

AGENDA

**Lucas City Council Regular Meeting
January 15, 2015, 6:00 PM
City Hall - 665 Country Club Road – Lucas, Texas – 75002-7651**

Notice is hereby given that a City of Lucas Regular City Council Meeting will be held on Thursday, January 15, 2015 at 6:00 pm at the Lucas City Hall, 665 Country Club Road, Lucas, Texas, 75002-7651 at which time the following agenda will be discussed. As authorized by Section 551.071 of the Texas Government Code, the City Council may convene into closed Executive Session for the purpose of seeking confidential legal advice from the City Attorney on any item on the agenda at any time during the meeting.

Call to Order

- Roll Call
- Determination of Quorum
- Reminder to turn off or silence cell phones
- Pledge of Allegiance

Executive Session

The City Council may convene in a closed Executive Session pursuant to Chapter 551, Subchapter D of the Texas Government Code.

1. **City Secretary interviews [City Manager Joni Clarke and Human Resources Manager Cheryl Meehan]**

Reconvene into Regular Session

2. Take any action as necessary as a result of the Executive Session.

Citizens' Input

The Citizens' Input portion of the agenda is an opportunity for the public to address the City Council on any subject. By completing a "Request to Speak" form and submitting it to the City Secretary, citizens have an opportunity to speak at the City Council meeting. However, in accordance with the Texas Open Meetings Act, the City Council cannot discuss issues raised or make any decisions at this time but may refer items to City Staff for research and possible inclusion on a future agenda.

3. Citizens' Input.

Community Interest

Pursuant to Section 551.0415 of the Texas Government Code, 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.

4. Discussion and update regarding the drought contingency plan, conservation efforts and watering restrictions as it pertains to the City of Lucas. **[Councilmember Debbie Fisher and Public Works Director/City Engineer Stanton Foerster, PE]**

Consent Agenda

All items listed under the consent agenda are considered routine and are recommend to the City Council for a single vote approval. If discussion is desired, an item may be removed from the consent agenda for a separate vote.

5. Consider the minutes from the December 18, 2014 City Council meeting. **[Administrative Assistant Jennifer Faircloth]**

Public Hearings

- No public hearings are scheduled for this meeting.

Regular Agenda

6. Consider Ordinance No. 2014-12-00805 Amending Chapter 1, Article 1.07, Emergency Management of the City of Lucas Code of Ordinances regarding the State requirements and the general duties of the Emergency Management Director. **[Fire Chief Jim Kitchens]**
7. Consider Ordinance Number 2015-01-00806 of the City of Lucas, Texas, amending the Code of Ordinances by amending Chapter 6 titled "Health and Sanitation" by amending article 6.02 titled "dumping or depositing garbage, junk or refuse" by amending section 6.02.001 titled "definitions"; by amending section 6.02.002 titled "prohibited acts" to include erosion of soil or stagnant water; by amending article 6.03 titled "high grass and weeds" by amending section 6.03.001 titled "prohibited" to include dead trees; by amending 6.03.002 titled "duty to cut and mow" to include regulations for dead trees; and by adding article 6.06 titled "rodent harborage" to provide

regulations to prevent rodent harborage or infestation. **[Development Services Director Joe Hilbourn]**

8. Consider Ordinance Number 2015-01-00808 of the City of Lucas, Texas, amending the Code of Ordinances by amending Chapter 3 titled “building regulations” by adding a new article 3.19 titled “fencing requirements” to set forth fencing requirements. **[Development Services Director Joe Hilbourn]**
9. Consider authorizing the City Manager to enter into Professional Service Agreement with BW2 Engineering for the design of the Parker Road 12-inch waterline. **[Public Works Director/City Engineer Stanton Foerster, PE]**
10. Consider authorizing the City Manager to enter into Interlocal Agreement 2014-292 with Collin County for the shared maintenance of specific roadways. **[Public Works Director/City Engineer Stanton Foerster, PE]**
11. Consider Ordinance No. 2014-12-00805 Amending Chapter 1, Article 1.06, Code of Conduct of the City of Lucas Code of Ordinances regarding the General Standards of Conduct pertaining to Elected Officials and appointed Members of Boards and Commissions and establishing a complaint procedures. **[City Manager Joni Clarke]**
12. Discuss and give direction on an update to the city’s Code of Ordinances, Chapter 2 in its entirety, labeled Animal Control. **[Building Inspector Jim Hurley]**
13. Adjournment.

Certification

I hereby certify that the above notice was posted in accordance with the Texas Open Meetings Act on the bulletin board at Lucas City Hall, 665 Country Club Road, Lucas, TX 75002-7651 and on the City’s website at www.lucastexas.us by 5:00 p.m. on Friday, January 9, 2015.

Jennifer Faircloth, TRMC
Administrative Assistant

In compliance with the American with Disabilities Act, the City of Lucas will provide for reasonable accommodations for persons attending public meetings at City Hall.

Requests for accommodations or interpretive services should be directed to Jennifer Faircloth at 972-727-8999 or by email at jfaircloth@lucastexas.us at least 48 hours prior to the meeting.

LUCAS CITY COUNCIL

Meeting Date January 15, 2015

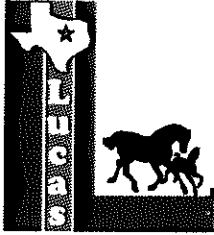
AGENDA ITEM:

- Call to Order
- Roll Call

	Present	Absent
Mayor Rebecca Mark	<input type="checkbox"/>	<input type="checkbox"/>
Seat 1 CM Wayne Millsap	<input type="checkbox"/>	<input type="checkbox"/>
Seat 2 CM Jim Olk	<input type="checkbox"/>	<input type="checkbox"/>
Seat 3 CM Steve Duke	<input type="checkbox"/>	<input type="checkbox"/>
Seat 4 CM Philip Lawrence	<input type="checkbox"/>	<input type="checkbox"/>
Seat 5 CM Debbie Fisher	<input type="checkbox"/>	<input type="checkbox"/>
Seat 6 MPT Kathleen Peele	<input type="checkbox"/>	<input type="checkbox"/>
- Determination of Quorum
- Reminder to silence cell phones
- Pledge of Allegiance

Informational Purposes

- | | |
|---|--------------------------|
| City Manager Joni Clarke | <input type="checkbox"/> |
| City Secretary | <input type="checkbox"/> |
| Public Works Director Stanton Foerster | <input type="checkbox"/> |
| Finance Director Liz Exum | <input type="checkbox"/> |
| HR Director Cheryl Meehan | <input type="checkbox"/> |
| Fire Chief Jim Kitchens | <input type="checkbox"/> |
| Development Services Director Joe Hilbourn | <input type="checkbox"/> |
| City Attorney Joe Gorfida, Jr. | <input type="checkbox"/> |
| Administrative Assistant Jennifer Faircloth | <input type="checkbox"/> |



**City of Lucas
City Council Regular Meeting
January 15, 2015**

Name & Title: Administrative Assistant Jennifer Faircloth

Agenda Item:

Citizen's Input.

Background Information:

N/A

Attachments/Supporting Documentation:

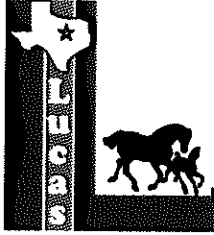
N/A

Budget/Financial Impact:

N/A

Recommendation:

N/A



**City of Lucas
City Council Regular Meeting
January 15, 2015**

**Name & Title: Councilmember Debbie Fisher and Public Works
Director/City Engineer Stanton Foerster, PE**

Agenda Item:

Items of Community Interest:

2. Discussion and update regarding the drought contingency plan, conservation efforts and watering restrictions as it pertains to the City of Lucas.

Background Information:

N/A

Attachments/Supporting Documentation:

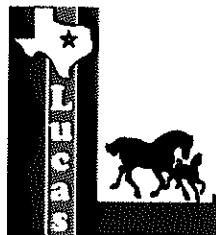
N/A

Budget/Financial Impact:

N/A

Recommendation:

N/A



**City of Lucas
City Council Regular Meeting
January 15, 2015**

Name & Title: Administrative Assistant Jennifer Faircloth

Agenda Item:

Consent and approve:

The minutes from the December 18, 2014 City Council meeting

Background Information:

N/A

Attachments/Supporting Documentation:

1. Minutes from Regular City Council Meeting December 18, 2014

Budget/Financial Impact:

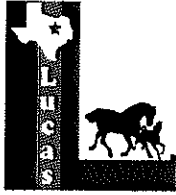
N/A

Recommendation:

Recommend approval.

Motion:

I make a Motion to approve/deny the Consent Agenda as presented.



**City Council Meeting
December 18, 2014, 7:00 PM
City Hall - 665 Country Club Road**

Minutes

Call to Order

Mayor Rebecca Mark called the meeting to order at 7:00 p.m.

Present:

Mayor Rebecca Mark	Mayor Pro Tem Kathleen Peele
Councilmember Wayne Millsap (absent)	Councilmember Jim Olk
Councilmember Steve Duke	Councilmember Debbie Fisher
Councilmember Philip Lawrence (7:09 p.m.)	

Staff:

City Attorney Joe Gorfida	Fire Chief Jim Kitchens
City Manager Joni Clarke	Finance Director Liz Exum
Public Works Dir. Stanton Foerster	Admin Assistant Jennifer Faircloth
Development Svc. Dir. Joe Hilbourn	

It was determined that a quorum was present.
Everyone was reminded to turn off or silence cell phones.
Councilmember Steve Duke led everyone in saying the Pledge of Allegiance.

Citizens' Input

1) Citizens' Input.

There was no one present who wished to speak during Citizens' Input.

Community Interest

2) Discussion and update regarding the drought contingency plan, conservation efforts and watering restrictions as it pertains to the City of Lucas.

Councilmember Debbi Fisher provided Council an update. Councilmember Fisher attended the Board of Directors meeting this afternoon, and Lake

Lavon water level has come up but not by much. The good news is, at the end of the last fiscal year the cities had a thirty percent reduction of water used. That has helped tremendously.

- 3) Presentation of the Trinity Trails Preservation Association's Friend of the Trail Award.

Mayor Rebecca Mark commented this was an honor to accept this award on behalf of the City of Lucas and our Public Works Department.

Consent Agenda

The Consent Agenda was presented for consideration and action.

- 4) The minutes from the December 4, 2014 City Council meeting.
- 5) The first amendment to the Lease Agreement for Family Promise regarding use of premises to Trusted World

MOTION: Mayor Pro Tem Kathleen Peele made a Motion to approve the Consent Agenda as presented. Councilmember Jim Olk seconded the Motion. Motion carried. Vote: 5-0.

Public Hearings

- No public hearings are scheduled for this meeting

Regular Agenda

- 6) Consider and give staff direction regarding an update to the city's Code of Ordinances adding regulations for permitting fences, and creating requirements for fences including height, type of material, and where they may be located within the city limits.

Presentation given by Development Services Director Joe Hilbourn to consider adding regulations for permitting fences, and creating requirements for fences including height, type of material, and where they may be located within the city limits.

City Council asked Community Services Director Joe Hilbourn to draft an Ordinance to be brought back on a future agenda for approval.

- 7) Consider the resignation of Lacey Bradshaw from the Parks and Open Space Board, and filling the unexpired term ending October 31, 2015.

MOTION: Councilmember Steve Duke made a Motion to accept the resignation of Lacey Bradshaw and appoint Valerie Turnbow as a full voting member to the Parks and Open Space Board filling the unexpired term ending October 31, 2015. Councilmember Jim Olk seconded the Motion. Motion carried. Vote: 6-0.

- 8) Consider Ordinance No. 2014-12-00804 adopting a Master Fee Schedule that will be established as the new Chapter 15 City of Lucas Code of Ordinances.

MOTION: Councilmember Jim Olk made a Motion to approve Ordinance No. 2014-12-00804 adopting a Master Fee Schedule that will be established as the new Chapter 15 City of Lucas Code of Ordinances with the amendment of the removing the $\frac{3}{4}$ meter fee from Section 20.400 Water and Utilities. Councilmember Debbie Fisher seconded the Motion. Motion carried. Vote: 6-0

- 9) Consider the following: 1) amending the a FY 14-15 budget to fund the Infinity Replacement Program and the automated meter reading project using Water Reserve Funds, and 2) authorizing the Mayor to enter into a sole source agreement with RG3 for said program and project in an amount not to exceed \$150,000.

MOTION: Mayor Pro Tem Kathleen Peele made a Motion to approve 1) amending the a FY 14-15 budget to fund the Infinity Replacement Program and the automated meter reading project using Water Reserve Funds, and 2) authorizing the Mayor to enter into a sole source agreement with RG3 for said program and project in an amount not to exceed \$150,000.

Councilmember Debbie Fisher seconded the Motion. Motion carried. Vote: 6-0.

- 10) Consider allowing the City Manager to enter into an advanced funding agreement with TxDOT (Texas Department of Transportation) for the construction of the Lucas Christian Academy funded turn lanes in the amount of \$116,160.56, and amending the FY 14-15 budget to reflect the revenue and the cost of the AFA (Advanced Funding Agreement).

MOTION: Councilmember Jim Olk made a Motion to approve the City Manager to enter into an advanced funding agreement with TxDOT (Texas Department of Transportation) for the construction of the Lucas Christian Academy funded turn lanes in the amount of \$116,160.56, and amending the FY 14-15 budget to reflect the revenue and the cost of the AFA (Advanced Funding Agreement). Councilmember Philip Lawrence seconded the Motion. Motion carried. Vote: 6-0.

- 11) Consider an amendment to an approved Development Agreement with Lucas Christian Academy.

Councilmember Steve Duke suggested we have an escrow amount of \$200,000 and still keep the same completion date of May 5, 2015.

Public Works Director Stanton Foerster commented Lucas Christian Academy would need to deposit another \$21,000 in the escrow account. Amending the agreement to state that on January 5, 2015 we need to have deposited with us \$141, 000. This would change to agreement to say if construction is not completed by May 5, 2015 then an additional deposit of \$200,000 would need to be made into the escrow account.

MOTION: Councilmember Debbie Fisher made a Motion to approve an amendment to an approved Development Agreement with the following amendments on January 5, 2015 Lucas Christian Academy would deposit \$141,000 in escrow account and if construction of turn lanes is not completed by May 5, 2015 then another deposit of \$200,000 would need to be made into the

escrow account. Councilmember Jim Olk seconded the Motion. Motion carried. Vote: 6-0.

- 12) Consider Ordinance No. 2014-12-00805 Amending Chapter 1, Article 1.06, Code of Conduct of the City of Lucas Code of Ordinances regarding the General standards of Conduct pertaining to Elected Officials and appointed Members of Boards and Commissions, and establishing complaint procedures.

Councilmember Jim Olk would like to add “knowingly” to the beginning of the sentence in Section 1.06.004 Standards of Conduct subsection 8.

Mayor Rebecca Mark asked the City Attorney Joe Gorfida if we have a member of a board that owns a business that does work in the city would this a conflict? City Attorney Joe Gorfida answered Mayor Mark yes this would be a conflict of interest.

This item will be bought back on the January 15th City Council agenda with a change number 8 to “knowingly”.

Executive Session

The City Council may convene in a closed Executive Session pursuant to Chapter 551, Subchapter D of the Texas Government Code.

- An Executive Session is not scheduled for this meeting.

Reconvene into Regular Session

- 13) Adjournment.

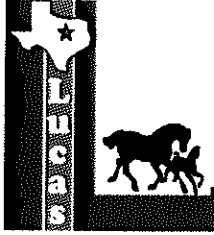
MOTION: Councilmember Jim Olk made a Motion to adjourn the meeting at 8:44 p.m. Councilmember Debbie Fisher seconded the Motion. Motion carried. Vote: 6-0.

These minutes were approved by a majority vote of the City Council on January 15, 2015.

Rebecca Mark
Mayor

ATTEST:

Jennifer Faircloth, TRMC
Administrative Assistant



**City of Lucas
Council Agenda Request
January 15, 2015**

Name & Title: Fire Chief Jim Kitchens

Agenda Item:

Consider Ordinance No. 2014-12-00805 Amending Chapter 1, Article 1.07, Emergency Management of the City of Lucas Code of Ordinances regarding the State requirements and the general duties of the Emergency Management Director (Mayor).

Background Information:

Staff has been tasked with reviewing the Code of Ordinances and updating specific sections as required. Staff sent its suggested revisions of Chapter 1, Article 1.07 regarding Emergency Management to City Attorney Joe Gorfida who has reviewed the content and made any necessary changes.

Attachments/Supporting Documentation:

1. Ordinance No. 2014-12-00805 Article 1.07 Emergency Management

Budget/Financial Impact:

N/A

Recommendation:

Approve as presented.

Motion:

I move to **approve/deny** Ordinance No. 2014-12-00805 Chapter 1, Article 1.07, Emergency Management of the City of Lucas Code of Ordinances regarding the General Standards of Emergency Management.

<input type="checkbox"/>	Annexation
<input type="checkbox"/>	Disannexation
<input checked="" type="checkbox"/>	Code of Ordinances
<input type="checkbox"/>	Other

ORDINANCE # 2015-01-00807
[AMENDING CODE OF ORDINANCES, CHAPTER 1, ARTICLE 1.07,
EMERGENCY MANAGEMENT]

AN ORDINANCE OF THE CITY OF LUCAS, TEXAS, AMENDING CHAPTER 1 TITLED "GENERAL PROVISIONS" BY AMENDING ARTICLE 1.07 TITLED "EMERGENCY MANAGEMENT" BY ADDING SUBSECTIONS 1.07.002 THROUGH 1.07.011, ESTABLISHING AND SETTING FORTH THE DUTIES OF THE EMERGENCY MANAGEMENT DIRECTOR AND SETTING FORTH REGULATIONS FOR THE DEVELOPMENT AND MAINTENANCE OF AN EMERGENCY MANAGEMENT PLAN; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000.00); AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council finds that the identification of potential hazards and the prevention or mitigation of their effects must be an on-going concern of the City if the lives and property of the populace are to be protected; and

WHEREAS, the City Council recognizes that the preparation of a Comprehensive Emergency Management plan, and the means for its implementation, for the protection of lives and property in the City from natural or man-caused disasters or threats thereof is immediately essential; and

WHEREAS, the City Council further finds that in times of disasters which may imperil the safety of the inhabitants of the City, or their property, it becomes necessary to effectuate and place into operation the preconceived plans and preparations with a minimum of delay; and

WHEREAS, the City Council of the City of Lucas finds, therefore, that the preparation and implementation of such plans are now imperative;

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

Section 1. That the Code of Ordinances of the City of Lucas, Texas be, and the same is hereby the same hereby amended by amending Chapter 1 titled "General Provisions" by amending Article 1.07 titled "Emergency Management" to read as follows:

"ARTICLE 1.07 EMERGENCY MANAGEMENT

...

Sec. 1.07.002 Organization

That there exists the office of emergency management director of the city, which shall be held by the mayor in accordance with state law.

- (1) An emergency management coordinator may be appointed by and serve at the pleasure of the director.
- (2) The director shall be responsible for a program of comprehensive emergency management and for carrying out the duties and responsibilities set forth in this article. The director may delegate authority for execution of these duties to the coordinator, but ultimate responsibility for such execution shall remain with the director.
- (3) The operational emergency management organization shall consist of the officers and employees of the city so designated by the director in the emergency management plan, as well as organized volunteer groups. The functions and duties of this organization shall be distributed among such officers and employees in accordance with the terms of the emergency management plan.

Sec. 1.07.003 Emergency management director -- powers and duties

That the duties and responsibilities of the emergency management director shall include the following:

- (1) Conduct an on-going survey of actual or potential hazards which threaten life and property within the city and an on-going program of identifying and requiring or recommending the implementation of measures which would tend to prevent the occurrence or reduce the impact of such hazards if a disaster did occur.
- (2) Supervision of the development and approval of an emergency management plan for the city, and shall recommend for adoption by the city council all mutual aid arrangements deemed necessary for the implementation of such plan.
- (3) Authority to declare a local state of disaster. The declaration may not be continued or renewed for a period in excess of seven (7) days except by or with the consent of the city council. Any order or proclamation declaring, continuing, or terminating a local state of disaster shall be given prompt and general publicity and shall be filed promptly with the city secretary.
- (4) Issuance of necessary proclamations, regulations, or directives which are necessary for carrying out the purposes of this ordinance. Such proclamations, regulations, or directives shall be disseminated promptly by means calculated to bring their contents to the attention of the general public and, unless circumstances attendant on the disaster prevent or impede, promptly filed with the city secretary.

- (5) Direction and control of the operations of the emergency management organization as well as the training of emergency management personnel.
- (6) Determination of all questions of authority and responsibility that may arise within the emergency management organization.
- (7) Maintenance of liaison with other municipal, county, district, state, regional or federal emergency management organizations.
- (8) Marshaling of all necessary personnel, equipment, or supplies from any department of the city to aid in the carrying out of the provisions of the emergency management plan.
- (9) Supervision of the drafting and execution of mutual aid agreements, in cooperation with the representatives of the state and of other local political subdivisions of the state, and the drafting and execution, if deemed desirable, of an agreement with Collin County and with other municipalities within Collin County, for the county-wide coordination of emergency management efforts.
- (10) Supervision of, and final authorization for, the procurement of all necessary supplies and equipment, including acceptance of private contributions which may be offered for the purpose of improving emergency management within the city.
- (11) Authorizing of agreements, after approval by the city attorney, for use of private property for public shelter and other purposes.
- (12) Survey of the availability of existing personnel, equipment, supplies, and services which could be used during a disaster, as provided for herein.
- (13) Other requirements as specified in the Texas Disaster Act of 1975, codified in Chapter 418 of the Texas Government Code.

Sec. 1.07.004. Emergency management plan

That a comprehensive emergency management plan shall be developed and maintained to the advanced level, and the plan and all annexes shall be NIMS compliant. The plan shall set forth the form of the organization, establish and designate divisions and functions; assign responsibilities, tasks, duties, and powers; and designate officers and employees to carry out the provisions of this article. As provided by state law, the plan shall follow the standards and criteria established by the State Division of Emergency Management of the State of Texas. Insofar as possible, the form of organization, titles, and terminology shall conform to the recommendations of the State Division of Emergency Management. When approved, it shall be the duty of all departments and agencies to perform the functions assigned by the plan and to maintain their portion of the plan in a current state of readiness at all times. The emergency management plan shall be considered supplementary to this article and have the effect of law during the time of a disaster.

Sec. 1.07.005 Interjurisdictional program

That the mayor is hereby authorized to join the county judge of Collin county and the mayors of other cities in said county, in the formation of an interjurisdictional emergency management program for Collin County, and shall have the authority to cooperate in the preparation of an interjurisdictional emergency management plan and in the appointment of a joint emergency management coordinator, as well as all powers necessary to participate in a county-wide program of emergency management insofar as said program may affect the city.

Sec. 1.07.006 Emergency management organization of city, officers, functions and duties

The operational emergency management organizations of the City shall consist of the officers and employees of the City so designated by the Director in the emergency management plan, as well as organized volunteer groups. The functions and duties of this organization shall be distributed among such officers and employees in accordance with the terms of the emergency management plan. Such plan shall set forth the form of the organization, establish and designate divisions and functions, assign tasks, duties and powers, and designate officers and employees to carry out the provisions of this Chapter. Insofar as possible, the form of organization, titles and terminology shall conform to the recommendations of the State Division of Emergency Management of the State of Texas and of the Federal Government.

Sec. 1.07.007 Override

That at all times when the orders, rules, and regulations made and promulgated pursuant to this article shall be in effect, they shall supersede and override all existing articles, orders, rules, and regulations insofar as the latter may be inconsistent therewith.

Sec 1.07.008 Chapter not to conflict with state and federal regulations

This chapter shall not be constructed so as to conflict with any state or federal statute or with any military or naval order, rule or regulation.

Sec. 1.07.009 Liability

This article is an exercise by the city of its governmental functions for the protection of the public peace, health, and safety, and neither the city, its agents nor representatives, nor any individual, receiver, firm, partnership, corporation, association, or trustee, nor any of the agents thereof, in good faith carrying out, complying with or attempting to comply with any order, rules or regulation promulgated pursuant to the provisions of this article shall be liable for any damage sustained to persons as the result of said activity. Any person owning or controlling real estate or other premises who voluntarily and without compensation grants to the city a license of privilege, or otherwise permits the city to inspect, designate, and use the whole or any part or parts of such real estate or premises for the purpose of sheltering persons during an actual, impending, or practice enemy attack

or natural or man-made disaster shall, together with his successors in interest, if any, not be civilly liable for the death of, or injury to, any person on or about such real estate or premises under such license, privilege or other permission or loss of, or damage to, the property of such person.

Sec. 1.07.010 Commitment of Funds

No person shall have the right to expend any public funds of the City in carrying out any emergency management activity authorized by this article without prior approval by the city council, nor shall any person have any right to bind the city by contract or otherwise without prior and specific approval of the city council unless during a declared disaster. During a declared disaster, the mayor may expend and/or commit public funds of the city when deemed prudent and necessary for the protection of health, life, or property.

Sec. 1.07.011. Offenses; Penalties

- (1) It shall be unlawful for any person willfully to obstruct, hinder, or delay any member of the emergency management organization in the enforcement of any rule or regulation issued pursuant to this article.
- (2) It shall be unlawful for any person to wear, carry, or display any emblem, insignia, or any other means of identification as a member of the emergency management organization of the city, unless authority to do so has been granted to such person by the proper officials.
- (3) Any authorized person who shall operate a siren or other device so as to simulate a warning signal, or the termination of a warning, shall be deemed guilty of a violation of this article and shall be subject to the penalties imposed by this article.
- (4) Convictions for violations of the provisions of this Article shall be punishable by fine not to exceed Two Thousand and No/100 Dollars (\$2,000.00).

Sec. 1.07.012-1.07.043 Reserved”

Section 2. That all provisions of the Code of Ordinances of the City of Lucas, Texas, in conflict with the provisions of this Ordinance be, and the same are hereby, repealed, and that all other provisions not in conflict with the provisions of this Ordinance shall remain in full force and effect;

Section 3. That should any word, phrase, paragraph, section or portions of this Ordinance or the Code of Ordinances, as amended hereby, be held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance or the Code of Ordinances, as amended hereby, which shall remain in full force and effect;

Section 4. That any person, firm or corporation violating any of the provisions or terms of this Ordinance or the Code of Ordinances, as amended hereby, shall be guilty of a misdemeanor and upon conviction in the Municipal Court of the City of Lucas, Texas, shall be subject to a fine not to exceed

the sum of Two Thousand (\$2,000.00) Dollars for each offence; and each and every day such violation shall continue shall be deemed to constitute a separate offense; and

Section 5. That this Ordinance shall become effective from and after its passage and the publication of the caption, as law and charter in such cases provide.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF LUCAS, COLLIN COUNTY, TEXAS, ON THIS 15 DAY OF JANUARY, 2015.

APPROVED:

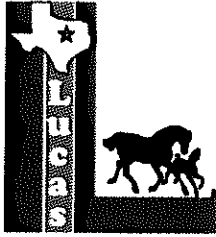
Rebecca Mark, Mayor

APPROVED AS TO FORM:

ATTEST:

Joseph J. Gorfida, Jr., City Attorney
(01-05-15/69607)

Joni Clarke, Interim City Secretary



**City of Lucas
Council Agenda Request
January 15, 2015**

Name & Title: Development Services Director Joe Hilbourn

Agenda Item:

Consider Ordinance Number 2015-01-00806 of the City of Lucas, Texas, amending the Code of Ordinances by amending Chapter 6 titled "Health and Sanitation" by amending article 6.02 titled "dumping or depositing garbage, junk or refuse" by amending section 6.02.001 titled "definitions"; by amending section 6.02.002 titled "prohibited acts" to include erosion of soil or stagnant water; by amending article 6.03 titled "high grass and weeds" by amending section 6.03.001 titled "prohibited" to include dead trees; by amending 6.03.002 titled "duty to cut and mow" to include regulations for dead trees; and by adding article 6.06 titled "rodent harborage" to provide regulations to prevent rodent harborage or infestation

Background Information:

This group of code changes is being brought forward as both a measure to clean up Chapter 6 of the City's Code of Ordinances and to address items that have been a concern in the City with no means to address.

Attachments/Supporting Documentation:

1. Ordinance Number 2015-01-00806

Budget/Financial Impact:

N/A

Recommendation:

Approve as presented

Motion:

I make a Motion to approve/deny Ordinance Number 2015-01-00806 of the City of Lucas, Texas, amending the Code of Ordinances by amending Chapter 6 titled "Health and Sanitation" by amending article 6.02 titled "dumping or depositing garbage, junk or refuse"

by amending section 6.02.001 titled "definitions"; by amending section 6.02.002 titled "prohibited acts" to include erosion of soil or stagnant water; by amending article 6.03 titled "high grass and weeds" by amending section 6.03.001 titled "prohibited" to include dead trees; by amending 6.03.002 titled "duty to cut and mow" to include regulations for dead trees; and by adding article 6.06 titled "rodent harborage" to provide regulations to prevent rodent harborage or infestation

<input type="checkbox"/>	Annexation
<input type="checkbox"/>	Disannexation
<input checked="" type="checkbox"/>	Code of Ordinances
<input type="checkbox"/>	Other

**ORDINANCE # 2015-01-00806
[AMENDING CODE OF ORDINANCE CHAPTER 6, HEALTH AND
SANITATION]**

AN ORDINANCE OF THE CITY OF LUCAS, TEXAS, AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 6 TITLED “HEALTH AND SANITATION” BY AMENDING ARTICLE 6.02 TITLED “DUMPING OR DEPOSITING GARBAGE, JUNK OR REFUSE” BY AMENDING SECTION 6.02.001 TITLED “DEFINITIONS”; BY AMENDING SECTION 6.02.002 TITLED “PROHIBITED ACTS” TO INCLUDE EROSION OF SOIL OR STAGNANT WATER; BY AMENDING ARTICLE 6.03 TITLED “HIGH GRASS AND WEEDS” BY AMENDING SECTION 6.03.001 TITLED “PROHIBITED” TO INCLUDE DEAD TREES; BY AMENDING 6.03.002 TITLED “DUTY TO CUT AND MOW” TO INCLUDE REGULATIONS FOR DEAD TREES; AND BY ADDING ARTICLE 6.06 TITLED “RODENT HARBORAGE” TO PROVIDE REGULATIONS TO PREVENT RODENT HARBORAGE OR INFESTATION; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000.00); AND PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED THAT THE CITY COUNCIL OF THE CITY OF LUCAS:

Section 1. That the Code of Ordinances of the City of Lucas, Texas be, and the same is, hereby amended by amending Chapter 6 titled “Health and Sanitation”, to read as follows:

“CHAPTER 6

HEALTH AND SANITATION

...

ARTICLE 6.02 DUMPING OR DEPOSITING GARBAGE, JUNK OR REFUSE

Sec. 6.02.001 Definitions

The following terms, as herein defined, shall control in the consideration and enforcement of this article:

Approved. Approved by the code official.

Code official. The official and there designee(s) who are charged with the administration and enforcement of this chapter, or any other person authorized by the City Manager.

Easement. That portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement shall be permitted to be for use under, on or above said lot or lots.

...

Occupancy. The purpose for which a building or portion thereof is utilized or occupied.

Operator. Any person who has charge, care or control of a structure or premises which is let or offered for occupancy.

Owner. Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

Public Way. Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

Premises. A lot, plot or parcel of land, easement or public way, including any structures thereon.

...

Sec. 6.02.002 Prohibited Acts

(a) It shall be unlawful for any person owning, claiming, occupying or having supervision or control of any real property in the city, including any adjacent and contiguous rights-of-way or easements, to permit, allow, or dump any objectionable, unsightly, or unsanitary refuse, garbage, rubbish or junk, as defined herein, on any real property in the city, including any contiguous right-of-way or easement, or to permit or allow the accumulation of any objectionable, unsanitary, hazardous or unsightly refuse, garbage, rubbish or junk, as defined herein, on any real property in the city, including any adjacent and contiguous rights-of-way or easements. The unlawful acts described in this section are declared by the city to be a nuisance per se unless such refuse, garbage, rubbish or junk is deposited in a properly maintained and licensed landfill.

(b) No person, corporation or political subdivision shall transport junk, refuse or garbage in any manner over and upon any street or highway in such a manner that it is strewn upon and along such street or highway.

(c) It shall be unlawful for any person owning, claiming, occupying or having supervision or control of any real property in the city, including any adjacent and contiguous rights-of-way or easements, to permit or allow the grade of the premises to promote erosion of soil or, except for approved retention areas and reservoirs, to allow the accumulation of stagnant water thereon, or within any structure located thereon on any real property in the city, including any adjacent and contiguous rights-of-way or easements. The unlawful acts described in this section are declared by the city to be a nuisance per se unless such refuse, garbage, rubbish or junk is deposited in a properly maintained landfill, or in the case of drainage issues, unless the premises is graded and maintained to prevent soil erosion and accumulation of stagnant water.

(d) It shall be unlawful for the owner of a property to allow stagnant water, either in a swimming pool or in a natural or artificial pond. Swimming pools shall be kept and maintained in a clean and sanitary condition.

...

ARTICLE 6.03 HIGH GRASS AND WEEDS

Sec. 6.03.001 Prohibited

(a) It shall be unlawful for any person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied, within the city, to permit weeds or grass, except crops that are regularly cultivated, to grow to a greater height than twelve (12) inches upon any such real property within one hundred fifty (150) feet of any property line which abuts street rights-of-way, developed property or any buildings or other structures.

(b) It shall be unlawful for any person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied, within the city, to permit a dead tree upon any such real property within one hundred fifty (150) feet of any property line which abuts street rights-of-way.

Sec. 6.03.002 Duty to cut and remove

(a) It shall be the duty of any person owning, claiming, occupying or having supervision or control of any real property to cut and remove all such grass, weeds, or dead trees as often as may be necessary to comply with section 6.03.001; provided that the removing and cutting of same at least once in every thirty (30) days shall be deemed in compliance with this article.

(b) A dead tree must be removed to a level not exceeding seventy-two inches (72") of surrounding ground level.

...

ARTICLE 6.06 RODENT HARBORAGE

Sec. 6.06.001

The following terms, as defined herein, shall control in the consideration and enforcement of this article:

Exterior property. The open space on the premises and on adjoining property under the control of owners or operators of such premises.

Infestation. The presence, within or contiguous to, a structure or premises of rats, or common field mice.

Sec. 6.06.002

All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After pest elimination, proper precautions shall be taken to eliminate rodent harborage and prevent re-infestation.

...”

Section 2. All ordinances of the City of Lucas in conflict with the provisions of this Ordinance shall be, and same are hereby, repealed, provided, however, that all other provisions of said Ordinances that are not in conflict herewith shall remain in full force and effect.

Section 3. Should any word, sentence, paragraph, subdivision, clause, phrase or section of this Ordinance or of the City of Lucas Code of Ordinances, as amended hereby, be adjudged or held to be voided or unconstitutional, the same shall not affect the validity of the remaining portions of said Ordinances or the City of Lucas Code of Ordinances, as amended hereby, which shall remain in full force and effect.

Section 4. An offense committed before the effective date of the Ordinance is governed by prior law and the provisions of the City of Lucas Code of Ordinances 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 the City of Lucas Code of Ordinances, as amended, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000) for each offense, and each and every day such violation shall continue shall be deemed to constitute a separate offense.

Section 6. This Ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Lucas, and it is accordingly so ordained.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF LUCAS, COLLIN COUNTY, TEXAS, ON THIS 15th DAY OF JANUARY, 2015.

APPROVED:

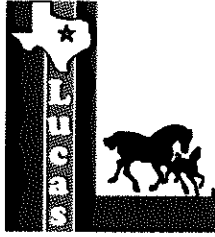
Rebecca Mark, Mayor

APPROVED AS TO FORM:

ATTEST:

Joseph J. Gorfida, Jr., City Attorney
(12-19-14/69491)

Joni Clarke, Interim City Secretary



City of Lucas Council Agenda Request January 15, 2015

Name & Title: Development Services Director Joe Hilbourn

Agenda Item:

Consider Ordinance Number 2015-01-00808 of the City of Lucas, Texas, amending the Code of Ordinances by amending Chapter 3 titled "building regulations" by adding a new article 3.19 titled "fencing requirements" to set forth fencing requirements.

Background Information:

This ordinance addresses the following:

1. Height
2. Materials
3. Permitting
4. Location
5. Specific district requirements
6. A penalty
7. A repealing clause

Attachments/Supporting Documentation:

1. Ordinance Number 2015-01-00808

Budget/Financial Impact:

N/A

Recommendation:

Approve as presented

Motion:

I make a Motion to **approve** Ordinance Number 2015-01-00808 of the City of Lucas, Texas, amending the Code of Ordinances by amending Chapter 3 titled "building regulations" by adding a new article 3.19 titled "fencing requirements" to set forth fencing requirements.

<input type="checkbox"/>	Annexation
<input type="checkbox"/>	Disannexation
<input checked="" type="checkbox"/>	Code of Ordinances
<input type="checkbox"/>	Other

ORDINANCE # 2015-01-00808
[AMENDING CODE OF ORDINANCE CHAPTER 3,
BUILDING REGULATIONS]

AN ORDINANCE OF THE CITY OF LUCAS, TEXAS, AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 3 TITLED "BUILDING REGULATIONS" BY ADDING A NEW ARTICLE 3.19 TITLED "FENCING REQUIREMENTS" TO SET FORTH FENCING REQUIREMENTS; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000.00); AND PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED THAT THE CITY COUNCIL OF THE CITY OF LUCAS:

Section 1. That the Code of Ordinances of the City of Lucas, Texas be, and the same is, hereby amended by amending Chapter 3 titled "Building Regulations", by adding Article 3.19 titled "Fencing Requirements", to read as follows:

"CHAPTER 3

BUILDING REGULATIONS

...

ARTICLE 3.19 FENCING REQUIREMENTS

Sec. 3.19.001 Residential, agricultural and estate districts

(a) Height.

- (1) Maximum height of 5 feet (5') for front yards.
- (2) Maximum height of 8 feet (8') for side and rear yards.

(b) Fencing located within the required front, side and rear yard setbacks shall be 50% see through.

(c) If property is used to pasture or control livestock, farming or other similar agricultural uses, and such uses are permitted, the fencing requirements in section 3.19.03 are permitted.

(d) Fencing located inside of the required front, rear and side yard setbacks may be privacy-style.

Sec. 3.19.002 Fence materials for residential or estate districts

(a) Fences within the residential or estate districts shall be constructed from wood, concrete, masonry, wrought iron, metal tubing, vinyl, fiberglass composite, decorative concrete, or other materials approved by the design review committee which shall be determined on a case by case basis.

(b) Fencing for sport courts (tennis, soccer, basketball, etc.) decorative gates, and overhead entrance gates over eight feet (8') in height shall be approved by the board of adjustments. The board of adjustment shall not require a hardship and there is no application fee or public notice requirement.

(c) Razor ribbon, plywood or other similar materials manufactured for other uses shall not be permitted.

Sec. 3.19.003 Fencing requirements for agricultural district

(a) Fences within the agricultural districts shall be constructed from wood, masonry, wrought iron, metal tubing, vinyl, fiberglass composite, decorative concrete, galvanized or aluminum wire mesh, barbed wire, chain link or other materials approved by the design review committee for exterior use.

(b) Electrically charged fences are permitted but cannot be charged in such a manner as to be dangerous to humans.

(c) Fences containing razor ribbon, plywood or other similar materials manufactured for other uses shall not be permitted.

Sec. 3.19.004 General fencing requirements

(a) No fences are permitted to be constructed upon or caused to protrude over any city easement except by written approval of the city engineer, or right-of-way without prior written permission from the city council.

(b) All fences must be maintained in good repair and appearance so as not to become a nuisance or hazard and shall be in vertical alignment not to exceed 20% measured at the top of the fence.

(c) Any and all broken, loose, damaged, removed or missing portions of fencing must be replaced or repaired with comparable materials of a comparable color to the remaining portions of the fence.

- (d) Privacy fencing must be built with the finished side facing the exterior of the lot or provide living plant screen.
- (e) Height shall be determined from measuring on the outside of the fence on the property on which it is installed. If installed on retaining wall, the height of the retaining wall shall count toward the overall height of the fence.
- (f) Fences shall not obstruct proper visual clearance for vehicular traffic.
- (g) Each fence must contain at least one gate not less than three feet (3') wide along the common path of travel for emergency ingress and egress.
- (h) Fences over eight feet (8') in height shall be approved by the board of adjustments. The board of adjustment shall not require a hardship and there is no application fee or public notice requirement.

Sec. 3.19.005 Permit required

- (a) A permit shall be required prior to the construction for all new fencing. A Permit fee shall be set by Ordinance and is contained in the Master Fee Schedule.
- (b) A permit fee shall be required for all fence repair/replacement of fences that are within 50 feet (50') of a right-of-way when over 60% of fence is replaced within a twelve month period.
- (c) Any permit issued by the city does not allow for any construction of fencing in violation of any deed restrictions for the property.

Sec. 3.19.006 Requirements for commercial business district

All proposed fencing within the commercial business district shall be required to be approved as part of the landscape plan approval process.

Sec. 3.19.007 Requirements for light industrial district

All proposed fencing within the light industrial district shall be required to be approved as part of the landscape plan approval process.

Sec. 3.19.008 Self and mini-storage units

Fencing for self and mini-storage unit facilities shall require a minimum eight foot (8') masonry screen wall on all sides with wrought iron gate(s) for ingress, egress and pedestrian gates.

Sec. 3.19.009 Penalty

Any person, firm or corporation violating any provision of this Article shall be punishable by a fine not to exceed the sum of two thousand dollars (\$2,000.00) for each violation. Each day that a violation is permitted to exist shall constitute a separate offense.”

Section 2. All ordinances of the City of Lucas in conflict with the provisions of this Ordinance shall be, and same are hereby, repealed, provided, however, that all other provisions of said Ordinances are not in conflict herewith shall remain in full force and effect.

Section 3. Should any word, sentence, paragraph, subdivision, clause, phrase or section of this Ordinance or of the City of Lucas Code of Ordinances, as amended hereby, be adjudged or held to be voided or unconstitutional, the same shall not affect the validity of the remaining portions of said Ordinances or the City of Lucas Code of Ordinances, as amended hereby, which shall remain in full force and effect.

Section 4. An offense committed before the effective date of the Ordinance is governed by prior law and the provisions of the City of Lucas Code of Ordinances 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 the City of Lucas Code of Ordinances, as amended, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense, and each and every day such violation shall continue shall be deemed to constitute a separate offense.

Section 6. This Ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Lucas, and it is accordingly so ordained.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF LUCAS, COLLIN COUNTY, TEXAS, ON THIS 15th DAY OF JANUARY, 2015.

APPROVED:

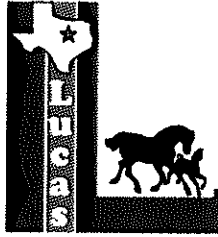
Rebecca Mark, Mayor

APPROVED AS TO FORM:

ATTEST:

Joseph J. Gorfida, Jr., City Attorney
(1-06-15/69625)

Joni Clarke, Interim City Secretary



City of Lucas Council Agenda Request January 15, 2015

Name & Title: Public Works Director/City Engineer Stanton Foerster, PE

Agenda Item:

Consider authorizing the City Manager to enter into Professional Service Agreement with BW2 Engineering for the design of the Parker Road 12-inch waterline.

Background Information:

In early December 2014, TxDOT notified the City of Lucas that the existing six-inch city waterline in the northern right-of-way of Parker Road (FM 2514) must be relocated. The TxDOT project to widen FM 2514 from 1000 feet west of FM 1378 to City of Wylie has been let. The Lucas waterline is in conflict with the new pavement. Staff was planning to have the development on the north side of Parker Road relocate the waterline as development took place. The TxDOT requirement to move is speeding up the relocation.

Staff asked BW2 for three proposals:

1. FM 1378 to 1000 feet west of FM 1378 (all that is required by TxDOT at this time)
2. FM 1378 to Toole Drive
3. FM 1378 to Stinson Road

Attachments/Supporting Documentation:

1. BW2 Engineering Proposal Letters

Budget/Financial Impact:

This project was not funded. Water Fund Reserve can be used to fund the design and construction.

The design fee for the three projects are as follows:

1. \$15,900
2. \$46,700
3. \$62,900

Recommendation:

Staff recommends approval of the FM 1378 to Stinson Road Design. The design can be broken up into smaller construction projects.

Motion:

I make a motion to approve/deny authorizing the City Manager to enter into professional service agreement with BW2 Engineering for the design of the Parker Road 12-inch waterline in the amount not to exceed \$62,900.



BW2 ENGINEERS, INC.

December 10, 2014

Mr. Stanton Foerster, P.E.
Public Works Director
City of Lucas
665 Country Club Road
Lucas, Texas 75002

Re: Parker Road Water Line (FM 1378 to 1000 Feet West of FM 1378)
Proposal for Surveying and Engineering Services

Dear Stanton:

BW2 Engineers, Inc. (BW2) is pleased to provide this proposal to the City of Lucas for the provision of professional surveying and engineering services associated with the design and preparation of plans for the proposed 12-inch water line along Parker Road to replace the existing 6" water line from FM 1378 to 1000 feet west of FM 1378.

The City has made significant improvements to the City water system in recent years. Several major water line projects have been completed, including the recently completed Stinson Road Water Line. These projects involved the replacement of undersized water lines, which were often in need of repair, with larger more dependable polyvinyl chloride (PVC) water lines. Completion of these projects has improved water supply, improved water pressure, and enhanced fire protection.

Although the City has made substantial progress in replacing the undersized lines in the system, several other undersized water lines also need to be addressed. It appears that the most critical of these water lines is the existing 6" diameter water line along Parker Road due to its size and age. Also, replacement of this existing water line is necessary to allow proposed improvements to FM 2514 (Parker Road).

It is our understanding that the City is prepared at this time to begin the preparation of plans for the proposed 12" water line. This project will include the following services:

- ❖ Field survey to identify topographical information required for detail design.
- ❖ Design and preparation of plans for the proposed 12" inch water line.
- ❖ Preparation of the project manual and specifications for the project.
- ❖ Preparation of easement documents for the proposed 12" water line.
- ❖ Provide construction administration services, including services during advertisement and services during construction (such as pay estimate review, change order preparation, etc.).

Mr. Stanton Foerster, P.E.
Public Works Director
City of Lucas
December 10, 2014

BW2 proposes to complete the surveying and engineering services associated with this project for the fees provided below.

❖ Surveying Services	\$ 2,900
❖ Engineering Services	\$ 10,000
❖ Construction Administration Services	\$ <u>1,900</u>
TOTAL FIXED FEE:	\$ 14,800
❖ Easement Document Services* (not to exceed)	\$ <u>1,100</u>
TOTAL FEE (not to exceed):	\$ 15,900

* At \$1,100 per property for up to one (1) property

Assumptions

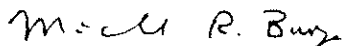
The following assumptions have been made in preparing this agreement:

- ❖ Easement documents for permanent easements on up to one (1) property will be required. Any additional easement will be considered additional services.
- ❖ Any temporary construction space required for the project will be obtained by the City by letter agreement with the property owner(s).
- ❖ Geotechnical services are not included in this proposal.
- ❖ Full time inspection services during construction are not included in this proposal.

Terms and Conditions

Terms and conditions for the professional engineering and surveying services to be provided for this project will be included in the Professional Services Agreement for this project. Acceptance of this proposal will be confirmed by the execution of the Professional Services Agreement for the project. Receipt of a fully executed copy of the Professional Services Agreement will be considered authorization for BW2 to proceed with the project.

Very truly yours,


Michael R. Burge, P.E.
Project Manager

MRB:maw



BW2 ENGINEERS, INC.

December 10, 2014

Mr. Stanton Foerster, P.E.
Public Works Director
City of Lucas
665 Country Club Road
Lucas, Texas 75002

Re: Parker Road Water Line (FM 1378 to Toole Drive)
Proposal for Surveying and Engineering Services

Dear Stanton:

BW2 Engineers, Inc. (BW2) is pleased to provide this proposal to the City of Lucas for the provision of professional surveying and engineering services associated with the design and preparation of plans for the proposed 12-inch water line along Parker Road to replace the existing 6" water line from FM 1378 to Toole Drive.

The City has made significant improvements to the City water system in recent years. Several major water line projects have been completed, including the recently completed Stinson Road Water Line. These projects involved the replacement of undersized water lines, which were often in need of repair, with larger more dependable polyvinyl chloride (PVC) water lines. Completion of these projects has improved water supply, improved water pressure, and enhanced fire protection.

Although the City has made substantial progress in replacing the undersized lines in the system, several other undersized water lines also need to be addressed. It appears that the most critical of these water lines is the existing 6" diameter water line along Parker Road due to its size and age. Also, replacement of this existing water line is necessary to allow proposed improvements to FM 2514 (Parker Road).

It is our understanding that the City is prepared at this time to begin the preparation of plans for the proposed 12" water line. This project will include the following services:

- ❖ Field survey to identify topographical information required for detail design.
- ❖ Design and preparation of plans for the proposed 12" inch water line.
- ❖ Preparation of the project manual and specifications for the project.
- ❖ Preparation of easement documents for the proposed 12" water line.
- ❖ Provide construction administration services, including services during advertisement and services during construction (such as pay estimate review, change order preparation, etc.).

Mr. Stanton Foerster, P.E.
Public Works Director
City of Lucas
December 10, 2014

BW2 proposes to complete the surveying and engineering services associated with this project for the fees provided below.

❖ Surveying Services	\$ 10,900
❖ Engineering Services	\$ 29,000
❖ Construction Administration Services	\$ 5,000
TOTAL FIXED FEE:	\$ 44,900
❖ Easement Document Services* (not to exceed)	\$ 1,800
TOTAL FEE (not to exceed):	\$ 46,700

* At \$900 per property for up to two (2) properties

Assumptions

The following assumptions have been made in preparing this agreement:

- ❖ Easement documents for permanent easements on up to two (2) properties will be required. Any additional easement will be considered additional services.
- ❖ Any temporary construction space required for the project will be obtained by the City by letter agreement with the property owner(s).
- ❖ Geotechnical services are not included in this proposal.
- ❖ Full time inspection services during construction are not included in this proposal.

Terms and Conditions

Terms and conditions for the professional engineering and surveying services to be provided for this project will be included in the Professional Services Agreement for this project. Acceptance of this proposal will be confirmed by the execution of the Professional Services Agreement for the project. Receipt of a fully executed copy of the Professional Services Agreement will be considered authorization for BW2 to proceed with the project.

Very truly yours,

Michael R. Burge

Michael R. Burge, P.E.
Project Manager

MRB:maw



BW2 ENGINEERS, INC.

December 10, 2014

Mr. Stanton Foerster, P.E.
Public Works Director
City of Lucas
665 Country Club Road
Lucas, Texas 75002

Re: Parker Road Water Line (FM 1378 to Stinson Road)
Proposal for Surveying and Engineering Services

Dear Stanton:

BW2 Engineers, Inc. (BW2) is pleased to provide this proposal to the City of Lucas for the provision of professional surveying and engineering services associated with the design and preparation of plans for the proposed 12-inch water line along Parker Road to replace the existing 6" water line from FM 1378 to Stinson Road.

The City has made significant improvements to the City water system in recent years. Several major water line projects have been completed, including the recently completed Stinson Road Water Line. These projects involved the replacement of undersized water lines, which were often in need of repair, with larger more dependable polyvinyl chloride (PVC) water lines. Completion of these projects has improved water supply, improved water pressure, and enhanced fire protection.

Although the City has made substantial progress in replacing the undersized lines in the system, several other undersized water lines also need to be addressed. It appears that the most critical of these water lines is the existing 6" diameter water line along Parker Road due to its size and age. Also, replacement of this existing water line is necessary to allow proposed improvements to FM 2514 (Parker Road).

It is our understanding that the City is prepared at this time to begin the preparation of plans for the proposed 12" water line. This project will include the following services:

- ❖ Field survey to identify topographical information required for detail design.
- ❖ Design and preparation of plans for the proposed 12" inch water line.
- ❖ Preparation of the project manual and specifications for the project.
- ❖ Preparation of easement documents for the proposed 12" water line.
- ❖ Provide construction administration services, including services during advertisement and services during construction (such as pay estimate review, change order preparation, etc.).

Mr. Stanton Foerster, P.E.
Public Works Director
City of Lucas
December 10, 2014

BW2 proposes to complete the surveying and engineering services associated with this project for the fees provided below.

❖ Surveying Services	\$ 13,700
❖ Engineering Services	\$ 35,700
❖ Construction Administration Services	<u>\$ 6,300</u>
TOTAL FIXED FEE:	\$ 55,700
❖ Easement Document Services* (not to exceed)	<u>\$ 7,200</u>
TOTAL FEE (not to exceed):	\$ 62,900

* At \$800 per property for up to nine (9) properties

Assumptions

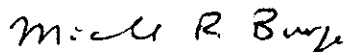
The following assumptions have been made in preparing this agreement:

- ❖ Easement documents for permanent easements on up to nine (9) properties will be required. Any additional easement will be considered additional services.
- ❖ Any temporary construction space required for the project will be obtained by the City by letter agreement with the property owner(s).
- ❖ Geotechnical services are not included in this proposal.
- ❖ Full time inspection services during construction are not included in this proposal.

Terms and Conditions

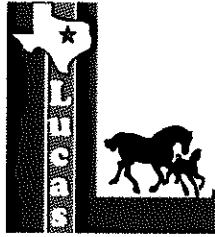
Terms and conditions for the professional engineering and surveying services to be provided for this project will be included in the Professional Services Agreement for this project. Acceptance of this proposal will be confirmed by the execution of the Professional Services Agreement for the project. Receipt of a fully executed copy of the Professional Services Agreement will be considered authorization for BW2 to proceed with the project.

Very truly yours,



Michael R. Burge, P.E.
Project Manager

MRB:maw



**City of Lucas
Council Agenda Request
January 15, 2015**

Name & Title: Public Works Director/City Engineer Stanton Foerster, PE

Agenda Item:

Consider authorizing the City Manager to enter into Interlocal Agreement 2014-292 with Collin County for the shared maintenance of specific roadways.

Background Information:

The City of Lucas and Collin County have shared maintenance of several roadways at the centerline of the roadway is the boundary between the two agencies.

Attachments/Supporting Documentation:

1. Letter from Collin County Purchasing agent Carol Magers dated August 4, 2014. This letter contains the Interlocal Agreement.
2. Exhibit A – City of Lucas and Collin County Shared Roadway Maintenance

Budget/Financial Impact:

None, each year funds are budgeted for roadway maintenance.

Recommendation:

Staff recommends approval.

Motion:

I make a motion to approve/deny authorizing the City Manager to enter into Interlocal Agreement 2014-292 with Colling County for the shared maintenance of specific roadways listed on Exhibit A.

INTERLOCAL COOPERATION AGREEMENT

Whereas, the Interlocal Cooperation Act, Title 7, Chapter 791, Vernon's Texas Statutes and Codes Annotated (the "Act"), and the Constitution of the State of Texas, Article III, Section 64(b) (the "Constitution") specifically authorizes counties and other political subdivisions comprised or located within the county, to contract with one another for the performance of governmental functions and/or services required or authorized by the Constitution, or the laws of this State, under the terms and conditions prescribed in the Act; and

WHEREAS, the functions and/or services contemplated to be performed by Collin County, Texas, as set out herein, are governmental functions and/or services contemplated by the terms of the Act and are functions and/or services which each of the parties hereto have independent authority to pursue, notwithstanding this Agreement; and

WHEREAS, both the county and the political subdivision named herein are desirous of entering into this Interlocal Cooperation Agreement, as is evidenced by the resolutions or orders of their respective governing bodies approving this Agreement which are attached hereto and made a part hereof.

NOW, THEREFOR, THIS AGREEMENT is hereby made and entered into by and between Collin County, Texas a political subdivision of the State of Texas, and the City of Lucas, political subdivision of the State of Texas, which is wholly or partially located within Collin County, Texas. Consideration for this Agreement consists of the mutual covenants contained herein, as well as any monetary consideration, which may be stated herein. This agreement is as follows, to wit:

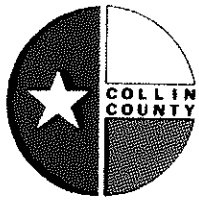
I.

As requested by the political subdivision named herein, Collin County, Texas, acting by and through its duly authorized agents and employees, agrees to provide said political subdivision with the following described governmental functions and/or services:

ROAD IMPROVEMENTS IN ACCORDANCE WITH COURT ORDER NO.
97-576-08-25 (COPY ATTACHED).

II.

As consideration for the above-described governmental functions and/or services, said political subdivision agrees to pay to Collin County, Texas, in accordance with the advance cost estimate submitted to them



COLLIN COUNTY

Office of the Purchasing Agent
2300 Bloomdale Road
Suite 3160
McKinney, Texas 75071
www.collincountytx.gov

August 4, 2014

Kathy Wingo
City Secretary
City of Lucas
665 Country Club
Lucas, TX 75002

Re: Agreement, Interlocal: Road and Bridge Improvements, City of Lucas
Agreement 2014-292

Dear Ms. Wingo:

I have attached three (3) copies of the new Interlocal Agreement 2014-292 for Road Improvements in accordance with Court Order No. 97-576-08-25 (copy attached), County Road Policies. The previous Interlocal Agreement has or will expire soon.

I would appreciate if your entity is interested in continuing this agreement that the duly authorized individual sign the three original copies and return them to me as soon as possible. Once our Commissioners Court approves this agreement, our Purchasing Agent will sign the, and you will receive a fully executed copy, as well as a copy of the approving Court Order.

If your entity is not interested in continuing this agreement, please let me know. Thank you.

Sincerely,

Carol Magers
Collin County Purchasing
972-548-4119
cmagers@co.collin.tx.us

REC'D AUG 06 2014

for work they have requested in the amount and upon the following terms and conditions:

- 1) PAYMENT IN FULL UPON COMPLETION OF WORK AND RECEIPT OF BILL FOR SAME.
- 2) PAYMENT TO EQUAL REIMBURSEMENT IN FULL FOR LABOR, EQUIPMENT, AND MATERIAL EXPENDED BY COLLIN COUNTY.

III.

Each party hereto agrees to defend and indemnify the other from any claims, demands, costs or judgments arising out of any negligent act or omission of their respective employees or agents in the performance of the governmental functions and/or services under this Agreement, to the extent allowable by law.

IV.

This Agreement shall be effective October 1, 2014, or from the passage of enabling resolutions or orders by the governing bodies of the parties hereto and the execution hereof by each of the authorized representatives of the political subdivision who are parties hereto and shall remain in effect through September 30, 2018 unless terminated by either party upon giving thirty (30) days written notice to the other party of its intent to terminate the agreement.

Notwithstanding the foregoing, it is understood that each party paying for the performance of governmental functions or services must make those payments from current revenues available to the paying party. In the event of a non-appropriation by the paying party, the performing party shall be relieved of its responsibilities hereunder as of the first day of the fiscal year of such non-appropriation. All payments must be in an amount that fairly compensates the performing party for the services or functions performed under this agreement.

COLLIN COUNTY, TEXAS

Date: _____

By: _____

Title: County Judge

CITY OF _____

Date: _____

By: _____

Title: _____

THE STATE OF TEXAS

COUNTY POLICIES: ADOPTION OF REVISED
COUNTY ROAD POLICY/RESCIND PREVIOUSLY
APPROVED COURT ORDERS
COUNTY ROAD SUPERINTENDENT

COUNTY OF COLLIN

On August 25, 1997, the Commissioners' Court of Collin County, Texas, met in special session with the following members present and participating, to wit:

Ron Harris
Phyllis Cole
Jerry Hoagland
Joe Jaynes
Jack Hatchell

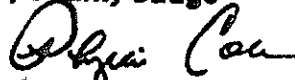
County Judge, Presiding
Commissioner, Precinct 1
Commissioner, Precinct 2
Commissioner, Precinct 3
Commissioner, Precinct 4

During such session the court considered a request from the County Road Superintendent for approval to rescind previously adopted court orders pertaining to County Road Policies, furthermore, adoption of a revised County Road Policy.

Thereupon, a motion was made, seconded and carried with a majority vote of the court to adopt a revised County Road Policy effective October 1, 1997, and rescind previously adopted court orders pertaining to same. Same is hereby approved in accordance with the attached documentation.



Ron Harris, County Judge



Phyllis Cole, Commissioner, Pct. 1



Jerry Hoagland, Commissioner, Pct. 2




Joe Jaynes, Commissioner, Pct. 3



Jack Hatchell, Commissioner, Pct. 4

ATTEST:



Helen Starnes, Ex-Officio Clerk
Commissioners' Court
Collin County, TEXAS



COUNTY ROAD POLICIES

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COUNTY ROAD POLICIES (GENERAL)

Section I Maintenance of Public Roads

- A. All public roads located in unincorporated areas of Collin County which are determined by the Commissioners' Court to be county roads, will be maintained by the County. All others shall be considered private roads and will not be maintained by Collin County.
- B. Roads or sections of roads which are bordered by a city or cities shall not be maintained by Collin County as follows:
 - (a) Any portion of a public road which has been annexed by a city or cities shall not be maintained at county expense.
 - (b) Public roads or portions of public roads which are bordered by a city or cities on one side will be considered to lie in an incorporated area from the centerline of the public road to the city border. That portion which is considered to be in an incorporated area shall not be maintained at county expense.
 - (c) Public roads or portions of public roads which are bordered by a city or cities on both sides will be considered to lie in an incorporated area and shall not be maintained by Collin County.

Section II Upgrade of County Roads

- A. Commissioners' Court will consider upgrading a rock road to an asphalt road provided one of the following conditions are met:
 - (a) Roads with traffic counts of 150 cars per day or greater, which by the determination of Commissioners' Court, should be asphalted due to maintenance costs or other appropriate criteria when the adjacent property owners donate the right-of-way described in Section VI of this policy; or,
 - (b) Roads not on the Collin County Thoroughfare Plan with traffic counts of 125 cars per day or greater, which when determined by the Director of Public Works (County Road Supt.) to have adequate width and drainage can be asphalted due to maintenance costs or other appropriate criteria without obtaining additional right-of-way; or,
 - (c) Roads with traffic counts of 100 cars per day or greater can be asphalted when the adjacent property owners donate the right-of-way described in Section VI of this policy; or,
 - (d) When the adjacent property owners donate the right-of-way described in Section VI of this policy and reimburse the County for the cost of materials required to upgrade the subject road to asphalt by current county standards.

To be considered for asphalt, a road must tie into an existing asphalt road, unless the road in question is a "Dead End" road. A "Dead End" road which does not tie into an existing asphalt road can be upgraded, provided its entire length is asphalted. A cul-de-sac shall be required when a dead end road is upgraded.

**COUNTY ROAD
POLICIES
(GENERAL)**

Section II Continued

B. The Commissioners' Court will consider upgrading a dirt road to a rock road provided that the adjacent property owners:

- (a) Donate the right-of-way described in Section VI of this policy; and
- (b) Reimburse the county for the cost of materials to upgrade the subject road to the appropriate depth and width of rock

Section III Re-opening of County Roads

The Commissioners' Court will consider re-opening a county road which has not been maintained by the county in the last 10 years provided that the adjacent property owners:

- (a) Donate the right-of-way described in Section VI of this policy; and
- (b) Reimburse the County for the total cost of improvements if the road is to be improved from its existing state

Section IV Abandonment of County Roads

The Commissioners' Court, by unanimous vote, may abandon a county road upon following procedures required by Vernon's Civil Statute's and the Texas Transportation Code.

Section V Subdivisions

- A. To be considered for maintenance by Collin County, private roads in recorded subdivisions must be asphalt and meet current county standards in regards to width, drainage, culverts, base material type and thickness.
- B. Private roads in subdivisions which were filed in the County Clerk's Office prior to May 18, 1981 will be accepted for maintenance by the county provided there is adequate right-of-way, the roads are asphalt and meet current county standards.
- C. Private roads in subdivisions which were approved by Commissioners' Court and filed in the County Clerk's Office prior to October 23, 1995 will be accepted for maintenance provided such roads are asphalt and have been built and maintained to county standards.
- D. Private roads in subdivisions which were filed in the County Clerk's Office after May 18, 1981 that were not approved by Commissioners' Court shall meet the following conditions prior to acceptance:
 - (a) Road right-of-ways must be dedicated to the public and accepted by Commissioners' Court
 - (b) Roads must be asphalt and meet current county standards as described in this policy
- E. Private roads in recorded subdivisions which do not meet county standards can be considered for maintenance by the county provided the landowners donate additional right-of-way, when needed, and provide total funding to upgrade such roads to county standards.

- F. Private roads in unrecorded subdivisions will not be upgraded by Collin County under this policy. To be accepted for maintenance, the subdivision must be platted and the roads constructed, by a private contractor, in accordance with the Collin County Subdivision Regulations

Section VI Right-of-Way

- A. Right-of-Way shall be in the following form:

- (a) Right-of-Way which is donated may be in Deed or Easement form; or
- (b) Right-of-Way which is purchased through negotiations or by eminent domain shall be in Deed form with an actual ownership (Title) transfer of the land.

B. Right-of-Way Width

- (a) The right-of-way width for roads on the Collin County Thoroughfare Plan shall conform to Collin County design standards.
- (b) The right-of-way width of roads to be upgraded which are not on the Collin County Thoroughfare Plan shall be a minimum of (60) sixty feet.
- (c) When a road which is not on the Collin County Thoroughfare Plan is a candidate for upgrading, the requirements for right-of-way may be waived by Commissioners' Court provided the required pavement width and drainage are adequate within the existing right-of-way.
- (d) Right-of-way widths may be waived by Commissioners' Court upon review of engineering information which indicates a different width is appropriate.

Section VII Other Cost

The cost involved for surveying, to prepare Deeds or Easements, re-locate fences, utilities (if in a private easement beyond the existing prescriptive right-of-way), culverts or other existing improvements may be borne by the county if such cost does not exceed twenty-five percent (25%) of the total project cost. When property owners are required to incur total cost to upgrade a road, the above cost shall not be borne by the County.

Section VIII County Projects

All projects shall be brought to the attention of Commissioners' Court for consideration.

Section IX Extending the Length of a Road Project

A road project which has been approved by Commissioners' Court may be extended in length when approved by the Director of Public Works (County Road Superintendent), provided that all requirements outlined in this policy have been met.

Section X Signs

Regulatory and warning signs placed along county roads shall be in accordance with the Texas Manual on Uniform Traffic Control Devices.

Section XI Reimbursement by Property Owners

Upon Commissioners' Court approval of a road project which requires reimbursement from the adjacent property owners, the property owners involved must place the required amount of money in escrow in a Collin County bank and provide the required right-of-way prior to the commencement of the project.

Section XII Culverts

Drive culverts within county road right-of-ways shall be permitted and sized by the County. Only corrugated metal or high-density polyethylene culverts will be permitted. Culverts shall be a minimum of thirty (30) feet in length unless the driveway over the pipe is concrete. In which case, the culvert may be the width of the driveway. New drive culverts must be installed at the expense of the property owner. Existing culverts within county road right-of-ways will be replaced as needed by the County at county expense.

Section XIII Extenuating Circumstances

Any extenuating circumstances not covered under this policy shall be brought to the attention of Commissioners' Court for consideration

APPLICATION FOR ROAD UPGRADING

Requesters' Name: _____ Date: _____

Mailing Address: _____

Home Phone _____ Work Phone _____ Mobil/Pager _____

Type of upgrade requested: Dirt to Rock _____ Dirt to Asphalt _____ Rock to Asphalt _____ Private Road _____

County Road No./Name: _____ Subdivision Name: _____

Location/Extent of Road(s) to be upgraded: _____

FOR COUNTY USE

Is Road on Thoroughfare Plan? Yes _____ No _____ Right-of-Way Required: _____

Comments: _____

Utility Comments: _____

Culvert/Drainage Comments: _____

Fence Comments: _____

Initial Cost Estimate: Materials _____ Labor _____ Other _____ Total _____

Comments _____

Prepared By: _____ Date: _____ Date Mailed: _____

GENERAL REQUIREMENTS FOR UPGRADING COUNTY ROADS

An application requesting a road upgrade must be submitted to the Public Works Department specifying the location and approximate length of road or section of road to be upgraded. If more than one person is involved, please designate a single contact.

An approximate cost estimate with right-of-way requirements will be prepared by the Public Works Department and sent to the requester.

To proceed with the upgrade, the Public Works Department must be notified in writing of the requester(s) willingness to pay for material costs and donate right-of-way, when applicable.

The request will be brought to the attention of Commissioners' Court for consideration.

The Public Works Department will notify the requester in writing of the Court's action. A firm cost estimate will be provided, if different than the original estimate.

Right-of-Way documents, when required, will be prepared by Collin County for signature. Money for material costs shall be placed in an escrow account by the requester(s). The project will be scheduled for construction after these items have been addressed.

UPGRADING / ACCEPTANCE OF PRIVATE ROADS IN RECORDED SUBDIVISIONS

Subdivision must be recorded and meet the requirements specified in Section V of the County Road policies.

All roads in the subdivision must be upgraded / accepted.

Minimum right-of-way width shall be sixty (60) feet as required by Section VI.B.(b) of the County Road Policies. When engineering information indicates that the existing right-of-way is not adequate, additional right-of-way will be required.

A request must be submitted to the Public Works Department specifying the name and location of the subdivision in question. Please designate a single contact person for the county regarding this project.

An approximate cost estimate will be prepared by the Public Works Department and sent to the requester.

To proceed, the Public Works Department must be notified in writing of the requester(s) willingness to pay for all costs involved with the upgrade.

The request will be brought to the attention of Commissioners' Court for approval.

The Public Works Department will notify the requester in writing of the Court's action. A firm cost estimate will be provided if different from the original estimate.

Money must be placed in an escrow account prior to the project being scheduled. If applicable, all fences, utilities or other improvements must be relocated prior to scheduling.

COSTS

Since material costs fluctuate, the written cost estimate we have provided you will be honored for the period indicated (typically 6 months).

The cost estimate for materials will be based on the type upgrade requested.

Dirt to Rock : A blend of (6" loose) crushed native white rock with (3" loose) flex base to improve traction and minimize dust.

Dirt to Asphalt : A blend of (4" compacted) crushed native whiterock with (6" compacted) flex base and two layers of asphalt surface treatment.

Rock to Asphalt : Two layers of asphalt surface treatment, any additional rock will be paid for by Collin County since it is an existing rock road.

Private Road in Recorded Subdivision : Since conditions vary, subdivisions will be evaluated on a case by case basis.

If you have any additional questions, please feel free to call the Public Works Department at Metro 424-1460 ext. 3700 or (972) 548-3700.

Mail or Fax Application To:

Collin County Service Center
700A West Wilmeth Road
McKinney, Texas 75069
Fax Number (972) 548-3754

**COUNTY ROAD
POLICY
(CITIES)**

COUNTY ROAD POLICY (CITIES)

Section I Maintenance/Improvements to Roads Within City Limits

- A. Each city in Collin County is responsible for maintaining the roads and bridges within their city limits.
- B. Commissioners' Court desires that a consistent policy be continued concerning road work performed by the county within the corporate limits of cities as Collin County has limited funds, personnel and equipment available for these projects.
- C. Commissioners' Court may consider making or participating in improvements to roads and bridges within the corporate limits of a city as follows:
 - (a) General maintenance items to include rocking, grading, asphalt level up, sealcoating, oiling for dust control, installation of culverts, cleaning of drainage ditches, mowing or brushcutting and emergency repairs to bridges.
 - (b) Major improvements such as the construction or reconstruction of roadways will only be considered if the road is on the Collin County Thoroughfare Plan.
- D. A city must be entered into an Interlocal Cooperation Agreement with Collin County prior to work being performed by Collin County for that city.
- E. All requests must be submitted to the Director of Public Works by April 1st of the year prior to the year improvements are desired to be made. Emergency requests will be evaluated by Commissioners' Court upon the merits presented by the requesting city.
- F. Authorization for work in cities can only be given by Commissioners' Court.

Section II Reimbursement for Work Performed by Collin County

- A. Costs for road and bridge repairs or improvements will be as follows:
 - (a) Cost of materials used for the project or one-half of the total project (including labor and equipment), whichever is greater, if the road is on the Collin County Thoroughfare Plan.
 - (b) Total cost, including materials, labor and equipment if the road is not on the Collin County Thoroughfare Plan.

**COUNTY ROAD
POLICY
(OILING/DUST)**

COUNTY ROAD POLICIES (OILING/DUST CONTROL)

Section I Oiling of County Roads

County funds shall be expended to spray county roads for dust control as follows:

- a) When a person has a chronic respiratory condition, substantiated by a physician, the county will oil up to 500 feet in front of their house. If the house is located at a road intersection, the roads will be oiled for up to 500 feet in both directions from the intersection. Priority will be given to elderly residents.
 - b) When the traffic count on a road reaches a minimum of 150 cars per day, oil will be applied on an interim basis until the road can be upgraded to asphalt. If the right-of-way required to upgrade a road is unobtainable, the road will no longer be oiled at county expense.
 - c) When county trucks are hauling materials to or from a project site damaging the road surface and creating a severe dust problem.
 - d) Other conditions as approved by action of the Commissioners Court.
- B. All other requests for oiling in unincorporated areas of the county would be at the requester's expense. Collin County shall be reimbursed for the cost of materials.

Collin County Department
of Public Works
700 A West Wilmoth Road
McKinney, Texas 75069
(972) 548-3700
FAX No. (972) 548-3754

Application for dust control oilling due to chronic respiratory condition

RESIDENT

Name: _____
Physical Address: _____
Mailing Address: _____
Phone: _____

PATIENT

Name: _____
Physical Address: _____
Mailing Address: _____
Phone: _____
Date of Birth: _____

County Road No.: _____ Application is good for this calendar year only

1) Approximate distance residence is from county road. _____ feet

2) Number of years lived at this residence. _____ years

3) What side of road is residence located?

Circle one: North South East West

To be completed by physician.

_____ Allergy which interferes with breathing or is life threatening	_____ Pulmonary TB
_____ Interstitial	_____ Lung Abscess
_____ Pulmonary Fibrosis	_____ Asthma
_____ Hypoxemia	_____ Bronchiolitis
_____ Sarcoidosis	_____ Dyspnea
_____ Asbestosis	_____ Cystic Fibrosis
_____ Emphysema	

Other chronic/life threatening respiratory conditions: _____

How long has patient had this condition: _____ Last episode: _____

Other comments: _____

Physician Name (Please print) _____

Physician signature/specialty _____

Date: _____ Phone No.: _____

APPLICATION SHOULD BE MAILED OR FAXED FROM THE DOCTOR

**ASSESSMENT
POLICY FOR
SUBDIVISIONS**

ASSESSMENT POLICY FOR SUBDIVISION ROADS

Section I Assessment to Upgrade Roads in Subdivisions

- A. Collin County may upgrade county roads as outlined in Senate Bill 314, Article 6702-3, on a first come basis or as specified by Commissioners' Court provided the initial funds are available or made available to the county. Only roads in recorded subdivisions will be considered for upgrade by assessment.
- B. Commissioners' Court may consider upgrading a road or roads by assessment within subdivisions in un-incorporated areas of Collin County upon receipt of a written request from the Property Owner's Association or individual landowners agreeing to adhere to the following terms prior to construction:
- (a) Donation of additional right-of-way, drainage or utility easements, when required.
 - (b) If a road lies within an unrecorded subdivision, the addition must be approved by Commissioners' Court and a plat filed for record at the County Clerk's Office.
 - (c) Payment for all utility relocations. These costs will not be included in the assessment.
 - (d) Payment for all surveying platting, replatting and legal fees (to include title fees, assignment of liens, etc.). These costs will not be included in the assessment.
 - (e) Payment for all project cost to include materials, equipment and labor. This includes all cost whether by in-house forces or contract.
 - (f) Placement of 10% of the construction cost in an escrow account in a Collin County Bank.
 - (g) Placement of 50% of the utility relocation cost in an escrow account in a Collin County Bank.

Section II Assessment Procedures

- A. After the conditions in Section I have been met, the following procedures are required before the assessment can take place:
- (a) Commissioners' Court must give notice of the proposed improvement and assessment and must hold a public hearing. The notice must be published at least twice in a newspaper of general circulation in the county and shall state that a public hearing will be held to consider whether or not the improvement and assessment will be ordered.

Section II Continued

- (b) Within 10 days of the public hearing, Commissioners' Court shall send by certified mail, a ballot to each owner of real property showing the maximum amount of assessment for each property in the subdivision should a majority of the record owners of real property in the subdivision vote in favor of the proposition.
- (c) If the vote passes, Commissioners' Court may provide the time, terms and conditions of payment and default to the assessment, except that no interest on the payment of the assessment shall be allowed.
- (d) If the vote fails, Commissioners' Court may not order the improvement and assessment, and may not propose the order again until four years after the date the County Clerk declares the results of the vote to Commissioners' Court.
- (e) An assessment shall be secured by a lien against the real property of the assessed property owner.

Section III Appeals

An assessment may be appealed by filing a petition in the district court having jurisdiction in the county not later than the 15th day after the date that a property owner receives an assessment.

Section IV Liens

An assessment shall be secured by a lien against the real property of the assessed property owner. Liens on all property shall remain in place until such time that the entire assessed amount has been paid to Collin County. Property owners are separately, not jointly, liable for their assessed amounts.

Section V Acceptance

When all of the requirements set out in Section I and II of this policy have been met and if funds are available from Collin County the project will be accepted. If it will require an excessive amount of time to relocate the utilities and begin the actual upgrading of the road/roads the Commissioners' Court may direct that a minimum amount of maintenance be performed to assure the health and safety of the property owners.

Section VI Status of Roadway after Acceptance

A road improved under this article is a county road, and the county shall maintain the road in accordance with county road standards.

Section VII Reimbursement of Funds

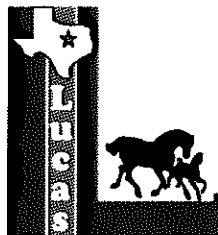
- A. Prior to the actual road upgrading and upon completion of the utility relocation the balance of the utility relocation cost shall be paid to Collin County or the respective utility company. (This includes the 50% escrowed monies plus the remaining 50% balance of the relocation cost)
- B. Upon completion of the upgrading, the 10% escrowed monies shall be reimbursed to Collin County.
- C. The 90% balance of the project cost including construction and other related cost as noted in Section I of this policy shall be the total assessed amount and shall be collected by the county over an amortized period, not to exceed sixty months.

City of Lucas and Collin County Shared Roadway Maintenance

1. **Lewis Lane (CR 254)** – The northern 3000 feet is within the city limits. No portion of the rest of the roadway is in the city limits and will not be maintained by the city.
2. **Aztec Trail (CR 303)** – The northern half is in the city. The southern half and the north/south portion are not maintained by the city
3. **Osage Lane (CR 302)** – Is within the city limits. All of the roadway is maintained by the city.
4. **Brockdale Park Road (CR 967)** – Starting at FM 3286, the first 1600 feet is maintained by the city, the next 250 feet is not maintained by the city, the northern half of the next 1325 feet is maintained by the city, the next 2000 feet is not maintain by the city, the next 2000 feet is maintained by the city, the next 1000 feet is not maintained by the city, the next 200 feet is maintained by the city.
5. **West Estelle Lane (CR 306)** – All of West Estelle Lane is maintained by the city except the southern half between centerline of O’Hara Drive to 300 feet of east of the centerline of Hart Lane.
6. **Snider Lane (CR 319)** – Starting at E Lucas Road (FM 3286), the eastern half of the first 1325 feet is maintained by the city, all of the next 1425 feet is maintained by the city, the eastern half of the next 1050 feet is maintained by the city, the northern half of the next 1225 feet is maintained by the city. From that western boundary of Lakeview Downs to Winningkoff Road is maintained by the city.
7. **Rock Ridge Road (CR 719)** – The southern 350 feet is maintained by the city.
8. **Orr Road (CR 317)** – From Forest Grove Road to Winningkoff Road is maintained by the city. None of the roadway north of Forest Grove Road is maintained by the city.
9. **W Lucas Road (CR 263)** – Starting at Angel Parkway (FM 2551), the northern half between Angel Parkway (FM 2551) and Lewis Lane (CR 254) is maintained by the city. From Lewis lane (CR 254) to Country Club Road (FM 1378) is maintained by the city.
10. **Dayton Avenue (CR 391)** – The northern 700 feet is maintained by the city.
11. Portions of the roadways in the following subdivisions are in the City of Lucas:
 - a. Claremont Springs
 - b. Cimarron
 - c. Edgewood Estates

City of Lucas Roadway Maintenance

- A. **Winningkoff Road** (is no longer CR 309)
- B. **CR 1034**
- C. **Forest Grove Road** (is no longer CR 265)
- D. **CR 321**
- E. **E Winningkoff Road** (is no longer CR 309)
- F. **Welborn Lane** (is no longer CR 318)
- G. **Ingram Lane** (is no longer CR 262)
- H. **Brookhaven Drive** (is no longer CR 170)



City of Lucas Council Agenda Request January 15, 2015

Name & Title: City Manager Joni Clarke

Agenda Item:

Consider Ordinance No. 2014-12-00805 Amending Chapter 1, Article 1.06, Code of Conduct of the City of Lucas Code of Ordinances regarding the General Standards of Conduct pertaining to Elected Officials and appointed Members of Boards and Commissions and establishing a complaint procedures.

Background Information:

Staff has been tasked with reviewing the Code of Ordinances and updating specific sections as required. Staff sent its suggested revisions of Chapter 1, Article 1.06 regarding the Code of Conduct to City Attorney Joe Gorfida who has reviewed the content and made any necessary changes. Staff also recommends amending Article 1.06 titled "Code of Conduct" by changing the title to "Code of Ethics".

Attachments/Supporting Documentation:

1. Ordinance No. 2014-12-00805

Budget/Financial Impact:

N/A

Recommendation:

None.

Motion:

I move to **approve/deny** Ordinance No. 2014-12-00805 Chapter 1, Article 1.06, Code of Ethics of the City of Lucas Code of Ordinances regarding the General Standards of Conduct pertaining to Elected Officials and appointed Members of Boards and Commissions and establishing a complaint procedures.

<input type="checkbox"/>	Annexation
<input type="checkbox"/>	Disannexation
<input checked="" type="checkbox"/>	Code of Ordinances
<input type="checkbox"/>	Other

**ORDINANCE # 2014-12-00805
[AMENDING CODE OF ORDINANCE CHAPTER 1, ARTICLE 1.06,
CODE OF CONDUCT]**

AN ORDINANCE OF THE CITY OF LUCAS, TEXAS, AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 1 TITLED "GENERAL PROVISIONS" BY AMENDING ARTICLE 1.06 TITLED "CODE OF CONDUCT" BY CHANGING THE TITLE TO "CODE OF ETHICS" AND PROVIDING ETHICAL STANDARDS FOR CITY OFFICIALS; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED THAT THE CITY COUNCIL OF THE CITY OF LUCAS:

Section 1. That the Code of Ordinances of the City of Lucas, Texas be, and the same is, hereby amended by amending Chapter 1 titled "General Provisions", by amending Article 1.06 titled "Code of Conduct", to read as follows:

"ARTICLE 1.06 CODE OF ETHICS

Sec. 1.06.001 Purpose

It is hereby declared to be the policy of the city that the proper operation of democratic government requires that public officials be independent, impartial and responsible only to the people of the city; that no official shall permit any interest, financial or otherwise, direct or indirect, or engagement in any business, transaction or professional activity to conflict with the proper discharge of such person's duties in the public interest; that public office not be used for personal gain; and that the city council at all times shall be maintained as a nonpartisan body. To implement such a policy, the city council deems it advisable to enact a code of ethics for officials, as defined in this article, whether elected or appointed, paid or unpaid, to serve not only as a guide for official conduct of the city's public servants, but also as a basis for discipline for those who refuse to abide by its terms, the overriding interest being that such officials of the city shall at all times strive to avoid even the appearance of impropriety.

Sec. 1.06.002 Title; application

This section shall be known as the code of ethics:

- (1) This code of ethics shall apply to all officials as defined in this article.

- (2) This code of ethics does not apply to employees, including those individuals employed on a full-time, part-time or internship basis (including those who may serve on a city board, committee or commission) nor to independent contractors of the city. The standards of conduct for employees are governed by the City of Lucas Personnel Policies and the city charter.
- (3) This code of ethics applies to members of all city boards, committees or commissions as defined in this article.
- (4) This code of ethics applies to the conduct or actions of public officials, as defined in this article which occurs in whole or in part after the date of adoption of this article.
- (5) This code of ethics applies to officials only while such persons hold such position or office.

Sec. 1.06.003 Definitions

The following words, terms and phrases, when used in this article, shall have the meanings respectively ascribed to them herein, except when the context clearly indicates a different meaning:

Benefit. Anything reasonably regarded as pecuniary or economic gain or pecuniary or economic advantage, including benefit to any other person in whose welfare the beneficiary has a direct and substantial interest.

Business entity. Any person, entity, corporation (whether for-profit or nonprofit), general or limited partnership, sole proprietorship, joint venture, unincorporated association or firm, institution, trust, foundation, holding company, joint-stock company, receivership, or other entity recognized by law, whether or not organized for profit, which has an economic interest, or seeking such, in conducting business with the city. “Business entity” also includes any business entity that represents a party conducting or seeking to conduct business with the city.

City. The City of Lucas, Texas.

City council. The governing body of the city.

Confidential information. Any information to which an official has access in such person's official capacity which may not be disclosed to the public except pursuant to state and/or federal law and which is not otherwise a matter of public record or public knowledge. “Confidential information” includes the following information, however transmitted: (i) any information from a meeting closed to the public pursuant to the Texas Open Meetings Act or other law regardless of whether disclosure violates the Texas Open Meetings Act or Texas Public Information Act; (ii) any information protected by attorney client, attorney work product, or other applicable legal privilege; and (iii) any information deemed confidential by law.

Contract. Any lease, claim, account or demand against or agreement with any entity or person, whether express or implied, executed or executory, oral or written.

Corporation. Any corporation that has a board of directors appointed in whole or in part by the city council that is operating under the direct authority of or subject to the direct control of the city council.

Employee. Any person employed by the city, including those individuals on a part-time or internship basis, but does not include independent contractors.

Gift. Anything of value, regardless of form, offered or given in the absence of adequate and lawful consideration. It does not include the receipt or acceptance of campaign contributions which are regulated by federal, state, and/or local laws or ordinances.

Knowingly. A person acts knowingly, or with knowledge, with respect to the nature of the person's conduct or to circumstances surrounding the conduct when the person is aware of the nature of the conduct or that the circumstances exist. A person acts knowingly, or with knowledge, with respect to a result of the person's conduct whether the person is aware that the conduct is reasonably certain to cause the result.

Officer or official. Any member of the city council and any appointed member of a city board, commission or committee established by ordinance, charter, state law or otherwise, on a temporary or permanent basis, operating either under the direct or indirect authority or subject to either the direct or indirect control of the city council. Such term includes but is not limited to the members of the city planning and zoning commission, the board of adjustment and the parks and open space board.

Relative. Any person related to an official within the second degree by consanguinity or affinity. This relationship includes the spouse, parents, children, stepchildren, father and mother-in-law, or son and daughter-in-law, grandparents, grandchildren, sisters and brothers of the official.

Special privileges. A right, advantage or favor of or for a particular person, occasion or purpose not otherwise available to others.

Substantial interest.

- (1) Substantial interest in a business entity means:
 - (A) the ownership of ten percent (10%) or more of the voting stock or shares of a business entity;
 - (B) the ownership of ten percent (10%) or more, or fifteen thousand dollars (\$15,000.00) or more of the fair market value of a business entity; or
 - (C) funds received from the business entity exceed ten percent (10%) of the person's gross income for the previous year, and action on the matter

involving the business entity will have a special economic effect on the business entity that is distinguishable from the effect on the public. It is expressly provided herein that an investment or ownership in a publicly held company, in an amount less than fifteen thousand dollars (\$15,000.00) does not constitute a substantial interest.

- (2) Substantial interest in real property means the person has an interest in the real property that is equitable or legal ownership with a fair market value of two thousand five hundred dollars (\$2,500.00) or more; and it is reasonably foreseeable that an action on a matter involving the real property will have a special economic effect on the value of the real property distinguishable from its effect on the public. (Ownership includes any partnership, joint or corporate ownership or any equitable or beneficial interest as a beneficiary of a trust.)
- (3) An official is considered to have a substantial interest under this code of ethics if a person related to the official in the second degree of consanguinity or affinity has a substantial interest under this code of ethics.

Sec. 1.06.004 Standards of conduct

No official of the City or a relative thereof shall:

- (1) Have a financial interest, direct or indirect, in any contract with the city nor shall such person be financially interested, directly or indirectly, in the sale to the city of any land, or rights or interest in any land, materials, supplies or service. The "financial interest" contemplated under this section requires that such person receive an actual financial benefit from the transaction with the city. An actual financial benefit from the transaction shall include:
 - (A) An ownership in the entity transacting business with the city where the ownership interest is more than ten (10) percent; or
 - (B) Compensation as an employee, official or director of the entity transacting business with the city where such compensation is affected by the entity's transaction with the city.
- (2) Participate in a vote or decision on any matter in which the official has a substantial interest.
- (3) Represent or appear in behalf of private interests of others before the city council, or any agency, board, commission, corporation, or committee of the city, nor shall represent any private interests of others in any action or proceeding involving the city, nor voluntarily participate on behalf of others in any litigation to which the city is, or might be, an adverse party. The restrictions of this section do not prohibit an official, or relative of an official, who is the president, vice president or officer of a home owners' association from appearing before the city council, or any

agency, board, commission, or committee of the city to represent such homeowners association, except that no such official or relative of such official shall appear before the agency, board, commission or committee of the city of which such official is a member.

- (4) Accept any gift from any person that might reasonably tend to influence such official in the discharge of such person's official duties. The prohibition against gifts shall not apply to:
 - (A) A lawful campaign contribution;
 - (B) An honorarium in consideration for services unless the official would not have been asked to provide the services but for the official's position;
 - (C) Meals, lodging, transportation in connection with services rendered by the official at a conference, seminar or similar event that is more than merely perfunctory;
 - (D) Complimentary copies of trade publications and other related materials;
 - (E) Attendance at hospitality functions at local, regional, state or national association meetings and/or conferences;
 - (F) Any gift which would have been offered or given to the person if such person was not an official or employee of the city;
 - (G) An occasional item with a value less than fifty dollars (\$50.00);
 - (H) Tee shirts, caps and other similar promotional material;
 - (I) Meals, transportation and lodging in connection with a seminar or conference at which the official is providing services;
 - (J) Gifts on account of kinship or a personal, or professional, or business relationship independent of the official's status;
 - (K) Complimentary attendance at political or charitable fund raising events; and
 - (L) Meals, lodging, transportation, or entertainment furnished in connection with public events, appearances or ceremonies related to official city business, if furnished by the sponsor of such public events.
- (5) Use such person's official position to secure special privileges or benefits for such person or others.

- (6) Grant any special consideration, treatment or advantage to any citizen, individual, business organization or group beyond that which is normally available to every other citizen, individual, business organization or group.
- (7) Disclose confidential information.
- (8) Knowingly engage in any outside activities which will conflict with or will be incompatible with such person's official position or duties as an official of the city.
- (9) Use city supplies, personnel, property, equipment or facilities (whether tangible or intangible) for any purpose other than the conduct of official city business, unless otherwise provided for by law, ordinance or city policy.
- (10) Act as a surety on any official bond required for any official or employee of the city, or for a business that has a contract, work or business with the city.

Sec. 1.06.005 Additional standards

(a) No member of the city council who is on the board of a nonprofit organization may vote on any funding request by that nonprofit organization, unless the nonprofit organization has a board of directors or trustees appointed in whole or in part by the city council.

(b) With the exception of those proceedings allowed under this article, no member of the city council shall personally appear in such person's own behalf before the city council, or any city board, commission, corporation or committee but may designate and be represented by a person of such person's choice in any such personal matter.

(c) No member of the city council, the planning and zoning commission or board of adjustment shall participate in, or vote on, any land use matter in which such official has a substantial interest in any real property within two hundred feet (200') of the real property, the subject of the land use matter. For purposes of this section, "land use matter" shall mean zoning, plat approval, site plan or other development approvals or permits, variances or exceptions. The term "land use matter" does not include studies or similar matters that are for the benefit of the city and which are not unique to real property within two hundred feet (200') of the real property, the subject of the land use matter, in which the official has a substantial interest.

Sec. 1.06.006 Disclosure of substantial interest

Any official, who has a substantial interest in any matter pending before the body, board, commission, corporation or committee of which the official is a member, before a vote or decision on such matter, shall file an affidavit stating the nature and extent of the substantial interest, and shall abstain from further participation in such matter. The affidavit shall be on a form provided by the city and must be filed with record keeper for such body, board, commission, corporation or committee.

Sec. 1.06.007

Complaints against officials

(a) All complaints or allegations of a violation of this code of ethics against an official shall be made in writing on a form provided by the city, sworn to before a notary public, and filed of record with the city secretary. A complaint shall describe in detail the act or acts complained of and the specific section(s) of this code of ethics alleged to have been violated. A general complaint lacking in detail shall not be sufficient to invoke the investigation procedures contained herein; and anonymous complaints shall not be considered. The city secretary shall provide a copy of the complaint to the affected official and the city council, and immediately refer the complaint to the city attorney, who shall initially review the complaint to determine if the complaint contains sufficient detail and alleges a violation of the code of ethics. The affected official may file a written response to the complaint within seven (7) business days after the complaint is filed with the city secretary, who shall forward the response, if any, to the city attorney.

(b) The city attorney shall submit a written report to the city council as soon as possible but not later than fifteen (15) business days after the receipt of the complaint, unless an extension is granted by a majority of the non-implicated city council members. The city attorney may contact the complainant, interview witnesses and examine any documents necessary for the report. Such report shall be comprehensive and explain in detail all facts, findings, and conclusions in support of the city attorney's opinion as to whether or not a violation of this code of ethics occurred. When the city attorney receives a vague complaint or one lacking in detail, the city attorney shall contact the complainant to request a written clarification. If the complainant fails to provide the city attorney with written clarification, or if after written clarification is provided, it is the opinion of the city attorney that the complaint is insufficient in detail and/or fails to allege a prima facie violation of the code of ethics, a written report to that effect shall be submitted to the city council. If the city attorney determines that a criminal violation may exist, the city attorney shall refer the matter to the appropriate law enforcement agency.

(c) If it is determined by the city attorney that the facts as alleged could constitute a violation of this code of ethics, then the city attorney shall, within fifteen (15) business days after receipt of the complaint, notify the mayor and city council members of the existence and nature of the complaint. The city council shall cause a meeting to convene, whether regular or special, within fifteen (15) business days after being so notified by the city attorney to further consider said complaint in executive session. In any event, the city attorney shall immediately proceed to fully investigate the alleged improprieties. For purposes of this investigation, the city attorney shall have all of the powers of investigation as are given to the city council by reason of the city charter and shall report back to the city council as soon as possible but in no event more than fifteen (15) business days from the date of notification of the city council unless an extension is granted by the city council. Said report shall be comprehensive and explain in detail all facts, findings and conclusions in support of the city attorney's opinion as to whether a violation of this code of ethics occurred.

(d) The city council shall consider the complaint and the city attorney's report in an executive session of the city council. The affected official may request that the complaint be considered in a public meeting. At such meeting, the city attorney shall present a written report to the city council describing in detail the nature of the complaint and the city attorney's findings and conclusions as

to a possible violation of this code of ethics. The affected official shall have the right to a full and complete hearing before the city council with the opportunity to call and cross-examine witnesses and present evidence in such person's behalf. The non-implicated city council members in attendance shall conduct a hearing and review the complaint. The city council may reject the complaint or take action authorized under section 1.06.008, Violations.

(e) No action or decision with regard to the complaint shall be made except in a meeting which is open to the public.

(f) The city council may appoint outside legal counsel, or may direct the city attorney to appoint outside legal counsel, or the city attorney in the city attorney's discretion, may appoint outside legal counsel, to perform the duties and responsibilities of the city attorney under (c), (d) and (e) of this section.

(g) A complaint or allegation of a violation of this article may only be made against an official while such person holds such position or office. A complaint made against an official pursuant to this section shall be processed and resolved even if such person resigns from, or ceases to hold such position or office, prior to resolution of the complaint.

Sec. 1.06.008 Violations

The city council may take any one or more of the following actions in an open meeting concerning a complaint:

- (1) Issue a statement finding the complaint is totally without merit, brought for the purpose of harassment, or brought in bad faith;
- (2) Issue a letter of notification when the violation is unintentional. A letter of notification shall advise the official of any steps to be taken to avoid future violations;
- (3) Issue a letter of admonition when the violation is minor or may have been unintentional, but calls for a more substantial response than a letter of notification;
- (4) Issue a reprimand when a violation has been committed knowingly or intentionally;
- (5) Remove from office an official, other than a city council member, for a serious or repeated violation of this code of ethics. Removal shall be, to the extent by and allowed, in compliance with the charter and state law; or
- (6) Pass a resolution of censure or a recommendation of recall when the city council finds that a serious or repeated violation of this code of ethics has been committed intentionally by a member of the city council.

Sec. 6.06.009 Interpretation of content

Any official may request, and the city attorney shall issue, a verbal or written opinion (as deemed appropriate) concerning the meaning or effect of any section, word, or requirement of this code of ethics as it affects such person.

Sec. 6.06.010 Review

The City Council shall review this article once every two years following its adoption on December 18, 2014.”

Section 2. All ordinances of the City of Lucas in conflict with the provisions of this Ordinance shall be, and same are hereby, repealed, provided, however, that all other provisions of said Ordinances that are not in conflict herewith shall remain in full force and effect.

Section 3. Should any word, sentence, paragraph, subdivision, clause, phrase or section of this Ordinance or of the City of Lucas Code of Ordinances, as amended hereby, be adjudged or held to be voided or unconstitutional, the same shall not affect the validity of the remaining portions of said Ordinances or the City of Lucas Code of Ordinances, as amended hereby, which shall remain in full force and effect.

Section 4. An offense committed before the effective date of the Ordinance is governed by prior law and the provisions of the City of Lucas Code of Ordinances in effect when the offense was committed and the former law is continued in effect for this purpose.

Section 5. This Ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Lucas, and it is accordingly so ordained.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF LUCAS, COLLIN COUNTY, TEXAS, ON THIS 18 DAY OF DECEMBER, 2014.

APPROVED:

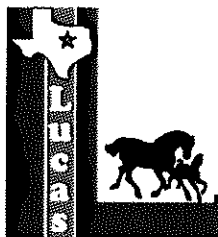
Rebecca Mark, Mayor

APPROVED AS TO FORM:

ATTEST:

Joseph J. Gorfida, Jr., City Attorney
(12-10-14/69414)

Joni Clarke, Interim City Secretary



City of Lucas City Council Regular Meeting January 15, 2015

Name & Title: Building Inspector Jim Hurley

Agenda Item:

Discuss and give direction on an update to the city's Code of Ordinances, Chapter 2 in its entirety, labeled Animal Control.

Background Information:

This is part of City Council's request to update the city's Code of Ordinances. As the city continues to grow and diversify, the city's Code of Ordinances needs to grow and fit the applications most commonly seen throughout the city.

Attachments/Supporting Documentation:

1. Draft of proposed changes

Budget/Financial Impact:

N/A

Recommendation:

Give direction to staff on which changes the City Council would like to see implemented or changed.

Motion

N/A

Animal Control Provisions

Key:



Recommend addition

Request discussion

Subject already covered in Lucas code. Might use the version most consistent with the remainder of code.

Keep this Section of Lucas Code

Keep this Section of Lucas Code, but change wording

Remove/Replace this Section of Lucas Code

ARTICLE 2.01 GENERAL PROVISIONS

- Sec. 2.01.001 Authority
- Sec. 2.01.002 Purpose and intent
- Sec. 2.01.003 Definitions
- Sec. 2.01.004 Violations; penalty
- Sec. 2.01.005 Nuisances
- Sec. 2.01.006 Keeping of exotic or wild animals
- Sec. 2.01.007 Keeping of numerous animals

ARTICLE 2.02 ENFORCEMENT

- Sec. 2.02.001 Enforcement duties
- Sec. 2.02.002 Interference with animal control officer
- Sec. 2.02.003 Self-defense or defense of others
- Sec. 2.02.004 Entry on private property in pursuit of animal at large
- Sec. 2.02.005 Entry on private property for purpose of inspection or enforcement

ARTICLE 2.03 LIVESTOCK

- Sec. 2.03.001 Keeping of livestock

ARTICLE 2.04 FOWL

- Sec. 2.04.001 Limitations on number of fowl; keeping roosters prohibited

ARTICLE 2.05 CARING FOR ANIMALS

- Sec. 2.05.001 Basic care
- Sec. 2.05.002 Animals in parked vehicles
- Sec. 2.05.003 Abandonment of animals
- Sec. 2.05.004 Unsupervised animals
- Sec. 2.05.005 Cages, pens and enclosures
- Sec. 2.01.006 Humane treatment

ARTICLE 2.06 CRUELTY TO ANIMALS

- Sec. 2.06.001 Unlawful acts
- Sec. 2.06.002 Poisonous substances

Animal Control Provisions

Key:



- Recommend addition
- Request discussion
- Subject already covered in Lucas code. Might use the version most consistent with the remainder of code.
- Keep this Section of Lucas Code
- Keep this Section of Lucas Code, but change wording
- Remove/Replace this Section of Lucas Code

ARTICLE 2.07 SANITATION

- Sec. 2.07.001 Accumulation of waste matter
- Sec. 2.07.002 Sanitation requirements
- Sec. 2.07.003 Unsanitary conditions generally
- Sec. 2.07.004 Removal of waste deposited by animal

ARTICLE 2.08 RESTRAINT AND CONFINEMENT

Division 1. Generally

- Sec. 2.08.001 Restraint required
- Sec. 2.08.002 Cats
- Sec. 2.08.003 Tying or staking
- Sec. 2.08.004 Restraint of dogs
- Sec. 2.08.005 Preventing animal from becoming public nuisance
- Sec. 2.08.006 Confinement of female dogs or cats in heat

Division 2. Guard Dogs

- Sec. 2.08.031 Confinement required
- Sec. 2.08.032 Standards for areas of confinement
- Sec. 2.08.033 Warning sign
- Sec. 2.08.034 Exemption

ARTICLE 2.09 DANGEROUS ANIMALS

- Sec. 2.09.001 Declaration of nuisance
- Sec. 2.09.002 Prohibition
- Sec. 2.09.003 Defenses to determination that animal is dangerous
- Sec. 2.09.004 Filing of complaint
- Sec. 2.09.005 Investigation of complaint
- Sec. 2.09.006 Hearing
- Sec. 2.09.007 Law enforcement defense
- Sec. 2.09.008 Other defenses

ARTICLE 2.10 SALE OF ANIMALS

- Sec. 2.10.001 Commerce in live animals prohibited in certain places
- Sec. 2.10.002 Sale of dyed animals; giving as prize or inducement

LUCAS - Present Code


- Sec. 1.09.062 Conduct in parks ...
Must keep a pet or animal restrained by a leash, chain or cord;
- Sec. 12.02.003 Duty to obey
Driver of an animal must obey traffic laws.

Animal Control Provisions


Key:




- Recommend addition
- Request discussion
- Subject already covered in Lucas code. Might use the version most consistent with the remainder of code.
- Keep this Section of Lucas Code
- Keep this Section of Lucas Code, but change wording
- Remove/Replace this Section of Lucas Code

 Sec. 8.05.003 Exemption


The sound produced from livestock, farm animals or fowl is exempt from noise ordinance.

 Sec. 13.04.001 Location


Livestock and animal pens must not be located where they can pollute water wells.

 Sec. 14.03.051 Use regulations


No slaughter pens or rendering works, or associated business permitted in an AO Agricultural District (They are not allowed in any district in the city. Uses not affirmatively specified in the schedule of uses are not allowed.)

 Sec. 2.01.002 Penalty [MOVED to Sec. 2.01.004]

Each day of violation is a separate offense.

 Sec. 2.01.003 Enforcement


Enforcement by the local health authority or an animal control officer as appointed by the city council.

 Sec. 2.01.004 Animals running at large or disturbing the peace


Unlawful to permit any dog or other animal possessed, kept, or harbored, other than a cat, to run at large
Unlawful to harbor a dog(s) which, by loud, frequent, or habitual barking, howling, yelping, or other noise or action, disturbs any person of ordinary sensibility.

 Sec. 2.01.005 Sanitation requirements

No offensive odors, no breeding ground for noxious insects, other specifics.

 Sec. 2.01.006 Humane treatment

Owner must provide sufficient good, wholesome food and water, proper shelter, and protection from the weather, veterinary care when needed to prevent suffering, and humane care and treatment.
No person shall beat, cruelly ill-treat, torment, overload, overwork, or otherwise abuse an animal, or cause, instigate, or permit any dogfight, cockfight, bullfight, or other combat between animals or between animals and humans.
No owner of an animal shall abandon such animal.
Operator of a motor vehicle, on striking a domestic animal, must stop and render aid and report such injury or death to the animal's owner or to the appropriate law enforcement agency if the owner cannot be located.
The use of steel jaw traps shall be prohibited.

 Sec. 2.01.007 Number of animals

No limit on the number of domesticated animals, pet animals, or small or large livestock shall be imposed upon any owner as defined herein.

Animal Control Provisions

Key:



Recommend addition

Request discussion

Subject already covered in Lucas code. Might use the version most consistent with the remainder of code.

Keep this Section of Lucas Code

Keep this Section of Lucas Code, but change wording

Remove/Replace this Section of Lucas Code

ARTICLE 2.02 RABIES CONTROL

Sec. 2.02.001 Vaccinations; disposition of animals exposed to rabies

Sec. 2.02.002 Reporting of bite incidents

Sec. 2.02.003 Confinement of animal that has bitten human

Color Key: Original Lucas Code
New – Staff Recommends
New – Staff Would Like Discussion

CHAPTER 2

ANIMAL CONTROL

ARTICLE 2.01 GENERAL PROVISIONS*

Sec. 2.01.001 Authority

This chapter is enacted pursuant to the general police power, the authorities granted to cities and towns by the state constitution, and the Local Government Code.

Sec. 2.01.002 Purpose and intent

The purposes of this chapter are to promote the public health, safety, and general welfare of the citizens of the city and to ensure the humane treatment of animals by regulating the care and control of animals within the city.

Sec. 2.01.003 Definitions

When used in this chapter, the following words, terms, and phrases, and their derivations, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

Animal control. The animal control function of the city.

Animal control officer. Any person or agency designated by the city to enforce the provisions of this chapter. The Lucas City Council has selected Collin County Animal Control as the agency designated by the city to enforce the provisions of this chapter.

Animal shelter. Any facility operated by the city or a legal entity or agency in which the city has executed a contract for service for the temporary care, confinement and detention of animals and for the humane euthanasia and other disposition of animals.

At large. Means that an animal is off the premises of the owner and is not on a leash under the immediate control of a person physically capable of restraining the animal or is not restrained securely within an enclosure capable of fully and totally securing the animal.

Cat. Any live or dead cat (*Felis catus*).

Cruelty. Any act or omission whereby unjustifiable physical pain, suffering or death of an animal is caused or permitted, including failure to provide proper drink, air, space, shelter or protection from the elements, a sanitary and safe living environment, veterinary care, or nutritious food in sufficient quantity. In the case of activities where physical pain is necessarily caused, such as in medical and scientific research, food processing, customary and normal veterinary and agricultural husbandry practices, pest elimination, and animal training and hunting, “cruelty” shall mean a failure to employ the most humane method reasonably available.

Currently vaccinated. Vaccinated and satisfying the following criteria:

- (1) The animal must have been at least three (3) months of age at the time of vaccination.
- (2) At least thirty (30) days have elapsed since the initial vaccination.
- (3) No more than twelve (12) months have elapsed since the most recent vaccination.

Dangerous animal. One that has made an unprovoked attack on a human being or another animal. A dangerous animal does not include guard or attack dogs as defined in the definition of “guard or attack dog” in this section, as long as such guard or attack dogs are restrained and confined in compliance with article 2.08, division 2 of this chapter.

Dog. Any live or dead dog (*Canis familiaris*).

Domestic animal. All species of animals commonly accepted as being domesticated. Includes livestock, caged or penned fowl, pigeons, and pet animals.

Exotic or wild animal. Unless certified for medical, biological, herpetological, or other scientific research or study, any live monkey or other nonhuman primate, alligator, crocodile, cayman, skunk, fox, wolf, hybrid wolf, member of the canine species other than domestic dog (*Canis familiaris*), sea mammal, bear, prairie dog, African serval, member of the feline species other than domestic cat (*Felis catus*), any poisonous or dangerous reptile or any other species of animal that commonly exists in a natural, unconfined state and is usually not domesticated, including, but not limited to opossums, raccoons, squirrels, or any other animal that would require a standard of care and control greater than that required for customary household pets sold by commercial pet shops or livestock. This definition shall apply regardless of state or duration of captivity. The term “exotic or wild animal” does not include domestic animals.

Fowl. Any goose, pheasant, chicken, rooster, prairie chicken, peacock, guinea, duck, turkey, and other normally undomesticated fowl.

Guard or attack dog. A dog trained to attack on command or to protect persons or property, and who will cease to attack upon command.

Harboring. The act of keeping or caring for an animal or of providing premises to which the animal returns for food, shelter, or care for a period of three (3) consecutive days.

Impoundment. The taking into custody of an animal by any police officer, animal control officer, or any authorized representative thereof.

Livestock. Any horse, stallion, mare, gelding, filly, colt, mule, hinny, jack, jenny, all species of swine, sheep, goat, llama, all species of cattle, or an emu, ostrich, or rhea.

Local health authority. A person or agency designated by the City Council to receive reports of animal bites, investigate bite reports, insure quarantine of possible rabid animals, and otherwise carry out provisions of the state law pertaining to control and eradication of rabies. The Lucas City Council has selected Collin County Animal Control as the local health authority.

Owner. Any person or persons, firm, association or corporation having temporary or permanent custody of, sheltering or having charge of, harboring, exercising control over, or having property rights to any animal covered by this chapter. An animal shall be deemed to be harbored if it is fed or sheltered for three (3) or more consecutive days.

Pet animal. A normal household pet, such as, but not limited to, dogs, cats, ferrets, hamsters, guinea pigs, gerbils, rodents, rabbits, fish, captive-bred species of common cage birds such as parakeets, lovebirds, cockatiels, canary birds, etc., or small nonpoisonous reptiles or nonpoisonous snakes, and any other species of animal that is sold or retained as a household pet, but shall not include an exotic or wild animal.

Public nuisance animal. Any animal that unreasonably annoys humans, endangers the life or health of persons or other animals, or substantially interferes with the rights of citizens, other than their owners, to enjoyment of life or property. The term "public nuisance animal" shall include, but not be limited to:

- (1) Any animal that is found running at large more than three times in a twelve-month period;
- (2) Any dog in a park or public recreation area unless the dog is controlled by a leash or similar physical restraint;
- (3) Any animal that damages, soils, defiles, or defecates on any property other than that of its owner;
- (4) Any animal that makes disturbing noises, including but not limited to continued and repeated howling, barking, whining, or other utterances causing unreasonable annoyance, disturbance, or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;

- (5) Any animal that causes fouling of the air by noxious or offensive odors and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
- (6) Any animal in heat that is not confined so as to prevent attraction or contact with other animals;
- (7) Any animal, whether or not on the property of its owner, that, without provocation, molests, attacks, or otherwise interferes with the freedom of movement of persons in a public right-of-way;
- (8) Any animal that chases motor vehicles in a public right-of-way;
- (9) Any animal that attacks a domestic animal;
- (10) Any animal that causes unsanitary conditions in enclosures or surroundings where that animal is kept or harbored;
- (11) Any animal that is offensive or dangerous to the public health, safety or welfare by virtue of the number of animals maintained at a single residence or the inadequacy of the facilities.

Riding stable/school or academy. A camp or school where horseback riding is taught on a regular basis for financial gain.

Sanitary. A condition of good order and cleanliness to minimize the possibility of disease transmission.

Stray animal. Any animal for which there is no identifiable owner or harborer.

Vaccinated. Properly injected with a rabies vaccine licensed for use in that species by the United States Department of Agriculture and administered by a veterinarian licensed to practice in the state.


(1995 Code, sec. 11-1; Ordinance adopting Code)

 **Sec. 2.01.004 Violations; penalty**


(a) It shall be a violation of this chapter to:

- (1) Fail to comply with any provision of this chapter;
- (2) Fail to comply with any lawful order of animal control, an animal control officer, or a police officer unless such order is lawfully stayed or reversed.

(b) Any person who violates any provision of this chapter, if convicted in municipal court, shall be fined as provided in section 1.01.009 of this code, and each and every day the provisions of this chapter are violated shall constitute a separate offense. (1995 Code, ch. 11, art. 7; Ordinance adopting Code)

 **Sec. 2.01.005 Nuisances**

It shall be unlawful for any person to keep any animal on any property located within the corporate limits of the city when the keeping of such animal constitutes a public nuisance or menace to public health or safety.

 **Sec. 2.01.006 Keeping of exotic or wild animals**


It shall be unlawful for anyone to own, harbor, maintain, have in their possession, and have on their premises or under their control or permit at large any exotic or wild animal without the written permission of the City Council. Such permission shall be given only if it is demonstrated to the satisfaction of the City Council that the animal will not constitute a threat to public health or safety. If evidence is presented to the City Council that an exotic or wild animal constitutes a threat to public health or safety, the City Council shall have the discretion to revoke previously granted permission to own or keep said animal.


State law reference--Dangerous wild animals, V.T.C.A., Health and Safety Code, sec. 822.101 et seq.

 **Sec. 2.01.007 Keeping of numerous animals**

It shall be unlawful for any person to keep animals within the city of such a number that the animals constitute a public nuisance or menace to public health or safety.


 **ARTICLE 2.02 ENFORCEMENT**

 **Division 1. Generally**

 **Sec. 2.02.001 Enforcement duties**

Animal control officers or other designees of the City Council shall be the enforcement officials for this chapter. These officials, along with police officers, shall have the authority to act on behalf of the city and animal control in investigating complaints, impounding and destroying animals, issuing citations/summons, and taking other lawful actions as required, to enforce the provisions of this chapter. If the person being cited is not present, the local health authority or

animal control officer may send the citation to the alleged offender by registered or certified mail.

 **Sec. 2.02.002 Interference with animal control officer**

It shall be unlawful for any person to interfere with any animal control officer or other enforcement official in the performance of his/her duties.

 **Sec. 2.02.003 Self-defense or defense of others**

Upon attack by an animal, an animal control officer or police officer can defend themselves or citizens, at his or her discretion, taking such reasonable means as he or she deems necessary in that situation.

 **Sec. 2.02.004 Entry on private property in pursuit of animal at large**

For purposes of discharging the duties imposed by this chapter, and to enforce the same, an animal control officer or other authorized representative may enter upon private property to the full extent permitted by law, which shall include but not be limited to entry upon private property when in pursuit of any animal which he or she has reason to believe is subject to impoundment pursuant to the provisions of this chapter or other applicable laws. An animal control officer shall have the right to pursue and apprehend an animal which is at large onto private property without first requesting permission from the owner of the property before entering the property or without obtaining a search warrant.

 **Sec. 2.02.005 Entry on private property for purpose of inspection or enforcement**

Whenever it is necessary to make an inspection to enforce any of the provisions of or to perform any duty imposed by this chapter or other applicable law regarding animals or whenever an animal control officer has reasonable cause to believe that there exists in any building or structure or upon any premises any violations of this chapter or other applicable law, the officer is hereby authorized to enter such property at any reasonable time and to inspect the same and to perform any duty imposed upon the officer by this chapter or other applicable law; provided that, if such property be occupied, the officer shall first present proper credentials to the occupant and request to enter, explaining the reason therefor, and obtain permission from said occupant.

Notwithstanding the foregoing, if the officer has reasonable cause to believe that the keeping or the maintaining of any animal is so hazardous, unsafe or dangerous as to require immediate inspection to safeguard the animal or the public health or safety, the officer shall have the right to immediately enter and make such inspection, whether or not permission to inspect has been obtained. If the property is occupied, the officer shall first present proper credentials to the occupant and demand entry, explaining the reasons therefor and the purpose of inspection.

Whenever an animal control officer is denied admission to inspect any premises under this chapter and the officer cannot determine whether violations exist on the premises, the animal control officer is authorized to request a warrant for the inspection of the premises from the municipal judge, a magistrate, or justice court to enter and inspect the premises.

ARTICLE 2.03 LIVESTOCK*

Sec. 2.03.001 Keeping of livestock

- (a) This article shall not apply to property with a legal nonconforming agricultural tax exemption.
- (b) It shall be unlawful for any person to keep livestock within the corporate limits of the city unless the livestock is being kept in accordance with the following restrictions:
- (1) Livestock shall be kept on a parcel of land that is at least one acre in size.
 - (2) There shall be no more than one unit (as defined below) of livestock for the first acre of land. There shall be no more than one additional unit of livestock for each additional one-half acre of land in the same parcel. For the purpose of this subsection, units of livestock shall be defined as follows:
 - (A) The following types of livestock shall be counted as one head equals one unit: horse, stallion, mare, gelding, filly, colt, mule, hinny, jack, jenny, donkey, llama, and all species of cattle;
 - (B) The following types of livestock shall be counted as one head equals one-half of a unit: all species of swine; and
 - (C) The following types of livestock shall be counted as one head equals one-fifth of a unit: sheep, goat, emu, ostrich and rhea.
 - (3) The owner keeping any livestock shall keep all yards, barns, pens, stables, sheds or other enclosures in which such animals are confined in such a manner so as not to give off odors offensive to persons of ordinary sensibilities in the immediate vicinity, or to breed or attract flies, mosquitoes or other noxious insects or rodents, or in any manner to endanger the public health, safety, or welfare, or to create a public nuisance. All yards, barns, pens, stables, sheds or other enclosures in which livestock is confined shall be of a size to allow said animals sufficient space to move freely and not endanger the health, safety, or welfare of the animal or animals.
 - (4) Subsections (1) and (2) above shall not apply to a licensed veterinarian at the veterinarian's place of business or a riding stable/school or academy.

ARTICLE 2.04 FOWL

Sec. 2.04.001 Limitations on number of fowl; keeping roosters prohibited

- (a) This article shall not apply to property with a legal nonconforming agricultural tax exemption.
- (b) It shall be unlawful to own or keep fowl within the corporate limits of the city unless the number is limited and they are kept in enclosed pens as set forth below:
 - (1) If fowl are confined within an enclosed pen which is located a hundred (100) feet or more from any building or dwelling occupied by any person other than the owner of the fowl, the number of fowl is limited to no more than ten (10).
 - (2) If fowl are confined within an enclosed pen which is located less than a hundred (100) feet but more than fifty (50) feet from any building or dwelling occupied by any person other than the owner of the fowl, the number of fowl is limited to no more than five (5).
- (c) It shall be unlawful to own or keep roosters within the corporate limits of the city.

ARTICLE 2.05 CARING FOR ANIMALS*

Sec. 2.05.001 Basic care

It shall be unlawful for the owner or custodian of any animal to refuse or fail to provide such animal with sufficient wholesome and nutritious food, potable water, veterinary care when needed to prevent suffering, and humane care and treatment, or to unnecessarily expose any such animal in hot, stormy, cold or inclement weather.

Sec. 2.05.002 Animals in parked vehicles

- (a) It shall be unlawful to leave any animal in any standing or parked vehicle in such a way as to endanger the animal's health or safety. Any animal control officer or police officer is authorized to use reasonable force, including the breaking of a side window, to remove an animal from a vehicle whenever it appears the animal's health or safety is or soon will be endangered, and said neglected or endangered animal shall be impounded.
- (b) It shall be unlawful to leave any animal in any standing or parked vehicle unless the animal is safely enclosed within the vehicle, and if the animal is in a standing or parked unenclosed

vehicle (including but not limited to convertibles, pickup trucks, jeeps, and flatbed trucks) the animal shall be confined by a vented container or cage, or by a chain, rope, or other device cross-tied to prevent the animal from falling or jumping from the motor vehicle or from strangling on a single leash.

Sec. 2.05.003 Abandonment of animals

It shall be unlawful for any owner or custodian of any animal to willfully abandon such animal on any street, road, highway or public place, or on private property when not in the care of another person.

State law references—Cruelty by abandoning livestock animal, V.T.C.A., Penal Code, sec. 42.09(a)(3); cruelty by abandoning nonlivestock animal, V.T.C.A., Penal Code, sec. 42.092(b)(4).

Sec. 2.05.004 Unsupervised animals

If an animal control officer determines that an animal is or will be without proper care because of the owner's injury, illness, incarceration or other involuntary absence, the animal control officer may impound such animal until reclaimed by its owner. The owner is responsible for all costs associated with the impoundment and must pay all costs before the animal is released. If the animal is not reclaimed by the owner within 5 days from the date of impoundment, the animal shall become the property of the county.

Sec. 2.05.005 Cages, pens and enclosures

Cages, pens and enclosures used to confine animals shall be of sufficient size to maintain all of the animals within such enclosure comfortably and in good health. Said cages, pens and enclosures shall be of a proper material to securely contain all of the animals within such enclosures at all times.

Sec. 2.05.006 Humane treatment

The following requirements are established for pet and animal care and are not intended to contravene the provisions for animal cruelty as provided in the Texas Penal Code:

- (1) No person shall beat, cruelly ill-treat, torment, overload, overwork, or otherwise abuse an animal, or cause, instigate, or permit any dogfight, cockfight, bullfight, or other combat between animals or between animals and humans.
- (2) Any person who, as the operator of a motor vehicle, strikes a domestic animal, shall stop at once and render such assistance as may be possible and shall immediately report such injury or death to the animal's owner; in the event the owner cannot be ascertained and located, such operator shall at once report the accident to the appropriate law enforcement agency.
- (3) The use of steel jaw traps shall be prohibited.

State law references--Cruelty to animals, V.T.C.A., Penal Code, sec. 42.09; disposition of cruelly treated animals, V.T.C.A., Health and Safety Code, sec. 821.021 et seq.

ARTICLE 2.06 CRUELTY TO ANIMALS*

Sec. 2.06.001 Unlawful acts

It shall be unlawful for any person to willfully or maliciously strike, beat, abuse, or intentionally run down with a vehicle any animal, or otherwise engage in any act to cause or inflict unnecessary pain, injury, suffering, or death to such animal; except that reasonable force may be used to drive away vicious or trespassing animals. It shall be unlawful to tease, annoy, disturb, molest or irritate an animal that is confined to the owner's premises.

Sec. 2.06.002 Poisonous substances

It shall be unlawful for any person, except a licensed veterinarian for humanitarian purposes, to administer poison to any animal, or knowingly leave any poisonous substance of any kind or ground glass in any place with the intent to injure any animal. The provisions of this section are not applicable to licensed exterminators using poisons as part of a pest control program or the use of commercial insecticides and rodent baits used to control insects and wild rodents.

ARTICLE 2.07 SANITATION

Sec. 2.07.001 Accumulation of waste matter

It shall be unlawful for any person owning, harboring or keeping an animal within the city to permit any waste matter from the animal to collect and remain on the property of the owner or custodian, or on the property of others, so as to cause or create an unhealthy, unsanitary, dangerous or offensive living condition on the owner's or custodian's property, or to abutting property of others.

Exception: large livestock waste may be kept and stored provided its use is intended for fertilizer.

Sec. 2.07.002 Sanitation requirements

- (a) The owner or person in possession of animals shall keep yards, pens, and enclosures in which such animals are confined in such a manner as not to give off odors offensive to persons of ordinary sensibilities residing in the vicinity or to breed or attract flies, mosquitoes, or other noxious insects, or in any manner to endanger the public health or safety, or to create a public nuisance.
- (b) All persons keeping such animals shall comply with the following regulations:
- (1) Manure and droppings shall be removed from pens, stables, yards, cages, and other enclosures as necessary to maintain sanitary conditions and handled or disposed of in such manner as to keep the premises free of any nuisances.
 - (2) Mound storage of droppings or manure between such removals shall be permitted only under such conditions as to protect against the breeding of flies and to prevent migration of fly larvae (maggots) into the surrounding soil.
 - (3) Watering troughs or tanks shall be provided that are equipped with adequate facilities for draining the overflow so as to prevent the breeding of flies, mosquitoes, and other insects.
 - (4) No putrescible material shall be allowed to accumulate on the premises, and all such material used to feed that is unconsumed shall be removed and disposed of by burial or other sanitary means.

State law reference—Health and safety of animals, V.T.C.A., Health and Safety Code, ch. 821 et seq.

Sec. 2.07.003 Unsanitary conditions generally

It shall be unlawful for any person owning, harboring, keeping, or in charge of any animal to cause unsanitary, dangerous or offensive conditions by virtue of the size or number of animals maintained at a single location or due to the inadequacy of the facilities.

Sec. 2.07.004 Removal of waste deposited by animal

It shall be unlawful for any owner or custodian of any animal to cause or allow such animal to soil, defile or defecate on any public property or upon any street, sidewalk, public way, play area or common grounds owned jointly by the members of a homeowners' or condominium association, or upon private property other than that of the owner, unless such owner or custodian immediately removes and disposes of all feces deposited by such animal by the following methods:

- (1) Collection of the feces by appropriate implement and placement in a paper or plastic bag or other container; and
- (2) Removal of such bag or container to the property of the animal owner or custodian and disposition thereafter in a manner as otherwise may be permitted by law.

Exception: Horse droppings along a recognized trail, easement, or R.O.W.

ARTICLE 2.08 RESTRAINT AND CONFINEMENT*

Division 1. Generally

Sec. 2.08.001 Restraint required

- (a) It shall be unlawful for any animal to be at large. An owner of an animal found to be at large shall be responsible for the offense, and no culpable mental state is required.
- (b) It shall be an affirmative defense to prosecution under this section that the animal was a feral cat participating in a trap, neuter, and return program approved by the city. "Feral cat" means any homeless, wild, or untamed cat.

Sec. 2.08.002 Cats

Although cats shall be exempt from any leash requirements, it shall be unlawful for any owner of a cat to allow said cat to stray onto the property of anyone except the owner. Any cat found straying onto the property of anyone except the owner shall be deemed a public nuisance and shall be subject to impoundment.

Sec. 2.08.003 Tying or staking

- (a) It shall be unlawful for any animal to be tied or staked upon any open or unfenced lot or land in a manner which allows the animal to come within ten (10) feet of any street, park or other public land or within ten (10) feet of any sidewalk, public passageway or building. An animal tied or staked in violation of this subsection shall be considered at large in violation of section 2.08.001.
- (b) If an animal is tied or staked, regardless of location, it shall be unlawful for the tie, tether or chain securing the animal to be less than ten (10) feet in length. If a chain is used, it shall be unlawful for the chain to weigh more than one-quarter the weight of the animal.

(c) It shall be unlawful to tie, tether, chain, stake or fasten an animal in such a manner as to cause it injury or pain or not permit it to reach shelter, food or water. The owner of the animal or the person actually tying or staking the animal shall be responsible for the offense.

State law reference—Unlawful restraint of dog, V.T.C.A., Health and Safety Code, sec. 821.076 et seq.

 **Sec. 2.08.004 Restraint of dogs**

Any dog, while in any city park, shall be restrained and secured by a leash or chain of sufficient tensile strength to restrain the particular dog. Said leash or chain shall not be longer than twenty-five (25) feet.


Any dog in the corporate limits of the city while not in a city park, shall be restrained by at least one of the following means:

- (a) completely confined by a building, wall, or fence of sufficient strength or construction to restrain the animal; or
- (b) tied or staked per the requirements of Section 2.08.003; or
- (c) on a leash that is held in the hands of the owner or keeper. Said leash shall be of sufficient strength to restrain the particular dog and shall not be longer than twenty-five (25) feet; or
- (d) held in the hands of the owner or keeper; or
- (e) within a distance of 25 feet from the owner and under direct supervision of the owner to the extent that the animal does not damage public or private property and does not attack, charge or otherwise disrupt the lawful use of private or public property by third parties; or
- (f) trained to remain within the confines of an electronic fence and is within the confines of an activated electronic fence.

An animal that is not restrained in compliance with this section shall be considered at large in violation of section 2.08.001.

 **Sec. 2.08.005 Preventing animal from becoming public nuisance**

It shall be unlawful for any owner or custodian of any animal to fail to exercise proper care and control of such animal to prevent the same from becoming a public nuisance animal as defined herein.

 **Sec. 2.08.006 Confinement of female dogs or cats in heat**

Every female dog or cat in heat shall be confined in a building or other enclosure in such a manner that such female dog or cat cannot come into contact with another animal except for planned breeding.

Division 2. Guard Dogs

Sec. 2.08.031 Confinement required

Every owner of a guard or attack dog shall keep such dog confined in a building, compartment or other enclosure. Any such enclosure shall be completely surrounded by a fence at least six (6) feet in height and shall be topped with an anti-climbing device constructed of angle metal braces with at least three (3) strands of equally separated barbed wire stretched between them.

Sec. 2.08.032 Standards for areas of confinement

All anti-climbing devices shall extend inward at an angle of not less than forty-five (45) degrees nor more than ninety (90) degrees when measured from the perpendicular. The areas of confinement shall all have gates and entrances thereto securely closed and locked, and all fences properly maintained and escape-proof.

Sec. 2.08.033 Warning sign

It shall be unlawful for any person to leave any guard or attack dog unattended in any place inside any building unless a warning sign has been placed in a clearly visible location at the premises, located so that it can be seen by any person before entering the premises, warning that a guard or attack dog is present. It shall be unlawful for any person to leave any guard or attack dog unattended in any place outside a building without a warning sign placed in a clearly visible location at the premises, located so that it can be seen by any person before entering the place to which the dog has access, warning that a guard dog or attack dog is present.

Sec. 2.08.034 Exemption

The provisions of this article shall not apply to dogs owned or controlled by government law enforcement agencies.

ARTICLE 2.09 DANGEROUS ANIMALS*

Sec. 2.09.001 Declaration of nuisance

It is hereby declared to be a public nuisance for an owner or other person to harbor, keep, or maintain a dangerous animal in the city unless the owner complies with the requirements of this article.

Sec. 2.09.002 Prohibition

It shall be unlawful for any person to own, keep, or harbor a dangerous animal within the city. For purposes of this article, a person is the owner of a dangerous animal when the owner knows of an unprovoked attack committed by the animal against a person or another animal, or when the animal has been determined to be dangerous by the court under this article or any other court or determining body.

Sec. 2.09.003 Defenses to determination that animal is dangerous


In response to the determination that an animal is a dangerous animal, it is a defense that:

- (1) The threat, injury, or damage was sustained by a person who at the time was committing a willful trespass or other tort upon the premises occupied by the owner of the animal;
- (2) The person was teasing, tormenting, abusing, or assaulting the animal or has in the past been observed or reported to have teased, tormented, abused, or assaulted the animal;
- (3) The person was committing or attempting to commit a crime;
- (4) The animal attacked or killed was at the time teasing, tormenting, abusing or attacking the alleged dangerous animal;
- (5) The animal was protecting or defending a person within immediate vicinity of the animal from an unjustified attack or assault;
- (6) The animal was injured and responding to pain; or
- (7) The animal was protecting its offspring, itself, or its kennelmates.


Sec. 2.09.004 Filing of complaint

Any person desiring to file a complaint concerning an animal which is believed to be a dangerous animal, a sworn, written complaint must first be filed with an animal control officer containing the following information:

- (1) Name, address, and telephone number of complainant and other witnesses;
- (2) Date, time, and location of any incident involving the animal;
- (3) Description of the animal;
- (4) Name, address, and telephone number of the animal's owner, if known;
- (5) A statement describing the facts upon which such complaint is based;
- (6) A statement describing any incidents where the animal has exhibited dangerous propensities in past conduct, if known.

 **Sec. 2.09.005 Investigation of complaint**

After a sworn complaint is filed with the animal control officer, the animal control officer shall investigate the complaint, and if there be sufficient evidence to believe the animal is dangerous, the animal control officer may file a complaint with the municipal court of the city and request the judge of the municipal court to set a time and place for a hearing for a determination.

 **Sec. 2.09.006 Hearing**

- (a) **Jurisdiction.** The jurisdiction for the determination of a dangerous animal in a proceeding brought under this chapter shall be vested in the city municipal court.
- (b) **Notice.** If a complaint is filed by an animal control officer with the municipal court, the clerk of the court shall set the case for a hearing and shall give notice of the hearing to the owner of the animal in the complaint by personal service or certified mail, return receipt requested, a least ten (10) days prior to the hearing date. Personal service may be completed by the animal control officer.
- (c) **Impoundment pending hearing.** If the animal has not already been impounded, the animal control officer may seize and impound the animal upon personal service of the notice of hearing on the owner or three (3) days after the notice of hearing is mailed to the owner by certified mail, return receipt requested. It shall be unlawful for a person to possess and fail to release to an animal control officer an animal that has been made the subject of a hearing under this article. No person shall be allowed to reclaim the animal while a hearing under this article is pending.
- (d) **Purpose of hearing.** The purpose of the hearing is for the court to determine if the animal specified in the complaint is a dangerous animal.
- (e) **Result of hearing.**
 - (1) If the court finds that the animal is a dangerous animal:

(A) The court shall order that the animal be destroyed or permanently removed from the city, based on the least restrictive means necessary to protect the public health, safety, and welfare of the community according to all of the evidence presented.

(B) If the owner is not present at the hearing, the clerk shall notify the owner of that decision as well as the ordered disposition of the animal by personal service or certified mail, return receipt requested. Personal service may be completed by the animal control officer.

(C) The court shall order that the owner of the animal pay any fees due for the impoundment of the animal within 30 days of the order.

(D) If the court orders the removal of the animal from the city, the owner shall have five (5) days from the date of the order to remove the animal. The owner must provide proof of the removal to the court within five (5) days after the deadline to remove. If adequate proof is not provided to the court within the required time, an animal control officer shall investigate and, if the animal is found within the city, the animal control officer shall be authorized to immediately seize and impound the animal. Upon impoundment of such animal, the animal becomes the property of the city and it shall be humanely destroyed. If the animal has been previously removed from the city or is not present in the city on the date of the hearing, the court shall order that animal shall be permanently banned from the city and not be allowed to return.

(E) If the court orders the destruction of the animal, the court clerk or the animal control officer shall notify the facility where the animal is kept.

(2) If the court finds that the animal is not a dangerous animal, the animal shall be released to the owner upon payment by the owner of any fees due.

(f) Unlawful to disobey court order. It shall be unlawful for a person to possess and fail to release an animal that has been ordered destroyed or removed by the court to an animal control officer.

Sec. 2.09.007 Law enforcement defense

It is a defense to enforcement under this article that the person is an employee of the institutional division of the state department of criminal justice or of a law enforcement agency and trains or uses dogs for law enforcement or corrections purposes; provided, however, that for any person to qualify for this defense, that person must be acting within the course and scope of his or her official duties as regards the dangerous animal.

Sec. 2.09.008 Other defenses

It is a defense to enforcement under this article that the person 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 animal; provided, however, that for any person to qualify for this defense, that person must be acting within the course and scope of his or her official duties as regards the dangerous animal.

ARTICLE 2.10 SALE OF ANIMALS

Sec. 2.10.001 Commerce in live animals prohibited in certain places

It shall be unlawful for any person to sell, trade, barter, lease, rent, give away or display for commerce a live animal on a roadside, public right-of-way, sidewalk, street, parkway or any other public property or any property dedicated to public use, on a commercial parking lot, or at an outdoor special sale, swap meet, flea market, parking lot sale or similar event

Sec. 2.10.002 Sale of dyed animals; giving as prize or inducement

It shall be unlawful for any person to sell, offer for sale, raffle, offer to give as a prize, premium or advertising device, give away or display any animal that has been dyed or otherwise artificially colored.

ARTICLE 2.11 RABIES CONTROL*

Sec. 2.11.001 Vaccinations; disposition of animals exposed to rabies

(a) Vaccination of dogs and cats is required. Every owner of a dog or cat three (3) months of age or older shall have such animal vaccinated against rabies. All dogs or cats vaccinated at three (3) months of age or older shall be revaccinated once every three (3) years as regulated by the state. Any person moving into the city from a location outside of the city shall comply with this subsection within thirty (30) days after having moved into the city. If the dog or cat has inflicted a bite on any person or another animal within the last ten (10) days, the owner of said dog or cat shall report such fact to the veterinarian, and no rabies vaccine shall be administered until after the ten-day observation period.

(b) Certificate of vaccination. Upon vaccination, the veterinarian shall execute and furnish to the owner of the dog or cat, as evidence thereof, a certificate upon a form furnished by the veterinarian. The veterinarian shall retain a duplicate copy. Such certificate shall contain the following information:

- (1) The name, address, and telephone number of the owner of the vaccinated dog or cat;

- (2) The date of vaccination;
 - (3) The type of rabies vaccine used;
 - (4) The year and number of the rabies tag; and
 - (5) The breed, age, color, and sex of the vaccinated dog or cat.
- (c) Proof of vaccination. It shall be unlawful for any person who owns or harbors a vaccinated dog or cat to fail or refuse to exhibit his copy of the certificate of vaccination upon demand to any person charged with the enforcement of this chapter.
- (d) Harboring unvaccinated animal. It shall be unlawful for any person to harbor any dog or cat that has not been vaccinated against rabies, as provided herein, or that cannot be identified as having a current vaccination certificate.
- (e) Animals exposed to rabies. Any person having knowledge of the existence of any animal known to have been or suspected of being exposed to rabies must immediately report such knowledge to the local health authority, giving any information that may be required. For any animal known to have been or suspected of being exposed to rabies, the following rules must apply:
- (1) Animals having a current vaccination must be revaccinated immediately and confined according to the method prescribed by the local health authority for a period of not less than ninety (90) days; and
 - (2) Animals not having a current vaccination should be humanely destroyed. However, if the owner of such an animal elects, he may, at his expense and in a manner prescribed by the local health authority, confine said animal. Such animal must be vaccinated immediately following exposure and quarantined for not less than six (6) months. A revaccination shall be done one (1) month prior to release from quarantine.

State law reference—Rabies vaccinations, V.T.C.A., Health and Safety Code, sec. 826.021 et seq.


Sec. 2.12.002 Reporting of bite incidents

The following procedures shall apply to reporting cases of humans bitten by animals susceptible to rabies:

- (1) Any person having knowledge of an animal bite to a human will report the incident to the police or local health authority as soon as possible, but not later than twenty-four (24) hours from the time of the incident.

- (2) The owner of the biting animal will place that animal in quarantine under the supervision of the local health authority as prescribed in section 2.02.003.
- (3) Utilizing standardized reporting forms provided by the department of state health services, the local health authority will investigate each bite incident.
- (4) Human bites from rodents, rabbits, birds, and all cold-blooded animals are excluded from the reporting requirements of this section.

State law references—Reports of rabies, V.T.C.A., Health and Safety Code, sec. 826.041.

 **Sec. 2.12.003 Confinement of animal that has bitten human**

(a) When an animal that has bitten a human is identified, the owner is required to produce the animal for confinement at the owner's expense as provided in Texas Administrative Code section 169.27. Refusal to produce the animal constitutes a violation of this article, and each day of such refusal constitutes a separate and individual violation. The observation period will begin on the day of the bite incident. The animal must be placed in the animal control facilities specified for this purpose, if available. However, the owner of a domestic dog, cat or domestic ferret may request permission from the local health authority for home quarantine if the following criteria can be met:

- (1) Secure facilities must be available at the home of the animal's owner and must be approved by the local health authority.
 - (2) The animal is currently vaccinated against rabies.
 - (3) The animal control officer, local health authority, or licensed veterinarian must observe the animal at least on the first and last days of the quarantine period. If the animal becomes ill during the observation period, the local health authority must be notified by the person having possession of the animal. At the end of the observation period, the release from quarantine must be accomplished in writing.
 - (4) The animal was not in violation of any laws at the time of the bite.
 - (5) If the biting animal cannot be maintained in secure quarantine, it shall be humanely destroyed and the brain submitted to a department of state health services certified laboratory for rabies diagnosis.
- (b) It shall be unlawful for any person to interrupt the observation period.
- (c) No wild animal will be placed in quarantine. All wild animals involved in biting incidents will be humanely killed in such a manner that the brain is not mutilated. The brain shall be submitted to a department of state health services certified laboratory for rabies diagnosis.

State law reference—Rabies reports and quarantine, V.T.C.A., Health and Safety Code, sec. 826.041 et seq.