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Danny Scarbrough, Place 4
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CITY COUNCIL RETREAT – WORKSHOP SESSION AGENDA

Saturday, December 14, 2019

9:00 a.m.

**Manor City Hall – Council Chambers
105 E. Eggleston Street**

**REGARDLESS OF THE TIME LISTED HEREIN, ITEMS MAY BE CONSIDERED BY THE CITY
COUNCIL AT ANY TIME**

CALL TO ORDER AND ANNOUNCE A QUORUM IS PRESENT

PLEDGE OF ALLEGIANCE

PUBLIC COMMENTS

Comments will be taken from the audience on non-agenda related topics for a length of time, not to exceed three (3) minutes per person. Comments on specific agenda items must be made when the item comes before the Council. To address the City Council, please complete the white card and present it to the City Secretary prior to the meeting. **No Action May be Taken by the City Council During Public Comments**

9:00 – 10:30 a.m. DEPARTMENTAL INTRODUCTIONS

10:30 – 11:00 a.m. HOT FUNDS

11:00 - 12:00 p.m. PID vs TIRZ

12:00 – 12:30 p.m. LUNCH

12:30 - 1:30 p.m. TRANSPORTATION PLAN

1:30 – 2:30 p.m. GOALS & VISION

- 2:30 – 3:30 p.m. CITY COUNCIL RULES OF PROCEDURES
- Adoption by Ordinance – Ordinance No. 516
 - Creation of a Council Committee to Review the Rules of Procedures annually
 - Consent Agenda
 - Conflict of Interest
 - Public Hearings
 - Reading of Ordinances

CHARTER REVIEW COMMITTEE / ETHICS COMMISSION

- 3:30 p.m. ADJOURNMENT

In addition to any executive session already listed above, the City Council reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by Texas Government Code Section §551.071 (Consultation with Attorney), §551.072 (Deliberations regarding Real Property), §551.073 (Deliberations regarding Gifts and Donations), §551.074 (Personnel Matters), §551.076 (Deliberations regarding Security Devices) and §551.087 (Deliberations regarding Economic Development Negotiations).

POSTING CERTIFICATION

I, the undersigned authority do hereby certify that this Notice of Meeting was posted on the bulletin board, at the City Hall of the City of Manor, Texas, a place convenient and readily accessible to the general public at all times and said Notice was posted on the following date and time: Tuesday, December 10, 2019, by 5:00 p.m. and remained so posted continuously for at least 72 hours preceding the scheduled time of said meeting.

/s/ Lluvia T. Almaraz, TRMC
City Secretary for the City of Manor, Texas

NOTICE OF ASSISTANCE AT PUBLIC MEETINGS:

The City of Manor is committed to compliance with the Americans with Disabilities Act. Manor City Hall and the Council Chambers are wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary at 512.272.5555 or e-mail lalmaraz@cityofmanor.org.

HOTEL OCCUPANCY TAXES

What are hotel occupancy taxes?

Cities may levy a tax on a person who—under a lease, concession, permit, right of access, license, contract, or agreement—pays for the use or possession or for the right to the use or possession of a room that is in a hotel, costs \$2 or more each day, and is ordinarily used for sleeping.¹⁵³

How much hotel occupancy taxes may a city levy?

Generally speaking, a city may levy a hotel occupancy tax in any amount up to, and including, seven percent of the price paid for the room.¹⁵⁴ Select cities are authorized to levy up to eight-and-a-half or nine percent of the price of the room, so long as a portion of the revenue generated by the increased rate goes toward certain specified projects.¹⁵⁵ The price of the room does not include food and drink.¹⁵⁶

What is the definition of a hotel for purposes of hotel occupancy taxes?

A hotel is defined as a building in which members of the public obtain sleeping accommodations in return for money. It includes motels, lodging houses, inns, rooming houses, and bed and breakfasts.¹⁵⁷ It does not include, and thus no tax is due for, dormitories, hospitals, and nursing homes.¹⁵⁸ In 2015, legislation passed clarifying that the definition of “hotel” includes a residential short-term rental property for purposes of the imposition of hotel occupancy taxes.¹⁵⁹

Is the hotel occupancy tax limited to hotels within the city limits?

Ordinarily yes, except that a city with a population under 35,000 may extend the application of its hotel occupancy tax by ordinance to the extraterritorial jurisdiction (ETJ) of the city.¹⁶⁰

¹⁵³ TEX. TAX CODE § 351.002(a).

¹⁵⁴ TEX. TAX CODE § 351.003.

¹⁵⁵ TEX. TAX CODE §§ 351.003, 351.1055, 351.1065, and 351.107.

¹⁵⁶ TEX. TAX CODE § 351.002(b).

¹⁵⁷ TEX. TAX CODE § 156.001.

¹⁵⁸ TEX. TAX CODE § 156.001.

¹⁵⁹ TEX. TAX CODE § 156.001(b).

¹⁶⁰ TEX. TAX CODE § 351.0025(a).

However, a city under 35,000 population may not apply its hotel occupancy tax in the ETJ if, as a result of the adoption of the city tax, the combined rate of state, county, and city hotel taxes would exceed fifteen percent at hotels in the ETJ.¹⁶¹ Provided the combined tax does not exceed fifteen percent at the time the city levies its tax, the city's tax is unaffected by future taxes levied by counties or other entities that might have the effect of imposing a combined rate in excess of fifteen percent.¹⁶²

A city may extend its hotel occupancy tax to the ETJ by a provision in its hotel occupancy tax ordinance specifying that the tax extends to the ETJ.

How does a city levy a hotel occupancy tax?

A hotel occupancy tax must be levied by ordinance.¹⁶³ No election or other approval of the citizens is required. Sample hotel occupancy tax ordinances can be obtained from the TML Legal Department at (512) 231-7400 or legalinfo@tml.org.

Can a city change the rate of an already-established hotel occupancy tax, and if so, how?

Yes, a city can change the rate to any amount up to, and including, seven percent (with the exception of the few cities that can adopt a higher rate). A city would amend the portion of its hotel occupancy tax ordinance relating to rate in order to change the rate. If a city increases the rate of its hotel occupancy tax, the increased rate does not apply to the tax imposed on the use or possession, or the right to the use or possession, of a room under a contract that was executed before the date the increased rate takes effect and that provides for the payment of the tax at the rate in effect when the contract was executed, unless the contract is subject to change or modification by reason of the tax rate increase.¹⁶⁴

How may hotel occupancy tax revenues be spent by a city?

Hotel occupancy tax revenues are known as “dedicated revenues,” as distinguished from general tax revenues such as property and sales taxes. General revenues may be spent on nearly any lawful pursuit of a city. Dedicated revenues, however, may only be spent on certain, statutorily-defined purposes.

Very generally speaking, all expenditures of city hotel tax revenue must promote tourism within the city. This general rule can be further broken down into two parts (often referred to as the “two-part test”):

- (a) all expenditures must promote tourism and the convention and hotel industry; and

¹⁶¹ TEX. TAX CODE § 351.0025(b).

¹⁶² Op. Tex. Att’y Gen. No. GA-408 (2006).

¹⁶³ TEX. TAX CODE § 351.002(a).

¹⁶⁴ TEX. TAX CODE § 351.007(a).

(b) all expenditures must further fall into one of nine statutory categories:

- (1) the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities and visitor information centers;
- (2) expenses associated with registration of convention delegates;
- (3) advertising, solicitations, and promotions that attract tourists and convention delegates to the city or its vicinity;
- (4) promotion of the arts;
- (5) historical preservation projects;
- (6) sporting events that promote tourism in counties of less than one million population;
- (7) enhancing or upgrading existing sports facilities or sports fields (only in certain cities);
- (8) transportation systems that transport tourists from hotels to the commercial center of the city, a convention center, other hotels, or tourist attractions, provided the system doesn't serve the general public; and
- (9) signage directing the public to sights and attractions that are visited frequently by hotel guests in the city.¹⁶⁵

Further, the Tax Code has some fairly specific provisions relating to how the expenditures within the nine statutory categories should be allocated, depending on the population of the city. Generally speaking, funding of the arts is limited to no more than fifteen percent of total tax revenues, and a certain portion must be spent on promoting the city and/or on convention facilities, again depending on the size of the city.¹⁶⁶

Can a city fund a fireworks show using hotel occupancy taxes?

The prototype hotel tax controversy involves an event like a fireworks show or a parade. City officials frequently ask if they can fund a fireworks show with hotel tax money.

All expenditures must be subjected to the "two-part test" spelled out in the previous question. In the first place, a fireworks show must be shown to promote tourism and the convention and hotel industry. Put another way, does the expenditure "put heads in beds"? The answer is likely not.

¹⁶⁵ TEX. TAX CODE § 351.101.

¹⁶⁶ TEX. TAX CODE § 351.103.

Even if a fireworks show attracted overnight tourists to the city, hotel tax expenditures on such an event don't fit neatly into one of the nine statutory categories. Some may argue that such shows "advertise" the city, but this is likely not what that category means. "Advertising the city" literally means some sort of print or other media that explicitly promotes the city. Thus, direct funding of fireworks displays and the like is usually not a proper hotel tax expenditure.

May a city delegate the expenditure of hotel taxes to another entity?

Yes. A city may delegate expenditures of hotel taxes to another entity such as a chamber of commerce or convention and visitors bureau. So long as the chamber or other entity spends the money on projects that otherwise meet the two-part test mentioned above, such entities are legal agents to spend the city's hotel tax funds. There must be a written contract laying out the duties of the entity, and the entity must keep the hotel tax funds in an account separate from the general operating fund.¹⁶⁷ A sample hotel tax delegation contract with a chamber of commerce is available on the TML website at www.tml.org (go to: Legal – Finance/Economic Development – Example Documents).

What is the relationship between city and state hotel occupancy taxes?

The state collects its own hotel occupancy tax at the rate of six percent.¹⁶⁸ The state plays no part in collecting or enforcing the city's hotel occupancy tax, however. A city is responsible for its own levy, collection, and enforcement.

What can a city do if a hotel is delinquent or refuses to pay hotel occupancy taxes?

Cities have all of the following remedies available against hotels that don't collect the tax or are delinquent in collecting the tax: civil lawsuit, injunction against operation of the hotel until taxes are paid, a fifteen-percent civil penalty against the hotel when suit is necessary (if the tax has been delinquent for one complete municipal fiscal quarter), reasonable attorney's fees, misdemeanor prosecution against the hotel (assuming the city's ordinance provides for an offense), and audit powers.¹⁶⁹ If an audit conducted by the city shows a concurrent delinquency in state hotel occupancy taxes, the city must notify the comptroller of the delinquency, and if the state proceeds with collection and enforcement efforts, the comptroller must distribute an amount to the city to defray the costs of the audit.¹⁷⁰

¹⁶⁷ TEX. TAX CODE § 351.101(c).

¹⁶⁸ TEX. TAX CODE § 156.052.

¹⁶⁹ TEX. TAX CODE § 351.004.

¹⁷⁰ TEX. TAX CODE § 351.008.

Are cities required to annually report hotel occupancy tax information?

Yes. Legislation passed in 2017 that requires cities to annually report hotel occupancy tax information to the comptroller.¹⁷¹ Not later than February 20 of each year, a city that imposes a hotel occupancy tax must submit to the comptroller: (1) the rate of the city's hotel occupancy tax and, if applicable, the rate of the city's hotel occupancy tax supporting a venue project; (2) the amount of revenue collected during the city's preceding fiscal year from the city's hotel occupancy tax and, if applicable, the city's hotel occupancy tax supporting a venue project; and (3) the amount and percentage of hotel occupancy tax revenue allocated by the city for certain categories of expenditure during the city's preceding fiscal year.¹⁷² Cities must comply with the annual reporting requirements by either submitting the report to the comptroller on a form prescribed by the comptroller, or alternatively providing the comptroller a direct link to, or a clear statement describing the location of, the information required to be reported that is posted on the city's website.¹⁷³

What Cities Need to Know to Administer Municipal Hotel Occupancy Taxes

Texas Hotel & Lodging Association

REVISED OCTOBER 2017

Table of Contents

INTRODUCTION	3
AUTHORIZED ENTITIES	3
COLLECTING THE TAX	4
EXEMPTIONS FROM THE LOCAL TAX	5
THLA's Simplified Hotel Occupancy Tax Exemption Rules	8
 HOW THE CITY RECEIVES THE TAX	 10
REIMBURSEMENT OF HOTEL FOR COLLECTION EXPENSES	10
PENALTIES FOR FAILURE TO REPORT OR COLLECT THE TAX	11
ENFORCEMENT AUTHORITY OF A CITY	12
USE OF LOCAL HOTEL OCCUPANCY TAX REVENUES	14
Criteria #1: First, every expenditure must DIRECTLY enhance and promote tourism AND the convention and hotel industry.	14
Criteria #2: Every expenditure of the hotel occupancy tax must clearly fit into one of nine statutorily provided categories for expenditure of local hotel occupancy tax revenues.	16
1) Funding the establishment, improvement, or maintenance of a convention center or visitor information center.	16
2) Paying the administrative costs for facilitating convention registration.	16
3) Paying for advertising, solicitations, and promotions that attract tourists and convention delegates to the city or its vicinity.	17
4) Expenditures that promote the arts.	17
5) Funding historical restoration or preservation programs.	19
6) Funding certain expenses, including promotional expenses, directly related to a sporting event within counties with a population of under 1 million.	19
7) Funding the enhancement or upgrading of existing sports facilities or sports fields for certain municipalities.	20
8) Funding transportation systems for tourists	22
9) Signage directing tourists to sights and attractions that are visited frequently by hotel guests in the municipality.	22
Summary of the Nine Uses for the Local Hotel Occupancy Tax	23
 ADMINISTERING HOTEL OCCUPANCY TAX REVENUE EXPENDITURES	 24
Duty of funded entities to provide a list of activities.	24
Delegating management of funded activities.	24
Use of hotel occupancy tax revenues to cover administrative expenses.	25
 SPECIAL RULES FOR SELECTED MUNICIPALITIES	 26
ADDITIONAL INFORMATION	38
INDEX	39

Introduction

Since the 1960s, hotel occupancy taxes have been an important tool for promoting growth in communities' tourism and hotel industries. Today, over 500 Texas cities levy a local hotel occupancy tax.¹ Hotel guests generate economic activity for local businesses and contribute over \$1 billion in revenues annually for local governments. If a hotel guest is motivated to come to an area or to extend his or her stay due to activities or facilities funded with hotel tax revenues, the local and state economies benefit. In turn, the hotel tax revenues generated from additional room night activity funds future programs and tourism-related facilities, providing an economic engine for prosperity for the area.

Unlike property tax and sales tax revenues, which cities can use for most public purposes, local hotel occupancy tax revenues fall under a more structured statutory mandate. Municipal hotel occupancy taxes are primarily governed by Chapter 351 of the Texas Tax Code. This guide assists local governments, hotel tax revenue grant applicants, and lodging operators in all aspects of the municipal hotel tax process, including the rules on allowable expenditures of these funds by cities that fall within certain population and geographic brackets.

Authorized Entities

All incorporated Texas municipalities, including general law and home rule cities, may enact a hotel occupancy tax within the city limits.² A city with a population of under 35,000 may also adopt the hotel occupancy tax within that city's extraterritorial jurisdiction (ETJ).³ Most cities are eligible to adopt a hotel occupancy tax at a rate of up to 7 percent of the price paid for the use of a hotel room.⁴ Additionally, a city or county may not propose a hotel occupancy tax rate that would result in a combined hotel occupancy tax rate imposed from all sources that would exceed 17 percent of the price paid for the room.⁵ If a city adopts the hotel occupancy tax within its ETJ, the combined state, county, and municipal hotel occupancy tax rate may not exceed 15 percent.⁶ Texas has among the highest combined hotel occupancy tax rates of any major metropolitan areas in the nation, with El Paso at 17 ½ percent, Houston at 17 percent, and San Antonio at 16 ¾ percent.⁷

In addition to local hotel occupancy taxes, all lodging properties operating in Texas are subject to a six percent state hotel occupancy tax.⁸ Governed under Chapter 156 of the Texas Tax Code, the state hotel occupancy tax is administered by the Texas Comptroller. Funds from the state six percent hotel occupancy tax flow directly to the Texas Comptroller's office and are largely used for the general governmental operations of the State. A portion of the state hotel occupancy tax revenue also goes toward funding tourism promotion through Texas's ad campaign. Most Texans know this successful ad campaign by its famous tagline, "Texas, it's like a whole other country."

¹ Texas Hotel & Lodging Association (THLA) maintains a listing of most city and county hotel tax rates, accessible upon request to THLA members.

² Tex. Tax Code Ann. § 351.002(a) (Vernon 2017).

³ § 351.0025(a).

⁴ § 351.003(a).

⁵ Tex. Loc. Gov't Code § 334.254(d). Note that the 17 percent cap does not apply to a city that approved a higher hotel tax through a venue ballot proposition prior to September 1, 2013, such as El Paso.

⁶ § 351.0025(b).

⁷ Source: National Business Travel Association 2009 Survey.

⁸ Tex. Tax Code § 156.051.

Collecting the Tax

Under the Texas Tax Code, the following businesses are considered “hotels” and are required to collect hotel occupancy taxes from their guests: “Any building or buildings in which members of the public obtain sleeping accommodations for consideration” for less than 30 days, including a hotel, motel, tourist home, tourist house, tourist court, lodging house, inn, rooming house, or bed and breakfast facilities.⁹ Additionally, a “short-term rental,” defined as the rental of all or part of a residential property to a person who is not a permanent resident, is subject to hotel occupancy taxes.¹⁰ The Texas Administrative Code also includes “manufactured homes, skid mounted bunk houses, residency inns, condominiums, cabins, and cottages within the definition of a “hotel” if the facility is rented for periods of under 30 days.¹¹ Hospitals, sanitariums, nursing homes, dormitories or other non-hotel housing facilities owned by institutions of higher education, and oilfield portable units do not collect the tax.¹² Subject to various exemptions, the hotel tax is imposed on any “person” who pays for the use of a room in a hotel, including corporations, organizations, and other legal entities. The hotel room must cost \$2 or more per day for the local hotel tax to apply, and \$15 or more per day for the state hotel tax to apply.¹³

Meeting rooms versus sleeping rooms:

The rental of sleeping rooms in hotels is subject to both state and local hotel taxes. However, there is a difference in how state and local hotel taxes apply to the rental of hotel meeting rooms. While the rental of sleeping rooms in hotels are subject to both state and local hotel taxes, meeting room rentals are not subject to local hotel occupancy taxes.¹⁴ The rental of a meeting room or meeting space in a hotel is subject to the state 6 percent hotel occupancy tax, provided the room or space is physically located in a structure that also contains sleeping rooms.¹⁵ For meeting rooms and banquet halls located in a structure that is physically separated from a structure that contains sleeping rooms, neither state nor local hotel occupancy taxes apply to that rental of those meeting rooms or banquet halls, provided rental costs or charges are separately stated from any lodging costs or charges on the guest’s invoice or receipt.¹⁶

However, it must be noted that sales tax may apply to the costs associated with the rental of meeting rooms or banquet halls located in a structure that is physically separated from a structure that contains sleeping rooms, if the lodging facility provides food or beverage service that is subject to sales tax.¹⁷ Such sales tax would apply to the meeting room or banquet hall rental costs or charges regardless of whether the food or beverage charges are separately stated on the guest’s invoice or receipt.¹⁸

Food and beverage and other hotel charges:

Certain charges assessed by a hotel to a guest are subject to hotel occupancy taxes, while other added charges are subject to state and local sales tax. Common hotel charges usually subject to sales taxes (but generally not subject to hotel occupancy taxes) are banquet service fees, food and beverage fees,

⁹ Tex. Tax Code § 156.001(a); 34 Tex. Admin. Code Ann. § 3.161(a)(3) (Vernon 2017).

¹⁰ Tex. Tax Code § 156.001(c).

¹¹ Tex. Tax Code § 156.001(a); 34 Tex. Admin. Code Ann. § 3.161(a)(3) (Vernon 2017).

¹² Tex. Tax Code § 156.001.

¹³ Tex. Tax Code § 156.051(a); § 351.002(a).

¹⁴ *Id.*

¹⁵ Tex. Tax Code § 156.051(a); Tex. Comptroller Opinion Letter No. 200103106L, Mar. 9, 2001.

¹⁶ *Id.*

¹⁷ 34 Tex. Admin. Code Ann. § 3.161(a)(3) (Vernon 2017); Tex. Comptroller Opinion Letter No. 201010556L, Oct. 2010.

¹⁸ *Id.*

movie rentals, dry cleaning/laundry services, internet connection, parking, and portage or bellhop fees.

Hotel charges related to occupancy of a sleeping room or readying a sleeping room for occupancy are usually subject to hotel occupancy taxes only. Common hotel charges subject to hotel occupancy tax are rollaway bed charges, pet charges, smoking fees, room damage fees, room safe charges, and late or early checkout fees.¹⁹ It is important to note that if a hotel offers services as part of a package rate included with lodging, and the price of a specific good or service is not separately stated on a guest's invoice, bill, or folio, the entire package is subject to hotel occupancy taxes.²⁰

Additionally, a special rule applies to whether hotel occupancy taxes are imposed on a hotel room rental cancellation fee. A 1989 Texas Comptroller's hearing concluded that hotel taxes are not due on charges to guests who 1) cancel more than 30 days before the scheduled stay begins, or 2) when the charge to the guest is less than the reserved room rate.²¹ This rule applies both to individual reservations and also to group contracts.²²

Application of local hotel tax rate increases on pre-existing contracts

If a municipality increases its hotel tax rate, the increased tax rate does not apply to a hotel room under a contract that was executed before the date the increased rate takes effect and if the contract provides for payment of the tax at the rate in effect when the contract was executed.²³ This statute does not apply if the contract's terms state that the contract is subject to change or modification from a tax rate increase.²⁴

Exemptions from the Local Tax

Texas law provides certain hotel tax exemptions based on the length of a guest's stay or the guest's affiliation with an exempt organization. Texas law is more permissive for exemptions from the state 6% hotel occupancy tax than it is for local hotel tax exemptions. The state hotel occupancy tax allows for an exemption for the following entities: educational, charitable, and religious entities are often exempt from the state hotel occupancy tax. These entities are *not exempt* from local hotel occupancy taxes.²⁵

Focusing specifically on the local hotel occupancy taxes, there are primarily four categories of exemptions permitted from municipal and county hotel occupancy taxes:

- 1) **Federal Employees:** Federal employees traveling on official business;
- 2) **Diplomats:** Foreign diplomats with a tax exempt card issued by the U.S. Department of State;
- 3) **High Ranking State Officials:** A very limited number of state officials with a hotel tax exemption card (e.g. heads of state agencies, state legislators and legislative staff, members of state boards and commissions, and state judges); and
- 4) **Permanent Resident/Over 30 Day Stay:** Persons or businesses who have agreed in advance

¹⁹ THLA maintains a list of most hotel charges and which tax, if any is assessed on a particular charge. This list is available upon request to THLA members.

²⁰ Tex. Comptroller Opinion Letter No. 200102031L, Feb. 7, 2001.

²¹ Texas Comptroller's Hearing Decision No. 24,654 (1989).

²² *Id.*

²³ Tex. Tax Code § 351.007.

²⁴ *Id.*

²⁵ Tex. Tax Code § 156.102.

to use a hotel room for more than 30 consecutive days (i.e. the “permanent resident” hotel tax exemption).²⁶

Hotel guests claiming items one through three of the above exemptions are required to show appropriate identification and to fill out a “Hotel Occupancy Tax Exemption Certificate” promulgated by the Texas Comptroller.²⁷ The tax exemption certificate form is available on the Texas Comptroller’s website at <http://www.window.state.tx.us/taxinfo/taxforms/12-forms.html>.

Permanent residents (guests who stay for more than 30 days):

Special attention should be paid to the “permanent resident” hotel tax exemption. This permanent resident exemption applies to both state and local hotel taxes, and ensures that hotel guests staying over 30 days are taxed the same as residents staying at extended-stay properties, apartments, corporate rental facilities, rental houses, etc.²⁸ The Texas Tax Code states that any “person” who has the right to use or possess a lodging room for at least 30 consecutive days is exempt from state and local hotel occupancy taxes, provided there is no interruption in payment for the room during this period.²⁹ In Texas, a “person” also includes a corporation or business. Therefore, one should look to whether the same person, corporate entity, business, or other entity paid for the room for that entire period.

If, in advance or upon check-in, the guest provides notice to a hotel of intent to occupy a guest room for 30 days or longer, no tax is due for any part of a guest’s stay. A signed registration card or confirmed reservation indicating a guest’s intent to occupy a room for 30 days or longer is sufficient written evidence.³⁰ Furthermore, the guest is not actually required to physically occupy the room, but the guest must maintain the right to occupy the room for the length of the exemption period.³¹

If no notice is provided upon check-in that can be documented by a written agreement (guest reservation, confirmation, registration, or folio or separate agreement), the first 30 days of the guest’s stay are **not** tax-exempt.³² However, the guest’s stay becomes automatically tax exempt on the 31st day—regardless of whether there was prior notice of the guest’s intent to stay for 30 days or more, as long as there has been no interruption in payment for the room.³³

THLA generally recommends hoteliers collect hotel occupancy taxes from the guest for the first 30 days of the guest’s stay. On the 31st day of the guest’s stay, provided there is no interruption of payment for the room and there was prior written notice or a reservation indicating the guest’s intent to stay 30 days or longer, the hotel should refund the collected hotel occupancy taxes for the first thirty days. This protects the hotel from incurring tax liability should the guest check out before staying at least 30 days. The hotel could choose to not collect the hotel tax during the stay if the guest paid in advance for the entire 30 days and there was no allowance for a refund if the guests checks out early.

State Employees:

Virtually all rank and file state employees do not have a special hotel occupancy tax exemption card that prevents them from having to pay the state and local hotel tax even when they are on official business.

²⁶ Tex. Tax Code § 156.104.

²⁷ *Id.*

²⁸ § 156.101.

²⁹ Tex. Tax Code § 156.101; 34 Tex. Admin. Code § 3.161(a)(4).

³⁰ Tex. Comptroller Opinion Letter No. 200601452L, Jan. 27, 2006.

³¹ 34 Tex. Admin. Code § 3.161(b)(2)(C).

³² § 3.161(b)(2)(A).

³³ *Id.*

Such state employees must pay the state and local hotel occupancy tax when paying their bill and, their employing agency may later apply for a refund from the state and local government tax offices.³⁴ The state agency the employee works for is responsible for requesting this refund from the state and local government.

City and County Employees/Officials:

City and county officers and employees are not exempt from the state or the local hotel occupancy tax, even if the officers or employees are traveling on official business.³⁵ Additionally, cities have no legal authority to authorize additional exemptions from the hotel occupancy tax not recognized in the Tax Code.³⁶ The Attorney General ruled in JM-865 (1988) that cities cannot grant an exception to the hotel occupancy tax for religious, charitable, or educational organizations without new constitutional or statutory authority to do so.

Letters of tax exemption:

The Texas Comptroller maintains an online database of entities that have been granted a “Letter of Tax Exemption” from the state hotel occupancy tax. Most commonly, these organizations fall into the religious or charitable categories of exemption from the state hotel occupancy tax, and the Comptroller generally requires a letter of tax exemption to accompany a completed exemption certificate before an exemption may be granted on this basis. This database is accessible online at <https://comptroller.texas.gov/taxes/hotel/>. It is important to note that many entities are exempt from the state sales tax, but are not exempt from the state or local hotel occupancy tax.

For religious entities with a national affiliation, oftentimes the national organization’s letter of tax exemption will cover individual congregations.³⁷ For example, a search of “Baptist Convention” on the online database reveals that the “NATIONAL BAPTIST CONVENTION OF AMERICA INCORPORATED” holds a letter of tax exemption that will also be valid for subordinate entities. An individual Baptist congregation affiliated with the National Baptist Convention can use the national organization’s letter of tax exemption to accompany the signed exemption certificate.

Finally, the Comptroller’s staff has indicated they are willing to exercise some flexibility for lodging properties that accept a tax exemption certificate in good faith from a qualifying religious entity when the entity may not yet have formally filed for a letter of tax exemption. This, however, should only be relied upon as a last resort, as there is no official report of this position, and auditors are trained to look for definitive documentation. In such a case, check the identification papers (ID, business card, etc.) for the traveler. If the entity fits into one of the exempt categories under the THLA exemption chart, honor the exemption if that entity is paying for the room. Make a copy of the identification item you are relying on, and be sure that all such travelers fill out the exemption certificate.

To simplify the hotel tax exemption issue, THLA publishes a chart a hotel or city official can utilize to determine when an exemption is proper starting on the next page:

³⁴ §3.163(b).

³⁵ See generally Tex. Tax Code § 351.005; Tex. Comptroller Opinion Letter No. 200202815L, Feb. 22, 2002.

³⁶ Tex. Att’y Gen. JM-865 (1988).

³⁷ Tex. Comptroller Opinion Letter No. 200109470L, Sep. 13, 2001.

THLA's Simplified Hotel Occupancy Tax Exemption Rules

TYPE OF BUSINESS REQUESTING EXEMPTION	EXEMPT FROM STATE H.O.T.	EXEMPT FROM LOCAL H.O.T.	COMMENTS
Agricultural Development Corporations	Yes	Yes	Guest must present Texas Comptroller letter of tax exemption, and Guest must fill out tax exemption certificate.
City & County Employees	Not exempt	Not exempt	Local government employees are not exempt from hotel taxes, even when traveling on official business.
Charitable Organizations	Depends (see comments to the right)	Not exempt	Guest must present Texas Comptroller letter of tax exemption, and Guest must fill out tax exemption certificate. Charitable entities must be able to show that they devote all or substantially all of their activities to the alleviation of poverty, disease, pain, and suffering by providing food, clothing, drugs, treatment shelter, or psychological counseling directly to indigent or similarly deserving members of society, with entity funds derived from sources other than fees or charges for its services. Other 501 (c) (3) and 501 (c) (6) entities are not exempt.
Texas Educational Organizations (see comments on the right regarding differences between Texas and out-of-state educational organizations)	Yes	Not exempt	Guest must fill out tax exemption certificate. State law limits the state hotel occupancy tax exemption for higher education entities to only Texas institutions of higher education. Out-of-state higher education entities are not exempt from the state or local hotel tax. However, out-of-state educational entities that are not institutions of higher education (high schools, middle schools, elementary schools, etc.) are exempt from state hotel taxes just like their Texas counterparts.
Electric & Telephone Cooperatives	Yes	Yes	Guest must present Texas Comptroller letter of tax exemption, and Guest must fill out tax exemption certificate.
Federal Credit Unions	Yes	Yes	Guest must fill out tax exemption certificate, and Present a valid ID. Texas Comptroller opinion letters indicate that employees traveling on official business as employees of a federal credit union are treated as federal government employees.
Federal Employees (includes FEMA and Red Cross reimbursed rooms)	Yes	Yes	Guest must fill out tax exemption certificate, and Present a valid ID.
Foreign Diplomats	Yes	Yes	Guest must fill out tax exemption certificate, and Guest must present tax exempt card issued by U.S. Department of State.

TYPE OF BUSINESS REQUESTING EXEMPTION	EXEMPT FROM STATE H.O.T.	EXEMPT FROM LOCAL H.O.T.	COMMENTS
Health Facilities Development Corporations	Yes	Yes	Guest must present Texas Comptroller letter of tax exemption, and Guest must fill out tax exemption certificate.
Housing Authorities & Finance Corporations	Yes	Yes	Guest must present Texas Comptroller letter of tax exemption, and Guest must fill out tax exemption certificate.
Pan American Games Olympic Games Local Organizing Committees	Yes	Yes	Guest must present Texas Comptroller letter of tax exemption, and Guest must fill out tax exemption certificate.
Permanent Residents (30 days or more)	Yes	Yes	Guest must notify of their intent to stay 30 or more days from the beginning. If stay is interrupted, hotel occupancy taxes must be paid. Guests who do not notify the hotel of the anticipated over 30 day duration of their stay are exempt for hotel occupancy taxes beginning on the 31 st consecutive day of their stay.
Public Facility Corporation	Yes	Yes	Guest must present Texas Comptroller letter of tax exemption, and Guest must fill out tax exemption certificate.
Regional Education Service Centers	Yes	Not exempt	Guest must present Texas Comptroller letter of tax exemption, and Guest must fill out tax exemption certificate.
Religious Organizations	Yes	Not exempt	Guest must present Texas Comptroller letter of tax exemption, and Guest must fill out tax exemption certificate.
High Ranking State Officials with Hotel Tax Exemption Photo ID Card	Yes	Yes	Guest must fill out tax exemption certificate, and Guest must present state photo ID card that specifically notes that employee is exempt from hotel occupancy tax. These are heads of state agencies; members of state boards and commissions; state legislators and their staff; and state judges.
General State Employees <u>without</u> Special Hotel Tax Exemption Photo ID Card	Not exempt	Not exempt	Guest must pay the state and local hotel tax, and then their state agency may apply for reimbursement from the local and state governments through a separate process.

How the City Receives the Tax

The hotel occupancy tax is collected from the hotel guest by the hotel when the guest makes payment to the hotel. The tax is then remitted by the hotel to the city on a regular basis, to be established by the city. Although the Texas Comptroller's Office is not directly involved in the collection of the local hotel occupancy tax, cities sometimes use the same reporting timeframes and forms used by the Texas Comptroller for collection of the local hotel occupancy tax. This allows hotels to follow a consistent payment pattern. The Texas Comptroller's timeframes are as follows: Hotels owing less than \$500 in state hotel tax for each calendar month, or \$1,500 for a calendar quarter, report and remit tax on the 20th day of the month following the end of the quarter. All other hotels file monthly state hotel tax returns by the 20th day of the following month. If the 20th day falls on a weekend or bank holiday, the return is due on the next business day.³⁸

Regardless of the reporting period used, cities often require hotels to include a copy of the hotel's state hotel tax report for the Texas Comptroller as part of their report. The state report data may be used to check the local report provided by the hotel to the city. It is important to remember, however, that the amount of taxable revenue will vary to a certain degree between the state and local hotel tax based on the amount of state hotel tax exempt business a property handles that is not exempt from the local hotel tax, and the amount of meeting room rentals subject solely to the state hotel tax.

Reimbursement to a Hotel for Collection Expenses, and Use of Revenues by a City for Tax Collection Costs

By ordinance, a municipality may allow hotel operators to retain up to 1 percent of the amount of hotel occupancy taxes collected as reimbursement for the costs of collecting the tax.³⁹ The municipality may require hotels to forfeit the reimbursement because of a failure to pay the tax or failure to file a report as required by the municipality.⁴⁰

Cities may spend each year not more than the lesser of one-percent or \$75,000 of the city's hotel tax revenues for the actual costs during that year for the creation, maintenance, operation, and administration of an electronic tax administration system.⁴¹ If a city uses hotel tax revenue for such a system, the city must allow the hotels to retain 1% of the hotel tax revenue collected to offset the costs of collecting the tax. A city may contract with a third party for this electronic administration system.⁴² The state statutes do not contain any other provisions allowing city governments to retain any of the collected tax to cover costs of imposing or collecting the tax. A city may not use hotel tax revenue to pay for audits of area hotels.⁴³

However, cities that undertake responsibility for operating a facility or event funded by the local hotel occupancy tax may be reimbursed from the tax revenues for actual expenses incurred in operating the facility or event, if the expenditure directly promotes tourism and local hotel and convention activity.⁴⁴

³⁸ Tex. Comptroller, <http://www.window.state.tx.us/taxinfo/hotel/faqhotel.html>.

³⁹ Tex. Tax Code § 351.005(a).

⁴⁰ § 351.005(b).

⁴¹ § 351.1012.

⁴² *Id.*

⁴³ *Id.*

⁴⁴ § 351.101(e).

Penalties for Failure to Report or Collect the Tax

The local hotel occupancy tax statutes provide for specific penalties a city may assess against hotel operators who fail to file the hotel tax collections report, file late or without full payment, or produce false tax returns.⁴⁵

Interest, delinquency penalties, and attorney's fees:

A city may include a provision in its hotel occupancy tax ordinance that imposes a 15 percent penalty of the total amount of the tax owed, but only if the tax has been delinquent for at least one complete municipal fiscal quarter.⁴⁶ Additionally, a delinquent hotel operator may be liable to the municipality for the municipality's reasonable attorney's fees.⁴⁷ The hotel occupancy tax ordinance may also include a provision that makes it a criminal misdemeanor offense for failure to collect the tax, failure to file a return, filing a false return, or failure to timely make the remittances.⁴⁸

A city may assess interest on unpaid hotel occupancy taxes, with interest accruing from the first day after the date the tax is due to the city.⁴⁹ The maximum interest rate a city may assess is the greater of either, 1) the prime rate published in the Wall Street Journal plus one percent, or 2) the rate the city imposed on January 1, 2013.⁵⁰

Audits, audit costs, and concurrent state tax delinquencies:

Generally, a city may not use hotel occupancy tax revenues to pay for audit costs associated with administrating the collection of hotel occupancy taxes.⁵¹ A city can require a hotel to pay the costs of a city audit of the hotel's revenues if the hotel did not file a tax report as required by the municipality, but only if 1) the hotel is delinquent for at least two complete municipal calendar quarters, and 2) the municipality has not received a disbursement from the Texas Comptroller for the hotel's concurrent state hotel tax delinquency.⁵²

The concurrent state hotel tax delinquency provision in the Tax Code allows cities to receive a commission from the Texas Comptroller if the Comptroller successfully utilizes city audit information to collect delinquent state hotel taxes from the hotel.⁵³ First, a city submits any documentation or other information to the Comptroller that shows a hotel's failure to collect or pay state hotel occupancy tax. The Comptroller then reviews the submitted information and determines whether to proceed with collection and enforcement.⁵⁴ If the information submitted by the city results in the collection of delinquency state hotel occupancy taxes, the Comptroller will remit 20 percent of the revenues collected by the Comptroller to the city, to defray the city's audit costs.⁵⁵

⁴⁵ § 351.004.

⁴⁶ *Id.*

⁴⁷ § 351.004.

⁴⁸ *Id.*

⁴⁹ § 351.0042.

⁵⁰ *Id.*

⁵¹ *See generally* § 351.101(e). The Tax Code contains an exception to the prohibition on using hotel occupancy tax revenues to pay for audit costs specific to the City of Amarillo: Under Tex. Tax Code § 351.1067, the City of Amarillo may use hotel occupancy tax revenues to pay for the costs of auditing a hotel, provided the City audits no more than one-third of the total number of hotels in the city in any fiscal year.

⁵² § 351.004.

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

Alternatively, a city may request hotel occupancy tax audit information from the Texas Comptroller. However, the city must keep such information confidential, and use the information only for enforcement or administration of the city's hotel tax. To obtain such information, a city must make a written request to the Comptroller's Office, Open Records Section, at P.O. Box 13528, Austin, Texas 78711. The request must be on city letterhead and signed by a high-level city official, preferably the mayor. A city may also fax such a written request to the Comptroller's Office, Open Records Section, at (512) 475-1610.

Enforcement Authority of a City

Cities are also given the authority to take the following actions against a hotel operator who fails to report or collect the local hotel occupancy tax:

- require the forfeiture of any revenue the city allowed the hotel operator to retain for its cost of collecting the tax;⁵⁶
- bring a civil suit against the hotel operator for noncompliance;⁵⁷
- ask the district court to enjoin operation of the hotel until the report is filed and/or the tax is paid;⁵⁸ and
- any other remedies provided under Texas law.

The most noteworthy of these remedies is the ability of the city to request that the district court close down the hotel if the hotel occupancy taxes are not turned over. Informing the hotel operator of the possibility of such a closure generally results in compliance by the hotel.

A city may also require in its hotel occupancy tax ordinance that persons buying a hotel retain out of the purchase price an amount sufficient to cover any delinquent hotel occupancy taxes that are due to the city.⁵⁹ If the buyer does not remit this amount or show proof that the hotel is current in remitting its hotel occupancy taxes, the buyer becomes liable for any past delinquent hotel occupancy taxes due on the purchased hotel.⁶⁰

The purchaser of a hotel may request that the city provide a receipt showing that no hotel occupancy tax is due ("Letter of No Tax Due") on the property to be purchased.⁶¹ The city is required to issue the statement not later than the 60th day after the request.⁶² If the city fails to issue the statement by the deadline, the purchaser is released from the obligation to withhold the amount due from the purchase price.⁶³

The general statute of limitations for a lawsuit related to the collection and delinquency of hotel occupancy taxes is four years from the date the tax is due.⁶⁴ This statute of limitations period does not

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ § 351.0041.

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*

apply if a hotel fails to file a report for the tax, or if the hotel files a false or fraudulent report.⁶⁵

⁶⁵ *Id.*

Use of Local Hotel Occupancy Tax Revenues

There is a two-part test for every expenditure of local hotel occupancy tax.⁶⁶

Criteria #1: First, every expenditure must DIRECTLY enhance and promote tourism AND the convention and hotel industry.⁶⁷

Under the Tax Code, every event, program, or facility funded with hotel occupancy tax revenues must be likely to do two things: 1) directly promote tourism; and 2) directly promote the convention and hotel industry.⁶⁸ “Tourism” is defined under Texas law as guiding or managing individuals who are traveling to a different, city, county, state, or country.⁶⁹ A “direct” promotion of the convention and hotel industry has been consistently interpreted by the Texas Attorney General as a program, event, or facility likely to cause increased hotel or convention activity.⁷⁰ This activity may result from hotel or convention guests that are already in town and choose to attend the hotel tax funded facility or arts or historical event, or it may result from individuals who come from another city or county to stay in an area lodging property at least in part to attend the hotel tax funded event or facility.

If the funded event or facility is not reasonably likely to directly enhance tourism and the hotel and convention industry, local hotel occupancy tax revenues cannot legally fund it.⁷¹ However, it is important to note that events and facilities that do not qualify for hotel occupancy tax funding are often still legally eligible for city funding from most of the other funding sources available to the city (general property tax revenues, general sales tax revenues, franchise fee revenues, etc.). State law is stricter in terms of how the local hotel occupancy tax revenues can be spent.

There is no statutory formula for determining the level of impact an event must have to satisfy the requirement to directly promote tourism and hotel and convention activity.⁷² However, communities with successful tourism promotion programs generally award the amount of the hotel occupancy tax by the proportionate impact on tourism and hotel activity incident to the funding request. Entities applying for hotel occupancy tax revenue funding should indicate how they will market the event to attract tourists and hotel guests. If an entity does not adequately market its events to tourists and hotel guests, it is difficult to produce an event or facility that will effectively promote tourism and hotel activity.

A city or delegated entity should also consider whether a funded event will be held in a venue that will likely attract tourists and hotel guests. For example, if an event is held in a local school or community center, it may be less likely to attract tourists than if it is held at a local performing arts venue, museum or civic center. Each community will need to assess whether the facility hosting the function is likely to attract tourists and hotel guests. Similarly, if an event is a community picnic, local parade, educational class, or other similar type of event, it is often not likely to attract tourists and hotel guests, and would likely not be eligible for hotel occupancy tax funding.

⁶⁶ §§ 351.101(a), (b).

⁶⁷ §§ 351.101(b).

⁶⁸ *Id.*

⁶⁹ § 351.001(6).

⁷⁰ See Op. Tex. Att’y Gen. Nos. GA-0124 (2003), JM-690 (1987).

⁷¹ *Id.*

⁷² See generally Tex. Tax Code §§ 351.101(a), (b).

Finally, it is a good practice to utilize a hotel tax application form. THLA has a sample hotel occupancy tax application form and a “post event” form that are already in use by many city governments throughout Texas. For a copy of these two forms, simply call THLA at (512) 474-2996, or email THLA at news@texaslodging.com. These forms pose questions of funding applicants such as “Do you have a hotel room block for your events?,” and “What do you expect to be the number of room nights sold for this event?” Additionally, the application asks if the entity has negotiated a special hotel price for attendees of their funded event. If the entity does not find the need to reserve a hotel block or negotiate a special hotel rate, it is not likely that they anticipate their event/s will have a meaningful impact on hotel activity.

Funded entities can also visit with area hoteliers who, in many cases, can provide feedback on whether any of their hotel guests expressed an interest in attending such events or facilities in the past. Hotel front desk and management staff usually know what local events and facilities were of interest to their guests by notes in their reservation systems, requests for directions, information and transportation to such venues by hotel patrons.

After an applicant’s event or program is offered for several years, the applicant should have a reasonable idea as to whether their event or program’s attendance includes a number of tourists and hotel guests. For example, some entities track whether guests are staying at local hotels via their guest registry. Other entities measure potential out-of-town attendance from their ticket sales records or other survey information.

It is important to note that Texas law also provides that the hotel occupancy tax may not be used for general revenue purposes or general governmental operations of a municipality.⁷³ It also may not be used to pay for governmental expenses that are not directly related to increasing tourism and hotel and convention activity.⁷⁴ For example, consider a request to use the hotel occupancy tax to pay for construction of additional lighting, restrooms, roads, sidewalks, or landscaping in a downtown area. These are expenditures for which the city would traditionally use its general revenues. Therefore, such an expenditure would violate the prohibition against using the hotel tax for “general governmental operations of a municipality.”⁷⁵ It is difficult to argue that such improvements to a non-tourism facility would “directly” promote tourism and hotel activity. At best, one could argue the improvements would “indirectly” enhance tourism and hotel activity—which is not sufficient under the clear language of the Tax Code to qualify for funding from the hotel occupancy tax.

⁷³ Tex. Tax Code § 351.101(b); *see also* Op. Tex. Att’y Gen. Nos. JM-184 (1984), JM-965(1988).

⁷⁴ *Id.*

⁷⁵ *Id.*

Criteria #2: Every expenditure of the hotel occupancy tax must clearly fit into one of nine statutorily provided categories for expenditure of local hotel occupancy tax revenues.⁷⁶

The nine categories for expenditure of the hotel occupancy tax are as follows:

1) Funding the establishment, improvement, or maintenance of a convention center or visitor information center.

This category allows expenditures of the hotel tax for the creation, improvement, or upkeep of a convention center or a visitor information center.⁷⁷ The term “convention center” is defined to include civic centers, auditoriums, exhibition halls, and coliseums that are owned by the city or another governmental entity or that are managed in whole or in part by the city.⁷⁸ It also includes parking areas in the immediate vicinity of a convention center facility, and certain hotels that are owned by the city or another governmental entity, or that are managed in whole or in part by the city.⁷⁹ It does not include facilities that are not of the same general characteristics as the structures listed above.

Texas law specifies that for a facility to be funded as a convention center, it must be a facility primarily used to host conventions and meetings.⁸⁰ “Primarily used” in this context would arguably mean that more than 50 percent of the bookings for the facility are to host conventions or meetings that directly promote tourism and the hotel and convention industry.⁸¹ In other words, holding local resident meetings in a facility would not count toward qualifying the facility as a convention center, but meetings of individuals from out-of-town who in part stay at hotels would qualify.

Simply naming a facility a convention center or visitor information center does not automatically qualify the facility as a “convention center.” The authority to use the hotel occupancy tax for facilities is limited and any such facility must meet the above noted “primary usage” test. For example, general civic buildings such as the city hall, local senior citizen centers or activity centers would not qualify as convention centers that could be funded by hotel tax.

2) Paying the administrative costs for facilitating convention registration.

This provision allows expenditures for administrative costs that are actually incurred for assisting in the registration of convention delegates or attendees.⁸² This is generally an expenditure for larger cities that hold large conventions, and includes covering the personnel costs and costs of materials for the registration of convention delegates or attendees.

⁷⁶ Tex. Tax Code § 351.101(a).

⁷⁷ § 351.101(a)(1).

⁷⁸ § 351.001(2).

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ *Id.*; see generally Tex. Tax Code §§ 351.101(a), (b).

⁸² Tex. Tax Code § 351.101(a)(2).

3) Paying for advertising, solicitations, and promotions that attract tourists and convention delegates to the city or its vicinity.

This provision allows expenditures for solicitations or promotional programs/advertising directly related to attracting tourists and convention delegates to the city or its vicinity.⁸³ Such expenditures are traditionally in the form of internet, newspaper, mail, television, or radio ads; or solicitations to promote an event or facility. The advertising or promotion must directly promote the hotel and convention industry.⁸⁴ For example, the Texas Attorney General ruled that the local hotel occupancy tax may not be used for advertising or other economic development initiatives or improvements to attract new businesses or permanent residents to a city.⁸⁵

In certain cases, a city may be able to use the advertising and promotion category to justify covering the costs of advertising an event that will attract tourists and hotel guests, even though the administrative or facility costs for the underlying event would not qualify for hotel tax funding.⁸⁶

4) Expenditures that promote the arts.

This section authorizes the expenditure of local hotel occupancy tax for a variety of art-related programs that also promote tourism and local hotel and convention activity.⁸⁷ Specifically, it allows funding the encouragement, promotion, improvement, and application of the arts including instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, radio, television, tape and sound recording, and other arts related to the presentation, performance, execution and exhibition of these major art forms.⁸⁸ However, it is not enough that a facility or event promotes the arts; Texas law requires that the arts related expenditure also directly promote tourism and the hotel and convention industry.⁸⁹

Section 351.101(a) of the Tax Code specifically states that “the municipal hotel occupancy tax may be used only to promote tourism and the convention and hotel industry.” The Texas Attorney General reaffirmed this standard when it held in Opinion GA-0124: “Under section 351.101 of the Tax Code, a municipality may expend its municipal hotel occupancy tax revenue only to promote tourism and the convention and hotel industry, and only for the specific uses listed in the statute.”

Additionally, THLA and Texans for the Arts (TFA) have formed a partnership to assist local governments in implementing hotel tax laws. In order to comply with the hotel occupancy tax statute, THLA and TFA agree that to be eligible for municipal arts funding with HOT revenues, recipients must satisfy the following requirements:

1. The recipient presents, performs, promotes, encourages or otherwise makes possible, artistic events, cultural performances, programs, exhibitions or lectures involving the major art forms listed in the statute, or “other arts related to the presentation, performance, execution and

⁸³ § 351.101(a)(3).

⁸⁴ § 351.101(b).

⁸⁵ Op. Tex. Att’y Gen. No. JM-690 (1987).

⁸⁶ See generally Tex. Tax Code § 351.101(a)(3).

⁸⁷ Tex. Tax Code § 351.101(a)(4).

⁸⁸ *Id.*

⁸⁹ § 351.101(b).

exhibition of these major art forms.”

2. The hotel occupancy tax funded programs and events are advertised and open to the general public.
3. The recipient directly enhances and promotes tourism and the convention and hotel industry.

With regard to requirement No. 3 above, THLA and TFA agree that the statute does not require a recipient to demonstrate a set level of direct impact on tourism and the convention and hotel industry to be eligible for hotel occupancy tax revenue funding. **However, the demonstration of some level of direct impact on tourism and the convention and hotel industry should be required.** Because the statute provides no specific methodology for determining a recipient’s impact on tourism or the convention/hotel industry, each funding entity has the flexibility to consider a number of factors.

The following factors may be beneficial to consider, but this list is neither exhaustive nor mandatory. Cities and counties using hotel occupancy tax may consider any or all the below listed factors or other factors that are appropriate for determining a recipient’s impact on tourism and the convention and/or hotel industry in a particular community:

- a. The recipient works with its area lodging operators and/or the convention and visitor’s bureau (CVB), either independently or in conjunction with other local arts organizations, to promote local arts events through hotel concierge services, training of hotel staff, hotel or CVB lobby area exhibitions, flyers or similar measures to better serve visitors to the area and encourage their extended stay in area hotels or a return to stay in area lodging facilities.
- b. The recipient provides entertainment to conventions, conferences and meetings offered in their cities and towns at which attendees are drawn from both in and out of the region.
- c. The recipient uses local hotel and lodging facilities for galas, meetings or other events sponsored by the recipient, including the use of hotel dining facilities by their patrons both pre and post events.
- d. The recipient books hotel rooms for visiting artists and offers hotel related information to attendees of the organization’s hotel occupancy tax funded events.
- e. The recipient promotes or markets its events outside of the local area through standard media promotion or advertising, websites, mailing lists, local, regional and national listings in publications and calendars and use of social media and where appropriate includes a link to information about area hotels.
- f. The recipient produces its events in conjunction with or within the boundaries of a Cultural and Fine Arts District established pursuant to Texas Government Code § 444.031.
- g. The recipient, either through audience or attendee questionnaires, polling, or hotel block booking codes, demonstrates that hotel guests, tourists, convention attendees or other out-of-town visitors have attended its hotel tax funded events.
- h. A performance, exhibition or other event sponsored by the hotel occupancy tax recipient has been reviewed or otherwise noted in a publication that circulates outside of the recipient’s local community, which helps promote tourism and hotel activity in the area.

There are many success stories of cities that have partnered with the arts entities to turn one day arts events into multi-day events that can substantially increase tourism and hotel activity. Such partnerships and long term planning can help both foster the arts and grow hotel tax proceeds that can be made available to the arts.

Additionally, the amount of funding a city allocates to the arts category may be limited by statute. See the “Special Rules” section of this guide, starting on page 24.

Attorney General opinion on arts facilities

In 2017, the Texas Attorney General issued opinion number KP-0131 regarding whether a city can expend hotel tax revenues for an arts-related facility under the arts category of the Tax Code. This opinion was requested by the City of Lakeway regarding funding the construction of a new performing arts center (referred to as “PAC”), to be owned by the City. The City of Lakeway requested an Attorney General opinion on whether the City may legally use hotel occupancy tax revenue to pay for 1) a feasibility study for the PAC, and 2) the construction, operation, and maintenance of the PAC.

In Opinion KP-0131, the Attorney General took a strict position on using local hotel tax revenue for an arts facility. The opinion states that the phrase, “promotion of the arts,” in the state statute does not expressly authorize the use of municipal hotel tax revenues for the construction of arts facilities. The opinion continues, “construction costs of theater facilities, considered alone, are not within the scope” of the arts category of hotel occupancy tax expenditures.⁹⁰ Based on this reasoning, it seems that the Texas Attorney General holds that funding of a physical structure with local hotel tax revenue must be coupled with some other authorized category of hotel tax expenditures aside from “promotion of the arts” alone.

5) Funding historical restoration or preservation programs.

A city may spend a portion of its hotel occupancy tax revenues to enhance historical restoration and preservation projects or activities, or advertising and conducting solicitations and promotional programs to encourage tourists and convention delegates to visit preserved historic sites or museums that are likely to attract tourists and hotel guests.⁹¹ Texas law does not limit such funding to structures that are owned by a public or nonprofit entity, or to whether the project is listed on a historic registry, but the city may choose to impose such limitations.

It is not enough that a project or activity event merely be historical in nature; Texas law requires that the historical related expenditure also directly promote tourism and the hotel and convention industry.⁹² Section 351.101(a) of the Tax Code specifically states that “the municipal hotel occupancy tax may be used only to promote tourism and the convention and hotel industry.” The Attorney General in Opinion GA-0124 (2003) reaffirmed this standard when it held: “Under section 351.101 of the Tax Code, a municipality may expend its municipal hotel occupancy tax revenue “only to promote tourism and the convention and hotel industry” and only for the specific uses listed in the statute.”

Additionally, the amount of funding a city allocates to the historical programs category may be limited by statute. See the “Special Rules” section of this guide, starting on page 24.

6) Funding certain expenses, including promotional expenses, directly related to a sporting event within counties with a population of under 1 million.

⁹⁰ Op. Tex. Att’y Gen. No. KP-0131 (2017).

⁹¹ § 351.101(a)(5).

⁹² § 351.101(b).

This section authorizes a municipality located in a county with a population of under 1 million to use local hotel occupancy tax revenue to fund certain expenses, including promotional expenses, directly related to a sporting event.⁹³ To qualify under this authorization, the sporting event must be one that would “substantially increase economic activity at hotels and motels within the city or its vicinity.”⁹⁴ The statutory authorization also requires that a majority of the participants in the sporting event also be tourists to the area.⁹⁵

This category is intended to allow communities to fund the event costs for sporting tournaments that result in substantial hotel activity. For example, if a city had to pay an application fee to seek a particular sporting event or tournament, it could use hotel tax for such an expenditure if the sporting event would substantially increase economic activity at hotels and the city was within a county of under one million population. The requirement that a majority of the participants must be “tourists” is included in the statutory authority to prohibit the use of local hotel tax for sporting related facilities or events that are purely local (e.g.; local recreation centers, local little league and parks events, intramural sports, etc.).

7) Funding the enhancement or upgrading of existing sports facilities or sports fields for certain municipalities.

Certain statutorily bracketed cities may use local hotel occupancy tax to enhance and upgrade existing sports facilities owned by the municipality.⁹⁶ The municipality must own the sporting facility, and the municipality must meet one of the following population requirements:

- i. The municipality has a population of 80,000 or more, and is located in a county that has a population of 350,000 or less: **Abilene, Amarillo, Beaumont, College Station, Corpus Christi, Killeen, Laredo, League City, Longview, Lubbock, Midland, Odessa, Pearland, San Angelo, Tyler, Waco, and Wichita Falls.**⁹⁷
- ii. The municipality has a population of at least 75,000, but not more than 95,000, and is located in a county that has a population of less than 200,000 but more than 160,000: **Bryan and College Station.**⁹⁸
- iii. The municipality has population of at least 36,000, but not more than 39,000, and is located in a county that has a population of 100,000 or less that is not adjacent to a county with a population of more than two million: **Huntsville and Texarkana.**⁹⁹
- iv. The municipality has a population of at least 13,000 but not more than 39,000, and is located in a county that has a population of at least 200,000: **Addison, Alamo, Alvin, Angleton, Balch Springs, Bellaire, Benbrook, Burleson, Colleyville, Converse, Coppell, Copperas Cove, Corinth, Deer Park, Dickinson, Donna, Duncanville, Farmers Branch, Friendswood, Groves, Hewitt, Highland Village, Horizon City, Harker Heights, Humble, Hurst, Hutto, Katy, La Marque, La Porte, Lake Jackson, Lancaster, Leander, Little Elm, Live Oak, Mercedes, Murphy, Nederland, Port Neches, Portland, Rio Grande City, Rosenberg, Sachse, Saginaw, San Benito, San Juan,**

⁹³ § 351.101(a)(6).

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ § 351.101(a)(7).

⁹⁷ § 351.101(a)(7)(B)(i).

⁹⁸ § 351.101(a)(7)(B)(ii).

⁹⁹ § 351.101(a)(7)(B)(iii).

Schertz, Seagoville, Socorro, South Houston, Southlake, Stafford, Taylor, The Colony, Universal City, University Park, Watauga, Weslaco, West University Place, and White Settlement.¹⁰⁰

- v. The municipality has a population of at least 70,000, but not more than 90,000, and no part of the city is located in a county with a population greater than 150,000: **Longview.**¹⁰¹
- vi. The municipality is located in a county that is adjacent to the Texas-Mexico border, the county has a population of at least 500,000, and the county does not have a municipality with a population greater than 500,000: Cities in Hidalgo County including, but not limited to **McAllen, Edinburg, Mission, and Pharr.**¹⁰²
- vii. The municipality has a population of at least 25,000 but not more than 26,000, and is located in a county that has a population of 90,000 or less: **Greenville and Paris.**¹⁰³
- viii. The municipality is located in a county that has a population of not more than 300,000 and in which a component university of the University of Houston System is located: **Victoria.**¹⁰⁴
- ix. The municipality has a population of at least 40,000 and the San Marcos River flows through the municipality: **San Marcos.**¹⁰⁵
- x. The municipality is intersected by both State Highways 71 and 95: **Bastrop.**¹⁰⁶
- xi. The municipality that has a population of more than 10,000 and contains a portion of Mound Lake: **Brownfield.**¹⁰⁷
- xii. The municipality that has a population of not more than 10,000, that contains an outdoor gear and sporting goods retailer with retailer space larger than 175,000 square feet: **Buda.**¹⁰⁸
- xiii. The municipality that has a population of least 90,000 but less than 120,000 and is located in two counties, at least one of which contains the headwaters of the San Gabriel River, and for a municipality with a population of more than 175,000 but less than 255,000 that is located in two counties, each with a population of less than 200,000: **Georgetown and Denton.**¹⁰⁹
- xiv. The municipality that has a population of at least 6,000 and that is the county seat of a county that borders that State of Louisiana, is bisected by the United States highway, and has a population of 75,000 or less: **Marshall and Carthage.**¹¹⁰
- xv. The municipality has a population of more than 67,000 and is located in two counties with 90 percent of the municipality's territory located in a county with a population of at least 580,000, and the remaining territory located in a county with a population of at least four million: **Missouri City.**¹¹¹
- xvi. The municipality with a population of not more than 1,500 and is located in a county that borders Arkansas and Louisiana: **Queen City.**¹¹²

[Note that statutory population brackets are based on the decennial U.S. Census, most recently conducted in 2010.¹¹³]

Texas law further requires that before local hotel tax to be used for this purpose, the sports facilities and

¹⁰⁰ § 351.101(a)(7)(B)(iv).

¹⁰¹ § 351.101(a)(7)(B)(v).

¹⁰² § 351.101(a)(7)(B)(vi).

¹⁰³ § 351.101(a)(7)(B)(vii).

¹⁰⁴ § 351.101(a)(7)(B)(viii).

¹⁰⁵ § 351.101(a)(7)(B)(ix).

¹⁰⁶ § 351.101(x).

¹⁰⁷ § 351.10711(a)(xi).

¹⁰⁸ § 351.101(o)(xii).

¹⁰⁹ § 351.101(a)(6)(xiii).

¹¹⁰ § 351.1079(a)(xiv).

¹¹¹ § 351.101(a)(6)(xv).

¹¹² § 351.101(n)(xvi).

¹¹³ Tex. Gov't Code Ann. § 311.005(3) (Vernon 2017).

fields must have been used a combined total of more than 10 times for district, state, regional, or national sports tournaments in the preceding calendar year.¹¹⁴

If hotel tax revenues are spent on enhancing or upgrading a sports facility, the municipality must also determine the amount of “area hotel revenue” generated by hotel activity from sports events held at the hotel tax funded facility for five years after the upgrades to the sport facility are completed.¹¹⁵ The area hotel revenues that were generated from sports events at the hotel tax funded facility over that five year period must at least equal the amount of hotel tax that was spent to upgrade the sports facility.¹¹⁶ If the amount of hotel tax that was spent on the facility upgrades exceeds hotel revenue attributable to events held at that facility over that five year period, the municipality must reimburse the hotel occupancy tax revenue fund any such difference from the municipality’s general fund.¹¹⁷

For example, if a city spent \$400,000 on improvements to its soccer fields, it would have to show at least \$400,000 in area hotel revenue directly attributable to events held at that soccer field over the five year period after the soccer field improvements were completed. If the city could only show \$300,000 in hotel industry revenue due to events held at that soccer field, the city would have to reimburse the city hotel tax with the \$100,000 difference from the city’s general fund.

8) Funding transportation systems for tourists

Often with conventions and large meetings, there is a need to transport the attendees to different tourism venues. In 2007, the Texas Legislature authorized the use of city hotel tax for any sized city to cover the costs for transporting tourists from hotels to and near the city to any of the following destinations:

- the commercial center of the city;
- a convention center in the city;
- other hotels in or near the city; and
- tourist attractions in or near the city.¹¹⁸

The reimbursed transportation system must be owned and operated by the city, or privately owned and operated but financed in part by the city.¹¹⁹ For example, this authority could be used to cover the costs of a city to finance certain private shuttles to operate between the convention center and area hotels and attractions for a large city-wide convention. The law specifically prohibits the use of the local hotel tax to cover the costs for a transportation system that serves the general public.¹²⁰

9) Signage directing tourists to sights and attractions that are visited frequently by hotel guests in the municipality.

In 2009, the Texas Legislature added a statutory category that allows cities to use municipal hotel occupancy tax revenue to pay for signage directing tourists to sights and attractions frequently visited by

¹¹⁴ Tex. Tax Code §§ 351.101(a)(7), 351.1076.

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ § 351.110(a).

¹¹⁹ § 351.110(b).

¹²⁰ § 351.110(c).

hotel guests in the municipality.¹²¹ Arguably, this type of expenditure was permissible as “advertising and promotion” prior to this 2009 legislation. However, the Legislature codified this understanding to officially include signage directing tourists to sights and attractions that are frequently visited by hotel guests.¹²²

Summary of the Nine Uses for the Local Hotel Occupancy Tax

In summary, local hotel occupancy tax revenues only may be spent to establish or enhance a convention center or visitor information center, cover the administrative expenses for registering convention delegates, pay for tourism-related advertising and promotions, fund arts programs or facilities that will directly promote tourism and hotel and convention activity, fund historic restoration or preservation projects that will enhance tourism and hotel and convention activity, in certain counties and cities noted above fund certain costs for holding sporting events and making upgrades to sporting facilities that substantially increase local hotel activity, certain transportation costs for taking tourists from hotels to various locations, and pay for signage directing tourists to sights and attractions frequently visited by hotel guests. If the city cannot fit an expenditure within one of these nine categories, hotel occupancy tax revenues cannot be used for that purpose, unless a special state statute was passed to allow such additional uses. This article includes a summary of special provisions and limitations placed on cities that fall into certain population brackets or special geographic areas of the state.

With regard to the use of local hotel occupancy taxes, there is no time limit for a city to expend all of its hotel occupancy tax funds. At a minimum, however, state law does require that for cities with a seven percent local hotel tax rate, at least one-seventh of the hotel tax proceeds must be spent advertising and promoting the city to directly impact tourism and the hotel and convention industry.¹²³ It should also be noted that state law requires that interest earned on hotel tax must be spent in the same way as other hotel tax revenues.¹²⁴ State law does not address revenues that are earned from events funded by the local hotel occupancy tax.

¹²¹ § 351.101(a)(9).

¹²² *Id.*

¹²³ §§ 351.103, 351.1035, 351.104(d), 351.105(b), and 351.106(a).

¹²⁴ §§ 351.001(9), (10).

Administering Hotel Occupancy Tax Revenue Expenditures

City reporting of information to the Texas Comptroller

In 2017, the Texas Legislature passed a statute to require Texas cities to annually report hotel tax rate and spending information the State Comptroller. Specifically, the statute requires the city to report: 1) its municipal hotel tax rate, 2) any applicable venue tax rate, 3) the amount of hotel tax revenue collected for the preceding fiscal year, and 4) the amount and percentage of funds spent on each major category under state law.

The Comptroller will adopt rules to administer this new statute in the second half of 2017. These new rules will include a form for cities to complete when providing the information to the State.

Duty of funded entities to provide a list of activities.

All entities (including the city itself) that are directly or indirectly funded by the local hotel occupancy tax are annually required to provide a list of the scheduled activities, programs, or events that will directly enhance and promote tourism and the convention and hotel industry.¹²⁵ This list is to be provided annually to the city secretary or his/her designee prior to the expenditure of the hotel occupancy tax funding by the funded entity.¹²⁶ An entity may add items to this list at any time, and each city decides the format for providing this information. This documentation requirement does not apply if the entity already provides written information to the city indicating which scheduled activities or events that it offers that directly enhance and promote tourism and the convention and hotel industry. For example, cities that require quarterly or annual reports on the use of hotel tax by hotel tax funded entities would satisfy this requirement if their report addresses the extent to which their events directly promote tourism and hotel activity.¹²⁷

It is important to remember that if an entity does not have any such events or programs reasonably expected to directly promote tourism and the hotel and convention industry, it is not eligible for local hotel occupancy tax funding.¹²⁸ If only a portion of an entity's programs fit these criteria, then only a proportionate amount of that entity's costs should be covered by the local hotel occupancy tax.¹²⁹

Delegating management of funded activities.

The governing body of a city may delegate the management or supervision of programs funded by the hotel occupancy tax by written contract.¹³⁰ This delegation may be made to a person, another governmental entity, or to a private organization.¹³¹ This delegation is often made to a local arts council, a chamber of commerce, or to the convention and visitors bureau. The municipality shall approve the entity's annual budget prior to delegating the management or supervision of hotel tax funded programs.¹³² Furthermore, the municipality shall require the delegated entity to make periodic reports, at least quarterly, listing the hotel occupancy tax expenditures made by the delegated entity.¹³³

¹²⁵ § 351.108(b).

¹²⁶ *Id.*; § 351.108(d).

¹²⁷ § 351.108(g).

¹²⁸ § 351.101(b).

¹²⁹ § 351.101(e).

¹³⁰ § 351.101(c).

¹³¹ *Id.*

¹³² *Id.*

¹³³ *Id.*

Additionally, the Code requires that the contracted entity maintain complete and accurate financial records for every expenditure of hotel occupancy tax revenue, and upon the request of the municipality or another person, make the records available for inspection and review.¹³⁴

An entity with delegated authority to manage hotel tax funded programs undertakes a fiduciary duty with respect to the use of the tax revenue.¹³⁵ Such entities are also required to maintain the city hotel occupancy tax revenue in a separate bank account that may not be commingled with any other account or funds.¹³⁶ The Tax Code does not contain similar prohibitions against commingling the funds for individual organizations, such as an arts or historical group that receives hotel tax funding for their individual program, but do not themselves oversee hotel tax funding to other entities.

Use of hotel occupancy tax revenues to cover administrative expenses.

Texas law allows proceeds of the municipal hotel occupancy tax to be used to cover the portion of administrative costs that are directly attributable to work on activities that may be funded by the tax.¹³⁷ For example, entities that manage activities funded by the hotel occupancy tax may spend some of the tax for certain day-to-day operational expenses.¹³⁸ These expenses may include supplies, salaries, office rental, travel expenses, and other administrative costs.¹³⁹ However, these costs may be reimbursed only if the expenses are incurred in the promotion and servicing of expenditures authorized under the hotel occupancy tax laws.¹⁴⁰ The portion of the administrative costs that are covered should not exceed the percentage of the cost that is attributable to the activity funded by the hotel occupancy tax.¹⁴¹ For example, administrators who spend 33 percent of their time overseeing hotel occupancy tax funded programs should seek funding for no more than 33 percent of their salary or 33 percent of other related overhead costs. Additionally, hotel occupancy tax revenues may be spent on travel that is directly related to the performance of the person's job in an efficient and professional manner.¹⁴² This travel should facilitate the acquisition of skills and knowledge that will promote tourism and the convention and hotel industry.¹⁴³

¹³⁴ § 351.101(d).

¹³⁵ § 351.101(c).

¹³⁶ *Id.*

¹³⁷ § 351.101(e).

¹³⁸ *Id.*

¹³⁹ *Id.*

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² § 351.101(f).

¹⁴³ *Id.*

Special Rules for Selected Municipalities

The Texas Tax Code provides additional rules for certain Texas cities based on the city's population bracket. Where noted, these special rules supplement or further restrict the general two-part test for hotel occupancy tax revenue expenditures, discussed earlier in this guide. For statutory construction purposes, population brackets are based on the decennial federal census, most recently conducted in 2010.¹⁴⁴

Cities with a population of 200,000 or greater (except Houston): Arlington, Austin, Corpus Christi, Dallas, El Paso, Fort Worth, Garland, Irving, Laredo, Lubbock, Plano, and San Antonio.

In addition to the general two part test for all expenditures of the hotel occupancy tax revenue, the above cities have certain specific expenditure limitations that apply to their handling of the local hotel occupancy tax.

Minimum expenditure that must be spent on advertising and promotion:

A city with a population of 200,000 or greater is required to spend at least 50 percent of the hotel occupancy tax collected by the city on advertising and conducting solicitations and promotional programs to attract tourists to the city or its vicinity.¹⁴⁵ However, if the city collects more than \$2 million in hotel tax revenues annually, this 50 percent minimum expenditure requirement does not apply.¹⁴⁶

15 Percent maximum expenditure for the arts and 15 percent maximum expenditure for historical restoration and preservation:

Under § 351.103(c), a city with a population of at least 200,000 may not expend more than the greater of either 15 percent of the hotel occupancy tax revenue collected or the amount of tax received by the city at the rate of 1 percent of the cost of a room on promotion of the arts.¹⁴⁷ Also, a city with a population of more than 125,000 may not spend more than 15 percent of its hotel occupancy tax revenue on historical restoration and preservation programs.¹⁴⁸

Special rules for the City of Houston.

Maximum hotel occupancy tax rate for Houston:

Houston is capped by statute at a total combined hotel occupancy tax rate of 17 percent.¹⁴⁹ This includes the state, city, county, and sports authority hotel occupancy taxes.¹⁵⁰

Minimum 23 percent expenditure for advertising and promotion:

The City of Houston must spend at least 23 percent of the tax revenue it collects on advertising and

¹⁴⁴ Tex. Gov't Code § 311.005(3).

¹⁴⁵ Tex. Tax Code § 351.103(a).

¹⁴⁶ § 351.103(b).

¹⁴⁷ § 351.103(c).

¹⁴⁸ § 351.103(c).

¹⁴⁹ Tex. Tax Code §§ 352.003, 351.003(a); Tex. Local Gov't Code Ann. § 382.155 (Vernon 2017).

¹⁵⁰ *Id.*

promotion, unless the allocation impairs the City's ability to operate and maintain its convention center facilities or to pledge revenue for the payment of convention center bonds.¹⁵¹

Maximum 19.3 percent expenditure for arts:

The City of Houston may not expend more than the greater of 19.3 percent of the hotel occupancy tax revenue collected or the amount of tax received by the city at the rate of 1 percent of the cost of a room on promotion of the arts.¹⁵²

Convention Center Hotel Rebates:

Additional rules for "eligible central municipalities" and certain other cities: Abilene, Amarillo, Austin, Arlington, Cedar Hill, Corpus Christi, Dallas, El Paso, Fort Worth, Frisco, Garland, Grand Prairie, Irving, Katy, Kemah, Laredo, League City, Lewisville, Lubbock, Midland, Nacogdoches, Odessa, Plano, Port Aransas, Roanoke, Round Rock, Rowlett, San Antonio, Sugar Land, and Tyler.

State Tax Rebates:

Eligible central municipalities are entitled to receive a rebate of state hotel occupancy taxes, state sales taxes, and local alcoholic beverage taxes from the eligible project for the first 10 years after the project opens for occupancy.¹⁵³

Ability to pledge hotel tax revenue and other tax revenue for a convention center hotel or a historic hotel:

Eligible central municipalities, the county, or other political subdivision may agree to pledge state and local hotel occupancy tax revenue for the construction or expansion of a convention center hotel, a historic hotel, convention center entertainment related facilities, restaurants, or certain civic projects.¹⁵⁴ However, only the revenue collected from that particular project for a period of up to ten years may be pledged.¹⁵⁵ Additionally, for up to 10 years, an eligible central municipality, a county, or other political subdivision may agree to rebate, refund, or pay eligible tax proceeds to the owner of the hotel project. Eligible tax proceeds include hotel occupancy taxes, ad valorem taxes, sales and use taxes, and mixed beverage taxes.¹⁵⁶

Eligible Cities:

Austin, Arlington, Corpus Christi, Dallas, El Paso, Fort Worth, Frisco, Garland, Grand Prairie, Irving, Nacogdoches, and San Antonio fall under the statutory definition of an "eligible central municipality."¹⁵⁷ An "eligible central municipality" is defined as a municipality with a population of more than 140,000 but less than 1.5 million that is located in a county with a population of one million or more, and that has adopted a capital improvement plan for the expansion of an existing convention center facility; a municipality with a population of 250,000 or more that is located wholly or partly on a barrier island in the Gulf of Mexico, is located in a county with a population of 300,000 or more; a municipality with a population of 116,000 or more that is located in two counties both of which have a population of

¹⁵¹ Tex. Tax Code § 351.103(b).

¹⁵² § 351.103(c).

¹⁵³ §§ 351.102(c), 151.429(h); Gov't Code § 2303.5055.

¹⁵⁴ §§ 351.102, 151.429(h).

¹⁵⁵ *Id.*

¹⁵⁶ *Id.*

¹⁵⁷ § 351.001(7).

660,000 or more; a municipality with a population of less than 50,000 that contains a general academic teaching institution that is not a component of a university system; or a municipality with a population of 640,000 this is located on an international border; and has adopted a capital improvement plan to expand an existing convention center facility.”¹⁵⁸

Amarillo and Plano are both cities with a population of 173,000 or more, and are located within two counties, and also have similar authority as eligible central municipalities.¹⁵⁹ However, Amarillo and Plano may not pledge tax revenue to the hotel project any earlier than either, the 20th anniversary of the date the city first pledged revenue to the project, or the date the revenue project equals 40 percent of the hotel project’s total construction cost.¹⁶⁰

The Cities of Tyler, Round Rock, Midland, and Odessa also share the same eligibility for incentives for a convention center hotel that have traditionally been available to “Eligible Central Municipalities.”¹⁶¹

Additionally, the Cities of Abilene, Cedar Hill, Katy, Kemah, Laredo, League City, Lewisville, Lubbock, Port Aransas, Roanoke, Rowlett, and Sugar Land may use state and local hotel tax revenue and other tax proceeds to construct a convention center hotel. Only the hotel tax revenue generated by the particular convention center hotel can be used to pay for the project. Those cities are entitled to receive a rebate of state hotel occupancy taxes, state sales taxes, and local alcoholic beverage taxes from the eligible project for the first 10 years after the project opens for occupancy.¹⁶² However, in the 2017 Session, the Legislature required that these same cities must enter into an agreement for the development of a convention center hotel before September 1, 2019 in order to qualify for state tax rebates. The Legislature further established that local governments are required to actually use the local hotel tax generated from such a facility for the purpose provided under the statute.

Additional requirement for Lubbock: If the City of Lubbock receives state hotel tax rebates for a convention center hotel, the city must increase the amount it spends on marketing sports events and sports activity by an additional 3% beyond what the city is spending on that purpose under its 2016 FY budget.¹⁶³

Minimum threshold for advertising and promotion funding: Amarillo, Austin, Arlington, Corpus Christi, Dallas, El Paso, Fort Worth, Frisco, Garland, Grand Prairie, Irving, Midland, Odessa, Plano, Round Rock, San Antonio, and Tyler.

Except for Nacogdoches, cities that undertake funding a convention center hotel with hotel occupancy tax revenues must allocate a minimum threshold of funding for advertising and promotion of tourism and hotel activity under § 351.101(a)(3).¹⁶⁴ Specifically, these cities may not allocate hotel tax funding under § 351.101(a)(3) to a percentage that is less than the average percentage of that revenue allocated by the municipality for that purpose during the 36-month period preceding the date the municipality begins using hotel tax revenues for the hotel project.¹⁶⁵

¹⁵⁸ *Id.*

¹⁵⁹ § 351.102(b).

¹⁶⁰ § 351.102(b-1).

¹⁶¹ § 351.102(b).

¹⁶² § 351.1012(e).

¹⁶³ § 351.102(f).

¹⁶⁴ § 351.102(d).

¹⁶⁵ *Id.*

Dallas only: 55% maximum on convention center and 45% minimum on advertising.

Dallas falls into an additional category, “Populous Municipalities with Council-Manager Government,” which requires it to use the revenue derived from the portion of the municipal hotel occupancy tax rate that exceeds 4 percent for the following purposes: 1) no more than 55 percent for the municipality’s convention center complex; and 2) at least 45 percent for advertising and promotion.¹⁶⁶

Additional 2 percent rate for a convention center facility (Austin, Fort Worth, and San Antonio):

Austin, Fort Worth, and San Antonio are authorized to implement up to a 9 percent maximum municipal hotel occupancy tax rate.¹⁶⁷ The revenue derived from application of the tax at a rate more than 7 percent, and its interest income, may only be used for the construction in an expansion of an existing convention center facility.¹⁶⁸ This nine percent maximum rate does not apply to Dallas, or to eligible central municipalities with a population of less than 440,000: Arlington, Corpus Christi, Garland, Grand Prairie, and Irving.¹⁶⁹

Project financing zones (Dallas and Fort Worth):

Additionally, the City of Fort Worth and the City of Dallas have recent statutory authority to receive new “incremental” state hotel occupancy tax revenues, state sales tax revenues, and mixed beverage tax revenues from hotels within a three mile radius of their convention center and/or other statutory designated city facilities.¹⁷⁰ This incremental tax revenue is the additional state hotel occupancy tax revenues, state sales tax revenues, and mixed beverage tax revenues at certain hotels that exceed a base amount collected from hotels within a three-mile radius of the project. The state funding can be used to enhance and upgrade the convention center in either city, as well as the Will Rogers Memorial Center complex in Fort Worth. The process is performed as follows:

1. The city designates the project financing zone (i.e. the convention center and/or the Will Rogers Memorial complex), with a project expiration date of less than 30 years. Within 30 days of the designation of the project financing zone, the city notifies the Comptroller about the designation.
2. Base year amounts are determined for state hotel occupancy tax revenues, state sales tax revenues, and mixed beverage tax revenues collected from hotels located within the three mile zone in the year in which financing zone is designated.
3. Then the “incremental hotel-associated revenue” is calculated by determining the amount of annual state hotel occupancy tax revenues, state sales tax revenues, and mixed beverage tax revenues collected from hotels within the three mile zone that are in excess of the “base year amount.” The city is entitled to receive this incremental revenue from the Texas Comptroller, beginning on January 1st after the project’s designation, and ending when the project financing zone expires.

¹⁶⁶ § 351.106.

¹⁶⁷ § 351.003(b).

¹⁶⁸ §§ 351.1065, 351.003(b).

¹⁶⁹ § 351.003(b).

¹⁷⁰ Tax Code § 351.1015.

Cities with populations between 125,000 and 200,000: Amarillo, Brownsville, Grand Prairie, Killeen, McAllen, McKinney, Mesquite, and Pasadena.

Minimum expenditure on advertising and promotion:

Cities with populations between 125,000 and 200,000 must spend a minimum amount of hotel occupancy tax revenue on advertising and promotion, and that minimum depends on the hotel occupancy tax rate adopted by the city.¹⁷¹ If the city adopts a tax rate of not more than 3 percent, at least one-half of 1 percent of the rate must be spent on advertising and promotion of the city and its vicinity.¹⁷² If the city adopted a rate that exceeds 3 percent, at least 1 percent of the rate must be spent on advertising and promotion of the city and its vicinity.¹⁷³ For example, if a city has a 7 percent hotel occupancy tax rate, at least 1/7 of the hotel occupancy tax proceeds must be spent on advertising and promoting the city and its vicinity to attract tourists and hotel and convention activity. An exception to the minimum threshold for advertising and promotion expenditures is provided if the city receives in excess of \$2 million in hotel tax revenues annually, in which case, the city should allocate its revenue by ordinance.¹⁷⁴

15 Percent maximum expenditure for the arts and 15 percent maximum expenditure for historical restoration and preservation:

Under § 351.103(c), a city with a population between 125,000 and 200,000 may not expend more than the greater of either 15 percent of the hotel occupancy tax revenue collected, or the amount of tax received by the city at the rate of 1 percent of the cost of a room, on promotion of the arts.¹⁷⁵ Additionally, a city with a population of more than 125,000 may not spend more than 15 percent of its hotel occupancy tax revenue on historical restoration and preservation programs.¹⁷⁶

Cities with populations of less than 125,000.

Minimum expenditure on advertising and promotion:

Cities with populations of less than 125,000 must spend a minimum amount of hotel occupancy tax revenue on advertising and promotion, and that minimum depends on the hotel occupancy tax rate adopted by the city.¹⁷⁷ If the city adopts a tax rate of not more than 3 percent, at least one-half of 1 percent of the rate must be spent on advertising and promotion of the city and its vicinity.¹⁷⁸ If the city adopted a rate that exceeds 3 percent, at least 1 percent of the rate must be spent on advertising and promotion of the city and its vicinity.¹⁷⁹ For example, if a city has a 7 percent hotel occupancy tax rate, at least 1/7 of the hotel occupancy tax proceeds must be spent on advertising and promoting the city and its vicinity to attract tourists and hotel and convention activity. An exception to the minimum threshold for advertising and promotion expenditures is provided if the city receives in excess of \$2 million in hotel tax revenues annually, in which case, the city should allocate its revenue by ordinance.¹⁸⁰

¹⁷¹ § 351.103.

¹⁷² *Id.*

¹⁷³ *Id.*

¹⁷⁴ *Id.*

¹⁷⁵ § 351.103(c).

¹⁷⁶ *Id.*

¹⁷⁷ § 351.103.

¹⁷⁸ *Id.*

¹⁷⁹ *Id.*

¹⁸⁰ *Id.*

15 percent maximum expenditure for the arts and 50 percent maximum expenditure for historical restoration and preservation:

Under § 351.103(c), a city with a population of under 125,000 may not expend more than the greater of either 15 percent of the hotel occupancy tax revenue collected or the amount of tax received by the city at the rate of 1 percent of the cost of a room on promotion of the arts.¹⁸¹ Additionally if a city with a population of under 125,000 does not allocate any hotel tax money for a convention center, the Tax Code prohibits the city from allocating more than 50 percent of its hotel occupancy tax for historical restoration or preservation projects.¹⁸²

Additional rules for certain large coastal municipalities: Corpus Christi.

Public beach expenditures:

The City of Corpus Christi is authorized to use all or any portion of the city hotel occupancy tax collected from hotels that are within areas that were annexed by the City of Corpus Christi and were previously subject to the county hotel occupancy tax toward cleaning and maintaining public beaches.¹⁸³

Expenditures from the portion of municipal hotel tax rate exceeding 7 percent:

The City of Corpus Christi must separately account for all hotel occupancy tax revenue it derives from a city hotel occupancy tax rate that exceeds 7 percent (up to a maximum of 9 percent).¹⁸⁴ The city may use revenue from the portion of the city hotel occupancy tax rate that exceeds 7 percent for acquiring land for a municipally owned convention center; constructing, improving, operating and maintaining the convention center; and paying bonds to finance these activities.¹⁸⁵

Special rules for medium sized “eligible coastal municipalities:” Galveston.

A different set of revenue expenditure rules apply for eligible coastal municipalities, defined as a “home-rule municipality that borders the Gulf of Mexico and has a population of less than 80,000.”¹⁸⁶ The City of Galveston fits this bracket’s description. The Tax Code limits the allocation of local hotel occupancy tax revenue for eligible coastal municipalities in the following ways:

- **Minimum expenditure for improvements to civic centers, hotels, marinas, golf courses, trolleys, and other improvements that attract tourists:**

If the city levies a rate of 7 percent, at least 1 percent of the cost of a room shall be used for the payment of bonds issued to establish, acquire, purchase, construct, or improve public improvements that serve the purpose of attracting visitors and tourists, such as parks, civic centers, auditoriums, coliseums, marinas, cruise ship terminals, hotels, motels, parking facilities, golf courses, trolleys or trolley transportation systems.¹⁸⁷ This 1 percent may also be used for

¹⁸¹ *Id.*

¹⁸² *Id.*

¹⁸³ § 351.1055.

¹⁸⁴ §§ 351.1055, 351.003(c), 351.107(e).

¹⁸⁵ *Id.*

¹⁸⁶ § 351.001(3).

¹⁸⁷ § 351.105.

maintenance, improvement, or operation of any of the above facilities.¹⁸⁸ For eligible coastal cities with a 7 percent rate, this requirement mandates dedicating 1/7 of the hotel occupancy tax revenue for items within the above noted purposes.¹⁸⁹

- **Minimum expenditure for matching funds for beach clean-up:**

If the city levies a rate of 6 percent or more, at least 1 percent of the cost of a room shall be used as matching funds for state funds and other funds available to clean and maintain public beaches.¹⁹⁰ For example, if the city levied a 7 percent local hotel occupancy tax, at least 1/7 of the hotel occupancy tax must be spent on beach clean-up. However, a city may credit any funds it receives from the state hotel occupancy tax for beach clean-up toward meeting this obligation.

- **Minimum 1 percent expenditure for other beach related expenditures:**

If the city levies a rate of 5 percent or more, at least 1 percent of the cost of a room shall be used for beach patrol, lifeguard services, marine water safety, and park law enforcement.¹⁹¹ For example, if the city levied a 7 percent local hotel occupancy tax, at least 1/7 of the hotel occupancy tax must be spent on the above noted beach related expenditures. However, a city may credit any funds it receives from the state hotel occupancy tax for beach related expenditures toward meeting this obligation.¹⁹²

- **Minimum 3 percent expenditure for advertising and promotion:**

If the city levies a rate of 4 percent or more, at least 3 percent of the cost of a room shall be used for advertising and promotion.¹⁹³ For example, if the city levied a 7 percent local hotel occupancy tax, at least 3/7 of the hotel occupancy tax must be spent on advertising and promotion.

Special state funding for beach clean-up: Galveston.

In 1995, the Texas Legislature passed a special statute that dedicates the revenue generated from the state hotel tax at a rate of two percent (one third of the state hotel occupancy tax) from Galveston lodging operators to beach clean-up.¹⁹⁴ For example, if the 6 percent state hotel tax generates \$300 in state hotel tax proceeds, \$100 is given back to the City of Galveston to use for clean-up of beaches within the City of Galveston.

The implementing legislation that authorizes this funding only applies to an “eligible coastal municipality” that has created a park board of trustees to clean and maintain public beaches.¹⁹⁵ An eligible coastal municipality is defined under state law to be a city that,

1. Borders on the Gulf of Mexico; and
2. Has a population of less than 80,000.¹⁹⁶

¹⁸⁸ *Id.*

¹⁸⁹ *Id.*

¹⁹⁰ *Id.*

¹⁹¹ *Id.*

¹⁹² *Id.*

¹⁹³ *Id.*

¹⁹⁴ § 156.2511.

¹⁹⁵ *Id.*

¹⁹⁶ § 351.001(3).

A city is eligible to adopt a park board of trustees for beach clean-up only if it,

1. Is a home rule city;
2. Has over 40,000 in population;
3. Is under 80,000 in population; and
4. Borders the Gulf of Mexico.¹⁹⁷

According to the Texas Comptroller's Office, the only Texas city that fits both the definition of an "eligible coastal municipality" and the definition of a city that may adopt a park board of trustees for beach clean-up is Galveston.¹⁹⁸ Accordingly, Galveston receives one-third of the state hotel occupancy taxes collected from Galveston area hoteliers for beach clean-up purposes through a rebate from the Texas Comptroller.

Special state funding for beach clean-up: Corpus Christi, Port Aransas, Quintana, South Padre Island, and Surfside Beach.

Originally enacted in 1999, and amended in 2009, 2013, and 2015, the Texas Legislature passed a special statute, similar to the authority relating to Galveston, dedicating a portion of the state hotel occupancy tax generated from certain eligible barrier island coastal municipalities to beach clean-up.¹⁹⁹

The implementing legislation for this funding applies only to certain eligible "barrier island coastal municipalities:" Corpus Christi, Port Aransas, Quintana, South Padre Island, and Surfside Beach.²⁰⁰ The State of Texas provides a rebate to the city of 2/6 of the state hotel occupancy collected by the State from lodging operators in the municipality.²⁰¹ This rebated amount can be used by each city only to clean and maintain public beaches in that municipality, for an erosion response project in that municipality, and to clean and maintain bay shores owned by the municipality or leased by the municipality from the State.²⁰²

Municipal hotel occupancy tax funding for coastal erosion: South Padre Island.

In 2009, the Texas Legislature amended Chapter 351 of the Tax Code to allow the City of South Padre Island to increase its hotel occupancy tax rate to 8 ½ percent.²⁰³ The law dedicates 7 percent of the 8 ½ percent rate to advertising and promotion or convention center related purposes.²⁰⁴ One percent can be used for any purpose authorized under Tax Code § 351.101. This legislation dedicates the remaining ½ percent of municipal hotel occupancy tax to coastal erosion projects.²⁰⁵

Special rules for medium sized home rule coastal cities with a population of less than 80,000 and that border bays: Ingleside, Portland, Aransas Pass, La Porte, Seabrook,

¹⁹⁷ Tex. Loc. Gov't Code Ch. 306.

¹⁹⁸ Tex. Comptroller Opinion Letter No. 200007471L, July 6, 2000.

¹⁹⁹ Tax Code § 156.2512.

²⁰⁰ *Id.*

²⁰¹ Tax Code § 156.2512

²⁰² *Id.*

²⁰³ Tax Code §§ 351.001(11), 351.003(d).

²⁰⁴ § 351.1055(d).

²⁰⁵ § 351.1055(e).

Port Aransas, Port Lavaca, Rockport, Baytown, Texas City, and Palacios.

Home-rule cities that have a population of less than 80,000 and border bays operate under a unique statute that governs the expenditure of hotel tax revenues.²⁰⁶ These medium sized home rule coastal cities have the ability to use local hotel tax revenue for certain special beach related purposes and for tourism related public improvements, but these cities also have additional limitations on how the city uses hotel tax revenues.²⁰⁷

Under § 351.104(c), a medium sized home rule coastal city may use up to 10 percent of the city's hotel tax revenue for any of the following:

- 1) for a purpose described by Section 351.105(a)(1) or (2);
- 2) to clean and maintain land owned by a governmental entity that is adjacent to a bay that is bordered by the city; or
- 3) to mitigate coastal erosion on land owned by a governmental entity that is adjacent to a bay that is bordered by the city.²⁰⁸

The statutory provision regarding the use hotel tax revenue for a purpose described by Section 351.105(a)(1) or (2) is particularly relevant. This section refers to "tourism related improvements," which includes the establishment, acquisition, purchase, construction, improvement, enlargement, equipment, or repair of public improvements, including parks, civic centers, civic center buildings, auditoriums, exhibition halls, coliseums, marinas, cruise ship terminal facilities, hotels, motels, parking facilities, golf courses, trolley or trolley transportation systems, and other facilities as may be considered advisable in connection with these facilities that serve the purpose of attracting visitors and tourists to the municipality.²⁰⁹

Again, use of hotel tax revenue for these purposes is limited to 10 percent of the city's total hotel tax revenue derived under Chapter 351 of the Tax Code.²¹⁰ Furthermore, the amount that is spent from the hotel occupancy tax for any of the purposes described above must be matched by the city with the same amount of revenue from a source other than the hotel occupancy tax.²¹¹

Additionally, if the medium sized home rule coastal city uses hotel tax revenue for any of the purposes described above (e.g. for a convention center or for a coastal erosion project), the city's advertising and promotion budget may not be set at an amount that is less than the average amount of revenue used by the city for advertising and promoting the city as a tourism destination during the 36-month period that preceded the city's use of city hotel tax for beach maintenance or tourism related public improvements.²¹²

Special rules for small coastal municipalities with a population of less than 5,000,

²⁰⁶ § 351.104.

²⁰⁷ *Id.*

²⁰⁸ § 351.104(c).

²⁰⁹ § 351.105.

²¹⁰ § 351.104(c).

²¹¹ § 351.104(e).

²¹² § 351.104(d).

adjacent to a home-rule city with a population of less than 80,000: Jamaica Beach.

Coastal cities with a population of less than 5,000 adjacent to a home-rule city with a population of less than 80,000 may use all or any portion of the municipal hotel tax revenue it collects to clean or maintain beaches within the city, to provide beach security (defined as beach patrol, lifeguard services, marine water safety and park law enforcement) within the municipality, and to pay for any purpose allowed by Tex. Tax Code § 351.105 or Tex. Gov't Code § 1504.001.²¹³ The maximum municipal hotel occupancy rate for cities in this bracket is 9 percent.²¹⁴

Special rules for the City of Alpine.

Minimum expenditure on advertising and promotion:

The City of Alpine must spend at least 50 percent of its hotel occupancy tax revenue on advertising and promotion to attract tourists and convention delegates or registrants to the city or its vicinity.²¹⁵

Maximum expenditure for arts:

Alpine's maximum percentage for the promotion of the arts is 15 percent of its hotel occupancy tax revenues.²¹⁶

Maximum expenditure for historical restoration and promotion projects:

Alpine's maximum percentage for historical restoration and promotion of historical projects is 15 percent of its hotel occupancy tax revenues.²¹⁷

Special rules for the City of Nassau Bay.

The City of Nassau Bay has special legislation on point that allows that city to use hotel tax revenue for a convention center, marina, visitor center meeting room, or hotel facility that substantially enhances hotel activity in the city.²¹⁸ The facility must be owned by a city and be located within a 1,000 feet of a hotel property.²¹⁹ The total amount spent may not exceed the amount of hotel revenue attributable to events at that facility for the fifteen year period following the construction of the improvement.²²⁰ The City must annually publish a report noting the hotel activity that is generated from activities funded by this expenditure of hotel tax and is subject to a requirement to refund the hotel tax fund from the City's General Fund if the project does not have the required return on investment in hotel activity.²²¹

Special rules for the City of South Padre Island: Spaceport Viewing, Eco-Tourism, and Fishing Piers.

The City of South Padre Island has specific legislation allowing the City to use a limited amount of hotel

²¹³ § 351.1055(c).

²¹⁴ § 351.003(c).

²¹⁵ § 351.1035.

²¹⁶ *Id.*

²¹⁷ *Id.*

²¹⁸ Tax Code §§ 351.101(j), 351.1071.

²¹⁹ *Id.*

²²⁰ *Id.*

²²¹ *Id.*

tax revenue for the promotional and event expenses of an ecological tourism event if the majority of the event's participants are tourists, and if the event substantially increases economic activity at area hotels.²²²

The legislation also allows South Padre Island to expend local hotel tax on expenses related to the improvement of sites for hotel guests to observe spacecraft launches.²²³ If South Padre Island uses hotel occupancy tax revenue for a spaceport viewing facility, the City may not reduce the amount of revenue that is used for advertising and promotion to an amount that is less than the average amount of revenue used by the City for advertising and promotion during the 36-month period that precedes the City's first use of revenue for a spaceport viewing facility.²²⁴

Both of these uses (spaceport viewing facilities and eco-tourism events) are capped to a combined total of no more than 15% of the hotel tax collected by the municipality.²²⁵

The City may also use revenue for expenses directly related to the construction, improvement, equipping, repairing, operation, and maintenance of coastal sports facilities owned by the city, including boat docks, boat ramps, and fishing piers, if the coastal sports facilities have been used in the preceding calendar year a combined total of more than five times for district, state, regional, or national sports tournaments or events and the majority of the events at the coastal sports facilities are directly related to a sports tournament or event in which the majority of participants are tourists who substantially increase economic activity at hotels within or in the vicinity of the municipality.²²⁶

Special rules for the Bryan and College Station: Sports Facilities.

The cities of Bryan and College Station have special legislation that provides authority to use hotel tax revenue for new sporting facilities or fields if the facilities or fields are owned by the municipality, and if a majority of the events at the facility or field are directly related to a sporting event that substantially increases hotel activity.²²⁷ The city may not use hotel tax for the acquisition of the land.²²⁸ The facilities must meet strict requirements for return on investment for the hotel industry: The city may not spend more on the facility or field than will be generated in hotel revenue from sporting events held at that facility over the next five years.²²⁹

The city must publish an annual report of the actual room night and economic impact of events held at the facility or field and must reimburse the hotel tax fund for any deficit between the amount spent on the facility from hotel tax and the amount of hotel revenue generated from events at the facility over the subsequent five years.²³⁰ At least annually, a city must compare the area hotel revenue that is attributable to sporting events at the sporting related facilities. In a situation where the area hotel revenue attributable to the sporting facility is less than the projected amount, the city must create a practical plan to increase revenue.²³¹

²²² Tax Code §§ 351.1054, 351.1055(d).

²²³ *Id.*

²²⁴ *Id.*

²²⁵ *Id.*

²²⁶ § 351.1054(3).

²²⁷ Tax Code §§ 351.101(i), 351.1078.

²²⁸ *Id.*

²²⁹ *Id.*

²³⁰ *Id.*

²³¹ § 351.1078(c).

Special rules for Pecos, Pleasanton, Jourdanton and Dilley: Sports Facilities.

The cities of Pecos, Pleasanton, Jourdanton, and Dilley have special legislation that provides authority to issue bonds payable with hotel tax revenue for certain limited sporting facilities.²³² The sporting facility must have the requisite amount of hotel impact before they are funded, and the city must annually report the room night and economic impact of events held at the facility.²³³ The city may not expend more hotel tax on the facility improvements than will be generated in room night revenue from events held at the facility over a 15 year period, and this must be projected by an independent analyst before hotel taxes are used for this purpose.²³⁴

Special rules for Shenandoah:

Shenandoah may use local hotel tax revenue on a sports-related facility with seating for at least 4,500 people that is used or is planned for use for one or more professional or amateur sports events or other events, including rodeos, livestock shows, and performing arts events.

Special rules for Rockport:

Nearly all Texas cities are capped at using no more than 15 percent of the city's local hotel tax revenue on the arts. In 2017, Rockport obtained statutory authority to spend up to 30 percent of the City's hotel tax revenue on the arts.²³⁵ However, if Rockport spends more than 15 percent of its hotel tax revenue on the arts, the City must determine for that fiscal year the increase in the amount of hotel revenue that is attributable to that expenditure, and the total amount of hotel occupancy tax revenue spent by the city on the arts. If the amount of hotel revenue attributable to the arts is less than the amount of hotel tax revenue spent on the arts, the city shall reimburse the city's hotel occupancy tax revenue fund from the city's general fund an amount equal to 50 percent of the difference.²³⁶

Additionally, if Rockport spends more than 15 percent of its local hotel tax revenue on the arts, the City may not reduce the amount of revenue that is used for advertising and promotion to an amount that is less than the average amount of revenue used by the City for advertising and promotion during the 36-month period preceding that fiscal year.²³⁷

Special rules for Marfa:

Marfa is situated hundreds of miles from the nearest airport with scheduled airline service, yet the city caters to a thriving high-end tourism base that often accesses the area by private flights into the Marfa airport. As the number of private jets ferrying tourists and hotel guests has increased, the small county-owned airport has suffered from a lack of repairs to handle private jet aircraft. Marfa may use local hotel tax revenue to repair its municipal airport facility, subject to a number of restrictions.²³⁸ First, the airport must be one without commercial air service, and the airport must be substantially used for private air service that transports passengers staying at hotels in or near the city.²³⁹ Second, Marfa cannot spend more than 15 percent of its annual hotel tax revenue on airport improvements, nor can Marfa spend hotel tax revenue in an amount that exceeds what is returned in hotel revenue from

²³² Tex. Tax Code § 351.1066.

²³³ *Id.*

²³⁴ *Id.*

²³⁵ § 351.1075.

²³⁶ § 351.1075(c)(2).

²³⁷ § 351.1075(c)(1).

²³⁸ § 351.1036.

²³⁹ § 351.1036.

increased private air passengers staying at Marfa hotels.²⁴⁰ Third, this airport spending authority expires in 2032, and the City cannot expend hotel tax revenue on the airport for more than a ten-year period once initiated.²⁴¹

Additional Information

If a city or funded entity has additional questions about the administration or use of the hotel occupancy tax, it is welcome to contact the Texas Hotel & Lodging Association for assistance by phone at (512) 474-2996. THLA has sample documents available to assist in administering hotel taxes, such as funding grant application forms, post event forms, and tax collection guidelines.

Texas city officials can also make inquiries to the legal staff of the Texas Municipal League at (512) 231-7400. Finally, all entities may make inquiries to the Municipal Affairs Section of the Office of the Attorney General of Texas (OAG). The OAG's Municipal Affairs Division can be reached by phone at (512) 475-4683.

²⁴⁰ § 351.1036.

²⁴¹ § 351.1036.

Index

- Abilene, 20, 27, 28
Addison, 20
Administrative costs, 16, 25
Advertising, solicitations, and promotions that attract tourists and convention delegates to the city, 17
Agricultural Development Corporations, 8
Alamo, 20
Alpine, 35
Alvin, 20
Amarillo, 11, 20, 28, 30
Angleton, 20
Application form, 15
Aransas Pass, 33
Arlington, 26, 27, 29
Arts expenditures, 17
Attorney General. *See* Texas Attorney General's Office
Audits, 11, 12
Austin, 12, 26
Authorized Entities and Procedures, 3
Balch Springs, 20
Barrier island communities, 27, 33
Bastrop, 21
Baytown, 34
Beaches, 31, 32, 35
Beaumont, 20
Bellaire, 20
Benbrook, 20
Brownfield, 21
Brownsville, 20, 30
Bryan, 20, 36
Buda, 21
Burleson, 20
Buying a hotel, 12
Cancellation fees, 5
Carthage, 21
Cedar Hill, 27, 28
Charitable Organization, 8
City and County Employees, 7, 8
Coastal municipalities, 31, 32, 33, 34
Collection schedule, 10
College Station, 20, 36
Colleyville, 20
Comptroller. *See* Texas Comptroller
Contracts, 24
Convention center, 16, 22, 23, 27, 29, 31
Convention Center funding, 16
Convention registration, 16
Converse, 20
Coppell, 20
Copperas Cove, 20
Corinth, 20
Corpus Christi, 20, 26, 27, 29, 31
Dallas, 26, 27, 29
Deer Park, 20
Del Rio, 20
Delegating the Management of Funded Activities, 24
Denton, 21
Dickinson, 20
Dilley, 37
Donna, 20
Dormitories, 4
Duncanville, 20
Edinburg, 21
Educational, Charitable, and Religious entities, 9
El Paso, 3, 26, 27
Eligible Central Municipalities, 27
Eligible Coastal Municipalities, 32, 33
Enforcement Authority of a City, 12
Exemptions from the Tax, 5, 8, 9
Extraterritorial Jurisdiction (ETJ), 3
Farmers Branch, 20
Federal Employees, 5, 8
Fiduciary duty, 25
Food and beverages, 4
Foreign Diplomats, 8
Fort Worth, 26, 27, 29
Friendswood, 20
Frisco, 27
Galveston, 31, 32, 33
Garland, 26
Georgetown, 21
Grand Prairie, 30
Greenville, 21
Groves, 20
Harker Heights, 20
Health Facilities Development Corporations, 9
Hewitt, 20
Highland Village, 20
Historical restoration and preservation, 19, 26, 30, 31
Horizon City, 20
Hospitals, 4
Houston, 3, 26
How the City Receives the Tax, 10
Humble, 20
Hurst, 20
Hutto, 20
Ingleside, 33
Interest on unpaid taxes, 11
Irving, 26
Jamaica Beach, 35
Jourdan, 37
Katy, 20, 27, 28
Kemah, 27, 28
Killeen, 20, 30
La Marque, 20
La Porte, 20, 33
Lake Jackson, 20
Lancaster, 20
Laredo, 20, 26, 27, 28
League City, 20, 27, 28
Leander, 20
Letter of No Tax Due, 12
Letter of tax exemption, 7, 8, 9
Lewisville, 27, 28

- List of activities, 24
- Little Elm, 20
- Live Oak, 20
- Longview, 20, 21
- Lubbock, 20, 26, 27, 28
- Lufkin, 20
- Marfa, 37
- Marshall, 21
- McAllen, 21, 30
- McKinney, 30
- Meeting rooms, 4
- Mercedes, 20
- Mesquite, 30
- Midland, 20, 27, 28
- Mission, 21
- Missouri City, 21
- Murphy, 20
- Nacogdoches, 27, 28
- Nassau Bay, 35
- Nederland, 20
- Nursing homes, 4
- Odessa, 20, 27, 28
- Open Records, 12
- Package rates, 5
- Palacios, 34
- Paris, 21
- Pasadena, 30
- Pearland, 20
- Pecos, 37
- Penalties for Failure to Report or Collect the Tax, 11
- Permanent resident exemption, 6
- Permanent Residents, 9
- Pharr, 21
- Plano, 26, 28
- Pleasanton, 37
- Port Aransas, 27, 28, 33, 34
- Port Lavaca, 34
- Port Neches, 20
- Portland, 20, 33
- Post event form, 15, 38
- Queen City, 21
- Reimbursement of Hotel for Collection Expenses, 10
- Religious entities, 5, 7
- Reporting, 24
- Rio Grande City, 20
- Roanoke, 27, 28
- Rockport, 34, 37
- Rosenberg, 20
- Round Rock, 27, 28
- Rowlett, 28
- Sachse, 20
- Saginaw, 20
- Sales tax, 7
- San Angelo, 20
- San Antonio, 3, 26, 27, 29
- San Benito, 20
- San Juan, 20
- San Marcos, 21
- Sanitariums, 4
- Schertz, 21
- Seabrook, 33
- Seagoville, 21
- Separately stated, 5
- Seven percent local hotel tax rate, 23
- Shenandoah, 37
- Signage, 22, 23
- Simplified, Basic Hotel Occupancy Tax Exemption Rules, 8
- Sleeping rooms, 5
- Socorro, 21
- South Houston, 21
- South Padre Island, 33, 35, 36
- Southlake, 21
- Sporting events, 20
- Sports facilities or sports fields, 20, 21
- Stafford, 21
- State Employees, 6, 9
- State officials, 5
- Statute of limitations, 12
- Sugar Land, 27, 28
- Tax Exemption Certificate, 6
- Taylor, 21
- Texas Attorney General XE "Attorney General" \t "See Texas Attorney General's Office" 's Office, 17
- Texas Attorney General's Office, 7
- Texas Attorney General's Office, 19
- Texas City, 34
- Texas Comptroller's Office, 3, 6, 10, 12, 33
- Texas Educational Organizations, 8
- The Colony, 21
- Transportation systems for tourists, 22
- Tyler, 20, 27, 28
- Universal City, 21
- University Park, 21
- Use of Local Hotel Occupancy Tax Revenues Criteria #2, 16, 23
- Victoria, 21
- Visitor Information Center funding, 16
- Waco, 20
- Watauga, 21
- Weslaco, 21
- West University Place, 21
- White Settlement, 21
- Wichita Falls, 20



 **ORIGINAL**

Public Improvement District (PID) Policy

A Public Improvement District (“PID”) in accordance with Texas Local Government Code Chapter 372, provides the City of Manor (“the City”) an economic development tool that finances the costs of public improvements that benefit a definable part of the City or its ETJ. A PID may be located either within the City’s corporate limits or within its extra-territorial jurisdiction. PIDs allow the costs of public improvements to be borne by those who receive special benefits from the improvements.

The purpose of this PID policy is to outline the policies and procedures the City will use to consider whether creation of a PID, the levy of PID assessments, and issuance of PID bonds is in the best interest of the City. Any aspect not specifically addressed by this policy will be considered on an individual project basis.

The City may, on a case-by-case project basis, waive a requirement of this policy if it does not conflict with state or federal law. Any requirements waived shall be noted in the resolution approving the PID petition, or other relevant document, and must include a finding that the waiver is in the best interest of the City.

Location

The City will consider a petition for formation of a PID within the City’s corporate limits and within its extra-territorial jurisdiction (“the ETJ”). For projects within the ETJ:

1. a development agreement must be entered into prior to the levy of assessments requiring (i) compliance with the City’s development standards, (ii) City building permits, and (iii) easements over City streets to enable the City to collect franchise fees;
2. a maintenance assessment will be required to maintain roads funded by the PID at the City’s standards only if such roads are not maintained to City standards by another public jurisdiction; and
3. a separate services assessment for police and/or fire services may be required if the City determines it is in its best interest unless such services are being provided by another public jurisdiction.

Application Fee and Professional Services Reimbursement Agreement

A non-refundable application fee of \$15,000.00 is required at the time a petition is filed. If the City determines it is in its best interest to establish a PID, a Professional Services Reimbursement Agreement will be entered into with the developer. The Professional Services Reimbursement Agreement will require the developer to initially deposit funds in the amount of \$45,000 (in addition to the amounts already required to pay for the City's costs for staff including the City Attorney, City Engineer and City Planning staff) to pay for third party consultants including, but not limited to, Bond Counsel, Financial Advisor, PID Administrator, Trustee, Underwriter, Appraiser, and Market Study Analysts. An additional \$25,000 deposit will be required to be deposited by the developer when the deposit balance reaches \$10,000. The unused balance will be returned to the developer. The developer may recover the professional fee deposit at bond closing.

Development Standards

The City will consider petitions for PID projects that support real estate developments which confer benefits to the City to a degree that is superior to benefits typically generated by projects that do not involve PID financing.

1. The project must include improvements that enhance the City's master plan, including the City's thoroughfare plan and water and wastewater plans (improvements must exceed current subdivision regulations) and advance the City's trail and park plans.
2. Any improvements that are offsite or are part of the City's master plans must obtain approval from the City Engineer prior to being included in the PID.
3. Preference will be given to high quality projects that exceed the City's subdivision requirements for overall design, building standards and amenities with enhanced landscaping and appealing architecture throughout.
4. Preference will be given to mixed use projects that include a mix of residential and commercial uses.
5. Preference will be given to projects where an average home price is expected to exceed other surrounding new home community pricing by \$65,000.
6. Preference will be given to projects within the ETJ that voluntarily annex into the City's corporate limits.

Collection of Assessments

Prior to the levy of assessments, the City will enter into an agreement with Travis County to include the annual PID installments on the Travis County Tax Bill.

Disclosure to Homeowners

To satisfy disclosure to homeowners, the City will require the petitioner to comply with the following:

1. Landowner's Agreement to be recorded in the Official Public Records of Travis County.
2. Signage at major entryways and exits.
3. Signage and information flyers in any sales centers within the PID that include:
 - a. Frequently Asked Questions
 - b. Total Assessment
 - c. Average Annual Installment
 - d. Equivalent Tax Rate

4. Homebuyer disclosure documents in accordance with Section 5.014 of the Texas Property Code to be signed both at contract signing and at closing with such agreements maintained on file by each homebuilder and available for inspection by the City
5. Developer contracts with homebuilders must require the homebuilder to disclose the PID on any MLS listing.

City Consultants

The City will independently select a Bond Counsel, Financial Advisor, PID Administrator, Trustee and Market Study Analyst. With input by the Developer, the City will select an Underwriter and Appraiser. The City's PID Administrator, in conjunction with the developer's PID Consultant, will draft the Service and Assessment Plan and prepare all annual updates.

Maximum Assessment

The annual PID installment shall be the lesser of a combined tax rate of \$3.26 or a PID rate of \$0.30 per \$100 of assessed value. A true-up calculation will be performed at each bond issuance and upon filing of a final plat to ensure that the maximum assessment is not exceeded, which may result in a mandatory prepayment from the developer.

Assessment Term/Bond Term

The maximum term of a PID assessment is not to exceed 30 years and the assessment term must equal the bond term.

PID Bonds

The following performance standards shall apply to PID bonds:

1. Minimum appraised value to lien ratio of 3:1.
2. All improvements to be funded with PID bonds must be fully engineered and bid. A competitive bidding process with at least three bids will be required.
3. Developer is required to demonstrate committed capital in the form of cash deposit, proof of bank financing and/or equity capital, or letter of credit to the City with an amount confirmed by an engineer's opinion of probable cost, which represents the difference between budgeted cost to complete the public improvements assumed to be complete in the appraisal and the net proceeds of the PID bonds. The form of committed capital (cash deposit, letter of credit or bank/equity commitment) will be determined by the City on a case-by-case basis on advice from its Financial Advisor.

Dissolution Agreement

A dissolution agreement must be entered into at the time the City considers creation of the PID authorizing dissolution of the PID if assessments are not levied within three (3) years after the creation of the PID.

Applicability

This amended PID Policy shall apply to PID applications filed after August 7, 2019.

CITY OF MANOR, TEXAS

By: _____

Rita G. Jonse, Mayor

Date: _____

August 7, 2019

ATTEST:

L. T. Almaraz

Lluvia T. Almaraz, City Secretary





Public Improvement District, Tax Increment Reinvestment Zones, and PIDs with TIRZ Overlay

CITY OF MANOR

Discussion Topics

Introduce City's Team

Overview of Public Improvement Districts

Overview of Tax Increment Reinvestment Zones

Impact on City

Next Steps



City of Manor Team

Chris Lane, City's Financial Advisor – SAMCO Capital Markets

Frank Phalen, City's Engineer – Jay Engineering Company

Paige Saenz, City Attorney – The Knight Law Firm

Jon Snyder, Mary Petty, PID and TRIZ Administrators – P3Works, LLC

PID Definition

A PID is a contiguous area designated by a city or county upon petition of the majority of the landowners (by assessed value and number or area) within which projects or services will be undertaken and paid for solely from special assessments levied based on the special benefit conferred by the projects or services. **The designation of a PID and levy of assessments are discretionary, legislative functions.**

PID Purpose

Public Improvement Districts (“PIDs”) provide a development tool that allocates costs according to the benefits received. A PID can provide a means to fund supplemental services and improvements to meet community needs which could not otherwise be constructed or provided and be paid by those who most benefit from them.

PID Authority

The statute authorizing the creation of PIDs is found in Chapter 372 of the Local Government Code.

The public improvements district may be formed to accomplish any of the following improvements:

1. Water, wastewater, health, and sanitation, or drainage improvements (including acquisition, construction, or improvements of water, wastewater or drainage improvements);
2. Street and sidewalk improvements (acquiring, constructing, improving, widening, narrowing, closing or rerouting sidewalks, streets or any other roadways or their rights-of-way);
3. Mass transit improvements (acquisition, construction, improvement or rerouting of mass transportation facilities);

PID Authority (cont'd)

4. Parking improvements (acquisition, construction or improvement of off-street parking facilities);
5. Library improvements (acquisition, construction or improvement of libraries);
6. Park, recreation and cultural improvements (the established or improvement of parks);
7. Landscaping and other aesthetic improvements (erection of fountains, distinctive lighting and signs);
8. Art installation (acquisition and installation of pieces of art);
9. Creation of pedestrian malls (construction or improvement of pedestrian malls);
10. Similar improvements (projects similar to those listed above);
11. Supplemental safety services for the improvement of the district, including public safety and security services; or
12. Supplemental business-related services for the improvement of the district, including advertising and business recruitment and development.

When to Consider a PID

- ❖ Extend public infrastructure without burdening rate payers and tax payers.
- ❖ Forward the City's Comprehensive Plan, Thoroughfare Plan and Parks Plan.
- ❖ Achieve amenities that “but for” the PID would not be possible.
- ❖ Establish high development standards that “but for” the PID may not be financially achievable.
- ❖ Grow the City's tax base consistent with adopted plans without obligating City revenues (TIF, 380 Agreements, etc,).

Financing the Improvements

A Municipality may create a PID in which the City issues “up-front” non-recourse debt to pay for eligible public improvements.

Or...

A Municipality may create a PID in which the assessments are assigned to reimburse the developer for eligible public improvements as the assessments are collected.

PID Assessment Financial Parameters

- ❖ Loan to Value Ratio 3 : 1

e.g. \$15 million developed value (neighborhood area) = \$5 million loan

- ❖ PID Assessment + all entities tax levy \leq \$3.20/\$100

City of Manor	\$.7722
Travis County	\$.3690
Manor ISD	\$ 1.5150
<u>Travis County ESD #12</u>	<u>\$.100</u>
Total	\$2.9656
Remaining Capacity	\$.234

Financial Implications for the City

PID debt is non-recourse to the City. The bonds are backed only by the assessments on property within the PID.

All City costs incurred as a result of creating the PID (staff, legal, consultants, engineers, etc.) are being paid by the developer via a cash escrow deposit with the City and are ultimately reimbursable from bond proceeds when the bonds sell.

The issuance of PID debt by the City does not reduce the City's bonding capacity.

The City keeps all of its advalorem and sales tax revenues.

Ongoing administrative requirements are contracted to a third party, answering to the City, which is paid for by PID assessments.

The City will employ the services of Bond Counsel, Financial Advisor, City Attorney, City PID Consultant, Professional Appraisal Firm and PID Administrator. All costs are reimbursed from PID bond proceeds or developer agreement.

Property Owner Impact

All property owners within the PID boundaries will pay an annual assessment.

The assessment can never change once adopted by Council without consent of homeowners.

Assessments may be prepaid.

Undeveloped land is assessed and paid by developer (owner).

City is legally obligated to foreclose on unpaid assessments, so reserve funds are established for that purpose.

Assessment will be the same for every lot as established in the Service and Assessment Plan.

The total tax burden of all entities, including the PID assessment should not exceed approximately \$3.20 (In Manor, that means approximately \$.2344 will be available)

The assessment will expire in 30 years following payment of the debt and the assessment will end.

Property owners are assessed only for costs which confer a special benefit to the property.

PID Process

- Introduction of PID to City
- Submittal of a PID Petition by developer
- Submittal of a Preliminary Service and Assessment Plan (SAP) for Council review
- City Council Accepts PID Petition
- Property Appraisal paid by Developer, approved by City
- Public Hearing to Approve Creation of PID
- Preparation of revised Service and Assessment Plan (SAP) as necessary
- Initiate Preparation of Bond Documentation
- Public Hearing to Approve SAP and Levy Assessments
- City Council Review and Approval of Bond Issue
- Sell Bonds
- Initiate Construction of infrastructure improvements

PID Summary



- ❖ A PID is an economic development tool that enables an assessment to be placed on property which is used to fund/reimburse capital costs to facilitate higher quality projects with better and more amenities than would have been constructed otherwise
- ❖ The City creates the PID, levies the assessments on the property, issues debt, collects cash assessments to pay bondholders, and forecloses on property for non-payment, if necessary
- ❖ The PID assessments are usually collected on the ad valorem property tax bill of the landowners that are benefitting from the “special nature” of the project – no financial cost or liability to City or non-PID properties
- ❖ Unlike property taxes, PID assessment/lien can be prepaid at anytime
- ❖ PID assessment/lien are subordinate only to governmental ad valorem taxes
- ❖ PID “Special and Limited Revenue Debt” does not pledge or encumber any City funds or assets, but the City is responsible for administration and SEC reporting
- ❖ The City is responsible for reviewing and disclosing the impact on Citizens, PID landowners, PID Bond investors and consider the impact on other developers

Tax Increment Reinvestment Zones

TIRZ Definition

Chapter 311 of the Texas Local Government Code:

The governing body of a municipality by ordinance may designate a contiguous or noncontiguous geographic area that is in the corporate limits of the municipality, in the extraterritorial jurisdiction of the municipality, or in both to be a reinvestment zone to promote development or redevelopment of the area if the governing body determines that development or redevelopment would not occur solely through private investment in the reasonably foreseeable future.

TIRZ Purpose

Tax increment financing is a tool that local governments can use to publicly finance needed improvements to infrastructure and buildings within a designated area known as a reinvestment zone.

The cost of improvements to the reinvestment zone is repaid by the future tax revenues of each taxing unit that levies taxes against the property. Each taxing unit can choose to dedicate all, a portion of, or none of the tax revenue gained as a result of improvements within the reinvestment zone.

Why to Consider the use of a TIRZ?

- ❖ A widely used economic development tool that allocates revenues for public improvement projects with **NO NEW TAXES**.
- ❖ Public Improvements are paid for over time by allocating a portion of the revenues generated from new development
- ❖ 100% controlled by the local taxing entities via the TIRZ Board (representatives from all taxing entities provided for)
- ❖ No up-front costs
- ❖ No reduction of dollars collected today

Why Consider the use of a TIRZ?

- ❖ Substantial areas are open or undeveloped land in which the sound growth and development of the area has been impaired
- ❖ Need for major public improvements to support sound growth and development
- ❖ Lack of capital or debt funding to pay the infrastructure costs up front
- ❖ Regional benefits that exceed the benefits realized within the boundaries of the area
- ❖ The area would not develop on its own in the foreseeable future due to the lack of public improvements
- ❖ Allows other local taxing entities (not including ISDs) to participate at their own discretion



How it works...(an example)

Property A is valued on December 31, 2015 at \$1,000,000.

The appraised value for 2016 goes up 3% making the property value \$1,030,000.

The new tax increment is the taxes collected on the \$30,000, 50% to the City, 50% to the TIRZ Fund. (The original tax revenues on the \$1,000,000 remain with the City.)

The new tax increment reverts to the Taxing Entities at the end of the TIRZ term(s).

OR

Property A is vacant and valued at \$100,000.

Property A is improved upon with improvements valued at \$1,000,000 making the new property value \$1,100,000.

The new tax increment is the tax collected on the \$1,000,000 in new improvements, 50% to the City, 50% to the TIRZ Fund. (The original tax revenues on the \$100,000 remain with the City.)

BPP tax revenue remains with the Taxing Entity 100% and is not dedicated to the TIRZ.

The new tax increment reverts to the Taxing Entities at the end of the TIRZ term(s).

How it works...

City Council establishes boundaries and project list cost estimates

Other Taxing Entities provide input and level of participation anticipated

TIRZ is created, TIRZ board refines Project Plan

Participation Agreements are finalized

Revenues are used to begin projects; developers participate at Pro Rata share

Future projects are constructed as funds are available in the TIRZ Fund

New revenues from new development deposited into TIRZ Fund, TIRZ board authorizes subsequent project from the Final Project Plan

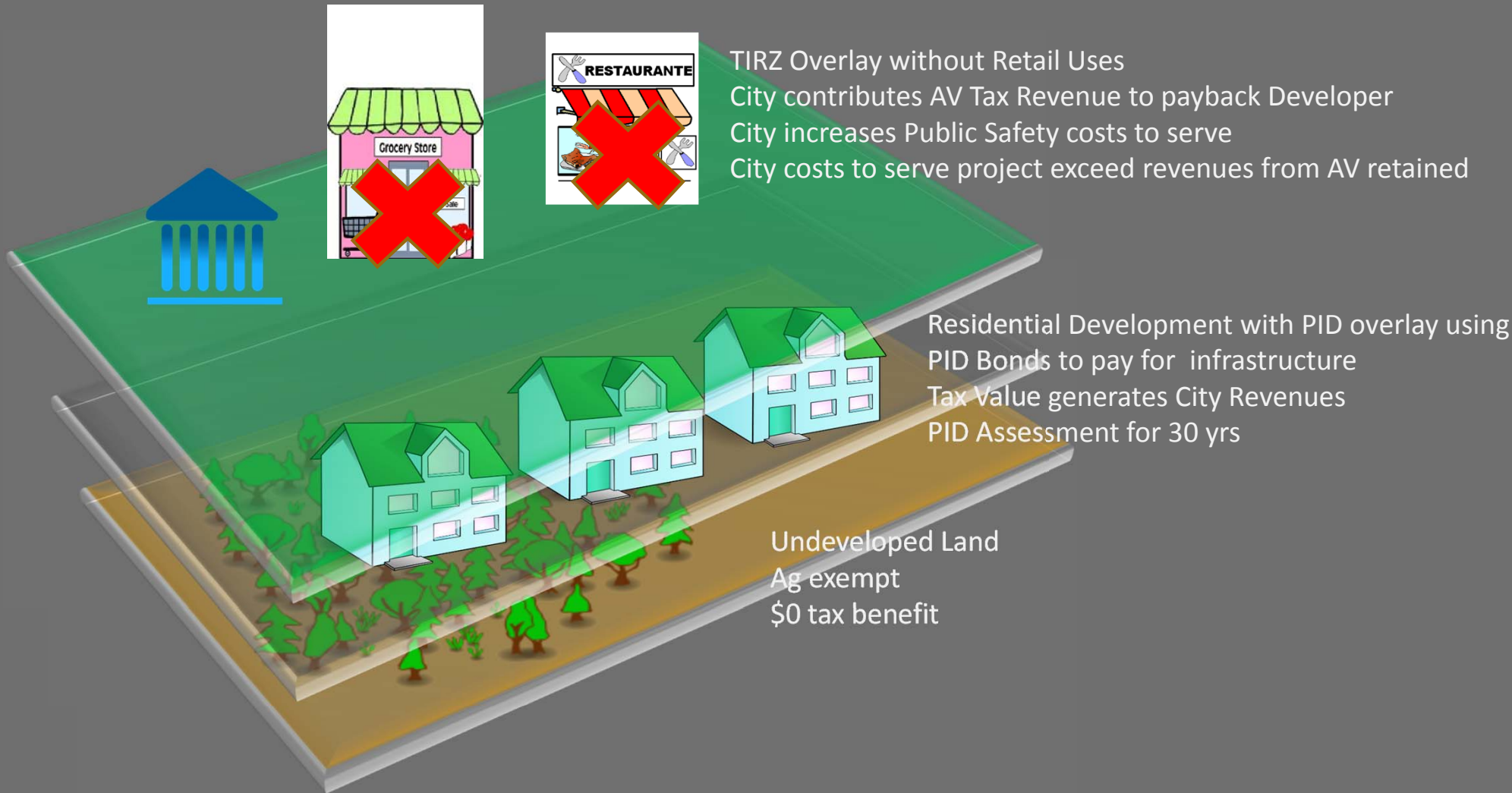
TIRZ Financing Consideration

- ❖ What is the impact to the City's cost to serve?
 - Analysis on a case by case basis considering uses, population and sales tax revenues

- ❖ What is the impact to the rate payer?
 - Analysis on the impact to facilities, revenues, capacity

- ❖ What does the City expect in return for the incentives granted?
 - Increased AV values?
 - Newly accessed undeveloped properties?
 - New infrastructure
 - New population increases

Tax District Overlay Progression



TIRZ Process

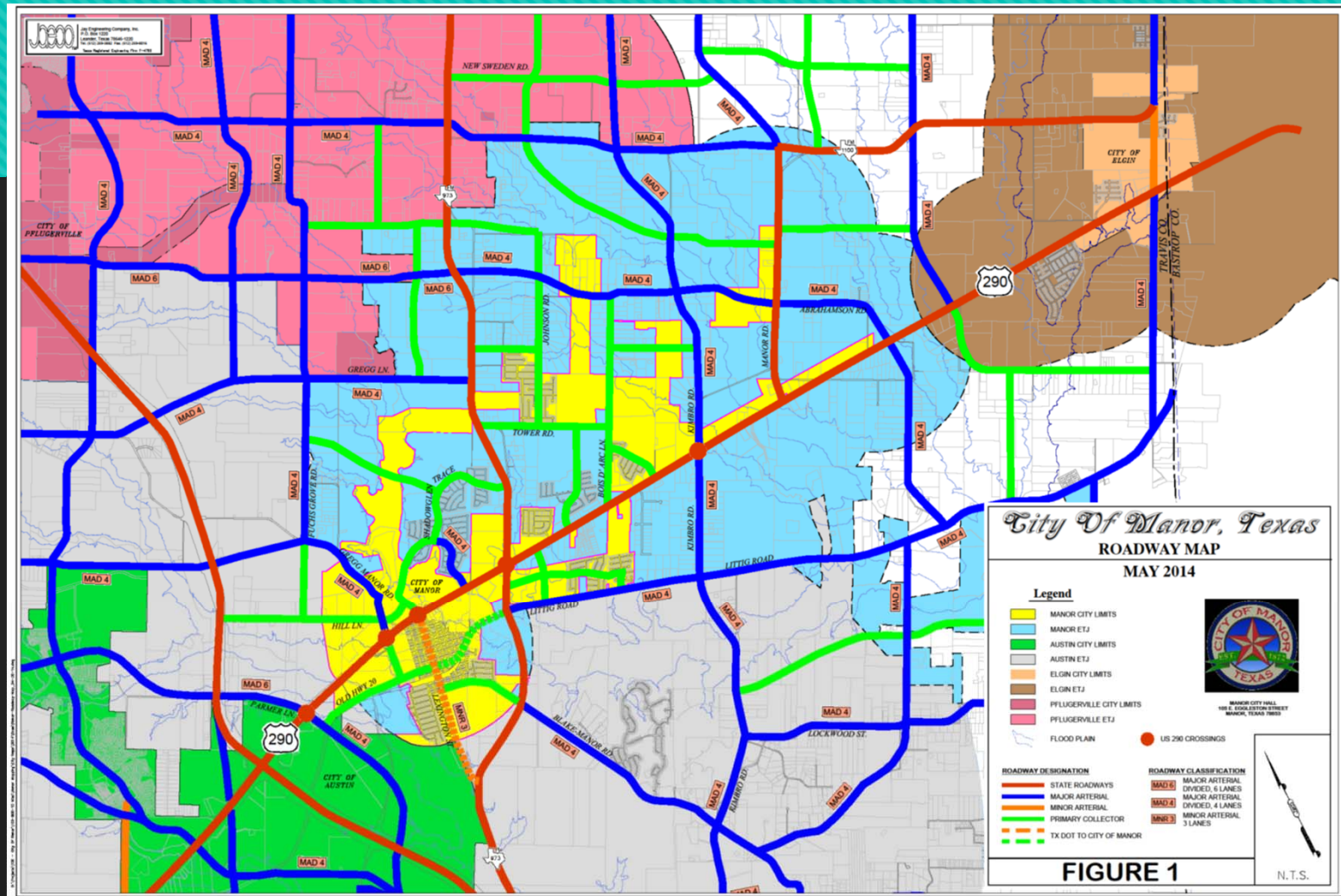
1. Council establishes TIRZ boundary
2. Council appoints TIRZ board
3. TIRZ board submits Project and Finance Plan for Council Approval
4. Taxing entities (NI school) decides if and how much to participate
5. Development produces TIRZ revenues based on entities participation
6. TIRZ expenses are paid out as revenues are received
7. Advalorem AND Sales Tax may be dedicated to the TIRZ Projects
8. TIRZ revenues may be used to “pay down” PID Assessments annually based on available \$

Questions?

CITY OF MANOR SELECTED INFRASTRUCTURE OVERVIEW

- TRANSPORTATION PLAN
- ROADWAY SECTIONS
- HIKE AND BIKE TRAILS PLAN
- WASTEWATER PROJECTS
- WATER PROJECTS
- STREETS
- COMMUNITY IMPACT FEE PROGRAM

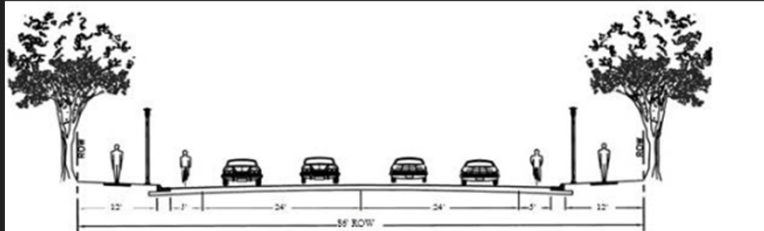
TRANSPORTATION MASTER PLAN



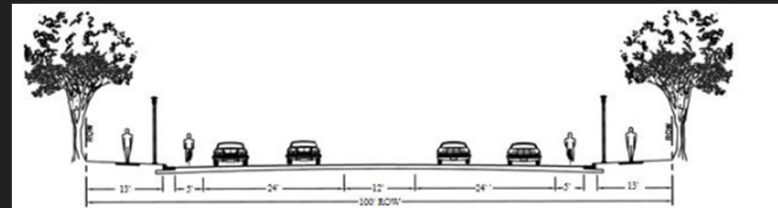
ROADWAY SECTIONS

Street	Type	Lanes	Abbreviation	ROW Width	Pavement Width
Major Arterial	Undivided	4	MAU 4	86 feet	62 feet
Major Arterial	Undivided	5	MAU 5	100 feet	74 feet
Major Arterial	Divided	4	MAD 4	114 feet	66 feet
Major Arterial	Divided	6	MAD 6	140 feet	90 feet

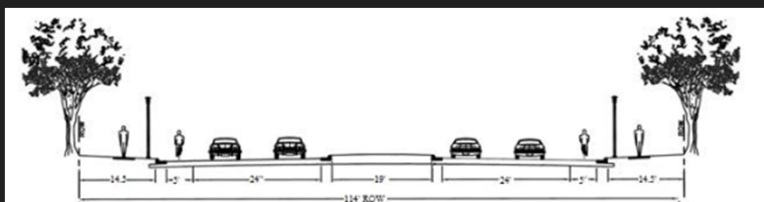
ROADWAY SECTIONS



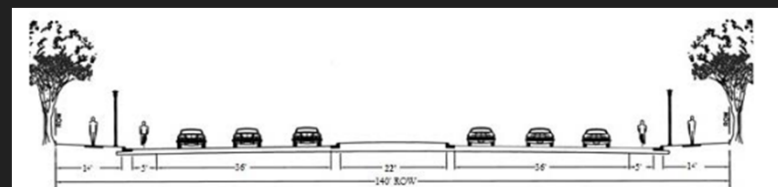
MAJOR ARTERIAL, UNDIVIDED, 4 LANES (MAU 4)



MAJOR ARTERIAL, UNDIVIDED, 5 LANES (MAU 5)



MAJOR ARTERIAL, DIVIDED, 4 LANES (MAD 4)

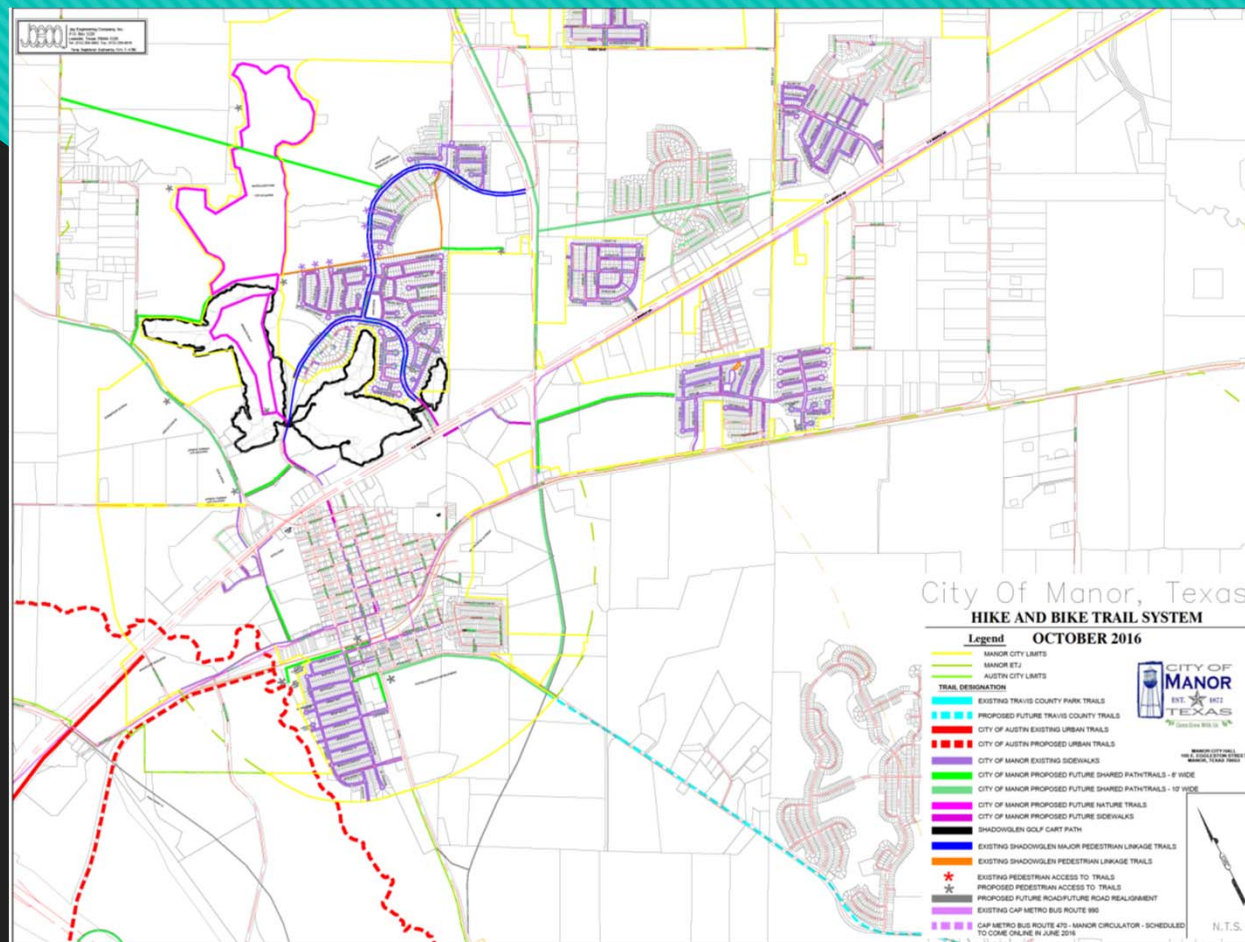


MAJOR ARTERIAL, DIVIDED, 6 LANED (MAD 6)

HIKE AND BIKE TRAIL MASTER PLAN

- MASTER PLAN ASSEMBLED JANUARY 2016
 - ESTABLISHED GOALS
 - BENEFITS
 - PURPOSES
 - IMPLEMENTATION
 - CONCEPTS OF DESIGN
 - DEVELOPMENT BARRIERS
 - TYPES OF TRAILS
 - FEATURES
 - SECTIONS
 - COSTS

HIKE AND BIKE TRAIL MASTER PLAN



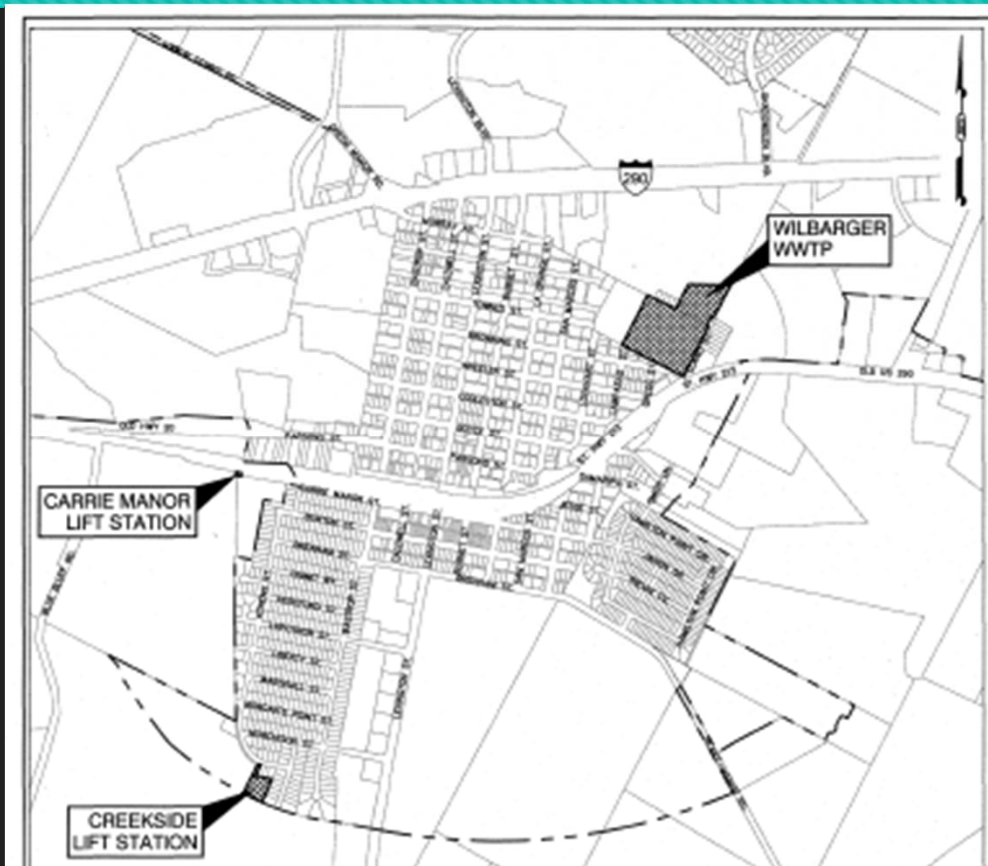
WASTEWATER PROJECTS

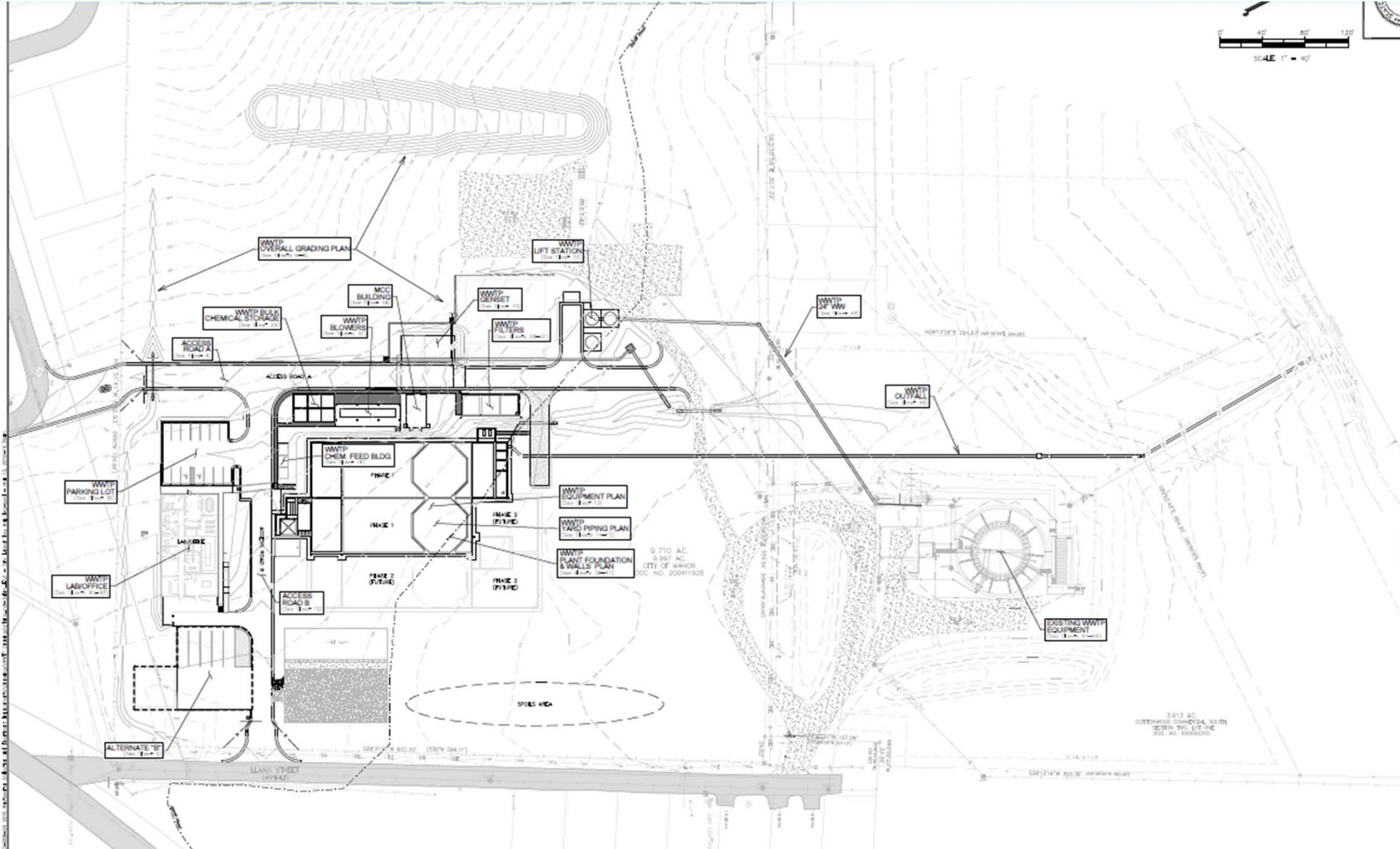
- WILBARGER CREEK WASTEWATER TREATMENT AND COLLECTION SYSTEM IMPROVEMENTS PROJECT – PHASE 1 UNDER CONSTRUCTION, COMPLETION 3RD QTR. 2020
 - EXPAND EXISTING 0.5 MGD WWTP TO 1.33 MGD (W/ PROVISIONS FOR 2.0 MGD ULT.)
 - NEW ONSITE LIFT STATION
 - SCADA CENTRALIZATION
 - NEW PUBLIC WORKS BUILDING
 - REPURPOSE OLD 0.5 MGD PLANT FOR SLUDGE PROCESSING AND THICKENING
- WILBARGER CREEK WASTEWATER TREATMENT AND COLLECTION SYSTEM IMPROVEMENTS PROJECT – PHASE 2 ADVERTISING, COMPLETION 4TH QTR. 2020
 - CREEKSIDE LIFT STATION IMPROVEMENTS
 - NEW CARRIE MANOR LIFT STATION

WASTEWATER PROJECTS CONTINUED

- COTTONWOOD CREEK WASTEWATER PROJECTS – SERVING MANOR HEIGHTS AND US 290 COMMERCIAL DEVELOPMENT ON EAST SIDE OF MANOR, BID AND COMPLETE W/IN 15 MONTHS
 - COTTONWOOD CREEK WWTP – 0.4 MGD
 - ONSITE COTTONWOOD CREEK WEST TRIBUTARY LIFT STATIONS AND FORCED MAINS
 - COTTONWOOD CREEK AND COTTONWOOD WEST TRIBUTARY WASTEWATER LINE

WILBARGER CREEK WASTEWATER TREATMENT AND COLLECTION SYSTEM IMPROVEMENTS





CITY OF MANOR

WASTEWATER COLLECTION AND TREATMENT IMPROVEMENTS

SITE LAYOUT & KEY MAP

DATE: 05/14/2019
BY: [Signature]
CHECKED: [Signature]
AS NOTED

City of Manor Engineering Company, Inc.
10000 Highway 100, Suite 100
Manor, Texas 77853-2525
Tel: 281-281-1000 Fax: 281-281-1001







WATER PROJECTS

- 2017 WATER DISTRIBUTION SYSTEM IMPROVEMENTS PROJECT
 - WILL PROVIDE FEED FROM EPCOR PIPELINE TO EAST ELEVATED STORAGE TANK
 - PROJECT NEAR COMPLETION – WAITING ON TRAVIS COUNTY DRAINAGE IMPROVEMENTS
- EAST US 290 WATER LINE
 - WILL PROVIDE WATER TO MANOR HEIGHTS PROJECT AND US 290 COMMERCIAL ON EAST SIDE OF MANOR
 - WILL COMPLETE WITHIN 12 MONTHS OF BIDDING

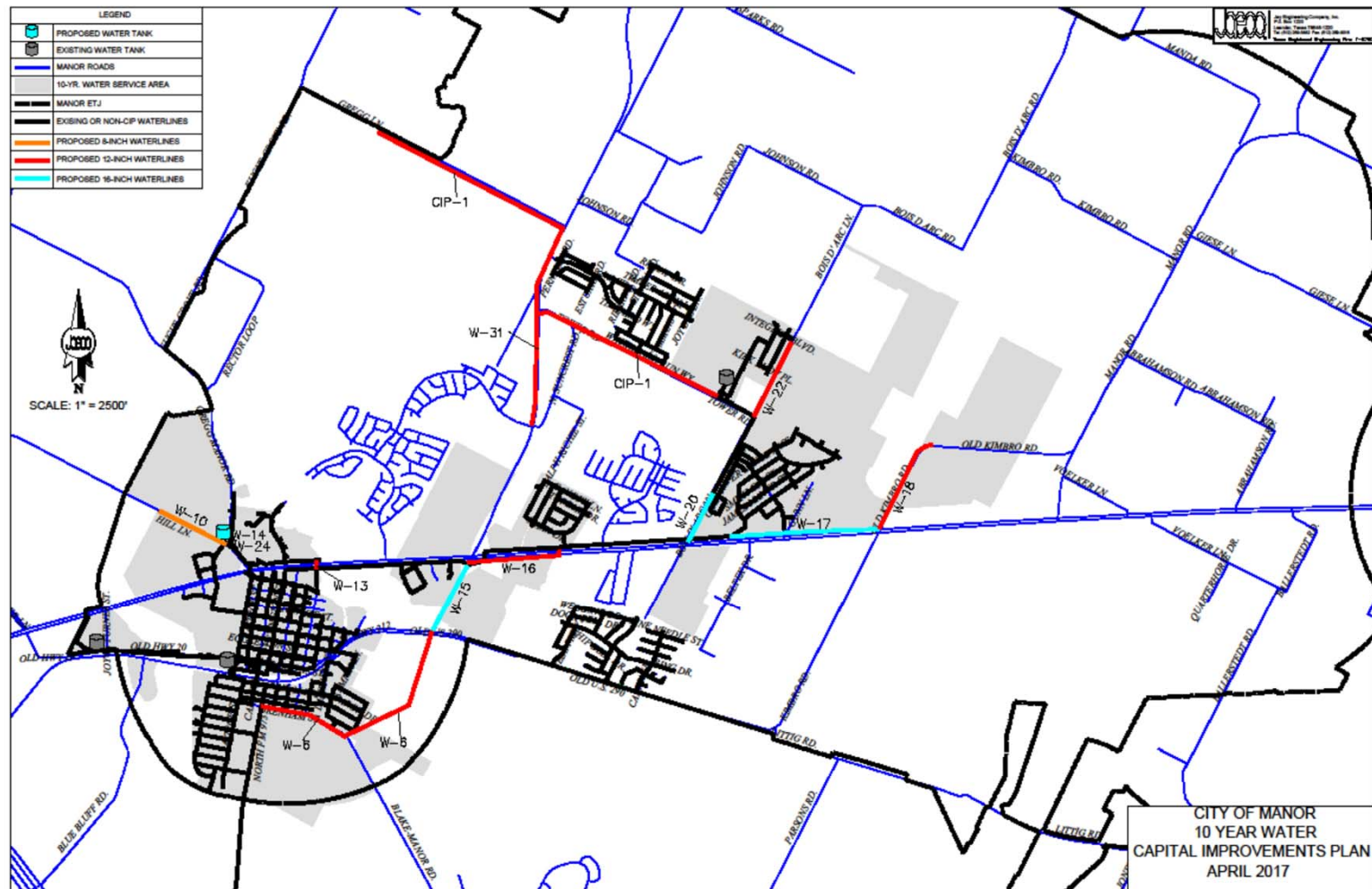
STREET PROJECTS

- 2018 PAVING IMPROVEMENTS – JUST COMPLETED
 - ALL OF HAMILTON POINT (MICROSURFACING)
 - WHEELER STREET (FROM LEXINGTON TO LA GRANGE)
- 2019 PAVING IMPROVEMENTS – IN DESIGN, PAVING OCCUR 2ND QUARTER 2020
 - N. LA GRANGE STREET FROM E. EGLESTON TO E. MURRAY STREETS (300-800 BLOCKS)
 - N. BURNET STREET FROM E. RECTOR STREET TO E. MURRAY STREET (500 & 600 BLOCKS ALT.)
 - S. SAN MARCOS STREET FROM E. BRENHAM STREET TO RAILROAD TRACKS (100-300 BLOCKS ALT.)

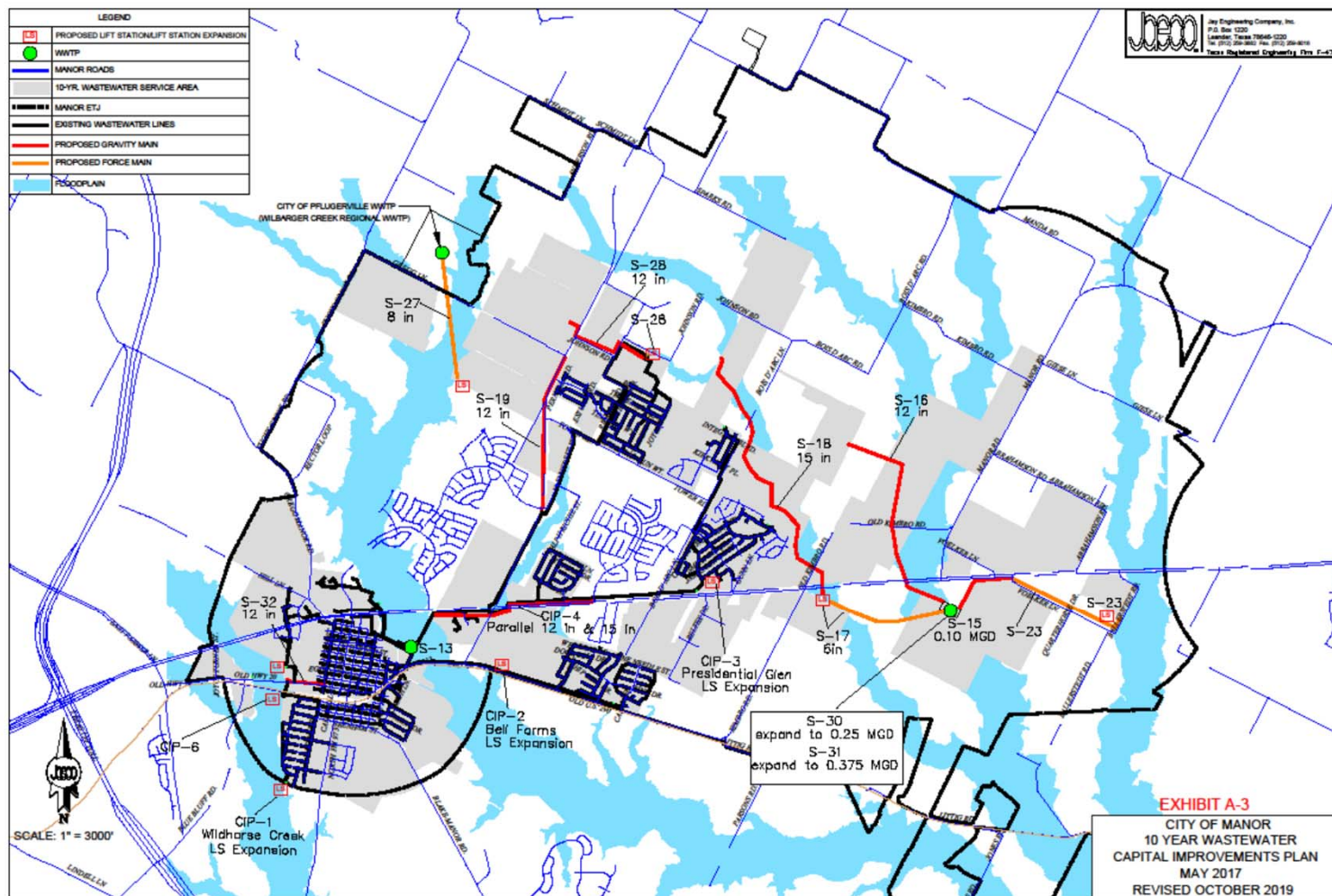
2020 COMMUNITY IMPACT FEE UPDATE

- START PROCESS IN JANUARY OF 2020
 - PROJECT WILL TAKE 6-7 MONTHS
 - UPDATE LAND USE ASSUMPTIONS
 - UPDATE POPULATION PROJECTIONS
 - UPDATE UTILITY DEMANDS
 - UPDATE 10-YEAR CAPITAL IMPROVEMENTS PLANS
 - GENERATE OPINIONS OF PROBABLE COST
 - REVISE IMPACT FEES
 - UPDATE IMPACT FEE ORDINANCE

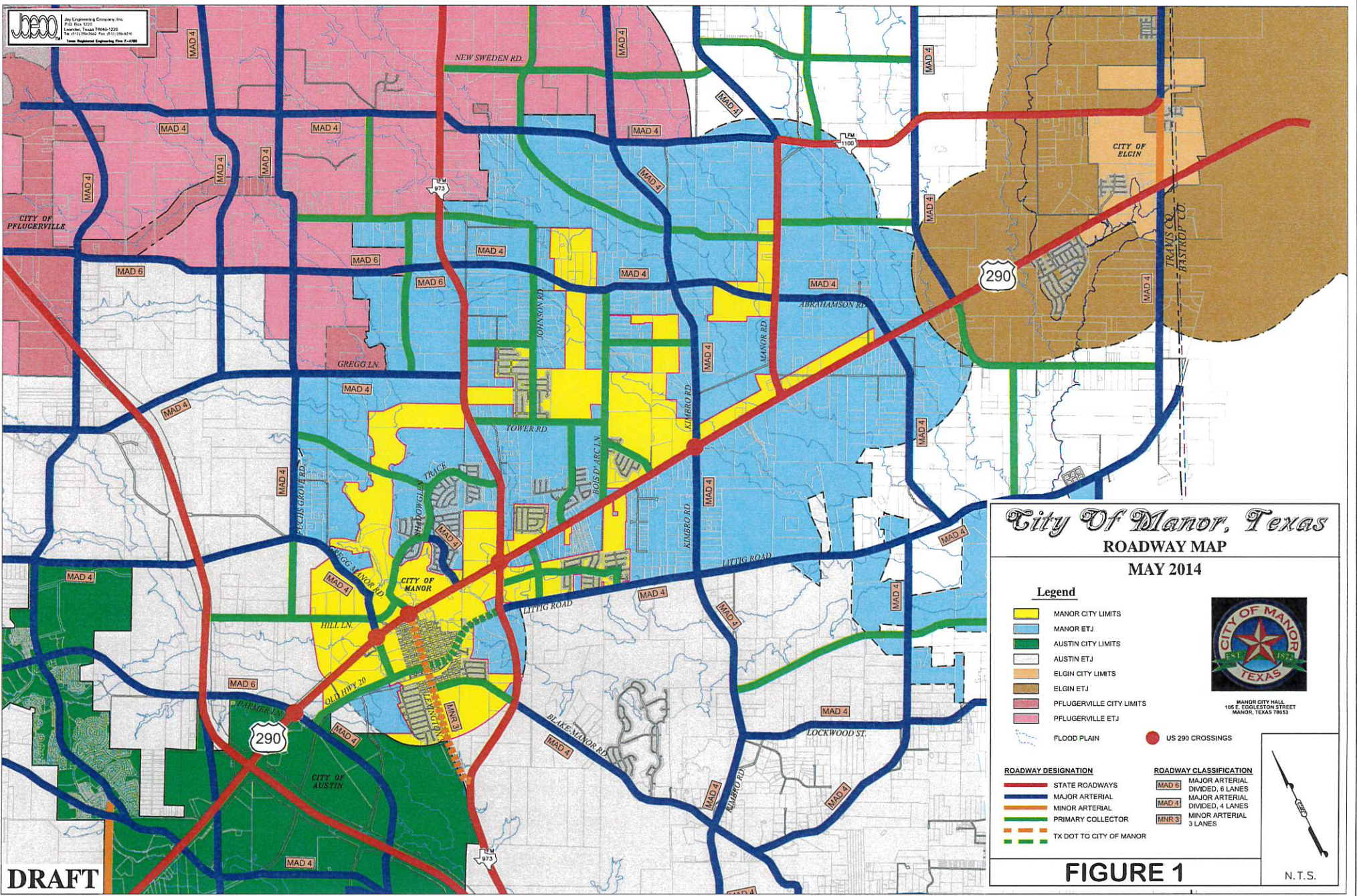
WATER 10-YEAR CIP



WASTEWATER 10-YEAR CIP



JECO
Jeco Engineering Company, Inc.
P.O. Box 1200
Lubbock, Texas 79408-1200
Tel: (817) 786-3562 Fax: (817) 786-8216
Survey Registration Engineering (See License)



City Of Manor, Texas **ROADWAY MAP** MAY 2014

Legend

- MANOR CITY LIMITS
- MANOR ETJ
- AUSTIN CITY LIMITS
- AUSTIN ETJ
- ELGIN CITY LIMITS
- ELGIN ETJ
- PFLUGERVILLE CITY LIMITS
- PFLUGERVILLE ETJ
- FLOOD PLAIN
- US 290 CROSSINGS

MANOR CITY HALL
185 E. EGGLESTON STREET
MANOR, TEXAS 78653

ROADWAY DESIGNATION

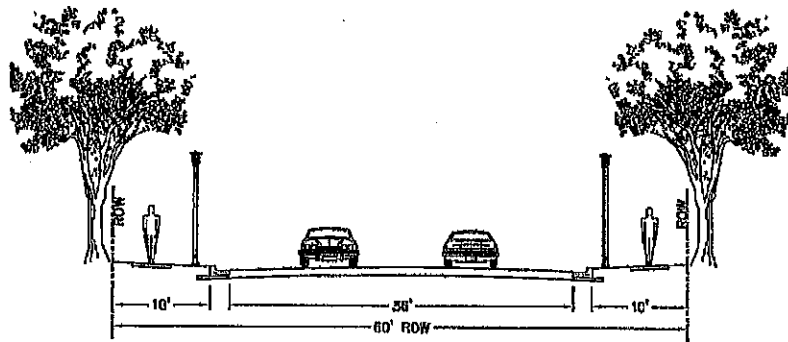
- STATE ROADWAYS
- MAJOR ARTERIAL
- MINOR ARTERIAL
- PRIMARY COLLECTOR
- TX DOT TO CITY OF MANOR

ROADWAY CLASSIFICATION

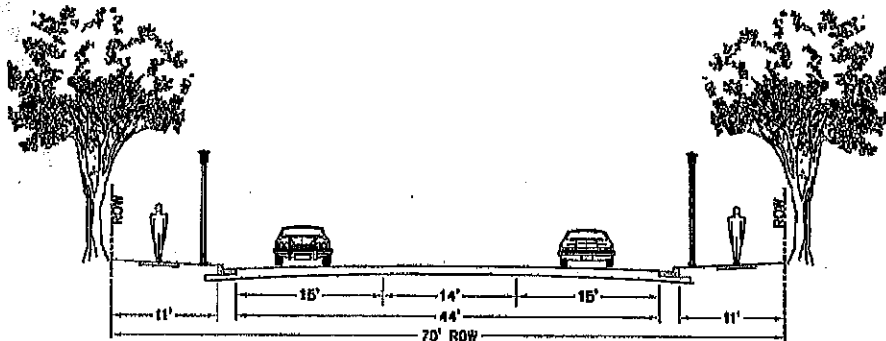
- MAJOR ARTERIAL DIVIDED, 6 LANES
- MAJOR ARTERIAL DIVIDED, 4 LANES
- MINOR ARTERIAL 3 LANES

FIGURE 1

N.T.S.



COLLECTOR STREET



MINOR ARTERIAL, 2 LANES (MNR 2)

SCALE: N.T.S.



City Of Manor, Texas

REVISIONS	BY	APP	DATE

J&B
Jay Engineering Company, Inc.
Dallas Texas

ENGINEER
David F. Simons, P.E.

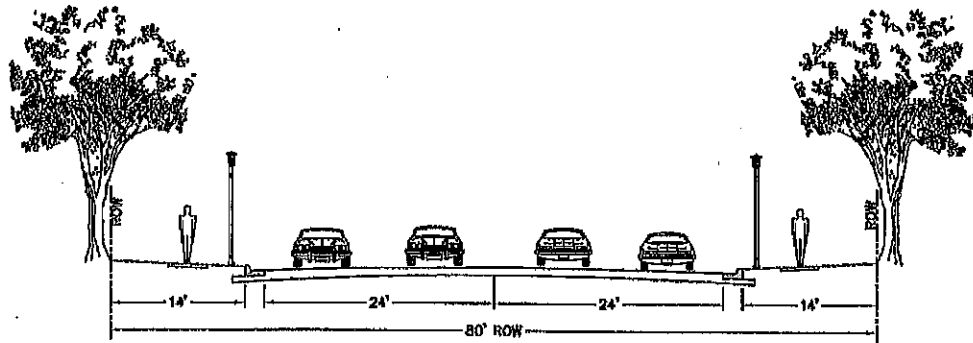
DATE
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JJD

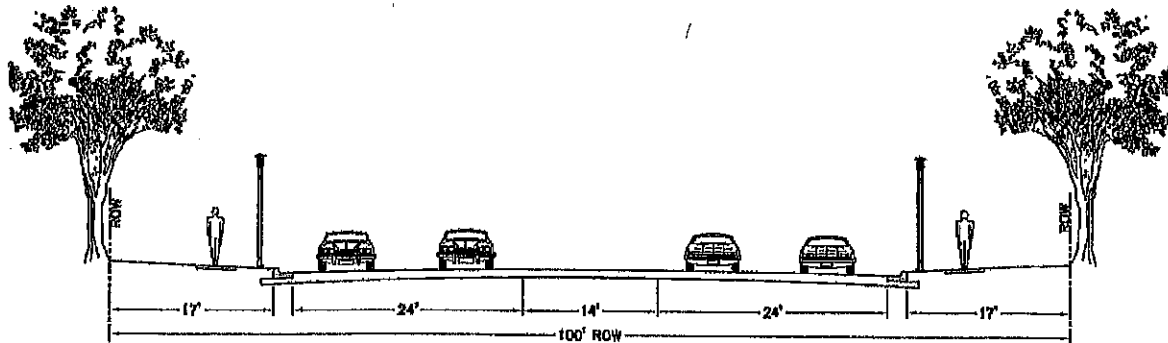
PROJECT NO.
100-044-20

SHEET NO.
1 of 3

TYPICAL CROSS SECTIONS



MAJOR ARTERIAL, UNDIVIDED, 4 LANES (MAU 4)



MAJOR ARTERIAL, UNDIVIDED, 5 LANES (MAU 5)

SCALE: N.T.S.



City Of Manor, Texas

REVISIONS	BY	APP	DATE

J&S
Jay Engineering Company, Inc.
Dallas, Texas

ENGINEER
David F. Simons, P.E.

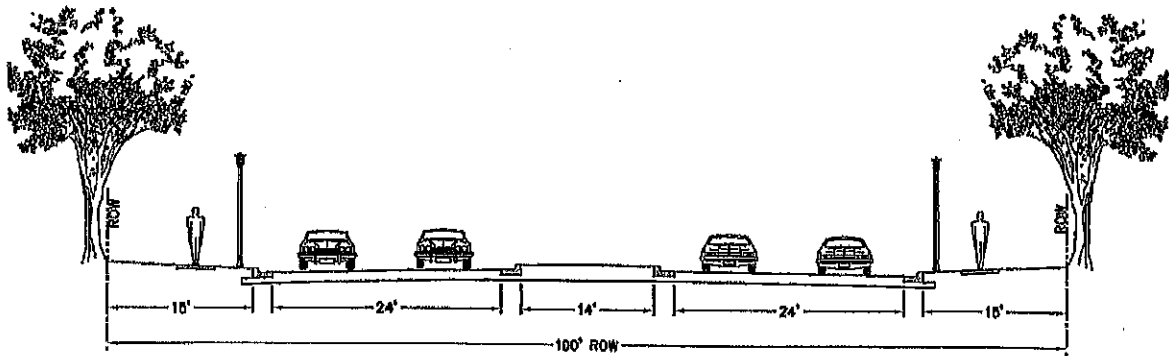
DATE
07-12-06

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JMD

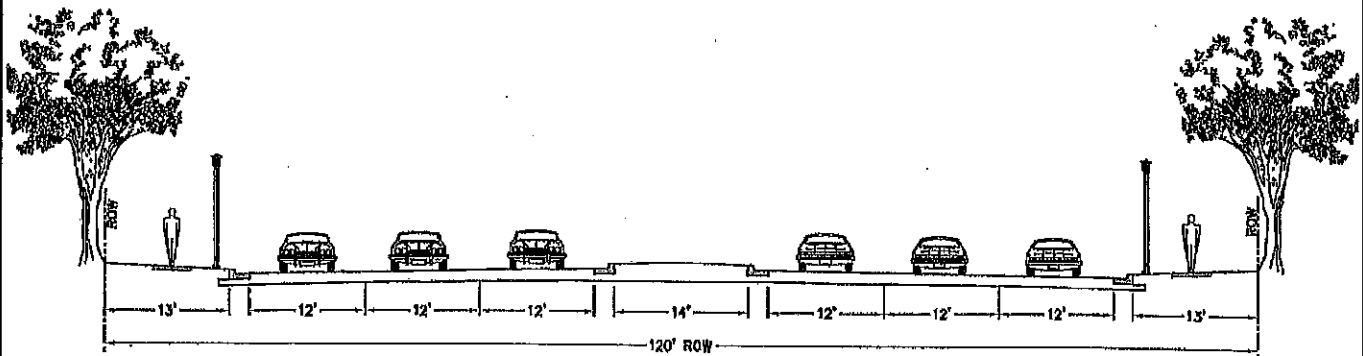
TYPICAL CROSS SECTIONS

PROJECT NO.
100-044-20

SHEET NO.
2 of 3



MAJOR ARTERIAL, DIVIDED, 4 LANES (MAD 4)



MAJOR ARTERIAL, DIVIDED, 6 LANES (MAD 6)

SCALE: N.T.S.



City Of Manor, Texas

REVISIONS	BY	APP	DATE

JESCO
Jay Engineering Company, Inc.
Dallas, Texas

ENGINEER
David F. Simons, P.E.

DATE
07-12-06

DRAWN BY
JJD

TYPICAL CROSS SECTIONS

PROJECT NO.
100-044-20

SHEET NO.
3 of 3



CITY COUNCIL RULES OF PROCEDURE

**As Adopted by Ordinance No. 516
Effective May 2, 2018**

TABLE OF CONTENTS

Section 1 – GENERAL	4
Section 2 – AUTHORITY	4
Section 3 - MEETINGS	
3.01. Regular Meetings	4
3.02. Special Meetings	4
3.03. Workshop Sessions	4
3.04. Executive Sessions	5
3.05. Public Hearings	5
3.06. City Hall Meetings	5
3.07. Public Notice	5
3.08. Quorum and Attendance	5
3.09. City Manager Participation	6
3.10. City Attorney Participation	6
3.11. City Secretary Participation	6
3.12. City Department Directors Participation	6
3.13. Agenda	6
3.14. Minutes	7
3.15. Attendance by the Public	7
3.16. City Legislation and Actions of Significant Public Impact and Concern	7
Section 4 - STANDARDS OF CONDUCT	
4.01. Council Members	7-8
4.02. Council Relations with the Media	8
4.03. City Staff	8
4.04. Members of the Public	9
4.05. Enforcement	9
Section 5 - DUTIES AND PRIVILEGES OF COUNCILMEMBERS	
5.01. Seating Arrangement	9
5.02. Right of Floor	10
5.03 Conflict of Interest	10
5.04. Voting	10
5.05. Excusal from Attendance	11
5.06. Excusal During Meetings	11
Section 6 - CHAIR AND DUTIES	
6.01. Chair	11
6.02. Call to Order	11
6.03. Preservation of Order	11

Section 7 - ORDER OF BUSINESS

7.01. Regular and Special Meetings	11-12
7.02. Workshop Sessions	12
7.03. Public Hearings	12
7.04. Addressing the City Council	12-13

Section 8 – RULES OF ORDER

8.01. General	13
8.02. Authority of the Chair	13
8.03. Obtaining the Floor	14
8.04. Council Deliberation and Order of Speakers	14
8.05. Length of Comments	14
8.06. Limit Deliberation to Item at Hand	14
8.07. Motions	15
8.08. Procedures for Motions	15
8.09. Amendments to Motions	15
8.10. Motion to Continue	15
8.11. Motion to Remove	15
8.12. Motion to Table	16
8.13. Motion to Refer	16
8.14. Withdrawal of Motion	16
8.15. Motion for Reconsideration	16

Section 9 - CITY COUNCIL COMMITTEES

9.01. Committees Established	16
9.02. Standing Committees	16-17
9.03. Ad Hoc Committees	17
9.04. Committee Meetings	17
9.05. Agenda and Information	17

Section 10 - RULES SUSPENSION

10.01. Suspension of Rules	18
10.02. Amendment of Rules	18
10.03. Annual Review of Rules	18

Section 11 – ADMINISTRATIVE SUPPORT TO COUNCIL MEMBERS

11.01. Mail and E-mail	18
11.02. Clerical Support	18
11.03. Master Calendar	18
11.04. Request for Research or Information	19
11.05. Notification of Significant Activities or Events	19

Annexes:

A – Fundamental Principles of Parliamentary Law	20
B – The Chief Purposes of Motions	21
C – Parliamentary Strategy	22
D – Conflict of Interest	23

Section 1 – GENERAL

Parliamentary law and the rules of procedure derived from such law are essential to all deliberative organizations so that they may consider all matters before them in an effective and efficient manner and produce results that are legal and binding. Moreover, such procedural safeguards ensure due process during deliberations among members of the organization while at the same time protecting the rights of both the group and each member. Accordingly, these rules of procedure establish guidelines to be followed by all persons attending City Council meetings, including members of the City Council, administrative staff, news media, citizens and visitors.

Section 2 – AUTHORITY

The City Charter of Manor, Texas [Adopted: August 15, 2007; Amended: May 9, 2015] provides in Article III (City Council Judge of its Members), Section 3.04. (Rule of Procedure) that “The Council shall by ordinance determine its own rules and order of business.” Thus, these rules of procedure are established. In the event of any conflict between the City Charter and these rules of procedure, the City Charter shall prevail.

The parliamentary reference for the City Council is the most recent edition of *Robert’s Rules of Order Newly Revised* (RONR). When any issue concerning procedure arises that is not covered by the Rules of Procedure, the City Charter or State law, the Council will refer to RONR, which shall generally determine such procedural issue. www.robertsrules.com.

Section 3 – MEETINGS

The City Council shall follow both the letter and the spirit of the Texas Open Meetings Act.

3.01. Regular Meetings.

The City Council shall conduct regular meetings generally on the first (1st) and third (3rd) Wednesdays of each month. All regular meetings shall normally be scheduled to begin at 7:00 p.m. at City Hall and are open to the public.

3.02. Special Meetings.

In accordance with Section 3.07 (Meetings) of the City Charter, “special meetings may be scheduled and held as the council deems necessary to transact the business of the city.” Special meetings are open to the public.

3.03. Workshop Sessions.

Workshop sessions may be scheduled by the Mayor, a majority of Council Members or by the City Manager. They are normally conducted prior to regular or special meetings but may also be conducted at other times as well. Their purpose is to exchange information between council, staff, vendors or other groups. No official action is taken by council during these sessions, but workshops shall be posted and are open to the public. The City Council may suspend the application of this rule during a workshop session by majority vote of those members present and voting and take action on any item posted on the workshop agenda.

3.04. Executive Sessions.

The City Council may meet in executive session under the provisions of the Texas Open Meetings Act. No vote shall be taken in an executive session on any matter under consideration nor shall any Council Member enter into a commitment with another respecting a vote to be taken subsequently in an open meeting of the City Council.

3.05. Public Hearings.

Public Hearings may be scheduled to present evidence on both sides of issue(s). Some Public Hearings are required by state law such as approving an annual budget and setting a tax rate. Others are conducted voluntarily to obtain a full range of citizen input on important matters, such as a proposed bond issue. Public Hearings may be scheduled as part of a Regular Meeting or on other occasions as necessary.

3.06. City Hall Meetings.

City Hall Meetings may be scheduled periodically for the purpose of open discussion with citizens of Manor on specific issues or general matters regarding the activities of the City. Action may not be taken by the City Council at a City Hall Meeting. If any action is indicated, the matter will be scheduled as an agenda item at a regular meeting of the City Council. Any citizen may participate in a City Hall Meeting, and there is no requirement to sign up to speak prior to the meeting. City Hall Meetings will be posted according to the Texas Open Meetings Act.

3.07. Public Notice.

The agenda for all meetings and the notice listing items to be considered shall be posted by the City Secretary on the City's website and on the bulletin board at City Hall in accordance with the Texas Open Meetings Act [Chapter 551, Texas Government Code].

3.08. Quorum and Attendance.

In accordance with Section 3.06 (Quorum and Attendance) of the City Charter, "Four members of the council shall constitute a quorum for transacting business and no action of the council shall be valid or binding unless taken in an open meeting with a quorum present. Less than a quorum may adjourn any meeting, or order and compel the attendance of absent members. It shall be the duty of each member of the council to attend each regular and special council meeting and the failure of any member to attend three consecutive, regular meetings, without good and sufficient cause, shall constitute misconduct in office."

3.09. City Manager Participation.

The City Manager shall attend all meetings of the City Council except when excused by the City Council. The City Manager may make recommendations to the City Council and shall have the right to take part in all discussions, but shall not have a vote.

3.10. City Attorney Participation.

The City Attorney, or designated assistant City Attorney, shall attend the meetings of the City Council upon request by the City Manager to advise the City Council on all legal matters and represent the City in all litigation (except where outside counsel is engaged) and other legal matters.

3.11. City Secretary Participation.

The City Secretary shall attend each meeting of the City Council and shall keep, in a record provided for that purpose, accurate minutes of the City Council's proceedings.

3.12. City Department Directors Participation.

The City staff department heads shall attend the second regular meeting of each month to respond to inquiries made by the City Council on departmental monthly reports unless excused by the City Manager. The City Council may request the presence of specific department heads or staff members, through the City Manager, for other meetings or sessions.

3.13. Agenda.

- a. The Mayor, Council Members, City Manager, City Department Directors, City Attorney, and the City Secretary may place items on the agenda. Agenda items shall be submitted in written form to the City Secretary in accordance with subsection (b). The City Secretary will coordinate the placement of items on the agenda with the City Manager who will resolve any conflicts with Mayor and Council Members. Agenda items may be removed only by the Mayor and City Manager, except agenda items requested by City Council.
- b. Agenda items, including any necessary or applicable supporting documents and materials to be included in agenda packets, shall be submitted in written form to the City Secretary in accordance with this section and in order to allow compliance with the Texas Open Meetings Act 72-hour notice provision. Agenda items are due on or before the Wednesday of the week preceding the next scheduled City Council meeting.
- c. The City Secretary shall submit a draft agenda to the City Manager on or before the Tuesday of the week preceding the next scheduled City Council meeting for review and revision.
- d. The agenda packets for all regular and special meetings will be delivered to the Mayor and Council Members on the Friday preceding the following Wednesday meeting.

3.14. Minutes.

Minutes of City Council meetings will be recorded and maintained by the City Secretary. The Minutes will include final motions with voting results. The Minutes will also reflect the names of those citizens presenting public comments. Minutes of meetings will generally be submitted to the City Council for approval at the next regularly scheduled meeting.

3.15. Attendance by the Public.

Members of the public are invited and encouraged to attend any sessions of the City Council that are not closed to the public in accordance with the Texas Openning Meetings Act.

3.16. City Legislation and Actions of Significant Public Impact and Concern.

Any action or ordinance of the City of Manor that falls into the following three categories is considered an action of significant public impact and concern:

- a. Any action or ordinance that criminalizes behavior or creates criminal liability.
- b. Any action or ordinance that has a substantial impact on private property rights.
- c. Any action or ordinance that involves the expenditure of more than three hundred thousand dollars (\$300,000) and that is not a recurring expense or renewal of an expense.

The City Council shall not vote on any action of significant public impact and concern unless and until it has been presented and discussed in at least two Council meetings, which occur within a 60-day period, except as provided in Section 10.

Section 4 - STANDARDS OF CONDUCT

4.01. Council Members.

- a. During City Council meetings, Council Members shall assist in preserving order and decorum and shall neither by conversation or other activity delay or interrupt the proceedings nor refuse to obey the orders of the presiding officer or the rules of the City Council.
- b. A Council Member desiring to speak shall address the chair and, upon recognition by the presiding officer, shall confine his/her discussion to the question under debate and avoid discussion of personalities, the use of inappropriate language, making personal attacks, and verbally abusing colleagues or anyone else in attendance.

- c. Council Members may question City staff members during meetings when they are making presentations to the City Council. Council Members shall neither berate nor admonish City staff members. Questions to other City staff members who are not making presentations should first be directed to the City Manager who will then ask the appropriate City staff member to respond or the City Manager may address the question.
- d. A Council Member, once recognized, shall not be interrupted while speaking unless called to order by the presiding officer. If a Council Member is called to order while speaking, that member shall cease speaking immediately until the question of order is determined.
- e. Council Members shall confine their questions to the particular matters before the assembly and in debate shall confine their remarks to the issues before the City Council.
- f. When there is more than one speaker on the same subject, Council Members will delay their subsequent comments until after all speakers on the subject have been heard.

4.02. Council Relations with the Media.

All City press releases, media advisories, story suggestions, or similar items should go through the City Manager's office for distribution, with exception of factual police department bulletins which designated officers may send directly to the City Manager, with a copy to the City Secretary.

4.03. City Staff.

- a. Members of the City staff and employees of the City shall observe the same rules of procedures and decorum applicable to members of the City Council.
- b. Although the presiding officer has the authority to preserve decorum in meetings, the City Manager also is responsible for the orderly conduct and decorum of all City staff members under the City Manager's direction and control.
- c. The City Manager shall take such disciplinary action as may be necessary to ensure that decorum is preserved at all times by City staff members in City Council meetings.
- d. All staff members addressing the City Council, including the City Manager, other staff members, or members of the public shall be recognized by the presiding officer and shall limit their remarks to the matter under discussion.
- e. All remarks and questions addressed to the City Council by staff members shall be addressed to the City Council as a whole and not to any individual member.

4.04. Members of the Public

- a. Members of the Public are invited to attend all open meetings of the City Council and will be admitted to the Council Chambers or other room(s) in which the City Council is meeting, but not to exceed the fire safety capacity of the room(s).
- b. All persons shall remove hats and all individuals shall refrain from private conversations in the chambers while the City Council is in session.
- c. Members of the Public attending Council meetings also shall observe the same rules of propriety, decorum and good conduct applicable to members of the Council. Any person making personal, impertinent, and slanderous remarks or who become boisterous while addressing the Council or while attending the Council meeting shall be removed from the room if the presiding officer requests the sergeant-at-arms to remove such offenders from the room.
- d. Reactions from the audience following the recognition and rewarding of citizens and special guests is considered appropriate and encouraged. Reactions from the audience during staff presentations to the Council and during debate between Council Members are not appropriate and not permitted. The presiding officer will ensure that the decorum of the meeting is maintained and is appropriate.
- e. No placards, banners, or signs of any kind will be permitted in the Council Chamber or in any other room in which the City Council is meeting. Exhibits, displays, and visual aids used in connection with presentations to the City Council, however, are permitted.
- f. Members of the Public attending Council meetings are not allowed to bring food or drink into the Council Chamber or into any other room in which the City Council is meeting.

4.05. Enforcement.

The sergeant-at-arms attending the City Council meetings, shall ensure that a safe environment exists for the City Council to conduct its meetings and shall furnish whatever assistance is needed to enforce the rules of the City Council.

Section 5 - DUTIES AND PRIVILEGES OF COUNCIL MEMBERS

5.01. Seating Arrangement.

In meetings where the Council is seated at the dais, the Mayor shall be seated at the center of the dais; the City Manager shall be seated adjacent to the Mayor, Council Members are seated by Place No. 1-6 and City Secretary shall be seated on the table to the right of the dais.

5.02. Right of the Floor.

A Council Member desiring to speak must first be recognized by the presiding officer. No Council Member shall address the presiding officer or demand the floor while a vote is being taken.

5.03. Conflict of Interest.

In accordance with Section 12.04 (Conflict of Interest) of the City Charter, “No elected or appointed officer or employee of the city shall participate in the deliberation or decision on any issue, subject or matter before the council or any board or commission, if the officer or employee has a personal financial or property interest, direct or indirect, in the issue, subject or matter that is different from that of the public at large. An interest arising from job duties, compensation or benefits payable by the city shall not constitute a personal financial interest.”

Further, in accordance with Chapter 171, Texas Local Government Code (Chapter 171), no City Council member and no City officer may vote or participate in discussion of a matter involving a business entity or real property in which the City Council member or City officer has a substantial interest (as defined by Chapter 171) and action on the matter will have a special economic effect on the business entity or real property that is distinguishable from the effect on the general public. An affidavit in the form attached hereto in Annex D disclosing the conflict of interest must be filled out and filed with the City Secretary before the matter is discussed.

5.04. Voting.

- a. In accordance with Section 3.08 (Voting) of the City Charter, “All members of the council present shall vote upon every issue, subject or matter properly before the council and requiring a council vote; provided that, if any member of the council has a conflict of interest, that fact shall be stated in the minutes and such member shall abstain from discussion and voting on the issue. No ordinance, resolution, order, action, matter or issue shall be passed, approved, adopted, taken or consented to except by a majority vote of the members of council present and voting, and not less than four affirmative votes shall be required to pass, approve, adopt, take action on or consent to any ordinance, resolution, action, matter, issue or motion.” Any reference to an action of the City Council requiring a majority vote of the members present and voting shall be subject to the requirement set forth in Section 3.08 of the City Charter that not less than four affirmative votes shall be required to pass, approve, adopt, take action on, or consent to the action.
- b. After the result of a vote is announced, a member may not change a vote unless, before the adjournment of that meeting, permission is given to change the vote by a majority vote of the members present and voting.
- c. A tie vote results in a lost motion. In such an instance, any member of the City Council may offer a motion for further action. If there is not an affirmative vote, the result is no action.

5.05. Excusal from Attendance.

Council Members are expected to attend meetings and remain in attendance during each meeting. Should a Council Member be unable to attend, the Mayor, City Manager, or City Secretary should be notified prior to that meeting.

5.06. Excusal During Meetings.

A Council Member needing to be excused during an ongoing session should advise the presiding officer prior to departing the session.

Section 6 - CHAIR AND DUTIES

6.01. Chair.

The Mayor, if present, shall preside as chair at all meetings of the City Council. In the absence of the Mayor, the Mayor ProTem shall preside. In the absence of both the Mayor and Mayor ProTem, the remaining Council Members shall, in accordance with the City Charter, by election, designate one member as acting Mayor to preside for that session. The term "presiding officer" when used in these Rules of Council shall mean the chair.

6.02. Call to Order.

The sessions of the City Council shall be called to order by the Mayor or, in the Mayor's absence, by the Mayor ProTem or, in the Mayor ProTem's absence, by the acting Mayor. In the absence of both the Mayor and Mayor ProTem, the City Manager will temporarily preside over the meeting until the Council selects an acting Mayor to preside over the meeting.

6.03. Preservation of Order.

The Chair shall preserve order and decorum, call upon the sergeant-at-arms as necessary to enforce compliance with the rules, and confine Council Members in debate to the question under discussion. It is the responsibility of the Chair to keep the comments of Council Members on topic during public meetings.

Section 7 - ORDER OF BUSINESS

7.01. Regular and Special Meetings.

Regular and special meetings will generally adhere to the following agenda:

- Call to Order and Announce a Quorum is Present
- Pledge of Allegiance
- Presentations/Proclamations/Recognitions (as appropriate)
- Workshop Sessions (as appropriate)
- Public Comments (related to any matter not on the agenda, no action taken)

- Consent Agenda (may be moved to Regular Agenda by the Mayor or a Council Member)
- Regular Agenda
- Reports (as appropriate)
- Executive Session (as appropriate)
- Reconvene in Open Session (as appropriate)
- Adjournment

7.02. Workshop Sessions.

Workshop sessions will normally be conducted in a less formal manner than regular sessions as follows:

- Call to Order
- Overview of matter(s) to be discussed
- Discussion of matter(s)
- Summation
- Adjournment

7.03. Public Hearings.

The City Manager shall schedule public hearings on the City Council's agenda to be held at least two weeks before the City Council must vote on the matter (unless the law requires otherwise, in which case, Public Hearings shall be conducted as provided by state law). In addition to this requirement, when conducted as part of a Regular Meeting, a vote may be taken on the matter at that same meeting. When a Public Hearing is conducted as a stand-alone meeting and not part of a Regular Meeting, the vote may be taken at a subsequent Regular or Special Meeting.

7.04. Addressing the City Council.

Members of the public are invited and encouraged to attend any sessions of the City Council that are not closed to the public in accordance with the Texas Opening Meetings Act. It is the desire of the City Council that citizens actively participate in the City's governance system and processes. Therefore, public input to the City Council, both oral and written, is encouraged.

a. Public Comments.

- (1) Prior to the meeting being called to order, the person wishing to speak shall complete a speaker card and present it to the City Secretary. The presiding officer shall call upon those who have submitted cards. When called upon to speak by the presiding officer, the person shall come to the podium, state his/her name for the record, and, if speaking for an organization or group, identify the group represented. *No formal action can be taken by the City Council during the public comments.*
- (2) For items on the agenda, the speaker will have three (3) minutes to complete his/her comments unless otherwise permitted by the presiding officer. The City Secretary

shall maintain the time and advise the speaker when his/her time has expired. The speaker shall then complete his sentence and take his/her seat.

- (3) All remarks shall be addressed to entire City Council and not directed to individual Council Members or members of the city staff.

b. Written Correspondence and Telephone Calls.

- (1) Member of the Public may direct written comments to the entire City Council or individual Council Members by addressing their letters to City Hall at: Manor City Hall, 105 E. Eggleston Street, Manor, Texas 78653. The Mayor and each Council Member has an email address listed on the City's website at www.cityofmanor.gov.
- (2) Citizens should expect a timely acknowledgement of their letters and e-mail messages within three (3) working days. Telephone calls should be returned within twenty-four (24) hours, excluding Saturdays, Sundays and official state holidays.

c. Media Inquiries.

- (1) The recognized local media sources may direct questions to members of the City Council through the City Manager.
- (2) Other legitimate regional, state and national media sources are expected to coordinate questions to Council Members and staff through the City Manager.
- (3) All media questions will be initially directed to the City Manager or the Chief of Police.

Section 8 – RULES OF ORDER

8.01. General.

These rules, consistent with the City Charter and any applicable city ordinance, statute or other legal requirement, shall govern the proceedings of the City Council.

8.02. Authority of the Chair.

- a. Subject to appeal of the full City Council, the Chair shall have the authority to prevent the misuse of motions, the abuse of any privilege, or the obstruction of the business of the City Council by ruling any such matter out of order. In so ruling, the Chair shall be courteous and fair and should presume that the moving party is acting in good faith.
- b. The Chair will perform the role of facilitator to assist the City Council in focusing agenda discussions and deliberations.
- c. Any member of the City Council may move to require enforcement of the rules, and the affirmative vote of a majority of the City Council present and voting shall require the Chair to act.

8.03. Obtaining the Floor.

Any Council Member wishing to speak must first obtain the floor by being recognized by the presiding officer. The presiding officer must recognize any Council Member who seeks the floor appropriately entitled to do so.

8.04. Council Deliberations and Order of Speakers.

- a. The presiding officer shall control the debate and the order of speakers.
- b. Speakers shall generally be called upon in the order of their request to speak.
- c. With the concurrence of the presiding officer, a Council Member holding the floor may address a question to another Council Member or the City Manager. The Council Member or City Manager may respond while the floor is still held by the Council Member asking the question.
- d. With the concurrence of the presiding officer, a Council Member holding the floor may address questions to an individual making a presentation to the City Council, e.g., city staff member, consultants, and citizens making public comments.
- e. Comments and questions shall be conducted in rounds to ensure that Council Members have the opportunity to make their comments and then respond to the comments they have heard from their fellow Council Members.
- f. The presiding officer shall only terminate deliberations and debate after all Council Members have been provided a reasonable time and opportunity to participate and prepare them to render a reasonable and responsible vote on the question.
- g. During presentations by the staff or special guests on agenda items, Council Members may obtain the floor from the presiding officer to ask questions of the presenters regarding details of their presentations.
- h. Following a motion and second of an agenda item, Council Members may enter into additional discussions about the item as described below in subsection 8.08(d).

8.05. Length of Comments.

Council Members shall govern themselves as to the length of the comments, questions, or presentations. As a courtesy, the presiding officer will signal by hand to a Council Member who has been speaking for over five minutes. This procedure is not meant to limit debate or to cut comments short, but rather to assist Council Members in their efforts to communicate concisely.

8.06. Limit Deliberations to Item at Hand.

Council Members shall limit their comments and questions to the subject matter, time, or motion being currently being considered by the City Council.

8.07. Motions.

In accordance with Section 1.05.037 (Motions; deferring action) of the City Charter, “(a) A motion may be made by any member other than the presiding officer.” The presiding officer shall, prior to offering a motion, however, ensure that other Council Members have the opportunity to make the motion. Any member of the City Council, other than the person offering the motion, may second a motion. See Annex B (Chief Purposes of Motions) and Annex C (Parliamentary Strategy).

8.08. Procedures for Motions.

The following is the general procedure for making motions:

- a. Before a motion can be considered or debated, it must be seconded. If there is no second, the motion fails.
- b. A Council Member who wishes to make a motion should do so through a verbal request to the presiding officer.
- c. A Council Member who wishes to second a motion should do so through a verbal request to the presiding officer.
- d. Once a motion has been properly made and seconded, the presiding officer shall open the matter for additional discussion offering the first opportunity to the moving party and, thereafter, to any Council Member properly recognized by the presiding officer.

8.09. Amendments to Motions.

- a. When a motion is on the floor and an amendment is offered, the amendment shall be acted upon prior to action on the main motion.
- b. No proposal of a subject different from that under consideration shall be admitted as a motion or amendment to a motion.
- c. A motion to amend an amendment shall be in order, but one to amend an amendment to an amendment shall not be in order.
- d. Action shall be taken on the amended amendment prior to any other action to further amend the main motion.

8.10. Motion to Continue.

A motion to continue will leave the motion in its present condition for consideration on a date and time certain.

8.11. Motion to Remove.

A motion to remove will take the matter off the agenda and will not be considered by the Council for an indefinite period of time.

8.12. Motion to Table.

A motion to table will delay consideration of the item being discussed by the City Council.

8.13. Motion to Refer.

A motion to refer forwards the item under consideration to the named group, committee, or board for further study.

8.14. Withdrawal of Motion.

A withdrawal of motion indicates a motion may be withdrawn or modified by the Council Member who originally made the motion at any time prior to its passage. If the motion is modified, the Council Member who seconded the motion may withdraw his/her second. If a motion that has received a second is withdrawn by one of the Council Members making the motion, the motion must be seconded by another Council Member to proceed or it will die for lack of a second.

8.15. Motion for Reconsideration.

- a. A motion to reconsider any action of the City Council may be made, seconded, and voted on not later than the next succeeding regular meeting of the City Council. If reconsideration of the Council action has not been posted on the Council agenda for the meeting at which the motion to reconsider is made, however, actual reconsideration of the item must be delayed until the next regular meeting after the posting requirements of the Texas Open Meetings Act are met.
- b. A motion to reconsider an action of the City Council may only be made by a member who voted with the prevailing side. Any member can second it. No question shall be twice reconsidered except by unanimous vote of the City Council. Actions relating to any contract may be reconsidered at any time before the final execution thereof.

Section 9 – CITY COUNCIL COMMITTEES

9.01. Committees Established.

The City Council can establish standing committees or ad hoc committees when necessary. All committees will be advisory committees.

9.02. Standing Committees.

- a. The following standing committee(s) of the City Council are established:
 - (1) Budget Committee
 - i. The Budget Committee shall consist of not less than three (3) Council Members and serve a one-year term, appointed by the City Council.
 - ii. [Purpose of the Budget Committee]
 - iii. Summary minutes will be kept for the Budget Committee by Finance Department staff.

- b. Each standing committee shall review matters in its area of responsibility that are referred to it by the City Council, the City Manager, or an individual City Council Member. A standing committee may, by majority vote, recommend action to the City Council, but committee recommendation is not necessary for a matter to be placed on the City Council agenda. The committee chair may make a statement on behalf of the committee on an item in a briefing or voting meeting of the City Council.
- c. City Council shall determine the number of members and appoint a chair to the standing committee.

9.03. Ad Hoc Committees.

The Mayor may appoint ad hoc committees from time to time to study and review specific issues. The Mayor shall determine the number of members and appoint a chair of ad hoc committees. The ad hoc committees shall be established for a designated period of time, which may be extended by the Mayor and shall meet as needed. The Mayor shall formally announce the establishment of any ad hoc committee along with his appointments to that committee in a regular session of Council prior to the committee convening to conduct business.

9.04. Committee Meetings.

- a. Standing and Ad Hoc Committees shall meet as necessary.
- b. The committee chair shall develop committee meeting agendas through coordination with fellow committee members and appropriate supporting staff members. The committee chair will coordinate with the City Secretary to ensure that the committee meeting agenda is posted as appropriate.

9.05. Agenda and Information.

- a. Before each committee meeting, the City Manager and City Secretary shall provide an agenda and supporting information for the meeting to committee members and the public. Items may be scheduled on the agenda for committee briefings by the chair, the City Council, the City Manager, or the Mayor.
- b. Summary minutes will be kept by the City Secretary, unless otherwise indicated within this procedure.

Section 10 – RULES SUSPENSION, AMENDMENT, AND ANNUAL REVIEW

10.01. Suspension of Rules.

Any provision of these rules not governed by the City Charter, City ordinances, or state law may be temporarily suspended by a majority vote of the members of the City Council present and voting. The vote on any such suspension shall be taken by Motion and entered upon the record.

10.02. Amendment of Rules.

These rules may be amended, or new rules adopted, by a majority vote of the members of the City Council present and voting.

10.03. Annual Review of Rules.

Following the municipal general elections each year, City Council may review these rules of procedure, make changes as appropriate, and adopt their own rules of procedure in accordance with the City Charter. In the event no annual review occurs, the standing rules of procedure continue in effect. This does not limit the City Council's right and ability to amend the rules in accordance with the City Charter and Rule 10.02.

Section 11 – ADMINISTRATIVE SUPPORT TO COUNCIL MEMBERS

11.01. Mail and E-mail.

- a. All general mail directed to the Mayor and Council Members at City Hall will be date stamped, and distributed as appropriate at City Council Meetings.
- b. All mail providing information on city issues and agenda items will be copied to the Mayor and Council Members.
- c. E-mails are provided to Mayor and Council Members for city business, e-mails requiring a response from the Mayor or Council Member(s) should copy the City Manager.

11.02. Clerical Support.

The City Manager will coordinate appropriate clerical support requested by the Mayor and Council Members.

11.03. Master Calendar.

A master calendar of City Council events, functions, and sessions will be maintained by the City Secretary's office and provided to the Mayor and Council Members as appropriate. Events, functions, and activities to be attended by the Mayor or individual Council Members will be included on the master calendar only at the request of the Mayor or individual Council Member(s).

11.04. Requests for Research or Information.

The Mayor and individual Council Members may request information or research from the city staff on a given topic through the City Manager who will make all members of City Council aware of the special request, as it may be of interest to them as well. Accordingly, the City Manager will provide the results of the request to all members of City Council. In the event the City Manager believes he cannot respond in a timely manner, he and the members of City Council will coordinate a reasonable and responsible timeframe in which to expect the results without unduly interfering with other activities of higher priority.

11.05. Notification of Significant Activities or Events.

The Mayor and Council Members shall expect the City Manager to notify them, and provide periodic updates, regarding significant activities or events in the City related to natural or man-made disasters.

ANNEX A

Fundamental Principles of Parliamentary Law

The Mayor, Council Members, City Manager, City Attorney, City Secretary, and City staff members appearing before the various sessions of the Manor City Council should become familiar with following rules and customs:

1. All members have equal rights, privileges, and obligations; rules must be administered impartially.
2. The minority has rights, which must be protected.
3. Full and free discussions of all motions, reports, and other items of business is a right of all members.
4. In doing business the simplest and most direct procedure should be used.
5. Logical precedence governs introduction and disposition of motions.
6. Only one question can be considered at a time.
7. Members may not make a motion or speak in debate until they have been recognized by the chair and thus have obtained the floor.
8. No member may speak a second time on the same question if anyone who has not spoken on that question wishes to do so.
9. Members must not attack or question the motives of another member. Customarily, all remarks are addressed to the presiding officer.
10. In voting, members have the right to know at all times what motion is before the assembly and what affirmative and negative votes mean.
11. The majority vote decides. This is a fundamental concept of democracy.
12. All meetings will be characterized by fairness and good faith.

ANNEX B

The Chief Purposes of Motions

PURPOSE	MOTION
Present an idea for Consideration and action	Main motion Resolution
Improve a pending motion	Amend Division of question
Regulate or cut off debate	Limit or extend debate Previous Question
Delay a decision	Refer to committee Postpone/table to a certain time Recess Adjourn
Kill an item	Postpone Indefinitely
Meet an emergency	Question of privilege Suspend rules Lay on the Table
Gain information on a pending motion	Parliamentary inquiry Request for information Request to ask a member a question Question of privilege
Question the decision of the presiding officer	Point of order
Enforce rights and privileges	Parliamentary inquiry Point of order Appeal from decision of the chair
Consider a question again	Take from the Table Discharge a committee Reconsider Rescind Renew a motion Amend a previous action Ratify
Change an action already taken	Reconsider Rescind Amend a previous action
Terminate a meeting	Adjourn Recess

ANNEX C

Parliamentary Strategy

To Support a Motion	To Oppose a Motion
<ol style="list-style-type: none"> 1. Second it promptly and enthusiastically. 2. Speak in favor of it as soon as possible. 3. Do your homework; know your facts; have handouts, charts, etc., if appropriate. 4. Move to amend motion, if necessary, to make it more acceptable to proponents. 5. Vote against motion to table or to postpone, unless delay will strengthen your position. 6. Move to recess or postpone, if you need time to marshal facts or work behind the scenes. 7. If defeat seems likely, move to refer to committee, if that would improve chances. 8. If defeat seems likely, move to divide question, if appropriate, to gain at least a partial victory. 9. Have available a copy of the rules of procedure, City Charter, and <i>Robert's Rules of Order Newly Revised</i>, most recent edition, in case of a procedural dispute. 10. If motion is defeated, move to reconsider, if circumstances warrant it. 11. If motion is defeated, consider reintroducing it at a subsequent meeting. 	<ol style="list-style-type: none"> 1. Speak against it as soon as possible. Raise question; try to put proponents on the defensive. 2. Move to amend the motion so as to eliminate objectionable aspects. 3. Move to amend the motion to adversely encumber it. 4. Draft a more acceptable version and offer as amendment by substitution. 5. Move to postpone to a subsequent meeting. 6. Move to refer to committee. 7. Move to recess, if you need time to round up votes or obtain more facts. 8. Question the presence of quorum, if appropriate. 9. Move to adjourn 10. On a voice vote, vote emphatically. 11. If the motion is adopted, move to reconsider, if you might win a subsequent vote. 12. If the motion is adopted, consider trying to rescind it at a subsequent meeting. 13. Have available a copy of the rule of procedure, City Charter, and <i>Robert's Rules of Order Newly Revised</i>, most recent edition, in case of a procedural dispute.

ANNEX D

Conflict of Interest

AFFIDAVIT

THE STATE OF TEXAS §
COUNTY OF TRAVIS §

I, _____, as a member of the City of Manor City Council, make this Affidavit and hereby on oath, state the following:

"I, and/or a person or persons related to me, have a substantial interest in a business entity or real property that may receive a special economic effect by a vote or decision of the City of Manor City Council and the economic effect on my business entity or real property is distinguishable from its effect on the general public. What constitutes a "substantial interest," "business entity," "real property" and a "special economic effect" are terms defined in Chapter 171 of the Texas Local Government Code.

"I affirm that the business entity or real property referred to above is: _____

The nature of my substantial interest in this business entity or real property is: (Check all which are applicable.)

- ___ An ownership interest of 10% or more of the voting stock or shares of the business entity; or
- ___ An ownership interest either 10% or more or \$15,000 or more of the fair market value of the business entity; or
- ___ Funds received from the business entity exceed 10% of _____(my, his, her) gross income for the previous year; or
- ___ Real property is involved and _____(I, he, she) has/have an equitable or legal ownership with a fair market value of at least \$2,500 or more;
- ___ A relative of mine related in the first degree by consanguinity (blood) or affinity (marriage), as determined under Chapter 573, Texas Government Code, is considered to have a substantial interest in the business entity or property that would be affected by a decision of the public body of which I am a member.
- ___ Other: _____

"Upon the filing of this Affidavit with the City Secretary, I affirm that I will abstain from any discussion, vote, or decision involving this business entity or real property and from any further participation in this matter whatsoever."

SIGNED this the ____ day of _____, 20 ____.

Signature of public official

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned authority, by

_____, on this the ____ day of _____, 20 ___, which witness my hand and official seal.

Notary Public
State of Texas

HOME RULE CHARTER - CITY CHARTER OF THE CITY OF MANOR, TEXAS^{[41](#)}

Footnotes:

--- (1) ---

Editor's note— Printed herein is the charter of the City of Manor, Texas, which was adopted at an election held on November 6, 2007. Apart from minor nonsubstantive changes in style and formatting, the charter is reproduced as adopted. Capitalization, punctuation and grammar have been retained. Obviously misspelled words have been corrected without notation. Material enclosed in brackets has been added for clarification. Amendments to the charter are indicated by a history note following the amended provision. Ordinance No. 426, prop. 27, adopted February 24, 2015, made nonsubstantive clerical changes throughout the charter as shown in exhibit A attached to the ordinance. Such changes are incorporated herein as set out in the exhibit. No history note has been added for these changes.

State Constitution reference— Charter to be consistent with constitution and general laws, art. XI. sec. 5.

Preamble

This charter is dedicated to and adopted by the citizens of the City of Manor to grant the full authority for local self-government and to ensure such rights and duties to the people, to reserve to the people the powers of initiative and referendum, and to encourage citizen participation in our government for the proper and efficient progress of our city. To this end we adopt and ordain this charter as authorized by the Texas Constitution.

(Ordinance 326 adopted 8/15/07)

ARTICLE I. - INCORPORATION, FORM OF GOVERNMENT AND POWERS OF THE CITY

Section 1.01. - Incorporation.

The inhabitants of the City of Manor, Texas, within the corporate limits as now and as hereafter established, extended and modified, shall continue to be and are hereby constituted a body politic and corporate in perpetuity under the name of the "City of Manor," hereinafter referred to as the "city," with such powers, privileges, rights, duties and immunities as herein provided.

(Ordinance 326 adopted 8/15/07)

Section 1.02. - Form of Government.

The municipal government shall be, and shall be known as, a "council-manager" form of government. Pursuant to the provisions of, and subject only to the limitations imposed under the Texas Constitution and laws of this state, and this charter, all powers of the city shall be vested in and exercised by an elective governing body, hereinafter referred to as the "city council" or "council". The council shall enact legislation, adopt budgets, determine policies, make appointments to positions as provided herein and appoint the city manager who shall execute the laws and administer the government of the city.

(Ordinance 326 adopted 8/15/07)

State Law reference— Form of government, V.T.C.A., Local Government Code, sec. 26.021.

Section 1.03. - Rights Reserved.

All suits, taxes, penalties, fines, forfeitures and all other rights, claims and demands, of every kind and character, which have accrued under the laws in favor of the city, heretofore in force governing the same, shall belong to and vest in the city, shall not abate by reason of the adoption of this charter, shall be prosecuted and collected for the use and benefit of the city and shall not be in any manner affected by the taking effect of this charter, but as to all of such rights, the laws under which they shall have accrued shall be deemed to be in full force and effect. The budget and all ordinances, rules and regulations of the city shall be and remain in effect, subject to the terms of this charter and the future discretion and vote of the council. All present commissions, boards and officers of the city shall continue in office subject to the provisions of this charter, including, but not limited to, the provisions governing election and removal, and the council's exercise of the authority conferred by this charter.

(Ordinance 326 adopted 8/15/07)

Section 1.04. - General Powers.

The city shall possess and may exercise the full power of local self-government and shall have all powers possible and lawful for a home rule city to have under the constitution and laws of the State of Texas, as fully and completely as though each such power were specifically enumerated in this charter. It is specifically provided that:

- (a) The powers and authority of the city shall include but shall not be limited to any power and authority necessary, useful or desirable to accomplish any public or lawful purpose or to provide for the advancement of the interest, welfare, health, morals, comfort, safety, economic well-being or convenience of the city and its inhabitants; provided that all such powers, whether expressed or implied, shall be exercised and enforced in the manner prescribed in this charter, and when not prescribed herein, in such manner as is provided by ordinance or resolution adopted by the city council.
- (b) The enumeration of particular powers in this charter shall not be held or deemed to be exclusive, and in addition to the powers enumerated herein, the city shall have all other powers which, under the constitution and laws of the State of Texas, it would be proper for this charter to specifically enumerate, including all powers of local government not clearly denied the city by state law. The city shall have and may exercise all the powers conferred upon cities of every class by the Texas Constitution or state and federal law, including all powers of local government that can be conferred on home rule cities pursuant to Art. 11, Sec. 5, Texas Constitution, or that is conferred by any existing or future law relating to the powers and authority of cities, together with all the implied powers necessary to carry into execution any such power.
- (c) The city may exercise any of its powers and perform any of its functions by contract with, or in cooperation with, the state government or any agency or any political subdivision thereof, or with the federal government or any agency thereof, and to the extent not inconsistent with state law or this charter, by contract with any person, firm or legal entity.
- (d) Under the name of the city it shall be known in law and have succession and be capable of contracting and being contracted with; being sued and impleaded as authorized in this charter or by state law; suing and impleading at law or in equity and being answered to in all courts and tribunals; provided that the city shall have sovereign immunity and its officers and employees shall have qualified governmental immunity.

(Ordinance 326 adopted 8/15/07)

State Law reference— General powers of home-rule municipality, V.T.C.A., Local Government Code, sec. 51.071 et seq.

Section 1.05. - Particular Powers.

In addition to the foregoing general powers and the other powers and authority set forth in this charter, the city may use a corporate seal; own, acquire, purchase, lease, hold, manage, control, convey and sell any character of property, whether real, personal or mixed, including any charitable or trust fund, situated within, or without, the limits of the city, as the purposes of the city may require for any public purpose in fee simple or in any lesser interest or estate by purchase, gift, devise, lease or condemnation; contract with, own, lease, operate and regulate public utilities and services; assess, levy and collect taxes for general and special purposes; borrow money on the revenues and/or the faith and credit of the city, by the issuance and sale of bonds, certificates of obligation, warrants, notes or any other evidence of indebtedness or obligation of the city; appropriate city funds and monies for any public purpose; regulate and control the use, for whatever purpose, of the streets and other public places; make and enforce regulations to protect the public safety, health and welfare; pass such ordinances as may be expedient for the protection and maintenance of good government, for the peace, safety, welfare, comfort and quality of life of the city and its citizens, for the performance of the functions of the city and for the order and security of the city and its residents; zone and regulate the development and use of land and all other property; provide suitable penalties for the violations of any ordinance; and exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever.

(Ordinance 326 adopted 8/15/07)

Section 1.06. - Power of Eminent Domain.

The city shall have full power and right to exercise the power of eminent domain for any public purpose or as necessary or desirable to carry out any power conferred by this charter. The city shall have and possess the power of condemnation for any such purpose even though such power of eminent domain is not otherwise specifically enumerated in this charter or in state law. The city may exercise the power of eminent domain in any manner authorized or permitted by state law, and in those instances in which state law does not authorize, permit or establish the procedures, method of establishing value, or other requirements for condemnation and the exercise of the power of eminent domain, the city council shall by ordinance establish the process, rules and procedures for valuing the property and property interests to be condemned. Taking property for any public purpose that requires a fee simple conveyance to a private person or private entity, other than to obtain interim financing and ultimate ownership by the city of a city facility, or as part of an urban renewal or similar program, is prohibited.

(Ordinance 326 adopted 8/15/07)

State Law reference— Eminent domain, V.T.C.A., Property Code, ch. 21; municipal right of eminent domain, V.T.C.A., Local Government Code, ch. 251.

Section 1.07. - Annexation and Disannexation.

The council may by ordinance unilaterally annex or disannex any land, property or territory upon its own initiative, upon a petition submitted by a majority of the voters residing within the territory being annexed or disannexed or upon petition by the owners of the property. The procedure for the establishment, modification or extension of the city boundaries, including the annexation or disannexation of territory, may not be inconsistent with any applicable requirements and limitations established by state law; provided that absent procedures being established by state law the action may be taken by ordinance adopted after one public hearing is held at least ten but not more than 20 days after notice of such public hearing is published in a newspaper of general circulation in the city. Upon final passage of an ordinance, fixing, establishing or modifying the boundaries of the city or annexing or disannexing any property by any method prescribed herein, the boundaries of the city shall be so extended or modified as provided in such ordinance. Upon an ordinance annexing property into the city, the territory described in

the ordinance shall become a part of the city, and the said land and its residents and future residents shall be bound by the acts, ordinances, codes, resolutions and regulations of the city.

A good and sufficient legal description of the land area being considered for annexation or disannexation, together with a map or plat prepared at the initiator's expense showing the location of such land area, shall be presented to the council at a public meeting prior to final action on such annexation or disannexation. Land disannexed from the city shall not be relieved from any unpaid lawful assessments or taxes levied by the city against the property while such land or property was a part of the city.

(Ordinance 326 adopted 8/15/07)

State Law reference— Municipal annexation, V.T.C.A., Local Government Code, ch. 43.

Section 1.08. - Streets and Public Property.

The city shall have exclusive dominion, control and jurisdiction, in, upon, over and under the public streets, sidewalks, alleys, highways, public squares, public ways and public property within the corporate limits of the city. With respect to all such facilities and public property, the city shall have the power to establish, maintain, alter, abandon or vacate the same; to regulate, establish or change the grade thereof; to control and regulate the use thereof; and to abate and remove in a summary manner any encroachment. The city may develop and improve, or cause to be developed and improved, any and all public streets, sidewalks, alleys, highways and other public ways within the city by laying out, opening, narrowing, widening, straightening, extending and establishing building lines along the same; by purchasing, condemning and taking property therefor; by filling, grading, raising, lowering, paving, repaving and repairing, in a permanent manner, the same; by constructing, reconstructing, altering, repairing, and realigning curbs, gutters, drains, sidewalks, culverts, and other appurtenances and incidentals in connection with such development and improvements; and may make or cause to be made any one or more of the kinds or classes of development and improvement authorized hereinabove, or any combination or parts thereof.

(Ordinance 326 adopted 8/15/07)

State Law reference— General municipal authority over public grounds, V.T.C.A., Local Government Code, sec. 282.001; authority of municipality over and under public highways, streets and alleys, V.T.C.A., Transportation Code, sec. 311.001.

ARTICLE II. - BOUNDARIES OF THE CITY

Section 2.01. - Boundaries.

The boundaries and limits of the city shall, until changed in the manner herein provided, be the same as have heretofore been established and as exist on the date of the adoption of this charter. The boundaries and territorial limits of the city may from time to time by ordinance be fixed, decreased, modified or extended, and property may be annexed into the city or disannexed from the city, with or without the consent of any voter or of any landowner in the affected area.

(Ordinance 326 adopted 8/15/07)

ARTICLE III. - THE CITY COUNCIL [\[2\]](#)

Footnotes:

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Editor's note— Former section 3.03 pertaining to the transition of the city council from a five-member council to a seven-member council was deleted as being obsolete by Proposition 1 of Ordinance 426 adopted 2/24/15. The following sections of this article were renumbered.

Section 3.01. - Governing Body.

The governing body of the city shall be a city council composed of six council members and a mayor, each elected for a term of two years. When used in this charter or any other city document "council person" or "council member" includes the mayor unless the context indicates otherwise.

The mayor shall be elected from the city at large. The council members shall be elected from the city at large, by Place. Each seat on the council, except for the position of mayor, will be numbered, as [Place] 1 through Place 6. The council member occupying a particular seat will be identified by the Place number assigned to that council seat. The mayor and the three council members occupying Places 1, 3, and 5 shall be elected in odd numbered years and the three council members occupying Places 2, 4, and 6, shall be elected in even numbered years. The candidate who receives the largest number of votes for a particular office shall be declared elected for that office.

(Ordinance 326 adopted 8/15/07)

Section 3.02. - Term Limitations.

The mayor and council members shall be elected in the manner provided in Article V of this charter to serve for no more than three consecutive terms. Terms served as council member shall be considered separately from those served as mayor. However, no person may serve more than six consecutive terms as mayor and council member. After completing three consecutive terms, a person may again run for office after one full year of not holding any appointed or elected position on the council. Non-consecutive terms shall not be limited. Terms served prior to the adoption of this charter shall not be considered for the purpose of term limitations.

(Ordinance 326 adopted 8/15/07)

Section 3.03. - Qualifications. [Amendment to go into effect for the 2016 general election]

- (a) On the day prior to the date of the scheduled election to be held for such office or at the time of appointment to fill a vacancy, the mayor and council members must:
- (1) be at least 21 years of age;
 - (2) be citizens of the United States;
 - (3) be qualified voters of the city;
 - (4) have been residents of the State of Texas for at least 12 consecutive months;
 - (5) have been residents of the city, being one's declared place of habitation within the corporate limits or an area having been annexed into the city, for at least the maximum number of consecutive months permitted by state law but in no instance less than 12 consecutive months;
 - (6) not be delinquent on any indebtedness to the city;
 - (7) not be related to a council member within the third degree by consanguinity or within the second degree by affinity; and

- (8) meet the other qualifications for eligibility set forth in the Texas Election Code.
- (b) At the time that a person files an application for a place on the ballot, the person may not be related within the third degree by consanguinity or within the second degree by affinity to:
 - (1) a council member, unless the place held by such council member is scheduled to be filled on the same election date for which the person has filed the application and such council member has not filed an application for a place on the ballot for such election date; or
 - (2) a candidate for a city council place to be filled on the same election date for which the person submitted the application.
- (c) No city employee shall be eligible to file for election as a member of the council. Also, no candidate for or member of the council shall hold any other elective public office. If any member of the council ceases to possess any of the qualifications of office, including continuous residency within the city, his or her office shall, upon such fact being determined by the council, immediately become vacant; provided that if the residence of a member of the council is disannexed, the member shall serve the remainder of his or her term of office.

(Ordinance 326 adopted 8/15/07; Ordinance 426, prop. 2, adopted 2/24/15)

State Law reference— Age and residence requirements for home-rule city office, V.T.C.A., Election Code, sec. 141.003.

Section 3.04. - City Council Judge of its Members.

The council shall be the judge of the election and qualifications of its members, may determine the rules of its proceedings and shall have power to compel the attendance of absent members and to punish members for disorderly conduct. After due notice and opportunity to be heard, upon not less than six affirmative votes, the council shall have the power to remove any elected officer for conviction of a felony, gross immorality, habitual drunkenness, corruption, misconduct or malfeasance in office or failing to continuously reside within the corporate limits. Members of all boards appointed by the council may be removed by majority vote of the council present and voting at any time after notice in compliance with the open meetings laws.

(Ordinance 326 adopted 8/15/07)

Section 3.05. - Vacancies in Office.

The office of mayor or council member shall become vacant upon the death, resignation, removal from office of the incumbent, or, for individuals elected to office, failure to take the oath of office by the first regular city council meeting following the canvass of the election at which the individual receives a plurality vote, or, for individuals appointed to office, by the first meeting following the individual's appointment. Any vacancy or vacancies, whether in the office of mayor or council member, may be filled by special election called for such purpose or by the majority of the remaining council members appointing a qualified person to fill the vacancy. All appointees to vacancies shall serve for the remainder of the unexpired term of the office so filled.

(Ordinance 326 adopted 8/15/07; Ordinance 426, prop. 3, adopted 2/24/15)

State Law reference— Special election to fill vacancy generally, V.T.C.A., Election Code, sec. 201.051 et seq.

Section 3.06. - Quorum and Attendance.

Four members of the council shall constitute a quorum for transacting business and no action of the council shall be valid or binding unless taken in an open meeting with a quorum present. Less than a quorum may adjourn any meeting, or order and compel the attendance of absent members. It shall be the duty of each member of the council to attend each regular and special council meeting and the failure of any member to attend three consecutive, regular meetings, without good and sufficient cause, shall constitute misconduct in office.

(Ordinance 326 adopted 8/15/07)

Section 3.07. - Meetings.

The council shall hold at least one regular meeting each month. Meetings shall be held on a schedule or dates established by the council, and as many regular or special meetings may be scheduled and held as the council deems necessary to transact the business of the city. The council shall fix the dates and times of the regular meetings and special meetings shall be held on the call of the mayor or the city manager. If practicable, no less than 12 hours' notice of special meetings shall be given to each member of the council. Meetings shall be open to the public and public notice shall be given in accordance with state law; provided that executive sessions closed to the public shall be permitted in accordance with the state law. The mayor or city manager shall approve meeting agendas. A council member may require any item related to city business to be placed on an agenda for which notice may be given.

(Ordinance 326 adopted 8/15/07)

State Law reference— Open meetings, V.T.C.A., Government Code, ch. 551.

Section 3.08. - Voting.

All members of the council present shall vote upon every issue, subject or matter properly before the council and requiring a council vote; provided that, if any member of the council has a conflict of interest, that fact shall be stated in the minutes and such member shall abstain from discussion and voting on the issue. No ordinance, resolution, order, action, matter or issue shall be passed, approved, adopted, taken or consented to except by a majority vote of the members of council present and voting, and not less than four affirmative votes shall be required to pass, approve, adopt, take action on or consent to any ordinance, resolution, action, matter, issue or motion.

(Ordinance 326 adopted 8/15/07)

Section 3.09 - Compensation.

The mayor shall not be paid and each other council member shall not be paid. They shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of official duties, as budgeted and duly authorized. No staff or assistant shall be provided for any member of the council.

(Ordinance 326 adopted 8/15/07)

Section 3.10. - Automatic Resignation.

The office of mayor or council member shall become vacant upon such member's announcement of candidacy or becoming a candidate in any general, special, or primary election, or any office of profit or trust under the laws of the State of Texas or the United States other than the office then held, at any time when the unexpired term of the office then held exceeds one year and 30 days, [and] such

announcement or such candidacy shall constitute an automatic resignation of the office then held. The city council may not appoint a person who vacates his or her place on council under this subsection to fill the resulting vacancy.

(Ordinance 426, prop. 4, adopted 2/24/15)

ARTICLE IV. - THE AUTHORITY AND LIMITATIONS OF THE CITY COUNCIL

Section 4.01. - Mayor.

The mayor serves as the ceremonial head of the city and shall preside at all meetings of the council and provide the leadership necessary to good government. He or she shall work with the council to obtain legislation in the public interest and with the city manager to ensure the same is enforced and participate in the discussion and vote on all legislative and other matters coming before the council. The mayor shall have signatory authority for all legal contracts and commitments of the city, sign all ordinances and resolutions, work and coordinate with the city manager and the council, but may not bind or obligate the city in any way without prior authorization from the council and to the extent provided by state law in time of declared emergency, may take command of the police and govern the city by proclamation, maintain order and enforce all laws; provided that the mayor must immediately call for an emergency meeting of the city council to consider the appropriate actions for the city during the emergency; and perform ceremonial duties.

(Ordinance 326 adopted 8/15/07)

Section 4.02. - Mayor Pro-Tem.

At its first regular meeting after all the members of the council elected at a general election have taken office, or after a vacancy in the office of mayor pro-tem, the council shall elect one of its members to be mayor pro-tem for a one-year term, or to fill the unexpired term resulting from the vacancy. The mayor pro-tem shall be the council member who receives a majority of the votes cast but not less than four votes. In the absence of the mayor, the mayor pro-tem shall perform the duties of the mayor and in such capacity shall be vested with all powers conferred on such office. In the event of the failure, inability or refusal of the mayor to act in respect to any matter or duty, the mayor pro-tem shall act. In the event the office of mayor becomes vacant, the mayor pro-tem shall serve as mayor until the office is filled.

(Ordinance 326 adopted 8/15/07)

Section 4.03. - The City Council.

The city council shall be the legislative and governing body of the city and shall have control of all the city finances, property, functions, services, affairs and programs subject only to the terms and provisions of this charter. The council shall have the power to ordain, alter, amend or repeal and enforce ordinances, resolutions, rules, orders and regulations for any public purpose that are not in conflict with this charter or federal or state law. The council shall have the power and authority to provide for any public purpose, including but not limited to, recreation, the regulation and control of public property, municipal finances, the preservation of the public peace and good order, the security and protection of the public health, safety and welfare, the promotion of trade, commerce and economic development, the beautification and quality of life within the city, and any other governmental or proprietary service or program. The city, by and through its city council, has full and complete power of local self-government to the fullest extent not in conflict with this charter and state law, including all such authorities and privileges that are now or hereafter provided to cities by state law and such power and authority both express and implied as necessary to accomplish and enforce any such duty, program or public purpose.

The council shall have all the powers necessary and incident to the proper discharge of the duties imposed upon it and is hereby vested with all powers necessary to carry out the terms and provisions of this charter; except where such powers are, by this charter, specifically reserved or conferred on some other officer.

The following powers and duties of the council are not exclusive but are enumerated for greater clarity:

- (a) Appoint, supervise and remove the city manager as provided in Section 7.01.
- (b) Ensure enforcement of the provisions of this charter and the ordinances of the city.
- (c) Adopt and amend the budget of the city.
- (d) Call bond elections, and authorize the issuance and sale of bonds, certificates of obligations, certificates of participation, warrants, notes and other evidences of indebtedness or obligation of the city pursuant to this charter and state law.
- (e) Provide for and control of all city finances.
- (f) Provide for boards and commissions as deemed necessary by the council, and as required by this charter, and appoint and remove all such boards and commissions upon recommendation of the mayor; provided that, if an appointment or removal has been considered at two regular meetings and no recommendation has been made, the council may take action by motion and vote.
- (g) Adopt, modify and carry out the plans proposed by the planning and zoning commission and other boards and commissions.
- (h) Adopt, modify and cause the enforcement of building codes, fire codes and health codes, public safety codes and all other codes and regulations deemed reasonably necessary.
- (i) Provide for all public utilities and serve as the primary regulatory agency for the rates thereof whether city owned or furnished by private utility companies.
- (j) Pass ordinances and resolutions as necessary in its judgment for any public purpose not inconsistent with this charter.
- (k) Exercise police powers for the safety of all citizens, and to protect their health, life and property, prevent and summarily abate and remove all nuisances, preserve and to enforce good government, order and security of the city.
- (l) Control and regulate the use and occupancy of the public streets, rights-of-way and all property of the city.
- (m) Make investigations into municipal affairs and subpoena persons, documents and records, and compel the attendance of witnesses and the production of records for such purpose.
- (n) Require a fidelity bond to be provided at city expense for any officer or employee position so required to be bonded.
- (o) Appoint and remove the city attorney.
- (p) To govern the affairs of the city in conformance with this charter and the state and federal constitutions and laws, and to determine by majority vote the best and most appropriate method and manner of efficiently performing the functions and providing the services of the city, consistent with the council-manager form of government; and except as provided in this charter with respect to certain departments that must be maintained in effect, the council may, after hearing the city manager, create, change, merge or abolish offices, departments or agencies of the city, and may contract for services by interlocal agreement or otherwise as it deems advisable to improve the services or the efficiency of government.
- (q) Call and hold special elections useful to the accomplishment of the public purposes of the city, to the fullest extent not inconsistent with state law.

(Ordinance 326 adopted 8/15/07)

Section 4.04. - Duties of Officers and Employees.

The city shall be an equal opportunity employer and the service of each such officer and employee shall be at will. The council may, not inconsistent with this charter, require other and further duties of any appointed officer or employee whose duties are prescribed herein, and may define, prescribe and change the duties of any appointed officer or employee as in its judgment be best for the public interest. No person related within the third degree by consanguinity or within the second degree by affinity to a member of the council, or the city manager, shall be or remain employed by the city; provided that such prohibition shall not apply to any person employed full-time for a period of 12 months or more prior to the member of the council or the city manager taking the oath of office. The council may require good and sufficient bond be given by appointed officers or employees handling funds of the city and may require bond of other officers or employees if considered proper or necessary. The expense of any such bond shall be paid by the city.

(Ordinance 326 adopted 8/15/07; Ordinance 426, props. 5, 6, adopted 2/24/15)

State Law reference— Nepotism, V.T.C.A., Government Code, ch. 573; official bonds, V.T.C.A., Government Code, ch. 604.

Section 4.05. - Prohibitions.

The council has powers only as a body meeting with a quorum present and no member shall have power to act individually except where that power may be conferred upon the member in this charter or by written council resolution; provided that each member is expected to serve his or her constituency and shall have the right to inquire through an officer appointed by the council into any matter whether or not such matter is brought before the council in order that he or she may so serve as an independent member of the council.

No member of the council shall hold any other city office or city employment during his or her term of office and no former member of the council shall hold any city office with compensation until one year after the expiration of the full term of office to which such member was appointed or elected.

No member of the council shall give orders directly to any city employee, except when empowered to do so by an emergency proclamation, and all members of the council shall, except for officers appointed by the council, deal with the non-elective officers, employees and administrative offices of the city solely through the city manager.

(Ordinance 326 adopted 8/15/07)

Section 4.06. - Ordinances.

The council may adopt legislation by ordinance regarding any subject or matter relating to or dealing with any public purpose, including, but not limited to, the adoption of standardized codes and regulations. An ordinance must be enacted whenever the purpose is to regulate persons and property; whenever there is imposed a penalty, fine, forfeiture or tax; whenever the purpose is to set a rate to be paid by consumers; whenever an ordinance is required by state law or this charter; or, when an ordinance is amended. The authority of the council to legislate to accomplish any public purpose shall be subject only to the following:

- (a) No ordinance or other action of the council may be inconsistent with this charter or in conflict with any applicable state or federal law.

- (b) The enacting clause of every ordinance shall be "BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MANOR, TEXAS."
- (c) Except for zoning ordinances, annexation ordinances and other ordinances specifically required to have two readings, no ordinance shall be finally adopted until it has been read and approved by a majority vote of the city council.
- (d) Zoning ordinances, annexation ordinances and any other ordinance specifically required to be passed at two meetings shall not be finally adopted until it has been read and approved by a majority vote of the city council at two meetings, one of which is a regular meeting.
- (e) The council may by ordinance amend the budget to transfer budgeted funds from one fund or department to another.
- (f) An ordinance requiring two readings that does not receive a majority vote on first reading shall not advance for consideration on second reading.
- (g) All ordinances and proposed ordinances shall be available for public examination and review, and for copying, from and after being included on an agenda that is posted for any meeting of the council or any city board.

(Ordinance 326 adopted 8/15/07)

State Law reference— Ordinance, rule or regulation necessary to carry out other powers, V.T.C.A., Local Government Code, sec. 51.001; publication of ordinances, V.T.C.A., Local Government Code, sec. 52.013.

Section 4.07. - Resolutions and Minute Orders.

The council may act by resolution regarding any subject or matter relating to or dealing with any public purpose or business except as provided in Section 4.06. The enacting clause of every resolution shall be "BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MANOR, TEXAS." The council may further give instructions to the city manager, approve bids and contracts and take other actions regarding the day to day business of the city by motion approved by four council members and entered into the minutes of the council meeting.

(Ordinance 326 adopted 8/15/07)

ARTICLE V. - ELECTIONS^[3]

Footnotes:

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State Law reference— Applicability of Election Code, V.T.C.A., Election Code, sec. 1.002.

Section 5.01. - Notice and Order for Elections.

City elections shall be ordered and notice thereof given as provided in the Texas Election Code. The council shall establish the procedures and order elections except as provided therein. If not otherwise provided for by state law, all elections shall be ordered at least 62 days prior to the date of election and notice shall be given by publication not more than 30 days and not less than 20 days immediately preceding the date of election. Notice of election shall be published in a newspaper published within the

city, and if there be no such publication, notice shall be published in a newspaper of general circulation within the city.

(Ordinance 326 adopted 8/15/07)

State Law reference— Notice of elections, V.T.C.A., Election Code, ch. 4.

Section 5.02. - General Elections.

- (a) Beginning with the general election to be held in 2016 and for each successive general election, the general city election shall be held annually on the uniform election date in November. The mayor and council members are elected by plurality vote.
- (b) The terms of office for the members of the city council elected to Places 2, 4, and 6 in May 2014 shall be extended until their respective successors qualify for office following the November 2016 election. The terms of office for the mayor and the members of the city council elected to Places 1, 3, and 5 in May 2015 shall be extended until their respective successors qualify for office following the November 2017 election.

(Ordinance 326 adopted 8/15/07; Ordinance 426, prop. 7, adopted 2/24/15)

State Law reference— Election dates, V.T.C.A., Election Code, ch. 41.

Section 5.03. - Special Elections.

The council may, by ordinance call such special elections as are authorized by this charter or state law, fix the time of holding such elections, and provide all means for holding such special elections; provided that every special election shall be held on a Saturday, or a uniform election date, unless otherwise provided by law.

(Ordinance 326 adopted 8/15/07)

Section 5.04. - Conduct of Elections.

All elections shall be held in accordance with state law and the ordinances adopted by the council for the conduct of elections. Unless an interlocal cooperation agreement assigns the obligations to another authorized political subdivision, the council shall appoint the election judges, provide for other election officials and provide for location of early voting and election day voting. In the absence of state law providing regulations for the conduct of any election the council shall provide such regulations by ordinance.

(Ordinance 326 adopted 8/15/07)

State Law reference— Appointment of election judges, V.T.C.A., Election Code, sec. 32.005.

Section 5.05. - Filing for Office.

Candidates for office shall make application for a place on the ballot within the times prescribed by the Texas Election Code. In the absence of a filing deadline established by state law, applications for a place on the ballot shall be filed no later than 5:00 p.m. of the last business day that [is] authorized by state law for calling the election. All applications shall designate the position sought and applications for council member shall include the Place number. It is the duty of the city secretary to place the name of all

qualified candidates, making timely application, on the official ballot. Each candidate for the council or any other elective office shall meet the following qualifications:

- (a) Have all the qualifications for a council member as described in Section 3.04 [Section 3.03] of this charter;
- (b) No candidate may file for more than one city office or place in an election or elections held on the same date.
- (c) Each candidate shall file such application as required by ordinance.

(Ordinance 326 adopted 8/15/07; Ordinance 426, prop. 8, adopted 2/24/15)

State Law reference— Candidate's application for home-rule city office, V.T.C.A., Election Code, sec. 143.005.

Section 5.06. - Polling Places.

The council shall establish one or more election precincts and provide polling places as necessary for city elections. Unless established otherwise by ordinance, the entire city shall be one election precinct.

(Ordinance 326 adopted 8/15/07; Ordinance 426, prop. 9, adopted 2/24/15)

Section 5.07. - Official Ballots.

- (a) *Names on Ballot.* Unless otherwise provided in law, the name of each qualified candidate for office, except those who withdraw, die or become ineligible prior to the printing or programming of the ballots prior to early voting, shall be printed on the official ballots without party designation or symbol in the form designated by the candidate. If two or more candidates have the same surname or surnames so similar as to be likely to cause confusion, their residence addresses shall be printed with their names on the ballot.
- (b) *Order of Listing.* The order on the ballot of the names of the candidates shall be determined by lot in a drawing to be held under the supervision of the city secretary.
- (c) *Early Voting.* Procedures for early voting shall be consistent with the Texas Election Code.
- (d) *Ballots on Measures.* Ballots for ordinances, bond issues and charter amendments shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title but must be a clear, concise statement, approved by majority of the council, describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above described (Ordinance) (bond issue) (amendment) be adopted?" Immediately below or to the left of such question shall appear, in the following order, the words "Yes" and "No" each with a square in which the voter may cast his or her vote by marking a cross (X) or other mark; provided the requirements of this section may be varied, not inconsistent with state law, as necessary for use of an electronic voting system.
- (e) *Write-In Votes.* Procedures for write-in votes shall be consistent with the Texas Election Code.

(Ordinance 326 adopted 8/15/07)

State Law reference— Ballot form, content and preparation, V.T.C.A., Election Code, ch. 52.

Section 5.08. - Voters and Voting.

Every registered voter who has been a resident of the city for 30 days or more prior to the date of the election shall be entitled to vote in city elections. Early voting and the hours the polls are open shall be as established by state law, or absent state law providing therefor, as established by ordinance.

(Ordinance 326 adopted 8/15/07; Ordinance 426, prop. 10, adopted 2/24/15)

State Law reference— Qualified voters, V.T.C.A., Election Code, sec. 11.002.

Section 5.09. - Election Results.

The mayor and council members are elected by plurality vote. No measure shall be adopted except by a majority vote and a tie vote shall defeat the measure.

(Ordinance 326 adopted 8/15/07)

State Law reference— Election by plurality, V.T.C.A., Election Code, sec. 2.001 et seq.

Section 5.10. - Canvassing.

The returns of every municipal election shall be delivered by the election judges to the city secretary at city hall not later than 24 hours after the closing of the polls. The city council shall canvass the returns in accordance with state law. The returns of every municipal election shall be recorded in the minutes of the council by totals for each candidate, or for and against each issue submitted.

(Ordinance 326 adopted 8/15/07)

State Law reference— Canvassing elections, V.T.C.A., Election Code, ch. 67.

Section 5.11. - Term of Office.

The mayor and each council member shall serve until his or her successor is elected or appointed and qualified to serve. The regular term of office of the mayor and the council members shall commence on the first regular council meeting following the canvass of the election at which they receive a plurality vote. The remaining term of a member of council elected at a special election shall commence on the first regular council meeting after the canvass of votes for the election at which they receive a plurality of the votes cast for the office.

(Ordinance 326 adopted 8/15/07)

ARTICLE VI. - INITIATIVE AND REFERENDUM

Section 6.01. - General.

The citizens reserve the powers of initiative and referendum which may be exercised in the manner and subject to the limitations provided in this Article.

(Ordinance 326 adopted 8/15/07)

Section 6.02. - Initiative.

Subject only to the limitations provided in this Article, the people of the city have the power to propose legislation on any local government issue, except legislation appropriating money, levying taxes, affecting zoning, annexing land or setting rates, fees or charges, and if the council fails to adopt an ordinance so proposed, to adopt or reject the proposed legislation at an election.

(Ordinance 326 adopted 8/15/07)

Section 6.03. - Referendum.

The people of the city shall have the power to require reconsideration by the council of any adopted ordinance regarding any issue that would be a proper subject for an initiative, and if the council fails to repeal an ordinance so reconsidered, to approve or reject the ordinance at an election. Such power does not extend to the budget; capital expenditures; levy of taxes; any bonds, certificates of obligation or any similar obligations; zoning; annexation; or any rates, fees and charges; provided that tax increases shall be subject to petition as provided by state law.

(Ordinance 326 adopted 8/15/07)

Section 6.04. - Conflict.

No initiative or referendum action shall conflict with this charter, the United States or Texas Constitution or any Texas state statute.

(Ordinance 326 adopted 8/15/07)

Section 6.05. - Signatures.

Initiative and referendum petitions must be signed by registered voters residing within the city in number equal to 25 percent of the number of votes cast at the last general election of the city. The signatures to the initiative or referendum petition need not all be appended to one paper, but each signer shall sign his or her name in ink or indelible pencil and shall add or cause to be added his or her place of residence within the city by street and number, printed name and date of signature. The signatures on a petition section shall not be considered unless there is attached to the petition section a signed, notarized and dated affidavit, executed by a resident of the city who circulated the petition section, which affidavit shall include his or her printed name, the address by street and number within the city and the date he or she signed the affidavit; stating that he or she circulated each page and section of the attached petition; that each signature thereon was affixed in his or her presence; that each signature thereon is the signature of the person whose name it purports to be; and that to the best of his or her knowledge and belief each person signing the petition section was, at the time of signing, a registered voter residing within the city.

(Ordinance 326 adopted 8/15/07)

Section 6.06. - Commencement of Proceedings.

A qualified voter may commence an initiative or referendum proceeding by filing with the city secretary the complete form of a petition proposed to be circulated, including signature pages, together with a copy of the full text of the initiative ordinance, or the ordinance to be reconsidered. The ordinance set forth with the petition shall be complete and in proper form including the caption.

The city secretary shall place the time and date on the petition and documents when filed, examine the filing for sufficiency as to form and place the time and date of the certification for circulation on such petition and documents. The city secretary shall provide a certified copy of such filing as certified for

circulation to the person presenting same, the city manager and the city attorney, and file a copy of such certified documents and petition in the archives of the city.

The circulated petition must be returned and refiled with the city secretary within 90 days after the date the petition is certified for circulation. Signatures obtained prior to the date of such certification shall be invalid and a petition returned after the expiration of 90 days shall not be considered.

(Ordinance 326 adopted 8/15/07)

Section 6.07. - Examination and Sufficiency.

The city secretary shall examine each signature separately and disqualify any signature not having all of the information required, or not found to be that of a qualified voter of the city, determine whether the petition contains the requisite number of valid signatures, and complete a certification as to the sufficiency of the petition signatures within 14 days following the date the circulated petition is filed with the city secretary. The petitioner shall be notified by certified mail of the sufficiency of, or any insufficiencies in, the petition.

If the petition is certified as sufficient, the city secretary shall present a certificate to the city manager who shall cause the same to be placed on the agenda for the first council meeting that is three or more days after the date of the certification.

If the petition is certified as insufficient due to the disqualification or invalidity of signatures, the petitioner shall have 14 days following the date the number of signatures is found insufficient to file a supplementary petition with additional signatures sufficient in number to equal the required number of signatures. Upon supplementary petitions being timely filed, the city secretary shall have seven days from the date such supplementary petition is filed to certify the petition as sufficient or insufficient.

(Ordinance 326 adopted 8/15/07)

Section 6.08. - Referendum—Suspension of Ordinance.

When an authorized referendum petition is certified by the city secretary as sufficient, the ordinance sought to be reconsidered shall be suspended; and such suspension shall continue until the council repeals the ordinance or the ordinance is upheld by election.

(Ordinance 326 adopted 8/15/07)

Section 6.09. - Action on Petition.

Within 30 days after the date an initiative petition has been certified to the council as sufficient, the council shall request a formal legal opinion from the city attorney on the legality of the proposed ordinance. If the city attorney issues a written opinion that the proposed ordinance is clearly and facially invalid, the council shall not be required to call an election on such initiative. Otherwise, within 45 days after an initiative or referendum petition has been certified to the council as sufficient, the council shall:

- (a) Adopt the proposed initiative ordinance without any change in substance; or
- (b) Repeal the referred ordinance; or
- (c) Call an election on the proposed or referred ordinance.

The election on a proposed or referred ordinance shall be held on the next available uniform election date after the date of the council's action and for which notice may be timely given in compliance with state law and this charter. Such election may coincide with a regular city election should such election fall within the specified time. However, special elections on initiated or referred ordinances shall not be held more frequently than once each six months and no ordinance substantially the same as a defeated

initiative ordinance shall be adopted by the council or initiated within two years after the date of the election. No referred ordinance repealed at an election may be readopted by the council within two years from the date of the election at which such ordinance was repealed. Copies of the proposed or referred ordinances shall be made available at each polling place.

(Ordinance 326 adopted 8/15/07)

Section 6.10. - Procedure and Results of Election.

Not more than 30 and not less than 15 days prior to the special election, the city secretary shall cause the proposed or referred ordinance to be published in its entirety at least once in a newspaper of general circulation in the city.

The ballots used when voting upon such proposed and referred ordinances shall set forth the nature of the ordinance sufficiently to identify the ordinance and shall also set forth a proposition as provided in this charter. If a majority of the qualified voters voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances adopted by the council. If conflicting ordinances are approved at the same election, the ordinance receiving the greatest number of affirmative votes shall prevail.

An ordinance adopted by initiative may not be repealed or amended at any time prior to the expiration of two years from the date of its adoption, except at an election held for such purpose or such amendment being approved by the council by not less than six affirmative votes.

If a majority of the qualified voters on a referred ordinance vote against the ordinance, it shall be considered repealed upon certification of the election results. If a majority of the qualified voters voting on a referred ordinance vote for the ordinance, it shall be upheld; in such event, [it] may not again be the subject of a petition within 12 months following the date of such election.

(Ordinance 326 adopted 8/15/07)

Section 6.11. - Failure of City Council to Call an Election.

If the city secretary certifies the petition as sufficient and the city council shall fail or refuse to order such an initiative or referendum election, or to discharge any other duty imposed upon the council with reference to the election, then any citizen of the city may file suit in the district courts to compel the council to order the election.

(Ordinance 326 adopted 8/15/07)

ARTICLE VII. - ADMINISTRATIVE SERVICES^[4]

Footnotes:

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State Law reference— Creation of municipal offices, V.T.C.A., Local Government Code, sec. 26.041; compensation of officers in home-rule municipality, V.T.C.A., Local Government Code, sec. 141.004; residency requirements for municipal employees, V.T.C.A., Local Government Code, sec. 150.021.

Section 7.01. - City Manager.

The council appoints and removes the city manager upon the affirmative vote from five members of council. The council supervises the city manager by majority vote. The city manager shall be chosen and compensated solely on the basis of his or her experience, education, training, ability and performance, and need not be a resident of the city; provided that, during his or her tenure of office the city manager shall reside within Travis County or any contiguous county. The city manager may be bonded at city expense as determined by the council, and the city manager may require a bond be provided at city expense by any other employee. No member of the council shall, during the term of office for which he or she is elected or for one year thereafter, be appointed city manager.

The city manager is the chief executive and administrative officer of the city and is responsible to the council for the proper administration of all the affairs and business of the city.

The city manager is required to:

- (a) Enforce all state laws and city ordinances.
- (b) Supervise and give direction to all departments, and hire, suspend or remove any employee of the city except as specifically provided herein.
- (c) Sign all legal commitments of the city, if specifically authorized or directed by the city council.
- (d) Prepare all agendas in conjunction with the mayor and attend all meetings of the council except when excused by the council. He or she shall have the right to take part in all discussions but shall not have a vote.
- (e) Prepare and submit the proposed annual budget and be responsible for the administration of the adopted budget.
- (f) Keep the council advised of the financial condition and needs of the city and make such recommendations as seem necessary.
- (g) Prepare and submit to the council at the end of each fiscal year a complete report on the finances and administrative activities of the city for the preceding fiscal year.
- (h) Make such other reports as the council may require concerning the operations of the city.
- (i) Insure that all terms and conditions imposed in favor of the city, or its inhabitants, in any public utility franchise or other franchise or contract are faithfully kept and performed. Upon knowledge of any violation thereof, he or she shall call the violation to the attention of the city attorney, whose duty is to advise the city manager and the council of such steps as may be necessary to address the violation.
- (j) Meet, discuss and confer with and advise the mayor and or any member of the council regarding the business of the city.
- (k) Perform such other duties as may be prescribed in this charter or required by the council.

(Ordinance 326 adopted 8/15/07; Ordinance 426, prop. 11, adopted 2/24/15)

Section 7.02. - Acting Manager.

The city manager may designate a subordinate officer of the city to serve as acting city manager when the city manager is temporarily absent or on leave. The council may designate a qualified person to perform the duties of the office of city manager when the office is vacant or during the city manager's extended absence or disability and may set the compensation paid to such person during such time.

(Ordinance 326 adopted 8/15/07; Ordinance 426, prop. 12, adopted 2/24/15)

Section 7.03. - Administrative Departments.

There shall be such administrative departments as are required to be maintained by this charter and as are established by ordinance, all of which are under the control and direction of the city manager. The council shall approve personnel policies and guidelines, and shall, by ordinance, have the power to establish administrative offices or departments not provided for in this chapter [charter] and to discontinue, redesignate, or combine any of the departments and administrative offices established by ordinance. No change shall be made by the council in any personnel policy, guideline, department organization, or the city organization until the city manager's recommendations have been heard by the council.

(Ordinance 326 adopted 8/15/07)

Section 7.04. - Department Directors.

At the head of each department there shall be a director who shall be appointed by the city manager. Department directors, except contract employees and the city attorney, may be removed by the city manager. Such directors shall supervise and control their respective departments, may serve as the head of any division within their department, and may, with the city manager's approval, appoint and remove all employees of their respective department. More than one department may be headed by the same person, the city manager may head one or more such departments, and a provision in this charter for the appointment of a department director does not require the department to be created or maintained.

(Ordinance 326 adopted 8/15/07; Ordinance 426, prop. 13, adopted 2/24/15)

Section 7.05. - Department Organization.

The work duties, responsibilities and organization of each department may be established by ordinance not inconsistent with this charter; provided that no such ordinance shall be adopted until the city manager is heard and has made his or her recommendations with respect thereto. The city manager may establish divisions or sections in any department, and not inconsistent with this charter, establish or modify the duties and responsibilities of the departments. All administrative departments shall be under the control and direction of the city manager except as otherwise provided herein.

(Ordinance 326 adopted 8/15/07)

Section 7.06. - Police Department.

A police department, headed by a chief of police, shall be established to maintain order within the city and to protect citizens from threats or violence and their property from damage or loss. The chief of police is appointed by the city manager subject to the approval of council. The chief of police must be a licensed peace officer in the State of Texas and have verifiable experience which qualifies him or her for the position. The chief of police shall be responsible for the operation of the police department and shall enforce state law and all the ordinances of the city. He or she shall perform such other associated duties as the city manager may require and shall, upon approval of such documents by the city manager, establish and maintain written procedures relating to police administration, policies and procedures.

(Ordinance 326 adopted 8/15/07)

State Law reference— Police force in home-rule municipality, V.T.C.A., Local Government Code, sec. 341.003.

Section 7.07. - City Secretary.

The office and department of city secretary shall be established and maintained. The city secretary may appoint such assistant city secretaries as are authorized. The duties of the city secretary are as set forth in this charter and/or as established by ordinance. Such duties include, but are not be limited to [sic], the giving notice of all council meetings; keeping the minutes of the proceedings of council meetings and the archives of the city; authenticating by his or her signature, and recording in full in books kept and indexed for the purpose, all ordinances and resolutions; performing such other duties as shall be assigned to the position by state law; maintain appropriate files of all contracts and other legal documents resulting from and/or having a bearing on actions of council; and assisting the city manager in gathering of appropriate records, files and resources which pertain to city business or specific council meeting agenda items.

(Ordinance 326 adopted 8/15/07)

Section 7.08. - Public Works Department.

There shall be a public works department to administer, supervise and coordinate the construction and maintenance of the streets, water/wastewater and thoroughfares, the drainage system, and all public property and equipment not the responsibility of another department. The department shall have and be responsible for other duties, projects and works as provided by ordinance or assigned by the city manager. The director of public works shall administer and manage the department.

(Ordinance 326 adopted 8/15/07)

Section 7.09. - City Attorney.

There shall be a department and office of city attorney. The council appoints and removes a city attorney by majority vote. The city attorney shall be a competent and duly licensed attorney and shall have not less than five years' experience practicing municipal law in Texas. The city attorney and any appointed associates shall be competent and duly licensed attorneys. He or she shall receive for his or her services such compensation as may be fixed by the council and shall advise the city on all legal matters and represent the city in all litigation and other legal matters. The city attorney may appoint assistant city attorneys, and the council may retain different or additional attorneys for specific matters when it deems same to be necessary. The city attorney shall be the legal advisor of the council and all offices and departments of the city.

(Ordinance 326 adopted 8/15/07)

Section 7.10. - Municipal Court.

There shall be a court, designated as the "Municipal Court" of the City of Manor, for the trial of misdemeanor offenses, with all such powers and duties as are now, or may hereafter be, prescribed by laws of the State of Texas relative to municipal courts. The municipal court shall be organized and supervised as follows:

- (a) The municipal judge and the associate judges shall be authorized by a majority of council and are appointed by the city manager. They shall be compensated as recommended by the city manager and approved by the city council. The municipal judge is responsible for the supervision and management of the court.
- (b) There shall be a court clerk who may be appointed and removed by the city manager.
- (c) The clerk and deputy clerks shall have the power to administer oath[s] and affidavits, make certificates, affix the seal of said court thereto, and perform any and all acts usual and necessary to be performed by the clerks of courts and conducting the business thereof.

- (d) All costs, fees, special expenses and fines imposed by the municipal court shall be paid into the city treasury for the use and benefit of the city, except as required by state law.

(Ordinance 326 adopted 8/15/07)

State Law reference— Municipal courts generally, V.T.C.A., Government Code, sec. 29.001 et seq.; jurisdiction of municipal courts, V.T.C.A., Government Code, sec. 29.003; municipal court fines, costs and special expenses, Tex. Code Crim. Proc. art. 45.203.

Section 7.11. - Human Resources.

The city shall be an equal opportunity employer and the service of each officer and employee shall be "at will". The administration of human resources of the city shall be governed by written rules and regulations to be known as "Personnel Policies". The city manager or his or her designee shall prepare such policies and recommend their adoption to the council. Such policies shall not be inconsistent with this charter and will become effective when approved by the council by ordinance. All policies so adopted and not inconsistent with this charter shall have the force and effect of law.

(Ordinance 326 adopted 8/15/07)

ARTICLE VIII. - FINANCE^[5]

Footnotes:

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State Law reference— General financial provisions applicable to home-rule municipality, V.T.C.A., Local Government Code, sec. 101.021 et seq.

Section 8.01. - Finance Department.

The department of finance shall be established and maintained, and the head of such department shall be the director of finance. The director of finance shall have knowledge of municipal accounting and experience in budgeting and financial control. Such director shall provide a bond with such surety and in such amount as the city manager may require. The premium on such bond shall be paid by the city. The director of finance shall hold the certifications required by the State of Texas.

(Ordinance 326 adopted 8/15/07; Ordinance 426, prop. 14, adopted 2/24/15)

Section 8.02. - Powers and Duties.

The director of finance shall administer all financial affairs of the city under the direction, control and supervision of the city manager. He or she shall have authority and be required to:

- (a) Maintain a general accounting system for the city and exercise financial control over all offices, departments and agencies thereof.
- (b) Certify the availability of funds for all proposed expenditures, and unless the director of finance shall certify that an unencumbered balance exists in the appropriations and funds available, no appropriation shall be encumbered, and no expenditure shall be made.

- (c) Submit to the council, monthly statements showing the financial condition of the city; the city council shall approve the form and content of the statements and the schedule for presentation shall be approved by the city council.
- (d) Prepare, as of the end of the fiscal year, a complete financial statement and report.

(Ordinance 326 adopted 8/15/07; Ordinance 426, prop. 15, adopted 2/24/15)

Section 8.03. - Fiscal Year.

The fiscal year of the city shall begin on the first day of each October and end on the last day of September of the succeeding year. All funds collected by the city during any fiscal year including both current and delinquent revenues, shall be accounted for in such fiscal year, and except for funds derived to pay interest and create a sinking fund on the bonded indebtedness of the city, may be applied to the payment of expenses incurred during such fiscal year.

(Ordinance 326 adopted 8/15/07)

State Law reference— Power to establish fiscal year, V.T.C.A., Local Government Code, sec. 101.022; city fiscal year, V.T.C.A., Tax Code, sec. 1.05.

Section 8.04. - Annual Budget.

The budget shall provide a complete work and financial plan for the city, including all city funds and activities. A budget message explaining the budget both in fiscal terms and in terms of the work programs shall be submitted with the budget. The budget shall outline the proposed financial policies of the city for the ensuing fiscal year; describe the important features of the budget; indicate any major changes from the current year in financial policies, expenditures and revenues, with reasons for such changes; summarize the city's debt position and include such other material as the city manager deems desirable or the council requires. The budget shall begin with a clear general summary of its contents; and shall show in detail all estimated revenues, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year. The proposed budget expenditures shall not exceed the total of estimated funds available from all sources. The budget shall be so arranged as to show comparative figures for estimated revenues and expenditures of the current fiscal year and the actual revenues and expenditures of the preceding two fiscal years, compared to the estimate for the budgeted year. The budget shall include in separate sections:

- (a) An itemized estimate of the expense of conducting each department, division and office.
- (b) An estimate of the revenues of the city from taxes by category for the fiscal year.
- (c) Tax levies, rates, and collections for the preceding two years.
- (d) An itemization of all anticipated revenue from utilities and all sources other than the taxes.
- (e) The amount required for interest on the city's debts, for sinking fund and for maturing bonds and other obligations.
- (f) The amounts of the city debts and other obligations, with a schedule of payments and maturities.
- (g) A capital program, which may be revised and extended each year to indicate capital expenditures pending or in process of construction or acquisition.
- (h) Such other information as may be required by the council.

(Ordinance 326 adopted 8/15/07)

State Law reference— Annual budget required, V.T.C.A., Local Government Code, sec. 102.002; itemized budget and contents, V.T.C.A., Local Government Code, sec. 102.003.

Section 8.05. - Budget Process and Adoption.

The city manager is responsible for the timely preparation and presentation of the budget and shall present his or her recommended or draft budget to the city council no later than 60 days prior to October 1st of each year. In the absence of the truth-in-taxation calculations being provided in advance of the sixtieth day, the city manager shall provide a draft budget and a recommended budget not less than ten days following receipt from Travis County of the calculations, if after the sixtieth day before October first (1st). The proposed budget shall become a public document and record when presented to the council. From and after its receipt of the budget, the city council shall:

- (a) At the first council meeting for which timely notice may be given, cause to be posted in city hall a general summary of the proposed budget and a notice stating the time and places where copies of the budget are available for public inspection; of a public hearing on the budget; and such other public hearings as are required by state law.
- (b) After public hearing(s) the council may adopt the budget with or without amendment. The council may amend the proposed budget to add, increase, decrease or delete any programs or amounts, except expenditures required by law or for debt service; provided that no amendment shall increase the authorized expenditures to an amount greater than the total of estimated funds available from all sources.
- (c) The budget shall be finally adopted by ordinance not later than September 30th; provided that if the council takes no final action on or prior to such day, the budget as submitted by the city manager is deemed to have been finally adopted by the council.

(Ordinance 326 adopted 8/15/07)

State Law reference— Proposed budget filed with municipal clerk and public inspection, V.T.C.A., Local Government Code, sec. 102.005; public hearing on proposed budget, V.T.C.A., Local Government Code, sec. 102.006; special notice by publication for budget hearing, V.T.C.A., Local Government Code, sec. 102.0065; adoption of budget, V.T.C.A., Local Government Code, sec. 102.007.

Section 8.06. - Administration of Budget.

No payment shall be made, or obligation incurred except in accordance with this charter and appropriation duly made, and unless the director of finance first certifies that a sufficient unencumbered balance and sufficient funds are or will be available to cover the claim or meet the obligation when it becomes due and payable. If funds are not currently available to make an appropriate payment, but will become available within the fiscal year, the director of finance may request the council give authority to borrow money to make such payment provided that such money will be repaid by the end of the fiscal year or as provided by state law. Any authorization of payment or incurring of an obligation in violation of the provisions of this charter is void and any payment so made illegal; provided this shall not be construed to prevent the council by ordinance from making or authorizing payments or the making of contracts, for capital expenditures to be financed wholly or partly by the issuance of bonds, time warrants, certificates of indebtedness, certificates of obligation, lease-purchase, or other similar evidence of indebtedness or obligation, or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year.

(Ordinance 326 adopted 8/15/07)

State Law reference— Levy of taxes and expenditure of funds under budget, emergency expenditure, V.T.C.A., Local Government Code, sec. 102.009.

Section 8.07. - Amendment and Supplemental Budgets.

To protect the public health, safety, welfare and resources of the city, budget amendments to fund and meet conditions not anticipated in the original budget may be authorized, upon the affirmative vote of four members of the council. Supplements and amendments shall be approved by ordinance and shall be filed with the original budget.

(Ordinance 326 adopted 8/15/07)

State Law reference— Changes in budget for municipal purposes, V.T.C.A., Local Government Code, sec. 102.010.

Section 8.08. - Borrowing to Meet Funding Requirements.

In the absence of available funds to meet emergency conditions and requirements, the council may authorize the borrowing of funds. In any fiscal year in anticipation of the collection of the budgeted revenues or ad valorem property tax for such year, whether levied or to be levied in such year, the council may authorize the borrowing of money by the issuance of notes, warrants or tax anticipation notes. Notes and warrants issued under this section shall be limited to the funds required for the emergency or short-fall and mature and be payable not later than the end of the fiscal year in which issued, or as otherwise provided by statute.

(Ordinance 326 adopted 8/15/07)

Section 8.09. - Depository.

The council shall, from time to time, select a depository or depositories for city funds on the basis of bids received from such institutions; provided that the council may by resolution invest reserve funds in any state or federally chartered bank or savings institution. All monies received by any person, department or agency of the city for or in connection with affairs of the city shall be promptly deposited in the city depository or depositories. All checks, vouchers, or warrants for the withdrawal of money from the city depositories shall be signed by the city manager and the director of finance. City council may, by resolution, authorize alternate signatories to act in the absence of the city manager or director of finance.

(Ordinance 326 adopted 8/15/07)

State Law reference— Depositories for municipal funds, V.T.C.A., Local Government Code, ch. 105.

Section 8.10. - Purchase Procedure.

All purchases made and contracts executed by the city shall be pursuant to a requisition from the head of the office, department or agency whose appropriation will be charged; and no contract or order shall be binding upon the city unless the director of finance certifies there is to the credit of such office, department or agency, a sufficient unencumbered appropriation to pay for the supplies, materials, equipment, or contractual services for which the contract or order is to be issued. All contracts and purchases of every nature and kind shall be made in accordance with all applicable state law requirements for competitive bidding.

(Ordinance 326 adopted 8/15/07)

State Law reference— Purchasing and contracting authority of municipality, V.T.C.A., Local Government Code, chs. 252, 271.

Section 8.11. - Bonds and Financial Obligations.

The council may by ordinance authorize the issuance of any tax or revenue bonds, refunding bonds, certificates of obligation, warrants, notes, certificates of participation, tax anticipation notes or other evidence of indebtedness or obligation, for any permanent public improvement or any emergency, or any other public purpose not prohibited by law, subject only to the following limitations:

- (a) No general obligation bonds, other than refunding bonds, shall be issued except as approved by a majority vote at an election held for such purpose;
- (b) No indebtedness or obligation shall be issued except in compliance with the requirements of state law;
- (c) No form of indebtedness other than general obligation bonds approved by public vote may be issued without public notice and a public hearing being held in compliance with state law; the published notice must clearly summarize the relevant statutory provisions providing for a petition and election, if any; and
- (d) The authorization for bonds authorized but not issued shall expire ten years after the date of authorization.

(Ordinance 326 adopted 8/15/07)

State Law reference— Public Security Procedures Act, V.T.C.A., Government Code, ch. 1201; refunding bonds, V.T.C.A., Government Code, ch. 1207; municipal bonds, V.T.C.A., Government Code, ch. 1331.

Section 8.12. - Independent Audit.

At the close of each fiscal year, an independent audit shall be made of all accounts of the city by a certified public accountant with five years' experience in auditing cities. The audit must be completed by March 30th of each year and shall include an audit of all non-profit organizations receiving 50 percent or more of their income from the city. The audit shall be subject to the following:

- (a) The city shall pay a percentage of the audit costs for all non-profit organizations audited, equal to the percentage of their respective total funding provided by the city.
- (b) The independent auditor shall not otherwise maintain or keep any of the accounts of the city; act as financial advisor to the city; or have any financial interest whatsoever, direct or indirect, in any other financial affairs of the city, any member of the council, the city manager or any department head; provided that the auditor may be a resident or routinely utilize the utilities and services offered by the city, or be the owner of less than one percent of the total outstanding stock in a company contracting with the city.

(Ordinance 326 adopted 8/15/07)

State Law reference— Audit of municipal finances, V.T.C.A., Local Government Code, ch. 103.

ARTICLE IX. - REVENUE AND TAXATION^[6]

Footnotes:

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State Law reference— Local taxation, V.T.C.A., Tax Code, ch. 301 et seq.

Section 9.01. - Taxation.

The city council may levy, assess and collect taxes of any type or character not prohibited by state law. The maximum ad valorem tax rate shall be as provided in the State of Texas Constitution and such tax rate shall be levied and assessed annually to provide for both operations and debt service.

(Ordinance 326 adopted 8/15/07)

Section 9.02. - Procedures.

The procedures, limitations and requirements for the levy, assessment and collection of any tax or lien therefor shall be as established by state law; provided that, if not established by state law, such procedures, limitations and requirements shall be established by ordinance.

(Ordinance 326 adopted 8/15/07)

Section 9.03. - Tax Assessor-Collector.

The city may contract with the Travis County Tax Assessor-Collector or any other qualified entity to collect taxes for the city. The council may create a city office or a department with the duties of tax collection. If created, the city manager shall appoint an individual as city tax collector to collect taxes and to perform such other duties as assigned. The tax collector shall give a fidelity bond, the cost to be borne by the city. The amount of such bond shall be set by the council but shall not be less than the amount of tax collections under his or her control at any one time.

(Ordinance 326 adopted 8/15/07)

Section 9.04. - Property Taxes.

All taxes due the city shall be payable at such place as authorized by state law or the city council. All taxes due the city are due and payable when and as provided by state law or ordinance. Ad valorem taxes may be paid at any time after the tax rolls for the year have been completed and approved. If the due date for ad valorem taxes is not set by state law or ordinance, the due date shall be the 1st day of February following the levy, and all such taxes not paid on or before the due date are deemed delinquent and shall be subject to such penalty and interest as provided by law. The city council may provide further by ordinance that all delinquent taxes due the city may be paid in installments. Failure to levy and assess taxes shall not relieve the persons, firm, corporation or property so omitted from obligation to pay such current or past-due taxes, and all such persons, entities and property is and remains liable for the taxes that would have been assessed for any prior or current year had the property been rendered or the taxes levied and assessed.

(Ordinance 326 adopted 8/15/07)

State Law reference— Delinquency date for payment of taxes, V.T.C.A., Tax Code, sec. 31.02.

Section 9.05. - Tax Liens and Claims.

All property within the city on January 1st each year shall stand charged with a special lien in favor of the city, and the owner of such property on that date shall be personally liable therefor, until the tax and all related penalties and interest on that property are paid. All such taxes, penalties and interest may, if not voluntarily paid, be collected by the city by:

- (a) Suit to recover personal judgment therefor without foreclosure, or by suit to foreclose its lien or liens, or to recover both by personal judgment and foreclosure; and if the property description on the assessment rolls is insufficient, the city may plead a good description of the property to prove the same, and have judgment foreclosing the tax lien or personal judgment or both, against the owners and property; or
- (b) Withholding the payment of any debt or obligation owed to such owner or person by the city; by reducing the amount of any debt owed to such owner or person by the city by an amount equal to the unpaid taxes, penalties and interest; or otherwise by counter-claim and offset in any proceeding; and
- (c) No assignment or transfer of any such debt, claim, demand, account or property, after taxes are due, shall affect the right of the city to offset the said taxes, penalties and interest against the same; and
- (d) Any other method, means or procedure authorized by state law.

(Ordinance 326 adopted 8/15/07)

State Law reference— Tax liens and personal liability, V.T.C.A., Tax Code, ch. 32.

ARTICLE X. - PLANNING AND DEVELOPMENT^[7]

Footnotes:

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State Law reference— Extraterritorial jurisdiction of municipalities, V.T.C.A., Local Government Code, ch. 42; municipal zoning authority, V.T.C.A., Local Government Code, ch. 211.

Section 10.01. - Purpose and Intent.

It is the purpose and intent of this Article to provide for and require the development of the city be undertaken and accomplished pursuant to a comprehensive plan and that the council shall establish comprehensive planning as a continuous and ongoing governmental function to promote, guide, strengthen and assist the management of future development within the city and its extraterritorial jurisdiction, to assure the most appropriate and beneficial use of land, water, natural and community resources, consistent with the public interest. Through the process of comprehensive planning and the preparation, adoption and implementation of a comprehensive plan, the city shall preserve, promote, protect and improve the public health, safety, comfort, order, appearance, convenience, economic and general welfare; prevent the overcrowding of land and avoid undue concentration or diffusion of population or land uses; facilitate the adequate and efficient provision of transportation, water, wastewater, schools, parks, recreational, housing and other facilities and services; conserve, develop, utilize and protect natural resources; and provide for and encourage economic growth.

(Ordinance 326 adopted 8/15/07)

Section 10.02. - Comprehensive Plan.

The council shall adopt a comprehensive plan within two years after the effective date of this charter and thereafter all public and private development shall conform to such adopted comprehensive plan, or the applicable elements or portions thereof. The comprehensive plan may be amended at any time and shall be reviewed and considered for amendment or revision at least every five years.

The comprehensive plan adopted by ordinance constitutes the master and general plan for the development of the city. The comprehensive plan shall contain the council's policies for growth, development and beautification of the land within the corporate limits and the extraterritorial jurisdiction of the city, or for geographic portions thereof including neighborhood, community or area wide plans. The comprehensive plan shall include the following elements:

- (a) a future land use element;
- (b) a traffic circulation and/or mass transit element;
- (c) a wastewater, solid waste, drainage and potable water element;
- (d) a conservation and environmental resources element with strong emphasis on water conservation;
- (e) a recreation and open space element;
- (f) a housing element;
- (g) a public services and facilities element, which shall include but not be limited to a capital improvement program;
- (h) a public buildings and related facilities element;
- (i) an economic element for commercial and industrial development and redevelopment;
- (j) a health and human service element; and such other elements as are necessary or desirable to establish and implement policies for growth, development and beautification within the city, its extraterritorial jurisdiction, or for geographic portions thereof, including neighborhood, community, or area wide plans. The council may provide for financing of all elements contained in the comprehensive plan.

The several elements of the comprehensive plan shall be coordinated and be internally consistent. Each element shall include policy recommendations for its implementation and shall be implemented in part, by the adoption and enforcement of appropriate ordinances and regulations governing land development, and such ordinances and regulations governing the development and use of land may be as comprehensive and inclusive as the council may, in its discretion, from time to time determine necessary, desirable and not in conflict with state or federal law.

(Ordinance 326 adopted 8/15/07)

State Law reference— Zoning regulations to be in compliance with comprehensive plan, V.T.C.A., Local Government Code, sec. 211.004.

Section 10.03. - Comprehensive Plan Adoption and Amendment.

The comprehensive plan, or elements or portions thereof, shall be initially prepared and drafted by personnel and/or consultants authorized by the council, under the supervision of the city manager who shall coordinate development of the plan with the planning and zoning commission and the council. A draft of the comprehensive plan shall be submitted to the planning and zoning commission which shall

hold a public hearing on such plan and make recommendations for the approval of the plan, with or without amendments. The planning and zoning commission shall then forward the proposed comprehensive plan, or element, or portion thereof, to the city manager, who shall thereupon submit such plan, or element, or portion thereof, to the council with the planning and zoning commission's and the city manager's recommendations thereon. If the proposed comprehensive plan has not been adopted within two years from the effective date of this charter, the proposed plan as it then exists will automatically become the city's comprehensive plan.

The council may adopt, or adopt with changes or amendments, the proposed comprehensive plan, or any element or portion thereof, after one or more public hearings. The council shall act on such plan, element or portion thereof, within 90 days following its submission. If such plan, or element or portion thereof, is not adopted by the council, the council shall, with policy direction, return such plan, or element thereof, to the planning and zoning commission, which may modify such plan, or element or portion thereof, and again forward it to the city manager for submission in like manner to the council. Amendments to the comprehensive plan may be initiated by the council, the planning and zoning commission, or the city manager; provided that all amendments shall be reviewed, considered and recommended for adoption in the same manner as for the original adoption of the comprehensive plan.

(Ordinance 326 adopted 8/15/07)

Section 10.04. - Planning and Zoning Commission.

There shall be established and maintained a planning and zoning commission which shall consist of citizens of the city who must be qualified voters and have resided within the city for six months next preceding their appointment. The number of members of the planning and zoning commission shall be established by ordinance, but the number shall be at least five members, and a minimum of two-thirds of the members shall be citizens not directly or indirectly connected with real estate or land development; provided, should the council appoint more than five members, the council may appoint additional members from the extraterritorial jurisdiction of the city. The members of said commission are appointed by the council. The planning and zoning commission shall annually elect a chairperson and a vice-chairperson, to serve in the absence of the chairperson, from among its membership and shall meets [sic] at least once each month. Vacancies shall be filled by the council for the remainder of the term.

(Ordinance 326 adopted 8/15/07)

State Law reference— Zoning commission, V.T.C.A., Local Government Code, sec. 211.007.

Section 10.05. - Planning and Zoning Commission Powers and Duties.

The planning and zoning commission shall serve as the planning and the zoning commission of the city, and:

- (a) Review and make recommendations to the council regarding the adoption and implementation of a comprehensive plan, or elements or portions thereof, prepared under authorization of the city council and under the direction of the city manager and responsible staff.
- (b) After a comprehensive plan, or element or portion thereof, has been adopted in conformity with this Article:
 - (1) Review and make recommendation to the council on all amendments to such plan, or elements or portions thereof.
 - (2) Review and make recommendations to the council on all proposals to adopt or amend land development regulations for the purpose of establishing the relationship of such proposal to, and its consistency with, the adopted comprehensive plan or elements or portions thereof. For purposes of this Article "land development regulations" includes

zoning, subdivision, building and construction, environmental including water conservation, and other police power regulations controlling, regulating, or affecting the use or development of land.

- (c) Pursuant to ordinances adopted by the council, exercise control over platting and subdividing land within the corporate limits and the extraterritorial jurisdiction of the city to insure the consistency of any such plats or subdivision with the ordinances and comprehensive plan, or element or portion thereof.
- (d) Pursuant to ordinances adopted by the council, make recommendations to the council regarding the zoning of land and land uses within the corporate limits of the city to insure the consistency of any such land use with the adopted comprehensive plan, or element or portion thereof.
- (e) May submit annually to the city manager, at least five months prior to the beginning of the budget year, a list of recommended capital improvements, which in the opinion of the planning and zoning commission are necessary or desirable to implement the adopted comprehensive plan, or element or portion thereof, during the forthcoming five-year period.
- (f) Monitor and oversee the effectiveness and status of the comprehensive plan and recommend annually to the council any changes in or amendments to the comprehensive plan as may be desired or required.
- (g) Prepare periodic evaluation and appraisal reports on the comprehensive plan, which shall be sent to the council at least once every five years after the adoption of the comprehensive plan, or element or portion thereof.
- (h) Obtain information relative to its duties from the city manager.
- (i) Act as an advisory body to the council and perform such additional duties and exercise such additional powers as may be prescribed by ordinance of the council not inconsistent with the provisions and intent of this charter.

(Ordinance 326 adopted 8/15/07; Ordinance 426, prop. 16, adopted 2/24/15)

Section 10.06. - Duties.

The council shall prescribe the duties of the planning and zoning commission by ordinance. The duties so established shall not be inconsistent with this charter and such duties shall include, but not be limited to, those prescribed herein.

(Ordinance 326 adopted 8/15/07)

Section 10.07. - Planning and Development Department.

The city council may create by ordinance such department(s) as necessary to provide technical and administrative support in the areas of planning, growth management and land development, or the city manager may assign such duties to any other department or officer of the city. The director of such department is appointed and removed by the city manager.

(Ordinance 326 adopted 8/15/07)

Section 10.08. - Board of Adjustments.

The council shall by ordinance establish a board of adjustment which shall, to the extent provided by ordinance or state law, have the power to hear and determine appeals from the refusal of building permits, appeals resulting from administrative decisions and to permit an authorized exception to or

variation from the zoning regulations. Members of such board shall hold no other city office and no former member of the council shall serve as a member of the board of adjustment until one year after completion of his or her council term.

(Ordinance 326 adopted 8/15/07)

State Law reference— Establishment and authority of zoning board of adjustment, V.T.C.A., Local Government Code, sec. 211.008 et seq.

Section 10.09. - Capital Improvements Program.

The council shall adopt a capital improvements plan and thereafter the construction and capital projects of the city shall conform to such adopted plan, as amended. The capital improvements plan may be amended at any time and shall be reviewed and considered for amendment by the council at least every two years.

The capital improvements plan, or elements or portions thereof, shall be initially prepared and drafted by personnel and/or consultants under the supervision of the city manager. A draft of the capital improvements plan shall be submitted to the planning and zoning commission which shall hold one or more public hearings on such plan and make recommendations for the approval of the plan, with or without amendments. The planning and zoning commission shall then forward the proposed capital improvements plan, or elements or portions thereof, to the city manager, who shall thereupon submit such plan, or element or portion thereof, to the council with the recommendations of the city manager and planning and zoning commission. At least every two years thereafter, the city manager shall cause the review and preparation of any proposed amendments to the capital improvements plan and submits such proposed amendments to the planning and zoning commission for its review, approval and recommendations as provided above for the initial plan.

(Ordinance 326 adopted 8/15/07)

Section 10.10. - Subdivisions and Developments.

The council shall adopt and maintain in full force and affect [effect], a comprehensive ordinance or ordinances regulating the development, subdivision and improvement of land within the city and its extraterritorial jurisdiction. To the extent not in conflict with state law, the council shall have the authority to require for all such land that:

- (a) The owner of every tract of land who may divide the same into two or more parts for the purposes of laying out any subdivision, or any addition to the city, shall comply with the provisions of the comprehensive ordinances governing the subdivision and development of land.
- (b) The subdivision and development of land shall comply with all applicable elements of the comprehensive plan of the city.
- (c) A comprehensive site plan be required and approved for the development of or construction on any lot or parcel of land for which the owner or developer proposes a use for higher than single family or two-family residential.

(Ordinance 326 adopted 8/15/07)

State Law reference— Regulation of subdivision and property development, V.T.C.A., Local Government Code, ch. 212.

ARTICLE XI. - PUBLIC UTILITIES, FRANCHISES AND CONTRACTS^[8]

Footnotes:

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State Law reference— Franchise to use streets in municipality, V.T.C.A., Transportation Code, sec. 311.071 et seq.; authority to grant franchise to use or occupy public grounds, V.T.C.A., Local Government Code, sec. 282.003; municipal utilities, V.T.C.A., Local Government Code, sec. 402.001 et seq.

Section 11.01. - Public Services and Utilities.

The city shall have the full power and authority to:

- (a) Buy, own, construct, lease, maintain and operate within and without the limits of the city a system or systems of gas, electricity, telephone, sewage, sanitation, water, parks, airports, swimming pools, racetracks, transportation, communications, golf course, cemeteries, cable television, or any other public service or utility.
- (b) Manufacture, produce or provide its own electricity, gas, water or any other product, good or commodity that may be required by the public for municipal purposes.
- (c) Purchase gas, electricity, or any other commodity or article required by the public for municipal purposes and to contract with any person, entity or public utility for such purchase.
- (d) Distribute and/or sell any utility, commodity or service.
- (e) Mortgage and encumber such public utility or service systems.
- (f) Regulate and control the distribution of utilities and services within the city and establish standards of service and quality of products.
- (g) Establish and enforce the rates to be paid by consumers of any utility or users of any service provided within the city, and if provided by the city, outside of the city.

These powers are vested in the council, and the council may exercise the power of eminent domain to acquire all or part of the property of any public utility or public service provider within the city whenever found by the council to be in the public interest for carrying out the objectives of providing utilities or services within the city. Any such eminent domain or condemnation proceeding shall be according to the procedures and the methods of establishing the value of the property and facilities as provided by state law, and if such procedures or methods are not so provided by state law, as reasonably provided by ordinance. (Ordinance 326 adopted 8/15/07)

Section 11.02. - Franchises.

The council shall have the power and authority to grant franchises for the use and occupancy of streets, avenues, alleys and any and all public property belonging to or under the control of the city. Except as specifically authorized and provided otherwise by state law, no individual, organization, entity, political subdivision, corporation, public utility or any provider of public service shall provide any service within the city requiring the use or occupancy of any street, public right-of-way or property without first being granted a franchise or permit to use such city facilities. The franchise ordinance or permit shall fully describe the terms of the agreement, and regardless of the title given, shall be subject to the terms of this Article. The terms of such agreements shall be explicit so as to protect the interests of the citizens and shall include but not be limited to the terms prescribed in this charter. No franchise ordinance or permit shall be passed except on two readings held after a public hearing for which ten days' notice is given in a newspaper of general circulation in the city.

(Ordinance 326 adopted 8/15/07)

Section 11.03. - Franchise Limitations.

No exclusive franchise shall ever be granted, and franchises shall be transferable only upon authorization of the council expressed by ordinance. A franchise may not be transferred except to a person, firm or entity taking all or substantially all of the franchise's business in the city. The expiration date of all franchises shall be specified, and the term thereof may be extended or renewed only by ordinance.

(Ordinance 326 adopted 8/15/07)

Section 11.04. - Franchise for Public Utilities.

The council shall have the power to grant, amend, renew, extend by ordinance or to deny the franchise of all public utilities of every character serving the city, including, but not limited to, persons or entities providing electricity, gas, water, sewage, telephone service, any communications services, or any similar commodity or utility to the public. The effective period of public utility franchises may be set by the council; but shall not exceed 20 years, unless a longer term is specifically approved by a majority of the qualified voters at an election held for that purpose.

(Ordinance 326 adopted 8/15/07; Ordinance 426, prop. 17, adopted 2/24/15)

Section 11.05. - Franchise for Public Services.

The council shall have the power to grant, amend, renew or extend by ordinance or deny the franchises of all providers of public services to the city. Public services include, but are not limited to, ambulance services, cable television services, transportation services, any communication services, sanitation services and any other service or business using the public streets or property within the city to provide service. The effective period of public service franchises may be set by the council but shall not exceed ten years.

(Ordinance 326 adopted 8/15/07)

Section 11.06. - Regulation of Franchises.

All grants of franchises as authorized in this charter shall be subject to the right of the council to:

- (a) Determine, fix and regulate the charges, rates or compensation to be charged by the person or entity granted a franchise.
- (b) Repeal the franchise by ordinance at any time upon the failure or refusal of the franchisee to comply with the terms of the franchise, this charter or any applicable city ordinance, state law, or any valid rule of any regulatory body.
- (c) Establish standards and quality of products or service.
- (d) Require such expansion, extension and improvement of plants and facilities as are necessary to provide adequate service to all the public and to require that maintenance of facilities be performed at the highest reasonable standard of efficiency.
- (e) Prescribe the method of accounting and reporting to the city so that the franchisee will accurately reflect the expenses, receipts, profits and property values used in rendering its service to the public. It shall be deemed sufficient compliance with this requirement if the

franchisee keeps its accounts in accordance with the uniform system established by an applicable federal or state agency for such service.

- (f) Examine and audit at any time the accounts and other records of any franchisee and to require annual and other reports prescribed in the franchise ordinance.
- (g) Require such compensation, regulatory, rental and franchise fees as may not be prohibited by law.
- (h) Impose such regulations and restrictions as may be deemed desirable or conducive to the health, safety, welfare and accommodation of the public.
- (i) Require the franchisee to restore at its expense all public or private property to a condition equal to or better than that before being damaged or destroyed by the franchisee.

(Ordinance 326 adopted 8/15/07)

Section 11.07. - Penalty Authorized.

The council shall have the power and authority to review any franchise at any time and to assess a penalty against the franchisee for its failure to comply with the franchise, this charter and the ordinances of the city or the laws of the State of Texas. If in the opinion of council, the requirements of the franchise, charter, ordinances or state law are not being complied with, the council shall so notify the franchisee in writing stating the provisions the franchisee has failed to comply with and setting a time for a hearing and deadline for correction of the non-compliance. The council may assess and enforce a reasonable penalty based upon the facts, issues and circumstances determined at the hearing if non-compliance is found. If the franchisee does not correct the non-compliance within a reasonable time established by the council for correction, the council may repeal or cancel the franchise.

(Ordinance 326 adopted 8/15/07)

Section 11.08. - Franchise Value not to be Allowed.

In determining the just compensation to be paid by the city for any public utility or public service property or facilities which the city may acquire by condemnation or otherwise, no value shall be assigned to any franchise granted by the city.

(Ordinance 326 adopted 8/15/07)

Section 11.09. - Extensions.

Franchisees shall be required to extend services to all parts and portions of the city unless provided otherwise in the franchisee's franchise or limited by a CCN held by a franchisee. All extensions of any lines, conduit, pipe or systems shall become a part of the aggregate property of the public utility or service provider and shall be subject to all the obligations and rights prescribed in this charter and the franchise. The right to use and maintain any such extension shall terminate with the franchise.

(Ordinance 326 adopted 8/15/07; Ordinance 426, prop. 18, adopted 2/24/15)

Section 11.10. - Other Conditions.

All franchises heretofore granted are recognized as contracts between the city and the franchisee and the contractual rights as contained therein shall not be impaired by the provisions of this charter except:

- (a) The power of the city to exercise the right of eminent domain to acquire the property and assets of the utility is reserved.
- (b) The general power of the city to regulate the rates and services of a utility including the right to require adequate and reasonable extension of plant and service and to require that maintenance of facilities be performed at the highest reasonable standard of efficiency shall be enforced.
- (c) The council shall review each franchise at its first renewal date subsequent to the adoption of this charter and shall cause the franchise, if renewed, to meet the provisions of this charter; and no rights shall be vested in the franchisee with regard to any renewal based upon the terms, conditions or limitations expressed in any such existing franchise.

(Ordinance 326 adopted 8/15/07)

Section 11.11. - Election Required.

No city owned electric utility, gas, water, sewer, cable television system or telecommunications system, park, swimming pool or other utility shall ever be sold or leased without authorization by a majority vote of the qualified voters of the city voting at an election held for such purpose.

(Ordinance 326 adopted 8/15/07; Ordinance 426, prop. 19, adopted 2/24/15)

Section 11.12. - Contracts Concerning City Property.

The council shall have the power to grant, amend, renew or extend contracts concerning the operation and management of any city owned facility, such as a civic center, parks, golf course, swimming pools, water and wastewater treatment plants and any other such property; provided that no such contract shall be let except upon opportunity for competitive bids and proposals, nor exceed a term of ten years unless approved at an election held for such purpose.

(Ordinance 326 adopted 8/15/07)

ARTICLE XII. - ETHICS AND CONFLICTS^{[\[9\]](#)}

Footnotes:

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State Law reference— Conflicts of interest of officers, V.T.C.A., Local Government Code, ch. 171; public disclosure, V.T.C.A., Government Code, ch. 553; nepotism, V.T.C.A., Government Code, ch. 573.

Section 12.01. - Ethics Commission.

The city council shall adopt, and periodically modify and amend, an ordinance providing an ethics policy and code of conduct applicable to the officers, employees, boards and commission members of the city. An ethics commission composed of a minimum of five qualified voters of the city shall be established to advise the council on the content and requirements of the ethics policies and ordinance and to hear and decide complaints filed pursuant to such policies and ordinance. Each council member has the right to recommend appointment of qualified citizens to serve, subject to the approval by vote of the council. Should the council approve a seven member ethics commission, each council member shall appoint one member to the commission, subject to the approval by vote of the council. The members of such

commission are appointed, supervised and removed by the city council and shall meet upon a complaint or grievance being filed or at the request of the council or the city manager. The ethics commission has authority and power to investigate complaints; gather and hear evidence; issue and enforce subpoenas to compel the attendance of witnesses and collection and presentation of any evidence or documents; decide ethics complaints based on the information and facts submitted; issue written opinions; issue verbal or written reprimands and to admonish; and in appropriate circumstances, to recommend to the city council and/or the city manager as appropriate more severe disciplinary action, including removal, termination, civil litigation or criminal charges. The ethics commission shall be advised by independent legal counsel nominated by the city attorney and appointed by the council.

(Ordinance 326 adopted 8/15/07; Ordinance 426, prop. 20, adopted 2/24/15)

Section 12.02. - Acceptance of Gifts.

No elected or appointed officer or employee of the city shall accept, directly or indirectly, any gift, favor or privilege exceeding a nominal value or employment from any utility, corporation, person or entity having or seeking a franchise or contract with or doing business with the city. If any utility, corporation, person or entity contracting with the city shall make any gift or give any favor, privilege or employment to an officer or employee in violation of this section, such action shall render the contract voidable.

(Ordinance 326 adopted 8/15/07; Ordinance 426, prop. 21, adopted 2/24/15)

Section 12.03. - Interest in City Contract.

No elected or appointed officer or employee of the city shall have a financial interest, direct or indirect, or by reason of ownership of stock in any corporation, in any contract with the city or be financially interested, directly or indirectly, in the sale to the city of any land, materials, supplies or services, except on behalf of the city as an officer or employee; provided however the provision of this section shall only be applicable when the stock owned by the officer or employee exceeds one percent of the total capital stock of the corporation. Any violation of this section with the knowledge, express or implied, of the person or corporation contracting with the city shall render the contract voidable.

(Ordinance 326 adopted 8/15/07; Ordinance 426, prop. 22, adopted 2/24/15)

Section 12.04. - Conflict of Interest.

No elected or appointed officer or employee of the city shall participate in the deliberation or decision on any issue, subject or matter before the council or any board or commission, if the officer or employee has a personal financial or property interest, direct or indirect, in the issue, subject or matter that is different from that of the public at large. An interest arising from job duties, compensation or benefits payable by the city shall not constitute a personal financial interest.

(Ordinance 326 adopted 8/15/07; Ordinance 426, prop. 23, adopted 2/24/15)

State Law reference— Conflicts of interest of officers, V.T.C.A., Local Government Code, ch. 171.

Section 12.05. - Political Contributions.

No elected or appointed city officer or employee shall by any means whatsoever solicit or assist in soliciting any assessment, subscription or contribution for any political party, candidate or any political

purpose whatsoever from any non-elected officer or employee holding any compensated or uncompensated city position or employment.

(Ordinance 326 adopted 8/15/07; Ordinance 426, prop. 24, adopted 2/24/15)

Section 12.06. - Bribery Prohibited.

No person who seeks appointment, employment or promotion with respect to any city office or employment shall, directly or indirectly, give or pay any money or other thing of value or render any service or offer to so give, pay or render any valuable thing to any person for or in connection with his or her proposed or actual appointment, hiring or promotion.

(Ordinance 326 adopted 8/15/07)

ARTICLE XIII. - GENERAL PROVISIONS

Section 13.01. - Oath of Office.

All elected and appointed officers of the city shall, before entering upon the duties of their respective offices, take and subscribe to the official oath prescribed by the Constitution of the State of Texas. The oath shall be administered by the mayor, the city secretary, notary public or other person authorized by law to administer oaths.

(Ordinance 326 adopted 8/15/07; Ordinance 426, prop. 25, adopted 2/24/15)

State Constitution reference— Oath of office, Texas Constitution, art. 16, sec. 1.

Section 13.02. - Notice of Claim Against City.

Except as provided for by the State of Texas Constitution or a statute in conflict herewith, the city shall not be liable for any damages, attorneys fees, costs of court, or other monies regarding any matter whatsoever, unless notice shall have first been given the city in compliance with this section, as follows:

- (a) Before the city shall be liable for any damage, claim, suit, attorney fees or costs of court arising out of or for any personal injury, damage to property or violation of any statutory right or duty, the person who is injured or whose property has been damaged, or someone on his or her behalf, shall give the city manager or the city secretary notice in writing duly certified within 90 days, after the date of the alleged damage, injury or violation of statutory duty or right, stating specifically in such notice when, where and how the injury or damage was sustained, setting forth the extent of the injury or damage as accurately as possible and giving the names and addresses of all witnesses known to the claimant upon whose testimony the claimant is relying to establish the injury or damage. In case of injuries resulting in death, the person or persons claiming damage shall within 90 days, after the death of the injured person, give notice as required above.
- (b) Before the city shall be liable for any damages, attorney fees, court costs or monies whatsoever, whether arising out of any action authorized by statute, for declaratory judgment, for equitable remedy or for any damage, claim or suit arising out of contract, the person who seeks such remedy, relief or damage, or someone on his or her behalf, shall:
 - (1) Give the city manager or the city secretary notice in writing not less than 30 days prior to the filing of such claim, suit or cause of action; state specifically the allegations of and basis for such claim, suit or request for remedy; the facts, contract provisions or circumstances supporting the same; the specific remedy or damages sought; the names of

all city officers and employees complained of; and giving the names and addresses of all witnesses known to the claimant upon whose testimony the claimant is relying to establish the injury or damage; and

- (2) Upon request of the city manager or the city council meet, confer and negotiate with the city for the purpose of reaching an acceptable compromise and settlement.

(Ordinance 326 adopted 8/15/07)

State Law reference— Texas Tort Claims Act, V.T.C.A., Civil Practice and Remedies Code, ch. 101; notice procedures, V.T.C.A., Civil Practice and Remedies Code, sec. 101.101.

Section 13.03. - Reservation of Defenses.

Nothing contained in this charter or in any ordinance or contract of the city shall be construed to mean the city waives any rights, privileges, defenses or immunities provided under common law, the Constitution and laws of the State of Texas. No such right, privilege, defense or immunity may be waived except by the city council acting in a public meeting to settle or compromise a claim, dispute or lawsuit.

(Ordinance 326 adopted 8/15/07)

Section 13.04. - Settlement of Claims.

The city council shall have the authority to compromise and settle any and all claims and lawsuits of every kind and character in favor of or against the city, except suits by the city to recover delinquent taxes; provided that the city attorney shall have the authority to settle on behalf of the city any and all matters pending in municipal court, or in the county courts on appeal from the municipal court.

(Ordinance 326 adopted 8/15/07)

Section 13.05. - Community Service Organizations.

A written contract for services shall be executed prior to any non-profit, community service organization receiving city funds. Such contracts shall establish the terms, conditions and services to be provided, and shall require an annual audit of the non-profit organization.

(Ordinance 326 adopted 8/15/07)

Section 13.06. - Public Records.

All public records of every office, department, or agency of the city, that are not subject to a privilege against disclosure that is recognized by state or federal law are open to inspection by the public all reasonable times; provided that the following records shall not be considered public records for the purpose of this section:

- (a) records that may be closed to the public pursuant to state law;
- (b) records that are attorney client privileged;
- (c) records that regard a competitive bid or proposal that has not been finally awarded;
- (d) records that regard the active negotiation of a contract or pending acquisition of property; or
- (e) records that include information that is protected by a right of privacy established by statute or constitution.

(Ordinance 326 adopted 8/15/07; Ordinance 426, prop. 26, adopted 2/24/15)

State Law reference— Public access to records, V.T.C.A., Local Government Code, sec. 201.009; public information, V.T.C.A., Government Code, ch. 552.

Section 13.07. - Succession.

If four or more positions on the city council become vacant at any time due to disaster or an event that results in the death or inability to serve of four or more members, the mayor, mayor pro-tem, majority of the surviving members of council, or if there be but one, any surviving member, may call a special election to fill the vacant positions. In such event, pending the election, if there are three surviving members of the city council they constitute a quorum. If there are not at least three surviving members the following officers of the city in the order listed shall serve with the surviving members of the council on an interim basis as necessary to result in a four member quorum:

- (a) the chair of the planning and zoning commission;
- (b) the vice chair of the planning and zoning commission;
- (c) the city manager;
- (d) the chief of police;
- (e) the city secretary; and
- (f) the director of public works.

If such surviving officers not be sufficient in number to constitute a quorum, the remainder shall constitute a quorum until the officers elected at the special election take office.

(Ordinance 326 adopted 8/15/07)

State Law reference— Emergency interim public office succession, V.T.C.A., Government Code, ch. 616.

Section 13.08. - Charter Review.

The council shall review the charter every two years to determine if any amendment should be considered. The council shall appoint a charter review commission, consisting of seven qualified voters of the city, at least every fifth year. The terms of each charter review commission shall be six months and such commission shall review, hold hearings upon and make recommendations for the amendment, if any, of this charter. Any resulting charter elections shall be noticed and held in compliance with state law.

(Ordinance 326 adopted 8/15/07)

State Constitution reference— Adoption or amendment of charter, Texas Constitution, art. 11, sec. 5.

State Law reference— Adoption or amendment of charter, V.T.C.A., Local Government Code, sec. 9.001 et seq.

Section 13.09. - Severability.

It is hereby declared that the sections, paragraphs, sentences, clauses and phrases of this charter are severable, and if any word, phrase, sentence, paragraph or section of this charter should be declared invalid by a final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining words, phrases, clauses, sentences, paragraphs or sections of this charter, since the same would have been enacted without the incorporation of any such invalid word, phrase, clause, sentence, paragraph or section. If any provision of this charter is adjudged by a court of competent jurisdiction to be invalid or to conflict with State of Texas law, the invalidity or inconsistency shall not affect any other provision or application of this charter which can be given effect without the invalid or inconsistent provision, and to the fullest extent possible, this charter shall be construed and read in a manner to give effect to the original intent and meaning of this charter as modified only by the deletion of such invalid word, phrase, clause, provision or section, and to this end, the provisions of this charter are declared to be severable.

(Ordinance 326 adopted 8/15/07)

ARTICLE XII.
ETHICS AND CONFLICTS^{*}

Section 12.01. Ethics Commission.

The city council shall adopt, and periodically modify and amend, an ordinance providing an ethics policy and code of conduct applicable to the officers, employees, boards and commission members of the city. An ethics commission composed of a minimum of five qualified voters of the city shall be established to advise the council on the content and requirements of the ethics policies and ordinance and to hear and decide complaints filed pursuant to such policies and ordinance. Each council member has the right to recommend appointment of qualified citizens to serve, subject to the approval by vote of the council. Should the council approve a seven member ethics commission, each council member shall appoint one member to the commission, subject to the approval by vote of the council. The members of such commission are appointed, supervised and removed by the city council and shall meet upon a complaint or grievance being filed or at the request of the council or the city manager. The ethics commission has authority and power to investigate complaints; gather and hear evidence; issue and enforce subpoenas to compel the attendance of witnesses and collection and presentation of any evidence or documents; decide ethics complaints based on the information and facts submitted; issue written opinions; issue verbal or written reprimands and to admonish; and in appropriate circumstances, to recommend to the city council and/or the city manager as appropriate more severe disciplinary action, including removal, termination, civil litigation or criminal charges. The ethics commission shall be advised by independent legal counsel nominated by the city attorney and appointed by the council. (Ordinance 326 adopted 8/15/07; Ordinance 426, prop. 20, adopted 2/24/15)

Section 12.02. Acceptance of Gifts.

No elected or appointed officer or employee of the city shall accept, directly or indirectly, any gift, favor or privilege exceeding a nominal value or employment from any utility, corporation, person or entity having or seeking a franchise or contract with or doing business with the city. If any utility, corporation, person or entity contracting with the city shall make any gift or give any favor, privilege or employment to an officer or employee in violation of this section, such action shall render the contract voidable. (Ordinance 326 adopted 8/15/07; Ordinance 426, prop. 21, adopted 2/24/15)

Section 12.03. Interest in City Contract.

No elected or appointed officer or employee of the city shall have a financial interest, direct or indirect, or by reason of ownership of stock in any corporation, in any contract with the city or be financially interested, directly or indirectly, in the sale to the city of any land, materials, supplies or services, except on behalf of the city as an officer or employee; provided however the provision of this section shall only be applicable when the stock owned by the officer or employee exceeds one percent of the total capital stock of the corporation. Any violation of this section with the knowledge, express or implied, of the person or corporation contracting with the city shall render the contract voidable. (Ordinance 326 adopted 8/15/07; Ordinance 426, prop. 22, adopted 2/24/15)

Section 12.04. Conflict of Interest.

No elected or appointed officer or employee of the city shall participate in the deliberation or decision on any issue, subject or matter before the council or any board or commission, if the officer or employee has a personal financial or property interest, direct or indirect, in the issue, subject or matter that is different from that of the public at large. An interest arising from job duties, compensation or benefits payable by the city shall not constitute a personal financial interest. (Ordinance 326 adopted 8/15/07; Ordinance 426, prop. 23, adopted 2/24/15)

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