

# **A G E N D A**

A regular meeting of the Mayor and City Council of the City of Waxahachie to be held in the Council Chamber at City Hall, 401 S. Rogers, Waxahachie, Texas, on ***Monday, August 21, 2023 at 7:00 p.m.***

Council Members: David Hill, Mayor, Council Member Place 1  
Chris Wright, Mayor Pro Tem, Council Member Place 3  
Patrick Souter, Council Member Place 2  
Billie Wallace, Council Member Place 4  
Travis Smith, Council Member Place 5

1. Call to Order
2. Invocation
3. Pledge of Allegiance and Texas Pledge of Allegiance
4. ***Public Comments:*** Persons may address the City Council on any issues. This is the appropriate time for citizens to address the Council on any concern whether on this agenda or not. In accordance with the State of Texas Open Meetings Act, the Council may not comment or deliberate such statements during this period, except as authorized by Section 551.042, Texas Government Code. ***Speakers must observe the five (5) minute time limit.***

5. ***Consent Agenda***

All matters listed under Item 5, Consent Agenda, are considered to be routine by the City Council and will be enacted by one motion. There will not be separate discussion of these items. Approval of the Consent Agenda authorizes the Mayor/City Manager to execute all matters necessary to implement each item. Any item may be removed from the Consent Agenda for separate discussion and consideration by any member of the City Council.

- a. Minutes of the City Council meeting of August 7, 2023
- b. Minutes of the City Council briefing of August 7, 2023
- c. Minutes of the City Council work session of August 11, 2023
- d. Event application for Tulipalooza to be held March 8-24, 2024 at Getzendaner Park
- e. Ordinance approving a rate settlement agreement with SiEnergy, LP
- f. Resolution approving a negotiated settlement between the Atmos Cities Steering Committee and the Atmos Energy Corp., Mid-Tex Division

6. ***Introduce*** Honorary Council Member
7. ***Public Hearing*** on a request by the City of Waxahachie for a textual amendment to the City Zoning Ordinance, Ordinance No. 3020, to create Short-Term Rental Definitions, and use regulations, Section 3.27 and Use Regulations, Section 4.03 Use Charts, (ZTA-92-2023) to address Short Term Rental (STR) uses
8. ***Consider*** proposed Ordinance approving ZTA-92-2023 and establish fee

9. **Public Hearing** on a request by Corey Vaughan, QT South, LLC, for a Specific Use Permit (SUP) for a Pole Sign use within a General Retail (GR) zoning district located at 1342 Brown Street (Property ID: 295114 & 295115) – Owner: BUFFALO CREEK PLAZA, LLC (ZDC-55-2023)
10. **Consider** proposed Ordinance approving ZDC-55-2023
11. **Public Hearing** on a request by Logan Spacek, Reclaim Physical Therapy & Wellness, for a Zoning Change from a Single Family-2 (SF-2) zoning district to a Commercial (C) zoning district, located at 409 E Jefferson Street (Property ID: 170544) – Owner: KEITH SPACEK (ZDC-75-2023)
12. **Consider** proposed Ordinance approving ZDC-75-2023
13. **Public Hearing** on a request by April Gonzales, Dorothy’s Uniforms, for a Zoning Change from an Office (O) zoning district to a Planned Development-Office (PD-O) zoning district, located at 206 YMCA Drive (Property ID: 174571) – Owner: MANDALAY HOLDINGS LLC (ZDC-107-2023)
14. **Consider** proposed Ordinance approving ZDC-107-2023
15. **Consider** award of bid and contract for the Lake Waxahachie Park Improvement Project and supplemental funding request from the Waxahachie Community Development (WCDC) Fund Unrestrictive Reserve Fund Balance
16. **Consider** approval of a Master Agreement with Magna Flow Environmental Inc for the as-needed services for sludge, grit/sand and debris removal for treatment plants and lift stations
17. **Consider** proposed Ordinance repealing and replacing APPENDIX B Flood Damage Prevention of the Code of Ordinances of the City of Waxahachie
18. **Consider** approval of the purchase of a Sodium Hypochlorite Generation System for the Robert W. Sokoll Water Treatment Plant and associated supplemental appropriation
19. Comments by Mayor, City Council, City Attorney and City Manager
20. Adjourn

**The City Council reserves the right to go into Executive Session as authorized by Section 551.071(2) of the Texas Government Code, for the purpose of seeking confidential legal advice from legal counsel on any agenda item listed herein.** This meeting location is wheelchair-accessible. Parking for mobility-impaired persons is available. Any request for sign interpretive services must be made forty-eight hours ahead of the meeting. To make arrangements, call the City Secretary at 469-309-4006 or (TDD) 1-800-RELAY TX

A regular meeting of the Mayor and City Council of the City of Waxahachie was held in the Council Chamber at City Hall, 401 S. Rogers, Waxahachie, Texas, on Monday, August 7, 2023 at 7:00 p.m.

Council Members Present: David Hill, Mayor, Council Member Place 1  
Chris Wright, Mayor Pro Tem, Council Member Place 3  
Patrick Souter, Council Member Place 2  
Billie Wallace, Council Member Place 4  
Travis Smith, Council Member Place 5

Others Present: Michael Scott, City Manager  
Albert Lawrence, Deputy City Manager  
Robert Brown, City Attorney  
Amber Villarreal, City Secretary

**1. Call to Order**

Mayor David Hill called the meeting to order.

**2. Invocation**

**3. Pledge of Allegiance and Texas Pledge of Allegiance**

City Manager Michael Scott gave the invocation. Mayor Pro Tem Chris Wright led the Pledge of Allegiance and the Texas Pledge of Allegiance.

**4. Public Comments**

Michael McCorkle, 171 Willow Run, Waxahachie, Texas, spoke in opposition to allowing short-term rentals in residential areas.

**5. Consent Agenda**

- a. Minutes of the City Council meeting of July 17, 2023
- b. Minutes of the City Council work session of August 1, 2023
- c. Event application for Hike for Life 2023 to be held October 7, 2023 at Brown Singleton Park
- d. Event application for Concert in the Park to be held October 13, 2023 at Railyard Park
- e. Event application for Hachie 50 to be held April 20, 2024
- f. Interlocal Cooperative Purchasing Agreement with the North Central Texas Council of Governments for the purchase of various goods and services through TXSHARE
- g. Adoption of a designated loading/delivery space on North Rogers Street
- h. Set City Council meeting for Tuesday, September 5, 2023

(5a)

**Action:**

*Billie Wallace moved to approve all items on the Consent Agenda as presented and authorize the City Manager and/or Mayor to execute all documents as necessary. Motion was seconded by Travis Smith and carried unanimously (5-0).*

**6. Introduce Honorary Council Member**

Mayor Hill introduced Maya Gus as the Honorary Councilmember for the month of August. Maya is a senior at Waxahachie's Global High School, where she is currently ranked #1 in her class. She serves as her senior class vice-president, treasurer of the local chapter of Health Occupations Students of America, and president of the local Technology Students Association. She is a member of the National Honor Society and the Global High School Art Club and Culture Club. Each year of high school she has represented Global High School as a state qualifier in various UIL competitions. Maya will graduate in May 2024 with her high school diploma, a two-year associates degree, certification as a clinical medical assistant, and complete a four-year early morning seminary program through her church, where she is an active member. Her loved ones are anxiously waiting to see what the future holds for Maya. Maya is the fourth of five children and resides in Waxahachie with her parents and younger sister. In addition to her schooling, Maya holds the occasional part-time job or volunteers with community service projects like Kids Against Hunger or natural disaster clean-ups. Maya thanks her parents, family and friends for all their love and support.

**7. Present Proclamation recognizing August 6-12, 2023 as "National Health Center Week"**

Mayor Hill presented a proclamation recognizing August 6-12, 2023 as "National Health Center Week."

**8. Continue Public Hearing on a request by Steve Meier, Turcotte Development, for a Specific Use Permit (SUP) for a Heavy Equipment Rental and Sales use within a Commercial (C) zoning district located at 2021 Corporate Parkway (Property ID 273978) - Owner: LEDBETTER REAL ESTATE, LTD (ZDC-24-2023)**

The Item was presented by Senior Planning Director Jennifer Pruitt who noted the Planning and Zoning Commission recommended approval by a 5-1 vote; however, staff recommended denial. John Fainter, Turcotte Development Group, provided an overview of the proposed development.

Mayor Hill opened the Public Hearing at approximately 7:18 p.m.

Those who spoke in opposition:

Stephanie Reyna, marketing for Aspen Development  
Alan Fox, 327 University, Waxahachie, Texas

Those who spoke in support:

Brett Hess, 327 Blue Ribbon Road, Waxahachie, Texas

There being no others to speak for or against ZDC-24-2023, Mayor Hill closed the Public Hearing at approximately 8:02 p.m.

**9. Consider proposed Ordinance approving ZDC-24-2023**

**Action:**

*Billie Wallace moved to deny the Ordinance for ZDC-24-2023, a Specific Use Permit (SUP) for a Heavy Equipment Rental and Sales use. Motion was seconded by Travis Smith and carried unanimously (5-0).*

**10. Consider Development Agreement for ZDC-24-2023**

*No action taken.*

**11. Consider a request by Steve Wilson, Pro Built Texas, for a Replat of Block 14, Parts of Lots 5B, 6B, 6C of the Old Town Waxahachie Addition, 1 lot, being 0.124 acres, located at the northwest corner of East Jefferson Street and South Jackson Street. (Property ID 170438 – Owner: RICHARD SHINPAUGH (SUB-40-2023))**

The Item was presented by Ms. Pruitt who noted the Planning and Zoning Commission recommended approval by a 6-0 vote and staff recommended approval.

**Action:**

*Billie Wallace moved to approve SUB-40-2023 for a Replat of the Old Town Waxahachie Addition and the associated variance request and authorize the Mayor to execute associated documents. Motion was seconded by Travis Smith and carried unanimously (5-0).*

**12. Consider a request by Liliana Soto, The Nehemiah Company, for Plat Extension of Ridge Crossing, being 51.51 acres, located directly south of 601 Ovilla Road, situated in the William C. Tunnell Survey, Abstract 1080, an addition to the City of Waxahachie (Property ID: 191627) – Owner: JDS Ovilla Road, LLC (SUB-91-2023, originally SUB-118-2021)**

The Item was presented by Ms. Pruitt who noted the Planning and Zoning Commission recommended approval by a 6-0 vote and staff recommended approval.

**Action:**

*Billie Wallace moved to approve a one-year plat extension to August 24, 2024 for SUB-91-2023, also known as SUB-118-2021, a Plat of Ridge Crossing. Motion was seconded by Chris Wright and carried unanimously (5-0).*

**13. Consider a request by William Atkins, for a waiver from construction of a sidewalk at 1612 E Main Street, as required by Section 3.5 of the Waxahachie Subdivision Ordinance**

The Item was presented by Ms. Pruitt who noted staff recommended approval.

(5a)

**Action:**

*Billie Wallace moved to approve the sidewalk waiver request for 1612 E Main Street. Motion was seconded by Travis Smith and carried unanimously (5-0).*

- 14. Consider and take action on an Ordinance providing for the issuance of Combination Tax and Revenue Certificates of Obligation, in an aggregate principal amount not to exceed \$40,000,000; and ordaining other matters relating to the subject**

The Item was presented by Finance Director Chad Tustison and explained the total issuance of bonds is \$37,000,000 for 24 projects.

**ORDINANCE NO. 3384**

**ORDINANCE PROVIDING FOR THE ISSUANCE OF CITY OF WAXAHACHIE, TEXAS, COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2023, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$40,000,000; AND ORDAINING OTHER MATTERS RELATING TO THE SUBJECT**

**Action:**

*Billie Wallace moved to approve an Ordinance authorizing the issuance of Certificates of Obligation, and all other related matters, as described in the Ordinance. Motion was seconded by Patrick Souter and carried unanimously (5-0).*

- 15. Consider proposed Resolution approving assignment of private activity bond authority to Texas Department of Housing and Community Affairs**

The Item was presented by Mark Malveaux, McCall Parkhurst & Horton.

**RESOLUTION NO. 1347**

**RESOLUTION APPROVING ASSIGNMENT OF PRIVATE ACTIVITY BOND AUTHORITY TO TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT**

**Action:**

*Billie Wallace moved to approve the Resolution approving assignment of private activity bond authority to Texas Department of Housing and Community Affairs and authorize the Mayor and/or City Manager to execute any necessary documents. Motion was seconded by Patrick Souter and carried unanimously (5-0).*

- 16. Consider proposed Resolution approving a Multiple Use Agreement between the Waxahachie Police Department and the Texas Department of Transportation for the maintenance and operation of a public installation of fixed license plate recognition system**

The Item was presented by Police Chief Joe Wiser.

(5a)

**RESOLUTION NO. 1348**

**A RESOLUTION APPROVING A MULTIPLE USE AGREEMENT BETWEEN THE WAXAHACHIE POLICE DEPARTMENT AND THE TEXAS DEPARTMENT OF TRANSPORTATION (“STATE”) FOR THE MAINTENANCE AND OPERATION OF A PUBLIC INSTALLATION OF FIXED LICENSE PLATE RECOGNITION SYSTEM; AND ESTABLISHING AN EFFECTIVE DATE**

**Action:**

*Patrick Souter moved to approve the Resolution approving a Multiple Use Agreement between the Waxahachie Police Department and the Texas Department of Transportation for the maintenance and operation of a public installation of a fixed license plate recognitions system. Motion was seconded by Chris Wright and carried unanimously (5-0).*

**17. Consider approval of chip seal paving of Broadhead Road Project via Interlocal Agreement between the City of Waxahachie and Ellis County**

The Item was presented by Executive Director of Public Works and Engineering James Gaertner.

**Action:**

*Chris Wright moved to approve the chip seal paving of Broadhead Road Project via Interlocal Agreement between City of Waxahachie and Ellis County and authorize the City Manager to execute all required documents. Motion was seconded by Patrick Souter and carried unanimously (5-0).*

**18. Consider setting Proposed Tax Rate and Dates for Public Hearing**

The Item was presented by Finance Director Chad Tustison.

**Action:**

*Billie Wallace moved to consider a property tax rate of 61 cents and set the date, time, and place for a public hearing for August 29, 2023 at 5:30 pm in the City Hall Council Chambers. The motion was seconded by Patrick Souter and carried unanimously (5-0).*

**19. Comments by Mayor, City Council, City Attorney and City Manager**

Council Members and City Attorney Robert Brown thanked Maya Gus for her participation as Honorary Council Member.

Council Member Patrick Souter recognized staff’s organization of the grand opening for the Charles Beatty Municipal Services Building.

Mayor Pro Tem Chris Wright explained the FY 24 budget includes funding for employee market salary adjustments identified in the compensation study. He encouraged citizens to support the 2-cent tax rate decrease and proposed budget. Mr. Wright announced the City Council will have a Work Session on Friday, August 11<sup>th</sup> at 5:30 p.m. to discuss short-term rentals.

(5a)

Council Member Billie Wallace thanked the Finance Department for their work on the budget and expressed her support to fund the market salary adjustments for employees.

Council Member Travis Smith thanked Mr. Shinpaugh and Mr. Atkins for reinvesting in Waxahachie and recognized the Waxahachie Young Professionals in attendance.

Deputy City Manager Albert Lawrence acknowledged the teamwork from City staff during the move to the new Charles Beatty Municipal Services Building.

Executive Director of Development Services Shon Brooks thanked City Council for their support with the employee market salary adjustments noting he has received positive feedback from all levels of employees. Mr. Brooks also thanked the community for their support of the Charles Beatty Municipal Services Building.

**20. Adjourn**

There being no further business, the meeting adjourned at 8:33 p.m.

Respectfully submitted,

Amber Villarreal  
City Secretary

A briefing session of the Mayor and City Council of the City of Waxahachie, Texas was held in the City Council Conference Room at City Hall, 401 S. Rogers, Waxahachie, Texas, on Monday, August 7, 2023 at 6:15 p.m.

Council Members Present: David Hill, Mayor, Council Member Place 1  
Chris Wright, Mayor Pro Tem, Council Member Place 3  
Patrick Souter, Council Member Place 2  
Billie Wallace, Council Member Place 4  
Travis Smith, Council Member Place 5

Others Present: Michael Scott, City Manager  
Albert Lawrence, Deputy City Manager  
Robert Brown, City Attorney  
Amber Villarreal, City Secretary

**1. Call to Order**

Mayor David Hill called the meeting to order.

**2. Conduct a briefing to discuss items for the 7:00 p.m. regular meeting**

City staff briefed Council on the following August 7, 2023 regular meeting agenda items:

5. Consent Agenda
6. Introduce Honorary Council Member
7. Present Proclamation recognizing August 6-12, 2023 as "National Health Center Week"
8. Continue Public Hearing on a request by Steve Meier, Turcotte Development, for a Specific Use Permit (SUP) for a Heavy Equipment Rental and Sales use within a Commercial (C) zoning district located at 2021 Corporate Parkway (Property ID 273978) - Owner: LEDBETTER REAL ESTATE, LTD (ZDC-24-2023)
11. Consider a request by Steve Wilson, Pro Built Texas, for a Replat of Block 14, Parts of Lots 5B, 6B, 6C of the Old Town Waxahachie Addition, 1 lot, being 0.124 acres, located at the northwest corner of East Jefferson Street and South Jackson Street. (Property ID 170438 – Owner: RICHARD SHINPAUGH (SUB-40-2023)
12. Consider a request by Liliana Soto, The Nehemiah Company, for Plat Extension of Ridge Crossing, being 51.51 acres, located directly south of 601 Ovilla Road, situated in the William C. Tunnell Survey, Abstract 1080, an addition to the City of Waxahachie (Property ID: 191627) – Owner: JDS Ovilla Road, LLC (SUB-91-2023, originally SUB-118-2021)
13. Consider a request by William Atkins, for a waiver from construction of a sidewalk at 1612 E Main Street, as required by Section 3.5 of the Waxahachie Subdivision Ordinance
14. Consider and take action on an Ordinance providing for the issuance of Combination Tax and Revenue Certificates of Obligation, in an aggregate principal amount not to exceed \$40,000,000; and ordaining other matters relating to the subject

(56)

15. Consider proposed Resolution approving assignment of private activity bond authority to Texas Department of Housing and Community Affairs
16. Consider proposed Resolution approving a Multiple Use Agreement between the Waxahachie Police Department and the Texas Department of Transportation for the maintenance and operation of a public installation of fixed license plate recognition system
17. Consider approval of chip seal paving of Broadhead Road Project via Interlocal Agreement between the City of Waxahachie and Ellis County
18. Consider setting Proposed Tax Rate and Dates for Public Hearing

*No action taken.*

### **3. Adjourn**

There being no further business, the meeting adjourned at 6:47p.m.

Respectfully submitted,

Amber Villarreal  
City Secretary

City Council  
August 11, 2023

(50)

A Work Session of the Mayor and City Council of the City of Waxahachie was held in the City Council Conference Room at City Hall, 401 S. Rogers, Waxahachie, Texas, on Friday, August 11, 2023 at 12:00 p.m.

Council Members Present: David Hill, Mayor, Council Member Place 1  
Chris Wright, Mayor Pro Tem, Council Member Place 3  
Patrick Souter, Council Member Place 2  
Billie Wallace, Council Member Place 4  
Travis Smith, Council Member Place 5

Others Present: Michael Scott, City Manager  
Albert Lawrence, Deputy City Manager  
Robert Brown, City Attorney  
Amber Villarreal, City Secretary

**1. Call to Order**

Mayor David Hill called the meeting to order.

**2. Discuss potential short-term rental ordinance**

Council Members, the City Attorney, and staff discussed the following options to include in the proposed short-term rental ordinance:

- designate areas (zones) in the city where short-term rentals are allowed
- restrict in single-family zoning
- require Specific Use Permit, 500-foot property owner notification, and registration with the City

It was the general consensus of City Council to proceed with drafting an ordinance regulating short-term rentals through the approval of a Specific Use Permit, 500-foot property owner notification, and registration through the City.

*No action taken.*

**3. Comments by Mayor, City Council, City Attorney and City Manager**

Council Members thanked citizens for their input on short-term rentals.

**4. Adjourn**

There being no further business, the meeting adjourned at 1:16 p.m.

Respectfully submitted,

Amber Villarreal  
City Secretary



City of Waxahachie  
City Secretary's Office

(5d)

Special Event Application

Date submitted 7/11/23

**Applicant Information**

Applicant name: Kari Lane Zerbe

Are you representing the host organization?

Yes ☒

No ☐

Will you be the on-site point of contact during the event?

Yes ☒

No ☐

Phone:

Cell:

Same

Email:

Mailing address: 4626 Firewheel Drive, Garland, Texas 75044

Host organization name: Tulipalooza

Alternate contact that will be on-site during the event.

On-site contact name: Bill VanHouten

Cell.

**About the Event**

Event name: Tulipalooza

Date: March 8 - March 24, 2024

Location: Getzendaner Park

**An event site map is REQUIRED to be submitted with your application.**

Anticipated attendance: 20,000+

Description of event: U-pick-em tulip festival for attendees to come and go through the tulip fields; food trucks

|                 | Date(s)          | Start Time: | End Time: |
|-----------------|------------------|-------------|-----------|
| Event Date      | March 8-March 24 | 10 am       | 7 pm      |
| Event Set-up    | March 7          | 12 pm       | 3 pm      |
| Event Breakdown | March 25         | 8 am        | 12 pm     |

**How many times has this event been hosted before?**

1<sup>st</sup> time ☐

2 -- 4 times ☒

5 or more times ☐

Location: Civic Center, Waxahachie



City of Waxahachie  
City Secretary's Office

Special Event Application

(5d)

Choose the best description of the event:

- |   |  |
|---|--|
| <input checked="" type="radio"/> Festival | <input type="radio"/> Birthday Party / Picnic    |
| <input type="radio"/> Movie Screening     | <input type="radio"/> Charitable / Fundraising   |
| <input type="radio"/> Parade              | <input type="radio"/> Community / Neighborhood   |
| <input type="radio"/> Private Event       | <input type="radio"/> Concert / Live Performance |
| <input type="radio"/> Run / Walk          | <input type="radio"/> Other:                     |

Event activities include (check all that apply):

- |  |  |
|--|--|
| <input type="checkbox"/> Amusement rides / Inflatables         | <input checked="" type="checkbox"/> Food – sampled, served, or sold                    |
| <input type="checkbox"/> Animals / Petting Zoo                 | <input checked="" type="checkbox"/> Products / Services – given away, sampled, or sold |
| <input type="checkbox"/> Announcement / Speeches               | <input type="checkbox"/> Live music  |
| <input type="checkbox"/> Information / Literature Distribution | <input type="checkbox"/> Street closure  |
| <input type="checkbox"/> DJ / Recorded Music                   | <input checked="" type="checkbox"/> Other: U-pick-em tulip field                       |

The event is:

- |  |   |
|--|---|
| <input type="radio"/> Private                                    | <input type="radio"/> Free & open to the general public           |
| <input type="radio"/> Entry by participation or registration fee | <input checked="" type="radio"/> Entry by admission fee or ticket |

Admission information, if applicable:

Include entry or participant fees, ticket prices, donations, and / or fees based on activity.

Adults: \$15; Children: \$5; Free parking

Run / Walk:

Please provide the start time for each distance (if applicable)

\_\_\_\_\_ 1 mile \_\_\_\_\_ 5K \_\_\_\_\_ Other distance

Please indicate your expected attendance: \_\_\_\_\_

Number of participants:

- |         |                       |
|---------|-----------------------|
| 1-99    | <input type="radio"/> |
| 100-199 | <input type="radio"/> |
| 200-299 | <input type="radio"/> |
| 300+    | <input type="radio"/> |

Provide route on attached site map.

(5d)



City of Waxahachie  
City Secretary's Office

Special Event Application

**Food / Beverage:**

Will the event offer food/beverages?

Yes ☒

No ☐

Will event require any food preparation on-site?

Yes ☐

No ☒

Will alcohol be served/sold?

Yes ☐

No ☒

**Code of Ordinances Ch. 4 Sec. 4-7 Alcohol at approved festivals and events**

*If alcohol is served/sold, a licensed peace officer(s) must be onsite throughout the event's operation and outside the perimeter to provide security. Events require one officer with an additional officer per 100 guests. Ex.: <100 attendees would require one officer, 100<200 attendees would require two officers, 200<300 attendees would require three officers, etc.*

**Police / Security Services:**

Personnel needs (indicate all that apply) Request for services is not a guarantee that staff/volunteers will be available.

Event staff How many: 8 Date(s) & time(s): During festival time

Volunteers How many: 8-10 Date(s) & time(s): During festival time

Private security How many: 0 Date(s) & time(s): \_\_\_\_\_

Company name: Tulipalooza will provide all staffing needs

Contact name and number: Kari Lane Zerbe 972-971-1310

Off duty police How many: 0 Date(s) & time(s): \_\_\_\_\_

Have you made arrangements with the police? Yes ☐ No ☒

If no, you will be provided the information on how to make arrangements.

If yes, please provide following information for the person that you made the arrangements with:

Contact name: \_\_\_\_\_ Phone number: \_\_\_\_\_

**Street Closures:**

Does the event propose closing, blocking, or using City streets and/or parking lots? Yes ☐ No ☒

If yes, please list all streets, intersections, and parking lots that apply: \_\_\_\_\_

Street closings to begin on date: \_\_\_\_\_ Start time: \_\_\_\_\_ End time: \_\_\_\_\_

Will any businesses be impacted by the proposed road closure? Yes ☐ No ☒

**City Equipment:**

Are you requesting the use of City equipment? Yes ☐ No ☒

**Availability is not guaranteed**

**Streets cannot be blocked without prior approval.**

If yes, indicate the type of equipment and how many will be used (estimated):

Traffic Cones How many: \_\_\_\_\_ Barricades How many: \_\_\_\_\_



City of Waxahachie  
City Secretary's Office

Special Event Application

(5d)

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

Where should equipment be dropped off & picked up? \_\_\_\_\_

When will the equipment be set-up? \_\_\_\_\_

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

Time: \_\_\_\_\_

When will the equipment be removed? \_\_\_\_\_

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

Time: \_\_\_\_\_

**Temporary Tents & Structures:**

Will the event have a tent(s) larger than 10' x 20'?

Yes ☐

No ☒

List the # of tents & sizes: \_\_\_\_\_

*Indicate locations on attached required site map.*

**Electrical Services:**

How will electrical services be supplied? \_\_\_\_\_

Generator ☐

Franchise Utilities ☐

Both ☐

List contractor / supplier: \_\_\_\_\_

Explain services in detail: \_\_\_\_\_

Electricity will not be needed

**Insurance**

All events taking place on City of Waxahachie property must provide a certificate of liability insurance and endorsement page. The City of Waxahachie must be listed as an "Additional Insured" in the amount of \$1 million on both pages. Please list the date of the event and location on this certificate and submit at least one month before the event. The City of Waxahachie reserves the right to increase the insurance limits based on the nature and degree of risks to the public.

If you have questions regarding City insurance coverage, please inquire with City of Waxahachie staff after submitting your event application.

**Hold Harmless Clause**

Applicant / organization shall assume all risks incident to or in connection with the approved activity and shall be solely responsible for damage or injury, of whatever kind or nature, to person or property, directly or indirectly arising out of or in connection with the approved activity or the conduct of applicant's operation. Applicant hereby expressly agrees to defend and save the City, its officers, agents, employees and representatives harmless from any penalties for violation of any law, ordinance, or regulation affecting its activity and from any and all claims, suits, losses, damages or injuries directly or indirectly out of or in connection with the approved activities or conduct of its operation or resulting from the negligence or intentional acts or omissions of applicant or its officers, agents, and employees. Due to Covid-19, I also understand approval of my event is subject to the then current necessary precautions resulting from Covid case trends as well as any change in accordance with federal, state or local orders. Furthermore, by signing this application, applicant hereby agrees to waive any and all claims that applicant may have against the City, its officers, agents, employees, and representatives arising out of or in connection with the revocation or cancellation of an event permit.

*Kari Anne Zehr*  
Signature

*July 11, 2023*  
Date

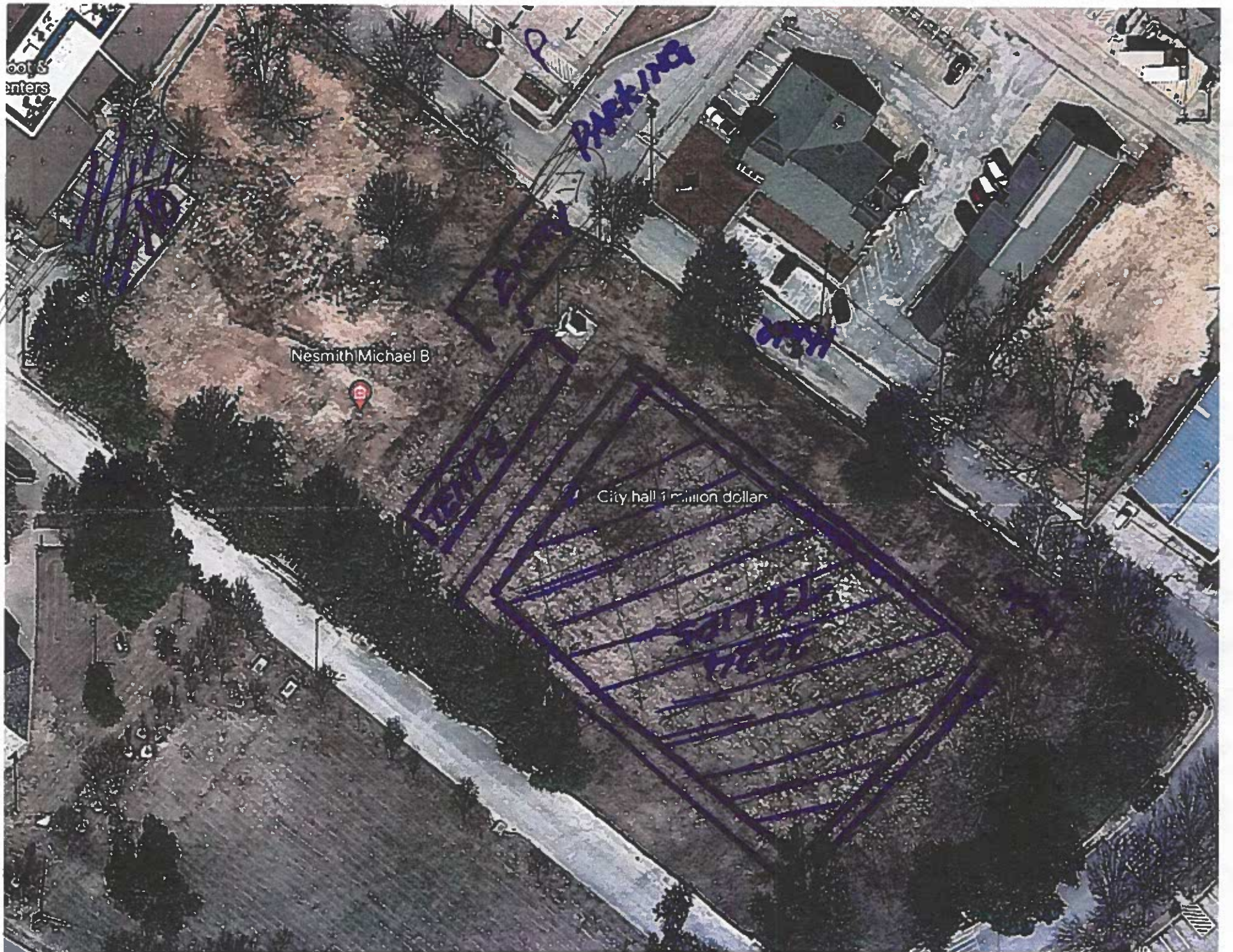
**Contract Agreement**

Applicant / organization has thoroughly read, understands, and agrees to all conditions listed on this application.

*Kari Anne Zehr*  
Signature

*July 11, 2023*  
Date

Email completed Special Events Application and site map to  
Jami Bonner at [Jami.Bonner@waxahachie.com](mailto:Jami.Bonner@waxahachie.com).



(5d)

(5d)



## Park Finder Map

Parks & Recreation Department, City of Waxahachie. Contact: 469-309-4270

+

-

▼

Getzendaner Park

X

Q

Parks

Getzendaner Park

580 ft

135E S

550 ft


**Parks: Getzendaner Park**

|                   |   |
|-------------------|---|
| <b>Parks Name</b> | Getzendaner Park  |
| <b>Address</b>    | 400 S Grand Ave, Waxahachie, TX, 75165  |
| <b>Acreage</b>    | 34.00   |
| <b>Amenities</b>  | 2 pavilions, 2 restrooms, 3 playgrounds, 8 grills, benches, , picnic tables, water fountains, Chautauqua Auditorium |

Attachments:

[Getzendaner.jpg](#)

Image



[Zoom to](#)

Texas Parks & Wildlife, Esri, HERE, Garmin, INCREMENT P,

600ft

-96.857 32 398 Degrees

All rights reserved

(5d)

**Bonner, Jami**

---

**From:** Cooper, Kyle  
**Sent:** Wednesday, July 19, 2023 10:13 AM  
**To:** Bonner, Jami  
**Subject:** RE: Tulipalooza

I checked out the old hospital grounds with the applicant, and it looks like a great spot for their event. But we only talked about using it for the tulips, nothing else. I think it'd be a good idea to ask them for more info on what activities they have planned, how they want to set up the site, and if they've got any parking plans. We chatted about some parking options, but nothing's set in stone.



**Kyle Cooper, CPRP**  
*Senior Director*  
*Parks and Recreation*  
City of Waxahachie  
469-336-5377  
972-268-4549  
[Kyle.Cooper@waxahachie.com](mailto:Kyle.Cooper@waxahachie.com)

---

**From:** Bonner, Jami  
**Sent:** Wednesday, July 19, 2023 8:11 AM  
**To:** Cooper, Kyle <kyle.cooper@waxahachie.com>  
**Subject:** Tulipalooza

Good morning Kyle,

We have received the attached special event application for Tulipalooza in March of 2024. The site map they included does not indicate any of the activities planned. Have you spoken with the applicant? I know they have been in contact with Michael.

Jami Bonner  
Assistant City Secretary  
City of Waxahachie  
Direct (469) 309-4005 | Fax (469) 309-4003 | PO Box 757, Waxahachie, Texas 75168  
[www.waxahachie.com](http://www.waxahachie.com)

(5d)

**Bonner, Jami**

---

**From:** Scott, Michael  
**Sent:** Wednesday, August 2, 2023 6:22 PM  
**To:** Bill Van Houten  
**Cc:** Bonner, Jami; Kari Lane Zerbe; Luke Tamminga  
**Subject:** Re: Tulipalooza 2024 Application - Jul 11, 2023  
**Attachments:** Tulipalooza 2024 Application - Jul 11 2023 - 10-06 AM.pdf; Scan2023-08-02\_152537.pdf

I believe we have about 2 feet of cover at the site

On Aug 2, 2023, at 3:47 PM, Bill Van Houten <caladiummn@aol.com> wrote:

**.Good afternoon Jami and Michael;**

**This afternoon Luke and I walked the old Hospital site at Getzendanerpark.**

**On the attached PDF I have marked the proposed site layout for the Tulip field.**

**Though the space is ample, the one concern we have is whether the plot has a lot of concrete pieces left from the Hospital excavation. Is there any way to find out, how deep this plot was excavated, since Luke will need to plow about 10 inches.**

**The application has been attached as well Jami.**

**Looking forward to working with you again for next season.**

**Bill and Kari.**

**----- Forwarded Message -----**

**From:** Kari Zerbe <kari@stallingsaward.org>  
**To:** "jami.bonner@waxahachie.com" <jami.bonner@waxahachie.com>  
**Cc:** Bill Van Houten <caladiummn@aol.com>; fritex <fri-tex@aircanopy.net>; Luke Tamminga <tiger@aircanopy.net>; "mscott@waxahachie.com" <mscott@waxahachie.com>  
**Sent:** Tuesday, July 11, 2023 at 10:09:25 AM CDT  
**Subject:** Tulipalooza 2024 Application - Jul 11, 2023

**Good morning Jami,**

**Please see attached for our special event application. We look forward to working with you once again! Please let me know if you need anything further.**

**Sincerely,  
Kari**

(5d)

**Bonner, Jami**

---

**From:** Boyd, Ricky  
**Sent:** Thursday, August 3, 2023 10:48 AM  
**To:** Bonner, Jami  
**Subject:** RE: Event Application - Tulipalooza 3/8 - 3/24, 2024

I have no concerns with this request.

*Ricky Boyd, Fire Chief*

**Waxahachie Fire-Rescue**  
**214-463-9335**

---

**From:** Bonner, Jami <jami.bonner@waxahachie.com>  
**Sent:** Thursday, August 3, 2023 10:08 AM  
**To:** Martinez, Gumaro <gmartinez@waxahachie.com>; Cooper, Kyle <kyle.cooper@waxahachie.com>; Barnes, Bradley <bradley.barnes@waxahachie.com>; Campos, Yadira <ycampos@waxahachie.com>; Mosley, Laurie <lmosley@waxahachiecvb.com>; Warren, Anthony <anthony.warren@waxahachie.com>; Thompson, Johnny <jthompson@waxahachie.com>; Brooks, Shon <sbrooks@waxahachie.com>; Jordan, Me'Lony <mjordan@waxahachie.com>; Joe Bill Wiser <JWiser@waxahachiepd.org>; Boyd, Ricky <RBoyd@waxahachiefire.org>; Griffith, Thomas <john.griffith@waxahachie.com>; Donna Insixiengmay <donna.insixiengmay@waxahachiepd.org>; Gaertner, James <jgaertner@waxahachie.com>; Massey, Matt <mmassey@waxahachie.com>  
**Cc:** Villarreal, Amber <avillarreal@waxahachie.com>; Scott, Michael <msscott@waxahachie.com>; Lawrence, Albert <alawrence@waxahachie.com>; Crocker, Clarice <ccrocker@waxahachie.com>  
**Subject:** Event Application - Tulipalooza 3/8 - 3/24, 2024

Good morning,

Please find an event application for Tulipalooza to be held March 8 – March 24, 2024. The applicant is requesting to utilize the old hospital site to plant the tulips and host the festival. The applicant is concerned whether the plot has concrete pieces left from the excavation. They will need to plow about 10 inches for the tulip field. Michael responded to the applicant that he believes there is about two feet of cover at the site. If you have any beneficial information to share with the applicant in regards to the site, please let me know.

Please respond with any comments or concerns you may have. Thank you.

Jami Bonner  
Assistant City Secretary  
City of Waxahachie  
Direct (469) 309-4005 | Fax (469) 309-4003 | PO Box 757, Waxahachie, Texas 75168  
[www.waxahachie.com](http://www.waxahachie.com)

(5d)

**Bonner, Jami**

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**From:** Joe Bill Wiser  
**Sent:** Thursday, August 3, 2023 11:20 AM  
**To:** Bonner, Jami  
**Subject:** RE: Event Application - Tulipalooza 3/8 - 3/24, 2024

No concerns from Police Department

Joe Wiser

---

**From:** Bonner, Jami  
**Sent:** Thursday, August 3, 2023 10:08 AM  
**To:** Martinez, Gumaro <gmartinez@waxahachie.com>; Cooper, Kyle <kyle.cooper@waxahachie.com>; Barnes, Bradley <bradley.barnes@waxahachie.com>; Campos, Yadira <ycampos@waxahachie.com>; Mosley, Laurie <Imosley@waxahachiecvb.com>; Warren, Anthony <anthony.warren@waxahachie.com>; Thompson, Johnny <jthompson@waxahachie.com>; Brooks, Shon <sbrooks@waxahachie.com>; Jordan, Me'Lony <mjordan@waxahachie.com>; Joe Bill Wiser <JWiser@waxahachiepd.org>; Boyd, Ricky <RBoyd@waxahachiefire.org>; Griffith, Thomas <john.griffith@waxahachie.com>; Donna Insixiengmay <donna.insixiengmay@waxahachiepd.org>; Gaertner, James <jgaertner@waxahachie.com>; Massey, Matt <mmassey@waxahachie.com>  
**Cc:** Villarreal, Amber <avillarreal@waxahachie.com>; Scott, Michael <msscott@waxahachie.com>; Lawrence, Albert <alawrence@waxahachie.com>; Crocker, Clarice <ccrocker@waxahachie.com>  
**Subject:** Event Application - Tulipalooza 3/8 - 3/24, 2024

Good morning,

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Please respond with any comments or concerns you may have. Thank you.

Jami Bonner  
Assistant City Secretary  
City of Waxahachie  
Direct (469) 309-4005 | Fax (469) 309-4003 | PO Box 757, Waxahachie, Texas 75168  
[www.waxahachie.com](http://www.waxahachie.com)

(5d)

**Bonner, Jami**

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**From:** Gaertner, James  
**Sent:** Wednesday, August 2, 2023 5:52 PM  
**To:** Bonner, Jami  
**Cc:** Brooks, Shon; Thompson, Johnny  
**Subject:** RE: Tulipalooza 2024 Application - Jul 11, 2023  
**Attachments:** Tulipalooza 2024 Application - Jul 11 2023 - 10-06 AM.pdf; Scan2023-08-02\_152537.pdf

Jami,

I am including Shon and Johnny to this email since they will know more about the demolition of the basement of the old hospital. I believe that they were supposed to remove the top 2 feet of the structure and could backfill it with the concrete/rock, but the top 2 feet was supposed to be soil.

However, they will have the demolition plans, the location of the basement and recollection of the depth of the remaining basement.

**James Gaertner, PE, CFM, CPM**  
**Executive Director of Public Works & Utilities**  
Office: 469-309-4301  
[jgaertner@waxahachie.com](mailto:jgaertner@waxahachie.com)

---

**From:** Bonner, Jami <[jami.bonner@waxahachie.com](mailto:jami.bonner@waxahachie.com)>  
**Sent:** Wednesday, August 2, 2023 5:01 PM  
**To:** Gaertner, James <[jgaertner@waxahachie.com](mailto:jgaertner@waxahachie.com)>  
**Subject:** FW: Tulipalooza 2024 Application - Jul 11, 2023

Hi James,

We have received an event application (attached) for Tulipalooza to be held on the old hospital site. Bill and Kari have been in contact with Michael. Please see Bill's concerns below in regards to concrete excavation on the site. Do you have any information to share with Bill? Thank you.

Jami Bonner  
Assistant City Secretary  
City of Waxahachie  
Direct (469) 309-4005 | Fax (469) 309-4003 | PO Box 757, Waxahachie, Texas 75168  
[www.waxahachie.com](http://www.waxahachie.com)

---

**From:** Bill Van Houten <[caladiummn@aol.com](mailto:caladiummn@aol.com)>  
**Sent:** Wednesday, August 2, 2023 3:46 PM  
**To:** Bonner, Jami <[jami.bonner@waxahachie.com](mailto:jami.bonner@waxahachie.com)>; Scott, Michael <[mscott@waxahachie.com](mailto:mscott@waxahachie.com)>  
**Cc:** Kari Lane Zerbe <[kari@stallingsaward.org](mailto:kari@stallingsaward.org)>; Luke Tamminga <[tiger@aircanopy.net](mailto:tiger@aircanopy.net)>  
**Subject:** Fw: Tulipalooza 2024 Application - Jul 11, 2023

.Good afternoon Jami and Michael;

This afternoon Luke and I walked the old Hospital site at Getzendanerpark.

(5d)

**Bonner, Jami**

---

**From:** Mosley, Laurie  
**Sent:** Friday, August 4, 2023 10:59 AM  
**To:** Bonner, Jami  
**Subject:** RE: Event Application - Tulipalooza 3/8 - 3/24, 2024

I see no problems as it relates to my department. Thank you Jami!

---

**From:** Bonner, Jami <jami.bonner@waxahachie.com>  
**Sent:** Thursday, August 3, 2023 10:08 AM  
**To:** Martinez, Gumaro <gmartinez@waxahachie.com>; Cooper, Kyle <kyle.cooper@waxahachie.com>; Barnes, Bradley <bradley.barnes@waxahachie.com>; Campos, Yadira <ycampos@waxahachie.com>; Mosley, Laurie <lmosley@waxahachiecvb.com>; Warren, Anthony <anthony.warren@waxahachie.com>; Thompson, Johnny <jthompson@waxahachie.com>; Brooks, Shon <sbrooks@waxahachie.com>; Jordan, Me'Lony <mjordan@waxahachie.com>; Joe Bill Wiser <JWiser@waxahachiepd.org>; Boyd, Ricky <RBoyd@waxahachiefire.org>; Griffith, Thomas <john.griffith@waxahachie.com>; Donna Insixiengmay <donna.insixiengmay@waxahachiepd.org>; Gaertner, James <jgaertner@waxahachie.com>; Massey, Matt <mmassey@waxahachie.com>  
**Cc:** Villarreal, Amber <avillarreal@waxahachie.com>; Scott, Michael <msscott@waxahachie.com>; Lawrence, Albert <alawrence@waxahachie.com>; Crocker, Clarice <ccrocker@waxahachie.com>  
**Subject:** Event Application - Tulipalooza 3/8 - 3/24, 2024

Good morning,

Please find an event application for Tulipalooza to be held March 8 – March 24, 2024. The applicant is requesting to utilize the old hospital site to plant the tulips and host the festival. The applicant is concerned whether the plot has concrete pieces left from the excavation. They will need to plow about 10 inches for the tulip field. Michael responded to the applicant that he believes there is about two feet of cover at the site. If you have any beneficial information to share with the applicant in regards to the site, please let me know.

Please respond with any comments or concerns you may have. Thank you.

Jami Bonner  
Assistant City Secretary  
City of Waxahachie  
Direct (469) 309-4005 | Fax (469) 309-4003 | PO Box 757, Waxahachie, Texas 75168  
[www.waxahachie.com](http://www.waxahachie.com)

(5d)

**Bonner, Jami**

---

**From:** Gaertner, James  
**Sent:** Thursday, August 3, 2023 6:06 PM  
**To:** Bonner, Jami; Martinez, Gumaro; Cooper, Kyle; Barnes, Bradley; Campos, Yadira; Mosley, Laurie; Warren, Anthony; Thompson, Johnny; Brooks, Shon; Jordan, Me'Lony; Joe Bill Wiser; Boyd, Ricky; Griffith, Thomas; Donna Insixiengmay; Massey, Matt  
**Cc:** Villarreal, Amber; Scott, Michael; Lawrence, Albert; Crocker, Clarice  
**Subject:** RE: Event Application - Tulipalooza 3/8 - 3/24, 2024

The 2 feet of cover is my recollection as well, but it needs to be confirmed on the demolition plan provided to Building Department.

I don't recall if the water meter and fire line vaults were removed as well or are they still on site. If the vaults were removed, will the tilling hit the water service and fire lines? If the vaults were kept, then I don't have comments. If the vaults were removed, they need to avoid the area of where the vaults used to be.

The vaults should also be on the demolition plan and it will specify if they kept the vault or it was removed.

**James Gaertner, PE, CFM, CPM**  
**Executive Director of Public Works & Utilities**  
Office: 469-309-4301  
[jgaertner@waxahachie.com](mailto:jgaertner@waxahachie.com)

---

**From:** Bonner, Jami <jami.bonner@waxahachie.com>  
**Sent:** Thursday, August 3, 2023 10:08 AM  
**To:** Martinez, Gumaro <gmartinez@waxahachie.com>; Cooper, Kyle <kyle.cooper@waxahachie.com>; Barnes, Bradley <bradley.barnes@waxahachie.com>; Campos, Yadira <ycampos@waxahachie.com>; Mosley, Laurie <lmosley@waxahachiecvb.com>; Warren, Anthony <anthony.warren@waxahachie.com>; Thompson, Johnny <jthompson@waxahachie.com>; Brooks, Shon <sbrooks@waxahachie.com>; Jordan, Me'Lony <mjordan@waxahachie.com>; Joe Bill Wiser <JWiser@waxahachiepd.org>; Boyd, Ricky <RBoyd@waxahachiefire.org>; Griffith, Thomas <john.griffith@waxahachie.com>; Donna Insixiengmay <donna.insixiengmay@waxahachiepd.org>; Gaertner, James <jgaertner@waxahachie.com>; Massey, Matt <mmassey@waxahachie.com>  
**Cc:** Villarreal, Amber <avillarreal@waxahachie.com>; Scott, Michael <msscott@waxahachie.com>; Lawrence, Albert <alawrence@waxahachie.com>; Crocker, Clarice <ccrocker@waxahachie.com>  
**Subject:** Event Application - Tulipalooza 3/8 - 3/24, 2024

Good morning,

Please find an event application for Tulipalooza to be held March 8 – March 24, 2024. The applicant is requesting to utilize the old hospital site to plant the tulips and host the festival. The applicant is concerned whether the plot has concrete pieces left from the excavation. They will need to plow about 10 inches for the tulip field. Michael responded to the applicant that he believes there is about two feet of cover at the site. If you have any beneficial information to share with the applicant in regards to the site, please let me know.

Please respond with any comments or concerns you may have. Thank you.

Jami Bonner  
Assistant City Secretary

(5d)

**Bonner, Jami**

---

**From:** Brooks, Shon  
**Sent:** Wednesday, August 9, 2023 1:02 PM  
**To:** Gaertner, James; Bonner, Jami  
**Cc:** Thompson, Johnny  
**Subject:** RE: Tulipalooza 2024 Application - Jul 11, 2023

Jami,

The application should be ok. The contract agreement required them to demo everything down to two feet below grade.

Shon Brooks, AICP  
Executive Director of Development Services  
City of Waxahachie  
401 S Rogers St. Waxahachie, TX 75165  
Phone: 469-309-4021

***\*\*We have relocated to 408 S. Rogers St., Waxahachie, TX (just across from City Hall). \*\****

---

**From:** Gaertner, James <jgaertner@waxahachie.com>  
**Sent:** Wednesday, August 2, 2023 5:52 PM  
**To:** Bonner, Jami <jami.bonner@waxahachie.com>  
**Cc:** Brooks, Shon <sbrooks@waxahachie.com>; Thompson, Johnny <jthompson@waxahachie.com>  
**Subject:** RE: Tulipalooza 2024 Application - Jul 11, 2023

Jami,

I am including Shon and Johnny to this email since they will know more about the demolition of the basement of the old hospital. I believe that they were supposed to remove the top 2 feet of the structure and could backfill it with the concrete/rock, but the top 2 feet was supposed to be soil.

However, they will have the demolition plans, the location of the basement and recollection of the depth of the remaining basement.

**James Gaertner, PE, CFM, CPM**  
Executive Director of Public Works & Utilities  
Office: 469-309-4301  
[jgaertner@waxahachie.com](mailto:jgaertner@waxahachie.com)

---

**From:** Bonner, Jami <[jami.bonner@waxahachie.com](mailto:jami.bonner@waxahachie.com)>  
**Sent:** Wednesday, August 2, 2023 5:01 PM  
**To:** Gaertner, James <[jgaertner@waxahachie.com](mailto:jgaertner@waxahachie.com)>  
**Subject:** FW: Tulipalooza 2024 Application - Jul 11, 2023

Hi James,



## Memorandum

To: Honorable Mayor and City Council

From: Richard B. Abernethy, Director of Administrative Services

For Thru: Michael Scott, City Manager *MS*

Date: August 21, 2023

Re: Consider Adopting an Ordinance to Approve a Rate Settlement Agreement with SiEnergy, LP

---

**Recommended Motion:** "I move to adopt an ordinance approving a rate settlement agreement with SiEnergy, LP"

**Item Description:** Consider adopting an ordinance to approve a settlement agreement between the City of Waxahachie and SiEnergy, LP.

**Item Summary:** On May 5, 2023, Si Energy, LP (SiEnergy), filed a Statement of Intent seeking to increase gas utility rates within the incorporated areas served by SiEnergy in North, Central, and South Texas. The City of Waxahachie was one of the affected municipalities by this proposal.

In the filing, SiEnergy was seeking an increase of \$9.69 million increase on a systemwide basis, which results in \$2.67 million revenue increase in the incorporated areas or a 47.3% increase over current adjusted revenues, excluding gas costs. The Company asked for a \$32.14 million revenue requirement with an effective date of June 9, 2023.

On May 15, 2023, the City adopted a resolution to suspend their effective date by 90 days to allow time for the City and a coalition of impacted cities to evaluate the filing, determine whether the filing complied with law, and if lawful, to determine what further strategy to pursue, including settlement and ultimately to approve reasonable rates.

(5e)

After thorough review, the cities were able to negotiate a settlement agreement with SiEnergy that will be adopted by ordinance.

Approval of the ordinance will result in a revenue requirement of \$27.95 million for SiEnergy. This is a \$4.19 million reduction to the \$32.14 million revenue requirement requested by SiEnergy in its Statement of Intent and an increase of approximately \$5.5 million in current annual revenues system wide. The Settlement Agreement also reflects an agreement that the Company will not utilize the Gas Reliability Infrastructure Program to make interim rate adjustments before its next comprehensive rate case. The Settlement Agreement also increases the residential monthly customer charge to \$19.25. Through settlement, SiEnergy agreed to provide a one-time aggregate credit totaling \$101,084. The Settlement Agreement approves the recovery of the City's reasonable rate case expenses and the Company's agreed-to rate case expenses through a surcharge on customers' bills.

**Fiscal Impact:** The City of Waxahachie is a member of these coalition of cities impacted by this rate increase and there are no additional costs associated with hiring of legal services or consultants to conduct the review on behalf of the City. All legal expenses associated with this request must be paid by SiEnergy. It should also be mentioned, that at this time, there are no SiEnergy customers within the City of Waxahachie.

(5c)

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE ADOPTING UNANIMOUS SETTLEMENT AGREEMENT, SETTING RATES AND ESTABLISHING TARIFFS FOR THE PROVISION OF NATURAL GAS SERVICE BY SIENERGY, LP WITHIN THE CITY OF WAXAHACHIE; DECLARING THIS ORDINANCE TO BE A FINAL DETERMINATION OF RATES; REQUIRING ACCEPTANCE BY SIENERGY, LP OF THE RATES PRESCRIBED HEREIN; AND ESTABLISHING AN EFFECTIVE DATE.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WAXAHACHIE**

**PART 1. The Council finds:**

- (A) On May 5, 2023, SiEnergy, LP ("SiEnergy" or "Company") filed with the Railroad Commission of Texas, the City of Waxahachie ("City"), and the other affected cities in North, Central and South Texas, its Statement of Intent to increase its annual revenue by \$2.67 million within the incorporated areas in its service territory, or by \$9.69 million system wide. In its Statement of Intent, SiEnergy requested a \$32.14 million revenue requirement.
- (B) In accordance with the Gas Utility Regulatory Act, Utilities Code, § 104.107, the City suspended SiEnergy's proposed effective date of June 9, 2023, for a period not to exceed 90 days from SiEnergy's proposed effective date, to September 7, 2023. The Railroad Commission of Texas suspended the proposed effective date for a period of 150 days, to November 6, 2023. The effective date is November 6, 2023.
- (C) SiEnergy provided public notice of its proposed increase in rates in accordance with the Gas Utility Regulatory Act.
- (D) A revenue requirement in the amount of \$27.95 million per annum is reasonable and consistent with the requirements of the Gas Utility Regulatory Act, will permit SiEnergy a reasonable opportunity to earn a reasonable return on its invested capital, and will yield a fair return upon the adjusted value of SiEnergy's property used and useful in rendering service to the public. The negotiated revenue requirement results in an increase of approximately \$5.5 million in current annual revenues system wide. It is appropriate for SiEnergy to implement a uniform, system-wide cost of service and rates throughout the Company's North, Central and South Texas service areas.
- (E) It is reasonable for SiEnergy to provide a one-time aggregate credit totaling \$101,084 that is apportioned as follows:
  - a. An aggregate total credit of \$6,851 to be distributed to current residential customers within the unincorporated areas of SiEnergy's North Texas service area as a uniform, one-time, per customer credit;

(5e)

- b. An aggregate total of \$44,233 to be distributed to current residential customers served within the City of Fort Worth as a uniform, one-time, per customer credit; and,
  - c. An aggregate total of \$50,000 to be distributed to current residential customers served within the City of Mansfield as a uniform, one-time, per customer credit.
- (F) SiEnergy agrees to not utilize the Gas Reliability Infrastructure Program to make interim rate adjustments before it files its next base rate case.
- (G) The tariffs and specific rates and charges, and customer service rules appended to this ordinance are reasonable and in the public interest.
- (H) The costs of the City's rate consultants, attorneys, and technical staff to conduct investigations, present evidence, advise and represent the City in these rate-making proceedings as set out in the Settlement Agreement are reasonable and necessary expenses, as are the agreed-upon rate case expenses incurred by SiEnergy in this proceeding.

**PART 2.** The City is the regulatory body with exclusive original jurisdiction over the rates, operations, and services of SiEnergy within the municipality.

**PART 3.** The Unanimous Settlement Agreement ("Settlement Agreement") entered into between SiEnergy and the City and appended to this ordinance as "Attachment 1" is in the public interest and is adopted by this ordinance.

**PART 4.** A revenue requirement of \$27.95 million for SiEnergy, as determined on a system-wide basis for its service territory, is approved within the City.

**PART 5.** Except to the extent approved in this ordinance and the Settlement Agreement appended to this ordinance as "Attachment 1", the City denies SiEnergy's request for rates, tariffs, and charges as proposed in SiEnergy's Statement of Intent and rate increase request filed with the City on or about May 5, 2023.

**PART 6.** The rates, tariffs, charges, schedules, and service rules appended to this ordinance as "Attachment 2" for natural gas service provided by SiEnergy within the City, are reasonable and are hereby approved.

**PART 7.** The proposed depreciation and amortization rates set forth on the Depreciation Rates summary appended to this ordinance as "Attachment 3" are reasonable and hereby approved by this ordinance.

**PART 8.** The costs of rate consultants, attorneys, and technical staff to conduct investigations, present evidence, advise, and represent the City in these rate-making proceedings shall be reimbursed to the City by SiEnergy within 30 days of the Commission's Final Order approving the settlement.

(56)

**PART 9.** Nothing in this ordinance shall be construed as limiting or modifying in any manner the right and power of the City under the law to regulate the rates and charges of SiEnergy.

**PART 10.** This ordinance takes effect on September 7, 2023.

PASSED AND APPROVED this 21<sup>st</sup> day of August, 2023.

---

MAYOR

APPROVED AS TO FORM:

---

CITY ATTORNEY

ATTEST:

---

CITY SECRETARY



(5f)

## Memorandum

To: Honorable Mayor and City Council

From: Richard B. Abernethy, Director of Administrative Services

For Thru: Michael Scott, City Manager *MS*

Date: August 21, 2023

Re: Consider Resolution to Approve a Negotiated Settlement Between the Atmos Cities Steering Committee and the Atmos Energy Corp., Mid-Tex Division

---

**Motion:** "I move to approve the Resolution approving the settlement agreement with the Atmos Cities Steering Committee and the Atmos Energy Corp., Mid-Tex Division."

**Item Description:** Consider resolution to approve a negotiated settlement between the Atmos Cities Steering Committee (ACSC) and the Atmos Energy Corp., Mid-Tex Division (Atmos) regarding the company's 2023 rate review mechanism filing.

**Item Summary:** Waxahachie, along with 181 other Mid-Texas cities served by Atmos, is a member of the ACSC. On or about March 30, 2023, Atmos filed a rate request pursuant to the as Rate Review Mechanism (RRM) Tariff adopted by ACSC members. Atmos claimed that its cost-of-service in a test year ending December 31, 2022, entitled it to additional system-wide revenues of \$165.9 million. Application of the standards set forth in ACSC's RRM Tariff required Atmos to reduce its request to \$156.1 million, \$113.8 million of which would be applicable to ACSC members. ACSC's consultants concluded that the system-wide deficiency under the RRM regime should be \$130.9 million instead of the claimed \$156.1 million.

(5f)

After Atmos reviewed ACSC's consultants' report, ACSC's Executive Committee and Atmos negotiated a settlement of \$142 million. The effective date for the news rates will be October 1, 2023. The negotiated settlement will result in savings to ASCS Cities.

The average Atmos residential customer will see an increase in their monthly bill of about 7.31% (\$6.47) and commercial customers will see an average increase of about 5.19% (\$24.72).

**Fiscal Impact:** The City of Waxahachie is already a member of the ACSC and there were no additional costs associated with hiring of legal services or consultants to conduct the negotiations on behalf of the ACSC. All legal expenses associated with this negotiation must be paid by Atmos.

## RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS, APPROVING A NEGOTIATED SETTLEMENT BETWEEN THE ATMOS CITIES STEERING COMMITTEE ("ACSC") AND ATMOS ENERGY CORP., MID-TEX DIVISION REGARDING THE COMPANY'S 2023 RATE REVIEW MECHANISM FILING; DECLARING EXISTING RATES TO BE UNREASONABLE; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT; FINDING THE RATES TO BE SET BY THE ATTACHED SETTLEMENT TARIFFS TO BE JUST AND REASONABLE AND IN THE PUBLIC INTEREST; APPROVING AN ATTACHMENT ESTABLISHING A BENCHMARK FOR PENSIONS AND RETIREE MEDICAL BENEFITS; REQUIRING THE COMPANY TO REIMBURSE ACSC'S REASONABLE RATEMAKING EXPENSES; DETERMINING THAT THIS RESOLUTION WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; ADOPTING A SAVINGS CLAUSE; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS RESOLUTION TO THE COMPANY AND THE ACSC'S LEGAL COUNSEL.**

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

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

WHEREAS, ACSC and the Company worked collaboratively to develop a Rate Review Mechanism ("RRM") tariff that allows for an expedited rate review process by ACSC Cities as a substitute to the Gas Reliability Infrastructure Program ("GRIP") process instituted by the

Legislature, and that will establish rates for the ACSC Cities based on the system-wide cost of serving the Atmos Mid-Tex Division; and

WHEREAS, the current RRM tariff was adopted by the City in a rate ordinance in 2018; and

WHEREAS, on about March 1, 2023, Atmos Mid-Tex filed its 2023 RRM rate request with ACSC Cities based on a test year ending December 31, 2022; and

WHEREAS, ACSC coordinated its review of the Atmos Mid-Tex 2023 RRM filing through its Executive Committee, assisted by ACSC's attorneys and consultants, to resolve issues identified in the Company's RRM filing; and

WHEREAS, the Executive Committee, as well as ACSC's counsel and consultants, recommend that ACSC Cities approve an increase in base rates for Atmos Mid-Tex of \$142 million on a system-wide basis with an Effective Date of October 1, 2023; and

WHEREAS, ACSC agrees that Atmos' plant-in-service is reasonable; and

WHEREAS, with the exception of approved plant-in-service, ACSC is not foreclosed from future reasonableness evaluation of costs associated with incidents related to gas leaks; and

WHEREAS, the attached tariffs (Attachment 1) implementing new rates are consistent with the recommendation of the ACSC Executive Committee, are agreed to by the Company, and are just, reasonable, and in the public interest; and

WHEREAS, the settlement agreement sets a new benchmark for pensions and retiree medical benefits (Attachment 2); and

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

(5f)

WHEREAS, the RRM Tariff includes Securitization Interest Regulatory Asset amount of \$19.5 million;

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

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

**Section 2.** That, without prejudice to future litigation of any issue identified by ACSC, the City Council finds that the settled amount of an increase in revenues of \$142 million on a system-wide basis represents a comprehensive settlement of gas utility rate issues affecting the rates, operations, and services offered by Atmos Mid-Tex within the municipal limits arising from Atmos Mid-Tex's 2023 RRM filing, is in the public interest, and is consistent with the City's authority under Section 103.001 of the Texas Utilities Code.

**Section 3.** That despite finding Atmos Mid-Tex's plant-in-service to be reasonable, ACSC is not foreclosed in future cases from evaluating the reasonableness of costs associated with incidents involving leaks of natural gas.

**Section 4.** That the existing rates for natural gas service provided by Atmos Mid-Tex are unreasonable. The new tariffs attached hereto and incorporated herein as Attachment 1, are just and reasonable, and are designed to allow Atmos Mid-Tex to recover annually an additional \$142 on a system-wide basis, over the amount allowed under currently approved rates. Such tariffs are hereby adopted.

**Section 5.** That the ratemaking treatment for pensions and retiree medical benefits in Atmos Mid-Tex's next RRM filing shall be as set forth on Attachment 2, attached hereto and incorporated herein.

(5f)

**Section 6.** That Atmos Mid-Tex shall reimburse the reasonable ratemaking expenses of the ACSC in processing the Company's 2023 RRM filing.

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

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

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

**Section 10.** That consistent with the City Ordinance that established the RRM process, this Resolution shall become effective from and after its passage with rates authorized by attached tariffs to be effective for bills rendered on or after September 30, 2023.

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

(5f)

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF  
WAXAHACHIE, TEXAS, BY A VOTE OF \_\_\_\_ TO \_\_\_\_, ON THIS THE \_\_\_\_ DAY  
OF \_\_\_\_\_, 2023.

\_\_\_\_\_  
David Hill  
Mayor, City of Waxahachie

ATTEST:

\_\_\_\_\_  
Amber Villarreal, TRMC, CMC  
City Secretary, City of Waxahachie

# Planning & Zoning Department

## Zoning Staff Report

### Case: ZTA-92-2023 Zoning Text Amendment



#### MEETING DATE(S)

Planning & Zoning Commission: August 15, 2023  
City Council: August 21, 2023

#### CAPTION

Public Hearing on a request by the City of Waxahachie for a textual amendment to the City Zoning Ordinance, Ordinance No. 3020, to create Short-Term Rental Definitions, and use regulations, Section 3.27 and Use Regulations, Section 4.03 Use Charts, (ZTA-92-2023) to address Short Term Rental (STR) uses.

#### RECOMMENDED MOTION

*"I move to approve ZTA-92-2023, a request by the City of Waxahachie for a textual amendment to the City Zoning Ordinance, Ordinance No. 3020, to create Short-Term Rental Definitions, and use regulations, Section 3.27 and Use Regulations, Section 4.03 Use Charts, (ZTA-92-2023) to address Short Term Rental (STR) uses; authorizing the Mayor to sign the associated documents accordingly."*

#### ACTION SINCE INITIAL STAFF REPORT

At the Planning and Zoning Commission meeting held on August 15, 2023, the Commission voted 4-3 resulting in a recommendation for denial of case number ZTA-92-2023.

#### PLANNING ANALYSIS

The City Council has directed the Planning staff to create Short-Term Rental regulations and to generate a corresponding ordinance due to numerous citizen inquiries and concerns regarding the absence of such Short-Term rental regulations in Waxahachie. The City Council has met with staff and legal counsel several times in the past few months in hopes of understanding Short-Term Rental impacts on neighborhoods and how the city anticipates the implementation of the draft regulatory measures for Short-Term Rental uses.

The City Council enacted a moratorium on July 17, 2023, temporarily prohibiting new short-term rentals of dwelling units, as the first step in the STR regulatory implementation measures, which would allow staff additional time to generate the Short-Term Rental ordinance attached.

The purpose of this Zoning Text Amendment is to:

1. Define Short Term Rentals and other relative terms identified with an STR use.
2. Add a SUP requirement to the Use Charts for STR use and add a 500-foot notification requirement.
3. Created restrictions for STR uses.
4. Create an annual registration requirement process for STRs.
5. Identify a Violation policy for unlawful use of a STR.
6. Create a Suspension and Revocation process for STR registration.
7. Creation of an appeal process for registration denial.
8. Create a registration fee for STR registration.

The new definitions are noted below:

- 1) *Administrator* means the City Manager and/or the City Manager's designee.
- 2) *Advertise* means the written, audio, oral, or other methods of drawing the public's attention, whether by brochure, written literature, signage or any type, or online posting to a short-term rental website in order to promote the availability of the short-term rental.
- 3) *Bedroom* means the living area(s) of the dwelling unit that is designated and furnished for primarily sleeping only, with proper egress as required by the International Residential Code.
- 4) *Hotel occupancy tax* means the hotel occupancy tax as defined in Chapter 30 of the Waxahachie Code of Ordinances and Chapter 156 of the Texas Tax Code.
- 5) *Local emergency contact* means an individual other than the applicant, who resides within twenty (20) miles of the short-term rental property, and who is designated by the owner/applicant to act as the owner's authorized agent with unrestricted legal authority to act on the owner's behalf if the owner has traveled outside of the immediate area or is otherwise unavailable. The local emergency contact should be reachable on a 24-hour basis, have access to the short-term rental property, and be authorized by the owner to act in the owner's absence to address any complaints, disturbances, and emergencies.
- 6) *Occupant* means any individual person living, sleeping or possessing the short-term rental property or portion thereof.
- 7) *Owner* means any person, agent, operator, firm, trust, corporation, limited liability company, partnership or business organization having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or code official of the estate of such person if ordered to take possession of real property by a court. The term "owner" does not include the holder of a non-possessory security interest in the property.
- 8) *Party* means a social gathering of people or special event, including those who have not rented the residence, for the primary purpose of eating, drinking, socializing or entertainment in any form or fashion in a manner that is disruptive to the surrounding properties.
- 9) *Premise* means property, a lot, plot or parcel or land, including any structures or portions of structures thereon.
- 10) *Short-term rental (STR)* means the rental of any residence or a portion of a residence or a residential structure for a period of less than thirty (30) consecutive days. The definition of a short-term rental does not include the following:
  - a) A unit that is used for a non-residential purpose, including an educational, health care, retail, restaurant, banquet space, or event space purpose or another similar use;
  - b) A residential structure or portion of a residence that is not designed or intended for habitation purposes;
  - c) A bed and breakfast as defined in Article IV of Appendix A of the City of Waxahachie Zoning Ordinance; or
  - d) A hotel/residence hotel.

#### **PUBLIC NOTIFICATIONS**

As a courtesy, the City published notice of the public hearings for the Zoning Code in the Waxahachie Sun. The Texas Local Government Code (Section 213.002) does not require the City to mail notice of the public hearing to each property owner in the City of Waxahachie.

**RECOMMENDATION**

The Planning Department recommends approval of the Zoning Code Text Amendment ZTA-92-2023, a textual amendment to the City Zoning Ordinance, Ordinance No. 3020, to create Short-Term Rental Definitions, and use regulations, Section 3.27 and Use Regulations, Section 4.03 Use Charts, (ZTA-92-2023) to address Short Term Rental (STR) uses.

**ATTACHED EXHIBITS**

1. ZTA-92-2023 STR Ordinance
2. Adopted STR Moratorium

**STAFF CONTACT INFORMATION***Prepared by:*

Jennifer Pruitt, AICP, LEED-AP, CNU-A  
Senior Director of Planning  
[jennifer.pruitt@waxahachie.com](mailto:jennifer.pruitt@waxahachie.com)

*Reviewed by:*

Shon Brooks, AICP  
Executive Director of Development Services  
[sbrooks@waxahachie.com](mailto:sbrooks@waxahachie.com)

## ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AUTHORIZING A TEXTUAL AMENDMENT TO THE CITY ZONING ORDINANCE, ORDINANCE NO. 3020, TO CREATE SHORT-TERM RENTAL DEFINITIONS, USE REGULATIONS, AND REGISTRATION FEE, SECTION 3.27, SECTION 4.03 USE CHARTS RELATED TO SHORT-TERM RENTAL USES; PROVIDING FOR SAVINGS, SEVERABILITY, AND REPEALING CLAUSES; AND SETTING AN EFFECTIVE DATE OF OCTOBER 1, 2023.**

**WHEREAS**, the City Council of the City of Waxahachie ("City Council") has adopted a comprehensive zoning ordinance ("Zoning Ordinance"), which Zoning Ordinance is codified as Appendix A to the Waxahachie City Code; and

**WHEREAS**, a public hearing was held by the Planning and Zoning Commission of the City on August 15, 2023, and a public hearing was held by the City Council on August 21, 2023, with respect to the proposed textual changes to the Zoning Ordinance; and

**WHEREAS**, all requirements of law for publication and all procedural requirements have been complied with, in accordance with Chapter 211 of the Local Government Code.

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

**Section 1.** The City Council finds that the recitals set forth above are true and correct, and said recitals are incorporated into this ordinance as if set forth in full.

**Section 2.** Article III (Zoning Districts) is hereby amended to add the following section 3.27 as set forth in Exhibit A attached hereto.

**Section 3.** That if any section, article, paragraph, sentence, clause, phrase or word in this ordinance, or application thereto any person or circumstances is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance; and the City Council hereby declares it would have passed such remaining portions of the ordinance despite such invalidity, which remaining portions shall remain in full force and effect. All ordinances of the City in conflict with the provisions of this ordinance are repealed to the extent of that conflict.

**Section 4.** That a public emergency is found to exist which affects health, safety, property or the general welfare, in that standards and regulations for the use and development of property must be brought up to date and made effective so that suitable rules for us and development of property maybe known and in place. An emergency is declared to exist in that needed and approved improvements will be unnecessarily delayed if this ordinance is not effective upon passage and this ordinance is to be effective upon passage. This ordinance shall become effective from and after the date of its passage

(8)

**PASSED, APPROVED, AND ADOPTED** on this 21<sup>st</sup> day of August, 2023.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
City Secretary

## EXHIBIT A

## Sec. 3.27. Short-Term Rentals

(a) *General purpose and description:*

- (i) The purpose of this section is to establish regulations for the registration, inspections, and use of short-term rentals within the residential and non-residential zoning districts within the City of Waxahachie. The requirements of this section apply only to short-term rentals, as defined in this chapter. Nothing in this section, however, shall be construed to be a waiver of the requirement to assess and collect hotel occupancy taxes for any residential rental for less than thirty (30) consecutive days, or any other applicable provision of the City of Waxahachie ordinances.
- (ii) Short-term rentals existing at the time of the adoption of this ordinance are required to obtain approval of a Specific Use Permit (SUP) by the City Council. Once the approval of a SUP of the short-term rental is obtained, the SUP and short-term rental registration requirements as indicated in section (d) of Section 3.27 must be completed within six months of the adoption of this ordinance.
  - 1) The notice for the public hearing, for the SUP, shall be sent to owners as documented on the most recently approved ad valorem tax roll of the City, of lots that are within the 500' (five-hundred feet) of the subject property.

(b) *Definitions:*

- (i) For the purpose of this Section, the following definitions apply:
  - 1) *Administrator* means the City Manager and/or the City Manager's designee.
  - 2) *Advertise* means the written, audio, oral, or other methods of drawing the public's attention, whether by brochure, written literature, signage or any type, or online posting to a short-term rental website in order to promote the availability of the short-term rental.
  - 3) *Bedroom* means the living area(s) of the dwelling unit that is designated and furnished for primarily sleeping only, with proper egress as required by the International Residential Code.
  - 4) *Hotel occupancy tax* means the hotel occupancy tax as defined in Chapter 30 of the Waxahachie Code of Ordinances and Chapter 156 of the Texas Tax Code.
  - 5) *Local emergency contact* means an individual other than the applicant, who resides within twenty (20) miles of the short-term rental property, and who is designated by the owner/applicant to act as the owner's authorized agent with unrestricted legal authority to act on the owner's behalf if the owner has traveled outside of the immediate area or is otherwise unavailable. The local emergency contact should be reachable on a 24-hour basis, have access to the short-term rental property, and be authorized by the owner to act in the owner's absence to address any complaints, disturbances, and emergencies.
  - 6) *Occupant* means any individual person living, sleeping or possessing the short-term rental property or portion thereof.
  - 7) *Owner* means any person, agent, operator, firm, trust, corporation, limited liability company, partnership or business organization having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding

title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or code official of the estate of such person if ordered to take possession of real property by a court. The term "owner" does not include the holder of a non-possessory security interest in the property.

- 8) *Party* means a social gathering of people or special event, including those who have not rented the residence, for the primary purpose of eating, drinking, socializing or entertainment in any form or fashion in a manner that is disruptive to the surrounding properties.
- 9) *Premise* means property, a lot, plot or parcel or land, including any structures or portions of structures thereon.
- 10) *Short-term rental (STR)* means the rental of any residence or a portion of a residence or a residential structure for a period of less than thirty (30) consecutive days. The definition of a short-term rental does not include the following:
  - a) A unit that is used for a non-residential purpose, including an educational, health care, retail, restaurant, banquet space, or event space purpose or another similar use;
  - b) A residential structure or portion of a residence that is not designed or intended for habitation purposes;
  - c) A bed and breakfast as defined in Article IV of Appendix A of the City of Waxahachie Zoning Ordinance; or
  - d) A hotel/residence hotel.
- 11) *Short-term rental operator* means the person, agent, operator, firm, trust, corporation, limited liability company, partnership or business organization who receives payment for operating a dwelling unit, or portion thereof, as a short-term rental unit.

(c) *Unregistered short-terms rentals prohibited*

- (i) It shall be unlawful for any owner or person to advertise, offer to rent or rent, lease, sublease, license, or sublicense, grant any right, or allow any property to be operated or used as an unregistered short-term rental.

(d) *Short-term rental registration requirements*

- (i) No person shall hereafter advertise, offer to rent or rent, lease, sublease, license or sublicense, or grant any right to access or utilize a residential property within the city as a short-term rental for which an approval of a Specific Use Permit by the City Council has not been granted and registration has not been properly made and filed with the Planning Department of the City of Waxahachie. Registration shall be made upon forms furnished by the City for such purpose and shall specifically require the following minimum information:
  - 1) Name, address, phone number, and email address of the property owner of the short-term rental property.
    - a) If the property owner is not the short-term rental operator, a Property Owner Affidavit will be required at the time of registration.
  - 2) If the owner is not a natural person, then the name, address, and email address of a natural person who has the legal authority to act for the owner;
  - 3) Name, address, phone number, and email address of the designated local emergency contact.

- 4) A submission of a floor plan of the dwelling with a dimensional room layout.
  - 5) Site plan and/or survey of the property indicating the maximum number of vehicles that can be legally parked on the property without encroaching onto the streets, sidewalks, or alleys; other public rights-of-way or public property.
  - 6) Receipt of payment of hotel occupancy taxes to the City of Waxahachie Finance Department as required under Chapter 30 of the City of Waxahachie Code of Ordinances and Chapter 156 of the Texas Tax Code, which for the imposition of a hotel occupancy tax under Chapters 351 or 352, or other law, "hotel" includes a short-term rental. In this subsection, "short-term rental" means the rental of all or part of a residential property to a person who is not a permanent resident under Section 156.101 of the Texas Tax Code.
  - 7) Receipt of payment of short-term rental registration fee as set forth in Chapter 11, Fee Schedule, Section 11-2. Subdivision and Development Fee Schedule.
  - 8) Any information change provided in a short-term rental registration must be reported to the city within thirty (30) days and continuously updated as changes occur.
  - 9) The local emergency contact information must be provided on an 8 1/2" by 11" document, and displayed on the interior and exterior sides of the structure, no more than two-feet (2') from the front door.
- (ii) Registration approval will be provided with a documented registration number. This number must be displayed with the registration in a visible location, directly adjacent to the primary entrance of the short-term rental.
- (e) *Right to inspect the premise*
- (i) The City of Waxahachie reserves the right, with reasonable notice to the owner, to inspect the residential premises to determine compliance with this section as well as the most recent version of the International Property Maintenance Code.
    - 1) If only a portion of the premises is offered for rent, then that portion, plus shared amenities and points of access may be inspected.
    - 2) If, upon completion of an inspection, the premises is found to violate one or more provisions of any applicable federal, state or city regulations, codes or ordinances, the city shall provide written notice of such violation and shall set a re-inspection date for a violation to be corrected prior to its occupancy.
- (f) *Restrictions on short-term rentals*
- (i) Limit on occupants allowed. No more than two adult guests per bedroom as noted on the required floor plan required to be submitted herein, plus no more than two additional adults shall be allowed when renting a property as a short-term rental, except that:
    - 1) A maximum occupancy of ten (10) persons, including adults, children, and the owner. A visual inspection of more than ten (10) persons by a city employee at the premise is subject to the issuance of a citation to the owner for a violation of this section.
  - (ii) A short-term rental may include multiple bedrooms, but a short-term rental cannot rent simultaneously to more than one group under separate contacts, bookings or appointments. There shall be no overlap between rentals or partial rentals of the short-term rental property.
- (g) *Limit on number of vehicles*

- (i) There shall be one (1) off-street parking space per bedroom provided and a total of no more than five (5) off-street parking provided, not including any vehicles owned by the owner.

- 1) Golf carts, ATVs, and recreational vehicles are prohibited.

(h) *Placement, storage, and maintenance of refuse and recycling polycarts*

- (i) All refuse must be placed in leak proof plastic bags and contained in the appropriate polycarts as provided by the City and/or their representative. Additional polycarts may be obtained for an additional fee. All refuse and recycling polycarts shall be placed at the herein prescribed locations no later than 6:45 a.m. on the day of their scheduled collection. It shall be unlawful for any customer to place any refuse or recycling polycarts at the prescribed location prior to 7:00 p.m. the day before the scheduled collection. All polycarts shall be collected from their prescribed location no later than 9:00 p.m. on the collection day. The owner and/or local emergency contact shall be responsible for the placement, storage, and maintenance of refuse and recycling polycarts.

(i) *Other restrictions. It is unlawful:*

- (i) To promote, advertise or offer a short-term rental without first registering, by this Section, the property in which the rental is to occur; any type of documented advertisement of the subject property as a short-term rental, online or offline, shall be considered evidence of a violation of this ordinance;
  - 1) To operate a short-term rental that does not comply with all applicable city, state and federal laws and codes;
  - 2) To operate a short-term rental without paying the required hotel occupancy taxes;
  - 3) To operate a short-term rental without a Specific Use Permit (SUP) approved by the City Council;
  - 4) To offer or allow the use of a short-term rental for the sole or primary purpose of having a party, social or entertainment venue, or otherwise requires a permit or license pursuant to the city ordinance, state law, or rule for a retail, restaurant, banquet space or other similar use;
  - 5) To fail to include a written prohibition against the use of a short-term rental for having a party, social, or entertainment venue in every advertisement, listing, or other publication offering the premises for rent;
  - 6) To fail to provide an explanation of occupancy restrictions, parking restrictions, use restrictions and solid waste collection procedures in the lease/rental agreement, as well as, any penalties for violations.
  - 7) To permit the use of short-term rental for the purpose of temporary or transition housing for sex offenders; operating a structured sober, recovery, or other purpose living home or similar enterprise; selling illegal drugs; selling alcohol or another activity that requires a permit or license under the Texas Alcoholic Beverage Code, or operating as a sexually oriented business;
  - 8) For an owner or person to rent or lease for less than twenty-four (24) hours; and/or
  - 9) To park on unimproved surfaces, driveways, sidewalks, alleys, or other public rights-of-way or public property.

- 10) To advertise, offer to rent, lease, sublease, license, or sublicense a portion of the premise. A short-term rental operator may not rent the premise to two or more parties simultaneously.

(j) *Brochure and safety features*

- (i) Informational brochure. Each registrant operating a short-term rental shall provide guests a brochure that includes the following:
- 1) The registrant's 24-hour contact information;
  - 2) A local emergency contact's 24-hour contact information if the owner is not within twenty (20) miles when guests are renting the premises;
  - 3) The overnight and daytime occupancy limits for the short-term rental premise;
  - 4) Pertinent neighborhood information including, but not limited to, parking restrictions, restrictions on noise and amplified sound, and refuse collection procedures and schedules;
  - 5) Use of the short-term rental premise for the purpose of having a party, social, or entertainment venue is prohibited;
  - 6) Information to assist guests in the case of emergencies posing threats to personal safety or damage to property, including emergency and non-emergency telephone numbers for police, fire, and emergency medical service providers and instructions for obtaining severe weather, natural, or manmade disaster alerts and updates.
  - 7) Safety features. Each short-term rental registrant shall provide, in the premises, working smoke detectors and/or carbon monoxide alarms in accordance with adopted codes, and one working fire extinguisher. The premises shall otherwise comply with applicable City of Waxahachie Code of Ordinance requirements, including but not limited, to Building and Fire Codes.

(k) *Registration terms, fees, and renewal*

- (i) All registrations approved under this ordinance shall be valid for a period of one (1) year from the date of issuance unless revoked or suspended.
- (ii) The registration fee for a short-term rental shall be paid, with a late fee of three (3) times the established fee, in addition to the registration fee.
- (iii) Upon receipt of an application for renewal of the registration, the Administrator or their designee may deny the renewal if there is reasonable cause to believe that:
- 1) The registrant has plead no contest to or been convicted of a violation of any ordinance of the city, state, or federal law on the premises or has permitted such a violation on the premises by any other person; or
  - 2) There are grounds for suspension, revocation, or other registration sanction as provided in this Section; or
  - 3) A previous violation of this ordinance within the previous 12-month time period.
  - 4) The registration is non-refundable and non-transferable.

- a) If there is a change in ownership, the short-term rental operator shall submit a new Property Owner Affidavit with the Planning Department within thirty (30) calendar days of the change.

*(l) Violations and penalties*

- (i) Violation of this ordinance upon conviction shall be punished by a fine not to exceed the sum of \$2,000.00 for each offense, and each and every day such violation shall continue to be deemed to constitute a separate offense. Warnings, citations, and revocations may be issued to short-term rental premise owners, operators, lessors, agents, occupants, tenants, and/or guests, depending on the nature of the violation. Short-term rental premise owners are ultimately responsible for compliance with the requirements and restrictions imposed upon a short-term rental by this Section and for the conduct of their dwelling operators, lessors, agents, occupants, tenants, and guests, regardless of whether the owners are present at the short-term rental premise.

*(m) Suspension and revocation of short-term rental registration*

- (i) The Administrator, or their designee, may suspend and/or revoke a short-term rental registration if: it is determined the activities set forth have occurred at the short-term rental; or a short-term rental unit is listed on a hosting platform or advertised elsewhere without being registered, or is perpetuating conditions interfering with the use and enjoyment of properties within its vicinity; or is delinquent in filing or payment with the City of Waxahachie.
- (ii) Conditions interfering with use and enjoyment of properties within the vicinity of a short-term rental include, but are not limited to:
  - 1) The occurrence of any of the activities set forth in the City of Waxahachie Code of Ordinances including, but not limited to, noise disturbance, nuisance, drug offenses, or disorderly conduct;
  - 2) Occupancy by a number of short-term rental users exceeding either 1) the maximum number included in the application for the short-term rental permit or 2) the maximum occupancy permitted pursuant to this chapter;
  - 3) Parking of motor vehicles exceeding either 1) the maximum number included in the application for the short-term rental permit or 2) the maximum number of motor vehicles permitted at any short-term rental pursuant to this section;
  - 4) Uninvited entry of short-term rental occupants upon private property within 500 feet of the short-term rental;
  - 5) Knowingly or intentionally allowing the use of a short-term rental for a special event that would otherwise require a permit by city ordinance, state law, or rule for a retail, restaurant, banquet space, or other similar use; or
  - 6) Knowingly or intentionally housing a sex offender, allowing offenses related to adult-oriented businesses, or operating a sober living home;
- (iii) In addition to Section 3.27, a violation of any of the conditions shall result in progressive enforcement:
  - 1) Upon the first violation, the owner shall receive a written warning that includes a description of enforcement for future violations.

- 2) Upon the second violation, the registration for the short-term rental shall be terminated, and the short-term rental host shall be prohibited from re-applying for a new registration for six (6) months from the date of termination, and subject to a fine up to \$500.00.
  - 3) Upon the third violation, the registration for the short-term rental shall be terminated, and the short-term rental host will be prohibited from re-applying for a new registration for one (1) year from the date of termination and subject to a fine up to \$1,000.00.
  - 4) Upon the fourth violation, the registration for the short-term rental shall be terminated the short-term rental host is prohibited from re-applying for a new registration at any time in the future and is subject to a fine of up to \$2,000.00.
- (iv) During the time period that a short-term rental registration is suspended or revoked, it shall be unlawful to advertise, offer to rent or rent, lease, sublease, license or sublicense the residential property, within the city as a short-term rental.
- (n) *Physical conversion of premises prohibited.*
- (i) It shall be unlawful for an owner or operator or any person to convert a garage to a living space, remodel, renovate, enlarge or otherwise modify premises to add additional bedrooms for use as a short-term rental.
  - (ii) It shall be unlawful for an owner, operator or any person to pave or otherwise cover previous soil to create additional on-premises parking without the prior approval of the City of Waxahachie.
- (o) *Appeal of denial, suspension or revocation of registration.*
- (i) In the event, an applicant has been denied registration, or if a registration has been suspended or revoked, the party affected shall have the right to appeal to the City Council from such denial, revocation, or suspension within ten (10) business days. Notice of appeal shall be filed with the Administrator. The Administrator shall provide for a hearing with the City Council on the appeal in accordance with the provisions of this Section. The burden of proof in such an appeal shall be upon the appellant to show the denial or revocation was arbitrary or unreasonable.
- (p) *Use Charts (Exhibit B)*

| LEGEND<br>• - Permitted Use<br>S - Use may be approved via SUP<br>□ - Prohibited Use<br>See Appendix A-3 for use definitions | Zoning Districts   |                   |                          |                          |                          |                     |                            |                            |             |                       |                       |                           |        |                      |                |              |            |                    |                    |                                       |
|--|--------------------|-------------------|--------------------------|--------------------------|--------------------------|---------------------|----------------------------|----------------------------|-------------|-----------------------|-----------------------|---------------------------|--------|----------------------|----------------|--------------|------------|--------------------|--------------------|---------------------------------------|
|  | Future Development | Rural Residential | Single-Family Dwelling-1 | Single-Family Dwelling-2 | Single-Family Dwelling-3 | Two-Family Dwelling | Multiple-Family Dwelling-1 | Multiple-Family Dwelling-2 | Mobile Home | Mixed Use Residential | Downtown Neighborhood | Mixed Use Non-Residential | Office | Neighborhood Service | General Retail | Central Area | Commercial | Light Industrial-1 | Light Industrial-2 | Heavy Industrial                      |
|  | FD                 | RR                | SF1                      | SF2                      | SF3                      | 2F                  | MF1                        | MF2                        | MH          | MUR                   | DN                    | MUNR                      | O      | NS                   | GR             | CA           | C          | LI1                | LI2                | HI                                    |
| 4.03a – Residential Type Uses  |                    |                   |                          |                          |                          |                     |                            |                            |             |                       |                       |                           |        |                      |                |              |            |                    |                    |                                       |
| Short-Term Rentals   | S                  | S                 | S                        | S                        | S                        | S                   | S                          | S                          | S           | S                     | S                     | S                         | S      | S                    | S              | S            | S          | S                  | S                  | S                                     |
|  |                    |                   |                          |                          |                          |                     |                            |                            |             |                       |                       |                           |        |                      |                |              |            |                    |                    | 1 space per bedroom; 5 spaces maximum |

(8)

**EXHIBIT C****“CHAPTER 11” FEE SCHEDULE****Sec. 11-2. – Subdivision and Development Fee Schedule.**

- (a) This fee schedule is not intended to replace the existing Fee Schedule as adopted in Ordinance No. 3376, but to add to the fee schedule.

**DEVELOPMENT FEES:****Short-Term Rental Registration****Amount:****\$200.00 annually**

**CITY OF WAXAHACHIE, TEXAS  
ORDINANCE NO. 3383**

**AN ORDINANCE OF THE CITY OF WAXAHACHIE, TEXAS, PROVIDING AN INTERIM BAN ON NEW SHORT-TERM RENTALS, AND ON CURRENT SHORT-TERM RENTALS THAT HAVE BEEN DETERMINED TO BE A NUISANCE; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the rise of digital platforms such as Airbnb and VRBO has led to an increase in resident property concerns about transient and vacation rental uses that infringe on the property rights of neighbors in the City of Waxahachie ("City");

**WHEREAS**, there have been reports of tenants and visitors at short-term rentals ("STRs") in the City engaging in conduct negatively affecting the public sense of well-being and security such as properties being used for gatherings disruptive to neighborhoods; and

**WHEREAS**, the public has complained of STRs in the City regarding unreasonable noise, excessive trash, and parking issues; and

**WHEREAS**, residents have indicated that some STR occupants are less concerned than long-term residents with the impact of conduct at STR premises on neighbors, due to the temporary nature of their occupancy and lack of community with the neighborhood; and

**WHEREAS**, the City's full-time residents have a right to peace and quiet enjoyment of their properties; and

**WHEREAS**, the City Council wishes to respond to residents' concerns and address issues with property owners and managers of STRs; and

**WHEREAS**, the City Council is contemplating establishing regulations for the registration, inspections, and use of short-term rentals within residential zoning districts, and within non-residential zoning districts with residential use, within the City; and

**WHEREAS**, state law requires, to the extent that such regulations comprise zoning regulations, that the City follow certain procedures regarding notices, public hearings, City Planning and Zoning Commission consideration and recommendations and, ultimately, City Council action; and

**WHEREAS**, following this state law mandated process, as well as following the zoning process set forth in the City's Zoning Ordinance, will take time; and

**WHEREAS**, the City desires to immediately prohibit the establishment of new STRs of dwelling units, and to prohibit existing STRs of dwelling units that have been determined to be a nuisance as described herein, while the City goes through the required procedural process, which process will also allow the City to conduct public outreach, collect data and analyzes information to determine permanent recommendations, and generally explore community concerns about health

and safety related to STRs; and

**WHEREAS**, the City desires to temporarily ban new STRs in the City, as well as existing STRs that have been determined to be a nuisance as described herein, pending the City's review and legislation creation process.

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

## **SECTION 1 INCORPORATION OF PREMISES**

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

## **SECTION 2 INTERIM PROHIBITION ON SHORT-TERM RENTAL OF DWELLING UNITS**

- A. That the use of new STRs in the City, which shall mean any STR not already operating as of the effective date of this Ordinance, is immediately prohibited until the moratorium established by this Ordinance expires or this Ordinance is repealed; provided, however, that those STRs already operating and that have hosted guests on a commercial basis as of the effective date of this Ordinance shall be prohibited from continuing to operate as a STR until the moratorium established by this Ordinance expires, or this Ordinance is repealed, in the event the STR is deemed to be a nuisance and law enforcement has responded to complaints regarding the STR being a nuisance on more than three (3) occasions within the twelve (12) calendar months proceeding the effective date of this Ordinance. For purposes of this Ordinance, a "nuisance" shall be defined and shall mean as follows:
  - (i) Any unreasonably loud, disturbing, unnecessary noise which causes material distress, discomfort or injury to persons of ordinary sensibilities in the immediate vicinity thereof;
  - (ii) Any noise of the character, intensity and continued duration, which substantially interferes with the comfortable enjoyment of private homes by persons of ordinary sensibilities; or
  - (iii) Any violation of law at the STR as witnessed by law enforcement or by a complaining witness that has personal knowledge of said violation.
- B. STRs means the rental of any residence of residential structure, or a portion of a residence or a residential structure, for a period of less than thirty (30) consecutive days. The definition of a STRs does not include:
  - i. A unit that is used for a non-residential purpose, including an educational, health care, retail, restaurant, banquet space, or event space purpose or another similar use;

- ii. A residential structure or portion of a residential or residential structure that is not designed or intended for habitation purposes;
  - iii. A bed and breakfast as defined in Article IV of Appendix A on the City's Zoning Ordinance; or
  - iv. A hotel/residence hotel.
- C. The moratorium imposed by this Ordinance shall expire with no further action of the City being required at 12:01 a.m. on October 1, 2023.

### **SECTION 3 CUMULATIVE REPEALER**

That this Ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances or parts thereof in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance. Provided however, that any complaint, action, claim or lawsuit which has been initiated or has arisen under or pursuant to such Ordinance on the date of adoption of this Ordinance shall continue to be governed by the provisions of that Ordinance and for that purpose the Ordinance shall remain in full force and effect.

### **SECTION 4 ENFORCEMENT AND PENALTY CLAUSE**

An offense committed before the effective date of this Ordinance is governed by prior law and the provisions of the Code of Ordinances, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose. It shall be unlawful for any person to violate any provision of this Ordinance, and any person violating or failing to comply with any provision of this Ordinance shall be fined, upon conviction, as provided by section 1-12 of the City's Code, and a separate offense shall be deemed committed each day during or on which a violation occurs or continues. Each day such violation continues shall be deemed a separate offense.

### **SECTION 5 SEVERABILITY CLAUSE**

That should any sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole. City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

### **SECTION 6 EFFECTIVE DATE**

This ordinance shall take effect immediately from and after its passage and the publication

(8)

of the caption, as the law and charter in such cases provides.

**DULY PASSED** by the City Council of the City of Waxahachie, Texas, this the 17 day of July, 2023.

**CITY OF WAXAHACHIE, TEXAS**

\_\_\_\_\_  
DAVID HILL, MAYOR

ATTEST:

\_\_\_\_\_  
AMBER VILLARREAL, CITY SECRETARY

APPROVED AS TO FORM

  
\_\_\_\_\_  
ROBERT F. BROWN, CITY ATTORNEY

# Planning & Zoning Department

## Zoning Staff Report

Case: ZDC-55-2023



### MEETING DATE(S)

Planning & Zoning Commission:

August 15, 2023

City Council:

August 21, 2023

### CAPTION

Public Hearing on a request by Corey Vaughan, QT South, LLC, for a **Specific Use Permit (SUP)** for a **Pole Sign** use within a General Retail (GR) zoning district located at 1342 Brown Street (Property ID: 295114 & 295115) – Owner: Buffalo Creek Plaza, LLC (ZDC-55-2023) Staff: Zack King

### RECOMMENDED MOTION

*"I move to approve ZDC-55-2023, a Specific Use Permit (SUP) request for a 30' Pole Sign (QuikTrip) use at 1342 Brown Street, subject to the condition the staff report, authorizing the Mayor to sign the associated documents accordingly."*

### ACTION SINCE INITIAL STAFF REPORT

At the Planning and Zoning Commission meeting held on August 15, 2023, the Commission voted to recommend approval of case number ZDC-55-2023, with Sign Option 2, subject to the condition of the staff report.

### APPLICANT REQUEST

The applicant requests approval of a Specific Use Permit (SUP) to allow for a 30' Pole Sign for the recently approved QuikTrip location at 1342 Brown Street.

### CASE INFORMATION

Applicant:

Corey Vaughan, QT South, LLC

Property Owner(s):

Buffalo Creek Plaza, LLC

Site Acreage:

2.3473 acres

Current Zoning:

General Retail (GR) with SUP for a Convenience Store with Gasoline Sales (QuikTrip)

Requested Zoning:

General Retail (GR) with SUP for a Convenience Store with Gasoline Sales (QuikTrip) & with SUP for a 30' Pole Sign

### SUBJECT PROPERTY

General Location:

1342 Brown Street

Parcel ID Number(s):

295114 & 295115

Existing Use:

The subject property is currently undeveloped.

*Development History:*

| Case No.     | Request  | Result  |
|--------------|--|---|
| ZDC-96-2020  | SUP for Convenience Store with Gasoline Sales (7-Eleven) | Approved (8/17/20)<br>Ord. 3205 (Expired 2/17/21) |
| SUB-175-2021 | Plat (2 Commercial lots for the subject property)        | Approved (11/23/21)                               |
| ZDC-175-2022 | SUP for Convenience Store with Gasoline Sales (QuikTrip) | Approved (3/6/2023) Ord. 3363                     |

**Table 1: Adjoining Zoning and Uses**

| Direction | Zoning   | Current Use                      |
|-----------|--|----------------------------------|
| North     | Single Family-2 (SF-2)                               | Single Family Residences         |
| East      | GR with SUP for an Inpatient Rehabilitation Facility | ClearSky Rehabilitation Hospital |
| South     | GR   | Undeveloped                      |
| West      | PD-105-GR  | Lumpkins Stadium                 |

*Future Land Use Plan:*

Office

*Comprehensive Plan:*

This land use type is intended for businesses such as banks, insurance agencies, and accounting offices. Office land uses are generally compatible with residential area, with the exception of high-rise office buildings. Land designated for office is appropriate along U.S. Highway 287, at a close proximity to IH-35E within Mixed Use Nonresidential areas, as well as within the Medical District.

*Thoroughfare Plan:*

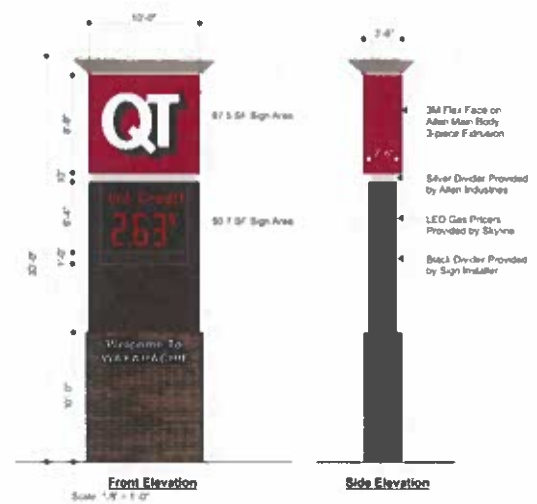
The subject property is accessible via Brown Street (FM 813) and Indian Drive.

*Site Image:*

Sign Option 1:



Sign Option 2:



## PLANNING ANALYSIS

### Case History

On February 28<sup>th</sup>, 2023 the Planning & Zoning Commission considered a request by QuikTrip for a SUP for a convenience store, gasoline sales, and a pole sign at 1342 Brown Street. At that time, the applicant was proposing a 90' pole sign along the Highway 287 Bypass Frontage Road; which exceeded the maximum allowable size and height of pole signs established by the Waxahachie Zoning Ordinance. The Commission voted to recommend approval of the request with the condition that the proposed sign be revised to adhere to the requirements of the Waxahachie Zoning Ordinance. On March 6<sup>th</sup>, 2023 City Council considered the QuikTrip SUP request that included a 70.5' pole sign. City Council voted to approve the SUP request for the convenience store and gasoline sales; but did not approve the pole sign as part of the request. Following this approval, the applicant has prepared revised pole sign options for consideration. In addition to this SUP request, the applicant has also submitted a replat application for the subject property that is currently under review by staff.

### Proposed Use

The applicant proposes an additional SUP for the subject property to allow for a 30' Pole Sign for the recently approved QuikTrip convenience store and gas station. The applicant has provided two (2) pole sign options for consideration. Option 1 includes a 6' brick base, an open center, a gasoline price sign, and a QT logo. Option 2 includes a 10' brick base and solid center along with the same gasoline price sign and QT logo as Option 1.

The proposed size, height, and location of each sign option adheres to the requirements for pole signs set forth by the Waxahachie Zoning Ordinance. Each sign includes a total of 138.2 square feet of advertising space and is proposed to be setback a minimum of 30' from all property lines.

The sign is proposed to be situated on the northeast corner of the property. In the previously approved QuikTrip SUP (Ordinance 3363), this area was reserved for parking and landscaping. Due to this, the applicant has provided a slightly revised Site Plan and Landscape Plan to accommodate the pole sign. All parking and landscape requirements are still proposed to be met.

**PUBLIC NOTIFICATIONS**

To comply with State law contained in Local Government Code Chapter 211 and the City's public hearing notice requirements, 13 notices were mailed to property owners within 200 feet of the request. In addition, a notice was published in the Waxahachie Sun and a sign was visibly posted at the property.

**PUBLIC NOTIFICATION RESPONSES**

Staff has received one (1) letter of support for the proposed SUP.

**RECOMMENDATION**

Based on the details provided in this Staff Report and the present status of the documents subject to the request, staff recommends approval of the SUP request, subject to the conditions noted below.

**Conditions:**

1. All development within the subject property will be subject to obtaining building permits from the City in accordance with the City's applicable rules and regulations governing such permits, prior to construction.

**ATTACHED EXHIBITS**

1. Letter of Support
2. Renderings
3. SUP Ordinance
4. Exhibit A – Location Map
5. Exhibit B – Sign Detail
6. Exhibit C – Site Plan
7. Exhibit D – Landscape Plan

**APPLICANT REQUIREMENTS**

1. If approved by City Council, the applicant can apply for building permits with the Building and Community Services Department.

**STAFF CONTACT INFORMATION*****Prepared by:***

Zack King, AICP

Senior Planner

[zking@waxahachie.com](mailto:zking@waxahachie.com)

***Reviewed by:***

Jennifer Pruitt, AICP, LEED-AP, CNU-A

Senior Director of Planning

[jennifer.pruitt@waxahachie.com](mailto:jennifer.pruitt@waxahachie.com)

# Letter of Support

(9)



City of Waxahachie, Texas  
Notice of Public Hearing  
Case Number: **ZDC-55-2023**

INDIAN DRIVE HOLDINGS LLC  
200 N ELM ST  
WAXAHACHIE, TX 75165

The Waxahachie Planning & Zoning Commission will hold a Public Hearing on Tuesday, August 15, 2023 at 7:00 p.m. and the Waxahachie City Council will hold a Public Hearing on Monday, August 21, 2023 at 7:00 p.m. in the Council Chamber at the Waxahachie City Hall, 401 South Rogers Street, Waxahachie, Texas to consider the following:

Request by Corey Vaughan, QT South, LLC, for a **Specific Use Permit (SUP)** for a **Pole Sign** use within a General Retail (GR) zoning district located at 1342 Brown Street (Property ID: 295114 & 295115) – Owner: BUFFALO CREEK PLAZA, LLC (ZDC-55-2023) Staff: Zack King

You received this notice because your property is within the area of notification as required by law. As an interested party you are welcome to make your views known by attending the hearings. If you cannot attend the hearings, you may express your views by filling in and returning the bottom portion of this notice. Please contact the Planning Department at (469) 309-4290 or via email: [Planning@Waxahachie.com](mailto:Planning@Waxahachie.com) for additional information on this request.

Case Number: **ZDC-55-2023**

City Reference: 278239

Your response to this notification is optional. If you choose to respond, please return this form by 5:00 P.M. on **August 9, 2023** to ensure inclusion in the Agenda Packet. Forms can be e-mailed to [Planning@Waxahachie.com](mailto:Planning@Waxahachie.com) or you may drop off/mail your form to City of Waxahachie, Attention: Planning, 401 South Rogers Street, Waxahachie, TX 75165.

☒

SUPPORT

☐

OPPOSE

Comments:

---

  
Signature

  
Date

  
Printed Name and Title

Address

*It is a crime to knowingly submit a false zoning reply form. (Texas Penal Code 37.10)*

*If you are not the addressee at the top of this form, but would like to submit a response, please contact the City for a blank form.*

## Sign Renderings



Store 1940  
08-1940-PE00

Waxahachie, TX  
Date: 04.04.23 By: Jk

(9)

## Sign Renderings

**QT QuikTrip.**

Store 1940  
08-1940-SIGN

Waxahachie, TX  
Date: 04.011.23 By: Jk



## Sign Renderings



Store 1940  
08-1940-SIGN

Waxahachie, TX  
Date: 07.01.23 By: jk



## Sign Renderings



## Sign Renderings

US-287



(9)

# Sign Renderings



ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AUTHORIZING A SPECIFIC USE PERMIT (SUP) TO PERMIT A POLE SIGN USE WITHIN A GENERAL RETAIL (GR) ZONING DISTRICT, LOCATED 1342 BROWN STREET, BEING PROPERTY ID 195114 & 295115, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING LOT 3 & 4, BLOCK A IN THE BUFFALO CREEK ADDITION SUBDIVISION, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS:

**WHEREAS**, the City Council of the City of Waxahachie having heretofore adopted a zoning ordinance and map showing the classification of the various property located within the city limits of said City; and

**WHEREAS**, the described property is classified in said ordinance and any amendments thereto as GR; and

**WHEREAS**, a proper application for a SUP has been made in accordance with the zoning ordinances in the City of Waxahachie and said application has been assigned case number ZDC-55-2023. Said application having been referred to the Planning and Zoning (P&Z) Commission was recommended by the P&Z Commission for approval and the issuance thereof; and

**WHEREAS**, proper notification has been published for the time and in the manner as prescribed by the city ordinance of the City of Waxahachie for a public hearing thereon; and,

**WHEREAS**, a proper hearing was held as required by law and the Council having heard all arguments for and against said SUP;

**NOW, THEREFORE**, this property is rezoned from GR to GR, with a SUP in order to permit a Pole Sign use on the following property: Lot 3 & 4, Block A of the Buffalo Creek Addition subdivision, which is shown on Exhibit A, in accordance with the Sign Detail attached as Exhibit B, the Site Plan attached as Exhibit C, and the Landscape Plan attached as Exhibit D.

#### **SPECIFIC USE PERMIT**

##### **Purpose and Intent**

The purpose of this Ordinance is to provide the appropriate restrictions and development controls that ensure this Specific Use Permit is compatible with the surrounding development and zoning and to also ensure that the development complies with the City's Comprehensive Plan and Zoning Ordinance.

Specific Use Permit

FOR OPERATION OF A **SPECIFIC USE PERMIT FOR A POLE SIGN USE WITHIN A GENERAL RETAIL (GR) ZONING DISTRICT**; the following standards and conditions are hereby established as part of this ordinance:

1. The development shall adhere to the City Council approved design in Exhibit A- Location Map, Exhibit B – Sign Detail, Exhibit C – Site Plan, and Exhibit D – Landscape Plan.
2. All development within the subject property will be subject to obtaining building permits from the City in accordance with the City's applicable rules and regulations governing such permits, prior to construction.
3. The development shall maintain compliance with all Federal, State and Local regulations; including, but not necessarily limited to, all applicable standards and regulations of the City of Waxahachie Municipal Code and City of Waxahachie Zoning Ordinance.
4. Any zoning, land use requirement, or restriction not contained within this Zoning Ordinance, or Ordinance 3363 as approved by City Council, shall conform to those requirements and/or standards prescribed in Exhibits B – Sign Detail, Exhibit C – Site Plan, and Exhibit D – Landscape Plan. Where regulations are not specified in Exhibits B, C, D, this Zoning Ordinance, or Ordinance 3363, the regulations of the General Retail (GR) Zoning District shall apply to this development.
5. City Council shall have the right to review the Specific Use Permit at any point, if needed.

Compliance

1. It shall be unlawful for the owner, manager, or any person in charge of a business or other establishment to violate the conditions imposed by the City Council when a Specific Use Permit is granted, and the violation of those conditions could result in a citation being issued by the appropriate enforcement officers of the City of Waxahachie.
2. Furthermore, by this Ordinance, if the premises covered by this Specific Use Permit is vacated and/or ceases to operate for a period exceeding six months (6 months), a new Specific Use Permit shall be required to reestablish the use.
3. This Specific Use Permit shall run with the land and therefore may be transferred from owner to owner; however, each new owner shall obtain a new Certificate of Occupancy.
4. The Certificate of Occupancy shall note the existence of this Specific Use Permit by its number and title.

(10)

An emergency is declared to exist in that needed and approved improvements will be unnecessarily delayed if this ordinance is not effective upon passage and this ordinance is to be effective upon passage.

The zoning map of the City of Waxahachie is hereby authorized and directed to be demarked in accordance therewith.

**PASSED, APPROVED AND ADOPTED** on this 21<sup>st</sup> day of August, 2023.

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MAYOR

ATTEST:

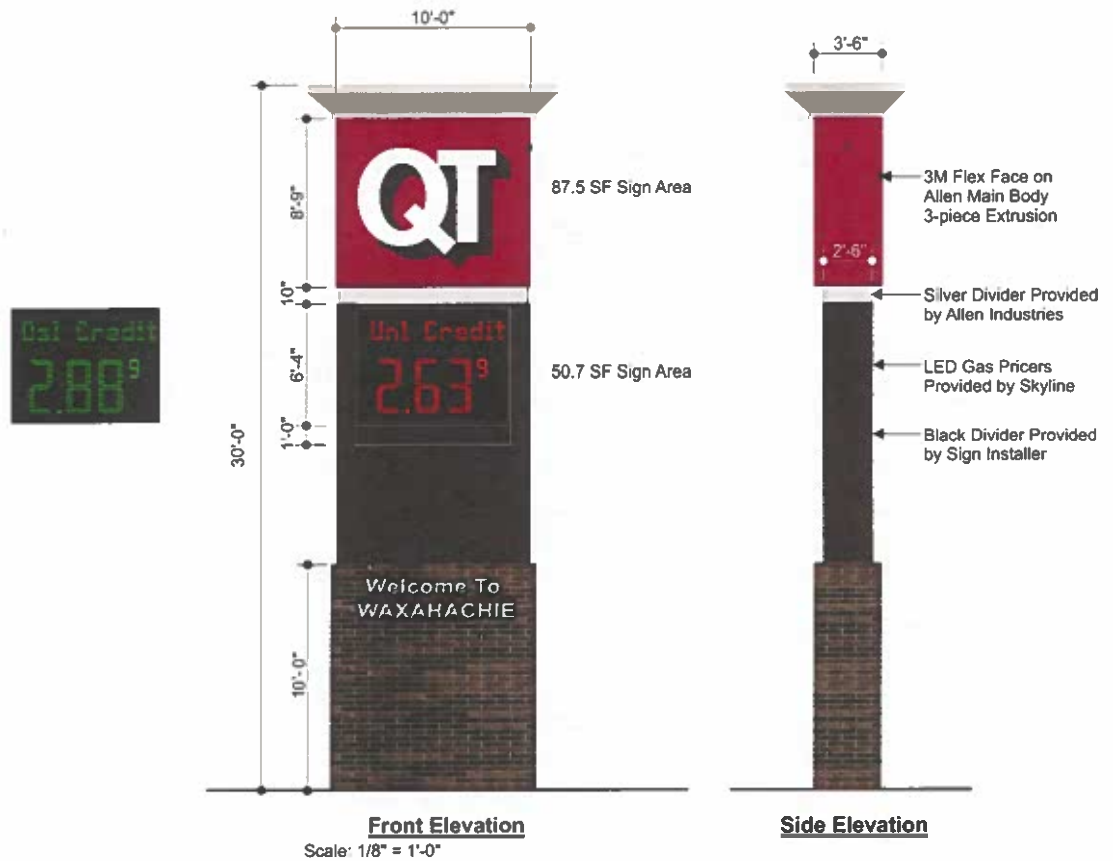
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City Secretary

## Exhibit A - Location Map



## Exhibit B - Sign Detail



### 1940 -HR10-ELP-CC High Rise Sign

- QT Logo
- Silver Fabricated Aluminum Divider
- One (1) Product LED Gas Price Sign
- 138.2 Square Feet Sign Area

#### Notes:

- 1.) Engineering provided by QT.
- 2.) Steel supports provided by QT.

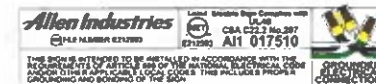
#### Color Specifications

All Paint Finishes to be Akzo Nobel

- Opaque Silver
- Translucent White
- Black - Low Gloss
- Matte White (Interior of Sign)
- Match 3M Cardinal Red #3632-53
- Match PMS 349C

#### Regarding Fabrication Fit & Finish of All QT Signs:

- Visible fabrication seams and welded joints are to be sanded smooth, filled and finished to QT specifications.
- Any visible fasteners are to be countersunk and have painted heads.
- Face retainers must fit flush and have even, minimal seams.
- Any variation from this directive must be brought to the attention of the QT Quality Control Manager without delay.



### 1940 -HR10-ELP-CC

#### Project Information

Client  
QuikTrip  
Location

| Store | Design | Project Manager |
|-------|--------|-----------------|
| House | CT     | James Gentry    |

| Date / Description | Issue Date | Initial |
|--------------------|------------|---------|
| 12/18/19           | Rev. 1     | CT      |
| 01/10/20           | Rev. 2     | CT      |

#### Notes

#### Store #

1940

#### Declaration

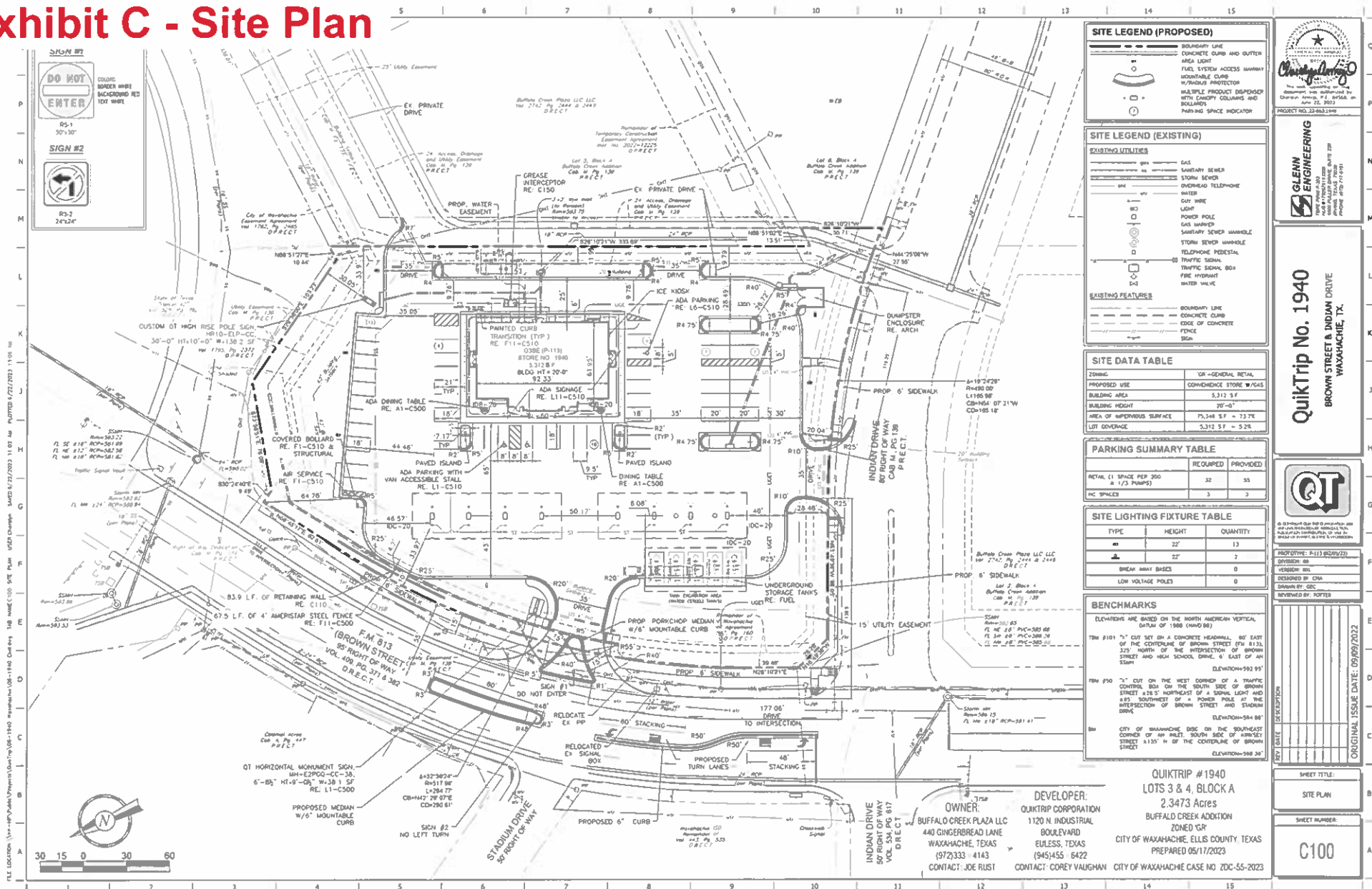
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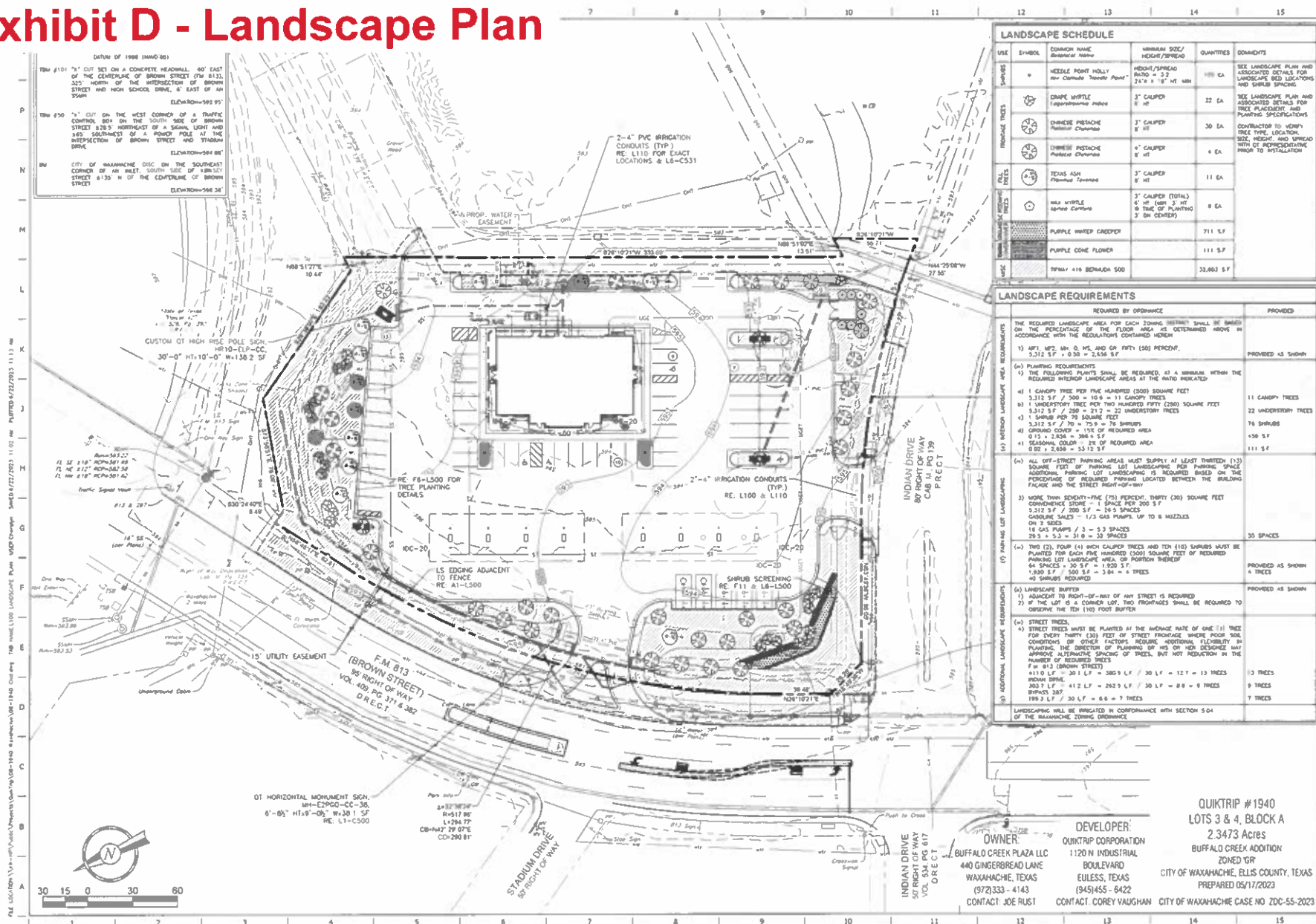
(10)

# Exhibit C - Site Plan



(al)

## Exhibit D - Landscape Plan



THE AMERICAN REVOLUTION  
1776-1976

*Cheryl Loring*

The book supporting this unit  
development was authorized by  
Congress, H.R. 2454, 94th  
Congress, 2d Sess. (1976)

PROJECT NO. 22-643 2460

**GLENN  
ENGINEERING**

7840 14th St. S.W.  
PO Box 417025  
Seattle, WA 98147-0205  
Phone (206) 734-1100  
Fax (206) 734-1101

**QuikTrip No. 1940**  
BROWN STREET & INDIAN DRIVE  
WAXAHACHIE, TX.



PROTOTYPE: 11-15 (Preliminary)

OVERLAP: 60

VERSION: 001

DESIGNED BY: CMA

DRAWN BY: GNC

REVIEWED BY: PORTER

09/09/2022

[illegible]

SHEET TITLE

LANDSCAPE PLAN

SHEET NUMBER:

L100

—

10.



# Planning & Zoning Department

## Zoning Staff Report

**Case: ZDC-75-2023**



### MEETING DATE(S)

*Planning & Zoning Commission:* August 15, 2023

*City Council:* August 21, 2023

### CAPTION

**Public Hearing** on a request by Logan Spacek, Reclaim Physical Therapy & Wellness, for a **Zoning Change** from a Single Family-2 (SF-2) zoning district to a Commercial (C) zoning district, located at 409 E Jefferson Street (Property ID: 170544) – Owner: Keith Spacek (ZDC-75-2023) Staff: Zack King

### RECOMMENDED MOTION

*"I move to approve ZDC-75-2023, a zoning change at 408 E Jefferson Street from a Single Family-2 (SF-2) zoning district to a Commercial (C) zoning district, authorizing the Mayor to sign the associated documents accordingly."*

### ACTION SINCE INITIAL STAFF REPORT

At the Planning and Zoning Commission meeting held on August 15, 2023, the Commission voted to recommend approval of case number ZDC-75-2023.

### APPLICANT REQUEST

The applicant requests approval of a Zoning Change from a Single Family-2 (SF-2) zoning district to a Commercial (C) zoning district at 409 E Jefferson Street to operate a physical therapy clinic.

### CASE INFORMATION

*Applicant:* Logan Spacek, Reclaim Physical Therapy & Wellness

*Property Owner(s):* Keith Spacek

*Site Acreage:* 0.328 acres

*Current Zoning:* Single Family-2 (SF-2)

*Requested Zoning:* Commercial (C)

### SUBJECT PROPERTY

*General Location:* 409 E Jefferson Street

*Parcel ID Number(s):* 170544

*Existing Use:* A former home has been remodeled into a commercial office space on the property. The structure is currently vacant.

*Development History:* The subject property is currently platted as Lot 3, Block 37 of the Original Town Addition.

*Adjoining Zoning & Uses:*

| Direction | Zoning  | Current Use                                     |
|-----------|---------|---|
| North     | PD-MF-2 | Rogers Spring Branch Park & Spring Creek Villas |
| East      | PD-O    | Hope Clinic                                     |
| South     | LI-2    | Single Family Residence                         |
| West      | C       | Vacant (Formerly an outside storage yard.)      |

*Future Land Use Plan:*

Downtown

*Comprehensive Plan:*

It is most appropriate to think of the Downtown placetype as a modification of the mixed-use neighborhood placetype. Waxahachie benefits from an attractive historic core and this placetype serves to preserve and allow for incremental improvement of that area. The core of Downtown is ripe for quality vertical mixed-use development. New single-family homes are generally discouraged here as denser housing types are desired in downtown to provide more patrons to support the abundance of local businesses downtown. Attached and stacked housing is appropriate, since the downtown core is predominantly developed, denser housing will most likely occur on the fringes or edges of downtown. Active rooftops, sidewalk cafes, and parklets are an opportunity to further activate the downtown core.

*Thoroughfare Plan:*

The subject property is accessible via E Jefferson Street.

*Site Image:*

### **PLANNING ANALYSIS**

The applicant proposes to rezone the subject property from a Single Family-2 (SF-2) zoning district to a Commercial (C) zoning district. The purpose of the request is to allow the property to be used as a medical office for Reclaim Physical Therapy & Wellness. The current property owners purchased the subject property in February of 2023. After buying the property, the owners made some changes to the existing residential building so that it could be used for commercial purposes. Before the changes, the property had always been used as a residence. They renovated the building, added a new concrete driveway, and have plans to make more improvements such as building a parking lot and adding a 6-foot sidewalk along E Jefferson Street. You can find more details about these improvements in the attached Site Plan (Exhibit B). The owners also plan on improving the landscaping, which is detailed in the attached Landscape Plan (Exhibit C).

The proposed zoning change is compatible with existing Commercial and Planned Development-Office zoning immediately adjacent to the subject property along E Jefferson Street. The proposed zoning change is also consistent with the 2023 Waxahachie Comprehensive Plan; which identifies the subject property as part of the Downtown placetype. A zoning change to the Commercial zoning district will facilitate incremental improvement in the downtown area and allow for the reuse of an existing property. Due to this, staff is supportive of the zoning change request.



### **PUBLIC NOTIFICATIONS**

To comply with State law contained in Local Government Code Chapter 211 and the City's public hearing notice requirements, 13 notices were mailed to property owners within 200 feet of the request. In addition, a notice was published in the Waxahachie Sun and a sign was visibly posted at the property.

### **PUBLIC NOTIFICATION RESPONSES**

Staff has received one (1) letter of opposition to the zoning change request.

**RECOMMENDATION**

Based on the details provided in this Staff Report and the present status of the documents subject to the request, staff recommends approval of the Zoning Change request.

**ATTACHED EXHIBITS**

1. Letter of Opposition
2. Site Photo (current condition)
3. Zoning Ordinance
4. Exhibit A – Location Map
5. Exhibit B – Site Plan
6. Exhibit C – Landscape Plan

**STAFF CONTACT INFORMATION**

*Prepared by:*

Zack King, AICP

Senior Planner

[zking@waxahachie.com](mailto:zking@waxahachie.com)

*Reviewed by:*

Jennifer Pruitt, AICP, LEED-AP, CNU-A

Senior Director of Planning

[jennifer.pruitt@waxahachie.com](mailto:jennifer.pruitt@waxahachie.com)

(11)



City of Waxahachie, Texas  
Notice of Public Hearing  
Case Number: **ZDC-75-2023**



LOREN GRAY INVESTMENTS LLC  
PO BOX 2868  
WAXAHACHIE, TX 75168-8868

The Waxahachie Planning & Zoning Commission will hold a Public Hearing on Tuesday, August 15, 2023 at 7:00 p.m. and the Waxahachie City Council will hold a Public Hearing on Monday, August 21, 2023 at 7:00 p.m. in the Council Chamber at the Waxahachie City Hall, 401 South Rogers Street, Waxahachie, Texas to consider the following:

Request by Logan Spacek, Reclaim Physical Therapy & Wellness, for a **Zoning Change** from a Single Family-2 (SF-2) zoning district to a Commercial (C) zoning district, located at 408 E Jefferson Street (Property ID: 170544) – Owner: KEITH SPACEK (ZDC-75-2023) Staff: Zack King

You received this notice because your property is within the area of notification as required by law. As an interested party you are welcome to make your views known by attending the hearings. If you cannot attend the hearings, you may express your views by filling in and returning the bottom portion of this notice. Please contact the Planning Department at (469) 309-4290 or via email: [Planning@Waxahachie.com](mailto:Planning@Waxahachie.com) for additional information on this request.

Case Number: **ZDC-75-2023**

City Reference: 170548

Your response to this notification is optional. If you choose to respond, please return this form by 5:00 P.M. on **August 9, 2023** to ensure inclusion in the Agenda Packet. Forms can be e-mailed to [Planning@Waxahachie.com](mailto:Planning@Waxahachie.com) or you may drop off/mail your form to City of Waxahachie, Attention: Planning, 401 South Rogers Street, Waxahachie, TX 75165.

☐ SUPPORT

☒ OPPOSE

Comments:

Area already in flood way & any additions to structure of dirt (such as parking that would be required) will negatively impact neighbors.

Signature

Printed Name and Title

Date

Address

Brad Yates

PO Box 2868

Waxahachie TX 75168

It is a crime to knowingly submit a false zoning reply form. (Texas Penal Code 37.10)

If you are not the addressee at the top of this form, but would like to submit a response, please contact the City for a blank form.

Site Photo (current condition)



(12)

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AUTHORIZING A ZONING CHANGE FROM SINGLE FAMILY-2 (SF-2) TO COMMERCIAL (C) LOCATED AT 408 E JEFFERSON STREET IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING 0.328 ACRES KNOWN AS LOT 3, BLOCK 37 OF THE ORIGINAL TOWN ADDITION, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS:

**WHEREAS**, the City Council of the City of Waxahachie having heretofore adopted a zoning ordinance and map showing the classification of the various property located within the city limits of said City; and

**WHEREAS**, a proper application for a Zoning Change has been made in accordance with the zoning ordinances in the City of Waxahachie and said application has been assigned case number ZDC-75-2023. Said application, having been referred to the Planning and Zoning (P&Z) Commission for their final report, was recommended by the P&Z Commission for zoning change approval of the subject property from SF-2 to C; and

**WHEREAS**, proper notification has been published for the time and in the manner as prescribed by the city ordinance of the City of Waxahachie for a public hearing thereon; and

**WHEREAS**, a proper hearing was held as required by law and the Council having heard all arguments for and against said zoning amendment;

**NOW, THEREFORE**, this property is rezoned from SF-2 to C in order to facilitate development of the subject property in a manner that allows for commercial development in conformance with the C zoning district on the following property: Property ID: 170544, Lot 3, Block 37 of the Original Town Addition, which is shown on Exhibit A, in accordance with the Site Plan attached as Exhibit B, and the Landscape Plan attached as Exhibit C.

### **ZONING CHANGE**

#### **Purpose and Intent**

The purpose of this zoning change to allow for commercial development and to establish appropriate restrictions and development controls necessary to ensure predictable land development, safe and efficient vehicular and pedestrian circulation, compatible uses of land and compliance with appropriate design standards.

(127)

Development Standards

All development on land located within the boundaries of the subject property shall adhere to the rules and regulations set forth in this ordinance. Where regulations are not specified in this ordinance, the development shall comply with the City of Waxahachie Municipal Code of Ordinances.

Development Regulations

1. The development shall conform as approved by the City Council under case number ZDC-75-2023, in accordance with the Location Map attached as Exhibit A, the Site Plan attached as Exhibit B, and the Landscape Plan attached as Exhibit C.
2. All development within the subject property will be subject to obtaining building permits from the City in accordance with the City's applicable rules and regulations governing such permits.
3. The development shall maintain compliance with all Federal, State and Local regulations; including, but not necessarily limited to, all applicable standards and regulations of the City of Waxahachie Municipal Code of Ordinances.

An emergency is declared to exist in that needed and approved improvements will be unnecessarily delayed if this ordinance is not effective upon passage and this ordinance is to be effective upon passage.

The zoning map of the City of Waxahachie is hereby authorized and directed to be demarked in accordance therewith.

**PASSED, APPROVED AND ADOPTED** on this 21<sup>st</sup> day of August, 2023.

---

MAYOR

ATTEST:

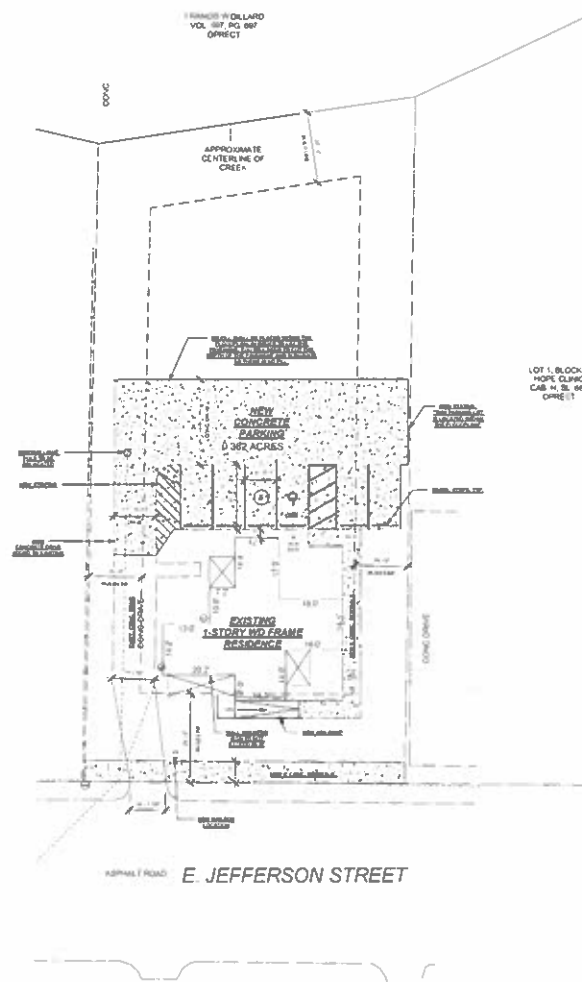
---

City Secretary

## Exhibit A - Location Map



100



#### SITE DATA SUMMARY TABLE

|                           |                                    |
|---------------------------|------------------------------------|
| LEGAL DESCRIPTION         | LOT 3, BLOCK 37 O T                |
| CURRENT ZONING            | SINGLE-FAMILY 2 (SF-2)             |
| PROPOSED USE              | PROFESSIONAL OFFICE (COMMERCIAL C) |
| LOT AREA                  | 14,287 SF / 0.328 AC               |
| TOTAL BUILDING AREA       | 1,154 SF                           |
| BUILDING HEIGHT           | 16' ABOVE FINISHED GRADE / 1 STORY |
| LOT COVERAGE              | 8.07%                              |
| PARKING SPACES PROVIDED   | 8 SPACES                           |
| TOTAL HANDICAP REQUIRED** | 1 SPACE                            |
| TOTAL HANDICAP PROVIDED*  | 1 SPACE                            |

\* HANDICAP PARKING PROVIDED IN ACCORDANCE WITH ADA STANDARDS

### CAMERA PLAN NOTES

14. *What is the difference between a **strong** and a **weak** type?*

**EARNING TOTAL**

© 2004 Blackwell Publishing Ltd  
Journal of Internal Medicine 255: 105–112



ITALIE, NORVEGE



① SITE PLAN  
1/16" = 1'-0"

PROPERTY OWNER

LOGAN SPACEK, PT, DPT  
E- LOGANSPEAK@YAHOO.COM  
T- (979) 716-8282

**DC TEXAS**  
ARCHITECTURE  
DESIGN • INTERIOR • PLANNING • PROJECT MANAGEMENT  
111 Park Plaza Blvd. Suite 500  
Waco, Texas 76798  
817.666.7083

**RECLAIM PHYSICAL  
THERAPY & WELLNESS**  
409 East Jefferson Street  
Waxahachie, Texas 75165

## PRELIM. REVIEW

July 07, 2023

PROGRESS SET FOR REVIEW ON THESE DOCUMENTS ARE FOR DESIGN REVIEW AND NOT INTENDED FOR CONSTRUCTION BIDDING OR PERMIT PURPOSES. THEY WERE PREPARED BY OR UNDER SUPERVISION OF PHILIP S. COLWELL, TRUSS, SETON.

## REVISIONS

| DATE | ISSUE | DEPT |
|------|-------|------|
|------|-------|------|

The

## SITE PLAN

**CASE NUMBER:**  
**ZDC-75-2023**

Sheet

**A-001**

Copyright © 2023  
DC TEXAS ARCHITECTURE

(2)

34  
3  
2  
1

[illegible][illegible]

# Planning & Zoning Department

## Zoning Staff Report

Case: ZDC-107-2023



### MEETING DATE(S)

Planning & Zoning Commission:  
City Council:

August 15, 2023  
August 21, 2023

### CAPTION

**Public Hearing** on a request by April Gonzales, Dorothy's Uniforms, for a **Zoning Change** from an Office (O) zoning district to a Planned Development-Office (PD-O) zoning district, located at 206 YMCA Drive (Property ID: 174571) – Owner: Mandalay Holdings LLC (ZDC-107-2023) Staff: Zack King

### RECOMMENDED MOTION

*"I move to approve ZDC-107-2023, a Zoning Change request from an Office zoning district to a Planned Development-Office zoning district, subject to the conditions the staff report, authorizing the Mayor to sign the associated documents accordingly."*

### ACTION SINCE INITIAL STAFF REPORT

At the Planning and Zoning Commission meeting held on August 15, 2023, the Commission voted to recommend approval case number ZDC-107-2023, subject to the conditions of the staff report.

### APPLICANT REQUEST

The applicant requests a Zoning Change from an Office zoning district to a Planned Development-Office zoning district to allow "Dorothy's Uniforms" to operate a Retail Stores and Shops use in Suite 105 at 206 YMCA Drive.

### CASE INFORMATION

|                           |                                    |
|---------------------------|------------------------------------|
| <b>Applicant:</b>         | April Gonzales, Dorothy's Uniforms |
| <b>Property Owner(s):</b> | Mandalay Holdings LLC              |
| <b>Site Acreage:</b>      | 1.016 acres                        |
| <b>Current Zoning:</b>    | Office (O)                         |
| <b>Requested Zoning:</b>  | Planned Development-Office (PD-O)  |

### SUBJECT PROPERTY

|                             |  |
|-----------------------------|--|
| <b>General Location:</b>    | 206 YMCA Drive   |
| <b>Parcel ID Number(s):</b> | 174571   |
| <b>Existing Use:</b>        | A multi-tenant office building occupies the subject property.  |
| <b>Development History:</b> | The subject property was originally platted as Lot 2, Block C of the Lakeridge I Subdivision in 1985. The building currently situated on the property was constructed in 2007. |

**Adjoining Zoning & Uses:**

| Direction | Zoning                | Current Use                 |
|-----------|-----------------------|-----------------------------|
| North     | Office (O)            | Armstrong McCall            |
| East      | Office (O)            | Waxahachie Fire Station 3   |
| South     | Multi-Family-3 (MF-3) | Blue Lake Villas Apartments |
| West      | Office (O)            | Undeveloped Land            |

**Future Land Use Plan:**

Residential Neighborhood

**Comprehensive Plan:**

This place type serves to create neighborhoods built with a traditional walkable block/street grid network that allows some variation in housing typologies. Although this place type will predominantly consist of traditional single family detached housing, denser housing types are encouraged such duplex, cottage courts, and townhomes. Both residential and commercial uses need to be context sensitive. Commercial uses in this place type may be a small pop up facility or a home converted to a small store front. Walkability is key for neighborhood commercial uses so that they are accessible from surrounding neighborhoods.

**Thoroughfare Plan:**

The subject property is accessible via YMCA Drive and Chambers Circle.

**Site Image:****PLANNING ANALYSIS**

The applicant proposes a Zoning Change from an Office (O) zoning district to a Planned Development-Office zoning district to allow for "Dorothy's Uniforms" to operate a Retail Stores and Shops use in Suite 105 at 206 YMCA Drive. The applicant is not proposing to modify the zoning district regulations beyond exclusively allowing Dorothy's Uniforms to operate on the property since it is currently prohibited in the Office zoning district.

**Proposed Use**

The Applicant is the owner of Dorothy's Uniforms, which is a Medical Uniforms retailer focused specifically on providing clothing and equipment to medical students and medical professionals. The retail goods offered by Dorothy's Uniforms include scrubs, lab coats, shoes, compression hosiery, socks, stethoscopes, and various other types of medical equipment. Dorothy's Uniforms also offers custom alterations and embroidery services, which are commonly required for medical students. Dorothy's Uniforms has been operating in Waxahachie for 15 years and is currently located at 1408 W Jefferson Street, Suite A, in a General Retail zoning district. The Project Narrative attachment, provided by the applicant, can be referenced for additional information regarding Dorothy's Uniforms.

Due to the targeted customer base, staff does not have concern that the operation of Dorothy's Uniforms will cause a traffic or parking burden on the surrounding area beyond that of uses already allowed in the Office zoning district. Staff believes Dorothy's Uniforms is a complimentary retail establishment for nearby businesses and is thus appropriate for the area.

**Proposed Development Standards**

Should the Planning and Zoning Commission choose to recommend approval of this zoning change, the subject property shall comply with the following development standards:

1. The Retail Stores and Shops use is limited to Suite 105 at 206 YMCA Drive as shown on Exhibit C. A Retail Stores and Shops use shall not be allowable elsewhere in the multi-tenant building at 206 YMCA Drive.
2. Permission to operate a Retail Stores and Shops use is only granted to "Dorothy's Uniforms", owned and operated by "April Gonzales". Approval to operate another Retail Stores and Shops use at 206 YMCA Drive, Suite 105 will not transfer to another business or owner of "Dorothy's Uniforms".

**PUBLIC NOTIFICATIONS**

To comply with State law contained in Local Government Code Chapter 211 and the City's public hearing notice requirements, 9 notices were mailed to property owners within 200 feet of the request. In addition, a notice was published in the Waxahachie Sun and a sign was visibly posted at the property.

**PUBLIC NOTIFICATION RESPONSES**

Staff has received ten (10) letters of support for the Zoning Change request.

**RECOMMENDATION**

Based on the details provided in this Staff Report and the present status of the documents subject to the request, staff recommends approval of the Zoning Change request subject to the conditions below.

**Conditions:**

1. The Retail Stores and Shops use is limited to Suite 105 at 206 YMCA Drive as shown on Exhibit C. A Retail Stores and Shops use shall not be allowable elsewhere in the multi-tenant building at 206 YMCA Drive.
2. Permission to operate a Retail Stores and Shops use is only granted to "Dorothy's Uniforms", owned and operated by "April Gonzales". Approval to operate another Retail Stores and Shops use at 206 YMCA Drive, Suite 105 will not transfer to another business or owner of "Dorothy's Uniforms".
3. The applicant shall obtain a Certificate of Occupancy (CO) from the City of Waxahachie Building and Community Services Department prior to operation on the subject property.

**ATTACHED EXHIBITS**

1. Project Narrative
2. Letters of Support
3. Planned Development Ordinance
4. Exhibit A – Location Map
5. Exhibit B - Site Plan
6. Exhibit C - Suite Exhibit

**APPLICANT REQUIREMENTS**

1. If approved by City Council, the applicant shall resume the Certificate of Occupancy (CO) process with the Building and Community Services Department.

**STAFF CONTACT INFORMATION**

*Prepared by:*

Zack King, AICP

Senior Planner

[zking@waxahachie.com](mailto:zking@waxahachie.com)

*Reviewed by:*

Jennifer Pruitt, AICP, LEED-AP, CNU-A

Senior Director of Planning

[jennifer.pruitt@waxahachie.com](mailto:jennifer.pruitt@waxahachie.com)



July 12, 2023

City of Waxahachie  
Planning and Zoning Commission  
Waxahachie City Council  
401 S. Rogers Street  
Waxahachie, TX 75165

To the Members of the Commission and the Council:

Dorothy's Uniforms is an established Medical Uniforms destination retailer in Waxahachie, TX. We opened December 1, 2008 and have been proudly serving customers in our community: medical students and area medical professionals for nearly 15 years. Our store carries medical uniforms, scrubs, lab coats, shoes, compression hosiery and socks, stethoscopes and various types of medical equipment used regularly by nurses, aids, and practitioners. We also offer custom services such as alterations and custom embroidery, complete office and facility fittings, and digitizing services. The only store like ours in the area, we service customers from many surrounding areas including Ellis County, Corsicana, Kerens, Hillsboro, Mansfield, Cedar Hill, and Glenn Heights. Many of these "out of town" customers drive to Waxahachie specifically to shop with us, bring revenue to our community, enjoy our eateries, and shop locally when they visit. Additionally, we proudly work with area schools medical programs including Navarro College, Dallas College (Cedar Valley), Ferris High, Midlothian High, Heritage High, Waxahachie High, Global High, and Ennis High Schools; as many students now graduate with various medical certifications! Our store is currently operating at 1408-A W. Jefferson, a 1260 square foot end suite retail space since we opened in 2008. We have ultimately and finally outgrown our space, and have leased and renovated a beautiful 2950 square foot space in an existing building located near the heart of the medical community at 206 YMCA Drive, Suite 105, Waxahachie, TX 75165. This new location will allow our store much more room to merchandise our products and continue to provide the styles, sizes, brands, and colors to suit the unique shopping needs of Ellis County Medical Professionals. Due to the specific needs of our customer base, it is not necessary for Dorothy's Uniforms to compete in a general use retail space in most of the local shopping centers in our area. We are not looking for retail space near JCPenney, Academy, Target, or TJMaxx, for example. Our customers are unique in that we generally cater to the medical professional; therefore being convenient to the general medical offices, hospitals, nursing homes, dental offices, emergency care, and medical facilities in our area was priority when selecting a location that would suit our needs as well as our customers. We found the perfect location, property owner, and neighbors here at 206 YMCA Drive in Waxahachie, and hope you will determine that were are the perfect fit for your community as well. I have been meeting with our potential neighbors recently and it has only enthused my excitement to say that everyone has been so encouraging and excited along with us! Our store, our beloved staff, and our customers bring such tremendous value to this community that we are proud to have been a part of since 2008. My husband, Richard, and I are lifetime residents of Waxahachie and Ellis County, and I feel blessed and grateful to be a small business owner here in Waxahachie that has overcome the economic hurdles to still exist beyond Covid.

We employ local staff, which currently consists of two Waxahachie citizens and one citizen of Red Oak, along with ourselves. We have plans to add two more part time positions to our staff soon at the larger location, who are excited to be part of our team.

We are requesting to change the zoning from an Office (O) zoning district to a Planned Development-Office (PD-O) zoning district to allow a retail use, Case #ZDC-107-2023. We eagerly await your approval to rezone 206 YMCA Dr., Suite 105, Waxahachie, TX 75165 to permit zoning for Commercial use, specifically to allow our store to relocate and operate business soon.

Thank you for your consideration,

*April Gonzales*

April Gonzales, Owner  
Dorothy's Uniforms  
Dallas & Waxahachie.



2400 North I-35E  
Waxahachie, Texas 75165  
(469) 843-4000  
BSWHealth.com

July 12, 2023

City of Waxahachie  
Planning and Zoning Commission  
401 S. Rogers  
Waxahachie, TX 75165

To the Members of the Planning and Zoning Commission,

Baylor Scott & White Medical Center Waxahachie stands in support of Dorothy's Uniform and the request before the City of Waxahachie Planning and Zoning Commission. We ask that consideration is given to the rezoning of 206 YMCA Drive, Suite 105 for commercial use.

Thanks in advance,

A handwritten signature in black ink, appearing to read "Will Turner".

Will Turner, FACHE  
President  
Baylor Scott & White Medical Center - Waxahachie

Letter of Support



Tanya Thomasson <Tthomasson@altusemergency.com>

Letter of Support for Dorothy's Uniforms

To King, Zack

Cc dorothisuniforms@sbcglobal.net

If there are problems with how this message is displayed, click here to view it in a web browser.

Hello,

My name is Tanya Thomasson and I am the Facility Administrator of Altus Emergency Center in Waxahachie. I support having Dorothy's Uniforms have a Uniform store in our area.

Sincerely,

Tanya Thomasson RN

Administrator – Waxahachie



Address: 1791 N Hwy 77 Waxahachie TX 75165

Email: [Tthomasson@altusemergency.com](mailto:Tthomasson@altusemergency.com)

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(13)



Kevin Strength  
102 YMCA Drive  
Waxahachie, TX 75165  
972-935-0539  
kstrength@waxahachiechamber.com

July 13, 2023

City of Waxahachie  
Planning and Zoning Commission  
401 S. Rogers St.  
Waxahachie, TX 75165

To the Members of the Planning and Zoning Commission,

The Waxahachie Chamber of Commerce strongly supports the rezoning of 206 YMCA Drive, Suite 105, from Office use to Commercial use for Dorothy's Uniforms. We are proud to have Dorothy's Uniforms as a part of our chamber membership, and a longtime member of the business community. We look forward to welcoming them to our neighborhood very soon.

Sincerely,

A handwritten signature in black ink, appearing to be "Kevin Strength", written over a horizontal line.

Kevin Strength  
President/CEO  
Waxahachie Chamber of Commerce

 Reply  Reply All  Forward  IM

Thu 7/13/2023 4:51 PM



Williams, Jason <jasonwilliams@inspirebrands.com>

Dorothy's Uniform relocation to YMCA Drive

To  King, Zack

Cc  d@rothysuniforms  sbcglobal.net

### Planning and Zoning

Good afternoon, I am the GM for the Buffalo Wild Wings located in Waxahachie. I was excited to hear that Dorothy's Uniform was planning on relocated to a nearby address. This family has been a customer for years as they are a small family business that has been involved in the community for years. This was a go to place as they support local sports and even had a daughter that played high school sports for WISD and went on to play college ball. Throughout the years they have contributed to donation helping support the BWW Foundation and the Boys and Girls Club. With the help of them we raised over 42K for a boys and girls club that was built in Uvalde Texas, in the past year. I think this small business will bring a high level of educated medical professional into the area where they will be able to shop for uniforms, dine at local restaurants, and see the amenities that Waxahachie offers North of Hwy 77. We are a place to eat and it makes perfect sense that you would want this clientele coming to your location. I appreciate your time and truly hope that this family will be able to continue to provide for their family as well as keep fostering strong community ties for years to come. I think that this is exactly the type of business that I would want representing my city.

Thanks,  
Jason Williams



Jason Williams  
Buffalo Wild Wings #0217  
1635 N. HWY 77  
Waxahachie, TX 75165

(13)



July 13, 2023

Waxahachie City Counsel

Planning and Zoning

We here at Victron Energy, Inc., would like to submit a "Letter of Support" for Dorothy's Uniforms.

We would like to express our support for the rezoning of 206 YMCA Dr, Suite 105, to accommodate Dorothy's Uniforms. The location in question is a perfect place for Dorothy's Uniform to expand and continue to thrive.

Dorothy's Uniform is a much needed small business in Waxahachie for our growing medical community. Victron is proud to support our community and small business neighbors.

Thus, we approve and support rezoning of 206 YMCA Dr, Suite 105, for commercial use.

Respectfully,

A handwritten signature in blue ink, appearing to read 'Walid Alameddine', followed by a long horizontal line.

Walid Alameddine  
President  
Victron Energy, Inc.  
105 YMCA Dr.  
Waxahachie, TX 75165  
469.517.2000

# JASON P BROWN, MD

---

obstetrics & gynecology

July 17, 2023

To Whom It May Concern:

As a local business near 206 YMCA Drive in Waxahachie, TX, our business is in support of Dorothy's Uniforms to relocate to 206 YMCA Drive, Suite 105, Waxahachie, TX 75165.



Jason P. Brown, M.D.



(13)

**From:** Crowe, Madison <MCrowe@uspi.com>  
**Sent:** Friday, July 21, 2023 3:07 PM  
**To:** King, Zack  
**Cc:** dorothisuniforms@sbcglobal.net  
**Subject:** Letter of Support for Dorothy's Uniforms

Good afternoon,

I am writing in support of Dorothy's Uniforms to have commercial use abilities in their new space on YMCA drive. I am the Administrator of Baylor Scott & White Surgicare in Waxahachie and many of our staff have been lucky enough to purchase items from this store. Dorothy's Uniforms supports the medical professionals in this community by providing discounts to the healthcare working in Waxahachie. Many of our staff have enjoyed the goods purchased from this business. I hope to be able to see the business flourish and support them moving forward. Please consider approving the commercial rights to this business in their new space. I appreciate the time and consideration in advance!

Best,

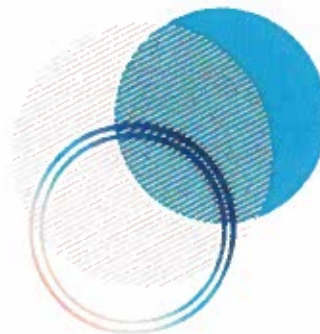
**Madison Crowe, MHA**  
**Administrator**

Baylor Scott & White Surgicare Waxahachie, LLC

O (469) 940-4020 C (843) 455-9189

[Baylor Scott and White Surgicare Waxahachie \(waxsurgery.com\)](http://Baylor Scott and White Surgicare Waxahachie (waxsurgery.com))





July 21, 2023

City of Waxahachie  
Planning and Zoning

SUBJECT: Letter of Support for Dorothy's Uniforms

Dear City Officials,

We are a neighbor to Dorothy's Uniforms new location on YMCA Drive.

We have no objection to their business operating near us. This is a long-standing community business and we would welcome them.

We feel that a commercial business at that location would not impact our operations at FirstLook. There are already retail/service businesses in that same block. Those businesses do not impact us negatively, and a business such as Dorothy's should not either.

Sincerely,

A handwritten signature in blue ink that reads 'Donna Young'. The signature is written in a cursive, flowing style.

Donna Young, CEO  
FirstLook  
213 YMCA Drive  
Waxahachie, TX 75165  
Phone: 972-938-7900



City of Waxahachie, Texas  
Notice of Public Hearing  
Case Number: **ZDC-107-2023**



MANDALAY HOLDINGS LLC  
700 N PEARL STREET SUITE G208  
DALLAS, TX 75201

The Waxahachie Planning & Zoning Commission will hold a Public Hearing on Tuesday, August 15, 2023 at 7:00 p.m. and the Waxahachie City Council will hold a Public Hearing on Monday, August 21, 2023 at 7:00 p.m. in the Council Chamber at the Waxahachie City Hall, 401 South Rogers Street, Waxahachie, Texas to consider the following:

Request by April Gonzales, Dorothy's Uniforms, for a **Zoning Change** from an Office (O) zoning district to a Planned Development-Office (PD-O) zoning district, located at 206 YMCA Drive (Property ID: 174571) – Owner: MANDALAY HOLDINGS LLC (ZDC-107-2023) Staff: Zack King

You received this notice because your property is within the area of notification as required by law. As an interested party you are welcome to make your views known by attending the hearings. If you cannot attend the hearings, you may express your views by filling in and returning the bottom portion of this notice. Please contact the Planning Department at (469) 309-4290 or via email: [Planning@Waxahachie.com](mailto:Planning@Waxahachie.com) for additional information on this request.

Case Number: **ZDC-107-2023**

City Reference: 174571

Your response to this notification is optional. If you choose to respond, please return this form by 5:00 P.M. on **August 9, 2023** to ensure inclusion in the Agenda Packet. Forms can be e-mailed to [Planning@Waxahachie.com](mailto:Planning@Waxahachie.com) or you may drop off/mail your form to City of Waxahachie, Attention: Planning, 401 South Rogers Street, Waxahachie, TX 75165.



SUPPORT



OPPOSE

Comments:

Randall Grubbs  
Signature

Randall Grubbs Gen Mgr  
Printed Name and Title

7.31.2023  
Date

700 N Pearl St #6208  
Address  
Dallas, TX 75201

FO: 206 YMCA Waxahachie

*It is a crime to knowingly submit a false zoning reply form. (Texas Penal Code 37.10)*

*If you are not the addressee at the top of this form, but would like to submit a response, please contact the City for a blank form.*



City of Waxahachie, Texas  
 Notice of Public Hearing  
 Case Number: **ZDC-107-2023**

**MANDALAY HOLDINGS LLC**  
**700 N PEARL STREET SUITE G208**  
**DALLAS, TX 75201**

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Case Number: **ZDC-107-2023**

City Reference: 174575

Your response to this notification is optional. If you choose to respond, please return this form by 5:00 P.M. on **August 9, 2023** to ensure inclusion in the Agenda Packet. Forms can be e-mailed to [Planning@Waxahachie.com](mailto:Planning@Waxahachie.com) or you may drop off/mail your form to City of Waxahachie, Attention: Planning, 401 South Rogers Street, Waxahachie, TX 75165.

☒ **SUPPORT**

☐ **OPPOSE**

Comments:

*April Gonzales*  
 Signature

*April Gonzales Gen. MGR*  
 Printed Name and Title

*7.31.2023*  
 Date

*700 N Pearl St G208*  
 Address  
*Dallas TX 75201*

*For 100 Chambers Circle*  
*Waxahachie*

*It is a crime to knowingly submit a false zoning reply form. (Texas Penal Code 37.10)*

*If you are not the addressee at the top of this form, but would like to submit a response, please contact the City for a blank form.*

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AUTHORIZING A ZONING CHANGE FROM OFFICE (O) TO PLANNED DEVELOPMENT-OFFICE (PD-O) LOCATED AT 206 YMCA DRIVE IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING 1.016 ACRES KNOWN AS LOT 2, BLOCK C OF THE LAKERIDGE I SUBDIVISION, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS:

**WHEREAS**, the City Council of the City of Waxahachie having heretofore adopted a zoning ordinance and map showing the classification of the various property located within the city limits of said City; and

**WHEREAS**, a proper application for a Zoning Change has been made in accordance with the zoning ordinances in the City of Waxahachie and said application has been assigned case number ZDC-107-2023. Said application, having been referred to the Planning and Zoning (P&Z) Commission for their final report, was recommended by the P&Z Commission for zoning change approval of the subject property from O to PD-O; and

**WHEREAS**, proper notification has been published for the time and in the manner as prescribed by the city ordinance of the City of Waxahachie for a public hearing thereon; and

**WHEREAS**, a proper hearing was held as required by law and the Council having heard all arguments for and against said zoning amendment;

**NOW, THEREFORE**, this property is rezoned from O to PD-O in order to facilitate development of the subject property in a manner that allows Dorothy's Uniforms to operate a Retail Stores and Shops use in Suite 105 only on the following property: Property ID: 174571, being Lot 2, Block C of the Lakeridge I Subdivision subdivision, which is shown on Exhibit A, in accordance with the Site Plan attached as Exhibit B, and the Suite Exhibit attached as Exhibit C.

### **PLANNED DEVELOPMENT**

#### **Purpose and Intent**

The purpose of this planned development to allow for Dorothy's Uniforms, owned and operated by April Gonzales, to operate a Retail Stores and Shops use at 206 YMCA Drive, Suite 105 and to establish appropriate restrictions and development controls necessary to ensure predictable land development, safe and efficient vehicular and pedestrian circulation, compatible uses of land and compliance with appropriate design standards.

### Development Standards

All development on land located within the boundaries of this Planned Development District shall adhere to the rules and regulations set forth in this ordinance. Where regulations are not specified in this ordinance, the development shall comply with the City of Waxahachie Municipal Code of Ordinances. The subject property shall develop in accordance with the "PD-O" Planned Development-Office zoning district as follows:

1. The development shall conform as approved by the City Council under case number ZDC-107-2023.
2. The Retail Stores and Shops use is limited to Suite 105 at 206 YMCA Drive as shown on Exhibit C. A Retail Stores and Shops use shall not be allowable elsewhere in the multi-tenant building at 206 YMCA Drive.
3. Permission to operate a Retail Stores and Shops use is only granted to "Dorothy's Uniforms", owned and operated by "April Gonzales". Approval to operate another Retail Stores and Shops use at 206 YMCA Drive, Suite 105 will not transfer to another business or owner of "Dorothy's Uniforms".
4. The applicant shall obtain a Certificate of Occupancy (CO) from the City of Waxahachie Building and Community Services Department prior to operation on the subject property.
5. All development within the subject property will be subject to obtaining building permits from the City in accordance with the City's applicable rules and regulations governing such permits.
6. The development shall maintain compliance with all Federal, State and Local regulations; including, but not necessarily limited to, all applicable standards and regulations of the City of Waxahachie Municipal Code of Ordinances.

An emergency is declared to exist in that needed and approved improvements will be unnecessarily delayed if this ordinance is not effective upon passage and this ordinance is to be effective upon passage.

The zoning map of the City of Waxahachie is hereby authorized and directed to be demarked in accordance therewith.

(14)

**PASSED, APPROVED AND ADOPTED** on this 21<sup>st</sup> day of August, 2023.

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MAYOR

ATTEST:

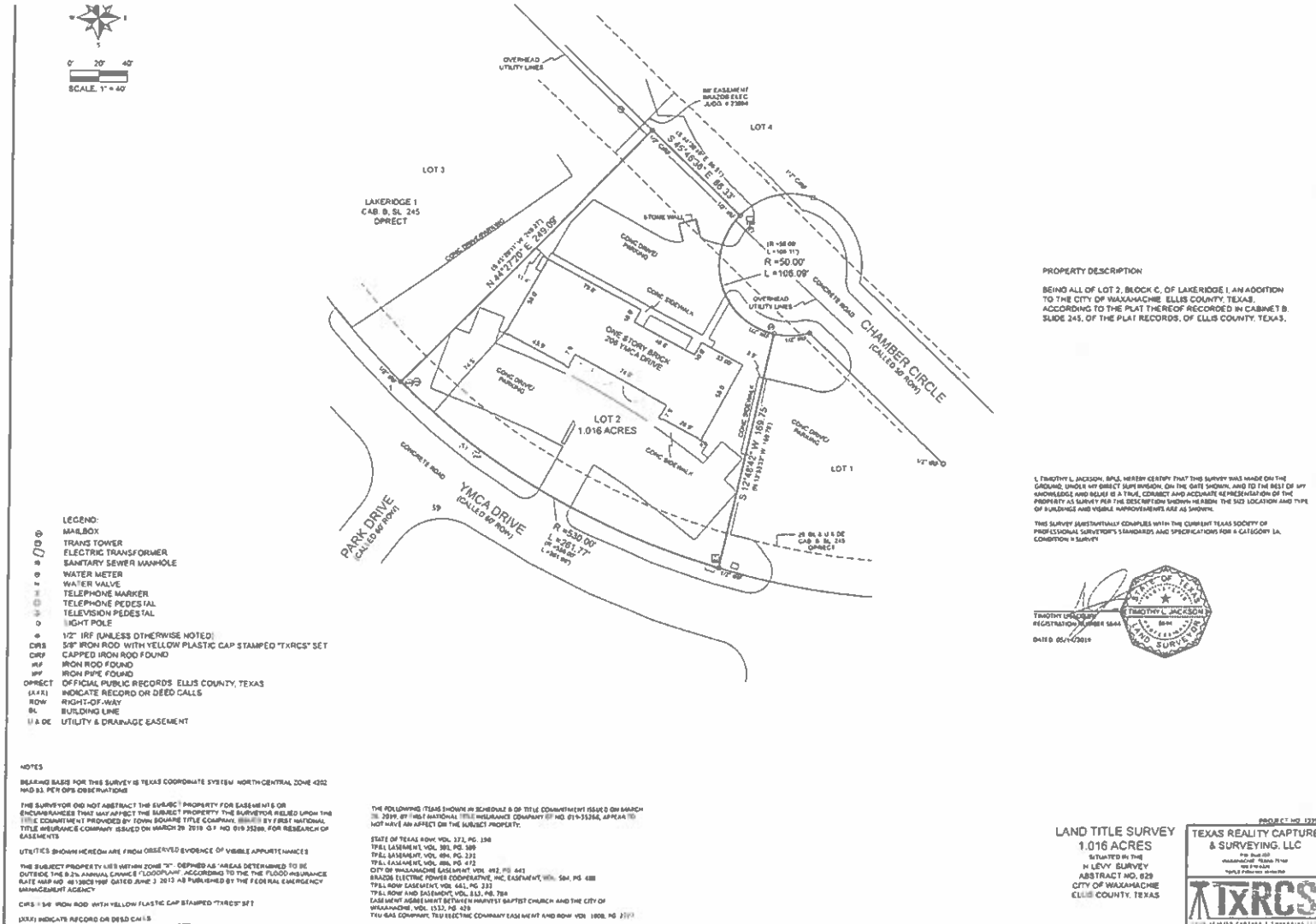
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City Secretary

## Exhibit A - Location Map

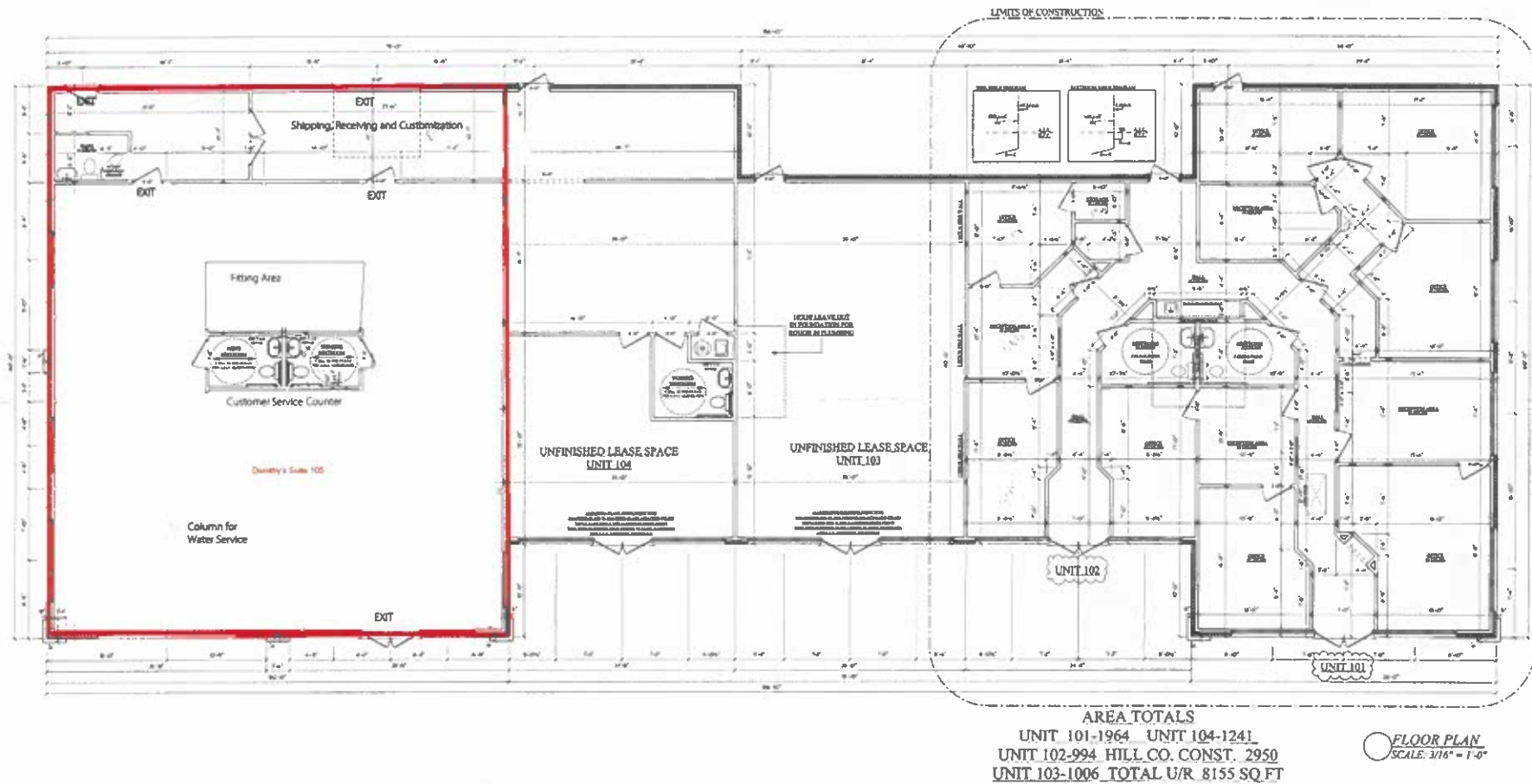


# Exhibit B - Site Plan



(14)

## Exhibit C - Suite Plan



**INTERIOR FINISH OUT  
LOCATED @  
206 YMCA DRIVE**

DECEMBER 15th, 2010  
AUSTIN  
CUSTOM HOMES



CHAS. R. ACKER  
AID. CERTIFICATION • 1988  
4444 COLUMBIA BLVD. #100 • COLUMBIA, MO. 65203

**DR Blue Line Design Co.**  
133 CHESTNUT  
SUITE 100  
WAXAHACHIE, TEXAS 75165  
OFFICE (972) 935-9710

(14)

(15)



## Memorandum

To: Honorable Mayor and City Council

From: Kyle Cooper, Director of Parks and Recreation

For Thru: Michael Scott, City Manager *MS*

Date: August 21, 2023

Re: Consider Award of Bid and Contract for the Lake Waxahachie Park Improvement Project and Supplemental Funding Request from the Waxahachie Community Development (WCDC) Fund Unrestrictive Reserve Fund Balance

---

**Recommended Motion:** "I move to approve the bid award and contract for the Lake Waxahachie Park Improvement Project to J & K Excavation, LLC in the amount of \$4,018,341 and additionally approve the supplemental funding request of \$717,000 from the Waxahachie Community Development Corporation unrestricted reserve fund balance, and authorize the City Manager to execute all necessary documents."

**Item Description:** Consider award of bid to J & K Excavation in the amount of \$4,018,341 for improvements to Boat Dock Park, as well as, a supplemental funding request of \$717,000 from the Waxahachie Community Development Corporation unrestricted reserve fund balance.

**Item Summary:** The project's scope includes removal of existing infrastructure and installation of all necessary paving, grading, drainage, decks, docks and other improvements associated with the construction of a new parking lot, boat ramp and amenities at Boat Dock Park. This initiative aims to enhance boater and swimmer safety, as well as, parking improvements that will provide for organized parking that can assist in the enforcement of illegal parking. The creation of a concrete parking lot with approximately 87 parking spaces and 27 dedicated boat trailer parking spaces will help limit overcrowding at the Boat Dock Park and Lake Waxahachie. The Police Department will be able to easily enforce on those illegally parked to include towing of vehicles if necessary.

(15)

This project was first bid on March 28th, 2023. The City received three bids which all came back significantly higher than budgeted. As such, the City rejected all the bids and requested from the design consultant, Westfall Engineering, to value engineer the project. The revised construction plans for the Lake Waxahachie Park Improvements at Boat Dock Park were completed and advertised for re-bid on June 28, 2023. Staff received two bids as follows:

J & K Excavation, LLC - \$3,356,050.50  
The Fain Group Inc - \$4,258,497.76

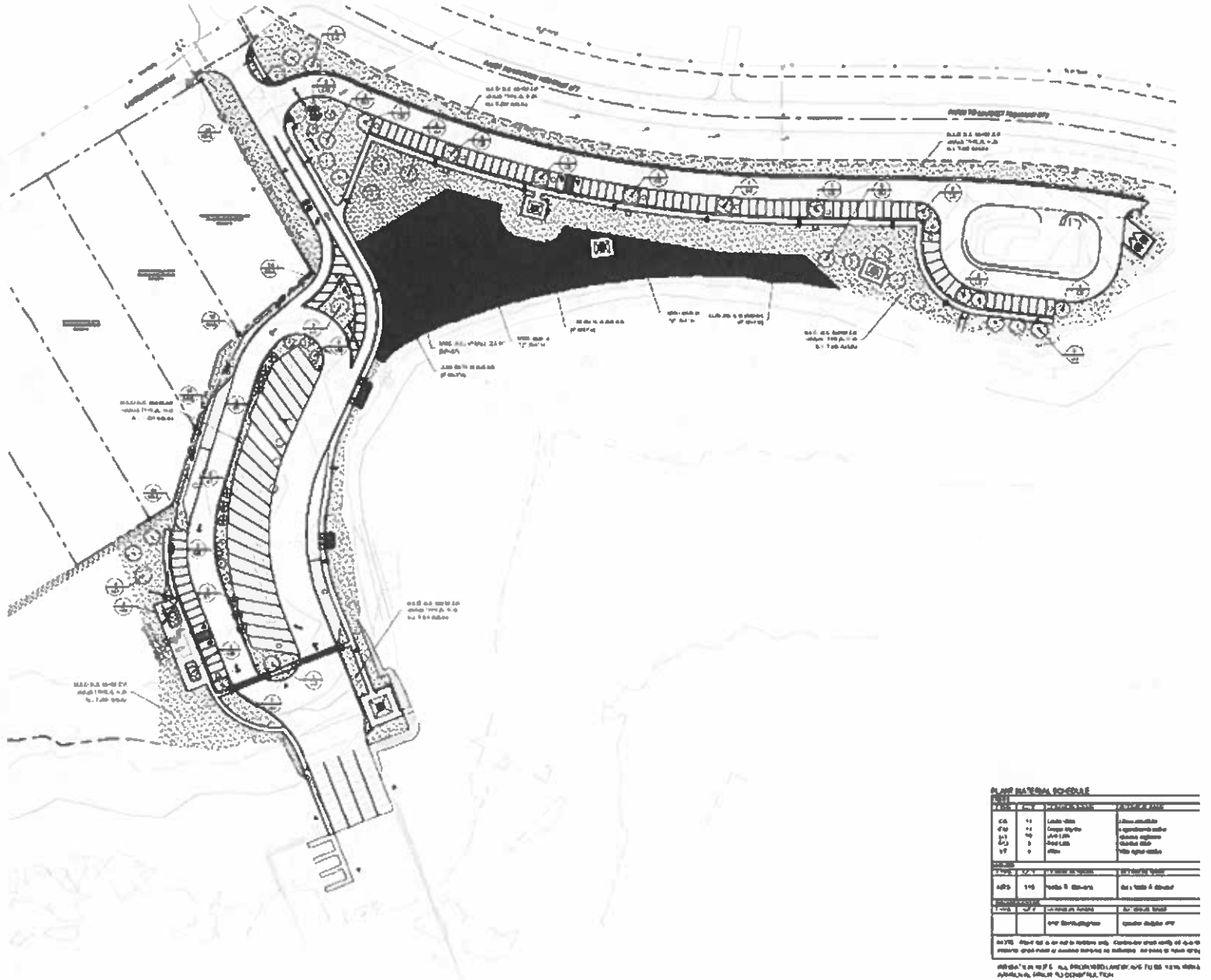
The apparent lowest responsible bidder is J & K Excavation, LLC, with a base bid of \$3,356,050.50. In addition to the base bid, staff has identified and recommends several alternate bid items that would add to the overall quality and usability of the park. The following bid alternates are recommended for consideration with the base bid:

- Site Furnishings (Picnic Tables, Grills, Trash Receptacles) - \$38,000.
- Three Beach Pavilions - \$105,000
- A Pavilion for the Boat Ramp - \$35,000
- Concrete for the Pavilions - \$67,940
- Light Poles, Base, Conduit, and Wiring - \$225,000

The total for the recommended alternates is \$470,940. The total base bid and recommended alternates equals \$3,826,990.50. Staff is also requesting a 5% contingency totaling \$191,349.53, bringing the projected total for the project to \$4,018,340.03.

**Fiscal Impact:** The funding sources for this project are derived from the available balances from the 2021 Certificates of Obligation Parks Bonds, 2022 Certificates of Obligation General Bonds and \$717,000 from the WCDC unrestricted reserve fund balance. The WCDC fund balance has adequate funding to support the requested funds.

(15)  
Exhibit – Boat Dock Park Improvements





(16)

## Memorandum

To: Honorable Mayor and City Council

From: James Gaertner, Executive Director of Public Works & Utilities

For Thru: Michael Scott, City Manager *MS*

Date: August 21, 2023

Re: Consider the Approval of a Master Agreement with Magna Flow Environmental Inc for the As-Needed Services for Sludge, Grit/Sand and Debris Removal for Treatment Plants and Lift Stations

---

**Motion:** "I move to approve a master agreement with Magna Flow Environmental Inc for the as-needed sludge, grit/sand, and debris removal for treatment plants and lift stations via an interlocal agreement with the City of Baytown."

**Item Description:** This item seeks authorization of a master agreement with Magna Flow Environmental Inc for the as-needed sludge, grit/sand, and debris removal for treatment plants and lift stations at various locations throughout the City such as the:

- Howard Road Wastewater Treatment Plant
- Howard Road Water Treatment Plant
- Sokoll Water Treatment Plant
- Multiple City Lift Stations

**Item Summary:** The City of Baytown competitively bid and awarded a one-year contract with Magna Flow Environmental Inc on Friday February 23, 2023 for their sludge, grit/sand, and debris removal work. The City of Baytown has the option to exercise up to four yearly renewals under the same terms, conditions, and unit prices.

(16)

By utilizing the interlocal cooperative purchase agreement with the City of Baytown, the City of Waxahachie will be able to leverage its buying power. Since the City of Baytown has larger scale needs and budget, we can obtain better unit pricing and achieve more cost savings than bidding the work ourselves. The goal is to maintain a reasonable maintenance schedule, minimize public disruptions, and ensure no adverse impact to the quality of life of the residents of the City.

**Fiscal Impact:** This master agreement will be on a price per cubic yard, as well as the price per gallon for wet haul services. Approval of this agreement does not obligate the City to expend funds, but it does provide fixed unit pricing for sludge, grit/sand, and debris removal for a defined period of time. Expenditures under this agreement will exceed \$50,000 but will not surpass the approved annual budgeted funds allocated to each department.



## Memorandum

To: Honorable Mayor and City Council

From: James Gaertner, PE, Executive Director of Public Works & Utilities

For Thru: Michael Scott, City Manager *MS*

Date: August 21, 2023

Re: Consider the approval of a revisions to the Flood Damage Prevention Ordinance

---

**Motion:** "I move to approve the revisions to the Flood Damage Prevention Ordinance as presented and authorize the City Manager to execute all required documents."

**Item Description:** The Federal Emergency Management Agency (FEMA) has revised the floodplain mapping and requires the city to adopt the revisions to be effective on October 19, 2023. Additional revisions were made to the ordinance to add some definitions and resolved some conflicting information between other ordinances and engineering design manuals.

**Item Summary:** The City is required to adopt by ordinance the revised Floodplain Maps prepared by FEMA. The changes to the floodplain maps occurred mostly on the north portion of the city along Grove Creek and its tributary creeks. FEMA's floodplain maps will become effective on October 19, 2023. Additional definitions regarding substantial damage structures that complies with Federal regulations were added and freeboard requirements. The freeboard revisions are for structures adjacent to the floodplain. This update will eliminate conflicting information between different ordinances and the engineering design manual. More than 90 municipalities in Texas have adopted 2-feet of freeboard over the base flood elevation. The surrounding cities to Waxahachie and Ellis County have adopted the 2-feet of freeboard. The City's engineering staff highly recommends the 2-feet of freeboard be adopted to take into account wave action, bridge constraint, urban growth and other real-life situations that may not be accounted in the engineering model.

**Fiscal Impact:** No fiscal impacts to the city budget with the ordinance revisions.

- CODE OF ORDINANCES  
APPENDIX B FLOOD DAMAGE PREVENTION

## APPENDIX B FLOOD DAMAGE PREVENTION<sup>1</sup>

ORDINANCE NO. 1573

*An Ordinance Rescinding Appendix B, Flood Damage Prevention, of the Code of Ordinances, City of Waxahachie, Being Ordinance 1219 as Amended by Ordinance 1293; Replacing Ordinance 1219 and 1293 with a New Flood Damage Prevention Ordinance, Containing Definitions, Expanding General Provisions, Administrative Procedures and Provisions for Flood Hazard Reduction, as Mandated by the Federal Government, Declaring an Emergency, and Setting an Effective Date.*

### ARTICLE 1. FINDINGS OF FACT, PURPOSE AND METHODS

#### Section A. Findings of fact.

- (1) The flood hazard areas of the City of Waxahachie are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.
- (2) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

#### Section B. Statement of purpose.

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood-control projects;

<sup>1</sup>Editor's note(s)—Ord. No. 1573, adopted Mar. 2, 1987, rescinded former App. B, Flood Damage Prevention, Arts. 1—5, which derived from Ord. No. 1219, adopted Dec. 15, 1977, as amended by Ord. No. 1293, adopted June 9, 1980, and enacted similar new provisions to read as herein set out. Absence of a history note in parentheses following a particular section indicates that the section derives unchanged from Ord. No. 1573; conversely, a history note in parentheses following a section indicates that such section was amended by the parenthetical legislation.

Cross reference(s)—Building, Ch. 8; electricity, Ch. 11; mobile homes, Ch. 19; planning and zoning, Ch. 24; plumbing and gas, Ch. 25; streets and sidewalks, Ch. 28; subdivisions, Ch. 29; utilities, Ch. 33; zoning, App. A; subdivisions, App. C.

State law reference(s)—Local governments must adopt ordinances necessary for jurisdiction to qualify for National Flood Insurance Program, V.T.C.A., Water Code § 16.3145; political subdivision to comply with Federal requirements, V.T.C.A., Water Code § 16.315.

- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (6) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
- (7) Ensure that potential buyers are notified that property is in a flood area.

### Section C. Methods of reducing flood losses.

In order to accomplish its purposes, this ordinance uses the following methods:

- (1) Restricts or prohibits uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
- (2) Requires that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controls the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of floodwaters;
- (4) Controls filling, grading, dredging and other development which may increase flood damage;
- (5) Prevents or regulates the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

## ARTICLE 2. DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meanings they have in common usage and to give this ordinance its most reasonable application.

*Appeal* means a request for a review of the floodplain administrator's interpretation of any provision of this ordinance or a request for a variance.

*Area of shallow flooding* means a designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three (3) feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

*Area of special flood hazard* is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AE, AH, AO, A1-99, VO, V1-30, VE or V.

*Base flood* means the flood having a one percent chance of being ~~equalled~~exceeded or exceeded in any given year. Base flood may also be referred as the one percent annual chance flood.

Base Flood Elevation (BFE) means the water surface elevation of the one percent annual chance flood.

*Critical feature* means an integral and readily identifiable part of a flood-protection system, without which the flood protection provided by the entire system would be comprised.

- CODE OF ORDINANCES  
APPENDIX B - FLOOD DAMAGE PREVENTION  
ARTICLE 2. DEFINITIONS

*Design Flood Elevation (DFE)* means the one percent annual chance flood elevation established by a professional engineer where there is not a Base Flood Elevation provided by FEMA. The professional engineer shall determine the design flood elevation in accordance with accepted hydrologic and hydraulic engineering practices used to define special flood hazard areas. Determinations shall be undertaken by a professional engineer who shall document that the technical methods used reflect currently accepted engineering practice. Studies, analyses and computations shall be submitted in sufficient detail to allow thorough review and approval.

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*Development* means any man-made change in improved and unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating or drilling operations.

*Elevated building* means a nonbasement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X and D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE or V, to have the bottom of the lowest horizontal structural member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the floor of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters. In the case of Zones V1-30, VE or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls, if the breakaway walls meet the standards of Section 60.3(e)(5) of the National Flood Insurance Program Regulations.

*Existing construction* means, for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

*Flood or flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters;
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

*Flood Insurance Rate Map (FIRM)* means an official map of a community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

*Flood insurance study* is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the flood boundary-floodway map.

*Floodplain or flood-prone area* means any land area susceptible to being inundated by water from any source (see definition of flooding).

*Flood-protection system* means those physical structural works for which funds have been authorized, appropriated and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood-modifying works are those constructed in conformance with sound engineering standards.

*Floodway (regulatory floodway)* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

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*Freeboard means an additional amount of height above the Base Flood Elevation used as a factor of safety (e.g., 2 feet above the Base Flood) in determining the level at which a structure's lowest floor must be elevated or floodproofed to be in accordance with state or community floodplain management regulations. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed. Freeboard usually results in significantly lower flood insurance rates due to lower flood risk.*

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*Functionally dependent use* means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities but does not include long-term storage or related manufacturing facilities.

*Highest adjacent grade* means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

*Levee* means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

*Levee system* means a flood-protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

*Lowest floor* means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirement of Section 60.3 of the National Flood Insurance Program Regulations.

*Manufactured home* means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers and other similar vehicles.

*Manufactured home park or subdivision* means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

*Mean sea level* means, for the purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

*New construction* means, for floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community.

*Professional engineer* means an engineer licensed in the State of Texas which is competent in the area of their service (i.e. floodplain analysis, structural, etc.).

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*Program deficiency* means a defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management regulations or of the standards Sections in 60.3, 60.4, 60.5 or 60.6 [of the National Flood Insurance Program Regulations].

*Remedy a violation* means to bring the structure or other development into compliance with state or local floodplain management regulations or, if this is not possible, to reduce the impact of its noncompliance. Ways that impact may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

*Start of construction*, for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Public Law 97-348), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

*Structure* means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Substantial Damage shall mean damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed fifty (50) percent of the market value of the building or structure before the damage occurred. The term also includes flood-related damage sustained by a structure on two (2) separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds twenty-five (25) percent of the market value of the structure before damage occurred.

Substantial improvement means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either (1) before the improvement or repair is started or, (2) if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions or (2) any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places. shall mean any combination of reconstruction, addition, repair, rehabilitation, alteration, or other improvement of a building or structure taking place during a one-year period, the cumulative cost of which equals or exceeds fifty (50) per cent of the market value of the building or structure before the improvement or repair is started. For each building or structure, the one-year period begins on the date of the certificate of completion or the certificate of occupancy of the first improvement or repair of that building or structure. If substantial demolition is proposed, the structure shall be considered substantially improved. If the structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the

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building official and that are the minimum necessary to assure safe living conditions or (2) any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

*Variance* is a grant of relief to a person from the requirements of this ordinance when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this ordinance. (For full requirements, see Section 60.6 of the National Flood Insurance Program Regulations.)

*Violation* means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4) or (e)(5) [of the National Flood Insurance Program Regulations] is presumed to be in violation until such time as that documentation is provided.

*Water surface elevation* means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

### ARTICLE 3. GENERAL PROVISIONS

#### Section A. Lands to which this ordinance applies.

This ordinance shall apply to all areas of special flood hazard within the jurisdiction of the City of Waxahachie.

#### Section B. Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in the current scientific and engineering reports entitled, "The Flood Insurance Study (FIS) for Ellis County, Texas, and incorporated Areas," dated ~~June 3, 2013~~ October 19, 2023, with accompanying Flood Insurance Rate Maps (FIRM) ~~dated June 3, 2013~~ October 19, 2023; and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance.

(Ord. No. 1951, 1-19-99; Ord. No. 2702, 5-6-13, New Ordinance number needed)

#### Section C. Establishment of development permit.

A development permit shall be required to ensure conformance with the provisions of this ordinance.

#### Section D. Compliance.

No structure or land shall hereafter be located, altered or have its use changed without full compliance with the terms of this ordinance and other applicable regulations.

**Section E. Abrogation and greater restrictions.**

This ordinance is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

**Section F. Interpretation.**

In the interpretation and application of this ordinance, all provisions shall be considered as minimum requirements; liberally construed in favor of the governing body; and deemed neither to limit nor repeal any other powers granted under state statutes.

**Section G. Warning and disclaimer of liability.**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions, greater floods can and will occur, and flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

**ARTICLE 4. ADMINISTRATION****Section A. Designation of the floodplain administrator.**

The city engineer is hereby appointed the floodplain administrator to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

**Section B. Duties and responsibilities of the floodplain administrator.**

Duties and responsibilities of the floodplain administrator shall include, but not be limited to, the following:

- (1) Maintaining and holding open for public inspection all records pertaining to the provisions of this ordinance;
- (2) Reviewing permit applications to determine whether proposed building sites will be reasonably safe from flooding;
- (3) Reviewing, approving or denying all applications for development permits required by adoption of this ordinance;
- (4) Reviewing permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
- (5) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the floodplain administrator shall make the necessary interpretation;

- (6) Notifying, in riverine situations, adjacent communities and the state coordinating agency, which is the Texas Water Commission, prior to any alteration or relocation of a watercourse and submitting evidence of such notification to the Federal Emergency Management Agency;
- (7) Assuring that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained;
- (8) When base flood elevation data have not been provided in accordance with Article 3, section B, the floodplain administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source, in order to administer the provisions of Article 5;
- (9) When a regulatory floodway has not been designated, the floodplain administrator must require that no new construction, ~~substantially damaged~~, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it can be demonstrated by a study performed by a ~~registered civil Professional Engineer licensed in the State of Texas~~ that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood ~~more than one foot at any point within the community to the adjacent properties.~~
- (10) In unnumbered A Zones (flood hazard areas without base flood elevations where it is required that you use the best available data), requiring one of the following actions as a condition of a permit:
  - (a) ~~Use the Based Level Engineering (BLE) maps and hydraulic models provided by FEMA and require the lowest floor elevation to be two (2) feet above the BLE base flood elevation.~~  
~~Determine an elevation from the nearest bench mark within a C Zone and require the lowest floor of the structure in the unnumbered A Zone to be one foot above such elevation;~~
  - (b) ~~Where flooding history is greater than the above elevation, require lowest floor elevation to be one foot (or more) or above such level of flooding;~~
  - (c) ~~Require elevation of the lowest floor to be two (2) or more feet above the highest adjacent grade next to the building site;~~
  - (d) Require that the base flood elevation be established through an engineering study and then use this data for requiring the lowest floor elevation to be ~~one-two (2) feet~~ foot above the base flood elevation.

### Section C. Permit procedures.

- (1) Application for a development permit shall be presented to the floodplain administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions and elevation of proposed landscape alterations, existing and proposed structures, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:
  - (a) Elevation, in relation to mean sea level, of the lowest floor (including basement) of all new and substantially improved structures;
  - (b) Elevation, in relation to mean sea level, to which any nonresidential structure shall be floodproofed;
  - (c) A certificate from a ~~registered~~ professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Article 5, section B(2);
  - (d) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;

- (e) Maintain a record of all such information in accordance with Article 4, section (B)(1).
- (2) Approval or denial of a development permit by the floodplain administrator shall be based on all of the provisions of this ordinance and the following relevant factors:
  - (a) The danger to life and property due to flooding or erosion damage;
  - (b) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (c) The danger that materials may be swept onto other lands to the injury of others;
  - (d) The compatibility of the proposed use with existing and anticipated development;
  - (e) The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (f) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
  - (g) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
  - (h) The necessity to the facility of a waterfront location, where applicable;
  - (i) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  - (j) The relationship of the proposed use to the comprehensive plan for that area.

#### **Section D. Variance procedures.**

- (1) The appeal board as established by the community shall hear and render judgment on requests for variances from the requirements of this ordinance.
- (2) The appeal board shall hear and render judgement on an appeal only when it is alleged there is an error in any requirement, decision or determination made by the floodplain administrator in the enforcement or administration of this ordinance.
- (3) Any person or persons aggrieved by the decision of the appeal board may appeal such decision in the courts of competent jurisdiction.
- (4) The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
- (5) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this ordinance.
- (6) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (½) acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in section C(2) of this article have been fully considered. As the lot size increases beyond the one-half (½) acre, the technical justification required for issuing the variance increases.
- (7) Upon consideration of the factors noted above and the intent of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance (Article 1, section B).

- (8) Variances shall not be issued within any designated floodway, if any increase in flood levels during the base flood discharge would result.
- (9) Prerequisites for granting variances:
- (a) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - (b) Variances shall only be issued upon (i) a showing of good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
  - (c) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- (10) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that the criteria outlined in Article 4, section D(1) through (9) are met and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

## **ARTICLE 5. PROVISIONS FOR FLOOD HAZARD REDUCTION**

### **Section A. General standards.**

In all areas of special flood hazards, the following provisions are required for all new construction and substantial improvements:

- (1) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy,
- (2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
- (4) All new construction or substantial improvements shall be designed and constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities located at least one foot above the base flood elevation to prevent water from entering or accumulating within the components during conditions of flooding;
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwaters; and

- (7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(8) If a building is "substantially damaged" or "substantially improved", it must be brought into compliance\* with flood damage prevention regulations, including elevating the building two (2) feet above base flood elevation or to the design flood elevation established by a professional engineer licensed in the State of Texas, whichever is higher. Likewise, all electrical and mechanical equipment (heating and cooling, etc.), bathrooms and laundry rooms must be elevated two (2) feet above the base flood elevation or removed from the flood hazard area. Only parking, building access and limited storage is allowed below the flood level. Nonresidential buildings may be "dry flood-proofed" instead of being elevated. All repairs and improvements must be permitted through Building & Community Services for properties subject to the Substantial Improvement/Damage review.

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## Section B. Specific standards.

In all areas of special flood hazards, where base flood elevation data has been provided as set forth in Article 3, section B, Article 4, section B(8) or Article 5, section C(4), the following provisions are required:

- (1) *Residential construction:* New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated at least ~~two (2) feet~~ ~~one foot~~ above the base flood elevation. A ~~registered~~ professional engineer or land surveyor shall submit a certification to the floodplain administrator that the standard of this subsection, as proposed in Article 4, section C(1)(a), is satisfied.
- (2) *Nonresidential construction:* New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated ~~one foot~~ ~~two (2) feet~~ above the base flood level or, together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A ~~registered~~ professional engineer or architect shall develop and/or review structural design, specifications and plans for the construction and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification, which includes the specific elevation in relation to mean sea level to which such structures are floodproofed, shall be maintained by the floodplain administrator.
- (3) *Enclosures:* New construction and substantial improvements, with fully enclosed areas below the lowest floor that are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a ~~registered~~ professional engineer or architect or meet or exceed the following minimum criteria:
  - (a) A minimum of two (2) openings, having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding, shall be provided;
  - (b) The bottoms of all openings shall be no higher than one foot above grade;
  - (c) Openings may be equipped with screens, louvers, valves, or other coverings or devices, provided that they permit the automatic entry and exist of floodwaters.
- (4) *Manufactured homes:*
  - (a) Prohibits the placement of any manufactured housing within areas which are designated or identified as regulatory floodways;

- (b) Require that all manufactured homes to be placed within Zone A shall be installed using methods and practices which minimize flood damage. For the purpose of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces;
- (c) All manufactured homes shall be in compliance with Article 5, section B(1);
- (d) Require that all manufactured homes to be placed or substantially improved within Zones A1-30, AH and AE on the community's FIRM be elevated on a permanent foundation such that the lowest floor of the manufactured home is ~~two (2) feet~~ one-foot above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provision of section B(4) of this article.

#### Section C. Standards for subdivision proposals.

- (1) All subdivision proposals, including manufactured home parks and subdivisions, shall be consistent with Article 1, sections A, B and C of this ordinance.
- (2) All proposals for the development of subdivisions, including manufactured home parks and subdivisions, shall meet development permit requirements of Article 3, section C; Article 4, section C; and the provisions of Article 5 of this ordinance.
- (3) Base flood elevation data shall be generated for subdivision proposals and other proposed development, including manufactured home parks and subdivisions, which contain five (5) lots or more or one acre or more, whichever is lesser, if not otherwise provided pursuant to Article 3, section B or Article 4, section B(8) of this ordinance.
- (4) All subdivision proposals, including manufactured home parks and subdivisions, shall have adequate drainage provided to reduce exposure to flood hazards.
- (5) All subdivision proposals, including manufactured home parks and subdivisions, shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

#### Section D. Standards for areas of shallow flooding (AO/AH Zones).

Located within the areas of special flood hazard established in Article 3, section B are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one to three (3) feet, where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

- (1) All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade, at least ~~two (2) one-foot feet~~ one-foot greater than the depth number specified in feet on the community's FIRM ~~(at least two (2) feet if no depth number is specified).~~
- (2) All new construction and substantial improvements of nonresidential structures:
  - (a) Have the lowest floor (including basement) elevated above the highest adjacent grade, at least ~~one-foot~~ two (2) feet greater than the depth number specified in feet on the community's FIRM ~~(at least two (2) feet if no depth number is specified); or~~

- (b) Together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight, with walls substantially impermeable to the passage of water and with structural components having the capacity of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
- (3) A ~~registered~~ professional engineer shall submit a certification to the floodplain administrator that the standards of this section, as proposed in Article 4, section C(1)(a), are satisfied;
- (4) Require within Zones AH or AO adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

#### **Section E. Floodways.**

Located within the areas of special flood hazard established in Article 3, section B are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

- (1) Encroachments are prohibited including fill, new construction, substantial improvements and other development, unless certification by a professional ~~registered~~ engineer is provided demonstrating that encroachments shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge;
- (2) If Article 5, section E(1) above is satisfied, all new construction and substantial improvements must comply with all applicable flood hazard reduction provisions of Article 5.

#### **ARTICLE 6. DECLARATION OF EMERGENCY**

It is hereby found and declared by the City of Waxahachie that severe flooding has occurred in the past within its jurisdiction and will certainly occur within the future; that flooding is likely to result in infliction of serious personal injury or death, and is likely to result in substantial injury or destruction of property within standards for coverage under the National Flood Insurance Program; and in order to effectively remedy the situation described herein, it is necessary that this ordinance become effective immediately.

Therefore, an emergency is hereby declared to exist, and this ordinance, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval.

## ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE REPEALING AND REPLACING APPENDIX B FLOOD DAMAGE PREVENTION OF THE CODE OF ORDINANCES OF THE CITY OF WAXAHACHIE, TEXAS; AND SETTING AN EFFECTIVE DATE.**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS:

**WHEREAS**, the City Council of the City of Waxahachie has repealed and replaced the Flood Damage Prevention ordinance. This revision repeals and replaces the existing Code of Ordinances Appendix B;

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

**SECTION 1.** Existing Appendix B, "Flood Damage Prevention", of the Code of Ordinances of the City of Waxahachie, Texas, is hereby repealed in its entirety and is replaced to read as follows:

**APPENDIX B FLOOD DAMAGE PREVENTION****ARTICLE 1. FINDINGS OF FACT, PURPOSE AND METHODS****Section A. Findings of fact.**

- (1) The flood hazard areas of the City of Waxahachie are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.
- (2) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

**Section B. Statement of purpose.**

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood-control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (6) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and

- (7) Ensure that potential buyers are notified that property is in a flood area.

### **Section C. Methods of reducing flood losses.**

In order to accomplish its purposes, this ordinance uses the following methods:

- (1) Restricts or prohibits uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
- (2) Requires that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controls the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of floodwaters;
- (4) Controls filling, grading, dredging and other development which may increase flood damage;
- (5) Prevents or regulates the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

### **ARTICLE 2. DEFINITIONS**

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meanings they have in common usage and to give this ordinance its most reasonable application.

*Appeal* means a request for a review of the floodplain administrator's interpretation of any provision of this ordinance or a request for a variance.

*Area of shallow flooding* means a designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three (3) feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

*Area of special flood hazard* is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AE, AH, AO, A1-99, VO, V1-30, VE or V.

*Base flood* means the flood having a one percent chance of being equaled or exceeded in any given year. Base flood may also be referred as the one percent annual chance flood.

*Base Flood Elevation (BFE)* means the water surface elevation of the one percent annual chance flood. *Critical feature* means an integral and readily identifiable part of a flood-protection system, without which the flood protection provided by the entire system would be comprised.

*Design Flood Elevation (DFE)* means the one percent annual chance flood elevation established by a professional engineer where there is not a Base Flood Elevation provided by FEMA. The professional engineer shall determine the design flood elevation in accordance with accepted hydrologic and hydraulic engineering practices used to define special flood hazard areas. Determinations shall be undertaken by a professional engineer who shall document that the technical methods used reflect currently accepted engineering practice. Studies, analyses and computations shall be submitted in sufficient detail to allow thorough review and *approval*.

*Development* means any man-made change in improved and unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating or drilling operations.

*Elevated building* means a nonbasement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X and D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE or V, to have the bottom of the lowest horizontal structural member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the floor of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters. In the case of Zones V1-30, VE or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls, if the breakaway walls meet the standards of Section 60.3(e)(5) of the National Flood Insurance Program Regulations.

*Existing construction* means, for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

*Flood or flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters;
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

*Flood Insurance Rate Map (FIRM)* means an official map of a community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

*Flood insurance study* is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the flood boundary-floodway map.

*Floodplain or flood-prone area* means any land area susceptible to being inundated by water from any source (see definition of flooding).

*Flood-protection system* means those physical structural works for which funds have been authorized, appropriated and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood-modifying works are those constructed in conformance with sound engineering standards.

*Floodway (regulatory floodway)* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

*Freeboard* means an additional amount of height above the Base Flood Elevation used as a factor of safety (e.g., 2 feet above the Base Flood) in determining the level at which a structure's lowest floor must be elevated or floodproofed to be in accordance with state or community floodplain management regulations. Freeboard tends to compensate for the many unknown

factors that could contribute to flood heights greater than the height calculated for a selected flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed. Freeboard usually results in significantly lower flood insurance rates due to lower flood risk.

*Functionally dependent use* means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities but does not include long-term storage or related manufacturing facilities.

*Highest adjacent grade* means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

*Levee* means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

*Levee system* means a flood-protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

*Lowest floor* means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirement of Section 60.3 of the National Flood Insurance Program Regulations.

*Manufactured home* means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers and other similar vehicles.

*Manufactured home park or subdivision* means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

*Mean sea level* means, for the purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

*New construction* means, for floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community.

*Professional engineer* means an engineer licensed in the State of Texas which is competent in the area of their service (i.e. floodplain analysis, structural, etc.).

*Program deficiency* means a defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management regulations or of the standards Sections in 60.3, 60.4, 60.5 or 60.6 [of the National Flood Insurance Program Regulations].

*Remedy a violation* means to bring the structure or other development into compliance with state or local floodplain management regulations or, if this is not possible, to reduce the impact of its noncompliance. Ways that impact may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

*Start of construction*, for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Public Law 97-348), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

*Structure* means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Substantial Damage shall mean damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed fifty (50) percent of the market value of the building or structure before the damage occurred. The term also includes flood-related damage sustained by a structure on two (2) separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds twenty-five (25) percent of the market value of the structure before damage occurred.

Substantial improvement shall mean any combination of reconstruction, addition, repair, rehabilitation, alteration, or other improvement of a building or structure taking place during a one-year period, the cumulative cost of which equals or exceeds fifty (50) per cent of the market value of the building or structure before the improvement or repair is started. For each building or structure, the one-year period begins on the date of the certificate of completion or the certificate of occupancy of the first improvement or repair of that building or structure. If substantial demolition is proposed, the structure shall be considered substantially improved. If the structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions or (2) any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places .

*Variance* is a grant of relief to a person from the requirements of this ordinance when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this ordinance. (For full requirements, see Section 60.6 of the National Flood Insurance Program Regulations.)

*Violation* means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section

60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4) or (e)(5) [of the National Flood Insurance Program Regulations] is presumed to be in violation until such time as that documentation is provided. (17)

*Water surface elevation* means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

### ARTICLE 3. GENERAL PROVISIONS

#### **Section A. Lands to which this ordinance applies.**

This ordinance shall apply to all areas of special flood hazard within the jurisdiction of the City of Waxahachie.

#### **Section B. Basis for establishing the areas of special flood hazard.**

The areas of special flood hazard identified by the Federal Emergency Management Agency in the current scientific and engineering reports entitled, "The Flood Insurance Study (FIS) for Ellis County, Texas, and incorporated Areas," dated October 19, 2023, with accompanying Flood Insurance Rate Maps (FIRM) October 19, 2023; and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance.

(Ord. No. 1951, 1-19-99; Ord. No. 2702, 5-6-13, New Ordinance number needed)Section C. Establishment of development permit.

A development permit shall be required to ensure conformance with the provisions of this ordinance.

#### **Section D. Compliance.**

No structure or land shall hereafter be located, altered or have its use changed without full compliance with the terms of this ordinance and other applicable regulations.

#### **Section E. Abrogation and greater restrictions.**

This ordinance is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

#### **Section F. Interpretation.**

In the interpretation and application of this ordinance, all provisions shall be considered as minimum requirements; liberally construed in favor of the governing body; and deemed neither to limit nor repeal any other powers granted under state statutes.

#### **Section G. Warning and disclaimer of liability.**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions, greater floods can and will occur, and flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

**ARTICLE 4. ADMINISTRATION****Section A. Designation of the floodplain administrator.**

The city engineer is hereby appointed the floodplain administrator to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

**Section B. Duties and responsibilities of the floodplain administrator.**

Duties and responsibilities of the floodplain administrator shall include, but not be limited to, the following:

- (1) Maintaining and holding open for public inspection all records pertaining to the provisions of this ordinance;
- (2) Reviewing permit applications to determine whether proposed building sites will be reasonably safe from flooding;
- (3) Reviewing, approving or denying all applications for development permits required by adoption of this ordinance;
- (4) Reviewing permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
- (5) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the floodplain administrator shall make the necessary interpretation;
- (6) Notifying, in riverine situations, adjacent communities and the state coordinating agency, which is the Texas Water Commission, prior to any alteration or relocation of a watercourse and submitting evidence of such notification to the Federal Emergency Management Agency;
- (7) Assuring that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained;
- (8) When base flood elevation data have not been provided in accordance with Article 3, section B, the floodplain administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source, in order to administer the provisions of Article 5;
- (9) When a regulatory floodway has not been designated, the floodplain administrator must require that no new construction, substantially damaged, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it can be demonstrated by a study performed by a Professional Engineer licensed in the State of Texas that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood to the adjacent properties.
- (10) In unnumbered A Zones (flood hazard areas without base flood elevations where it is required that you use the best available data), requiring one of the following actions as a condition of a permit:

- (a) Use the Based Level Engineering (BLE) maps and hydraulic models provided by FEMA and require the lowest floor elevation to be two (2) feet above the BLE base flood elevation.
- (d) Require that the base flood elevation be established through an engineering study and then use this data for requiring the lowest floor elevation to be two (2) feet above the base flood elevation.

### **Section C. Permit procedures.**

- (1) Application for a development permit shall be presented to the floodplain administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions and elevation of proposed landscape alterations, existing and proposed structures, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:
  - (a) Elevation, in relation to mean sea level, of the lowest floor (including basement) of all new and substantially improved structures;
  - (b) Elevation, in relation to mean sea level, to which any nonresidential structure shall be floodproofed;
  - (c) A certificate from a professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Article 5, section B(2);
  - (d) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;
  - (e) Maintain a record of all such information in accordance with Article 4, section (B)(1).
- (2) Approval or denial of a development permit by the floodplain administrator shall be based on all of the provisions of this ordinance and the following relevant factors:
  - (a) The danger to life and property due to flooding or erosion damage;
  - (b) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (c) The danger that materials may be swept onto other lands to the injury of others;
  - (d) The compatibility of the proposed use with existing and anticipated development;
  - (e) The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (f) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
  - (g) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
  - (h) The necessity to the facility of a waterfront location, where applicable;
  - (i) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  - (j) The relationship of the proposed use to the comprehensive plan for that area.

**Section D. Variance procedures.**

- (1) The appeal board as established by the community shall hear and render judgment on requests for variances from the requirements of this ordinance.
- (2) The appeal board shall hear and render judgement on an appeal only when it is alleged there is an error in any requirement, decision or determination made by the floodplain administrator in the enforcement or administration of this ordinance.
- (3) Any person or persons aggrieved by the decision of the appeal board may appeal such decision in the courts of competent jurisdiction.
- (4) The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
- (5) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this ordinance.
- (6) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (½) acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in section C(2) of this article have been fully considered. As the lot size increases beyond the one-half (½) acre, the technical justification required for issuing the variance increases.
- (7) Upon consideration of the factors noted above and the intent of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance (Article 1, section B).
- (8) Variances shall not be issued within any designated floodway, if any increase in flood levels during the base flood discharge would result.
- (9) Prerequisites for granting variances:
  - (a) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - (b) Variances shall only be issued upon (i) a showing of good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
  - (c) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- (10) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that the criteria outlined in Article 4, section D(1) through (9) are met and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

**ARTICLE 5. PROVISIONS FOR FLOOD HAZARD REDUCTION****Section A. General standards.**

In all areas of special flood hazards, the following provisions are required for all new construction and substantial improvements:

- (1) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- (2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
- (4) All new construction or substantial improvements shall be designed and constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities located at least one foot above the base flood elevation to prevent water from entering or accumulating within the components during conditions of flooding;
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwaters; and
- (7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (8) If a building is "substantially damaged" or "substantially improved", it must be brought into compliance with flood damage prevention regulations, including elevating the building two (2) feet above base flood elevation or to the design flood elevation established by a professional engineer licensed in the State of Texas, whichever is higher. Likewise, all electrical and mechanical equipment (heating and cooling, etc.), bathrooms and laundry rooms must be elevated two (2) feet above the base flood elevation or removed from the flood hazard area. Only parking, building access and limited storage is allowed below the flood level. Nonresidential buildings may be "dry flood-proofed" instead of being elevated. All repairs and improvements must be permitted through Building & Community Services for properties subject to the Substantial Improvement/Damage review.

**Section B. Specific standards.**

In all areas of special flood hazards, where base flood elevation data has been provided as set forth in Article 3, section B, Article 4, section B(8) or Article 5, section C(4), the following provisions are required:

- (1) *Residential construction:* New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated at least two (2) feet above the base flood elevation. A professional engineer or land surveyor shall submit a certification to the floodplain administrator that the standard of this subsection, as proposed in Article 4, section C(1)(a), is satisfied.

- (2) *Nonresidential construction:* New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated two (2) feet above the base flood level or, together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A professional engineer or architect shall develop and/or review structural design, specifications and plans for the construction and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification, which includes the specific elevation in relation to mean sea level to which such structures are floodproofed, shall be maintained by the floodplain administrator.
- (3) *Enclosures:* New construction and substantial improvements, with fully enclosed areas below the lowest floor that are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a professional engineer or architect or meet or exceed the following minimum criteria:
  - (a) A minimum of two (2) openings, having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding, shall be provided;
  - (b) The bottoms of all openings shall be no higher than one foot above grade;
  - (c) Openings may be equipped with screens, louvers, valves, or other coverings or devices, provided that they permit the automatic entry and exist of floodwaters.
- (4) *Manufactured homes:*
  - (a) Prohibits the placement of any manufactured housing within areas which are designated or identified as regulatory floodways;
  - (b) Require that all manufactured homes to be placed within Zone A shall be installed using methods and practices which minimize flood damage. For the purpose of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces;
  - (c) All manufactured homes shall be in compliance with Article 5, section B(1);
  - (d) Require that all manufactured homes to be placed or substantially improved within Zones A1-30, AH and AE on the community's FIRM be elevated on a permanent foundation such that the lowest floor of the manufactured home is two (2) feet above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provision of section B(4) of this article.

### **Section C. Standards for subdivision proposals.**

- (1) All subdivision proposals, including manufactured home parks and subdivisions, shall be consistent with Article 1, sections A, B and C of this ordinance.

- (2) All proposals for the development of subdivisions, including manufactured home parks and subdivisions, shall meet development permit requirements of Article 3, section C; Article 4, section C; and the provisions of Article 5 of this ordinance.
- (3) Base flood elevation data shall be generated for subdivision proposals and other proposed development, including manufactured home parks and subdivisions, which contain five (5) lots or more or one acre or more, whichever is lesser, if not otherwise provided pursuant to Article 3, section B or Article 4, section B(8) of this ordinance.
- (4) All subdivision proposals, including manufactured home parks and subdivisions, shall have adequate drainage provided to reduce exposure to flood hazards.
- (5) All subdivision proposals, including manufactured home parks and subdivisions, shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

#### **Section D. Standards for areas of shallow flooding (AO/AH Zones).**

Located within the areas of special flood hazard established in Article 3, section B are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one to three (3) feet, where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

- (1) All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade, at least two (2) feet greater than the depth number specified in feet on the community's FIRM.
- (2) All new construction and substantial improvements of nonresidential structures:
  - (a) Have the lowest floor (including basement) elevated above the highest adjacent grade, at least two (2) feet greater than the depth number specified in feet on the community's FIRM; or
  - (b) Together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight, with walls substantially impermeable to the passage of water and with structural components having the capacity of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
- (3) A professional engineer shall submit a certification to the floodplain administrator that the standards of this section, as proposed in Article 4, section C(1)(a), are satisfied;
- (4) Require within Zones AH or AO adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

#### **Section E. Floodways.**

Located within the areas of special flood hazard established in Article 3, section B are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

- (1) Encroachments are prohibited including fill, new construction, substantial improvements and other development, unless certification by a professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge;

- (2) If Article 5, section E(1) above is satisfied, all new construction and substantial improvements must comply with all applicable flood hazard reduction provisions of Article 5.

#### ARTICLE 6. DECLARATION OF EMERGENCY

It is hereby found and declared by the City of Waxahachie that severe flooding has occurred in the past within its jurisdiction and will certainly occur within the future; that flooding is likely to result in infliction of serious personal injury or death, and is likely to result in substantial injury or destruction of property within standards for coverage under the National Flood Insurance Program; and in order to effectively remedy the situation described herein, it is necessary that this ordinance become effective immediately.

Therefore, an emergency is hereby declared to exist, and this ordinance, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval.

**SECTION 2.** This Ordinance shall become effective from and after its adoption and publication as required by law.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS, ON THIS THE 22<sup>nd</sup> DAY OF AUGUST, 2023.**

APPROVED:

\_\_\_\_\_  
DAVID HILL, MAYOR

ATTEST:

\_\_\_\_\_  
AMBER VILLARREAL, CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
ROBERT BROWN, CITY ATTORNEY



## Memorandum

To: Honorable Mayor and City Council

From: James Gaertner, Executive Director of Public Works & Utilities

for Thru: Michael Scott, City Manager *MS*

Date: August 21, 2023

Re: Supplemental Appropriation and Purchase of a Sodium Hypochlorite Generation System for the Robert W. Sokoll Water Treatment Plant

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**Motion:** "I move to authorize the purchase a sodium hypochlorite generation system from De Nora Water Technologies Texas LLC and a supplemental appropriation from the Water Utilities unrestricted reserve fund balance for \$200,000 to fund the purchase of the system and authorize the City Manager to execute all required documents."

**Item Description:** The Robert W. Sokoll Water Treatment Plant sodium hypochlorite generator #2 is out of service and needs to be replaced to provide disinfection for water production. A supplemental appropriation of \$200,000 to fund the purchase of a sodium hypochlorite generation system is necessary because the system is essential to chlorinating the water and has an extended lead time for delivery.

**Item Summary:** The Robert W. Sokoll Water Treatment Plant utilizes sodium hypochlorite (bleach) as a disinfectant in the water treatment process. Last fiscal year, sodium hypochlorite generator #1 was replaced and recently generator #2 is out of service. Generator #1 is currently the only operating unit for water disinfection. Generator #2 needs to be replaced instead of repaired as soon as possible because it is obsolete, has reached the end of its life and repair cost is similar to a new unit. The generator #2 replacement is required to restore redundancy in the disinfection process, otherwise if the generator #1 fails the Sokoll Water Treatment plant will be shut down to lack of disinfection chemicals.

**Fiscal Impact:** The purchase of the new sodium hypochlorite generator was originally a planned expense in the Sokoll Water Treatment Plant FY2023-2024 operating budget in the amount of \$200,000. However, the lead time for the equipment is 1-3 weeks from purchase order issuance. Given the equipment lead time and the need to expedite this replacement for disinfection redundancy, City staff recommends proceeding with acquiring the replacement generator in the current fiscal year. Expediting the purchase enables the new generator to be installed promptly to maintain continuity of the water disinfection process.

To expedite the purchase of the replacement sodium hypochlorite generator, City staff recommends that a supplemental appropriation of \$200,000 from Water Utilities unrestricted reserve be approved by City Council. The supplemental appropriation would allow staff to issue a purchase order for the new generator immediately. This would secure the equipment in time for installation and operation before the end of the high demand summer season. Approving the supplemental appropriation enables the City to expense this capital purchase now, and in lieu of this action, it will be removed as part of the FY2023-2024 proposed operating budget.

The sodium hypochlorite generator is a capital expense for the Robert W. Sokoll Water Treatment Plant and is a 50/50 cost shared with Rockett Special Utility District.