



A G E N D A

**REGULAR MEETING OF THE
HIGHLAND VILLAGE CITY COUNCIL
HIGHLAND VILLAGE MUNICIPAL COMPLEX
1000 HIGHLAND VILLAGE ROAD, HIGHLAND VILLAGE, TEXAS
TUESDAY, AUGUST 24, 2021 at 5:30 P.M.**

EARLY WORK SESSION
Training Room – 5:30 P.M.

Convene Meeting in Open Session

- 1. Receive a Presentation and Discuss Enterprise Fleet Management Program**
- 2. Discuss Proposed FY 2021-2022 Budget, including Capital Improvement Projects and Potential Future Bond Projects**
- 3. Clarification of Consent or Action Items listed on Today's City Council Meeting Agenda for August 24, 2021**

(Items discussed during Early Work Session may be continued or moved to Open Session and/or Late Work Session if time does not permit holding or completing discussion of the item during Early Work Session.)

CLOSED SESSION
Training Room

- 4. Hold a Closed Meeting in accordance with the following Sections of the Texas Government Code:
(a) Section 551.071 – Consultation with City Attorney Concerning Pending or Contemplated Litigation and on any Regular Session or Work Session Agenda Item Requiring Confidential, Attorney/Client Advice Necessitated by the Deliberation or Discussion of Said Item (as needed)**

OPEN SESSION
City Council Chambers – 7:00 P.M.

- 5. Call Meeting to Order**
- 6. Prayer led by Councilmember Dan Jaworski**
- 7. Pledge of Allegiance to the U.S. and Texas flags led by Councilmember Dan Jaworski: *"Honor the Texas flag; I pledge allegiance to thee, Texas, one state under God, one and indivisible."***

8. **Visitor Comments** *(Anyone wishing to address the City Council must complete a Speakers' Request Form and return it to the City Secretary. In accordance with the Texas Open Meetings Act, the City Council is restricted in discussing or taking action on items not posted on the agenda. Action on your statement can only be taken at a future meeting. In order to expedite the flow of business and to provide all visitors the opportunity to speak, the Mayor may impose a three (3) minute limitation on any person addressing the City Council. A thirty (30) minute time allotment is set for this section, and the remaining speakers will be heard at the end of the Action Agenda.)*
9. **City Manager/Staff Reports**
 - **HVTV Update**
10. **Mayor and Council Reports on Items of Community Interest pursuant to Texas Government Code Section 551.0415** the City Council may report on the following items: (1) expression of thanks, congratulations or condolences; (2) information about holiday schedules; (3) recognition of individuals; (4) reminders about upcoming City Council events; (5) information about community events; and (6) announcements involving imminent threat to public health and safety
 - **Presentation of a Proclamation celebrating our Mayor for the Day**
 - **Presentation of a Proclamation honoring Patriot Day and Day of Service and Remembrance**
 - **Presentation of a Proclamation celebrating September as Live United Month**

Anyone wishing to address the City Council on any item posted on the City Council agenda for possible action, including matters placed on the Consent Agenda or posted as a Public Hearing, must complete a Speakers' Request Form available at the entrance to the City Council Chambers and present it to the City Secretary prior to the Open Session being called to order. Speakers may be limited to three (3) minutes and given only one opportunity to speak on an item. Other procedures regarding speaking on matters posted for action on the City Council agenda are set forth on the Speakers' Request Form. Subject to applicable law, the City Council reserves the right to modify or waive at any time the procedures relating to members of the public speaking on matters placed the Council's agenda.

CONSENT AGENDA

All of the items on the Consent Agenda are considered for approval by a single motion and vote without discussion. Each Councilmember has the option of removing an item from this agenda so that it may be considered separately and/or adding any item from the Action Agenda to be considered as part of the Consent Agenda items.

11. **Consider approval of Minutes of the Regular City Council Meeting held on August 10, 2021**
12. **Consider Ordinance 2021-1285 amending the Comprehensive Zoning Ordinance for Planned Development District 2012-1 (PD 2012-1) relating to Exterior Building Colors for the Property described as The District of Highland Village located at the Northwest Corner of Briarhill Boulevard and FM 407/Justin Road (2nd and final read)**
13. **Consider Resolution 2021-2951 approving an Amendment to the Articles of Incorporation of the Highland Village Community Development Corporation relating to the Terms and Term Limits of Members of the Board of Directors**

ACTION AGENDA

14. Take action, if any, on Matters discussed in Closed Session in accordance with the following Sections of the Texas Government Code:
(a) Section 551.071 – Consultation with City Attorney Concerning Pending or Contemplated Litigation and on any Regular Session or Work Session Agenda Item Requiring Confidential, Attorney/Client Advice Necessitated by the Deliberation or Discussion of Said Item (as needed)
15. Consider Resolution 2021-2952 approving a Negotiated Settlement Agreement between Atmos Cities Steering Committee (ACSC) and Atmos Energy Corporation, Mid-Tex Division, regarding the 2021 Rate Review Mechanism Filings
16. Consider Ordinance 2021-1286 amending in its Entirety Chapter 4 “Animal Control” of the City’s Code of Ordinances as it relates to the Regulation of the Care and Keeping of Animals within the City Limits (*1st of two reads*)

LATE WORK SESSION

(Items may be discussed during Early Work Session, time permitting)

17. Status Reports on Current Projects and Discussion on Future Agenda Items (A Councilmember may inquire about a subject of which notice has not been given. A statement of specific information or the recitation of existing policy may be given. Any deliberation shall be limited to a proposal to place the subject on an agenda for a subsequent meeting.)
18. Adjournment

I HEREBY CERTIFY THAT THIS NOTICE OF MEETING WAS POSTED ON THE PUBLIC BULLETIN BOARD AT THE MUNICIPAL COMPLEX, 1000 HIGHLAND VILLAGE ROAD, HIGHLAND VILLAGE, TEXAS IN ACCORDANCE WITH THE *TEXAS GOVERNMENT CODE, CHAPTER 551*, ON THE 20TH DAY OF AUGUST 2021 NOT LATER THAN 5:00 P.M.


Angela Miller, City Secretary

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary’s Office at (972) 899-5132 or Fax (972) 317-0237 for additional information.

Removed from posting on the _____ day of _____, 2021 at _____

am / pm by _____.

CITY OF HIGHLAND VILLAGE
COUNCIL BRIEFING

AGENDA# 1

MEETING DATE: 08/24/2021

SUBJECT: Receive a Presentation and Discuss an Enterprise Fleet Management Program

PREPARED BY: Ken Heerman, Assistant City Manager

COMMENTS

City staff will present information on an Enterprise Fleet Management Program.

CITY OF HIGHLAND VILLAGE
COUNCIL BRIEFING

AGENDA# 2

MEETING DATE: 08/24/2021

SUBJECT: Discuss Proposed FY 2021-2022 Budget, including Capital Improvement Projects and Potential Future Bond Projects

PREPARED BY: Ken Heerman, Assistant City Manager

COMMENTS

City staff will present information on the proposed FY 2021-2022 Budget.

CITY OF HIGHLAND VILLAGE
COUNCIL BRIEFING

AGENDA# 10

MEETING DATE: 08/24/2021

SUBJECT: Mayor and Council Reports on Items of Community Interest

PREPARED BY: Karen McCoy, Executive Assistant

COMMENTS

Pursuant to Texas Government Code Section 551.0415 the City Council may report on the following items: (1) expression of thanks, congratulations or condolences; (2) information about holiday schedules; (3) recognition of individuals; (4) reminders about upcoming City Council events; (5) information about community events; and (6) announcements involving imminent threat to public health and safety.

- Presentation of a Proclamation celebrating our Mayor for the Day
- Presentation of a Proclamation honoring Patriot Day and Day of Service and Remembrance
- Presentation of a Proclamation celebrating Live United Month

Proclamation

The City of Highland Village

Whereas, the City of Highland Village is served by and is proud to support the Lewisville Independent School District and recognizes that current LISD students are the future leaders of our city, country, state and nation; and

Whereas, McAuliffe Elementary School has provided Highland Village students in grades Kindergarten through Fifth Grade with a high quality, well-rounded education since 1987; and

Whereas, the McAuliffe PTA, which provides an excellent support system to our Highland Village students, holds an annual silent auction to raise funds to serve the needs of McAuliffe Elementary School; and

Whereas, at the McAuliffe PTA auction held in April 2021, the City of Highland Village offered a “Mayor for the Day” opportunity to one lucky student; and

Whereas, fourth grade student William Brasher was the successful recipient of the “Mayor for the Day” honor.

NOW THEREFORE, on behalf of the City Council and City Staff, I, Charlotte J. Wilcox, Mayor of the City of Highland Village, do hereby recognize

“William Brasher as Mayor for the Day”

in Highland Village.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City to be affixed on this 24th day of August 2021.

Charlotte J. Wilcox, Mayor

Proclamation

The City of Highland Village

Whereas, America will never forget the September tragedy that shook our Nation's core 20 years ago and took the lives of nearly 3,000 innocent men, women, and children; and

Whereas, we will not forget the events of that terrible morning nor how Americans responded with heroism, selflessness, compassion, and courage; and

Whereas, we are inspired by the heroic sacrifices of our firefighters, rescue and law enforcement personnel, military, and other citizens; and

Whereas, those whom we lost will forever hold an honored place in the history of our Nation. We remember their sacrifice and we commit ourselves to honoring their memory by pursuing justice and peace in the world and security at home; and

Whereas, by a joint resolution Congress has authorized and requested that the President designate September 11 each year as "Patriot Day".

NOW THEREFORE, I, Charlotte J. Wilcox, Mayor of the City of Highland Village, do hereby proclaim September 11, 2021, as:

"Patriot Day and Day of Service and Remembrance"

in the City of Highland Village.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City to be affixed on this 24th day of August 2021.

Charlotte J. Wilcox, Mayor

Proclamation

The City of Highland Village

Whereas, United Way of Denton County has been identifying Denton County's needs and responding to them for over 68 years; and

Whereas, United Way of Denton County assembles partners, providers, and resources to address the needs of neighbors in crisis; and

Whereas, United Way of Denton County works with a network of nonprofits across Denton County to address a variety of needs, including feeding those who face food insecurity; preparing children for success in school, work, and life; and connecting those in crisis with resources to pay bills, stay in their homes, and find employment; and

Whereas, United Way of Denton County remains committed more than ever before to bring people together to help our communities recover, rebuild and thrive.

NOW THEREFORE, I, Charlotte J. Wilcox, Mayor of the City of Highland Village, do hereby proclaim the month of September 2021 as:

“Live United Month”

in the City of Highland Village.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City to be affixed on this 24th day of August 2021.

Charlotte J. Wilcox, Mayor

CITY OF HIGHLAND VILLAGE
COUNCIL BRIEFING

AGENDA# 11

MEETING DATE: 08/24/2021

SUBJECT: Consider Approval of Minutes of the Regular City Council Meeting held on August 10, 2021

PREPARED BY: Angela Miller, City Secretary

BACKGROUND:

Minutes are approved by a majority vote of Council at the Council meetings and listed on the Consent Agenda.

IDENTIFIED NEED/S:

Council is encouraged to call the City Secretary's Office prior to the meeting with suggested changes. Upon doing so, staff will make suggested changes and the minutes may be left on the Consent Agenda in order to contribute to a time efficient meeting. If the change is substantial in nature, a copy of the suggested change will be provided to Council for consideration prior to the vote.

OPTIONS & RESULTS:

The City Council should review and consider approval of the minutes. Council's vote and approval of the minutes reflect agreement with the accuracy of the minutes.

PROGRESS TO DATE: (if appropriate)

The City Manager has reviewed the minutes and given approval to include the minutes in this packet.

BUDGETARY IMPACT/ORDINANCE CHANGE: (if appropriate)

N/A

RECOMMENDATION:

To approve the minutes of the Regular City Council Meeting held on August 10, 2021.



**MEETING MINUTES OF THE REGULAR MEETING
HIGHLAND VILLAGE CITY COUNCIL
HIGHLAND VILLAGE MUNICIPAL COMPLEX
1000 HIGHLAND VILLAGE ROAD, HIGHLAND VILLAGE, TEXAS
TUESDAY, AUGUST 10, 2021**

EARLY WORK SESSION

Mayor Charlotte J. Wilcox called the meeting to order at 6:00 p.m.

Roll Call

Present:	Charlotte J. Wilcox	Mayor
	Jon Kixmiller	Councilmember
	Michael Lombardo	Mayor Pro Tem
	Barbara Fleming	Deputy Mayor Pro Tem
	Tom Heslep	Councilmember
	Robert A. Fiester	Councilmember
	Daniel Jaworski	Councilmember
Staff Members:	Paul Stevens	City Manager
	Ken Heerman	Assistant City Manager
	Kevin Laughlin	City Attorney
	Angela Miller	City Secretary
	Doug Reim	Chief of Police
	Jason Collier	Assistant Fire Chief
	Scott Kriston	Public Works Director
	Phil Lozano	Parks & Recreation Director
	Jana Onstead	Human Resource Director
	Sunny Lindsey	Information Services Director
	Laurie Mullens	Marketing & Communications Director
	Jenny McCann	Communications and Marketing Specialist

1. Discuss the Utility Fund Budget for Fiscal Year 2021-2022 and Follow up Discussion (if needed) on the General Fund Budget

Assistant City Manager Ken Heerman presented the Utility Fund Budget for Fiscal Year 2021-2022, which will maintain the current rate structure for water and sewer services. The current budget year is estimated to end with an eighty-five (85) day operating balance, with next year estimated to end with a seventy-two (72) day operating balance. Mr. Heerman also reported that based on recent usage patterns, which is a reduction from previous levels, could likely result in needing a rate adjustment in the next two to three years.

Utility Supplemental Requests were presented by Public Works Director Scott Kriston and included:

Student Intern – to complete digital mapping of all Public Works Utilities

I&I Monitoring – includes a Smart Cover System to enhance the I&I smoke testing program

Mr. Heerman reported a volume rate cost increase would be included in the proposed budget due to an increase from the Upper Trinity Regional Water District (UTRWD).

Additional budget presentations will continue at the next City Council meeting scheduled for August 24, 2021.

2. Clarification of Consent or Action Items listed on Today's City Council Meeting Agenda for August 10, 2021

Relating to Agenda Item #16, Councilmember Jaworski asked if the applicant was going to provide samples of the paint colors during his presentation. Public Works Director Scott Kriston stated the exhibits to the proposed ordinance included samples. He was unsure if the applicant would provide any with tonight's presentation.

Early Work Session was adjourned at 6:46 p.m. and Council took a short recess.

CLOSED SESSION

3. Hold a Closed Meeting in accordance with the following Sections of the Texas Government Code:

(a) Section 551.071 – Consultation with City Attorney Concerning Pending or Contemplated Litigation and on any Regular Session or Work Session Agenda Item Requiring Confidential, Attorney/Client Advice Necessitated by the Deliberation or Discussion of Said Item (as needed)

Council did not meet in Closed Session.

OPEN SESSION

4. Call Meeting to Order

Mayor Charlotte J. Wilcox called the meeting to order at 7:00 p.m.

Roll Call

Present:	Charlotte J. Wilcox	Mayor
	Jon Kixmiller	Councilmember
	Michael Lombardo	Mayor Pro Tem
	Barbara Fleming	Deputy Mayor Pro Tem
	Tom Heslep	Councilmember
	Robert A. Fiester	Councilmember
	Daniel Jaworski	Councilmember

Staff Members:	Paul Stevens	City Manager
	Ken Heerman	Assistant City Manager
	Kevin Laughlin	City Attorney
	Angela Miller	City Secretary
	Doug Reim	Chief of Police
	Jason Collier	Assistant Fire Chief

Scott Kriston
Phil Lozano
Jana Onstead
Sunny Lindsey
Laurie Mullens
Jenny McCann

Public Works Director
Parks & Recreation Director
Human Resource Director
Information Services Director
Marketing & Communications Director
Communications and Marketing Specialist

5. Prayer led by Councilmember Tom Heslep

Councilmember Heslep gave the invocation.

6. Pledge of Allegiance to the U.S. and Texas flags led by Councilmember Tom Heslep

Councilmember Heslep led the Pledge of Allegiance to the U.S. and Texas flags.

7. Visitor Comments

No one wished to speak.

8. Mayor and Council Reports on Items of Community Interest pursuant to Texas Government Code Section 551.0415 the City Council may report on the following items: (1) expression of thanks, congratulations or condolences; (2) information about holiday schedules; (3) recognition of individuals; (4) reminders about upcoming City Council events; (5) information about community events; and (6) announcements involving imminent threat to public health and safety

With school starting soon, Mayor Pro Tem Lombardo reminded everyone to be observant of school zones, school buses and students walking to school.

Deputy Mayor Pro Tem Fleming reported the HVBA hosted its Quarterly Luncheon today. She thanked the HVBA staff for their work on the successful event.

Mayor Wilcox announced the Tri-Town Amazing Race will be held on Saturday, November 20. She challenged the City Council members of Lewisville and Flower Mound, as well as Lewisville Independent School District Board of Trustees, to participate this year.

9. City Manager/Staff Reports

City Manager Paul Stevens updated Council on recent employee promotions within the City.

- **COVID-19 Update**

Assistant Fire Chief Jason Collier provided an update on COVID-19 in Denton County and Highland Village. Mayor Wilcox asked if there is currently a test for the Delta variant; Assistant Chief Collier reported there is not one at this time. Councilmember Heslep asked the percentage of non-vaccinated people that are hospitalized. Assistant Chief Collier reported approximately 89% are non-vaccinated.

- **HVTV Update**

The HVTV Update included a Back to School feature with School Resource Officers David Harney and Ben McKelvey, information on the upcoming Kolaches & Koffee event at K-9 Kastle, and the upcoming Concert in the Park.

CONSENT AGENDA

10. Consider approval of Minutes of the Regular City Council Meeting held on July 27, 2021
11. Consider Ordinance 2021-1284 adopting Amendments to the Fiscal Year 2020-2021 Budget (*2nd and final read*)
12. Consider Resolution 2021-2948 authorizing a Reimbursement Agreement with Denton County Transportation Authority (DCTA) for Transportation Reinvestment Program (TRiP) Funds for the Highland Village Road Sidewalk Project
13. Receive Investment Report for Quarter Ending June 30, 2021
14. Receive Budget Reports for Period Ending June 30, 2021

Motion by Deputy Mayor Pro Tem Fleming, seconded by Councilmember Kixmiller, to approve Consent Agenda Items #10 through #14. Motion carried 7-0.

ACTION AGENDA

15. Take action, if any, on Matters discussed in Closed Session in accordance with the following Sections of the Texas Government Code:
(a) Section 551.071 – Consultation with City Attorney Concerning Pending or Contemplated Litigation and on any Regular Session or Work Session Agenda Item Requiring Confidential, Attorney/Client Advice Necessitated by the Deliberation or Discussion of Said Item (as needed)

NO ACTION TAKEN

No action was taken on this item.

16. Conduct a Public Hearing and consider Ordinance 2021-1285 amending the Comprehensive Zoning Ordinance for Planned Development District 2012-1 (PD 2012-1) relating to Exterior Building Colors for the Property described as The District of Highland Village located at the Northwest Corner of Briarhill Boulevard and FM 407/Justin Road (*1st of two reads*)

PUBLIC HEARING CONDUCTED

APPROVED 1ST READ (7 – 0)

Public Works Director Scott Kriston reported an application was received to change the paint color scheme for the exterior of all buildings within The District of Highland Village. The applicant, Zack Montana, provided a presentation to show the proposed changes. The ground floor retail units will be differentiated from residential units by color scheme.

Councilmember Heslep asked Mr. Montana how the company was attracting new retail. Mr. Montana reported through various ways, such as lease negotiations, and/or working with advertisers to promote the new businesses that enter into a lease.

Mayor Wilcox opened the public hearing. With no one wishing to speak, the public hearing was closed.

Motion by Mayor Pro Tem Lombardo, seconded by Councilmember Jaworski, to approve the first read of Ordinance 2021-1285. Motion carried 7-0.

17. **Consider Resolution 2021-2949 awarding and authorizing a Contract with Reynolds Asphalt and Construction Company for the Highland Village Street Improvements Project Phase 4 of the 2018 Street Bond Program**

APPROVED (7 – 0)

Mr. Kriston reported the City issued Phase 4 of the 2018 Street Bond Program for bid, which resulted in four (4) responsive bids. Mr. Kriston stated the lowest bidder is Reynolds Asphalt and Construction Company, who has previously completed several projects in the City and have sufficient resources to construct the project. The pavement improvement project includes N. Clearwater Drive, S. Clearwater Drive, Scenic Drive, Rockland Drive, Hickory Ridge Drive, Springway Drive and Pecan Street.

Councilmember Kixmiller asked if the bid was within budget. Mr. Kriston reported just under the budgeted amount.

Motion by Deputy Mayor Pro Tem Fleming, seconded by Councilmember Jaworski, to approve Resolution 2021-2949. Motion carried 7-0.

18. **Consider the Ad Valorem Tax Rate for Year 2021 and Set a Public Hearing Date on the Proposed Fiscal Year 2021-2022 Budget and Proposed Tax Rate**

Assistant City Manager Ken Heerman reported Truth in Taxation requires a public hearing, preceded by certain required public notice of the public hearing and the proposed real property tax rate before implementing a property tax rate if a rate is considered which will exceed the lower of the Voter Approved Tax Rate or the No New Revenue. Because the proposed tax rate is below the Voter Approved Tax Rate, but exceeds the No New Revenue Tax Rate, Mr. Heerman explained the City Council must schedule a public hearing on the proposed tax rate before taking action to adopt the rate. Mr. Heerman clarified the proposed tax rate maintains the current rate.

Motion by Councilmember Kixmiller, seconded by Councilmember Jaworski, that \$0.56302 per \$100 valuation be proposed for adoption as the City's Ad Valorem tax rate for the 2021 tax year and set September 14, 2021 as the date for holding the public hearing to receive public comment on said tax rate and the 2021-2022 Fiscal Year Budget. Motion carried 7-0.

19. **Consider Resolution 2021-2950 awarding and authorizing an Agreement with DataVox for Camera Installation at Various City Locations**

APPROVED (7 – 0)

Information Services Director Sunny Lindsey reported this project was discussed in previous work sessions and that Council had directed City staff to work with subject matter experts and the Police Department to provide video coverage at various locations within Unity Park. Councilmember Jaworski asked if the cost had changed from what was previously presented. Ms. Lindsey reported the cost was slightly higher due to the request for cameras in two (2) additional areas.

Motion by Councilmember Jaworski, seconded by Councilmember Fiester, to approve Resolution 2021-2950. Motion carried 7-0.

LATE WORK SESSION

- 20. Status Reports on Current Projects and Discussion on Future Agenda Items (A Councilmember may inquire about a subject of which notice has not been given. A statement of specific information or the recitation of existing policy may be given. Any deliberation shall be limited to a proposal to place the subject on an agenda for a subsequent meeting.)**

Mr. Kriston provided an update on the sidewalk and trail project. He reported the contract was awarded in June to DBi Services. Since that time the contract has been executed, a pre-construction meeting was conducted and a notice to proceed was sent to DBi on August 9. Crews have mobilized and are actively working at Victoria Park and will then proceed to work at Brazos Park. These areas will be complete prior to working on the Highland Village Road project. The contract provides 270-calendar days for the project.

Mr. Kriston further reported staff is working on information, as required, to be submitted for review by the Railroad Commission for the Chapel Hill area project.

Deputy Mayor Pro Tem Fleming announced The Glow would be held at The Shops of Highland Village on the evening of November 20. Mayor Pro Tem Lombardo asked the status of the animal control ordinance updates. City Attorney Kevin Laughlin reported it would be provided for the next City Council meeting. City Manager Paul Stevens added information regarding the animal shelter would also be forthcoming.

- 21. Adjournment**

Mayor Wilcox adjourned the meeting at 7:45 p.m.

Charlotte J. Wilcox, Mayor

ATTEST:

Angela Miller, City Secretary

CITY OF HIGHLAND VILLAGE
CITY COUNCIL

AGENDA# 12

MEETING DATE: 08/24/2021

SUBJECT: Consider Ordinance 2021-1285 approving an application for an amendment to the regulations of Planned Development District 2012-1 (PD 2012-1) relating to the development and use of property described as The District of Highland Village located at the northwest corner of the intersection of Briarhill Blvd. and FM 407. (2nd and final read)

PREPARED BY: Autumn Aman, Community Development Coordinator

BACKGROUND:

An application was received for review and consideration from Zack Montana, 120 Main HV Owner, LP, new owners of The District. The applicant is requesting to amend the development regulations of the Planned Development No. 2012-1 relating to the Building Elevations and Building Material Detail List by changing the paint color scheme for the exterior of all buildings within "The District of Highland Village.

IDENTIFIED NEED/S:

A public hearing was held at the August 10, 2021 City Council meeting and the first read of Ordinance 2021-1285 was approved. Approval of the 2nd read of Ordinance 2021-1285 is presented for consideration by Council.

OPTIONS & RESULTS:

Options are to recommend the City Council (1) approve as submitted, (2) approve with modifications, or (3) deny the request. The City Council may also postpone any action in order to receive any additional information which it requests be presented.

PROGRESS TO DATE: (if appropriate)

All notification and public hearing requirements have been met. City staff has received (1) call inquiring only on the nature of this request.

At the July 20, 2021, Planning and Zoning meeting, the Commission voted unanimously to recommend approval by City Council of the draft ordinance as presented. City Council approved the first read of Ordinance 2021-1285 at their August 10, 2021 meeting.

RECOMMENDATION:

To approve Ordinance 2021-1285.

CITY OF HIGHLAND VILLAGE, TEXAS

ORDINANCE NO. 2021-1285

AN ORDINANCE OF THE CITY OF HIGHLAND VILLAGE, TEXAS, DENTON COUNTY, TEXAS, AMENDING THE HIGHLAND VILLAGE COMPREHENSIVE ZONING ORDINANCE AND ZONING MAP BY AMENDING SECTION 2.G AND EXHIBIT “C-3” OF PLANNED DEVELOPMENT NO. 2012-1 (PD 2012-1) FOR RETAIL, OFFICE, AND RESIDENTIAL USES RELATING TO EXTERIOR BUILDING COLORS; PROVIDING FOR A CONFLICTS RESOLUTION CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000) FOR EACH OFFENSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission and the governing body of the City of Highland Village, Texas, in compliance with the laws of the State of Texas and the Ordinances of the City of Highland Village, Texas, have given the requisite notices by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all the property owners generally and to all persons interested and situated in the affected area, and in the vicinity thereof, and in the exercise of its legislative discretion, have conclude that the Comprehensive Zoning Ordinance and Zoning District Map of the City of Highland Village, Texas, as previously amended, should be further amended as follows:

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

SECTION 1. The Comprehensive Zoning Ordinance (“CZO”) and the Zoning Map of the City of Highland Village, Denton County, Texas, as previously amended, be further by amending the development regulations of Planned Development No. 2012-1 (PD-2012-1), as enacted by Ordinance No. 2012-1132 (the PD-2012-1 Regulations”), as follows:

A. Paragraph (3) of Section 2.G is amended to read as follows:

- (3) Exterior building colors shall be substantially similar to the colors listed and shown on Exhibit “C-3” attached hereto and incorporated herein by reference; provided, however, such exterior building colors may be revised from time to time upon approval of a resolution or motion by the City Council.

B. Exhibit “C-3” – Building Elevations and Building Material Detail List is retitled and amended in its entirety as set forth in Attachment 1, attached hereto and incorporated herein by reference.

SECTION 2. All ordinances of the City of Highland Village related to the use and development of the Property heretofore adopted and in effect upon the effective date of this Ordinance are and shall remain in full force and effect except to the extent amended by this Ordinance or to the extent there is an irreconcilable conflict between the provisions of said other ordinance and the provisions of this Ordinance, in which case the provisions of this Ordinance shall be controlling.

SECTION 3. Should any word, sentence, paragraph, subdivision, clause, phrase or section of

this Ordinance, or of the Comprehensive Zoning Ordinance, as amended hereby, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said Ordinance or the Comprehensive Zoning Ordinance, as amended hereby, which shall remain in full force and effect.

SECTION 4. An offense committed before the effective date of this Ordinance is governed by prior law and the provisions of the Comprehensive Zoning Ordinance, as amended, in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 5. Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be subject to the same penalty as provided for in Comprehensive Zoning Ordinance as previously amended, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000) for each offense.

SECTION 6. This ordinance shall take effect immediately from and after its passage on Second Reading and publication of the caption in accordance with the provisions of the Charter of the City of Highland Village, and it is accordingly so ordained.

FIRST READ ON THE 10TH DAY OF AUGUST, 2021, BY THE CITY COUNCIL OF THE CITY OF HIGHLAND VILLAGE, TEXAS.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF HIGHLAND VILLAGE, TEXAS, ON SECOND READING ON THIS THE 10TH DAY OF AUGUST, 2021.

APPROVED:

Charlotte J. Wilcox, Mayor

ATTEST:

Angela Miller, City Secretary

APPROVED AS TO FORM AND LEGALITY:

Kevin B. Laughlin, City Attorney

(kbl:8/2/2021:123547)

**ORDINANCE NO. 2021-1285
ATTACHMENT 1**

**EXHIBIT "C-3"
BUILDING ELEVATIONS- COLOR PALETTE DETAIL LIST
THE DISTRICT OF HIGHLAND VILLAGE**

RAILING

Sherwin Williams, Color, Black

WINDOW MULLIONS

Kawneer at Commercial, JedWeld or equal at Residential, Medium Bronze

ACCENT SYNTHETIC STUCCO

Dryvit, texture Sand pebble, color First Star, Argos, Gauntlet Gray, Foggy Day, or Sea Serpent.

FIELD SYNTHETIC STUCCO

Dryvit, texture Mojave, DPR, color First Star, Argos, Gauntlet Gray, Foggy Day, or Sea Serpent.

FIBER CEMENT SIDING

James Hardie, Hardie Plank, select cider mill, First Star, Argos, Gauntlet Gray, Foggy Day, or Sea Serpent. Located at balconies and interior of stairways

MORTAR

Laticrete, #24 Natural Gray or same color as adjacent brick/masonry

CAST STONE COLUMN BASE

Texas Quarries, Cordova Cream, First Star, Argos, Gauntlet Gray, Foggy Day, or Sea Serpent.

COMPOSITION SHINGLE

Celotex, Presidential Shake, Shadow Gray

ACCENT BRICK

Acme, Denton Plant, Cranberry. Except for first floor of building 1 and 4, and center column on Building C may be First Star, Argos, Gauntlet Gray, Foggy Day, or Sea Serpent.

FIELD BRICK

Acme, Denton Plant, Burgundy, Except for first floor of building 1 and 4, and center column on Building C may be First Star, Argos, Gauntlet Gray, Foggy Day, or Sea Serpent.

EXHIBIT "C-3"
BUILDING ELEVATIONS- COLOR PALETTE DETAIL LIST
THE DISTRICT OF HIGHLAND VILLAGE



EXHIBIT "C-3"
BUILDING ELEVATIONS- COLOR PALETTE DETAIL LIST
THE DISTRICT OF HIGHLAND VILLAGE



EXHIBIT "C-3"
BUILDING ELEVATIONS- COLOR PALETTE DETAIL LIST
THE DISTRICT OF HIGHLAND VILLAGE



EXHIBIT "C-3"
BUILDING ELEVATIONS- COLOR PALETTE DETAIL LIST
THE DISTRICT OF HIGHLAND VILLAGE



CITY OF HIGHLAND VILLAGE
COUNCIL BRIEFING

AGENDA# 13

MEETING DATE: 08/24/2021

SUBJECT: Consider Resolution 2021-2951 approving an Amendment to the Articles of Incorporation of the Highland Village Community Development Corporation relating to the Terms and Term Limits of Members of the Board of Directors

PREPARED BY: Angela Miller, City Secretary

BACKGROUND:

In July 2021, City staff proposed amending the City's Code of Ordinances to exclude from the term limits calculation for board and commission members a term with less than one year remaining resulting from a person being appointed to fill the remainder of the term of a vacant seat. Council approved an ordinance to address this issue, and, at that time, the City Attorney reported the Articles of Incorporation of the Highland Village Community Development Corporation (Corporation) would need to be amended to mirror the change for its Board of Directors.

IDENTIFIED NEED/S:

Article VI of the Articles of Incorporation of the Corporation limits service as a Director on the Corporation's Board of Directors to three (3) consecutive terms. It is unclear whether a partial term served by a person appointed to fill a vacancy is included in the determination of the maximum number of consecutive terms the person may serve as a Director. Proposed Resolution 2021-2951 is presented for Council consideration to amend the Corporation's Articles of Incorporation to clarify whether a short term to fill a vacancy should be included in determination of the maximum number of consecutive terms served as a Director of the Corporation.

OPTIONS & RESULTS:

Proposed Resolution 2021-2951 amends the Corporation's Articles of Incorporation to provide that the term of a person appointed to fill a vacancy on the Board of Directors where the length of the remaining term is less than one (1) year will not be counted for purposes of calculating the maximum number of consecutive terms a person may serve as a Director.

RECOMMENDATION:

To approve Resolution 2021-2951 as presented.

CITY OF HIGHLAND VILLAGE, TEXAS

RESOLUTION NO. 2021-2951

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HIGHLAND VILLAGE, TEXAS, APPROVING AN AMENDMENT TO ARTICLE VI OF THE ARTICLES OF INCORPORATION OF THE HIGHLAND VILLAGE COMMUNITY DEVELOPMENT CORPORATION RELATING TO THE TERMS AND TERM LIMITS OF MEMBERS OF THE BOARD OF DIRECTORS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Article VI of the Articles of Incorporation of the Highland Village Community Development Corporation (the "Corporation") limits service as a Director on the Corporation's Board of Directors to three consecutive terms; and

WHEREAS, said Article VI is unclear whether a partial term served by a person appointed to fill a vacancy is included in the determination of the maximum number of consecutive terms the person may serve as a director; and

WHEREAS, the City Council of the City of Highland Village, Texas, finds it to be in the public interest to amend Article VI of the Articles of Incorporation of the Highland Village Community Development Corporation to clarify whether a short term served to fill a vacancy should be included in determining the maximum number of terms served as a director of the Corporation.

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

SECTION 1. Pursuant to Article VIII of the Articles of Incorporation of the Highland Village Community Development Corporation, the City Council hereby amends Section VI of the Articles of Incorporation of the Highland Village Community Development Corporation by adding the following sentence:

If a person is appointed to fill a vacancy on the Board of Directors and the length of the remaining term for the seat that was vacated is less than one (1) year, such term shall not be counted for purposes of calculating the maximum number of consecutive terms a person may serve as a Director as provided in this Article VI.

SECTION 2. The City Manager, City Attorney, and officers and directors of the Corporation are hereby authorized to prepare and sign such documents as may be required to file with the Texas Secretary of State in order to evidence the adoption of the foregoing amendment to the Articles of Incorporation.

SECTION 3. This resolution shall become effective immediately from and after its passage.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF HIGHLAND VILLAGE,
TEXAS, THIS THE 24TH DAY OF AUGUST 2021.**

APPROVED:

Charlotte J. Wilcox, Mayor

ATTEST:

Angela Miller, City Secretary

APPROVED AS TO FORM AND LEGALITY:

Kevin B. Laughlin, City Attorney
(kbl: 8/19/2021:124253)

CITY OF HIGHLAND VILLAGE

COUNCIL BRIEFING

AGENDA# 15

MEETING DATE: 08/24/2021

SUBJECT: Consider Resolution 2021-2952 Approving and Adopting Rate Schedule Rate Review Mechanism for Atmos Energy Corporation

PREPARED BY: Ken Heerman, Assistant City Manager

BACKGROUND:

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

Since 2007, there have been several modifications to the original RRM Tariff. The most recent iteration of an RRM Tariff was reflected in an ordinance adopted by ACSC members in 2018.

IDENTIFIED NEED/S:

On or about April 1, 2021, the Company filed a rate request pursuant to the RRM Tariff adopted by ACSC members. The Company claimed that its cost-of-service in a test year ending December 31, 2020, entitled it to additional system-wide revenues of \$43.4 million.

Application of the standards set forth in ACSC's RRM Tariff reduces the Company's request to \$40.5 million, \$29.3 million of which would be applicable to ACSC members. ACSC's consultants concluded that the system-wide deficiency under the RRM regime should be \$22.34 million instead of the claimed \$40.5 million. The amount of the \$22.34 million deficiency applicable to ACSC members would be \$16.8 million.

OPTIONS & RESULTS:

After the Company reviewed ACSC's consultants' report, ACSC's Executive Committee and the Company negotiated a settlement whereby the Company would receive an increase of \$22.78 million from ACSC Cities, but with a two-month delay in the Effective Date until December 1, 2021. This should save ACSC cities approximately \$3.8 million.

The Executive Committee recommends a settlement at \$22.78 million. The Effective Date for new rates is December 1, 2021. ACSC members should take action approving the Resolution before October 1, 2021.

Atmos generated proof that the rate tariffs attached to the Resolution will generate \$22.78 million in additional revenues from ACSC Cities. ACSC consultants have agreed that Atmos' Proof of Revenues is accurate.

BILL IMPACT

The impact of the settlement on average residential rates is an increase of \$1.28 on a monthly basis, or 2.2 percent. The increase for average commercial usage will be \$4.03 or 1.61 percent.

BUDGETARY IMPACT/ORDINANCE CHANGE: (if appropriate)

N/A

RECOMMENDATION:

Council to approve Resolution No. 2021-2952.

CITY OF HIGHLAND VILLAGE, TEXAS

RESOLUTION NO. 2021-2952

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HIGHLAND VILLAGE, TEXAS, APPROVING A NEGOTIATED SETTLEMENT BETWEEN THE ATMOS CITIES STEERING COMMITTEE (“ACSC”) AND ATMOS ENERGY CORP., MID-TEX DIVISION REGARDING THE COMPANY’S 2021 RATE REVIEW MECHANISM FILINGS; DECLARING EXISTING RATES TO BE UNREASONABLE; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT; FINDING THE RATES TO BE SET BY THE ATTACHED SETTLEMENT TARIFFS TO BE JUST AND REASONABLE AND IN THE PUBLIC INTEREST; APPROVING AN ATTACHED EXHIBIT ESTABLISHING A BENCHMARK FOR PENSIONS AND RETIREE MEDICAL BENEFITS; APPROVING AN ATTACHED EXHIBIT REGARDING AMORTIZATION OF REGULATORY LIABILITY; REQUIRING THE COMPANY TO REIMBURSE ACSC’S REASONABLE RATEMAKING EXPENSES; DETERMINING THAT THIS RESOLUTION WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; ADOPTING A SAVINGS CLAUSE; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS RESOLUTION TO THE COMPANY AND THE ACSC’S LEGAL COUNSEL.

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

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

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

WHEREAS, on about April 1, 2021, Atmos Mid-Tex filed its 2021 RRM rate request with ACSC Cities based on a test year ending December 31, 2020; and

WHEREAS, ACSC coordinated its review of the Atmos Mid-Tex 2021 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 \$22.78 million applicable to ACSC Cities with an effective date of December 1, 2021; 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 two month delayed Effective Date from October 1 to December 1 will save ACSC ratepayers approximately \$3.8 million off new rates imposed by the attached tariffs (Exhibit A); and

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

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

WHEREAS, the settlement agreement establishes an amortization schedule for regulatory liability prepared by Atmos Mid-Tex (Exhibit C); and

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

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

Section 1. The findings set forth in this Resolution are hereby in all things approved.

Section 2. 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 \$22.78 million for ACSC Cities represents a comprehensive settlement of gas utility rate issues affecting the rates, operations, and services offered by Atmos Mid-Tex within the municipal limits arising from Atmos Mid-Tex's 2021 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. 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. The existing rates for natural gas service provided by Atmos Mid-Tex are unreasonable. The new tariffs attached hereto and incorporated herein as Exhibit A, are just and reasonable, and are designed to allow Atmos Mid-Tex to recover annually an additional \$22.78 million from customers in ACSC Cities, over the amount allowed under currently approved rates. Such tariffs are hereby adopted.

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

Section 6. Subject to any future settlement or decision regarding the balance of Excess Deferred Income Tax to be refunded to ratepayers, the amortization of regulatory liability shall be consistent with the schedule found in Exhibit C, attached hereto and incorporated herein.

Section 7. Atmos Mid-Tex shall reimburse the reasonable ratemaking expenses of the ACSC in processing the Company's 2021 RRM filing.

Section 8. To the extent any resolution or ordinance previously adopted by the Council is inconsistent with this Resolution, it is hereby repealed.

Section 9. 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 10. 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 11. 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 December 1, 2021.

Section 12. 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.

PASSED AND APPROVED BY THE CITY COUNCIL OF HIGHLAND VILLAGE, TEXAS this 24TH DAY OF AUGUST 2021.

APPROVED:

Charlotte J. Wilcox, Mayor

ATTEST:

Angela Miller, City Secretary

APPROVED AS TO FORM AND LEGALITY:

Kevin B. Laughlin, City Attorney

(kbl:8/18/2021;124251)

Exhibit A
to 2021 RRM Resolution 2021-2952

Mid-Tex Tariffs
Effective December 1, 2021

RATE SCHEDULE:	R – RESIDENTIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 12/01/2021	PAGE:

Application

Applicable to Residential Customers for all natural gas provided at one Point of Delivery and measured through one meter.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's monthly bill will be calculated by adding the following Customer and Ccf charges to the amounts due under the riders listed below:

Charge	Amount
Customer Charge per Bill	\$ 20.85 per month
Rider CEE Surcharge	\$ 0.05 per month ¹
Total Customer Charge	\$ 20.90 per month
Commodity Charge – All <u>Ccf</u>	\$0.27979 per Ccf

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Weather Normalization Adjustment: Plus or Minus an amount for weather normalization calculated in accordance with Rider WNA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Agreement

An Agreement for Gas Service may be required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

¹Reference Rider CEE - Conservation and Energy Efficiency as approved in GUD 10170. Surcharge billing effective July 1, 2021.

RATE SCHEDULE:	C – COMMERCIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 12/01/2021	PAGE: Page

Application

Applicable to Commercial Customers for all natural gas provided at one Point of Delivery and measured through one meter and to Industrial Customers with an average annual usage of less than 30,000 Ccf.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's monthly bill will be calculated by adding the following Customer and Ccf charges to the amounts due under the riders listed below:

Charge	Amount
Customer Charge per Bill	\$ 56.50 per month
Rider CEE Surcharge	\$ 0.01 per month ¹
Total Customer Charge	\$ 56.51 per month
Commodity Charge – All Ccf	\$ 0.12263 per Ccf

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Weather Normalization Adjustment: Plus or Minus an amount for weather normalization calculated in accordance with Rider WNA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Agreement

An Agreement for Gas Service may be required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

¹ Reference Rider CEE - Conservation and Energy Efficiency as approved in GUD 10170. Surcharge billing effective July 1, 2021.

RATE SCHEDULE:	I – INDUSTRIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 12/01/2021	PAGE:

Application

Applicable to Industrial Customers with a maximum daily usage (MDU) of less than 3,500 MMBtu per day for all natural gas provided at one Point of Delivery and measured through one meter. Service for Industrial Customers with an MDU equal to or greater than 3,500 MMBtu per day will be provided at Company's sole option and will require special contract arrangements between Company and Customer.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's monthly bill will be calculated by adding the following Customer and MMBtu charges to the amounts due under the riders listed below:

Charge	Amount
Customer Charge per Meter	\$ 1,054.75 per month
First 0 MMBtu to 1,500 MMBtu	\$ 0.4330 per MMBtu
Next 3,500 MMBtu	\$ 0.3171 per MMBtu
All MMBtu over 5,000 MMBtu	\$ 0.0680 per MMBtu

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Curtailment Overpull Fee

Upon notification by Company of an event of curtailment or interruption of Customer's deliveries, Customer will, for each MMBtu delivered in excess of the stated level of curtailment or interruption, pay Company 200% of the midpoint price for the Katy point listed in *Platts Gas Daily* published for the applicable Gas Day in the table entitled "Daily Price Survey."

Replacement Index

In the event the "midpoint" or "common" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" is no longer published, Company will calculate the applicable imbalance fees utilizing a daily price index recognized as authoritative by the natural gas industry and most closely approximating the applicable index.

RATE SCHEDULE:	I – INDUSTRIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 12/01/2021	PAGE:

Agreement

An Agreement for Gas Service may be required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

Special Conditions

In order to receive service under Rate I, Customer must have the type of meter required by Company. Customer must pay Company all costs associated with the acquisition and installation of the meter.

RATE SCHEDULE:	T – TRANSPORTATION	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 12/01/2021	PAGE:

Application

Applicable, in the event that Company has entered into a Transportation Agreement, to a customer directly connected to the Atmos Energy Corp., Mid-Tex Division Distribution System (Customer) for the transportation of all natural gas supplied by Customer or Customer's agent at one Point of Delivery for use in Customer's facility.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's bill will be calculated by adding the following Customer and MMBtu charges to the amounts and quantities due under the riders listed below:

Charge	Amount
Customer Charge per Meter	\$ 1,054.75 per month
First 0 MMBtu to 1,500 MMBtu	\$ 0.4330 per MMBtu
Next 3,500 MMBtu	\$ 0.3171 per MMBtu
All MMBtu over 5,000 MMBtu	\$ 0.0680 per MMBtu

Upstream Transportation Cost Recovery: Plus an amount for upstream transportation costs in accordance with Part (b) of Rider GCR.

Retention Adjustment: Plus a quantity of gas as calculated in accordance with Rider RA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Imbalance Fees

All fees charged to Customer under this Rate Schedule will be charged based on the quantities determined under the applicable Transportation Agreement and quantities will not be aggregated for any Customer with multiple Transportation Agreements for the purposes of such fees.

Monthly Imbalance Fees

Customer shall pay Company the greater of (i) \$0.10 per MMBtu, or (ii) 150% of the difference per MMBtu between the highest and lowest "midpoint" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" during such month, for the MMBtu of Customer's monthly Cumulative Imbalance, as defined in the applicable Transportation Agreement, at the end of each month that exceeds 10% of Customer's receipt quantities for the month.

RATE SCHEDULE:	T – TRANSPORTATION	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 12/01/2021	PAGE:

Curtailment Overpull Fee

Upon notification by Company of an event of curtailment or interruption of Customer's deliveries, Customer will, for each MMBtu delivered in excess of the stated level of curtailment or interruption, pay Company 200% of the midpoint price for the Katy point listed in *Platts Gas Daily* published for the applicable Gas Day in the table entitled "Daily Price Survey."

Replacement Index

In the event the "midpoint" or "common" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" is no longer published, Company will calculate the applicable imbalance fees utilizing a daily price index recognized as authoritative by the natural gas industry and most closely approximating the applicable index.

Agreement

A transportation agreement is required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

Special Conditions

In order to receive service under Rate T, customer must have the type of meter required by Company. Customer must pay Company all costs associated with the acquisition and installation of the meter.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RIDER:	WNA – WEATHER NORMALIZATION ADJUSTMENT	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 12/01/2021	PAGE:

Provisions for Adjustment

The Commodity Charge per Ccf (100 cubic feet) for gas service set forth in any Rate Schedules utilized by the cities of the Mid-Tex Division service area for determining normalized winter period revenues shall be adjusted by an amount hereinafter described, which amount is referred to as the "Weather Normalization Adjustment." The Weather Normalization Adjustment shall apply to all temperature sensitive residential and commercial bills based on meters read during the revenue months of November through April. The five regional weather stations are Abilene, Austin, Dallas, Waco, and Wichita Falls.

Computation of Weather Normalization Adjustment

The Weather Normalization Adjustment Factor shall be computed to the nearest one-hundredth cent per Ccf by the following formula:

$$WNAF_i = R_i \frac{(HSF_i \times (NDD-ADD))}{(BL_i + (HSF_i \times ADD))}$$

Where

i = any particular Rate Schedule or billing classification within any such particular Rate Schedule that contains more than one billing classification

$WNAF_i$ = Weather Normalization Adjustment Factor for the i^{th} rate schedule or classification expressed in cents per Ccf

R_i = Commodity Charge rate of temperature sensitive sales for the i^{th} schedule or classification.

HSF_i = heat sensitive factor for the i^{th} schedule or classification divided by the average bill count in that class

NDD = billing cycle normal heating degree days calculated as the simple ten-year average of actual heating degree days.

ADD = billing cycle actual heating degree days.

BL_i = base load sales for the i^{th} schedule or classification divided by the average bill count in that class

The Weather Normalization Adjustment for the j th customer in i th rate schedule is computed as:

$$WNA_j = WNAF_i \times q_{ij}$$

Where q_{ij} is the relevant sales quantity for the j th customer in i th rate schedule.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RIDER:	WNA – WEATHER NORMALIZATION ADJUSTMENT	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 12/01/2021	PAGE:

Base Use/Heat Use Factors

Weather Station	<u>Residential</u>		<u>Commercial</u>	
	Base use <u>Ccf</u>	Heat use <u>Ccf/HDD</u>	Base use <u>Ccf</u>	Heat use <u>Ccf/HDD</u>
Abilene	11.88	0.1459	85.39	0.6996
Austin	10.34	0.1452	194.82	0.9398
Dallas	15.21	0.1915	148.19	1.0986
Waco	10.63	0.1373	130.39	0.7436
Wichita Falls	12.63	0.1398	109.17	0.5803

Weather Normalization Adjustment (WNA) Report

On or before June 1 of each year, the company posts on its website at atmosenergy.com/mtx-wna, in Excel format, a *Weather Normalization Adjustment (WNA) Report* to show how the company calculated its WNAs factor during the preceding winter season. Additionally, on or before June 1 of each year, the company files one hard copy and an Excel version of the *WNA Report* with the Railroad Commission of Texas' Gas Services Division, addressed to the Director of that Division.

Exhibit B
to 2021 RRM Resolution 2021-2952

Mid-Tex
2021 Benchmark for Pensions
and Retiree Benefits

Line No.	Description	Shared Services		Mid-Tex Direct		Adjustment Total
		Pension Account Plan	Post-Employment Benefit Plan	Pension Account Plan	Supplemental Executive Benefit Plan	
	(a)	(b)	(c)	(d)	(e)	(g)
Proposed Benefits Benchmark - Fiscal Year 2021 Willis Towers Watson						
1	Report as adjusted (1) (2) (3)	\$ 2,917,949	\$ 4,908,358	\$ 5,447,063	\$ 293,818	\$ 6,600,073
2	Allocation to Mid-Tex	43.68%	43.68%	76.11%	100.00%	76.11%
Proposed Benefits Benchmark Costs Allocated to Mid-Tex (Ln 1 x Ln 2)						
3		\$ 1,274,655	\$ 2,144,130	\$ 4,145,546	\$ 293,818	\$ 5,023,057
4	O&M and Capital Allocation Factor	100.00%	100.00%	100.00%	100.00%	100.00%
5	Proposed Benefits Benchmark Costs to Approve (Ln 3 x Ln 4) (3)	\$ 1,274,655	\$ 2,144,130	\$ 4,145,546	\$ 293,818	\$ 5,023,057
6						\$ 12,881,205
7						
8	Summary of Costs to Approve (1):					
9						
10	O&M Expense Factor (WP_F-2.3, Ln 2)	75.07%	75.07%	38.66%	11.00%	38.66%
11						
12						
13	Total Pension Account Plan					\$ 2,559,357
14	Total Post-Employment Benefit Plan	\$ 956,873	\$ 1,609,582	\$ 1,602,484	\$ 32,322	\$ 1,941,691
15	Total Supplemental Executive Benefit Plan					\$ 3,551,272
16	Total (Ln 13 + Ln 14 + Ln 15)	\$ 956,873	\$ 1,609,582	\$ 1,602,484	\$ 32,322	\$ 1,941,691
						\$ 6,142,952

1. Studies not applicable to Mid-Tex or Shared Services are omitted.

2. Mid-Tex is proposing that the Fiscal Year 2021 Willis Towers Watson actuarial amounts shown on WP_F-2.3 and WP_F-2.3.1, be approved by the RRM Cities as the benchmark amounts to be used to calculate the regulatory asset or liability for future periods. The benchmark amount approved by the RRM Cities for future periods includes only the expense amount. The amount attributable to capital is recorded to utility plant through the overhead process as described in the CAM.
3. SSU amounts exclude cost centers which do not allocate to Mid-Tex for rate making purposes.

3. SSU amounts exclude cost centers which do not allocate to Mid-Tex for rate making purposes.

Exhibit C
to 2021 RRM Resolution 2021-2952

Mid-Tex 2021 Schedule for
Amortization for Regulatory Liability

ATMOS ENERGY CORP., MID-TEX DIVISION
RATE BASE ADJUSTMENTS
TEST YEAR ENDING DECEMBER 31, 2020
AMORTIZATION OF REGULATORY LIABILITY

Line No.	Year Ended Dec. 31	Beginning Protected Balance	Protected Amortization	Ending Protected Balance	Beginning Unprotected Balance	Unprotected Amortization	Ending Unprotected Balance	Total Protected & Unprotected Amortization	Total Protected & Unprotected Balance
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
1	2017 (3)	\$ -	\$ -	\$ (51,477,654)	\$ -	\$ -	\$ 343,746,535	\$ -	\$ 292,268,881
2	2018	(51,477,654)	494,977	(50,982,677)	343,746,535	(3,513,868)	340,232,667	(3,018,891)	289,249,991
3	2019	(50,982,677)	1,979,910	(49,002,767)	340,232,667	(14,057,872)	326,174,795	(12,077,963)	277,172,028
4	2020	(49,002,767)	1,979,910	(47,022,857)	326,174,795	(13,988,908)	312,185,886	(12,008,999)	265,163,029
5	2021	(47,022,857)	3,464,842	(43,558,015)	312,185,886	(26,390,127)	285,795,760	(22,925,284)	242,237,745
6	2022	(43,558,015)	1,979,910	(41,578,105)	285,795,760	(60,167,528)	225,628,231	(58,187,619)	184,050,126
7	2023	(41,578,105)	1,979,910	(39,598,195)	225,628,231	(60,167,528)	165,460,703	(58,187,619)	125,862,508
8	2024	(39,598,195)	1,979,910	(37,618,286)	165,460,703	(60,167,528)	105,293,175	(58,187,619)	67,674,889
9	2025	(37,618,286)	1,979,910	(35,638,376)	105,293,175	(60,167,528)	45,125,646	(58,187,619)	9,487,270
10	2026	(35,638,376)	1,979,910	(33,658,466)	45,125,646	(45,125,646)	(0)	(43,145,737)	(33,658,466)
11	2027	(33,658,466)	1,979,910	(31,678,556)	(0)	0		1,979,910	(31,678,556)
12	2028	(31,678,556)	1,979,910	(29,698,647)	-	-		1,979,910	(29,698,647)
13	2029	(29,698,647)	1,979,910	(27,718,737)	-	-		1,979,910	(27,718,737)
14	2030	(27,718,737)	1,979,910	(25,738,827)	-	-		1,979,910	(25,738,827)
15	2031	(25,738,827)	1,979,910	(23,758,917)	-	-		1,979,910	(23,758,917)
16	2032	(23,758,917)	1,979,910	(21,779,007)	-	-		1,979,910	(21,779,007)
17	2033	(21,779,007)	1,979,910	(19,799,098)	-	-		1,979,910	(19,799,098)
18	2034	(19,799,098)	1,979,910	(17,819,188)	-	-		1,979,910	(17,819,188)
19	2035	(17,819,188)	1,979,910	(15,839,278)	-	-		1,979,910	(15,839,278)
20	2036	(15,839,278)	1,979,910	(13,859,368)	-	-		1,979,910	(13,859,368)
21	2037	(13,859,368)	1,979,910	(11,879,459)	-	-		1,979,910	(11,879,459)
22	2038	(11,879,459)	1,979,910	(9,899,549)	-	-		1,979,910	(9,899,549)
23	2039	(9,899,549)	1,979,910	(7,919,639)	-	-		1,979,910	(7,919,639)
24	2040	(7,919,639)	1,979,910	(5,939,729)	-	-		1,979,910	(5,939,729)
25	2041	(5,939,729)	1,979,910	(3,959,820)	-	-		1,979,910	(3,959,820)
26	2042	(3,959,820)	1,979,910	(1,979,910)	-	-		1,979,910	(1,979,910)
27	2043	(1,979,910)	1,979,910	0	-	-		1,979,910	0
28									
29	Revenue Related Tax Factor				See WP_F-5.1			6.79%	
30	Revenue Related Taxes on Annual Amortization				Amortization * Tax Factor		\$	3,949,355	
31	Amortization Including Revenue Related Taxes				Amortization + Taxes		\$	62,136,973	
32									
33	Notes:								
34	1. The annual amortization of the protected balance is a 26 year recovery period based on the Reverse South Georgia Method. The annual amortization of the unprotected balance is 5 years.								
35	2. The Regulatory Liability is recorded to FERC Accounts 253 and 242, Sub Account 27909.								
36	3. This is the final Mid-Tex liability balance filing the Fiscal Year 2018 tax return.								

CITY OF HIGHLAND VILLAGE

COUNCIL BRIEFING

AGENDA# 16

MEETING DATE: 08/24/2021

SUBJECT: Consider Ordinance No. 2021-1286 Amending in its Entirety Chapter 4 “Animal Control” of the City of Highland Village Code of Ordinances (1st of two reads)

PREPARED BY: Doug Reim, Chief of Police

BACKGROUND:

The City’s animal control regulations have not been reviewed in their entirety and substantially updated since 1999. However, significant substantive changes may actually have been earlier than 1999 since 1999 was the year in which the City Code was recodified (there has been another recodification since that date). Since 1999, a number of changes in state law relating to the keeping and care of animal, such as regulations relating to the tethering of dogs and the declaration and disposition of dangerous dogs, have been enacted that are not currently reflected or possibly conflict with current ordinances. In addition, the City has seen changes in the operational practices of its Animal Care Services that are not currently in sync with the current City ordinances. The City’s current ordinances also do not provide for regulations over activities that have become popular during the 22 years since the last revisions, such as keeping chickens for production of eggs for personal consumption and beekeeping at home. Finally, as often happens with regulations that are modified by different city staffs, city attorneys, and city councils over a long period of time, language in different parts of the ordinance has become internally conflicting or fails to use the same words to mean the same defined term. Following discussions between City staff and City Council, City staff proceeded to conduct a comprehensive overhaul of Chapter 4 of the Code of Ordinances with input from City Council, the City Prosecutor, City Staff, and the City Attorney. The review of the City’s animal control regulations also included an extensive review of animal control ordinances of other cities throughout Texas and, in particular, the DFW area.

IDENTIFIED NEED/S:

Review and amend in its entirety Chapter 4 of the Code of Ordinances to ensure the City’s animal control ordinances (1) are consistent with current state law and City operational practices, (2) add regulations to address subject matters not presently covered in the City’s ordinances; and (3) perform a general clean up of archaic language and organization of Chapter 4 to make it easier to understand and enforce.

OPTIONS & RESULTS:

N/A

PROGRESS TO DATE: (if appropriate)

Review of the City's animal control regulations began in September 2020 with numerous internal reviews and meetings. Ms. Emily Bowen, with our City Prosecutor's Office, provided valuable review and input before presentation to the City Attorney. These internal meetings were attended by our current Senior Animal Care Officer, Wes Fiddes, Chief Doug Reim, Assistant Chief Mark Stewart, and Support Services Commander Sheri Morrison.

There were two early work sessions with the City Council (April 13, 2021 and April 27, 2021) in which these updates were also discussed with the City Council. These discussions generated more updates to the working document. City staff presented the draft changes to the City Attorney, who conducted a review of all of Chapter 4 for the purpose of modifying and modernizing and simplifying language, ensure internal consistency of defined terms, and eliminate language that was either duplicated or internally conflicting. The final draft of the proposed ordinance contained in the agenda packet has been prepared by the City Attorney and reviewed and approved by City staff.

BUDGETARY IMPACT/ORDINANCE CHANGE: (if appropriate)

N/A.

RECOMMENDATION:

Approve as presented on first reading Ordinance No. 2021-1286.

CITY OF HIGHLAND VILLAGE, TEXAS

ORDINANCE NO. 2021-1286

AN ORDINANCE OF THE CITY OF HIGHLAND VILLAGE, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF HIGHLAND VILLAGE, BY AMENDING IN ITS ENTIRETY CHAPTER 4 "ANIMAL CONTROL" RELATING TO THE REGULATION OF THE CARE AND KEEPING OF ANIMALS WITHIN THE CITY LIMITS; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR FINES AS SET FORTH IN SAID CHAPTER 4; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Council of the City of Highland Village, Texas, finds that is in the public health and safety to revise and update the City's regulations relating to the care and keeping of animals within the City's corporate limits.

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

SECTION 1. The Code of Ordinances of the City of Highland Village, Chapter 4 "Animal Control" is amended in its entirety to read as set forth in Exhibit "A," attached this Ordinance and incorporated herein by reference.

SECTION 2. 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 Ordinance as a whole.

SECTION 3. Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be punished by a fine not to exceed the amounts set forth in Chapter 4 of the Code of Ordinances, as amended hereby for each offense; and each and every day such violation shall continue shall be deemed to constitute a separate offense.

SECTION 4. This ordinance shall take effect on October 1, 2021, following its passage on Second Reading and publication of the caption in accordance with the provisions of the Charter of the City of Highland Village, and it is accordingly so ordained.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF HIGHLAND VILLAGE, TEXAS, ON FIRST READING ON THIS THE 24TH DAY OF AUGUST 2021.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF HIGHLAND VILLAGE, TEXAS, ON SECOND READING ON THIS THE ____ DAY OF _____ 2021.

APPROVED:

Charlotte J. Wilcox, Mayor

ATTEST:

Angela Miller, City Secretary

APPROVED AS TO FORM AND LEGALITY:

Kevin B. Laughlin, City Attorney
(kbl:8/19/2021:123986)

ORDINANCE NO. 2021-1286
EXHIBIT “A”

CHAPTER 4
ANIMAL CONTROL

ARTICLE 4.01 GENERAL PROVISIONS

Sec. 4.01.001 Definitions

The following words, terms, and phrases, when used in this chapter, have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning, or as provided for in applicable state law:

Abandon. Leaving any animal in an enclosure or location without providing food, water, adequate shelter from sun, excessive heat or cold, rain, hail, ice, or snow, or failing to provide veterinary care when needed to prevent suffering. This definition also includes leaving any animal(s) at a residence or location that is not occupied by a person greater than fifty percent (50%) of time during any thirty (30) day period.

Altered Animal (Spayed/Neutered). Any animal, male or female, whose reproductive organs have been surgically removed.

Animal. Any living creature, including, but not limited to, dogs, cats, cows, horses, birds, fish, mammals, reptiles, insects, fowl, and livestock, but specifically excluding human beings.

Animal Care Services. A unit within the city responsible for the investigation and/or enforcement of the Animal Control chapter of the city’s ordinances(s).

Animal Control Officer or ACO. The person(s) designated by the city manager or, when required, the city council, to represent and act for the city in the impoundment of animals, controlling of stray animals, rabies control and eradication, investigation and/or enforcement of animal control ordinances, and as otherwise required in this chapter, that have successfully completed the training required by Chapter 829 of the Texas Health and Safety Code, as amended, including any required continuing education training. The term also includes a city employee who is an authorized designee of the ACO.

Animal Shelter. Any facility operated by a county or municipal agency or its authorized agents for the purpose of impounding or caring for animals held under the authority of this chapter and operating pursuant to Chapter 823 of the Texas Health and Safety Code, as amended.

Assistance Animal. Any guide dog, signal dog, or other animal individually trained to do work or perform tasks for the benefit of an individual with special needs, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, fetching dropped items, or any other assistance animal as identified by state law.

At Large. An animal that is not confined to the premises of its owner or of the person who at the time possess the animal pursuant to authority of the animal’s owner by a containment device of sufficient strength and/or height to prevent the animal from escaping from such premises, or so arranged that the animal does not remain upon such premises when the device is stretched to full length in any direction. An animal shall not be considered at large when held and controlled by a person by means of a leash or chain of proper strength and length to control the actions of the animal.

Auction. Any place or facility where, or the process by which, animals are bought, sold, or traded, except for those facilities otherwise defined in this chapter. This definition does not apply to individual sales

of animals by owners.

Basic grooming. Maintaining the eyes, ears, beaks, hooves, feet, nails, coat, and skin of an animal in such a manner that is reasonably necessary for the health and safety of the animal.

Cat. Animals of the feline species of all ages, both male and female.

Confinement. That state of being enclosed within a house, garage, or other building, or confined by leash or chain affixed to the animal's collar, under the control of a person, and adequate to prevent the animal from running at large.

Dangerous Animal. An animal, other than a dog, that:

- (1) Commits an unprovoked attack on a human being resulting in bodily injury and occurring in a place other than an enclosure in which the animal was being kept that was reasonably certain to prevent the animal from leaving the enclosure on its own;
- (2) Commits an unprovoked act in a place other than an enclosure in which the animal was being kept that was reasonably certain to prevent the animal from leaving the enclosure on its own, and those acts cause a person to reasonably believe that the animal will attack and cause bodily injury to the person;
- (3) Commits an unprovoked attack on a domestic animal or domestic fowl that causes bodily injury or death when such animal is at large; or
- (4) Has a history to run, worry or kill goats, sheep or waterfowl or other animals owned by a person.

Dangerous Dog. A dog that:

- (1) Makes an unprovoked attack on a person that causes bodily injury and occurs in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own; or
- (2) Commits unprovoked acts in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own and those acts cause a person to reasonably believe that the dog will attack and cause bodily injury to that person.

Dangerous Wild Animal. Any animal not normally considered domesticated which, because of its size, vicious nature, or other natural characteristic would constitute a danger to human life, property, or domestic animals, or any animal that is restricted from ownership by any state or federal law including, but not limited to, the following animals:

- (1) Reptiles: venomous reptiles, crocodiles, or alligators;
- (2) Birds: emus, ostriches, rheas, and any species illegal to own under federal or state law;
- (3) Mammals: ocelots, lions, tigers, jaguars, leopards, cougars, bobcats, wolves, dingoes, coyotes, jackals, elephants, weasels, martins, minks, badgers, pandas, bears, raccoons, bats, foxes, skunks, cheetahs, servals, caracals, hyenas, baboons, chimpanzees, orangutans, gorillas, lynx, bears, and any species illegal to own under federal or state law, and any animals which are, or may be hereafter, listed as a "high risk" animal in the Texas Rabies Control Act; or
- (4) Any hybrid of any animal classified as a "dangerous wild animal."

Dog. Animals of the canine species of all ages, both male and female.

Domestic Animal. Any animal that may be kept as a pet within the city so long as all of the required provisions of this chapter are met, and is not a dangerous animal, or a wild animal, including, but not limited to the following animals:

- (1) Reptiles: any non-venomous reptile that is not protected from ownership by any state or federal law;
- (2) Birds: any birds commonly kept as pets that are not protected from ownership by any state or federal law, or any bird kept for falconry purposes by a state and federally permitted falconer;
- (3) Fish: any fish commonly kept as pets that are not protected from ownership by any state or federal law; or
- (4) Mammals: include any mammals commonly kept as pets including but not limited to dogs, cats, ferrets, rabbits, guinea pigs, hamsters, hedgehogs, rats, mice, chinchillas, and sugar gliders.

Dispense. Sending an animal to a rescue organization, adopt out the animal to an owner, or humanely euthanizing an animal.

Dispose. Transporting an animal to another location for destruction.

Eartipping. The removal of the distal one-quarter of a feral cat's left ear, which is approximately 3/8-inch, or 1 cm, in an adult and proportionally smaller in a kitten performed under sterile conditions while the cat is under anesthesia, in compliance with any applicable federal or state law, and under the supervision of a licensed veterinarian. Eartips are designed to identify a feral cat as being sterilized and lawfully vaccinated for rabies.

Estray. Any branded or unbranded livestock, fowl, exotic livestock, or exotic fowl running at large.

Exotic Animal. An animal not defined elsewhere in this chapter

Feral Cat. A cat that is:

- (1) born in the wild or is the offspring of an owned or feral cat and is not socialized;
- (2) is a formerly owned cat that has been abandoned and is no longer socialized; or
- (3) living on a farm.

Foster Care Animal. Any animal under the control of a member of a recognized local humane organization.

Fowl. Chickens, turkeys, pheasants, quail, geese, ducks, or similar feathered animals, regardless of age, sex, or breed, excluding ostriches, emus and/or rheas.

Guard Dog. Any dog that will, due to training, handling, or conditioning, detect and warn its handler that an intruder is present in or near an area that is secured, and that may respond on command or independently to protect its owner or handler or any property belonging to them.

Harbor. The act of knowingly or intentionally keeping and/or caring for an animal or providing a premises to which an animal returns for food, shelter, care, or protection from impoundment.

Humane Trap. Any trap designed to capture an animal without injuring the animal.

Invisible Fence. An electronic system designed to keep a domestic animal within a set of predefined boundaries without the use of a physical barrier by which a mild electric shock to the animal can be delivered by an electronic collar if a warning sound is ignored.

Livestock. Species of animals that are normally suited for, or are kept or used on, a farm, ranch or similar setting for agricultural purposes such as animal husbandry, food or food production, production of fiber or clothing material, riding, driving, pulling, hauling, commerce, or similar purpose. For purposes of this chapter, the following and similar species of animals shall be considered to be livestock, regardless of age, breed, or sex, unless otherwise stated herein or determined by the ACO.

- (1) Bovine - The biological subfamily Bovinae includes a diverse group of ten (10) genera of medium to large-sized ungulates, including domestic cattle, bison, African buffalo, water buffalo, and antelopes.
- (2) Equine - A term relating to horses, mules, zebras, and asses (the correct term for a donkey, burro, or jackstock).
- (3) Goats (Caprine) – The domesticated form of capra hircus and includes, but is not limited to, domestic goats, pygmy goats, dwarf goats, fainting goats, angora goats, etc.
- (4) Sheep (Ovine) – A term relating to sheep and includes, but is not limited to, domestic sheep, hampshire, suffolk, shropshire, churra, etc.
- (5) Swine (Porcine) - A term relating to swine and includes, but is not limited to, domestic pigs, miniature pigs, pot-bellied pigs, Hampshire pigs, American Yorkshire pigs, Hereford pigs, etc.
- (6) Ruminant – Even-toed ungulate mammals that chew the cud regurgitated from its rumen and includes, but is not limited to, cattle, sheep, antelope, deer, giraffe, and their relatives.
- (7) Camelid – Any even-toed, ruminant mammals having a three-chambered stomach and including, but not limited to, camels, llamas, guanaco, alpaca, and vicuna.

Local Rabies Control Authority (LRCA). The person designated by the city council pursuant to Texas Health and Safety Code §826.017, as amended.

Local Rabies Control Incident. Any bite, scratch, or other injury to a person caused by a warm-blooded animal that breaks the person's skin and/or causes the person to bleed and potentially come into contact with the injuring animal's saliva and could therefore allow the rabies virus to be transmitted from the animal to the person.

Microchip Implant. A passive electronic device injected into an animal by means of a hypodermic-type syringe device that contains a unique and original read by an electronic scanning device for purposes of animal identification and recovery by the animal's owners.

Owner. Any person who has legal or equitable title to any animal, harbors, or keeps any animal in the person's possession, or permits any animal to remain on or about the person's premises.

Possession. Actual care, custody, control, or management of a certain animal.

Premises. A parcel of land of one or more continuous lots.

Prohibited Animal. An animal not normally born and raised in captivity, including, but not limited to, the following:

- (1) *Class Reptilia.* Family Helodermatidae (venomous lizards) and Family Hydrophiidae (venomous marine snakes); Family Viperidae (rattlesnakes, pit vipers and true vipers); Family Elapidae (coral snakes, cobras, and mambas); Family Columbridae-Dispholidus Typus (boomslang); Bioga Dendrophilia (mangrove snake) and Kirklandii (twig snake only); and Order Crocodilia (such as crocodiles and alligators).
- (2) *Class Mammalia.* Order Carnivores.
 - (A) Family Felidea (such as lions, tigers, bobcats, jaguars, leopards, cougars and savanah cats – hybrid of serval), except commonly domesticated cats;
 - (B) Family Canidae (such as wolves, dingoes, coyotes, foxes, and jackals), and any hybrid of an animal listed in this section except commonly domesticated dogs;
 - (C) Family Mustelida (such as weasels, skunks, martins, minks, badgers, and otters) except ferrets;
 - (D) Family Procyonidae (such as raccoons and coati);
 - (E) Family Ursidae (such as bears);
 - (F) Marsupialia (such as kangaroos, opossums, koala bears, wallabies, bandicoots, and wombats);
 - (G) Chiroptera (bats);
 - (H) Edentata (such as sloths, anteaters, and armadillo);
 - (I) Probosidea (elephants);
 - (J) Primata (such as monkeys, chimpanzees, orangutans, baboons, and gorillas); or
 - (K) Rodentia (such as beavers and porcupines).
- (3) *Class Amphibi.* Poisonous frogs; does not include non-venomous reptiles or non-venomous snakes.
- (4) *Exceptions.* Any of the above animals may be permitted if under the care of a person who holds a Texas state licensed wildlife rehabilitation permit pursuant to the Texas Administrative Code, Title 31, Part 2, Chapter 69, Subchapter C, as amended, and presents such valid permit to Animal Care Services.

Public Nuisance Animal. Any animal that unreasonably disturbs one or more people, endangers the life or health of another animal or person, or substantially interferes with the rights of one or more people, other than the animal's owner, to the enjoyment of life and property. The term "public nuisance animal" shall mean and include, but is not limited to, any animal that:

- (1) Is repeatedly found at large;
- (2) Damages the property of anyone other than its owner;

- (3) Molests or intimidates pedestrians or passersby;
- (4) Chases vehicles or molests, attacks, or interferes with other animals or people, or is at large on public or private property;
- (5) Excessively makes disturbing noises, including, but not limited to, continued and repeated howling, barking, whining, or other utterances causing unreasonable annoyance, disturbance, or discomfort to one or more people of reasonable sensitivity in close proximity to the premises where the animal is kept or harbored;
- (6) Causes fouling of the air by odor and thereby creates unreasonable annoyance, disturbance, or discomfort to one or more people of reasonable sensitivity in close proximity to the premises where the animal is kept or harbored;
- (7) Creates a condition that is dangerous to human life or health, renders the ground, the water, the air, or the food a hazard or injurious to human life or health or that is offensive to the senses, or that is detrimental to the public health;
- (8) Attacks other domestic animals; or
- (9) Damages, soils, defiles, or defecates on private property, other than the owner's property, or on public walks or recreation areas unless such waste is immediately removed and properly disposed of by the owner.

Quarantine. To confine and isolate from people and other animals in a state-approved quarantine facility or in compliance with all stipulations of a home quarantine when allowed by the LRCA.

Shelter. An adequately ventilated structure that is capable of providing cover and protection from the weather constructed with a minimum of three sides with a top and a bottom, and bedding material, and large enough so that the animal can enter, stand, turn around, and lie down, but small enough to prevent the loss of body heat during cold weather.

Stray. An animal that is not properly restrained and that wanders upon a public place, roadway, street, highway, or the property of another person.

Trap-Neuter-Release. Means the process of humanely trapping, sterilizing, vaccinating for rabies, ear-tipping, tattooing, and returning feral cats to their original location.

Unaltered Animal (Not Spayed/Not Neutered/Intact). Any animal, male or female, whose reproductive organs are intact and functional.

Vaccination. An injection of any vaccine to produce immunity against a disease or inoculation approved by the department of state health services and administered or supervised by a licensed veterinarian.

Sec. 4.01.002 Penalties

- (a) Unless otherwise stated in this Chapter, a person convicted of a violation of this Chapter shall be as provided in Sections 1.01.009(a) and (e) of this Code.
- (b) Any person commits an offense if, with intent to deceive, he knowingly makes a false report or statement, either verbal or written, that is material to an investigation of an alleged violation of this chapter to an Animal Control Officer, police officer, or other person authorized to enforce provisions of this chapter.

- (c) A person who intentionally or knowingly interferes with the ACO in the performance of the ACO's duties under this chapter commits an offense under this chapter.
- (d) Nothing in the Chapter, including but not the provisions of this section, shall be construed as prohibiting or limiting the assessment of fines and/or penalties upon conviction of a person for a violation of state and/or federal law for acts or omissions that also constitute a violation of this Chapter.

Sec. 4.01.003 Fee schedule

The following fees shall be adopted from time to time by resolution or ordinance approved by the City Council and included in the City's Master Fee Schedule:

- (a) impoundment fee;
- (b) boarding fees;
- (c) rabies vaccination;
- (d) registration;
- (e) veterinary bills;
- (f) rabies quarantine;
- (g) rabies specimen testing;
- (h) owner release;
- (i) deceased animal removal;
- (j) flea treatment; and
- (k) bordetella vaccination.

The City Council may authorize the City Manager from time to time by resolution to reduce, refund, or waive fees under this chapter.

Sec. 4.01.004 Enforcement; citations; authority of ACO

- (a) Enforcement generally; citations. The ACO shall have the authority to issue a citation for any violation of this chapter. It shall be unlawful for any person, upon being issued a citation, to intentionally or knowingly give the ACO a name or address other than the person's true name and address. If the person being cited is not present, the ACO or designee may send the citation to the alleged offender by certified mail, or registered mail, return receipt requested, whereupon service shall be deemed completed. Each animal with respect to which there is a violation and each day that a violation continues is a separate offense.
- (b) Right to ingress: The ACO shall have the right of ingress on any property within the city in order to carry out the provisions of this chapter, and to determine the condition of any animal, bird, or fowl. However, in no event shall the ACO enter a structure used for human habitation without consent of the occupant unless first securing a search or arrest warrant and/or securing consent of the owner of the property for a premises inspection provided for in Section 4.01.007. The ACO shall have the right of ingress and egress on private property for the purpose of apprehending an animal at large.

- (c) Authority to carry tranquilizer guns., the ACO is hereby authorized to carry a loaded tranquilizer gun approved by the Chief of Police or appropriate city official on the ACO's person, or in city vehicles, when acting in the course and scope of the ACO's employment and may use the tranquilizer gun only in the lawful discharge of the ACO's duties.
- (d) Authority to euthanize animals. The ACO shall have the authority to humanely euthanize animals in accordance with Section 821.052 of the Texas Health and Safety Code and the Euthanasia Reference Manual, as published and amended by the Humane Society of the United States, only in situations allowing euthanization by the Texas Penal Code or any applicable state law.
- (e) Authority to use other weapons. The ACO shall have the authority to use other weapons upon demonstration of proficiency, which will be documented through a valid Use of Force Report on file with Animal Care Services. Qualifications for firearms will be achieved through the Police Department. Other weapons shall only be used in the lawful discharge of the ACO's duties and shall not be used in violation of any applicable state law.

Sec. 4.01.005 Public nuisance animals

- (a) Keeping excessive number of animals; animals creating disturbance.
 - (1) No person shall keep or harbor on the person's premises, or elsewhere in the city, more than the maximum number of animals permitted by this chapter.
 - (2) No person shall keep or harbor on the person's premises or elsewhere any animal or fowl of any kind that makes or creates a disturbance to the occupants of adjacent premises or persons living in the vicinity thereof or permit such animal to make or create disturbing noises by howling, barking, crowing, bawling or otherwise. If such disturbance creates a sound pressure level exceeding 65 dB(A) at the property boundary of the premises where the animal or fowl is located not less than five (5) times in a thirty (30) minute period, such person shall be presumed to have violated this section.
- (b) Animals emitting odors; pest control. It shall be unlawful for any person to maintain any animal or fowl in such a manner that people present on adjacent or nearby property are subjected to obnoxious odors. All persons keeping animals shall keep their premises clean and free from obnoxious odors as well as flies, mosquitoes, and other insects.
- (c) Poop and Scoop.
 - (1) It is an offense for any person to harbor or keep an animal on the person's premises, or on or about premises under the person's control, to allow such premises to become a hazard to the general health and welfare of the community or allow such premises to give off obnoxious or offensive odors due to the activity or presence of such animals.
 - (2) It is an offense for any person to allow the person's animal to defecate on public property or on the property of another and fail to immediately remove such waste.
- (d) Animals trespassing, attacking other animals, or damaging property. It shall be unlawful for any person to maintain any animal in any area which constitutes a nuisance by reason of repeated trespassing on public or private property, attacks on other animals, or damage to public or private property.
- (e) Surgical alteration required. Any owner of a dog or cat who has a documented restraint violation in accordance with this chapter on three (3) occasions within a twelve-month period shall have

the animal spayed or neutered not later than seven (7) days of written notification by the ACO. Verification from the veterinarian performing the surgery shall be provided to the ACO in writing within seven (7) days of the surgery.

Sec. 4.01.006 Inspection of premises where animals are kept

Upon receiving a complaint, premises where livestock, fowl, or animals are kept or maintained shall be subject to inspection, by the ACO at any reasonable hour of the day in the presence of the owner. If such premises is within a structure used for human habitation, the ACO shall not enter for inspection without consent of the occupant without first securing a search or arrest warrant and/or securing consent of the owner.

Sec. 4.01.007 Right of occupant of premises to confine stray animal

If a stray animal is found upon the premises of another, the occupant of the premises may confine the animal only for so long as reasonably necessary to notify the ACO and for the ACO to have the animal impounded. In attempting to confine the animal, the occupant shall not use any force that is intended or known by the occupant to cause, or in the manner of its use is capable of causing, death or injury to the animal.

Sec. 4.01.008 Abandonment of animal

It shall be unlawful for any person to abandon any animal within the corporate limits of the city.

Sec. 4.01.009 Confinement of animal in vehicle

- (a) An animal shall not be confined in a vehicle unless the windows of the vehicle are all at least partially open, and unless the temperature or other conditions do not threaten the health of the animal. If an animal is confined in a vehicle in a manner that the ACO believes threatens its health, any ACO, peace officer, or firefighter/paramedic may enter the vehicle by whatever force is necessary to release the animal without liability upon the City for any resulting damage to person and property.
- (b) Any person who owns or has custody or control of an animal that has been confined in a vehicle in a way that threatens its health may be charged with a violation of this chapter.
- (c) Any animal that has been confined in a vehicle in violation of this chapter may be impounded. In the event of any such impoundment, the owner or keeper of the animal shall be liable for all costs and expenses of impounding or keeping the animal before the animal is returned to owner.

Sec. 4.01.010 Reporting injury to animal

Any operator of a motor vehicle who strikes a domestic animal shall immediately report such injury or death to the animal's owner and/or the Highland Village Police Department.

Sec. 4.01.011 Indecent exhibitions

No person shall exhibit any animal indecently, nor shall any person let any male animal to any female animal unless the same be done in some place wholly enclosed and out of public view.

Sec. 4.01.012 Disposal of dead animals

It shall be the responsibility of the owner of an animal or the property owner where an animal has died to properly dispose of the dead animal within a twenty four (24) hour period. The ACO has the authority to retrieve and dispose of any dead animal found on public property, including assisting a citizen with

such disposal, if requested. The owner of the property from which a dead animal is removed by the ACO shall be responsible for the payment of fees for such removal.

Sec. 4.01.013 Keeping dangerous wild animals

It is an offense to possess, confine or care for a dangerous wild animal within the City.

Sec. 4.01.014 Special requirements for certain animals

- (a) Fowl and domestic animals. Any pen or enclosure in which fowl, rabbits, guinea pigs, or other domestic animal(s) are kept must be secure and cleaned and disinfected daily. Litter and droppings from such fowl, rabbits, guinea pigs, and other domestic animal(s) must be collected daily and hauled away.
- (b) Keeping Honeybees.
 - (1) Restrictions. A person may not keep a bee colony that causes a threat to human or animal health or interferes with normal use and enjoyment of public or private property.
 - (2) Apiary maintenance.
 - a. A person shall provide a source of water within twenty (20) feet of a bee colony to prevent the bees from congregating at a water source used by humans, birds, or domestic pets.
 - b. A person shall store or dispose of bee comb or other material removed from a hive in a sealed container, building or other bee-proof enclosure.
 - (3) Hive location.
 - a. A person shall not locate a hive within fifty (50) feet of the property line of a habituated tract of land, as measured from the nearest point of the hive to the property line.
 - b. A person, who keeps a bee colony within one hundred (100) feet of the property line of a habitat tract, as measured from the nearest point of a hive to the property line, shall establish and maintain a flyway barrier parallel to the property line and notify the other property owner(s) of the bee's presence.
 - (4) Colony density.
 - a. A person may not keep more than:
 - (1) Two (2) bee colonies on a tract one-quarter acre in area or smaller.
 - (2) Four (4) bee colonies on a tract larger than one-quarter acre in area but smaller than one-half acre in area.
 - (3) Six (6) bee colonies on a tract one-half acre or more in area but smaller than one acre in area.
 - (4) Eight (8) colonies on a tract one acre or more in area.
 - (5) Hive identification and ownership.

- a. Except as provided in paragraph b., below, a person shall:
 - (1) Brand, paint, or otherwise clearly mark the apiary owner's name and telephone number on at least two hives placed at opposite ends of an apiary; or
 - (2) Post a conspicuous sign displaying the apiary owner's name and telephone number at the entrance to the apiary tract.
- b. A person is not required to place owner identification on or near a colony located on a tract on which the owner resides.
- (6) Destruction of wild or abandoned bees.
- (c) Animal Care Services may order the relocation or destruction by a qualified beekeeper at the owner's expense of a colony not residing in a hive, a swarm of bees, or a colony residing in an abandoned standard or manmade hive, if contaminated with or known to have Africanized honeybees (killer bees).
- (d) Potbellied pigs. Potbellied pigs kept in the City:
 - (1) may not exceed eighteen (18) inches at the shoulders;
 - (2) may not weigh more than sixty (60) pounds;
 - (3) shall be kept inside the owner's residence other than at those times necessary for the elimination of waste or for exercise; and
 - (4) must be spayed or neutered and have their tusks removed.
- (e) Ferrets. Ferrets kept in the City shall be spayed or neutered and kept inside the owner's residence at all times. Cages used for the keeping of these animals must be maintained in a clean and sanitary condition at all times.
- (f) Pygmy goats. Pygmy goats kept in the City must be spayed or neutered.
- (g) Exotic animals. It shall be unlawful for any person to keep exotic animals in the City without first obtaining a permit from Animal Care Services. Such permit shall be valid only for the location for which it is issued. Only a person who complies with the requirements of this chapter shall be entitled to receive and retain a permit pursuant to the Subsection (h). Every person who is the keeper of any exotic animals shall make an application in writing for a permit to keep such exotic animals upon forms prescribed and furnished by Animal Care Services. Permits issued pursuant to this Subsection (h) shall be valid for one year from the date of issuance.
 - (1) Applications for a permit to be issued pursuant to this Subsection (h) shall include the following information:
 - a. Name, address, and telephone number of the person making the application;
 - b. Driver's license number, state of issuance, and date of birth of the person making the application;
 - c. The name, description, species, sex, age, and number of exotic animal(s) to be kept at the premises;

- d. A statement giving permission for the ACO to inspect the premises where the exotic animal is kept;
- e. Signature of the applicant; and
- f. Signature of the ACO approving the permit.

Applications must be accompanied by the required fee.

- (2) Each exotic animal must be provided with a separate, adequate cage or enclosure and shall remain separated from other exotic animals at all times, which cage or enclosure shall be:
 - a. constructed in a manner capable of preventing the animal from escaping;
 - b. large enough to afford the animal mobility and allow it to turn, stretch and move about at will;
 - c. maintained in a clean and sanitary condition at all times; and
 - d. located within a structure equipped with climate control for both heat and cooling.
- (3) A permit for the keeping of exotic animals may be revoked as follows:
 - a. Upon receiving a written complaint regarding the keeping of exotic animals, the ACO shall investigate the complaint and report all findings on a prescribed form for such investigation.
 - b. The ACO may revoke or deny any exotic animal permit and impound any exotic animals under certain conditions, including, but not limited to:
 - (1) After determining, with the assistance of a veterinarian, that the animal was abused or neglected;
 - (2) The holder of the permit is found to be in violation of this chapter; or.
 - (3) The holder of the permit is harboring on the premises for which the permit is issued exotic animals in addition to those specified on the permit.

Sec. 4.01.015 Humane live traps

- (a) Humane traps shall be used to trap animals within the city, whether on public or private property. The person who places the trap, or who requests its placement, shall be responsible for checking the trap, the care of the animal while it is in the trap, and the notification to Animal Care Services of any captured animal. All traps shall be checked at least daily.
- (b) No traps shall be placed upon public or private property prior to issuance of a trapping permit by Animal Care Services. A trapping permit will be valid for ninety (90) days from the date of issuance following payment of the fee set forth in the City's master fee schedule. The person setting the trap shall properly label the trap, indicating the name and contact information for the owner and the date permission was obtained from Animal Care Services for setting the trap.
- (c) Offenses. A person commits an offense if the person:

- (1) Places and/or baits, or allows the placing and/or baiting, of a steel-jawed trap, a body hold trap, any snare trap, any noose-type trap, or any other trap designed, used, or adapted to be lethal or cause serious bodily injury or death of an animal;
 - (2) Places and/or allows the placing of any substance, article, or bait that has in any manner been treated with any poisonous or toxic substance, including anti-freeze, or any drug in any place accessible to human beings, birds, dogs, cats or any other animal with the intent to kill or harm;
 - (3) Fails to check a trap the person has placed and/or baited, or allowed to be placed and/or baited, at least once every twenty-four (24) hours;
 - (4) Places and/or baits, or allows the placing and/or baiting, of any trap without first obtaining written permission from Animal Care Services when the low temperature is expected to be below thirty-five (35) degrees Fahrenheit, is above one-hundred (100) degrees Fahrenheit, or when a weather advisory has been issued;
 - (5) Places and/or baits a trap, or allows the placing and/or baiting of any trap, designed for trapping animals on any highway, street, alley, or other public place within the city unless written permission by Animal Care Services has been previously granted. This subsection (c)(5) shall not apply to a city enforcement agent or an agency with written permission from Animal Care Services for placing the trap on public property;
 - (6) Removes, alters, damages, or otherwise tampers with a trap or equipment belonging to or placed at the request of Animal Care Services; or
 - (7) Places and/or baits a trap, other than a commercially available trap solely designed to exterminate mice, rats, or insects, for commercial profit, without identifying the trap with the name, telephone number, and Texas Department of Agriculture Structural Pest Control Applicator license number of the applicator who placed and baited the trap. Commercial traps that are not readily identifiable are subject to seizure and fine.
- (d) Any trap found to be set in violation of this chapter may be confiscated by an Animal Control Officer or city enforcement agent and held as evidence in the case for the offense.
- (e) It is a defense to a violation of this section if the person is exterminating rats, mice, or insects through the use of traps, poisons, or any commercially available means when used in the person's residence, property, accessory structure, or commercial establishment and in accordance with the manufacturer's directions if the person is taking reasonable precautions to ensure that no human, pet, or wild animal, other than the targeted species, comes into contact with the traps, poisons, or other means and that does not violate any other section of this chapter.
- (f) The use of a city-owned humane trap to trap skunks is prohibited. Any person who catches a skunk with a privately owned humane trap must release the skunk or contact a private company to have the skunk removed within twenty-four (24) hours.

Sec. 4.01.016 Trap-Neuter-Release

The following actions shall be permitted in the city as part of a Trap-Neuter-Release Program:

- (a) Trapping for the sole purpose of sterilizing, vaccinating for rabies, tattooing, and eartipping feral cats, in compliance with any applicable federal or state law, and under the supervision of a licensed veterinarian, where applicable.

- (b) An eartipped cat received by Animal Care Services will be returned to the location where trapped unless veterinary care is required. A trapped eartipped cat will be released on site unless veterinary care is required.
- (c) A person who returns a feral cat to its original location or close proximity while conducting Trap-Neuter-Release is not deemed to have abandoned the cat.
- (d) Trap-Neuter-Release shall be the preferred disposition for impounded feral cats. Animal Care Services is authorized and encouraged to conduct Trap-Neuter-Release or to direct impounded feral cats to a Trap-Neuter-Release program.
- (e) Animal Care Services shall create, establish, and carry out standard operating procedures for the Trap-Neuter-Release Program.

Sec. 4.01.017 Inhumane treatment of animals

- (a) A person commits an offense if the person:
 - (1) Docks the tail or removes the dew claws of an animal over five (5) days of age, or crops the ears of an animal of any age, unless the person is licensed to practice veterinary medicine in the state of Texas;
 - (2) Removes from its mother any dog, cat, ferret, or rabbit less than six (6) weeks old, or any other animal that is not yet weaned, except as advised by a licensed veterinarian;
 - (3) Dyes or otherwise artificially colors any animal with anything other than a non-toxic dye specifically created for dogs and cats that is, applied in a humane manner;
 - (4) Displays, transfers ownership, or offers to transfer ownership of any dyed or otherwise artificially colored animal, except as provided in subsection (a)(3) above;
 - (5) Abandons any animal the person owns or possesses at the Animal Care Services facility, any other place of business, on public property, or with any person that has not consented or has revoked consent to be responsible for the care of the animal;
 - (6) Fails to reclaim from the Animal Care Services facility or from any person who had temporary possession of the animal any animal the person owns;
 - (7) Fails to notify Animal Care Services within twenty-four (24) hours after the person strikes an animal on an alley or street within the City while operating a motor vehicle;
 - (8) Euthanizes, kills, or attempts to euthanize or kill an animal in a manner other than authorized by this chapter;
 - (9) Causes or allows an animal to remain in its own filth;
 - (10) Owns or has care, custody, or control of an animal having an infestation of ticks, fleas, or other parasites, without having the animal treated by a veterinarian or following a proper commercially available treatment regimen for the infestation;
 - (11) Owns or has care, custody, or control of an animal having an obvious or diagnosed illness, injury, or communicable illness transmittable to animal or human, without having the animal treated by a veterinarian or following a proper treatment regimen for the injury or illness;

- (12) Fails to provide basic grooming for an animal;
 - (13) Fails to adequately provide an animal owned by or under the person's care, custody, or control with necessities of life, including food, potable water, sanitary conditions, shelter, or protection from the heat, cold, other environmental conditions, or other circumstances that may cause bodily injury, serious bodily injury, or death of the animal;
 - (14) Transfers ownership or offers to transfer ownership of any chicken, duckling, or rabbit younger than sixteen (16) weeks of age in quantities of less than twelve (12) to a single purchaser;
 - (15) Mutilates or allows to be mutilated any dead animal for reasons other than food preparation or taxidermy; provided, however, dissection in compliance with medical or veterinary research, medical or veterinary necropsy, and bona fide educational use of dead animals shall be a defense to this paragraph (15);
 - (16) Attaches or allows to be attached a collar or harness to an animal that is of an inadequate size so that it restricts the animal's growth or causes damage to the animal's skin;
 - (17) Attaches or allows to be attached a tether that is not appropriately sized for the animal or so heavy as to restrict or burden the animal's movements;
 - (18) Displays, transfers ownership, or offers to transfer ownership of any turtle with a carapace of less than four (4) inches in length; or
 - (19) Teases, taunts, or provokes an aggressive reaction from an animal.
- (b) This section shall not be interpreted to restrict the lawful activities and legitimate operations of rodeos, 4H Clubs, or FFA Clubs.

Sec. 4.01.018 Identification of animals

Except as provided herein, all animals within the city, excluding mice, rats, rabbits, guinea pigs, hamsters, gerbils, ferret, fowl, and snakes, shall be marked by some type of identifying license, tag, microchip, band, tattoo, and/or brand by which the animal's owner can be identified.

Sec. 4.01.019 Molesting animals

It shall be unlawful for a person to tease, annoy, disturb, molest, or irritate in any manner an animal that is confined to the owner's premises.

Sec. 4.01.020 Hunting prohibited

It shall be unlawful for any person to hunt, shoot, intentionally injure, or kill within the city:

- (1) any wild bird, animal, mammal, or reptile; or
- (2) any domestic bird, animal, mammal, reptile, or pet that is not owned by the person.

It is a defense to a violation of this section that the person killed a venomous snake, or the person is employed by Animal Care Services or is a law enforcement officer using certain firearms in emergency field conditions where such actions are provided for by law or city policy.

Sec. 4.01.021 Domestic animals

It shall be unlawful for any person to shoot a domestic animal within the city limits. It shall be a defense to a violation of this section that:

- (1) the domestic or wild animal shot was a vicious animal and presented an immediate threat to personal or public safety; or
- (2) the person is an employee of Animal Care Services or a law enforcement officer using certain firearms in emergency field conditions where such actions are provided for by law or city policy.

Sec. 4.01.022 Tampering with animal shelter or impoundment vehicle

It is unlawful for any person to:

- (1) break into, open, pull down the enclosure of, or make any opening into the animal shelter or any enclosure belonging to or used by the city to impound or keep animals; or
- (2) turn out or release, cause to be turned out or released, or aid and abet the turning out or release of any animal from the animal shelter, from an impoundment vehicle or from an enclosure used by the city for the impoundment of animals.

Sec. 4.01.023 Keeping of animals near city water supply

It is unlawful for any person, whether for himself or as the agent of another or others, to keep or to participate in keeping any horse, hog, cattle, sheep, goat, other livestock and/or fowl in any pen or lot used to confine any such multiple animal operation within five hundred (500) feet of any water supply wells from which the city obtains its principal water supply as specified in 31 Texas Administrative Code § 290.41, as amended.

ARTICLE 4.02 - ANIMAL IMPOUNDMENT AND DISPOSAL

Sec. 4.02.001 Authority to impound animals

The ACO shall have the authority to:

- (a) Impound an animal which is diseased and endangers the health and welfare of another animal or person;
- (b) Dispense of an animal which poses an imminent danger to a person or property and a real or apparent necessity exists for the destruction of the animal;
- (c) Dispense of an impounded animal if the ACO determines that recovery of the animal is doubtful due to injury or disease; and/or
- (d) Dispense of an animal which, after being deemed dangerous according to the provisions and processes stated within this chapter, is found to be at large within the city limits.

Sec. 4.02.002 Redemption of impounded animal

- (a) Conditions: The owner of any animal impounded shall have the right to redeem the animal upon satisfying the following conditions:
 - (1) Payment of all fees in accordance with current fee schedule;

- (2) Delivery to Animal Care Services proof of current rabies vaccination of the released animal within seven (7) days of release; and
- (3) The owner possesses or obtains all permits required for the possession or keeping of the released animal, such as:
 - a. Dangerous dog;
 - b. Excessive animals; or
 - c. Exotic pet.
- (b) Impoundment fees. The fees required to be paid before an animal will be released from impoundment, the amounts of which shall be adopted by the City Council and set forth in the City's master fee schedule, shall include, but not be limited to, any or all of the following:
 - (1) Basic impound fee, adjusted upward for each subsequent impoundment;
 - (2) Daily boarding fees;
 - (3) Rabies vaccination fee, if no proof of current and valid rabies vaccination can be provided at the time of release; and
 - (4) Any other applicable permit fees.

Sec. 4.02.003 Euthanasia at request of owner

If the owner of an animal requests euthanasia of the animal by Animal Care Services due to injury or illness where recovery of the animal is unlikely and private means are not readily available, the owner must first sign all required forms and pay the required fees in accordance with current fee schedule.

Sec. 4.02.004 Adoption of impounded animals

- (a) Requirements. Any person who desires to adopt an animal directly from the animal shelter shall first:
 - (1) Pay the required adoption fee as set forth in the city's master fee schedule;
 - (2) Have any animal four (4) months of age or older, for which no proof exists of a current and valid rabies vaccination exists, vaccinated for rabies before leaving the shelter or within seven (7) days of adoption and deliver a copy of such proof of vaccination to Animal Care Services not later than thirty (30) days after the date of vaccination;
 - (3) Have any animal not yet vaccinated for rabies due to the age of the animal being less than four (4) months vaccinated as soon as the animal becomes eligible and deliver a copy of such proof of vaccination to Animal Care Services not later than thirty (30) days after the date of vaccination;
 - (4) Register the animal in accordance with this Chapter, if applicable; and
 - (5) Sign an agreement to have the animal sterilized pursuant to Texas State Law, within thirty (30) days after the adoption or as soon as the animal reaches the proper age for such a procedure, which agreement shall include an agreement by the adopter that if the adopter fails to comply with a sterilization agreement under this subsection, the

animal may be seized and impounded by the ACO and ownership will automatically revert to the city.

- (b) Spaying or neutering of animal. Each dog or cat adopted from the animal shelter shall be spayed or neutered prior to release of the animal to the adopter, unless:
 - (1) The dog or cat is under six (6) months of age;
 - (2) A licensed veterinarian certifies that the dog or cat should not be spayed or neutered for health reasons or is permanently non-fertile; or
 - (3) The animal has not spent enough time in custody to be scheduled for sterilization.
- (c) Determination of whether animal is suitable for adoption. The ACO shall make the final determination whether an animal is suitable for adoption. The ACO will consider such factors as the health and temperament of the animal. However, such a decision by the ACO to permit adoption of a particular animal shall not constitute a warranty, expressed or implied, of the health, temperament, suitability, or age of the animal.

Sec. 4.02.005 Disposal of nursing baby animals

Baby nursing animals impounded without the mother, or whose mother cannot or refuses to provide nutritious milk, may be transferred to a licensed rehabilitation facility whenever such facility is willing and able to provide care for the baby nursing animals. Should no facility be available, the animals may be humanely euthanized to prevent further suffering.

ARTICLE 4.03 RABIES CONTROL

Sec. 4.03.001 State regulations adopted

The city hereby adopts by reference the Rabies Control Act of 1981, as amended (Chapter 826, Texas Health and Safety Code, as amended), and the standards established by the appropriate state agency or rule-making board as minimum standards for rabies control and quarantine provisions within the city. The Senior Animal Control Officer, as designated by Animal Care Services, is hereby designated the local rabies control authority for the city.

Sec. 4.03.002 Vaccination

- (a) Required. The owner or custodian of each domestic dog, cat, or ferret shall have the animal vaccinated against rabies by the time the animal is four (4) months of age. After the initial rabies vaccination, the animal must receive a booster vaccination on intervals of not more than twelve (12) months. Every domestic dog, cat, or ferret must be revaccinated against rabies at a minimum of at least once every three (3) years with a rabies vaccine licensed by the United States Department of Agriculture. The vaccine must be administered according to label recommendations.
- (b) Certificate/display of vaccination tag. Each vaccination certificate shall reflect the name of the owner; the owner's address; a description of the dog, cat, or ferret vaccinated; the date of the vaccination; the number of the vaccination tag; the kind of vaccination used; and the expiration date of the serum. The veterinarian administering the vaccination shall furnish the owner with a metal tag bearing all information required by state law, which tag shall be securely attached to the collar or harness of a dog or cat at all times. Ferrets shall not be required to wear a tag.
- (c) Proof for new residents moving from area that does not issue tags. The owner of a dog, cat, or ferret who moves from an area that does not issue tags as proof of current vaccination for rabies

must provide a certificate of vaccination if request. Information on the certificate must include the name, address and phone number of the veterinarian or clinic where the vaccination was given; the type of vaccination used; date of vaccination; name, breed, color, and description of animal; and name, address, and phone number of the owner. Information contained on the certificate shall be confirmed by the ACO or designee by phone or fax before accepting the information as proof of current vaccination. If the information cannot be confirmed, the animal must be revaccinated.

- (d) Tags not transferable. It shall be unlawful for the owner or keeper of any dog, cat, or ferret to allow such animal to have attached to it in any manner the metal tags issued for another animal.

Sec. 4.03.003 Reporting of rabies; quarantine of suspected rabid animal

The reporting of rabies and quarantine of suspected rabid animals shall be in accordance with current applicable state law.

Sec. 4.03.004 Animal biting or scratching a person

- (a) Procedure. Animal Care Services' procedure for handling a reported bite or scratch caused by a suspected rabid animal to another animal or person shall be in accordance with current applicable state law.
- (b) Home Confinement/Quarantine. Home confinement or quarantine ordered by an ACO or designee shall be in accordance with current applicable state law. The quarantine period for a dog, cat, or a domestic ferret for rabies observation shall be two hundred forty (240) hours from the date and time of the bite, scratch, or other exposure, or as specified by state law or rule.
- (c) Quarantine fee. The owner of any dog, cat or other animal held in quarantine for rabies observation shall be charged a fee for such quarantine in addition to any impoundment fee. This fee shall be charged on a per-day basis as set forth in city's current master fee schedule.

Sec. 4.03.005 Failure to quarantine

- (a) A person commits an offense if the person fails or refuses to quarantine or present for quarantine or testing an animal as required by Section 4.03.004 or Texas Health and Safety Coder §826.042 with each day such refusal continues constituting a separate offense.
- (b) If an owner has been notified by Animal Care Services that the owner's animal must be quarantined or presented for quarantine and refuses to do so, and the animal has bitten someone other than a member of the owner's immediate member, the ACO or designee may obtain a seizure warrant from a court within twenty-four (24) hours of notice to the owner. In addition to the seizure, the owner may be cited for failure to quarantine for the number of days of required quarantine before the animal was seized.

Sec. 4.03.006 Counterfeiting; destruction of tags, certificates

A person commits an offense if the person intentionally or knowingly:

- (1) Counterfeits a rabies vaccination tag or certificate or a license; or
- (2) Destroys a rabies vaccination tag or certificate.

Sec. 4.03.007 Pet sitting and dog walker services.

- (a) All animal owners using pet sitting or dog walker services shall make a current rabies vaccination certificate available to the pet sitter or dog walker at the owner's residence if the animal is involved in a bite case or other incident where Animal Care Services is notified of a complaint regarding the animal.
- (b) A pet sitter or dog walker, as well as the owner of the animal owner, shall be liable for any violation of this chapter committed while the animal is in the care and custody of the pet sitter or dog walker.

Sec. 4.03.008 Submission of head for rabies diagnosis

- (a) If the animal that inflicted a bite or scratch on a person is a wild animal, the animal shall be humanely destroyed in such a manner that the brain is not mutilated. The head shall then be submitted to a laboratory certified by the Texas Department of State Health Services, or successor authority, for rabies diagnosis.
- (b) An animal under quarantine that becomes ill may be humanely destroyed in such a manner that the head is not mutilated. The head shall be submitted to a laboratory certified by the Texas Department of State Health Services, or successor authority, for rabies diagnosis. The head of an animal that dies while in quarantine shall also be submitted for rabies diagnosis.

ARTICLE 4.04 DOMESTIC ANIMALS

Division 1. Generally

Sec. 4.04.001 Animals-in-excess permit

- (a) Animals-in-excess permit.
 - (1) It is unlawful to keep or harbor more than eight (8) domestic animals on any property within the city. It shall be a defense to a violation of this section if the person possesses a permit issued in accordance with this section which authorizes animals in excess of the maximum number otherwise allowed by this section to be harbored on the property.
 - (2) The animals-in-excess permit application shall include the following:
 - a. The name and address of the applicant;
 - b. The number of animals to be kept at the premises;
 - c. The facilities used to house all animals;
 - d. A statement giving permission for the ACO or designee to inspect the premises where the animals are kept;
 - e. Signature of the applicant; and
 - f. Signature of the ACO approving the permit.
 - (3) Upon receipt of a complete application for an animals-in- excess permit, the ACO shall inspect the premises to determine the suitability of conditions for harboring such animals under the requested permit. The ACO may consider the totality of health and safety factors, including, but not limited to, the following:
 - a. Amount of area;

- b. Cleanliness;
 - c. Safety of confinement;
 - d. Breed of animals;
 - e. Age of animals;
 - f. Altered or unaltered status; and
 - g. Complaint history for the animals or owner.
- (4) The officer may grant a conditional animals-in-excess permit as is appropriate under the circumstances for the harboring of the animals. The ACO may revoke or deny any animals-in-excess permit and impound any animal under certain conditions, including, but not limited to:
- a. After determining, with the assistance of a veterinarian, that an animal was abused or neglected;
 - b. That violations of any applicable law or ordinance have occurred; and
 - c. It is found that animals in addition to those specified on the permit are harbored at the location.
- (5) The owner shall pay a fee for the animals-in-excess permit as set forth in the city's master fee schedule.
- (b) Application; fees. Application for initial issuance or renewal of each permit and/or registration must be made by the owner, in writing or in person, and be accompanied by a fee as set forth in the city's master fee schedule. If the original current registration or permit is lost or destroyed, the owner must pay the required fee to obtain a duplicate.
- (c) Renewal of registration/permit; transfer of registration/permit. Permits and registrations shall be renewed annually. If there is a change in ownership, the new owner shall have the permit and/or registration transferred to the new owner's name not later than ten (10) days after the change of ownership. If the permit and/or registration is current and valid, there shall be no charge for the transfer.
- (d) Exemptions from registration fees.
- (1) The following animals may be registered as required by this Chapter without payment of a registration fee:
 - a. Assistance animals; and
 - b. Foster care animals kept less than ninety (90) days.
 - (2) Owners of an assistance animal or foster care animal shall present to the ACO upon request documentation of the status or training of the animal by supporting organizations or such other documentation reasonably requested to confirm the animal's status as an assistance animal or foster care animal.

Sec. 4.04.002 Confinement

- (a) Any person owning, possessing or keeping one or more animals within the city, whether vaccinated or unvaccinated, licensed or unlicensed, shall confine such animals within an adequate fence or enclosure, or within a house, garage or other building, or shall keep such animals confined by leash or chain affixed to the animal's collar that is under the control of a person, adequate to prevent the animals from running at large, and provides the animal sufficient space, and as further described Section 4.04.004.
- (b) Invisible fences:
 - (1) Constitutes a sufficient restraint as long as the animal is not found outside the premises of the owner;
 - (2) Must be clearly marked to anyone coming onto the property so that such person will know there is an invisible fence; and
 - (3) Must be set back at least six (6) feet from public rights-of-way such as sidewalks and streets, as well as adjacent properties.
- (c) Retractable leashes must be locked at a distance not more than four (4) feet when in the immediate proximity of a passerby either on foot or on a non-motorized vehicle.

Sec. 4.04.003 Impoundment of animals running at large

The ACO may take into custody any animal found at large within the city and shall impound the animal in the city's animal shelter or other such place as may be designated for the purposes of impoundment. Any impounded animal whose owner is not readily identifiable shall be held for a period of not less than three (3) business days. Any impounded animal whose owner is readily identifiable through microchip, registration, rabies tag, or other public records available to the city, shall be held for a period of not less than seven (7) business days. If an impounded animal has not been claimed as prescribed in Section 4.02.002, and the proper fee paid by the time provided in this section, the animal shall be released for adoption or humanely destroyed according to applicable state law.

Sec. 4.04.004 Unlawful restraint of animal

It shall be unlawful for any person to tie or tether a dog or other animal to a stationary object for a period of time or in a location so as to create an unhealthy situation for the animal or a potentially dangerous situation for a pedestrian as determined by the ACO. The terms "unhealthy situation" and "potentially dangerous situation" shall include, but not be limited to, tethering an animal:

- (1) In a manner that permits the animal access upon any public right-of-way;
- (2) In a manner that causes the animal injury or pain, does not allow the animal to reach shelter, food and/or water, or otherwise creates an unsafe or unhealthy situation;
- (3) In a manner that permits the animal to leave the property where the animal is being tethered;
- (4) In an area that is not fenced in a manner that prevents any person from entering the area occupied by the animal;
- (5) In a manner where the animal is subject to harassment, stings or bites from outdoor insects, or attacks by other animals;
- (6) With a tether that is shorter than the greater of:

- a. ten (10) feet; and
 - b. five (5) times the length of the animal, as measured from the tip of the animal's nose to the base of the animal's nose;
- (7) with a tether that is not equipped with swivel ends;
 - (8) in a manner that does not prevent the animal from becoming entangled with any obstruction, from partially or totally jumping any fence, or from leaving part of its property where the animal is tethered;
 - (9) in an area where the animal's waste is not removed daily;
 - (10) without using a properly fitted harness or collar that measures the circumference of the animal's neck plus not less than one inch;
 - (11) with a pinch-type, prong-type, or choke-type collar;
 - (12) with a tether that weighs more than one-fifth (1/5) of the animal's body weight; or
 - (13) Any other act of tethering that is not in compliance with Texas state law.

Sec. 4.04.005 Guard dogs

Every person having care, control or custody of any dog which has received guard dog training must register such dog with the ACO or designee not later than 30 days after bringing such dog into the city. The owner of such dog must place on such dog an ID collar identifying the dog as a trained guard dog which collar must be worn at all times.

Sec. 4.04.006 Selling or giving away animals prohibited in certain places; sale of baby fowl

- (a) A person commits an offense if the person sells, offers for sale, leases, rents, or in any way transfers, barter, or gives away chicks, ducklings, or other infant fowl less than eight (8) weeks of age as pets or novelties; however, it is not an offense for the person to display sell natural chicks, ducklings, or other infant fowl in proper breeder facilities for hatcheries or stores engaged in the business of selling the same to be raised for agricultural purposes. The sale of such animals shall consist of not less than twelve (12) individual animals per transaction.
- (b) A person commits an offense if the person sells, exchanges, barter, or gives away, or offers to sell, exchange, barter, or give away, any live animal from:
 - (1) Any public right-of-way; or
 - (2) Any property to which the public has access that does not have a valid certificate of occupancy issued by the city allowing the sale of animals on the property.
- (c) It is a defense to prosecution under subsection (b) that the person is:
 - (1) Employed by Animal Care Services; or
 - (2) An animal welfare, rescue, and/or adoption agency this is a registered nonprofit entity in compliance with Section 501(c)(3) of the Internal Revenue Code.

Sec. 4.04.007 Selling or giving away animal as prize or promotion

A person commits an offense if the person sells, exchanges, raffles, auctions, or gives away, or offers to sell, exchange, raffle, auction, or give away, any live animal as:

- (1) A prize;
- (2) An inducement to enter a place of amusement or a business establishment; or
- (3) An inducement to participate in a charitable fund-raising event that is not conducted by a nonprofit organization.

Sec. 4.04.008 Transporting animal in open bed of vehicle

- (a) It shall be unlawful to carry or transport an animal within the open bed of any moving pickup, flatbed, or similar vehicle operated on any public roadway within the city.
- (b) It is a defense to prosecution under this section that the animal was in a carrier or other device sufficient to keep the animal from leaving or falling from the vehicle.

Division 2. Dangerous Animals

Sec. 4.04.041 Definitions

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

- (a) Secure enclosure. A fenced area or structure that is:
 - (1) Locked;
 - (2) Capable of preventing the entry of the public, including children;
 - (3) Capable of preventing the escape or release of an animal;
 - (4) Clearly marked as containing a dangerous animal; and
 - (5) In conformance with the requirements for secure enclosures as established within this chapter.
- (b) Serious bodily injury. Means an injury characterized by severe bite wounds or severe ripping and tearing of muscle that would cause a reasonably prudent person to seek treatment from a medical professional and would require hospitalization without regard to whether the person actually sought medical treatment.
- (c) Severe attack. Means an attack in which the animal repeatedly bites or vigorously shakes its victim, and the victim, or a person intervening, has extreme difficulty terminating the attack.
- (d) Unprovoked. Means an action by an animal that is not:
 - (1) Hit, kicked, or struck by a person with any object or part of a person's body, nor was any part of the dog's body pulled, pinched, or squeezed by a person;
 - (2) In response to pain or injury;
 - (3) In protection of itself or its food, kennel, immediate territory, or nursing offspring;

- (4) In response to an assault or attempted assault on a person; or
- (5) In response to being tormented, abused, or assaulted by any person with an object or part of a person's body.

Sec. 4.04.042 Required reports

- (a) Dogs Dangerous to Other Animals: If an animal is attacked by an at large dog, and the attack is severe and resulted in serious injury to or the death of that animal, the attacked animal's owner may report the incident to the ACO or designee by submitting a sworn statement describing the attack. The statement must be received by the ACO or designee not later than the thirtieth (30th) day after such attack occurs, and it shall contain as much of the following information as known, including:
 - (1) Name, address, and telephone number of the person filing the sworn statement;
 - (2) Name, address, and telephone number of the at large dog owner;
 - (3) A description of the at large dog;
 - (4) Date, time, and location of the attack;
 - (5) Detailed account of the attack, including a description of events occurring immediately before, during, and after the attack;
 - (6) Medical records associated with the attack;
 - (7) Name, address, and telephone numbers of any witnesses to the attack; and
 - (8) Photo evidence of any sustained injuries at the time of the attack.
- (b) If the attacked animal sustained serious injuries which did not result in death, a letter signed by the treating veterinarian must be submitted with the sworn statement. The letter must describe the injuries sustained by the attacked animal and state that the injuries were serious, characterized by severe bite wounds, or severe ripping and tearing of muscle, or that the injuries required prompt medical attention after the attack to preserve the animal's life.
- (c) Reporting of attacks of animal on animal shall not be applicable to:
 - (1) Attacks on prohibited animals;
 - (2) Attacks on animals which are unlawful to keep upon the owner's premises;
 - (3) Attacks on an animal that was at large at the time of the attack, or immediately prior to the attack; or
 - (4) Attacks on wildlife.

Sec. 4.04.043 Investigation

- (a) Any incident described by Section 4.04.041, whether reported by a citizen, or at the ACO or designee's own instigation, shall be investigated.
- (b) Reports based on such investigation shall include the following:

- (1) Identification of the owner of the accused animal;
- (2) An inspection of the animal so accused;
- (3) Photographs of the animal, if possible;
- (4) Any statements from victims and/or witnesses to the incident;
- (5) Documentation of the animal's history, including, but not limited to, registrations, rabies vaccinations and current veterinarian as well as any previous bite history or violations of any laws or ordinances; and
- (6) Information on any other animals residing at the same residence.

Sec. 4.04.044 Determination by investigating officer; notification that a dog or other animal has been declared dangerous

- (a) Based on the findings of an investigation regarding a suspected dangerous dog or other animal, the investigating officer shall make a determination to:
 - (1) Declare the dog or other animal dangerous and notify the owner of that fact;
 - (2) Request a hearing before the dangerous dog advisory board (DDAB) within ten (10) business days. Once that date has been established, ACO or designee is responsible to notify the owner in writing of such hearings; or
 - (3) Close the case, citing insufficient evidence to conclusively deem the animal dangerous at this time. Closing a case shall not prevent the case from being reopened in the future.
- (b) If the dog or other animal has been declared as dangerous, the notification to an owner shall include the following information:
 - (1) The owner has the right to appeal the decision to a justice or municipal court of competent jurisdiction and that such appeal must be filed, in writing, not later than the fifteenth (15th) day after the date the owner is notified; and
 - (2) The owner may appeal that decision of the justice or municipal court in the same manner as appeal for other civil cases. The intent to file a second appeal must be made, in writing, to animal control within twenty-four (24) hours of the conclusion of the first appeal.

Sec. 4.04.045 Seizure of dog declared dangerous

- (a) Warrant required. If the ACO determines that any declared dangerous dog cannot be sufficiently contained by the owner during the process of appeal, or the required thirty (30) day period in compliance with Sections 4.04.045 and 4.04.046, the ACO or designee may seek a warrant from a justice or municipal court of competent jurisdiction to seize the animal in accordance with 822.022 of the Texas Health and Safety Code.
- (b) Hearing. An owner whose animal has been seized by the ACO under subsection (a), above, shall be entitled to a hearing for the purpose of appealing the dangerous dog declaration held in the court issuing the warrant not later than the tenth (10th) day after the date on which the animal was seized.

Sec. 4.04.046 Return of seized dog to owner

- (a) A dog which has been declared dangerous and seized by the ACO, which declaration has been upheld by the courts, shall be returned to the owner if the owner has complied with all conditions, paid all fees, and established a secure enclosure in which to house the dog in compliance with this chapter.
- (b) If the determination that the dog is dangerous is reversed upon appeal to a court of competent jurisdiction, the dog shall be returned to its owner, in which case, no fees will be charged to the owner.
- (c) If the owner files a second appeal, the dog or animal shall remain impounded until the conclusion of such appeal. The intent to file must be made in writing not later than twenty-four (24) hours of the conclusion of the first appeal hearing.
- (d) No dog shall be returned to the owner once an order has been received by the courts to destroy the animal.

Sec. 4.04.047 Requirements for owners

- (a) The owner must comply with the following to register a dangerous animal:
 - (1) Present proof of liability insurance or financial responsibility in the amount of at least \$100,000.00 to cover damages resulting from an attack by the dangerous animal. The insurance requirements contained herein shall be maintained at all times and shall not be cancelled by the owner until the owner ceases to own the dangerous animal;
 - (2) Present proof of current rabies vaccination in the form of a rabies vaccination certificate for the dangerous animal. When the animal is revaccinated for rabies, the owner shall provide the updated rabies vaccination certificate to Animal Care Services;
 - (3) Present proof that the animal has been altered to prevent reproduction and proof of the animal has a microchip. Proof of being altered can be satisfied through visual inspection of the tattoo or mark placed at the time of surgery if the certificate of sterility is not available or the medical record is unavailable;
 - (4) Provide a proper enclosure for the dangerous animal which meets or exceeds the following requirements:
 - a. The enclosure is a house, a building, a fence, pen, or other structure;
 - b. The fence, structure, or pen measures at least six feet in height;
 - c. The structure or pen is a minimum of 150 square feet in area.
 - d. The fence, structure, or pen forms an enclosure suitable to prevent entry of young children and must be locked and secured such that the animal cannot climb, dig, jump, or otherwise escape of its own volition.
 - e. The enclosure shall be securely locked at all times and have secured sides to prevent a dangerous animal from escaping.
 - f. The enclosure shall provide protection from the elements for the animal.
 - g. The enclosure must have a secure top that provides shade and a concrete floor.

- (5) Invisible fences or similar technology shall not constitute a proper enclosure for purposes of this section.
 - (6) The enclosure shall be inspected by an ACO and, if found compliant with the requirements of this section, the enclosure shall be approved by the ACO.
 - (7) Enclosures erected to confine dangerous animals must comply with all city zoning and construction regulations.
 - (8) The perimeter fence around the property where the dangerous animal is kept shall be locked and secured to prevent entry into the property.
 - (9) The signs will be provided to the owner by the city with the payment for the dangerous animal registration. The owner of a dangerous animal shall post in locations designated by the ACO or a court order no fewer than three (3) signs supplied by Animal Care Services giving notice of the presence of the dangerous animal on the property. Additional signs may be required as per policy.
 - (10) A dangerous animal collar provided to the owner by the city upon payment of the dangerous dog registration must be placed on the animal.
 - (11) Any further identification required and designated by the order of the city shall be provided.
- (b) The owner of a dangerous animal commits an offense by (i) failing to post signs in accordance with this chapter, or (ii) removing and failing to replace signs that are required by this chapter.
- (c) A person commits an offense if the person keeps a dangerous animal in a house or building when the windows are open or when screened windows, screened doors, or other penetrable barriers are the only obstacles preventing the dangerous animal from exiting the structure and running at large. A house or building used as a proper enclosure must be constructed with a secondary door on the exterior of all exits or with a secondary safety gate inside the house or building keeping the dangerous animal away from direct access to the exits.
- (d) A dangerous dog or other animal taken outside of its approved enclosure must:
- (1) be securely muzzled in a manner that will not cause injury to the animal nor interfere with its vision or respiration but prevents the animal from biting a person or other animal; and
 - (2) In the immediate control of a person 18 years of age or older restrained by a nylon leash that does not exceed six feet in length attached to a properly fitted collar or harness with a safety carabineer; and
 - (3) Control the immediate area into which the animal has been moved.
- (e) Prior to selling or moving a dangerous dog or animal either inside or outside the city limits, the owner must notify Animal Care Services of the owner's intentions. If the dangerous dog or animal is moved permanently outside the city limits, the owner must comply with state law by notifying the animal control officer in charge of the area to which the animal has been moved. The owner must also provide to the ACO in charge of the case the destination address for the animal and proof that the owner has alerted the agency responsible for animal control in the destination address.

- (f) Animal Care Services shall periodically inspect the location and premises of all dangerous animals to ensure compliance with this chapter. Animal Care Services shall have the right to inspect the residence and proper enclosure for the dangerous animal.
- (g) Responsible pet ownership education shall be completed online by the owner or presumed owner of a dangerous animal and proof of successful completion of the course provided to Animal Care Services prior to the animal's release from the designated location of impoundment.
- (h) A person commits an offense if the person brings into the city an animal that has been determined to be dangerous by another jurisdiction under guidelines similar to those in this chapter. Any animal that is brought into the city in violation of this section shall immediately be turned over to the ACO and impounded. On the sixteenth (16th) day after such impoundment, if the owner of the dangerous animal has not been reclaimed by the owner, title the impounded animal may be considered abandoned, title to the animal shall convey to the City, and the ACO may dispose of the animal as authorized in this chapter. The owner of a dangerous animal impounded pursuant to this subsection (h) may elect to reclaim and immediately remove the animal from the city and shall comply with the notice requirements of this chapter.

Sec. 4.04.048 Registration

- (a) The ACO shall accept the annual registration of a dangerous dog if the owner:
 - (1) Presents:
 - a. Proof of liability insurance or financial responsibility, as required by this division;
 - b. Proof of a current rabies vaccination of the dangerous dog;
 - c. Two (2) color photographs of the dangerous dog; and
 - d. Two (2) color photographs of the secure enclosure in which the dangerous dog will be kept; and
 - (2) Pays an annual registration fee as set forth in this chapter.
- (b) The ACO shall provide to the owner registering a dangerous dog a specific registration tag red in color. The owner must place the tag on the dog's collar and ensure that the dog wears the collar with such tag attached at all times.
- (c) If an owner of a registered dangerous dog moves to a new address, not later than the fourteenth (14th) day after the date of the move, the owner shall notify the ACO of the new address. On presentation by an owner of the dangerous dog's prior registration tag and payment of a fee as required by this chapter, the ACO shall issue a new registration tag to be placed on the dangerous dog's collar.
- (d) An owner of a registered dangerous dog shall notify the office in which the dangerous dog was registered of any attacks the dangerous dog makes on people.

Sec. 4.04.049 Attacks by dangerous dog

- (a) A person commits an offense if the person is the owner of a declared dangerous dog and the dog makes an unprovoked attack on another person outside the dog's secure enclosure and causes bodily injury to the other person.

- (b) An offense under this section is a class C misdemeanor.
- (c) If a person is found guilty of an offense under this section, the court may order the declared dangerous dog destroyed by the ACO in accordance with Section 822.004 of the Texas Health and Safety Code, as amended.
- (d) In addition to criminal prosecution, a person who commits an offense under this section is liable for a civil penalty not to exceed \$2,000.00 per animal. The city attorney may file suit in a court of competent jurisdiction to collect the penalty. Penalties collected under this subsection shall be retained by the city.

Sec. 4.04.050 Violations; penalties

- (a) A person who owns or keeps custody or control of a dangerous dog commits an offense if the person fails to comply with Section 4.04.046.
- (b) Except as provided by subsection (c) of this section, an offense under this division is subject to a fine of up to five hundred dollars (\$500.00).
- (c) An offense under this division is subject to a fine of up to two thousand dollars (\$2,000.00) if it is shown at the trial of the offense that the defendant has previously been convicted under this division.

Sec. 4.04.051 Defenses

It is a defense to prosecution under Section 4.04.048 and 4.04.049 that the person:

- (1) Is a veterinarian, a peace officer, a person employed by a recognized animal shelter, or a person employed by the state or a political subdivision of the state to deal with stray animals and has temporary ownership, custody, or control of the dog in connection with that position;
- (2) Is an employee of the institutional division of the state department of criminal justice or a law enforcement agency and trains or uses dogs for law enforcement or corrections purposes; and
- (3) Is a dog trainer or an employee of a guard dog company under the Private Investigators and Private Security Agencies Act.

ARTICLE 4.05 LIVESTOCK

Sec. 4.05.001 Fencing required

A person commits an offense if the person keeps on premises under the person's control any livestock without providing adequate fences or barriers that will prevent such livestock from:

- (1) damaging shrubbery or other property situated on adjacent property; or
- (2) escaping.

Sec. 4.05.002 Livestock at large; impoundment

The ACO shall take appropriate measures for the safety of the public regarding any livestock found at large. Livestock found to be at large may be impounded and held at the owner's expense until such time

as the owner can resume adequate custody and control of the livestock.

Sec. 4.05.003 Riding or allowing livestock on public property or property of another

A person commits an offense if the person rides or allows any type of livestock upon any public school grounds, college grounds, public park property or municipal grounds within the city except those designated as bridle paths or other designated riding or exhibiting areas for animals. Horses shall be ridden on streets as close as possible to the curb. Horses may only be ridden upon are “local residential streets” as defined in the city’s thoroughfare plan. It shall be unlawful for any person to ride or allow any type of livestock upon the property of another within the city except with the express consent of the owner or the person in charge of such property obtained prior thereto.

Sec. 4.05.004 Permit; minimum lot size

- (a) Permit required; application. It shall be unlawful for any person to keep livestock in the city without first obtaining a permit from Animal Care Services. Such permit shall be valid for one (1) year from the date of issuance and only for the location for which it was issued. Only a person who complies with the requirements of this article shall be entitled to receive and retain a permit. Every person who is the keeper of any livestock shall make application in writing for a permit to keep livestock upon forms prescribed and furnished by the animal control authority.
- (b) Revocation of permit. After receiving three (3) complaints concerning violations of this article, and upon confirmation of those violations, the ACO has the authority to revoke the violator’s livestock permit and remove or cause to be removed at the owner’s sole expense the animals that are the source of the complaints.
- (c) Appeal of revocation of permit. Any person whose livestock permit is revoked pursuant to subsection (b) of this section may appeal the revocation to the Dangerous Dog Advisory Board not later than five (5) days from the date of the revocation. The Board may uphold or overturn the ACO’s revocation of the permit.
- (d) Minimum lot size. It shall be unlawful for any person to keep any livestock within the city on any lot which is less than one (1) acre in size.
- (e) Minimum lot size waiver. A lot size waiver may be completed by an animal owner and may approved by Animal Care Services. These lot size waivers will be taken and approved/disapproved on a case by case basis.

Sec. 4.05.005 Keeping of chickens and roosters

- (a) The keeping of roosters on less than one (1) acre is prohibited. No more than one (1) rooster per lot will be permitted.
- (b) More than two (2) birds, but not more than twenty (20) birds, may be kept on one (1) single-family residentially zoned property in the city if the owner of the birds complies with the following restrictions:
 - (1) The birds must be kept on a lot or tract of land with an area of not less than 10,000 square feet;
 - (2) All birds must be contained in a coop, cage, or pen at all times located not less than fifty (50) feet from an adjacent residential structure;
 - (3) The birds must be kept in a manner that does not create a public nuisance;

- (4) If exceeding twenty (20) birds, an animals-in-excess permit must be obtained in accordance with Section 4.04.001, the birds must be kept on a lot size of at least one (1) acre, and the owner must also possess a current Texas Pullorum-Typhoid Certificate issued by the Texas Veterinary Medical Diagnostic Laboratory for the birds; and
 - (5) Obtain a fowl permit from Animal Care Services. No fee shall be charged for such permit.
- (c) Less than three (3) birds may be kept on one (1) single-family residentially zoned property in the city if the owner of the birds complies with the following:
 - (1) All birds must be contained in a coop, cage, or pen at all times located not less than fifty (50) feet from any adjacent residential structure;
 - (2) The birds must be kept in a manner that does not create a public nuisance.

CITY OF HIGHLAND VILLAGE
COUNCIL BRIEFING

AGENDA# 17	MEETING DATE: 08/24/2021
SUBJECT:	Status Reports on Current Projects and Discussion on Future Agenda Items
PREPARED BY:	Karen McCoy, Executive Assistant

COMMENTS

This item is on the agenda to allow a Councilmember to inquire about a subject of which notice has not been given. A statement of specific factual information or the recitation of existing policy may be given. Any deliberation shall be limited to a proposal to place the subject on an agenda for a subsequent meeting.



UPCOMING MEETINGS

<u>August 24, 2021</u>	<u>Regular City Council Meeting - 7:00 pm</u>
September 2, 2021	Zoning Board of Adjustment Meeting - 6:00 pm
<u>September 6, 2021</u>	<u>City Offices Closed for the Labor Day Holiday</u>
<u>September 14, 2021</u>	<u>Regular City Council Meeting - 7:00 pm</u>
September 20, 2021	Parks & Recreation Advisory Board Meeting – 6:00 pm
<u>September 21, 2021</u>	<u>Special City Council Meeting – Time TBD</u>
September 21, 2021	Planning & Zoning Commission Meeting – 7:00 pm
<u>September 28, 2021</u>	<u>Regular City Council Meeting - 7:00 pm</u>
October 7, 2021	Zoning Board of Adjustment Meeting - 6:00 pm
<u>October 12, 2021</u>	<u>Regular City Council Meeting - 7:00 pm</u>
October 18, 2021	Parks & Recreation Advisory Board Meeting – 6:00 pm
October 19, 2021	Planning & Zoning Commission Meeting – 7:00 pm
<u>October 26, 2021</u>	<u>Regular City Council Meeting - 7:00 pm</u>
November 4, 2021	Zoning Board of Adjustment Meeting - 6:00 pm
<u>November 9, 2021</u>	<u>Regular City Council Meeting - 7:00 pm</u>

Note – The Zoning Board of Adjustment, Parks & Recreation Advisory Board, and the Planning & Zoning Commission meetings are held monthly, IF NEEDED. Please visit www.highlandvillage.org or the City Hall bulletin board for the latest meeting additions and updates.

By: Karen McCoy, Executive Assistant – City of Highland Village