated bypass, after considering its adverse effects, if the director determines that it will meet the three conditions listed in paragraph (4) of this section.

**Sec. 38-107. Miscellaneous provisions.**

*(a) Review and approval; preliminary treatment; required facilities.*

1. The admission into the public sewers of any waters or wastes having (1) a five-day biochemical oxygen demand greater than three hundred (300) parts per million (ppm) by weight, or (2) containing more than four hundred (400) parts per million by weight of total suspended solids, or (3) containing any quantity of substances having the characteristics described in section 38-95 for the TBRSS or section 38-96 for the city of Temple, or (4) having an average daily flow greater than five per cent (5%) of the average daily sewage flow of the city, shall be subject to the review and approval of the director. Where the director has approved the admission of (1) or (2) above into the public sewer, that discharge may be subject to a surcharge as determined by the director.
2. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the director and no construction of such facilities shall be commenced until said approvals are obtained in writing.

*(b) Pretreatment Charges and Fees.*

The city may adopt reasonable fees for reimbursement of costs of setting up and operating the city's pretreatment program which may include:

1. Fees for wastewater discharge permit applications including the cost of processing such applications;
2. Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users;
3. Fees for reviewing and responding to accidental discharge procedures and construction;
4. Fees for filing appeals; and
5. Fees to recover administrative and legal costs [not included in section 38-107 (a) (2) associated with the enforcement activity taken by the director to address IU noncompliance; and

6. Other fees as the city may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this ordinance and are separate from all other fees, fines, and penalties chargeable by the city.

7. Surcharges. After a review by the director, if a determination is made that the discharge is of such unusual strength and/or character that increased treatment within the sewer treatment plant would be required accompanied by increased treatment costs to the POTW, the discharge shall be subject to a surcharge. In no case will a discharge be accepted that will prevent the POTW from meeting its permit limits. The surcharge will be automatic beginning the third month for a user who has had two previous consecutive months with discharges of BOD or TSS which exceed the limits provided in 38-107 (a) (1) above. A surcharge is an additional charge by the POTW for the increased cost of handling discharge of unusual strength and character, and shall not serve as a variance to the requirements of this ordinance, nor shall it serve to bar the POTW from bringing a criminal action or civil action under section 38-105 for violations of the provisions of this ordinance.

Surcharges for the treatment of discharges shall be determined as follows:

- i. A basic sewer charge of two hundred fifty dollars (\$250.00) per million gallons times the monthly volume discharged in millions of gallons.
- ii. A BOD surcharge of one dollar (\$1.00) per million gallons times the difference between the BOD expressed in milligrams per liter, and three hundred (300) milligrams per liter; all multiplied times the monthly volume discharged expressed in millions of gallons.
- iii. A TSS surcharge of one dollar (\$1.00) per million gallons times the difference between the TSS expressed in milligrams per liter, and four hundred (400) milligrams per liter; all multiplied times the monthly volume discharged in millions of gallons.
- iv. The basic sewer charge, BOD, and TSS surcharges will be reviewed at periodic intervals as determined by the director. Changes in the aforementioned surcharges shall be authorized by resolution of the city council and shall be binding on all city agreements for the treatment of industrial wastes.

*(c) Gender.*

As used in this Chapter, whenever the context so indicates, the masculine, feminine, or neuter gender and the singular or plural number, shall be deemed to include the others.

*(d) Headings.*



The headings above the various provisions of this Chapter have been included only in order to make it easier to locate the subject covered by each provision and are not to be used in construing the said provisions.

*(e) Amendments of Statutes.*

Reference made to any State or Federal statutes or to any local ordinances includes and is intended to refer to those statutes and/or ordinances as they presently exist or as they may hereafter be amended to read.

**Sec. 38-108. Effective date.**

This ordinance shall be in full force and effect immediately following its passage, approval, and publication, as provided by law.

**Secs. 38-108--38-129. Reserved.**

**ARTICLE VI - CROSS CONNECTION CONTROL**

**Sec. 38-130. General Provisions.**

*(a) Title.* This article will hereinafter be known, cited, and referred to as the Cross Connection Control Act of the City of Temple, Texas.

*(b) Purpose of this article.*

The regulations contained herein are adopted to achieve the following purposes and will be administered to achieve the following objectives:

1. Promote the health, safety, and general welfare of the City;
2. Promote and ensure the proper use and control of the City's public water system;
3. Protect the City's water supply from the possibility of contamination or pollution by isolating within a customer's water system such contaminants or pollutants that could backflow into the public water system;
4. Eliminate cross connections between a customer's potable water supply and non-potable water, plumbing fixtures, and process piping systems in conjunction with the City's currently adopted plumbing code;
5. Provide for the maintenance of a continuing program of cross connection control that will systematically and effectively prevent contamination or pollution of the City's potable water

supply by requiring the certification and operational testing of all testable backflow assemblies located on a premises and the installation of approved backflow assemblies as required by the City's currently adopted plumbing code; and

6. Comply with all local, state, and federal laws and regulations.

(c) Policy.

It is hereby declared the policy of the City to promote the public health safety and welfare by:

1. Implementing the rules for drinking water standards governing drinking water quality and reporting requirements for public water supply systems promulgated by the Texas Health and Safety Code, Chapter 341, Subchapter C, 30 Tex. Admin. Code Chapter 290, and the Federal Safe Drinking Water Act, 42 USCS §§ 300f et seq., all as amended;
2. Establishing a cross connection control program of uniform regulations governing the installation, testing, and certification of backflow assemblies and technicians; and
3. Establishing requirements to permit and control the installation, routine maintenance, and inspection of backflow assemblies.

(d) Jurisdiction and applicability.

The rules and regulations contained in this article apply to the public utility water service area and all cross connections and installations of backflow assemblies within:

1. service areas of the City;
2. areas where water is purchased from the City; and
3. any plumbing outside the City requiring plumbing inspection pursuant to an interlocal agreement between the City and a political subdivision, a water sales contract, this article, or applicable ordinance.

(e) Rulemaking.

The City is hereby authorized to promulgate reasonable regulations to achieve the purposes of the article that are not in conflict with this Chapter or any other local laws or rules, and any applicable state and federal laws and regulations.

(f) Conflicts with public and private provisions.

Except where indicated, these regulations are not intended to:

1. interfere with, abrogate, or annul any other public ordinance, rule, regulation, or statute, or other provision of law; or
2. abrogate any easement, deed restriction, covenant, or any other private agreement or deed restriction.

(g) Conformance with rules and regulations.

The provisions in this article are the minimum requirements concerning cross connections and backflow prevention. In addition to the requirements, each customer must be in conformance with all applicable local, state, and federal laws and regulations. If there is a conflict, the stricter provision controls.

**Sec. 38-131. Backflow and siphonage prevention program.**

*(a) Cross connection prohibited.*

1. No installation of potable water supply piping or part thereof may be made in such a manner that allows used, polluted, or contaminated water, mixtures, gases, or other substances to enter any portion of such piping by reason of backsiphonage, backpressure, or any other cause.
2. No person may install or use any water operated equipment or mechanism or use any water treating chemical or substance if it has the potential of causing pollution or contamination of a public water system. If a person wishes to install or use this type of equipment, mechanism, chemical, or substance, the equipment, mechanism, chemical, or substance may be permitted by the City only when equipped with an approved backflow assembly.
3. No person may connect to a public water system any mechanism or system designed to return used water to a public water system through any measure.
4. No person may connect any auxiliary water system to a public water system except as allowed by this article and by the City's currently adopted plumbing code, as amended.

*(b) Installation provisions.*

1. No water connection from a public water system may be made to any structure or facility where actual or potential contamination or a system hazard exists without backflow prevention between the public water system and the source of actual or potential contamination or system hazard in accordance with all applicable local, state, and federal standards.
2. No water connection from any public water system may be made to any condensing, cooling, or industrial process or any other system of non-potable usage over which a public water supply system official does not have sanitary control, unless the said connection is made in accordance with the requirements of paragraph (b)(1) of this Section. Water from such systems cannot be returned to the potable water supply.
3. Overhead bulk water dispensing stations must be provided with an air gap between the filling outlet hose and the receiving tank to protect against backsiphonage and cross contamination.
4. The use of a backflow prevention device at the service connection will be considered as additional backflow protection and does not negate the use of backflow protection or internal hazards as outlined and enforced by the City's current adopted plumbing code.
5. New installation.
  - i. New, replacement, or reconditioned backflow assemblies must be installed in accordance with the City's currently adopted plumbing code, as amended.

- ii. Prior to installation of a backflow assembly, a person must obtain a plumbing permit.
    - iii. Prior to issuance of a certificate of occupancy, a completed test and maintenance report must be submitted to the City for any connection requiring a backflow assembly.
  - 6. Health hazard installation.
    - i. Approved backflow assemblies installed at the meter must be used at health hazard applications.
    - ii. The City may require a secondary assembly if the City deems it necessary to protect the public water system from the failure of the primary backflow assembly or to allow maintenance of the primary backflow assembly.
  - 7. Other installations.
    - i. An approved backflow assembly must be installed to protect the potable water supply from contamination or pollution when such system is connected to any automatic fire protection system, standpipe systems, or privately owned fire hydrants.
    - ii. A meter obtained from the City must be used to connect to a public water system for water appropriation from a fire hydrant. Installation of an approved backflow prevention assembly is required on any meter connected to a public water system for water appropriation from a fire hydrant, except as provided in this article.
  - 8. Wholesale customers. Any customer purchasing water for resale or distribution must install an approved air gap separation or a reduced pressure backflow prevention assembly at the service connection.
  - 9. Water hauling vehicles. Water hauling vehicles obtaining water from a connection to the City's potable water supply must have an approved backflow assembly installed permanently on the vehicle, or if connected by a fire hydrant meter, installed on the fire hydrant meter. The assembly must be registered with the City and certified for operation annually.
  - 10. Compliance for existing customers. A premises' owner, customer, or the designated representative of any facility that the City determines has a cross-connection or an improperly installed, untested, or broken backflow assembly must take prompt remedial measures and comply with this article on a schedule determined by the City by written notice. Documentation of the installation, testing, or repair must be submitted to the City as required.
- (c) Customer testing requirements.
- 1. The owner of a premises, customer, or the designated representative of any facility containing a backflow assembly must test each assembly:
    - i. Annually for backflow assemblies that are installed at cross connections where a health hazard exists;
    - ii. Every five years for backflow assemblies that are installed at cross connections where a health hazard does not exist;



- iii. Immediately after installation;
  - iv. Whenever the backflow assembly is moved;
  - v. When the City deems it necessary to protect the health and safety of the public;
  - vi. When an irrigation system is installed; and
  - vii. Immediately after any backflow assembly repair.
2. All backflow assembly testing must be performed by a person holding a current Backflow Prevention Assembly Tester (BPAT) license issued by TCEQ.
- (d) Any tester described in Sec. 38-131(c)(2) must be on the City's list of approved testers prior to performing backflow assembly testing within the City.
- 1. A tester may be placed on the City's approved list by providing their contact information, any applicable registration, certification, and licensing information to the City, and current accuracy test results and calibrations for the gauges to be used by the tester to test backflow assemblies.
  - 2. The City may remove a tester from the City's list of approved testers if:
    - i. The tester fails to annually provide to the City current certificates of calibrations and serial numbers for the gauges the tester will use to test backflow assemblies;
    - ii. The tester fails to submit backflow assembly test results to the City within ten (10) business days of the date the tester performs the test; or
    - iii. The tester fails to comply with any City policy or ordinance related to testing backflow assemblies.
  - 3. The City may allow a tester that is removed to be added back on the City's approved list of testers per City policy.
- (e) Customer responsibility.
- 1. It is the responsibility of the owner of a premises, customer, or the designated representative of any facility containing a backflow assembly to have all assemblies tested in accordance with this article.
  - 2. An owner of a premises, customer, or the designated representative of any facility containing a backflow assembly is responsible for all costs associated with the installation, general maintenance, repair, testing, upkeep, record keeping, and replacement of the backflow assembly.
  - 3. When an owner of a premises, customer, or the designated representative of any facility containing a backflow assembly leases or rents the same to any person, the owner, customer, designated representative of the facility, tenant, or lessee may be held responsible for not complying with any of the requirements of this article.

4. An owner of a premises, customer, or the designated representative of any facility containing a backflow assembly is responsible for ensuring that the tester who tests their assembly is on the approved list of testers for the City.

(f) Thermal expansion.

It is the responsibility of any owner of a premises, customer, or the designated representative of any facility containing a backflow assembly to eliminate the possibility of thermal expansion if a closed system has been created by the installation of a backflow assembly.

(g) Pressure loss.

Any reduction in water pressure caused by the installation of a backflow assembly is not the responsibility of the City.

**Sec. 38-132. Customer service inspection program.**

- (a) Inspection Requirements. The City is authorized to perform a customer service inspection of a premises served by a public water system in the following circumstances:
1. prior to providing continuous water service to new construction on the premises;
  2. when a public water system official has reason to believe that cross connections or other unacceptable plumbing practices or health hazards have the potential to or may exist on the premises;
  3. prior to a certificate of occupancy being issued for the premises;
  4. after a City permit is issued for the premises; and
  5. after any material improvement, correction, or addition to the plumbing facilities on the premises.
- (b) Duly authorized employees of the City bearing proper credentials and identification have the authority to enter any public or private property at any reasonable time to enforce this article. Owners of premises, designated representatives of a facility, and customers who are provided water service by the City must allow the City or its representatives ready access at all reasonable times to all parts of the premises for the purposes of inspection, testing, records examination, or in the performance of any of their duties under this article. Where there are measures in force that would require proper identification and clearance before entry onto a premises, the owner of a premises, customer, or the designated representative of the facility must make necessary arrangements so that upon presentation of suitable identification, City employees are permitted to enter without delay for the purposes of performing their specific responsibilities under this article.
- (c) The City is not liable for damage to a backflow assembly that may occur during a customer service inspection, fluctuation in the distribution system pressure, or interruption to the water supply.
- (d) If after a customer service inspection of a premises, the City determines that a backflow assembly needs to be installed under this article or an existing backflow assembly needs to be repaired, tested, or maintained, a notice to install an approved backflow assembly or to repair, test, or

maintain the existing backflow assembly within a period of time specified by the City will be issued to the premises' owner, customer, or designated representative of the facility.

### **Sec. 38-133. Closing provisions.**

#### *(a) Responsibilities.*

It is the responsibility of all premises' owners, designated representatives of a facility, tenants, lessees, customers, and all designees of these persons to abide by the conditions of this article. In the event of any changes to a customer's water system or change of occupancy, it is the responsibility of these persons to notify the City. All costs associated with this article and the purchase, installation, testing, maintenance, and repair of any backflow assemblies are the responsibility of premises' owners, designated representatives of a facility, tenants, lessees, customers, and all designees of these persons.

#### *(b) Enforcement and offenses.*

##### 1. Violations. A person commits an offense if they:

- i. fail to maintain backflow assemblies in compliance with this article;
- ii. fail to comply with a City notice to repair, test, maintain, or install a backflow assembly within a period of time specified by the City;
- iii. have any backflow from premises they own, rent, lease, operate, or manage enter the public water system;
- iv. fail to pay any fees required by this article;
- v. violate any section of this article;
- vi. reinstate water service to a premises that was discontinued or disconnected under this article, except as directed by the City;
- vii. allow a person not on the City's approved list of backflow assembly testers to perform a backflow assembly test at their premises; or
- viii. test a backflow assembly within the City without being on the City's approved list of backflow assembly testers.

##### 2. Administrative remedies.

###### i. Disconnection of water service.

- a. When the City believes that an emergency affecting public health or safety exists, the City may immediately discontinue water service. It is an emergency affecting public health or safety if a backflow assembly is not installed as required by this article or an actual cross connection between a public and private water system exists. This temporary disconnection will continue until the cross connection is eliminated or a backflow assembly is installed as required by this article and the premises are inspected by the City for compliance. Notice and an opportunity to be

heard will be provided to the customer as soon as possible after the disconnection of such water service in cases of emergency.

- b. The City may temporarily discontinue water service if a customer or property owner is not complying with any term of this article. Reasonable advance notice and an opportunity to be heard will be provided to the customer prior to a disconnection of water service if there is not an emergency.
  - ii. Refusal of water service. Failure to comply with this Chapter or other local, state, and federal laws, rules, and regulations or obtain and comply with the appropriate plumbing or building permits may result in placement of a hold on the issuance of a City certificate of occupancy and permanent termination of water service.
3. Civil Penalties.
- i. A person who has violated, or continues to violate, any provision of this article is liable to the City for not less than \$1000.00 but no more than \$5000.00 a day for each violation.
  - ii. The City may recover expenses and loss or damage to City property as well as all other available relief.
  - iii. The City may enforce this chapter by injunction, declaratory relief, or other action at law or in equity.
  - iv. Filing a suit for civil penalties is not a bar against, or a prerequisite for, taking any other action against a person.
4. Criminal Prosecution.
- i. A person who knowingly, intentionally, recklessly, or with criminal negligence violates any provision of this article commits an offense.
  - ii. Each occurrence of an offense per a day is a separate offense.
  - iii. An offense under this article is a Class C misdemeanor punishable by a fine of up to \$2000.00.
  - iv. Filing criminal charges is not a bar against, or a prerequisite for, taking any other action against a person.
5. Remedies Nonexclusive.

The remedies provided for in this Section are not exclusive. The City may take any, all, or any combination of these actions against a noncompliant person.

**Secs. 38-134--38.139. Reserved.**

## **ARTICLE VII - LIQUID WASTE**



## DIVISION I. GENERALLY.

**Sec. 38-140. Purpose and policy.**

- (a) This article sets forth uniform requirements for liquid waste generators and liquid waste transporters operating in the City of Temple, Texas, to ensure that the City of Temple complies with all applicable State and Federal laws and regulations, including the Clean Water Act (33 United States Code § 1251 et seq.)
- (b) The objectives of this article are:
  1. to aid in the prevention of wastewater overflows resulting from blockages and obstructions due to the accumulation of fats, oils, and greases from commercial and industrial facilities;
  2. to promote the proper maintenance of grease interceptors and grit traps/oil separators; and,
  3. to ensure the proper handling, disposal, transport, and tracking of trap waste and other liquid waste.

**Sec. 38-141. Applicability and prohibitions.**

- (a) This article applies to all users of the POTW and transporters as defined by this Chapter.
- (b) Grease traps or grease interceptors are not required for individuals engaging in a cottage food production operation as defined by Sec. 437.001, Texas Health and Safety Code, as amended, and complying with all applicable state laws and regulations related to cottage food industries.
- (c) Facilities generating fats, oils, or grease as a result of food manufacturing, processing, preparation, or food service must install, use, and maintain appropriate grease interceptors as required in Section 38-142 of this article. These facilities include but are not limited to restaurants, food manufacturers, food processors, hospitals, hotels, motels, schools, nursing homes, and any other facility preparing, serving, or otherwise making any foodstuff available for consumption. Failure to install, maintain, or use grease traps in accordance with this article is unlawful.
- (d) It is unlawful for a User to intentionally or unintentionally allow the discharge of any petroleum oil, non-biodegradable cutting oil, mineral oil, or any fats, oils, or grease of animal or vegetable origin into the POTW in concentrations greater than those permitted and set forth in Article V, Chapter 38, of the City of Temple Code of Ordinances, as may be amended from time to time.
- (e) It is unlawful to discharge transported liquid waste, except as set forth in this article and in compliance with all federal, state, and local law and at discharge points designated by the City.
- (f) It is unlawful for a person to discharge or expose grease, wastewater, or other organic waste in such way as to be a potential instrument or medium of disease transmission to a person or between persons.
- (g) It is unlawful to discharge washwater to the storm water system or POTW; washwater may require pretreatment before being discharged to the POTW.

## DIVISION 2. LIQUID WASTE GENERATORS

**Sec. 38-142. Installations.****(a) New Facilities.**

1. Food processing facilities or food service facilities, which are newly proposed or constructed, or existing facilities, which will be expanded or renovated to include a food service facility where such facility did not previously exist, are required to design, install, operate, and maintain a grease interceptor in accordance with locally adopted plumbing codes or other applicable ordinances. Grease interceptors must be installed and inspected prior to issuance of a certificate of occupancy.
2. Facilities that perform washing, cleaning, or servicing of automobiles, trucks, buses, or similar equipment, which are newly proposed or constructed with floor drains in areas of operation, are required to design, install, operate, and maintain a grit trap/oil separator in accordance with locally adopted plumbing codes or other applicable ordinances and guidelines as required by the City. Grit traps/oil separators must be installed and inspected prior to issuance of a certificate of occupancy.
3. A generator must install a sample port to allow access to sample the wastestream as close as possible to the connection with the City wastewater collection main within the bounds of the facility property. The port must be installed according to the specifications of the City. The port must be installed and maintained at the generator's expense. The port must be installed perpendicular to the effluent flow to allow visual observation and sampling.

**(b) Existing Facilities.**

1. An existing grease interceptor or grit trap/oil separator must be operated and maintained in accordance with the manufacturer's recommendations and in accordance with these standards referenced herein, unless otherwise specified in writing and approved by the City. The City may require users to install an approved grease interceptor or grit trap/oil separator when the concentration of oil, grease waste, or suspended solids is greater than concentrations permitted and set forth in Article V, Chapter 38 of the City of Temple Code of Ordinances or when discharges may cause blockages in the POTW. The City may also require users to replace an existing grease or grit trap when the fixture is not operating in accordance with the manufacturer's recommendations or the standards provided in this Chapter.
2. Existing food processing or food service facilities that change in use, existing facilities which will be expanded or renovated to include a food service facility, where such facility did not previously exist, and facilities with a lack of, or an inadequately sized, grease interceptor, are required to design, install, operate, and maintain a grease interceptor in accordance with locally adopted plumbing codes, or other applicable ordinances. Grease interceptors must be installed and inspected prior to the issuance of a certificate of occupancy and prior to a permit issued under Bell County regulations for food establishments.
3. Existing facilities which perform washing, cleaning, or servicing of automobiles, trucks, buses, or similar equipment with floor drains in the areas of operation that change in use, are expanded or renovated to include floor drains in areas of operation, or where there is a

lack of, or inadequately sized, grit trap/oil separator are required to design, install, operate, and maintain a grit trap/oil separator in accordance with locally adopted plumbing codes, or other applicable ordinances. Grit traps/oil separators must be installed and inspected prior to the issuance of a certificate of occupancy.

- (c) Grease interceptors and grit traps/oil separators must be installed pursuant to a single certificate of occupancy. No person or persons may allow the use of an interceptor or trap by more than one business as covered by a certificate of occupancy without prior written approval from the City.

### **Sec. 38-143. Responsibilities.**

- (a) A generator of liquid waste must have all liquid waste material removed from their premises by a liquid waste transporter, which holds a valid permit from the City, and the liquid waste must be transported to an approved site for disposal.

(b) Cleaning Schedule

1. All grease interceptors must be maintained in an efficient operating condition at all times. Grease interceptors must be cleaned as often as necessary to ensure that:
    - i. sediment and floating materials do not accumulate and impair the efficiency of the grease interceptor;
    - ii. the discharge is in compliance with local wastewater discharge limits; and
    - iii. no visible grease is observed in the discharge.
  2. Grease interceptors must be completely evacuated at a minimum of every ninety (90) days, or more frequently when:
    - i. twenty-five percent (25%) or more of the wetted height of the grease interceptor, as measured from the bottom of the device to the invert of the outlet pipe, contains floating materials, sediment, oils, or greases;
    - ii. the discharge exceeds BOD, COD, TSS, FOG, pH, or other pollutant levels established by the City; or
    - iii. the Public Works Department determines that more frequent evacuations are needed for public safety.
- (c) Grit traps/oil separators must be completely evacuated at a minimum of every 180 days unless an exception is granted by the City.
- (d) Any person who owns or operates a grease interceptor may submit to the City a request in writing for an extension to the required pumping frequency of the grease interceptor. The City may grant an extension for required cleaning frequency on a case-by-case basis when:
1. the grease interceptor owner or operator has demonstrated the specific interceptor will produce an effluent with no visible grease, and, based on defensible analytical results, can

demonstrate consistent compliance with established local discharge limits such as BOD, TSS, FOG, or other parameters as determined by the POTW; and

2. less than twenty-five percent (25%) of the wetted height of the grease interceptor, as measured from the bottom of the device to the invert of the outlet pipe, contained floating materials, sediment, oils, or greases.
- (e) The City may also require interceptors or traps to be serviced on a single-event basis or scheduled basis if deemed necessary for the proper operation of the grease interceptor or grit trap/oil separator. Such determination will be at the City's discretion.
- (f) In the event that an establishment ceases operation, the establishment is required to pump the interceptor or trap before abandoning the property. If the owner of the business or their agent fail to empty the interceptor or trap, it will become the responsibility of the property owner.
- (g) A generator of liquid waste must not have hazardous waste, or liquid waste in combination with hazardous waste, removed from their premises by a liquid waste hauler operating under a City permit.
- (h) When a load is picked up by a permitted transporter, the generator must verify the accuracy of the manifest and then certify the statements contained therein by legibly completing and signing the manifest. The generator must keep a copy of all manifests for a period of three years at the site of generation, unless otherwise approved. The City may inspect and copy these records at any time.
- (i) A generator must:
1. provide equipment and facilities of a type and capacity approved by the City;
  2. position the grease interceptor or grease trap/oil separator in a manner that provides ready and easy accessibility for cleaning and inspection;
  3. maintain the trap in effective operating condition;
  4. not install or utilize any system, process or pretreatment involving the use of enzymes, bacteria, or other additives, nor alter the design or function of the grease interceptor or grit trap/oil separator unless approved in writing by the City;
  5. supervise proper cleaning and removal of the contents of the trap;
  6. maintain the grease interceptor or grit trap/oil separator and its surrounding areas in sanitary conditions, free of litter and odors;
  7. immediately report spills and accidents involving liquid waste to the City; and
  8. clean up all spills and abate all unsanitary conditions immediately and have material used for abatement, such as absorbent materials, disposed of by approved means and in a timely manner. If immediate clean-up is not feasible, the generator must provide to the City a written, detailed explanation of the circumstances and the plan for clean-up and abatement, including a request for additional time.



- (j) A generator of washwater or other liquid waste must:
1. contain, collect, and dispose of liquid waste by approved means;
  2. protect the storm water system, the POTW, and the environment from discharges of liquid waste or other contaminants;
  3. use approved methods for on-site or mobile treatment of liquid waste; and
  4. accurately measure, by approved means, the volume of liquid waste collected and disposed of by the transporter.
- (k) Rates for sampling or analysis. Should any sampling or analysis be required by the City pursuant to any provision in this article, the payment of such fees incurred for sampling and analysis will be the responsibility of the generator.

### DIVISION 3. LIQUID WASTE TRANSPORTERS

#### **Sec. 38-144. Permit required.**

- (a) Permit Required. All persons owning or operating a vacuum truck, cesspool pump truck, liquid waste transport truck, or other vehicle must not service any grease interceptor, grit trap/oil separator, or cesspool without first having received a valid transport truck discharge (TTD) permit.
- (b) Permit Application and Fee. TTD permits will be issued by the City upon proper application and payment of a fee established by the City Council and on file in the City Secretary's office. All TTD permits will be valid for one (1) year, running from January 1 through December 31.
1. The City may deny a permit or the renewal of a permit, revoke a permit in its entirety, suspend the permit for a stated period of time, place the permit holder on terms of probation, or place other conditions thereon as the City deems necessary and appropriate if the City finds that any requirement of the permit has been violated or that false statements were made on any application, agreement, or any required submittal.
- (c) Unloading or discharge of waste or wastewater. It is unlawful for any person to unload or discharge waste or wastewater within the City except in a manner and at a place specified by the City. All transporters must discharge waste in an approved facility and provide an approved manifest for said discharge.

#### **Sec. 38-145. Manifest requirements.**

- (a) Persons who generate, collect, and transport grease interceptor and grit trap/oil separator waste must maintain a record of each individual collection and deposit. Such records will be in the form of a manifest. The manifest must include:
1. name, address, telephone, and TCEQ registration number of transporter;
  2. name, signature, address, and telephone of the person who generated the waste and the date collected;

3. type and amount(s) of waste collected or transported;
4. name and signature(s) of responsible person(s) collecting, transporting, and depositing the waste;
5. date and place where the waste was deposited;
6. identification (permit or site registration number, location, and operator) of the facility where the waste was deposited;
7. name and signature of the facility on-site representative acknowledging receipt of the waste;
8. the volume of the waste received; and
9. a consecutive numerical tracking number to assist transporters, waste generators, and regulating authorities in tracking the volume of grease transported.

(b) Transporters must obtain manifests from the City of Temple.

(c) Manifests must be divided into five parts and records must be maintained as follows:

1. One part of the manifest must have the generator and transporter information completed and will be provided to the generator at the time of waste pickup.
2. The remaining four parts of the manifest must have all required information completely filled out and signed by the appropriate party before distribution of the manifest. The remaining four parts will be distributed as follows:
  - i. one part of the manifest must be provided to the receiving facility;
  - ii. one part must be kept by the transporter, who must retain a copy of all manifests showing the collection and disposition of waste;
  - iii. one part of the manifest must be returned by the transporter to the waste generator within fifteen (15) days after the waste is received at the disposal or processing facility; and
  - iv. one part of the manifest must be returned by the transporter to the City of Temple Environmental Programs Office within fifteen (15) days after the waste is received at the disposal or processing facility.

(d) Copies of manifests returned to the waste generator must be retained for three years by the generator and be readily available for review by the City.

### **Sec. 38-146. Responsibilities.**

- (a) Each grease interceptor or grit trap/oil separator that is pumped must be fully evacuated unless the trap volume is greater than the tank capacity on the vacuum truck, in which case the transporter must arrange for additional transportation capacity so that the trap is fully evacuated within a twenty-four (24) hour period, in accordance with 30 Texas Administrative Code, Chapter 312, § 312.143.

- (b) The City, or its representative, has the right to enter the premises of any generator or transporter to determine whether the generator or transporter is complying with all requirements of this article and any wastewater discharge permit or order issued hereunder. The generator or transporter must allow the representatives from the City access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.
- (c) The City has the right to install on a user's property or require the installation of such devices as necessary to conduct sampling or investigation of the user's operations.

#### DIVISION 4. ABATEMENT OF VIOLATIONS

##### **Sec. 38-147. Enforcement actions.**

##### *(a) Notice of Violation.*

1. If the City determines that a violation of this article, a permit, or order issued in accordance with this article, or any other pretreatment standard or requirement has occurred, a written notice of violation may be issued to the person determined to be in violation.
2. Upon receipt of written notice and within the timeframe specified in the notice, the person must submit an explanation of the violation and detailed plan, including specific actions to be taken, for satisfactory remedy of the violation at issue and methods for prevention of repeat or future offenses.
3. Submitting a corrective action plan in response to a written notice does not relieve the person of liability for any violations occurring before or after receipt of the notice of violation.
4. Nothing contained in this Section will be construed as to require the City to first issue a written notice of violation before taking any action, including emergency action, or pursuing other enforcement remedies.

##### *(b) Administrative Orders.*

1. Compliance Orders.
  - i. If the City determines that a violation of this article, a permit, or order issued in accordance with this article, or any other pretreatment standard or requirement has occurred, a compliance order as defined by this Chapter may be issued to the person responsible for the discharge directing that the person come into compliance within a specified time period.
  - ii. If the person does not come into compliance within the time period provided in the compliance order, water or wastewater service may be discontinued and any permits issued by the City may be revoked.
  - iii. Compliance orders also may contain other requirements to address noncompliance, including, but not limited to, additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the POTW.

- iv. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation.
- v. Issuance of a compliance order is not be a bar against, or a prerequisite for, taking any other action against the User.

2. Cease and Desist Orders.

- i. If the City determines that a violation of this article, any permit, or order issued by the City, or any other pretreatment standard or requirement has occurred or that the person's past violations are likely to reoccur, the City may issue an order to the person directing them to cease and desist all such violations and:
    - a. immediately comply with all requirements of this article; and
    - b. take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations or terminating the discharge.
- (c) Service of notice or order. Any notice or order issued under this article must be in writing and served in person or by registered or certified mail on the user or transporter of the liquid waste or any other persons determined to be responsible for such violation.
- (d) Termination of service and revocation of permit. The City may, if a violation is continuing or reoccurring or may reoccur, revoke any permit issued by the City to the person ordered to correct or abate such violation if such violation has not been corrected or abated within the time specified in a compliance order or cease and desist order.
- (e) Emergency suspension of service.
- 1. Suspension. The City may, without prior notice, suspend water service, wastewater service, or storm water access to a person discharging to the POTW or storm water system when such suspension is necessary in the opinion of the City to stop an actual or threatened discharge that:
    - i. presents or may present imminent substantial danger to the environment or to the health or welfare of persons;
    - ii. presents or may present imminent substantial danger to the POTW, storm water system, or waters of the state; or
    - iii. will cause pass through or interference of the POTW.
  - 2. Notice of suspension. As soon as is practicable after the suspension of service, the City will notify the person discharging to the POTW or storm water system of the suspension and the reasons thereof and order such person to cease the discharge immediately.
  - 3. Reinstating service. The City will reinstate a person's suspended water or wastewater services:



- i. upon proof by such person that the non-complying discharge has been eliminated;
  - ii. upon payment by such person of any outstanding water and wastewater utility charges;
  - iii. upon arrangement of payment by such person of all costs incurred by the City in responding to the discharge or threatened discharge; and
  - iv. upon arrangement of payment by such person of all costs incurred by the City in reconnecting service.
4. Written statement. Prior to reinstatement of service, the person must submit to the City a detailed written statement describing the cause of the discharge and the measures taken to prevent any future occurrence as instructed by the City.

**Sec. 38-148. Penalties.**

- (a) A person who violates any provision of this article may be subject to civil or criminal penalties or both.
- (b) Criminal Penalties. A person who violates any provision of this article or any term or condition of a permit granted pursuant to this article is guilty of a separate offense for each day or portion of a day during which the violation is continued. Each offense is punishable by a fine of not less than \$1,000 or more than \$2,000.
- 1. A person is criminally responsible for a violation of this article if the person acted knowingly, recklessly, intentionally, or with criminal negligence.
- (c) Civil Penalties. The City, its City Attorney, or authorized designee is authorized to commence a civil action for appropriate legal or equitable relief in a court of competent jurisdiction. Such relief may include, but is not limited to:
- 1. an injunction to prevent a violation of this article;
  - 2. recovery for damages to the POTW or storm water system resulting from a violation of this article; and
  - 3. recovery for expenses incurred by the City in responding to a violation of this article.
- (d) Penalties Cumulative. Nothing contained in this article will be construed as to limit the remedies available to the City or to prevent the City from seeking both civil and criminal penalties.

**ARTICLE VIII – WELLS**

**Sec. 38-149. City water well policy.**

The City may establish a policy related to the drilling, maintenance, and abandonment of water wells. A person who violates a provision of the City's water well policy commits an offense under this Chapter.

**Sec. 38-150. Requirements prior to drilling water well.**

It is unlawful for any person to drill or commence to drill a water well in the City limits without first obtaining written approval from the City and complying with the permitting and registration standards required by the Clearwater Underground Water Conservation District (CUWCD)

**Sec. 38-151. Water well location and approval.**

- (a) A water well proposed on a tract over two (2) acres in size may be allowed in the City subject to the permitting and registration standards required by the CUWCD and upon approval by the City.
- (b) A water well proposed on a tract less than two (2) acres in size is prohibited in the City if an adequate public water supply is located adjacent, across the street, or within three hundred (300) feet of the property on which a well site is proposed.
  - 1. An adequate public water supply means the City of Temple water supply or another public water system that is capable of permitting additional water meters and which has a water supply which will meet the applicant's needs for water service.

**Sec. 38-152. City approval of water well.**

- (a) A person must file a written request for City approval prior to drilling or commencing to drill a water well. Once a request is filed, the City may require the applicant to provide additional information related to the proposed well.
- (b) The City may consider any of the following criteria in determining whether to approve a well:
  - 1. The City's water master plan;
  - 2. The water master plan of any authorized rural water system providers in the vicinity;
  - 3. Availability and accessibility of the tract of land to a public water supply;
  - 4. Health and safety concerns posed by the proposed well, including the risk of cross-connections;
  - 5. Information provided by the applicant; and
  - 6. Any other information related to the proposed well or its construction or location deemed necessary by the City.
- (c) If a well is approved by the City, the well is permitted in the City subject to the permitting and registration standards required by CUWCD and the provisions of this article.

**Sec. 38-153. Cross connections.**

- (a) No water well may be connected in any manner to the City's public water system without the City's written approval. A property owner responsible for any such cross connection will be liable to the City for the maximum fine permissible by law, as well as all costs required by TCEQ for flushing, disinfecting, and testing the City's water line after the cross connection is terminated.
- (b) All plumbing associated with any water well must be compliant with all applicable City Codes, including this Chapter and local building, plumbing, and electrical codes.

**Sec. 38-154. Enforcement.**

Failure to obey any provision of this article is an offense under this Chapter.

**ARTICLE IX – ENFORCEMENT**

**Sec. 38-155. Civil remedies.**

Unless otherwise provided in this Chapter, the following provisions apply:

- (a) The City may enforce this Chapter by injunction, declaratory relief, or other action at law or in equity.
- (b) A person who has violated, or continues to violate, any provision of this Chapter is liable to the City for not less than \$1000.00 but no more than \$5000.00 a day for each violation.
- (c) The City may recover expenses and loss or damage to City property as well as all other available relief.
- (d) Filing a suit for civil penalties is not be a bar against, or a prerequisite for, taking any other action against a person.

**Sec. 38-156. Criminal prosecution.**

Unless otherwise provided in this Chapter, the following provisions apply:

- (a) A person who knowingly, intentionally, recklessly, or with criminal negligence violates any provision of this article commits an offense.
- (b) Each occurrence of an offense per a day is a separate offense.
- (c) An offense under this article is a Class C misdemeanor punishable by a fine of up to \$2000.00.
- (d) Filing criminal charges is not a bar against, or a prerequisite for, taking any other action against a person.

**Sec. 38-157. Liability; criminal responsibility.**

A person may be held civilly liable or criminally responsible for a violation of this Chapter if the person:

- (a) commits or assists in the commission of a violation;
- (b) is an authorized representative under this Chapter; or
- (c) is the owner, occupant, tenant, manager, or water customer of premises, property, or a facility that is the source of pollution or contamination of a potable or reclaimed water system in violation of this Chapter.

**Sec. 38-158. Severability.**

If any article, section, subsection, sentence, clause, or phrase of this Chapter is for any reason held to be invalid, illegal, unconstitutional, or unenforceable in any respect, such holding will not affect the validity of the remaining portions of this Chapter.



ORDINANCE NO. 2019-4987

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING THE CITY'S CODE OF ORDINANCES CHAPTER 38, "WATER, SEWERS, AND SEWAGE DISPOSAL" TO BRING THIS CHAPTER INTO COMPLIANCE WITH STATE REGULATIONS, POLICIES, AND PRACTICES, SIMPLIFY AND CLARIFY LANGUAGE AND TERMS, PROVIDE MORE EFFECTIVE ENFORCEMENT TOOLS, AND MAKE NON-SUBSTANTIAL MODIFICATIONS TO THE CITY'S PRETREATMENT ORDINANCE AND PROGRAM; PROVIDING A REPEALER; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, in a continuing effort to review and update the City's Code of Ordinances, Staff recommends amendments to Chapter 38, "Water, Sewers, and Sewage Disposal" that includes general clean-up of the language and changes to formatting - Staff suggests changing the spacing and general formatting of the Chapter to conform with other City Code chapters and correcting minor spelling errors;

**Whereas**, other proposed amendments to Chapter 38, broken down by article, include:

- Article I, Definitions:
  - Moving all Chapter 38 article definitions to the top of the Chapter, with the exception of Article V, Industrial Wastes Standards.
- Article II, Pollution of Water Sources:
  - Establishing restricted zones within a 200-foot radius of raw water intake and prohibiting recreational activities and trespassing within these zones as required by state law.
- Article III, Water and Sanitary Sewer Connection Regulations:
  - Adding City of Temple Public Works Department's (PW) required permit and inspection process for connection to the City's water and wastewater services.
  - Prohibiting private water or sewer systems from being connected to the City's publicly owned treatment works (POTW) without authorization from the City.
- Article IV, Billing and Customer Service:
  - Aligning Article with the Utility Business Office's (UBO) current practices and procedures, including UBO's current billing structure.
  - Providing the UBO additional authority to hold joint owners and spouses occupying a property accountable for delinquent charges.
  - Requiring notice and an opportunity to dispute charges prior to disconnection, except in certain circumstances, such as fraud or utility service diversion.
  - Imposing a trip fee for missed water reconnection appointments.
  - Creating offenses for unlawful use of water and utility service diversion and allowing the City to collect payment for water unlawfully used or diverted and the costs of any City equipment damaged by a person.
- Article V, Industrial Wastes Standards:

- Incorporating TCEQ approved Non-Substantial Modifications into Article V and the City's Pretreatment Program.
  - Article V Amendments:
    - Reallocation - Increasing the current allowable limit of bio-chemical oxygen demand (BOD) to contributing industrial users discharging to the Doshier Farm Wastewater Treatment Plant.
      - Takes “unused” BOD of non-contributing users and enables contributing users to discharge higher limits of these constituents without permit violations.
    - Incorporating chemical oxygen demand (COD) limit as outlined in local limit study from 1991 for industrial users discharging to the Doshier Farm Wastewater Treatment Plant.
  - Pretreatment Program Amendments:
    - Updating industrial user permit templates to incorporate reallocation of BOD and increased COD limit.
    - Updating SOP for assessing local limit for BOD using Contributory Flow Method.
- Article VI, Cross Connection Control:
  - Adding a reference to Chapter 7, Plumbing Code, which would allow double-check assemblies to be used on non-health hazard irrigation systems if proposed Chapter 7 amendments are passed.
    - Double-check assemblies are not permitted on irrigation systems where a health hazard exists; this includes properties serviced by on-site septic systems and those that use chemical injection.
  - Specifying frequency of required backflow assembly testing after installation:
    - Annual testing for irrigation on property serviced by a septic system;
    - Annual testing for all assemblies on commercial property; and
    - Testing every five years for residential irrigation systems on property not served by a septic system.
  - Requiring backflow assembly testing:
    - When the City deems it necessary to protect the health and safety of the public;
    - When required to test under the City's currently adopted plumbing code; and
    - When an irrigation system is installed.
      - Chapter 7 of the City's Code of Ordinances has historically required backflow assembly testing when required by the City's currently adopted plumbing code and when an irrigation system is installed.
  - Clarifying when the City is authorized to perform a customer service inspection in response to changes in occupancy or construction or renovation of a premises.
    - Authorizing the City to perform a customer service inspection:
      - Prior to the certificate of occupancy being issued for a premises; and
      - After a City permit is issued for the premises.
  - Updating civil remedies for violations from a maximum amount a person could be found liable to the City from \$2000 to \$5000 in accordance with Sec. 54.017, Texas Local Gov't Code.

- Article VII, Liquid Waste:
  - Updating civil remedies for violations from a maximum amount a person could be found liable to the City from \$2000 to \$5000 in accordance with Sec. 54.017, Texas Local Gov't Code.
- Article VIII, Water Wells:
  - Removing an outdated permit process for the drilling of water wells located within the City.
  - Establishing a City approval process for the drilling of water wells that works in conjunction with the Clearwater Underground Water Conservation District's permitting and registration standards for the drilling of water wells.
  - Allowing the City to create a policy related to drilling, maintenance, and abandonment of water wells.
- Article IX, Enforcement:
  - Adding a general enforcement article to provide civil remedies and criminal penalties for violations of sections or articles in Chapter 38 that do not provide for specific enforcement tools; 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, THAT:**

**Part 1: Findings.** All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

**Part 2:** The City Council amends the Code of Ordinances Chapter 38, “Water, Sewers, and Sewage Disposal” as outlined in Exhibit ‘A,’ attached hereto and incorporated herein for all purposes.

**Part 3:** All Ordinances or parts of Ordinances in conflict with the provisions of this ordinance are to the extent of such conflict hereby repealed.

**Part 4:** 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 5:** 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:** It is hereby officially found and determined that the meeting at which this Ordinance was 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 **15<sup>th</sup>** day of **August**, 2019.

PASSED AND APPROVED on Second Reading on the **5<sup>th</sup>** day of **September**, 2019.

THE CITY OF TEMPLE, TEXAS

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TIMOTHY A. DAVIS, MAYOR

ATTEST:

APPROVED AS TO FORM:

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Lacy Borgeson  
City Secretary

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Kayla Landeros  
Interim City Attorney





## COUNCIL AGENDA ITEM MEMORANDUM

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09/05/19  
Item # 16  
Regular Agenda  
Page 1 of 1

**DEPT./DIVISION SUBMISSION & REVIEW:**

Lacy Borgeson, City Secretary

**ITEM DESCRIPTION:** Consider adopting a resolution appointing one alternate member to fill an unexpired term through March 1, 2021 to the Building & Standards Commission.

**STAFF RECOMMENDATION:** Adopt resolution as presented in item description.

**ITEM SUMMARY:** In accordance with the City Council adopted policies governing the appointment and training of citizens to City boards, appointments to the above stated boards are to be made with an effective date of September 1, 2019.

Please see the attached board summary forms, which list current board members, purpose, membership requirements, term and meeting time/place for the boards. Also attached is a summary listing of all applications received for board appointments. Individual board application forms on file for these boards have already been provided. New application forms received will be forwarded to the Council as received by the City Secretary.

**FISCAL IMPACT:** N/A

**ATTACHMENTS:**

[Board Summary to be provided](#)  
[Resolution](#)